

BANNING CLUSTER MUNITIONS

Government Policy and Practice

Banning Cluster Munitions: Government Policy and Practice documents the creation of an international treaty banning cluster munitions. It looks at governments' engagement in the Oslo Process, a diplomatic initiative started by Norway in February 2007 to create a legally-binding instrument outlawing cluster munitions and establishing a framework for clearing contaminated areas and meeting the needs of cluster munition victims. The report also considers government practice with respect to the use, production, stockpiling, and transfer of cluster munitions.

Banning Cluster Munitions contains entries on 150 countries, including signatories to the 2008 Convention on Cluster Munitions, stockpiler countries, and affected states. This report was prepared by Human Rights Watch and Landmine Action on behalf of Landmine Monitor, the system providing civil society monitoring on the humanitarian and developmental consequences of landmines, cluster munitions and other explosive remnants of war. Representatives from Human Rights Watch and Landmine Action co-chair the Cluster Munition Coalition, the civil society campaign that helped to secure international support for the Convention on Cluster Munitions.

Back cover photo © Cluster Munition Coalition, 4 December 2008

Afghan campaigner and cluster munition survivor Soraj Ghulam Habib and Norwegian Minister of Foreign Affairs Jonas Gahr Støre celebrate the signing of the Convention on Cluster Munitions in Oslo, Norway. The strong partnership between governments and civil society was integral to the treaty negotiation process.

Front cover photo © Simon Conway/Landmine Action, September 2006

This M77 submunition landed on the roof of Majdal Selem School in South Lebanon in 2006 and failed to detonate. Israel launched millions of submunitions into Lebanon during its 2006 conflict with Hezbollah, many of which landed in populated areas and failed to explode on impact. The United States supplied M77 submunitions to Israel. This photo is printed to scale to show the actual size of the submunition.



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Banning Cluster Munitions: Government Policy and Practice

Human Rights Watch · Landmine Action · Landmine Monitor
International Campaign to Ban Landmines · Cluster Munition Coalition

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Landmine Monitor is the research and monitoring program of the International Campaign to Ban Landmines (ICBL) and functionally the research and monitoring arm of the Cluster Munition Coalition (CMC). For more information visit www.lm.icbl.org or email lm@icbl.org.

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Banning Cluster Munitions: Government Policy and Practice documents the creation of the new international treaty banning cluster munitions. It looks at governments' engagement in the Oslo Process, a diplomatic initiative started by Norway in November 2006 to create a legally-binding instrument outlawing cluster munitions and establishing a framework for clearing contaminated areas and meeting the needs of cluster munition victims. The report also considers government practice with respect to the use, production, stockpiling, and transfer of cluster munitions.

Banning Cluster Munitions contains entries on 150 countries, including signatories to the 2008 Convention on Cluster Munitions, stockpiler countries, and affected states. It looks at the role played by civil society, particularly the Cluster Munition Coalition (CMC), in helping to secure international support for the convention. It considers how the treaty was achieved using a diplomatic model pioneered over a decade ago in the creation of the 1997 Mine Ban Treaty, which prohibits antipersonnel mines and requires their clearance and assistance to victims.

This report was written by Human Rights Watch and Landmine Action, and produced by Landmine Monitor. Human Rights Watch and Landmine Action co-chair the CMC and played central roles in the negotiation of the Convention on Cluster Munitions. Landmine Monitor is the International Campaign to Ban Landmines' (ICBL) civil society-based research and monitoring program, which has monitored the universalization and implementation of the 1997 Mine Ban Treaty for over a decade. On behalf of the CMC, Landmine Monitor will fulfil such a role in relation to the Convention on Cluster Munitions. Human Rights Watch and Landmine Action are on Landmine Monitor's Editorial Board, along with Mines Action Canada, Handicap International, and Norwegian People's Aid.

Banning Cluster Munitions provides an overview of government policy and practice on banning cluster munitions prior to and throughout the Oslo Process. It does not look in depth at issues related to clearance and victim assistance. Landmine Monitor is preparing comprehensive monitoring on cluster munitions for publication in 2010 that will review the status of the Convention on Cluster Munitions and document the ongoing work of clearing cluster munition remnants and assisting cluster munition victims.

Banning Cluster Munitions was prepared by Human Rights Watch (Mark Hiznay, Mary Wareham, Kerri West, Anders Fink, Yekaterina Reyzis) and Landmine Action (Katherine Harrison, Richard Moyes, Anne Duquenne). Stephen Goose of Human Rights Watch served as final editor. Landmine Monitor (Jacqueline Hansen, Katie Pitts, Tatiana Stephens) managed the proofreading and production of *Banning Cluster Munitions*. Print and web layout were provided by Lixar I.T. Inc., the cover was designed by Rafael Jiménez, and St. Joseph Communications printed the report.

We are grateful to everyone who assisted in the preparation of this report, including CMC and ICBL staff and campaigners for providing input and feedback on the draft report. We especially wish to thank the governments who responded to our requests for information. At this point, there is still a marked lack of official, publicly available information about the use, production, transfer, and stockpiling of cluster munitions. We welcome comments, clarifications, and corrections from governments and others, in the spirit of dialogue, and in the common search for accurate and reliable information on an important subject.

It was only possible to carry out this work with the generous contributions of Landmine Monitor donors who are in no way responsible for, and do not necessarily endorse, the material contained in this report.

ABBREVIATIONS AND ACRONYMS

CBU	cluster bomb unit
CCM	2008 Convention on Cluster Munitions
CCW	1980 Convention on Conventional Weapons
CD	Conference on Disarmament
CMC	Cluster Munition Coalition
DPICM	dual purpose improved conventional munition
ERW	explosive remnants of war
GGE	CCW Group of Governmental Experts
HRW	Human Rights Watch
ICBL	International Campaign to Ban Landmines
ICRC	International Committee of the Red Cross
LM	Landmine Monitor
NGO	non-governmental organization
NSAG	non-state armed group
UN	United Nations
UNDP	United Nations Development Programme
UXO	unexploded ordnance
WILPF	Women's International League for Peace and Freedom

GLOSSARY

Cluster bomb – Air-dropped cluster munition.

Cluster munition – According to the Convention on Cluster Munitions a cluster munition is “A conventional munition that is designed to disperse or release explosive submunitions each weighing less than 20 kilograms, and includes those submunitions.” Cluster munitions consist of containers and submunitions. Launched from the ground or air, the containers open and disperse submunitions (bomblets) over a wide area. Submunitions are typically designed to pierce armor, kill personnel, or both.

Convention on Cluster Munitions – An international convention adopted in May 2008 and opened for signature in December 2008 which prohibits the use, production, stockpiling, and transfer of cluster munitions.

Convention on Conventional Weapons – The 1980 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects, commonly referred to as the Convention on Conventional Weapons (CCW), aims to place prohibitions or restrictions on the use of conventional weapons about which there is widespread concern. It includes Protocol V on Explosive Remnants of War.

Dual Purpose Improved Conventional Munition – A type of cluster munition which can be used against both personnel and material targets, including armor.

Explosive remnants of war – Under Protocol V to the Convention on Conventional Weapons, explosive remnants of war are defined as unexploded ordnance and abandoned explosive ordnance. Mines are explicitly excluded from the definition.

Interoperability – In relation to Article 21 of the Convention on Cluster Munitions interoperability refers to joint military operations with states not party to the convention that might engage in activities prohibited to a State Party.

Non-state armed groups – For Landmine Monitor purposes, non-state armed groups include organizations carrying out armed rebellion or insurrection, as well as a broader range of non-state entities, such as criminal gangs and state-supported proxy forces.

Oslo Process – The diplomatic process undertaken from 2006–2008 that led to the negotiation, adoption, and signing of the 2008 Convention on Cluster Munitions.

Self-destruct mechanism – Under the Convention on Cluster Munitions an “incorporated automatically-functioning mechanism which is in addition to the primary initiating mechanism of the munition and which secures the destruction of the munition into which it is incorporated.”

Self-deactivating – Under the Convention on Cluster Munitions, automatically rendering a munition inoperable by making an essential component (e.g. a battery) non-functional.

Submunition – Any munition that, to perform its task, separates from a parent munition (cluster munition). When air-dropped, submunitions are often called “bomblets.” When ground-launched, they are sometimes called “grenades.”

Unexploded cluster munitions or unexploded bomblet – Submunitions that have failed to explode as intended, becoming unexploded ordnance.

Unexploded ordnance – Unexploded ordnance refers to munitions that were designed to explode but for some reason failed to detonate; unexploded submunitions are known as “duds.”

Victim – According to the Convention on Cluster Munitions, “all persons who have been killed or suffered physical or psychological injury, economic loss, social marginalisation or substantial impairment of the realisation of their rights caused by the use of cluster munitions. They include those persons directly impacted by cluster munitions as well as their affected families and communities.”

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Introduction and Overview

INTRODUCTION

The period from 2006 until the end of 2008 saw dramatic changes in the positions of many governments on the military necessity and legality of cluster munitions. In a shift of international opinion, dozens of nations went from an adamant defense of the weapon to a full embrace of a comprehensive prohibition.

Initiated by the government of Norway in November 2006, the Oslo Process provided a fast-track multilateral response to the humanitarian problems posed by cluster munitions. A hallmark of the Oslo Process was the broad partnership between a range of actors—governments, key international organizations such as the ICRC and UN agencies, and civil society groups united under the Cluster Munition Coalition (CMC)—all working for the same goal.

The outcome of this process is the 2008 Convention on Cluster Munitions. The convention combines categorical prohibitions on the use, production, stockpiling, and transfer of cluster munitions, with obligations to assist cluster munition victims, clear contaminated land, and provide international support for these humanitarian objectives. It was negotiated and adopted by 107 nations in Dublin in May 2008, and opened for signature in Oslo on 3 December 2008. As of April 2009, a total of 96 governments had signed the convention, and six had ratified.

This report charts the development of government policy and practice with respect to banning cluster munitions in the lead up to and during the Oslo Process. This introduction provides an overview of the Oslo Process and serves as a background to key—and often contentious—issues that appeared during the development of the convention. This introduction does not seek to provide a comprehensive account, but serves to support the country sections that are the basis of this report.¹

Cluster Munitions

Cluster munitions are weapons that scatter explosive submunitions across a wide area. Dropped from aircraft or fired from the ground, a container munition opens in the air and releases the smaller submunitions to explode across the area below. The number of submunitions packed into a container range from fewer than ten to many hundreds.

Cluster munitions have been singled out for criticism on the basis of two problematic characteristics. Due to the way in which they scatter many small submunitions, these weapons have a tendency to strike both military and civilian populations and objects when used near populated areas. Furthermore, cluster munitions have consistently left large numbers of submunitions unexploded, but still dangerous, in the post-conflict environment. Often compared to antipersonnel mines, these unexploded submunitions have impeded access to community resources and caused death and injury to civilians long after conflict has ceased.

¹ For more detailed analysis of the development of the Oslo Process and of the convention itself, see for example: Stephen D. Goose, “Cluster Munitions in the Crosshairs: In Pursuit of a Prohibition,” in Jody Williams, Stephen D. Goose, and Mary Wareham (eds.), *Banning Landmines: Disarmament, Citizen Diplomacy, and Human Security* (USA: Rowman & Littlefield, 2008); Brian Rappert and Richard Moyes, “The Prohibition of Cluster Munitions: Setting International Precedents for Defining Inhumanity,” *The Nonproliferation Review*, Volume 16, Issue 2, 2009, forthcoming. The UN Institute for Disarmament Research is completing a comprehensive history of international efforts to address the humanitarian impacts of cluster munitions and, in particular, the Oslo Process. The book is expected to be available before the end of 2009.

History of the Humanitarian Response

Humanitarian concerns have been raised about cluster munitions since the 1960s, and the 1970s saw the first government-backed proposals for a prohibition. These unsuccessful efforts were primarily a response to the widespread use of cluster munitions in Southeast Asia. The proponents of a ban at that time did not know that unexploded submunitions from these cluster munitions would still be killing and injuring civilians in Lao PDR, Vietnam, and Cambodia more than four decades later.

In 1999, the use of cluster bombs by NATO in the Federal Republic of Yugoslavia—particularly in Kosovo and Serbia—caused civilian casualties at the time of use and afterwards, rekindling international concern over these weapons.² This took place in the wake of the 1997 Mine Ban Treaty and as a community of humanitarian actors was developing and expanding the mine action sector.³ In the period that followed, on-the-ground research from Human Rights Watch, Landmine Action, the Mennonite Central Committee, Handicap International, and the ICRC provided an important basis for efforts to change state policies and practices.⁴

Spurred largely by concerns about cluster munitions, the ICRC and other NGOs pressed governments to take up the issue of explosive remnants of war (ERW) in the Convention on Conventional Weapons (CCW).⁵ At a December 1999 CCW meeting, Human Rights Watch first called for a global moratorium on the use of all cluster munitions.⁶ From 2000–2003, CCW States Parties initially discussed and then negotiated on the issue of ERW.

Large-scale use of cluster munitions in Afghanistan in 2001–2002 and in Iraq in 2003 deepened the recognition of the humanitarian and legal problems posed by these weapons. In Afghanistan, the United States dropped some 248,000 submunitions causing dozens of avoidable civilian casualties, including more than 120 in the first year after the strikes.⁷ In Iraq, Human Rights Watch concluded that two million submunitions used by the US and United Kingdom caused hundreds of civilian casualties during the 2003 invasion, more than any other weapon (other than small arms fire).⁸

In response to these developments, NGOs involved in the landmine ban movement met in Ireland in April 2003 and agreed to undertake sustained and coordinated campaigning against cluster munitions. On 13 November 2003, the CMC was launched in The Hague. The CMC was united behind a call for an immediate moratorium on the use of cluster munitions, an acknowledgement of states' responsibility for the explosive remnants they cause, and a commitment to provide resources to areas affected by ERW.

On 28 November 2003, States Parties to the CCW adopted Protocol V on Explosive Remnants of War. This protocol reinforced the principle that states bear a responsibility for the post-conflict harm caused by their weapons, but it was insufficient for tackling the specific challenges caused by cluster munitions both during and after attacks.

From 2004–2006, the CMC continued to press for meaningful work on cluster munitions in the CCW, but with only minimal progress, as most States Parties were still against anything more than technical discussions on the weapon as part of broader talks on ERW. The CMC also pushed for measures at the

² Human Rights Watch, "Ticking Time Bombs: NATO's Use of Cluster Munitions in Yugoslavia," vol. 11, no. 6(D), June 1999; Landmine Action, "Cluster munitions in Kosovo: Analysis of use, contamination and casualties," London, February 2007; Norwegian People's Aid, "Yellow Killers: The impact of cluster munitions in Serbia and Montenegro," 2007; and Norwegian People's Aid, "Report on the Impact of unexploded cluster munitions in Serbia," January 2009.

³ This included the concept of humanitarian mine action, with survey, clearance, risk education, and victim assistance as key pillars.

⁴ See for example, Human Rights Watch, "Fatally Flawed: Cluster Bombs and Their Use by the United States in Afghanistan," vol. 14, no. 7(G), December 2002; Human Rights Watch, "Off Target: The Conduct of the War and Civilian Casualties in Iraq," November 2003; Landmine Action, "Cluster Bombs: The military effectiveness and impact on civilians of cluster munitions," London, August 2000; Landmine Action, "Explosive Remnants of War: Unexploded ordnance and post-conflict communities," London, March 2002; Mennonite Central Committee, "Clusters of Death," 2000; ICRC, "Cluster bombs and Landmines in Kosovo," Geneva, 2000, revised 2001; and Handicap International, "Circle of Impact: The Fatal Footprint of Cluster Munitions on People and Communities," May 2007.

⁵ ERW include cluster munition duds and all other types of explosive ordnance (such as bombs, rockets, mortars, grenades, and ammunition) that have been used in an armed conflict but failed to explode as intended, thereby posing ongoing dangers. ERW also includes abandoned explosive ordnance that has been left behind or dumped by a party to an armed conflict.

⁶ Human Rights Watch, "Cluster Bombs: Memorandum for CCW Delegates," 16 December 1999.

⁷ Human Rights Watch, "Fatally Flawed: Cluster Bombs and Their Use by the United States in Afghanistan," vol. 14, no. 7(G), December 2002.

⁸ Human Rights Watch, *Off Target: The Conduct of the War and Civilian Casualties in Iraq*, (New York: HRW, 2003), www.hrw.org.

national level, and results were more encouraging. Most notably, Belgium in February 2006 became the first country to pass legislation banning cluster munitions, and Norway declared a moratorium on use in June 2006. For its part, the CMC continued to expand in size and strength, particularly with the decision of the International Campaign to Ban Landmines (ICBL) to join the CMC and work on cluster munitions.

Against this background, Israel's massive use of cluster munitions in south Lebanon in July and August 2006 provoked a moral outcry. According to the UN, Israel fired some four million submunitions into Lebanon leaving behind as many as one million duds.⁹ A massive clearance operation was required, supported by risk education and victim assistance. As well as being part of this practical response, CMC organizations were able to rapidly document the impact of these weapons on individuals and communities, which stood in stark contrast to the arguments offered by many governments that existing legal rules were sufficient.¹⁰

Israel's use of cluster munitions in Lebanon provided a catalyst for diplomatic action, starting in the CCW. The CCW's Third Review Conference in November 2006 was viewed as a critical test of its ability to address a pressing humanitarian issue. In his message to the conference, then UN Secretary-General Kofi Annan issued a statement calling for a "freeze" on the use of cluster munitions in populated areas and the destruction of "inaccurate and unreliable" cluster munitions.¹¹ Twenty-six nations supported a proposal for a mandate to negotiate a legally-binding instrument "that addresses the humanitarian concerns posed by cluster munitions."¹² After the proposal was rejected, 25 countries issued a joint declaration calling for an agreement that would prohibit the use of cluster munitions "within concentrations of civilians," prohibit the use of cluster munitions that "pose serious humanitarian hazards because they are for example unreliable and/or inaccurate," and require destruction of stockpiles of such cluster munitions.¹³

On 17 November 2006, the final day of the Review Conference, Norway announced that it would start an independent process outside the CCW to negotiate a cluster munition treaty and invited other governments to join, thus initiating what became known as the Oslo Process.¹⁴ That same day Norway's Minister of Foreign Affairs Jonas Gahr Støre announced that Norway would convene an international conference to launch the process, stating, "We must take advantage of the political will now evident in many countries to prohibit cluster munitions that cause unacceptable humanitarian harm. The time is ripe to establish broad cooperation on a concerted effort to achieve a ban."¹⁵ The CCW had failed a crucial test. Far from agreeing to negotiate a legally-binding instrument, it opted to continue general discussions on ERW, with the US, Russia and others strongly opposing any specific work toward new rules regarding cluster munitions.

The Oslo Process

A total of 49 countries, as well as representatives of several UN agencies, the ICRC, and the CMC, participated in the Oslo Conference on Cluster Munitions held 22–23 February 2007.¹⁶ The conference ended with 46 states endorsing the Oslo Declaration, a statement of intent to conclude by 2008 a legally-binding instrument prohibiting the use, production, stockpiling, and transfer "of cluster munitions that cause unacceptable harm to civilians" and providing a framework to address the humanitarian problems that these weapons have already caused.¹⁷

⁹ UN Department of Public Information, "Press Conference by Emergency Relief Coordinator," 30 August 2006, www.un.org. The UN has since indicated that the number of duds may be in the hundreds of thousands, but fall short of one million.

¹⁰ Landmine Action, "Foreseeable harm: The use and impact of cluster munitions in Lebanon: 2006," London, October 2006; Human Rights Watch, "Lebanon: Israeli Cluster Munitions Threaten Civilians," Press release, 17 August 2006, www.hrw.org; and Human Rights Watch, "Israeli Cluster Munitions Hit Civilians in Lebanon," Press release, 24 July 2006, www.hrw.org.

¹¹ Statement of UN Secretary-General Kofi Annan, Message to the Third Review Conference of the CCW, Geneva, 7 November 2006.

¹² Proposal for a Mandate to Negotiate a Legally-Binding Instrument that Addresses the Humanitarian Concerns Posed by Cluster Munitions, Presented by Austria, Holy See, Ireland, Mexico, New Zealand, and Sweden, Third Review Conference of the States Parties to the CCW, Geneva, CCW/CONF.III/WP.I, Geneva, 25 October 2006.

¹³ Declaration on Cluster Munitions, Third Review Conference of the States Parties to the CCW, Geneva, CCW/CONF.III/WP.18, 17 November 2006.

¹⁴ Statement by Amb. Steffen Kongstad, Norwegian Ministry of Foreign Affairs, Third Review Conference of the States Parties to the CCW, Geneva, 17 November 2006.

¹⁵ Norwegian Ministry of Foreign Affairs, "Norway takes the initiative for a ban on cluster munitions," Press release, 17 November 2006, www.regjeringen.no.

¹⁶ CMC, "Report, Oslo Conference on Cluster Munitions, 22–23 February 2007," www.stopclustermunitions.org; and Norwegian Ministry of Foreign Affairs, "Oslo Conference on Cluster Munitions, 22–23 February 2007," www.regjeringen.no.

¹⁷ The three states choosing not to endorse the Declaration were Japan, Poland, and Romania. It was uncertain until the last moment if numerous other participants would endorse.

The Oslo Declaration provided a roadmap for the process to develop and negotiate the convention, with an ambitious series of international diplomatic meetings planned in Peru, Austria, New Zealand, and Ireland. The Declaration was intentionally ambiguous as to whether the future instrument would prohibit all cluster munitions, or only on certain types, with differing views strongly expressed on both sides.

Prior to the Oslo conference, Norway had identified governments willing to participate in a small voluntary Core Group to provide the leadership and resources necessary to steer the Oslo Process. The Core Group was comprised of Norway, Austria, Ireland, Mexico, New Zealand, Peru, and, later, the Holy See. UNDP emerged to provide support in ensuring developing country participation in Oslo Process meetings, but the burden of spearheading and resourcing this diplomatic initiative outside of traditional UN-facilitated fora largely fell on Core Group members.

The Oslo conference was followed on 15 March 2007 by a Southeast Asia regional conference on cluster munitions held in Phnom Penh, Cambodia.¹⁸ This was the first in a series of regional meetings aimed at encouraging greater engagement in the Oslo Process and discussing humanitarian and technical considerations for the eventual convention.

The ICRC convened an experts meeting in Montreux, Switzerland on 18–20 April 2007. Attended by military, diplomatic, field, and NGO experts from states both inside and outside the Oslo Process, this meeting broadly agreed on the humanitarian problems caused by cluster munitions, but cast doubt on the potential for technical “improvements” to the weapon and did not provide answers to the growing skepticism about their remaining military utility.¹⁹

The next international meeting took place in Lima, Peru from 23–25 May 2007. Representatives of 67 states attended the Lima conference, with 27 participating in the Oslo Process for the first time, including many African nations.²⁰ A draft text of the future convention was introduced for discussion. Largely modeled on the 1997 Mine Ban Treaty, the text covered the twin pillars of prohibition and humanitarian response. While specific treaty language was not discussed, the participants reached broad agreement on the framework and essential elements of the future convention: a prohibition on use, production, and trade; requirements and deadlines for stockpile destruction and clearance of contaminated areas; and an obligation to provide victim assistance.

The text adopted a categorical prohibition on cluster munitions, but excluded those with submunitions that detect and engage point targets. Some states also proposed exempting large categories of submunitions from the ban, such as those that have self-destruct devices or a specific reliability rate. The text also notably included a dedicated article on victim assistance, which would subsequently be refined into a ground-breaking set of obligations.

Following Lima, other meetings were held to encourage states to join the Oslo Process and to build an understanding of the aims of the proposed convention. (For more details on individual meetings, see the entries for the host country in this report). Eighteen countries from Latin America attended a regional conference in San José, Costa Rica on 4–5 September 2007.²¹ On 3–4 October 2007, Serbia hosted the Belgrade Conference for States Affected by Cluster Munitions, which provided an opportunity for countries that had suffered the humanitarian impact of cluster munitions to discuss their experiences and expectations for an effective treaty.²² The Belgrade conference saw the emergence of cluster munition survivors advocating for a strong treaty, such as former Serb deminer Branislav Kapetanovic.²³ At a

¹⁸ ICBL, “Regional Forum in Southeast Asia, ‘Taking Action on Cluster Munitions,’” Press release, 26 March 2007, www.icbl.org.

¹⁹ ICRC, “Humanitarian, Military, Technical and Legal Challenges of Cluster Munitions,” Summary Report of the ICRC Expert Meeting in Montreux, Switzerland, 18–20 April 2007, www.icrc.org.

²⁰ CMC, “CMC report on the Lima conference and next steps,” 2007, www.stopclustermunitions.org.

²¹ CMC, “San José Regional Conference on Cluster Munitions, 4–5 September 2007,” www.stopclustermunitions.org.

²² CMC, “Report on the Belgrade Conference, 3–4 October 2007,” www.stopclustermunitions.org. Countries that attended were: Afghanistan, Albania, Angola, Azerbaijan, Bosnia and Herzegovina, Cambodia, Chad, Croatia, DR Congo, Ethiopia, Guinea-Bissau, Kuwait, Iraq, Laos, Lebanon, Montenegro, Sierra Leone, Sudan, Tajikistan, Uganda, Vietnam, and Yemen.

²³ For the first time, during the Belgrade Conference of Affected States in October 2007, a group of survivors from Albania, Lebanon, Serbia, and Tajikistan agreed to organize as a team to influence the Oslo Process under the coordination of Handicap International Belgium. The “Ban Advocates” created a blog to chart their activities throughout the Oslo Process: blog.banadvocates.org.

regional conference held in Brussels, Belgium on 30 October, European states discussed a range of issues on cluster munitions, particularly stockpile destruction and victim assistance.²⁴

On 5 November 2007, the CMC held its first Global Day of Action on Cluster Munitions. Campaigners in New Zealand kicked off a chain of events in 30 countries across the world with a cluster “bombing” stunt that saw a plane drop thousands of cluster bomb shaped flyers over the capital of Wellington.²⁵

Back in Geneva in November 2007—after another year of discussions on cluster munitions in the CCW, and after a draft treaty text had been produced in the Oslo Process—CCW States Parties could still not agree on a mandate to negotiate a legally-binding instrument on cluster munitions. Instead, they agreed to “negotiate a proposal.” States opposed to any sort of prohibition on cluster munitions continued to look to the CCW as an alternative to the Oslo Process, if only for public relations and diplomatic cover. Some states involved in the Oslo Process also continued to express a preference for working in the CCW.

Austria hosted the next international Oslo Process conference in Vienna on 5–7 December 2007. Austria’s Minister of Foreign Affairs began the meeting by announcing that the Parliament was adopting a national law banning cluster munitions. Government representatives from an astounding 138 nations and civil society participants from 50 countries attended the Vienna conference, providing a strong expression of the momentum that the Oslo Process had achieved during its first year.²⁶

The conference produced an emerging consensus on important provisions in the future convention, including victim assistance, clearance, stockpile destruction, and international cooperation and assistance. However, it also became apparent that battle lines were being drawn around a number of issues, particularly the definition, a transition period during which key obligations would not take effect, and “interoperability” (joint military operations with states not party).

For the Vienna conference, the Core Group revised the draft convention text based on input from the Lima conference. Perhaps most notably, the new draft maintained the categorical prohibition on cluster munitions, but instead of the explicit exclusion for certain munitions that had been contained in the Lima text, a place marker was inserted for states to make their case for specific exclusions from prohibition for cluster munitions they believed did not cause “unacceptable harm.”

In a key development, Norwegian People’s Aid, the Norwegian Defence Research Establishment and Colin King Associates launched a detailed report that debunked the claims of 99% reliability for the M85 submunition, a self-destructing type used extensively by Israel in south Lebanon, and one identical or similar to those a significant number of governments wished to see exempted from the prohibition.²⁷

In Vienna, a number of states began to raise concerns about how the proposed treaty would affect their ability to participate in military partnerships with states that continued to consider cluster munitions legitimate weapons. The US was the prime example at the center of this issue of “interoperability” which focused mainly on the proposed prohibition on assisting, encouraging, or inducing anyone to engage in any activity prohibited to a State Party under the convention. Some argued that this prohibition, though nearly identical to one in the Mine Ban Treaty, would expose military planners and commanders to legal risks and make it impossible to conduct joint operations with states that retained cluster munitions in their arsenals. Others, including the CMC, viewed a prohibition on “assistance” as fundamental to the moral and practical coherence of the prohibitions, supported by the precedent of the Mine Ban Treaty.

The Vienna discussion text also introduced a special legal responsibility for past users of cluster munitions to provide assistance to states where these weapons had been used. With some refinements at subsequent meetings this innovation was retained in the final convention text as a politically-binding obligation. It is

²⁴ Werner Bauwens, Special Envoy for Disarmament and Nonproliferation of Belgium, “Report on the Brussels European Regional Conference on Cluster Munitions,” www.diplomatie.be.

²⁵ CMC, “Global public unites in a day of action to ban cluster bombs,” Press release, 5 November 2007, www.stopclustermunitions.org.

²⁶ CMC, “Cluster bomb ban treaty: 138 nations make progress in Vienna,” Press release, 7 December 2007, www.stopclustermunitions.org.

²⁷ Norwegian People’s Aid, the Norwegian Defence Research Establishment, and Colin King Associates, “M85: An analysis of reliability,” Oslo, 2007, www.folkkehjelp.no. The M85 is a “DPICM-type” submunition, fitted with a self-destruct mechanism. The report analyzed the performance of these submunitions in both testing and in combat to demonstrate how both mechanical “self-destruct” mechanisms and failure rate testing regimes failed to prevent humanitarian harm. The report and its presentation also set a precedent for the level of evidence and analysis that would be expected in future arguments on the definition.

an important reinforcement of state responsibility to take precautions to protect civilian populations from the unintended effects of explosive weapons.

The final international Oslo Process conference prior to the formal negotiations was in Wellington, New Zealand from 18–22 February 2008. A total of 106 governments attended, making it the largest disarmament meeting ever held in the country. Several states participated for the first time in the Oslo Process including nine from the Pacific region.²⁸ A delegation of 142 civil society participants from 43 countries—a quarter of them New Zealanders—attended the meeting.

The Wellington conference was the most contentious of the Oslo Process meetings. It had the atmosphere of high-stakes negotiations as states discussed the draft convention text that had again been revised by the Core Group following the Vienna conference. In intense plenary sessions and break-out discussions, numerous countries—most notably those who called themselves the “like-minded group”²⁹—submitted proposals to amend the draft convention text. Most of the proposals from the like-minded group, especially those calling for exceptions or exclusions from the prohibition (the definition issue), a transition period, and provisions to facilitate interoperability, were strongly criticized by the CMC—as well as many states and the ICRC—as weakening the draft convention text.

At the end of the meeting, the like-minded group expressed dissatisfaction, asserting that their opinions and views had not been taken into account in a balanced way. Many other states, notably those affected by cluster munitions, particularly Cambodia, Lao PDR, and Lebanon, spoke out strongly in favor of the draft text and the open and inclusive approach of the conference, as did others in the developing world, such as Indonesia. In a creative solution, the draft convention text was kept unchanged and forwarded to Dublin as the basis for negotiations, while the proposals were compiled into an attached “Compendium” for further consideration.

A total of 82 governments endorsed the Wellington Declaration on 22 February, a number that increased as the negotiations drew closer. The Wellington Declaration committed states to negotiate the convention in Dublin using the Wellington draft text as the basis for negotiations. In order to participate fully in the negotiations, a state had to endorse the Wellington Declaration.

In Wellington, states also considered the draft “Rules of Procedure” for the negotiations. Once approved in Dublin, these rules would continue the Mine Ban Treaty precedent of allowing NGOs such as the CMC inside the formal talks with official observer status. Perhaps more importantly, according to the rules, any state wishing to change the draft text had to have the support of a two-thirds majority of governments participating in the negotiations for the proposed amendment to be accepted. While no votes were required in Dublin, the possibility that a vote could be used was a turnaround from the consensus-bound diplomacy of the CCW.

In the weeks leading up to the Dublin negotiations, regional conferences on cluster munitions were held in Livingston, Zambia (31 March–1 April) and Mexico City, Mexico (16–17 April) to build solidarity and increase understanding of key issues.³⁰ In addition, the ICRC hosted a meeting in Bangkok, Thailand (24–25 April).³¹ On 19 April 2008, the CMC held its second Global Day of Action with campaign activities in more than 50 countries. Faith leaders and representatives of faith groups across the world pushed for a strong treaty to ban cluster munitions.³²

²⁸ Aotearoa New Zealand CMC, “Report on Activities: Wellington Conference on Cluster Munitions, 18–22 February 2008,” April 2008, www.stopclusterbombs.org.nz.

²⁹ The like-minded group began to form during the Vienna conference. While it had no official status or membership, those supportive included Australia, Canada, Czech Republic, Denmark, Finland, France, Germany, Italy, Japan, the Netherlands, Slovakia, Sweden, Switzerland, and the UK.

³⁰ CMC, “Report on the Livingstone Conference on Cluster Munitions, 31 March and 1 April 2008,” www.stopclustermunitions.org; CMC, “Report on the Mexico Regional Conference, 16–17 April 2008,” www.stopclustermunitions.org.

³¹ ICRC, “Southeast Asia Regional Meeting on Cluster Munitions, Summary Report,” www.stopclustermunitions.org.

³² CMC, “Global Day of Action to Ban Cluster Bombs – What Happened,” www.stopclustermunitions.org.

The Dublin Negotiations

From 19–30 May 2008, Ireland hosted the Dublin Diplomatic Conference on Cluster Munitions at Croke Park Stadium, a massive Gaelic football stadium. A total of 127 states attended the formal negotiations, including 107 as full participants and 20 as observers. The president of the negotiations, Ambassador Daithí Ó Ceallaigh of Ireland, started the conference with a detailed article-by-article discussion of the draft text. When it was not possible to reach general agreement in plenary (the Committee of the Whole), Ambassador Ó Ceallaigh appointed fellow diplomats to hold informal consultations. By the end of the first week, Friends of the President were consulting on issues relating to interoperability, definitions, stockpiling, clearance, victim assistance, and compliance.³³

The atmosphere in Dublin from the beginning was a constructive one, with states now more prepared to find solutions than to demand concessions. Still, there were stark differences among the negotiating states on a range of issues, especially definitions, a transition period, and interoperability, but also on the length of deadlines for stockpile destruction and clearance, the desirability of a possible extension of the deadline for stockpile destruction, whether to have a provision allowing retention of cluster munitions and submunitions for training and development purposes, the acceptability of special responsibilities for past users of cluster munitions, how far-reaching the victim assistance provisions could be, and the number of ratifications required to trigger entry into force.

The positions of a substantial number of states on many of these issues shifted dramatically either just before or during the negotiations, including nearly all of the members of the like-minded group, perhaps most notably the UK, France, and Germany. (See individual country entries in this report for details.)

On 28 May, Ambassador Ó Ceallaigh introduced a Presidency Paper containing a consolidated draft treaty text, which he described as “extremely ambitious” and said represented “the best balance of interests and compromise consistent with the Oslo Declaration.”³⁴

A total of 71 states spoke in support of the draft text with varying degrees of enthusiasm, but with none indicating they could not adopt it. The CMC described the text as “extraordinary” and said it was “certain to save thousands and thousands of civilian lives for decades to come, and to provide both immediate and long-term relief and assistance to those already affected by the weapon.”³⁵ On 30 May 2008, a total of 107 states formally adopted the 2008 Convention on Cluster Munitions by acclamation, with none of the full participants declining to adopt.

The CMC delegation to the Dublin conference was comprised of 284 campaigners from 61 countries, including more than a dozen cluster munition and landmine survivors from Afghanistan, Cambodia, Iraq, Serbia, Tajikistan, Vietnam, and Western Sahara.³⁶ During the conference, the CMC carried out a wide range of lobbying work, media outreach, and public events at the Croke Park venue and in the city of Dublin. CMC delegates undertook intense lobbying on all of the specific provisions of the treaty, provided technical advice to the diplomats, made interventions in the formal sessions and disseminated materials including critiques of treaty proposals. The exemplary partnership between governments and civil society—particularly the dynamic work of cluster munition survivors—was widely heralded as underpinning the success of the negotiation process.

³³ The Friends of the Chair were: interoperability (Amb. Christine Schraner of Switzerland), definitions (Amb. Don MacKay of New Zealand), stockpiling (Amb. Steffen Kongstad of Norway), clearance (Lt. Col. Jim Burke of Ireland), victim assistance (Markus Reiterer of Austria), and compliance (Xolisa Mabongo of South Africa). During the second week, another Friend of the Chair was appointed for the preamble (Amb. Caroline Millar of Australia).

³⁴ Summary Record of the Committee of the Whole, Fifteenth Session: 28 May 2008, Dublin Diplomatic Conference on Cluster Munitions, CCM/CW/SR/15, 18 June 2008; and CMC, “Day 8 – Convention!!! – Dublin Diplomatic Conference,” 28 May 2008, www.stopclustermunitions.org.

³⁵ CMC statement delivered by Stephen Goose, CMC Co-Chair, director of the Arms Division at Human Rights Watch, Dublin Diplomatic Conference, 28 May 2008, www.hrw.org. The CMC believed that “if the text had been opened up, it would have gotten stronger and not weaker,” but it respected the judgment of the president and many states that this was not the best way forward.

³⁶ Aotearoa New Zealand CMC, “Report on Activities: Dublin Conference on Cluster Munitions, 19–30 May 2008,” July 2008, p. 5, www.stopclusterbombs.org.nz.

The Convention on Cluster Munitions

A landmark legal instrument, the Convention on Cluster Munitions bans cluster munitions as an entire category of weapon.³⁷ It is comprehensive in its approach, both from the disarmament perspective—a categorical ban on use, production, and trade, and a requirement and deadline for stockpile destruction—and from the practical humanitarian perspective—with a requirement and deadline for clearance of contaminated areas, and requirements for risk education, victim assistance, and international support for these on-the-ground humanitarian actions.

The degree to which many states shifted their views during the Oslo Process and the negotiations themselves is reflected in what the convention does not contain. There are no broad exceptions for cluster munitions with submunitions that self-destruct or have a certain claimed reliability rate or that are “direct fire” weapons. There is no transition period during which banned cluster munitions could still be used. During most of the Oslo Process, these were key demands from numerous countries, including the bigger military powers such as the UK and France. In the end, these countries and others agreed that such provisions were unacceptable from a humanitarian perspective.

The two most hotly debated issues were definitions and interoperability. While some states called for a prohibition on any weapon with submunitions, negotiators in the end agreed that certain weapons that contain submunitions are not likely to have the same negative effects that make cluster munitions objectionable, that is, indiscriminate area effects and risks posed by unexploded ordnance (UXO), and therefore these weapons should not be considered cluster munitions. In order to avoid these effects, weapons excluded from prohibition must contain a limited number of submunitions that each detect and engage “a single target object,” rather than scattering across an area. They must have other safeguards relating to weight, and self-destruct and self-deactivating mechanisms to avoid the risk of UXO.³⁸ The CMC has maintained that the burden of proof is on producers, stockpilers, and users to demonstrate that such weapons do not and cannot function as cluster munitions, and has asserted that such weapons should be closely monitored by humanitarian organizations in the future.

On the contentious issue of interoperability, states agreed to the insertion of a new Article 21 on “Relations with States not Party to this Convention” which was strongly criticized by the CMC for being politically motivated and for leaving a degree of ambiguity about how the prohibition on assistance with prohibited acts would be applied in joint military operations.³⁹ However, the article also requires States Parties to discourage use of cluster munitions by those not party and to encourage them to join the convention.

The convention’s articles on clearance, victim assistance and international cooperation and assistance have been applauded for building upon and improving similar provisions in the Mine Ban Treaty. These articles further extend the responsibilities of states to protect populations from the effects of armed conflict. In particular, Article 6 on Victim Assistance constitutes a ground-breaking step forward in articulating the rights of victims and the responsibilities of governments toward the fulfillment of those rights.

In a number of other important areas, the Convention on Cluster Munitions improved upon provisions in the Mine Ban Treaty, taking advantage of the lessons learned from a decade of implementation. These include annual transparency reporting requirements, obligations to provide risk education, special responsibilities for past users of the weapon (retroactivity), and the mechanism for deadline extension requests.

³⁷ CMC, “CMC Briefing Paper on the Convention on Cluster Munitions,” www.stopclustermunitions.org; Human Rights Watch, “Twelve Facts and Fallacies about the Convention on Cluster Munitions,” April 2009, www.hrw.org; and CMC, “The Convention on Cluster Munitions – Explained,” www.stopclustermunitions.org.

³⁸ Article 2.2(c) excludes munitions with submunitions if they have less than 10 submunitions, and each submunition weighs more than 4kg, can detect and engage a single target object, and is equipped with electronic self-destruction and self-deactivation features. Only three existing weapons are thought to meet these criteria, SADARM, BONUS, and SMArt-155. The US stockpiles SADARM, but has stopped production. The US used SADARM in Iraq in 2003. BONUS, with two submunitions, is produced by Sweden, in partnership with France. SMArt-155, with two submunitions, is produced by Germany. Neither has been used in combat to date. The only other countries known to have the SMArt-155 are Greece and Switzerland, while Australia and the UK are in the process of procuring them. No other countries are known to possess BONUS. Human Rights Watch, “Twelve Facts and Fallacies about the Convention on Cluster Munitions,” April 2009, www.hrw.org.

³⁹ Article 21 says that States Parties “may engage in military cooperation and operations with States not party to this Convention that might engage in activities prohibited to a State Party.” It does not, however, negate a State Party’s obligations under Article 1 “never under any circumstances to...assist, encourage or induce anyone to engage in any activity prohibited to a State Party under this Convention.”

Less frequently noted but important provisions drawn from the Mine Ban Treaty include the broad scope of application “under any circumstances,” the obligation to adopt national implementation measures including penal sanctions, a prohibition on reservations to any of the articles, and a prohibition on withdrawal from the treaty during armed conflict.

Elements of the convention that drew criticism and concern from the CMC and others included the provision allowing for an extension of the stockpile destruction deadline, the provision allowing retention of cluster munitions and submunitions for training and development purposes, and the lack of clarity about whether the prohibitions include transit of cluster munitions across the territory of a State Party, foreign stockpiling on the territory of a State Party, and investment in companies that produce cluster munitions.

From Adoption to Signature

The road from Dublin to Oslo, where the convention opened for signature on 3 December 2008, was not without challenges. In August 2008, Georgia and Russia both used cluster munitions in their conflict over South Ossetia, resulting in 70 civilian casualties and creating socio-economic harm.⁴⁰ Around the world, CMC protests and media editorials condemned this new use of cluster munition so soon after the convention’s adoption.

However, this period also saw intensive activities to ensure that as many states signed the convention in Oslo as possible. Regional conferences held in Sofia, Bulgaria (18–19 September), Kampala, Uganda (29–30 September), Xiengkhouang, Lao PDR (20–22 October), Quito, Ecuador (6–7 November) and Beirut, Lebanon (11–12 November) helped secure commitments to sign and also provided useful venues to begin considering treaty implementation.⁴¹ On 1 October 2008, a “Ban Bus” of activists embarked on an eight week journey from the Balkans to Oslo to build support for the cluster munition ban in eighteen countries. The CMC’s Global Week of Action held from 27 October to 2 November saw CMC members in 74 countries campaign for a strong showing at the treaty in Oslo.⁴²

On 3–4 December 2008—two years after the Oslo Process began—Norway welcomed states back to Oslo for the Convention on Cluster Munitions Signing Conference. Ministers and senior officials from 94 governments signed the convention at Oslo City Hall, applauded by a CMC delegation comprised of 250 campaigners from 75 countries. Four nations signed and ratified at the same time. Another 28 countries attended as observers but did not sign; they participated in the historic event to indicate their concern with the humanitarian aspects of cluster munitions, and many voiced the hope that they would soon be in a position to join the convention.⁴³

At the signing conference, many countries made strong statements praising the convention for providing not only a high level of humanitarian protection, but for the bold and dynamic way in which it had been achieved. The partnership of governments, international organizations, and civil society, and the direct and determined work of cluster munition victims, demonstrated again that ground-breaking humanitarian achievements were possible. Many speakers emphasized that although a remarkable milestone had been reached, the convention’s work was only just beginning. Securing additional signatures and ratifications, and effective implementation of the convention’s provisions were required to turn the text into a life changing reality.

This report is part of that ongoing program of work. It provides a detailed record of the changes in state policies and practices during the remarkable period of the Oslo Process and provides a point of departure for the future work of monitoring implementation of the Convention on Cluster Munitions.

⁴⁰ Human Rights Watch, “A Dying Practice: Use of Cluster Munitions by Russia and Georgia in August 2008,” April 2009, www.hrw.org.

⁴¹ CMC, “Report from the Sofia Regional Conference on the Convention on Cluster Munitions – The Way Forward, 18–19 September 2008,” www.stopclustermunitions.org; CMC, “Report on the Kampala Conference on the Convention on Cluster Munitions,” 30 September 2008, www.stopclustermunitions.org; CMC, “Southeast Asia Regional Conference on the Convention on Cluster Munitions,” www.stopclustermunitions.org; CMC, “Quito Regional Conference on the Convention on Cluster Munitions,” www.stopclustermunitions.org; and CMC, “Beirut Regional Conference on the Convention on Cluster Munitions,” www.stopclustermunitions.org.

⁴² CMC, “Global Week of Action to Ban Cluster Bombs, 27 October – 2 November 2008,” www.stopclustermunitions.org.

⁴³ CMC, “Historic Treaty Bans Cluster Bombs and Stigmatizes Use,” Press release, 4 December 2008, www.stopclustermunitions.org; and CMC, “Convention on Cluster Munitions Signing Conference,” www.stopclustermunitions.org.

GLOBAL OVERVIEW OF GOVERNMENT POLICY AND PRACTICE

Given the international attention devoted to cluster munitions in recent years, it is striking how little is still known about government policy and practice. There is especially a dearth of information that has been provided officially by governments. Despite the Oslo Process and the Convention on Cluster Munitions, and the work in the Convention on Conventional Weapons, many governments have never made formal, public statements regarding their policy toward cluster munitions. Some governments will not even acknowledge that they have produced, stockpiled, and/or exported cluster munitions. The great majority of those who have produced, stockpiled, and/or exported have provided no official details about those activities. This includes both signatories and non-signatories to the Convention on Cluster Munitions. On the positive side, more than three dozen governments responded to the request of Human Rights Watch (HRW) and Landmine Action for information for this report, with some providing very detailed information not previously known.

Transparency will be a crucial element in the effort to establish an international norm against cluster munitions. We encourage all governments to be as open and transparent about cluster munitions as possible, as a confidence-building measure and as part of the global effort to address the humanitarian dangers of these weapons. Signatories to the Convention on Cluster Munitions should not wait until their legal obligation to provide annual transparency reports takes effect; they should start now.

Signature and Ratification of the Convention on Cluster Munitions

As of April 2009 a total of 96 countries had signed Convention on Cluster Munitions, including 94 during the Oslo signing conference on 3–4 December 2008 and two (Tunisia and the Democratic Republic of the Congo, DRC) subsequently at the UN in New York.

Of the 96 signatories, 35 are from sub-Saharan Africa, 32 from Europe, 15 from the Americas, 12 from Asia-Pacific, and two from the Middle East-North Africa. A total of 35 countries that have used, produced, stockpiled, or exported cluster munitions have signed the convention and thereby committed to never engage in those activities again. Twenty of the 28 NATO members are signatories. Fourteen of the countries that have been affected by cluster munitions have signed, including some of those most severely contaminated, such as Afghanistan, Lao PDR, and Lebanon.

By signing, nations have already taken on a legal obligation, under the Vienna Convention on the Law of Treaties, not to undertake any act that would defeat the purpose of the convention—such as use, production, or trade of cluster munitions. At least three signatories have announced that they are provisionally applying Article 1 of the convention (the basic prohibitions) until it enters into force: Norway,¹ the Netherlands,² and Spain.³

The Convention on Cluster Munitions requires 30 ratifications to trigger entry into force six months later.⁴ As of April 2009, six signatories had ratified: Holy See, Ireland, Norway, and Sierra Leone during the signing conference on 3 December 2008, and Lao PDR and Austria afterwards.

¹ Article 1 contains the prohibitions on use, production, stockpiling, transfer, and assistance with prohibited acts. Article 18 of the convention says that any state may, at the time of its ratification, provisionally apply Article 1 pending entry into force of the convention. As of April 2009, Norway, which ratified on 3 December 2008, was the only provisional application officially recorded by the UN. See UN Treaty Collection, Convention on Cluster Munitions, treaties.un.org.

² Letter from Henk Swarttouw, Director, Security Policy Department, Dutch Ministry of Foreign Affairs, 26 February 2009.

³ Statement by Amb. Gerardo Bugallo, Permanent Mission of Spain to the Conference on Disarmament, Fourth 2008 Session of the CCW Group of Governmental Experts (GGE) on Cluster Munitions, Geneva, 1 September 2008.

⁴ Entry into force will occur on the first day of the sixth month after the month of the 30th ratification. Throughout this report, the term “ratification” is used as short-hand for “consent to be bound.” The convention allows governments to give consent to be bound in a variety of ways, including ratification, acceptance, approval, or accession—all of which give binding legal status beyond signature. Generally, ratification requires approval by a national legislative body. Instruments of ratification must be officially deposited with the UN Secretary-General in New York.

As detailed in the various country entries in this report, many signatories have already initiated the ratification process and expect to conclude soon. A significant number of non-signatories have indicated their intention to join in the future, including some of the 25 nations that participated fully in the negotiations and formally adopted the convention in Dublin.⁵

National Ban Legislation

Some countries have already enacted national laws banning cluster munitions, and others have already begun to develop national legislation to implement the Convention on Cluster Munitions.

Belgium was the first country to legislate a national prohibition on use, production, transfer, and stockpiling of cluster munitions in February 2006. Austria became the second country to pass national ban legislation in December 2007. Both laws set deadlines for the destruction of stockpiles.

Ireland passed legislation implementing the convention on 2 December 2008 which also served as its instrument of ratification, allowing it both to sign and ratify on the same day. The law prohibits use, development, production, acquisition, possession, and transfer of cluster munitions and explosive bomblets, and contains other provisions to implement the convention. Those guilty of offenses may be fined up to €1 million and imprisoned up to 10 years.

In December 2008, Luxembourg published a draft law of ratification that also has implementing provisions, including a prohibition on financing cluster munitions or explosive submunitions.⁶

Unilateral Ban Moratoriums

Prior to and during the Oslo Process, a number of states declared unilateral national moratoriums on the use (and in some cases, the production, stockpiling, and transfer) of cluster munitions.

In May 2006, the Norwegian Ministry of Defense decided to institute a national moratorium on use of cluster munitions until further testing of its cluster munition failure rates had been undertaken.⁷ In November 2006, Norway extended its moratorium on the use of cluster munitions until a legally-binding instrument on cluster munitions could be concluded. At the initial conference to launch the Oslo Process in February 2007, Austria announced a national moratorium on the use of cluster munitions.

At the Lima Conference on Cluster Munitions in May 2007, Hungary announced that it would enact a national moratorium on the use of cluster munitions until a legally-binding international instrument was concluded. The Netherlands announced in June 2007 a temporary suspension of the use of cluster munitions, stating that the military would not use cluster munitions until further notice. Croatia announced in December 2007 that it had enacted a moratorium on the use, production, and transfer of cluster munitions.

Bosnia and Herzegovina (BiH) declared a moratorium in February 2008 on the use of cluster munitions until an international agreement was concluded. Also in February 2008 Bulgaria announced its adoption of a unilateral moratorium on the use of cluster munitions “until the entry into force of an international treaty on the use, production, transfer, and stockpiling of cluster munitions that cause unacceptable harm to civilians.”⁸ Spain declared a unilateral moratorium on use, production, and transfer of cluster munitions in June 2008.

⁵ To put these signature and ratification numbers in perspective, the 1980 Convention on Conventional Weapons currently has 109 States Parties, and its 2003 Protocol on Explosive Remnants of War has 56. The 1997 Mine Ban Treaty has 156 States Parties. Opened for signature on the same dates in December as the Convention on Cluster Munitions, only 11 years earlier, the Mine Ban Treaty had achieved 11 ratifications at the end of April 1998 and 30 ratifications at the end of July 1998.

⁶ The law must be sent to the State Council for advice and then approved by the Parliament.

⁷ Earlier, in February 2003, Norway issued a decision not to use cluster munitions, specifically in connection with its military participation in Afghanistan.

⁸ Statement by Amb. Petko Draganov, Permanent Mission of the Republic of Bulgaria to the UN in Geneva, Conference on Disarmament, Geneva, 14 February 2008.

Use of Cluster Munitions

Cluster munitions have been used during armed conflict in 33 countries and disputed territories since the end of World War II, including Afghanistan, Albania, Angola, Azerbaijan, BiH, Cambodia, Chad, Croatia, DRC, Eritrea, Ethiopia, Georgia, Grenada, Iraq, Israel, Kuwait, Lao PDR, Lebanon, Montenegro, Saudi Arabia, Serbia, Sierra Leone, Sudan, Syria, Tajikistan, Uganda, Vietnam, and Zambia, as well as Chechnya, Falkland Islands/Malvinas, Kosovo, Nagorno-Karabakh, and Western Sahara.

At least 14 government armed forces have used cluster munitions.

Summary of States Using Cluster Munitions and Locations Used

User State	Locations used
Eritrea	Ethiopia
Ethiopia	Eritrea
France	Chad, Iraq, Kuwait
Georgia	Georgia
Israel	Lebanon, Syria
Morocco	Western Sahara
Netherlands	former Yugoslavia (Kosovo, Montenegro, Serbia)
Nigeria	Sierra Leone
Russia	Afghanistan (as USSR), Chechnya, Georgia
Saudi Arabia	Saudi Arabia
Sudan	Sudan
UK	Falkland Islands/Malvinas, Iraq, Kuwait, former Yugoslavia (Kosovo, Montenegro, Serbia)
US	Afghanistan, Cambodia, Grenada, Iraq, Kuwait, Lao PDR, Lebanon, Saudi Arabia, Vietnam, former Yugoslavia (Kosovo, Montenegro, Serbia)
Yugoslavia, Socialist Federal Republic of	Albania, BiH, Croatia

In several cases it is unclear which belligerent party used cluster munitions, including in Angola, Azerbaijan, DRC, Nagorno-Karabakh, Tajikistan, Uganda, and Zambia. In addition to use by the armed forces of states, non-state armed groups (NSAGs) have used cluster munitions in Afghanistan (by the Northern Alliance), Croatia (by a Serb militia), Israel (by Hezbollah), and BiH (by a Serb militia).

The most recent use of cluster munitions occurred in August 2008 when both Russian and Georgian forces used the weapon during the conflict over South Ossetia, killing or injuring at least 70 civilians.⁹ Russia used air-dropped and ground-delivered cluster munitions in or near nine towns and villages in the Gori-Tskhinvali corridor south of the South Ossetian administrative border. Georgian forces used M85 submunitions delivered by Mk.-4 160mm unguided surface-to-surface rockets, weapons that it bought pre-packaged from Israel.¹⁰ They landed in or near at least five towns and villages.

The scale of cluster munition use has varied widely by conflict. The most extensive and most sustained use was by the United States in Cambodia, Lao PDR, and Vietnam between 1965 and 1975. In Lao PDR for example, over 260 million cluster submunitions were dropped on the country with some estimates suggesting as many as 80 million submunitions left unexploded.¹¹ This contamination has caused thousands of civilian casualties, continues to claim victims even today, and still presents an impediment to

⁹ HRW, "A Dying Practice: Use of Cluster Munitions by Russia and Georgia in August 2008," April 2009, www.hrw.org.

¹⁰ The Georgian Ministry of Defense said Georgia launched 24 volleys of 13 Mk.-4 rockets each. The rockets would have carried 32,448 M85 submunitions. "Some Facts," attachment to email from David Nardaia, Head, Analytical Department, Georgian Ministry of Defense, 18 November 2008.

¹¹ UNDP Lao PDR, "The Safe Path, South East Asia Regional Conference on the Convention on Cluster Munitions," www.undplao.org.

development and reconstruction. Although no precise details are known, Soviet use of cluster munitions in Afghanistan from 1979–1989 was likely massive as well.

Large numbers of cluster munitions containing millions of submunitions were used in relatively brief conflicts such as Iraq (in 1991 and 2003) and Lebanon (in 2006). The US, France, and the United Kingdom dropped 61,000 cluster bombs containing some 20 million submunitions on Iraq and Kuwait in 1991. The number of cluster munitions delivered by surface-launched artillery and rocket systems is not known, but an estimated 30 million or more dual purpose improved conventional munition (DPICM) submunitions were used in the conflict. In the 2003 invasion of Iraq, the US and UK used nearly 13,000 cluster munitions containing an estimated 1.8 million to two million submunitions.¹² Israel fired more than four million submunitions into south Lebanon in 2006 over the course of just a few days.¹³

In other cases, a limited number of cluster munitions were used. For example, US Navy aircraft dropped 21 Mk.-20 Rockeye cluster bombs on Grenada in close air support operations during the invasion of Grenada in November 1983.¹⁴ Nigerian forces operating as ECOMOG peacekeepers dropped a small number of cluster bombs in Sierra Leone in 1997.¹⁵

A few non-signatory states have imposed restrictions on the possible future use of cluster munitions. The US June 2008 cluster munition policy dictates that until 2018, the use of cluster munitions that exceed a 1% unexploded ordnance (UXO) rate (which includes all but a tiny fraction of the US arsenal) must be approved by a “Combatant Commander,” a very high-ranking military official.¹⁶ After 2018, the US will no longer use cluster munitions that result in more than 1% UXO.¹⁷

Romania restricts the use of cluster munitions “exclusively on our territory, under the national defense programme.”¹⁸ An official from the Polish Ministry of National Defense said Poland would use cluster munitions for defensive purposes only, and does not intend to use them outside its own territory.¹⁹

Timeline of Cluster Munition Use

Date	Location(s)	Known Details
1943	USSR	Soviet forces used air-dropped cluster munitions against German armor. German forces used SD-1 and SD-2 butterfly bombs against artillery on the Kursk salient.
1943	UK	German aircraft dropped more than 1,000 SD-2 butterfly bombs on the port of Grimsby.
1965–1975	Cambodia, Lao PDR, Vietnam	According to an analysis of US bombing data by Handicap International, approximately 80,000 cluster munitions, containing 26 million submunitions, were dropped on Cambodia between 1969 and 1973; over 414,000 cluster bombs, containing at least 260 million submunitions, were dropped on Lao PDR between 1965 and 1973; and over 296,000 cluster munitions, containing nearly 97 million submunitions, were dropped in Vietnam between 1965 and 1975.

¹² HRW, *Off Target: The Conduct of the War and Civilian Casualties in Iraq* (New York: HRW, 2003), www.hrw.org.

¹³ HRW, “Flooding South Lebanon: Israel’s Use of Cluster Munitions in Lebanon in July and August 2006,” February 2008, Vol. 20, No. 2(E), www.hrw.org.

¹⁴ US Department of the Navy, Attack Squadron Fifteen, Memorandum from Commanding Officer, Attack Squadron Fifteen, to Chief of Naval Operations, “Command History: Enclosure 5, Ordnance Expenditure for 1983,” 18 February 1984, declassified 28 April 2000, www.history.navy.mil.

¹⁵ IRIN “IRIN-WA Weekly Roundup, 10/3/97,” www.africa.upenn.edu; and “10 Killed in Nigerian raid in eastern Sierra Leone,” *Agence France-Presse*, 11 December 1997.

¹⁶ Combatant Commander is the title of a major military leader of US armed forces, either of a large geographical region or of a particular military function, formerly known as a commander-in-chief. Currently, only US “Sensor Fuzed Weapons,” which constitute a fraction of one percent of the US cluster munition arsenal, meet this reliability standard.

¹⁷ The states negotiating the Convention on Cluster Munitions rejected the “failure rate approach” to addressing cluster munitions for a host of reasons, including that it does not deal with the indiscriminate wide area effect during strikes and that claimed failure rates are not achieved in actual combat.

¹⁸ Letter from Amb. Adrian Vierita, Representative of Romania to the US, 3 March 2009.

¹⁹ ICBL and CMC meeting with representatives of the Polish Ministry of Foreign Affairs and Ministry of National Defense, Warsaw, 14 November 2008. Email from Kasia Derlicka, Advocacy and Campaigning Officer, ICBL, 9 April 2009.

Date	Location(s)	Known Details
1970s	Zambia	Remnants of cluster munitions, including unexploded submunitions from air-dropped bombs, have been found at Chikumbi and Shang'ombo.
1973	Syria	Israel used air-dropped cluster munitions against NSAG training camps near Damascus.
1975–1988	Western Sahara	Moroccan forces used artillery-fired and air-dropped cluster munitions against an NSAG.
1978	Lebanon	Israel used cluster munitions in south Lebanon.
1979–1989	Afghanistan	Soviet forces used air-dropped and rocket-delivered cluster munitions. NSAGs also used rocket-delivered cluster munitions on a smaller scale.
1982	Lebanon	Israel used cluster munitions against Syrian forces and NSAGs in Lebanon.
1982	Falkland Islands/ Malvinas	UK forces dropped 107 BL-755 cluster bombs containing a total of 15,729 submunitions.
1983	Grenada	US Navy aircraft dropped 21 Rockeye bombs during close air support operations.
1983	Lebanon	US Navy aircraft dropped 12 CBU-59 and 28 Rockeye bombs against Syrian air defense units near Beirut in Lebanon.
1986–1987	Chad	French aircraft dropped cluster munitions on a Libyan airfield at Wadi Doum. Libyan forces also used AO-1SCh and PTAB-2.5 submunitions.
1991	Saudi Arabia	Saudi Arabian and US forces used artillery-delivered and air-dropped cluster munitions against Iraqi forces during the battle of Khafji.
1991	Iraq, Kuwait	The US, France, and the UK dropped 61,000 cluster bombs containing some 20 million submunitions. The number of cluster munitions delivered by surface-launched artillery and rocket systems is not known, but an estimated 30 million or more DPICM submunitions were used in the conflict.
1992–1994	Angola	PTAB submunitions found in various locations.
1992–1994	Nagorno-Karabakh, Azerbaijan	Submunition contamination has been identified in at least 162 locations in Nagorno-Karabakh. Submunition types cleared by deminers include PTAB-1, ShOAB-0.5, and AO-2.5. There are also reports of contamination in other parts of occupied Azerbaijan, adjacent to Nagorno-Karabakh.
1992–1995	BiH	Yugoslav forces and an NSAG used cluster munitions during civil war. NATO aircraft dropped two CBU-87 bombs.
1992–1997	Tajikistan	ShOAB and AO-2.5RT submunitions have been found in the town of Gharm in the Rasht Valley, used by unknown forces in civil war.
1994–1996	Chechnya	Russian forces used cluster munitions against NSAGs.
1995	Croatia	From 2–3 May 1995, an NSAG used Orkan M-87 multiple rocket launchers to conduct attacks in the city of Zagreb. Additionally, the Croatian government claimed that Serb forces used BL-755 bombs in Sisak, Kutina, and along the Kupa River.
1996–1999	Sudan	Sudanese government forces used air-dropped cluster munitions in southern Sudan, including Chilean made PM-1 submunitions.
1997	Sierra Leone	Nigerian ECOMOG peacekeepers used BLG-66 Beluga bombs on the eastern town of Kenema.
1998	Ethiopia, Eritrea	Ethiopia and Eritrea exchanged aerial cluster munition strikes. Ethiopia attacked Asmara airport, and Eritrea attacked Mekele airport. Ethiopia also dropped BL-755 bombs in Gash-Barka province in Eritrea.
1998–1999	Albania	Yugoslav forces used rocket-delivered cluster munitions in disputed border areas, and NATO forces carried out six aerial cluster munition strikes.
1998–2003	DRC	BL-755 bombs were used by unknown forces in Kasu village in Kabalo territory.
1999	Yugoslavia, Federal Republic of	The US, UK, and Netherlands dropped 1,765 cluster bombs containing 295,000 submunitions in Kosovo, Montenegro, and Serbia.

Date	Location(s)	Known Details
2001–2002	Afghanistan	The US dropped 1,228 cluster bombs containing 248,056 submunitions.
Unknown	Uganda	RBK-250/275 bombs and AO-15Ch submunitions have been found in the northern district of Gulu.
2003	Iraq	The US and UK used nearly 13,000 cluster munitions, containing an estimated 1.8 million to two million submunitions, in the three weeks of major combat.
2006	Lebanon	Israeli forces used surface-launched and air-dropped cluster munitions against Hezbollah. The UN estimates that Israel used up to four million submunitions.
2006	Israel	Hezbollah fired more than 100 Chinese-produced Type-81 122mm cluster munition rockets into northern Israel.
2008	Georgia	Russian and Georgian forces both use cluster munitions during the August 2008 conflict. Submunitions found by deminers include air-dropped AO-2.5 RTM and rocket delivered 9N210 and M85.

Production

A total of 34 states have developed or produced more than 200 types of cluster munitions.²⁰ In December 2008, 14 of these states signed the Convention on Cluster Munitions, forswearing any future production. Of the 20 non-signatories that have produced, it is likely that 17 continue to produce today (but not Argentina, Iraq, or Serbia—see below).

Signatory states that have developed or produced cluster munitions	
Australia	Japan
Belgium	Netherlands
BiH	South Africa
Chile	Spain
France	Sweden
Germany	Switzerland
Italy	UK

Non-Signatory states that have developed or produced cluster munitions	
Argentina	Korea, South
Brazil	Pakistan
China	Poland
Egypt	Romania
Greece	Russia
India	Serbia
Iran	Singapore
Iraq	Slovakia
Israel	Turkey
Korea, North	US

Of the signatories, several stopped production a number of years ago.²¹

Of the non-signatories, Argentine military officials told HRW that an effort to produce 155mm artillery projectile containing self-destructing DPICM submunitions did not reach full-scale production and was dismantled, and the projectiles were never fielded by the armed forces.²² The current status of production facilities in Iraq is not known with certainty, but the capability was likely destroyed in 2003. Serbia

²⁰ As new information has become available, the list of producers has changed over time. A total of 33 states were identified in 2002 by HRW as having developed or produced cluster munitions. HRW, “Memorandum to CCW Delegates: A Global Overview of Explosive Submunitions,” 20 May 2002, www.hrw.org. Canada and Bulgaria were deleted from the list, and Australia, BiH, and Japan were added; Serbia was listed instead of Yugoslavia.

²¹ Australia has said it manufactured cluster bombs in the 1970s and 1980s for testing purposes. PRB in Belgium said it produced prior to 1990. FZ in Belgium stopped production of a new rocket system in 2006 with the passage of the ban legislation. In 2007, BiH said it produced for 11 years, but has stopped. Chile said in 2007 that it no longer produced. France has said that it has not produced since 1992. Germany has said it stopped production in 2005. The Dutch company Eurometaal NV stopped producing in 2002. Different Swiss officials have cited 2003 and the last quarter of 2004 as the end dates for production.

²² Remarks made to HRW by members of Argentina’s delegation to the Latin America Conference on Cluster Munitions, San José, Costa Rica, 5 September 2007.

informed HRW in February 2009 that it has not produced cluster munitions since the dissolution of the Socialist Federal Republic of Yugoslavia.²³

In these listings, the loading, assembling, and packaging of submunitions and carrier munitions into a condition suitable for storage is considered production of cluster munitions. Modifying the original manufacturers' delivery configuration for improved combat performance is also considered a form of production. Some states developed and tested cluster munitions but the projects never entered into a serial production phase. In addition to the Argentina case mentioned above, Australia developed, manufactured, and tested, but never produced a cluster bomb named Karinga in the 1970–1980s.²⁴ Similarly in Belgium, the company Mecar SA at one point developed a mortar bomb containing submunitions, but claims that this project never reached production status due to economic reasons. Another company, Forges de Zeebrugge (FZ), has claimed that “a project for a rocket containing nine submunitions with no self-destruct system existed in the 1980s. This product did not go further than a prototype.”²⁵

Production of cluster munitions in 2009

In 2009, it appears that cluster munitions are being produced to some degree in 17 states. Cluster munitions continue to be publicly listed as available products on the international arms market and continue to be displayed at some arms fairs. The states where production is occurring, the companies involved, and the types of cluster munitions believed to be currently in production are listed below.

Country	Company	Type
Brazil	Ares Aeroespacial e Defesa Ltda	FZ-100 70mm rockets
	Avribras Aeroespacial SA	ASTROS rockets
	Target Engenharia et Comércio Ltda	BLG-120 and BLG-252 bombs
China	China Northern Industries (NORINCO)	Numerous bombs, artillery projectiles, and rockets
	Sichuan Aerospace Industry Corporation	WS-1, WS-1B, and WS-1E 302mm and WS-2 320mm rockets
Egypt	Helipolis Company for Chemical Industries	122mm and 130mm artillery projectiles
	SAKR Factory for Developed Industries	SAKR-18 and SAKR-36 122mm rockets
Greece	Hellenic Defence Systems S.A. (EBO-PYRKAL)	GRM-49 155mm artillery projectile (two versions) and GRM20 107mm mortar projectile
India	Khamaria Ordnance Factory	130mm and 155mm artillery projectiles
Iran	Unknown	Shahab-2 missiles
Israel	Israel Military Industries	Numerous bombs, artillery projectiles, and rockets
Korea, North	Unknown	122mm, 170mm, 240mm rockets
Korea, South	Hanwha	M261 MPSM 70mm rockets and KCBU-58B bomb
	Poongsan	K308 DP-ICM TP and K310 DP-ICM B/B 155mm artillery projectiles
Pakistan	Pakistan Ordnance Factories	K-310 and M483A1 155mm artillery projectiles
Poland	Dezamet	ZK-300 Kisajno and LBKas-250 bombs, 98mm mortar projectile, 122mm and 152mm artillery projectiles
	Tłocznia Metali Pressta Spolka Akcyjna	122mm rocket
Romania	Aerotech SA	GAA-001 submunition
	Romarm	CG-540 and CG-540 ER 152mm projectiles

²³ Letter from Dr. Slobodan Vukcevic, Permanent Mission of the Republic of Serbia to the UN in Geneva, No. 235/1, 9 February 2009.

²⁴ “Cluster Bomb Karinga,” Australian War Memorial Collection Record, REL/04840, updated 29 September 2008, cas.awm.gov.au.

²⁵ Testimony presented by the Belgian Security and Defence Industry ASBL/VZW to the Belgian Parliament, 19 December, 2005, p. 3. Facsimile to HRW, 3 January 2006.

Country	Company	Type
Russia	Bazalt State Research and Production Enterprise	Various bombs
	Mechanical Engineering Research Institute	120mm, 152mm, and 203mm artillery projectiles
	Splav State Research and Production Enterprise	122mm, 220mm, and 300mm rockets
Singapore	Advanced Material Engineering Pte Ltd.	155mm projectile
Slovakia	Konstrukta Defense SA	152mm artillery projectile and AGAT 122mm rocket
Turkey	Makina ve Kimya Endustrisi Kurumu (MKEK)	M396 155mm projectile
	Roketsan	TRK-122 122mm rocket
US	Lockheed Martin	M30 GMLRS 227mm rocket
	L3 Communications	Self-destruct fuze for M101 submunition
	Textron Systems	CBU-97/CBU105 Sensor Fuzed Weapon

Many states have licensed the production of cluster munitions to companies in other states. Most recently, the South Korean company Poongsan entered into a licensed production agreement with Pakistan Ordnance Factories in November 2004 to co-produce K310 155mm extended-range (base bleed) DPICM projectiles in Pakistan. While the ammunition is primarily being produced for Pakistan's army, the two firms will also reportedly co-market the projectiles to export customers.²⁶ Israel Military Industries has concluded licensing agreements with companies in India (Indian Ordnance Factories), Romania (Romarm), Turkey (MKEK and Roketsan), and the US (Alliant Techsystems) to produce M85 DPICM submunitions.

At least three of the countries still producing cluster munitions have established reliability standards for submunitions. In 2001, the US instituted a policy that all submunitions reaching a production decision in fiscal year 2005 and beyond must have a dud rate of less than 1%.²⁷ Poland stated in 2005, "The Ministry of Defense requires during acceptance tests less than 2.5% failure rate for the purchased submunitions."²⁸ South Korea issued a directive in 2008 requiring that in the future it only acquire cluster munitions with self-destruct mechanisms and a 1% or lower failure rate.²⁹

Financial disinvestment from companies that produce cluster munitions

As the issue of cluster munitions developed in Belgium, the NGO Network Vlaanderen undertook detailed research on ongoing investments in cluster munition manufacture. This work prompted changes in practice from some financial institutions and further legal reforms.³⁰ In December 2006, Belgian Senator Philippe Mahoux proposed to add cluster munitions to an existing law prohibiting direct or indirect financing in the production, use or possession of antipersonnel landmines.³¹ The law was approved in March 2007, making Belgium the first country to make it a crime to invest in companies producing cluster munitions.³² Ireland's implementation law for the Convention on Cluster Munitions explicitly prohibits the investment of public money in cluster munitions producers, making Ireland the second country in the world to prohibit investment in cluster munitions.³³ In December 2008, Luxembourg published a draft law of ratification

²⁶ "Pakistan Ordnance Factory, S. Korean Firms Sign Ammunition Pact," *Asia Pulse* (Karachi), 24 November 2006.

²⁷ Secretary of Defense William Cohen, "Memorandum for the Secretaries of the Military Departments, Subject: DoD Policy on Submunition Reliability (U)," 10 January 2001. Submunitions that reach "full rate production," i.e. production for use in combat, during the first quarter of Fiscal Year 2005 and afterward must meet the new standard. However, a waiver was granted for M30 GMRLS rocket submunitions, allowing a 2–4% dud rate.

²⁸ Communication from the Polish Ministry of National Defense, to Pax Christi Netherlands, 14 February 2005. The information was provided to Pax Christi with the proviso that the "content of the paper does not necessarily reflect the official position of Poland."

²⁹ Statement of the Republic of Korea, 2008 Meeting of the States Parties to the CCW, Geneva, 13 November 2008. During 2008, South Korea included a representative of the Hanwha Company, a Korean company which produces cluster munitions, in its official delegation to the CCW.

³⁰ See Network Vlaanderen, "Explosive Investments, Financial Institutions and Cluster Munitions," February 2007, www.stopclustermunitions.org; and Handicap International, HRW, and Network Vlaanderen, "Ending investment in cluster munitions producers," 1 April 2005, www.hrw.org.

³¹ Belgian Senate, "Proposition of Law towards the prohibition to finance the production, use or possession of cluster munitions," legislative document n° 3-1968/1, 2006–2007 Session, 5 December 2006, www.senate.be.

³² "Belgium bans investments in cluster bomb makers," *Reuters*, 2 March, 2007, www.reuters.com.

³³ "Cluster Munitions and Anti-Personnel Mines Act 2008," Houses of the Oireachtas, Act Number 20 of 2008, www.oireachtas.ie.

of the Convention on Cluster Munitions that would prohibit all persons or businesses from “knowingly” financing cluster munitions or explosive submunitions.³⁴

In 2004, the Norwegian Ministry of Finance decided to include cluster munitions in a category of inhumane weapons to be excluded from investment under the Norwegian Government Pension Fund’s ethical guidelines. In June 2005, eight foreign companies involved in the production of cluster munitions were excluded from the Fund’s investments.³⁵ Additional companies were excluded in 2006 and 2008.³⁶

On 18 March 2007, considerable public outcry was generated when Dutch television aired a documentary titled “The Clusterbomb Feeling,” an exposé into major pension funds’ investments in companies involved in the production of landmines and cluster munitions.³⁷ Many pension funds subsequently announced their intention to end investments in cluster munition manufacturers.³⁸

In July 2007, the Axa Group, a French insurance company, announced it was withdrawing assets invested in companies involved in the production of cluster munitions. Axa was quoted as stating, “While no international convention banning cluster bombs is yet in place, the Axa Group acknowledges that there is an emerging international consensus around the banishment of certain types of cluster bombs.”³⁹

On 3 March 2008, Ireland’s National Pensions Reserve Fund announced it would withdraw from investing in six international companies involved in the production cluster munitions, while the NZ Superannuation Fund followed suit on 4 April 2008.⁴⁰

On 1 June 2008, the Swedish pension fund AP 7 announced that it would sell off its holdings in companies involved in the production of cluster munitions. AP 7, one of Sweden’s seven government-owned pension funds, manages around 90 billion kronor.⁴¹ Four other Swedish pension funds followed suit in September 2008.⁴²

In response to inquiries from HRW, several signatories to the Convention on Cluster Munitions have expressed their views on the issue of financial investment in acts prohibited by the convention. Mexico stated that “investment for the production of cluster munitions is also prohibited by the Convention.”⁴³ Lebanon stated that financing and investment in cluster munition production or transfer is prohibited.⁴⁴

³⁴ The law must be sent to the State Council for advice and then approved by the Parliament. The original French phrase “En connaissance de cause” can be translated into English as “knowingly” or “intentionally.” The draft law also stipulates the punishment of imprisonment for five to 10 years and a fine of €25,000–1,000,000, or only one of these sentences, for those who have “knowingly” committed an infraction under the measures of Articles 2 and 3 [of the Convention on Cluster Munitions]. “Draft legislation approving the Convention on Cluster Munitions open for signature in Oslo, 3 December 2008,” No. 5981, Chamber of Deputies, Session ordinaire 2008–09, 12 January 2009.

³⁵ Norwegian Ministry of Finance, “A Further Eight Companies Excluded from the Petroleum Fund,” Press release, 2 September 2005, www.regjeringen.no. The companies were Alliant Techsystems Inc., EADS Co. (European Aeronautic Defence and Space Company), EADS Finance BV, General Dynamics Corporation, L3 Communications Holdings Inc., Lockheed Martin Corp., Raytheon Co., and Thales SA. The Fund’s Council on Ethics, an independent council of five people, provides advice to the Ministry of Finance, which then makes the exclusion decision.

³⁶ The South Korean company Poongsan Corporation in December 2006 and Hanwha Corporation in January 2008. See Norwegian Ministry of Finance, “South Korean producer of cluster munitions excluded from the Government Pension Fund – Global,” Press release, 6 December 2006, www.regjeringen.no; and Norwegian Ministry of Finance, “One producer of cluster munitions and two producers of nuclear weapons excluded from the Government Pension Fund – Global,” Press release, 11 January 2008, www.regjeringen.no.

³⁷ It was produced by Jos van Dongen and André Tak for Zembra, a documentary program. “The Clusterbomb Feeling,” March 2007, Zembra, VARA and NPS broadcasting, zembra.vara.nl.

³⁸ Aaron Gray-Block, “ABN Amro shareholder Dutch pension fund ABP awaits proposed Barclays deal detail,” *AFX News Limited*, 12 April 2007, www.forbes.com; and “Massive Dutch pension fund drops investments in land mines, to disclose all holdings,” *Associated Press*, 6 April 2007, www.iht.com.

³⁹ Hugh Wheelan, “Axa pulls insurance assets from cluster bomb makers, Handicap International and Amnesty International will work with group to identify manufacturers,” *Responsible Investor*, 27 July 2007, www.wilpf.int.ch. The action followed a public campaign by Handicap International and Amnesty International France and publication of a report by Netwerk Vlaanderen in February 2007 which listed several French banks as being part of financial institutions involved in investing in cluster bombs. Netwerk Vlaanderen, “Explosive Investments: Financial Institutions and Cluster Munitions,” February 2007, www.netwerkvlaanderen.be.

⁴⁰ Deaglán De Bréadún, “Pension fund to remove money from bomb firms,” *Irish Times*, 17 March 2008, www.irishtimes.com; and New Zealand Superannuation Fund, “GNZS Announce Decision on Cluster Munitions,” Press release, 4 April 2008, www.nzsuperfund.co.nz.

⁴¹ “Swedish pension fund AP 7 sells all holdings in companies making cluster bombs,” *International Herald Tribune*, 1 June 2008, www.iht.com.

⁴² Hugh Wheelan, “Sweden’s AP Funds Sell Off Millions in Cluster Munition Shares,” *The Responsible Investor*, 15 September 2008, www.responsible-investor.com.

⁴³ Letter from Amb. Juan Manuel Gómez Robledo, Undersecretary for Multilateral Affairs and Human Rights, Secretariat of Foreign Relations of Mexico, 4 March 2009. Courtesy translation provided by the Embassy of Mexico to the US.

⁴⁴ Letter from the Permanent Mission of Lebanon to the UN in Geneva, 10 February 2009.

Bulgaria noted that while a ban on investment in cluster munition production is not explicit in the text of the convention, it would need to be “considered in light of the general prohibition on the development and production of cluster munitions.”⁴⁵ The Netherlands said that investment in production of cluster munitions runs counter to the spirit of, but is not banned by, the convention.⁴⁶

Stockpiling

A total of 85 countries have possessed stockpiles of cluster munitions at some point in time.⁴⁷ Of these, 35 have signed the Convention on Cluster Munitions as of April 2009.

It appears 79 countries currently stockpile cluster munitions, of which 31 have signed the convention. Countries that are no longer thought to have stockpiles include signatories Australia, Honduras, Mali, and Spain, and non-signatories Argentina and Iraq. Spain completed its stockpile destruction program in March 2009, the first to do so since signing the convention. A significant number of other signatories have started stockpile destruction. (See next page).

While most states acquired their stockpiles by domestic production or importation from others, some states simply inherited stockpiles of cluster munitions upon gaining independence, including Azerbaijan, Belarus, BiH, Croatia, Czech Republic, Georgia, Kazakhstan, Moldova, Montenegro, Serbia, Turkmenistan, Ukraine, and Uzbekistan.

The total global stockpiles of submunitions contained in cluster munitions likely number into the billions. The US alone possesses cluster munitions in its active inventory which contain between 730 million and one billion submunitions. Stockpiles of cluster munitions in Russia and China are likely to be comparable in scale. It is believed that many national stockpiles of cluster munitions consist of millions to tens of millions of submunitions.

The very limited confirmed information about the numbers of submunitions in stockpiles is detailed in the following table. The information for non-signatories Bahrain, Jordan, Morocco, Egypt, and Saudi Arabia comes from US export notifications.

Submunitions Contained in Known Stockpiles of Cluster Munitions

Signatory States		Non-Signatory States	
UK	38.7 million	US	730 million
Germany	33 million	Bahrain	6.1 million
Netherlands	26 million	Jordan	3.1 million
France	14.9 million	Morocco	2.5 million
Norway	3.1 million	Egypt	2.2 million
Austria	798,336	Saudi Arabia	1.2 million
Spain	251,836		
Slovenia	52,920		

⁴⁵ Letter from Dr. Petio Petev, Director, Security Policy Directorate, Ministry of Foreign Affairs of the Republic of Bulgaria, 25 February 2009.

⁴⁶ Letter from Henk Swartouw, Dutch Ministry of Foreign Affairs, 26 February 2009.

⁴⁷ In 2002 HRW identified 56 states that had possessed stockpiles of cluster munitions. This number grew considerably over the years as new information became available. States added to the list of past and current stockpilers include Angola, Australia, Austria, Azerbaijan, Colombia, Cuba, Estonia, Finland, Georgia, Guinea, Guinea-Bissau, Honduras, Hungary, Indonesia, Libya, Mali, Mongolia, Morocco, Montenegro, Peru, Portugal, Qatar, Serbia, Slovenia, Sri Lanka, Syria, Thailand, Uganda, Yemen, and Zimbabwe. HRW, “Memorandum to CCW Delegates: A Global Overview of Explosive Submunitions,” 20 May 2002, www.hrw.org.

Signatory states that have stockpiled cluster munitions		Non-Signatory states that have stockpiled cluster munitions		
Angola	Indonesia	Algeria	Israel	Singapore
Australia	Italy	Argentina	Jordan	Slovakia
Austria	Japan	Azerbaijan	Kazakhstan	Sri Lanka
Belgium	Mali	Bahrain	Korea, North	Sudan
BiH	Moldova	Belarus	Korea, South	Syria
Bulgaria	Montenegro	Brazil	Kuwait	Thailand
Canada	Netherlands	China	Libya	Turkey
Chile	Norway	Cuba	Mongolia	Turkmenistan
Colombia	Peru	Egypt	Morocco	Ukraine
Croatia	Portugal	Eritrea	Nigeria	United Arab Emirates
Czech Republic	Slovenia	Estonia	Oman	US
Denmark	South Africa	Ethiopia	Pakistan	Uzbekistan
France	Spain	Finland	Poland	Yemen
Germany	Sweden	Georgia	Qatar	Zimbabwe
Guinea	Switzerland	Greece	Romania	
Guinea-Bissau	Uganda	India	Russia	
Honduras	UK	Iran	Saudi Arabia	
Hungary		Iraq	Serbia	

Destruction of stockpiles

Several countries reported having destroyed their entire stockpiles before international action to prohibit cluster munitions intensified in 2006. Military officials from Argentina stated that stocks of BLG-66 Belouga and Rockeye air-dropped bombs were destroyed by 2005. Honduran officials stated in 2007 that the military destroyed its stockpile of air-dropped Rockeye cluster bombs as well as an unidentified type of artillery-delivered cluster munition in previous years.⁴⁸ In December 2007, Mali announced that 10 years earlier it had destroyed all of its stockpile of cluster munitions.⁴⁹

Other states that reported the destruction of specific cluster munition systems before the adoption and signature of the Convention on Cluster Munitions include Belgium, Canada, France, Germany, Netherlands, Norway, Switzerland, and the UK. These cluster munitions were usually destroyed because they were considered obsolete, and in some cases, considered too unreliable. Destruction of obsolete and beyond-shelf-life cluster munitions is a routine part of ammunition operations. For example, over the past decade, the US has destroyed on average 7,000 tons (seven million kg) of cluster munitions per year at an average annual cost of US\$6.6 million. As of 2006, at least 103,473 tons (103 million kg) of outdated cluster munitions were awaiting destruction.⁵⁰

The NATO Maintenance and Supply Agency (NAMSA) destroyed cluster munitions containing more than 65 million submunitions from 1997–2007 for NATO countries.⁵¹ One industrial consortium (General Dynamics and EBV) built, tested, and opened a facility in the US within a year to destroy a stockpile of

⁴⁸ HRW meetings with Honduran officials at the Latin American Regional Conference on Cluster Munitions, San José, Costa Rica, 5 September 2007; and during the Vienna Conference on Cluster Munitions, 3–5 December 2007.

⁴⁹ Statement of Mali, Vienna Conference, 5 December 2007. Notes by CMC/WILPF.

⁵⁰ Figures are compiled from annual editions of Department of the Army, Committee Staff Procurement Backup Book, Ammunition Procurement, Army from Fiscal Year 2000 to Fiscal Year 2009.

⁵¹ Briefing by Dr. Frederic Peugeot, NAMSA Ammunition Support Office, “Demilitarization of Stockpiles of Cluster Munitions: NAMSA’s Experience,” European Regional Conference on Cluster Munitions, Brussels, 30 October 2007, slide 26, www.diplomatie.be.

38,538 cluster bombs containing over 23 million submunitions over five years (2005–2009) recovering and recycling nearly 94% of the materials.⁵²

National legislation in Belgium and Austria dictated deadlines for the destruction of stockpiles. Belgium's 2006 ban legislation requires all stocks to be destroyed within three years, which would be June 2009.⁵³ In December 2008, the Belgian Minister of Foreign Affairs confirmed that "stockpile destruction is well underway and should be finalized, under the contractual provisions, in the first part of next year [2009]."⁵⁴ Austria's national law requires destruction within three years, which would be January 2011, but Austria said that it expected its stocks to be destroyed by the end of 2009.⁵⁵ The Minister of Defense told the Parliament that the destruction costs would amount to €1 million.⁵⁶

To comply with its June 2008 national moratorium, Spain completed the destruction of its stockpile of 4,339 cluster munitions (containing 212,481 submunitions) on 18 March 2009. The Spanish Government paid €4.9 million to the company Fabricaciones Extremenas SA (FAEX), of the Maxam Industrial Group, to dismantle and destroy the stockpile.⁵⁷ Spain intends to retain 836 cluster munitions (containing 28,615 submunitions) for training and countermeasures testing purposes permitted under Article 3 of the Convention on Cluster Munitions.⁵⁸

Germany began to destroy stockpiles in 2001 and as of February 2009, approximately 30% of the stockpile (compared to the 2001 total) had been destroyed.⁵⁹ Germany announced in April 2009 that it would destroy its stockpile within the eight-year deadline of the Convention on Cluster Munitions.⁶⁰ It has estimated the costs of destruction at about €40 million.⁶¹ The cost for destroying the existing stockpile in Italy is estimated at €8,123,380.⁶² One report estimated the cost of destroying Japan's stocks of cluster munitions at around ¥20 billion.⁶³

In October 2008, the Norwegian Minister of Defense stated that Norway had begun the process of destroying its stockpile of cluster munitions, and that Norway's goal is to have all cluster munitions destroyed sometime in 2009. Norway has estimated that the destruction of its 155mm cluster munitions would be €40 per projectile.⁶⁴ All UK stockpiles of cluster munitions have been removed from service and are now either in the process of being destroyed or contracts have been agreed for their destruction.⁶⁵

Transfer

While the true scope of the global trade in cluster munitions is difficult to ascertain due to lack of official information, at least 15 countries have transferred more than 50 types of cluster munitions to at least 60 other countries.⁶⁶ Some recent examples of reported transfers of cluster munitions include:

⁵² Briefing by Dr. David Grymonpre, General Dynamics Ordnance and Technical Services, "CBU Demil Line Development GD-OTS and EBV EEC," National Defense Industrial Association's Global Demilitarization Symposium and Exhibition, Reno, 16 May 2007, www.dtic.mil.

⁵³ "Loi réglant des activités économiques et individuelles avec des armes" ("Law regulating economic activities and individuals with weapons"), Staatsblad Moniteur, 9 June 2006, staatsbladclip.zita.be.

⁵⁴ Statement by Karel De Gucht, Belgian Minister of Foreign Affairs, Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008.

⁵⁵ Austrian Federal Ministry of Foreign Affairs, "Spindelegger: 'Quick ratification of the Convention on Cluster Munitions proves Austria's pioneer role in humanitarian disarmament,'" Press release, 3 April 2009.

⁵⁶ Reply by Austrian Minister of Defense Norbert Darabos to the Parliamentary Questions (723/J) submitted by Member of Parliament Caspar Einem and Colleagues and addressed to the Minister of Defense concerning the Procurement of Cluster Munitions (Cluster Bombs and Howitzergrenades) by the Austrian Armed Forces, 26 June 2007.

⁵⁷ Letter from Miguel Ángel Moratinos, Minister of Foreign Affairs and Cooperation of Spain, Annex II, 12 March 2009; "Chacón dice que no quedarán bombas de racimo en España a partir de junio" ("Chacón says there will be no more cluster munitions in Spain starting June"), *El Día*, 3 December 2008, www.eldia.es.

⁵⁸ Letter from Miguel Ángel Moratinos, Minister of Foreign Affairs and Cooperation of Spain, Annex II, 12 March 2009.

⁵⁹ Letter from Gregor Koebel, Head of Conventional Arms Control, Ministry of Foreign Affairs of Germany, 5 February 2009.

⁶⁰ Statement of Germany, Second 2009 Session of the CCW GGE on Cluster Munitions, Geneva, 17 April 2009.

⁶¹ Email from Thomas Küchenmeister, Director, Actiongroup Landmine.de, 2 April 2009, reporting on a meeting with the Ministry of Foreign Affairs on 12 March 2009 in Berlin.

⁶² Report from the legislative office of the Ministry of Defence of Italy, 30 November 2007, reference number 8/51585, section II.

⁶³ "Japan to abolish cluster bombs," *Jiji Ticker Press Service*, 21 November 2008.

⁶⁴ Statement of Norway, Session on Storage and Stockpile Destruction, Wellington Conference on Cluster Munitions, 21 February 2008.

⁶⁵ M483 artillery projectiles were destroyed between 2005 and 2008; destruction of BL-755 bombs and M26 rockets began in 2007, and of CRV-7 rockets in 2008. Destruction of L20A1 artillery projectiles is expected to begin in 2009.

⁶⁶ Information about transfers of cluster munitions has increased over the years. In 2002, HRW estimated that at least nine countries have transferred 30 different types of cluster munitions to at least 45 other countries. HRW, "Memorandum to CCW Delegates: A Global Overview of Explosive Submunitions," 20 May 2002, www.hrw.org.

- The US military notified Congress in September 2006 of its intent to sell to the UAE 780 M30 GMLRS rockets with DPICM submunitions.⁶⁷
- Turkey sold 3,020 TRK-122 122mm rockets to the UAE in 2006–2007.⁶⁸
- Slovakia reported the export of 380 AGAT 122mm rockets to Turkey in 2007.⁶⁹
- Israel transferred four GRADLAR rocket launcher units to Georgia in 2007. Georgia has acknowledged using the launchers with 160mm Mk.-4 rockets, each containing 104 M85 DPICM submunitions, during its August 2008 conflict with Russia.⁷⁰
- South Korea exported M261 rockets to Pakistan in March 2008.⁷¹
- The US announced in September 2008 that it was intending to sell India 510 CBU-105 air-dropped Sensor Fuzed Weapons.⁷²

While the historical record is incomplete, the US has transferred hundreds of thousands of cluster munitions containing tens of millions of unreliable and inaccurate submunitions to at least 30 countries: Argentina, Australia, Bahrain, Belgium, Canada, Egypt, Denmark, France, Germany, Greece, Honduras, India, Indonesia, Israel, Italy, Japan, Jordan, South Korea, Morocco, Netherlands, Norway, Oman, Pakistan, Poland, Saudi Arabia, Spain, Thailand, Turkey, the UAE, and UK.

Cluster munitions of Russian/Soviet origin are reported to be in the stockpiles of the following 33 states: Algeria, Angola, Azerbaijan, Belarus, Bulgaria, Croatia, Cuba, Czech Republic, Egypt, Hungary, Georgia, Guinea, Guinea-Bissau, India, Iran, Iraq, Kazakhstan, North Korea, Kuwait, Libya, Moldova, Mongolia, Peru, Poland, Romania, Slovakia, Sudan, Syria, Turkmenistan, Uganda, Ukraine, Uzbekistan, and Yemen.

While the full extent of Chinese exports of cluster munitions is not known, unexploded submunitions of Chinese origin have been found in Iraq, Israel, Lebanon, and Sudan. Hezbollah fired over 100 Chinese Type-81 122mm rockets with DPICM submunitions into northern Israel in 2006.

At least two states that have not signed the Convention on Cluster Munitions, the US and Singapore, have enacted export moratoriums. In December 2007, the US Congress placed a one-year moratorium on the transfer of cluster munitions unless they have a 99% or higher tested reliability rate. The legislation also required that any state receiving cluster munitions from the US must agree that those cluster munitions will only be used against clearly defined military targets and will not be used in areas where civilians are known to be present.⁷³ This export ban was made permanent on 11 March 2009.⁷⁴ On 26 November 2008, Singapore announced that it would impose an indefinite moratorium on the export of cluster munitions with immediate effect.⁷⁵

⁶⁷ Kate Brannen, "Army Will Complete 2007 DPICM Sale Despite New Law From Congress," *Inside the Army*, 23 March 2009. The original notification is Defense Security Cooperation Agency, "United Arab Emirates: High Mobility Artillery Rocket Systems," Press release, Transmittal No. 06-5521, September 2006, p. 1.

⁶⁸ Turkey, UN Register of Conventional Arms, Submission for Calendar Year 2006, 22 March 2007, and submission for Calendar Year 2007, 7 July 2008.

⁶⁹ Slovakia, UN Register of Conventional Arms, Submission for Calendar Year 2007, 12 June 2008.

⁷⁰ The transfer of the GRADLAR launchers was reported in Georgia, UN Register of Conventional Arms, Submission for Calendar Year 2007, 7 July 2008. The Georgian Ministry of Defense on 1 September 2008 admitted to using Mk.-4 rockets against Russian forces on its website. "Georgian Ministry of Defence's Response to the HRW Inquire about the Usage of M85 Bomblets," www.mod.gov.ge.

⁷¹ The Omega Research Foundation in the UK provided HRW with a copy of an Import General Manifest summary produced by the Pakistan Federal Revenue Board for the vessel BBC Islander at Karachi port, dated 19 March 2008, noting the goods were loaded at Busan, and identifying the importer as Chief Inspector, Inspectorate of Armament.

⁷² US Defense Security Cooperation Agency, "India: CBU-105 Sensor Fuzed Weapons," Press release, Transmittal No. 08-105, 30 September 2008.

⁷³ Consolidated Appropriations Act, 2008 (H.R. 2764), 110th Congress, 2007. In September 2008, Congress passed a continuing resolution to extend the Consolidated Appropriations Act, and thus the moratorium, through 6 March 2009.

⁷⁴ Making omnibus appropriations for the fiscal year ending 30 September 2009, and for other purposes (H.R. 1105), 111th Congress, 2009, thomas.loc.gov. Section 7056 deals with the export of cluster munitions.

⁷⁵ Government of Singapore, "Joint Press Statement By Ministry Of Foreign Affairs And Ministry Of Defence: Singapore Imposes A Moratorium On The Export Of Cluster Munitions," Press release, 26 November 2008, app.mfa.gov.sg.

The Prohibition on Assistance: Transit, Foreign Stockpiling, and Joint Military Operations

During the Oslo Process meetings to develop the Convention on Cluster Munitions and during the Dublin negotiations, it appeared that there was not a uniform view on some matters relating to one of the convention's most basic and important provisions: the prohibition on assistance with prohibited acts. State Parties have an obligation under Article 1 "never under any circumstances to...assist, encourage or induce anyone to engage in any activity prohibited to a State Party under this Convention."

The CMC has stated that this broad prohibition should be seen as a ban on the transit of cluster munitions across or through the national territory, airspace, or waters of a State Party. It has also said that it should be seen as banning the stockpiling of cluster munitions by a state not party on the territory of a State Party.⁷⁶ Most countries that have weighed in on these issues have agreed, but some have not.⁷⁷

There are also questions about the impact of the Article 1 prohibition on assistance on joint military operations involving States Parties and countries that have not joined the convention and still stockpile and reserve the right to use cluster munitions.⁷⁸ As detailed in the previous chapter of this report, in response to these "interoperability" concerns, states agreed to the insertion of a new Article 21 on "Relations with States not Party to this Convention" which was strongly criticized by the CMC for being politically motivated and for leaving a degree of ambiguity about how the prohibition on assistance would be applied in joint military operations.⁷⁹ The CMC has said, "States must make it clear that States Parties must not intentionally or deliberately assist, induce, or encourage any activity prohibited under this treaty—including use, transfer or stockpiling of cluster munitions—when engaging in joint operations with non-States Parties."⁸⁰

The CMC has called for states to develop common understandings on these issues, so that there is consistent implementation of the convention.

To help with preparation of this report, HRW and Landmine Action wrote letters to all signatories asking for their views on these matters. The responses are summarized below, along with other relevant statements nations have made.

Transit and foreign stockpiling

- Bulgaria has stated that it has interpreted Article 1 of the Convention to mean that "transit" of cluster munitions across the territory of States Parties is prohibited, as is the stockpiling of foreign-owned cluster munitions.⁸¹
- Burkina Faso stated that it considers that the transit of cluster munitions by states not party through the territory of States Parties is prohibited.⁸²
- Ecuador stated that the transit of cluster munitions should be prohibited.⁸³

⁷⁶ CMC, "CMC Briefing Paper on the Convention on Cluster Munitions," www.stopclustermunitions.org.

⁷⁷ These same issues have been the subject of a decade-long discussion in the Mine Ban Treaty, which has a near identical provision. The vast majority of States Parties expressing views state that transit and foreign stockpiling are prohibited. See the annual editions of ICBL, *Landmine Monitor Report*, www.icbl.org/lm.

⁷⁸ This too has been a much discussed topic in the context of the Mine Ban Treaty. Most States Parties have agreed that while joint military operations with states not party are permissible, States Parties should not: participate in planning for use of mines; train others to use mines; derive direct military benefit from others' use of mines; agree to rules of engagement permitting use of mines; request others to use mines; or provide security or transportation for mines.

⁷⁹ Article 21 says that States Parties "may engage in military cooperation and operations with States not party to this Convention that might engage in activities prohibited to a State Party." It does not, however, negate a State Party's obligations under Article 1 "never under any circumstances to...assist, encourage or induce anyone to engage in any activity prohibited to a State Party under this Convention." The article also requires States Parties to discourage use of cluster munitions by those not party and to encourage them to join the convention.

⁸⁰ CMC, "CMC Briefing Paper on the Convention on Cluster Munitions," www.stopclustermunitions.org.

⁸¹ Letter from Dr. Petio Petev, Bulgarian Ministry of Foreign Affairs, 25 February 2009. It said, "The prohibitions stipulated in Article 1 of the Convention create an obligation for the States Parties not to allow the transit, transfer or stockpiling on their territories of cluster munitions...regardless of whether these munitions are foreign or nationally owned."

⁸² Letter from Minata Samate, Acting Minister of State, Minister of Foreign Affairs and Regional Cooperation of Burkina Faso, 24 March 2009.

⁸³ Presentation of Ecuador, "Interpretive Statement," Quito Regional Conference on the Convention on Cluster Munitions, 6 November 2008, www.stopclustermunitions.org.

- Lebanon believes that the prohibition on transfer of cluster munitions includes a prohibition on “transit.”⁸⁴
- Madagascar expressed the belief that the transit and storage of cluster munitions by a state not party within the territory of a state party would weaken the effects of the convention.⁸⁵
- Malta stated, “Our understanding of the commitments arising out of the convention is that, as a party, we will not permit the transit of cluster munitions across, or foreign stockpiling of cluster munitions on, our national territory.”⁸⁶
- Mexico believes that “both the transit and storage of cluster munitions is prohibited under any circumstances, unless these actions are performed for the purposes specifically stated in Article 3, paragraphs 6 and 7. This rule is also applicable in relations with States not Party to the Convention, as stated in Article 21.”⁸⁷
- The Netherlands stated that “the transit across Dutch territory of cluster munitions that remain the property of the third party in question is not prohibited under the Convention.”⁸⁸
- South Africa’s Department of Foreign Affairs said in March 2009 that the 2003 Anti-Personnel Mines Prohibition Act would likely serve “as the principal guideline when South Africa drafts its national legislation for the Convention on Cluster Munitions.” It noted that this Act prohibits South African forces from assisting a state not party to the Mine Ban Treaty with any activity prohibited under the treaty and includes “transit” under its definition of transfers.⁸⁹
- The UK stated on 5 June 2008 that although it does not deem it to be a legal requirement under the convention, in keeping with its spirit, the UK would seek the removal of all foreign stockpiles of cluster munitions from UK territory within the eight year period allowed for stockpile destruction.⁹⁰
- Zambia stated that it does not believe that States Parties should “in any way assist the use [or] transfer of cluster bombs within or without their territories in the name of joint operations.”⁹¹

Joint military operations/interoperability

Bulgaria stated that it “will fully observe the regulations of Article 21 of the Convention. . . . Par.4 of Article 21 stipulates that participation in such military operations ‘shall not authorize a State Party’ to engage in acts prohibited under the terms of the Convention and contains an exhaustive list of such acts.”⁹²

Ecuador has called for vigilance to ensure that Article 21 is never used to justify any derogation from the convention’s core prohibitions.⁹³

During the negotiations in Dublin, Iceland’s representative said that Article 21 should not be seen as undercutting the obligation in Article 1 not to assist with any activity prohibited by the convention. Specifically, “While the article sets out an appeal to States which are not parties to join the regime of the Convention, it recognizes the need for continuing cooperation in what is hoped will be a short transition period. This intention is captured clearly in paragraph 3 of the Article which should not be read as entitling States Parties to avoid their specific obligations under the Convention for this limited purpose. The decision to reinforce this position by listing some examples in paragraph 4 cannot therefore be interpreted to allow departures in other respects.”⁹⁴

⁸⁴ Letter from the Permanent Mission of Lebanon to the UN in Geneva, 10 February 2009.

⁸⁵ Statement by Gen. Marcel Ranjeva, Minister of Foreign Affairs of Madagascar, Signing Conference, Oslo, 4 December 2008.

⁸⁶ Letter from Amb. Saviour F. Borg, Permanent Mission of the Republic of Malta to the UN in New York, 2 March 2009.

⁸⁷ Letter from Amb. Juan Manuel Gómez Robledo, Secretariat of Foreign Relations of Mexico, 4 March 2009.

⁸⁸ Letter from Henk Swarttouw, Dutch Ministry of Foreign Affairs, 26 February 2009.

⁸⁹ Letter from Xolisa Mabhongo, Chief Director, UN (Political), Department of Foreign Affairs of South Africa, 12 March 2009.

⁹⁰ Statement by B. Ainsworth, House of Commons, *Hansard*, (London: Her Majesty’s Stationary Office, HMSO, 5 June 2008), Column 1061W, www.publications.parliament.uk.

⁹¹ Letter from Kabinga J. Pande, MP, Minister of Foreign Affairs of Zambia, MFA/104/22/148, 9 April 2009.

⁹² Letter from Dr. Petio Petev, Bulgarian Ministry of Foreign Affairs, 25 February 2009.

⁹³ Presentation of Ecuador, “Interpretive Statement,” Quito Regional Conference, 6 November 2008, www.stopclustermunitions.org; and CMC, “Quito Regional Conference on the Convention on Cluster Munitions,” November 2008, www.stopclustermunitions.org.

⁹⁴ Statement of Iceland, Dublin Diplomatic Conference on Cluster Munitions, 30 May 2008.

Lebanon has stated that Article 1 of the convention takes precedence over Article 21, so that “States Parties must never undertake any act that could constitute deliberate assistance with a prohibited act.”⁹⁵

When signing the convention in Oslo, Madagascar’s Minister of Foreign Affairs said that the question of interoperability should not constitute a barrier for countries to sign the convention. He stated that the goal is to encourage those outside of the convention not to resort to the use and transfer of cluster munitions.⁹⁶

Mexico stated that “even when a State Party does not itself engage in prohibited activities during a joint military operation with States not Party to the Convention, deliberately providing assistance for the execution of prohibited activities is not allowed.”⁹⁷

On interoperability, the Netherlands has noted that States Parties should encourage others to accede to the convention and “try to discourage them from using cluster munitions.” But, “military cooperation with States not Party is still permitted, including operations where the use of cluster munitions cannot be ruled out.... The consequences of this article for NATO operations are currently being clarified.”⁹⁸

⁹⁵ Letter from the Permanent Mission of Lebanon to the UN in Geneva, 10 February 2009.

⁹⁶ Statement by Gen. Marcel Ranjeva, Minister of Foreign Affairs of Madagascar, Signing Conference, Oslo, 4 December 2008.

⁹⁷ Letter from Amb. Juan Manuel Gómez Robledo, Secretariat of Foreign Relations of Mexico, 4 March 2009.

⁹⁸ Letter from Henk Swartouw, Dutch Ministry of Foreign Affairs, 26 February 2009.

Signatories

AFGHANISTAN

The Islamic Republic of Afghanistan signed the Convention on Cluster Munitions in Oslo on 3 December 2008. The status of the ratification process is unknown.

Afghanistan is not believed to have used, produced, stockpiled, or transferred cluster munitions. The country remains heavily affected by cluster munitions used by the Soviet Union and the United States. Soviet forces used air-dropped and rocket-delivered cluster munitions during their invasion and occupation of Afghanistan from 1979–1989.¹ A non-state armed group used rocket-delivered cluster munitions during the civil war in the 1990s.² In 232 strikes between October 2001 and early 2002, US aircraft dropped 1,228 cluster bombs containing 248,056 bomblets at locations throughout the country.³

Afghanistan has signed but not ratified the Convention on Conventional Weapons.⁴

Cluster Munition Ban Policy

Despite its positive participation in the Oslo Process, Afghanistan's signature of the Convention on Cluster Munitions was never certain. Afghanistan attended the initial meeting to launch the Oslo Process in February 2007 and was one of 46 states to endorse the Oslo Declaration, committing to conclude in 2008 a new convention prohibiting cluster munitions that cause unacceptable harm to civilians.

While it did not attend the next international conference in Lima, Afghanistan participated in the Belgrade Conference of States Affected by Cluster Munitions in October 2007, and the final two international conferences to develop the convention text in Vienna and Wellington.

At the Vienna conference, Afghanistan urged that the draft treaty text on clearance and victim assistance be strengthened.⁵ At the Wellington conference, Afghanistan urged delegates to heed the appeals of victims such as Afghan survivor Soraj Ghulam Habib who addressed the opening of the meeting. During the discussion on definitions, Afghanistan said there is no such thing as a "good" cluster munition and objected to the use of terminology such as "harmless" or "unacceptable harm," arguing instead for a comprehensive ban on all cluster munitions.⁶

Despite its active support for the ban objective, Afghanistan did not endorse the Wellington Declaration, which would have committed it to participate fully in the formal negotiations in Dublin. Afghanistan did not attend the negotiations in May 2008, even as an observer. Subsequently, the Afghan Landmine Survivors Organization (ALSO) stepped up Afghan civil society efforts to convince the government to sign the convention through parliamentary and Ministry of Foreign Affairs outreach, collection of the People's Treaty ban petition signatures, media, and other activities.⁷

¹ CMC, "Cluster Munitions in the Asia-Pacific Region," October 2008, prepared by Human Rights Watch, www.hrw.org.

² *Ibid.*

³ Human Rights Watch, "Fatally Flawed: Cluster Bombs and their Use by the United States in Afghanistan," December 2002, Vol. 14, No. 7 (G), www.hrw.org.

⁴ UN, "Convention on Certain Conventional Weapons, Signatories to the CCW," undated, www.unog.ch.

⁵ Vienna Conference on Cluster Munitions, 5–6 December 2007. Notes by CMC/WILPF.

⁶ Statement of Afghanistan, Wellington Conference on Cluster Munitions, 19 February 2008. Notes by CMC.

⁷ CMC, "Global Week of Action to Ban Cluster Bombs: 27 October – 2 November 2008," www.stopclustermunitions.org.

Afghanistan's signature of the Convention on Cluster Munitions provided one of the most exciting highlights at the Oslo signing conference and attracted considerable media interest.⁸ On the afternoon of 3 December 2008, the plenary erupted into applause as the Afghan representative, Ambassador Jawed Ludin, announced that within the past two hours he had received instructions and authorization from President Hamid Karzai to sign the convention. According to Ambassador Ludin, until that morning Afghanistan had not been willing to sign due to a "principled position we had maintained since beginning of the Oslo Process as a reflection of Afghanistan's current situation. We are effectively at war and any disarmament measure at a time of war requires very cautious treatment."⁹

The night before, Ambassador Ludin had met with Afghan campaigners, including survivor Soraj Ghulam Habib, who pressed him to revisit the decision not to sign. Ambassador Ludin said that Afghanistan decided to sign in "recognition of the plight of the thousands of victims of cluster munitions in my country.... The decision is, above all, a tribute to the victims of cluster munitions in Afghanistan and around the world." He described the convention as "not just a huge contribution towards global disarmament" but "a great victory for international humanitarian law."¹⁰

The *New York Times* reported that, according to an Afghan official, the US had applied pressure on Afghanistan not to join the convention.¹¹ In Oslo, Ambassador Ludin stated, "I assure you and all our partners, who are fighting the war on terrorism alongside the Afghan people, that the signing of this convention will in no way affect our part in this war. It will indeed strengthen our efforts."¹²

ALBANIA

The Republic of Albania signed the Convention on Cluster Munitions in Oslo on 3 December 2008. The Parliament of Albania approved legislation for the ratification of the convention on 5 March 2009, and the President signed it on 19 March.¹³ As of mid-April, Albania had not yet formally deposited its instrument of ratification with the UN.

Albania is party to the Convention on Conventional Weapons (CCW) and ratified Protocol V on Explosive Remnants of War on 12 May 2006.¹⁴

Albania has stated that it never has produced, stockpiled, used, or transferred cluster munitions.¹⁵ Cluster munitions were used in Albania during the Balkans conflict in 1999 by forces of the former Socialist Republic of Yugoslavia, which affected an entire border area in northeast Albania. As a result, nine people died, 44 were wounded, and an area of 2.1 million m² was contaminated.¹⁶

⁸ See, for example: Walter Gibbs and Kirk Semple, "Afghanistan Signs Cluster Bomb Treaty," *New York Times*, 3 December 2008, www.nytimes.com; and "Nations sign cluster bomb treaty," *BBC News*, 3 December 2008, news.bbc.co.uk.

⁹ Statement by Amb. Jawed Ludin, Representative of the Islamic Republic of Afghanistan to Norway, Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008.

¹⁰ *Ibid.*

¹¹ The *New York Times* article stated, "The decision appeared to reflect Mr. Karzai's growing independence from the Bush administration, which has opposed the treaty and, according to a senior Afghan official who spoke on the condition of anonymity following diplomatic protocol, had urged Mr. Karzai not to sign it." Walter Gibbs and Kirk Semple, "Afghanistan Signs Cluster Bomb Treaty," *New York Times*, 3 December 2008, www.nytimes.com.

¹² Statement by Amb. Jawed Ludin, Signing Conference, Oslo, 3 December 2008.

¹³ Email from Portia Stratton, Policy and Research Officer, Landmine Action, 12 March 2009; emails from Jonuz Kola, Executive Director, Victims of Mines and Arms- Kukes Association, 7 March 2009 and 22 April 2009; and email from Arben Braha, Albanian Mine Action Executive, 24 April 2009.

¹⁴ Albania participated in all of the 2008 meetings of the CCW Group of Governmental Experts on a draft proposal for a new protocol on cluster munitions, but Albania made no significant statements on its position on the draft proposal or on the CCW negotiations in general.

¹⁵ Statement by Lulzim Basha, Minister of Foreign Affairs, Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008, www.clusterconvention.org; Rosy Cave, Anthea Lawson, and Andrew Sheriff, *Cluster Munitions in Albania and Lao PDR: The Humanitarian and Socio-Economic Impact* (Geneva: UN Institute for Disarmament Research, 2006), p. 7, www.mineaction.org.

¹⁶ Statement by Lulzim Basha, Signing Conference, Oslo, 3 December 2008, www.clusterconvention.org.

Cluster Munition Ban Policy

Albania was not at the initial Oslo Process meeting in Norway in February 2007, but participated in the subsequent international preparatory conferences in Lima, Vienna, and Wellington, as well as the formal negotiations in Dublin. It also attended regional conferences in Belgrade (for affected countries), Brussels, and Sofia. Throughout the Oslo Process, Albania emphasized its experience as an affected country to demonstrate the humanitarian harm caused by cluster munitions.

During the Lima conference in May 2007, Albania called for strong treaty provisions on victim assistance and risk education, building and improving on those in the Mine Ban Treaty.¹⁷ During the Belgrade conference in October 2007, Albania announced the enactment of a moratorium on the production and trade of cluster munitions while the new treaty was being negotiated.¹⁸

Albania continued to call for strong provisions on victim assistance during the Vienna and Wellington conferences. Albania endorsed the Wellington Declaration indicating its intention to participate in the Dublin negotiations, on the basis of the draft treaty text. However, it also expressed the view that the compendium of proposals put forward by the group of so-called like-minded states should be taken into consideration, so that a more balanced compromise text would emerge in the Dublin conference.¹⁹ The CMC viewed most of the proposals as a significant weakening of the draft text.

Albania participated in the Dublin negotiations and joined the consensus to adopt the convention on 30 May 2008. During the Sofia Regional Conference on Cluster Munitions, 18–19 September 2008, Albania publicly announced it would sign the convention in Oslo in December 2008.²⁰

Upon signing the convention, Minister of Foreign Affairs Lulzim Basha noted that “the signature of the Convention of Cluster Munitions is a real contribution for a safer and more secure world.” The minister’s speech devoted particular attention to “transparency and to the earliest possible reporting by each member state to the UN Secretary General on the national measures for the implementation, the status and the performance of programs for the clearance and destruction of all sorts and amounts of cluster munitions.”²¹ The minister affirmed that “today we are optimistic that we shall succeed in clearing the remaining and unexploded cluster munitions much earlier than the deadlines set in the Convention.” He concluded by committing Albania to a rapid process of ratification.²²

ANGOLA

The Republic of Angola signed the Convention on Cluster Munitions in Oslo on 3 December 2008. The status of the ratification process is not known.

Angola participated in the initial Oslo Process meeting in February 2007, and endorsed the Oslo Declaration, committing states to conclude a new treaty prohibiting cluster munitions in 2008. It participated in the other three international treaty preparatory conferences in Lima, Vienna, and Wellington. Although Angola registered for the formal negotiations in Dublin in May 2008, it did not attend.

Angola also participated in the Oslo Process conference in Belgrade for affected states (October 2007), and regional conferences in Livingstone (March/April 2008) and Kampala (September 2008).

¹⁷ Statement of Albania, Lima Conference on Cluster Munitions, 23 May 2007. Notes by WILPF.

¹⁸ CMC, “Survivors and States Join Forces Against Cluster Bombs,” Press release, 4 October 2007, Belgrade.

¹⁹ Statement of Albania, Wellington Conference on Cluster Munitions, 22 February 2008. Notes by CMC.

²⁰ Statement of Albania, Sofia Regional Conference on Cluster Munitions, 18–19 September 2008. Notes by Landmine Action.

²¹ Statement by Lulzim Basha, Signing Conference, Oslo, 3 December 2008, www.clusterconvention.org.

²² *Ibid.*

During the Lima conference, it stated, “Angola is highly affected by landmines and ERWs [explosive remnants of war]. There has been an enormous effort made by the government to clear its land. Therefore, language should be very clear [in] the convention, either for the affected countries, users, producers, and ex-producers, on their responsibility for clearance.”²³

At the Wellington conference, Angola called on the international community to pay special attention to the need for effective cooperation and assistance for victim assistance programs and stockpile destruction.²⁴ Angola endorsed the Wellington Declaration, indicating its intention to be a full participant in the Dublin negotiations.

During the Livingstone conference, Angola stated that victims of cluster munitions should be a priority and victim assistance should be gender sensitive. Angola also intervened to emphasize the importance of clearing cluster munition remnants from affected areas.²⁵

Angola is not party to the Convention on Conventional Weapons.

Use, Production, Stockpiling, and Transfer

Cluster munitions have been used in Angola, although it is unclear when they were used during the various conflicts in Angola or by whom. Angola is still heavily affected by landmines and ERW, including cluster munitions, though cluster munition contamination does not appear extensive.²⁶ NGO clearance operators reported clearing 383 submunitions in three provinces in Angola as of February 2008.²⁷

Angola is not believed to have produced cluster munitions. Jane’s Information Group notes that KMG-U dispensers that deploy submunitions are in service for Angolan aircraft.²⁸ Deminers operating in Angola have documented the presence of casings of RBK 250-275 cluster bombs among abandoned ammunition, although there are no reports of the presence of associated submunitions.²⁹ It is likely the KMG-U’s and RBKs were produced by the Soviet Union.

AUSTRALIA

The Commonwealth of Australia signed the Convention on Cluster Munitions in Oslo on 3 December 2008. Australia confirmed that it had started its parliamentary process to ratify the convention during a special event to promote the convention at the UN in New York in March 2009.³⁰

Australia is a party to the Convention on Conventional Weapons (CCW) and ratified Protocol V on Explosive Remnants of War on 4 January 2007. It has been an active participant in and supporter of the work of the CCW on cluster munitions in recent years.

²³ Statement of Angola, Lima Conference on Cluster Munitions, 25 May 2007. Notes by CMC/WILPF.

²⁴ Statement of Angola, Wellington Conference on Cluster Munitions, 21 February 2008. Notes by CMC/WILPF.

²⁵ Livingstone Conference on Cluster Munitions, 31 March–1 April 2008. Notes by CMC.

²⁶ ICBL, *Landmine Monitor Report 2008* (Ottawa: Mines Action Canada, 2008), p. 133. Deminers have reported finding two types of Russian-made cluster submunitions in Angola: the PTAB-2.5 K0 and the AO-2.5 RT.

²⁷ *Ibid.* As of 22 February 2008, Norwegian People’s Aid reported clearing 13 submunitions in the municipality of Ebo in Kuanza Sul province. Mines Advisory Group reported clearing 140 submunitions in the Moxico province, and HALO Trust reported clearing 230 submunitions in Kunhinga municipality in Bié province. Information was retrieved from the national database with the Inter-sectoral Commission on Demining and Humanitarian Assistance (Comissão Nacional Intersectoral de Desminagem e Assistência Humanitária).

²⁸ Robert Hewson, ed., *Jane’s Air-Launched Weapons*, Issue 44 (Surrey, UK: Jane’s Information Group Limited, 2004), p. 835.

²⁹ Landmine Action, “Note on Cluster Munitions in Angola,” 10 February 2004.

³⁰ CMC, “Report on the Special Event on the Convention on Cluster Munitions, United Nations, New York, 18 March 2009.”

Cluster Munition Ban Policy

Australia's cluster munition policy evolved significantly from 2006 to 2008. It was not an early supporter of any kind of prohibition on cluster munitions. At the CCW Third Review Conference in November 2006, Australia did not support a proposal for a mandate to negotiate a legally-binding instrument "that addresses the humanitarian concerns posed by cluster munitions."³¹

Australia stated that "while states are agreed on the need to act, we are well short of consensus on such negotiations among States Parties. Any instrument on cluster munitions must include major producing and user states to maximize its humanitarian benefit." Australia supported the continuation of work on cluster munitions in the CCW framework, "to explore the application, implementation and adequacy of existing international humanitarian law as it applies to munitions that may become ERW, including cluster munitions, as well as factors affecting their reliability and design characteristics."³²

On 5 December 2006, Senator Lyn Allison, leader of the Australian Democrats, introduced in the Senate a private members bill titled the Cluster Munitions (Prohibition) Bill 2006. The bill stated its purpose as "to ensure the innocent civilians in conflict zones are not maimed, killed, or put at risk as a result of Australians possessing, using or manufacturing cluster munitions."³³

Australia did not attend the initial meeting in Oslo to launch the Oslo Process in February 2007, but participated in all of the subsequent international diplomatic conferences to develop the convention text in Lima, Vienna, and Wellington, as well as the formal negotiations in Dublin in May 2008. It also attended the regional conference hosted by the Lao PDR in October 2008 to promote signature of the convention in Southeast Asia.

Just prior to the Lima conference, Australia sent a letter to the CMC indicating that it would participate in Lima, but stated, "We remain of the view, however, that the [CCW] is the most appropriate forum... particularly since it includes the major producers and users of cluster munitions who have chosen to stay outside the Oslo Process."³⁴

At the Lima conference in May 2007, Australia stated it was participating in the Oslo Process out of shared concerns over the humanitarian hazards posed by inaccurate and unreliable cluster munitions. At the same time, Australia declared it was actively pushing for a negotiating mandate in the CCW as it viewed the Oslo Process and the CCW as complementary.³⁵ With respect to the draft convention text, Australia said that in determining the scope of any prohibition, reliability had to be considered, with possible exemptions for cluster munitions with certain technical characteristics such as self-destruct mechanisms. Australia also set out its concerns about "interoperability," referring to potential criminal liability for members of its Defence Forces in joint operations with states not party. Australia spoke of the need to hold representative samples of cluster munitions for the purpose of training and research, saying training was crucial for Australia to make a contribution to humanitarian efforts on cluster munitions.³⁶

On 31 May 2007, the Australian Senate Committee recommended that the Cluster Munition (Prohibition) Bill under consideration should not be passed.³⁷ It stated that while "there is an urgent need for measures to be taken to prevent the use of such deadly weapons from harming civilian populations," distinctions could be made between cluster munitions and submunition-based weapon systems that "are not designed for area saturation. The latter includes the limited number, precision-guided sub-munitions."³⁸

³¹ Proposal for a Mandate to Negotiate a Legally-Binding Instrument that Addresses the Humanitarian Concerns Posed by Cluster Munitions, Third Review Conference of the States Parties to the CCW, CCW/CONF.III/WP.1, Geneva, 25 October 2006. When States Parties rejected the mandate, Australia did not join 25 nations in supporting a declaration calling for an international agreement that would prohibit the use of cluster munitions "within concentrations of civilians," prohibit the use of cluster munitions that "pose serious humanitarian hazards because they are for example unreliable and/or inaccurate," and require destruction of stockpiles of such cluster munitions. Declaration on Cluster Munitions, Third Review Conference of the States Parties to the CCW, CCW/CONF.III/WP.18, Geneva, 17 November 2006.

³² Statement of Australia, Third Review Conference of the States Parties to the CCW, Geneva, 17 November 2006.

³³ Cluster Munitions (Prohibition) Bill, 2006, Senators Allison, Bartlett, Bishop, and Bob Brown. www.comlaw.gov.au.

³⁴ Letter from John Sullivan, Assistant Secretary, Arms Control and Counter Proliferation Branch, Department of Foreign Affairs and Trade of Australia, to Thomas Nash, Coordinator, CMC, 14 May 2007.

³⁵ Statement of Australia, Lima Conference on Cluster Munitions, 23 May 2007. Unofficial transcription by WILPF.

³⁶ *Ibid.*, 24 May 2007.

³⁷ Report of the Senate Standing Committee on Foreign Affairs, Defence and Trade, "Cluster Munition (Prohibition) Bill 2006," Canberra, May 2007, p. 38, www.wilpf.int.ch.

³⁸ *Ibid.*, p. 12.

The Department of Defence argued that the bill would have put Australia “at a serious military disadvantage in future conflicts” and would constrain Australia’s ability to negotiate internationally on the issue. It also argued that further regulation of the use of cluster munitions was unnecessary beyond what was already contained in international humanitarian law, in particular Protocol V of the CCW.³⁹ The Senate Committee, however, rejected this view and acknowledged that “there is insufficient protection for civilians from the ERW [explosive remnants of war] legacy of cluster munitions.” The Committee encouraged the government “to strengthen its multilateral efforts towards the effective regulation of the use of cluster munitions.”⁴⁰ The Senate Committee’s decision was strongly criticized domestically by NGOs⁴¹ and Australian politicians calling for a ban on cluster munitions.⁴²

In conjunction with the Senate Committee’s report, the Department of Defence stated it was “acquiring an advanced sub-munition based weapon system capability for use against mobile armoured vehicles.” It said this system would have “probably between two and ten submunitions,” with “guided targeting, and self-destruction or self-neutralisation capabilities.”⁴³

In the November 2007 Meeting of the States Parties to the CCW, Australia pledged support to the CCW’s work on cluster munitions believing that “millions of concerned citizens in our countries are looking for leadership and substantive progress from the CCW to address those cluster munitions that cause unacceptable harm to civilians. Our institution could suffer greatly if we are not seen to provide that leadership.”⁴⁴

At the Vienna conference in December 2007, Australia declared its aim to seek a legally-binding agreement in both the Oslo Process and the CCW. It called the need for new provisions in the draft text on interoperability a “red line issue” for Australia in order to avoid significant legal barriers to humanitarian interventions, including specifically, UN mandated interventions.⁴⁵ Australia advocated for a high standard for victim assistance to address the long-term needs of survivors.⁴⁶

At the Wellington conference in February 2008, Australia again emphasized concerns over interoperability.⁴⁷ It introduced a discussion paper which argued that the prohibition on assistance as contained in the Wellington draft text “could inhibit a range of military activities essential to the effectiveness of international operations” and listed a number of scenarios it considered problematic.⁴⁸ On definitions, it stated “Australia does not believe that the most modern sensor fused systems which contain a small number of submunitions and which are fitted with redundant fail safe mechanisms which are designed to initiate only when an appropriate target is identified should be captured within the definition of cluster munitions that pose an unacceptable harm to civilians....”⁴⁹ It also continued to argue for a capacity to hold stocks of cluster munitions for training and research.⁵⁰ Australia associated itself with the so-called like-minded group that put forth a number of proposals strongly criticized by the CMC as weakening the draft text. It supported the joint statement of the like-minded group at the end of the conference

³⁹ Ibid, p. 29.

⁴⁰ Ibid, p. 40.

⁴¹ In January 2008, CMC Australia was established with members including Austcare, the Australian Network to Ban Landmines, the Medical Association for the Prevention of War (Australia), Mines Victims and Clearance Trust, Peace Organisation Australia, and Uniting Church in Australia Synod of Victoria and Tasmania. See www.austcare.org.au.

⁴² Lyn Allison, “Australia and the Road to a Global Cluster Bomb Ban: A Personal Account,” *Australian Journal of Peace Studies*, Volume 3, 3008, p. 130.

⁴³ Report of the Senate Standing Committee on Foreign Affairs, Defence and Trade, “Cluster Munition (Prohibition) Bill 2006,” Canberra, May 2007, www.wilpf.int.ch.

⁴⁴ Statement by Amb. Caroline Millar, Permanent Mission of Australia to the UN in Geneva, First 2008 Session of the CCW Group of Governmental Experts (GGE) on Cluster Munitions, Geneva, 14 January 2008.

⁴⁵ Australia referred to its participation in Afghanistan under a UN Chapter 7 mandate and said the provisions in the Vienna Discussion Text would be unsustainable and prevent operations with states not party. Statement of Australia, Vienna Conference on Cluster Munitions, Session on General Scope of Obligations, 6 December 2007. Notes by CMC/WILPF.

⁴⁶ Statement of Australia, Session on Victim Assistance, Vienna Conference, 6 December 2008. Notes by CMC/WILPF.

⁴⁷ Statement of Australia, Session on Definition and General Scope of Obligations, Wellington Conference on Cluster Munitions, 18 February 2008. Notes by CMC.

⁴⁸ Australia, Canada, Czech Republic, Denmark, Finland, France, Germany, Italy, Netherlands, Sweden, Switzerland, United Kingdom, “Discussion paper, Cluster Munitions and Interoperability: The Oslo-Process Discussion Text and Implications for International Operations,” Wellington Conference, 18–22 February 2008.

⁴⁹ Statement of Australia, Session on Definition and General Scope of Obligations, Wellington Conference on Cluster Munitions, 19 February 2008. Notes by the CMC.

⁵⁰ Statement of Australia, Session on Storage and Stockpile Destruction, Wellington Conference, 21 February 2008. Notes by CMC.

expressing disappointment with the proceedings and the unwillingness to incorporate their proposals into the draft text.⁵¹ Nevertheless, Australia subscribed to the Wellington Declaration, indicating its intention to participate fully in the formal negotiations in Dublin on the basis of the Wellington draft text.

At the beginning of the Dublin Diplomatic Conference in May 2008, Australia maintained the positions it outlined in Wellington. On 20 May 2008, while negotiations were underway, Australia's Minister of Foreign Affairs Stephen P. Smith stated in a press release that "Australia's objectives at the conference will be to address the humanitarian consequences of older and inherently unreliable cluster munitions that scatter battlefields with tens and hundreds of unexploded bombs which continue to kill and maim civilians long after the cessation of conflicts."⁵² Australia argued that current and future submunitions which use sensors to engage point-targets and have electronic self-destruct and self-neutralization mechanisms should lie beyond the scope of the prohibition.⁵³ Australia continued to argue for the inclusion of provisions on interoperability, calling it "a deal-breaker," and arguing that it could not be addressed through national statements, but needed amendments to the convention text.⁵⁴ Australia's key concerns, particularly regarding the definition and interoperability were largely met in the final convention text, and Australia joined in the consensus adoption of the convention. In doing so, it lauded the convention's strong humanitarian outcome, its ground breaking provisions on victim assistance, and its provisions on international cooperation and assistance.⁵⁵

In November 2008, when CCW negotiations on cluster munitions were set to conclude, Australia did not join 26 states that issued a joint statement expressing their opposition to the weak draft text on a possible CCW protocol on cluster munitions, indicating it was an unacceptable step back from the standards set by the Convention on Cluster Munitions.⁵⁶ CCW States Parties were unable to reach agreement on text and extended the work into 2009.

Upon signing the Convention on Cluster Munitions in Oslo in December 2008, Minister of Foreign Affairs Stephen P. Smith praised the humanitarian impact of the convention. He acknowledged the work and leadership of the "Core Group" of states behind the Oslo Process, and said that "we also owe civil society a great deal of credit for this outcome." He paid tribute to the "inspiring role played by survivors."⁵⁷

Use, Production, Stockpiling, and Transfer

According to the Department of Foreign Affairs and Trade, "Australia has not developed, produced or used cluster munitions, and does not currently develop, produce or use them."⁵⁸ Similar statements were made by Australian delegations at the Oslo Process conferences in Lima, Wellington, and Dublin.⁵⁹ In May 2007, the department stated that "Australia does not in fact have a stockpile of cluster munitions; the ADF [Australian Defence Force] holds representative samples of cluster munitions—most of them inert—solely for research and training."⁶⁰

While Australia does not use, produce or stockpile cluster munitions today, the—still incomplete—historical accounting of Australia's involvement with cluster munition use, production, and stockpiling appears to tell a different story. In November 2006, Senator Lyn Allison asked the Minister of Defence

⁵¹ Statement of Australia, Closing Statement, Wellington Conference, 22 February 2008. Notes by CMC; and Statement of France on behalf of like-minded countries, Wellington Conference, 22 February 2008.

⁵² The Hon Stephen P. Smith MP, Minister of Foreign Affairs, "Dublin Diplomatic Conference on Cluster Munitions," Press release, 20 May 2008, www.foreignminister.gov.au.

⁵³ Statement of Australia, Informal Discussions on Interoperability, Dublin Diplomatic Conference, 20 May 2008. Notes by Landmine Action.

⁵⁴ *Ibid.*, 22 May 2008.

⁵⁵ Statement of Australia, Closing Statement, Dublin Diplomatic Conference, 30 May 2008. Notes by Landmine Action.

⁵⁶ Statement delivered by Costa Rica on behalf of Austria, Belgium, Benin, Bosnia and Herzegovina, Chile, Croatia, Ecuador, El Salvador, Guatemala, Holy See, Honduras, Indonesia, Ireland, Lebanon, Mexico, New Zealand, Nicaragua, Norway, Peru, Philippines, Senegal, South Africa, Uganda, Uruguay, and Venezuela, Fifth 2008 Session of the CCW GGE on Cluster Munitions, Geneva, 5 November 2008.

⁵⁷ Statement of Australia, Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008.

⁵⁸ Letter from Peter Shannon, Assistant Secretary, Arms Control and Counter-Proliferation Branch, Department of Foreign Affairs and Trade, to Pax Christi Netherlands, 25 February 2005.

⁵⁹ Statement of Australia, Lima Conference, 23 May 2008. Notes by CMC/WILPF; Statement of Australia, Wellington Conference, 22 February 2008. Notes by CMC; and Statement of Australia, Committee of the Whole on Article 3, Dublin Diplomatic Conference, 19 May 2008. Notes by Landmine Action.

⁶⁰ Letter from John Sullivan, Department of Foreign Affairs and Trade of Australia, 14 May 2007.

a series of questions (Question No. 2616) regarding Australia's past involvement with cluster munitions. Senator Ian Campbell provided the answers:⁶¹

Question: "Does the Government possess a stockpile of cluster bombs?"

Answer: "No."

Question: "If the Government does not possess a stockpile of cluster bombs, has the Government ever possessed such a stockpile in the past?"

Answer: "Yes, from the 1970s to 1990s."

Question: "Has the Government ever used a cluster bomb as a weapon of war or for testing purposes; if so: (a) how many have been used; (b) where have they been used; and (c) what types have been used?"

Answer: "The Australian Defence Force has not used cluster munitions as a weapon of war, but they have been used in limited quantities for testing purposes: (a) Approximately 10 to 20 cluster munitions were tested; (b) Woomera test range in South Australia; (c) Karinga cluster bomb and American CBU-58B."

Question: "Has the Government ever produced, or contracted an Australian company to produce, cluster bombs?"

Answer: "Yes, in the 1970s and 1980s the Government manufactured limited numbers of cluster bombs for testing purposes."

Moreover, there is an undated photograph of Australian military personnel fitting, albeit for "trial" purposes, a US SUU-7 submunition dispenser to an Australian bomber during the Vietnam conflict.⁶² The No. 2 Squadron of the Royal Australian Air Force operated Canberra B. Mk-20 bombers out of Phan Rang Air Base in Vietnam from April 1967 until June 1971 while assigned to the United States Air Force's 35th Tactical Fighter Wing.⁶³ According to a respected history, "The bombs used during the early period came from Bomb Dumps throughout Australia.... After that, standard US [Air Force] weapons were the norm."⁶⁴

Australia developed, manufactured, and tested a cluster bomb named Karinga as "an experimental cluster bomb developed by the Defence Science and Technology Organization (DTSO) in the 1970/1980s for employment by F111 strike aircraft."⁶⁵ According to information disclosed to the Australian Senate, Australia apparently also acquired a number of US CBU-58 cluster bombs during the same time period, presumably for comparative testing with the Karinga.

Jane's Information Group lists Australia as possessing US-produced Rockeye cluster bombs as recently as January 2008, but military officials state that these weapons were removed from the inventory of the Australian Defence Forces many years ago.⁶⁶

In October 2007, it was reported that Australia "has finalised the acquisition of SMARt 155 artillery rounds worth AUD14 million (USD12.3 million) for its 36 M198 155mm towed howitzers."⁶⁷ SMARt 155 contains two submunitions but is not captured by the definition of a cluster munition in the Convention on Cluster Munitions because it meets the five technical criteria set out by negotiators as necessary to avoid the negative effects of cluster munitions.⁶⁸ In a letter dated 10 July 2008, Minister of Foreign Affairs Stephen P. Smith stated, "Advanced munitions with reliable, electronic fuzes and fail-safe elements, such as the SMARt 155, do not fall within the definition of a cluster munitions which has been agreed in the

⁶¹ "Banning Cluster Munitions: Australia's Role," Submission by the Peace Organisation of Australia to the Senate Foreign Affairs, Defence and Trade Committee inquiry into the provisions of the Cluster Munitions (Prohibition) Bill 2006, January 2007.

⁶² The photo, attributed to have been taken in 1967, can be found at www.airwarvietnam.com.

⁶³ Royal Australian Air Force, "History: South-East Asia and Vietnam," updated 15 April 2009, www.raaf.gov.au.

⁶⁴ "No. 2 Squadron Royal Australian Air Force," Air War Vietnam.Com, updated 28 December 2004, www.airwarvietnam.com.

⁶⁵ "Cluster Bomb Karinga," Australian War Memorial Collection Record, REL/04840, updated 29 September 2008, cas.awm.gov.au.

⁶⁶ Robert Hewson, ed., *Jane's Air-Launched Weapons*, Issue 44 (Surrey, UK: Jane's Information Group Limited, 2004), p. 835; Colin King, ed., *Jane's Explosive Ordnance Disposal 2007-2008*, CD-edition, 15 January 2008, (Surrey, UK: Jane's Information Group Limited, 2008); and Human Rights Watch interview with members of Australia's delegation to the Eleventh Session of the CCW GGE, Geneva, 10 August 2005.

⁶⁷ *Jane's Defence Weekly*, 4 October 2007.

⁶⁸ Article 2.2(c) excludes munitions with submunitions if they have less than 10 submunitions, and each submunition weighs more than four kg, can detect and engage a single target object, and is equipped with electronic self-destruction and self-deactivation features.

Convention. This definition was drafted with the express purpose of creating a comprehensive ban on all cluster munitions which have caused humanitarian problems when used in previous conflicts.⁷⁶⁹

AUSTRIA

The Republic of Austria signed the Convention on Cluster Munitions in Oslo on 3 December 2008. Austria became the sixth country to formally ratify the convention when it deposited its legal instrument of ratification at the UN in New York on 2 April 2009.⁷⁰

Austria announced a national moratorium on the use of cluster munitions in February 2007 and was the second country in the world to enact a comprehensive national ban on cluster munitions. The law was adopted in December 2007 and entered into force on 8 January 2008.⁷¹

Austria was a member of the small “Core Group” of nations that took responsibility for the Oslo Process and the development of the Convention on Cluster Munitions outside of traditional diplomatic fora. It hosted a key meeting of the Oslo Process in Vienna in December 2007. Austria played a pivotal role in securing the convention’s ground-breaking provisions on victim assistance.

Austria is party to the Convention on Conventional Weapons (CCW) and ratified Protocol V on Explosive Remnants of War on 1 October 2007.

Cluster Munition Ban Policy

Austria was one of the earliest supporters of international efforts to deal with cluster munitions. In July 2006, the Austrian Parliament passed a resolution urging the government to support an international treaty against cluster munitions with high failure rates.⁷²

During the Third Review Conference of the CCW in November 2006, Austria was one of six countries that tabled a proposal for a mandate to negotiate a legally-binding instrument “that addresses the humanitarian concerns posed by cluster munitions.”⁷³ When other CCW States Parties rejected such a mandate, Austria joined 24 other nations in supporting a declaration calling for an international agreement that would prohibit the use of cluster munitions “within concentrations of civilians,” prohibit the use of cluster munitions that “pose serious humanitarian hazards because they are for example unreliable and/or inaccurate,” and require destruction of stockpiles of such cluster munitions.⁷⁴

Norway then announced that it would start an independent process outside the CCW to negotiate a treaty banning cluster munitions that cause unacceptable harm to civilians, and invited other governments to join. A voluntary “Core Group” of countries emerged to take responsibility for moving forward what became known as the Oslo Process, and Austria was one of six initial countries in the Core Group.

In January 2007, Austria’s Minister of Foreign Affairs Ursula Plassnik pledged Austria’s “full support” for the Norwegian-led initiative, adding, “We aim at effective regulations to provide better protection for the civilian population. As a first step there is a need above all to ban cluster munitions posing an

⁶⁹ Letter from Hon. Stephen Smith, MP, Minister of Foreign Affairs, to Archie Law, Chief Executive Officer, Austcare, 10 July 2008.

⁷⁰ Ministry of Foreign Affairs, “Spindelgerger: ‘Quick ratification of the Convention on Cluster Munitions proves Austria’s pioneer role in humanitarian disarmament,’” Press release, 3 April 2009, www.bmeia.gv.at.

⁷¹ Statement of Austria, Session on General Obligations and Scope, Vienna Conference on Cluster Munitions, 6 December 2007. Notes by CMC/WILPF; and Statement of Austria, Opening Ceremony, Wellington Conference on Cluster Munitions, 18 February 2008. Notes by CMC/WILPF.

⁷² This came about after Austrian Aid for Mine Victims, the lead Austrian NGO in the CMC, had pressed for a parliamentary examination of cluster munitions. CMC Austria Section, “CMC-Austria,” www.stopstreubomben.at.

⁷³ Proposal for a Mandate to Negotiate a Legally-Binding Instrument that Addresses the Humanitarian Concerns Posed by Cluster Munitions, Third Review Conference of the States Parties to the CCW, CCW/CONF.III/WP.1, Geneva, 25 October 2006.

⁷⁴ Declaration on Cluster Munitions, Third Review Conference of the States Parties to the CCW, CCW/CONF.III/WP.18, Geneva, 17 November 2006.

unacceptably high risk for people. Our long-term objective should be a total ban of these munitions, which even years after the cessation of conflicts kill and maim human beings.”⁷⁵

Austria was one of the most active participants throughout the Oslo Process, from the international conference to launch the process in February 2007, to the three subsequent international conferences to develop the convention text in Lima, Vienna (as the host), and Wellington, to the formal negotiations in Dublin in May 2008. It also attended regional conferences in Phnom Penh (March 2007), Brussels (October 2007), and Beirut (November 2008).

At the Oslo conference in February 2007, Austria gave a keynote address in which it announced a national moratorium on the use of cluster munitions.⁷⁶ It was one of 46 countries to endorse the Oslo Declaration, committing states to conclude in 2008 a new convention prohibiting cluster munitions that cause unacceptable harm to civilians.

During the Lima conference in May 2007, Austria assumed the leadership role on victim assistance that it would play throughout the Oslo Process. Austria called for a separate article on victim assistance in the future convention and argued that the term victim should be broader than the individual, encompassing “the family of a victim...and even the community of the victim.” Austria stated that victim assistance “not only relates to the most obvious issues such as emergency care, but it also relates to rehabilitation, psychological care, social reintegration, economic reintegration, and financial care.” Austria highlighted the issue of long-term psychological care and rehabilitation as of primary importance, based on lessons learned in the context of the Mine Ban Treaty. Austria called for a reference to the human rights of victims, which it said would help shape the legal framework of victim assistance, along with the new Convention on the Rights of Persons with Disabilities.⁷⁷

On the eve of the Vienna Conference on Cluster Munitions, on 4 December 2007, Austria hosted an International Parliamentary Forum, attended by 48 parliamentarians from 26 countries, including nine participants from countries not participating in the Oslo Process. The forum generated increased support from parliamentarians for a comprehensive ban, and strong provisions for victim assistance and for the clearance of submunitions.⁷⁸

The Vienna Conference on Cluster Munitions, held from 5–7 December 2007, was opened by Austria’s Minister of Foreign Affairs with the announcement that the Austrian parliament would adopt a national law banning cluster munitions.⁷⁹ The law was enacted by the National Council and the Federal Council on 6 and 20 December 2007, respectively, and it entered into force on 8 January 2008.⁸⁰

Austria became the second country after Belgium to pass national legislation on cluster munitions. Austria’s Federal Act on the Prohibition of Cluster Munitions prohibits “the development, production, acquisition, sale, procurement, import, export, transit, use and possession of cluster munitions” in Austria. It requires that existing stocks of cluster munitions must be reported to the Federal Ministry of Defense within one month after its entry into force and destroyed within a maximum of three years.⁸¹

During the Vienna conference, Austria continued to prioritize victim assistance issues. It also worked against proposals it saw as weakening the treaty, including exceptions for cluster munitions based on self-destruct mechanisms or failure rates, a provision to facilitate “interoperability” (joint military operations with states not party), and a provision to allow the retention of cluster munitions for training or research

⁷⁵ Ministry of Foreign Affairs, “Plassnik: Austria calls for international treaty on cluster munitions,” Press release, 26 January 2007, www.bmaa.gv.at.

⁷⁶ Statement by Amb. Wolfgang Petritsch, Oslo Conference on Cluster Munitions, 22 February 2007, www.regjeringen.no.

⁷⁷ Statement of Austria, Lima Conference on Cluster Munitions, Session on Victim Assistance, 23 May 2007. Unofficial transcription by WILPF.

⁷⁸ CMC, “Vienna International Parliamentary Forum,” www.stopclustermunitions.org.

⁷⁹ Statement of Austria, Vienna Conference, 5 December 2007.

⁸⁰ Statement of Austria, Session on General Obligations and Scope, Vienna Conference, 6 December 2007. Notes by CMC/WILPF; and Statement of Austria, Opening Ceremony, Wellington Conference, 18 February 2008. Notes by CMC/WILPF.

⁸¹ “Bundesgesetz über das Verbot von Streumunition” (“Federal Act on the Prohibition of Cluster Munitions”), GP XXIII RV 232 AB 350 S. 42. BR: AB 7873 S. 751, *Bundesgesetzblatt für die Republik Österreich*, Bundeskanzleramt RechtsInformationssystem (Federal Law Gazette for the Republic of Austria, Federal Chancellery Legal Information), 7 January 2008, www.ris.bka.gv.at; and “Änderung des Bundesgesetzes über das Verbot von Streumunition” (“Amendment of the Federal Act on the Prohibition of Cluster Munitions”), GP XXIV RV 75 AB 101 S. 17. BR: AB 8094 S. 768, *Bundesgesetzblatt für die Republik Österreich*, Bundeskanzleramt RechtsInformationssystem (Federal Law Gazette for the Republic of Austria, Federal Chancellery Legal Information), Issued 8 April 2009, www.ris.bka.gv.at.

purposes.⁸² At the closing of the conference, Austria noted the consensus for strong provisions on victim assistance, thanked the survivors of cluster munitions who had participated in the conference, and commended them for their courage and input as the most credible ban advocates.⁸³

The CMC called the conference a great success, noting the attendance of an astounding 138 nations, and hailing the emerging consensus on important provisions in the future convention, including victim assistance, clearance, stockpile destruction, and international cooperation and assistance.⁸⁴

At the Wellington conference in February 2008, Austria recommended building on what it called the “Vienna Consensus on Victim Assistance” by adding language on the inclusion of victims in various levels of decision-making, national focal points, and national action plans.⁸⁵ Austria questioned the adequacy of many of the technical characteristics proposed by others as a solution to the humanitarian problems caused by cluster munitions.⁸⁶ On interoperability, Austria stated that it had concluded that its national penal law acted as a filter to protect service people from unjust prosecutions in instances where others may use cluster munitions. Austria said it was possible that in the future it might not be able to participate, or consciously choose not to participate in joint military operations where cluster munitions might be used.⁸⁷

During the formal negotiations in Dublin in May 2008, Austria served as Friend of the President for discussions on victim assistance and was key to the acceptance of provisions that have been widely described as ground-breaking. Austria opposed the proposal to exclude from prohibition certain weapons with a small number of submunitions that met five technical criteria; however, states eventually agreed to this proposal on the grounds that such weapons would not have the negative humanitarian effects of cluster munitions.⁸⁸ Austria continued to argue against provisions on interoperability and the inclusion of a transition period.⁸⁹

Upon the adoption of the convention, Austria said it had consistently supported a wider prohibition on cluster munitions, and said the language on interoperability was not the best that could have been achieved.⁹⁰ However, it praised the convention’s exceptional provisions on victim assistance, international cooperation and assistance, and clearance as setting new standards in international law. Austria declared feeling a “bond” with the newly negotiated text akin to the bond of a parent with a child: “It is not perfect... but we are proud of it nevertheless.”⁹¹

In June 2008, the CMC Austria Section received Austria’s Media Award 2008 for its advertising campaign “Were this flyer a cluster bomb, you would be dead.” The campaign was created on the occasion of the Vienna Conference on Cluster Munitions.⁹²

In July 2008, during a CCW session on cluster munitions, Austria was among a group of countries stating that the new Convention on Cluster Munitions should be the standard on cluster munitions and that it was not prepared to accept lower standards in a proposed CCW protocol.⁹³ In November 2008, Austria was one of 26 states that issued a joint statement expressing their opposition to the weak draft text on a possible

⁸² Statement of Austria, Vienna Conference, Session on General Obligations and Scope, 6 December 2007. Notes by CMC/WILPF.

⁸³ Statement of Austria, Vienna Conference, 7 December 2007. Notes by CMC/WILPF.

⁸⁴ CMC, “Cluster bomb ban treaty: 138 nations make progress in Vienna,” Press release, 7 December 2007.

⁸⁵ Statement of Austria, Wellington Conference, 20 February 2008. Notes by CMC.

⁸⁶ Statement of Austria, Wellington Conference, 19 February 2008. Notes by CMC. Austria argued that failure rates as claimed by producers did not correspond to the results in the field and questioned whether such testing could in any way form part of a practicable legal regime.

⁸⁷ Statement of Austria, Wellington Conference, 19 February 2008. Notes by CMC. Austria affirmed that its 40-year tradition of active participation in UN peacekeeping missions would be unaffected by the convention. After the entry into force of its national law, Austria continued to participate in UN operations, however, it now looked at missions more carefully and requested its partners not to use cluster munitions.

⁸⁸ Statement of Austria, Informal Discussions on Definitions, Dublin Diplomatic Conference on Cluster Munitions, 22 May 2008. Notes by Landmine Action. It urged that a safeguard mechanism, such as an additional reporting obligation should be incorporated into the convention’s transparency obligations so as to assess the potential for new technologies causing unacceptable harm.

⁸⁹ Statement of Austria, Informal Discussion on Interoperability, Dublin Diplomatic Conference, 20 May 2008; and Statement of Austria, Dublin Diplomatic Conference, Informal Discussion on Interoperability, 22 May 2008. Notes by Landmine Action.

⁹⁰ Statement of Austria, Committee of the Whole, Dublin Diplomatic Conference, 30 May 2008. Notes by Landmine Action.

⁹¹ Ibid.

⁹² CMC Austria Section, “Media Award 2008,” 13 June 2008, www.stopstreubomben.at.

⁹³ CMC, “Group of Governmental Experts, Convention on Certain Conventional Weapons,” 14 August 2008, www.stopclustermunitions.org.

CCW protocol on cluster munitions, indicating it was an unacceptable step back from the standards set by the Convention on Cluster Munitions.⁹⁴

At the November 2008 Conference of High Contracting Parties to CCW Protocol V on Explosive Remnants of War, Austria secured the adoption of a politically-binding Plan of Action on Victim Assistance under Protocol V. This plan was modeled on the victim assistance provisions of the Convention on Cluster Munitions.⁹⁵

Upon signing the convention in Oslo on 3 December 2008, Austria's ambassador stated that Austria was convinced that the convention would succeed in practice for two primary reasons: its comprehensive ban on cluster munitions as an entire category of weapons, with no broad exceptions or transition period; and, its provisions on victim assistance, which set new humanitarian standards and formed the "heart and soul" of the convention. Austria pledged that one priority of its newly elected government "is to ratify the Cluster Munitions Convention as soon as possible and to make the best contribution in the implementation phase."⁹⁶

On 12 March 2009, the Austrian National Council approved two motions relating to the convention. The first was for an amendment to Austria's national law banning cluster munitions to bring its definition of cluster munitions in line with the definition in the convention. The second motion authorized the National Council to ratify the convention. On 26 March, the Federal Council assented to both motions.⁹⁷ Austria formally deposited its instrument of ratification with the UN on 2 April 2009.

Use, Production, Transfer, and Stockpiling

Austria is not believed to have used, produced, or exported cluster munitions. Austria imported from Germany two types of 155mm artillery projectiles: DM-642 and DM-652. These contain dual purpose improved conventional munition (DPICM) submunitions (63 and 49 submunitions each, respectively) equipped with back-up self-destruct fuzes.⁹⁸

In June 2007, the Minister of Defense told the Parliament that the Austrian Armed Forces were stockpiling 12,672 "Hohlladungssprengkörpergranaten 92," another name for the 155mm artillery projectiles. The minister reported that these cluster munitions were procured in 1998 and 1999 for €10.44 million, and that destruction costs would amount to €1 million.⁹⁹

Austria's national law requires destruction within three years, which would be January 2011. Upon ratifying the convention, Austria said that it expected its stocks to be destroyed by the end of 2009.¹⁰⁰

⁹⁴ Statement delivered by Costa Rica on behalf of Austria, Belgium, Benin, Bosnia and Herzegovina, Chile, Croatia, Ecuador, El Salvador, Guatemala, Holy See, Honduras, Indonesia, Ireland, Lebanon, Mexico, New Zealand, Nicaragua, Norway, Peru, Philippines, Senegal, South Africa, Uganda, Uruguay, and Venezuela, Fifth 2008 Session of the CCW Group of Governmental Experts (GGE) on Cluster Munitions, Geneva, 5 November 2008.

⁹⁵ "Plan of Action on Victim Assistance under Protocol V," Annex IV, Final Document, Second Conference of the High Contracting Parties to Protocol V on Explosive Remnants of War, CCW/P.V/CONF/2008/12, 23 January 2009.

⁹⁶ Statement by Amb. Christian Strohal, Permanent Mission of Austria to the UN in Geneva, Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008.

⁹⁷ CMC Austria Section, "Report on Plenary Session of the Austrian National Council for Amending the Federal Law on the Prohibition of Cluster Munitions and for Ratification of the CCM," 17 March 2009.

⁹⁸ Email from Col. Richard Monsberger, Ministry of Defense, to Pax Christi Netherlands, 14 January 2005.

⁹⁹ The minister also noted that storage costs were €4,000 per month. Reply by Minister of Defense Norbert Darabos to the Parliamentary Questions (723/J) submitted by Member of Parliament Caspar Einem and Colleagues and addressed to the Minister of Defense concerning the Procurement of Cluster Munitions (Cluster Bombs and Howitzergrenades) by the Austrian Armed Forces, 26 June 2007, www.parlament.gv.at.

¹⁰⁰ Ministry of Foreign Affairs, "Spindelegger: 'Quick ratification of the Convention on Cluster Munitions proves Austria's pioneer role in humanitarian disarmament,'" Press release, 3 April 2009, www.bmeia.gv.at.

BELGIUM

The Kingdom of Belgium signed the Convention on Cluster Munitions in Oslo on 3 December 2008. In March 2009, at a special event to promote the convention at the UN in New York, Belgium said that it will ratify as soon as possible. It said that the Federal and Regional Parliaments must give their consent, and legal procedures have already been put in place toward that end.¹⁰¹

Belgium is party to the Convention on Conventional Weapons (CCW), but has not ratified Protocol V on Explosive Remnants of War. Belgium has taken part in the work done in the CCW on cluster munitions in recent years.

Cluster Munition Ban Policy

Belgium was the first country to enact a national prohibition on cluster munitions. In March 2005, Handicap International (HI) Belgium called on the Belgian Senate to work toward a ban on cluster munitions.¹⁰² In April 2005, Senator Philippe Mahoux tabled a draft law that would ban the production, stockpiling and trade of cluster munitions.¹⁰³ Despite calls from the Ministry of Defense to limit the scope of the prohibition, and considerable pressure from the arms industry, including demonstrations by workers, the Belgian House of Representatives adopted the law on 16 February 2006. A new version of the law, with an amended definition,¹⁰⁴ was introduced later in the month and adopted by the House in March. Both texts entered into force on 9 June 2006, with an additional amendment requiring that “within three years after the publication of the law, the State and public administrations destroy the existing stock of submunitions or devices of similar nature.”¹⁰⁵

In November 2006, Belgium was among the 25 states that endorsed a declaration at the CCW Third Review Conference calling for an agreement that would prohibit the use of cluster munitions “within concentrations of civilians,” prohibit the use of cluster munitions that “pose serious humanitarian hazards because they are for example unreliable and/or inaccurate,” and require destruction of stockpiles of such cluster munitions.¹⁰⁶

Also in November 2006, HI Belgium released its first global report on cluster munition victims, which became a key resource frequently cited in the global campaign to ban the weapon.¹⁰⁷

Despite the passage of the national prohibition law, there was some reluctance at the early stages on the part of the Belgian government and the military to embrace fully the Oslo Process and the notion of a comprehensive ban on cluster munitions. Belgium was not part of the small “Core Group” of states that took responsibility for the Oslo Process and the development of the Convention on Cluster Munitions outside of traditional diplomatic fora.

¹⁰¹ CMC, “Report on the Special Event on the Convention on Cluster Munitions, United Nations, New York, 18 March 2009.”

¹⁰² HI Belgium, “The Belgian Campaign to Ban Cluster Munitions, A Brief History,” version 28, June 2006.

¹⁰³ Belgian Senate, “Proposition of law completing the law of 3 January 1933 concerning the production, trade and the carrying of weapons and the trade of munitions, concerning fragmentation bombs,” legislative document n°3-1152/2, Session of 2004–2005, 1 June 2005, www.senat.be. The law originally used the term “fragmentation bomb,” but that was later changed to “submunitions.”

¹⁰⁴ “The following are not cluster munitions or submunitions: dispensers that only contain smoke-producing material, or illuminating material, or material exclusively conceived to create electric or electronic counter-measures; systems that contain several munitions only designed to pierce and destroy armoured vehicles, that can only be used to that end without any possibility to indiscriminately saturate combat zones, including by the obligatory control of their trajectory and destination, and that, if applicable, can only explode at the moment of the impact, and in any case cannot explode by the presence, proximity or contact of a person.” House of Representatives of Belgium, “Proposition of law completing the law of 3 January 1933 concerning the production, trade and the carrying of weapons and the trade of munitions,” Doc 51 2311/004, Session of 2005–2006, 30 March 2006, www.lachambre.be. Unofficial translation by HI Belgium.

¹⁰⁵ HI Belgium, “The Belgian Campaign to Ban Cluster Munitions, A Brief History,” version 28, June 2006.

¹⁰⁶ Declaration on Cluster Munitions, presented by Austria, Belgium, Bosnia and Herzegovina, Croatia, Costa Rica, Czech Republic, Denmark, Germany, Holy See, Hungary, Ireland, Liechtenstein, Lithuania, Luxembourg, Malta, Mexico, New Zealand, Norway, Peru, Portugal, Serbia, Slovakia, Slovenia, Sweden, and Switzerland, Third Review Conference of the States Parties to the CCW, Geneva, CCW/CONF.III/WP.18, 17 November, 2006.

¹⁰⁷ HI, “Fatal Footprint: the Global Human Impact of Cluster Munitions,” Preliminary Report, November 2006.

Belgium participated in the initial meeting in Oslo to launch the Oslo Process in February 2007, in all three subsequent international conferences to develop the convention text in Lima, Vienna, and Wellington, as well as the formal negotiations in Dublin in May 2008. Belgium hosted one of the regional conferences of the Oslo Process in Brussels in October 2007 (see below).

During the Oslo conference in February 2007, Belgium referred to its national legislation banning cluster munitions, calling on others to take similar steps at the domestic level as a “first layer of action.”¹⁰⁸ As the issue of cluster munitions developed in Belgium, the NGO “Netwerk Vlaanderen” undertook detailed research on ongoing investments in cluster munition manufacture. This work prompted changes in practice from some financial institutions and further legal reforms.¹⁰⁹ In December 2006, Senator Mahoux proposed to add cluster munitions to an existing law prohibiting direct or indirect financing in the production, use, or possession of antipersonnel landmines.¹¹⁰ The law was approved in March 2007, making Belgium the first country to make it a crime to invest in companies producing cluster munitions.¹¹¹

During the Lima conference in May 2007, Belgium shared its experience regarding destruction of cluster munition stockpiles, noting that “the destruction process will be finished even before that [domestically] fixed deadline of June 2009.” Belgium also stated that it “would be useful to retain a limited number of submunitions for the purposes of training and research” based on the experience of its deminers clearing submunitions in southern Lebanon.¹¹²

On 30 October 2007, Belgium hosted the European Regional Conference on Cluster Munitions which focused on stockpile destruction and victim assistance. Belgium later reported that it was “encouraged to see such a wide participation...with a number of countries participating for the first time in a meeting organized in the context of the Oslo Process [and] crucial participation by some of the most convincing advocates for our humanitarian endeavors, the representatives of the victims.” The stockpile destruction discussions revolved around technical challenges, cost implications, and different perspectives on deadlines for completion and retention of munitions for training and research. There was “unequivocal support” that victim assistance should be dealt with as a priority issue and remain in the forefront in national plans and priorities of affected countries as well as donors.¹¹³

During the Wellington conference in February 2008, Belgium proposed that the draft convention’s article on victim assistance refer to specific steps for implementation, national contact points, and national plans, and include survivors in the decision-making process. Belgium supported a broad definition of cluster munitions victims including victims’ families and communities.¹¹⁴

At the Dublin Diplomatic Conference in May 2008, Belgium cited its experience with stockpile destruction as a positive example that this could be carried out in a short timeframe. Belgium also cited its experience as a participant in joint European Union, NATO, and UN missions as indicative that “interoperability” (joint military operations with states not party) was not a major problem.¹¹⁵ Belgium continued to champion the strengthening of provisions for transparency, and along with Canada, proposed amendments supported by the CMC.¹¹⁶ Upon joining the consensus adoption of the convention, Belgium stated it combined prevention with cure and past with future, and declared, “We are all now advocates – advocates of an effective ban on cluster munitions.”¹¹⁷

¹⁰⁸ Statement of Belgium, Oslo Conference on Cluster Munitions, 23 February 2007. Notes by CMC/WILPF.

¹⁰⁹ See Netwerk Vlaanderen, “Explosive Investments, Financial Institutions and Cluster Munitions,” February 2007, www.stopclustermunitions.org; and HI, Human Rights Watch, and Netwerk Vlaanderen, “Ending investment in cluster munitions producers,” 1 April 2005, www.wmaker.net.

¹¹⁰ Belgian Senate, “Proposition of Law towards the prohibition to finance the production, use or possession of cluster munitions,” legislative document n° 3-1968/1, Session of 2006–2007, 5 December 2006, www.senate.be.

¹¹¹ “Belgium bans investments in cluster bomb makers,” *Reuters*, 2 March, 2007, www.reuters.com.

¹¹² Statement of Belgium, Session on Storage and Stockpile Destruction, Lima Conference on Cluster Munitions, 24 May 2007. Unofficial transcription by WILPF.

¹¹³ Amb. Werner Bauwens, Special Envoy for Disarmament and Non-proliferation of Belgium, “Report on the Brussels European Regional Conference on Cluster Munitions,” www.diplomatie.be.

¹¹⁴ Statement of Belgium, Session on Victim Assistance, Wellington Conference on Cluster Munitions, 20 February 2008. Notes by CMC.

¹¹⁵ Statement of Belgium, Informal Discussions on Interoperability, Dublin Diplomatic Conference on Cluster Munitions, 20 May 2008. Notes by Landmine Action.

¹¹⁶ CMC, “Day 2 – The Nitty Gritty – Dublin Diplomatic Conference,” 20 May 2008, www.stopclustermunitions.org.

¹¹⁷ Statement of Belgium, Closing Ceremony, Dublin Diplomatic Conference, 30 May 2008. Notes by Landmine Action.

After the adoption of the convention, Belgium became more critical of the work in the CCW on cluster munitions. In November 2008, as CCW negotiations were scheduled to conclude, Belgium was one of 26 states that issued a joint statement expressing their opposition to the weak draft text on a possible CCW protocol on cluster munitions, indicating it was an unacceptable step back from the standards set by the Convention on Cluster Munitions.¹¹⁸

On signing the convention in Oslo in December, Belgium's Minister of Foreign Affairs Karel De Gucht stated that "Belgium is proud to have contributed to this enterprise from the very beginning... Belgium will start the ratification procedures without delay and is resolved to contribute to the earliest possible entry into force of the Convention." Minister De Gucht pledged on behalf of Belgium that "we will invest in victim assistance and international cooperation and we look forward to the same fruitful interaction with civil society that we have been able to develop under the Mine Ban Convention."¹¹⁹

During the Oslo Process, HI Belgium carried out its "Ban Advocates" initiative. As survivors of cluster munitions, the Ban Advocates were prominent campaigners, powerful lobbyists, and a source of inspiration throughout the Oslo Process. On the last day of the signing conference, the Ban Advocates were invited to take the floor and were met with a standing ovation. This strong emotional scene was thereafter often referred to by campaigners as being the most poignant moment in Oslo.

One month after the signing of the convention, on 7 January 2009, Senator Mahoux proposed a resolution calling on the government to ratify promptly the Convention on Cluster Munitions, urge other signatory countries to do the same, and encourage non-signatories to join. The Senate adopted the resolution on 5 March 2009.¹²⁰

At a special event on the convention at UN Headquarters in New York on 18 March 2009, Belgium reaffirmed its commitment to ratify the convention and ensure its implementation. Belgium stated that as a means to "further reinforce the effectiveness of the ban on cluster munitions," it was submitting an amendment to the Statute of the International Criminal Court to include the use of cluster munitions in the list of war crimes."¹²¹

Use, Production, Transfer, and Stockpiling

Belgium is not known to have ever used or exported cluster munitions, though it has produced and stockpiled the weapon.

The Poudreries Reunies de Belgique (PRB), now defunct, manufactured the NR 269 155mm artillery projectile with dual purpose improved conventional munition (DPICM) submunitions prior to 1990; this production was reportedly assumed by Giat Industries in France.¹²² Mecar SA at one point developed a mortar bomb containing submunitions, but claims that this project never reached production status due to economic reasons. Similarly, Forges de Zeebrugge (FZ) has claimed that "a project for a rocket containing nine submunitions with no self-destruct system existed in the 1980s. This product did not go further than a prototype."¹²³

However, FZ stated in December 2005 that a new rocket system, the FZ-101, was under development: "Around 2000, FZ, in competition with General Dynamics and the Canadian firm Bristol, succeeded in obtaining a contract for the addition of its rocket system to Germany's Tiger attack helicopter and subsequently a contract to manufacture a guided warhead equipped with 8 submunitions with an overall

¹¹⁸ Statement delivered by Costa Rica on behalf of Austria, Belgium, Benin, Bosnia and Herzegovina, Chile, Croatia, Ecuador, El Salvador, Guatemala, Holy See, Honduras, Indonesia, Ireland, Lebanon, Mexico, New Zealand, Nicaragua, Norway, Peru, Philippines, Senegal, South Africa, Uganda, Uruguay, and Venezuela, Fifth 2008 Session of the CCW Group of Governmental Experts on Cluster Munitions, Geneva, 5 November 2008.

¹¹⁹ Statement by Karel de Gucht, Minister of Foreign Affairs, Convention on Cluster Munitions Signing Conference, Oslo, 3 December, 2008.

¹²⁰ Belgian Senate, "Proposition of resolution towards the rapid ratification of the Convention on Cluster Munitions signed in Oslo the 2, 3 and 4 December 2008," legislative document n° 4-1101/2, Session of 2008-2009, 10 February 2009, www.senate.be.

¹²¹ Statement of Belgium, Special Event on the Convention on Cluster Munitions, UN, New York, 18 March 2009.

¹²² Terry J. Gander and Charles Q. Cutshaw, eds., *Jane's Ammunition Handbook 2001-2002* (Surrey, UK: Jane's Information Group Limited, 2001), p. 353.

¹²³ Testimony presented by the Belgian Security and Defence Industry ASBL/VZW to the Belgian Parliament, 19 December, 2005, p. 3, provided by facsimile to Human Rights Watch, 3 January 2006.

reliability rate of 99%.¹²⁴ The production of FZ-101 stopped after national legislation to ban the production of cluster munition was passed in 2006.¹²⁵

The 2006 ban legislation requires all Belgian stocks to be destroyed within three years, which would be June 2009.¹²⁶ In December 2008, the Belgian Minister of Foreign Affairs confirmed that “stockpile destruction is well underway and should be finalized, under the contractual provisions, in the first part of next year [2009].”¹²⁷ In March 2009, Belgium said that “destruction will take place in an installation abroad. It was agreed contractually that the stocks would be gradually transferred to the destruction site as their demilitarisation would be achieved. The transfer will be entirely finalized within the timeframe imposed by the Belgian law. This means that my country won’t have any more cluster munitions in its possession at the end of June 2009.”¹²⁸

Belgium has not been explicit about the types or numbers of cluster munitions it is destroying. It may include some of the NR 269 artillery projectiles, or similar models produced by the United States. Belgium had by 2005 already destroyed its stockpile of British-produced BL-755 cluster bombs.¹²⁹

BENIN

The Republic of Benin signed the Convention on Cluster Munitions in Oslo on 3 December 2008. The status of the ratification process is not known. Benin is party to the Convention on Conventional Weapons (CCW), but has not joined Protocol V on Explosive Remnants of War.

Benin is not believed to have ever used, produced, transferred, or stockpiled cluster munitions.

Benin did not attend the first two Oslo Process diplomatic conferences in Oslo and Lima, but was a regular participant thereafter, including in the international conferences to develop the convention text in Vienna in December 2007 and Wellington in February 2008. At the Wellington conference, Benin stated that it was convinced that only a strong treaty could bring a sustainable and effective solution to the humanitarian problems caused by cluster munitions and called on countries using, producing, and stockpiling cluster munitions to join the Oslo Process.¹³⁰ At the African regional conference in Livingstone in March/April 2008, Benin endorsed the Livingstone Declaration, calling for a comprehensive treaty with a prohibition that should be “total and immediate.”¹³¹

During the formal negotiations in Dublin in May 2008, Benin advocated strongly for a “total ban” on cluster munitions, arguing the definition needed to be based on humanitarian principles and that technology could only lower the risk while still leaving potential for humanitarian harm.¹³² Benin opposed any further exclusions from the definition.¹³³ Benin also argued against the inclusion of a transition period during which cluster munitions could still be used, citing the convention’s purpose as a humanitarian instrument as

¹²⁴ Ibid.

¹²⁵ “Belle année 2006 pour les Forges de Zeebrugge” (“2006 a good year for Forges de Zeebrugge”), *lalibre.be*, 13 January 2007, www.lalibre.be; and Securities and Exchange Commission, “Form 6-K, Report of a Foreign Private Issuer, Daimlerchrysler AG,” 30 March 2007, www.secinfo.com.

¹²⁶ “Loi réglant des activités économiques et individuelles avec des armes” (“Law regulating economic activities and individuals with weapons”), *Staatsblad Moniteur*, 9 June 2006, staatsbladclip.zita.be.

¹²⁷ Statement by Karel De Gucht, Minister of Foreign Affairs, Signing Conference, Oslo, 3 December 2008.

¹²⁸ Statement of Belgium, Special Event on the Convention on Cluster Munitions, UN, New York, 18 March 2009.

¹²⁹ On 5 May 2005, the Minister of Defense said to the Commission of National Defense of the House of Representatives that “Belgium took the initiative to take out of use and later on to destroy one category of this munition, the air-dropped BL-755.” See Belgium House of Representatives, “Compte Rendu Intégral Avec Compte Rendu Analytique Traduit des Interventions, Commission de le Defense National” (“Full Report with Summary Record of Translated Interventions, Committee of National Defense”), 25 May 2005, www.lachambre.be.

¹³⁰ Statement of Benin, Closing Ceremony, Wellington Conference on Cluster Munitions, 22 February 2008. Notes by CMC.

¹³¹ Livingstone Declaration, Livingstone Conference on Cluster Munitions, 1 April 2008.

¹³² Statement of Benin, Informal Discussions on Definitions, Dublin Diplomatic Conference on Cluster Munitions, 20 May 2008. Notes by Landmine Action.

¹³³ Ibid., 22 May 2008. Benin raised concerns that the proposed criteria for increasing the reliability and accuracy of cluster munitions would become obsolete as technology improved, possibly making the treaty obsolete as well. Statement of Benin, Committee of the Whole on Article 2, Dublin Diplomatic Conference, 26 May 2008. Notes by Landmine Action.

opposed to a limited arms control agreement.¹³⁴ On the adoption of the convention, Benin stated that despite certain concerns, it was pleased to support the unanimous adoption. Benin highlighted the provisions on victim assistance as a strong element of the convention.¹³⁵

At the Kampala Regional Conference on Cluster Munitions in September 2008, Benin publicly announced that it would sign the convention in Oslo. It endorsed the the Kampala Action Plan, which declared that states should sign and “take all necessary measures to ratify the convention as soon as possible.”¹³⁶

At a CCW meeting in November 2008, Benin was one of 26 states that issued a joint statement expressing their opposition to the weak draft text on a possible CCW Protocol on cluster munitions, indicating it was an unacceptable step back from the standards set by the Convention on Cluster Munitions.¹³⁷

At the Signing Conference in Oslo in December 2008, Benin’s Ambassador called on all states to sign the convention, to advance peace through law, and above all to fight for the universalization of the convention.¹³⁸

BOLIVIA

The Republic of Bolivia signed the Convention on Cluster Munitions in Oslo on 3 December 2008. The status of the ratification process is not known. Bolivia is not believed to have used, stockpiled, produced, or transferred cluster munitions.

Bolivia participated in two of the four Oslo Process international treaty preparatory conferences—in Lima in May 2007 and in Vienna in December 2007—as well as the regional conferences in Costa Rica, Mexico, and Ecuador.¹³⁹ During the formal negotiations in Dublin in May 2008, Bolivia aligned itself with many other Latin American states in pushing for the most comprehensive convention possible, and it opposed a transition period during which states could continue to use cluster munitions.¹⁴⁰ Upon signing in Oslo, Bolivia’s Minister of Foreign Affairs praised the convention, while reminding others that many weapons not regulated by a treaty, such as small arms and light weapons, are still killing people daily.¹⁴¹

Bolivia is party to the Convention on Conventional Weapons (CCW), but has yet to ratify Protocol V on Explosive Remnants of War. Bolivia has not participated actively in the CCW discussions on cluster munitions in recent years.

¹³⁴ Statement of Benin, Committee of the Whole, Dublin Diplomatic Conference, 23 May 2008. Notes by Landmine Action.

¹³⁵ Statement of Benin, Committee of the Whole on the Adoption of the Convention, Dublin Diplomatic Conference, 28 May 2008. Notes by Landmine Action.

¹³⁶ CMC, “Report on the Kampala Conference on the Convention on Cluster Munitions,” 30 September 2008; and Kampala Action Plan, Kampala Conference, 30 September 2008.

¹³⁷ Statement delivered by Costa Rica on behalf of Austria, Belgium, Benin, Bosnia and Herzegovina, Chile, Croatia, Ecuador, El Salvador, Guatemala, Holy See, Honduras, Indonesia, Ireland, Lebanon, Mexico, New Zealand, Nicaragua, Norway, Peru, Philippines, Senegal, South Africa, Uganda, Uruguay, and Venezuela, Fifth 2008 Session of the CCW Group of Governmental Experts on Cluster Munitions, Geneva, 5 November 2008.

¹³⁸ Statement by Ambassador Theodore C. Loko, Convention on Cluster Munitions Signing Conference, Oslo, 4 December 2008.

¹³⁹ Although Bolivia did not attend the Wellington conference in February 2008, at the regional meeting held in Mexico in April 2008 Bolivia endorsed the Wellington Declaration, indicating its intention to participate in the formal negotiations in Dublin. CMC, “Report on the Mexico Regional Conference,” April 2008, www.stopclustermunitions.org.

¹⁴⁰ Summary Record of the Committee of the Whole, Eighth Session: 23 May 2008, Dublin Diplomatic Conference on Cluster Munitions, CCM/CW/SR/8, 18 June 2008.

¹⁴¹ Statement by Amb. David Choquehuanca Cépedes, Minister of Foreign Affairs, Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008.

BOSNIA AND HERZEGOVINA

Bosnia and Herzegovina (BiH) signed the Convention on Cluster Munitions in Oslo on 3 December 2008. The status of the ratification process is not known. BiH has stockpiled and produced cluster munitions and is affected by cluster munitions.

BiH is party to the Convention on Conventional Weapons (CCW), and ratified Protocol V on Explosive Remnants of War on 17 March 2008.

Cluster Munition Ban Policy

At the CCW Third Review Conference in November 2006, BiH supported a proposal for a mandate to negotiate a legally-binding instrument “that addresses the humanitarian concerns posed by cluster munitions.”¹⁴² When other CCW States Parties rejected such a mandate, BiH joined 25 nations in supporting a declaration calling for an international agreement that would prohibit the use of cluster munitions “within concentrations of civilians,” prohibit the use of cluster munitions that “pose serious humanitarian hazards because they are for example unreliable and/or inaccurate,” and require destruction of stockpiles of such cluster munitions.¹⁴³

BiH then participated in the initial conference launching the Oslo Process in February 2007 and endorsed the Oslo Declaration, committing states to conclude in 2008 a convention prohibiting cluster munitions that cause unacceptable harm to civilians. It participated in all of the international conferences to develop the convention text in Lima, Vienna, and Wellington, as well as the formal negotiations in Dublin in May 2008.

BiH also participated in the Belgrade conference for affected states in October 2007, and regional conferences in Brussels in October 2007 and Sofia in September 2008.

At the Oslo conference in February 2007, BiH, citing its national experience as an affected country, called for a moratorium on the use of cluster munitions until a legally-binding instrument could be adopted.¹⁴⁴ At the Lima conference, BiH advocated for a broad prohibition in the convention, and also called for states to take immediate national steps to ban the weapon.¹⁴⁵

On 6 February 2008, BiH declared a national moratorium on the use of cluster munitions until an international agreement was concluded. It subsequently informed Oslo Process participants of this at the Wellington conference.¹⁴⁶

During the Dublin negotiations, BiH resolutely opposed the inclusion of a transition period during which states could still use cluster munitions.¹⁴⁷ At the conclusion, BiH noted the important humanitarian norms contained in the convention and expressed its full support.¹⁴⁸ In July 2008, at a CCW Group of Governmental Experts (GGE) meeting, BiH noted the historic achievement attained in Dublin and stated that the CCW should not settle for anything less.¹⁴⁹

¹⁴² Proposal for a Mandate to Negotiate a Legally-Binding Instrument that Addresses the Humanitarian Concerns Posed by Cluster Munitions, Presented by Austria, Holy See, Ireland, Mexico, New Zealand, and Sweden, Third Review Conference of the States Parties to the CCW, Geneva, CCW/CONF.III/WP.1, Geneva, 25 October 2006.

¹⁴³ Declaration on Cluster Munitions, Third Review Conference of the States Parties to the CCW, CCW/CONF.III/WP.18, Geneva, 17 November 2006.

¹⁴⁴ Statement of BiH, Oslo Conference on Cluster Munitions, 22 February 2007. Notes by CMC/WILPF.

¹⁴⁵ Statement of BiH, Session on Definition and Scope, Lima Conference on Cluster Munitions, 24 May 2007. Notes by CMC/WILPF.

¹⁴⁶ The decision was taken by the Council of Ministers and approved by the president. Katherine Harrison, “Report on the Wellington Conference on Cluster Munitions, 18–22 February 2008,” WILPF, March 2008, p. 30.

¹⁴⁷ Statement of BiH, Committee of the Whole, Dublin Diplomatic Conference on Cluster, 23 May 2008. Notes by Landmine Action.

¹⁴⁸ Statement of BiH, Dublin Diplomatic Conference, 28 May 2008. Notes by Landmine Action.

¹⁴⁹ Statement of BiH, Third 2008 Session of the CCW GGE on Cluster Munitions, Geneva, 15 July 2008. Notes by Landmine Action.

In October 2008, the European Faith Leaders' Conference on Cluster Munitions took place in Sarajevo, bringing together over twenty senior faith leaders representing various religions. During the conference, the Prime Minister of BiH officially announced the country would sign the convention in Oslo.¹⁵⁰ From 27–29 October 2008, the Ban Bus, a mobile advocacy initiative to promote awareness on cluster munitions and the convention, stopped in Sarajevo during its 12,000km trip through 18 European countries.¹⁵¹

At the CCW in November 2008, BiH was one of 26 states that issued a joint statement expressing their opposition to the weak draft text on a possible CCW protocol on cluster munitions, indicating it was an unacceptable step back from the standards set by the Convention on Cluster Munitions.¹⁵²

Upon signing the convention in Oslo, BiH noted the determination of the political leaders present to spare civilian populations the suffering caused by cluster munitions and explosive remnants of war. BiH appealed that the best interests of cluster munition victims be ensured in a non-discriminatory fashion.¹⁵³

Use, Production, Stockpiling, and Transfer

Yugoslav forces and non-state armed groups used available stocks of cluster munitions during the 1992–1995 civil war. The various entity armies inherited cluster munitions during the breakup of the Socialist Federal Republic of Yugoslavia.

BiH has acknowledged that it produced cluster munitions for 11 years, but has stated that production has ceased.¹⁵⁴ It has noted that since there was a large technology investment in a few production facilities, it would need assistance for conversion of these facilities and care for employees.¹⁵⁵

The production capacity included the ability to manufacture KB-series submunitions and integrate them into carrier munitions such as artillery projectiles and rockets.¹⁵⁶ According to Jane's Information Group, the Ministry of Defense has produced the M-87 Orkan multiple launch 262mm rocket system, with each rocket containing 288 KB-1 dual purpose improved conventional munitions (DPICM) submunitions.¹⁵⁷ Jane's also lists BiH forces as possessing KPT-150 dispensers (which deploy submunitions) for aircraft.¹⁵⁸

BOTSWANA

The Republic of Botswana signed the Convention on Cluster Munitions in Oslo on 3 December 2008. The status of the ratification process is unknown.

Botswana is not party to the Convention on Conventional Weapons (CCW). Botswana is not known to have ever used, produced, stockpiled, or transferred cluster munitions.

Botswana first joined the Oslo Process during the Wellington conference in February 2008, and endorsed the Wellington Declaration, indicating its intention to participate in the Dublin negotiations on the basis of the Wellington draft text. It later attended the Livingstone conference in March/April 2008, where it

¹⁵⁰ This included Muslim, Hindu, Christian, Orthodox, and Zoroastrian faiths. The conference was organized by Religions for Peace, the European Council of Religious Leaders, and Handicap International Southeast Europe. It was hosted by the Inter-religious Council of Bosnia Herzegovina. Religions for Peace, "European Faith Leaders' Conference on Cluster Munitions, Final Report," Sarajevo, 29–30 October 2008, www.wcrp.org.

¹⁵¹ CMC, "The Ban Bus in Bosnia-Herzegovina, 27-29 October 2008," 4 November 2008, www.stopclustermunitions.org.

¹⁵² Statement delivered by Costa Rica on behalf of Austria, Belgium, Benin, BiH, Chile, Croatia, Ecuador, El Salvador, Guatemala, Holy See, Honduras, Indonesia, Ireland, Lebanon, Mexico, New Zealand, Nicaragua, Norway, Peru, Philippines, Senegal, South Africa, Uganda, Uruguay, and Venezuela, Fifth 2008 Session of the CCW GGE on Cluster Munitions, Geneva, 5 November 2008.

¹⁵³ Statement of BiH, Convention on Cluster Munitions Signing Conference, Oslo, 4 December 2008. Notes by Landmine Action.

¹⁵⁴ Statement of BiH, Oslo Conference, 22 February 2007. Notes by CMC/WILPF.

¹⁵⁵ Statement of BiH, Wellington Conference, 21 February 2008. Notes by CMC.

¹⁵⁶ Ibid.

¹⁵⁷ Leland S. Ness and Anthony G. Williams, eds., *Jane's Ammunition Handbook 2007–2008* (Surrey, UK: Jane's Information Group Limited, 2007), p. 720.

¹⁵⁸ Robert Hewson, ed., *Jane's Air-Launched Weapons*, Issue 44 (Surrey, UK: Jane's Information Group Limited, 2004), p. 836.

endorsed the Livingstone Declaration, calling for a comprehensive treaty with a prohibition that should be “total and immediate.”¹⁵⁹

Botswana actively participated in the formal negotiations in Dublin in May 2008 and agreed to adopt the convention text. It made statements on several issues, including in support of a broad definition of “cluster munition,” a strong provision on international cooperation and assistance, the inclusion of a deadline for states to enact national implementation measures, and language to address the possession of cluster munitions by non-state armed groups.¹⁶⁰ Botswana also opposed the inclusion of a transition period before implementation of the convention.¹⁶¹ With respect to the exclusion for certain weapons with submunitions, Botswana said the burden of proof must be on those who possess the weapons to demonstrate that they do not have the harmful humanitarian effects of cluster munitions.¹⁶²

During the Dublin Diplomatic Conference, Botswana explained its support for the Oslo Process, stating, “While Botswana is not directly affected by this menace of cluster munitions, we have a serious concern regarding the possible proliferation of this type of weapon. . . . We note that, with billions of submunitions believed to be stockpiled in more than 70 countries, there is a need to avoid incidences of their transfer to other places, such as our own. Non-proliferation could, therefore, only be meaningfully achieved through the adoption of an international covenant which will be binding on all.”¹⁶³

At the Kampala regional conference in September 2008, Botswana endorsed the Kampala Action Plan, in which participants declared that states should sign and “take all necessary measures to ratify the convention as soon as possible.”¹⁶⁴

When signing the convention in December 2008, Botswana made a statement “reaffirming Botswana’s unyielding determination to see the Cluster Munition Convention deliver on the lofty ideas that we have set forth therein during the historic diplomatic conference in Dublin.”¹⁶⁵

BULGARIA

The Republic of Bulgaria signed the Convention on Cluster Munitions in Oslo on 3 December 2008. The Ministry of Foreign Affairs informed Human Rights Watch in February 2009 that the ratification process was underway.¹⁶⁶

Bulgaria is party to the Convention on Conventional Weapons (CCW) and ratified Protocol V on Explosive Remnants of War on 28 February 2003.

Cluster Munition Ban Policy

Although Bulgaria did not participate in the early stages of the Oslo Process, it emerged as one of the stronger proponents, including hosting a regional conference to promote the convention in September 2008.

Bulgaria first participated in the Oslo Process at the Brussels regional conference in October 2007 and later attended the international treaty preparatory conference in Vienna in December 2007.

¹⁵⁹ Livingstone Declaration, Livingstone Conference on Cluster Munitions, 1 April 2008.

¹⁶⁰ Dublin Diplomatic Conference on Cluster Munitions, 19–30 May 2008. Notes by Landmine Action. Summary Record of the Committee of the Whole, Dublin Diplomatic Conference, Second Session: 20 May 2008, CCM/CW/SR/2, 18 June 2008; Third Session: 20 May 2008, CCM/CW/SR/3, 18 June 2008; and Tenth Session: 26 May 2008, CCM/CW/SR/10, 18 June 2008.

¹⁶¹ Summary Record of the Committee of the Whole, Eighth Session: 23 May 2008, Dublin Diplomatic Conference, CCM/CW/SR/8, 18 June 2008.

¹⁶² Dublin Diplomatic Conference, 21 May 2008. Notes by Landmine Action.

¹⁶³ Statement of Botswana, Dublin Diplomatic Conference, 19 May 2008.

¹⁶⁴ CMC, “Report on the Kampala Conference on the Convention on Cluster Munitions,” 30 September 2008; Kampala Action Plan, Kampala Conference, 30 September 2008.

¹⁶⁵ Statement of Botswana, Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008.

¹⁶⁶ Letter from Dr. Petio Petev, Director, Security Policy Directorate, Ministry of Foreign Affairs, 25 February 2009.

On 14 February 2008, Bulgaria announced its adoption of a unilateral “moratorium on the use of cluster munitions currently held by the Bulgarian Armed Forces until the entry into force of an international treaty on the use, production, transfer and stockpiling of cluster munitions that cause unacceptable harm to civilians.”¹⁶⁷

Although Bulgaria did not attend the Wellington conference in February 2008, it endorsed the Wellington Declaration on 19 March 2008, indicating its intention to participate in formal treaty negotiations in Dublin in May.¹⁶⁸ According to a statement by the Ministry of Foreign Affairs, this was “a manifestation of the country’s consistent policy and active role in the efforts of the international community to take immediate steps to limit the grave humanitarian consequences of the use of particularly dangerous cluster munitions.”¹⁶⁹

During the Dublin negotiations, Bulgaria called for the “interoperability” issue (joint military operations with states not party) to be addressed in the convention text, aligning itself with remarks on this from the United Kingdom, Japan, Canada, and others.¹⁷⁰ Bulgaria also supported the inclusion of a provision allowing for the retention of cluster munitions for training or research purposes and stated that the period for stockpile destruction must be “realistic.”¹⁷¹ Bulgaria joined the consensus to adopt the convention.

Bulgaria played a notable role in the Oslo Process by hosting a Regional Conference on Cluster Munitions in Sofia, on 18–19 September 2008, to generate regional support for the convention.¹⁷² Ambassador Todor Churov, Deputy Minister of Foreign Affairs, opened the conference, calling for an open and detailed discussion on how the convention related to southeast Europe. He noted that Bulgaria’s experience showed that the decision to join the Oslo Process was not easy and required much internal debate.¹⁷³

Upon signing the convention in Oslo, Deputy Prime Minister and Minister of Foreign Affairs Ivailo Kalfin stated, “There are days that leave deep traces in history – today is such a day. December 3, 2008 will be remembered as the day when over one hundred states made a commitment to end needless suffering caused by a weapon which has proved to be harmful and of little, if any, utility. This is a day when a new legal norm is officially set and this norm will have a long term positive effect on thousands of human lives.”¹⁷⁴

In a February 2009 letter to Human Rights Watch, Bulgaria stated that it has interpreted Article 1 of the convention to mean that “transit” of cluster munitions across the territory of States Parties is prohibited, as is the stockpiling of foreign-owned cluster munitions.¹⁷⁵ It also noted that while a ban on investment in cluster munition production is not explicit in the text, it would need to be “considered in light of the general prohibition on the development and production of cluster munitions.”¹⁷⁶

¹⁶⁷ Statement by Amb. Petko Draganov, Permanent Mission of Bulgaria to the UN, Conference on Disarmament, Geneva, 14 February 2008. He also urged the international community to negotiate such a legally binding instrument.

¹⁶⁸ New Zealand Ministry of Foreign Affairs and Trade, “List of countries subscribing to the Declaration of the Wellington Conference on Cluster Munitions,” updated 23 May 2008, www.mfat.govt.nz.

¹⁶⁹ Ministry of Foreign Affairs, “Bulgaria Joined the Wellington Declaration on Cluster Munitions,” 19 March 2008, www.mfa.bg/en.

¹⁷⁰ Statement of Bulgaria, Committee of the Whole on Article 1, Dublin Diplomatic Conference on Cluster Munitions, 19 May 2008. Notes by Landmine Action.

¹⁷¹ Ibid.

¹⁷² Eleven States from the region attended: Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Greece, Macedonia (FYR), Moldova, Montenegro, Romania, Serbia, and Turkey, along with state representatives from Austria, France, Ireland, and Norway. Representatives from the Bulgarian Red Cross, CMC, Council of the European Union, ICRC, NATO Maintenance and Supply Agency, UNDP, and UN Mine Action Service also attended. During the conference, Dr. Petio Petev from the Ministry of Foreign Affairs announced that Bulgaria would sign the convention in Oslo in December 2008.

¹⁷³ Statement by Amb. Todor Churov, Deputy Minister of Foreign Affairs, Sofia Regional Conference on Cluster Munitions, 19 September 2008. Notes by Landmine Action.

¹⁷⁴ Statement by Ivailo Kalfin, Deputy Prime Minister and Minister of Foreign Affairs, Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008.

¹⁷⁵ Letter from Dr. Petio Petev, Ministry of Foreign Affairs, 25 February 2009. It said, “The prohibitions stipulated in Article 1 of the Convention create an obligation for the States Parties not to allow the transit, transfer or stockpiling on their territories of cluster munitions...regardless of whether these munitions are foreign or nationally owned.”

¹⁷⁶ Letter from Dr. Petio Petev, Ministry of Foreign Affairs, 25 February 2009.

With respect to interoperability, Bulgaria stated in the letter that it “will fully observe the regulations of Article 21 of the Convention. . . . Par.4 of Article 21 stipulates that participation in such military operations ‘shall not authorize a State Party’ to engage in acts prohibited under the terms of the Convention and contains an exhaustive list of such acts.”¹⁷⁷

Use, Production, Stockpiling, and Transfer

According to the Ministry of Foreign Affairs, “Cluster munitions have never been used by the Bulgarian Armed Forces.”¹⁷⁸ In response to Human Rights Watch and the CMC listing Bulgaria as a state that has produced cluster munitions, the Ministry of Foreign Affairs stated in May 2008 that, “Bulgaria does not and has not produced any type of cluster munitions.”¹⁷⁹ The Foreign Ministry officially confirmed this denial in February 2009.¹⁸⁰

Bulgaria possesses a stockpile of cluster munitions. The Ministry of Foreign Affairs notes, “There are limited amounts of cluster munitions of the type RBK-250 and RBK-500 which are currently held by the Bulgarian Armed Forces.”¹⁸¹ The amount stockpiled has been described as “limited” and “the majority of these are deemed to be outdated and unreliable.”¹⁸² Additionally, “The size and composition of the Bulgarian stockpile are among the issues currently studied by experts of the Bulgarian Ministry of Defence and General Staff as an integral part and an important element of the launched ratification procedure.”¹⁸³

In September 2008, a representative from the Bulgarian Armed Forces General Staff stated that Bulgaria planned to destroy its stockpiles of cluster munitions as soon as possible and that planning for its stockpile destruction would begin shortly after Bulgaria signed the convention in December. He stated that Bulgaria was working on the creation of systems and capacity necessary to fulfill its future obligation under Article 3 (stockpile destruction).¹⁸⁴

BURKINA FASO

Burkina Faso signed the Convention on Cluster Munitions in Oslo on 3 December 2008. On 5 February 2009, the Minister of Foreign Affairs confirmed that the ratification process was underway and that Burkina Faso hoped to be among the first 30 countries to ratify the convention.¹⁸⁵

Burkina Faso has said that it never used, produced, or stockpiled cluster munitions.¹⁸⁶

Burkina Faso participated in the Oslo Process for the first time during the international treaty preparatory conference in Vienna in December 2007. It did not attend the subsequent international conference in Wellington in February 2008,¹⁸⁷ but participated in the Livingstone regional conference in March/April

¹⁷⁷ Ibid.

¹⁷⁸ Ibid.

¹⁷⁹ Email from Lachezara Stoeva, Chief Expert, Arms Control and International Security Department, NATO and International Security Directorate, Ministry of Foreign Affairs, 17 May 2008. According to Jane’s Information Group, the Vazov Engineering Plant was associated with the production of 122mm Grad rockets, which included a variant that contains 15 dual purpose improved conventional munitions (DPICM) submunitions. See Terry J. Gander and Charles Q. Cutshaw, eds., *Jane’s Ammunition Handbook 2001–2002*, (Surrey, UK: Jane’s Information Group Limited, 2001), p. 625.

¹⁸⁰ Letter from Dr. Petio Petev, Ministry of Foreign Affairs, 25 February 2009.

¹⁸¹ Email from Lachezara Stoeva, Ministry of Foreign Affairs, 17 May 2008.

¹⁸² Letter from Dr. Petio Petev, Ministry of Foreign Affairs, 25 February 2009.

¹⁸³ Ibid.

¹⁸⁴ Statement by Lt. Col. Valentin Ferdinandov, General Staff of the Bulgarian Armed Forces, Sofia Regional Conference, 18–19 September 2008. Notes by Landmine Action.

¹⁸⁵ Email from Hildegard Vansintjan, Advocacy Officer, Handicap International, 9 March 2009.

¹⁸⁶ Statement by Amb. Monique Ilboudo, Representative of Burkina Faso to Denmark, Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008.

¹⁸⁷ New Zealand Ministry of Foreign Affairs and Trade, “List of countries subscribing to the Declaration of the Wellington Conference on Cluster Munitions,” 23 May 2008, www.mfat.govt.nz.

2008 where it endorsed the Livingstone Declaration, calling for a comprehensive treaty with a prohibition that should be “total and immediate.”¹⁸⁸

At the conclusion of the Dublin negotiations in May 2008, Burkina Faso stated that it supported the text in its entirety, calling it an excellent document that met the objectives that had been set out in the Oslo Declaration.¹⁸⁹

Burkina Faso later participated in the Kampala regional conference in September 2008 and endorsed the Kampala Action Plan, which declared that states should sign and “take all necessary measures to ratify the convention as soon as possible.”¹⁹⁰

At the Signing Conference in Oslo in December 2008, Burkina Faso referred to the humanitarian benefits of the convention, stated that it would be ratifying shortly, and called for the creation of a plan of action for its full and effective implementation.¹⁹¹

In a March 2009 letter to Human Rights Watch, the Minister of Foreign Affairs re-confirmed that the ratification process is underway, and that Burkina Faso has never used, produced, stored, or transferred cluster munitions.

The minister also stated that Burkina Faso considers that the transit of cluster munitions by states not party through the territory of States Parties is prohibited.¹⁹²

Burkina Faso is party to the Convention on Conventional Weapons (CCW), but has not ratified Protocol V on Explosive Remnants of War. Burkina Faso has not participated in the CCW discussions on cluster munitions in recent years.

BURUNDI

The Republic of Burundi signed the Convention on Cluster Munitions in Oslo on 3 December 2008. In March 2009, the Director of Legal Affairs in the Ministry of Foreign Affairs confirmed that the ratification process was underway.¹⁹³

Burundi has stated that it has never used cluster munitions.¹⁹⁴ It is not believed to have produced, transferred, or stockpiled them.

Burundi did not attend the initial Oslo Process meeting in February 2007, but participated in the subsequent international treaty preparatory conferences in Lima and Vienna. Burundi did not attend the Wellington conference in February 2008, but adopted the Wellington Declaration on 14 April 2008, indicating its intention to be a full participant in the formal negotiations in Dublin in May 2008.¹⁹⁵ It also attended the regional conferences in Livingstone in March/April 2008 and Kampala in September 2008.

At the Lima conference, Burundi called for a “complete ban of any kind of cluster munitions that causes unacceptable damage.” Burundi also stated it placed importance on provisions for victim assistance and implementation assistance.¹⁹⁶ Burundi endorsed the Livingstone Declaration, calling for a comprehensive

¹⁸⁸ Livingstone Declaration, Livingstone Conference on Cluster Munitions, 1 April 2008.

¹⁸⁹ Statement of Burkina Faso, Committee of the Whole, Dublin Diplomatic Conference on Cluster Munitions, 28 May 2008. Notes by Landmine Action.

¹⁹⁰ CMC, “Report on the Kampala Conference on the Convention on Cluster Munitions,” 30 September 2008; and Kampala Action Plan, Kampala Conference, 30 September 2008.

¹⁹¹ Statement by Amb. Monique Ilboudo, Signing Conference, Oslo, 3 December 2008.

¹⁹² Letter from Acting Minister of State, Minister of Foreign Affairs and Regional Cooperation Minata Samate, No. 2009-001228/MAE-CR/SG/DGAJC, 24 March 2009.

¹⁹³ Email from Georges Ntidendereza, APECOG (a Burundian NGO and CMC member), to Marion Libertucci, Advocacy Officer, Handicap International (HI), 16 March 2009.

¹⁹⁴ Statement of Burundi, Kampala Regional Conference on Cluster Munitions, 30 September 2008. Notes by CMC.

¹⁹⁵ List of countries subscribing to the Declaration of the Wellington Conference on Cluster Munitions, 23 May 2008, www.mfat.govt.nz.

¹⁹⁶ Statement of Burundi, Session on Transparency and Compliance, Lima Conference on Cluster Munitions, 25 May 2007. Unofficial transcription by WILPF.

treaty with a prohibition that should be “total and immediate.”¹⁹⁷ During the Dublin negotiations, Burundi opposed efforts to weaken the draft treaty text, including the notion of a transition period that would allow the continued use of cluster munitions.¹⁹⁸ In September 2008, Burundi endorsed the Kampala Action Plan, which declared that states should sign and “take all necessary measures to ratify the convention as soon as possible.”¹⁹⁹

On 12 November 2008, CMC campaigners and parliamentarians from Burundi held a press conference on the Convention on Cluster Munitions. The Ministry of Foreign Affairs publicly announced that Burundi would sign the convention in Oslo in December, and a member of parliament announced that Burundi would begin work to ratify the convention quickly.²⁰⁰ A day later, the NGO Association de Prise en Charges des Orphelins de Guerre (APECOG) organized a workshop for government ministers in Bujumbura on the ratification process.²⁰¹

At the Oslo Signing Conference in December 2008, Burundi stated it would do its utmost to ensure its rapid ratification of the convention. Burundi emphasized the need to address the root causes of conflict and saw the convention as illustrative of political commitment to take preventative action.²⁰²

Burundi is not party to the Convention on Conventional Weapons (CCW), but has attended the CCW sessions on cluster munitions in recent years as an observer.

CANADA

Canada signed the Convention on Cluster Munitions in Oslo on 3 December 2008. In a February 2009 letter to Human Rights Watch, the Ministry of Foreign Affairs stated, “Canadian officials are preparing the documentation so that Cabinet can consider ratification at the earliest possible date.” The letter noted that all necessary domestic legislation must be in place before ratification can take place.²⁰³

Canada is party to the Convention on Conventional Weapons (CCW), but has yet to ratify Protocol V on Explosive Remnants of War. Canada has been an active participant in the CCW work on cluster munitions in recent years.

Cluster Munition Ban Policy

Despite Canada’s long-standing leadership in banning antipersonnel landmines—launching what became known as the Ottawa Process in 1996 leading to the creation of the Ottawa Convention (Mine Ban Treaty) in 1997, and sustained high-level promotion of full implementation and universalization of the treaty since then—Canada was slow to embrace any international action on cluster munitions, and even more so the Oslo Process to prohibit them. NGOs in particular found this disconcerting, since the Oslo Process was clearly modeled after the Ottawa Process, with close cooperation of NGOs and a core group of progressive governments, and the draft text of what became the Convention of Cluster Munitions was in large part drawn from the Mine Ban Treaty.

¹⁹⁷ Livingstone Declaration, Livingstone Conference on Cluster Munitions, 1 April 2008.

¹⁹⁸ Statement of Burundi, Dublin Diplomatic Conference on Cluster Munitions, 23 May 2008. Notes by Landmine Action.

¹⁹⁹ CMC, “Report on the Kampala Conference on the Convention on Cluster Munitions,” 30 September 2008; and Kampala Action Plan, Kampala Conference, 30 September 2008.

²⁰⁰ CMC, “Report on the Global Week of Action to Ban Cluster Bombs, 28 October – 2 November 2008,” www.stopclustermunitions.org. Participants included APECOG, HI, and Senator Emilion Emilien Hakizimana.

²⁰¹ Government representatives from the Ministry of Foreign Affairs and the Ministry of Defense attended along with representatives from UNDP, civil society organizations, and the media. CMC, “Report on the Global Week of Action to Ban Cluster Bombs, 28 October – 2 November 2008,” www.stopclustermunitions.org.

²⁰² Statement by Amb. Domitille Barancira, Representative of Burundi to Germany, Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008. Notes by Landmine Action.

²⁰³ Letter from Paul Hong, Director of Policy, Office of the Minister of Foreign Affairs, 20 February 2009.

In November 2006, during the CCW Third Review Conference, Canada did not support a proposal for a mandate to negotiate in the CCW a legally-binding instrument on cluster munitions “that addresses the humanitarian concerns posed by cluster munitions.”²⁰⁴ When that mandate was rejected Canada did not endorse a joint declaration by 25 states calling for an agreement that would prohibit the use of cluster munitions “within concentrations of civilians,” prohibit the use of cluster munitions that “pose serious humanitarian hazards because they are for example unreliable and/or inaccurate,” and require destruction of stockpiles of such cluster munitions.²⁰⁵ At the end of the Review Conference, Norway announced that it would start an independent process outside the CCW to negotiate a cluster munition treaty and invited other governments to join.

On 7 December 2006, a motion was introduced into the Canadian Parliament which read, “[I]n the opinion of the House, the government should ban the production, use or sale of cluster bomb munitions and work towards an international treaty banning the production, use or sale of these weapons.”²⁰⁶ On 2 February 2007, Members of Parliament asked the Minister of Foreign Affairs if Canada would attend the initial Oslo Process conference, noting that as “the Norwegians are using the Ottawa Convention on the banning of anti-personnel landmines as a model for this effort... it would be an international embarrassment for Canada not to attend.”²⁰⁷ On 13 February 2007, in response to a similar query from Mines Action Canada, Minister of Foreign Affairs Peter MacKay wrote that Canada would attend, noting that “Canada is deeply concerned about the humanitarian effects as well as the negative impact upon development of certain types of cluster munitions, namely those having very high failure rates.”²⁰⁸

Canada attended the first Oslo Process meeting in Oslo on 22–23 February, and subsequently participated in all three of the international diplomatic conferences to develop the convention text in Lima, Wellington, and Vienna, as well as the formal negotiations in Dublin in May 2008.

Canada never joined the small “Core Group” of states that took responsibility for the Oslo Process and the development of the Convention on Cluster Munitions outside of traditional diplomatic fora. Rather, Canada was most often associated with a group of states that were participating in the Oslo Process only reluctantly and with serious reservations about both the process and the draft convention text. Canada was prepared to exempt broad categories of cluster munitions from a prohibition, but, on the other hand, was a strong advocate on victim assistance issues throughout the process.

At the Oslo conference, Canada stated its view that not all cluster munitions needed to be prohibited.²⁰⁹ Canada joined 45 other nations in endorsing Oslo Declaration, which committed them to conclude in 2008 an international instrument prohibiting cluster munitions that cause unacceptable harm to civilians.

On 1 March 2007, at the initiative of Mines Action Canada, the Canadian Standing Committee on Foreign Affairs and International Development held a hearing on cluster munitions and the Oslo Process. Representatives from Mines Action Canada, the Canadian Red Cross, Human Rights Watch, and Landmine Action gave testimonies, calling on Canada to enact a moratorium on the use, production or export of cluster munitions and highlighting the lack of coherence between funding clearance, but not taking preventative action.²¹⁰

At the Lima conference in May 2007, Canada expressed support for work on cluster munitions in both the Oslo Process and the CCW.²¹¹ It argued that accuracy and reliability should be the criteria by which the acceptability of cluster munitions should be assessed, while stressing that testing should be based on

²⁰⁴ Proposal for a Mandate to Negotiate a Legally-Binding Instrument that Addresses the Humanitarian Concerns Posed by Cluster Munitions, Presented by Austria, Holy See, Ireland, Mexico, New Zealand, and Sweden, Third Review Conference of the States Parties to the CCW, Geneva, CCW/CONF.III/WP.1, Geneva, 25 October 2006.

²⁰⁵ Declaration on Cluster Munitions, Third Review Conference of the States Parties to the CCW, CCW/CONF.III/WP.18, Geneva, 17 November 2006.

²⁰⁶ Notice Paper No. 94, “Private Members’ Notices of Motions, M-265, Mr. Martin (Esquimalt—Juan de Fuca), 7 December 2006,” 8 December 2006, www.parl.gc.ca.

²⁰⁷ Statement by Hon. Bryon Wilfert, 39th Parliament, 1st Session, Parliamentary Record, *Hansard*, (Ottawa: 1 February 2007) 39:1, 101, www.parl.gc.ca.

²⁰⁸ Letter from Peter MacKay, Minister of Foreign Affairs, 13 February 2007.

²⁰⁹ Statements of Canada, Oslo Conference on Cluster Munitions, 22–23 February 2007. Notes by CMC/ WILPF.

²¹⁰ Parliamentary Record, 39th Parliament, 1st Session, 1 March 2007, www.parl.gc.ca.

²¹¹ Statement of Canada, Lima Conference on Cluster Munitions, 23 May 2007. Notes by CMC/WILPF.

conditions that reflect actual combat environments.²¹² Canada announced that it was in the process of destroying its stockpiles of cluster munitions and had set a 99% reliability criterion for all cluster munitions it would acquire in the future.²¹³

Canada made a series of proposals during the Lima conference based on lessons learned in the Mine Ban Treaty context. Canada called for the establishment of “the highest standards with respect to victim assistance, beginning by acknowledging that although direct victims suffer the most, their families and communities also suffer.” Canada stated that, “We must then seek to provide the highest level of social, economic, and psychological rehabilitation to restore survivors to health and to reintegrate them into their communities as whole productive members.”²¹⁴ Canada also was a vocal supporter of strong provisions for international cooperation and assistance.²¹⁵

On 13 June 2007, another motion was introduced into the Canadian Parliament calling for the government “to demonstrate a leadership role within the international community to work towards an international treaty banning the inhumanitarian use, production, and distribution of harmful cluster munitions which threaten innocent civilians around the world.”²¹⁶

In November 2007, at the CCW Meeting of the States Parties, Canada argued strongly in favor of a legally-binding protocol on cluster munitions within the CCW. It expressed concern that the mandate finally agreed by the CCW “to negotiate a proposal” could “waste a lot of time” if there was not clarity about the outcome being sought.²¹⁷

At the Vienna conference in December 2007, Canada again applied lessons learned in the Mine Ban Treaty, calling for specific language on risk education, for the prioritization of clearance in areas with the greatest impact on civilian populations, and for recognition that the primary responsibility for clearance rests with affected states, provided they could expect to receive assistance.²¹⁸ Canada called for a separate and strong article on victim assistance, with assistance extended to the families and communities of victims, based on human rights based standards and a non-discriminatory approach.²¹⁹

Canada also prioritized the issue of “interoperability” (joint military operations with states not party). Although the relevant language in the draft text was virtually identical to the Mine Ban Treaty, Canada said that the proposed prohibition on assistance “presents substantial and legitimate concerns for any state participating, or planning to participate, in multinational military operations involving a non-party state. Such interoperability concerns are not simply a NATO issue. Instead they may arise in the context of any military operation, including [UN] Chapter VII peace enforcement operations.”²²⁰

At the Wellington conference in February 2008, Canada frequently supported the proposals put forth by the so-called like-minded group—proposals that the CMC sharply criticized as weakening the draft text, particularly on the issues of definition (exceptions to the prohibition), a transition period before key obligations (including no use) took effect, and interoperability. Canada stepped up its efforts to include provisions addressing interoperability in the treaty text, and proposed a transition period during which the prohibition on assistance would not be in effect.²²¹ At the closing, Canada associated itself with a statement on behalf of the like-minded group declaring dissatisfaction with the conference as it felt different opinions and views had not been taken into account in a balanced way.²²² Canada made its own statement severely

²¹² Statement of Canada, Session on Definitions, Lima Conference, 24 May 2007. Notes by CMC/WILPF.

²¹³ Statement of Canada, Closing Statement, Lima Conference, 25 May 2007. Notes by CMC/WILPF.

²¹⁴ Statement of Canada, Session on Victim Assistance, Lima Conference, 23 May 2007. Unofficial transcription by WILPF.

²¹⁵ Canada stated, “We believe that it is important to establish discrete funds and in time fully mainstream and integrate various elements of action on cluster munitions into all relevant plans and sectors... If necessary, affected countries should request and expect the international community to assist.” Statement of Canada, Session on International Cooperation and Assistance, Lima Conference, 24 May 2007. Unofficial transcription by WILPF.

²¹⁶ Notice Paper No. 171, “Private Members’ Notices of Motions, M-351, Mr. Storseth (Westlock—St. Paul), June 13, 2007,” 14 June 2007, www.parl.gc.ca.

²¹⁷ Statement of Canada, 2007 Meeting of the States Parties to the CCW, Geneva, 13 November 2007. Notes by WILPF.

²¹⁸ Statement of Canada, Session on Clearance and General Obligations, Vienna Conference on Cluster Munitions, 6 December 2007.

²¹⁹ Statement of Canada, Session on Victim Assistance, Vienna Conference, 6 December 2007.

²²⁰ Statement of Canada, General Statement, Vienna Conference, 5 December 2007.

²²¹ Statement of Canada, Informal Discussions on Interoperability, Wellington Conference on Cluster Munitions, 21 February 2008.

²²² Statement of France on behalf of like-minded countries, Closing Plenary, Wellington Conference, 22 February 2008, www.mfat.govt.nz.

criticizing the conduct of NGOs.²²³ However, Canada subscribed to the Wellington Declaration, indicating its intention to participate fully in the formal negotiations in Dublin on the basis of the Wellington draft text.

At the Dublin Diplomatic Conference in May 2008, Canada was no longer arguing for a broad exception to the prohibition of cluster munitions with self-destruct devices, but instead said that it was open to a series of criteria such as sensor-fuzing, which would limit the effects of submunitions to their intended targets, and electrical fail-safe mechanisms, which would minimize the problem of duds. Canada insisted that any weapon excluded from prohibition must “be both accurate and reliable” and that the “onus is on States” to ensure that this is the case in actual use as well as in testing.²²⁴

Canada was most vocal about the issue of interoperability, stating that it was “absolutely adamant” that provisions on interoperability be included that would ensure that it was not prevented from engaging in military operations with states not party to the future convention.²²⁵ Canada stated that interoperability “is the most critical for us and is a red-line issue for whether it could join the Convention.”²²⁶

In the end, Canada joined in the consensus adoption of the convention. In its closing remarks, Canada stated that the right balance had been struck in the convention, particularly regarding interoperability. Canada said the provisions on interoperability were not a loophole, but instead an essential element of legal protection to accommodate situations in combined operations which may be beyond their control. “If these circumstances are ever obtained, we believe they will be rare...because we are in the midst of a major paradigm shift on how the world views cluster munitions,” it said. Canada pledged to actively discourage the use of cluster munitions by others, to move forward with the implementation of the convention and generate the resources to “get the job done” with regard to stockpile destruction, clearance, and the provision of assistance.²²⁷

On the final day of the Dublin conference, Mines Action Canada launched the “People’s Treaty” in partnership with the CMC, with the objective of enabling ordinary people to also “sign” the treaty.²²⁸

At the signing conference in Oslo in December 2008, Canada expressed its determination to work with other states and civil society to tackle the problems that cluster munitions cause and stated that it would seek to ratify the convention as soon as domestic measures could be put in place.²²⁹

In November 2008, when negotiations on cluster munitions in the CCW were scheduled to conclude, Canada was not one of the 26 states that issued a joint statement expressing their opposition to the weak draft text on a possible CCW Protocol on cluster munitions. Canada indicated it was an unacceptable step

²²³ Canada especially objected to NGO criticism that Canada’s concern over interoperability was directly related to pressure from the US. A Canadian delegate stated that NGOs’ “currency in this process is diminished by some of the tactics employed to influence the process. Countries such as my own, and several close allies have been vilified in press interviews and in press releases produced by the CMC. . . . We have been accused of quote trying to undermine an international treaty on cluster munitions endquote. Nothing could be further from the truth. Such accusations are unfounded and unfair. In my view, such tactics are demeaning and counterproductive. They tarnish the credibility of your organizations and do a disservice to the noble cause you wish to advance.” Statement of Canada, Closing Statement, Wellington Conference, 22 February 2008.

²²⁴ Canada expressed skepticism about proposals for criteria based on weight and numbers, objecting to the apparently arbitrary aspect of where lines are drawn in such an approach. Statements of Canada, Committee of the Whole, Dublin Diplomatic Conference on Cluster Munitions, 19 May 2008; Statements of Canada, Informal Discussions on Definitions, Dublin Diplomatic Conference, 20–21 May 2008. Notes by Landmine Action.

²²⁵ Statement of Canada, Committee of the Whole, Dublin Diplomatic Conference, 19 May 2008. Notes by Landmine Action.

²²⁶ Statement of Canada, Informal Discussions on Interoperability, Dublin Diplomatic Conference, 22 May 2008. Notes by Landmine Action.

²²⁷ Statement of Canada, Closing Statement, Dublin Diplomatic Conference, 30 May 2008. Notes by Landmine Action; and Summary Record of the Conference, Fourth Session of the Plenary and Closing Ceremony, 30 May 2008, Dublin Diplomatic Conference, CCM/SR/4, 18 June 2008. Oddly, three days earlier, on 27 May 2008, the government stated in response to questions posed by Sen. Elizabeth Hubley, “Canada currently regards cluster munitions as lawful weapons if they are used in accordance with international humanitarian law, which prohibits the targeting of civilians and civilian infrastructure. At the same time, Canada has expressed concern about the impact unreliable and inaccurate cluster munitions have on civilians.” “Response to questions raised by Hon. Elizabeth Hubley on April 16 and May 14, 2008,” Debates of the Senate, 2nd Session, 39th Parliament, *Hansard*, (Ottawa: 27 May 2008) Vol. 144, Issue 6, www.parl.gc.ca. .

²²⁸ Nationally, Mines Action Canada launched the People’s Treaty on Parliament Hill in Ottawa on 28 May 2008, at an event co-sponsored by Members of Parliament (MPs) Alexa McDonough, Johanna DesChamps, and Mark Eyking and Sen. Elizabeth Hubley. It was signed by 129 MPs and Senators that day. Mines Action Canada first created a People’s Treaty for the Ottawa Convention in 1997. Mines Action Canada, “Help Ban Cluster Bombs Now!,” undated, www.minesactioncanada.org.

²²⁹ Statement of Canada, Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008. Notes by Landmine Action. Amb. Jillian Stirk, Canada’s Ambassador to Norway, signed on behalf of Canada.

back from the standards set by the Convention on Cluster Munitions.²³⁰ After CCW States Parties failed to reach an agreement, Canada was among the few states that adopted the Convention on Cluster Munitions in Dublin that appeared to have an interest in continued work on cluster munitions in the CCW.²³¹ Canada insisted that this work should take the form of negotiations on a legally-binding protocol, because cluster munition victims deserved nothing less.²³²

Use, Production, Stockpiling, and Transfer

Canada is not believed to have ever used or exported cluster munitions. The company Bristol Aerospace Limited was once listed as a producer of the CRV-7 70mm unguided air-to-surface rocket containing nine M73 submunitions. However, the company provided information to the Department of National Defence that it has only produced the rocket, and never produced the cluster warhead (which contains the submunitions) for the CRV-7, indicating this warhead is only produced by General Dynamics, a United States company.²³³

Canada has stockpiled two types of cluster munitions. It imported Rockeye cluster bombs from the US. Canada started destroying the Rockeyes prior to 2005 and had destroyed the entire stock by early 2007.²³⁴

Canadian Forces also obtained from the US M483A1 155mm artillery projectiles containing 88 M42/M46 dual purpose improved conventional munition (DPICM) submunitions.²³⁵ These projectiles were removed from service (though when is not known) and are awaiting destruction.

Canada stated in February 2007 that the 155mm projectiles are “in the process of being destroyed.”²³⁶ In January 2008, the Minister of National Defence said that the destruction task “is currently beyond the capability of the Department of National Defence and the Canadian Forces. Accordingly, the Government is seeking a commercial company that has the technical expertise to do the work. I would add that achieving this is a priority under our demilitarization program.”²³⁷ In February 2009, Canada said that it “is committed to destroying its complete stockpile of cluster munitions” and “is in the process of destroying stocks” of the M483A1 projectiles.²³⁸

CAPE VERDE

The Republic of Cape Verde signed the Convention on Cluster Munitions in Oslo on 3 December 2008. The Signing Conference was the first time Cape Verde participated in an Oslo Process meeting. The status of the ratification process is unknown. Cape Verde is not known to have ever used, produced, stockpiled, or transferred cluster munitions.

²³⁰ Statement delivered by Costa Rica on behalf of Austria, Belgium, Benin, Bosnia and Herzegovina, Chile, Croatia, Ecuador, El Salvador, Guatemala, Holy See, Honduras, Indonesia, Ireland, Lebanon, Mexico, New Zealand, Nicaragua, Norway, Peru, Philippines, Senegal, South Africa, Uganda, Uruguay, and Venezuela, Fifth 2008 Session of the CCW GGE on Cluster Munitions, Geneva, 5 November 2008.

²³¹ Statement of Canada, 2008 Meeting of the States Parties to the CCW, Geneva, 13 November 2008. Notes by Landmine Action.

²³² *Ibid.*

²³³ Information provided to Human Rights Watch by Department of National Defence representatives on the Canadian Delegation to the CCW Group of Governmental Experts on Cluster Munitions, Geneva, November 2007.

²³⁴ Letter from Peter MacKay, Minister of Foreign Affairs, to Mines Action Canada, 13 February 2007. The Minister of National Defence said on 15 February 2007, “We have recently destroyed our entire stockpile” of Rockeyes. Email from Gordon J. O’Connor, Minister of National Defence, to Joanna Santa Barbara, 15 February 2007. In January 2005, an official wrote that “the Canadian Forces have determined that, for operational and financial reasons, its inventory of Rockeye bombs should be reduced. As a result, the CF has destroyed 80 per cent of its total inventory of the weapon.... The decision to retain a residual stock is currently under review.” Facsimile from Ann Pollack, Counsellor, Canadian Delegation to the Conference on Disarmament, Geneva, to Pax Christi Netherlands, 13 January 2005.

²³⁵ Facsimile from Ann Pollack, Canadian Delegation to the Conference on Disarmament, Geneva, to Pax Christi Netherlands, 13 January 2005.

²³⁶ Email from Gordon J. O’Connor, Minister of National Defence, to Joanna Santa Barbara, 15 February 2007. Minister O’Connor said the same thing in a letter to Mines Action Canada dated 19 July 2007.

²³⁷ Letter from Peter MacKay, Minister of National Defence, 25 January 2008.

²³⁸ Letter from Paul Hong, Office of the Minister of Foreign Affairs, 20 February 2009.

Cape Verde is party to the Convention on Conventional Weapons (CCW), but has yet to ratify its Protocol V on Explosive Remnants of War. Cape Verde has not actively participated in the CCW discussions on cluster munitions that have taken place in recent years.

CENTRAL AFRICAN REPUBLIC

The Central African Republic signed the Convention on Cluster Munitions in Oslo on 3 December 2008. It has indicated to the CMC that ratification of the convention could be examined in the first or second trimester of its Parliamentary session.²³⁹

The Central African Republic has stated that it has never used, produced, stockpiled, or transferred cluster munitions and has not been affected by their use.²⁴⁰

The Central African Republic did not participate in any of the Oslo Process diplomatic conferences to develop the convention in 2007 or 2008, or the formal treaty negotiations in Dublin in May 2008. In September 2008, it attended the regional conference on cluster munitions in Kampala and announced its intention to sign the convention. The Central African Republic endorsed the Kampala Action Plan, which declared that states should sign and “take all necessary measures to ratify the convention as soon as possible.”²⁴¹

Upon signing the convention in Oslo, the Central African Republic stated that it was committed to the struggle against cluster munitions and would spare no effort to ensure the ratification of the convention by its parliament at the earliest possible opportunity.²⁴²

The Central African Republic is not party to the Convention on Conventional Weapons.

CHAD

The Republic of Chad signed the Convention on Cluster Munitions in Oslo on 3 December 2008. The status of the ratification process is not known.

Chad did not attend the initial Oslo Process meeting in February 2007, but participated in the subsequent international treaty preparatory conferences in Lima and Vienna. Chad did not attend the Wellington conference, but adopted the Wellington Declaration on 15 May 2008, indicating its intention to be a full participant in the formal negotiations in Dublin in May 2008.²⁴³ It also attended the Belgrade conference for affected states and the African regional conference in Kampala.

At the Lima conference, Chad called for a “total ban” on cluster munitions, stating that as an affected country, the humanitarian aspect should be central to a definition of cluster munitions; it considered all harm to be unacceptable.²⁴⁴ Chad described its experience as a country affected by cluster munitions, unexploded ordnance (UXO) and mines, and appealed for assistance and international support for its efforts to clear munitions contaminating its territory.²⁴⁵

²³⁹ Email from Marion Libertucci, Advocacy Officer, Handicap International, 20 March 2009. The first and second trimesters apparently correspond to the first half of 2009.

²⁴⁰ Statement of the Central African Republic, Convention on Cluster Munitions Signing Conference, Oslo, 4 December 2008. Notes by Landmine Action.

²⁴¹ CMC, “Report on the Kampala Conference on the Convention on Cluster Munitions,” 30 September 2008; and Kampala Action Plan, Kampala Conference, 30 September 2008.

²⁴² Statement by Antoine Gambi, Ministry of Defense, Signing Conference, Oslo, 4 December 2008. Notes by Landmine Action.

²⁴³ New Zealand Ministry of Foreign Affairs and Trade, “List of countries subscribing to the Declaration of the Wellington Conference on Cluster Munitions,” 23 May 2008, www.mfat.govt.nz.

²⁴⁴ Statement of Chad, Session on Definition and Scope, Lima Conference on Cluster Munitions, 24 May 2007. Notes by CMC/WILPF.

²⁴⁵ Statement of Chad, Session on Clearance, Lima Conference, 23 May 2007. Notes by WILPF.

At the Dublin negotiations, Chad joined other African countries in opposing efforts to weaken the draft treaty text, and strongly objected to the suggestion of a transition period during which cluster munitions could still be used.²⁴⁶ During the Kampala regional conference, Chad publicly announced that it would sign the convention in Oslo.²⁴⁷ It endorsed the Kampala Action Plan, which declared that states should sign and “take all necessary measures to ratify the convention as soon as possible.”²⁴⁸

At the Signing Conference in Oslo, Chad delivered a statement in the name of its President, Idriss Deby Itno, stating that UXO, including cluster munitions, are an obstacle to development of humanitarian and socio-economic activities in Chad and that the removal of UXO is now a prerequisite for the implementation of many development projects.²⁴⁹

Chad is not party to the Convention on Conventional Weapons (CCW). It attended one CCW session on cluster munitions in 2008 as an observer.

Use, Production, Stockpiling, and Transfer

Chad is not believed to have used, produced, stockpiled, or transferred cluster munitions. French aircraft dropped cluster munitions on a Libyan airfield inside Chad at Wadi Doum during the 1986–1987 conflict. Libyan forces used AO-1SCh and PTAB-2.5 submunitions. Following the end of conflict, unexploded submunitions and cluster munition containers have been found in the Borkou-Ennedi-Tibesti region, Biltine region, and east of N’Djamena.²⁵⁰

CHILE

The Republic of Chile signed the Convention on Cluster Munitions in Oslo on 3 December 2008. In February 2009, the Ministry of Foreign Affairs sent a request to the President of Chile recommending ratification of the convention. After approval by Chile’s executive, the ratification package will be submitted to the national congress for approval.²⁵¹

Chile is party to the Convention on Conventional Weapons (CCW), but has not ratified Protocol V on Explosive Remnants of War.

Cluster Munition Ban Policy

On 25 October 2006, Chile supported a proposal that the CCW’s Third Review Conference establish a mandate to negotiate a legally-binding instrument that addresses the humanitarian concerns posed by cluster munitions.²⁵² However, when this was not accepted, Chile did not join 25 other states that issued

²⁴⁶ Statement of Chad, Committee of the Whole, Dublin Diplomatic Conference on Cluster Munitions, 23 May 2008. Notes by Landmine Action.

²⁴⁷ CMC, “Report on the Kampala Conference on the Convention on Cluster Munitions,” 30 September 2008, www.stopclustermunitions.org.

²⁴⁸ Ibid; and Kampala Action Plan, Kampala Conference, 30 September 2008.

²⁴⁹ Statement of Chad, Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008.

²⁵⁰ Handicap International, “Fatal Footprint: The Global Human Impact of Cluster Munitions,” Brussels, November 2006, p. 17; Handicap International, “Circle of Impact: The Fatal Footprint of Cluster Munitions on People and Communities,” Brussels, May 2007, p. 48; and Survey Action Center and Handicap International, “Landmine Impact Survey, Republic of Chad,” Washington, DC, 2000, p. 59.

²⁵¹ Interview with Pamela Velasquez Guzman, Coordinator, Chilean Campaign to Ban Landmines and Cluster Munitions, Instituto de Ecología Política, Managua, 24 February 2009. As of mid-April, a legal team was reviewing the convention; it will then go to the ministries of foreign affairs and defense for approval and then to the Congress. Email from Pamela Velasquez Guzman, 13 April 2009.

²⁵² The proposal was put forward by Austria, Holy See, Ireland, Mexico, New Zealand and Sweden, and formally supported by 20 other states (Argentina, Bosnia and Herzegovina, Chile, Costa Rica, Czech Republic, Denmark, Germany, Guatemala, Hungary, Italy, Liechtenstein, Lithuania, Luxembourg, Malta, Peru, Portugal, Serbia, Slovakia, Slovenia, and Switzerland). Proposal for a Mandate to Negotiate a Legally-Binding Instrument that Addresses the Humanitarian Concerns Posed by Cluster Munitions, Third Review Conference of the States Parties to the CCW, Geneva, CCW/CONF.III/WP.1, 25 October 2006.

a joint declaration calling for an agreement that would prohibit cluster munitions that “pose serious humanitarian hazards because they are for example unreliable and/or inaccurate.”²⁵³

In February 2007, Chile attended the initial conference convened by Norway to launch the Oslo Process and endorsed the Oslo Declaration, committing to the conclusion of a new treaty in 2008. Subsequently, it actively participated in the international conferences to develop the treaty in Lima, Vienna, and Wellington, as well as the formal negotiations in Dublin in May 2008, where it served as a vice-president of the conference.²⁵⁴ It also attended regional conferences in Costa Rica, Mexico, and Ecuador

At the Wellington conference in February 2008, Chile supported a complete prohibition on cluster munitions, without exceptions, and was not in favor of language on “interoperability” (joint military operations with states not party).²⁵⁵ Chile joined several affected countries in explicitly endorsing obligations for past users of cluster munitions. It supported the inclusion of language on risk education,²⁵⁶ and language to include survivors in decision-making processes.²⁵⁷ Chile called for transparency reports to be made publicly available on a website.²⁵⁸

During the Dublin negotiations, Chile aligned with many Latin American states in calling for the most comprehensive convention possible. At the conclusion, Chile expressed its particular support for the convention’s provisions on stockpile destruction, clearance, risk education, victim assistance, and transparency, and its lack of a transition period (allowing continued use) or any provision for reservations. Chile promised to make great efforts to achieve the universalisation of the convention.²⁵⁹

Immediately after the Dublin negotiations, Chile worked to produce a resolution by the Organization of American States (OAS) on 3 June 2008 that invites member states “to consider becoming parties to the Convention on Cluster Munitions.”²⁶⁰ In an August 2008 response to a letter from local campaigners, Chile’s Ministry of Foreign Affairs said that the government attached great importance to the convention and its promotion.²⁶¹

At the CCW in November 2008, Chile was one of 26 states that issued a joint statement expressing their opposition to the weak draft text on a possible CCW protocol on cluster munitions, indicating it was an unacceptable step back from the standards set by the Convention on Cluster Munitions.²⁶²

Upon signing the convention in Oslo in December, Chile’s Ambassador expressed profound satisfaction with the outcome of the Oslo Process and noted the “indispensable role” played by civil society.²⁶³ He also expressed Chile’s willingness to host future meetings on cluster munitions.

Use, Production, Trade, and Stockpiling

Chile is not known to have used cluster munitions. It produced and exported cluster munitions in the past and has a stockpile.

²⁵³ Declaration on Cluster Munitions, Third Review Conference of the States Parties to the CCW, Geneva, CCW/CONF.III/WP.18, 7–17 November 2006.

²⁵⁴ On the first day of the conference, Amb. Juan Eduardo Eguiguren of Chile was elected as a vice-president.

²⁵⁵ Katherine Harrison, “Report on the Wellington Conference on Cluster Munitions, 18–22 February 2008,” WILPF, March 2008, p. 12.

²⁵⁶ *Ibid.*, pp. 22–23.

²⁵⁷ *Ibid.*, p. 27.

²⁵⁸ *Ibid.*, p. 31.

²⁵⁹ Summary Record of the Plenary and Closing Ceremony of the Conference, Fourth Session: 30 May 2008, Dublin Diplomatic Conference on Cluster Munitions, CCM/SR/4, 18 June 2008.

²⁶⁰ OAS, “Promotion of and Respect for International Humanitarian Law,” AG/RES. 2433 (XXXVIII-O/08), 3 June 2008, www.oas.org

²⁶¹ Letter from Amb. Juan Eduardo Eguiguren Guzman, Policy Director, Ministry of Foreign Affairs, 19 August 2008. In Chile, several NGOs have actively supported the campaign against cluster munitions including Amnesty International Chile, Centro de Informacion en Zonas Minadas, and the Instituto de Ecologia Política.

²⁶² Statement delivered by Costa Rica on behalf of Austria, Belgium, Benin, Bosnia and Herzegovina, Chile, Croatia, Ecuador, El Salvador, Guatemala, Holy See, Honduras, Indonesia, Ireland, Lebanon, Mexico, New Zealand, Nicaragua, Norway, Peru, Philippines, Senegal, South Africa, Uganda, Uruguay, and Venezuela, Fifth 2008 Session of the CCW Group of Governmental Experts (GGE) on Cluster Munitions, Geneva, 5 November 2008.

²⁶³ Statement by Amb. Alberto Van Klaveren Stork, Undersecretary, Ministry of Foreign Affairs, Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008.

In September 2007 Chile stated that it no longer produced cluster munitions and did not intend to produce the weapon in the future.²⁶⁴ In the past, Industrias Cardeon SA and Los Conquistadores 1700 were reported to have produced at least eight types of air-dropped cluster bombs (CB-130 bomb, CB-250K bomb, CB-500 bomb, CB-500K bomb, CB-500K2 bomb, CB-770 bomb, WB-250F bomb, and WB-500F bomb).²⁶⁵

In April 2008, Chile stated that it had stockpiles of two types of cluster munitions that would have to be destroyed under the proposed convention.²⁶⁶ The precise status and composition of the current stockpile is not known.

A complete accounting of transfers of cluster munitions by Chile is not available. The PM-1 combined effects submunitions delivered by bombs produced in Chile have been found in Eritrea, Ethiopia, Iraq, and Sudan.²⁶⁷ The destruction of 41 stockpiled Chilean CB-250K bombs was reported in Colombia in March 2009.²⁶⁸ Additionally, a news article in *Berita Harian Online* includes an undated photo of a member of the Royal Malaysian Air Force with a CB-250K cluster bomb produced by Chile. The accompanying caption indicates that the soldier is offering an explanation of the weapon's function and suggests the weapon is part of the Malaysian Royal Air Force's arsenal.²⁶⁹ A number of CB-250 bombs were found in the arsenal of Iraq by UN weapons inspectors. The bombs had been modified by the Iraqis to deliver chemical weapons in submunitions.²⁷⁰

COLOMBIA

The Republic of Colombia signed the Convention on Cluster Munitions in Oslo on 3 December 2008. In March 2009, Colombian Ministry of Defense officials stated that the documentation required for Congress to ratify the treaty was being prepared.²⁷¹

Colombia is party to the Convention on Conventional Weapons (CCW), but has yet to ratify Protocol V on Explosive Remnants of War.²⁷²

Cluster Munition Ban Policy

Colombia was not an early or consistent supporter of a ban or new restrictions on cluster munitions. Colombia did not support a proposal in the CCW in October 2006 to establish an open-ended Group of Governmental Experts to negotiate a legally-binding instrument that addresses the humanitarian concerns posed by cluster munitions.²⁷³

²⁶⁴ Statement of Chile, Latin American Regional Conference on Cluster Munitions, San José, Costa Rica, 4 September 2007. Notes by CMC. Chile clarified that two companies used to produce cluster munitions, but no longer did so.

²⁶⁵ Robert Hewson, ed., *Jane's Air-Launched Weapons*, Issue 44 (Surrey, UK: Jane's Information Group Limited, 2004), pp. 306–311.

²⁶⁶ Statement of Chile, Regional Conference for Latin America and the Caribbean on Cluster Munitions, Mexico City, 16 April 2008. Notes by CMC.

²⁶⁷ Rae McGrath, "Cluster Bombs: The Military Effectiveness and Impact on Civilians of Cluster Munitions," London, Landmine Action, 2000, p. 38. The "Iraq Ordnance Identification Guide" produced by the US military documents the presence of the PM-1 submunition in Iraq. Mine Action Information Center, James Madison University, "Iraq Ordnance Identification Guide," 31 July 2006, maic.jmu.edu.

²⁶⁸ Email from the Colombian Campaign Against Landmines, 17 March 2009.

²⁶⁹ News article, *Berita Harian Online*, undated, www.bharian.com.my.

²⁷⁰ UN Monitoring, Verification and Inspection Commission, "Sixteenth quarterly report on the activities of the United Nations Monitoring, Verification and Inspection Commission in accordance with paragraph 12 of Security Council resolution 1284 (1999) S/2004/160," Annex 1, p. 10.

²⁷¹ Meeting between Ministry of Defense and Sylvie Brigot, Executive Director, ICBL, and the Colombian Campaign Against Landmines (CCCM), 6 March 2009. Notes by CCCM.

²⁷² In 2007, Colombia issued a statement saying its decision not to ratify the Protocol was due to the findings of an inter-institutional study group. The group identified "obstacles, objections, and impediments which create a gap between [Colombia's] willingness to comply and its real ability to assume the necessary responsibilities and obligations." Letter from Vladimir Gonzalez, Deputy Head of Mission, Embassy of Colombia to the United Kingdom, to Simon Conway, Director, Landmine Action, 19 December 2007; and Annex, "Colombia's Official Position on Protocol V on Explosive Remnants of War, 2007."

²⁷³ The proposal was put forward by Austria, Holy See, Ireland, Mexico, New Zealand, and Sweden, and formally supported by 20 other states (Argentina, Bosnia and Herzegovina, Chile, Costa Rica, Czech Republic, Denmark, Germany, Guatemala, Hungary, Italy, Liechtenstein, Lithuania, Luxembourg, Malta, Peru, Portugal, Serbia, Slovakia, Slovenia, and Switzerland); and Proposal for a Mandate to Negotiate a Legally-Binding Instrument that Addresses the Humanitarian Concerns Posed by Cluster Munitions, Third Review Conference of the States Parties to the CCW, Geneva, CW/CONF.III/WP.1, 25 October 2006.

Colombia attended the initial conference convened by Norway to launch the Oslo Process in February 2007. States participating in the Oslo meeting had to opt-out if they did not wish to endorse the Oslo Declaration, committing states to conclude a new treaty prohibiting cluster munitions in 2008. While Colombia did not express any objection at the time, on three separate occasions in 2007 and 2008 the Colombian government contacted representatives of the CMC asking for Colombia to be removed from the Oslo Declaration endorsers list.²⁷⁴

Colombia subsequently participated in the international treaty preparatory conference in Lima in May 2007 and the regional conference in Costa Rica in September 2007, but did not make any substantial interventions. At a CCW meeting in November 2007, Colombia stated that it was not ready to support a new treaty on cluster munitions, as it believed more clarity was needed on definitions, obligations, requirements, and limitations.²⁷⁵

Colombia did not attend the Oslo Process preparatory conference in Wellington in February 2008. It attended the subsequent regional meeting in Mexico in April 2008, but did not join other Latin American states in endorsing the Wellington Declaration, which committed states to participate in the formal negotiations in Dublin.²⁷⁶ Colombia did not attend the Dublin negotiations in May 2008.

However, Colombia sent a senior-level delegation to the Oslo Process regional conference in Ecuador on 6–7 November 2008, and during a meeting with campaigners, the Colombian delegation was very positive about the possibility of signing in Oslo.²⁷⁷

Colombia's Permanent Representative to the UN in Geneva, Ambassador Clemencia Forero Ucros, signed the Convention on Cluster Munitions in Oslo in December. In a statement, she described the treaty as a "significant advance" in international humanitarian law and said it was the "humanitarian impact" of cluster munitions that led to Colombia's decision to sign.²⁷⁸

Use, Production, Stockpiling, and Transfer

There are reports that a Colombian helicopter used a World War II-era dispenser of United States origin, more akin to a weapons rack than a modern cluster bomb, to drop several 20lb (9kg) fragmentation bombs during an attack on the village of Santo Domingo in 1998.²⁷⁹ These weapons are not considered cluster munitions under the Convention on Cluster Munitions.

The CMC has received information from Colombian military sources that Colombia stockpiles four types of cluster munitions: CB-250K bombs produced by Chile; M971 120mm mortar projectiles produced by Israel which contain 24 dual purpose improved conventional munitions (DPICM) self-destructing submunitions; ARC 32 bombs (apparently a 350kg weapon containing 32 antirunway submunitions produced by Israel); and, AN-M41 "cluster adapter" (the weapon delivery system used in the attack on Santo Domingo mentioned above).²⁸⁰

In March 2009, Colombian Ministry of Defense officials stated that Colombia would destroy 41 stockpiled CB-250K cluster munitions between 24 March and 3 April 2009.²⁸¹

²⁷⁴ Letter from José Nicolás Rivas Zubira, Director of Multilateral Political Affairs, Ministry of Foreign Affairs, to Alvaro Jiménez Millan, Director, CCCM, 14 June 2007; letter from Vladimir Gonzalez, Embassy of Colombia to the UK, 19 December 2007; and letter from Nohra Maria Quintero, Coordinator, Internal Working Group on Disarmament and International Security, Ministry of Foreign Affairs, to Thomas Nash, Coordinator, CMC, 28 April 2008.

²⁷⁵ Statement of Colombia, 2007 Meeting of the States Parties to the CCW, Geneva, 7 November 2007. Notes by WILPF.

²⁷⁶ Regional Conference on Cluster Munitions, Mexico City, 16–17 April 2008. Notes by CMC.

²⁷⁷ Regional Conference on Cluster Munitions, Quito, 7 November 2008. Notes by CMC.

²⁷⁸ Statement by Amb. Clemencia Forero Ucros, Permanent Representative of Colombia to the UN in Geneva, Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008.

²⁷⁹ See for example, T. Christian Miller, "A Colombian Village Caught in a Cross-Fire: The Bombing of Santo Domingo Shows How Messy U.S. Involvement in the Latin American Drug War Can Be," *Los Angeles Times*, 17 March 2002.

²⁸⁰ CMC meeting with the Colombian delegation to the Regional Conference on Cluster Munitions, Quito, 7 November 2008. Notes by CMC. Human Rights Watch and Landmine Action are unfamiliar with the ARC 32 bombs, and are not aware of any of the technical details about them. It is unclear if these weapons are banned under the convention.

²⁸¹ Meeting between Ministry of Defense and Sylvie Brigot, ICBL, and CCCM, 6 March 2009. Notes by CCCM.

COMOROS

The Union of Comoros signed the Convention on Cluster Munitions in Oslo on 3 December 2008. Minister of Foreign Relations and Cooperation, Mr. Ahmed Ben Said Jaffar, signed the convention on behalf of Comoros. The status of the ratification process is unknown.

Comoros is not known to have ever used, produced, stockpiled, or transferred cluster munitions. Comoros is not party to the Convention on Conventional Weapons.

Comoros first joined the Oslo Process during the Livingstone conference in March/April 2008, where it endorsed the Livingstone Declaration, calling for a comprehensive treaty with a prohibition that should be “total and immediate.”²⁸² While it did not attend the Wellington conference in February 2008, in April it subsequently endorsed the Wellington Declaration, expressing its intent to participate in formal treaty negotiations in Dublin in May.

During the negotiations, Comoros advocated for a strong treaty text and opposed the inclusion of a transition period for implementation of the convention’s provisions.²⁸³ At the conclusion, Comoros agreed to adopt the convention text. At the Kampala regional conference in September 2008, Comoros announced that it would sign the convention in Oslo and work to ratify it.²⁸⁴ Comoros also endorsed the Kampala Action Plan, in which participants declared that states should sign and “take all necessary measures to ratify the convention as soon as possible.”²⁸⁵

DEMOCRATIC REPUBLIC OF THE CONGO

The Democratic Republic of the Congo (DRC) signed the Convention on Cluster Munitions at UN Headquarters in New York on 18 March 2009, becoming the 96th state to sign.

The DRC is not believed to have produced or transferred cluster munitions. It is unclear if the DRC has used cluster munitions in the past or if it currently has a stockpile. Deminers from the NGO DanChurchAid have documented the presence of submunitions from BL-755 cluster bombs in Kasu village in Kabalo, Katanga province.²⁸⁶ It is not known which party to the various conflicts in the DRC used these weapons or when.

The DRC is not party to the Convention on Conventional Weapons.

Cluster Munition Ban Policy

While the DRC did not attend the initial meeting to launch the Oslo Process in February 2007 or the next international conference in Lima in May 2007, it participated in the Belgrade conference for cluster munition affected states in October 2007, the final two international conferences to develop the convention text in Vienna and Wellington, and the formal negotiations in Dublin in May 2008. It also participated in African regional conferences in Livingstone in March/April 2008 and Kampala in September 2008.

During the Wellington conference in February 2008, the DRC stated that all cluster munitions should be prohibited without exception.²⁸⁷ The DRC called for strengthening the language of the article on international cooperation and assistance from an obligation for states “in a position to do so” to provide assistance to states “shall” provide assistance.²⁸⁸

²⁸² Livingstone Declaration on Cluster Munitions, Livingstone Conference on Cluster Munitions, 1 April 2008.

²⁸³ Summary Record of the Committee of the Whole, Dublin Diplomatic Conference on Cluster Munitions, Eighth Session: 23 May 2008, CCM/CW/SR/8, 18 June 2008.

²⁸⁴ CMC, “Report on the Kampala Conference on the Convention on Cluster Munitions,” 29–30 September 2008.

²⁸⁵ Kampala Action Plan, Kampala Conference on the Convention on Cluster Munitions, 29–30 September 2008.

²⁸⁶ CMC, “Africa and the Oslo Process to Ban Cluster Munitions,” September 2008, Prepared by Human Rights Watch, www.hrw.org. The United Kingdom produces the BL-755 cluster bomb.

²⁸⁷ Statement of the DRC, Session on Definitions, Wellington Conference on Cluster Munitions, 19 February 2008.

²⁸⁸ Statement by François Aberi Moska, Minister of Interior, Wellington Conference on Cluster Munitions, 18–22 February 2008.

During the Livingstone conference from 31 March to 1 April 2008, the DRC supported the inclusion of special obligations for past users of cluster munitions, for both clearance and the provision of international assistance. The DRC continued to emphasize the necessity of international assistance to ensure that affected states, like itself, would be able to meet obligations for clearance and provision of assistance to victims. The DRC endorsed the Livingstone Declaration, which called on African states to support the negotiation in Dublin of a comprehensive treaty with a prohibition that should be “total and immediate.”²⁸⁹

During the Dublin negotiations, the DRC joined other African states in opposing efforts to weaken the convention text. At the conclusion, it joined the consensus adoption of the convention.

In September 2008, during the Kampala regional conference, the DRC called on states to develop national implementation legislation, to start the process of stockpile destruction, to provide information on the type and quantities of stockpiled cluster munitions, to establish national action plans for victim assistance with the involvement of survivors, and to appoint a national coordinator for this work. The DRC said the convention was a victory for the victims of cluster munitions and must be signed by all that adopted it.²⁹⁰

It endorsed the Kampala Action Plan, which declared that states should sign and “take all necessary measures to ratify the convention as soon as possible.”²⁹¹

The DRC attended the signing conference in Oslo in December with the intention to sign, but had difficulties with proper paperwork and authorization.²⁹²

Ambassador Atoki Ileka signed the convention for the DRC in New York on 18 March 2009 at a special event attended by more than 70 countries, high-level UN officials, and representatives of the CMC and the ICRC.²⁹³

REPUBLIC OF THE CONGO

The Republic of the Congo (Congo-Brazzaville) signed the Convention on Cluster Munitions in Oslo on 3 December 2008. The status of the ratification process is not known. Congo is not believed to have used, produced, stockpiled, or transferred cluster munitions.

Congo participated in only one of the four international Oslo Process conferences to develop the convention text, in Vienna in December 2007.²⁹⁴ It attended the regional conference in Livingstone in March/April 2008, and endorsed the Livingstone Declaration, calling for a comprehensive treaty with a prohibition that should be “total and immediate.”²⁹⁵

During the formal negotiations in Dublin in May 2008, Congo opposed efforts to weaken the draft treaty text, including the notion of a transition period that would allow the continued use of cluster munitions.²⁹⁶ At the conclusion of the negotiations, it stated that the convention would be “a sword of Damocles” hanging over the heads of countries that did not join.²⁹⁷

²⁸⁹ Livingstone Declaration, Livingstone Conference on Cluster Munitions, 1 April 2008.

²⁹⁰ Statement of the DRC, Kampala Conference on the Convention on Cluster Munitions, 29 September 2008.

²⁹¹ CMC, “Report on the Kampala Conference on the Convention on Cluster Munitions,” 30 September 2008; and Kampala Action Plan, Kampala Conference, 30 September 2008.

²⁹² The “Full Powers” document necessary to sign was assigned to a diplomat who was not able to be in Oslo. Email from Laura Cheeseman, Campaigning Officer, CMC, 12 December 2008.

²⁹³ CMC, “Report on the Special Event on the Convention on Cluster Munitions – United Nations, New York, 18 March 2009.”

²⁹⁴ Congo did not attend the Wellington conference in February 2008, but adopted the Wellington Declaration on 17 May 2008, indicating its intention to be a full participant in the formal negotiations starting in Dublin two days later. New Zealand Ministry of Foreign Affairs and Trade, “List of countries subscribing to the Declaration of the Wellington Conference on Cluster Munitions,” www.mfat.govt.nz.

²⁹⁵ Livingstone Declaration, Livingstone Conference on Cluster Munitions, 1 April 2008.

²⁹⁶ Statement of the Republic of the Congo, Committee of the Whole, Dublin Diplomatic Conference on Cluster Munitions, 23 May 2008. Notes by Landmine Action.

²⁹⁷ *Ibid.*, 28 May 2008.

In September 2008, Congo endorsed the Kampala Action Plan, which declared that states should sign and “take all necessary measures to ratify the convention as soon as possible.”²⁹⁸ At the Oslo Signing Conference in December 2008, Congo invited all states to sign without delay on humanitarian grounds. It stated that it wished to see the convention enter into force quickly, and said that it would take measures to ratify the convention and urged others to do likewise.²⁹⁹

Congo is not party to the Convention on Conventional Weapons.

COOK ISLANDS

The Cook Islands signed the Convention on Cluster Munitions in Oslo on 3 December 2008. The status of the ratification process is not known. The Cook Islands is not believed to have ever used, produced, transferred, or stockpiled cluster munitions.

The Cook Islands joined the Oslo Process in February 2008, when it participated in the Wellington conference and endorsed the Wellington Declaration, indicating its intention to participate in the formal negotiations in Dublin in May 2008. In a statement to the meeting, the Cook Islands said it viewed the Oslo Process as an “opportunity to take effective action [and] we need to act now if further casualties are to be avoided.”³⁰⁰

At the Dublin negotiations, the Cook Islands High Commissioner to Australia and New Zealand, Ambassador Tepure Tapaitau, actively supported efforts to create a strong treaty text. From the outset, the Cook Islands called for a convention without any exceptions because, “To allow exceptions would be to allow countries to make excuses for the continued use of cluster munitions.”³⁰¹

After Minister of Foreign Affairs Wilkie Rasmussen signed the convention, he told campaigners that he would use his position as president of the Africa, Caribbean, and Pacific (ACP) Parliamentary Assembly to encourage countries in these regions to sign.³⁰²

The Cook Islands is not party to the Convention on Conventional Weapons.

COSTA RICA

The Republic of Costa Rica signed the Convention on Cluster Munitions in Oslo on 3 December 2008. After signing the convention, Ambassador Claudio Bogantes Zamora promised Costa Rica would ratify the convention “soon.”³⁰³

Costa Rica stated that it has never used, produced, transferred, or stockpiled cluster munitions.³⁰⁴

Costa Rica is party to the Convention on Conventional Weapons (CCW), but has not yet ratified Protocol V on Explosive Remnants of War.

²⁹⁸ CMC, “Report on the Kampala Conference on the Convention on Cluster Munitions,” 30 September 2008; and Kampala Action Plan, Kampala Conference, 30 September 2008.

²⁹⁹ Statement of the Republic of the Congo, Convention on Cluster Munitions Signing Conference, Oslo, 4 December 2008.

³⁰⁰ Statement of Cook Islands, Wellington Conference on Cluster Munitions, 19 February 2008. Notes by CMC.

³⁰¹ Summary Record of the Plenary, Second Session: 19 May 2008, Dublin Diplomatic Conference on Cluster Munitions, CCM/SR/2, 18 June 2008.

³⁰² Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008. Notes by the Aotearoa New Zealand Cluster Munition Coalition.

³⁰³ Statement by Amb. Claudio Bogantes Zamora, Ambassador of Costa Rica to Norway, Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008. Translation by Landmine Action.

³⁰⁴ Statement of Costa Rica, First 2008 Session of the CCW GGE on Cluster Munitions, Geneva, 14 January 2008. Notes by Landmine Action.

Cluster Munition Ban Policy

Costa Rica was among the 25 states that endorsed a formal declaration at end of the Third Review Conference of the CCW in November 2006 calling for an international agreement to “prohibit the development, production, stockpiling, transfer and use of cluster munitions that pose serious humanitarian hazards because they are for example unreliable and/or inaccurate.”³⁰⁵

In February 2007, Costa Rica participated in the initial Oslo Process conference and endorsed the Oslo Declaration calling for conclusion of a new treaty in 2008. During the conference, Costa Rica stressed the impact of cluster munitions on developing countries.³⁰⁶ Subsequently, Costa Rica participated in the international treaty preparatory conferences in Lima, Vienna, and Wellington, as well as the formal negotiations in Dublin in May 2008.

Costa Rica played an important role in the Oslo Process, including by hosting the Latin American Regional Conference on Cluster Munitions in San José from 4–5 September 2007. Eighteen countries from Latin America attended the conference.³⁰⁷ The participating governments reaffirmed their support to the Oslo Process, as well as their intention to work toward the creation of the world’s first cluster munition free zone. Costa Rica subsequently attended regional conferences hosted by Mexico (April 2008) and Ecuador (November 2008).

Costa Rica worked hard during the Dublin negotiations to achieve a comprehensive and strong treaty text. In particular, it advocated for strengthening the victim assistance provisions.³⁰⁸ At the conclusion, Costa Rica said that it would have preferred a broader definition of cluster munitions and more rigor in Article 21 (regarding joint military operations with states not party), but felt that the achievements in the text as a whole were so great that Costa Rica supported adoption of the convention.³⁰⁹

In 2008, Costa Rica participated in meetings of the CCW Group of Governmental Experts (GGE) on cluster munitions, but made clear its view that any agreement reached in the CCW “should be compatible with the Oslo Process and the Convention on Cluster Munitions.”³¹⁰ Costa Rica warned that a weaker instrument could “set a dangerous precedent to allow the CCW to fall behind stronger existing standards.”³¹¹

In November 2008, Costa Rica read a joint statement on behalf of 26 states expressing their opposition to the weak draft text on a possible CCW protocol on cluster munitions. In part it said, “The Chair’s text as it stands does not, however, meet that [Convention on Cluster Munitions] standard. Instead, by allowing states to choose from a menu of vaguely-worded options, we do not see how it would provide sufficient added value over the current situation, and it could be used as a justification for the continued use of cluster munitions that have already proven over the past decades to cause exactly the humanitarian consequences that we are trying to address. For these reasons, the Chair’s text as it stands is not acceptable to our delegations.”³¹²

³⁰⁵ Declaration on Cluster Munitions, presented by Austria, Belgium, Bosnia and Herzegovina, Croatia, Costa Rica, Czech Republic, Denmark, Germany, Holy See, Hungary, Ireland, Liechtenstein, Lithuania, Luxembourg, Malta, Mexico, New Zealand, Norway, Peru, Portugal, Serbia, Slovakia, Slovenia, Sweden, and Switzerland, Third Review Conference of the States Parties to the CCW, Geneva, CCW/CONF.III/WP.18, 17 November 2006.

³⁰⁶ Statement of Costa Rica, Oslo Conference on Cluster Munitions, 23 February 2007. Notes by CMC.

³⁰⁷ This was the first time El Salvador, Honduras, Nicaragua, Paraguay, and Uruguay participated in the Oslo Process. Costa Rica’s Vice Minister of the Presidency, José Torres, opened the conference.

³⁰⁸ Summary Record of the Committee of the Whole, Second Session: 20 May 2008, Dublin Diplomatic Conference on Cluster Munitions, CCM/CW/SR/2, 18 June 2008; Proposal by Argentina, Chile, Costa Rica, Dominican Republic, Ecuador, Guatemala, Guinea, Honduras, Mexico, Nicaragua, Panama, Peru, Uruguay, and Zambia for the amendment of Article 5, Dublin Diplomatic Conference, CCM/70, 21 May 2008.

³⁰⁹ Summary Record of the Plenary and Closing Ceremony of the Conference, Fourth Session: 30 May 2008, Dublin Diplomatic Conference, CCM/SR/4, 18 June 2008.

³¹⁰ Statement of Costa Rica, Fifth 2008 Session of the CCW GGE on Cluster Munitions, Geneva, 3 November 2008. Notes by Landmine Action.

³¹¹ *Ibid.*, 5 November 2008.

³¹² Statement delivered by Costa Rica on behalf of Austria, Belgium, Benin, Bosnia and Herzegovina, Chile, Croatia, Ecuador, El Salvador, Guatemala, Holy See, Honduras, Indonesia, Ireland, Lebanon, Mexico, New Zealand, Nicaragua, Norway, Peru, Philippines, Senegal, South Africa, Uganda, Uruguay, and Venezuela, Fifth 2008 Session of the CCW GGE on Cluster Munitions, Geneva, 5 November 2008.

CÔTE D'IVOIRE

The Republic of Côte d'Ivoire signed the Convention on Cluster Munitions in Oslo on 4 December 2008. The status of the ratification process is not known. Côte d'Ivoire is not believed to have used, produced, stockpiled, or transferred cluster munitions.

Côte d'Ivoire participated in only one of the four international Oslo Process conferences to develop the convention text, in Vienna in December 2007.³¹³ It attended the regional conference in Livingstone in March/April 2008, and endorsed the Livingstone Declaration, calling for a comprehensive treaty with a prohibition that should be “total and immediate.”³¹⁴

During the formal negotiations in Dublin in May 2008, Côte d'Ivoire opposed efforts to weaken the draft treaty text, including the notion of a transition period that would allow the continued use of cluster munitions.³¹⁵

In September 2008, Côte d'Ivoire endorsed the Kampala Action Plan, which declared that states should sign and “take all necessary measures to ratify the convention as soon as possible.”³¹⁶ During the Kampala conference, a video message was played from Didier Drogba, football star and UNDP Goodwill Ambassador, originally from Côte d'Ivoire, urging countries to ban cluster munitions.

Côte d'Ivoire is not a party to the Convention on Conventional Weapons.³¹⁷

CROATIA

The Republic of Croatia signed the Convention on Cluster Munitions in Oslo on 3 December 2008. In February 2009, the CMC reported that Croatia had started its ratification process and was hoping to be able to obtain the necessary parliamentary approval by April 2009.³¹⁸

Croatia is party to the Convention on Conventional Weapons (CCW), and ratified Protocol V on Explosive Remnants of War on 7 February 2005.

Cluster Munition Ban Policy

In November 2006, Croatia was one of 25 states that supported a declaration at the Third CCW Review Conference calling for an agreement that would prohibit the use of cluster munitions “within concentrations of civilians,” prohibit the use of cluster munitions that “pose serious humanitarian hazards because they are for example unreliable and/or inaccurate,” and require destruction of stockpiles of such cluster munitions.³¹⁹

Croatia participated in the initial Oslo Process conference in February 2007, where it stated that it fully supported the Oslo Process and its comprehensive approach.³²⁰ It endorsed the Oslo Declaration committing states to conclude a new convention in 2008. Croatia subsequently participated in all of the

³¹³ Côte d'Ivoire did not attend the Wellington conference in February 2008, but adopted the Wellington Declaration on 14 April 2008, indicating its intention to be a full participant in the formal negotiations in Dublin in May. New Zealand Ministry of Foreign Affairs and Trade, “List of countries subscribing to the Declaration of the Wellington Conference on Cluster Munitions,” updated 23 May 2008, www.mfat.govt.nz.

³¹⁴ Livingstone Declaration, Livingstone Conference on Cluster Munitions, 1 April 2008.

³¹⁵ Statement of Côte d'Ivoire, Dublin Diplomatic Conference on Cluster Munitions, 23 May 2008. Notes by Landmine Action.

³¹⁶ CMC, “Report on the Kampala Conference on the Convention on Cluster Munitions,” 30 September 2008; and Kampala Action Plan, Kampala Conference, 30 September 2008.

³¹⁷ Côte d'Ivoire took part in the work of the Third Review Conference in November 2006 and the 2007 Meeting of the States Parties as an observer. It did not participate in any of the CCW meetings on cluster munitions in 2008.

³¹⁸ CMC, “CMC Newsletter, February 2009,” 16 March 2009, www.stopclustermunitions.org.

³¹⁹ Declaration on Cluster Munitions, Third Review Conference of the States Parties to the CCW, Geneva, CCW/CONF.III/WP.18, 17 November 2006.

³²⁰ Statement of Croatia, Oslo Conference on Cluster Munitions, 23 February 2007. Notes by CMC/WILPF.

international conferences to develop the convention text in Lima, Vienna, and Wellington, as well as the formal negotiations in Dublin in May 2008. Croatia also participated in the Belgrade conference for affected states in October 2007, and regional conferences in Brussels in October 2007 and Sofia in September 2008.

At the Vienna conference, Croatia announced that it had enacted a moratorium on the use, production, and transfer of cluster munitions and was assessing how to destroy its stockpiles.³²¹ Throughout the Oslo Process, Croatia emphasized its experience as an affected state and gave priority to victim assistance issues. In Vienna, Croatia stated that victim assistance was a matter of human rights and called for gender and age sensitive language in the treaty. Croatia also stressed the importance of international assistance for affected states.³²²

During the Wellington conference, Croatia advocated strongly for robust provisions on victim assistance, including a broad definition of cluster munitions victims. It called for the inclusion of victims in decision-making processes, using a “nothing about us without us” approach. It also supported stronger language on risk education. Croatia pushed for the inclusion of special responsibilities for past users of cluster munitions and stated, “We only wish to note that it is curious that the same countries that argue for a transition period in the use of cluster munitions are also the countries that are most vociferously opposed to retroactivity.”³²³ Croatia opposed extending the stockpile destruction deadline.³²⁴

At the Dublin negotiations, Croatia continued to lobby for strong provisions on victim assistance.³²⁵ It joined those opposing any transition period during which states could continue to use cluster munitions.³²⁶ However, Croatia spoke in favor of inclusion of provisions on “interoperability” (joint military operations with states not party), citing its participation in 15 peacekeeping operations.³²⁷

Croatia publicly announced it would sign the convention in Oslo during the Sofia regional conference on 19 September 2008.³²⁸ From 21–24 October, the Croatian Ministry of Foreign Affairs and the Regional Arms Control Verification and Implementation Assistance Centre (RACVIAC) hosted a workshop on the convention.³²⁹ Also in October, the Ban Bus, a mobile advocacy initiative to promote the convention, arrived in Zagreb. Campaigners organized a public action in central Zagreb to raise awareness.

At the CCW in November 2008, Croatia was one of 26 states that issued a joint statement expressing their opposition to the weak draft text on a possible CCW protocol on cluster munitions, indicating it was an unacceptable step back from the standards set by the Convention on Cluster Munitions.³³⁰

Upon signing the convention in Oslo, Croatia’s Minister of Foreign Affairs said, “All of us present here today have worked long and hard, guided by the thought that particular interests must not stand above the well being of millions of civilians. Firm in the knowledge that for many, many people who will never be present in these rooms, the use of cluster munitions is a matter of life and death – theirs, their children’s and their grandchildren’s life and death, we have tried to write the best possible Convention that we could agree on. That is why Croatia has consistently supported the strong language on victim assistance, the principle

³²¹ Statement of Croatia, Vienna Conference on Cluster Munitions, 5 December 2007. Notes by CMC/WILPF.

³²² *Ibid.*, 6 December 2007.

³²³ Statement of Croatia, Victim Assistance (Article 4), Wellington Conference on Cluster Munitions, 20 February 2008.

³²⁴ Croatia stated that deadlines are an effective mechanism for ensuring action and said that stockpile destruction was a matter of political priority. Costs would be off-set by eliminating the cost of storage and, potentially, future accidents. Statement of Croatia, Session on Storage and Stockpile Destruction, Wellington Conference, 21 February 2008. Notes by CMC.

³²⁵ Statement of Croatia, Informal Discussions on Victim Assistance, Dublin Diplomatic Conference on Cluster Munitions, 21 May 2008. Notes by Landmine Action.

³²⁶ Statement of Croatia, Committee of the Whole, Dublin Diplomatic Conference, 23 May 2008. Notes by Landmine Action.

³²⁷ Statement of Croatia, Informal Discussions on Interoperability, Dublin Diplomatic Conference, 22 May 2008. Notes by Landmine Action.

³²⁸ Katherine Harrison, “CMC Report from the Sofia Conference on Cluster Munitions – The Way Forward,” 23 September 2008, www.stopclustermunitions.org.

³²⁹ CMC, “Towards Oslo 2008: Workshop on Cluster Munitions,” October 2008, www.stopclustermunitions.org. Participants came from Albania, Austria, Bosnia and Herzegovina, Croatia, France, Moldova, Norway, Serbia, Slovenia, and Turkey, as well as from the Bulgarian Red Cross, Geneva International Centre for Humanitarian Demining, International Trust Fund, NATO Maintenance and Supply Agency/NATO, UN Mine Action Service, Mine Aid, Norwegian People’s Aid, and Handicap International. Representatives from mine action centers in the region had the opportunity to describe their national experiences with cluster munitions.

³³⁰ Statement delivered by Costa Rica on behalf of Austria, Belgium, Benin, Bosnia and Herzegovina, Chile, Croatia, Ecuador, El Salvador, Guatemala, Holy See, Honduras, Indonesia, Ireland, Lebanon, Mexico, New Zealand, Nicaragua, Norway, Peru, Philippines, Senegal, South Africa, Uganda, Uruguay, and Venezuela, Fifth 2008 Session of the CCW GGE on Cluster Munitions, Geneva, 5 November 2008.

of non-discrimination and the necessity of national implementation. And that is also why Croatia will begin already tomorrow the parliamentary process of its ratification.”³³¹

Use, Production, Stockpiling, and Transfer

The Trial Chamber of the International Criminal Tribunal for the former Yugoslavia (ICTY) established that Milan Martić³³² ordered the shelling of Zagreb on 2–3 May 1995 using M87 Orkan rockets equipped with submunitions. At least seven civilians were killed and more than 200 wounded in the attacks.³³³ Additionally, the Croatian government has claimed that Serb forces dropped BL-755 cluster bombs in Sisak, Kutina, and along the Kupa River.³³⁴

In February 2008, Croatia stated that it does not produce cluster munitions, it has no plans for the operational use of cluster munitions, and remaining stockpiles will be destroyed. It said it inherited cluster munitions during the breakup of the Socialist Federal Republic of Yugoslavia.³³⁵

It is not clear whether any Yugoslav production facilities for cluster munitions or their components were located in Croatia.

Jane’s Information Group lists Croatian forces as possessing KMG-U dispensers (which deploy submunitions) for aircraft and M87 Orkan 262mm rockets (each rocket contains 288 KB-1 dual purpose improved conventional munition, or DPICM, submunitions).³³⁶

CZECH REPUBLIC

The Czech Republic signed the Convention on Cluster Munitions on 3 December 2008 in Oslo. According to the Ministry of Foreign Affairs, “A draft law on cluster munitions is being prepared and will be submitted to the Government by October 2009. Then the ratification of the Convention on Cluster Munitions will begin, in accordance with the legislation of the Czech Republic.”³³⁷ In September 2008, Minister of Foreign Affairs Karel Schwarzenberg pledged, “I will personally follow the internal procedures in my country in order to speed up the ratification process.”³³⁸

The Czech Republic is party to the Convention on Conventional Weapons (CCW) and ratified Protocol V on Explosive Remnants of War on 6 June 2006.

³³¹ Statement by Gordan Jandroković, Minister of Foreign Affairs and European Integration, Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008.

³³² From 4 January 1991 to August 1995, Martić held various leadership positions, including President, Minister of Defense, and Minister of Internal Affairs, in the unrecognized offices of the Serbian Autonomous District (SAO) Krajina, and the Republic of Serbian Krajina (RSK).

³³³ Trial Chamber of the ICTY, “Summary of Judgment for Milan Martić,” Press release, 12 June 2007, The Hague. In the mid-morning of 2 May 1995, forces of the RSK launched several M-87 Orkan rockets that struck locations in Zagreb, including the main square, several shopping streets, a school, the village of Plešo near Zagreb airport, and the airport itself. Five persons, all civilians, were killed in these attacks, and at least 160 persons were severely injured. The following day, Zagreb was again hit by Orkan rockets. The areas hit were the Croatian National Theatre at Marshall Tito Square and a children’s hospital, as well as another square. These attacks claimed two lives and injured 54 people. The Trial Chamber found that “the M-87 Orkan was fired from the Vojnić area, near Slavsko Polje which is at the extreme of the weapon’s range (50 kilometers). The evidence shows that by virtue of its characteristics and the firing range in this specific instance, the M-87 Orkan was incapable of hitting specific targets. For these reasons, the Trial Chamber has found that the M-87 Orkan is an indiscriminate weapon, the use of which in densely populated civilian areas, such as Zagreb, will result in the infliction of severe casualties.”

³³⁴ Statement of Croatia, Fourth Session of the Group of Governmental Experts to Prepare the Review Conference of the States Parties to the CCW, Geneva, January 1995.

³³⁵ Statement of Croatia, Lima Conference on Cluster Munitions, 23 May 2007. Notes by CMC/WLIPE.

³³⁶ Robert Hewson, ed., *Jane’s Air-Launched Weapons*, Issue 44 (Surrey, UK: Jane’s Information Group Limited, 2004), p. 837; and Leland S. Ness and Anthony G. Williams, eds., *Jane’s Ammunition Handbook 2007–2008* (Surrey, UK: Jane’s Information Group Limited, 2007), p. 641.

³³⁷ Letter from Jan Michal, Director of the UN Department, Ministry of Foreign Affairs, 17 March 2009.

³³⁸ Letter from Karel Schwarzenberg, Minister of Foreign Affairs, 2 September 2008.

Cluster Munition Ban Policy

At the CCW Review Conference in November 2006, the Czech Republic was one of 25 supporters of a mandate to negotiate within the CCW a legally binding instrument to address the humanitarian problems posed by cluster munitions.³³⁹

The Czech Republic attended the first Oslo Process conference in February 2007 and endorsed the Oslo Declaration. It subsequently attended the Lima, Vienna, and Wellington preparatory conferences, the Dublin negotiations, and the regional conference in Brussels.

At the Lima Conference in May 2007, the Czech Republic stated that it was “greatly concerned by the humanitarian impact of cluster munitions” and “committed to make real progress on this issue. We have destroyed a number of RBK bombs and KMGU aerial dispensers. We still have a limited number of stockpiled cluster munitions, which we removed from service and which is intended for complete disposal.”³⁴⁰

At the Vienna Conference in December 2007, the Czech Republic raised concerns about the issue of “interoperability,” arguing that the convention must have clear provisions to allow for military operations with states not party because not all NATO states were participating in the Oslo Process. The Czech Republic stated it could only join the convention if it was sure that its NATO responsibilities would not be hindered.³⁴¹

At the Dublin Diplomatic Conference in May 2008, the Czech Republic continued to argue strongly for provisions on interoperability to be included in the convention text, describing this as a “red line” issue. The Czech Republic advocated for a definition which excluded from the prohibition cluster munitions “with less than 10 explosive submunitions, equipped with a self-destruction mechanism and/or self-deactivation mechanism.”³⁴² At the conclusion of the negotiations, the Czech Republic joined the consensus in adopting the final text.

Following the negotiations, the Minister of Foreign Affairs stated, “The strength of the treaty is in my view largely due to the prohibition of cluster munitions as an entire category of weapons.... Although [it] has not yet entered into force, it is already contributing internationally to the increasing stigma against cluster munitions.” He also said that any new CCW protocol “should also ban cluster munitions.”³⁴³

Minister of Foreign Affairs Schwarzenberg signed the convention in Oslo on behalf of the Czech Republic.

Use, Production, Stockpiling, and Transfer

According to the Ministry of Foreign Affairs, “The Army of the Czech Republic has never used any cluster munitions in military operations,” and the “Czech Republic never produced cluster munitions.”³⁴⁴ Additionally, “The excluded cluster munitions are used only for the training of its specialists.”³⁴⁵

With regard to currently held stockpiles, the Czech Republic disclosed in March 2009 that it “owned the RBK-500 and the KMGU BKF PTAB types of cluster munitions, but they have already been removed from Army equipment. The Ministry of Defence currently holds, in storage, 67 containers and 5,377 pieces of RBK-500 and KMGU BKF PTAB sub-munitions, which will be environmentally disposed of in accordance with the Convention on Cluster Munitions.”³⁴⁶

³³⁹ Declaration on Cluster Munitions, delivered by Sweden and co-sponsored by Austria, Belgium, Bosnia and Herzegovina, Croatia, Costa Rica, Czech Republic, Denmark, Germany, Holy See, Hungary, Ireland, Liechtenstein, Lithuania, Luxembourg, Malta, Mexico, New Zealand, Norway, Peru, Portugal, Serbia, Slovakia, Slovenia, Sweden, and Switzerland, Third Review Conference of the States Parties to the CCW, Geneva, CCW/CONF.III/WP.18, 17 November 2006.

³⁴⁰ Statement of the Czech Republic, Lima Conference on Cluster Munitions, 23–25 May 2007.

³⁴¹ Statement of the Czech Republic, Session on General Scope of Obligations, Vienna Conference on Cluster Munitions, 6 December 2007. Notes by CMC/WILPF.

³⁴² Proposal by the Czech Republic for the amendment of Article 2, Dublin Diplomatic Conference on Cluster Munitions, CCM/68, 19 May 2008.

³⁴³ Letter from Karel Schwarzenberg, Minister of Foreign Affairs, 2 September 2008.

³⁴⁴ Letter from Jan Michal, Ministry of Foreign Affairs, 17 March 2009.

³⁴⁵ Ibid.

³⁴⁶ Ibid.

The Ministry of Foreign Affairs also revealed that, “In the past, the Ministry of Defence sold part of its cluster munitions stocks to Czech private firms.”³⁴⁷

The Ministry of Defense reported to Human Rights Watch in 2006, “There are no cluster munitions included in the armaments of the Czech Armed Forces” and all cluster munitions “have been excluded from service.” It went on to note that the Czech Republic has a limited number of stockpiled RBK-250, RBK-500, and KMG-U cluster munitions that are intended for “complete liquidation eventually.” It stated that, contrary to previous information, the Czech Armed Forces has no stockpiles of RBK-275 bombs, PROSAB-250 bombs, AGAT/JRKK-G rockets, or TRNOVNIK rockets.³⁴⁸

DENMARK

The Kingdom of Denmark signed the Convention on Cluster Munitions in Oslo on 3 December 2008. The status of the ratification process is not known.

Denmark is party to the Convention on Conventional Weapons (CCW) and ratified Protocol V on Explosive Remnants of War on 28 June 2005. Ambassador Bent Wigotski of Denmark was the chaired the five sessions of the CCW Group of Governmental Experts (GGE) in 2008 aimed, ultimately unsuccessfully, at negotiating a new protocol on cluster munitions.

Cluster Munition Ban Policy

Denmark was an early supporter of efforts to address the humanitarian problems caused by cluster munitions. However, it consistently expressed a preference for work in the CCW and, while it regularly participated in the Oslo Process, also consistently expressed strong reservations about both the process and the text of the draft convention, including the concept of a comprehensive prohibition.

In May 2004, the Danish Parliament encouraged the government to pursue “efforts in all international fora to establish as quickly as possible an internationally binding legal ban against all kinds of cluster munitions not equipped with self-destruction, self-deactivation, or self-neutralization mechanisms.”³⁴⁹ Denmark announced in November 2004 a temporary ban on the use and procurement of submunitions with a failure rate of greater than 1% or those not equipped with self-destruction or self-neutralization devices. At the same time, Denmark said that there were no cluster munitions of any type included in the procurement plans of its armed forces.³⁵⁰

In August 2005, during a CCW session, Denmark stated that “while cluster munitions can serve legitimate military purposes, it is clear that there is currently an imbalance between military necessity and the humanitarian risk posed.” In the same statement Denmark committed to work toward a legally-binding international instrument regulating cluster munitions.³⁵¹

In November 2006, at the Third Review Conference of the CCW, Denmark supported a proposal for a mandate to negotiate a legally-binding instrument “that addresses the humanitarian concerns posed by cluster munitions.”³⁵² After the mandate was rejected by a number of other countries, Denmark was one of 25 nations that issued a joint declaration calling for an agreement that would prohibit the use of cluster munitions “within concentrations of civilians,” prohibit the use of cluster munitions that “pose serious

³⁴⁷ Ibid.

³⁴⁸ Email from Jakub Cimoradsky, International Law Department, Ministry of Defense, 25 August 2006. It stated that only Nb 122-JROF RM-70 cargo rockets are used for GRAD multiple rocket launchers produced by Czechoslovakia.

³⁴⁹ Decision of Folketinget (Danish Parliament), Inquiry F 56 on Cluster Munitions, Motion V 106, 27 May 2004.

³⁵⁰ Communication from the Danish Ministry of Defense, Division of International Law and Security Cooperation, to Pax Christi Netherlands, 16 February 2005.

³⁵¹ Statement of Denmark, Eleventh Session of the CCW GGE, Geneva, 4 August 2005.

³⁵² Proposal for a Mandate to Negotiate a Legally-Binding Instrument that Addresses the Humanitarian Concerns Posed by Cluster Munitions, Presented by Austria, Holy See, Ireland, Mexico, New Zealand, and Sweden, Third Review Conference of the States Parties to the CCW, Geneva, CCW/CONF.III/WP.1, Geneva, 25 October 2006.

humanitarian hazards because they are for example unreliable and/or inaccurate,” and require destruction of stockpiles of such cluster munitions.³⁵³ Norway then announced that it would start an independent process outside the CCW to negotiate a cluster munition treaty and invited other governments to join.

Denmark participated in the initial Oslo Process conference in Oslo in February 2007, the three international diplomatic conferences to develop the convention text in Lima, Vienna, and Wellington, as well as the formal negotiations in Dublin in May 2008. It also attended the regional conference in Brussels in October 2007.

At the end of the Oslo conference in February 2007, Denmark joined 45 other countries in endorsing the Oslo Declaration, committing the states to conclude in 2008 a legally-binding instrument prohibiting cluster munitions that cause unacceptable harm to civilians. However, Denmark stated its preference for work in the CCW and said that it viewed the 2008 deadline as an “ambition” and not an obligation.³⁵⁴

At the Lima conference in May 2007, Denmark was part of a group of countries pushing for a definition that would exempt from prohibition submunitions with self-destruct mechanisms.³⁵⁵ At the Vienna conference in December 2007, Denmark stated that the purpose of the Oslo Process was not to agree on a categorical ban on cluster munitions, but rather, to draw a line between types of cluster munitions that were accurate and reliable and those that were not.³⁵⁶ Denmark supported a proposal by Germany for a draft CCW protocol on cluster munitions which it saw as drawing the right line between cluster munitions that caused unacceptable harm and those that did not.³⁵⁷ Denmark raised concerns about the issue of “interoperability” (joint military operations with states not party), as it feared the treaty’s provisions would make it difficult to participate in joint operations with states not party, such as the United States.³⁵⁸

More generally, Denmark insisted that an agreement must balance humanitarian and military concerns and must have a “critical mass” of adherents, including major users and producers. It could not be taken for granted that additional states would rally to a future agreement on cluster munitions as they had the Mine Ban Treaty, because cluster munitions had greater military utility than antipersonnel mines, Denmark argued.³⁵⁹ It declared that cluster munitions would not go away by “grand-standing” in the Oslo Process.³⁶⁰

Danish NGOs, such as DanChurchAid and the Danish Red Cross, were highly critical of the government’s position on cluster munitions, and launched in 2007 a webpage addressing the issue: Stopklyngebomber.nu (stop cluster bombs).³⁶¹ They carried out other national actions, notably the collection of more than 10,000 signatures calling for a ban which were presented to the Minister of Foreign Affairs, and a public protest at Town Hall Square in Copenhagen.

At the Wellington conference in February 2008, Denmark took strong positions on the need for exemptions to a prohibition based on technical elements, for a transition period before prohibitions took effect, for provisions addressing interoperability concerns, and for a provision on retaining cluster munitions for training and development purposes.³⁶² Denmark associated itself with the so-called like-minded group that put forth a number of proposals strongly criticized by the CMC as weakening the draft text. It supported the joint statement of the like-minded group at the end of the conference expressing disappointment with the proceedings and the unwillingness to incorporate their proposals into the draft text.³⁶³

Denmark subscribed to the Wellington Declaration, indicating its intention to participate fully in the formal negotiations in Dublin on the basis of the Wellington draft text. But, it called the conference “disappointing,” and stated, “At the very worst the Oslo Process has become almost synonymous with proceedings where the Chair, ordered by a small group of countries, uses all the powers at its disposal to impose a predetermined

³⁵³ Declaration on Cluster Munitions, Third Review Conference of the States Parties to the CCW, Geneva, CCW/CONF.III/WP.18, 17 November 2006.

³⁵⁴ Statement of Denmark, Oslo Conference on Cluster Munitions, 23 February 2007. Notes by CMC/WILPF.

³⁵⁵ CMC, “CMC report on the Lima conference and next steps,” May 2007, www.stopclustermunitions.org.

³⁵⁶ Statement of Denmark, General Statements, Vienna Conference on Cluster Munitions, 5 December 2007. Notes by CMC/WILPF.

³⁵⁷ Statement of Denmark, Session on General Obligation and Scope, Vienna Conference, 6 December 2007. Notes by CMC/WILPF.

³⁵⁸ CMC, “CMC Report on the Vienna Conference on Cluster Munitions,” 21 December 2007, storage.paxchristi.net.

³⁵⁹ Statement of Denmark, General Statements, Vienna Conference, 5 December 2007. Notes by CMC/WILPF.

³⁶⁰ Statement of Denmark, Session on General Obligation and Scope, Vienna Conference, 6 December 2007. Notes by CMC/WILPF.

³⁶¹ See “Hvis der var klyngebomber i Danmark” (“If there were cluster bombs in Denmark”), DanChurchAid, www.stopklyngebomber.nu.

³⁶² Aotearoa New Zealand CMC, “Report on Activities: Wellington Conference on Cluster Munitions,” April 2008, p. 69, www.stopclustermunitions.org.

³⁶³ Statement of France on behalf of like-minded countries, Wellington Conference, 22 February 2008.

result in the Conference, under a cloud of intransparency and lack of inclusiveness.³⁶⁴ Denmark declared it would attend the Dublin conference with a clear understanding that the proposals it supported, while not formal amendments, would be treated on an equal basis with the draft text.³⁶⁵

In April 2008, before the Dublin Diplomatic Conference, the Danish government presented an analysis of its policy on cluster munitions to the Danish Parliament, stating that while it supported a ban, it would continue to seek a 10-year transition period for certain types, such as the DM642 155mm artillery projectiles still in its stockpiles. The report also stated the government's intention to destroy all of its stocks of the DM662 155mm artillery projectiles with submunitions, as tests had shown them to be too unreliable.³⁶⁶

After the government's report in April 2008, DanChurchAid and the Danish Red Cross published an alternative report criticizing the governments' decision to keep some cluster munitions, its role in the Oslo Process, and its continued push for an agreement in the CCW.³⁶⁷ The ethical watchdog DanWatch and other Danish NGOs were active in calling for transparency about the Danish pension funds' investment in cluster munition producers. As a direct result of this action several funds have changed their policies and sold off their shares in companies producing cluster munitions.³⁶⁸

During the Dublin negotiations in May 2008, Denmark continued to push on the issues of definitions, interoperability, transition periods, and retention. It stated that a transition period was a question of national security, and necessary because the convention would not "be equivalent to waving a magic wand to make all unacceptable cluster munitions go away."³⁶⁹ On interoperability, the Danish ambassador said that the Danish Minister of Defense had told him he would not take part in the funerals of Danish service personnel in Afghanistan because Denmark was constrained in its alliances by the Convention on Cluster Munitions.³⁷⁰ Although not satisfied with the outcomes on key matters such as the definition and a transition period, at the conclusion of the negotiations, Denmark expressed its support for the convention and joined the consensus adoption.

Denmark signed the convention on 3 December 2008 in Oslo. In its statement to the plenary, Denmark said that the convention was "an important step" on cluster munitions, but that "not all problems caused by cluster munitions will cease as of tomorrow.... The Oslo Convention has in number attracted the support of many countries, but unfortunately it has been unable to gain support from the largest user and producer countries, which hold around 90% of the world's stockpiles of cluster munitions. This is particularly sad as it is primarily countries belonging to the latter group which have used unreliable and inaccurate cluster munitions in recent conflicts. These weapons unfortunately remain unregulated." Denmark said that its hope was that the Convention on Cluster Munitions would be "a stepping-stone to reaching an international agreement supported also by the larger user and producer countries."³⁷¹

As chair of the 2008 sessions of the GGE on cluster munitions in the CCW, Denmark had considerable investment in securing an outcome on cluster munitions in that forum. The Danish chair's proposed draft text of a protocol could not generate consensus, however, with criticism coming from states inside and outside of the Oslo Process, as well as NGOs.³⁷² In November, as CCW negotiations were scheduled to conclude, 26

³⁶⁴ Statement of Denmark, Wellington Conference, 22 February 2008. Unofficial transcription by Landmine Action.

³⁶⁵ Ibid.

³⁶⁶ Ministry of Foreign Affairs, "Analyse om Klyngeammunition" ("Analysis of Cluster Munitions"), Press release, 1 April 2008, www.um.dk.

³⁶⁷ Danish Red Cross and DanChurchAid, "Cluster Munitions: An Effective Weapon Against Civilians!," April 2008, web.drk.dk.

³⁶⁸ DanChurchAid, "Kræver klarhed om klyngebombe-investeringer" ("Clarity required on cluster bomb investment"), 8 February 2008, www.noedhjaelp.dk.

³⁶⁹ Statement of Denmark, Committee of the Whole on Article 2, Dublin Diplomatic Conference on Cluster Munitions, 19 May 2008. Notes by Landmine Action.

³⁷⁰ Statement of Denmark, Informal Discussions on Interoperability, Dublin Diplomatic Conference, 20 May 2008. Notes by Landmine Action. In April 2008, Minister of Defense Soren Gade publicly stated that opposition to cluster bombs is hypocritical because US cluster bombs can save the lives of Danish soldiers in Afghanistan. He said Danish cluster bombs should be saved for a possible new cold war. Kirsten Sterling, "Gade: Klyngebomber kan redde danske soldaters liv" ("Gade: Cluster Bombs Danish soldiers could save lives"), *Information*, 19 April 2008, www.information.dk.

³⁷¹ Statement by Amb. Theis Truelsen, Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008. Emphasis in the original.

³⁷² South Africa, for one, stated that it and many other delegations were not consulted in informal consultations and that it was highly dissatisfied with the chair's handling of the negotiations. Statement of South Africa, Fourth 2008 Session of the CCW GGE on Cluster Munitions, 7 November 2008. Notes by Landmine Action. For NGO criticism, see for example, Human Rights Watch, "Human Rights Watch Observations on the Convention on Conventional Weapons (CCW) Draft Protocol on Cluster Munitions," September 2008, www.hrw.org; and CMC, "USA, Backed By Denmark, Works to Legalise Cluster Bombs After Ban Agreed," 5 September 2008, www.stopclustermunitions.org.

states issued a joint statement expressing their opposition to the weak draft text on a possible CCW protocol on cluster munitions, indicating it was an unacceptable step back from the standards set by the Convention on Cluster Munitions.³⁷³ CCW States Parties failed to reach agreement at the end of an acrimonious year of discussions, but, with Denmark's support, decided to continue work on cluster munitions in 2009.

Use, Production, Stockpiling, and Transfer

Denmark is not known to have used or produced cluster munitions. The precise status and composition of its current stockpile of imported cluster munitions is not known.

In 2005, the Ministry of Defense stated, “No [air-dropped] cluster bombs...are in service with the Danish Armed Forces” and “no ground-launched cluster munition is currently in service with the Danish Armed Forces.” It said that Denmark had retired its inventory of US-produced Rockeye cluster bombs,³⁷⁴ while retaining a small number for training of explosive ordnance disposal personnel. It also said it had removed from service 155mm Improved Conventional Munition (ICM) and ICM Base Bleed (extended range) artillery projectiles with submunitions.³⁷⁵

Denmark has acknowledged having stockpiles of German-produced DM642 and DM662 155mm artillery projectiles with submunitions.³⁷⁶ Presumably these are the same as the ICM and ICM Base Bleed projectiles that Denmark has removed from service. It is not known how many of these Denmark possesses. In early 2008, Denmark decided to destroy the DM662 because of tests showing them to be highly unreliable.³⁷⁷

ECUADOR

The Republic of Ecuador signed the Convention on Cluster Munitions in Oslo on 3 December 2008. Ecuador announced during a special event to promote the convention at the UN in New York in March 2009 that it had begun its ratification process. It said that it expects that the new Congress to be elected in April will ensure a short ratification process.³⁷⁸

Ecuador has not used, produced, or stockpiled cluster munitions.³⁷⁹ Ecuador is party to the Convention on Conventional Weapons (CCW), but has not ratified Protocol V on Explosive Remnants of War.

Ecuador did not attend the initial meeting of the Oslo Process in February 2007, but participated in all three subsequent international conferences to develop the convention text in Lima, Vienna, and Wellington, as well as the formal negotiations in Dublin.

Ecuador hosted a regional conference in November 2008, shortly before the Oslo signing conference, in order to promote signature and ratification in Latin America (see below). Earlier, it attended regional conferences in Costa Rica and Mexico.

³⁷³ Statement delivered by Costa Rica on behalf of Austria, Belgium, Benin, Bosnia and Herzegovina, Chile, Croatia, Ecuador, El Salvador, Guatemala, Holy See, Honduras, Indonesia, Ireland, Lebanon, Mexico, New Zealand, Nicaragua, Norway, Peru, Philippines, Senegal, South Africa, Uganda, Uruguay, and Venezuela, Fifth 2008 Session of the CCW GGE on Cluster Munitions, Geneva, 5 November 2008.

³⁷⁴ At some point between 1970 and 1995, the US supplied Denmark with 200 Rockeye cluster bombs. US Defense Security Assistance Agency, Department of Defense, “Cluster Bomb Exports under FMS, FY1970-FY1995,” 15 November 1995, obtained by Human Rights Watch in a Freedom of Information Act request, 28 November 1995.

³⁷⁵ Communication from the Ministry of Defense, Division of International Law and Security Cooperation, to Pax Christi Netherlands, 16 February 2005.

³⁷⁶ Ministry of Foreign Affairs, “Analyse om Klyngeammunition” (“Analysis of Cluster Munitions”), 1 April 2008, www.um.dk; and “Ny traktat betyder, at danske klyngebomber skal skrottes” (“New Treaty Means That Danish Cluster Munitions Will Be Scrapped”), *Information*, 29 May 2008, www.information.dk.

³⁷⁷ Ministry of Foreign Affairs, “Analyse om Klyngeammunition” (“Analysis of Cluster Munitions”), 1 April 2008, www.um.dk; and “Ny traktat betyder, at danske klyngebomber skal skrottes” (“New Treaty Means That Danish Cluster Munitions Will Be Scrapped”), *Information*, 29 May 2008, www.information.dk.

³⁷⁸ CMC, “Report on the Special Event on the Convention on Cluster Munitions, United Nations, New York, 18 March 2009.”

³⁷⁹ Presentation by Ecuador, “Interpretive Statement,” Quito Regional Conference on the Convention on Cluster Munitions, 6 November 2008, www.stopclustermunitions.org.

At the Lima conference, Ecuador stated its support for a comprehensive ban on cluster munitions and for strong victim assistance measures.³⁸⁰ At the Vienna conference, Ecuador called for a broad definition prohibiting all cluster munitions.³⁸¹ At the Wellington conference, Ecuador called for stronger language on social and economic inclusion for victims. It spoke out against inclusion of a transition period during which cluster munitions could still be used, against language on “interoperability” (joint military operations with states not party), and against retention of cluster munitions for training purposes.³⁸²

At the final negotiations in Dublin, Ecuador again supported taking a broader approach to assistance,³⁸³ and opposed a transition period.³⁸⁴ At the conclusion, Ecuador joined the consensus in adopting the convention.

At a CCW meeting in July 2008, Ecuador joined several Latin American countries in stating continued support for CCW work on cluster munitions in addition to the Oslo Process, but also insisted that a new CCW protocol on cluster munitions would have to prohibit the use of cluster munitions with the clear main objective of preventing harm to civilians.³⁸⁵

On 6–7 November 2008, Ecuador hosted the Regional Conference on the Convention on Cluster Munitions in Quito. After Ecuador announced that it would sign the convention in Oslo the following month, most of the 20 states present made similar announcements or provided strong indications that they would also be signing.

At the meeting, Ecuador provided a detailed statement on its views on the main articles of the convention.³⁸⁶ It urged other states to provide their views, and argued for vigilance to ensure that Article 21 (on interoperability) is never used to justify any derogation from the convention’s core prohibitions.³⁸⁷

At the CCW session in November 2008, Ecuador was one of 26 states that issued a joint statement expressing their opposition to the weak draft text on a possible CCW protocol on cluster munitions, indicating it was an unacceptable step back from the standards set by the Convention on Cluster Munitions.³⁸⁸

Ambassador Emilio Izquierdo Miño, Undersecretary for Multilateral Affairs, signed the convention in Oslo on 3 December 2008 and described the convention as an historic feat that would serve to strengthen the existing body of international humanitarian law.³⁸⁹

³⁸⁰ Lima Conference on Cluster Munitions, 23–25 May 2007. Notes by CMC/WILPF; WILPF, “Report from the Lima Conference on Cluster Munitions, 23–25 May 2007,” May 2007, www.wilpf.int.ch.

³⁸¹ Vienna Conference on Cluster Munitions, 5–7 December 2007. Notes by CMC/WILPF; and CMC, “CMC Report on the Vienna Conference on Cluster Munitions,” December 2007, www.stopclustermunitions.org.

³⁸² Wellington Conference on Cluster Munitions, 18–22 February 2008. Notes by CMC; Katherine Harrison, “Report on the Wellington Conference on Cluster Munitions, 18–22 February 2008,” WILPF, March 2008, www.wilpf.int.ch.

³⁸³ Proposal by Argentina, Costa Rica, Ecuador, Guatemala, Lebanon, Mexico, Palau, and Uruguay for the Amendment of Article 2, Dublin Diplomatic Conference on Cluster Munitions, CCM/71, 21 May 2008.

³⁸⁴ Summary Record of the Committee of the Whole, Eighth Session: 23 May 2008, Dublin Diplomatic Conference, CCM/CW/SR/8, 18 June 2008.

³⁸⁵ Third 2008 Session of the CCW Group of Governmental Experts (GGE) on Cluster Munitions, Geneva, 7–25 July 2008. Notes by Landmine Action.

³⁸⁶ Among its views: it would have preferred a ban on all cluster munitions without exceptions; the number of units retained for training should not be bigger than 1,000 and should reduce with time; the establishment of the principle of retroactivity is key; the definition of victim assistance is a pillar of the convention; international cooperation is fundamental; the spirit of Article 21 on interoperability is to promote universalization of the convention and the article should not be interpreted as suspending other obligations under the convention; transit of cluster munitions should also be prohibited. Presentation by Ecuador, “Interpretive Statement,” Quito Regional Conference, 6 November 2008, www.stopclustermunitions.org.

³⁸⁷ Presentation by Ecuador, “Interpretive Statement,” Quito Regional Conference, 6 November 2008, www.stopclustermunitions.org; and CMC, “Quito Regional Conference on the Convention on Cluster Munitions,” November 2008, www.stopclustermunitions.org.

³⁸⁸ Statement delivered by Costa Rica on behalf of Austria, Belgium, Benin, Bosnia and Herzegovina, Chile, Croatia, Ecuador, El Salvador, Guatemala, Holy See, Honduras, Indonesia, Ireland, Lebanon, Mexico, New Zealand, Nicaragua, Norway, Peru, Philippines, Senegal, South Africa, Uganda, Uruguay, and Venezuela, Fifth 2008 Session of the CCW GGE on Cluster Munitions, Geneva, 5 November 2008.

³⁸⁹ Statement by Amb. Emilio Izquierdo Miño, Undersecretary for Multilateral Affairs, Ministry of Foreign Affairs, Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008. Notes by Landmine Action.

EL SALVADOR

The Republic of El Salvador signed the Convention on Cluster Munitions in Oslo on 3 December 2008. Upon signing, El Salvador's ambassador stated that he hoped the country would ratify the convention as soon as possible. He said, "This is a day of rejoicing. As of today, human beings will no longer suffer the distraction and death caused by these terrible weapons."³⁹⁰

El Salvador did not attend the February 2007 conference convened by Norway to launch the Oslo Process on cluster munitions, but did participate in the international treaty preparatory conferences in Lima and Vienna, as well as the formal treaty negotiations in Dublin in May 2008.³⁹¹ It also attended regional conferences on cluster munitions held in Costa Rica, Mexico, and Ecuador.

El Salvador made few statements during the Oslo Process, but frequently aligned itself with the views of many Latin American states in favor of the strongest, most comprehensive convention possible.

El Salvador is party to the Convention on Conventional Weapons (CCW) and ratified Protocol V on Explosive Remnants of War on 15 September 2007. At the CCW in November 2008, El Salvador was one of 26 states that issued a joint statement expressing their opposition to the weak draft text on a possible CCW protocol on cluster munitions, indicating it was an unacceptable step back from the standards set by the Convention on Cluster Munitions.³⁹²

El Salvador is not believed to have used, produced, transferred, or stockpiled cluster munitions.

FII

The Republic of the Fiji Islands signed the Convention on Cluster Munitions in Oslo on 3 December 2008. The status of the ratification process is not known. Fiji has stated that it does not use, produce, or stockpile cluster munitions.³⁹³ It is not party to the Convention on Conventional Weapons.

Fiji joined the Oslo Process in February 2008, when it participated in the Wellington Conference on Cluster Munitions and endorsed the Wellington Declaration (indicating its intention to participate fully in the formal negotiations in Dublin). In Wellington, Fiji intervened on the contentious issue of definitions, expressing "concern that proposed amendments or alternative texts currently in circulation will dilute the original intention of the current draft text."³⁹⁴ During the Dublin negotiations in May 2008, Fiji opposed any efforts to weaken the convention text, although it supported the retention of cluster munitions for training purposes—despite the fact that it does not possess any—citing its participation in peacekeeping operations.³⁹⁵

Upon signing the convention in Oslo, Fiji called on others to sign "without delay and without pre-conditions," urged rapid ratification, called for stockpile destruction to be carried out "sooner rather than later," and urged states to undertake all necessary measures to ensure clearance of contaminated areas and assistance to victims.³⁹⁶

³⁹⁰ Statement by Amb. Byron Fernando Larios López, Permanent Mission of El Salvador to the UN in Geneva, Convention on Cluster Munitions Signing Conference, Oslo, 4 December 2008. Translation by Landmine Monitor.

³⁹¹ It did not attend the Wellington conference in February 2008, but it endorsed the Wellington Declaration on 13 May 2008, indicating its intention to participate in the Dublin negotiations on the basis of the Wellington draft text.

³⁹² Statement delivered by Costa Rica, Fifth 2008 Session of the CCW Group of Governmental Experts on Cluster Munitions, Geneva, 5 November 2008.

³⁹³ Statement by Amb. Seremaia Tiunausori Cavuilati, Permanent Mission of Fiji to the European Union, Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008; and Dublin Diplomatic Conference on Cluster Munitions, 28 May 2008. Notes by CMC.

³⁹⁴ Statement of Fiji, Wellington Conference on Cluster Munitions, 19 February 2008.

³⁹⁵ Summary Record of the Committee of the Whole, First Session: 19 May 2008, Dublin Diplomatic Conference, CCM/CW/SR/1, 18 June 2008.

³⁹⁶ Statement by Amb. Seremaia Tiunausori Cavuilati, Signing Conference, Oslo, 3 December 2008.

FRANCE

The French Republic signed the Convention on Cluster Munitions in Oslo on 3 December 2008. At a special event on the convention held at the UN in New York in March 2009, France said that the ratification process had begun, and that early entry into force of the convention is a high priority for the government.³⁹⁷ France is also drafting a national implementation law, which will be presented to the Parliament after the ratification law.³⁹⁸

France is party to the Convention on Conventional Weapons (CCW) and ratified Protocol V on Explosive Remnants of War (ERW) on 31 October 2006.

Cluster Munition Ban Policy

French policy on cluster munitions has evolved remarkably.³⁹⁹ France stated in November 2005 that it “considers that submunition weapons today remain indispensable from a military point of view.”⁴⁰⁰ France maintained that it had developed a national approach to the use of cluster munitions based on “strict implementation of IHL [international humanitarian law], well adapted national concepts of use, and improvement of the reliability of all munitions, during their entire lifespan, in order to prevent them from becoming ERW.”⁴⁰¹

In December 2006, the Committee on Foreign Affairs and Defense of the Senate adopted a report on French policy on cluster munitions that was strongly criticized by NGOs for containing weak recommendations and for presenting the French government as exemplary on the issue. The report did, however, acknowledge that cluster munitions pose more serious threats to civilian populations than other weapons, and called for the government to be more active internationally.⁴⁰²

France was not initially supportive of the Oslo Process, as it believed cluster munitions should only be dealt with in the context of the CCW. Even within the CCW, France was not among the group of 25 States Parties that endorsed a formal declaration in November 2006 calling for an international agreement prohibiting cluster munitions that “pose serious humanitarian hazards.”⁴⁰³

While participating in the Oslo Process from the beginning, France was among a group of states that prioritized the CCW, and that pushed for exceptions for certain types of cluster munitions and for a transition period before prohibitions went into effect. It participated in all four of the Oslo Process international

³⁹⁷ CMC, “Report on the Special Event on the Convention on Cluster Munitions, United Nations, New York, 18 March 2009.” In a 27 February 2009 letter to Human Rights Watch, France said the ratification procedures were launched without delay after signature of the convention. It noted that the internal procedure requires an inter-ministerial consultation and a legal consultation at the Council of State before transmission to Parliament. It said that it considers rapid ratification to be of utmost importance. Letter from Philippe Etienne, Principal Private Secretary to the Minister of Foreign Affairs, No. 001263CM, 27 February 2009.

³⁹⁸ Email from Marion Libertucci, Advocacy Officer, Handicap International, 16 April 2009.

³⁹⁹ There was some early support for a ban on cluster munitions. In September 2004, Parliamentarian François Rochebloine proposed legislation in the National Assembly to broaden France’s prohibition on antipersonnel landmines to weapons that have the same effects, including cluster munitions. National Assembly, “Proposition de loi visant à compléter le dispositif de contrôle et d’interdiction des mines antipersonnel” (“Proposed legislation to complement the control and prohibition of antipersonnel mines”), n°1821, 22 September 2004. Another law was proposed in November 2005 by Georges Hage and other deputies to ban completely cluster munitions. National Assembly, “Proposition de loi visant à compléter le dispositif d’interdiction des mines antipersonnel” (“Proposed legislation to complement the mine ban”), n°2640, 9 November 2005.

⁴⁰⁰ Working Paper on Submunitions, Presented by France, Twelfth Session of the CCW Group of Governmental Experts (GGE) on Cluster Munitions, Geneva, CCW/GGE/XII/WG.1/WP.9, 15 November 2005, p. 1.

⁴⁰¹ Ibid. The paper also said, “French Armed Forces envisage using ground-to-ground submunition weapons exclusively in the context of a conflict against an enemy of the same nature, equipped with similar weapons, or likely to directly threaten the safety of French forces on the ground,” p. 2.

⁴⁰² Senators Jean-Pierre Plancade and Joëlle Garriaud-Maylam, “Session Ordinaire de 2006–2007, Annexe au procès-verbal de la séance du 13 décembre 2006, Rapport d’information fait au nom de la commission des Affaires étrangères, de la défense et des forces armées (1) sur les armes à sous-munitions,” N°118, www.senat.fr. For information about the report and the debate it engendered, see Laurent Zecchini, “Paris ne souhaite pas s’associer à une interdiction internationale” (“Paris does not want to join an international ban”), *Le Monde*, 21 December 2006. Email from Marion Libertucci, Handicap International, 14 April 2009.

⁴⁰³ Declaration on Cluster Munitions, Presented by Austria, Belgium, Bosnia and Herzegovina, Croatia, Costa Rica, Czech Republic, Denmark, Germany, Holy See, Hungary, Ireland, Liechtenstein, Lithuania, Luxembourg, Malta, Mexico, New Zealand, Norway, Peru, Portugal, Serbia, Slovakia, Slovenia, Sweden, and Switzerland, Third Review Conference of the States Parties to the CCW, Geneva, CCW/CONF.III/WP.18, 17 November 2006.

diplomatic conferences in Oslo, Lima, Vienna, and Wellington, as well as the formal negotiations in Dublin in May 2008, and the regional conferences in Brussels (October 2007), Sofia (September 2008), and Lao PDR (October 2008).

France was not initially invited to the Oslo conference in February 2007 because of its lack of prior support for a prohibition. However, it did attend and endorsed the Oslo Declaration, though with obvious reluctance. At the start of the conference, France stated that the CCW was the “most relevant forum” to tackle the problem of cluster munitions, arguing that it was the only way to have the users, producers and exporters on board.⁴⁰⁴ France’s support for the Oslo Declaration was contingent upon the recognition of work in the CCW.⁴⁰⁵ During the Oslo conference, France called for the restriction of use and transfer of cluster munitions on a national basis, in line with French policy.⁴⁰⁶

During the Lima conference in May 2007, France began calling for exclusions for cluster munitions with 10 or less submunitions, or with self-destruct or self-neutralization mechanisms.⁴⁰⁷ In addition, France called for a transition period, and raised the issue of “interoperability” (joint military operations with states not party to the new convention).⁴⁰⁸ France also raised concerns related to stockpile destruction, stating that too ambitious deadlines “will play an important role in deterrence to the States that would have liked to be here and participate in universalization.”⁴⁰⁹

Meanwhile, in July 2007, the Axa Group, a French insurance company, announced it was withdrawing assets invested in companies involved in the production of cluster munitions. Axa was quoted as stating, “While no international convention banning cluster bombs is yet in place, the Axa Group acknowledges that there is an emerging international consensus around the banishment of certain types of cluster bombs.”⁴¹⁰

In September 2007, Deputy Armand Jung proposed a law in the National Assembly to eliminate cluster munitions.⁴¹¹ Later, Deputy André Gerin and other deputies also proposed a law calling for a ban on cluster munitions.⁴¹²

At the Vienna conference in December 2007, France prioritized the issue of definitions, asserting that it was essential to make a distinction between weapons that would be the object of an immediate ban and those that should be the object of a transition phase of 10 years. France called for distinctions to be made according to accuracy and reliability criteria and said that cluster munitions with less than 10 submunitions should not be included in the ban.⁴¹³

During the Wellington conference in February 2008, France was part of the so-called like-minded group that circulated or supported proposals on exceptions to the prohibition, transition periods and interoperability that the CMC criticized as weakening the treaty text.⁴¹⁴ France also strongly opposed provisions in the draft treaty text assigning special responsibilities for past users of cluster munitions on the grounds that there should be no retroactive obligations in the treaty.⁴¹⁵ In addition, France, along with the

⁴⁰⁴ Statement of France, Oslo Conference on Cluster Munitions, 22 February 2007. Notes by Landmine Action.

⁴⁰⁵ Ibid, 23 February 2007.

⁴⁰⁶ Ibid, 22 February 2007.

⁴⁰⁷ Statement of France, Session on Definition and Scope, Lima Conference on Cluster Munitions, 24 May 2007. Notes by Landmine Action.

⁴⁰⁸ Non-paper presented by France, Lima Conference, 23–25 May 2007.

⁴⁰⁹ Statement of France, Session on Storage and Stockpile Destruction, Lima Conference, 24 May 2007.

⁴¹⁰ Hugh Wheelan, “Axa pulls insurance assets from cluster bomb makers, Handicap International and Amnesty International will work with group to identify manufacturers,” *Responsible Investor*, 27 July 2007, www.wilpf.int.ch. The action followed a public campaign by Handicap International and Amnesty International France and publication of a report by Netwerk Vlaanderen in February 2007 which listed several French banks as being part of financial institutions involved in investing in cluster bombs. Netwerk Vlaanderen, “Explosive Investments: Financial Institutions and Cluster Munitions,” February 2007, www.netwerkvlaanderen.be.

⁴¹¹ National Assembly, “Proposition de loi tendant à l’élimination des bombes à sous-munitions” (“Proposed legislation for the elimination of cluster munitions”), n°206, 27 September 2007. He proposed adding a chapter on the elimination of cluster bombs in the defence code.

⁴¹² National Assembly, “Proposition de loi visant à interdire les bombes à sous-munitions” (“Proposed legislation for the elimination of cluster munitions”), n°806, 9 April 2008.

⁴¹³ Statement of France, Vienna Conference on Cluster Munitions, 6 December 2007.

⁴¹⁴ France itself proposed to exclude cluster munitions with less than 10 submunitions and to exclude submunitions with self-destruct, self-neutralization, or self-deactivation mechanisms or a dud rate below 1% and an accuracy requirement that its submunitions be effective only within a pre-defined target area. Proposal by France, “Scope, definition, review clause,” Wellington Conference on Cluster Munitions, 18–22 February 2008.

⁴¹⁵ Jointly with Germany, France proposed to delete obligations for past users of cluster munitions and instead substitute language taken from Protocol V to the Convention on Conventional Weapons. Proposal by Germany and France, “Article 4 – Clearance, removal or destruction of explosive remnants of cluster munitions (ERCM),” Wellington Conference, 18–22 February 2008.

United Kingdom, proposed lengthening the stockpile destruction deadline from six to 10 years.⁴¹⁶ France also suggested that the number of ratifications necessary before entry into force should be increased from 20 to 60.⁴¹⁷ At the conclusion of the Wellington conference, France, on behalf of the like-minded group, made a statement declaring dissatisfaction with the conference as it felt different opinions and views had not been taken into account in a balanced way.⁴¹⁸

During the Dublin negotiations, on 23 May 2008, the French Minister of Foreign Affairs and Minister of Defense released a statement announcing that “to contribute to the momentum engaged and even before knowing the treaty’s definitive text,” France had decided to immediately withdraw its M26 rockets from its operational service. According to the statement, at that time, these accounted for over 90% of France’s cluster munition stocks. France stated this was a “major gesture demonstrating [France’s] armed forces’ responsible attitude.”⁴¹⁹ This announcement signalled a significant shift in France’s position toward the treaty text, particularly in terms of no longer calling for broad exceptions to the prohibition or for a transition period. This in turn appeared to have an impact on the position of others in the like-minded group.

However, France continued to push for a provision on interoperability that the CMC strongly opposed. It also played a key role in increasing the stockpile destruction deadline from six to eight years, in raising the number of ratifications to trigger entry into force from 20 to 30, in weakening the retroactivity provision, and in the provision allowing for retention of cluster munitions for training and research purposes.

Two French weapons with submunitions were not captured by the definition of a cluster munition, because France and others agreed that they did not have the same negative humanitarian effects as cluster munitions (indiscriminate wide area effect and large numbers of unexploded submunitions). Largely at France’s initiative, the convention does not cover submunitions weighing more than 20kg, and France’s KRIS anti-runway submunition weighs 52kg.⁴²⁰ France’s BONUS 155mm sensor-fuzed artillery projectile, which contains two submunitions, was excluded because it met the five technical criteria set out by negotiators as necessary to avoid the negative effects of cluster munitions.⁴²¹

Minister of Foreign Affairs Bernard Kouchner signed the Convention on Cluster Munitions in Oslo on 3 December 2008. Giving one of the most unorthodox statements, Mr. Kouchner exclaimed, “Yes we can. Yes we can. The US can sign this treaty, Russia can sign, China can sign this treaty.” He said he would press the issue with United States President-Elect Barack Obama.⁴²²

Following the Dublin negotiations, France was among a group of states that was willing to continue to work for a cluster munition protocol within the context of the CCW as long as it would be “compatible” with the Convention on Cluster Munitions.⁴²³ When the CCW negotiations failed to reach a conclusion in November 2008, France cited serious problems with the draft text, but was not one of the 26 states that issued a joint statement expressing their opposition to the weak draft text on a possible CCW protocol on cluster munitions, indicating it was an unacceptable step back from the standards set by the Convention on Cluster Munitions.⁴²⁴

NGO activity on cluster munitions in France has been extensive and influential. Handicap International started its cluster munitions campaign in 2004. Its various actions drew the attention of Members of Parliament and resulted in more than 100 parliamentary questions asked on the subject in 2005. Handicap International’s “Shoe Pyramid” quickly became an annual mobilization tradition, gathering as many as

⁴¹⁶ Statement of France, Session on Storage and Stockpile Destruction, Wellington Conference, 21 February 2008. Notes by Landmine Action.

⁴¹⁷ Proposal by France, “Procedural, National Implementation, Dispute,” Wellington Conference, 21 February 2008.

⁴¹⁸ Statement of France on behalf of like-minded countries, Closing Plenary, Wellington Conference, 22 February 2008, www.mfat.govt.nz.

⁴¹⁹ Joint statement by Bernard Kouchner, Minister of Foreign Affairs, and Hervé Morin, Minister of Defense, Paris, 23 May 2008, www.ambafrance-uk.org.

⁴²⁰ The exclusion is at Article 2.2. For KRIS, see, Robert Hewson, ed., *Jane’s Air-Launched Weapons*, Issue 44 (Surrey, UK: Jane’s Information Group Limited, 2004), p. 345.

⁴²¹ Article 2.2(c) excludes munitions with submunitions if they have less than 10 submunitions, and each submunition weighs more than four kilograms, can detect and engage a single target object, and is equipped with electronic self-destruction and self-deactivation features.

⁴²² Statement of France, Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008. Notes by Landmine Action.

⁴²³ “Group of Governmental Experts, Convention on Certain Conventional Weapons,” CMC, 14 August 2008, www.stopclustermunitions.org.

⁴²⁴ Statement delivered by Costa Rica on behalf of Austria, Belgium, Benin, Bosnia and Herzegovina, Chile, Croatia, Ecuador, El Salvador, Guatemala, Holy See, Honduras, Indonesia, Ireland, Lebanon, Mexico, New Zealand, Nicaragua, Norway, Peru, Philippines, Senegal, South Africa, Uganda, Uruguay, and Venezuela, Fifth 2008 Session of the CCW GGE on Cluster Munitions, Geneva, 5 November 2008.

70,000 signatures in one day. On 17 April 2008, Handicap International held a conference at the National Assembly and presented members and representatives of the Ministry of Foreign Affairs with a petition of over 525,000 signatures calling for a treaty banning cluster munitions. By the beginning of 2009, it had collected more than 600,000 signatures.

Use, Production, Transfer, and Stockpiling

France has stated that it has not exported cluster munitions since 1989, has not used them since 1991, and has not produced them since 1992.⁴²⁵ France used cluster munitions in Chad in 1986 (on a Libyan airfield at Wadi Doum)⁴²⁶ and in Kuwait and Iraq in 1991.⁴²⁷

French companies were active in producing cluster munitions, often as part of multinational consortia. Giat Industries and Thomson Brandt Armements produced 155mm dual purpose improved conventional munition (DPICM) artillery projectiles, as well as BONUS projectiles – the latter are not banned under the convention. Matra SA, R. Alkan et Cie, and Thomson Brandt Armements were associated with the production of air-dropped cluster bombs. Aerospatiale and Thomson Brandt Armements participated in the production of rockets and missiles with cluster munition warheads.⁴²⁸

The record of France's history of cluster munition exports is incomplete. Jane's Information Group lists exports of the BLG-66 Belouga cluster bomb to Argentina, Greece, and India.⁴²⁹

In February 2009, France told Human Rights Watch that it had already removed from operational service the entirety of its stock of cluster munitions, which it said consisted of 22,000 M26 rockets and 13,000 OGR 155mm artillery shells.⁴³⁰ The M26 rockets would contain 14,168,000 submunitions (644 each) and the OGR would contain 819,000 submunitions (63 each).

France decommissioned and destroyed its stockpile of BLG-66 Belouga cluster bombs between 1996 and 2002.⁴³¹ In a working paper from 2005 France stated that at the time it had four types of cluster munitions in its stockpile: M26 Multiple Launch Rocket System (MLRS) rockets, OGR 155mm DPICM artillery projectiles with submunitions equipped with self-destruct fuzes, BONUS 155mm sensor-fuzed weapons, and Apache missiles that deliver 10 KRIS anti-runway submunitions. France announced during the Dublin negotiations that it was withdrawing M26 cluster munitions from service, stating this constituted over 90% of its stocks. As noted above, BONUS and KRIS are not considered cluster munitions under the terms of the Convention on Cluster Munitions.

GAMBIA

The Gambia signed the Convention on Cluster Munitions in Oslo on 3 December 2008. Following a recommendation from the Attorney General that the government ratify the convention, ratification documents were forwarded to the Cabinet.⁴³²

The Gambia has stated that it has never used, produced, or stockpiled cluster munitions.⁴³³ The Gambia is not party to the Convention on Conventional Weapons (CCW).

⁴²⁵ Letter from Philippe Étienne, Principal Private Secretary to the Minister for Foreign, No. 001263CM, 27 February 2009.

⁴²⁶ A deminer involved in clearance operations in Chad related this to Human Rights Watch.

⁴²⁷ Robert Hewson, ed., *Jane's Air-Launched Weapons*, Issue 44 (Surrey, UK: Jane's Information Group Limited, 2004), p. 345.

⁴²⁸ Leland S. Ness and Anthony G. Williams, eds., *Jane's Ammunition Handbook 2007–2008* (Surrey, UK: Jane's Information Group Limited, 2007), pp. 654–655, 661–662; and Robert Hewson, ed., *Jane's Air-Launched Weapons*, Issue 44 (Surrey, UK: Jane's Information Group Limited, 2004), pp. 152–156, 344–346.

⁴²⁹ Robert Hewson, ed., *Jane's Air-Launched Weapons*, Issue 44 (Surrey, UK: Jane's Information Group Limited, 2004), pp. 835, 839, 840.

⁴³⁰ Letter from Philippe Étienne, Principal Private Secretary to the Minister for Foreign Affairs, No. 001263CM, 27 February 2009.

⁴³¹ Working Paper on Submunitions presented by France, Twelfth Session of the CCW GGE on Cluster Munitions, Geneva, CCW/GGE/XII/WG.1/WP.9, 15 November 2005, p. 3.

⁴³² Email from Pamela Kehinde Cole, National Network Coordinator, West Africa Network for Peacebuilding, 24 March 2009.

⁴³³ Statement by Ousman Sonko, Secretary of State for the Interior, Convention on Cluster Munitions Signing Conference, Oslo, 4 December 2008.

The Gambia first joined the Oslo Process during the Vienna conference in December 2007. The Gambia later participated in the Kampala regional conference in September 2008, where it announced that it would sign the convention in Oslo and endorsed the Kampala Action Plan, in which participants declared that states should sign and “take all necessary measures to ratify the convention as soon as possible.”⁴³⁴ Upon signing the convention, Secretary of State for the Interior Ousman Sonko stated, “The success of this Convention we believe in large part will relate to Cluster Munitions actually being removed from the world’s arsenal... Stockpile destruction should be a pillar of action that requires continue[d] vigilance, focus and support.”⁴³⁵

GERMANY

The Federal Republic of Germany signed the Convention on Cluster Munitions on 3 December 2008 in Oslo. On 21 January 2009, the German Federal Government passed a motion for the ratification of the convention and forwarded it to the German Parliament.⁴³⁶ The Bundestag (upper chamber) approved it on 23 April 2009.⁴³⁷

In February, a Ministry of Foreign Affairs official stated, “We are confident that Germany will be able to ratify the Convention on Cluster Munitions at the latest by summer 2009.”⁴³⁸ The ratification legislation will also contain prohibitions and other implementing provisions, including penal sanctions.⁴³⁹

Germany is party to the Convention on Conventional Weapons (CCW) and ratified Protocol V on Explosive Remnants of War (ERW) on 3 March 2005. Germany has actively participated in the work of the CCW on cluster munitions in recent years.

Cluster Munition Ban Policy

Germany was an early supporter of trying to reduce the humanitarian impact of cluster munitions, primarily through technological improvements aimed at improving the reliability and accuracy of the weapons.⁴⁴⁰ In March 2005, Germany stated, “Cluster munitions are a legitimate means of defense permissible under international law. However, cluster munitions can cause considerable harm after cessation of an armed attack... Cluster munitions must, therefore, be technically reliable in order to reduce the occurrence of dangerous duds to the maximum extent possible... Against this background, the Federal Ministry of Defense has decided, primarily, to employ only those cluster munitions which include a limitation of the operational time [self-destruct mechanism] and which have a maximum dud rate of less than one percent.”⁴⁴¹

⁴³⁴ CMC, “Report on the Kampala Conference on the Convention on Cluster Munitions,” 29–30 September 2008; and Kampala Action Plan, Kampala Conference, 29–30 September 2008.

⁴³⁵ Statement by Ousman Sonko, Signing Conference, Oslo, 4 December 2008.

⁴³⁶ Letter from Gregor Koebel, Head of Division of Conventional Arms Control, Foreign Federal Office, 5 February 2009.

⁴³⁷ Social Democratic Party (SPD), “Gesetz zur Ächtung von Streumunition mit großer Mehrheit verabschiedet” (“Act to outlaw cluster munitions adopted by a large majority”), Press release, 24 April 2009, www.spdfraktion.de; and Bundestag, “Entwurf eines Gesetzes zu dem Übereinkommen vom 30. Mai 2008 über Streumunition” (“Draft Law on the Convention on Cluster Munitions of 30 May 2008”), 16/12226, 12 March 2009, dip21.bundestag.de.

⁴³⁸ Letter from Gregor Koebel, Foreign Federal Office, 5 February 2009.

⁴³⁹ Germany notes, “Article 9 of the Convention entails the necessity to adopt appropriate criminal legislation. Therefore our ratification act... also contains adequate legislation assuring full compliance with the Convention... The planned implementation will be in line with the overall system of the German War Weapons Control Act. Infringements of the prohibitions of this Act constitute a serious criminal offence.” Ibid.

⁴⁴⁰ See for example, “Reliability, Safety, and Performance of Conventional Munitions and Submunition,” Prepared by Germany, Ninth Session of the CCW Group of Governmental Experts (GGE), Working Group on ERW, CCW/GGE/IX/WG.1/WP.2, Geneva, 11 November 2004.

⁴⁴¹ It then noted that BL-755 cluster bombs were being phased out since 2001 due to an unacceptable dud rate and that the M26 cluster munition for the Multiple Launch Rocket System will not be used unless modernized. Statement by Amb. Volker Heinsberg, Permanent Representative to the Conference on Disarmament, on the Use and Reliability of Cluster Munitions, Working Group on ERW, Tenth Session of the CCW GGE, Geneva, 8 March 2005.

Germany has reported that it started destroying some of its cluster munitions stocks in 2001 due to reliability concerns, and stopped production and export of cluster munitions in 2005.⁴⁴²

In September 2006, three motions on cluster munitions were introduced in the German Parliament. Two motions called for an immediate moratorium on cluster munitions, and were rejected.⁴⁴³ The other motion, issued by the government coalition, was adopted.⁴⁴⁴ It called on Germany to work for “regulations that aim at achieving a high reliability for cluster munitions...and a limitation on the active life of these munitions as well as rules on their use under international law.” The motion called for “a comprehensive, internationally binding and verifiable prohibition” on the production and export of all cluster munitions with failure rates over 1%, national actions regarding stockpiling, production and export of such munitions, and an examination of whether cluster munitions might be wholly replaced by “alternative munitions” in the foreseeable future.⁴⁴⁵ German officials would subsequently cite this motion as guiding German policy and positions in both the Oslo Process and the CCW.

In November 2006, during the Third Review Conference of the CCW, Germany supported a proposal for a mandate to negotiate a legally-binding instrument “that addresses the humanitarian concerns posed by cluster munitions.”⁴⁴⁶ When other States Parties rejected that mandate, Germany was one of 25 nations that issued a joint declaration calling for an international agreement that would prohibit the use of cluster munitions “within concentrations of civilians,” prohibit the use of cluster munitions that “pose serious humanitarian hazards because they are for example unreliable and/or inaccurate,” and require destruction of stockpiles of such cluster munitions.⁴⁴⁷ At the end of the Review Conference, Norway announced that it would start an independent process outside the CCW to negotiate a cluster munition treaty and invited other governments to join.

Germany participated in the Oslo Process from the outset, though it made clear its preference for the CCW, and expressed reservations about the process and the draft convention text, especially the notion of an immediate and comprehensive prohibition. Germany participated in the initial conference in Oslo in February 2007, the three international diplomatic conferences to develop the convention text in Lima, Vienna, and Wellington, and the formal negotiations in Dublin in May 2008. It also attended the regional conferences in Cambodia (March 2007), Brussels (October 2007), and Lao PDR (October 2008).

At the Oslo conference in February 2007, Germany endorsed the Oslo Declaration committing states to conclude in 2008 an instrument banning cluster munitions that cause unacceptable harm to civilians. However, Germany said that an instrument should be negotiated and finalized within the CCW, building on Protocol V on ERW. It stated that the Oslo Process was adding “important political momentum” to the work in the CCW and suggested that if the CCW was unable to agree to a negotiating mandate in November then perhaps “the Oslo Process might take the lead.” Germany referred to steps it was taking at a national level and noted that in 2015 it would make an evaluation as to whether its cluster munitions could be replaced by alternative weapons.⁴⁴⁸

In May 2007, Germany submitted a proposal for a CCW Protocol VI on cluster munitions. This proposal also provided the framework for many of Germany’s positions in the Oslo Process. Germany proposed a three-stage approach: a prohibition on so-called inaccurate and unreliable cluster munitions; a phase out period for so-called accurate and reliable cluster munitions; and an eventual replacement of cluster munitions with “alternative munitions.”⁴⁴⁹ The distinction between cluster munitions and “alternative

⁴⁴² Letter from Gregor Koebel, Foreign Federal Office, 5 February 2009.

⁴⁴³ The two motions were issued by the Green Party (Bündnis90/Die Grünen) and the Free Democratic Party (FDP). “Für die Ächtung von Landminen und Streumunition” (“For the ban on landmines and cluster munitions”), Bundestag, Sixteenth Electoral Term, 27 September 2006.

⁴⁴⁴ The coalition consisted of the Christian Democratic Party (CDU)/Christian Social Union (CSU) and the Social Democratic Party (SDP).

⁴⁴⁵ CDU/CSU, and SPD “Gefährliche Streumunition verbieten – Das humanitäre Völkerrecht weiterentwickeln” (“Prohibition of Dangerous Cluster Munitions – Further Development of International Humanitarian Law”), Motion, Bundestag, Sixteenth Electoral Term, 28 September 2006.

⁴⁴⁶ Proposal for a Mandate to Negotiate a Legally-Binding Instrument that Addresses the Humanitarian Concerns Posed by Cluster Munitions, Third Review Conference of the States Parties to the CCW, Geneva, CCW/CONF.III/WP.1, 25 October 2006.

⁴⁴⁷ Declaration on Cluster Munitions, Third Review Conference of the States Parties to the CCW, CCW/CONF.III/WP.18, Geneva, 17 November 2006.

⁴⁴⁸ Statement of Germany, Oslo Conference on Cluster Munitions, 22 February 2007. Notes by CMC/WILPF.

⁴⁴⁹ Draft CCW Protocol on Cluster Munitions submitted by Germany, 2007 Session of the CCW GGE on Cluster Munitions, CCW/GGE/2007/WP.1, Geneva, 1 May 2007.

munitions” was that the latter might employ submunitions that use sensors to detect and engage individual targets.⁴⁵⁰ The CMC was critical of many elements of the proposal.⁴⁵¹

During the Lima conference in May 2007, Germany promoted its three stage approach, while continuing to advocate for work in the CCW, claiming that only the CCW ensured the full participation of the main users and producers of cluster munitions.⁴⁵²

During the Vienna conference in December 2007, Germany made a very detailed presentation of its step-by-step proposal and noted again that by 2015 it would assess whether its cluster munitions could be wholly replaced by “alternative munitions.”⁴⁵³ These improved munitions were of “such quality they can no longer be called cluster munitions,” Germany argued.⁴⁵⁴ Germany also made a detailed presentation on storage and stockpile destruction. This drew out potentially high costs for stockpile destruction, but also for ongoing storage of cluster munition stocks.⁴⁵⁵ Germany joined others in raising concerns about the implications of the draft text for “interoperability” (joint military operations with states not party).

In January 2008 at a CCW session, Germany gave detailed presentations on certain “sensor-fuzed” munitions (the “alternative munitions” it had identified) which it stated had the twofold advantage of increased safety for civilians and increased military efficiency.⁴⁵⁶

During the Wellington conference in February 2008, Germany aligned itself with the so-called like-minded group that put forward numerous proposals that the CMC sharply criticized as weakening the draft text. It advocated for a definition of cluster munitions that excluded munitions containing a limited number of submunitions or where the submunitions used sensors to individually detect and engage targets.⁴⁵⁷ Germany argued for a transition period asserting that during the Vienna conference, “many states stated they could not support an immediate total ban of cluster munitions.” It said that it would consider seven years as an acceptable length for a transition period, but acknowledged that other countries might require more time.⁴⁵⁸

Germany sought to delete provisions placing special obligations on past users of cluster munitions and to redraft clearance provisions with numerous qualifiers along the lines of those contained in CCW Protocol V.⁴⁵⁹ It proposed a new provision permitting states to retain cluster munitions and submunitions for training and research.⁴⁶⁰ It called for the number of ratifications needed for the convention’s entry into force to be increased from 40 to 60.⁴⁶¹ Germany proposed an amendment to facilitate interoperability that did not draw strong criticism from the CMC,⁴⁶² but also supported other proposals on interoperability that the CMC said undermined the convention.⁴⁶³

⁴⁵⁰ Addendum to the Draft CCW Protocol on Cluster Munitions submitted by Germany, 2007 Session of the CCW GGE on Cluster Munitions, CCW/GGE/2007/WP.1, Geneva, 3 May 2007.

⁴⁵¹ The CMC criticized the proposal’s reliance on failure rates derived from undefined testing regimes, its adoption of the concept of “dangerous duds,” its exclusion from prohibition of so-called direct fire weapons, and its acceptance of a transition period. Furthermore, the draft protocol did not develop obligations on victim assistance or for clearance of existing cluster munition contamination beyond the broad requirements of CCW Protocol V. CMC, “German proposal is not a basis for new cluster munition treaty,” April 2007.

⁴⁵² Statement of Germany, Lima Conference on Cluster Munitions, 23 May 2007. Notes by CMC/WILPF.

⁴⁵³ Germany, “3 Steps to prohibit Cluster Munitions while maintaining necessary Military Capabilities, (Germany),” presentation to the Vienna Conference on Cluster Munitions, 6 December 2007; and Statement of Germany, Vienna Conference, 5 December 2007. Notes by CMC/WILPF.

⁴⁵⁴ Statement of Germany, Session on General Obligations and Scope, Vienna Conference, 6 December 2007. Notes by CMC/WILPF.

⁴⁵⁵ Presentation by Thomas Frisch, Deputy Head of Arms Control Division, Ministry of Defense, “Storage and destruction in the context of an international instrument on cluster munitions,” Vienna Conference, 6 December 2007. Notes by CMC/WILPF.

⁴⁵⁶ Statement of Germany, First 2008 Session of the CCW GGE on Cluster Munitions, Geneva, 14 January 2008. Notes by WILPF.

⁴⁵⁷ Germany, Amendment to the Draft Cluster Munitions Convention (final version), Wellington Conference on Cluster Munitions, 18 February 2008, www.mfat.govt.nz.

⁴⁵⁸ *Ibid.*

⁴⁵⁹ France and Germany, “Article 4 - Clearance. removal or destruction of Explosive Remnants of cluster munitions (ERCM),” Proposal, Wellington Conference, February 2008, www.mfat.govt.nz.

⁴⁶⁰ Australia, Denmark, Finland, France, Germany, Italy, Japan, Slovakia, Sweden, Switzerland, and United Kingdom, Amendment to the Draft Cluster Munitions Convention (final version), “Exceptions,” Wellington Conference, 21 February 2008, www.mfat.govt.nz.

⁴⁶¹ Statement of Germany, Wellington Conference, 21 February 2008. Notes by CMC.

⁴⁶² The proposal stated the prohibition on assistance with prohibited acts “does not preclude the mere participation in the planning or execution of operations, exercises or other military activities ... in combination with Armed Forces of States not Parties to this Convention which engage in activity prohibited under this Convention.” Germany, supported by Denmark, France, Italy, Slovakia, Spain, Czech Republic, and United Kingdom, Amendment to the Draft Cluster Munitions Convention (final version), “Inter-operability,” Wellington Conference, 21 February 2008.

⁴⁶³ Australia, Canada, Czech Republic, Denmark, Finland, France, Germany, Italy, Netherlands, Sweden, Switzerland, and United Kingdom, “Cluster Munitions and Inter-operability: The Oslo Process Discussion Text and Implications for International Operations,” Discussion paper, Wellington Conference, www.mfat.govt.nz.

At the end of the conference, Germany associated itself with a statement made on behalf of the like-minded group declaring dissatisfaction with the conference as it felt different opinions and views had not been taken into account in a balanced way.⁴⁶⁴ Germany said, “We are concerned with the way the Oslo Process has been unfolding. Despite the urgency of the humanitarian concerns at stake, those few states steering the process with a regrettable lack of transparency have missed several opportunities to develop the draft Convention text in such a way that it finds the broadest possible consensus.”⁴⁶⁵ However, Germany announced it would subscribe to the Wellington Declaration, indicating its intention to participate fully in the Dublin negotiations on the basis of the Wellington draft text.

During the Global Day of Action on Cluster Munitions on 19 April 2008, Actiongroup Landmine.de, Handicap International Germany, Human Rights Watch, and other civil society groups held public events and exhibitions and collected signatures to build pressure on the government to support a convention with strong humanitarian provisions.⁴⁶⁶

During the Dublin Diplomatic Conference in May 2008, Germany continued to argue that weapons with submunitions that individually engage “point targets” were “qualitatively different” from cluster munitions due to their limitation of the effects to point targets rather than area targets.⁴⁶⁷ Germany also argued that beyond this fundamental qualitative distinction, limitations on the numbers of submunitions and requirements for electronic self-destruct and self-deactivation mechanisms would provide further humanitarian safeguards.⁴⁶⁸ Germany argued that the permissibility of such munitions was a red-line issue and without this, Germany would not be able to sign the convention.⁴⁶⁹ In the end, the negotiating states agreed that a weapon that meets five technical criteria—seen as necessary to avoid the negative effects of cluster munitions—should not be considered a cluster munition and should not be prohibited under the Convention on Cluster Munitions.⁴⁷⁰

Germany continued to lobby on other issues it had identified as key in Wellington, including for a transition period, but when a large number of countries made interventions firmly against this, Germany and others abandoned the issue. Germany also pushed for provisions on interoperability, and the resulting new Article 21 was cited by the CMC as the most objectionable element of the new convention.⁴⁷¹

On 29 May 2008 the German Ministry of Defense and the Ministry of Foreign Affairs issued a joint declaration in support of the convention text. Germany joined the consensus adoption of the convention and announced that it would sign in Oslo in December. Germany stated that it unilaterally renounced the use of cluster munitions with immediate effect, would destroy its stockpiles as fast as possible, and would urge others to sign the convention without delay.⁴⁷²

After Dublin, Germany returned to the CCW discussions on cluster munitions with a more critical approach. At a September 2008 session, Germany stated that any agreement on cluster munitions in the CCW would be measured against the Convention on Cluster Munitions and should provide tangible additional value. For those countries that would not sign the convention now, a CCW protocol must not legalize the use of cluster munitions, Germany said.⁴⁷³ At the CCW in November 2008, Germany stated that it had three measuring sticks for a future CCW protocol: substantial added value to the humanitarian

⁴⁶⁴ Statement of France on behalf of like-minded countries, Closing Plenary, Wellington Conference, 22 February 2008, www.mfat.govt.nz.

⁴⁶⁵ Statement of Germany, Closing Statement, Wellington Conference, 22 February 2007, www.mfat.govt.nz.

⁴⁶⁶ CMC, “Global Day Of Action To Ban Cluster Bombs – What Happened,” 7 May 2008, www.stopclustermunitions.org; and Handicap International Germany, “Bundesweite Aktionen zum weltweiten Aktionstag der Kampagne gegen Streubomben” (“National actions for the Global Day of Action for the campaign against cluster munitions”), 19 April 2008, www.handicap-international.de.

⁴⁶⁷ Statement of Germany, Informal Discussions on Definitions, Dublin Diplomatic Conference on Cluster Munitions, 20 May 2008. Notes by Landmine Action.

⁴⁶⁸ Ibid.

⁴⁶⁹ Ibid, 22 May 2008. Notes by Landmine Action.

⁴⁷⁰ Article 2.2(c) excludes munitions with submunitions if they have less than 10 submunitions, and each submunition weighs more than 4kg, can detect and engage a single target object, and is equipped with electronic self-destruction and self-deactivation features. In August 2008, Actiongroup Landmine.de published a report questioning the exclusion of these types of weapons from prohibition, stating that their humanitarian consequences were still unknown. Actiongroup Landmine.de, “Sensor-Fuzed Alternative Cluster Munitions – Friend or Foe?” August 2008, www.landmine.de.

⁴⁷¹ Statement of Germany, Informal Discussions on Interoperability, Dublin Diplomatic Conference, 26 May 2007. Notes by Landmine Action.

⁴⁷² Statement of Germany, Committee of the Whole, Dublin Diplomatic Conference, 30 May 2008. Notes by Landmine Action.

⁴⁷³ Statement of Germany, Fourth 2008 Session of the CCW GGE on Cluster Munitions, Geneva, 4 September 2008. Notes by Landmine Action.

situation; an immediate effect; and compatibility with the Convention on Cluster Munitions.⁴⁷⁴ Germany did not, however, join 26 states in issuing a statement expressing opposition to the weak draft text on a possible CCW protocol on cluster munitions, indicating it was an unacceptable step back from the standards set by the Convention on Cluster Munitions.⁴⁷⁵

Upon signing the convention in Oslo on 3 December 2008, Minister of Foreign Affairs Frank-Walter Steinmeier stated that it illustrated that when groups joined forces they could initiate and fulfill effective processes. Germany appealed to other states to join the convention in order to ensure its humanitarian effects.⁴⁷⁶

In February 2009, the Ministry of Foreign Affairs wrote, “For Germany, the promotion and achievement of universal adherence to the Convention is of high priority. Various demarches in favour of its universalization have already been carried out and will be carried out in the future by our missions worldwide.”⁴⁷⁷

In June 2009, Germany, together with Norway, will hold a conference in Berlin on the destruction of cluster munitions under Article 3 of the convention.

Use, Production and Transfer

According to the Ministry of Foreign Affairs, Germany has never used cluster munitions and stopped production and transfer in 2005.⁴⁷⁸ In the past, German industry was very active in the production and export of cluster munitions. Germany also imported cluster munitions from the United Kingdom (BL-755 aerial cluster bombs).

The company Diehl GmH and numerous subcontractors were involved in the production of cluster munition artillery rockets for the 227mm Multiple Launch Rocket System (MLRS) as part of the MLRS European Producers Group.⁴⁷⁹ Lenkflugkörpersysteme GmbH (LFK) produced the MW-1 dispenser (that deploys submunitions) for aircraft.⁴⁸⁰

The company Rheinmetall produced several types of 155mm artillery projectiles containing dual purpose improved conventional munition (DPICM) submunitions: DM-602 and DM-612 (with 63 DM-1348 submunitions); DM-632 and DM-642 (with 63 DM-1383 submunitions); DM-652 (with 49 DM-1383 submunitions); and DM-662 (with 49 DM-1385 submunitions).⁴⁸¹ These were produced for the German Armed Forces, as well as export customers including Austria, Denmark, Finland, Greece, Italy (co-production), and Norway.

In June 2007, Rheinmetall stated that its involvement in cluster munition production had ended: “Cluster ammunition and/or subammunitions for such ordnance, bombs and cluster bombs do not belong to those goods which are developed, produced or assembled by Rheinmetall nor any of our subsidiaries.”⁴⁸²

⁴⁷⁴ Statement of Germany, 2008 Meeting of the State Parties to the CCW, Geneva, 13 November 2008. Notes by Landmine Action.

⁴⁷⁵ Statement delivered by Costa Rica on behalf of Austria, Belgium, Benin, Bosnia and Herzegovina, Chile, Croatia, Ecuador, El Salvador, Guatemala, Holy See, Honduras, Indonesia, Ireland, Lebanon, Mexico, New Zealand, Nicaragua, Norway, Peru, Philippines, Senegal, South Africa, Uganda, Uruguay, and Venezuela, Fifth 2008 Session of the CCW GGE on Cluster Munitions, Geneva, 5 November 2008.

⁴⁷⁶ Statement by Frank-Walter Steinmeier, Federal Minister of Foreign Affairs, Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008.

⁴⁷⁷ Letter from Gregor Koebel, Foreign Federal Office, 5 February 2009.

⁴⁷⁸ Ibid.

⁴⁷⁹ The MLRS program was known as the *Mittleres Artillerieraketenwerfersystem* (MARS). Leland s. Ness and Anthony G. Williams, eds., *Jane's Ammunition Handbook 2007–2008* (Surrey, UK: Jane's Information Group Limited, 2007), p. 716. The 110mm Light Artillery Rocket System was in service with the German Army from 1969 until the mid–1980s, and a submunition warhead was developed for this weapon but was apparently not placed in production. Terry J. Gander, ed., *Jane's Ammunition Handbook 1997–1998* (Surrey, UK: Jane's Information Group Limited, 1997), p. 533.

⁴⁸⁰ Robert Hewson, ed., *Jane's Air-Launched Weapons*, Issue 44 (Surrey, UK: Jane's Information Group Limited, 2004), pp. 360–361. Raketen Technik Gesellschaft (RTG) Euromunition acted as the exporter for the MW-1. According to EADS, after 1996 production of MW-1 was undertaken by DASA (Daimler-Benz-Aerospace). Email from Thomas Kuchenmeister, Director, Actiongroup Landmine.de, 24 April 2009.

⁴⁸¹ These DPICM submunitions included non-self-destructing (DM-1348) and self-destructing (DM-1383) variants designed in Germany, as well as a self-destructing type designed in Israel (M85, also known as DM-1385 when contained in German-produced projectiles).

⁴⁸² Letter from Rheinmetall to Norges Bank (acting on behalf of the Council on Ethics for the Government Pension Fund – Global), 5 June 2007, unofficial translation by the Norwegian Ministry of Finance, cited in Norwegian Ministry of Finance, “Recommendation - New assessment of the company Rheinmetall AG,” 5 September 2007, regjeringen.no.

Rheinmetall was recommended for exclusion from investment under the Norwegian Petroleum Fund's ethical guidelines for producing cluster munitions in May 2007.⁴⁸³ However, it was reassessed and cleared in September 2007.⁴⁸⁴

In 2004, Germany transferred 270 M26 ground rockets with submunitions to Slovakia and another 132 in 2005.⁴⁸⁵ The 402 rockets contained 258,888 M77 submunitions.

In addition, a consortium of Diehl, Gesellschaft für Intelligente Wirksysteme mbH (GIWS), and Rheinmetall produce the SMArt-155 artillery projectile, a weapon that employs two submunitions but is not considered a cluster munition under the Convention on Cluster Munitions because it meets the five technical criteria set out by negotiators as necessary to avoid the negative effects of cluster munitions.⁴⁸⁶ This has been produced for the German Armed Forces and export customers Greece and Switzerland.⁴⁸⁷ The consortium granted Alliant TechSystems in the United States licensed co-production rights for the SMArt-155, and Alliant has marketed the munitions in the United Arab Emirates. According to the NGO Actiongroup Landmine.de, over 25,000 SMArt-155 projectiles have been produced.⁴⁸⁸

Stockpiling and Destruction

The precise size and composition of Germany's current stockpile of cluster munitions is not known. According to information gathered in 2005 and since, Germany has possessed a stockpile of over 190,000 cluster munitions containing at least 33 million submunitions. Actiongroup Landmine.de published an accounting of the types and quantities of cluster munitions in Germany's stockpile in 2005, as shown in the following table, with the addition of DM-602, 612, and 632 projectiles.⁴⁸⁹

Type	Munitions	Submunitions per munition	Total Submunitions
BL755 bomb	4,600	147	676,200
DM-602 155mm projectile	17,600	63	1,108,800
DM-612 155mm projectile	Unknown	63	unknown
DM-632 155mm projectile	Unknown	63	unknown
DM-642 155mm projectile	121,448+	63	7,651,224
DM652 155mm projectile	9,446	49	462,854
M26 rocket	36,972	644	23,809,968
MW-1 dispenser	844	variable	unknown
Total	190,910	--	33,709,046+

According to the Ministry of Foreign Affairs, Germany began to destroy stockpiles in 2001 and as of February 2009, approximately 30% of the stockpile (compared to the 2001 total) had been destroyed.⁴⁹⁰

⁴⁸³ Norwegian Ministry of Finance, "Recommendation - New assessment of the company Rheinmetall AG," 5 September 2007, regjeringen.no.

⁴⁸⁴ Norwegian Ministry of Finance, "Recommendation on exclusion of the companies Rheinmetall AG and Hanwha Corp." 9 September 2008, www.regjeringen.no.

⁴⁸⁵ Each M26 rocket contains 644 M77 submunitions. Submission by Germany for Calendar Year 2004, UN Register of Conventional Arms, 26 May 2005; Submission by Germany for Calendar Year 2005, UN Register of Conventional Arms, 1 June 2006; and Actiongroup Landmine.de, "Verkaufen statt vernichten - Deutsch-slowakisches Konsortium bietet als extrem gefährlich eingestufte Bundeswehr-Streumunition auf Waffenmessen zum Verkauf an" ("Sell instead of destroy - German-Slovak consortium offers an extremely hazardous Armed Forces cluster munitions for sale at arms fairs"), Press release, 26 May 2008, Berlin, www.landmine.de.

⁴⁸⁶ Article 2.2(c) excludes munitions with submunitions if they have less than 10 submunitions, and each submunition weighs more than four kilograms, can detect and engage a single target object, and is equipped with electronic self-destruction and self-deactivation features.

⁴⁸⁷ Rheinmetall DeTec AG, "SMArt 155 – Proven Reliability and Accuracy," Press release, June 2005, www.rheinmetall-detec.de.

⁴⁸⁸ Actiongroup Landmine.de, "Sensor-Fuzed Alternative Cluster Munitions – Friend or Foe?" August 2008, www.landmine.de. According to Alliant, as of January 2005, over 11,000 SMArt-155 projectiles had been produced by consortium members. Alliant TechSystems, "ATK/GIWS SMArt 155 Sensor Fuzed Munition Succeeds in UAE Desert Tests," Press release, 10 January 2005, atk.mediaroom.com.

⁴⁸⁹ Actiongroup Landmine.de, "Cluster Bombs and Cluster Munitions: A Danger to Life," 2005, pp. 8–9, www.landmine.de.

⁴⁹⁰ Letter from Gregor Koebel, Foreign Federal Office, 5 February 2009. Germany stated in August 2005 that the BL-755 cluster bomb "has continuously been phased out since the year 2001 as a consequence of its unacceptable dud rate." Statement by Germany, "Reliability and Use of Cluster Munitions with regard to Explosive Remnants of War," Eleventh Session of the CCW GGE, Geneva, 2 August 2005, p. 3.

Germany announced in April 2009 that it will be able to destroy its stockpile within the eight year deadline of the Convention on Cluster Munitions.⁴⁹¹ It has estimated the costs of destruction at about €40 million.⁴⁹²

GHANA

The Republic of Ghana signed the Convention on Cluster Munitions in Oslo on 3 December 2008. The status of the ratification process is unknown.

Ghana is not known to have ever used, produced, stockpiled, or transferred cluster munitions. Ghana is not party to the Convention on Conventional Weapons.

Ghana first joined the Oslo Process at the Lima conference in May 2007. During the Vienna conference in December 2007, Ghana announced on behalf of the African Union that it planned to create a common African position for a total ban on cluster munitions.⁴⁹³

Ghana actively participated in discussions on the treaty text during the Wellington conference in February 2008. It endorsed the Wellington Declaration, indicating its intention to participate in the formal negotiations in Dublin. It stated, “We cannot water down the effects and strength of this treaty by using technicalities like transition periods, inter-operability and definitions.... We cannot say we want to prohibit and ban [cluster munitions] immediately because of its humanitarian consequences and still give exemptions and transition. For us this is a paradox.”⁴⁹⁴

Ghana also attended the Livingstone conference in March/April 2008, where it endorsed the Livingstone Declaration, calling for a comprehensive treaty with a prohibition that should be “total and immediate.”⁴⁹⁵

During treaty negotiations in Dublin in May 2008, Ghana made statements in favor of a comprehensive definition of “cluster munition,” arguing against exceptions based on failure rates, accuracy, and self-destruct mechanisms.⁴⁹⁶ Ghana also opposed the introduction of a transition period before implementation of the convention.⁴⁹⁷ Ghana joined the consensus in adopting the convention.

At the Kampala regional conference in September 2008, Ghana announced its intent to sign the convention in Oslo and endorsed the Kampala Action Plan. Minister of State at the Ministry of Interior Nana Obiri Boahen outlined Ghana’s position on interpretative matters relating to the convention, saying that in Ghana’s view, States Parties must not intentionally assist other states in using cluster munitions and in other acts prohibited by the convention, should not allow other states to transport cluster munitions through their territory, should remove stockpiles of foreign cluster munitions from their territory, and should retain only the minimum number of cluster munitions required for training purposes, which could be in the hundreds or thousands but not the tens of thousands.⁴⁹⁸

In Oslo on 3 December 2008, Minister Boahen signed the convention and stated that Ghana will ensure that it sets the necessary processes in place for Parliament to ratify as soon as practicable. The minister urged “all countries to ratify the convention as soon as possible so that we can start implementation and stigmatize any future use of cluster munitions.”⁴⁹⁹

⁴⁹¹ Statement of Germany, Second 2009 Session of the CCW GGE on Cluster Munitions, Geneva, 17 April 2009.

⁴⁹² Email from Thomas Kuchenmeister, Actiongroup Landmine.de, 2 April 2009, reporting on a meeting with the Ministry of Foreign Affairs on 12 March 2009 in Berlin.

⁴⁹³ Katherine Harrison, “The Vienna Conference on Cluster Munitions, 5–7 December 2007,” WILPF, January 2008, www.wilpf.int.ch.

⁴⁹⁴ Statement of Ghana, Wellington Conference on Cluster Munitions, 19 February 2008.

⁴⁹⁵ Livingstone Declaration, Livingstone Conference on Cluster Munitions, 1 April 2008.

⁴⁹⁶ Dublin Diplomatic Conference on Cluster Munitions, 21 May 2008. Notes by Landmine Action.

⁴⁹⁷ Summary Record of the Committee of the Whole, Fifth Session: 21 May 2008, Dublin Diplomatic Conference, CCM/CW/SR/5, 18 June 2008; and Eighth Session: 23 May 2008, CCM/CW/SR/8, 18 June 2008.

⁴⁹⁸ CMC, “Report on the Kampala Conference on the Convention on Cluster Munitions,” 29–30 September 2008.

⁴⁹⁹ Statement by Nana Obiri Boahen, Minister of State at the Ministry of Interior, Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008.

GUATEMALA

The Republic of Guatemala signed the Convention on Cluster Munitions in Oslo on 3 December 2008. On 19 March 2009, Guatemala informed Human Rights Watch that, “According to national legal procedures, the first step in the ratification process is to engage in promoting discussion on the Convention among local institutions that work in related areas. Once finalized, the Executive Branch will send it to Congress for its consideration and approval.”⁵⁰⁰ Later in March, the Vice-Minister of Foreign Affairs informed the CMC representative in Guatemala that ratification documents had been prepared and the process was about to begin.⁵⁰¹

Guatemala has stated that it has never used, produced, transferred, or stockpiled cluster munitions.⁵⁰²

Guatemala attended the conference convened by Norway to launch the Oslo Process in February 2007 and endorsed the Oslo Declaration, committing states to conclude a new treaty in 2008. Subsequently, it actively participated in the international treaty preparatory conferences in Lima, Vienna, and Wellington, as well as the formal negotiations in Dublin in May 2008. Guatemala also attended the regional conferences in Costa Rica, Mexico, and Ecuador.

In Vienna, Guatemala stated that as a mine-affected country it “knows first-hand” the suffering that these types of weapons pose.⁵⁰³ Guatemala called for more extensive language on victim assistance, including a broader definition of a victim.⁵⁰⁴ In Wellington, Guatemala expressed its support for a comprehensive ban on cluster munitions without exceptions.⁵⁰⁵ Guatemala also supported the proposed six-year deadline for destruction of stockpiled cluster munitions and opposed the retention of cluster munitions for training or research purposes.⁵⁰⁶

During the Dublin negotiations, Guatemala opposed efforts to dilute the treaty in any way, and in particular expressed opposition to a transition period in which states could still use cluster munitions and to a new provision on “interoperability” (joint military operations with states not party). It also proposed language to strengthen the victim assistance provisions.⁵⁰⁷

Guatemala is party to the Convention on Conventional Weapons (CCW) and ratified Protocol V on Explosive Remnants of War on 28 February 2008. At a CCW meeting in November 2008, Guatemala was one of 26 states that issued a joint statement expressing their opposition to the weak draft text on a possible CCW protocol on cluster munitions, indicating it was an unacceptable step back from the standards set by the Convention on Cluster Munitions.⁵⁰⁸

In March 2009, in response to a question about possible national implementation measures, Guatemala stated, “According to past experience, we are considering to duplicate some of the measures that were taken with the Ottawa Convention [Mine Ban Treaty].”⁵⁰⁹

Also related to implementation, Guatemala said, “Even though the Convention is not explicit... Guatemala agrees that the transit of cluster munitions in the territory of the States Parties should not be permitted.” It also noted its opposition to the Convention’s provision on interoperability, and stated, “Guatemala would not participate in any military operation with States that use cluster munitions.”⁵¹⁰

⁵⁰⁰ Letter from the Permanent Mission of Guatemala to the UN in Geneva, 136/ONU/09, 19 March 2009. The letter included an unofficial translation.

⁵⁰¹ Email from Serena Olgiati, Operations Officer, CMC, 27 March 2009.

⁵⁰² Letter from the Permanent Mission of Guatemala to the UN in Geneva, 136/ONU/09, 19 March 2009.

⁵⁰³ Statement of Guatemala, Vienna Conference on Cluster Munitions, 5 December 2007. Notes by CMC/WILPF.

⁵⁰⁴ Vienna Conference, 6–7 December 2007. Notes by CMC/WILPF.

⁵⁰⁵ Katherine Harrison, “Report on the Wellington Conference on Cluster Munitions, 18–22 February 2008,” WILPF, March 2008, p. 19.

⁵⁰⁶ *Ibid.*, p. 28–29.

⁵⁰⁷ Proposal by Argentina, Chile, Costa Rica, Dominican Republic, Ecuador, Guatemala, Guinea, Honduras, Mexico, Nicaragua, Panama, Peru, Uruguay, and Zambia for the amendment of Article 5, Dublin Diplomatic Conference on Cluster Munitions, CCM/70, 21 May 2008.

⁵⁰⁸ Statement of Costa Rica, Fifth 2008 Session of the CCW Group of Governmental Experts on Cluster Munitions, Geneva, 5 November 2008.

⁵⁰⁹ In particular it cited approval of the Decree No. 106-7 “Law on the Prohibition of Production, Purchase, Selling, Importation, Exportation, Transit, Use, Possession, and Transfer of Antipersonnel Land Mines and Antidetonator Detonators or parts of these Devices.” Letter from the Permanent Mission of Guatemala to the UN in Geneva, 136/ONU/09, 19 March 2009.

⁵¹⁰ *Ibid.*

GUINEA

The Republic of Guinea signed the Convention on Cluster Munitions in Oslo on 3 December 2008. The status of the ratification process is not known. Guinea is not party to the Convention on Conventional Weapons.

Guinea did not attend the initial meeting in Oslo in February 2007 to launch the Oslo Process, but was present at the next two international diplomatic conferences to develop the convention text in Lima and Vienna. After missing the international conference in Wellington in February 2008, it participated in the African regional conference in Livingstone in March/April and the formal negotiations in Dublin in May 2008.

At the Lima conference, Guinea promised its full support and cooperation in the development and implementation of the future treaty, emphasizing the importance of humanitarian provisions for victim assistance and clearance of cluster munition duds.⁵¹¹ At the Livingstone regional conference on 1 April 2008, Guinea endorsed the Livingstone Declaration, calling for a comprehensive treaty with a prohibition that should be “total and immediate.”⁵¹²

While unable to attend the Wellington conference, Guinea subscribed to the Wellington Declaration on 25 April 2008, thereby committing to participate fully in the formal negotiations in Dublin on the basis of the draft Wellington text.

During the Dublin negotiations, Guinea joined other African countries in opposing efforts to weaken the convention text, and notably opposed the inclusion of a transition period, arguing, “We can’t ban cluster munitions yet at the same time give ourselves time to think about these weapons being used.”⁵¹³ At the end of the negotiations, Guinea said, “We have come up with something that has reconciled different positions” and described the new convention as marking significant progress in international law.⁵¹⁴ It joined the consensus adoption of the convention.

Upon signing the convention in Oslo, Guinea’s Ambassador said Guinea would make every effort to ensure the provisions of the convention are translated into legally-binding domestic prohibitions.⁵¹⁵

Guinea is not believed to have used, produced, or exported cluster munitions, but it is thought to have a stockpile. Moldova reported the transfer to Guinea in 2000 of 860 9M27K rockets, each containing 30 submunitions, for Guinea’s 220mm *Uragan* multiple launch rocket system.⁵¹⁶ The size and content of Guinea’s current stockpile of cluster munitions is not known.

GUINEA-BISSAU

The Republic of Guinea-Bissau signed the Convention on Cluster Munitions in Oslo on 4 December 2008. The status of the ratification process is not known.

Guinea-Bissau did not attend the initial meeting in Oslo in February 2007 to launch the Oslo Process, but was present at the next two international diplomatic conferences to develop the convention text in Lima and Vienna. After missing the international conference in Wellington in February 2008, it participated in the African regional conference in Livingstone in March/April and the formal negotiations in Dublin in May 2008. It also attended the African regional conference in Kampala in September 2008.

⁵¹¹ Lima Conference on Cluster Munitions, 24 May 2007. Notes by CMC.

⁵¹² Livingstone Declaration, Livingstone Conference on Cluster Munitions, 1 April 2008.

⁵¹³ Summary Record of the Committee of the Whole, Eighth Session: 23 May 2008, Dublin Diplomatic Conference on Cluster Munitions, CCM/CW/SR/8, 18 June 2008. Notes by CMC.

⁵¹⁴ Summary Record of the Committee of the Whole, Sixteenth Session: 28 May 2008, Dublin Diplomatic Conference, CCM/CW/SR/16, 18 June 2008. Notes by CMC.

⁵¹⁵ Statement by Amb. Alexandre Cécé Loua, Representative of Guinea to Germany, Convention on Cluster Munitions Signing Conference, Oslo, 4 December 2008, www.clusterconvention.org.

⁵¹⁶ Republic of Moldova, Submission for Calendar Year 2000, UN Register of Conventional Arms, 30 May 2001.

Guinea-Bissau did not intervene often during these meetings. At the Vienna conference, Guinea-Bissau said it fully supported the Oslo Process and particularly wanted the proposed treaty to include strong provisions on victim assistance.⁵¹⁷ At the Livingstone regional conference on 1 April 2008, Guinea-Bissau endorsed the Livingstone Declaration, calling for a comprehensive treaty with a prohibition that should be “total and immediate.”⁵¹⁸

While unable to attend the Wellington conference, Guinea-Bissau subscribed to the Wellington Declaration on 21 April 2008, thereby committing to participate fully in the formal negotiations in Dublin on the basis of the draft Wellington text.

During the Dublin negotiations, Guinea-Bissau joined other African countries in opposing efforts to weaken the convention text. At the conclusion, Guinea-Bissau said it regarded the text as the “best possible compromise available,”⁵¹⁹ and joined the consensus adoption of the convention.

Guinea-Bissau participated in the Kampala regional conference in September 2008 and endorsed the Kampala Action Plan, which declared that states should sign and “take all necessary measures to ratify the convention as soon as possible.”⁵²⁰

Upon signing the convention in Oslo, Guinea-Bissau’s Secretary of State and International Cooperation said that the country would spare no effort in making sure the convention is fully implemented.⁵²¹

Guinea-Bissau became party to the Convention on Conventional Weapons (CCW) on 6 August 2008 and ratified Protocol V on Explosive Remnants of War the same day. It has not been an active participant in the CCW work on cluster munitions.

On 4 December 2008, Guinea-Bissau stated that it does not use or produce cluster munitions.⁵²² However, it is believed to possess a stockpile. RBK air-dropped cluster bombs and PTAB 2.5 bomblets were among munitions ejected by an explosion at the Paiol de Bra ammunition storage facility, located in the outskirts of Bissau City, sometime in 2000.⁵²³ The size and content of Guinea-Bissau’s current stockpile of clusters munitions is not known.

HOLY SEE

The Holy See signed and ratified the Convention on Cluster Munitions in Oslo on 3 December 2008. It was one of four countries to both sign and ratify the convention on the same day. The Holy See has never used, produced, or stockpiled cluster munitions.

The Holy See is party to the Convention on Conventional Weapons (CCW), and ratified Protocol V on Explosive Remnants of War on 28 June 2005.

In September 2006, shortly before the Third Review Conference of the CCW, the Holy See called for a moratorium on the use of cluster munitions and for their restriction under international law.⁵²⁴ In November 2006, during the Review Conference, the Holy See and five others tabled a proposal for a mandate to

⁵¹⁷ Statement of Guinea-Bissau, Vienna Conference on Cluster Munitions, 6 December 2007. Notes by CMC.

⁵¹⁸ Livingstone Declaration, Livingstone Conference on Cluster Munitions, 1 April 2008.

⁵¹⁹ Summary Record of the Committee of the Whole, Sixteenth Session: 28 May 2008, Dublin Diplomatic Conference on Cluster Munitions, CCM/CW/SR/16, 18 June 2008.

⁵²⁰ CMC, “Report on the Kampala Conference on the Convention on Cluster Munitions,” 30 September 2008; and Kampala Action Plan, Kampala Conference, 30 September 2008.

⁵²¹ Statement by Amb. Augusto Artur António Silva, Secretary of State and International Cooperation of Guinea-Bissau, Convention on Cluster Munitions Signing Conference, Oslo, 4 December 2008, www.clusterconvention.org.

⁵²² Ibid.

⁵²³ Cleared Ground Demining, “Guinea Bissau Project Update,” undated, www.clearedground.org. Some RBK cluster bombs contain PTAB submunitions. These were likely of Soviet/Russian origin.

⁵²⁴ “Holy See Asks for Moratorium on Cluster Bombs,” *Zenit*, 7 September 2006, www.zenit.org.

negotiate a legally binding instrument addressing the humanitarian concerns posed by cluster munitions.⁵²⁵ When it became apparent that the proposal would not garner consensus, the Holy See was one of 25 States that supported a declaration calling for an agreement that would prohibit the use of cluster munitions “within concentrations of civilians,” prohibit the use of cluster munitions that “pose serious humanitarian hazards because they are for example unreliable and/or inaccurate,” and require destruction of stockpiles of such cluster munitions.⁵²⁶

The Holy See subsequently played a leading role in the Oslo Process. As part of the “Core Group,” it shared responsibility with Norway, Austria, Ireland, Mexico, New Zealand, and Peru for the guidance of the process. It participated in the initial conference of the Oslo Process, in Oslo in February 2007, and all three of the international conferences to develop the convention text in Lima, Vienna, and Wellington, as well as the formal negotiations in Dublin.

During the Lima conference, the Holy See delivered a strong appeal to act with urgency to negotiate an agreement that would have a real humanitarian impact, and called on the international community not to accept “dogmatic affirmations about the legitimacy of cluster munitions.”⁵²⁷ In particular, the Holy See rejected the acceptability of cluster munitions based on alleged failure rates of 1 or 2%, noting that such rates are not achieved on the battlefield, and that even “1% failure means many innocent victims, a large number of unexploded devices, and areas which remain affected for many years.”⁵²⁸ The Holy See acknowledged the forum of the CCW as an avenue for complementary work on cluster munitions, but stated “to do nothing or to limit oneself to formal action incapable of protecting civilian populations in the best possible way will not lend more credibility to the CCW.”⁵²⁹

On the eve of the Dublin negotiations, Pope Benedict XVI, during a visit in Genoa, called on governments to adopt an international convention banning the use of cluster munitions.⁵³⁰ At the close of the negotiations, the Holy See called the convention a new chapter of international humanitarian law and highlighted some of its main accomplishments: provisions for victims including their families and communities; responsibilities of the international community for clearance and the provision of assistance; and the effective partnership between states, international organizations, and civil society.⁵³¹ Speaking to the Vatican Radio shortly after the Dublin conference, Archbishop Silvano Tomasi, the head of the delegation of the Holy See in Dublin, said that the Holy See played a “key” role in the negotiations, acting as “as bridge between the various groups and institutions of states, leading to a positive conviction on the document, an instrument that would be, as [Pope Benedict XVI] has said, strong and credible. And this is exactly what it is.”⁵³²

The Holy See continued to participate in the work of the CCW on cluster munitions during 2008. The Holy See welcomed the participation of major producers, users, and stockpilers in the discussions, but noted that the CCW would be judged on the credibility of its outcome.⁵³³ In November 2008, as CCW negotiations on cluster munitions were scheduled to conclude, the Holy See joined 25 countries in issuing a joint statement expressing their opposition to the weak draft text on a possible CCW protocol on cluster munitions, indicating it was an unacceptable step back from the standards set by the Convention on Cluster Munitions.⁵³⁴

⁵²⁵ Proposal for a Mandate to Negotiate a Legally-Binding Instrument that Addresses the Humanitarian Concerns Posed by Cluster Munitions, Presented by Austria, Holy See, Ireland, Mexico, New Zealand, and Sweden, Third Review Conference of the States Parties to the CCW, CCW/CONF.III/WP.1, Geneva, 25 October 2006.

⁵²⁶ Declaration on Cluster Munitions, Third Review Conference of the States Parties to the CCW, CCW/CONF.III/WP.18, Geneva, 17 November 2006.

⁵²⁷ Lima Conference on Cluster Munitions, 23–25 May 2007. Notes by CMC/WILPF.

⁵²⁸ *Ibid.*

⁵²⁹ *Ibid.*

⁵³⁰ “Pope calls for ban on cluster bombs ahead of conference,” *Agence France-Presse*, Genoa, 18 May 2008, afp.google.com.

⁵³¹ Statement of the Holy See, Closing Ceremony, Dublin Diplomatic Conference on Cluster Munitions, 30 May 2008. Notes by Landmine Action.

⁵³² “Holy See: Cluster Bomb Ban a ‘Big Step,’” *Zenit*, 3 June 2008, www.zenit.org.

⁵³³ Statement of the Holy See, First 2008 Session of the CCW Group of Governmental Experts (GGE) on Cluster Munitions, Geneva, 14 January 2008. Notes by WILPF.

⁵³⁴ Statement delivered by Costa Rica on behalf of Austria, Belgium, Benin, Bosnia and Herzegovina, Chile, Croatia, Ecuador, El Salvador, Guatemala, Holy See, Honduras, Indonesia, Ireland, Lebanon, Mexico, New Zealand, Nicaragua, Norway, Peru, Philippines, Senegal, South Africa, Uganda, Uruguay, and Venezuela, Fifth 2008 Session of the CCW GGE on Cluster Munitions, Geneva, 5 November 2008.

Upon signing the convention in Oslo in December, the Holy See stated that it was ratifying the convention on the same day as it signed “[i]n order to send a strong political signal [and] to express to the victims the human closeness that the Holy See and its institutions are keen to emphasize.”⁵³⁵ Regarding victim assistance, the Holy See stated that “the principal actors must be the victims themselves” and stressed the importance of the definition of victim and its inclusion of the family and community of the victim. On the responsibilities for past users of cluster munitions, the Holy See stated that “for the first time an international instrument has taken the step of determining the moral responsibility of parties who make use of a specific weapon.” On “interoperability” (joint military operations with states not party), the Holy See stated that the relevant Article 21 could “in no way be interpreted as a suspension of the effects of the Convention while joint military operations are being conducted.”⁵³⁶

HONDURAS

The Republic of Honduras signed the Convention on Cluster Munitions in Oslo on 3 December 2008. After signing, the Honduran ambassador stated that Honduras would be “among the first to ratify” the convention, which he described as historic.⁵³⁷

Honduras’ first engagement in the Oslo Process came in September 2007, when it attended the Latin American Regional Conference on Cluster Munitions held in Costa Rica. Honduras subsequently participated in the international treaty preparatory conferences in Vienna and Wellington. In Wellington, Honduras spoke forcefully in support of a comprehensive ban on cluster munitions with no exceptions.⁵³⁸ It endorsed the Wellington Declaration, indicating its intention to participate in the formal negotiations in Dublin on the basis of the draft text. Honduras played an active role during the Dublin negotiations in May 2008, emphasizing that the spirit of the convention should be total prohibition, like the Mine Ban Treaty.⁵³⁹

Honduras is party to the Convention on Conventional Weapons (CCW) and ratified Protocol V on Explosive Remnants of War on 28 February 2008. At a CCW meeting in November 2008, Honduras was one of 26 states that issued a joint statement expressing their opposition to the weak draft text on a possible CCW protocol on cluster munitions, indicating it was an unacceptable step back from the standards set by the Convention on Cluster Munitions.⁵⁴⁰

Honduras is not believed to have used or produced cluster munitions. In December 2007, during the Vienna conference, Honduras officially stated that does not possess cluster munitions.⁵⁴¹ Honduran officials told Human Rights Watch that Honduras had destroyed its stockpile of air-dropped Rockeye cluster bombs as well as an unidentified type of artillery-delivered cluster munition in previous years.⁵⁴² According to United States export records, Honduras imported 120 Rockeye cluster bombs at some point between 1970 and 1995.⁵⁴³

⁵³⁵ Statement by Dominique Mamberti, Secretary for Relations with States, Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008.

⁵³⁶ Statement by Dominique Mamberti, Signing Conference, Oslo, 3 December 2008.

⁵³⁷ Statement by Amb. J. Delmer Urbizo Panting, Permanent Representative of Honduras to the UN in Geneva, Convention on Cluster Munitions Signing Conference, Oslo, 4 December 2008. Translation by Landmine Monitor.

⁵³⁸ Katherine Harrison, “Report on the Wellington Conference on Cluster Munitions, 18–22 February 2008,” WILPF, March 2008, p. 19.

⁵³⁹ Summary Record of the Committee of the Whole, Second Session: 20 May 2008, Dublin Diplomatic Conference on Cluster Munitions, CCM/CW/SR/2, 18 June 2008.

⁵⁴⁰ Statement delivered by Costa Rica, Fifth 2008 Session of the CCW Group of Governmental Experts on Cluster Munitions, Geneva, 5 November 2008.

⁵⁴¹ Statement of Honduras, Vienna Conference on Cluster Munitions, 5 December 2007. Notes by CMC/WILPF.

⁵⁴² Human Rights Watch meetings with Honduran officials, in San José, 5 September 2007; and in Vienna, 3–5 December 2007.

⁵⁴³ US Defense Security Assistance Agency, Department of Defense, “Cluster Bomb Exports under FMS, FY1970–FY1995,” 15 November 1995, obtained by Human Rights Watch in a Freedom of Information Act request, 28 November 1995.

HUNGARY

The Republic of Hungary signed the Convention on Cluster Munitions in Oslo on 3 December 2008. Upon signing the convention, Minister of Foreign Affairs Kinga Göncz announced that Hungary had already started “the necessary domestic legal procedure for parliamentary approval of the Convention on Cluster Munitions.”⁵⁴⁴

Hungary is party to the Convention on Conventional Weapons (CCW), and ratified Protocol V on Explosive Remnants of War on 28 June 2005.

Cluster Munition Ban Policy

At the CCW Third Review Conference in November 2006, Hungary supported a proposal for a mandate to negotiate a legally-binding instrument “that addresses the humanitarian concerns posed by cluster munitions.”⁵⁴⁵ When other CCW States Parties rejected such a mandate, Hungary joined 25 nations in supporting a declaration calling for an international agreement that would prohibit the use of cluster munitions “within concentrations of civilians,” prohibit the use of cluster munitions that “pose serious humanitarian hazards because they are for example unreliable and/or inaccurate,” and require destruction of stockpiles of such cluster munitions.⁵⁴⁶

Hungary then participated in the initial conference launching the Oslo Process in February 2007 and endorsed the Oslo Declaration, committing states to conclude a convention prohibiting cluster munitions that cause unacceptable harm to civilians in 2008. It participated in all of the international conferences to develop the convention text in Lima, Vienna, and Wellington, as well as the formal negotiations in Dublin in May 2008.⁵⁴⁷

At the Lima conference, Hungary announced that it would enact a national moratorium on the use of cluster munitions by its armed forces until a legally binding international instrument on cluster munitions was concluded.⁵⁴⁸ The unilateral moratorium was officially enacted on 9 November 2007. The Hungarian Ministry of Foreign Affairs stated that it hoped this decision would contribute to and show support for ongoing international diplomatic efforts aimed at tackling the problem of cluster munitions.⁵⁴⁹

During the Dublin negotiations, Hungary did not intervene frequently, but supported the inclusion of a provision on “interoperability” (joint military operations with states not party).⁵⁵⁰ It stated that the safety of its forces contributing to peacekeeping missions called for such a provision.⁵⁵¹

Use, Production, Stockpiling, and Transfer

Hungary is not believed to have used or produced cluster munitions. In 2006, officials acknowledged Hungary possessed Soviet-era air-dropped cluster bombs and said that their status was under review.⁵⁵² At the Lima conference in May 2007, Hungary stated that its armed forces were developing plans to destroy the cluster munitions in its stockpiles.⁵⁵³ Jane’s Information Group lists Hungary as possessing KMG-U dispensers which deploy submunitions, and RBK-250, RBK-275, and RBK-500 cluster bombs.⁵⁵⁴

⁵⁴⁴ Statement of Hungary, Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008.

⁵⁴⁵ Proposal for a Mandate to Negotiate a Legally-Binding Instrument that Addresses the Humanitarian Concerns Posed by Cluster Munitions, Presented by Austria, Holy See, Ireland, Mexico, New Zealand, and Sweden, Third Review Conference of the States Parties to the CCW, CCW/CONF.III/WP.1, Geneva, 25 October 2006.

⁵⁴⁶ Declaration on Cluster Munitions, Third Review Conference of the States Parties to the CCW, CCW/CONF.III/WP.18, Geneva, 17 November 2006.

⁵⁴⁷ It also attended the regional conference in Brussels in October 2007.

⁵⁴⁸ Statement of Hungary, Lima Conference on Cluster Munitions, 24 May 2007. Notes by WILPF.

⁵⁴⁹ “The Hungarian Government Introduced a National Ban on the Use of Cluster Munitions,” Ministry of Foreign Affairs of the Republic of Hungary, www.mfa.gov.hu.

⁵⁵⁰ Statement of Hungary, Informal Discussions on Interoperability, Dublin Diplomatic Conference on Cluster Munitions, 22 May 2008. Notes by Landmine Action.

⁵⁵¹ Statement of Hungary, Closing Plenary, Dublin Diplomatic Conference, 30 May 2008. Notes by Landmine Action.

⁵⁵² Human Rights Watch interview with members of Hungary’s delegation to the Fourteenth and Fifteenth Sessions of the CCW Group of Governmental Experts, Geneva, 19 June 2006 and 31 August 2006.

⁵⁵³ Statement of Hungary, Lima Conference on Cluster Munitions, 24 May 2007. Notes by WILPF.

⁵⁵⁴ Robert Hewson, ed., *Jane’s Air-Launched Weapons*, Issue 44 (Surrey, UK: Jane’s Information Group Limited, 2004), p. 840.

ICELAND

The Republic of Iceland signed the Convention on Cluster Munitions in Oslo on 3 December 2008. The Ministry of Foreign Affairs stated in March 2009, “Iceland’s ratification of the Convention on Cluster Munitions is underway. It is not clear at this time when the parliamentary process will be completed because of upcoming elections.”⁵⁵⁵

Iceland was an active participant in the Oslo Process and was among the states to endorse the Oslo Declaration in February 2007. It attended the international preparatory conferences in Lima and Vienna, and the formal negotiations in Dublin in May 2008.

During the Dublin negotiations, Iceland’s representative made a salient statement regarding Article 21, on relations between States Parties and states not party to the convention. It made clear that Article 21 should not be seen as undercutting the obligation in Article 1 not to assist with any activity prohibited by the convention. Specifically, “While the article sets out an appeal to States which are not parties to join the regime of the Convention, it recognizes the need for continuing cooperation in what is hoped will be a short transition period. This intention is captured clearly in paragraph 3 of the Article which should not be read as entitling States Parties to avoid their specific obligations under the Convention for this limited purpose. The decision to reinforce this position by listing some examples in paragraph 4 cannot therefore be interpreted to allow departures in other respects.”⁵⁵⁶

According to the Ministry of Foreign Affairs, “Iceland has never stockpiled, used, produced, or transferred cluster munitions.”⁵⁵⁷

Iceland ratified the Convention on Conventional Weapons, including Protocol V on Explosive Remnants of War, on 22 August 2008.

INDONESIA

The Republic of Indonesia signed the Convention on Cluster Munitions in Oslo on 3 December 2008. It is “currently in the process of carrying out socialization and dissemination about the Convention to the relevant stakeholders such as the Department of Defense, Indonesian Armed Forces, the parliament and defense industry. We believe that the comprehensive understanding of the [convention] is pertinent to expedite the ratification process right after the [convention] has entered into force.”⁵⁵⁸

Indonesia is not party to the Convention on Conventional Weapons (CCW).⁵⁵⁹

Cluster Munition Ban Policy

Indonesia was supportive of a ban on cluster munitions from the beginning of the Oslo Process. It participated in all four of the Oslo Process international conferences in Oslo, Lima, Vienna, and Wellington, the Dublin negotiations in May 2008, and the regional conference in Lao PDR in October 2008.

Throughout the process Indonesia was one of the strongest supporters of a comprehensive treaty free of exceptions or loopholes. It stressed the importance of banning rather than just regulating cluster munitions. It wanted the broadest possible definition of cluster munitions, with no exceptions for certain types, and the shortest possible deadline for stockpile destruction. It opposed any transition period before obligations

⁵⁵⁵ Email from Petur G. Thorsteinsson, Head of Arms Control and Disarmament, Ministry for Foreign Affairs, 5 March 2009.

⁵⁵⁶ Statement of Iceland, Dublin Diplomatic Conference on Cluster Munitions, 30 May 2008.

⁵⁵⁷ Email from Petur G. Thorsteinsson, Ministry for Foreign Affairs, 5 March 2009.

⁵⁵⁸ Letter from Dr. Dersa Percaya, Director for International Security and Disarmament, Department of Foreign Affairs, 19 March 2009.

⁵⁵⁹ Indonesia has participated in CCW meetings as an observer, and in November 2008 was one of 26 states that issued a joint statement expressing their opposition to the weak draft text on a possible CCW protocol on cluster munitions, indicating it was an unacceptable step back from the standards set by the Convention on Cluster Munitions.

took effect, and expressed concern about the provision on “interoperability” (joint military operations with states not party). With respect to the exclusion for certain weapons with submunitions, Indonesia said the burden of proof must be on those who possess the weapons to demonstrate that they do not have the harmful humanitarian effects of cluster munitions.⁵⁶⁰

Minister of Defense Juwono Sudarsono signed the convention on behalf of Indonesia. He called the convention “a watershed in the history of the global movement for disarmament” and a “shining example of a successful partnership among states, civil society, UN Agencies and other international organizations in carrying out disarmament as humanitarian action.” He concluded by saying, “We can succeed in stigmatizing any future use of cluster munitions. And all of mankind will recognize cluster munitions for what they are: cruel, inhumane, and ultimately ineffective.”⁵⁶¹

Use, Production, Stockpiling, and Transfer

At the Lima conference in May 2007, Indonesia stated that it had never used, produced or transferred cluster munitions.⁵⁶²

The size and precise content of Indonesia’s stockpile of cluster munitions is not known. Jane’s Information Group lists it as possessing Rockeye cluster bombs.⁵⁶³ According to the Department of Foreign Affairs, “Indonesia will provide its transparency report which contains the detail of its cluster munitions stockpile after the [convention] has entered into force and Indonesia becomes a party to it.”⁵⁶⁴

IRELAND

Ireland signed and ratified the Convention on Cluster Munitions on 3 December 2008. Ireland was one of four countries both to sign and ratify that day.

Ireland was a driving force behind the Oslo Process. From the beginning, it was a member of the small “Core Group” of nations that took responsibility for the Oslo Process and the development of the Convention on Cluster Munitions outside of traditional diplomatic fora. Ireland hosted the formal negotiations of the convention in Dublin from 19 to 30 May 2008, with Ambassador Daithi O’Ceallaigh playing the crucial role of President of the Dublin Diplomatic Conference. Ambassador O’Ceallaigh, his team, and the government of Ireland bear a great deal of the responsibility for the successful outcome of the negotiations and the strength of the convention.

Ireland has not produced, stockpiled, transferred, or used cluster munitions.

Ireland is party to the Convention on Conventional Weapons (CCW), and ratified Protocol V on Explosive Remnants of War (ERW) on 8 November 2006. Ireland has participated in the work of the CCW on cluster munitions in recent years.

Cluster Munition Ban Policy

In April 2003, Pax Christi Ireland, together with Irish government, organized an international conference on ERW with a special focus on cluster munitions. At the conclusion of this conference, a group of NGOs determined that a more coordinated joint effort was needed to strengthen humanitarian protection from cluster munitions. This led directly to the creation of the CMC, launched in November 2003 in The Hague.⁵⁶⁵

⁵⁶⁰ Statement of Indonesia, Dublin Diplomatic Conference on Cluster Munitions, 19 May 2008. Notes by Landmine Action.

⁵⁶¹ Statement by Amb. Juwono Sudarsono, Minister of Defense, Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008.

⁵⁶² Statement of Indonesia, Lima Conference on Cluster Munitions, 24 May 2007. Notes by WILPF.

⁵⁶³ Robert Hewson, ed., *Jane’s Air-Launched Weapons*, Issue 44 (Surrey, UK: Jane’s Information Group Limited, 2004), p. 840.

⁵⁶⁴ Letter from Dr. Dersa Percaya, Department of Foreign Affairs, 19 March 2009.

⁵⁶⁵ Pax Christi Netherlands, “Conference Report: CMC International Launch Conference,” 12–13 November 2003.

Ireland was an early supporter of international action to tackle cluster munitions. It began “calling for action on cluster munitions within the CCW [in] July 2002.”⁵⁶⁶ In November 2006, during the CCW Third Review Conference, Ireland and five other nations proposed a mandate to negotiate a legally binding instrument “that addresses the humanitarian concerns posed by cluster munitions.”⁵⁶⁷ When this mandate did not gain consensus, Ireland was one of 25 nations that issued a joint declaration calling for an agreement that would prohibit the use of cluster munitions “within concentrations of civilians,” prohibit the use of cluster munitions that “pose serious humanitarian hazards because they are for example unreliable and/or inaccurate,” and require destruction of stockpiles of such cluster munitions.⁵⁶⁸

Norway then announced that it would start an independent process outside the CCW to negotiate a treaty on cluster munitions, and invited other governments to join. Ireland said that it would be prepared to work in the CCW and also elsewhere to seek an agreement on cluster munitions. Referring to the use of cluster munitions by Israel in Lebanon in 2006, Ireland stated that “recent events should have dispelled any lingering doubts about the indiscriminate effects associated with the use of cluster munitions.”⁵⁶⁹

Ireland was one of the most active participants throughout the Oslo Process, from the international conference to launch the process in February 2007, to the three subsequent international conferences to develop the convention text in Lima, Vienna, and, to the formal negotiations that it hosted in Dublin in May 2008. It also participated in the regional conferences in Brussels (October 2007), Livingstone (March/April 2008), Lao PDR (October 2008), and Beirut (November 2008).

At the first Oslo conference in February 2007, Ireland endorsed the Oslo Declaration, committing states to conclude in 2008 a new convention prohibiting cluster munitions that cause unacceptable harm to civilians. For its part, Ireland called for a categorical prohibition on the weapon.⁵⁷⁰

During the Lima conference in May 2007, Ireland raised serious doubts about proposals to exempt from any future prohibition cluster munitions with self-destruct or self-neutralization mechanisms.⁵⁷¹ With respect to a proposal to allow retention of cluster munitions for training and research purposes, Ireland said there may be some value in having “a limited number of live ammunition available,” but “any exemptions [for training and research] must be subject to rigorous transparency and validation mechanisms.”⁵⁷²

At the Wellington conference in February 2008, Ireland supported the approach of starting with a broad definition against which any exclusions from prohibition should be specified, if necessary. Ireland noted six criteria had been proposed either individually or in combinations from delegations calling for amendments to the definition, and stated that no single criterion in itself would justify exclusion. Ireland argued that, if necessary, these criteria would need to be applied in combination in order to reduce the humanitarian hazards “to a level commensurate with unitary munitions.” Ireland also expressed concerns about systems that remain affixed to aircraft and that dispense “bomblets.” Ireland argued that these systems have the same effects as cluster munitions and should be subject to the same prohibition.⁵⁷³

On 3 March 2008, Ireland’s National Pensions Reserve Fund, responsible for financing Ireland’s national pension requirements, announced it would withdraw €27 million from investments in six international companies involved in producing cluster munitions.⁵⁷⁴ Then- Minister of Foreign Affairs Dermot Ahern said, “This is a very significant move by Ireland and sends a clear message to the world in advance of the vital Croke Park conference [Dublin conference]. While not seeking to interfere with the statutory

⁵⁶⁶ Statement by Amb. Paul Kavanagh, Third Review Conference of the States Parties to the CCW, Geneva, 17 November 2006.

⁵⁶⁷ Proposal to Negotiate a Legally-Binding Instrument the Addresses the Humanitarian Concerns Posed by Cluster Munitions, Presented by Austria, Holy See, Ireland, Mexico, New Zealand, and Sweden, Third Review Conference of the States Parties to the CCW, CCW/CONF. III/WP.1, Geneva, 25 October 2006.

⁵⁶⁸ Declaration on Cluster Munitions, Third Review Conference of the States Parties to the CCW, CCW/CONF.III/WP.18, Geneva, 17 November 2006.

⁵⁶⁹ Statement by Amb. Paul Kavanagh, Third Review Conference of the States Parties to the CCW, Geneva, 17 November 2006.

⁵⁷⁰ Statement of Ireland, Oslo Conference on Cluster Munitions, 22 February 2007. Notes by CMC/WILPF.

⁵⁷¹ It said self-destruct mechanisms “may indeed lead to an incremental reduction in failure rates [but] such improvements are likely to have a marginal impact and would not justify exemption from prohibition Those who support the [self-destruct] option must demonstrate that such mechanisms would not expose civilians to ‘unacceptable harm.’” It said self-neutralization mechanisms “may expose civilians and clearance personnel to greater danger by inducing a false sense of security.” Statement of Ireland, Session on Definitions, Lima Conference on Cluster Munitions, 24 May 2007.

⁵⁷² Statement of Ireland, Lima Conference, 24 May 2007. Unofficial transcription by WILPF.

⁵⁷³ Statement of Ireland, Wellington Conference on Cluster Munitions, 19 February 2008. Notes by CMC.

⁵⁷⁴ Deaglán De Bréadún, “Pension fund to remove money from bomb firms,” *Irish Times*, 17 March 2008.

independence of the National Pensions Reserve Fund Commission, my objective was to try and ensure that no public funds are invested in any company involved in or associated with the production of cluster munitions.”⁵⁷⁵

Also in March 2008, ahead of the Dublin negotiations, a network of Irish NGOs formed the Cluster Munition Coalition (CMC) Ireland.⁵⁷⁶ On the Global Day of Action on cluster munitions in April 2008, over 1,000 people took part in public events in the center of Dublin.⁵⁷⁷ In the weeks prior to the opening of the Dublin negotiations CMC Ireland members supported a “Ban Bus” speaking tour around the country to increase awareness and support for the treaty.⁵⁷⁸ During the conference itself, events held in Dublin included a multi-faith blessing, film screenings, public talks, a public “lie down” stunt, a protest march, and a concert.⁵⁷⁹

On 19 May 2008, the Dublin Diplomatic Conference on Cluster Munitions opened in Croke Park stadium, a massive (85,000 seat) Gaelic football stadium in the north of the city. Just before the opening ceremony, Ireland’s Minister of Foreign Affairs Micheál Martin accepted a total of 704,715 petition signatures collected internationally by NGOs in 83 countries calling for a ban on cluster munitions.⁵⁸⁰ Martin then opened the negotiations, calling on states to live up to the challenge of reaching agreement on a convention in just two weeks time. Minister Martin concluded by saying, “The legacy we all seek from this conference will be to know that together we have created a future unknown survivor, one symbolic person who, thanks to the new convention, will not fall victim to a cluster munition.”⁵⁸¹

Ambassador Daithí Ó’Ceallaigh of Ireland served as President of the conference and headed the Irish delegation which was comprised of 16 foreign affairs and defense officials. From the outset, Ó’Ceallaigh told delegates that he did not intend to allow the introduction of amendments in square brackets into the draft convention text.⁵⁸² Instead proposals would be discussed in detail in the Committee of the Whole and, if consensus was found to exist, his intention was to issue a consensus text as a Presidency Text. The conference got underway with a detailed article-by-article discussion of the draft. Ó’Ceallaigh said that where it was not possible to reach general agreement on an article in the Committee of the Whole, he would appoint a colleague to hold informal consultations.⁵⁸³

By the end of the third day, the treaty had been read in its entirety and Ó’Ceallaigh had appointed Friends of the President to convene informal consultations on issues relating to interoperability (Ambassador Christine Schraner of Switzerland), definitions (Ambassador Don MacKay of New Zealand), stockpiling (Ambassador Steffen Kongstad of Norway), clearance (Lieutenant Colonel Jim Burke of Ireland), victim assistance (Markus Reiterer of Austria), and compliance (Xolisa Mabhongo of South Africa). The Friends of the President started to convene informal discussions to consider text proposals, almost all of which were open to NGO delegates.⁵⁸⁴ Ó’Ceallaigh’s Irish team held discussions with delegates on other issues including transparency measures, national implementation measures, settlement of disputes, and meetings of States Parties.

At the national level, Ireland remained strong on key issues such as the definition and scope of the prohibition, and a transition period, which it staunchly opposed. It again highlighted the need to address explosive bomblets dispersed or released by dispensers and proposed amendments to the convention to

⁵⁷⁵ Ibid.

⁵⁷⁶ See CMC Ireland, www.stopclusterbombs.ie. This group includes Afri, Amnesty International Ireland, Centre for Peace and Development Studies Limerick, Children in Crossfire, Concern Worldwide, Foyle Ethical Investment Campaign, Frontline, Galway One World Centre, Irish Commission for Justice and Social Affairs, Irish Lebanese Cultural Foundation, Oxfam Ireland, Pax Christi Ireland, Trócaire, and UNICEF Ireland.

⁵⁷⁷ CMC Ireland, “The Global Day of Action to Ban Cluster Bombs,” 19 April 2008, www.stopclusterbombs.ie.

⁵⁷⁸ See “Ireland,” The Ban Bus blog, thebanbus.org.

⁵⁷⁹ CMC, “Participant Handbook,” Dublin Diplomatic Conference on Cluster Munitions, 2008.

⁵⁸⁰ CMC, “The World is Watching: We Want a Ban,” *Cluster Ban News*, Edition 2, 21 May 2008.

⁵⁸¹ Statement by Micheál Martin, Minister of Foreign Affairs, Dublin Diplomatic Conference, 19 May 2008.

⁵⁸² Summary Record of the Plenary, Opening Plenary and the First Session: 19 May 2008, Dublin Diplomatic Conference, CCM/SR/1, 18 June 2008.

⁵⁸³ Summary Record of the Committee of the Whole, First Session: 19 May 2008, Dublin Diplomatic Conference, CCM/CW/SR/1, 18 June 2008.

⁵⁸⁴ On 21 May 2008, NGOs were denied access to closed informal discussions on interoperability. CMC, “Day 3 – Camps Emerge on Key Issues – Dublin Diplomatic Conference,” 21 May 2008, www.stopclustermunitions.org.

facilitate this.⁵⁸⁵ There was concern among NGOs that Ireland was not taking a strong enough position against proposals to add treaty language to facilitate “interoperability” (joint military operations with states not party).

At the beginning of the second week of negotiations, O’Ceallaigh reminded delegates that “substantive work must finish on the evening of Wednesday 28 May” in order to allow preparation of authentic texts in the official languages, to be formally adopted on the morning of Friday 30 May.⁵⁸⁶ He appointed a Friend of the Chair for the preamble of the draft convention (Ambassador Caroline Millar of Australia). O’Ceallaigh invited discussion on contentious issues including the recommendation that a new article on interoperability be inserted in the draft text. Bilateral consultations and informal discussions on the contentious issues including definitions and interoperability then continued, though not without difficulties.⁵⁸⁷

On the morning of Wednesday 28 May, O’Ceallaigh introduced a Presidency Paper containing a consolidated draft treaty text, which he described as “extremely ambitious” and said represented “the best balance of interests and compromise consistent with the Oslo Declaration.”⁵⁸⁸ The draft text included a new article on interoperability, which O’Ceallaigh noted “would be too much for some but not enough for others.” He read the text article by article, highlighting changes that had been made. O’Ceallaigh then asked all delegations to carefully consider the text and reconvene in the afternoon to provide their reactions.

At 16:30, O’Ceallaigh opened the meeting by stating that he did not propose to have an article by article debate and noted that the text represented “a package of compromises for all” that no delegation will be “completely satisfied” with. With that in mind, O’Ceallaigh expressed hope that delegations would find the text broadly acceptable and support it. He concluded by asking delegations to agree to adopt this text and thus pave the way for its formal adoption on Friday morning.⁵⁸⁹

Over the next three hours a total of 71 states spoke in support of the draft text with varying degrees of enthusiasm, but with none indicating they could not adopt it. Ireland was the last state to speak, joining the consensus in support of the draft text. States listened intently as the CMC took the floor to pronounce its verdict on the text knowing that without civil society endorsement the proposed convention would lose a crucial supporter.⁵⁹⁰ The CMC’s co-chair described the text as “extraordinary” and said it was “certain to save thousands and thousands of civilian lives for decades to come, and to provide both immediate and long-term relief and assistance to those already affected by the weapon.” The CMC particularly noted that the text was a categorical prohibition on all cluster munitions, that did not contain broad exceptions for certain types of cluster munitions, and did not contain a transition period. It also highlighted the groundbreaking provisions on victim assistance. The CMC, however, expressed disappointment with Article 21 on interoperability, describing the provision as “the only stain on the fine fabric of the treaty text.”⁵⁹¹

At the end of the interventions, O’Ceallaigh said that in view of the positive reactions to his draft text, and, in the absence of objections, he proposed to adjourn the Committee of the Whole and immediately to convene the Plenary to agree to adopting the text. In the Plenary, states agreed by acclamation to adopt on 30 May the draft text set out in the Presidency Paper together with any necessary technical and editorial modifications.⁵⁹² On 30 May 2008, the Convention on Cluster Munitions was formally adopted by acclamation.

⁵⁸⁵ Statement of Ireland, Committee of the Whole, Dublin Diplomatic Conference, 19 May 2008; and Statement of Ireland, Informal Discussions on Article 1, Dublin Diplomatic Conference, 21 May 2008. Notes by Landmine Action.

⁵⁸⁶ Summary Record of the Committee of the Whole, Tenth Session: 26 May 2008, Dublin Diplomatic Conference, CCM/CW/SR/10, 18 June 2008.

⁵⁸⁷ In one incident, delegates packed into a room meant for twenty people with few microphones making it close to impossible for states opposed to interoperability provisions to intervene, and the dissenting opinions of many states were not heard or reflected in the Friend of the President’s final paper. CMC, “Day 7 – Waiting – Dublin Diplomatic Conference,” 27 May 2008, www.stopclustermunitions.org.

⁵⁸⁸ Summary Record of the Committee of the Whole, Fifteenth Session: 28 May 2008, Dublin Diplomatic Conference, CCM/CW/SR/15, 18 June 2008; and CMC, “Day 8 – Convention!!! – Dublin Diplomatic Conference,” 28 May 2008, www.stopclustermunitions.org.

⁵⁸⁹ Summary Record of the Committee of the Whole, Sixteenth Session: 28 May 2008, Dublin Diplomatic Conference, CCM/CW/SR/16, 18 June 2008.

⁵⁹⁰ Aotearoa New Zealand CMC, “Dublin Day 8 – Delivering the Deal,” Blog, 28 May 2008, www.stopclusterbombs.org.nz.

⁵⁹¹ CMC Statement delivered by Stephen Goose, CMC Co-Chair, director of the Arms Division at Human Rights Watch, Dublin Diplomatic Conference, 28 May 2008, www.hrw.org. The CMC believed that “if the text had been opened up, it would have gotten stronger and not weaker,” but it respected the judgment of the president and many states that this was not the best way forward.

⁵⁹² Summary Record of the Plenary, Third Session: 28 May 2008, Dublin Diplomatic Conference, CCM/SR/3, 18 June 2008.

Ireland's Minister of Foreign Affairs Micheál Martin addressed the closing ceremony of the conference, paying tribute to the efforts of all delegations including the CMC and its contingent of cluster munition survivors, and expressing pride at the central role played by Ireland, particularly Ambassador O'Ceallaigh. He urged delegates to "set three immediate goals" for the "far-reaching and comprehensive Convention, namely swift ratification, universalisation ultimately by all UN member states, and implementation not least of the provisions on victim assistance and clearance."⁵⁹³

A total of 107 states adopted the convention on 30 May 2008, while another 20 observers participated in the Dublin Diplomatic Conference.⁵⁹⁴ The CMC delegation to the conference was comprised of 284 campaigners from 61 countries, including more than a dozen cluster munition and landmine survivors from Afghanistan, Cambodia, Iraq, Serbia, Tajikistan, Vietnam, and Western Sahara.⁵⁹⁵

As the most important Oslo Process event, the CMC put an enormous amount of energy into the Dublin negotiations, undertaking an array of lobbying work, media outreach, and public events. CMC delegates provided technical advice to the diplomats, made interventions in the formal sessions and disseminated materials including critiques of treaty proposals, as well as a daily update and a newsletter. CMC members confronted the United States for not participating in the Dublin negotiations, but still seeking to negatively influence the proceedings.⁵⁹⁶ Campaigners held workshops and discussions on a future signature and ratification campaign for the convention. A CMC Action Plan for rapid entry into force of the convention was disseminated to delegates at the close of the conference.⁵⁹⁷

On 22 October 2008, Ireland introduced national legislation on cluster munitions and the implementation of the convention into its Lower House (Dáil Éireann). The Cluster Munitions and Anti-personnel Mines Bill 2008 proceeded to the Upper House (Seanad Éireann) after minor amendments on 18 November.⁵⁹⁸

On 2 December 2008, on the eve of the signing conference in Oslo, Ireland enacted the bill as Act Number 20. The legislation also served as Ireland's instrument of ratification, allowing it both to sign and ratify on the same day. The law prohibits use, development, production, acquisition, possession, and transfer of cluster munitions and explosive bomblets, and contains other provisions to implement the convention. Those guilty of offenses may be fined up to €1 million and imprisoned up to ten years. The law explicitly prohibits the investment of public money in cluster munitions producers, making Ireland the second country in the world to prohibit investment in cluster munitions.⁵⁹⁹ Concerns have been raised about the treatment of the issue of interoperability (Article 21 of the convention).⁶⁰⁰

Upon signing the convention on 3 December 2008, Minister for Justice, Equality, and Law Reform Dermot Ahern highlighted two particularly significant elements in the journey to Oslo. First, he noted the speed of the process from start to finish. Second, he drew attention to the way in which the goal of the process had been achieved. "A core group of committed States, flanked by a much greater number of sympathetic States, worked closely with civil society and international organisations to bring about a comprehensive humanitarian treaty. The cross-fertilisation, stimulation and mutual respect enriched and sustained the process. The indomitable spirit of the Ban Advocates, overcoming terrible injuries to bear witness to the horrors of cluster munitions, inspired us throughout," Minister Ahern affirmed. Ireland encouraged others to follow its example and ratify the convention rapidly to ensure its entry into force and implementation.⁶⁰¹

⁵⁹³ Statement by Micheál Martin, Minister of Foreign Affairs, Closing Ceremony, Dublin Diplomatic Conference, 30 May 2008, www.clustermunitionsdublin.ie.

⁵⁹⁴ List of Delegates, Dublin Diplomatic Conference, CCM/INF/1, 30 May 2008, www.clustermunitionsdublin.ie.

⁵⁹⁵ Aotearoa New Zealand CMC, "Report on Activities: Dublin Conference on Cluster Munitions, 19–30 May 2008," July 2008, p. 5, www.stopclusterbombs.org.nz.

⁵⁹⁶ On 23 May 2008, campaigners demonstrated outside the US embassy in Dublin and on 26 May, US Senator Patrick Leahy and Nobel Peace Prize Laureate Jody Williams spoke at a lunchtime panel on US cluster munition policy. CMC, "U.S. Leadership and Set-Backs," *Cluster Ban News*, 28 May 2008.

⁵⁹⁷ CMC, "Dublin Action Plan to Achieve Rapid Entry into Force of the Convention on Cluster Munitions," 30 May 2008, www.stopclustermunitions.org.

⁵⁹⁸ CMC, "National Legislation Banning Cluster Munitions – Ireland," www.stopclustermunitions.org.

⁵⁹⁹ "Cluster Munitions and Anti-Personnel Mines Act 2008," Houses of the Oireachtas, Act Number 20 of 2008, www.oireachtas.ie.

⁶⁰⁰ CMC, "National Legislation Banning Cluster Munitions – Ireland," www.stopclustermunitions.org.

⁶⁰¹ Statement by Dermot Ahern, Minister for Justice, Equality, and Law Reform, Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008.

On 18 March 2009, at a special event on the convention at UN Headquarters in New York, Ireland reaffirmed its commitment to promote the convention, stating that it was a priority issue for the Irish government.⁶⁰²

During CCW negotiations on cluster munitions in 2008, Ireland served as Friend of the Chair on Definitions. However, Ireland remained skeptical of the likely outcome. In September 2008, Ireland stated that it was committed to a higher standard than was likely to be feasible in the CCW. The draft instrument under consideration, with its optional prohibitions, was only as strong as the weakest option, Ireland said.⁶⁰³ In November, as the CCW negotiations were scheduled to conclude, Ireland stated that it continued to have serious concerns over the draft, of which many provisions, including those on failure rates and transition periods, were unacceptable.⁶⁰⁴ It joined 25 other states in issuing a statement expressing opposition to the weak draft text on a possible CCW protocol on cluster munitions, indicating it was an unacceptable step back from the standards set by the Convention on Cluster Munitions.⁶⁰⁵ CCW States Parties were unable to reach agreement and decided to continue work in 2009.

ITALY

The Republic of Italy signed the Convention on Cluster Munitions in Oslo on 3 December 2008. During a special event to promote the convention at the UN in New York in March 2009, Italy announced that it had begun its ratification process.⁶⁰⁶

Italy is party to the Convention on Conventional Weapons (CCW), but has not ratified Protocol V on Explosive Remnants of War.

Cluster Munition Ban Policy

Italy's cluster munition policy evolved significantly from 2006 to 2008. The government of Italy was not an early supporter of a prohibition on cluster munitions. During the CCW Third Review Conference in November 2006, Italy did not join 25 nations in supporting a declaration calling for an agreement that would prohibit the use of cluster munitions "within concentrations of civilians," prohibit the use of cluster munitions that "pose serious humanitarian hazards because they are for example unreliable and/or inaccurate," and require destruction of stockpiles of such cluster munitions.⁶⁰⁷

In January 2007, Member of Parliament Roberta Pinotti proposed a motion calling on the Italian government to prohibit its armed forces from using cluster munitions in international missions, to promote diplomatic action to create a new CCW protocol prohibiting the production, stockpiling, transfer, and use of cluster munitions, and to take the necessary steps to ratify CCW Protocol V.⁶⁰⁸

Italy participated in the initial conference to launch the Oslo Process in Oslo in February 2007, all three international conferences to develop the convention text in Lima (May 2007), Vienna (December 2007), and Wellington (February 2008), as well as the formal negotiations in Dublin (May 2008).⁶⁰⁹

⁶⁰² CMC, "Report on the Special Event on the Convention on Cluster Munitions, United Nations, New York, 18 March 2009."

⁶⁰³ Statement of Ireland, Fourth 2008 Session of the CCW Group of Governmental Experts (GGE) on Cluster Munitions, Geneva, 4 September 2008. Notes by Landmine Action.

⁶⁰⁴ Statement of Ireland, Fifth 2008 Session of the CCW GGE on Cluster Munitions, Geneva, 4 November 2008. Notes by Landmine Action.

⁶⁰⁵ Statement delivered by Costa Rica on behalf of Austria, Belgium, Benin, Bosnia and Herzegovina, Chile, Croatia, Ecuador, El Salvador, Guatemala, Holy See, Honduras, Indonesia, Ireland, Lebanon, Mexico, New Zealand, Nicaragua, Norway, Peru, Philippines, Senegal, South Africa, Uganda, Uruguay, and Venezuela, Fifth 2008 Session of the CCW GGE on Cluster Munitions, Geneva, 5 November 2008.

⁶⁰⁶ CMC, "Report on the Special Event on the Convention on Cluster Munitions, United Nations, New York, 18 March 2009."

⁶⁰⁷ Declaration on Cluster Munitions, Third Review Conference of the States Parties to the CCW, CCW/CONF.III/WP.18, Geneva, 17 November 2006.

⁶⁰⁸ Resolution 7-00081 Pinotti: On the application of cluster bombs to the area of antipersonnel landmines (sull'applicazione alle *cluster bombs* della disciplina in materia di mine antipersona), Chamber of Deputies, IV Commission, 16 January 2007, Annex 2, p.58, english.camera.it.

⁶⁰⁹ Italy also attended the regional conference in Brussels in October 2007.

At the conclusion of the Oslo conference, Italy endorsed the Oslo Declaration committing states to conclude in 2008 a new convention prohibiting cluster munitions that cause unacceptable harm to civilians. At the same time, it indicated a clear preference for work in the CCW. Italy insisted that the CCW be “given a chance” to continue its work on a cluster munition protocol and maintained that Protocol V was an example of the tangible results possible in the CCW.⁶¹⁰ Italy lobbied for a reference to the CCW and Protocol V to be included in the Oslo Declaration and emphasized that the Oslo Declaration was only a political commitment.⁶¹¹

At the Lima conference, Italy welcomed the initiative of Peru to work toward a Latin American regional moratorium on cluster munitions and stated it was ready to consider taking steps toward a national moratorium. Italy again maintained, however, that the CCW was the most appropriate forum for work on cluster munitions and appealed to states to support a mandate for negotiations in the CCW.⁶¹² Italy supported Germany’s draft CCW Protocol VI on cluster munitions and stated that it would be useful as a basis for work in the Oslo Process.⁶¹³

At the Vienna conference, Italy joined those states calling for various exceptions for certain cluster munitions on the basis of different technical characteristics.⁶¹⁴ Italy also supported provisions to facilitate “interoperability” (joint military operations with states not party).⁶¹⁵

At the Wellington conference, Italy supported proposals to include provisions on interoperability in the convention and for the retention of cluster munitions for training and research.⁶¹⁶ Italy was a vocal opponent of provisions establishing special obligations for past users of cluster munitions.⁶¹⁷ At the conclusion of the Wellington conference, Italy supported a statement by France expressing dissatisfaction with the process of the conference on behalf of a so-called like-minded group.⁶¹⁸ Italy added that it “would have liked to see more transparency and inclusiveness.” Italy subscribed to the Wellington Declaration, indicating its intention to participate fully in the Dublin negotiations, but added, “It is our firm understanding that the Draft Convention text together with the Compendium of proposals will form the basis for our work in Dublin, where Italy will be negotiating on the basis of the proposals contained in these documents.”⁶¹⁹

During the Dublin negotiations from 19–30 May 2008, Italy continued to argue for the deletion of legal responsibilities for past users of cluster munitions, for the inclusion of provisions allowing retention of cluster munitions for training and research, and for provisions on interoperability.⁶²⁰ On 23 May 2008, Shadow Minister of Defense Roberta Pinotti submitted a motion to the Italian Senate calling on the government to take a clear position in the negotiations in favor of a ban on cluster munitions. The motion was approved on 28 May by a large bipartisan majority and enabled the Italian delegation to support the text agreed in Dublin.⁶²¹ When Italy joined consensus on the adoption of the convention, it said the negotiations had been fair and open and that the text fulfilled the objectives of the Oslo Declaration. Italy added, however, that it would have liked to have had clearer language on the issue of interoperability.⁶²²

⁶¹⁰ Statement of Italy, Oslo Conference on Cluster Munitions, 22 February 2007. Notes by CMC /WILPF.

⁶¹¹ *Ibid.*, 23 February 2007.

⁶¹² Statement of Italy, Lima Conference on Cluster Munitions, 23 May 2007. Notes by CMC/WILPF.

⁶¹³ *Ibid.*, 24 May 2007.

⁶¹⁴ Statement of Italy, Session on General Obligations and Scope, Vienna Conference on Cluster Munitions, 6 December 2007. Notes by CMC/WILPF.

⁶¹⁵ *Ibid.*

⁶¹⁶ Amendment to the Draft Cluster Munitions Convention (final version), Inter-operability, Presented by Germany, Wellington Conference on Cluster Munitions, 21 February 2008.

⁶¹⁷ Italy argued that such provisions would create controversies of a historical and political nature and could become an impediment to universalization of a future convention. Statement of Italy, Wellington Conference, 20 February 2008.

⁶¹⁸ Statement of France on behalf of like-minded countries, Closing Plenary, Wellington Conference, 22 February 2008.

⁶¹⁹ The compendium consisted mostly of proposals from the like-minded group that did not generate widespread acceptance in Wellington and which were criticized by the CMC as weakening the draft convention. Statement by Amb. Gioacchino Trizzino, Closing Plenary, Wellington Conference, 22 February 2008.

⁶²⁰ Statement of Italy, Informal Discussions on Interoperability, Dublin Diplomatic Conference on Cluster Munitions, 20 May 2008; and Statement of Italy, Committee of the Whole on Article 3, Dublin Diplomatic Conference, 19 May 2008. Notes by Landmine Action.

⁶²¹ Democratic Party Parliamentary Group, “Defense: Pinotti presents a motion to ban cluster bombs,” 23 May 2008, www.senato.it; and Statement by Vincenzo Scotti, Undersecretary of State, Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008.

⁶²² Statement of Italy, Committee of the Whole, Dublin Diplomatic Conference, 28 May 2008. Notes by Landmine Action.

During a CCW session on 4 November 2008, Italy called on the CCW to agree to a substantial prohibition with an immediate effect.⁶²³ However, Italy did not join 26 states that issued a joint statement on 5 November expressing their opposition to the weak draft text on a possible CCW protocol on cluster munitions, indicating it was an unacceptable step back from the standards set by the Convention on Cluster Munitions.⁶²⁴

Upon signing the convention in Oslo, Italy stated, “Today, we are opening a new chapter of what we can call ‘humanitarian disarmament,’ a process which starts with an early entry into force of the Convention on Cluster Munitions and then proceeds with its universalisation and its effective implementation. For Italy, that means an early ratification, support for the universalisation process and renewed efforts in mine action and victim assistance. We leave Oslo with our commitments clearly in mind, let’s start our work in earnest.”⁶²⁵

Use, Production, Stockpiling, and Transfer

Italy is not believed to have used cluster munitions, but it has produced and stockpiled them. It is not known whether or not Italy has exported cluster munitions to other countries.

The company Simmel Difesa SpA (formerly also known as BPD Difesa e Spazio), based in Colleferro near Rome, at one point produced 81mm mortar bombs called RS6A2 and S6A2 and a 120mm mortar bomb called S12B which contained an unknown dual purpose improved conventional munition (DPICM) type of submunition.⁶²⁶

Simmel also produced a 155mm projectile called the RB63 (also called 155mm IM 303 BCR) that was a copy of the German DM642 projectile and was the result of a joint development and marketing program between Simmel and the German company Rhenmetall. The projectile contained 63 DM1383 DPICM self-destructing submunitions.⁶²⁷

Following campaigning by the Italian Campaign to Ban Landmines, the company posted on its website a notice announcing the withdrawal of such munitions from its catalogue. The company stated that it has never produced or exported cluster munitions and gave assurances that any production would respect “existing and future legislation.”⁶²⁸ However, one investigative report broadcast on satellite TV channel “Rainews24” in April 2006 showed that cluster munitions were still available through Simmel’s catalogue.⁶²⁹

Italy also possesses M26 rockets, each with 644 submunitions, for its Multiple Launch Rocket System launchers. Jane’s Information Group lists Italy as also possessing BL-755 and Rockeye cluster bombs.⁶³⁰

In addition, Italy destroyed its stocks of the MUSPA and MIFF submunitions that were payloads for the MW-1 dispenser, which it imported from Germany. Italy determined that these airfield denial antimaterial and antipersonnel submunitions with an electronic/acoustic fuze system, were considered antipersonnel mines under the Mine Ban Treaty and included them in destruction plans under that treaty.

⁶²³ Statement of Italy, Fifth 2008 Session of the CCW GGE on Cluster Munitions, Geneva, 4 November 2008. Notes by Landmine Action.

⁶²⁴ Statement delivered by Costa Rica, Fifth 2008 Session of the CCW GGE on Cluster Munitions, Geneva, 5 November 2008.

⁶²⁵ Statement by Vincenzo Scotti, Signing Conference, Oslo, 3 December 2008.

⁶²⁶ Leland S. Ness and Anthony G. Williams, eds., *Jane’s Ammunition Handbook 2007–2008* (Surrey, UK: Jane’s Information Group Limited, 2007), pp. 468–469; Terry J. Gander and Charles Q. Cutshaw, eds., *Jane’s Ammunition Handbook 2001–2002*, (Surrey, UK: Jane’s Information Group Limited, 2001), p. 522.

⁶²⁷ Leland S. Ness and Anthony G. Williams, eds., *Jane’s Ammunition Handbook 2007–2008* (Surrey, UK: Jane’s Information Group Limited, 2007), pp. 674–675.

⁶²⁸ Email from the Italian Campaign to Ban Landmines, 15 February 2007; and Simmel Difesa SpA, “Simmel Difesa Products,” www.simmeldifesa.com.

⁶²⁹ Email from the Italian Campaign to Ban Landmines, 15 February 2007.

⁶³⁰ Robert Hewson, ed., *Jane’s Air-Launched Weapons*, Issue 44 (Surrey, UK: Jane’s Information Group Limited, 2004), p. 841. The M26 rockets and Rockeye bombs were produced by the United States, and the BL-755 by the United Kingdom.

JAPAN

Japan signed the Convention on Cluster Munitions in Oslo on 3 December 2008. On 10 March 2009, Japan's Cabinet approved a bill implementing the convention. The bill bans production and possession of cluster munitions and affirms Japan's obligation to dispose of cluster munitions in its stockpiles. The bill, which also serves to ratify the convention, has been submitted to both chambers of the Diet for deliberation. The government indicated that it aims to enact the bill and ratify the convention during the current Diet session, which ends in June 2009.⁶³¹ A Japanese Ministry of Foreign Affairs official was quoted as saying the fast-track approval of the legislation was "unprecedented."⁶³²

Japan is party to the Convention on Conventional Weapons (CCW), but has yet to ratify Protocol V on Explosive Remnants of War.

Cluster Munition Ban Policy

Japan was not initially supportive of the Oslo Process and advocated instead for restrictions on cluster munitions within the framework of the CCW. During the course of the Oslo Process, Japan's cluster munition policy developed substantially and since signing the convention, Japan has shown commitment to push for early ratification.

In 2005, Japan provided a detailed statement on its national view of cluster munitions, indicating that its Self-Defense Forces "possess cluster munitions to attack and interdict vehicles such as tanks or landing crafts which deploy and move in a wide area in case of landing invasion by an adversary. From the viewpoint of Japanese military policy which is exclusively defense-oriented, we believe they are indispensable."⁶³³

At the CCW Third Review Conference in November 2006, Japan did not support a proposal for a mandate to negotiate a legally-binding instrument in the CCW "that addresses the humanitarian concerns posed by cluster munitions."⁶³⁴ The proposal was not agreed.

Nevertheless, Japan decided to attend the initial meeting in Oslo that launched the Oslo Process in February 2007. At the conclusion, Japan was one of only three states of the 49 present that did not endorse the resulting Oslo Declaration, in which states pledged to conclude in 2008 a legally-binding instrument prohibiting cluster munitions that cause unacceptable harm to civilians.⁶³⁵

Japan went on to participate in all three of the international diplomatic conferences of the Oslo Process to develop the convention text in Lima, Vienna, and Wellington, as well as the formal negotiations in Dublin in May 2008. It also attended regional conferences in Cambodia (March 2007) and Lao PDR (October 2008).

At the Lima conference, Japan argued that cluster munitions remained important for the national security of many countries and stated that "if a total ban or an immediate ban is pursued... we will not be able to obtain support from those countries with cluster munitions and therefore could not be an effective response to the issue."⁶³⁶ Japan pursued three main avenues which it considered would ameliorate the humanitarian harm caused by cluster munitions and be necessary for the agreement of an instrument: technical provisions

⁶³¹ "Gov't gives green light to bill banning production, possession of cluster bombs," *Mainichi Daily News*, 11 March 2009, mdn.mainichi.jp. It is titled "Legislation on ban of production and on regulation of possession of cluster munitions" and is available in Japanese at www.meti.go.jp.

⁶³² *Ibid.*

⁶³³ Delegation of Japan to the Conference on Disarmament, "Reply to the Questionnaire by Pax Christi Netherlands, Subject: Military Utility of Cluster Weapons, Country: Japan," 31 May 2005.

⁶³⁴ Proposal for a Mandate to Negotiate a Legally-Binding Instrument that Addresses the Humanitarian Concerns Posed by Cluster Munitions, Presented by Austria, Holy See, Ireland, Mexico, New Zealand, and Sweden, Third Review Conference of the States Parties to the CCW, Geneva, CCW/CONF.III/WP.1, Geneva, 25 October 2006. After that proposal failed, Japan also chose not to join 26 nations in supporting a declaration calling for an international agreement that would prohibit the use of cluster munitions "within concentrations of civilians," prohibit the use of cluster munitions that "pose serious humanitarian hazards because they are for example unreliable and/or inaccurate," and require destruction of stockpiles of such cluster munitions. Declaration on Cluster Munitions, Third Review Conference of the States Parties to the CCW, CCW/CONF.III/WP.18, Geneva, 17 November 2006.

⁶³⁵ CMC, "Report, Oslo Conference on Cluster Munitions, 22–23 February 2007," February 2007, www.stopclustermunitions.org.

⁶³⁶ Statement of Japan, Lima Conference on Cluster Munitions, 23 May 2007. Unofficial transcription by WILPF.

aimed at minimizing the failure rate of submunitions; compliance with international humanitarian law; and consideration of the implications of a new instrument for “interoperability” (joint military operations with states not party).⁶³⁷

At the Wellington conference, Japan strengthened its lobbying for the inclusion of provisions on interoperability, and argued that the prohibition on “assistance” should apply to development, production and acquisition of cluster munitions, but not to their use. Japan called for a transition period for an unspecified number of years, during which the use of cluster munitions would be allowed “only when strictly necessary.”⁶³⁸ Japan associated itself with the so-called like-minded group that put forth a number of proposals strongly criticized by the CMC as weakening the draft text. Japan supported the joint statement of the like-minded group at the end of the conference expressing disappointment with the proceedings and the unwillingness to incorporate their proposals into the draft text.⁶³⁹ Nevertheless, Japan subscribed to the Wellington Declaration, indicating its intention to participate fully in the formal negotiations in Dublin on the basis of the Wellington draft text.

For the Global Day of Action on cluster munitions on 19 April 2008, cluster munition survivor and international ban advocate from Serbia, Branislav Kapetanovic, met with Japan’s Vice-Minister of Foreign Affairs and other officials to urge Japan to support a comprehensive ban on cluster munitions in the Oslo Process. Working with the Japan Campaign to Ban Landmines, Kapetanovic gave talks and media interviews to raise awareness on the issue just weeks before the negotiations in Dublin.⁶⁴⁰ Japan’s Parliamentarians’ League against Cluster Munitions was established shortly after this visit.⁶⁴¹

At the Dublin negotiations in May 2008, Japan again pushed for provisions on interoperability and for a transition period.⁶⁴² Japan stated that the outcome of the conference would depend on whether the issue of interoperability could be resolved.⁶⁴³ Japan continued to argue that mechanical fail safe mechanisms could be sufficiently effective in reducing the humanitarian harm caused by cluster munitions. Against this background, Japan joined the consensus in adopting the convention text, but expressed some doubt as to whether it would be able to sign the convention in Oslo.⁶⁴⁴

In November 2008, during the Global Week of Action, the Japanese Campaign to Ban Landmines continued its campaigning efforts, sending lobbying letters to the members of the Japanese Diet’s caucus on cluster munitions, and organizing a panel discussion on the convention in Tokyo. NGOs such as Peace Boat, Association for Aid and Relief (AAR) Japan and Japan Initiative organized events to promote signature of the convention.⁶⁴⁵

Japan had served as a Friend of the Chair during the 2008 CCW work on cluster munitions and when that exercise failed to conclude anything in November 2008, Japan stated that it would continue to support CCW work on cluster munitions in 2009. Japan said that even with the Convention on Cluster Munitions, a CCW protocol would be necessary to “put a heavy political price on the future use of cluster munitions.”⁶⁴⁶ Japan did not join 26 states that issued a joint statement expressing their opposition to the weak draft text on a possible CCW protocol on cluster munitions, indicating it was an unacceptable step back from the standards set by the Convention on Cluster Munitions.⁶⁴⁷

⁶³⁷ Ibid, 24 May 2007.

⁶³⁸ Statement of Japan, Session on General Obligations and Scope, Wellington Conference on Cluster Munitions, 18 February 2008.

⁶³⁹ Statement of France on behalf of like-minded countries, Wellington Conference, 22 February 2008.

⁶⁴⁰ CMC, “Global Day of Action to Ban Cluster Bombs – What Happened,” www.stopclustermunitions.org.

⁶⁴¹ Stephanie Castanie and Branislav Kapetanovic, “Branislav’s visit in Japan,” 1 May 2008, blog.banadvocates.org.

⁶⁴² Statement of Japan, Dublin Diplomatic Conference on Cluster Munitions, Committee of the Whole on Article 1, 19 May 2008. Notes by Landmine Action.

⁶⁴³ Statement of Japan, Informal Discussions on Interoperability, Dublin Diplomatic Conference, 20 May 2008. Notes by Landmine Action.

⁶⁴⁴ Statement of Japan, Committee of the Whole, Dublin Diplomatic Conference, 28 May 2008. Notes by Landmine Action.

⁶⁴⁵ CMC, “Global Week of Action to Ban Cluster Bombs, 28 October – 2 November 2008,” www.stopclustermunitions.org.

⁶⁴⁶ Statement of Japan, 2008 Meeting of the States Parties to the CCW, Geneva, 13 November 2008.

⁶⁴⁷ Statement delivered by Costa Rica on behalf of Austria, Belgium, Benin, Bosnia and Herzegovina, Chile, Croatia, Ecuador, El Salvador, Guatemala, Holy See, Honduras, Indonesia, Ireland, Lebanon, Mexico, New Zealand, Nicaragua, Norway, Peru, Philippines, Senegal, South Africa, Uganda, Uruguay, and Venezuela, Fifth 2008 Session of the CCW Group of Governmental Experts on Cluster Munitions, Geneva, 5 November 2008.

Minister of Foreign Affairs Hirofumi Nakasone signed the convention on behalf of Japan in Oslo in December. Noting the importance of the convention in rebuilding countries after armed conflicts, and as evidence “that the attitude of the human-beings towards armed conflicts has entered a new phase,” he called the Convention on Cluster Munitions “an epoch-making treaty.”⁶⁴⁸

Use, Production, Stockpiling, and Transfer

Japan is not known to have ever used cluster munitions, but it has produced, stockpiled, and imported them.

In 2001, the United States provided assistance and technical data to support Japan’s production of cluster bombs called CBU-87 Combined Effects Munitions, each of which contains 202 bomblets.⁶⁴⁹ In addition to CBU-87 bombs, Japan has acknowledged that it stockpiles M483A1 artillery projectiles (each with 88 dual purpose improved conventional munition, DPICM, submunitions), M26/M26A1 rockets (each with 644 submunitions), and M261 Hydra helicopter rockets (each with nine submunitions).⁶⁵⁰

The government has not revealed the number of cluster munitions in its arsenals. Media reports indicate that Japan’s Air and Ground Self-Defense Forces have spent about ¥27.5 billion to procure submunitions since the 1980s.⁶⁵¹

In late November 2008, Japan’s *Mainichi Daily News* reported that the Japanese government had decided to destroy its entire stockpiles of cluster munitions.⁶⁵² One report estimated the cost of destroying Japan’s stocks of cluster munitions at around ¥20 billion.⁶⁵³ Minister of Defense Yasukazu Hamada said in November 2008 that Japan appropriated ¥7.5 billion from its fiscal year 2009 budget for precision guided weapons as one alternative to cluster munitions, and for expenses associated with research on disposal of cluster munitions.⁶⁵⁴

KENYA

The Republic of Kenya signed the Convention on Cluster Munitions in Oslo on 3 December 2008. The status of the ratification process is unknown. Kenya is not believed to have ever used, produced, stockpiled, or transferred cluster munitions.

Kenya did not attend the first two international diplomatic conferences of the Oslo Process in Oslo and Lima, but did participate in the subsequent conferences to develop the convention text in Vienna and Wellington, as well as the formal negotiations in Dublin in May 2008. It also participated in the regional conferences in Livingstone (March/April 2008) and Kampala (September 2008).

At the Wellington conference, Kenya said it was not affected by cluster munition remnants, but supported the call for a ban on cluster munitions.⁶⁵⁵ Kenya endorsed the Wellington Declaration, indicating its intention to participate in the Dublin negotiations. At the Livingstone conference, Kenya said past users of cluster munitions need to take responsibility for clearance and cooperation and assistance.⁶⁵⁶ Kenya endorsed the Livingstone Declaration, calling for a comprehensive treaty with a prohibition that should be “total and immediate.”⁶⁵⁷

⁶⁴⁸ Statement by Hirofumi Nakasone, Minister of Foreign Affairs, Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008.

⁶⁴⁹ US Department of State, Office of Legislative Affairs, “Notification of Export Certification Pursuant to Section 36(c) of the Arms Export Control Act,” Transmittal No. DTC 107-1, 1 October 2001.

⁶⁵⁰ Delegation of Japan to the Conference on Disarmament, “Reply to the Questionnaire by Pax Christi Netherlands, Subject: Military Utility of Cluster Weapons, Country: Japan,” 31 May 2005.

⁶⁵¹ Kuniichi Tanida, “Cluster bomb ban to force defense overhaul,” *International Herald Tribune* (Herald Asahi), 6 August 2008.

⁶⁵² “Japan to eliminate stockpiles of cluster munitions, ban new acquisitions,” *Mainichi Daily News*, 21 November 2008, mdn.mainichi.jp.

⁶⁵³ “Japan to abolish cluster bombs,” *Jiji Ticker Press Service*, 21 November 2008.

⁶⁵⁴ Ministry of Defense, “Press Conference by the Defense Minister,” 28 November 2008, www.mod.go.jp.

⁶⁵⁵ Statement of Kenya, Wellington Conference on Cluster Munitions, 21 February 2008. Notes by CMC.

⁶⁵⁶ CMC, “Report on the Livingstone Conference on Cluster Munitions,” March/April 2008, www.stopclustermunitions.org.

⁶⁵⁷ Livingstone Declaration, Livingstone Conference on Cluster Munitions, 1 April 2008.

During the negotiations in Dublin, Kenya worked to achieve a strong treaty text and to defeat proposals to weaken it, including the proposal of a transition period before obligations took effect.⁶⁵⁸ When it joined the consensus adoption of the convention, Kenya said, “Although we did not achieve all that we had wanted,” it welcomed the convention as a balanced compromise of all concerns.⁶⁵⁹ Kenya described it as “a significant milestone in international humanitarian law” and particularly welcomed the provisions on victim assistance and international cooperation.⁶⁶⁰

At the regional meeting in Kampala in September 2008, Kenya announced that it would sign the convention in Oslo. It endorsed the the Kampala Action Plan, which declared that states should sign and “take all necessary measures to ratify the convention as soon as possible.”⁶⁶¹ Upon signing, Kenya’s Assistant Minister of Foreign Affairs, Richard Momoima Onyonka, said the convention had provided “new impetus to multilateral diplomacy.”⁶⁶²

Kenya is not party to the Convention on Conventional Weapons.

The Kenyan Network to Ban Cluster Bombs, which is coordinated by Handicap International, conducted several activities in 2008 including People’s Treaty petition collection and a public march in the center of Nairobi on 31 October.⁶⁶³

LAO PEOPLE’S DEMOCRATIC REPUBLIC

The Lao People’s Democratic Republic (Lao PDR) signed the Convention on Cluster Munitions in Oslo on 3 December 2008. On 24 February 2009, the National Assembly of Lao PDR approved the ratification of the convention.⁶⁶⁴ Lao PDR became the fifth country to ratify the convention on 18 March 2009, when it deposited its instrument of ratification at a special event to promote the convention at UN headquarters in New York.⁶⁶⁵ Further demonstrating its commitment to the convention, Lao PDR has offered to host the First Meeting of States Parties in Vientiane.⁶⁶⁶

Lao PDR is party to the Convention on Conventional Weapons (CCW), but has not ratified Protocol V on Explosive Remnants of War.

Lao PDR is not believed to have used, produced, stockpiled, or transferred cluster munitions. However, Lao PDR has been severely affected by the use of cluster munitions. Over 260 million cluster submunitions were dropped on the country by the United States in the 1960s and 1970s, with some estimates suggesting as many as 80 million submunitions left unexploded.⁶⁶⁷ This contamination has caused thousands of casualties and presented a widespread impediment to development and reconstruction.

⁶⁵⁸ Summary Record of the Committee of the Whole, Eighth Session: 23 May 2008, Dublin Diplomatic Conference on Cluster Munitions, CCM/CW/SR/8, 18 June 2008.

⁶⁵⁹ Summary Record of the Committee of the Whole, Sixteenth Session: 28 May 2008, Dublin Diplomatic Conference, CCM/CW/SR/16, 18 June 2008; and Statement of Kenya, Dublin Diplomatic Conference, 28 May 2008. Notes by Landmine Action.

⁶⁶⁰ Summary Record of the Plenary and Closing Ceremony of the Conference, Fourth Session: 30 May 2008, Dublin Diplomatic Conference, CCM/SR/4, 18 June 2008.

⁶⁶¹ CMC, “Report on the Kampala Conference on the Convention on Cluster Munitions,” 30 September 2008; Kampala Action Plan, Kampala Conference, 30 September 2008.

⁶⁶² Statement by Richard Momoima Onyonka, Assistant Minister for Foreign Affairs, Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008. Notes by Landmine Action.

⁶⁶³ CMC, “Global Week of Action to Ban Cluster Bombs, 27 October – 2 November 2008,” www.stopclustermunitions.org.

⁶⁶⁴ CMC, “CMC Newsletter, February 2009,” 16 March 2009, www.stopclustermunitions.org.

⁶⁶⁵ CMC, “Lao Ratifies Cluster Bomb Ban Treaty,” Press release, 18 March 2009, www.stopclustermunitions.org.

⁶⁶⁶ Lao PDR first spoke of this informally while hosting the regional conference in October 2008, then publicly offered to host during the Convention on Cluster Munition Signing Conference in December. The Norwegian Minister of Foreign Affairs welcomed the offer from the podium. See also, Letter from Saleumxay Kommasith, Director General, Department of International Organizations, Ministry of Foreign Affairs, 25 February 2009.

⁶⁶⁷ UNDP LAO, “The Safe Path, South East Asia Regional Conference on the Convention on Cluster Munitions,” www.undplao.org.

Cluster Munition Ban Policy

As the most heavily affected country in the world, Lao PDR's support for the Oslo Process was a crucial element in its success. Lao PDR did not participate in the initial conference to launch the Oslo Process in February 2007. However, it participated in all of the subsequent international conferences to develop the convention text in Lima (May 2007), Vienna (December 2007), and Wellington (February 2008), as well as the formal negotiations in Dublin (May 2008). Lao PDR also attended the Belgrade conference for affected states (October 2007), and a regional meeting in Phnom Penh (March 2007). Lao PDR hosted the South East Asia Regional Conference on the Convention on Cluster Munitions on 20–22 October 2008 in Xiengkhouang.

At the Lima conference, Lao PDR's interventions reflected its direct experience with the humanitarian impact of cluster munitions and its continued efforts to tackle cluster munition contamination some 30 years after they had been used. It called for a comprehensive ban, concrete provisions for international cooperation and assistance, and assistance for cluster munition victims. At the Vienna conference, Lao PDR expressed concern about the feasibility of the five-year deadline for clearance in the draft convention text, stating it would not be possible in Lao PDR's case given the extent of contamination on its territory.⁶⁶⁸

At the Wellington conference, Lao PDR stated that proposals to include a transition period were beyond its comprehension as an affected country and would leave the door open for future use of prohibited weapons. Lao PDR argued that all cluster munitions should be prohibited, noting that of 19 different types of submunition used on Lao PDR's territory all had caused civilian casualties.⁶⁶⁹ Lao PDR advocated strongly for provisions placing special obligations on past users of cluster munitions, arguing that this was a moral responsibility. It supported comprehensive provisions for victim assistance, and appealed more generally for robust provisions on international cooperation and assistance.⁶⁷⁰

During the Dublin negotiations, Lao PDR continued to argue for a comprehensive definition of cluster munitions and opposed the inclusion of criteria to exempt munitions based on technological features.⁶⁷¹ Lao PDR firmly rejected proposals for a transition period, saying it would undermine the purpose of the convention.⁶⁷² It also spoke against provisions for "interoperability" (joint military operations with states not party) that could facilitate the use of cluster munitions by those that remained outside the convention. It argued that if States Parties condemned the use of cluster munitions, they should not tolerate their use by others.⁶⁷³

Lao PDR hosted the South East Asia Regional Conference on the Convention on Cluster Munitions – The Safe Path, on 20–22 October 2008 in Xiengkhouang province, the most heavily cluster munition affected area of Lao PDR. The conference provided participants with an opportunity to discuss challenges presented by cluster munition contamination and to consider the future impact of the convention.⁶⁷⁴

Deputy Prime Minister and Minister of Foreign Affairs Dr. Thongloun Sisoulith signed the convention in Oslo. Dr. Sisoulith stated that "in the Lao PDR, although the war ended more than thirty years ago, the Lao people continue to bear its legacy.... [T]he signing of this Convention...is just the beginning of our journey to the ultimate goal of eradicating the scourge of cluster munitions and liberating the people and our children from fear and threat of such a silent killer."⁶⁷⁵

⁶⁶⁸ Statement of Lao PDR, Session on Clearance, Vienna Conference on Cluster Munitions, 5 December 2007. Notes by CMC/WILPF.

⁶⁶⁹ Statement of Lao PDR, Session on Definition and Scope, Wellington Conference on Cluster Munitions, 19 February 2008. Notes by CMC.

⁶⁷⁰ Statement of Lao PDR, Session on Clearance, Wellington Conference, 20 February 2008. Notes by CMC.

⁶⁷¹ Statement of Lao PDR, Committee of the Whole on Article 2, Dublin Diplomatic Conference on Cluster Munitions, 19 May 2008. Notes by Landmine Action. Lao PDR argued that no evidence had been presented to show that new weapons will not cause "unacceptable harm" and suggested that evidence from the use of cluster munitions in Lebanon in 2006 provided grounds for doubt about the claims that are made for new technologies. Statement of Lao PDR, Informal Discussions on Definitions, Dublin Diplomatic Conference, 20 May 2008. Notes by Landmine Action.

⁶⁷² Statement of Lao PDR, Committee of the Whole, Dublin Diplomatic Conference, 23 May 2008. Notes by Landmine Action.

⁶⁷³ Statement of Lao PDR, Committee of the Whole on Article 1, Dublin Diplomatic Conference, 19 May 2008. Notes by Landmine Action.

⁶⁷⁴ CMC, "South East Asia Regional Conference on the Convention on Cluster Munitions," www.stopclustermunitions.org.

⁶⁷⁵ Remarks by Dr. Thongloun Sisoulith, Deputy Prime Minister, Minister of Foreign Affairs, Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008.

After the signing, the Prime Minister submitted a letter of ratification to the Lao National Assembly for consideration.⁶⁷⁶ On 18 March 2009, Lao PDR deposited its instrument of ratification at UN in New York.

LEBANON

The Republic of Lebanon signed the Convention on Cluster Munitions in Oslo on 3 December 2008. In February 2009, Lebanon confirmed that it was seeking to ratify the convention and that once ratified, the Ministry of Foreign Affairs and Emigrants would propose the establishment of an inter-ministerial committee to oversee its implementation.⁶⁷⁷ As a state seriously affected by cluster munitions, Lebanon played a high profile and influential role in the Oslo Process.

Lebanon is not party to the Convention on Conventional Weapons (CCW), but has participated as an observer in much of the CCW work on cluster munitions in recent years.

Lebanon has stated that it has never used, produced or stockpiled cluster munitions, and “it’s not willing to do so.”⁶⁷⁸ It is not believed to have a stockpile. However, Hezbollah fired more than 100 cluster munition rockets into northern Israel from southern Lebanon in 2006.⁶⁷⁹

Lebanon is contaminated by the use of cluster munitions by others. Israel used cluster munitions in southern Lebanon in 1978 and against Syrian forces and non-state armed forces in 1982.⁶⁸⁰ United States Navy aircraft dropped 12 CBU-59 and 28 Rockeye bombs against Syrian air defense units near Beirut in December 1983.⁶⁸¹ Israel fired more than 4 million submunitions into southern Lebanon in 2006, in one of the most egregious instances of the use of cluster munitions.⁶⁸²

Cluster Munition Ban Policy

The massive use of cluster munitions by Israel on the territory of Lebanon during the 2006 war with Hezbollah contributed greatly to the sense of humanitarian urgency that underpinned the Oslo Process. Lebanon was actively engaged throughout the Oslo Process and consistently argued that humanitarian concerns should be given primacy in the development of the convention’s provisions.

Lebanon participated in all of the international diplomatic conferences of the Oslo Process to develop the convention text in Oslo, Lima, Vienna, and Wellington, as well as the formal negotiations in Dublin in May 2008 and the conference in Belgrade for affected states in October 2007. Lebanon hosted a regional conference in Beirut from 11–12 November 2008.

At the Oslo conference which launched the Oslo Process in February 2007, Lebanon said that the humanitarian problems of cluster munitions could not be solved through technology and spoke against proposals to use submunition “failure rates” as a basis for assessing the acceptability of cluster munitions.⁶⁸³ Lebanon was also skeptical of the prospects for agreement of a meaningful instrument in the CCW, noting that it had not delivered on previous calls to action.⁶⁸⁴

⁶⁷⁶ Letter from Saleumxay Kommasith, Ministry of Foreign Affairs, 25 February 2009.

⁶⁷⁷ Letter from the Permanent Mission of Lebanon to the UN Office in Geneva, 10 February 2009.

⁶⁷⁸ *Ibid.* See also, Statement by Amb. Gebran Soufan, Permanent Mission of Lebanon to the UN in Geneva, Lima Conference on Cluster Munitions, 23 May 2007.

⁶⁷⁹ Hezbollah fired more than 100 Chinese-produced Type-81 122mm cluster munition rockets into northern Israel. Human Rights Watch, “Civilians Under Assault: Hezbollah’s Rocket Attacks on Israel in the 2006 War,” August 2007, Vol. 19, No. 2(E), pp. 44–48, www.hrw.org.

⁶⁸⁰ Human Rights Watch, “Cluster Munition Information Chart,” April 2009, www.hrw.org.

⁶⁸¹ *Ibid.*

⁶⁸² Human Rights Watch, “Flooding South Lebanon: Israel’s Use of Cluster Munitions in Lebanon in July and August 2006,” February 2008, Vol. 20, No. 2(E), www.hrw.org.

⁶⁸³ Statement of Lebanon, Oslo Conference on Cluster Munitions, 22 February 2007. Notes by CMC/WILPF.

⁶⁸⁴ *Ibid.*

At the Lima conference in May 2007, Lebanon gave a keynote speech in the Opening Ceremony, noting, “Today across south Lebanon [unexploded submunitions] are stuck in the branches of olive trees...they are on roof tops, mixed in with rubble, littered across fields, farms, backyards, driveways, roads, and outside schools.”⁶⁸⁵ Lebanon drew on its recent experience of civilian casualties, of wounded children, and of widespread destruction from the use of cluster munitions to argue for a broad prohibition and for mechanisms to assist affected individuals and communities. Lebanon strongly supported provisions on the responsibilities of past users of cluster munitions.⁶⁸⁶

At the Wellington conference in February 2008, Lebanon continued to argue for a comprehensive definition of a cluster munition without exceptions based on technical criteria.⁶⁸⁷ Lebanon also continued to advocate for special obligations for the past users of cluster munitions and called on states to support strong provisions for victim assistance.⁶⁸⁸

At the formal negotiations in Dublin in May 2008, Lebanon warned against exceptions to the prohibition based on accuracy or reliability criteria, noting that in the past certain submunitions had been heralded as “humanitarian” only to be proved otherwise in practice.⁶⁸⁹

Lebanon joined the consensus adoption of the convention, hailing it as ushering in a new approach to international law “that put humanitarian concerns at the very center.” Lebanon transmitted a message of sincere thanks from the individuals and communities affected by cluster munitions to the states that had worked together to adopt the convention.⁶⁹⁰

During the Global Week of Action to Ban Cluster Bombs in October 2008, campaigners staged “peace checkpoints” across Lebanon, distributing over 20,000 leaflets to raise public awareness about the convention. On 1 November, a roundtable with government ministers was held in Bint Jbeil, the site of a cluster munition strike, with 150 participants, including ministers, parliamentarians, heads of municipalities, and other community figures. On 2 November, 700 Scouts marched in Beirut to raise awareness about cluster munitions.⁶⁹¹

Lebanon hosted the Beirut Regional Conference on the Convention on Cluster Munitions from 11–12 November 2008. Government representatives participated from Bahrain, Egypt, Lebanon, Iraq, Jordan, Kuwait, Saudi Arabia, United Arab Emirates, Qatar, Yemen, and from states outside the region. The conference focused on responses to the 2006 crisis in Lebanon and resource mobilization in the framework of the convention.⁶⁹²

Although not a party to the CCW, Lebanon participated as an observer in the work on cluster munitions in 2008. In November, as CCW negotiations were scheduled to conclude, Lebanon was one of 26 countries that issued a joint statement expressing their opposition to the weak draft text on a possible CCW protocol on cluster munitions, indicating it was an unacceptable step back from the standards set by the Convention on Cluster Munitions.⁶⁹³

⁶⁸⁵ Statement by Amb. Gebran Soufan, Permanent Mission of Lebanon to the UN in Geneva, Lima Conference, 23 May 2007.

⁶⁸⁶ Lebanon also called for the establishment of a UN compensation mechanism to receive victims’ claims and a UN trust fund for victim assistance. Statement of Lebanon, Lima Conference, 24 May 2007. Unofficial transcription by WILPF.

⁶⁸⁷ Statement of Lebanon, Session on Definitions, Wellington Conference on Cluster Munitions, 19 February 2008. Notes by CMC.

⁶⁸⁸ Statement of Lebanon, Session on Victim Assistance, Wellington Conference, 19 February 2008. Notes by CMC.

⁶⁸⁹ Statement of Lebanon, Committee of the Whole on Article 2, Dublin Diplomatic Conference on Cluster Munitions, 19 May 2008. Notes by Landmine Action.

⁶⁹⁰ Statement of Lebanon, Closing Ceremony, Dublin Diplomatic Conference, 30 May 2008. Notes by Landmine Action.

⁶⁹¹ CMC, “Global Week of Action to Ban Cluster Bombs, 27 October – 2 November 2008,” www.stopclustermunitions.org.

⁶⁹² The conference was hosted by the Lebanon Mine Action Centre (LMAC), with support of the Ministry of Defense, the Ministry of Foreign Affairs and the Norwegian embassy to Lebanon. Lebanese campaigners worked closely with the LMAC to prepare the conference. Participation was minimal from most of the regional countries, with the exceptions of Bahrain, Jordan, and Yemen. CMC, “CMC Newsletter November – December 2008, Beirut Regional Conference on the Convention on Cluster Munitions, 11–12 November 2008,” 31 December 2008, www.stopclustermunitions.org.

⁶⁹³ Statement delivered by Costa Rica on behalf of Austria, Belgium, Benin, Bosnia and Herzegovina, Chile, Croatia, Ecuador, El Salvador, Guatemala, Holy See, Honduras, Indonesia, Ireland, Lebanon, Mexico, New Zealand, Nicaragua, Norway, Peru, Philippines, Senegal, South Africa, Uganda, Uruguay, and Venezuela, Fifth 2008 Session of the CCW Group of Governmental Experts on Cluster Munitions, Geneva, 5 November 2008.

Minister of Foreign Affairs and Emigrants Fawzi Salloukh signed the convention in Oslo on 3 December 2008. To states that had not yet embraced the convention, he said that “the time has come to put the welfare of human beings and their security as a priority above national security.”⁶⁹⁴

Lebanon has provided interpretive statements on a number of important provisions in the convention. These include that the prohibition on transfer of cluster munitions includes a prohibition on “transit,” that financing and investment in cluster munition production or transfer is prohibited, and that Article 1 of the convention takes precedence over Article 21, so that “States Parties must never undertake any act that could constitute deliberate assistance with a prohibited act.”⁶⁹⁵

LESOTHO

The Kingdom of Lesotho signed the Convention on Cluster Munitions in Oslo on 3 December 2008. The status of the ratification process is not known. Lesotho has stated that it does not use or produce cluster munitions.⁶⁹⁶ It is not believed to have a stockpile.

Lesotho is party to the Convention on Conventional Weapons (CCW), but has not ratified Protocol V on Explosive Remnants of War. It has not participated in the CCW discussions on cluster munitions in recent years.

Lesotho did not attend the initial conference to launch the Oslo Process in February 2007, but did participate in all three of the subsequent international diplomatic conferences to develop the convention text in Lima, Vienna, and Wellington, as well as the formal negotiations in Dublin in May 2008. It also participated in the regional conferences in Livingstone (March/April 2008) and Kampala (September 2008).

At the Lima conference, Lesotho said it was not affected by cluster munitions, but was present “to take this opportunity to...make the world a better place” through the creation of a legally binding international instrument on cluster munitions.⁶⁹⁷ In Wellington, Lesotho urged states to “desist from the temptation to regulate the use of cluster munitions as that would mean deciding on an acceptable degree of civilian suffering.”⁶⁹⁸ Lesotho endorsed the Wellington Declaration on 27 March 2008, indicating its intention to participate fully in the Dublin negotiations. At the Livingstone conference, Lesotho endorsed the Livingstone Declaration, calling for a comprehensive treaty with a prohibition that should be “total and immediate.”⁶⁹⁹

During the Dublin negotiations, Lesotho said it was “here to ban all cluster munitions” because “it is clear that all cluster munitions pose harm to civilians and are indiscriminate.”⁷⁰⁰ Lesotho opposed the inclusion of a transition period before obligations took effect.⁷⁰¹ Lesotho stated that user states should be obliged to assist victims.⁷⁰² At the conclusion, Lesotho described the text as a balanced and groundbreaking framework and said while Lesotho desired different wording in some articles, it was ready to support the convention in its entirety “in the spirit of compromise.”⁷⁰³

⁶⁹⁴ Statement by Fawzi Salloukh, Minister of Foreign Affairs and Emigrants, Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008.

⁶⁹⁵ Letter from the Permanent Mission of Lebanon to the UN Office in Geneva, 10 February 2009.

⁶⁹⁶ Statement of Lesotho, Lima Conference on Cluster Munitions, 24 May 2007. Notes by CMC/WILPF.

⁶⁹⁷ *Ibid.*

⁶⁹⁸ Statement of Lesotho, Wellington Conference on Cluster Munitions, 19 February 2008. Notes by CMC.

⁶⁹⁹ Livingstone Declaration, Livingstone Conference on Cluster Munitions, 1 April 2008.

⁷⁰⁰ Statement of Lesotho, Dublin Diplomatic Conference on Cluster Munitions, 21 May 2008. Notes by Landmine Action.

⁷⁰¹ Summary Record of the Committee of the Whole, Eighth Session: 23 May 2008, Dublin Diplomatic Conference, CCM/CW/SR/8, 18 June 2008.

⁷⁰² Summary Record of the Committee of the Whole, Second Session: 20 May 2008, Dublin Diplomatic Conference, CCM/CW/SR/2, 18 June 2008.

⁷⁰³ Summary Record of the Committee of the Whole, Sixteenth Session: 28 May 2008, Dublin Diplomatic Conference, CCM/CW/SR/16, 18 June 2008.

At the Kampala regional conference in September 2008, Lesotho announced that it would sign the convention in Oslo. It endorsed the the Kampala Action Plan, which declared that states should sign and “take all necessary measures to ratify the convention as soon as possible.”⁷⁰⁴

Upon signing, Lesotho noted that the convention had the strongest provisions for victim assistance to be found in international law. In this “age of unprecedented inter-connectedness,” it called on all states to sign the convention.⁷⁰⁵

LIBERIA

The Republic of Liberia signed the Convention on Cluster Munitions in Oslo on 3 December 2008. The status of the ratification process is not known. Liberia is not known to have used, produced, transferred, or stockpiled cluster munitions.

Liberia did not attend the initial meeting to launch the Oslo Process in February 2007, but participated in the next two international diplomatic conferences to develop the convention text in Lima and, as well as the African regional conference in Livingstone in March/April 2008. It did not attend the formal negotiations in Dublin in May 2008. It participated in the second regional conference in Kampala in September 2008.

At the Lima conference, Liberia committed to do its utmost to “permanently ban cluster munitions across the globe” in the hope that an international treaty may “bring some sanity to those countries who support or engage in the use of cluster munitions.”⁷⁰⁶ At the Vienna conference, Liberia restated its strong support for the Oslo Process and emphasized, “This is the opportunity to stand up and say to potential victims that this type of weapon must be banned.”⁷⁰⁷

Liberia did not participate in the Wellington conference in February 2008, but it endorsed the Wellington Declaration on 25 April 2008, indicating its intention to participate fully in the formal negotiations in Dublin. At the regional meeting in Livingstone, Liberia made strong interventions on several key issues, including “interoperability” (joint military operations with states not party).⁷⁰⁸ It endorsed the Livingstone Declaration, calling for a comprehensive treaty with a prohibition that should be “total and immediate.”⁷⁰⁹ However, Liberia did not attend the Dublin negotiations in May.

At the opening of the Kampala regional meeting in September 2008, Liberia declared its support for the convention and announced that it would sign in Oslo and urged all African states to “join us!”⁷¹⁰ It endorsed the the Kampala Action Plan, which declared that states should sign and “take all necessary measures to ratify the convention as soon as possible.”⁷¹¹

Upon signing the convention, Liberia’s Deputy Minister for Legal Affairs Krubo B. Collie described the convention as “a voice for the voiceless” and praised the provisions on victim assistance. He committed to work with the national legislature for swift ratification.⁷¹²

Liberia is party to the Convention on Conventional Weapons (CCW), and on 16 March 2006 ratified both Amended Protocol II on landmines and Protocol V on Explosive Remnants of War. It has not been an active participant in CCW discussions on cluster munitions in recent years.

⁷⁰⁴ CMC, “Report on the Kampala Conference on the Convention on Cluster Munitions,” 30 September 2008; Kampala Action Plan, Kampala Conference, 30 September 2008.

⁷⁰⁵ Statement of Lesotho, Convention on Cluster Munitions Signing Conference, Oslo, 4 December 2008. Notes by Landmine Action. Motloheloa Phooko, Minister to the Prime Minister’s Office, signed for Lesotho.

⁷⁰⁶ Statement of Liberia, Lima Conference on Cluster Munitions, 25 May 2007. Notes by CMC/WILPF.

⁷⁰⁷ Statement of Liberia, Vienna Conference on Cluster Munitions, 5 December 2007. Notes by CMC/WILPF.

⁷⁰⁸ CMC, “Report on the Livingstone Conference on Cluster Munitions,” March/April 2008, www.stopclustermunitions.org.

⁷⁰⁹ Livingstone Declaration, Livingstone Conference, 1 April 2008.

⁷¹⁰ Statement of Liberia, Kampala Conference on the Convention on Cluster Munitions, 29 September 2008. Notes by CMC.

⁷¹¹ CMC, “Report on the Kampala Conference on the Convention on Cluster Munitions,” 30 September 2008; Kampala Action Plan, Kampala Conference, 30 September 2008.

⁷¹² Statement by Krubo B. Collie, Deputy Minister for Legal Affairs, Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008. Notes by Landmine Action.

LIECHTENSTEIN

The Principality of Liechtenstein signed the Convention on Cluster Munitions in Oslo on 3 December 2008. Liechtenstein informed Human Rights Watch in February 2009 that its policy is to adopt relevant internal implementation legislation before ratifying international conventions. It also noted that, due to its Customs Union Treaty with Switzerland, “Liechtenstein will have to wait for the Swiss legal implementation and ratification of the 2008 Convention on Cluster Munitions before ratifying the Convention.”⁷¹³

Liechtenstein stated that it has never used, produced, stockpiled, or transferred cluster munitions.⁷¹⁴ Liechtenstein is party to the Convention on Conventional Weapons (CCW) and ratified Protocol V on Explosive Remnants of War on 12 May 2006.

Cluster Munition Ban Policy

Liechtenstein was among the 25 states that endorsed a formal declaration at end of the Third Review Conference of the CCW in November 2006 calling for an international agreement to “prohibit the development, production, stockpiling, transfer and use of cluster munitions that pose serious humanitarian hazards because they are for example unreliable and/or inaccurate.”⁷¹⁵

Liechtenstein participated in the Oslo Conference on Cluster Munitions in February 2007 and endorsed the Oslo Declaration, thereby committing to conclude a new treaty in 2008. Liechtenstein attended the Vienna Conference in December 2007, and, although it did not attend the Wellington Conference in February 2008, it endorsed the Wellington Declaration, indicating its intention to participate in the formal negotiations in Dublin in May. However, Liechtenstein did not attend the negotiations.

Upon signing the convention, Liechtenstein pledged “the ratification of this treaty at the earliest possible date.” In a statement reiterating its full support for the convention, and praising the cooperative nature of the Oslo Process as a means for the convention to acquire universal adherence, Liechtenstein stated, “We are all aware that we have a long way to go until we reach this final goal. Determined political will and concerted efforts are required to reach it. We stand ready to make our contribution to that end.”⁷¹⁶

LITHUANIA

The Republic of Lithuania signed the Convention on Cluster Munitions in Oslo on 3 December 2008. In February 2009, the Ministry of Foreign Affairs told Human Rights Watch, “Lithuanian national authorities are preparing relevant documentation for ratification. We expect that the Lithuanian Parliament, the Seimas, would be in a position to complete the ratification process in 2009.”⁷¹⁷

Lithuania has stated that it “does not possess cluster munitions and has never produced, used, stockpiled or transferred such weapons in the past.”⁷¹⁸

⁷¹³ Letter from Christine Stehrenberger, Deputy Director, Office for Foreign Affairs, 10 February 2009. Due to the longstanding Customs Union Treaty with Switzerland, the import and export of goods in Liechtenstein is governed by Swiss legislation. In order for Liechtenstein and Switzerland to incorporate national implementation of the convention into legislation, “an amendment of the Swiss Federal Act on War Material (Schweizerisches Kriegsmaterialgesetz), which is to a large extent applicable to Liechtenstein, will be necessary.”

⁷¹⁴ Ibid.

⁷¹⁵ Declaration on Cluster Munitions, presented by Austria, Belgium, Bosnia and Herzegovina, Croatia, Costa Rica, Czech Republic, Denmark, Germany, Holy See, Hungary, Ireland, Liechtenstein, Lithuania, Luxembourg, Malta, Mexico, New Zealand, Norway, Peru, Portugal, Serbia, Slovakia, Slovenia, Sweden, and Switzerland, Third Review Conference of the States Parties to the CCW, Geneva, CCW/CONF.III/WP.18, 17 November 2006.

⁷¹⁶ Statement by Daniel Ospelt, Permanent Representative of Liechtenstein to the Council of Europe, Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008.

⁷¹⁷ Letter from Žygimantas Pavilionis, Undersecretary, Ministry of Foreign Affairs, 19 February 2009.

⁷¹⁸ Ibid.

Lithuania is party to the Convention on Conventional Weapons (CCW) and ratified Protocol V on Explosive Remnants of War (ERW) on 29 September 2004. Lithuania's Ambassador Edvardas Borisovas served as Coordinator of the CCW Group of Governmental Experts (GGE) Working Group on ERW in 2006. The group had a mandate to consider "implementation of existing principles of International Humanitarian Law" as they apply to ERW, and to study "possible preventive measures aimed at improving the design of certain specific types of munitions, including sub-munitions, with a view to minimising the humanitarian risk of these munitions becoming explosive remnants of war."⁷¹⁹ The GGE was to report on the work done during the CCW Third Review Conference in November 2006.

During the Review Conference, Lithuania supported a proposal for a mandate to negotiate in the CCW a legally-binding instrument that "addresses the humanitarian concerns posed by cluster munitions."⁷²⁰ When this proposal was not accepted, Lithuania joined 24 other states in issuing a joint declaration calling for an agreement that would prohibit the use of cluster munitions "within concentrations of civilians," prohibit the use of cluster munitions that "pose serious humanitarian hazards because they are for example unreliable and/or inaccurate," and require destruction of stockpiles of such cluster munitions.⁷²¹ At the end of the Review Conference, Norway announced that it would start an independent process outside the CCW to negotiate a cluster munition treaty and invited other governments to join.

Lithuania participated throughout the Oslo Process, including the initial conference in Oslo in February 2007, all three international diplomatic conferences to develop the convention text in Lima, Vienna, and Wellington, as well as the formal negotiations in Dublin in May 2008. It also attended the regional conference in Brussels in October 2007.

During the Oslo conference, Lithuania expressed the view that Oslo Process efforts should complement deliberations on cluster munitions in the CCW.⁷²² It was one of 46 nations to endorse the Oslo Declaration, committing states to conclude in 2008 a new convention prohibiting cluster munitions that cause unacceptable harm to civilians.

At the Lima conference, Lithuania said, "From the beginning there should be an understanding that the CCW and the Oslo Processes should be complementary and reinforce each other to achieve the best results possible at the final phase.... There is a feeling that we are starting to work on a new instrument on cluster munitions with the thought of different products. We hope that these different processes do not go too far apart from each other with the understanding that there is a need for a legally binding instrument."⁷²³

At the regional conference in Brussels, Lithuania expressed concern that the CCW had taken limited and insufficient steps on cluster munitions, and said that the CCW needed to agree on a negotiating mandate on a legally-binding instrument during its meeting in November 2007.⁷²⁴ Subsequently, at the 2007 Meeting of the States Parties to the CCW in November, Lithuania advocated for such a mandate and stressed to CCW States Parties that they must achieve substantial progress on cluster munitions in order to prove the relevancy of the CCW.⁷²⁵ But States Parties could only agree to "negotiate a proposal" with no commitment to a new CCW protocol, or to a prohibition of any sort.

During the Vienna conference in December 2007, Lithuania stated that the CCW mandate had fallen short of its expectations, and urged delegates to continue to search for linkages between the Oslo Process and the CCW, but at the same time continue to be a driving force. Lithuania spoke on a number of issues related to the draft convention, and noted the need to address "interoperability" issues (joint military operations with states not party).⁷²⁶

⁷¹⁹ "Report of the 2005 Meeting of the States Parties to the CCW," Geneva, 14 February 2006, CCW/MSP/2005/2, p. 1.

⁷²⁰ Proposal for a Mandate to Negotiate a Legally-Binding Instrument that Addresses the Humanitarian Concerns Posed by Cluster Munitions, Third Review Conference of the States Parties to the CCW, CCW/CONF.III/WP.1, Geneva, 25 October 2006.

⁷²¹ Declaration on Cluster Munitions, Third Review Conference of the States Parties to the CCW, CCW/CONF.III/WP.18, Geneva, 17 November 2006.

⁷²² Statement of Lithuania, Oslo Conference on Cluster Munitions, 23 February 2007. Notes by CMC/WILPF.

⁷²³ Statement of Lithuania, Lima Conference on Cluster Munitions, 23 May 2007. Unofficial transcription by WILPF.

⁷²⁴ Statement of Lithuania, European Regional Conference on Cluster Munitions, Brussels, 30 October 2007. Notes by CMC.

⁷²⁵ Statement of Lithuania, 2007 Meeting of the States Parties to the CCW, Geneva, 7 November 2007. Notes by WILPF.

⁷²⁶ Statement of Lithuania, Vienna Conference on Cluster Munitions, 5 December 2007. Notes by CMC/WILPF.

At the Wellington conference in February 2008, Lithuania again expressed concerns regarding interoperability and called for a specific provision in the convention. It said, “We need this to avoid legal ambiguities that in particular situations might cause very serious problems both on national and international levels.” It argued that activities such as participation in exercises or operations as part of a military alliance or participation in multilateral operations authorized by the UN could be considered to be in violation of the convention.⁷²⁷ With regard to clearance provisions, it spoke of the need to avoid duplication with CCW Protocol V and to avoid clearance of cluster munitions taking precedence over other types of ERW.⁷²⁸ Lithuania endorsed the Wellington Declaration, indicating its intention to participate fully in the Dublin negotiations on the basis of the Wellington draft text, but explaining that it did so with the understanding that proposals included in the conference compendium would be considered on an equal basis with the draft text.⁷²⁹ The compendium consisted mostly of proposals put forward by the so-called like-minded group that the CMC criticized strongly as weakening the draft text.

During the negotiations in Dublin in May 2008, Lithuania again put a priority on the interoperability issue.⁷³⁰ At the conclusion, it joined the consensus adoption of the convention and stated that it would work toward ratification and universalization.⁷³¹

At the CCW meeting in November 2008, Lithuania continued to support work on cluster munitions within the framework of the CCW, telling states that cluster munitions will not disappear overnight for those that do not take part in the Convention on Cluster Munitions. Lithuania expressed its view that the CCW still has relevance for those States Parties that produce cluster munitions and advocated for an eight year transition period—the “shortest possible”—for a potential CCW instrument on cluster munitions.⁷³² Lithuania did not join the group of 26 states that issued a joint statement expressing their opposition to the weak draft text on a possible CCW protocol on cluster munitions, indicating it was an unacceptable step back from the standards set by the Convention on Cluster Munitions.⁷³³

Upon signing the convention in Oslo, Lithuania pledged its full support for the convention, describing it and the Oslo Process as an outstanding example of cooperation that Lithuania hopes will continue, not only on cluster munitions, but on other issues as well.⁷³⁴

In a February 2009 letter to Human Rights Watch, Lithuania said, “We also see great merit in seeking coherence in addressing the problems caused by cluster munitions, landmines and explosive remnants of war. Coherence in cooperation of relevant stakeholders and in assistance for victims is of particular relevance.”⁷³⁵

LUXEMBOURG

The Grand Duchy of Luxembourg signed the Convention on Cluster Munitions in Oslo on 3 December 2008. Upon signing, Luxembourg’s Minister of Foreign Affairs appealed for rapid ratification of the convention and announced that Luxembourg had already taken measures to enable it to be among the first 30 states to ratify, thereby triggering entry into force of the convention.⁷³⁶

⁷²⁷ Statement of Lithuania, Wellington Conference on Cluster Munitions, 18 February 2008.

⁷²⁸ Ibid, 20 February 2008.

⁷²⁹ Ibid, 22 February 2008.

⁷³⁰ Summary Record of the Committee of the Whole, First Session: 19 May 2008, Dublin Diplomatic Conference on Cluster Munitions, CCM/CW/SR/1, 18 June 2008.

⁷³¹ Statement of Lithuania, Dublin Diplomatic Conference, 28 May 2008. Notes by Landmine Action.

⁷³² Statement of Lithuania, Fifth 2008 Session of the CCW GGE on Cluster Munitions, Geneva, 3 November 2008. Notes by Landmine Action; and Statement of Lithuania, 2008 Meeting of the States Parties to the CCW, Geneva, 13 November 2008. Notes by Landmine Action.

⁷³³ Statement delivered by Costa Rica on behalf of Austria, Belgium, Benin, Bosnia and Herzegovina, Chile, Croatia, Ecuador, El Salvador, Guatemala, Holy See, Honduras, Indonesia, Ireland, Lebanon, Mexico, New Zealand, Nicaragua, Norway, Peru, Philippines, Senegal, South Africa, Uganda, Uruguay, and Venezuela, Fifth 2008 Session of the CCW GGE on Cluster Munitions, Geneva, 5 November 2008.

⁷³⁴ Statement by Amb. Alfonsas Eidintas, Representative of Lithuania to the Kingdom of Norway, Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008. Notes by Landmine Action.

⁷³⁵ Letter from Žygimantas Pavilionis, Ministry of Foreign Affairs, 19 February 2009.

⁷³⁶ Statement by Jean Asselborn, Minister of Foreign Affairs, Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008.

Luxembourg is not believed to have used, produced, stockpiled, or transferred cluster munitions.

Luxembourg is one of a small number of states that undertook national legislative initiatives on the issue of cluster munitions even prior to the Oslo Process. On 6 October 2006, the Government Council charged the Minister of Foreign Affairs to create a law prohibiting cluster munitions. A motion in the Chamber of Deputies dated 12 October 2006 invited the government to join in international initiatives aiming for a general prohibition on cluster munitions and to proceed to create a draft law to prohibit the production, sale, stockpiling, and use of cluster munitions, as well as the eventual destruction of stockpiles.⁷³⁷

Luxembourg is party to the Convention on Conventional Weapons (CCW), and has ratified Protocol V on Explosive Remnants of War. In November 2006, during the CCW Third Review Conference, Luxembourg joined 24 other nations in issuing a joint declaration calling for an agreement that would prohibit the use of cluster munitions “within concentrations of civilians,” prohibit the use of cluster munitions that “pose serious humanitarian hazards because they are for example unreliable and/or inaccurate,” and require destruction of stockpiles of such cluster munitions.⁷³⁸ Norway then announced that it would start an independent process outside the CCW to negotiate a cluster munition treaty and invited other governments to join.

Luxembourg participated throughout the Oslo Process, including the initial conference in Oslo in February 2007, the three international diplomatic conferences to develop the convention text in Lima, Vienna, and Wellington, and the formal negotiations in Dublin in May 2008. It also attended the regional conference in Brussels in October 2007.

At the Oslo conference, Luxembourg was one of 46 states to endorse the Oslo Declaration, committing states to conclude in 2008 an international convention prohibiting cluster munitions. Luxembourg did not intervene often during subsequent Oslo Process meetings, but in general was supportive of as strong and comprehensive a convention as possible.

Initially proposed on 9 November 2007, Luxembourg developed a draft national law on cluster munitions that would prohibit all persons or businesses from a broad range of activities related to the development, production, transfer, stockpiling, and financing of cluster munitions.⁷³⁹ At the Vienna conference in December 2007, Luxembourg highlighted that its draft national law contained prohibitions on investment.⁷⁴⁰

Luxembourg joined the consensus adoption of the Convention on Cluster Munitions in Dublin in May 2008. While Luxembourg was initially a supporter of work on cluster munitions in the CCW, after the adoption of the convention, Luxembourg has not been active in that forum.⁷⁴¹ In June 2008, Luxembourg decided not to seek enactment of its draft law until after the signing conference in Oslo in December.⁷⁴²

As part of the global week of action against cluster munitions in October 2008, Handicap International Luxembourg held a public event drawing attention to the plight of cluster munition victims and called on Luxembourg to be among the first countries to ratify the convention.⁷⁴³ In November, Raed Moked, member of the Ban Advocates, and a delegation from Handicap International Belgium met with Ben Fayot,

⁷³⁷ “Projet de lois portant approbation de la Convention sur les armes à sous-munitions ouverte à la signature à Oslo, le 3 décembre 2008” (“Draft legislation approving the Convention on Cluster Munitions open for signature in Oslo, 3 December 2008”), No. 5981, Chamber of Deputies, Normal Session 2008–2009, 12 January 2009.

⁷³⁸ Declaration on Cluster Munitions, Third Review Conference of the States Parties to the CCW, CCW/CONF.III/WP.18, Geneva, 17 November 2006.

⁷³⁹ “Projet de lois portant approbation de la Convention sur les armes à sous-munitions ouverte à la signature à Oslo, le 3 décembre 2008” (“Draft legislation approving the Convention on Cluster Munitions open for signature in Oslo, 3 December 2008”), No. 5981, Chamber of Deputies, Normal Session 2008–2009, 12 January 2009.

⁷⁴⁰ Statement of Luxembourg, Vienna Conference on Cluster Munitions, 5 December 2007. Notes by CMC/WILPF.

⁷⁴¹ Luxembourg’s draft legislation provides a brief history of Luxembourg’s policy toward the CCW and the Oslo Process. “Projet de lois portant approbation de la Convention sur les armes à sous-munitions ouverte à la signature à Oslo, le 3 décembre 2008” (“Draft legislation approving the Convention on Cluster Munitions open for signature in Oslo, 3 December 2008”), No. 5981, Chamber of Deputies, Normal Session 2008–2009, 12 January 2009.

⁷⁴² “Projet de lois portant approbation de la Convention sur les armes à sous-munitions ouverte à la signature à Oslo, le 3 décembre 2008” (“Draft legislation approving the Convention on Cluster Munitions open for signature in Oslo, 3 December 2008”) No. 5981, Chamber of Deputies, Normal Session 2008–2009, 12 January 2009; and “La position du gouvernement sur la convention internationale contre les armes à sous-munitions (BASM)” (“The position of the government on the international convention on cluster munitions”), 9 June 2008, www.gouvernement.lu.

⁷⁴³ Handicap International Luxembourg, “Mobilisation 2008,” www.sousmunitions.lu; and CMC, “Global Week of Action to Ban Cluster Bombs, 27 October – 2 November 2008,” www.stopclustermunitions.org.

President of the Committee on Foreign and European Affairs of the Chamber of Representatives urging support for the convention.⁷⁴⁴

At the Convention on Cluster Munitions Signing Conference in Oslo in December 2008, Minister of Foreign Affairs Jean Asselborn lauded the convention's strong measures to ban all cluster munitions, without exceptions or transition periods, and its measures to provide assistance for victims of cluster munitions. He called for continuing engagement to ensure the success of the convention and pledged to use "bilateral contacts with the non-signatory countries to encourage them to join the Convention with a view to its universalization."⁷⁴⁵

Minister Asselborn also referred to Luxembourg's commitment to prohibiting investment in cluster munitions, stating that Luxembourg "is ready to go further than the text of the Convention: by its act of ratification, Luxembourg is equally prohibiting the investment in cluster munitions, an element which unfortunately was not addressed through the negotiations. I hope that many other countries will join us in this courageous and promising initiative."⁷⁴⁶

In December 2008, Luxembourg published a draft ratification law that would prohibit all persons or businesses from "knowingly" financing cluster munitions or explosive submunitions.⁷⁴⁷ The law must be sent to the State Council for advice, and then approved by the Parliament.

FORMER YUGOSLAV REPUBLIC OF MACEDONIA

The Former Yugoslav Republic of Macedonia (FYR Macedonia) signed the Convention on Cluster Munitions in Oslo on 3 December 2008. Upon signing, Minister of Foreign Affairs Antonijo Miloshoski assured other states that "Macedonia will take all necessary steps to ratify as soon as possible."⁷⁴⁸ The minister also confirmed that FYR Macedonia does not use, produce, or stockpile cluster munitions.⁷⁴⁹

While not an early supporter of the Oslo Process, FYR Macedonia attended the international preparatory conferences in Vienna in December 2007 and Wellington in February 2008, as well as the formal treaty negotiations in Dublin in May 2008. It also attended the Sofia Regional Conference on Cluster Munitions in September 2008.

FYR Macedonia was supportive of efforts to solve questions involving "interoperability" (joint military operations with states not party) during the negotiations in Dublin. It said this was not an excuse for countries to continue to use, produce, and transfer cluster munitions, but instead was an effort to help countries that have shown the political will to join the convention to continue to have practical cooperation with states not party to the convention.⁷⁵⁰

FYR Macedonia is party to the Convention on Conventional Weapons (CCW) and ratified Protocol V on Explosive Remnants of War on 19 September 2007. It has not been an active participant in the CCW discussions on cluster munitions in recent years.

⁷⁴⁴ Stephanie Castanie, "Raed's lobbying work in Belgium and Luxembourg, November/December 2008," Handicap International Ban Advocates Blog, 17 December 2008, blog.banadvocates.org.

⁷⁴⁵ Statement by Jean Asselborn, Minister of Foreign Affairs, Signing Conference, Oslo, 3 December 2008.

⁷⁴⁶ *Ibid.*

⁷⁴⁷ The original French phrase "En connaissance de cause" can be translated into English as "knowingly" or "intentionally." The draft law also stipulates that the punishment of imprisonment for five to 10 years and a fine of €25,000–1,000,000, or only one of these sentences, for those who have "knowingly" committed an infraction under the measures of Articles 2 and 3 [of the CCM]. According to the draft law, seized cluster munitions and submunitions will be confiscated and destroyed at the expense of the condemned person. "Projet de lois portant approbation de la Convention sur les armes à sous-munitions ouverte à la signature à Oslo, le 3 décembre 2008" ("Draft legislation approving the Convention on Cluster Munitions open for signature in Oslo, 3 December 2008"), No. 5981, Chamber of Deputies, Normal Session, 2008–2009, 12 January 2009.

⁷⁴⁸ Statement by Antonijo Miloshoski, Minister of Foreign Affairs, Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008. Notes by Landmine Action.

⁷⁴⁹ *Ibid.*

⁷⁵⁰ Discussion during the Committee of the Whole on Interoperability, Dublin Diplomatic Conference on Cluster Munitions, 26 May 2008. Notes by Landmine Action.

MADAGASCAR

The Republic of Madagascar signed the Convention on Cluster Munitions in Oslo on 3 December 2008. Upon signing the convention, Minister of Foreign Affairs General Marcel Ranjeva asserted Madagascar's commitment to ratify the convention soon, "so that it can enter into force as soon as possible."⁷⁵¹

Madagascar has stated that it has never used, produced, stockpiled, or transferred cluster munitions.⁷⁵²

Madagascar did not attend the initial meeting in Oslo in February 2007 to launch the Oslo Process, or the next international conference in Lima, but was present at the last two international diplomatic conferences to develop the convention text in Vienna and Wellington. It participated in the African regional conference in Livingstone in March/April 2008 and the formal negotiations in Dublin in May. It also attended the African regional conference in Kampala in September 2008.

During the Wellington conference, Madagascar stated that it would not support any exceptions in the definition of "cluster munition."⁷⁵³ It endorsed the Wellington Declaration, thereby committing to participate fully in the formal negotiations in Dublin on the basis of the draft Wellington text. At the Livingstone regional conference on 1 April 2008, Madagascar endorsed the Livingstone Declaration, calling for a comprehensive treaty with a prohibition that should be "total and immediate."⁷⁵⁴

During the Dublin negotiations, Madagascar joined other African countries in opposing efforts to weaken the convention text. It made statements in favor of an inclusive definition of "cluster munition" and a comprehensive victim assistance provision.⁷⁵⁵ It opposed the introduction of a transition period during which cluster munitions could still be used.⁷⁵⁶ At the conclusion, Madagascar joined the consensus adoption of the convention.

At the Kampala regional conference in September 2008, Madagascar announced that it would sign the convention in Oslo and work to ratify it without delay. It endorsed the Kampala Action Plan, which declared that states should sign and "take all necessary measures to ratify the convention as soon as possible."⁷⁵⁷

When signing the convention in Oslo, Madagascar's Minister of Foreign Affairs General Marcel Ranjeva said that the question of "interoperability" (joint military operations with states not party) should not constitute a barrier for countries to sign the convention. He stated that the goal is to encourage those outside of the convention not to resort to the use and transfer of cluster munitions. He expressed Madagascar's belief that the transit and storage of cluster munitions by a state not party within the territory of a State Party would weaken the effects of the convention.⁷⁵⁸

Madagascar is party to the Convention on Conventional Weapons (CCW), and ratified Protocol V on Explosive Remnants of War on 14 March 2008. It has not been an active participant in the CCW discussions on cluster munitions in recent years.

⁷⁵¹ Statement by Gen. Marcel Ranjeva, Minister of Foreign Affairs, Convention on Cluster Munitions Signing Conference, Oslo, 4 December 2008.

⁷⁵² *Ibid.*

⁷⁵³ Katherine Harrison, "Report from the Wellington Conference on Cluster Munitions, 18–22 February 2008," WILPF, March 2008, p. 19, www.wilpf.int.ch.

⁷⁵⁴ Livingstone Declaration, Livingstone Conference on Cluster Munitions, 1 April 2008.

⁷⁵⁵ Dublin Diplomatic Conference on Cluster Munitions, 19–30 May 2008. Notes by Landmine Action.

⁷⁵⁶ Summary Record of the Committee of the Whole, Fifth Session: 21 May 2008, Dublin Diplomatic Conference, CCM/CW/SR/5, 18 June 2008; and Summary Record of the Committee of the Whole, Eighth Session: 23 May 2008, Dublin Diplomatic Conference, CCM/CW/SR/8, 18 June 2008.

⁷⁵⁷ CMC, "Report on the Kampala Conference on the Convention on Cluster Munitions," September 2008; and Kampala Action Plan, Kampala Conference, 29–30 September 2008.

⁷⁵⁸ Statement by Gen. Marcel Ranjeva, Minister of Foreign Affairs, Signing Conference, Oslo, 4 December 2008.

MALAWI

The Republic of Malawi signed the Convention on Cluster Munitions in Oslo on 3 December 2008. The status of the ratification process is not known. Malawi is not believed to have ever used, produced, stockpiled, or transferred cluster munitions. Malawi is not party to the Convention on Conventional Weapons.

Cluster Munition Ban Policy

Malawi first joined the Oslo Process during the Vienna conference in December 2007. Malawi participated in the Wellington conference in February 2008, where it made an intervention advocating for a strong treaty provision on international cooperation and assistance.⁷⁵⁹ It endorsed the Wellington Declaration, indicating its intention to participate in the formal negotiations in Dublin in May. It also attended the Livingstone conference in March/April 2008, where it endorsed the Livingstone Declaration, calling for a comprehensive treaty with a prohibition that should be “total and immediate.”⁷⁶⁰

During the Dublin negotiations on the final treaty text, Malawi made statements supporting an inclusive definition of “cluster munition,” arguing that exceptions to the definition would weaken the treaty. It said that the definition should take into account the dangers posed by both the inaccuracy and unreliability of cluster munitions.⁷⁶¹ Malawi joined the consensus in adopting the convention text.

At the Kampala regional conference in September 2008, Malawi announced that it intended to sign the convention in Oslo, and it endorsed the Kampala Action Plan, in which participants declared that states should sign and “take all necessary measures to ratify the convention as soon as possible.”⁷⁶²

In signing the convention, Minister of Foreign Affairs Joyce Banda stated, “Malawi fully subscribes to the tenets and dictates of the Convention and is proud to be part of this grand movement. As a country and as a member of the international community, Malawi holds that owing to their devastating and catastrophic impact on humanity, use of cluster munitions is not only morally unacceptable but also has no place in this modern world.”⁷⁶³

MALI

The Republic of Mali signed the Convention on Cluster Munitions in Oslo on 3 December 2008. In March 2009, Mali confirmed to the CMC that the ratification process was underway and expected to be completed shortly.⁷⁶⁴

Mali is not believed to have ever used, produced, or transferred cluster munitions. In December 2007, Mali announced that 10 years earlier it had destroyed all of its stockpiles of cluster munitions.⁷⁶⁵

Mali participated in the last two of the four international conferences to develop the convention text, in Vienna in December 2007 and Wellington in February 2008.

⁷⁵⁹ Wellington Conference on Cluster Munitions, 21 February 2009. Notes by CMC.

⁷⁶⁰ Livingstone Declaration, Livingstone Conference on Cluster Munitions, 1 April 2008.

⁷⁶¹ Dublin Diplomatic Conference on Cluster Munitions, 21 May 2008. Notes by CMC.

⁷⁶² CMC, “Report on the Kampala Conference on the Convention on Cluster Munitions,” 29–30 September 2008; and Kampala Action Plan, Kampala Conference, 29–30 September 2008.

⁷⁶³ Statement by Joyce Banda, Minister of Foreign Affairs, Signing Conference, Oslo, 3 December 2008.

⁷⁶⁴ Email from Marion Libertucci, Advocacy Officer, Handicap International, 20 March 2009.

⁷⁶⁵ Statement of Mali, Vienna Conference on Cluster Munitions, 5 December 2007. Notes by CMC/WILPF.

In Wellington, Mali forcefully stated its position in favor of a “total ban” on cluster munitions and urged other states to act: “What else do we need to challenge our conscience and call us to act to put an end to the suffering and remove the barriers to the economic and social development of victims? More victims? Certainly not!”⁷⁶⁶

Mali attended the Livingstone regional conference in March/April 2008, and endorsed the Livingstone Declaration, calling for a comprehensive treaty with a prohibition that should be “total and immediate.”⁷⁶⁷ Mali also advocated for a provision placing special obligations on past users of cluster munitions.⁷⁶⁸

During the formal negotiations in Dublin in May 2008, Mali opposed efforts to weaken the draft treaty text, including the notion of a transition period that would allow the continued use of cluster munitions. Mali took the view that any definition of cluster munition should be linked to the harmful effects for the civilian population. Mali stated that the very purpose of the convention could be undermined by efforts to placate the concerns of some states regarding “interoperability” (joint military operations with states not party).⁷⁶⁹

During the Kampala regional conference in September 2008, Mali announced it would sign the convention in December and, in the interim, begin working on its ratification.⁷⁷⁰ On 27 October 2008, the West African Journalists for Security and Development Network organized a joint press conference with the Minister of Foreign Affairs and other officials, followed by a workshop to discuss signature and ratification of the convention.⁷⁷¹

Upon signing the convention in Oslo, Mali announced its commitment to ratify in the forthcoming session of its Parliament and called on all states to double their efforts to ensure rapid entry into force and effective implementation of the convention.⁷⁷²

Mali is party to the Convention on Conventional Weapons (CCW), but has not ratified Protocol V on Explosive Remnants of War. Mali has not participated actively in the CCW discussions on cluster munitions in recent years.

MALTA

The Republic of Malta signed the Convention on Cluster Munitions in Oslo on 3 December 2008. In March 2009, Malta informed Human Rights Watch that “Malta recognizes the need for the Convention on Cluster Munitions to come into force as early as possible, in order to provide a legally binding framework for the protection of civilians both during and after armed conflict.... In this spirit, I am pleased to inform that the Government of Malta is seriously considering to ratify the CCM, as soon as all the necessary procedures for its entry into force have been completed in accordance with our constitutional requirements.”⁷⁷³

⁷⁶⁶ Statement by Amb. Boubacar Gouro, Director of Juridical Affairs, Ministry of Foreign Affairs, Wellington Conference on Cluster Munitions, 22 February 2008.

⁷⁶⁷ Livingstone Declaration, Livingstone Conference on Cluster Munitions, 1 April 2008.

⁷⁶⁸ CMC, “Report on the Livingstone Conference on Cluster Munitions, 31 March–1 April 2008,” www.stopclustermunitions.org.

⁷⁶⁹ Statement of Mali, Committee of the Whole on Article 1, Dublin Diplomatic Conference on Cluster Munitions, 27 May 2008. Notes by Landmine Action.

⁷⁷⁰ In the Parliamentary Forum following the conference, Hon. Abdou Abdoulale Sidibe, Member of Parliament, stated that all parliamentarians and the President of the National Assembly had signed the CMC’s People’s Treaty and were committed to ensuring Mali would ratify the convention as quickly as possible. CMC campaigners in Mali collected over 100 signatures from Members of Parliament for the People’s Treaty in August 2008. CMC, “Report on the Kampala Conference on the Convention on Cluster Munitions,” 30 September 2008, www.stopclustermunitions.org.

⁷⁷¹ Participants included the Minister of Foreign Affairs, President of the Parliament, President of the National Security Commission and campaigners from the West African Journalists for Security and Development Network, Handicap International Mali and Amnesty International Mali. Email from Marion Libertucci, Handicap International, 8 April 2009.

⁷⁷² Statement by Amb. Sidiki Lamine Sow, Permanent Mission of Mali to the UN in Geneva, Convention on Cluster Munitions Signing Conference, Oslo, 4 December 2008.

⁷⁷³ Letter from Amb. Saviour F. Borg, Permanent Mission of Malta to the UN in New York, 2 March 2009.

It also declared, “Malta has never used or produced cluster munitions. Nor has it ever stockpiled or transferred these munitions.”⁷⁷⁴

Malta is party to the Convention on Conventional Weapons (CCW) and ratified Protocol V on Explosive Remnants of War on 22 September 2006. During the CCW Third Review Conference in November 2006, Malta supported a proposal for a mandate to negotiate a legally-binding instrument that “addresses the humanitarian concerns posed by cluster munitions.”⁷⁷⁵ When this proposal was not accepted, Malta joined 24 other states in issuing a joint declaration calling for an agreement to “prohibit the development, production, stockpiling, transfer and use of cluster munitions that pose serious humanitarian hazards because they are for example unreliable and/or inaccurate.”⁷⁷⁶

Malta participated in the first Oslo Process conference in February 2007 and endorsed the Oslo Declaration, committing states to conclude in 2008 a convention prohibiting cluster munitions. It subsequently attended the Lima, Vienna, and Wellington preparatory conferences, and the Dublin negotiations.

At the Oslo conference in February 2007, Malta stressed the potential for small and medium-sized states to contribute to the Oslo Process.⁷⁷⁷ At the Lima conference in May 2007, Malta expressed its view that states should not discourage discussions of cluster munitions in the CCW, stating, “We accept a protocol on cluster munitions with unequivocal support.”⁷⁷⁸ Malta endorsed the Wellington Declaration at the Wellington conference in February 2008, indicating its intention to participate in the formal treaty negotiations in Dublin on the basis of the Wellington draft text.

Malta actively participated in the negotiations in Dublin in May 2008, opposing the introduction of a transition period before obligations took effect and engaging on issues relating to “interoperability” (joint military operations with states not party) and definitions.⁷⁷⁹ Regarding definitions, Malta was open to proposals to limit which weapons were defined as a “cluster munition” by the convention, but stated that the ultimate goal was to fulfill the Oslo Process mandate to address cluster munitions that cause unacceptable humanitarian harm.⁷⁸⁰ At the conclusion, it joined the consensus adoption of the convention.

In Oslo in December 2008, Ambassador Victor Camilleri, Permanent Representative to the UN in Geneva, signed the convention on behalf of Malta.

In its March 2009 letter to Human Rights Watch, Malta said that it will continue to support efforts to conclude a new protocol on cluster munitions in the CCW, stating that such a protocol could allow states which do not currently consider themselves in a position to join the Convention on Cluster Munitions, but which may share its humanitarian objectives, to “take a step in the same direction.” Malta added, “We do so on the clear understanding that any new CCW protocol would be complementary with the CCM, and would significantly contribute to addressing the humanitarian impact of cluster munitions. At the same time while pursuing this initiative in the CCW, Malta will remain committed to the goal of attracting the adherence of all States to the Dublin Convention.”⁷⁸¹

Malta also elaborated on its position on some interpretive matters relating to the convention, stating, “Our understanding of the commitments arising out of the convention is that, as a party, we will not permit the transit of cluster munitions across, or foreign stockpiling of cluster munitions on, our national territory.”⁷⁸²

⁷⁷⁴ Ibid.

⁷⁷⁵ Proposal for a Mandate to Negotiate a Legally-Binding Instrument that Addresses the Humanitarian Concerns Posed by Cluster Munitions, Third Review Conference of the States Parties to the CCW, CCW/CONF.III/WP.1, Geneva 25 October 2006.

⁷⁷⁶ Declaration on Cluster Munitions, Third Review Conference of the States Parties to the CCW, CCW/CONF.III/WP.18, Geneva, 17 November 2006.

⁷⁷⁷ Statement of Malta, Oslo Conference on Cluster Munitions, 22 February 2007. Notes by CMC/WILPF.

⁷⁷⁸ Statement of Malta, Lima Conference on Cluster Munitions, 23 May 2007. Unofficial transcription by WILPF.

⁷⁷⁹ Summary Record of the Committee of the Whole, Eighth Session: 23 May 2008, Dublin Diplomatic Conference on Cluster Munitions, CCM/CW/SR/8, 18 June 2008.

⁷⁸⁰ Statements of Malta, Informal Discussions on Definitions, Dublin Diplomatic Conference, 20 and 22 May 2008. Notes by Landmine Action.

⁷⁸¹ Letter from Amb. Saviour F. Borg, Permanent Mission of Malta to the UN in New York, 2 March 2009.

⁷⁸² Ibid.

MEXICO

The United Mexican States signed the Convention on Cluster Munitions in Oslo on 3 December 2008. On 11 March 2009, the Senate approved legislation to ratify the convention.⁷⁸³ The ratification decree requires presidential signature before the ratification instrument can be officially deposited with the UN in New York.

Mexico “does not use, develop, produce, acquire, store, preserve, or transfer cluster munitions. Mexico has not engaged in the activities in the past.”⁷⁸⁴

Mexico is party to the Convention on Conventional Weapons (CCW), but has not ratified Protocol V on Explosive Remnants of War.

Cluster Munition Ban Policy

Mexico was one of the earliest and has remained one of the strongest supporters of a prohibition on cluster munitions. On 25 October 2006, Mexico and five other states proposed that the CCW’s Third Review Conference establish an open-ended Group of Governmental Experts to negotiate a legally-binding instrument that addresses the humanitarian concerns posed by cluster munitions.⁷⁸⁵ When this was not accepted by other States Parties, Mexico and 24 other countries issued a joint declaration calling for an agreement that would prohibit the use of cluster munitions “within concentrations of civilians” and completely prohibit cluster munitions that “pose serious humanitarian hazards because they are for example unreliable and/or inaccurate.”⁷⁸⁶

Norway then announced that it would start an independent process outside the CCW to negotiate a treaty banning cluster munitions that cause unacceptable harm to civilians, and invited other governments to join. A voluntary “Core Group” of countries emerged to take responsibility for moving forward what became known as the Oslo Process, and Mexico was one of six initial countries in the Core Group.

Mexico participated in the international conference to launch the Oslo Process in February 2007, the three subsequent international conferences to develop the convention text in Lima, Vienna, and Wellington, as well as the formal negotiations in Dublin. It hosted a regional Oslo Process meeting, and also participated in the other regional meetings of the Oslo Process in Costa Rica and Ecuador.

During the first meeting in Oslo, Mexico forcefully stated its position that there is no such thing as a cluster munition which poses acceptable harm to civilians.⁷⁸⁷ Throughout the Oslo Process, Mexico continued to express its support for a comprehensive ban on cluster munitions without exceptions, stating that nothing would justify the use of cluster munitions, not self-destruct mechanisms or other technical features of more modern munitions.⁷⁸⁸

During the Wellington conference, Mexico’s Ambassador Pablo Macedo co-chaired, together with New Zealand, the discussion on general obligations and scope of the proposed convention and also held informal consultations on definitions and transition periods.⁷⁸⁹ Mexico strongly supported the proposed six-year deadline for destruction of stockpiled cluster munitions (and nothing longer) and opposed the retention of cluster munitions for training or research purposes.⁷⁹⁰

⁷⁸³ “El Senado de la República aprobó la Convención sobre Municiones en Racimo” (“The Senate approves the Convention on Cluster Munitions”), *Notimex* (Mexico), 11 March 2009.

⁷⁸⁴ Letter from Amb. Juan Manuel Gómez Robledo, Undersecretary for Multilateral Affairs and Human Rights, Ministry of Foreign Affairs, 4 March 2009. Translation by the Embassy of Mexico to the United States, Washington DC.

⁷⁸⁵ The proposal was put forward by Austria, the Holy See, Ireland, Mexico, New Zealand, and Sweden, and formally supported by 20 other states. Proposal for a Mandate to Negotiate a Legally-Binding Instrument that Addresses the Humanitarian Concerns Posed by Cluster Munitions, CCW/CONF.III/WP.1, Geneva, 25 October 2006.

⁷⁸⁶ Declaration on Cluster Munitions, Third Review Conference of the States Parties to the CCW, CCW/CONF.III/WP.18, Geneva, 17 November 2006.

⁷⁸⁷ CMC, “Report: Oslo Conference on Cluster Munitions,” February 2007, www.stopclustermunitions.org.

⁷⁸⁸ Katherine Harrison, “Report on the Wellington Conference on Cluster Munitions, 18-22 February 2008,” WILPF, March 2008, p. 19.

⁷⁸⁹ *Ibid.*, p. 21.

⁷⁹⁰ *Ibid.*, pp. 28–29.

In Mexico City from 16–17 April 2008, a total of 23 states from the region participated in the Regional Conference for Latin America and the Caribbean on Cluster Munitions. At the end of the conference, several states that were not present in Wellington endorsed the Wellington Declaration (thereby committing to participate fully in the Dublin negotiations), including Bolivia, El Salvador, Nicaragua, Panama, and Venezuela.

Mexico worked hard during the Dublin negotiations to ensure that the draft treaty text was not weakened through various proposals, including those related to the definitions, transition periods, and “interoperability” (joint military operations with states not party). When states finally reached agreement on the text, Mexico spoke on behalf of Latin American and Caribbean nations and highlighted what it viewed as the many positive elements, including the provisions on disarmament, victim assistance, international cooperation, the absence of transition periods, and the no reservations clause.⁷⁹¹ When the convention was formally adopted on 30 May 2008, Mexico spoke first, expressing its satisfaction with the outcome of the conference and describing the convention as a “milestone” in the development and codification of international humanitarian law.⁷⁹²

Mexico was among the most vocal critics of work in the CCW on cluster munitions in 2007 and 2008, being carried out parallel to the Oslo Process. In January 2008, Mexico cautioned that the CCW discussions were taking an “unbalanced approach which favors a military perspective and downplays the humanitarian side” of the issue.⁷⁹³ Once the Convention on Cluster Munitions was adopted in May 2008, Mexico warned that the CCW work should not contravene the new treaty or weaken international humanitarian law.⁷⁹⁴ At the CCW in November 2008, Mexico was one of 26 states that issued a joint statement expressing their opposition to the weak draft text on a possible CCW protocol on cluster munitions, indicating it was an unacceptable step back from the standards set by the Convention on Cluster Munitions.⁷⁹⁵

Upon signing the convention in Oslo, Ambassador Macedo described the convention as proof that through political will and civil society support the international community can achieve results.⁷⁹⁶

In a March 2009 letter to Human Rights Watch, Mexico offered its interpretation of several provisions of the Convention on Cluster Munitions. Mexico believes that “both the transit and storage of cluster munitions is prohibited under any circumstances, unless these actions are performed for the purposes specifically stated in Article 3, paragraphs 6 and 7. This rule is also applicable in relations with States not Party to the Convention, as stated in Article 21.” It stated that “investment for the production of cluster munitions is also prohibited by the Convention.”⁷⁹⁷

With respect to Article 21 and the issue of interoperability, Mexico stated that “even when a State Party does not itself engage in prohibited activities during a joint military operation with States not Party to the Convention, deliberately providing assistance for the execution of prohibited activities is not allowed.”⁷⁹⁸

⁷⁹¹ Summary Record of the Committee of the Whole, Sixteenth Session: 28 May 2008, Dublin Diplomatic Conference on Cluster Munitions, CCM/CW/SR/16, 18 June 2008.

⁷⁹² Summary Record of the Plenary and Closing Ceremony of the Conference, Fourth Session: 30 May 2008, Dublin Diplomatic Conference, CCM/SR/4, 18 June 2008.

⁷⁹³ Statement of Mexico, First 2008 Session of the CCW Group of Governmental Experts (GGE) on Cluster Munitions, Geneva, 18 January 2008. Notes by WILPF.

⁷⁹⁴ Statement of Mexico, Third 2008 Session of the CCW GGE on Cluster Munitions, Geneva, 7 July 2008. Notes by Landmine Action.

⁷⁹⁵ Statement delivered by Costa Rica on behalf of Austria, Belgium, Benin, Bosnia and Herzegovina, Chile, Croatia, Ecuador, El Salvador, Guatemala, Holy See, Honduras, Indonesia, Ireland, Lebanon, Mexico, New Zealand, Nicaragua, Norway, Peru, Philippines, Senegal, South Africa, Uganda, Uruguay, and Venezuela, Fifth 2008 Session of the CCW GGE on Cluster Munitions, Geneva, 5 November 2008.

⁷⁹⁶ Statement by Amb. Pablo Macedo, Director General for the UN System, Ministry of Foreign Affairs, Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008. Notes by Landmine Action.

⁷⁹⁷ Letter from Amb. Juan Manuel Gómez Robledo, Ministry of Foreign Affairs, 4 March 2009. Translation by the Embassy of Mexico, Washington DC.

⁷⁹⁸ *Ibid.*

MOLDOVA

The Republic of Moldova signed the Convention on Cluster Munitions in Oslo on 3 December 2008. While the status of the ratification process is not known, Moldova stated that “by signing the Convention, the Republic of Moldova has sent a clear message to the international community regarding its intention to become a State Party in the future.”⁷⁹⁹

Moldova is party to the Convention on Conventional Weapons (CCW) and ratified its Protocol V on Explosive Remnants of War on 21 April 2008.

Cluster Munition Ban Policy

During the June 2007 meeting of the CCW Group of Governmental Experts (GGE), Moldova aligned itself with a European Union proposal calling for the GGE to meet “to negotiate a legally-binding instrument that addresses the humanitarian concerns of cluster munitions in all their aspects by the end of 2008.”⁸⁰⁰ Moldova consistently balanced its participation in the Oslo Process by also supporting negotiations on cluster munitions within the CCW.

While not an early supporter of the Oslo Process, Moldova attended the Wellington Conference on Cluster Munitions in February 2008 and subscribed to the Wellington Declaration, indicating its intention to participate in the formal negotiations in Dublin. At the same time, Moldova declared that “the best and most effective way to protect civilian populations from cluster munitions and to prevent their continued proliferation is to negotiate and adopt a legally binding instrument which prohibits the use, production, transfer and stockpiling of cluster munitions that cause unacceptable harm to civilians. To this end, together with like-minded States-Parties, Moldova supported the calls for a negotiating mandate for a CCW Protocol VI on Cluster Munitions.”⁸⁰¹

In a statement during the first day of the Dublin negotiations in May 2008, Moldova expressed its support for the goals and principles of the Oslo Process, but emphasized its belief that the framework of the CCW remained the best and most effective method to regulate the use of cluster munitions, reiterating its view that military and humanitarian considerations should be balanced.⁸⁰² Moldova joined the consensus in adopting the convention on 30 May 2008.

Later, Moldova also attended the Sofia Regional Conference on Cluster Munitions in September 2008, but did not make any significant statements.

Use, Production, Stockpiling, and Transfer

In a letter to Human Rights Watch, Moldova stated, “The Republic of Moldova has never produced, used, nor does it plan to use, stockpile or transfer cluster munitions.” Moldova acknowledged, however, that it “inherited a limited stockpile from the former Soviet Union.” Moldova did not disclose details regarding the size, composition, or operational status of its stockpile, stating that as a result of Moldova’s signature of the convention, the stockpile was being “reassessed” by relevant authorities, along with the amount of funds that will likely be required for its destruction.⁸⁰³

⁷⁹⁹ Letter from the Permanent Mission of the Republic of Moldova to the UN in Geneva, 2 March 2009.

⁸⁰⁰ Statement delivered by Germany on behalf of the European Union, 2007 Session of the CCW GGE on Cluster Munitions, Geneva, 19 June 2007, www.eu2007.de.

⁸⁰¹ Statement of Moldova, Wellington Conference on Cluster Munitions, 18 February 2008, www.mfat.govt.nz.

⁸⁰² Summary Record of Opening Ceremony and Plenary, First Session: 19 May 2008, Dublin Diplomatic Conference on Cluster Munitions, CCM/SR/1, 18 June 2008.

⁸⁰³ Letter from the Permanent Mission of the Republic of Moldova to the UN in Geneva, 2 March 2009.

In 2003, Moldova reported to the UN that it possessed eleven 220mm Uragan multiple launch rocket systems.⁸⁰⁴ It is also believed to stockpile 9M27K 220mm rockets because Moldova reported the transfer of 860 9M27K rockets (each containing 30 high-explosive submunitions) to Guinea in 2000.⁸⁰⁵

MONACO

The Principality of Monaco signed the Convention on Cluster Munitions in Oslo on 3 December 2008. The status of the ratification process is unknown.

The only Oslo Process preparatory meeting that Monaco attended was the Vienna conference in December 2007. It did not participate in the formal negotiations in Dublin in May 2008. Mireille Pettiti, General Manager of the Ministry of Foreign Affairs, signed the convention on behalf of Monaco.⁸⁰⁶

Monaco is party to the Convention on Conventional Weapons (CCW), but has not ratified Protocol V on Explosive Remnants of War. Monaco has not actively participated in CCW discussions on cluster munitions in recent years.

Monaco is not believed to have ever used, produced, stockpiled, or transferred cluster munitions.

MONTENEGRO

Montenegro signed the Convention on Cluster Munitions in Oslo on 3 December 2008. The status of the ratification process is unknown.

Montenegro is not known to have used or produced cluster munitions, but it inherited a stockpile of 353 BL-755 cluster bombs upon the dissolution of the State of Serbia and Montenegro.⁸⁰⁷

Montenegro first participated in the Oslo Process at the international treaty preparatory conference in Vienna (December 2007).⁸⁰⁸ At the Belgrade Conference of Countries Affected by Cluster Munitions in October 2007, Montenegro pledged to destroy its stockpile of cluster munitions.⁸⁰⁹ At the Vienna conference, it stated its commitment to the Oslo Process and to disarmament in general.⁸¹⁰ At the Wellington conference in February 2008, Montenegro stated that it needed help from the international community of states and NGOs in order to destroy its cluster munition stockpiles.⁸¹¹ Montenegro was a full participant in the formal negotiations in Dublin in May 2008, and joined the consensus in adopting the convention.

Upon signing the convention in Oslo, Montenegro's Minister of Foreign Affairs Milan Roćen stated, "Protection of civilians, as a fundamental principle of the humanitarian law, should be an integral part of the policies of all responsible governments aimed at building and preserving international peace and

⁸⁰⁴ Submission of the Republic of Moldova, UN Register of Conventional Arms, Report for Calendar Year 2002, 1 July 2003.

⁸⁰⁵ Submission of the Republic of Moldova, UN Register of Conventional Arms, Report for Calendar Year 2000, 30 May 2001. Moldova also transferred 13 *Uragan* multiple launch rocket systems to Yemen in 1994 but it is not known if this included rockets containing submunitions. bmission of the Republic of Moldova, UN Register of Conventional Arms, Report for Calendar Year 1994, 28 April 1995.

⁸⁰⁶ Norway Ministry of Foreign Affairs, List of Signatories, Convention on Cluster Munitions Signing Conference, Oslo, 2–4 December 2008.

⁸⁰⁷ South Eastern and Eastern Europe Clearinghouse for Control of Small Arms and Light Weapons, "Ammunition Technical Assessment of Montenegro (First Edition)," 2007, p. 39. The BL-755 cluster bombs were produced by the United Kingdom.

⁸⁰⁸ In addition to the conferences cited in the text, Montenegro attended regional Oslo Process conferences in Belgium (October 2007) and Bulgaria (September 2008).

⁸⁰⁹ CMC, "Survivors and States Join Forces Against Cluster Bombs," Press release, 4 October 2007, www.stopclustermunitions.org.

⁸¹⁰ Vienna Conference on Cluster Munitions, 5–7 December 2007. Notes by CMC/WILPF.

⁸¹¹ Wellington Conference on Cluster Munitions, 18–22 February 2008. Notes by CMC.

security.” The minister praised the convention and highlighted, as a representative of a country recently affected by cluster munitions, the strong emphasis on victim assistance and clearance.⁸¹²

Montenegro is party to the Convention on Conventional Weapons (CCW), but has yet to ratify its Protocol V on Explosive Remnants of War. Montenegro has not been an active participant in CCW discussions on cluster munitions in recent years.

MOZAMBIQUE

The Republic of Mozambique signed the Convention on Cluster Munitions in Oslo on 3 December 2008. The status of the ratification process is not known. Mozambique is not believed to have used, produced, transferred, or stockpiled cluster munitions.

Mozambique participated in the initial Oslo Process conference in Oslo in February 2007, and all three of the international diplomatic conferences to develop the convention text in Lima, Vienna, and Wellington, as well as the formal negotiations in Dublin in May 2008. It also participated in the two African regional conferences held in Livingstone (March/April 2008) and Kampala (September 2008).

Mozambique was one of just three African states, along with Angola and South Africa, that attended the launch of the Oslo Process in February 2007. Mozambique called for urgent action to tackle cluster munitions due to the weapon’s impact on civilian populations, and said it was vital for the negotiation process to bring together all concerned parties including civil society.⁸¹³ It endorsed the Oslo Declaration committing states to conclude in 2008 a convention prohibiting cluster munitions that cause unacceptable harm to civilians.

At the Vienna conference, Mozambique said it was pleased at momentum generated by the Oslo Process and called for a complete prohibition on cluster munitions.⁸¹⁴ In Wellington, Mozambique said “the purpose of our discussions is not to regulate the use of cluster munitions, but...to ban them. Because we don’t believe neither in the concept of safe cluster munitions, nor in their categorization, we hold the view that there should be no exemption in their definition.”⁸¹⁵ It endorsed the Wellington Declaration, indicating its intention to participate fully in the Dublin negotiations. At the regional meeting in Livingstone, Mozambique endorsed the Livingstone Declaration, calling for a comprehensive treaty with a prohibition that should be “total and immediate.”⁸¹⁶

Mozambique worked for a strong treaty text during the negotiations in Dublin in May 2008. It pushed for better provisions on victim assistance⁸¹⁷ and on international cooperation and assistance.⁸¹⁸ It opposed a number of proposals it believed would weaken the treaty, including a transition period before obligations take effect.⁸¹⁹ Mozambique joined the consensus adoption of the convention and said it believed the balance achieved represented the best possible compromise.⁸²⁰

⁸¹² Statement by Milan Roćen, Minister of Foreign Affairs, Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008.

⁸¹³ Statement of Mozambique, Oslo Conference on Cluster Munitions, 22 February 2007. Notes by CMC/WILPF.

⁸¹⁴ Katherine Harrison, “The Vienna Conference on Cluster Munitions, 5–7 December 2007,” WILPF, January 2008, www.wilpf.int.ch.

⁸¹⁵ Katherine Harrison, “Report on the Wellington Conference on Cluster Munitions, 18–22 February 2008,” WILPF, March 2008, p. 19.

⁸¹⁶ Livingstone Declaration, Livingstone Conference on Cluster Munitions, 1 April 2008.

⁸¹⁷ Summary Record of the Committee of the Whole, Eighth Session: 23 May 2008, Dublin Diplomatic Conference on Cluster Munitions, CCM/CW/SR/8, 18 June 2008.

⁸¹⁸ Summary Record of the Committee of the Whole, Second Session: 20 May 2008, Dublin Diplomatic Conference, CCM/CW/SR/2, 18 June 2008.

⁸¹⁹ Summary Record of the Committee of the Whole, Eighth Session: 23 May 2008, Dublin Diplomatic Conference, CCM/CW/SR/8, 18 June 2008.

⁸²⁰ Summary Record of the Committee of the Whole, Sixteenth Session: 28 May 2008, Dublin Diplomatic Conference, CCM/CW/SR/16, 18 June 2008.

At the Kampala regional meeting in September 2008, Mozambique endorsed the the Kampala Action Plan, which declared that states should sign and “take all necessary measures to ratify the convention as soon as possible.”⁸²¹

Upon signing the convention, Mozambique’s Deputy Minister for Foreign Affairs and Cooperation, Henrique Banze, said that “in signing this Convention, we are not only denying the human suffering but we are particularly responding to our development needs.”⁸²²

Mozambique is not party to the Convention on Conventional Weapons.

NAMIBIA

The Republic of Namibia signed the Convention on Cluster Munitions in Oslo on 3 December 2008. The status of the ratification process is not known.

Namibia was not present at any of the four Oslo Process international diplomatic conferences in 2007 and 2008 to develop the convention text, or the formal negotiations in Dublin in May 2008. Namibia did attend the African regional meetings held in Livingstone in March/April 2008 and Kampala in September 2008.

Namibia endorsed the Livingstone Declaration, calling for a comprehensive convention with a prohibition that should be “total and immediate.”⁸²³ At the Kampala conference, Namibia announced its intent to sign the Convention on Cluster Munitions and urged all countries to join. It endorsed the Kampala Action Plan, which declared that states should sign and “take all necessary measures to ratify the convention as soon as possible.”⁸²⁴ Namibia’s representative to Sweden, Ambassador Theresia Samaria, signed the convention in Oslo.

Namibia has stated that it does not stockpile cluster munitions.⁸²⁵ It is not known to have used, produced, imported, or exported them.

Namibia is not party to the Convention on Conventional Weapons.

NAURU

The Republic of Nauru signed the Convention on Cluster Munitions in Oslo on 3 December 2008. The status of the ratification process is not known. Nauru is not believed to use, produce, or stockpile cluster munitions. Nauru is party to the Convention on Conventional Weapons, but has not ratified Protocol V on Explosive Remnants of War.

Nauru joined the Oslo Process in February 2008, when it participated in the Wellington Conference on Cluster Munitions. Nauru said it “does not have the capacity to be instrumental in the drafting” of the proposed convention, but “is committed to a total ban...to ensure that cluster munitions never, never appear in the beautiful Pacific.”⁸²⁶

⁸²¹ CMC, “Report on the Kampala Conference on the Convention on Cluster Munitions,” September 2008; Kampala Action Plan, Kampala Conference, 30 September 2008.

⁸²² Statement of Mozambique, Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008, www.clusterconvention.org.

⁸²³ Livingstone Declaration, Livingstone Conference on Cluster Munitions, 1 April 2008.

⁸²⁴ CMC, “Report on the Kampala Conference on the Convention on Cluster Munitions,” 30 September 2008; Kampala Action Plan, Kampala Conference, 30 September 2008.

⁸²⁵ Statement of Namibia, Kampala Conference, 30 September 2008. Notes by CMC.

⁸²⁶ Statement of Nauru, Wellington Conference on Cluster Munitions, 19 February 2008. Notes by CMC.

Nauru's Member of Parliament Aloysius Amwano signed the convention in Oslo, and said he did so in memory of all the civilians who have fallen casualty to cluster munitions.⁸²⁷ Nauru described the signing conference as a "brave moment of Unity to achieve Peace and Harmony in Our world."⁸²⁸

NETHERLANDS

The Kingdom of the Netherlands signed the Convention on Cluster Munitions (CCM) in Oslo on 3 December 2008. In February 2009, the Netherlands confirmed that it had initiated the ratification procedure and is "fully committed to the quick entry into force of the Convention." It explained that "the ratification procedure in the Netherlands entails obtaining an advisory opinion from the Council of State and the explicit approval of Parliament. This procedure normally takes 12 to 18 months. Pending the CCM's entry into force, the Netherlands will apply Article 1 of the CCM provisionally."⁸²⁹

The Netherlands is party to the Convention on Conventional Weapons (CCW) and its Protocol V on Explosive Remnants of War (ERW). The Netherlands has been an active participant in the CCW work on cluster munitions in recent years.

Cluster Munition Ban Policy

The Netherlands had the leading role in the development of CCW Protocol V on ERW from 2001 to 2003. It was agreed to by CCW States Parties in November 2003 and entered into force in November 2006. The Netherlands had formally proposed to put the subject of ERW on the agenda of the CCW in 2000, and the Netherlands' Ambassador Chris Sanders coordinated the negotiation of the protocol's text. That instrument was in large part a response to concerns regarding the post-conflict problems caused by cluster munitions, but addressed the issue in general terms and primarily by requiring post-conflict remedial measures.

In 2003, at the request of Pax Christi Netherlands, the government of the Netherlands provided initial funding for the formation of the CMC, a civil society partnership that was formally launched in The Hague in November 2003.⁸³⁰ Despite this early leadership on ERW and cluster munitions, the Netherlands was slow to embrace the Oslo Process and was not supportive of a broad prohibition on cluster munitions until the end of the negotiations on the Convention on Cluster Munitions in May 2008.

The Netherlands began destroying some of its cluster munition stockpiles in 2005 and 2006, but in the face of growing public and parliamentary pressure the government continued to maintain that cluster munitions were legitimate and necessary weapons.

In October 2006, opposition parties supported the call of several NGOs to immediately stop the use of cluster munitions worldwide.⁸³¹ During the same month, a parliamentary motion was initiated calling on the government to commit itself to an international treaty that "constrains or forbids" the use, production, and trade of cluster munitions. The motion was rejected.⁸³²

⁸²⁷ Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008. Notes by the Aotearoa New Zealand Cluster Munition Coalition.

⁸²⁸ Statement by Hon. Aloysius Amwano, Member of Parliament, Signing Conference, Oslo, 3 December 2008.

⁸²⁹ Letter from Henk Swarttouw, Director, Security Policy Department, Ministry of Foreign Affairs, 26 February 2009. Article 1 contains the basic prohibitions on use, production, stockpiling, transfer, and assistance with prohibited acts.

⁸³⁰ Pax Christi Netherlands, "Conference Report, CMC International Launch Conference, 12–13 November 2003."

⁸³¹ For more details, see Roos Boer, Frank Slijper, and Miriam Struyk, "The Devil is in the Detail," IKV Pax Christi, Utrecht, February 2008, pp. 8–9.

⁸³² Motie van het lid Koenders c.s. (Motion by MP Koenders), House of Representatives, Meeting year 2006–2007, 30 800 V, no. 17, 19 October 2006, rijksbegroting.minfin.nl.

In November 2006, at the Third Review Conference of the CCW, the Netherlands did not support a proposal for a mandate to negotiate a legally-binding instrument “that addresses the humanitarian concerns posed by cluster munitions.”⁸³³ After the mandate was rejected by a number of other countries, the Netherlands did not join 25 nations in issuing a declaration calling for an agreement that would prohibit the use of cluster munitions “within concentrations of civilians,” prohibit the use of cluster munitions that “pose serious humanitarian hazards because they are for example unreliable and/or inaccurate,” and require destruction of stockpiles of such cluster munitions.⁸³⁴ At the end of the Review Conference, Norway announced that it would start an independent process outside the CCW to negotiate a cluster munition treaty and invited other governments to join.

The Netherlands participated in the Oslo Process from the outset, though it made clear its preference for the CCW, and frequently expressed reservations about the process and the draft convention text, particularly the notion of a comprehensive ban. It participated in the initial conference in Oslo in February 2007, the three international diplomatic conferences to develop the convention text in Lima, Vienna, and Wellington, and the formal negotiations in Dublin in May 2008. It also attended the regional conference in Brussels in October 2007.

At the Oslo conference in February 2007, the Netherlands maintained that an international agreement on cluster munitions already existed: CCW Protocol V. What mattered now, it claimed, was to operationalize Protocol V. It called for a reference to Protocol V in the Oslo Declaration.⁸³⁵ At the end, the Netherlands was one of 46 nations to endorse the Oslo Declaration, committing them to conclude in 2008 a legally-binding international instrument to prohibit cluster munitions that cause unacceptable harm to civilians.

On 18 March 2007, considerable public outcry was generated when Dutch television aired a documentary titled “The Clusterbomb Feeling,” an exposé into major pension funds’ investments in companies involved in the production of landmines and cluster munitions.⁸³⁶ Many pension funds subsequently announced their intention to end investments in cluster munition manufacturers.⁸³⁷

In April 2007, Krista van Velzen of the Socialist Party submitted a private member’s bill to the Council of State forbidding the use, stockpiling, transfer and production of cluster munitions.⁸³⁸ However, the bill was not discussed in Parliament before the Dublin negotiations in May 2008.

During the Lima conference in May 2007, the Netherlands stated that it was not in favor of a comprehensive ban on cluster munitions. The Dutch Ambassador stated that when the Norwegian chair introduced the Oslo Declaration on 23 February “he explained...and I quote, ‘Our aim is to ban a certain part of the universe of cluster munitions.’ unquote.... The objective of Oslo is not to ban an entire category of weapons.”⁸³⁹ The Netherlands continued to emphasize the CCW as the preferred environment for work on this issue.⁸⁴⁰

⁸³³ Proposal for a Mandate to Negotiate a Legally-Binding Instrument that Addresses the Humanitarian Concerns Posed by Cluster Munitions, Presented by Austria, Holy See, Ireland, Mexico, New Zealand, and Sweden, Third Review Conference of the States Parties to the CCW, CCW/CONF.III/WP.1, Geneva, 25 October 2006.

⁸³⁴ Declaration on Cluster Munitions, Third Review Conference of the States Parties to the CCW, CCW/CONF.III/WP.18, Geneva, 17 November 2006.

⁸³⁵ The Netherlands pointed to Protocol V’s potential to deal with unexploded cluster munitions and its preventative measures relating to munitions quality control in production and shelf life. Statement of the Netherlands, Oslo Conference on Cluster Munitions, 22 February 2007. Notes by CMC/WILPF.

⁸³⁶ It was produced by Jos van Dongen and André Tak for Zembla, a documentary program. “The Clusterbomb Feeling,” March 2007, Zembla, VARA and NPS broadcasting, zembla.vara.nl.

⁸³⁷ Aaron Gray-Block, “ABN Amro shareholder Dutch pension fund ABP awaits proposed Barclays deal detail,” *AFX News Limited*, 12 April 2007, www.forbes.com; and “Massive Dutch pension fund drops investments in land mines, to disclose all holdings,” *Associated Press*, 6 April 2007, www.iht.com.

⁸³⁸ Roos Boer, Frank Slijper, and Miriam Struyk, “The Devil is in the Detail,” IKV PAX Christi, Utrecht, February 2008, pp. 8–9. See also, “Initiatiefwet SP tegen clusterbom” (“Initiative against cluster bombs”), *SP NL*, 1 April 2007, www.sp.nl.

⁸³⁹ Statement by Amb. Johannes C. Landman, Permanent Representative to the Conference on Disarmament, Lima Conference on Cluster Munitions, 24 May 2007.

⁸⁴⁰ *Ibid.*

On 26 June 2007, the Netherlands announced a temporary suspension of the use of cluster munitions, stating that the military would not use cluster munitions until further notice.⁸⁴¹ Henceforth, the Parliament would be notified in a timely manner in the event cluster munitions were to be used.⁸⁴²

At the Vienna conference in December 2007, the Netherlands stated, “Since that ‘founding meeting’ of the Oslo Group the discussion papers tabled at the follow-on meetings in Lima and Vienna have drifted away from [the] original aim” of the Oslo Process: to ban those cluster munitions that cause unacceptable harm. The Netherlands argued that the proposed draft convention text implied “a ban on all future types of cluster munition, whose characteristics are as yet unknown but may include types that do not cause unacceptable harm to civilians and hence do not have to be banned.”⁸⁴³ The Netherlands argued for exceptions for cluster munitions with low failure rates and self-destruct mechanisms, and for cluster munitions containing fewer than 10 submunitions.⁸⁴⁴ The Netherlands also proposed the inclusion of a specific article on the relationship of a future treaty with existing international instruments, mentioning CCW Protocol V.⁸⁴⁵

During the Wellington conference in February 2008, the Netherlands aligned itself with the so-called like-minded group that put forward numerous proposals that the CMC sharply criticized as weakening the draft text. In addition to continuing to oppose a broad prohibition, the Netherlands supported the deletion of special obligations for past users of cluster munitions.⁸⁴⁶ It endorsed a discussion paper calling for provisions aimed at facilitating “interoperability” (joint military operations with states not party).⁸⁴⁷ It supported a new provision allowing retention of cluster munitions for training and research purposes.⁸⁴⁸ At the conclusion of the conference, the Netherlands associated itself with a statement made on behalf of the “like-minded” group declaring dissatisfaction with the conference as it felt different opinions and views had not been taken into account in a balanced way.⁸⁴⁹ The Netherlands itself criticized “an unnecessary polarization.”⁸⁵⁰ However, it announced it would subscribe to the Wellington Declaration, indicating its intention to participate fully in the Dublin negotiations on the basis of the Wellington draft text.

In April 2008, the Ministry of Defense in collaboration with national research bodies reported on an inquiry into precision and reliability as criteria by which to distinguish “acceptable” from “unacceptable” cluster munitions. They concluded that reliability rates of weapons depend on the context and are therefore difficult to ascertain. On this basis, the government decided it was preferable to use technical properties, such as the presence of self-destruction and self-neutralization mechanisms and the number of submunitions.⁸⁵¹

NGO campaigning activities intensified in the Netherlands ahead of the final period of treaty negotiations.⁸⁵²

⁸⁴¹ IKV Pax Christi, “Netherlands suspends use of cluster munitions, but questions remain,” Press release, 27 June 2007, www.ikvpaxchristi.nl; Mike Corder, “Dutch military ordered to stop using cluster bombs until further notice,” *Associated Press*, 26 June 2007; and “Netherlands imposes moratorium on cluster bombs,” *Xinhua*, 26 June 2007.

⁸⁴² The announcement came one day before a parliamentary roundtable on cluster munitions organized by Members of Parliament (MPs) with the support of IKV Pax Christi. IKV Pax Christi, “Netherlands suspends use of cluster munitions, but questions remain,” Press release, 27 June 2007, www.ikvpaxchristi.nl.

⁸⁴³ Statement of the Netherlands, Session on General Obligations and Scope, Vienna Conference on Cluster Munitions, 6 December 2007; and Proposal by Australia, Canada, Denmark, Finland, France, Germany, Italy, Japan, the Netherlands, and the United Kingdom for additional text, Dublin Diplomatic Conference on Cluster Munitions, CCM/48/Corr., 22 May 2008.

⁸⁴⁴ Katherine Harrison, “Report from the Vienna Conference on Cluster Munitions 5–7 December 2007,” WILPF, January 2008, p.11–12.

⁸⁴⁵ Statement of the Netherlands, Session on Procedural Items, Vienna Conference, 5 December 2007.

⁸⁴⁶ Statement of the Netherlands, Session on Clearance, Wellington Conference on Cluster Munitions, 20 February 2008. Notes by CMC.

⁸⁴⁷ Discussion Paper, “Cluster Munitions and Interoperability: The Oslo-Process Discussion Text and Implications for International Operations,” presented by Australia, Canada, the Czech Republic, Denmark, Finland, France, Germany, Italy, the Netherlands, Sweden, Switzerland, and the United Kingdom, Wellington Conference, 18–22 February 2008, www.mfat.govt.nz.

⁸⁴⁸ Statement of the Netherlands, Session on Storage and Stockpile Destruction, Wellington Conference, 21 February 2008. Notes by CMC.

⁸⁴⁹ Statement of France on behalf of like-minded countries, Closing Plenary, Wellington Conference, 22 February 2008, www.mfat.govt.nz.

⁸⁵⁰ Statement of the Netherlands, Closing Statement, Wellington Conference, 22 February 2008.

⁸⁵¹ Minister of Foreign Affairs M.J.M. Verhagen and Minister of Defense E. van Middelkoop, “Kamerbrief inzake clustermunities” (“Parliamentary letter regarding cluster munitions”), 16 April 2008, www.minbuza.nl.

⁸⁵² IKV Pax Christi sent DVDs to all Members of Parliament which explained the human suffering caused by cluster munitions. Radio jingles were broadcast on Dutch radio, including messages from recognized military experts. Public action on the parliamentary square increased the pressure and put the issue high on the political agenda. Email from Roos Boers, Policy Advisor, IKV Pax Christi, 24 February 2009.

During the Dublin Diplomatic Conference in May 2008, the Netherlands increased its emphasis on interoperability, arguing that a solution to this would be vital to achieving consensus.⁸⁵³ It said that the Netherlands would not be able to join a convention which would affect its choice of military partners.⁸⁵⁴ The Netherlands proposed that the convention should employ a three tier approach to prohibition, including exemptions for munitions with a limited number of submunitions; a middle range of cluster munitions which would be subject to cumulative requirements; and a bottom tier of a “massive number” of cluster munitions which would be subjected to prohibition outright.⁸⁵⁵

On 22 May, however, the lower house of the Netherlands’ parliament accepted a parliamentary motion for a comprehensive ban on cluster munitions.⁸⁵⁶ The motion called on the Netherlands to pursue the strongest treaty possible in Dublin, and played an important role in a shift in Dutch policy in Dublin toward a more constructive approach and greater willingness to accept key elements of the draft text.⁸⁵⁷

At the conclusion of the negotiations, the Netherlands announced that while it was not “entirely happy” with the text, it could join consensus and adopt the convention. The Netherlands said that it hoped to persuade observers and those not present to sign the convention, while calling for the states present in Dublin to ratify CCW Protocol V.⁸⁵⁸

Following the death of Dutch television cameraperson Stan Storimans in Georgia during a Russian attack on Gori on 12 August 2008, the Dutch government undertook an investigation which concluded that his death was caused by a Russian cluster munition.⁸⁵⁹ Minister of Foreign Affairs Maxime Verhagen called on all user countries, particularly Russia and Georgia, to join the Netherlands in signing the Convention on Cluster Munitions in Oslo.⁸⁶⁰

After the adoption of the convention in May, the Netherlands continued to support work in the CCW on cluster munitions. In November, as CCW negotiations were scheduled to conclude, the Netherlands did not join 26 states that issued a statement expressing their opposition to the weak draft text on a possible CCW protocol on cluster munitions, indicating it was an unacceptable step back from the standards set by the Convention on Cluster Munitions.⁸⁶¹ When CCW States Parties failed to reach agreement, the Netherlands was one of the most vocal supporters of work continuing the following year.⁸⁶²

Upon signing the convention in Oslo in December 2008, Minister of Foreign Affairs Maxime Verhagen spoke of his visit to Afghanistan where he had met Stan Storimans and said that this death had “brought the truth home: cluster bombs kill.” He said the convention “codifies the strongest possible norms,” and that he was “confident that it will attach such a stigma to cluster bombs that even countries that are not present today to sign it will think twice before using these weapons.”⁸⁶³ The minister also called for the continuation of negotiations on a new protocol on cluster munitions in the CCW. He said that the Netherlands had

⁸⁵³ Statement of the Netherlands, Committee of the Whole on Article 1, Dublin Diplomatic Conference on Cluster Munitions, 19 May 2008. Notes by Landmine Action.

⁸⁵⁴ Statement of the Netherlands, Informal Discussions on Interoperability, Dublin Diplomatic Conference, 22 May 2008. Notes by Landmine Action.

⁸⁵⁵ Statement of the Netherlands, Informal Consultations on Definitions, Dublin Diplomatic Conference, 20 May 2008. Notes by Landmine Action.

⁸⁵⁶ This motion was initiated by Angelien Eijnsink, Labour Party (Partij van de Arbeid).

⁸⁵⁷ Email from Miriam Struyk, Senior Policy Advisor, IKV Pax Christi, 23 April 2009.

⁸⁵⁸ Statement of the Netherlands, Closing Plenary, Dublin Diplomatic Conference, 30 May 2008. Notes by Landmine Action.

⁸⁵⁹ “Cameraman killed by Russian bomb, Dutch say,” *International Herald Tribune*, 20 October 2008.

⁸⁶⁰ Minister of Foreign Affairs M.J.M Verhagen, “Kamerbrief inzake het verslag van de onderzoekscommissie-Storimans” (“Parliamentary letter regarding the report from the investigation commission – Storimans”), 20 October 2008, www.minbuza.nl.

⁸⁶¹ Statement delivered by Costa Rica on behalf of Austria, Belgium, Benin, Bosnia and Herzegovina, Chile, Croatia, Ecuador, El Salvador, Guatemala, Holy See, Honduras, Indonesia, Ireland, Lebanon, Mexico, New Zealand, Nicaragua, Norway, Peru, Philippines, Senegal, South Africa, Uganda, Uruguay, and Venezuela, Fifth 2008 Session of the CCW Group of Governmental Experts (GGE) on Cluster Munitions, Geneva, 5 November 2008.

⁸⁶² Statements of the Netherlands, Fifth 2008 Session of the CCW GGE on Cluster Munitions, Geneva, 7 and 12 November 2008. Notes by Landmine Action; The Netherlands argued that the credibility of the CCW was at stake and that therefore it must adopt a mandate for 2009 to negotiate a “Protocol” on cluster munitions, and not continue its previous mandate to “negotiate a proposal” at the risk of making the CCW “a laughing stock.” The Dutch ambassador added that the government of the Netherlands would not use its taxpayers’ money on the issue otherwise. Statement of the Netherlands, 2008 Meeting of the States Parties to the CCW, Geneva, 13 November 2008.

⁸⁶³ Statement by Maxime Verhagen, Minister of Foreign Affairs, Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008.

already begun destroying its stocks of cluster munitions and that it would “start the process of ratifying the Convention right after the signing ceremony.”⁸⁶⁴

In a February 2009 letter to Human Rights Watch, the Ministry of Foreign Affairs provided views on a number of interpretive issues in relation to the convention. It stated that “the transit across Dutch territory of cluster munitions that remain the property of the third party in question is not prohibited under the Convention.” It said that investments in production of cluster munitions run counter to the spirit of, but are not banned by, the convention. On interoperability, it noted that States Parties should encourage others to accede to the convention and “try to discourage them from using cluster munitions.” However, “military cooperation with States not Party is still permitted, including operations where the use of cluster munitions cannot be ruled out.... The consequences of this article for NATO operations are currently being clarified.”⁸⁶⁵

Use, Production, Transfer, and Stockpiling

In the past, the Netherlands used, produced, imported and, reportedly, exported cluster munitions. It has a stockpile, now slated for destruction.

The Royal Netherlands Air Force dropped 173 CBU-87 cluster bombs (with 202 bomblets each) during the 1999 NATO air campaign in the former Yugoslavia.⁸⁶⁶

In the past, the company Eurometaal NV produced cluster munitions in the Netherlands. It produced M483A1 and M864 155mm artillery projectiles with dual purpose improved conventional munition (DPICM) submunitions. This capacity was closed in 2002.⁸⁶⁷

In total, the Netherlands once possessed more than 191,500 cluster munitions containing some 26 million submunitions.⁸⁶⁸

Three cluster munition systems remain in the stockpiles: 293 CBU-87 bombs (containing 59,186 submunitions), 1,879 M261 multi-purpose submunition (MPSM) 70mm unguided air-to-surface rockets (containing 16,911 submunitions), and an unknown quantity of M483A1 155mm projectiles (which contain 88 submunitions each).⁸⁶⁹ The Netherlands removed from service two other cluster munition types: M26 rockets and BL755 bombs (see below).

In February 2009, the Netherlands reported that the length of time to complete stockpile destruction will depend on “international procedures and industrial capacity,” and will include the involvement of the NATO Maintenance and Supply Agency (NAMSA). It said that destruction of the M483 projectiles “is already in progress and the Dutch government has already started making preparations for the destruction of the other stocks.” It also noted that the Netherlands intends to retain “a limited number of cluster munitions and explosive submunitions” for development and training purposes permitted under the convention.⁸⁷⁰

⁸⁶⁴ Ibid.

⁸⁶⁵ Letter from Henk Swarttouw, Ministry of Foreign Affairs, 26 February 2009.

⁸⁶⁶ Minister of Foreign Affairs M.J.M. Verhagen, “Kamerbrief inzake beantwoording lijst van vragen over clustermunitionie” (“Parliamentary letter regarding questions on cluster munitions”), 4 September 2008, www.minbuza.nl.

⁸⁶⁷ Eurometaal was licensed by a US manufacturer to produce the DPICM artillery projectiles in its facility in Zaandam. First deliveries were made to the Dutch Army in 1989. Starting in 1994, Eurometaal shared production from the Zaandam plant with the licensed production undertaken by the Turkish company MKEK at its production facility in Kirikale. Leland S. Ness and Anthony G. Williams, eds., *Jane's Ammunition Handbook 2007–2008* (Surrey, UK: Jane's Information Group Limited, 2007), pp. 336–338 and 635–636.

⁸⁶⁸ This includes at least 173,000 M483 projectiles (15,224,000 submunitions), 16,400 M26 rockets (10,561,600 submunitions), 293 CBU-87 bombs (59,186 submunitions), 1,879 M261 rockets (16,911 submunitions), and an unknown number of BL-755 bombs (247 submunitions each). Letter from Henk Swarttouw, Ministry of Foreign Affairs, 26 February 2009; Tweede Kamer, vergaderjaar 2005–2006, Aanhangsel, pp. 237–239 (Parliamentary record of questions posed by MP Van Velzen and responded to by the State Secretary of Defence Van Der Knaap); Joris Janssen, “Dutch Plan to Update Cluster Weapons,” *Jane's Defence Weekly*, 19 October 2005.

⁸⁶⁹ Letter from Henk Swarttouw, Ministry of Foreign Affairs, 26 February 2009. These are all typically identified as US-produced weapons. It is not known when or how the Netherlands acquired them.

⁸⁷⁰ Ibid.

On 30 May 2008, the day the Dublin negotiations concluded, the Netherlands announced that it would destroy all remaining stockpiled cluster munitions, which it said included CBU-87 aircraft bombs and M-261 rockets used by Apache helicopters.⁸⁷¹ Just a month earlier in April 2008, the Dutch Minister of Defense had stated that the CBU-87s would be destroyed, but the M-261s would be kept, since the chances of these leaving unexploded ordnance behind was no higher than with other munitions.⁸⁷² The Royal Netherlands Air Force had previously considered, instead of destroying CBU-87s, modifying them with precision guidance capability and a self-destruct feature.⁸⁷³

In 2004, the Royal Netherlands Army reportedly had a stockpile of 174,000 M483A1 155mm DPICM artillery projectiles containing 15.3 million submunitions. Of these, 120,000 projectiles were to be destroyed (likely due to age and reliability concerns) and 54,000 retained until the delivery platform was taken out of service.⁸⁷⁴ In May 2005, the government said, “Due to replacement of artillery systems most M483 DPICM grenades [submunitions] are to be taken out of inventory.”⁸⁷⁵ NAMSA has been contracted to demilitarize the remaining M483A1 projectiles.⁸⁷⁶

In January 2006, the Ministry of Defense announced the transfer of 18 Multiple Launch Rocket System (MLRS) launchers to Finland.⁸⁷⁷ It was reported that 400 M26 rockets, each containing 644 M77 DPICM grenades, would be included in the sale for qualification testing and conversion into training rockets. The remaining stockpile of 16,000 M26 rockets in the Dutch inventory were to be destroyed, as there was “no market” for them, according to the State Secretary for Defense Procurement.⁸⁷⁸

The Netherlands once stockpiled an unknown quantity of UK-produced BL-755 cluster bombs, but in October 2005 the State Secretary for Defense Procurement stated that the BL-755 cluster bombs would be destroyed, with the disposal process to be completed by the end of 2006.⁸⁷⁹

NEW ZEALAND

New Zealand signed the Convention on Cluster Munitions in Oslo on 3 December 2008. On 2 April 2009, New Zealand’s Minister for Disarmament and Arms Control Georgina te Heuheu stated that legislation to ratify and implement the convention would be introduced in the New Zealand parliament in 2009.⁸⁸⁰ The ratification package prepared by the Ministry of Foreign Affairs and Trade was submitted to Cabinet in April 2009 for parliamentary approval.⁸⁸¹

New Zealand was a member of the “Core Group” of nations that took responsibility for the Oslo Process and the development of the Convention on Cluster Munitions outside of traditional diplomatic fora. New Zealand hosted a crucial meeting of the Oslo Process in Wellington in February 2008. During the treaty’s negotiation, New Zealand’s disarmament ambassador played a pivotal role in securing agreement on the definition of a cluster munition.

⁸⁷¹ Ministry of Foreign Affairs, “Verhagen: Ban on Cluster Bombs is Boost for Law of War,” Press release, 30 May 2008, www.minbuza.nl. Presumably, the M483A1 projectiles were not mentioned because they had already been removed from service by that time.

⁸⁷² “Netherlands Destroying CBU-87 Cluster-Bombs,” *NIS News Bulletin*, 18 April 2008, www.nisnews.nl.

⁸⁷³ Joris Janssen, “Dutch Plan to Update Cluster Weapons,” *Jane’s Defence Weekly*, 19 October 2005.

⁸⁷⁴ *Ibid.*

⁸⁷⁵ Communication from the Dutch Ministry of Foreign Affairs to Pax Christi Netherlands, May 2005. This also stated, “The remaining grenades are to be used by PzH2000 systems currently being introduced,” but the status of that program is not known.

⁸⁷⁶ Statement by A. Ingram, House of Commons, *Hansard*, (London; Her Majesty’s Stationery Office, 12 March 2007), Column 51-52W, www.publications.parliament.uk.

⁸⁷⁷ Ministry of Defense, “Finland Receives Two MLRS Batteries,” Press release, 13 January 2006, translated by Defense-aerospace.com.

⁸⁷⁸ Joris Janssen, “Dutch Plan to Update Cluster Weapons,” *Jane’s Defence Weekly*, 19 October 2005. The article said that the destruction of half of the M26s had already started and the other half will follow.

⁸⁷⁹ *Ibid.*

⁸⁸⁰ In response to a question on timing of the legislation, the minister said she hoped it would be completed by the one year anniversary of the December 2008 signature. Ministry of Foreign Affairs and Trade Briefing on Disarmament, Wellington, 2 April 2009. Notes by Peace Movement Aotearoa.

⁸⁸¹ Telephone interview with Jillian Dempster, Deputy Head of the Disarmament Unit of the International Security and Disarmament Division, Ministry of Foreign Affairs and Trade, 7 April 2009.

In February 2008, New Zealand stated that it “does not possess, will not acquire and will not use cluster munitions.”⁸⁸²

New Zealand is party to the Convention on Conventional Weapons (CCW), and ratified Protocol V on Explosive Remnants of War on 2 October 2007.

Cluster Munition Ban Policy

New Zealand was an early supporter of diplomatic efforts to deal with cluster munitions.⁸⁸³ In September 2006, then Minister for Disarmament and Arms Control Phil Goff, said, “The disastrous consequences of the use of cluster bombs in Lebanon in the recent conflict there demands a stronger stand by the international community to restrict and regulate the use of cluster munitions.” The minister noted, “Promoting the campaign for the creation of a legally binding agreement strengthens New Zealand’s position on cluster munitions and adds our voice to a growing international movement demanding action on these weapons.”⁸⁸⁴

At the CCW Third Review Conference in November 2006, New Zealand supported a proposal for a mandate to negotiate a legally-binding instrument “that addresses the humanitarian concerns posed by cluster munitions.”⁸⁸⁵ When other CCW States Parties rejected such a mandate, New Zealand joined 25 nations in supporting a declaration calling for an international agreement that would prohibit the use of cluster munitions “within concentrations of civilians,” prohibit the use of cluster munitions that “pose serious humanitarian hazards because they are for example unreliable and/or inaccurate,” and require destruction of stockpiles of such cluster munitions.⁸⁸⁶

Norway then announced that it would start an independent process outside the CCW to negotiate a treaty banning cluster munitions that cause unacceptable harm to civilians, and invited other governments to join. A voluntary “Core Group” of countries emerged to take responsibility for moving forward what became known as the Oslo Process, and New Zealand was one of six initial countries in the Core Group.

New Zealand was one of the most active participants throughout the Oslo Process, from the international conference to launch the process in February 2007, to the three subsequent international conferences to develop the convention text in Lima in May 2007, Vienna in December 2007, and—as the host—Wellington in February 2008, to the formal negotiations in Dublin in May 2008.

New Zealand was a co-chair during the first conference in Oslo on 22–23 February 2007, and was one of the 46 states that endorsed the Oslo Declaration, committing states to conclude in 2008 an international instrument prohibiting cluster munitions that pose unacceptable harm to civilians. During the Oslo conference, New Zealand offered to convene a meeting of the Oslo Process. According to Minister Goff, New Zealand decided to support the process because the CCW had “regrettably failed to agree on a mandate to launch negotiations to restrict cluster munitions use. That was, in our view, an unacceptable outcome. We have therefore embarked on the alternative route of mobilising support to limit the use of cluster munitions.”⁸⁸⁷

On 22 March 2007, a group of NGOs met in Wellington and agreed to establish the Aotearoa New Zealand Cluster Munition Coalition (ANZCMC). This is believed to be the first national coalition in the world dedicated specifically to tackling cluster munitions.

⁸⁸² Statement by Hon. Phil Goff, Minister for Disarmament and Arms Control, Parliamentary Reception, Wellington Conference on Cluster Munitions, 20 February 2008.

⁸⁸³ In June 2003, New Zealand supported a proposal by Switzerland to negotiate a new protocol on submunitions within the framework of the CCW. Throughout 2004 and 2005 New Zealand joined NGOs and the ICRC in continuing to press for meaningful work on cluster munitions in the CCW.

⁸⁸⁴ Press Statement by Hon. Phil Goff, “New Zealand Calls For Action Against Cluster Bombs,” 6 September 2006, www.beehive.govt.nz.

⁸⁸⁵ Proposal for a Mandate to Negotiate a Legally-Binding Instrument that Addresses the Humanitarian Concerns Posed by Cluster Munitions, Third Review Conference of the States Parties to the CCW, CCW/CONF.III/WP.1, Geneva, 25 October 2006.

⁸⁸⁶ Declaration on Cluster Munitions, Third Review Conference of the States Parties to the CCW, CCW/CONF.III/WP.18, Geneva, 17 November 2006.

⁸⁸⁷ Response by Hon. Phil Goff to Parliamentary Question, “Cluster Bombs-Lebanon,” *Hansard*, Vol. 637, p. 7621, www.parliament.nz.

At both the Lima and Vienna conferences, New Zealand's Disarmament Ambassador Don MacKay chaired the discussions on the most hotly debated issue: the definition of a cluster munition. This was key because it would determine how broad and comprehensive the prohibition would be, and what, if any, types of cluster munitions would not be included. Ambassador MacKay also dealt with the difficult issues of transition periods and of general obligations and scope of the convention.

New Zealand convened the fourth international meeting of the Oslo Process at the Wellington Town Hall from 18–22 February 2008. The Wellington Conference on Cluster Munitions was the largest disarmament gathering ever held in the country.⁸⁸⁸ A total of 106 governments attended the meeting, while 20 more states registered, but did not participate due to last-minute travel and visa challenges. A delegation of 142 civil society participants from 43 countries attended the meeting, a quarter of them New Zealanders reflecting strong public interest in the issue.

Minister of Disarmament and Arms Control Phil Goff formally opened the conference, and spoke at an event in the national parliament and at the closing press conference.⁸⁸⁹ He used these opportunities to strongly challenge governments to meet the Oslo Process ban treaty objective. In Parliament, the Green Party helped sharpen the domestic debate by calling on the New Zealand Superannuation Fund's to divest from its investments in companies involved in the production of cluster bombs. Throughout the conference civil society maintained a strong presence both inside and outside the formal meeting.⁸⁹⁰

The principal outcome of the Wellington conference was a declaration endorsed by 82 governments on the final day of the meeting. The Wellington Declaration committed states to negotiate the convention to ban cluster munitions that pose unacceptable harm to civilians in Dublin, Ireland from 19–30 May, using the draft treaty text developed in Wellington as the basis for negotiations. In order to participate fully in the negotiations, a state had to endorse the Wellington Declaration. By 23 May 2008 (the last recorded update), a total of 119 states had endorsed the Wellington Declaration.⁸⁹¹ Nine of the region's 12 Pacific island nation states attended the Wellington conference, participating for the first time in the Oslo Process (Cook Islands, Fiji, Marshall Islands, Niue, Palau, Papua New Guinea, Samoa, Tonga, and Vanuatu).

The Wellington conference was the most contentious of the Oslo Process meetings, including the negotiations themselves. Over the course of the conference in intense plenary and break-out sessions, several countries, notably those who called themselves the "like-minded group," submitted proposals to amend the draft treaty text. These were generally characterized by the CMC as efforts to weaken the draft text, and they did not generate widespread support among other states. With the like-minded group insisting that the proposals be further considered, the chair of the Wellington conference—Ambassador Don MacKay—placed the proposals together in a "Compendium" that was sent to Dublin along with the draft text to inform negotiations. Nevertheless, at the conclusion, the like-minded countries delivered a statement which expressed frustration with the proceedings of the Wellington conference.⁸⁹² The CMC and many states expressed great satisfaction with the outcome, and in particular the refusal to yield to the demands of the like-minded group.

At the Dublin Diplomatic Conference on Cluster Munitions, New Zealand's Ambassador MacKay was Friend of the Chair on definitions (draft article 1). In its opening remarks, New Zealand emphasized its commitment to a strong treaty and described the draft article as "fundamental" to the parameters of the convention, which it described as "a humanitarian instrument."⁸⁹³ In addition to its role on the definition, New Zealand also put a priority on the provisions related to victims and victim assistance. It supported a broad definition of cluster munitions victim including families and communities.⁸⁹⁴ New Zealand supported

⁸⁸⁸ ANZCMC, "Report on Activities: Wellington Conference on Cluster Munitions, 18–22 February 2008," April 2008, www.stopclusterbombs.org.

⁸⁸⁹ Statement by Hon. Phil Goff, Opening Ceremony, Wellington Conference, 18 February 2008.

⁸⁹⁰ NGOs carried out an array of side events on cluster munitions, including a demonstration held in Civic Square, where more than 1,000 people lay down on the pavement to have their silhouette outline drawn with chalk. Minister Goff accepted a total of 3,367 ANZCMC petitions presented to him by a delegation of cluster munition survivors.

⁸⁹¹ New Zealand Ministry of Foreign Affairs and Trade, "List of countries subscribing to the Declaration of the Wellington Conference on Cluster Munitions," 23 May 2008, www.mfat.govt.nz.

⁸⁹² Statement of France on behalf of the like-minded countries, Closing Plenary, Wellington Conference, 22 February 2008.

⁸⁹³ Summary Record of the Committee of the Whole, First Session: 19 May 2008, Dublin Diplomatic Conference on Cluster Munitions, CCM/CW/SR/1, 18 June 2008.

⁸⁹⁴ Summary Record of the Committee of the Whole, Second Session: 20 May 2008, Dublin Diplomatic Conference, CCM/CW/SR/2, 18 June 2008.

the inclusion of a new article on “interoperability” (joint military operations with states not party) and in the end said it viewed the article as an acceptable compromise.⁸⁹⁵

On 28 May 2008, when the President of the Dublin conference asked states if the draft text could be agreed, New Zealand was the second state to speak. Ambassador MacKay said that New Zealand considered the draft convention to be “a strong, balanced text that was ground-breaking in many respects” and “met the humanitarian objectives of the Oslo Process.”⁸⁹⁶ On the final day of the Dublin conference, Minister Goff warmly welcomed the convention, stating that, “The end result, while inevitably involving some compromise, has exceeded expectations.”⁸⁹⁷ The ANZCMC said “we achieved our goal” and “the New Zealand government and public should be proud of the crucial role they played in securing this agreement.”⁸⁹⁸

New Zealand officials later elaborated on the issue of interoperability. At a 19 June 2008 NGO briefing, a foreign affairs official said, “We are pleased with the outcome [on Article 21]. It is an expression of the reality that United Nations operations have different obligations for the parties that participate. The Ottawa Convention was ambiguous. This is a strong provision because it encourages a very specific dialogue between coalition partners. It is black and white, and transparent. NGOs can lobby when states enter into coalition negotiation.”⁸⁹⁹ On 25 July 2008, Minister Goff wrote that the convention’s provision on interoperability “adds clarity to existing international law, and allowed a larger number of countries to join in endorsing the Convention.”⁹⁰⁰

At the CCW in November 2008, New Zealand was one of 26 states that issued a joint statement expressing their opposition to the weak draft text on a possible CCW protocol on cluster munitions, indicating it was an unacceptable step back from the standards set by the Convention on Cluster Munitions.⁹⁰¹

On 3 December, New Zealand’s Ambassador MacKay signed the convention on the government’s behalf during the opening of the signing conference.⁹⁰² In a statement to the plenary, MacKay described the convention as “proof that the international community can work together to take decisive action in the face of humanitarian suffering” and “proof that bold new steps are possible in the disarmament arena.”⁹⁰³

NICARAGUA

The Republic of Nicaragua signed the Convention on Cluster Munitions in Oslo on 3 December 2008. During a special event held at the UN in New York on 18 March 2009 to promote the convention, Nicaragua reported that its President had sent the convention to its Parliament for ratification, and that it hoped to complete the process soon.⁹⁰⁴ Nicaragua has stated that it has never used, produced, or stockpiled cluster munitions.⁹⁰⁵

⁸⁹⁵ CMC Ireland, “CMC Dublin Conference Update – Day 7: Waiting,” 27 May 2008, www.stopclusterbombs.ie.

⁸⁹⁶ Summary Record of the Committee of the Whole, Sixteenth Session: 28 May 2008, Dublin Diplomatic Conference, CCM/CW/SR/16, 18 June 2008.

⁸⁹⁷ Press Statement by Hon. Phil Goff, “Ground-breaking Treaty at conclusion of Dublin Conference on Cluster Munitions,” 30 May 2008, www.beehive.govt.nz.

⁸⁹⁸ Oxfam New Zealand, “Cluster Bombs: Treaty breakthrough in Dublin, cluster bomb ban agreed,” Press release, 29 May 2008, oxfam.org.nz; and ANZCMC, “Report on Activities: Dublin Diplomatic Conference on Cluster Munitions, 19–30 May 2008,” July 2008, www.stopclusterbombs.org.nz.

⁸⁹⁹ Ministry of Foreign Affairs and Trade Briefing, Wellington, 19 June 2008. Notes by Human Rights Watch.

⁹⁰⁰ Letter from Hon. Phil Goff, 25 July 2008.

⁹⁰¹ Statement delivered by Costa Rica on behalf of Austria, Belgium, Benin, Bosnia and Herzegovina, Chile, Croatia, Ecuador, El Salvador, Guatemala, Holy See, Honduras, Indonesia, Ireland, Lebanon, Mexico, New Zealand, Nicaragua, Norway, Peru, Philippines, Senegal, South Africa, Uganda, Uruguay, and Venezuela, Fifth 2008 Session of the CCW Group of Governmental Experts on Cluster Munitions, Geneva, 5 November 2008.

⁹⁰² New Zealand was not represented by a government minister due at least in part to the change in government following November elections. The ANZCMC expressed “disappointment” that New Zealand was not able to send a cabinet minister to sign the convention, but noted it was “fitting that Ambassador Don MacKay undertook this honour given his central role in negotiating the Convention.” ANZCMC, “New Zealand one of the first countries to sign global treaty banning cluster bombs,” Press statement, 4 December 2008. See also ANZCMC, “Report on Activities: Convention on Cluster Munitions Signing Conference, Oslo, Norway, 2–4 December 2008,” February 2009. www.stopclusterbombs.org.nz.

⁹⁰³ Statement by Amb. Don MacKay, Permanent Mission of New Zealand to the UN Office in Geneva, Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008.

⁹⁰⁴ CMC, “Report on the Special Event on the Convention on Cluster Munitions, United Nations, New York, 18 March 2009.”

⁹⁰⁵ Statement of Nicaragua, Vienna Conference on Cluster Munitions, 5 December 2007. Notes by CMC/WILPF.

Nicaragua's first engagement in the Oslo Process came in September 2007, when it attended the Latin American Regional Conference on Cluster Munitions held in Costa Rica and expressed its support for a new convention banning cluster munitions. It subsequently participated in the international treaty preparatory conference in Vienna in December 2007. While Nicaragua did not participate in the Wellington conference in February 2008, on 23 April 2008 it endorsed the Wellington Declaration, indicating its intention to participate in the formal negotiations in Dublin on the basis of the draft treaty text. It also attended the regional conference held in Mexico City in April.

During the Dublin negotiations in May 2008, Nicaragua supported efforts to strengthen the victim assistance provisions in the draft convention.⁹⁰⁶ Nicaragua also opposed a transition period during which states could continue to use cluster munitions.⁹⁰⁷ Upon signing the convention in Oslo, Nicaragua's ambassador hailed it as a significant advance in disarmament.⁹⁰⁸

Nicaragua is party to the Convention on Conventional Weapons (CCW) and ratified Protocol V on Explosive Remnants of War on 15 September 2005. At a CCW Group of Governmental Experts (GGE) meeting in November 2008, Nicaragua was one of 26 states that issued a joint statement expressing their opposition to the weak draft text on a possible CCW Protocol on cluster munitions, indicating it was an unacceptable step back from the standards set by the Convention on Cluster Munitions.⁹⁰⁹

NIGER

The Republic of Niger signed the Convention on Cluster Munitions in Oslo on 3 December 2008.⁹¹⁰ The Minister of Foreign Affairs and Cooperation reported that Niger initiated the ratification process immediately after signing the convention. The ratification requires parliamentary approval.⁹¹¹ Niger has confirmed that it has never used, produced, stockpiled, or transferred cluster munitions.⁹¹²

Niger only participated in one of the four international conferences to develop the text of the convention, the Vienna Conference in December 2007. Although Niger did not attend the Wellington conference in February 2008, it later endorsed the Wellington Declaration on 29 April 2008, indicating its intention to participate in the Dublin negotiations on the basis of the Wellington draft text. Niger also attended the Livingstone regional conference in March/April 2008, and endorsed the Livingstone Declaration, calling for a comprehensive treaty with a prohibition that should be "total and immediate."⁹¹³

At the formal negotiations in Dublin in May 2008, Niger opposed any efforts to weaken the draft convention text, including any additional exceptions or exclusions in the definition of cluster munition,⁹¹⁴ and the inclusion of a transition period during which states could still use cluster munitions.⁹¹⁵ Niger adopted the convention at the conclusion of the negotiations, while expressing some dismay at the compromises made.⁹¹⁶

⁹⁰⁶ Proposal by Argentina, Chile, Costa Rica, Dominican Republic, Ecuador, Guatemala, Guinea, Honduras, Mexico, Nicaragua, Panama, Peru, Uruguay, and Zambia for the amendment of Article 5, Dublin Diplomatic Conference on Cluster Munitions, CCM/70, 21 May 2008.

⁹⁰⁷ Dublin Diplomatic Conference, 23 May 2008. Notes by Landmine Action.

⁹⁰⁸ Statement by Amb. Ricardo José Alvarado Noguera, Representative of Nicaragua to Denmark and Norway, Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008. Notes by Landmine Action.

⁹⁰⁹ Statement delivered by Costa Rica, Fifth 2008 Session of the CCW GGE on Cluster Munitions, Geneva, 5 November 2008.

⁹¹⁰ Kassouma Mai Moctar, President of the National Commission for the Collection and Control of Illicit Weapons, signed the convention on behalf of Niger.

⁹¹¹ Letter from Minister of Foreign Affairs and Cooperation Aichatou Mindaoudou, No. 001581, 3 March 2009.

⁹¹² *Ibid.*

⁹¹³ Livingstone Declaration, Livingstone Conference on Cluster Munitions, 1 April 2008.

⁹¹⁴ Statement of Niger, Committee of the Whole on Article 2, Dublin Diplomatic Conference on Cluster Munitions, 19 May 2008. Notes by Landmine Action.

⁹¹⁵ Statement of Niger, Dublin Diplomatic Conference, 23 May 2008. Notes by Landmine Action.

⁹¹⁶ Statement of Niger, Committee of the Whole, Dublin Diplomatic Conference, 28 May 2008. Notes by Landmine Action.

Niger publicly announced it would sign the convention in Oslo during the Kampala conference in September 2008 and endorsed the Kampala Action Plan, which declared that states should sign and “take all necessary measures to ratify the convention as soon as possible.”⁹¹⁷

Niger is party to the Convention on Conventional Weapons (CCW), but has not ratified Protocol V on Explosive Remnants of War. Niger participated in some of the CCW sessions on cluster munitions in 2008.

NORWAY

The Prime Minister of the Kingdom of Norway signed the Convention on Cluster Munitions in Oslo on 3 December 2008. Norway was one of four countries that both signed and ratified the convention that same day.

Norway initiated the Oslo Process in November 2006, held the first international diplomatic conference to launch the process in Oslo in February 2007, and hosted the Convention on Cluster Munitions Signing Conference in Oslo in December 2008. Norway’s leadership role, under the direction of Ambassador Steffen Kongstad, in stewarding and supporting the Oslo Process was fundamental to its success. Throughout the Oslo Process, Norway advocated for provisions in the draft convention that strengthened humanitarian protections. Norway also worked hard to ensure that civil society, and especially the CMC and cluster munition survivors, played a prominent and influential role in the process, including the development and negotiation of the convention text.

Norway is party to the Convention on Conventional Weapons (CCW), and ratified Protocol V on Explosive Remnants of War on 8 December 2005. Norway has participated in the work of the CCW on cluster munitions in recent years.

Cluster Munition Ban Policy

Reflecting its leadership role in the creation and adoption of the Mine Ban Treaty in 1997, and the treaty’s global implementation ever since then, Norway was an early supporter of action to deal with the harmful effects of cluster munitions, both domestically and internationally. In 2001, Norwegian parliamentarians began to call for a national moratorium on the use of cluster munitions, and on 14 June 2001, Parliament adopted a resolution urging the government to work actively toward the achievement of an international ban on cluster munitions.⁹¹⁸

In early 2003, the Norwegian Parliament held discussions on a proposal to introduce a national ban on cluster munitions. The majority of the Norwegian Defense Committee argued that as the Norwegian military had on 7 February 2003 issued a decision not to use cluster munitions, specifically in connection with Norwegian military participation in Afghanistan, there was no need for further action. In February 2003, the Norwegian Parliament rejected the proposal for a ban, but supported continued restrictions on the use of cluster munitions.⁹¹⁹

In November 2003, Norway reported that on the basis of the 2001 parliamentary resolution, “All air-delivered cluster bombs previously in Norwegian stock have been destroyed, because of their low level of precision and high dud-rate.” It also said that the Minister of Defense had issued instructions in October 2002 to the Norwegian Armed Forces prohibiting the use of all air-delivered cluster munitions in military operations in the future without prior consent of the Ministry of Defense. Furthermore, the minister’s instructions prohibited the acquisition of all cluster munitions with “high dud rates/without self-

⁹¹⁷ CMC, “Report on the Kampala Conference on the Convention on Cluster Munitions,” 30 September 2008; and Kampala Action Plan, Kampala Conference, 30 September 2008.

⁹¹⁸ CMC, “National Legislation Banning Cluster Munitions – Norway,” www.stopclustermunitions.org. Odd Roger Enoksen and Åslaug Haga (Center Party) were particularly active.

⁹¹⁹ “Forbyr ikke klasebomber” (“No prohibition on cluster bombs”), *Forsvaret*, 5 February 2003, www.mil.no; and “Stortinget vurderer klasebombe-forbud” (“Parliament considers ban on cluster bomb ban”), *Forsvaret*, 29 January 2003, www.mil.no.

destruct mechanisms.”⁹²⁰ Norway did not say anything specific about its 155mm artillery projectiles with submunitions with self-destruct mechanisms.

In 2004, the Ministry of Finance decided to include cluster munitions in a category of inhumane weapons to be excluded from investment under the Norwegian Government Pension Fund’s ethical guidelines. In June 2005, eight foreign companies involved in the production of cluster munitions were excluded from the fund’s investments.⁹²¹ Additional companies were excluded in 2006 and 2008.⁹²²

In 2005 and 2006, Norwegian People’s Aid and the Norwegian Red Cross increased their campaigning activities and generated considerable media attention to the issue of cluster munitions, and secured the support of many parliamentarians and governmental officials.⁹²³

In early 2005, the Ministry of Defense stated, “In accordance with established Norwegian policy, only ground-launched [cluster] munitions with a reliability of at least 99% may be procured. This policy also states that no such ammunition may be procured unless equipped with a self-destruct mechanism.”⁹²⁴

At the CCW in 2005, Norway argued that the use of cluster munitions raised particular problems under international humanitarian law “due to their high number of submunitions, their wide dispersal, and, in many cases, their high dud rate.” Norway also noted particular problems associated with high-altitude aerial bombardment using cluster munitions.⁹²⁵

In March 2006, the media reported that Norway had facilitated testing in Norway by the United Kingdom of British M85 submunitions. The submunitions presented a failure rate of 2.3%, despite being the same type contained in Norwegian artillery projectiles that Norway maintained had a failure rate of less than 1%. The testing of Norwegian submunitions produced a failure rate of 2.04%.⁹²⁶

Shortly thereafter, in May 2006, the Ministry of Defense decided to institute a national moratorium on use of cluster munitions until further testing of its cluster munition failure rates had been undertaken, and said that it would work to ban cluster munitions that cause unacceptable humanitarian problems.⁹²⁷ Norway officially announced a moratorium on the use of cluster munitions during the CCW session in June 2006.⁹²⁸

In September and October 2006, the Norwegian Ministry of Defense carried out a new round of testing to verify if Norway’s cluster munitions complied with its policy requiring a failure rate of less than 1%. The tests, carried out at the Hjerkins firing range, were the most comprehensive ever conducted by Norway and revealed that the failure rates for its version of the M85 submunitions exceeded the 1% limit even in test conditions.⁹²⁹

⁹²⁰ Norway, “National interpretation and implementation of International Humanitarian Law with regard to the risk of Explosive Remnants of War,” Sixth Session of the CCW Group of Governmental Experts (GGE) on Explosive Remnants of War, Geneva, CCW/GGE/VI/WG.1/WP.3, 24 November 2003. The paper stated that “some countries may have self-imposed restrictions and policy that go further than the restrictions contained in the existing IHL. For the Norwegian Armed Forces, these restrictions i.a. imply that only air-delivered cluster bombs with a high reliability rate/self destruct mechanisms may be used in international military operations.”

⁹²¹ Ministry of Finance, “A Further Eight Companies Excluded from the Petroleum Fund,” Press release, 2 September 2005, www.regjeringen.no. The companies were Alliant Techsystems Inc., EADS Co (European Aeronautic Defence and Space Company), EADS Finance BV, General Dynamics Corporation, L3 Communications Holdings Inc., Lockheed Martin Corp., Raytheon Co., and Thales SA. The fund’s Council on Ethics, an independent council of five people, provides advice to the Ministry of Finance, which then makes the exclusion decision.

⁹²² The South Korean company Poongsan Corporation in December 2006 and Hanwha Corporation in January 2008. See Ministry of Finance, “South Korean producer of cluster munitions excluded from the Government Pension Fund – Global,” Press release, 6 December 2006, www.regjeringen.no; and Ministry of Finance, “One producer of cluster munitions and two producers of nuclear weapons excluded from the Government Pension Fund – Global,” Press release, 11 January 2008, www.regjeringen.no.

⁹²³ See Margarita H. Petrova, “Small States as International Agenda-Setters and Law-Makers: Belgian and Norwegian Roles in Developing New Norms of Warfare,” Paper prepared for the 6th Pan-European International Relations Conference, Turin, 12–15 September 2007, pp. 26–27.

⁹²⁴ Communication from the Norwegian Ministry of Defense to Pax Christi Netherlands, 6 February 2005.

⁹²⁵ Response from Norway, “Responses to Document CCW/GGE/XI/WG.1/WP.2, entitled IHL and ERW, Dated 8 March 2005,” Eleventh Session of the CCW GGE, Geneva, CCW/GGE/XI/WG.1/WP.5, 29 July 2005, pp. 4, 7.

⁹²⁶ Colin King, Grethe Østern, and Ove Dullum, “M85: An analysis of reliability,” 2007, p. 59, www.npaid.org. The information was released under the UK Freedom of Information Act by the UK Ministry of Defence in a letter to Richard Moyes, Policy and Research Director, Landmine Action, 27 March 2006. Defence Logistics Organisation (DLO) Secretariat, DLO Andover, “Response to Landmine Action question,” Reference 06-02-2006-145827-009, 27 March 2006.

⁹²⁷ Human Rights Watch, “Survey of Cluster Munition Policy and Practice,” February 2007, p. 43, www.hrw.org.

⁹²⁸ Statement of Norway, Fourteenth Session of the CCW GGE, Geneva, 20 June 2006. Notes by CMC; and CMC, “National Legislation Banning Cluster Munitions – Norway,” www.stopclustermunitions.org.

⁹²⁹ Colin King, Grethe Østern, and Ove Dullum, “M85: An analysis of reliability,” 2007, p. 59, www.npaid.org.

Between 2001 and 2006, Norway had focused its international efforts on cluster munitions within the framework of the CCW. However, the CCW's lack of action, combined with the developments at home as well as abroad—most notably Israel's massive use of cluster munitions in south Lebanon in July-August 2006—convinced the government that another path was required.

At a CCW meeting on 28 August 2006, Norway urged states to focus on “how to proceed toward substantive results” on cluster munitions and said, “We strongly believe there is an urgent need for an international instrument on cluster munitions and we remain willing to pursue the issue.”⁹³⁰

Norway's Minister of Foreign Affairs Jonas Gahr Støre announced in October 2006 that his country would “take the lead—along with other like-minded countries and international humanitarian actors—to put in place an international prohibition against cluster munitions.”⁹³¹ This was the first public indication that any government was considering going outside the CCW to work internationally on cluster munitions.

Just prior to a key CCW meeting, the Third Review Conference, on 3 November 2006 Norway extended its moratorium on cluster munitions until a legally-binding instrument on cluster munitions could be concluded. Norway stated that “the Norwegian moratorium is important in itself, but it is also important in terms of giving Norway the necessary international credibility now that the Government has decided to work for a ban on cluster munitions that cause great humanitarian suffering.”⁹³²

At the CCW Review Conference, Norway declined to formally support a proposal for a mandate to negotiate an instrument on cluster munitions in the CCW. After the proposal was rejected by most CCW States Parties, Norway and 24 other countries issued a joint declaration calling for an agreement that would prohibit the use of cluster munitions “within concentrations of civilians,” prohibit the use of cluster munitions that “pose serious humanitarian hazards because they are for example unreliable and/or inaccurate,” and require destruction of stockpiles of such cluster munitions.⁹³³

After the declaration was read out on the final day of the Review Conference, 17 November 2006, Norway announced that it would start an independent process outside the CCW to negotiate a cluster munition treaty and invited other governments to join, thus initiating what became known as the Oslo Process.⁹³⁴ On the same day, Minister of Foreign Affairs Jonas Gahr Støre made a statement announcing that Norway would organize an international conference to launch a process toward an international ban on cluster munitions that have unacceptable humanitarian consequences. Mr. Støre stated, “We must take advantage of the political will now evident in many countries to prohibit cluster munitions that cause unacceptable humanitarian harm. The time is ripe to establish broad cooperation on a concerted effort to achieve a ban.”⁹³⁵

For the first international conference in Oslo on 22–23 February 2007, Norway invited countries willing to address the issue in a determined and effective manner and prepared to develop a new legally-binding international instrument on cluster munitions. A total of 49 countries participated in the Oslo conference along with several UN agencies, the ICRC, and the CMC.⁹³⁶ For its part, Norway stressed the need for an integrated approach to combating cluster munitions, by not only prohibiting use of the weapon, but

⁹³⁰ Audio Recording of Intervention by Norway, General Exchange of Views, Fifteenth Session of the CCW GGE, 28 August 2006, www.onug.ch.

⁹³¹ Ministry of Foreign Affairs, “Minister of Foreign Affairs Reply to Olav Akselsen's (Labour Party) Question Regarding the War in Lebanon and the Use of Cluster Munitions,” No. 61 (2006–2007), 24 October 2006.

⁹³² Ministry of Foreign Affairs, “Norway to take the lead in efforts to achieve an international ban on cluster munitions,” Press release, 3 November 2006, www.regjeringen.no; and “Kløsebomber låses ned” (“Cluster Bombs Locked Down”), *Aftenposten*, 3 November 2006, www.aftenposten.no.

⁹³³ Declaration on Cluster Munitions, Third Review Conference of the States Parties to the CCW, CCW/CONF.III/WP.18, Geneva, 17 November 2006.

⁹³⁴ Statement by Amb. Steffen Kongstad, Ministry of Foreign Affairs, Third Review Conference of the States Parties to the CCW, Geneva, 17 November 2006.

⁹³⁵ Ministry of Foreign Affairs, “Norway takes the initiative for a ban on cluster munitions,” Press release, 17 November 2006, www.regjeringen.no.

⁹³⁶ This group included countries which had expressed support for some sort of prohibition in the CCW sessions: Austria, Belgium, Colombia, Costa Rica, Croatia, Czech Republic, Denmark, Finland, Germany, Holy See, Hungary, Iceland, Ireland, Japan, Liechtenstein, Lithuania, Luxembourg, Malta, Mexico, New Zealand, Norway, Peru, Poland, Portugal, Serbia, Slovakia, Slovenia, Spain, Sweden, and Switzerland. Other countries were invited because they are affected by cluster munitions or because they expressed interest in participating and requested an invitation. These included Afghanistan, Angola, Argentina, Bosnia and Herzegovina, Canada, Chile, Egypt, France, Guatemala, Indonesia, Italy, Jordan, Latvia, Lebanon, Mozambique, the Netherlands, Romania, South Africa, and the UK. Ministry of Foreign Affairs, “The Norwegian Government's Initiative for a Ban on Cluster Munitions: Questions and Answers,” undated, www.regjeringen.no.

also equiring stockpile destruction, clearance of contaminated areas, victim assistance, and donor support. The conference ended with 46 states endorsing the Oslo Declaration, committing states to conclude by 2008 a legally-binding international instrument prohibiting cluster munitions that cause unacceptable harm to civilians, and providing a framework for assistance to affected populations.⁹³⁷ Norway welcomed all committed states to join the process, and endorse the declaration, at any stage.⁹³⁸

Prior to the conference, the CMC and Norwegian People's Aid (NPA) hosted a Civil Society Forum with representatives of more than 100 NGOs from more than 30 countries.

Norway provided important support for all of the subsequent meetings of the Oslo Process, including the three international conferences to develop the convention text in Lima (May 2007), Vienna (December 2007), and Wellington, (February 2008), the formal negotiations in Dublin (May 2008), and regional conferences in Phnom Penh (March 2007), San José, Costa Rica (September 2007), Belgrade (for affected states, October 2007), Brussels (October 2007), Livingstone (March/April 2008), Mexico City (April 2008), Sofia (September 2008), Kampala (September 2008), Xiengkhuang, Lao PDR (October 2008), Quito, (November 2008), and Beirut (November 2008).

At the Lima conference in May 2007, Norway emphasized that the definition of cluster munition, central to the scope of the future convention, must be approached foremost from humanitarian concerns. Norway argued that submunitions with self-destruct mechanisms should not be excluded from a prohibition as they were not reliable, and that the failure rate was not a good criterion, as experience had shown that there was little correlation between testing rates and actual performance.⁹³⁹ Norway stressed the need for deadlines for stockpile destruction⁹⁴⁰ and clearance of contaminated areas,⁹⁴¹ and strong provisions on international cooperation and assistance, and victim assistance in particular.⁹⁴² Norway spoke strongly about the need for comprehensive victim assistance as a fundamental part of a future instrument, and noted there was growing recognition that victim assistance was a human rights issue and should be approached from a rights-based perspective.⁹⁴³

At the Vienna conference in December 2007, the Norwegian Defence Research Establishment, NPA, and British explosive ordnance disposal expert Colin King released a groundbreaking report analyzing the failure rates of M85 submunitions in tests and as used by Israel in Lebanon in 2006.⁹⁴⁴ This report effectively undermined arguments for an exemption from prohibition based on failure rates in tests, the simple presence of a self-destruct mechanism, or the safety of so-called non-dangerous duds.

In Vienna, Norway argued against proposals for the inclusion of new language to facilitate "interoperability" (joint military operations with states not party). Norway said that it had yet to see any insurmountable difficulties with interoperability in the context of other legal instruments, including the Mine Ban Treaty. As a NATO member, Norway stated that the issue merited discussion, but it was unfounded to automatically assume that a future treaty would be an obstacle to joint military action.⁹⁴⁵ Norway continued to lobby for the strengthening of provisions on victim assistance, including a broad definition of cluster munition victim encompassing affected families and communities, and the inclusion of survivors in the development of national action plans and other activities.⁹⁴⁶

⁹³⁷ The three states choosing not to endorse the Declaration were Japan, Poland, and Romania. It was uncertain until the last moment if numerous other participants would endorse, including Canada, Czech Republic, Denmark, Egypt, Finland, France, Germany, Italy, Netherlands, Slovakia, South Africa, Spain, Sweden, Switzerland, and the UK.

⁹³⁸ Statement by Raymond Johansen, Deputy Minister of Foreign Affairs, Oslo Conference on Cluster Munitions, 23 February 2007.

⁹³⁹ Statement of Norway, Session on Definitions and Scope, Lima Conference on Cluster Munitions, 24 May 2007. Notes by CMC/WILPF.

⁹⁴⁰ Statement of Norway, Session on Storage and Stockpile destruction, Lima Conference, 24 May 2007. Notes by CMC/WILPF.

⁹⁴¹ Statement of Norway, Session on Clearance, Lima Conference, 23 May 2007. Notes by CMC/WILPF.

⁹⁴² Statement of Norway, Session on International Cooperation and Assistance, Lima Conference, 24 May 2007. Notes by CMC/WILPF.

⁹⁴³ Statement of Norway, Session on Victim Assistance, Lima Conference, 23 May 2007. Unofficial transcription by WILPF.

⁹⁴⁴ Colin King, Grethe Østern, and Ove Dullum, "M85: An analysis of reliability," 2007, www.npaid.org. The report concluded that the reliability of M85 submunitions with self-destruct mechanisms in combat is substantially worse than indicated by tests. Rather than a 1% standard, the experience in Lebanon showed failure rates in the 10–12% range.

⁹⁴⁵ Statement of Norway, Session on General Obligations and Scope, Vienna Conference on Cluster Munitions, 6 December 2007. Notes by CMC/WILPF.

⁹⁴⁶ Statement of Norway, Session on Victim Assistance, Vienna Conference, 6 December 2007. Notes by CMC/WILPF.

During the Wellington conference in February 2008, Norway spoke against a significant number of proposals from the so-called like-minded group that were sharply criticized by the CMC as weakening the draft convention text—particularly with respect to potential exceptions to the prohibition (the definition), a transition period before key obligations took effect, and interoperability.

While objecting to any exclusions based solely on the presence of a self-destruct mechanism or on failure rates, Norway said that there was a difference between “a total ban on every weapon containing more than one submunition, and a total ban on cluster munitions as defined in the new convention.” Norway argued that weapons “capable of detecting and engaging point targets” and equipped with “adequate fail safe mechanisms” should not be defined as cluster munitions because “they meet the humanitarian requirements we seek to achieve,” in keeping with the Oslo Declaration.⁹⁴⁷ Norway emphasized, “We acknowledge that the burden of proof is on us to document that any...exempted weapons does not create the humanitarian problem we are here to address.”⁹⁴⁸

Norway was firmly against the inclusion of any transition period, stating, “We see a challenge in explaining a situation where a weapon is considered to be so bad it has to be banned but at the same time be allowed to be used in a transition period.”⁹⁴⁹ Norway said that as a result of growing awareness of their political and humanitarian consequences, cluster munitions were not likely to be used in future international operations, and so “the actual interoperability issues are therefore both temporary and limited in scope.”⁹⁵⁰ Norway noted that it had solved issues regarding criminal liability for its service personnel in its national legislation which contained “penal provisions regulating issues such as command responsibility, effective control and individual culpability, in relation to international operations.”⁹⁵¹

Norway also opposed adding a provision permitting the retention of cluster munitions for training and research purposes.⁹⁵² Norway again supported strengthening provisions on victim assistance and called for the inclusion of a reference to the Convention on the Rights of Persons with Disabilities in the preamble of the convention.⁹⁵³

At the Dublin Diplomatic Conference, Norway stated that the convention should contain a categorical ban on cluster munitions, emphasizing that the purpose of the negotiations was not to discuss exceptions, but to define what should be banned by looking at exclusions based on effects. Norway proposed a definition of cluster munition which it described as a comprehensive prohibition on all cluster munitions, but excluded certain weapons that have submunitions on the basis of a weight requirement; their ability to seek, detect, and engage point targets; and the presence of electronic self-destruct and self-deactivation mechanisms.⁹⁵⁴

Norway maintained its positions against any transition period and against the inclusion of provisions to facilitate interoperability.⁹⁵⁵ Norway lobbied for language on victim assistance obligations to include a reference to gender and age sensitive assistance. It called for the inclusion of a reference to UN Security Council Resolution 1325 on Women, Peace, and Security in the preamble of the convention.⁹⁵⁶ Norway

⁹⁴⁷ Statement of Norway, Session on Definitions, Wellington Conference on Cluster Munitions, 19 February 2008.

⁹⁴⁸ Statement of Norway, Session on Victim Assistance, Wellington Conference, 20 February 2008.

⁹⁴⁹ Statement of Norway, “Statement on general scope and obligations in relation to interoperability,” Wellington Conference, 18 February 2008.

⁹⁵⁰ *Ibid.*

⁹⁵¹ *Ibid.*

⁹⁵² Statement of Norway, Session on Storage and Stockpile Destruction, Wellington Conference, 21 February 2008. Norway said experience from other treaties, including the Mine Ban Treaty, had shown that such exceptions “may easily become a means to circumvent the treaty obligations.” Norway questioned whether the retention of live cluster munitions would contribute to research or training, adding that the six-year deadline for stockpile destruction would provide adequate time to conduct any necessary research or training.

⁹⁵³ Statement of Norway, Session on Victim Assistance, Wellington Conference, 20 February 2008. It supported language on data collection and distribution; emergency and long-term medical care; physical rehabilitation and psychological support; social and economic inclusion, including inclusive education; the enactment and enforcement of adequate laws and public policies; and the inclusion of both survivors and their communities in decisions on the implementation of victim assistance provisions.

⁹⁵⁴ Statement of Norway, Informal Discussions on Definitions, Dublin Diplomatic Conference on Cluster Munitions, 21 May 2008. Notes by Landmine Action.

⁹⁵⁵ Statement of Norway, Informal Discussions on Interoperability, Dublin Diplomatic Conference, 21 May 2008. Notes by Landmine Action.

⁹⁵⁶ Statement of Norway, Committee of the Whole on Articles 4 and 5, Dublin Diplomatic Conference, 20 May 2008; Statement of Norway, Informal Discussions on Victim Assistance, Dublin Diplomatic Conference, 22 May 2008; and Statement of Norway, Committee of the Whole, Dublin Diplomatic Conference, 26 May 2008. Notes by Landmine Action.

also supported obligations for past users of cluster munitions to provide assistance for clearance.⁹⁵⁷ Norway served as the Friend of the President for Stockpile Destruction issues, and largely took responsibility for states reaching agreement on Article 3 (Storage and Stockpile Destruction) of the convention.

Norway joined the consensus adoption of the convention, calling it and the Oslo Process an example of “disarmament as humanitarian action.” It said key elements in the successful outcome were the partnerships between affected and non-affected states, and between governments and civil society.⁹⁵⁸

In November 2008, as the negotiations on cluster munitions in the CCW were scheduled to conclude, Norway and 25 other states issued a joint statement expressing their opposition to the weak draft text on a possible CCW protocol on cluster munitions, indicating it was an unacceptable step back from the standards set by the Convention on Cluster Munitions.⁹⁵⁹ Norway, together with Mexico and New Zealand, submitted a proposal for a ban on the transfer of cluster munitions in the CCW, which would apply to all cluster munitions as defined in the convention.⁹⁶⁰

On 20 November 2008, Norway adopted national legislation allowing Norway to sign and simultaneously deposit its instrument of ratification during the signing conference of the convention in Oslo on 3 December 2008.⁹⁶¹ Upon signing the convention, Prime Minister Jens Stoltenberg stated, “We are proud that Norway has played a special role in the Oslo Process. We are prouder still for being in a partnership with all of you. We could only have done this together and together we have truly made a difference.”⁹⁶²

Minister of Foreign Affairs Jonas Gahr Støre announced that Norway would provisionally apply Article 1 (the basic prohibitions) of the convention pending its entry into force.⁹⁶³ He also stated, “We will allocate special funds and other resources to support the Convention in the crucial time ahead. This will ensure that we can reach the next milestones – the entry into force of the Convention, and the first Meeting of States Parties to the Convention.”⁹⁶⁴

A total of 94 countries signed the convention in Oslo, and four, including Norway, ratified at the same time. Forty-five foreign, defense, and other government ministers lined up to sign the convention at Oslo City Hall in a high-level two-day-long series of events overseen by senior Norwegian government leaders.⁹⁶⁵ Afghanistan’s surprising last-minute decision to sign the convention added to the sense of history of the occasion and helped secure media coverage.

The CMC’s civil society delegation to the signing conference was comprised of 250 campaigners from 75 countries, in addition to approximately 100 Norwegians. Several events took place the day before the conference opened. A “Ban Bus” of activists completed their 60-day journey from Belgrade, after driving 12,000km and speaking to thousands of people, politicians, and the media about the cluster bomb ban. The Ban Bus arrived in time to address a parliamentary forum attended by 18 parliamentarians from 13 countries.⁹⁶⁶ The CMC held a day-long workshop to discuss future campaigning for universalisation and implementation of the convention. Campaigners and delegates convened for a service at the Lutheran Church of the Holy Trinity in Oslo featuring greetings from representatives of Buddhist, Islamic, and Christian Orthodox faiths.

⁹⁵⁷ Statement of Norway, Committee of the Whole on Articles 4 and 5, Dublin Diplomatic Conference, 20 May 2008. Notes by Landmine Action.

⁹⁵⁸ Statement by Amb. Steffen Kongstad, Dublin Diplomatic Conference, 30 May 2008.

⁹⁵⁹ Statement delivered by Costa Rica on behalf of Austria, Belgium, Benin, Bosnia and Herzegovina, Chile, Croatia, Ecuador, El Salvador, Guatemala, Holy See, Honduras, Indonesia, Ireland, Lebanon, Mexico, New Zealand, Nicaragua, Norway, Peru, Philippines, Senegal, South Africa, Uganda, Uruguay, and Venezuela, Fifth 2008 Session of the CCW GGE on Cluster Munitions, Geneva, 5 November 2008.

⁹⁶⁰ Draft Protocol on a Prohibition on Transfer of Cluster Munitions, Submitted by Mexico, New Zealand, and Norway, Fifth 2008 Session of the CCW GGE on Cluster Munitions, Geneva, CCW/GGE/2008-V/CRP.17*, 7 November 2008.

⁹⁶¹ Email from Øystein Sassebo Bryhni, NPA, to the CMC, 21 November 2008.

⁹⁶² Statement by Jens Stoltenberg, Prime Minister, Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008.

⁹⁶³ Statement by Jonas Gahr Støre, Minister of Foreign Affairs, Official Opening, Signing Conference, Oslo, 3 December 2008, www.regjeringen.no.

⁹⁶⁴ Statement by Jonas Gahr Støre, Minister of Foreign Affairs, Akershus Castle, 3 December 2008, www.regjeringen.no.

⁹⁶⁵ Norwegian Minister for International Development Erik Solheim welcomed campaigners to Oslo at their CMC Campaign Workshop on 2 December, Norwegian Minister of Defense Anne-Grethe Strøm Erichsen hosted a welcome reception for all delegates on 2 December, Norwegian Prime Minister Jens Stoltenberg spoke at the opening of the Signing Conference on 3 December, and Foreign Minister Jonas Gahr Støre signed the convention on 3 December.

⁹⁶⁶ CMC, “Oslo International Parliamentary Forum,” www.stopclustermunitions.org.

During the formal conference, CMC representatives—including deminers, survivors, and activists—made interventions with their perspectives on universalization and implementation of the convention. Mines Action Canada coordinated a witnessing system to enable campaigners to see government representatives sign the convention. Outside City Hall, a tent city housed displays. An innovative “Wish you were here” postcard action targeted four nations that had declined to be part of the Oslo Process: India, Israel, Russia, and United States. At night, delegates mingled with members of the public at an outdoor concert wearing woolen hats that read: “I was in Oslo when we banned cluster bombs.”

Use, Production, Transfer, and Stockpiling

Norway has not used, produced, or exported cluster munitions. It has imported cluster munitions from the US and Germany. It obtained Rockeye cluster bombs from the US, but destroyed them sometime between 2001 and 2003.⁹⁶⁷

Norway obtained from Germany 155mm artillery projectiles with dual purpose improved conventional munition (DPICM) submunitions.⁹⁶⁸ In 2006, the Norwegian Armed Forces reported having a stockpile of 53,000 155mm DPICM artillery projectiles in service, including 36,000 DM-642 projectiles (each with 63 DM-1383 submunitions) and 17,000 DM-662 projectiles (each with 49 DM-1385 submunitions).⁹⁶⁹ In November 2008, the Minister of Defense stated that Norway had 52,000 units.⁹⁷⁰

In October 2008, the Norwegian Minister of Defense said that Norway had begun the process of destroying its stockpile of cluster munitions, and that Norway’s goal is to have all cluster munitions destroyed sometime in 2009. The Norwegian Armed Forces had already done a preliminary security and environmental assessment and concluded that destroying cluster munitions could have more severe environmental effects compared to other types of munitions. The Armed Forces are not capable of destroying the stockpile itself and a private contractor has to be found.⁹⁷¹ In February 2008, Norway estimated that the cost of destruction of its 155mm cluster munitions would be €40 per shell.⁹⁷²

PALAU

The Republic of Palau signed the Convention on Cluster Munitions in Oslo on 3 December 2008. In February 2009, an official said that ratification of the convention is on the priority list for Palau’s new Minister of State Sandra Pierantozzi.⁹⁷³

Palau is not believed to have ever used, produced, or stockpiled cluster munitions. It is not party the Convention on Conventional Weapons.

⁹⁶⁷ In November 2003, Norway reported that on the basis of a 2001 parliamentary resolution, “All air-delivered cluster bombs previously in Norwegian stock have been destroyed, because of their low level of precision and high dud-rate.” Norway, “National interpretation and implementation of International Humanitarian Law with regard to the risk of Explosive Remnants of War,” Sixth Session of the CCW GGE on ERW, Geneva, CCW/GGE/VI/WG.1/WP.3, 24 November 2003. NPA reports that Norway had 745 Rockeye bombs, each with 247 bomblets. Email from Atle Karlsen, NPA, 23 April 2009.

⁹⁶⁸ Leland S. Ness and Anthony G. Williams, eds., *Jane’s Ammunition Handbook 2007–2008* (Surrey, UK: Jane’s Information Group Limited, 2007), pp. 674–676. This indicates a contract was awarded in late 2006.

⁹⁶⁹ Norwegian Defence Research Establishment, “Cluster and Cargo Munitions,” 15 January 2009, www.mil.no. Email from Atle Karlsen, NPA, 23 April 2009.

⁹⁷⁰ “Alle klasevåpen skal bort” (“All cluster munitions to be removed”), *Norwegian Broadcasting Corporation* (NRK), 28 November 2008. www.nrk.no.

⁹⁷¹ Ministry of Defense “Forsvarets klasevåpen skal nå destrueres” (“Armed Forces cluster munitions should now be destroyed”), Press release, 29 October 2008, www.regjeringen.no.

⁹⁷² Statement of Norway, Session on Storage and Stockpile Destruction, Wellington Conference, 21 February 2008.

⁹⁷³ Email from Jon-Marvin Ngirutang Jr., Senior Foreign Service Officer, Ministry of State, 5 February 2009.

Palau joined the Oslo Process in February 2008, when it participated in the Wellington Conference on Cluster Munitions and endorsed the Wellington Declaration, indicating its intention to participate fully in the formal negotiations in Dublin. Palau supported the draft text and noted that, “As diplomats, it is our foremost duties to maintain peace and ensure our civilian populations safety and security.”⁹⁷⁴

During the Dublin negotiations Palau supported efforts to delete the provision to exclude certain munitions based on technical criteria.⁹⁷⁵ When the convention was adopted, Palau expressed hope that the treaty would be universalized, acknowledged the particular contribution of Norway to the Oslo Process, and thanked the CMC for its inspirational partnership.⁹⁷⁶ A senior foreign affairs official, Jon-Marvin Ngirutang, signed the convention in Oslo.⁹⁷⁷

PANAMA

The Republic of Panama signed the Convention on Cluster Munitions in Oslo on 3 December 2008. Panama’s ambassador stated that Panama hopes to be among the first 30 states to ratify and is committed to implementation of the convention. He also said Panama already has a law in place that prohibits weapons such as cluster munitions.⁹⁷⁸ Panama is not believed to have ever used, produced, or stockpiled cluster munitions.

Panama first participated in the Oslo Process at the Lima conference in May 2007. It subsequently attended the Vienna conference in December 2007. While Panama did not participate in the Wellington conference in February 2008, on 28 April 2008 it endorsed the Wellington Declaration, indicating its intention to participate in the formal treaty negotiations in Dublin on the basis of the draft treaty text. Panama also participated in the regional conferences hosted by Costa Rica, Mexico, and Ecuador.

Panama played an active role during the Dublin negotiations in May 2008 and described the conclusion of a legally binding instrument on cluster munitions as a political priority. It stressed the need to focus on the humanitarian aspects, and worked to strengthen the victim assistance provisions in the draft convention.⁹⁷⁹ Panama called for an effective convention with “no exemptions or loopholes.”⁹⁸⁰ Panama opposed the inclusion of a transition period during which states could still use cluster munitions, calling this “against spirit of convention.”⁹⁸¹ It expressed support for 20 ratifications to trigger entry into force, not a larger number, so that the convention could take effect as quickly as possible.⁹⁸²

Panama is party to the Convention on Conventional Weapons (CCW) and ratified Protocol V on Explosive Remnants of War on 16 August 2004. Panama has not participated actively in the CCW discussions on cluster munitions in recent years.

⁹⁷⁴ Statement of Palau, Wellington Conference on Cluster Munitions, 22 February 2008. Notes by CMC.

⁹⁷⁵ CMC, “Day 4 – Towards Some Text Solutions – Dublin Diplomatic Conference,” 22 May 2008, www.stopclustermunitions.org.

⁹⁷⁶ Summary Record of the Plenary and Closing Ceremony of the Conference, Fourth Session: 30 May 2008, Dublin Diplomatic Conference on Cluster Munitions, CCM/SR/4, 18 June 2008.

⁹⁷⁷ Jon-Marvin Ngirutang Jr. had represented Palau at the Wellington and Dublin meetings of the Oslo Process and played a key role in securing Palau’s accession to the 1997 Mine Ban Treaty.

⁹⁷⁸ Statement by Amb. Cecilio Simon, Representative of Panama to Norway and Sweden, Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008. Notes by Landmine Action.

⁹⁷⁹ Proposal by Argentina, Chile, Costa Rica, Dominican Republic, Ecuador, Guatemala, Guinea, Honduras, Mexico, Nicaragua, Panama, Peru, Uruguay, and Zambia for the amendment of Article 5, Dublin Diplomatic Conference on Cluster Munitions, CCM/70, 21 May 2008.

⁹⁸⁰ Summary Record of the Plenary, Second Session: 19 May 2008, Dublin Diplomatic Conference, CCM/SR/2, 18 June 2008.

⁹⁸¹ Statement of Panama, Dublin Diplomatic Conference, 23 May 2008. Notes by Landmine Action.

⁹⁸² Summary Record of the Committee of the Whole, Fifth Session: 23 May 2008, Dublin Diplomatic Conference, CCM/CW/SR/5, 18 June 2008.

PARAGUAY

The Republic of Paraguay signed the Convention on Cluster Munitions in Oslo on 3 December 2008. The status of the ratification process is not known. Paraguay has stated that it does not produce, stockpile, transfer, or use cluster munitions.⁹⁸³

Although Paraguay was not present at the launch of the Oslo Process in February 2007, it participated in the other three international treaty preparatory conferences in Lima, Vienna, and Wellington.⁹⁸⁴ In Wellington, it advocated for a comprehensive prohibition, stating that it would not accept any exceptions for certain cluster munitions in a new convention.⁹⁸⁵ Paraguay endorsed the Wellington Declaration, indicating its intention to participate fully in the formal negotiations in Dublin.

During the Dublin negotiations in May 2008, Paraguay aligned itself with many other Latin American states in pushing for the strongest convention possible, without any weakening amendments. It opposed the introduction of a transition period in which states could still use cluster munitions.⁹⁸⁶ At the conclusion of the negotiations, it joined the consensus in adopting the convention. The Vice Minister of Foreign Affairs, José Antonio Dos Santos, signed the convention in Oslo on behalf of Paraguay.

Paraguay is party to the Convention on Conventional Weapons (CCW), and ratified its Protocol V on Explosive Remnants of War on 3 December 2008. Paraguay has not participated in the CCW discussions on cluster munitions in recent years.

PERU

The Republic of Peru signed the Convention on Cluster Munitions in Oslo on 3 December 2008.

On 18 March 2009, at a special event on the convention at the UN in New York, Peru announced that the ratification process had begun and it expected to ratify soon.⁹⁸⁷

Peru was one of the small “Core Group” of nations that took responsibility for the Oslo Process and the development of the Convention on Cluster Munitions outside of traditional diplomatic fora. Peru hosted the second international conference on cluster munitions in Lima in May 2007.

Peru is party to the Convention on Conventional Weapons (CCW), but has not ratified Protocol V on Explosive Remnants of War (ERW).

Cluster Munition Ban Policy

Peru was one of the early supporters of a prohibition on cluster munitions. At the conclusion of the CCW’s Third Review Conference in November 2006, Peru was one of 25 countries to issue a joint declaration calling for an agreement that would prohibit the use of cluster munitions “within concentrations of civilians” and completely prohibit cluster munitions that “pose serious humanitarian hazards because they are for example unreliable and/or inaccurate.”⁹⁸⁸

⁹⁸³ Statement of Paraguay, Latin American Regional Conference on Cluster Munitions, San José, 5 September 2007. Notes by Human Rights Watch. Statement of Paraguay, Wellington Conference on Cluster Munitions, 18–22 February 2008. Notes by CMC.

⁹⁸⁴ It also attended regional conferences on cluster munitions in Costa Rica, Mexico, and Ecuador.

⁹⁸⁵ Dublin Diplomatic Conference on Cluster Munitions, 9–30 May 2008. Notes by Landmine Action.

⁹⁸⁶ Summary Records of the Committee of the Whole, Dublin Diplomatic Conference, Fifth Session: 21 May 2008, CCM/CW/SR/5, 18 June 2008; and Eighth Session: 23 May 2008, CCM/CW/SR/8, 18 June 2008.

⁹⁸⁷ CMC, “Report on the Special Event on the Convention on Cluster Munitions – United Nations, New York, 18 March 2009.”

⁹⁸⁸ Declaration on Cluster Munitions, Third Review Conference of the States Parties to the CCW, CCW/CONF.III/WP.18, Geneva, 17 November 2006.

Norway then announced that it would start an independent process outside the CCW to negotiate a treaty banning cluster munitions that cause unacceptable harm to civilians, and invited other governments to join. A voluntary “Core Group” of countries emerged to take responsibility for moving forward what became known as the Oslo Process, and Peru became one of the seven countries in the “Core Group.”

Peru participated in the international conference to launch the Oslo Process in February 2007, then hosted the second conference in May 2007 (see below). It subsequently participated in the international conferences to develop the convention text in Vienna and Wellington, as well as the formal negotiations in Dublin. It also participated in the Latin American regional meetings of the Oslo Process in Costa Rica, Mexico, and Ecuador.

At the initial Oslo conference, Peru promoted the notion that a small group of countries could, as in the case of the Mine Ban Treaty, take the lead to create an international instrument and avoid being blocked by technical issues or debates over the best fora to do so.⁹⁸⁹ Peru joined 45 other countries in endorsing the Oslo Declaration, committing to conclude in 2008 a new convention banning cluster munitions that cause unacceptable harm to civilians.

From 23–25 May 2007, Peru hosted the Lima Conference on Cluster Munitions. Representatives of 67 states attended the Lima conference, of which 27 were participating in the Oslo Process for the first time, including many African countries. The first draft text of a ban convention, largely modeled on the 1997 Mine Ban Treaty, was introduced for discussion.⁹⁹⁰ In its interventions, Peru emphasized the importance of assisting developing states in fulfilling their treaty obligations, supported national implementation measures, spoke out against any broad exceptions to the prohibition in the definition of cluster munition, and announced an initiative for a Latin America Cluster Munition Free Zone.⁹⁹¹

Shortly after the conclusion of the Lima conference, the Peruvian Minister of Defense publicly revealed that Peru had a stockpile of cluster munitions, a fact not previously known by most involved in the Oslo Process.⁹⁹²

During the Vienna and Wellington conferences, Peru emphasized the humanitarian aspects of the convention, as a stronger motivation than disarmament. It also expressed willingness to show flexibility on issues such as the stockpile destruction deadline and “interoperability” (joint military operations with states not party).⁹⁹³

During the Dublin negotiations, Peru emphasized the need for the international community to assist developing countries, saying that states had not made enough effort under the Mine Ban Treaty.⁹⁹⁴ Peru questioned the exclusion from the definition of weapons based on technical criteria, saying that the burden of proof that such weapons do not cause unacceptable harm to civilians lies with the producers and users.⁹⁹⁵ Peru supported the retention of cluster munitions for training, stating that its participation in peacekeeping

⁹⁸⁹ Statement of Peru, Oslo Conference on Cluster Munitions, 22–23 February 2007, www.regjeringen.no.

⁹⁹⁰ There was broad consensus on the essential elements of a new treaty and the need for articles on victim assistance, clearance, stockpile destruction, international cooperation and assistance, and transparency measures, including deadlines for clearance and stockpile destruction. The most contentious issue was the scope of the prohibition, with a significant number of states advocating for a technical fix approach exempting broad categories of cluster munitions. The issues of a transition period and interoperability were also raised. Lima Conference on Cluster Munitions, 23–25 May 2007. Notes by Landmine Action; CMC, “CMC Report on the Lima Conference and Next Steps,” May 2007, www.stopclustermunitions.org; and WILPF, “Report from the Lima Conference on Cluster Munitions, 23–25 May 2007,” May 2007, www.wilpf.int.ch.

⁹⁹¹ Lima Conference, 23–25 May 2007. Notes by Landmine Action; CMC, “CMC Report on the Lima Conference and Next Steps,” May 2007, www.stopclustermunitions.org; and WILPF, “Report from the Lima Conference on Cluster Munitions, 23–25 May 2007,” May 2007, www.wilpf.int.ch.

⁹⁹² Ángel Páez, “Se eliminaran las bombas de racimo” (“Cluster bombs will be eliminated”), *La República* online, 29 May 2007. The Minister of Defense said that it would be necessary for Chile and Peru to destroy their stockpiles at the same time. Another article stated that the Ministry of Foreign Affairs was not aware that the Air Force stockpiled cluster bombs. Ángel Páez, “Peru se suma a iniciativa mundial para prohibir y destruir las ‘bombas de racimo’” (“Peru joins global initiative to ban and destroy the ‘cluster bombs’”), *La República* online, 29 May 2007.

⁹⁹³ Wellington Conference on Cluster Munitions, 18–22 February 2008. Notes by CMC; Katherine Harrison, “Report on the Wellington Conference on Cluster Munitions, 18–22 February 2008,” WILPF, March 2008, www.wilpf.int.ch; Compendium of Proposals Submitted by Delegations During the Wellington Conference, Addendum 1, New Zealand Ministry of Foreign Affairs and Trade, February 2008, www.mfat.govt.nz.

⁹⁹⁴ Summary Record of the Committee of the Whole, Second Session: 20 May 2008, Dublin Diplomatic Conference on Cluster Munitions, CCM/CW/SR/2, 18 June 2008.

⁹⁹⁵ Statement of Peru, Committee of the Whole on Definitions, Dublin Diplomatic Conference, 26 May 2008. Notes by Landmine Action.

missions required knowledge of the deactivation of cluster munitions.⁹⁹⁶ In joining the consensus adoption of the convention, Peru stated it found the final definition acceptable and welcomed in particular the provisions on victim assistance, international cooperation, and destruction of cluster munitions.⁹⁹⁷

At a CCW meeting in July 2008, Peru joined several other Latin American countries in expressing continued support of CCW work on cluster munitions, but also stressed that any new CCW protocol on cluster munitions would have to actually prohibit the use of cluster munitions with the clear main objective of preventing harm to civilians.⁹⁹⁸

At the CCW in November 2008, Peru was one of 26 states that issued a joint statement expressing their opposition to the weak draft text on a possible CCW protocol on cluster munitions, indicating it was an unacceptable step back from the standards set by the Convention on Cluster Munitions.⁹⁹⁹

Upon signing the convention in Oslo in December, Peru said that the international community could not remain calm in the face of the catastrophe created by cluster munitions, and now, with the convention, has taken on a major responsibility. It also said the convention and Oslo Process provide a road map for other humanitarian issues.¹⁰⁰⁰

Use, Production, Stockpiling, and Transfer

Peru is not believed to have ever used or produced cluster munitions. After the Lima conference in May 2007 it was disclosed that the Peruvian Air Force possesses stockpiles of CB-470 cluster bombs of South African origin, BME-330 bombs of Spanish origin, and RBK-500 bombs of Russian/Soviet origin.¹⁰⁰¹ The status and precise composition of the current stockpile is not known.

PHILIPPINES

The Republic of the Philippines signed the Convention on Cluster Munitions in Oslo on 3 December 2008. In March 2009, the Philippines stated that it “is undergoing internal procedures leading to the possible ratification” of the convention. It also said that, in the meantime, the Philippines “consistent with its state policy, has no intention to assist, encourage or induce any state, group or individual to engage in any of the prohibited activities” under the convention.¹⁰⁰²

The Philippines has stated that it “is not a user, producer, stockpiler or supplier of cluster munitions.”¹⁰⁰³ The Philippines is party to the Convention on Conventional Weapons (CCW), but has not yet ratified Protocol V on Explosive Remnants of War.

⁹⁹⁶ Summary Record of the Committee of the Whole, Eighth Session: 23 May 2008, Dublin Diplomatic Conference, CCM/CW/SR/8, 18 June 2008.

⁹⁹⁷ Statement of Peru, Closing Statement, Dublin Diplomatic Conference, May 2008, www.clustermunitionsdublin.ie.

⁹⁹⁸ Third 2008 Session of the CCW Group of Governmental Experts (GGE) on Cluster Munitions, Geneva, 7–25 July 2008, Notes by Landmine Action.

⁹⁹⁹ Statement delivered by Costa Rica on behalf of Austria, Belgium, Benin, Bosnia and Herzegovina, Chile, Croatia, Ecuador, El Salvador, Guatemala, Holy See, Honduras, Indonesia, Ireland, Lebanon, Mexico, New Zealand, Nicaragua, Norway, Peru, Philippines, Senegal, South Africa, Uganda, Uruguay, and Venezuela, Fifth 2008 Session of the CCW GGE on Cluster Munitions, Geneva, 5 November 2008.

¹⁰⁰⁰ Amb. Antonio Garcia Revilla, Under-Secretary for Multilateral Affairs, Ministry of Foreign Affairs, signed the Convention on behalf of Peru.

¹⁰⁰¹ Ángel Páez, “Peru se suma a iniciativa mundial para prohibir y destruir las ‘bombas de racimo’” (“Peru joins global initiative to ban and destroy the ‘cluster bombs’”), *La República* online, 29 May 2007. Human Rights Watch was shown photographs of these cluster munitions by a member of the national media in May 2007. See also, Ángel Páez, “Se eliminarán las bombas de racimo” (“Cluster bombs will be eliminated”), *La República* online, 29 May 2007.

¹⁰⁰² Letter from Leslie B. Gatan, Charge d’affaires, Philippine Mission to the UN in New York, 2 March 2009.

¹⁰⁰³ *Ibid.*

Cluster Munition Ban Policy

The Philippines did not attend the first two meetings of the Oslo Process in Oslo and Lima, but participated in the international treaty preparatory conferences in Vienna and Wellington, as well as the formal negotiations in Dublin.

At the Wellington conference, the Philippines called for a comprehensive prohibition on cluster munitions, without exceptions based on technical considerations. The Philippines stated that any doubts about unproven technical considerations “should be resolved in favor of the many cluster munitions victims – and future victims – all over the world.” The Philippines called on the international community to “take every feasible measure to minimize the risk to innocent civilians and to maximize the ground for cooperation to protect our people, as an expression of our common humanity, and as is reflected in the draft Wellington Declaration circulated before this Conference.”¹⁰⁰⁴

At the Dublin negotiations in May 2008, the Philippines played an active role. The Philippines lobbied successfully for the inclusion of a reference to persons who have been killed by cluster munitions in the definition of cluster munitions victims.¹⁰⁰⁵ The Philippines advocated for the inclusion of a reference to non-state armed groups in the convention, which was subsequently placed in the preamble.¹⁰⁰⁶ The Philippines proposed amending the article on victim assistance to state that assistance must be provided “in accordance with international human rights law and international humanitarian law,” and supported the inclusion of provisions on the responsibility of past users of cluster munitions to provide assistance to victims.¹⁰⁰⁷

The Philippines proposed modification of the text on national implementation measures to apply “to the whole range of legal, administrative and other measures, such as changes in military doctrine and operating procedures and notification of organizations involved in arms development, production and transfer.”¹⁰⁰⁸ The Philippines also supported the addition of provisions on “interoperability” (joint military operations with states not party), which it claimed were necessary in relation to its defense alliances and role in peacekeeping activities abroad.¹⁰⁰⁹

In August 2008, the Philippine Campaign Against Cluster Munitions was launched.¹⁰¹⁰

During a CCW session in November 2008, the Philippines was one of 26 states that issued a joint statement expressing their opposition to the weak draft text on a possible CCW protocol on cluster munitions, indicating it was an unacceptable step back from the standards set by the Convention on Cluster Munitions.¹⁰¹¹

When the Philippines signed the convention in Oslo, it stated that “the Philippines looks to the Convention to promote and protect the human rights of its migrants and peacekeepers present in conflict zones as well as those victims in the severely affected member states in the ASEAN [Association of Southeast Asian Nations]. We want to guarantee their access to assistance when needed, and to be able to live full and active lives.”¹⁰¹²

¹⁰⁰⁴ Statement of the Philippines, Wellington Conference on Cluster Munitions, 19 February 2008.

¹⁰⁰⁵ Proposal by the Philippines for the amendment of Article 2, Dublin Diplomatic Conference on Cluster Munitions, CCM/57, 19 May 2008. The Philippines also sought unsuccessfully to include reference to migrants and non-nationals in the definition of cluster munition victim, in the event that they would become a victim of cluster munitions on the territory of another state.

¹⁰⁰⁶ Proposal by the Philippines for additional text to Article 1, Dublin Diplomatic Conference, CCM/56, 19 May 2008.

¹⁰⁰⁷ Proposal by the Philippines for the amendment of Article 5, Dublin Diplomatic Conference, CCM/58, 19 May 2009.

¹⁰⁰⁸ Statement of the Philippines, Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008.

¹⁰⁰⁹ Statement of the Philippines, Informal Discussions on Interoperability, Dublin Diplomatic Conference, 20 May 2008. Notes by Landmine Action.

¹⁰¹⁰ CMC, “CMC Newsletter,” Issue 1, June–July 2008. Member organizations included the Philippine Campaign to Ban Landmines (which had taken the leading NGO role on the issue of cluster munitions until this point), Gaston Z. Ortigas Peace Institute, and the Center for Peace Education—Miriam College.

¹⁰¹¹ Statement delivered by Costa Rica on behalf of Austria, Belgium, Benin, Bosnia and Herzegovina, Chile, Croatia, Ecuador, El Salvador, Guatemala, Holy See, Honduras, Indonesia, Ireland, Lebanon, Mexico, New Zealand, Nicaragua, Norway, Peru, Philippines, Senegal, South Africa, Uganda, Uruguay, and Venezuela, Fifth 2008 Session of the CCW Group of Governmental Experts on Cluster Munitions, Geneva, 5 November 2008.

¹⁰¹² Statement of the Philippines, Signing Conference, Oslo, 3 December 2008.

PORTUGAL

The Portuguese Republic signed the Convention on Cluster Munitions in Oslo on 3 December 2008. According to its ambassador to the UN, Portugal “intends to ratify it as soon as possible. The procedures for ratification are already underway.”¹⁰¹³

Portugal is party to the Convention on Conventional Weapons (CCW) and ratified Protocol V on Explosive Remnants of War on 22 February 2008.

Cluster Munition Ban Policy

Portugal was among the group of 25 CCW States Parties that endorsed a formal declaration in November 2006 calling for an international agreement prohibiting cluster munitions that “pose serious humanitarian hazards.”¹⁰¹⁴ When this initiative failed to spur action within the CCW, Portugal became an active participant in the Oslo Process and was among the states to endorse the Oslo Declaration in February 2007, committing to conclude an international treaty by 2008.

Portugal attended and made substantial contributions at international conferences to develop the treaty in Lima, Vienna, and Wellington, as well as the formal treaty negotiations in Dublin in May 2008. Portugal also attended the Brussels regional conference in October 2007.

During its presidency of the European Union (EU) in the second half of 2007, Portugal consistently urged that the international community respond to the humanitarian impact of cluster munitions through “concluding a legally binding instrument that prohibits the use, production, transfer, and stockpiling of cluster munitions that cause unacceptable harm to civilians and includes provisions on cooperation and assistance.”¹⁰¹⁵ Portugal actively promoted the EU proposal for a negotiating mandate within the CCW during its presidency.¹⁰¹⁶

During the Dublin negotiations in May 2008, Portugal called for the establishment of the most comprehensive prohibition on cluster munitions possible, while supporting a proposal by Germany to exclude from the definition of cluster munitions weapons with limited numbers of submunitions that could each engage “point targets” and included self-destruct and self-deactivation mechanisms.¹⁰¹⁷

Portugal also supported the inclusion of a provision on “interoperability” (joint military operations with states not party), although it argued that it should not in any way weaken the convention. Portugal stated that future States Parties would have a duty to convince others not to use cluster munitions.¹⁰¹⁸

¹⁰¹³ Letter from Amb. José Filipe Moraes Cabral, Permanent Mission of Portugal to the UN in New York, 3 March 2009.

¹⁰¹⁴ Declaration on Cluster Munitions, presented by Austria, Belgium, Bosnia and Herzegovina, Croatia, Costa Rica, Czech Republic, Denmark, Germany, Holy See, Hungary, Ireland, Liechtenstein, Lithuania, Luxembourg, Malta, Mexico, New Zealand, Norway, Peru, Portugal, Serbia, Slovakia, Slovenia, Sweden, and Switzerland, Third Review Conference of the States Parties to the CCW, Geneva, CCW/CONF.III/WP.18, 17 November 2006.

¹⁰¹⁵ Statement by Amb. José Júlio Pereira Gomes, on behalf of the EU, First Committee Thematic Discussion on Conventional Weapons, UN General Assembly, 62nd Session, New York, 22 October 2007, para. 28.

¹⁰¹⁶ See Draft CCW Negotiating Mandate on Cluster Munitions, 2007 Session of the CCW GGE on Cluster Munitions, Geneva, CCW/GGE/2007/WP.3, 1 June 2007.

¹⁰¹⁷ Statement of Portugal, Informal Discussions on Interoperability, Dublin Diplomatic Conference on Cluster Munitions, 20 May 2008; and Statement of Portugal, Informal Discussions on Definitions, Dublin Diplomatic Conference, 21 May 2008. Notes by Landmine Action. Portugal supported the proposal by Germany contained in document CCM/19.

¹⁰¹⁸ Statement of Portugal, Committee of the Whole on Article 1, Dublin Diplomatic Conference, 19 May 2008; and Statement of Portugal, Informal Discussions on Interoperability, Dublin Diplomatic Conference, 20 May 2008. Notes by Landmine Action. Portugal stated that legal clarity on interoperability would be necessary and called for a provision that would not promote the use of cluster munitions but would settle the problem of combined obligations between States Parties and states not party during joint military operations.

Portugal opposed the inclusion of a transition period during which cluster munitions would still be permitted to be used.¹⁰¹⁹ Portugal supported the inclusion of provisions allowing the retention of cluster munitions for training and research purposes, provided that the provision was for the minimum number necessary and States Parties were required to report on cluster munitions retained.¹⁰²⁰

In the November 2008 session of the Group of Governmental Experts (GGE) on cluster munitions in the CCW, Portugal expressed some reservations about the draft instrument under discussion but fully supported the continuation of work on the issue within the CCW, arguing that failure would exact a humanitarian price.¹⁰²¹

Use, Production, Transfer, and Stockpiling

According to its ambassador to the UN, “Portugal has never produced or transferred cluster munitions. Except for the purpose of training our Armed Forces, we have never used them.”¹⁰²²

During the Dublin negotiations in May 2008, Portugal announced that it no longer had any cluster munitions in operational stocks and had commenced destruction of remaining cluster munitions in non-operational stocks.¹⁰²³ Up until then the only indication that Portugal possessed cluster munitions was a mention in its annual national report for CCW Amended Protocol II in 2005 of the destruction of 11 BL-755 cluster bombs.¹⁰²⁴ In March 2009, Portugal disclosed, “We have stockpiled 11 cluster bombs type BL755, which have already been removed and earmarked for destruction. Stockpile destruction is expected to be completed by the end of 2010.”¹⁰²⁵

RWANDA

The Republic of Rwanda signed the Convention on Cluster Munitions in Oslo on 3 December 2008. In March 2009, the Ministry of Foreign Affairs confirmed to the CMC that Rwanda had begun its ratification process and hoped to announce its ratification shortly.¹⁰²⁶

Rwanda has stated that it does not use, produce, stockpile, or transfer cluster munitions.¹⁰²⁷

Rwanda did not participate in any of the Oslo Process diplomatic conferences to develop the convention in 2007 or 2008, or the formal negotiations in Dublin in May 2008. In September 2008, it attended the regional conference on cluster munitions in Kampala and endorsed the Kampala Action Plan, which declared that states should sign and “take all necessary measures to ratify the convention as soon as possible.”¹⁰²⁸

Upon signing the convention in Oslo, Rwanda noted that while developing countries might not have the capacity to produce such destructive instruments, they were particularly vulnerable to them. Rwanda stated that it was fully committed to the convention.¹⁰²⁹

Rwanda is not party to the Convention on Conventional Weapons (CCW). It attended the CCW session on cluster munitions in November 2008 as an observer.

¹⁰¹⁹ Statement of Portugal, Committee of the Whole on Article 1, Dublin Diplomatic Conference, 19 May 2008; and Statement of Portugal, Informal Discussions on Interoperability, Dublin Diplomatic Conference, 20 May 2008. Notes by Landmine Action.

¹⁰²⁰ Statement of Portugal, Committee of the Whole on Article 3, Dublin Diplomatic Conference, 19 May 2008; and Statement of Portugal, Informal Discussions on Interoperability, Dublin Diplomatic Conference, 20 May 2008. Notes by Landmine Action.

¹⁰²¹ Statement of Portugal, Fifth 2008 Session of the CCW GGE on Cluster Munitions, Geneva, 6 November 2008. Notes by Landmine Action.

¹⁰²² Letter from Amb. José Filipe Moraes Cabral, 3 March 2009.

¹⁰²³ Statement of Portugal, Opening Session of the Committee of the Whole, Dublin Diplomatic Conference, 19 May 2008. Notes by Landmine Action.

¹⁰²⁴ CCW Amended Protocol II Article 13 Report, CCW/APII/CONF.7/NAR.10, 26 September 2005, p. 6. BL-755s are produced by the United Kingdom.

¹⁰²⁵ Letter from Amb. José Filipe Moraes Cabral, 3 March 2009.

¹⁰²⁶ Email from Hildegard Vansintjan, Advocacy Officer, Handicap International, 6 March 2009.

¹⁰²⁷ Statement of Rwanda, Kampala Regional Conference on Cluster Munitions, 30 September 2008. Notes by CMC.

¹⁰²⁸ CMC, “Report on the Kampala Conference on the Convention on Cluster Munitions,” 30 September 2008; and Kampala Action Plan, Kampala Conference, 30 September 2008.

¹⁰²⁹ Statement of Rwanda, Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008. Notes by Landmine Action.

SAMOA

The Independent State of Samoa signed the Convention on Cluster Munitions in Oslo on 3 December 2008. In February 2009, the chief executive of Samoa's Ministry of Foreign Affairs and Trade said the government will ratify the convention "as soon as it is practicably possible" and will put in place "relevant legislation that will enable the Convention to be implemented domestically in line with Article 9 of the Convention."¹⁰³⁰

Samoa has stated on several occasions that it does not use, produce, or stockpile cluster munitions.¹⁰³¹ Samoa is not party to the Convention on Conventional Weapons.

Samoa joined the Oslo Process in February 2008, when it participated in the Wellington Conference on Cluster Munitions and endorsed the Wellington Declaration (indicating its intention to participate fully in the formal negotiations in Dublin). Samoa said, "We support a ban on cluster munitions in all its manifestations because of the devastating effects on human life and for other humanitarian considerations." Samoa confirmed that it "does not produce, use, stockpile or transfer cluster munitions, nor do we plan to produce, use, stockpile or be a transit point for cluster munitions."¹⁰³²

During the Dublin negotiations, Samoa supported the most comprehensive ban possible.¹⁰³³ At the conclusion, Samoa welcomed the convention's contribution to disarmament, non-proliferation, and international humanitarian law and noted it should be implemented in good faith in a spirit of broad cooperation.¹⁰³⁴

Upon signing the convention in Oslo, Samoa's Ambassador Tuala Falani Chan Tung described the agreement as "a milestone," but warned that "the hardest work is still ahead of us" to achieve "full and effective implementation."¹⁰³⁵

SAN MARINO

The Republic of San Marino signed the Convention on Cluster Munitions in Oslo on 3 December 2008. The status of the ratification process is unknown.

San Marino first participated in the Oslo Process at the Vienna conference in December 2007. Although San Marino did not attend the Wellington conference in February 2008, it endorsed the Wellington Declaration on 12 May 2008, expressing its intent to participate in the formal negotiations in Dublin in May.¹⁰³⁶ At the conclusion of the negotiations, San Marino joined the consensus adoption of the convention. Ambassador Marcello Beccari, San Marino's representative to Norway, signed the convention.

San Marino is not party to the Convention on Conventional Weapons.

San Marino is not known to have used, produced, stockpiled, or transferred cluster munitions.

¹⁰³⁰ Letter from Aiono Mose Pouvi Sua, Chief Executive Officer, Ministry of Foreign Affairs and Trade, Ref. 5/16/45, 16 February 2009.

¹⁰³¹ Idid; and Statement of Samoa, Wellington Conference on Cluster Munitions, 19 February 2008, www.mfat.govt.nz.

¹⁰³² Statement of Samoa, Wellington Conference, 19 February 2008, www.mfat.govt.nz.

¹⁰³³ Summary Record of the Plenary, Second Session: 19 May 2008, Dublin Diplomatic Conference on Cluster Munitions, CCM/SR/2, 18 June 2008.

¹⁰³⁴ Summary Record of the Plenary and Closing Ceremony of the Conference, Fourth Session: 30 May 2008, Dublin Diplomatic Conference, CCM/SR/4, 18 June 2008.

¹⁰³⁵ Statement by Amb. Tuala Falani Chan Tung, Ambassador of Samoa to the European Union, Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008.

¹⁰³⁶ New Zealand Ministry of Foreign Affairs and Trade, "List of countries subscribing to the Declaration of the Wellington Conference on Cluster Munitions," 23 May 2008, www.mfat.govt.nz.

SÃO TOMÉ E PRÍNCIPE

The Democratic Republic of São Tomé e Príncipe signed the Convention on Cluster Munitions in Oslo on 3 December 2008. The status of the ratification process is not known.

While São Tomé e Príncipe did not attend any of the four Oslo Process international diplomatic conferences in 2007 and 2008 to develop the convention text, it did participate in the formal negotiations in Dublin in May 2008.¹⁰³⁷ It did not attend the African regional meeting in Livingstone in March/April 2008, but did attend the regional meeting in Kampala in September 2008.

During the Dublin negotiations, São Tomé e Príncipe joined other African states in working against efforts to weaken the draft convention text. It opposed a transition period before obligations took effect.¹⁰³⁸ It said it was not convinced of the necessity to add exemptions to the proposed definition and objected to subjective terms such as accuracy and reliability rates.¹⁰³⁹ At the conclusion, São Tomé e Príncipe agreed with the consensus adoption of the convention and described it as “robust, ambitious and balanced.”¹⁰⁴⁰

At the Kampala conference, São Tomé e Príncipe endorsed the Kampala Action Plan, which declared that states should sign and “take all necessary measures to ratify the convention as soon as possible.”¹⁰⁴¹ São Tomé e Príncipe’s Minister of Defense, Elsa Maria Neto D’Alva Teixeira de Barros Pinto, signed the convention in Oslo. The Minister said that São Tomé e Príncipe hoped to set up an interdepartmental body to ensure swift ratification.¹⁰⁴²

São Tomé e Príncipe has stated that it has never used cluster munitions.¹⁰⁴³ It is not believed to have ever produced, transferred or stockpiled them.

São Tomé e Príncipe is not party to the Convention on Conventional Weapons.

SENEGAL

The Republic of Senegal signed the Convention on Cluster Munitions in Oslo on 3 December 2008. While Senegal committed to begin its process of ratification at that time, as of mid-March 2009 no concrete steps towards ratification had been confirmed.¹⁰⁴⁴

Senegal is not believed to have used, produced, stockpiled, or transferred cluster munitions.

Although Senegal was not present at the initial Oslo Process conference in February 2007, it participated in the other three international conferences to develop the convention text in Lima, Vienna, and Wellington, as well as the formal negotiations in Dublin in May 2008. It also attended the African regional conferences in Livingstone in March/April 2008 and Kampala in September 2008.

¹⁰³⁷ While not at the Wellington conference in February 2008, São Tomé e Príncipe endorsed the Wellington Declaration on 9 May 2008 as a prerequisite to full participation in the Dublin negotiations; the declaration committed states to negotiate in Dublin on the basis of the draft Wellington text.

¹⁰³⁸ Summary Record of the Committee of the Whole, Eighth Session: 23 May 2008, Dublin Diplomatic Conference on Cluster Munitions, CCM/CW/SR/8, 18 June 2008.

¹⁰³⁹ Statement of São Tomé e Príncipe, Dublin Diplomatic Conference, 19 May 2008. Notes by Landmine Action.

¹⁰⁴⁰ Summary Record of the Committee of the Whole, Sixteenth Session: 28 May 2008, Dublin Diplomatic Conference, CCM/CW/SR/16, 18 June 2008.

¹⁰⁴¹ CMC, “Report on the Kampala Conference on the Convention on Cluster Munitions,” 30 September 2008; Kampala Action Plan, Kampala Conference, 30 September 2008.

¹⁰⁴² Statement of São Tomé e Príncipe, Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008, www.clusterconvention.org; and Signing Conference, Oslo, 2–4 December 2008. Notes by Landmine Action.

¹⁰⁴³ Statement of São Tomé e Príncipe, Signing Conference, Oslo, 3 December 2008, www.clusterconvention.org.

¹⁰⁴⁴ Email from Boubine Touré, CMC Senegal, 18 March 2009.

At the Lima conference, Senegal stated that after the use of cluster munitions in Lebanon in 2006, it was convinced of the necessity of negotiating a legally-binding instrument to prohibit cluster munitions. Senegal stated that the prohibition should be a “total ban.”¹⁰⁴⁵ At the Vienna conference, Senegal reiterated its support for a “complete ban” and stated that there should be no exceptions for cluster munitions with self-destruct mechanisms.¹⁰⁴⁶

At the Wellington conference, Senegal was firmly opposed to any exception for certain types of cluster munitions based on the number of submunitions or the inclusion of technical mechanisms to reduce failure rates. Senegal argued that such exceptions would seriously undermine the effectiveness of the future convention, noting that technical solutions “have not proven themselves...in the field of operations [and] even models which have a reputation for sophistication have recorded high failure rates.”¹⁰⁴⁷ Senegal also expressed concern about proposals that would allow continued use of cluster munitions based on a transition period and for the purpose of military “interoperability” (joint military operations with states not party).¹⁰⁴⁸

During the Dublin negotiations, Senegal maintained its positions calling for a categorical ban on cluster munitions and firmly against any transition period.¹⁰⁴⁹ Senegal stated that if provisions on interoperability were introduced, they must not weaken the treaty.¹⁰⁵⁰ At the end of the negotiations, Senegal joined the consensus adoption of the convention, and noted that it fully supported the text, negotiated in a “great spirit of compromise.”¹⁰⁵¹

During the Kampala regional conference in September 2008, Senegal publicly announced it would sign the convention in Oslo. It endorsed the Kampala Action Plan, which declared that states should sign and “take all necessary measures to ratify the convention as soon as possible.”¹⁰⁵²

At the signing conference in Oslo in December, Senegal lauded the humanitarian achievement of the convention. It stated that Senegal would begin its procedure of ratification without delay and fight for the convention’s early ratification and effective implementation.¹⁰⁵³

Senegal is party to the Convention on Conventional Weapons (CCW), but has not ratified Protocol V on Explosive Remnants of War. It has participated in the CCW work on cluster munitions in recent years, but has made few interventions. At a CCW session in November 2008, Senegal was one of 26 states that issued a joint statement expressing their opposition to the weak draft text on a possible CCW protocol on cluster munitions, indicating it was an unacceptable step back from the standards set by the Convention on Cluster Munitions.¹⁰⁵⁴

¹⁰⁴⁵ Statement of Senegal, Session on Definition and Scope, Lima Conference on Cluster Munitions, 24 May 2007. Notes by CMC/WILPF.

¹⁰⁴⁶ Statement of Senegal, Vienna Conference on Cluster Munitions, 5 December 2007. Notes by CMC/WILPF.

¹⁰⁴⁷ Statement by Col. Maissa Niang, Director of Studies, Control, and Legislation, Ministry of Armed Forces, Discussions on Article 2, Wellington Conference on Cluster Munitions, 19 February 2008.

¹⁰⁴⁸ Statement by Col. Maissa Niang, Ministry of Armed Forces, Discussions on Article 2, Wellington Conference, 19 February 2008. While Senegal noted the importance it placed on its participation in peacekeeping operations under the banner of the UN, the African Union, and sub-regional West Africa, Senegal stated that “for the purpose of a strong treaty totally banning cluster munitions, it would be willing to explore all possibilities under its national legislation and peacekeeping agreements, in order to maintain compliance with the provisions of the treaty and its engagement in military peacekeeping operations.” Translation by Landmine Action.

¹⁰⁴⁹ Statement of Senegal, Committee of the Whole, Dublin Diplomatic Conference on Cluster Munitions, 23 May 2008. Notes by Landmine Action; and Statement of Senegal, Committee of the Whole on Article 2, Dublin Diplomatic Conference, 26 May 2008. Notes by Landmine Action.

¹⁰⁵⁰ Statement of Senegal, Informal Discussions on Interoperability, Dublin Diplomatic Conference, 20 May 2008. Notes by Landmine Action.

¹⁰⁵¹ Statement of Senegal, Committee of the Whole, Dublin Diplomatic Conference, 28 May 2008. Notes by Landmine Action.

¹⁰⁵² CMC, “Report on the Kampala Conference on the Convention on Cluster Munitions,” 30 September 2008; and Kampala Action Plan, Kampala Conference, 30 September 2008.

¹⁰⁵³ Statement by Amb. Babacar Carlos Mbaye, Permanent Mission of Senegal to the UN in Geneva, Convention on Cluster Munitions Signing Conference, Oslo, 4 December 2008.

¹⁰⁵⁴ Statement delivered by Costa Rica on behalf of Austria, Belgium, Benin, Bosnia and Herzegovina, Chile, Croatia, Ecuador, El Salvador, Guatemala, Holy See, Honduras, Indonesia, Ireland, Lebanon, Mexico, New Zealand, Nicaragua, Norway, Peru, Philippines, Senegal, South Africa, Uganda, Uruguay, and Venezuela, Fifth 2008 Session of the CCW Group of Governmental Experts on Cluster Munitions, Geneva, 5 November 2008.

SIERRA LEONE

Sierra Leone was one of four countries that both signed and ratified the Convention on Cluster Munitions in Oslo on 3 December 2008.

Sierra Leone is not believed to have used, produced, stockpiled, or transferred cluster munitions. Sierra Leone has said that Economic Community of West African States Monitoring Group (ECOMOG) peacekeepers from Nigeria used cluster munitions in Sierra Leone.¹⁰⁵⁵ According to sources close to the Sierra Leonean military, in 1997 Nigerian forces operating as ECOMOG peacekeepers dropped two cluster bombs on Lokosama, near Port Loko. ECOMOG Force Commander General Victor Malu denied these reports.¹⁰⁵⁶ According to media reports, Nigerian ECOMOG peacekeepers used French-produced BLG-66 Belouga cluster bombs in an attack on the eastern town of Kenema in Sierra Leone in 1997.¹⁰⁵⁷

Sierra Leone did not attend the first two meetings of the Oslo Process in Oslo and Lima, but participated in the international treaty preparatory conferences in Vienna and Wellington, as well as the formal negotiations in Dublin in May 2008. It also attended the African regional conferences in Livingstone (March/April 2008) and Kampala (September 2008).

At the Vienna conference, Sierra Leone declared its support for the Oslo Declaration committing states to conclude a ban treaty in 2008. It referred to its experience as an affected country, saying that it was still recovering and would need international support.¹⁰⁵⁸ It also called for enhanced victim assistance.¹⁰⁵⁹

At the Wellington conference, Sierra Leone stated its support for “a total ban and nothing less.”

It opposed any exclusions and exemptions from the definition, and rejected technical fixes. It opposed the notion of a transition period during which states could continue to use cluster munitions. It again appealed for greater assistance for clearance and victim assistance programs.¹⁰⁶⁰

During the Dublin negotiations, Sierra Leone reiterated its position on the “primacy” of support to victims and called for a broad definition of a cluster munition victim that would specifically recognize all those injured or killed, as well as their families and their communities.¹⁰⁶¹ Sierra Leone again argued strongly against a transition period, stating that the aim of the convention was to stigmatize a class of weapons and a transition period would sanitize, rather than stigmatize the use of cluster munitions.¹⁰⁶²

Sierra Leone was able to both sign the convention and deposit its instrument of ratification simultaneously at the Oslo Signing Conference on 3 December 2008. Sierra Leone declared that cluster munitions would have no place in the 21st century and beyond.¹⁰⁶³

Sierra Leone is party to the Convention on Conventional Weapons (CCW), and ratified Protocol V on Explosive Remnants of War on 30 September 2004. It has not been an active participant in CCW discussions on cluster munitions in recent years.

¹⁰⁵⁵ Statement of Sierra Leone, Vienna Conference on Cluster Munitions, 5 December 2008. Notes by CMC/WILPF. ECOMOG was established in 1990 to intervene in the war in Liberia.

¹⁰⁵⁶ “IRIN-WA Weekly Roundup, 10/3/97,” IRIN, 10 March 1997, www.africa.upenn.edu.

¹⁰⁵⁷ “10 Killed in Nigerian raid in eastern Sierra Leone,” *Agence France-Presse*, 11 December 1997; and Human Rights Watch, “Cluster Munition Information Chart,” March 2009, www.hrw.org.

¹⁰⁵⁸ Statement of Sierra Leone, Vienna Conference, 5 December 2008. Notes by CMC/WILPF.

¹⁰⁵⁹ Statement of Sierra Leone, Session on Victim Assistance, Vienna Conference, 6 December 2008. Notes by CMC/WILPF.

¹⁰⁶⁰ Statement by Ibrahim Sorie, Member of Parliament, Wellington Conference on Cluster Munitions, 19 February 2008. See also, Statement of Sierra Leone, Session on Definitions, Wellington Conference, 19 February 2008. Notes by CMC.

¹⁰⁶¹ Statement of Sierra Leone, Committee of the Whole on Articles 4 and 5, Dublin Diplomatic Conference on Cluster Munitions, 20 May 2008. Notes by Landmine Action. Statement of Sierra Leone, Informal Discussions on Victim Assistance, Dublin Diplomatic Conference, 21 May 2008. Notes by Landmine Action.

¹⁰⁶² Statement of Sierra Leone, Dublin Diplomatic Conference, 23 May 2008. Notes by Landmine Action.

¹⁰⁶³ Statement by Dr. Earnest Bai Koroma, on behalf of the President of the Republic of Sierra Leone, Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008.

SLOVENIA

The Republic of Slovenia signed the Convention on Cluster Munitions in Oslo on 3 December 2008. In February 2009, the Minister of Foreign Affairs stated, “Fully convinced of the importance of promoting adherence to and, most importantly, implementation of the Convention, Slovenia commenced the ratification procedure and will endeavour to conclude it in the coming months.”¹⁰⁶⁴

Slovenia is party to the Convention on Conventional Weapons (CCW), and ratified Protocol V on Explosive Remnants of War on 22 February 2007.

Cluster Munition Ban Policy

At the CCW Third Review Conference in November 2006, Slovenia supported a proposal for a mandate to negotiate a legally binding instrument “that addresses the humanitarian concerns posed by cluster munitions.”¹⁰⁶⁵ When other CCW States Parties rejected such a mandate, Slovenia joined 25 nations in supporting a declaration calling for an international agreement that would prohibit the use of cluster munitions “within concentrations of civilians,” prohibit the use of cluster munitions that “pose serious humanitarian hazards because they are for example unreliable and/or inaccurate,” and require destruction of stockpiles of such cluster munitions.¹⁰⁶⁶

Slovenia then participated in the initial conference launching the Oslo Process in February 2007 and endorsed the Oslo Declaration, committing states to conclude in 2008 a convention prohibiting cluster munitions that cause unacceptable harm to civilians. Although Slovenia did not attend the international conference to develop the convention text in Lima, it participated in the subsequent international preparatory conferences in Vienna and Wellington, as well as the formal negotiations in Dublin in May 2008.¹⁰⁶⁷

On 11 July 2007, the National Assembly of Slovenia adopted a declaration calling on the government to support all efforts made by the international community to conclude a new international instrument prohibiting cluster munitions. The declaration called on the government to consider national measures, including drawing up appropriate legislation to ban cluster munitions to be submitted to the National Assembly.¹⁰⁶⁸

At the Dublin negotiations, Slovenia, in its capacity of the President of the European Union (EU), spoke on behalf of the EU, stating that “during the two weeks ahead of us, the EU Member States are prepared to work intensively and constructively in order to solve the issues on which consensus has not been reached so far.” Slovenia added that, “the EU continues to consider that parallel efforts should also be pursued in the CCW, which is supported by all EU member States, as well as by some major stakeholders, not currently involved in the Oslo Process.”¹⁰⁶⁹

At the signing conference in Oslo in December 2008, Slovenia referred to its decision to establish the International Trust Fund for Demining and Mine Victims Assistance (ITF) in March 1998 to assist mine-affected countries in South Eastern Europe. It reiterated its commitment to the ITF, which has been actively contributing to the clearance of cluster munitions in the region, as well as assisting victims and their rehabilitation.¹⁰⁷⁰

¹⁰⁶⁴ Letter from Samuel Žbogar, Minister of Foreign Affairs, 25 February 2009.

¹⁰⁶⁵ Proposal for a Mandate to Negotiate a Legally-Binding Instrument that Addresses the Humanitarian Concerns Posed by Cluster Munitions, Presented by Austria, Holy See, Ireland, Mexico, New Zealand, and Sweden, Third Review Conference of the States Parties to the CCW, Geneva, CCW/CONF.III/WP.1, Geneva, 25 October 2006.

¹⁰⁶⁶ Declaration on Cluster Munitions, Third Review Conference of the States Parties to the CCW, CCW/CONF.III/WP.18, Geneva, 17 November 2006.

¹⁰⁶⁷ Slovenia also attended the regional conference in Brussels in October 2007.

¹⁰⁶⁸ “Deklaracija o podpori prizadevanjem za mednarodno prepoved kasetnih bomb in drugega kasetnega streliva, ki civilnemu prebivalstvu povzroča nesprejemljivo škodo” (“Declaration of support for the efforts of the international ban on cluster bombs and other cluster munitions that cause unacceptable civilian population damage”), Gazette of the Republic of Slovenia, Ljubljana, 11 July 2007, www.uradni-list.si.

¹⁰⁶⁹ Statement of Slovenia on behalf of the EU, Dublin Diplomatic Conference on Cluster Munitions, 19 May 2008.

¹⁰⁷⁰ Statement by Dragoljuba Benčina, State Secretary, Ministry of Foreign Affairs, Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008.

Use, Production, Stockpiling, and Transfer

Slovenia is not believed to have used or produced cluster munitions, and Human Rights Watch did not previously include Slovenia on its list of stockpiling nations. However, in a February 2009 letter to Human Rights Watch, the Minister of Foreign Affairs acknowledged, “Slovenia has a minimum stockpile of cluster munitions, i.e. 1,080 pieces of 155mm gun howitzer munition PAT 794 CARGO LR/BB. These munitions, however, are not used by the Slovenian Armed Forces in any activities at home or abroad.”¹⁰⁷¹ The origin of the PAT-794 projectile is unclear.¹⁰⁷²

SOMALIA

The Republic of Somalia signed the Convention on Cluster Munitions in Oslo on 3 December 2008.¹⁰⁷³ The status of the ratification process is not known.

Somalia was present for only one of the four Oslo Process international diplomatic conferences in 2007 and 2008 to develop the convention text—in Vienna in December 2007, where it did not make any statements. It also was absent from the two African regional meetings, and did not participate in the formal negotiations in Dublin in May 2008.¹⁰⁷⁴

Somalia is not believed to have used, produced, transferred, or stockpiled cluster munitions. Somalia is not party to the Convention on Conventional Weapons.

SOUTH AFRICA

The Republic of South Africa signed the Convention on Cluster Munitions in Oslo on 3 December 2008. In a March 2009 letter to Human Rights Watch, the Department of Foreign Affairs stated that the first steps of the ratification process had been taken.¹⁰⁷⁵

South Africa is party to the Convention on Conventional Weapons (CCW), but has not ratified Protocol V on Explosive Remnants of War. South Africa participated in the work of the CCW on cluster munitions in recent years.

Cluster Munition Ban Policy

In contrast to its leadership role in the Ottawa Process that led to the 1997 Mine Ban Treaty, South Africa was not an early supporter of international efforts to deal with cluster munitions.

In 2005, South Africa stated that its armed forces “perceive cluster weapons as valid weapons of war when applied correctly in terms of the law of war.” It said that it was in the process of developing newer generations of very reliable submunitions.¹⁰⁷⁶

¹⁰⁷¹ Letter from Samuel Žbogar, Minister of Foreign Affairs, 25 February 2009.

¹⁰⁷² Knowledgeable sources have speculated that the PAT-794 was produced by the ZVS Company from Slovakia and contains 49 M85 dual purpose improved conventional munition (DPICM) submunitions.

¹⁰⁷³ The Permanent Secretary of the Ministry of Foreign Affairs and International Cooperation, Mohamed Jama Ali, signed the convention. He did not make a statement.

¹⁰⁷⁴ While not at the Wellington conference in February 2008, Somalia endorsed the Wellington Declaration on 15 May 2008 as a prerequisite to full participation in the Dublin negotiations; the declaration committed states to negotiate in Dublin on the basis of the draft Wellington text.

¹⁰⁷⁵ Letter from Xolisa Mabhongo, Chief Director, UN (Political), Department of Foreign Affairs, 12 March 2009. He said the department’s Business Unit has the responsibility of initiating the ratification process, and the first step was an exchange of views with the Department of Defence.

¹⁰⁷⁶ Communication from the South African Delegation to the Conference on Disarmament, to Pax Christi Netherlands, 19 January 2005.

At the CCW Third Review Conference in November 2006, South Africa did not support a proposal for a mandate to negotiate a CCW protocol “that addresses the humanitarian concerns posed by cluster munitions.”¹⁰⁷⁷ It also did not endorse a joint declaration by 25 other states calling for an agreement that would prohibit the use of cluster munitions “within concentrations of civilians,” prohibit the use of cluster munitions that “pose serious humanitarian hazards because they are for example unreliable and/or inaccurate,” and require destruction of stockpiles of such cluster munitions.¹⁰⁷⁸ At the end of the Review Conference, Norway announced that it would start an independent process outside the CCW to negotiate a cluster munition treaty and invited other governments to join.

South Africa participated throughout the Oslo Process, though was seen as a reluctant participant by many. It attended the initial conference to launch the Oslo Process in Oslo in February 2007, all three international diplomatic conferences to develop the convention text in Lima, Vienna, and Wellington, as well as the formal negotiations in Dublin in May 2008. It also attended the regional Oslo Process conferences in Livingstone in March/April 2008 and Kampala in September 2008.

At the Oslo conference in February 2007, South Africa, through its silence, endorsed the Oslo Declaration which committed states to conclude in 2008 a convention prohibiting cluster munitions that cause unacceptable harm to civilians.¹⁰⁷⁹ An official of the Ministry of Foreign Affairs later said that South Africa “did not decide to support a total ban on cluster munitions,” but rather supported the Oslo Declaration’s formulation of prohibiting cluster munitions that cause “unacceptable harm to civilians.”¹⁰⁸⁰

During the Lima conference in May 2007, South African Nobel Peace Laureate, Archbishop Emeritus Desmond M. Tutu, in a statement read to the participants, appealed to African states to commit to the Oslo Process and show the international leadership they had demonstrated in creating the Mine Ban Treaty. Archbishop Tutu called on them “to demonstrate that despite the many problems plaguing our countries we can and must be a leader of hope.”¹⁰⁸¹

South Africa did not intervene frequently during the Lima, Vienna, and Wellington conferences. Most of its remarks were aimed at strengthening the draft provisions on international cooperation and assistance, and victim assistance.

During the Livingstone conference from 31 March–1 April 2008, South Africa argued that the Oslo Declaration’s objective of a prohibition on cluster munitions that cause unacceptable harm to civilians meant that some cluster munitions which met certain criteria such as having self-destruct mechanisms or low failure rates should not be prohibited.¹⁰⁸² Initially South Africa refused to endorse the Livingstone Declaration, the outcome document of the conference, which called on African states to support a “total and immediate prohibition on all cluster munitions.” As a compromise to allow South Africa to join, the Declaration was amended to read “all cluster munitions that cause unacceptable harm.”¹⁰⁸³ In opposing a categorical ban on cluster munitions, South Africa was at odds with the great majority of African states participating in the Oslo Process.

At the Dublin negotiations, South Africa served as Friend of the President to preside over informal discussions relating to compliance provisions in the convention. During discussions on definitions, South Africa continued to call for an understanding of “unacceptable harm” and spoke of the importance of

¹⁰⁷⁷ Proposal for a Mandate to Negotiate a Legally-Binding Instrument that Addresses the Humanitarian Concerns Posed by Cluster Munitions, Presented by Austria, Holy See, Ireland, Mexico, New Zealand, and Sweden, Third Review Conference of the States Parties to the CCW, Geneva, CCW/CONF.III/WP.1, Geneva, 25 October 2006.

¹⁰⁷⁸ Declaration on Cluster Munitions, Third Review Conference of the States Parties to the CCW, CCW/CONF.III/WP.18, Geneva, 17 November 2006.

¹⁰⁷⁹ In the final session of the conference, states were invited to give their views on the declaration, with the understanding that all participants endorsed it, unless they spoke otherwise. Of the 49 states present, most spoke to indicate their endorsement, three indicated they could not endorse, and a small number, including South Africa, did not speak. There was some confusion afterward about whether South Africa did indeed intend to endorse.

¹⁰⁸⁰ “Notes following Briefing to Media by Deputy Director-General Ambassador George Nene,” Ministry of Foreign Affairs, Pretoria, 29 May 2008, www.dfa.gov.za.

¹⁰⁸¹ Statement by Archbishop Emeritus Desmond M. Tutu, Anglican Archbishop of Cape Town, Lima Conference on Cluster Munitions, 23 May 2007.

¹⁰⁸² Adriaan Basson and Lynley Donnelly, “SA opposes cluster-bomb ban,” *Mail & Guardian*, 4 April 2008, www.mg.co.za.

¹⁰⁸³ CMC, “Report on the Livingstone Conference on Cluster Munitions, 31 March – 1 April 2008,” www.stopclustermunitions.org.

accuracy and reliability factors.¹⁰⁸⁴ However, it also raised concerns about the proposed exclusion of weapons with submunitions if they met certain advanced technological criteria, saying this could create a widening gap between developing countries and countries that had the ability to procure such munitions.¹⁰⁸⁵

South Africa stated it was not convinced that provisions on interoperability were necessary, but would consider the issue as others attached strong importance to it.¹⁰⁸⁶ South Africa was among a small number of states which explicitly supported the inclusion of a reference to UN Security Council Resolution 1325 on Women, Peace, and Security.¹⁰⁸⁷ South Africa joined the consensus adoption of the convention, and declared that the convention text was far-reaching, ambitious, and safely within the objectives of the Oslo Declaration.¹⁰⁸⁸

At the Kampala conference in September 2008, South Africa noted that political decisions still had to be made in capital, but said it broadly supported the Kampala Action Plan, which declared that states should sign and “take all necessary measures to ratify the convention as soon as possible.”¹⁰⁸⁹ South Africa gave a presentation on stockpile destruction obligations under the convention.

After the adoption of the Convention on Cluster Munitions in Dublin, South Africa was critical of ongoing work on cluster munitions in the CCW. In a September 2008 CCW session, South Africa warned against a CCW agreement endorsing a lower standard than the new convention had already set.¹⁰⁹⁰ In November 2008, South Africa was one of 26 states that issued a joint statement expressing their opposition to the weak draft text on a possible CCW protocol on cluster munitions, indicating it was an unacceptable step back from the standards set by the Convention on Cluster Munitions.¹⁰⁹¹ South Africa was especially critical of the proposal for a transition period.¹⁰⁹² South Africa also stated that it and many other delegations were not consulted in informal consultations and that it was highly dissatisfied with the Chair’s handling of the negotiations.¹⁰⁹³

Upon signing the convention in Oslo in December, South Africa’s Minister of Defense stated, “We recognize that this landmark humanitarian disarmament instrument sets a new standard in our collective commitment to the principles of international humanitarian law and South Africa is fully committed to the Convention’s full implementation. As a country that used to produce and stockpile cluster munitions that have an area wide effect, we have come to the belief that these weapons have not only become obsolete as weapons of modern warfare, but that their recent use in conflicts have shown them to cause unacceptable harm to civilians, long after the cessation of active hostilities.”¹⁰⁹⁴

In March 2009, the Department of Foreign Affairs said that the 2003 Anti-Personnel Mines Prohibition Act would likely serve “as the principal guideline when South Africa drafts its national legislation for the Convention on Cluster Munitions.” It noted that this Act prohibits South African forces from assisting a state not party to the Mine Ban Treaty with any activity prohibited under the treaty and includes “transit” under its definition of transfers.¹⁰⁹⁵

¹⁰⁸⁴ Statements of South Africa, Informal Discussions on Definitions, Dublin Diplomatic Conference on Cluster Munitions, 19 May 2009. Notes by Landmine Action.

¹⁰⁸⁵ Ibid, 21 and 22 May 2009.

¹⁰⁸⁶ Statements of South Africa, Informal Discussions on Interoperability, Dublin Diplomatic Conference, 22 May 2008. Notes by Landmine Action.

¹⁰⁸⁷ Statements of South Africa, Committee of the Whole, Dublin Diplomatic Conference, 26 May 2008. Notes by Landmine Action.

¹⁰⁸⁸ Ibid, 28 May 2008.

¹⁰⁸⁹ CMC, “Report on the Kampala Conference on the Convention on Cluster Munitions,” September 2008,” www.stopclustermunitions.org; Craig Dodds, “Ban the bomb,” *Cape Times*, 2 October 2008; and Kampala Action Plan, Kampala Conference, 30 September 2008.

¹⁰⁹⁰ Statement of South Africa, Fourth 2008 Session of the CCW Group of Governmental Experts (GGE) on Cluster Munitions, 1 September 2008. Notes by Landmine Action.

¹⁰⁹¹ Statement delivered by Costa Rica on behalf of Austria, Belgium, Benin, Bosnia and Herzegovina, Chile, Croatia, Ecuador, El Salvador, Guatemala, Holy See, Honduras, Indonesia, Ireland, Lebanon, Mexico, New Zealand, Nicaragua, Norway, Peru, Philippines, Senegal, South Africa, Uganda, Uruguay, and Venezuela, Fifth 2008 Session of the CCW GGE on Cluster Munitions, Geneva, 5 November 2008.

¹⁰⁹² Statement of South Africa, Fifth 2008 Session of the CCW GGE on Cluster Munitions, 3 November 2008. Notes by Landmine Action.

¹⁰⁹³ Statement of South Africa, Fourth 2008 Session of the CCW GGE on Cluster Munitions, 7 November 2008. Notes by Landmine Action.

¹⁰⁹⁴ Statement by Charles Nqakula, Minister of Defence, Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008.

¹⁰⁹⁵ Letter from Xolisa Mabongo, Department of Foreign Affairs, 12 March 2009.

Use, Production, Stockpiling, and Transfer

In January 2005, the Ministry of Foreign Affairs stated, “The South African Defence Force has manufactured and used submunitions in the past, which have been phased out, and is in the process of developing newer generations of submunitions.”¹⁰⁹⁶ No details on past use of cluster munitions by South Africa are available. The South African company Denel has produced artillery cluster munitions and air-dropped cluster bombs.

South Africa’s Minister of Defense announced in Oslo in December 2008 that South Africa’s “relatively small stockpile of outdated cluster munitions” have been “earmarked for destruction.”¹⁰⁹⁷

South Africa has not yet revealed the precise size and composition of its current stockpile. In 2005 it asserted, “Details of reliability and functioning of the current generations of submunitions in the South African arsenal are classified, suffice to say that reliability for submunitions to function as intended is currently better than 98% and at a confidence level of better than 95%.”¹⁰⁹⁸

South Africa is thought to stockpile the M2001 155mm artillery projectile, produced by Denel, which contains 42 dual purpose improved conventional munition (DPICM) submunitions with self-destruct devices.¹⁰⁹⁹ South Africa has acknowledged possessing a type of aerial cluster bomb called TIEKIE, which was degraded for training use only.¹¹⁰⁰

Denel produced the CB-470 aerial cluster bomb containing 40 Alpha bomblets, although it is thought that this was produced for export purposes only. Iraq is reported to have bought the CB-470 in the late 1980s.¹¹⁰¹ Deminers in Zambia have encountered Alpha submunition duds.¹¹⁰²

SPAIN

The Kingdom of Spain signed the Convention on Cluster Munitions in Oslo on 3 December 2008. On 18 March 2009, at an event promoting the convention at UN Headquarters in New York, Spain announced that the Lower Chamber of the Spanish Parliament had approved the instrument of ratification and that the Upper Chamber would approve it shortly.¹¹⁰³

Spain declared a unilateral moratorium on use, production, and transfer of cluster munitions in June 2008. It announced in September 2008 that it would provisionally apply Article 1 of the convention (the basic prohibitions) until the moment of its ratification. Spain announced on 18 March 2009 that it had destroyed its stockpile of cluster munitions, the first signatory to do so.¹¹⁰⁴

¹⁰⁹⁶ Communication from the South African Delegation to the Conference on Disarmament to Pax Christi Netherlands, 19 January 2005.

¹⁰⁹⁷ Statement by Charles Nqakula, Signing Conference, Oslo, 3 December 2008.

¹⁰⁹⁸ Communication from the South African Delegation to Pax Christi Netherlands, 19 January 2005.

¹⁰⁹⁹ Denel, “Land Systems, Artillery Systems, 155 mm Towed/SP Gun-Howitzer,” undated, www.denel.co.za; and Leland S. Ness and Anthony G. Williams, eds., *Jane’s Ammunition Handbook 2007–2008* (Surrey, UK: Jane’s Information Group Limited, 2007), p. 665. In 2005, South Africa stated, “In the 155mm product line, a back-up self-destruct pyrotechnical feature is incorporated into the fuze which separates the detonation train from the main charge.” Communication from the South African Delegation to Pax Christi Netherlands, 19 January 2005.

¹¹⁰⁰ Communication from the South African Delegation to Pax Christi Netherlands, 19 January 2005.

¹¹⁰¹ Robert Hewson, ed., *Jane’s Air-Launched Weapons*, Issue 44 (Surrey, UK: Jane’s Information Group Limited, 2004), p. 440.

¹¹⁰² Email from Dr. Robert E. Mtonga, Coordinator, Zambian Campaign to Ban Landmines, 10 February 2009. It is unclear what type of cluster munition was used to deliver the submunitions, who used them, or when, but the Alpha submunition is most often associated with the South African CB-470 cluster bomb. Jane’s Information Group reports that the Alpha bomblet developed for the South African CB-470 cluster bomb was produced by Rhodesia (the predecessor of Zimbabwe), and that “Zimbabwe may have quantities of the Alpha bomblet.” Robert Hewson, ed., *Jane’s Air-Launched Weapons*, Issue 44 (Surrey, UK: Jane’s Information Group Limited, 2004), p. 440.

¹¹⁰³ CMC, “Report on the Special Event on the Convention on Cluster Munitions, United Nations, New York, 18 March 2009.” In September 2008, Spain said that the Ministry of Foreign Affairs would begin the internal procedures necessary for Spain to sign and ratify the convention. Upon signing the convention, Spain said that it would accelerate the ratification process internally. Statement by Amb. Gerardo Bugallo, Permanent Representative to the Conference on Disarmament, Fourth 2008 Session of the CCW Group of Governmental Experts (GGE) on Cluster Munitions, Geneva, 1 September 2008; and Statement of Spain, Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008. Notes by Landmine Action.

¹¹⁰⁴ Ministry of Defense, “Tres meses antes del compromiso de la ministra de la Defensa España se sitúa a la cabeza de países en eliminar todo su arsenal de bombas de racimo” (“Three months ahead of the commitment of the Minister of Defense, Spain is at the head of countries in eliminating all of its arsenals of cluster bombs”), Press release, 18 March 2009, www.mde.es.

Spain is party to the Convention on Conventional Weapons (CCW), and ratified Protocol V on Explosive Remnants of War on 9 February 2007. It has participated in the work of the CCW on cluster munitions in recent years.

Cluster Munition Ban Policy

The Spanish government was not an early supporter of international action on cluster munitions, reflecting its status as a producer and stockpiler of the weapon.¹¹⁰⁵ In 2005, Spain expressed the view that “all types of cluster munitions have a high operational value as a means to deny enemy forces the use of key targets temporarily.”¹¹⁰⁶

At the CCW Third Review Conference in November 2006, Spain supported a proposal for a mandate to negotiate a legally-binding instrument “that addresses the humanitarian concerns posed by cluster munitions.”¹¹⁰⁷ When other CCW States Parties rejected such a mandate, Spain did not join 25 nations in supporting a declaration calling for an international agreement that would prohibit the use of cluster munitions “within concentrations of civilians,” prohibit the use of cluster munitions that “pose serious humanitarian hazards because they are for example unreliable and/or inaccurate,” and require destruction of stockpiles of such cluster munitions.¹¹⁰⁸ Norway then announced that it would start an independent process outside the CCW to negotiate a treaty banning cluster munitions that cause unacceptable harm to civilians, and invited other governments to join.

Spain participated throughout the Oslo Process, from the launch in Oslo in February 2007, to the three international diplomatic conferences to develop the convention text in Lima, Vienna, and Wellington, and the formal negotiations in Dublin in May 2008. It also attended the regional conference in Brussels in October 2007.

At the initial Oslo conference, Spain endorsed the Oslo Declaration, committing states to conclude in 2008 a legally-binding instrument prohibiting cluster munitions that cause unacceptable harm to civilians. However, it emphasized that the prohibition should cover only certain cluster munitions deemed to cause unacceptable harm. It said that the 2008 deadline should be seen as an ambition, rather than a deadline. Spain stated that it would continue working in other fora, such as the CCW.¹¹⁰⁹

At the Lima conference, Spain reiterated its perception that the Oslo Process and the CCW could work in parallel to make progress on cluster munitions.¹¹¹⁰ Spain supported the establishment of deadlines for stockpile destruction, but raised concerns about the six-year period in the draft text and called for the possibility of extensions to this deadline.¹¹¹¹

At the Vienna conference, Spain supported the notion of possible exceptions from the prohibition, but noted that any exceptions must not harm the objectives of the treaty and must meet the requirement to avoid unacceptable harm to civilians.¹¹¹²

¹¹⁰⁵ There was some early attention to the issue. In October 2002, the Spanish Parliamentary Defense Commission unanimously approved a motion calling on the government, in the CCW, to support a ban on the use of cluster munitions against non-military targets. The motion added that technical improvements to the weapon, including self-destruction and detectability, should be considered. Human Rights Watch, “Survey of Cluster Munition Policy and Practice,” No.1, February 2007, p.52, www.hrw.org.

¹¹⁰⁶ *Ibid.*

¹¹⁰⁷ Proposal for a Mandate to Negotiate a Legally-Binding Instrument that Addresses the Humanitarian Concerns Posed by Cluster Munitions, Presented by Austria, Holy See, Ireland, Mexico, New Zealand, and Sweden, Third Review Conference of the States Parties to the CCW, Geneva, CCW/CONF.III/WP.1, Geneva, 25 October 2006.

¹¹⁰⁸ Declaration on Cluster Munitions, Third Review Conference of the States Parties to the CCW, CCW/CONF.III/WP.18, Geneva, 17 November 2006.

¹¹⁰⁹ Statement of Spain, Oslo Conference on Cluster Munitions, 23 February 2007. Notes by CMC/WILPF.

¹¹¹⁰ Statement of Spain, Discussion of Lima Text, Lima Conference on Cluster Munitions, 23 May 2007. Notes by CMC/WILPF.

¹¹¹¹ Statement of Spain, Session on Storage and Stockpile Destruction, Lima Conference, 24 May 2007. Notes by CMC/WILPF.

¹¹¹² Statement of Spain, Session on General Obligations and Scope, Vienna Conference on Cluster Munitions, 6 December 2007. Notes by CMC/WILPF.

At the Wellington conference, on the positive side, Spain argued in favor of a number of proposals to strengthen the convention's provisions on victim assistance.¹¹¹³ While Spain did not formally associate itself with the so-called like-minded group that put forward numerous proposals criticized sharply by the CMC as weakening the convention text, it often favored such proposals. Spain endorsed a proposal by Germany to add language to the text to facilitate "interoperability" (joint military operations with states not party).¹¹¹⁴ It also supported adding a provision allowing the retention of cluster munitions for training and research purposes.¹¹¹⁵ Spain expressed frustration with the process in that proposals were not being issued as formal amendments,¹¹¹⁶ but it subscribed to the Wellington Declaration, indicating its intention to participate fully in the Dublin negotiations on the basis of the Wellington draft text.

During the Dublin conference in May 2008, Spain sought exclusions from prohibition for cluster munitions based on self-destruct mechanisms.¹¹¹⁷ Spain raised concerns about the proposed exclusion for weapons with very advanced technological features, saying it would create a gap between rich and poor countries; it also said that accuracy could be achieved without advanced technological features such as sensors.¹¹¹⁸ Spain continued to support new language on interoperability and on retention of cluster munitions for training and research purposes, claiming the latter was necessary for its international demining center, which carries out training activities.¹¹¹⁹ At the end, Spain joined the consensus adoption of the convention. While it praised the achievements of the convention, it noted its continuing commitment to the ongoing talks in the CCW.¹¹²⁰

Following its adoption of the convention, Spain rapidly embraced the comprehensive ban on cluster munitions. On 8 July 2008, Minister of Defense Carme Chacón announced the Spanish government would approve a unilateral moratorium on the use, production, stockpiling, acquisition, or transfer of cluster munitions and order their destruction.¹¹²¹ The Council of Ministers formally agreed on 11 June.¹¹²²

During the September 2008 session of the CCW, Spain highlighted the national measures it was already taking to implement the provisions of the Convention on Cluster Munitions. Spain announced its moratorium and said that the Ministry of Foreign Affairs would begin the internal procedures necessary for Spain to sign and ratify the convention. Spain announced that it would provisionally apply Article 1 of the convention until the moment of its ratification. Spain stated it would begin its stockpile destruction as soon as possible, while the Ministry of Industry, Tourism and Trade would take measures to enforce the ban on import and export of cluster munitions, and the Ministry of Foreign Affairs and Cooperation would issue appropriate instructions to incorporate the provisions of the convention in all development projects.¹¹²³

During the Global Week of Action in October 2008, Spanish CMC members, Greenpeace, Movimiento Per La Pau, Fundació per la Pau and Justícia I Pau, held film screenings, built a shoe pyramid, launched a countdown meter of days until the signing of the Convention in Oslo, and collected signatures for the People's Treaty.¹¹²⁴

¹¹¹³ Statement of Spain, Session on Victim Assistance, Wellington Conference on Cluster Munitions, 20 February 2008. Notes by CMC. It argued for an inclusive vision of "victims" that recognized medical, psychological, socio-economic, and political needs. It supported the creation of a separate article on victim assistance, with references to national plans and gender-based policies, and urged the inclusion of victims in decision making processes.

¹¹¹⁴ Proposal by Germany, supported by the Czech Republic, Denmark, France, Italy, Slovakia, Spain, and the United Kingdom, Amendment to the Draft Cluster Munitions Convention (final version), "Inter-operability," Wellington Conference on Cluster Munitions, 21 February 2008.

¹¹¹⁵ Statement of Spain, Session on Storage and Stockpile Destruction, Wellington Conference, 21 February 2007. Notes by CMC.

¹¹¹⁶ Statement of Spain, Wellington Conference, 19 February 2008. Notes by CMC.

¹¹¹⁷ Spain's proposal exempted munitions with "self-safe" mechanisms. Spain defined a "self-safe" mechanism as a "combined self-destruction and self-deactivation mechanism, or other type of mechanism with a similar effect, that guarantees that a cluster munition remnant will become an inert explosive remnant in any case and will not detonate accidentally." Proposal by Spain for the Amendment of Article 2, Dublin Diplomatic Conference on Cluster Munitions, 19 May 2008, www.clustermunitionsdublin.ie.

¹¹¹⁸ Statement of Spain, Informal Discussions on Definitions, Dublin Diplomatic Conference, 22 May 2008. Notes by Landmine Action.

¹¹¹⁹ Statement of Spain, Committee of the Whole on Article 3, Dublin Diplomatic Conference, 23 May 2008. Notes by Landmine Action.

¹¹²⁰ Statement of Spain, Closing Ceremony, Dublin Diplomatic Conference, 30 May 2008. Notes by Landmine Action.

¹¹²¹ "España dejará de fabricar bombas de racimo" ("Spain will cease to manufacture cluster bombs"), *El País*, 8 July 2008, www.elpais.com.

¹¹²² Letter from Miguel Ángel Moratinos, Minister of Foreign Affairs and Cooperation, 12 March 2009, with courtesy translation provided.

¹¹²³ Statement by Amb. Gerardo Bugallo, Fourth 2008 Session of the CCW GGW on Cluster Munitions, Geneva, 1 September 2008.

¹¹²⁴ CMC, "Global Week of Action to Ban Cluster Bombs, 27 October – 2 November 2008," www.stopclustermunitions.org.

In November 2006, as CCW negotiations on cluster munitions were scheduled to conclude, Spain did not join 26 nations that issued a statement expressing their opposition to the weak draft text on a possible CCW protocol on cluster munitions, indicating it was an unacceptable step back from the standards set by the Convention on Cluster Munitions.¹¹²⁵

On 14 November 2008, the Council of Ministers approved Spain's signature of the convention.¹¹²⁶ On 2 December 2008, Spain's Defense Minister Carme Chacón announced Spain would destroy all its cluster bombs in the following seven months.¹¹²⁷

Upon signing the convention in Oslo, Spain's Minister of Foreign Affairs and Cooperation Miguel Ángel Moratinos praised the convention as a response to the "deep suffering of civilian populations," noted Spain's unilateral moratorium on cluster munitions, and declared that it would transmit information on its stockpiles and plans to destroy them to the UN Secretary-General. Spain added that it would accelerate the ratification process internally.¹¹²⁸

On 18 March 2009, the Ministry of Defense announced that Spain had destroyed its stockpile of cluster munitions three months ahead of schedule, making Spain the first country to complete destruction of its stockpile.¹¹²⁹

Use, Production, and Transfer

Spain has stated that it has never used cluster munitions. It has acknowledged that in the past it produced, stockpiled, and exported cluster munitions.¹¹³⁰ By signing the convention, Spain said it "has assumed a military and economic cost" which was indicative of it placing "humanitarian imperatives over military and industrial interests."¹¹³¹

The company Instalaza SA from Zaragoza produced two types of 120mm mortar projectiles, the ESPIN-21 and MAT-120, which contain submunitions. The MAT-120 projectile contains 21 dual purpose submunitions with "electronic fusing...which involves both self-destruction and self-neutralization features, guarantees zero risk of dangerous duds."¹¹³² In 2005, Instalaza announced that it was going to co-produce with the Finnish defense company Patria¹¹³³ the MAT-120 mortar projectile.¹¹³⁴ However, there is no indication that a production line was ever opened up, and the deal was cancelled in light of Spain's decision to sign the Convention on Cluster Munitions.¹¹³⁵

The company Explosivos Alaveses SA (EXPAL), part of the Maxam Industrial Group, produced the BME-330B/AP cluster bomb.¹¹³⁶ This weapon is an anti-runway bomb that contains eight SAP bomblets (each weighing 18kg) designed to put holes in runways and 20 SNA area denial bomblets that have a

¹¹²⁵ Statement delivered by Costa Rica on behalf of Austria, Belgium, Benin, Bosnia and Herzegovina, Chile, Croatia, Ecuador, El Salvador, Guatemala, Holy See, Honduras, Indonesia, Ireland, Lebanon, Mexico, New Zealand, Nicaragua, Norway, Peru, Philippines, Senegal, South Africa, Uganda, Uruguay, and Venezuela, Fifth 2008 Session of the CCW GGE on Cluster Munitions, Geneva, 5 November 2008.

¹¹²⁶ "España firmará la convención sobre municiones de racimo" ("Spain will sign the Convention on Cluster Munitions"), *Eco Diario*, 14 November 2008, ecodiario.economista.es.

¹¹²⁷ "Spain to destroy all cluster bombs by June 2009: minister," *Agence France-Presse*, 2 December 2008.

¹¹²⁸ Statement of Spain, Signing Conference, Oslo, 3 December 2008. Notes by Landmine Action.

¹¹²⁹ Ministry of Defense, "Tres meses antes del compromiso de la ministra de la Defensa España se sitúa a la cabeza de países en eliminar todo su arsenal de bombas de racimo" ("Three months ahead of the commitment of the Minister of Defense, Spain is at the head of countries in eliminating all of its arsenals of cluster bombs"), Press release, 18 March 2009, www.mde.es.

¹¹³⁰ Letter from Miguel Ángel Moratinos, Minister of Foreign Affairs and Cooperation, 12 March 2009. This was also stated in remarks at the UN on 18 March 2009. See CMC, "Report on the Special Event on the Convention on Cluster Munitions, United Nations, New York, 18 March 2009."

¹¹³¹ *Ibid.*

¹¹³² Patria Weapons Systems Oy, "Weapons Systems: Products for Defence and Peacekeeping," June 2006, p. 11, www.patria.fi.

¹¹³³ Patria is owned by the State of Finland and the European Aeronautic Defense and Space Company NV (EADS).

¹¹³⁴ Instalaza announced, "The Finnish Defence Forces have selected the Spanish 120 mm Mortar Cargo Round MAT-120, developed and produced by the Spanish company Instalaza S.A., in order to be adapted for its specific needs.... The modified round will be produced by co-operation between Instalaza S.A. and Patria Weapon Systems. The contract was signed at the end of 2004." Instalaza SA, "News: Finland Chooses Instalaza's Mat-120 Mortar Cargo Round," January 2005, instalaza.es.

¹¹³⁵ "Finland opts out of cluster munitions ban treaty," *BBC Monitoring European*, 3 November 2008.

¹¹³⁶ Letter from Miguel Ángel Moratinos, Minister of Foreign Affairs and Cooperation, Annex II, 12 March 2009. This bomb is listed by *Jane's Air-Launched Weapons* as BME-330B/AR. Robert Hewson, ed., *Jane's Air-Launched Weapons*, Issue 44 (Surrey, UK: Jane's Information Group Limited, 2004), pp. 453-454.

variable delay fuze and an anti-disturbance fuze.¹¹³⁷ Spain has reported stockpiling and destroying 385 of these cluster bombs. (See below).

EXPAL has produced two other types of BME bombs, both of which are banned under the Convention on Cluster Munitions, but which the Spanish armed forces have not reported possessing. The BME-330AT cluster bomb contains 516 bomblets, a mixture of 512 armor-piercing SAC-1 AP bomblets and four MAC-2 anti-tank mines.¹¹³⁸ The BME-330C (multipurpose) cluster bomb holds 180 bomblets of three different types: the CP fragmentation (antipersonnel), the CH shaped charge (anti-armor), and the SNA area denial bomblets.¹¹³⁹

Peru possesses a BME-330 cluster bomb of Spanish origin.¹¹⁴⁰ Pursuant to the unilateral moratorium enacted by the Spanish government on 11 June 2008, the Ministry of Industry, Tourism, and Trade and the Inter-Ministerial Board that regulates Foreign Trade on Defense and Double Use (JIMDDU) were instructed to deny all requests for the export of cluster munitions as of 11 June 2008.¹¹⁴¹

Spain apparently imported two variants of the Rockeye cluster bomb, the CBU-99B and CBU-100, from the United States.¹¹⁴²

Stockpiling and Destruction

On 2 December 2008, Spain's Minister of Defense, Carme Chacón, announced Spain would destroy all its cluster bombs in the following seven months. The minister said that over 5,500 cluster munitions would be destroyed.¹¹⁴³

The Ministry of Foreign Affairs and Cooperation reported that as of February 2008, Spain had a stockpile of 5,587 cluster munitions of five types that contained 251,836 submunitions. The 11 June 2008 decision of the Spanish government to implement a unilateral moratorium on use, production, transfer, and storage of cluster munitions included "the commitment of Spain to destroy [existing] weapons of the Armed Forces as soon as possible."¹¹⁴⁴

By the end of 2008, Spain had destroyed 4,339 cluster munitions (containing 212,481 submunitions), which constituted over 77% of its stockpile. The remaining 385 cluster bombs were scheduled to be destroyed by June 2009.¹¹⁴⁵ As noted above, Spain finished the stockpile destruction even earlier, on 18 March 2009.¹¹⁴⁶

¹¹³⁷ The variable delay fuze allows the bomblet to be programmed to explode randomly anytime between a few minutes and 24 hours after impact. Roberty Hewson, ed., *Jane's Air-Launched Weapons*, Issue 44 (Surrey, UK: Jane's Information Group Limited, 2004), pp. 453–454.

¹¹³⁸ Robert Hewson, ed., *Jane's Air-Launched Weapons*, Issue 44 (Surrey, UK: Jane's Information Group Limited, 2004), p. 455.

¹¹³⁹ *Ibid.*, p. 456.

¹¹⁴⁰ Ángel Páez, "Peru se suma a iniciativa mundial para prohibir y destruir las 'bombas de racimo'" ("Peru joins global initiative to ban and destroy the 'cluster bombs'"), *La República* online, 29 May 2007. Human Rights Watch was shown photographs of these cluster munitions by a member of the national media in May 2007. See also, Ángel Páez, "Se eliminarán las bombas de racimo" ("Cluster bombs will be eliminated"), *La República* online, 29 May 2007.

¹¹⁴¹ Letter from Miguel Ángel Moratinos, Minister of Foreign Affairs and Cooperation, 12 March 2009.

¹¹⁴² Ministry of Defense, "Tres meses antes del compromiso de la ministra de la Defensa España se sitúa a la cabeza de países en eliminar todo su arsenal de bombas de racimo" ("Three months ahead of the commitment of the Minister of Defense, Spain is at the head of countries in eliminating all of its arsenals of cluster bombs"), Press release, 18 March 2009, www.mde.es; and "Spain to destroy all cluster bombs by June 2009: minister," *Agence France-Presse*, 2 December 2008. Rockeye is a common cluster bomb made by the US in the past, and Spain's Minister of Defense acknowledged that Spain possessed some 600 US-made cluster bombs, but the Ministry of Foreign Affairs and Cooperation's letter to Human Rights Watch indicated that the Rockeyes were fabricated by EXPAL. Letter from Miguel Ángel Moratinos, Minister of Foreign Affairs and Cooperation, Annex II, 12 March 2009.

¹¹⁴³ "Spain to destroy all cluster bombs by June 2009: minister," *Agence France-Presse*, 2 December 2008.

¹¹⁴⁴ Letter from Miguel Ángel Moratinos, Minister of Foreign Affairs and Cooperation, 12 March 2009.

¹¹⁴⁵ *Ibid.* It is not clear precisely when the destruction began. In September 2008, Spain stated it would begin its stockpile destruction as soon as possible. Statement by Amb. Gerardo Bugallo, Fourth 2008 Session of the CCW GGE on Cluster Munitions, Geneva, 1 September 2008. On 2 December, the Minister of Defense said Spain would destroy all its cluster bombs in the following seven months. "Spain to destroy all cluster bombs by June 2009: minister," *Agence France-Presse*, 2 December 2008.

¹¹⁴⁶ Ministry of Defense, "Tres meses antes del compromiso de la ministra de la Defensa España se sitúa a la cabeza de países en eliminar todo su arsenal de bombas de racimo" ("Three months ahead of the commitment of the Minister of Defense, Spain is at the head of countries in eliminating all of its arsenals of cluster bombs"), Press release, 18 March 2009, www.mde.es. The numbers presented in the press release are slightly different, indicating a stockpile of 5,589, including about 4,600 mortar projectiles, 600 US-produced cluster bombs, and 400 anti-runway bombs. The press release does not mention a number of cluster munitions retained for training purposes.

Spain intends to retain 836 cluster munitions (containing 28,615 submunitions) for training and countermeasures testing purposes permitted under Article 3 of the Convention on Cluster Munitions.¹¹⁴⁷ The Spanish Government paid €4.9 million to the company Fabricaciones Extremenas SA (FAEX), of the Maxam Industrial Group, to dismantle and destroy the stockpile of cluster munitions.¹¹⁴⁸ The details of the stockpile and destruction are presented in the following table:

	Stockpiled on 12 February 2008	Destroyed by 31 December 2008	Destroyed by 18 March 2009	Retained
120mm mortar projectile ESPIN-21 (contains 21 submunitions)	2,340 (49,140)	1,950 (40,950)	--	390 (8,190)
120mm mortar projectile MAT-120 (contains 21 submunitions)	2,271 (47,691)	1,852 (38,892)	--	419 (8,799)
CBU-100 Rockeye bomb (contains 247 submunitions)	545 (134,615)	537 (132,639)	--	8 (1,976)
CBU-99B Rockeye bomb (contains 247 submunitions)	38 (9,386)	--	--	38 (9,386)
BME-330 B/AP bomb (contains 28 submunitions)	393 (11,004)	--	385 (10,780)	8 (264) ¹
Total munitions (submunition total)	5,587 (251,836)	4,339 (212,481)	385 (10,780)	863 (28,615)

¹ Spain will retain an additional 40 SNA submunitions from two BME-330B/AP bombs.

SWEDEN

The Kingdom of Sweden signed the Convention on Cluster Munitions in Oslo on 3 December 2008. Sweden has started work toward ratifying the convention. In March 2009 the Ministry of Foreign Affairs reported that as a required first step, a study presenting the convention and the national measures necessary for its implementation is being carried out. A report will be produced and made publicly available upon conclusion of the study, and views on its conclusions will be sought from government agencies and NGOs. Following this, a bill will be presented to the Swedish Parliament for approval.¹¹⁴⁹

Sweden is party to the Convention on Conventional Weapons (CCW), and was the first country to ratify Protocol V on Explosive Remnants of War on 2 June 2004.

Cluster Munition Ban Policy

In 2005, in response to a CCW questionnaire about the applicability of existing international humanitarian law to the use of cluster munitions, Sweden expressed concern that the use of submunitions with high failure rates in populated areas was “likely to create a disproportionate suffering for the civilian population compared to the military advantage from the use of such a weapon.” Sweden also stated that the use of cluster munitions with a large footprint in populated areas could be considered to be indiscriminate.¹¹⁵⁰

¹¹⁴⁷ Letter from Miguel Ángel Moratinos, Minister of Foreign Affairs and Cooperation, Annex II, 12 March 2009.

¹¹⁴⁸ Ibid; and “Chacón dice que no quedarán bombas de racimo en España a partir de junio” (“Chacón says there will be no more cluster munitions in Spain starting June”), *El Día*, 3 December 2008, www.eldia.es.

¹¹⁴⁹ Letter from Amb. Lars-Erik Wingren, Department for Disarmament and Non-proliferation, Ministry for Foreign Affairs, 24 March 2009. The Ministry of Foreign Affairs stated that Sweden’s ratification of the Mine Ban Treaty took approximately one and a half years, but it was not possible to give an estimate on the length of the ratification process of the Convention on Cluster Munitions.

¹¹⁵⁰ Response from Sweden, “Responses to Document CCW/GGE/X/WG.1/WP.2, entitled IHL and ERW, Dated 8 March 2005,” CCW/GGE/XI/WG.1/WP.8, July 29, 2005, p. 2.

In May 2006, the Minister of Foreign Affairs announced in the Swedish Parliament that Sweden would pursue a mandate in the CCW to negotiate an instrument regulating cluster munitions.¹¹⁵¹ While Sweden would work toward a ban on certain cluster munitions, Minister of Defense Mikael Odenberg stated that the ban would not include the Swedish cluster munitions BK-90, as he claimed “it is a type of cluster weapon with high reliability levels and does not leave behind unexploded submunitions that risk harming innocent civilians.”¹¹⁵²

At a CCW meeting in September 2006, Sweden and Austria took the lead in introducing for consideration at the November Review Conference a draft mandate to begin negotiations on cluster munitions.¹¹⁵³ In October 2006, a motion was introduced in the Swedish Parliament calling for a ban on the use, production, and trade of cluster munitions and the destruction of Sweden’s stockpiles. It further called for Sweden’s commitment to pursue an international ban and to take steps at the national level as well.¹¹⁵⁴ The motion was rejected.

In November 2006, at the Third Review Conference of the CCW, Sweden introduced a proposal to negotiate a legally-binding instrument “that addresses the humanitarian concerns posed by cluster munitions.”¹¹⁵⁵ After the mandate was rejected by a number of other countries, Sweden read a declaration, endorsed by 25 other states, calling for an agreement that would prohibit the use of cluster munitions “within concentrations of civilians,” prohibit the use of cluster munitions that “pose serious humanitarian hazards because they are for example unreliable and/or inaccurate,” and require destruction of stockpiles of such cluster munitions.¹¹⁵⁶

Norway then announced that it would start an independent process outside the CCW to negotiate a cluster munition treaty and invited other governments to join. A voluntary “Core Group” of countries emerged to take responsibility for moving forward what became known as the Oslo Process. Sweden was initially one of six countries in the group, but soon dropped out largely due to backsliding in domestic policy.¹¹⁵⁷

Sweden participated in the initial conference to launch the Oslo Process in Oslo in February 2007, and endorsed the Oslo Declaration committing states to conclude a convention prohibiting cluster munitions that cause unacceptable harm to civilians in 2008. While it did not attend the next Oslo Process meeting in Lima, it participated in the other two international conferences to develop the convention in Vienna and Wellington, as well as the formal negotiations in Dublin in May 2008.¹¹⁵⁸

At the Oslo conference in February 2007, Sweden advocated for an approach that would prohibit some cluster munitions and place regulations on the use of others. Sweden stated that it expected to keep its stockpiles of BK-90 cluster munitions “for the time being.” Sweden claimed that its BK-90s with self-destruct mechanisms had a failure rate of 1–2% and thus “there are no dangerous duds left in the area.”¹¹⁵⁹

In June 2007, the Swedish Peace and Arbitration Society (SPAS) founded a Swedish network against cluster munitions, consisting of ten organizations. This network was very active in lobbying the Swedish government to change its position on the BK-90 and to support the Oslo Process.

¹¹⁵¹ Betankande 2006/07:UU12 Strategisk exportkontroll (Strategic export controls) 2006, www.riksdagen.se.

¹¹⁵² “Tough international criticism of Odenberg’s views on cluster bombs,” *Sveriges Radio*, transcript of interview of Mikael Odenberg, 11 May 2006, www.wilpf.int.ch.

¹¹⁵³ Procedural Report, Fifteenth Session of the CCW Group of Government Experts (GGE), CCW/CONF.III/7 and CCW/GGE/XV/6, Geneva, 13 October 2006, p.17.

¹¹⁵⁴ The motion stated that Sweden’s stockpile of cluster munitions served no security purpose and did not fit its new defense policy objectives. It said that despite the claim that Sweden’s cluster munitions had a failure rate of 1%, this would still lead to large amounts of unexploded ordnance disseminated over a large radius. Motion 2006/07:U299 Klustervapen (Cluster munition) av Gunilla Wahlén m.fl. (v), 20 October 2006, www.riksdagen.se.

¹¹⁵⁵ Proposal for a Mandate to Negotiate a Legally-Binding Instrument that Addresses the Humanitarian Concerns Posed by Cluster Munitions, Presented by Austria, Holy See, Ireland, Mexico, New Zealand, and Sweden, Third Review Conference of the States Parties to the CCW, Geneva, CCW/CONF.III/WP.1, Geneva, 25 October 2006.

¹¹⁵⁶ Declaration on Cluster Munitions, Third Review Conference of the States Parties to the CCW, CCW/CONF.III/WP.18, Geneva, 17 November 2006.

¹¹⁵⁷ See Stephen Goose, “Cluster Munitions: Ban Them,” *Arms Control Today*, January/February 2008, p. 9.

¹¹⁵⁸ It also attended the regional conference in Brussels in October 2007.

¹¹⁵⁹ Statement of Sweden, Oslo Conference on Cluster Munitions, 23 February 2007. Notes by CMC/WILPF.

During the Vienna conference, Sweden continued to maintain that a future treaty should not prohibit all cluster munitions and noted that a number of proposals had been presented suggesting different technical features that might be used to exempt a cluster munitions from prohibition.¹¹⁶⁰

Shortly before the Wellington conference, 12-year-old Ayat Suliman, a cluster munition survivor from Iraq living in Sweden, handed a petition containing over 12,000 signatures calling for a ban on cluster munitions to the Swedish government. The petition called on Sweden to scrap its BK-90 cluster bombs and support an international ban.¹¹⁶¹

At the Wellington conference, Sweden clarified its position on the definition of a cluster munition and the scope of the prohibition of a future treaty. Of the many proposals for exceptions based on technical features, Sweden stated, “We believe that one essential feature, in considering current and... future munitions, must be electrical fail safe systems which embrace both self-destruct and self-deactivation mechanisms. The rationale for electrical systems is that batteries always discharge and render the munitions inoperable. In addition, we propose that cluster munitions with an internal guidance system—including sensors—to aid accuracy should be a prominent feature.”¹¹⁶² These requirements should be cumulative, Sweden proposed.¹¹⁶³

Sweden also called for the inclusion of a transition period “of a reasonable time” to allow states to phase out their cluster munitions.¹¹⁶⁴ Sweden supported the inclusion of provisions on “interoperability” (joint military operations with states not party) in the text.¹¹⁶⁵ At the conclusion of the Wellington conference, Sweden endorsed the Wellington Declaration indicating its intention to participate fully in the Dublin negotiations, but associated itself with the statement of the so-called like-minded countries, delivered by France, which expressed frustration with the proceedings of the Wellington conference.¹¹⁶⁶

During the Dublin negotiations, Sweden continued to advocate for exemptions for munitions based on the criteria of electrical fail-safe mechanisms, self-destruct and self-deactivation mechanisms, and internal guidance systems.¹¹⁶⁷ Sweden also continued to argue for a transition period, which it stated would be a “decisive element” in its support for the convention,¹¹⁶⁸ and for provisions on interoperability.¹¹⁶⁹ At the conclusion of the negotiations, even though the definition prohibited the BK-90 and there was no transition period, Sweden joined the consensus to adopt the convention.

On 1 June 2008 the Swedish pension fund AP 7 announced that it would sell off its holdings in companies involved in the production of cluster munitions. AP 7, one of Sweden’s seven government-owned pension funds, manages around 90 billion kronor.¹¹⁷⁰ Four other Swedish pension funds followed suit in September 2008.¹¹⁷¹

¹¹⁶⁰ Statement of Sweden, Vienna Conference on Cluster Munitions, 5 December 2007. Notes by CMC/WILPF.

¹¹⁶¹ SPAS, “Svårt skadad av klusterbomber; Imorgon överlämnar hon ett upprop till regeringen” (“Severely wounded by cluster bombs; Tomorrow she submits a petition to the government”), Press release, 12 February 2008, www.svenskafreds.se.

¹¹⁶² Proposals by Sweden, Draft Article 2 on Definitions, Wellington Conference on Cluster Munitions, 18–22 February 2008.

¹¹⁶³ Suggestions by Sweden, Draft Article 2(c) on definitions, Wellington Conference, 18–22 February 2008.

¹¹⁶⁴ Sweden proposed that the length of the transition period should not be longer than the period proposed for stockpile destruction, or six years with a 10-year extension. Statement of Sweden, Session on Definition and Scope, Wellington Conference, 18 February 2008. Notes by the CMC.

¹¹⁶⁵ Proposals by Sweden, Draft Article 1 – Scope and Obligations, Wellington Conference, 18–22 February 2008.

¹¹⁶⁶ Statement by France on behalf of the like-minded countries, Closing Plenary, Wellington Conference, 22 February 2008.

¹¹⁶⁷ Statement of Sweden, Informal Discussions on Definitions, Dublin Diplomatic Conference on Cluster Munitions, 21 May 2008. Notes by Landmine Action. On 19 May 2008, Swedish Undersecretary of State for Foreign Affairs Frank Belfrage stated in a radio interview that while the government was seeking to ban cluster munitions that caused unacceptable harm to civilians, it wanted “to continue producing and selling the [BK-90] because this cluster bomb would not be as dangerously destructive as other weapons.” Opposition Social Democrats, however, were now in favor of a broader prohibition on these weapons. “Sweden Rejects Total Ban on Cluster Bombs,” *Swedish Radio International*, 19 May 2008, www.sr.se.

¹¹⁶⁸ Statement of Sweden, Committee of the Whole on Article 1, Dublin Diplomatic Conference, 19 May 2008. Notes by Landmine Action.

¹¹⁶⁹ Statement of Sweden, Informal Discussions on Interoperability, Dublin Diplomatic Conference, 20 May 2008. Notes by Landmine Action.

¹¹⁷⁰ “Swedish pension fund AP 7 sells all holdings in companies making cluster bombs,” *International Herald Tribune*, 1 June 2008, www.iht.com.

¹¹⁷¹ Hugh Wheelan, “Sweden’s AP Funds Sell Off Millions in Cluster Munition Shares,” *The Responsible Investor*, 15 September 2008, www.responsible-investor.com.

Despite adopting the convention, there was uncertainty as to whether Sweden would sign in December in Oslo.¹¹⁷² In September 2008, Sweden was still apparently undecided and was waiting to see the outcome of the work in the CCW. According to an interview with Swedish International Radio, Swedish Minister of Foreign Affairs Carl Bildt stated that a problem with the Convention on Cluster Munitions was that it failed to include the major users of cluster munitions.¹¹⁷³

Sweden continued to support efforts to reach consensus on a draft instrument on cluster munitions in the CCW. During the final session of CCW negotiations in November 2008, Sweden expressed some concerns about weaknesses in the draft text under consideration, but supported the inclusion of provisions for cluster munitions with self-destruct and self-deactivation mechanisms, and welcomed the inclusion of a 1% failure rate limit based on testing.¹¹⁷⁴

On 16 November 2008, as CCW negotiations drew to a close with no outcome in sight, Sweden's Prime Minister Fredrik Reinfeldt announced that Sweden would sign the Convention on Cluster Munitions. He stated that the decision was an important part of Sweden's disarmament ambitions. "We will have to phase out the Swedish [BK-90] from our own supplies," Mr. Reinfeldt said, adding that Sweden's decision to sign came after an investigation by its armed forces on the implications for Sweden and cost estimates for the acquisition of alternative weapons.¹¹⁷⁵

Still, in November, Sweden did not join 26 states that issued a joint statement expressing their opposition to the weak draft text on a possible CCW protocol on cluster munitions, indicating it was an unacceptable step back from the standards set by the Convention on Cluster Munitions.¹¹⁷⁶

Upon signing the convention in Oslo, Sweden's ambassador stated that "Sweden particularly values the strong commitment... to victim assistance, and the recognition, both in the preamble and in several articles of the Convention, of the need to see and defend the interests of vulnerable groups—women and children, families and communities." Sweden was one of a small number of states that explicitly mentioned the CCW in its remarks during the signing conference. Sweden stated that "a successful outcome next year within the CCW process in the form a new Protocol on cluster munitions, we believe, could assist States not in a position to join the Convention [on Cluster Munitions] now, to do so in the future."¹¹⁷⁷

Use, Production, Stockpiling, and Transfer

According to the Ministry of Foreign Affairs, "Sweden has never used or transferred cluster munitions as defined in the Convention [on Cluster Munitions]."¹¹⁷⁸

The Swedish Air Force stockpiles one type of cluster munition, the Bombkapsel BK-90 *Mjölner*, which dispenses MJ-1 fragmentation bomblets and MJ-2 anti-armor proximity-fuzed bomblets.¹¹⁷⁹ Sweden has reported that the failure rate of the bomblets is less than 1% and if the submunitions become duds on the ground, they are designed to self-deactivate after two hours, preventing it from being dangerous.¹¹⁸⁰ The German company LFK was the prime contractor for the BK-90 with participation of SAAB Bofors Dynamics.¹¹⁸¹

¹¹⁷² "Uncertainty over cluster bomb ban," *Swedish Radio International*, 30 May 2008, www.sr.se.

¹¹⁷³ "Sweden wavers over cluster bomb ban," *Swedish Radio International*, 25 September 2008, www.sr.se. In the face of this uncertainty, in late October the Swedish Peace and Arbitration Society and Swedish network against cluster munitions launched an extensive email and letter writing campaign targeting Prime Minister Reinfeldt to sign the Convention. CMC, "Report on the Global Week of Action to Ban Cluster Bombs," 28 October – 2 November 2008, www.stopclustermunitions.org.

¹¹⁷⁴ Statement of Sweden, Fifth 2008 Session of the CCW GGE on Cluster Munitions, Geneva, 4 November 2008. Notes by Landmine Action.

¹¹⁷⁵ "Sverige undertecknar klustervapenförbud" ("Sweden signs cluster bomb ban"), *Nyheter från Sveriges Radio – Ekot (News from Swedish Radio – Ekot)*, www.sr.se.

¹¹⁷⁶ Statement delivered by Costa Rica on behalf of Austria, Belgium, Benin, Bosnia and Herzegovina, Chile, Croatia, Ecuador, El Salvador, Guatemala, Holy See, Honduras, Indonesia, Ireland, Lebanon, Mexico, New Zealand, Nicaragua, Norway, Peru, Philippines, Senegal, South Africa, Uganda, Uruguay, and Venezuela, Fifth 2008 Session of the CCW GGE on Cluster Munitions, Geneva, 5 November 2008.

¹¹⁷⁷ Statement by Amb. Michael Sahlin, Convention on Cluster Munitions Signing Conference, Oslo, 3–4 December 2008.

¹¹⁷⁸ Letter from Amb. Lars-Erik Wingren, Ministry for Foreign Affairs, 24 March 2009.

¹¹⁷⁹ Robert Hewson, ed., *Jane's Air-Launched Weapons*, Issue 44 (Surrey, UK: Jane's Information Group Limited, 2004), pp. 360–361.

¹¹⁸⁰ Communication from the Swedish Ministry of Foreign Affairs, "Brevsvar klusterammunition," to Pax Christi Netherlands, January 14, 2005.

¹¹⁸¹ Robert Hewson, ed., *Jane's Air-Launched Weapons*, Issue 44 (Surrey, UK: Jane's Information Group Limited, 2004), p. 361.

On 3 December 2008, the day that Sweden signed the convention, the Ministry of Defense sent a request to the Swedish Armed Forces to “start planning for the phasing-out of the cluster munition weapons system ‘Bombkapsel 90 (BK 90)’.” By 1 September 2009, “a time schedule and cost estimate for the dismantling of the system should be reported back to the Ministry of Defence.”¹¹⁸²

Sweden also produces and stockpiles the BONUS sensor-fuzed weapon, a 155mm artillery projectile with two submunitions. BONUS is not considered a cluster munition under the terms of the Convention on Cluster Munitions because it meets the five technical criteria set out by negotiators as necessary to avoid the negative effects of cluster munitions.¹¹⁸³ BONUS is co-produced in Sweden by BAE Systems Bofors and is in service with the Swedish Armed Forces. French partners include Nexter (formerly GIAT Industries) and Intertekniques SA of Plaisir.¹¹⁸⁴

SWITZERLAND

The Swiss Confederation signed the Convention on Cluster Munitions on 3 December 2008 in Oslo. In March 2009, Switzerland reported that the ratification process was underway involving different Federal Departments.¹¹⁸⁵

Switzerland is party to the Convention on Conventional Weapons (CCW), and ratified Protocol V on Explosive Remnants of War on 5 December 2006. Switzerland has been actively engaged in the CCW work on cluster munitions in recent years.

Cluster Munition Ban Policy

Switzerland was among the first countries to propose international action on cluster munitions, which it did in the framework of the Convention on Conventional Weapons. In 2001, Switzerland proposed “the adoption of a new protocol laying down technical specifications to prevent cluster bombs and other submunitions from becoming explosive remnants of war.”¹¹⁸⁶ The proposal would have required all submunitions to have a 98% reliability rate “through a combination of the primary fusing mechanism and a back-up self-destruct feature.”¹¹⁸⁷ In 2002, Switzerland submitted a discussion paper on technical improvements that could be made to munitions, including submunitions, to prevent them from becoming explosive remnants of war.¹¹⁸⁸

The first national initiative on cluster munitions was submitted to Parliament in December 2005. The so-called Dupraz initiative¹¹⁸⁹ called for an amendment to the Swiss law on war material to forbid the development, production, procurement, import, export, transit, and stockpiling of submunitions.¹¹⁹⁰ The Dupraz initiative was rejected in June 2006 by the Committee on Security Policy of the National Council

¹¹⁸² Letter from Amb. Lars-Erik Wingren, Ministry of Foreign Affairs, 24 March 2009.

¹¹⁸³ Article 2.2(c) excludes munitions with submunitions if they have less than 10 submunitions, and each submunition weighs more than four kilograms, can detect and engage a single target object, and is equipped with electronic self-destruction and self-deactivation features.

¹¹⁸⁴ Leland S. Ness and Anthony G. Williams, eds., *Jane’s Ammunition Handbook 2007–2008* (Surrey, UK: Jane’s Information Group Limited, 2007), pp. 661–662.

¹¹⁸⁵ Letter from Micheline Calmy-Rey, Minister of Foreign Affairs, 5 March 2009. The letter said that ratification will necessitate amendment of the federal law on war material of 13 December 1996 and that the Federal Constitution requires a public consultation on the ratification and the amendment of federal law before it can be addressed by the Parliament. The letter said the Federal Council should take a decision regarding the public consultation “within the next months.”

¹¹⁸⁶ Irene A. Tzinis, “Cluster Munitions, Development and Timeline,” Mennonite Central Committee, mcc.org; and Switzerland, “Explosive Remnants of War, Technical improvements and other measures for relevant types of munitions, including sub-munitions, which could reduce the risk of such munitions becoming ERW, Discussion Paper,” First Session of the CCW Group of Governmental Experts (GGE), CCW/GGE/I/WP.4, 8 May 2002.

¹¹⁸⁷ Louis Maresca, “Second Review Conference of the Conference on Certain Conventional Weapons,” *ICRC, International Review of the Red Cross*, No. 845, 31 March 2002, icrc.org.

¹¹⁸⁸ Switzerland, “Explosive Remnants of War, Technical improvements and other measures for relevant types of munitions, including sub-munitions, which could reduce the risk of such munitions becoming ERW, Discussion Paper,” submitted by Switzerland, First Session of the CCW GGE, CCW/GGE/I/WP.4, 8 May 2002.

¹¹⁸⁹ Parliamentarian John Dupraz submitted the proposal, which was prepared with the assistance of HI Switzerland.

¹¹⁹⁰ “Parliamentary Initiative – Dupraz, No. 05.452,” 7 December 2005. www.parlament.ch.

on the basis that current Swiss policy was sufficient, that the munitions held in stock were “reliable,” and that their loss would “dramatically weaken Switzerland’s defences.”¹¹⁹¹

In response to Israel’s massive use of cluster munitions in Lebanon in 2006, pressure for action on cluster munitions increased. However, a second proposal to Parliament in December 2006, the Glanzmann-Hunkeler initiative, was more limited in scope than the first initiative proposed by Dupraz, as it called for a ban on cluster munitions that are unreliable and/or inaccurate. It was seen by its proponents as a constructive compromise that would strengthen the Swiss position in discussions about international regulation of cluster munitions.¹¹⁹² NGOs such as Handicap International (HI) Switzerland criticized the initiative for allowing continued use of those cluster munitions Switzerland held in its stockpiles.¹¹⁹³

At the CCW Third Review Conference in November 2006, Switzerland formally supported a proposal for a mandate to negotiate a legally-binding instrument on cluster munitions.¹¹⁹⁴ When that mandate was rejected by other States Parties, Switzerland joined 24 other nations in a joint declaration calling for an agreement that would prohibit the use of cluster munitions “within concentrations of civilians,” prohibit the use of cluster munitions that “pose serious humanitarian hazards because they are for example unreliable and/or inaccurate,” and require destruction of stockpiles of such cluster munitions.¹¹⁹⁵ At the end of the Review Conference, Norway announced that it would start an independent process outside the CCW to negotiate a cluster munition treaty and invited other governments to join.

Switzerland participated in the Oslo Process from the outset, though it made clear its preference for the CCW, and expressed reservations about the process and the draft convention text, especially the notion of a comprehensive prohibition. Switzerland participated in the initial conference in Oslo in February 2007, the three international diplomatic conferences to develop the convention text in Lima, Vienna, and Wellington, and the formal negotiations in Dublin in May 2008. It also attended the regional conference in Brussels in October 2007.

At the Oslo conference, Switzerland was among the 46 countries that endorsed the Oslo Declaration, committing states to conclude in 2008 an instrument banning cluster munitions that cause unacceptable harm to civilians. However, Switzerland stated it would continue to push in the CCW for a negotiating mandate on cluster munitions, and noted that the deadline to conclude a legally-binding instrument by 2008 was just “an aspiration and an ambition.”¹¹⁹⁶

In May 2007, shortly before the Lima conference, the Parliament adopted the Glanzmann-Hunkeler initiative, banning the production, stockpiling, and use of cluster munitions that are “unreliable and/or inaccurate,” although it did not define these terms.¹¹⁹⁷ Switzerland considered its entire stock of cluster munitions, which have M85-type submunitions, as reliable and thus not subject to the prohibition.¹¹⁹⁸ During the Lima conference, Switzerland said that the prohibition in the draft convention text was too broad and seemed to be a “total ban on all non-smart cluster munitions.”¹¹⁹⁹

¹¹⁹¹ Commission de la politique de sécurité du Conseil des États (Commission on Security Policy of the Council of States), “La commission contre une interdiction des armes à sous-munitions” (“The Commission against a ban on cluster munitions”), Press release, 2 June 2006, www.parlament.ch.

¹¹⁹² This proposal was submitted by Parliamentarian Ida Glanzmann-Hunkeler. See Ida Glanzmann-Hunkeler, “Motion – Interdiction des armes à sous-munitions non fiables” (“Motion – Prohibition on unreliable cluster munitions”), No. 06.3661, 11 December 2006, www.parlament.ch.

¹¹⁹³ HI Switzerland, “Sous-munitions : La Suisse sera-t-elle prête à signer et ratifier le future traité d’Oslo le 3 décembre 2008?” (“Cluster Munitions: Will Switzerland be ready to sign and ratify the future Oslo Treaty on 3 December 2008?”), Press kit, 2 July 2008.

¹¹⁹⁴ Proposal for a Mandate to Negotiate a Legally-Binding Instrument that Addresses the Humanitarian Concerns Posed by Cluster Munitions, Presented by Austria, Holy See, Ireland, Mexico, New Zealand, and Sweden, Third Review Conference of the States Parties to the CCW, Geneva, CCW/CONF.III/WP.1, Geneva, 25 October 2006.

¹¹⁹⁵ Declaration on Cluster Munitions, Third Review Conference of the States Parties to the CCW, CCW/CONF.III/WP.18, 17 November 2006.

¹¹⁹⁶ Statement of Switzerland, Oslo Conference on Cluster Munitions, 25 February 2007. Notes by CMC/WILPF.

¹¹⁹⁷ Ida Glanzmann-Hunkeler, “Motion – Interdiction des armes à sous-munitions non fiables” (“Motion – Prohibition on unreliable cluster munitions”), No. 06.3661, 11 December 2006, www.parlament.ch

¹¹⁹⁸ Information Platform humanrights.ch, “Prohibition of Cluster Bombs: Switzerland Signed the International Treaty,” 3 December 2008, www.humanrights.ch.

¹¹⁹⁹ Statement of Switzerland, Session on Definition and Scope, Lima Conference on Cluster Munitions, 24 May 2007. Notes by CMC/WILPF.

In September 2007, the National Council reversed its earlier decision and voted in favor of the Dupraz initiative for a categorical ban. However, the Security Policy Committee of the Council of States voted against the initiative in November 2007, because a majority believed it would “undermine Switzerland’s position in international negotiations and its defense capability” and that “the measures taken by Switzerland to enhance the safety of cluster munitions (including equipping with self-destruct devices) are sufficient.”¹²⁰⁰ The Council of States voted against it in December 2007.¹²⁰¹

At the Vienna conference in December 2007, Switzerland maintained its position calling for work in the CCW and for a ban only on certain types of cluster munitions. Switzerland stated that not all cluster munitions caused unacceptable harm and proposed that accuracy and reliability criteria could form a basis of a definition along with a restriction on use of cluster munitions in populated areas, along the lines of CCW Protocol III on incendiary weapons.¹²⁰² Switzerland advocated for strong provisions on victim assistance, with a non-discriminatory, rights-based approach, with appropriate gender perspectives.¹²⁰³

During the Wellington conference in February 2008, Switzerland indicated it was prepared to make a considerable shift in its position and first opened the door for the inclusion of its own stockpiles of cluster munitions under the prohibition of a future convention, discussing the possibility of including cluster munitions with self-destruct mechanisms under a future ban.¹²⁰⁴ However, Switzerland aligned itself with the so-called like-minded group that put forward numerous proposals that the CMC sharply criticized as weakening the draft text. Switzerland began calling for a transition period, of an unspecified number of years, during which cluster munitions prohibited by the treaty could still be used “as a last resort or in the case of self-defence.”¹²⁰⁵

It endorsed a discussion paper pushing for new provisions to facilitate “interoperability” (joint military operations with states not party).¹²⁰⁶ It expressed concern that the deadline for stockpile destruction was too short, given the technical difficulties, health and environmental concerns, and limited number of contractors. It supported adding a provision to allow retention of cluster munitions for clearance training and research.¹²⁰⁷ At the conclusion, Switzerland associated itself with a statement made on behalf of the like-minded group declaring dissatisfaction with the conference as it felt different opinions and views had not been taken into account in a balanced way.¹²⁰⁸ However, it announced it would subscribe to the Wellington Declaration, indicating its intention to participate fully in the Dublin negotiations on the basis of the Wellington draft text.¹²⁰⁹

At the Dublin Diplomatic Conference in May 2008, Swiss Ambassador Christine Schraner Burgener served as the Friend of the President on interoperability, chairing informal sessions on the issue and presenting her conclusions about possibilities for consensus to the President. This was a challenging task given the divergent views. In the end, the CMC criticized Article 21 dealing with this matter as the worst element of the new convention, calling it a “stain on the fine fabric” of the convention.¹²¹⁰

¹²⁰⁰ Commission de la politique de sécurité du Conseil des États (Commission on Security Policy of the Council of States), “Moins de militaires pour soutenir les autorités civiles” (“Less military support to civil authorities”), Press release, 2 November 2007, www.parlament.ch.

¹²⁰¹ The text went back to the Security Policy Committee of the National Council that voted again against it in January 2008. The National Council adopted the initiative again in March 2008, www.parlament.ch. Email from Paul Vermeulen, Director, HI Switzerland, 22 April 2009.

¹²⁰² Statement of Switzerland, Session on General Scope of Obligations, Vienna Conference on Cluster Munitions, 6 December 2007. Notes by CMC/WILPF.

¹²⁰³ Statement of Switzerland, Session on Victim Assistance, Vienna Conference, 6 December 2007. Notes by CMC/WILPF.

¹²⁰⁴ See Article 2, Switzerland, Compendium of Proposals Submitted by Delegations During the Wellington Conference, Wellington Conference on Cluster Munitions, 18–22 February 2008, www.mfat.govt.nz.

¹²⁰⁵ Proposal by Switzerland for additional text, Compendium of Proposals Submitted by Delegations During the Wellington Conference, Wellington Conference, 18–22 February 2008, pp. 32–33, www.mfat.govt.nz.

¹²⁰⁶ Australia, Canada, Czech Republic, Denmark, Finland, France, Germany, Italy, Netherlands, Sweden, Switzerland, and the United Kingdom, “Discussion Paper, Cluster Munitions and Interoperability: The Oslo-Process Discussion Text and Implications for International Operations,” Wellington Conference, 18–22 February 2008, www.mfat.govt.nz.

¹²⁰⁷ Statement of Switzerland, Session on Storage and Stockpile Destruction, Wellington Conference, 21 February 2008. Notes by CMC.

¹²⁰⁸ Statement of France on behalf of like-minded countries, Closing Plenary, Wellington Conference, 22 February 2008, www.mfat.govt.nz.

¹²⁰⁹ Statement of Switzerland, Closing Plenary, Wellington Conference, 22 February 2008. Notes by CMC.

¹²¹⁰ CMC Statement delivered by Steve Goose, Dublin Diplomatic Conference on Cluster Munitions, 28 May 2008.

During the Dublin conference, Switzerland agreed to a definition that prohibited its own stocks of cluster munitions. It continued to lobby for a transition period under which the use of prohibited cluster munitions would still be permitted until their replacement could be secured, but this was rejected by other states.¹²¹¹ Switzerland successfully advocated for ground-breaking provisions for victim assistance, particularly emphasizing the importance of a non-discriminatory approach and of access to medical and social services for victims.¹²¹² Switzerland joined the consensus adoption of the convention. It hailed the provisions for victims and for assistance to clearance and stockpile destruction, and noted the important references in the preamble to UN Security Council Resolution 1325 on Women, Peace, and Security, and Resolution 1612 on Children and Armed Conflict.¹²¹³

After Dublin, Switzerland continued to support work on cluster munitions in the CCW, but adopted a more critical approach. In January 2008, Switzerland had maintained that the Oslo Process and the CCW were “mutually complementary” and “reinforcing.”¹²¹⁴ In July 2008, Switzerland told CCW delegates that the legal status of cluster munitions has radically changed since Dublin, and said the CCW must take into consideration the development of international humanitarian law represented by the Convention on Cluster Munitions. It stated that it could not accept any provision in the CCW that would weaken or fail to strengthen existing international humanitarian law.¹²¹⁵

In June 2008, motions prepared by HI Switzerland were deposited at the National Council and the Council of States asking the government to sign the convention in Oslo in December 2008, and to ratify rapidly. From 2 July to 12 December 2008, HI Switzerland draped the landmark sculpture of the Broken Chair, outside the UN in Geneva, with a three by four meter banner asking states to sign the convention in Oslo.

On 10 September 2008, the Swiss Federal Council decided that Switzerland would sign the convention in December in Oslo.¹²¹⁶ Upon signing, Minister of Foreign Affairs Micheline Calmy-Rey called it a “strong and ambitious treaty which provides recognition to all those men, women and children who are dead or who have seen their existence shattered by these weapons in the course of recent decades. Switzerland will do all in its power to ensure the procedure of ratification can be carried out promptly.”¹²¹⁷

On 17 March 2009, Switzerland’s National Council voted in favor of an initiative which called for rapid ratification of the convention.¹²¹⁸ HI Switzerland called on the Federal Council to include a prohibition on the direct or indirect financing of cluster munitions in the text of its ratification instrument.¹²¹⁹ NGOs have continued to argue that the Dupraz initiative provides a workable basis for ratification legislation and the necessary amendment to the law on war material.¹²²⁰

¹²¹¹ Statement of Switzerland, Committee of the Whole on Article 2, Dublin Diplomatic Conference, 19 May 2008. Notes by Landmine Action.

¹²¹² Statement of Switzerland, Informal Discussions on Victim Assistance, Dublin Diplomatic Conference, 21 May 2008. Notes by Landmine Action.

¹²¹³ Statement of Switzerland, Closing Statement, Dublin Diplomatic Conference, 30 September 2008. Notes by Landmine Action.

¹²¹⁴ Statement of Switzerland, First 2008 Session of the CCW GGE on Cluster Munitions, 14 January 2008. Notes by WILPF.

¹²¹⁵ Statement of Switzerland, Third 2008 Session of the CCW GGE on Cluster Munitions, 7 July 2008. Notes by Landmine Action.

¹²¹⁶ Information Platform humanrights.ch, “Prohibition of Cluster Bombs: Switzerland Signed the International Treaty,” 3 December 2008, www.humanrights.ch.

¹²¹⁷ Statement of Switzerland, Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008. Translation by Landmine Action.

¹²¹⁸ Micheline Calmy-Rey, “Motion – Maury Pasquier Liliane, Interdiction des bombes a sous munitions (08.3321) and Motion CPS-CE Consensus de Dublin (05.452)” (“Motion – Liliane Maury Pasquier, Prohibition of Cluster Munitions (08.3321) and Motion – EC CPS Dublin Consensus (05452)”), Les procès-verbaux du Conseil national et du Conseil des Etats, Session de printemps 2009, Douzième séance (Minutes of the National Council and Council of States, Spring Session 2009, Twelfth meeting), 17 March 2009, www.parlament.ch.

¹²¹⁹ HI Switzerland, “Bombes A Sous-Munitions: Interdiction doit s’étendre aux investissements” (“Cluster Munitions: A prohibition must include investment”), Press release, 17 March 2009.

¹²²⁰ After Dublin, there was further assessment of whether the Dupraz initiative could provide the basis for ratification legislation. The Commission of the Council of States claimed the Dupraz initiative was stronger than the convention text agreed on in Dublin and postponed a decision on the initiative. NGOs such as HI Switzerland have argued that the Dupraz initiative could be adapted and approved by parliament. Commission de la politique de sécurité du Conseil des Etats (Commission on Security Policy of the Council of States), “La commission s’oppose à plusieurs décisions du Conseil national” (“The Commission is opposed to several decisions of the National Council”), Press release, 24 June 2008, www.parlament.ch; HI Switzerland, “Sous-munitions : La Suisse sera-t-elle prête à signer et ratifier le futur traité d’Oslo le 3 décembre 2008?” (“Cluster Munitions: Will Switzerland be ready to sign and ratify the future Oslo Treaty on 3 December 2008?”), 2 July 2008; and email from Paul Vermeulen, HI Switzerland, 3 March 2009.

Use, Transfer, Production, and Stockpiling

Switzerland has never used or exported cluster munitions.¹²²¹ It imported cluster munitions from Israel and the United Kingdom, and currently has a stockpile of cannon artillery and mortar projectiles with submunitions.

At the Oslo conference in February 2007, Switzerland stated that it “stopped the production of cluster munitions in 2003.”¹²²² According to a March 2009 letter from the foreign minister, Switzerland “did never *per se* produce cluster munitions. Indeed, according to a license agreement with the manufacturer, the munitions were purchased abroad and enterprises based in Switzerland, after adding specific features to increase the reliability of the ammunitions, reassembled them (exclusively for the Swiss Armed Forces).”¹²²³

The minister went on to note, “This process ended in the last quarter of 2004. Since then, no further treatment or assembly of cluster munitions has taken place in Switzerland. The cargo ammunition for artillery is stocked exclusively in Switzerland. After the ratification of the Convention, Switzerland will fulfill its obligations and destroy its stocks of cluster munitions.”¹²²⁴

Swiss military officials told Human Rights Watch that Switzerland imported 155mm artillery projectiles and 120mm mortar projectiles with M85-type¹²²⁵ submunitions from Israel Military Industries, then Swiss firms modified (“Helveticized”) and reassembled the weapons.¹²²⁶

Switzerland stockpiles three types of 155mm artillery projectiles with M85 self-destructing dual purpose improved conventional munition (DPICM) submunitions: the KaG-88 containing 63 submunitions, the KaG-90 containing 49 submunitions, and the KaG-88/99 containing 84 submunitions. It also stockpiles the MP-98 120mm mortar projectile containing 32 M85 submunitions.¹²²⁷ Switzerland has not yet revealed the quantities of these weapons that it possesses.

Switzerland imported BL-755 cluster bombs from the United Kingdom. It has reported that it “fully destroyed its entire stocks of the so-called ‘*Fliegerbombe 79*’...between 1997 and 2000. Since then, the Swiss Armed Forces do no longer have any air-delivered cluster units on stock.”¹²²⁸ In June 2005, the Department of Foreign Affairs wrote, “The Swiss Armed Forces no longer have any cluster bomb units (an aircraft store composed of a dispenser and submunition) on stock, due to humanitarian concerns and the decision not to use aircraft capable for ground combat.”¹²²⁹

Switzerland purchased from Germany DM702 SMArt-155 sensor-fuzed weapons as part of its 2001 Armament Program.¹²³⁰ The SMArt 155 artillery round contains two submunitions, but it is not considered a cluster munition under the Convention on Cluster Munitions because it meets the five technical criteria set out by negotiators as necessary to avoid the negative effects of cluster munitions.¹²³¹

¹²²¹ Letter from Micheline Calmy-Rey, Minister of Foreign Affairs, 5 March 2009; and Statement by Amb. Christine Schraner Burgener, Oslo Conference, 22 February 2007.

¹²²² Statement by Amb. Christine Schraner Burgener, Oslo Conference, 22 February 2007.

¹²²³ Letter from Micheline Calmy-Rey, Minister of Foreign Affairs, 5 March 2009. Most observers would judge that the activities engaged in constitute “production:” modifying the original manufacturer’s product for improved performance in combat, then re-loading, re-assembling and re-packaging the projectiles into a condition suitable for storage.

¹²²⁴ *Ibid.*

¹²²⁵ The mortar projectiles contain M87 submunitions, which are dimensionally different than the M85, though they possess the same self-destructing fuze type. See Israel Military Industries Ltd “The Cargo Bomb,” undated, imi-israel.com.

¹²²⁶ Interviews with members of the Swiss Delegation to the CCW GGE on Cluster Munitions, Geneva, 16–20 February 2009. These weapons were also on display at the International Workshop on Preventive Technical Measures for Munitions in Thun in May 2004, attended by Human Rights Watch, and representatives offered this same explanation.

¹²²⁷ Communication from the Department of Foreign Affairs, Directorate of International Law, to Pax Christi Netherlands, 7 June 2005. According to the Department of Foreign Affairs, “All types of submunition in the stocks of the Swiss Armed Forces are equipped with a [self-destruct] device. In case an individual bomblet fails to function as intended, an independent mechanism will self-destruct the primary detonator of the individual bomblet with a high probability... Therefore, the submunition of the Swiss Armed Forces has an overall reliability of at least 98%. The great majority of the maximum 2% unexploded bomblets remaining on the ground do not pose a humanitarian risk since they are in a safe or neutralized status.”

¹²²⁸ Letter from Micheline Calmy-Rey, Minister of Foreign Affairs, 5 March 2009.

¹²²⁹ Communication from the Department of Foreign Affairs to Pax Christi Netherlands, 7 June 2005.

¹²³⁰ Department of Defense, Civil Protection and Sport, “Armament Program 2003-1990,” undated, www.ar.admin.ch. See also Rheinmetall DeTec AG, “SMArt 155 – Proven Reliability and Accuracy,” June 2005, www.rheinmetall-detec.de.

¹²³¹ Article 2.2(c) excludes munitions with submunitions if they have less than 10 submunitions, and each submunition weighs more than four kilograms, can detect and engage a single target object, and is equipped with electronic self-destruction and self-deactivation features.

TANZANIA

The United Republic of Tanzania signed the Convention on Cluster Munitions in Oslo on 3 December 2008. The status of the ratification process is unknown. Tanzania is not believed to have ever used, produced, stockpiled, or transferred cluster munitions.

Tanzania did not attend the initial Oslo Process meeting in Oslo in February 2007, but participated in two of the three subsequent international diplomatic conferences to develop the convention text in Lima and Vienna,¹²³² as well as the formal negotiations in Dublin in May 2008. It also participated in both of the African regional conferences, in Livingstone in March/April 2008 and Kampala in September 2008.

In Lima, Tanzania said it is “neither a producer nor a user of cluster munitions” and not affected by the weapon, but supports the Oslo Process in part because of its work to eradicate landmines.¹²³³

During the Dublin negotiations, Tanzania worked hard to achieve a strong treaty text and to defeat proposals to weaken it. It opposed a transition period before obligations take effect.¹²³⁴ It opposed language on “interoperability” (joint military operations with states not party) and sought a comprehensive definition.¹²³⁵ At the end of the negotiations, Tanzania said that while it was “convinced that we could have concluded a far stronger treaty” it was nonetheless ready to adopt the text.¹²³⁶

At the regional meeting in Kampala in September 2008, Tanzania announced that it would sign the convention. It endorsed the Kampala Action Plan, which declared that states should sign and “take all necessary measures to ratify the convention as soon as possible.”¹²³⁷ Tanzania said that it hoped to be among the first 30 countries to ratify.

Upon signing the convention in Oslo, Tanzania’s Minister of Defence and National Service, Hussein Ali Mwinyi, said, “Unique opportunities such as [the Oslo Process] should...not be interpreted as threats to the conventional disarmament negotiations under the UN framework. They complement and add value to such conventional negotiations.” He also noted, “It would be meaningless and a huge disappointment to have a [new CCW] Protocol which falls short to the standards we have set in the Convention on Cluster Munitions.”¹²³⁸ Tanzania is not party to the Convention on Conventional Weapons (CCW).

TOGO

The Togolese Republic signed the Convention on Cluster Munitions in Oslo on 3 December 2008. The status of the ratification process is not known. Togo is not known to have used, produced, transferred, or stockpiled cluster munitions.

Togo did not attend the first two meetings of the Oslo Process in Oslo and Lima, but participated in last two international conferences to develop the convention text in Vienna and Wellington. It also participated in the formal negotiations in Dublin in May 2008, and one of two African regional meetings, in Kampala in September 2008.

¹²³² While not at the Wellington conference in February 2008, Tanzania endorsed the Wellington Declaration as a prerequisite to full participation in the Dublin negotiations; the declaration committed states to negotiate in Dublin on the basis of the draft Wellington text.

¹²³³ Statement of Tanzania, Lima Conference on Cluster Munitions, 24 May 2008. Notes by CMC/WILPF.

¹²³⁴ Summary Record of the Committee of the Whole, Eighth Session: 23 May 2008, Dublin Diplomatic Conference on Cluster Munitions, CCM/CW/SR/8, 18 June 2008.

¹²³⁵ Dublin Diplomatic Conference, 19–30 May 2008. Notes by Landmine Action.

¹²³⁶ Summary Record of the Committee of the Whole, Sixteenth Session: 28 May 2008, Dublin Diplomatic Conference, CCM/CW/SR/16, 18 June 2008; and Statement of Tanzania, Dublin Diplomatic Conference, 28 May 2008. Notes by Landmine Action.

¹²³⁷ CMC, “Report on the Kampala Conference on the Convention on Cluster Munitions,” 30 September 2008; Kampala Action Plan, Kampala Conference, 30 September 2008.

¹²³⁸ Statement by Hussein Ali Mwinyi, Minister of Defence and National Service, Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008.

At the Vienna conference, Togo emphasized the importance of international cooperation and assistance, especially for victim assistance, and expressed support for a complete prohibition of all cluster munitions.¹²³⁹ Togo made few remarks in Wellington, but later endorsed the Wellington Declaration on 9 May 2008, indicating its intention to participate fully in the Dublin negotiations based on the Wellington text.

At the Dublin negotiations, Togo joined other African nations in opposing various proposals to weaken the draft text, including a transition period before obligations take effect.¹²⁴⁰ Togo was part of the consensus adoption of the convention at the conclusion of the negotiations.¹²⁴¹

At the Kampala conference, Togo announced that it would sign the convention in Oslo.¹²⁴² It endorsed the Kampala Action Plan, which declared that states should sign and “take all necessary measures to ratify the convention as soon as possible.”¹²⁴³

Upon signing the convention, Togo’s Minister of Foreign Affairs and Regional Cooperation Kofi Esaw urged signatories to work on implementation and universalization with the same determination and commitment that they showed when creating the convention.¹²⁴⁴

Togo is party to the Convention on Conventional Weapons (CCW), but has not ratified Protocol V on Explosive Remnants of War. It has not participated actively in the CCW discussions on cluster munitions in recent years.

TUNISIA

The Republic of Tunisia signed the Convention on Cluster Munitions on 12 January 2009 at the UN in New York. It was the first country to sign since the Oslo signing conference in December 2008, the 95th signatory overall, and one of only two from the Middle East/North Africa region.

While Tunisia participated in the Livingstone Regional Conference on Cluster Munitions in March 2008, it did not participate in any of the four international conferences of the Oslo Process to develop the treaty in 2007 and 2008, or the formal negotiations in Dublin in May 2008.

Tunisia is party to the Convention on Conventional Weapons (CCW), and ratified Protocol V on Explosive Remnants of War on 7 March 2008. Tunisia attended the CCW sessions on cluster munitions throughout 2008.

Tunisia is not believed to have used, produced, stockpiled, or transferred cluster munitions.

UGANDA

The Republic of Uganda signed the Convention on Cluster Munitions in Oslo on 3 December 2008. The status of the ratification process is unknown.

Uganda is a country contaminated from the use of cluster munitions, and has stockpiled the weapon. Uganda participated extensively in the Oslo Process and played a leadership role in hosting one of two African regional meetings.

¹²³⁹ Katherine Harrison, “The Vienna Conference on Cluster Munitions, 5–7 December 2007,” WILPF, January 2008, www.wilpf.int.ch; and Vienna Conference on Cluster Munitions, 5–7 December 2007. Notes by CMC/WILPF.

¹²⁴⁰ Summary Record of the Committee of the Whole, Eighth Session: 23 May 2008, Dublin Diplomatic Conference on Cluster Munitions, CCM/CW/SR/8, 18 June 2008.

¹²⁴¹ Summary Record of the Committee of the Whole, Sixteenth Session: 28 May 2008, Dublin Diplomatic Conference, CCM/CW/SR/16, 18 June 2008.

¹²⁴² CMC, “Report on the Kampala Conference on the Convention on Cluster Munitions,” 30 September 2008.

¹²⁴³ Ibid; Kampala Action Plan, Kampala Conference, 30 September 2008.

¹²⁴⁴ Statement by Kofi Esaw, Minister of Foreign Affairs and Regional Cooperation, Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008. Notes by Landmine Action.

Uganda is party to the Convention on Conventional Weapons (CCW), but has not ratified Protocol V on Explosive Remnants of War. It has not been an active participant in the CCW discussions on cluster munitions in recent years.

Cluster Munition Ban Policy

While Uganda did not attend the initial conference to launch the Oslo Process in Oslo in February 2007, it participated in all three international diplomatic conferences to develop the convention text, in Lima, Vienna, and Wellington, as well as the formal negotiations in Dublin in May 2008. It also participated in the Belgrade conference for affected states in October 2007, and the regional conference in Livingstone in March/April 2008. It hosted a regional meeting in Kampala in September 2008.

In Lima, Uganda stated, “Our participation in this process is a clear indication that the government of Uganda recognizes the grave consequences caused by the use of cluster munitions and the need to address the humanitarian challenges.”¹²⁴⁵ At the Belgrade conference, Uganda announced that the country’s stockpile of cluster munitions would be destroyed.¹²⁴⁶ At the Vienna conference, Uganda offered to host a regional meeting of the Oslo Process.¹²⁴⁷

In Wellington, Uganda joined other African states in opposing a number of proposals perceived as weakening the draft text. It endorsed the Wellington Declaration, indicating its intention to participate fully in the final negotiations in Dublin. At the Livingstone conference, Uganda endorsed the Livingstone Declaration, calling for a comprehensive convention with a prohibition that should be “total and immediate.”¹²⁴⁸ It announced it would host an Africa-wide meeting in September to rally regional support for signature of the treaty.¹²⁴⁹

During the negotiations in Dublin, Uganda worked hard to achieve a strong treaty text. It argued for better victim assistance provisions, including a broad definition of victim that includes families and communities.¹²⁵⁰ Uganda opposed a transition period before obligations would take effect.¹²⁵¹ At the conclusion, Uganda said it was satisfied with the text and joined the consensus adoption.¹²⁵²

On 29–30 September 2008, Uganda hosted the Kampala Conference on the Convention on Cluster Munitions, a regional meeting attended by representatives of 42 African governments. At the opening plenary the chair of the meeting, Uganda’s Minister for Relief, Disaster Preparedness and Refugees Tarsis Bazana Kabwegyere read a statement on behalf of President Museveni announcing the government’s intent to sign the convention in Oslo. The outcome document from the conference, the Kampala Action Plan, urged all African states to sign and “take all necessary measures to ratify the convention as soon as possible.”¹²⁵³ During the conference, 29 countries publicly announced they would sign while several more privately indicated they were likely to be in Oslo to sign the convention.¹²⁵⁴

More than 80 campaigners from 26 countries, including Ethiopian cluster munition survivors, participated in the Kampala conference under the banner “Africa Unite: Ban Cluster Bombs.” In the lead-up to the conference, the Ugandan NGO People with Disabilities convened a parliamentary workshop to secure Ugandan support for the cluster munition ban. On 28 September, the Ugandan Landmine Survivors Association collected hundreds of signatures in support of the People’s Treaty petition at a special concert

¹²⁴⁵ Statement of Uganda, Lima Conference on Cluster Munitions, 24 May 2007. Notes by CMC/WILPF.

¹²⁴⁶ CMC, “Report on the Belgrade Conference of Countries Affected by Cluster Munitions, 3–4 October 2007,” www.stopclustermunitions.org.

¹²⁴⁷ Statement of Uganda, Vienna Conference on Cluster Munitions, 5 December 2007. Notes by CMC/WILPF.

¹²⁴⁸ Livingstone Declaration, Livingstone Conference on Cluster Munitions, 1 April 2008.

¹²⁴⁹ CMC, “Report on the Livingstone Conference on Cluster Munitions, 31 March and 1 April 2008,” www.stopclustermunitions.org.

¹²⁵⁰ Summary Record of the Committee of the Whole, Second Session: 20 May 2008, Dublin Diplomatic Conference on Cluster Munitions, CCM/CW/SR/2, 18 June 2008.

¹²⁵¹ Summary Record of the Committee of the Whole, Eighth Session: 23 May 2008, Dublin Diplomatic Conference, CCM/CW/SR/8, 18 June 2008.

¹²⁵² Summary Record of the Committee of the Whole, Sixteenth Session: 28 May 2008, Dublin Diplomatic Conference, CCM/CW/SR/16, 18 June 2008.

¹²⁵³ CMC, “Report on the Kampala Conference on the Convention on Cluster Munitions,” 30 September 2008, www.stopclustermunitions.org; and Kampala Action Plan, Kampala Conference, 30 September 2008.

¹²⁵⁴ CMC, “Report on the Kampala Conference on the Convention on Cluster Munitions,” 30 September 2008, www.stopclustermunitions.org. See also the conference website: www.clustermunitionskampala.ug.

against cluster munitions featuring local musicians. On 30 September, the CMC convened a forum with parliamentarians from Burundi, Djibouti, Ghana, Mali, Malawi, Senegal, Seychelles, Tanzania, and Uganda.¹²⁵⁵

Upon signing the convention in Oslo, Uganda's Minister of State for Foreign Affairs in charge of International Cooperation, Okello Henry Oryem, described the convention as "strong and comprehensive" and stressed the need for its universalization.¹²⁵⁶

Use, Stockpiling, Production, and Transfer

Deminers in the northern district of Gulu have found RBK-250/275 cluster bombs and AO-1SCH submunitions that are typically contained in RBK bombs.¹²⁵⁷ The cluster munitions were used in the fighting in northern Uganda between the Lord's Resistance Army (LRA) and the Uganda People's Defence Forces. It is uncertain who used the cluster munitions, or precisely when, or how many. According to the Association of Volunteers in International Service (AVSI), cluster munitions were responsible for approximately 40 civilian casualties in Uganda between 1986 and 2006.¹²⁵⁸

On several occasions in 2008, Uganda denied that its armed forces have used cluster munitions and said the LRA was responsible.¹²⁵⁹ Uganda has acknowledged having a stockpile of cluster bombs.¹²⁶⁰ It pledged to destroy its stockpile during the Belgrade conference in October 2007. Uganda told delegates it was not interested in producing, stockpiling, or transferring the weapon.¹²⁶¹ Uganda has not subsequently commented on whether any destruction has taken place.

UNITED KINGDOM

The United Kingdom of Great Britain and Northern Ireland (UK) signed the Convention on Cluster Munitions in Oslo on 3 December 2008. It has not yet ratified the convention.

In March 2009, the UK stated, "The next step is to put in place the necessary implementing legislation to enable us to proceed with ratification. In accordance with UK practice and Article 9 of the [Convention on Cluster Munitions] CCM, before we can deposit our instrument of ratification we need to put in place domestic legislation to implement those provisions contained within the CCM which require legislation to implement them, in particular the imposition of the necessary penal sanctions to prevent and suppress any activity prohibited to a State Party under this Convention being carried out by persons, or on territory, under UK jurisdiction or control. Given our strong support for the Convention the UK wants to ratify it as soon as feasible and officials have begun preparatory work with this objective in mind. In the meantime the actions we take nationally will be important in promoting the CCM and its spirit."¹²⁶²

The UK is party to the Convention on Conventional Weapons (CCW), but has not ratified Protocol V on Explosive Remnants of War. The UK has been actively involved in and supportive of discussions on cluster munitions in the CCW in recent years.

¹²⁵⁵ Ibid.

¹²⁵⁶ Statement by Okello Henry Oryem, Minister of State for Foreign Affairs, Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008. Notes by Landmine Action.

¹²⁵⁷ Photographs and information provided to Human Rights Watch by UNDP; and CMC, "Africa and the Oslo Process to Ban Cluster Munitions," Prepared by Human Rights Watch, September 2008, www.stopclustermunitions.org. These cluster bombs and submunitions are likely of Soviet/Russian origin.

¹²⁵⁸ AVSI, "Gulu District Landmine/ERW Victims Survey Report," May 2006, pp. 13–22, www.avsi.org; and ICBL, "Uganda," *Landmine Monitor Report 2006* (Canada: Mines Action Canada, 2006), www.icbl.org/lm.

¹²⁵⁹ "Uganda: Landmine Survivors Welcome Ban On Cluster Bombs," *IRIN* (Gulu), 4 June 2008, allafrica.com; and Paul Amoru, "Cluster bombs conference on," *Daily Monitor*, 29 September 2008, www.monitor.co.ug.

¹²⁶⁰ Statement by Amb. Cissy Taliwaku, Deputy Head of Mission, Permanent Mission of Uganda to the UN in Geneva, Belgrade Conference of Countries Affected by Cluster Munitions, 4 October 2007. Notes by CMC.

¹²⁶¹ CMC, "Report on the Belgrade Conference of Countries Affected by Cluster Munitions, 3–4 October 2007," www.stopclustermunitions.org.

¹²⁶² Letter from Nick Packard, Head of the Security Policy Group, International Security and Institutions Directorate, Foreign and Commonwealth Office, 11 March 2009. The UK specifically cited national actions taken on transfer and stockpile destruction. See section below on Use, Production, Transfer, and Stockpiling.

Cluster Munition Ban Policy

Cluster munitions have been a subject of extensive discussion in the UK, and particularly in parliament since 1990.¹²⁶³ UK policy on cluster munitions evolved remarkably from 2006 to 2008. The basic position maintained by the government from 1999 through to the end of 2006 was that cluster munitions were legal weapons and that existing international humanitarian law was adequate in relation to these weapons. In response to questions about the UK's use of cluster munitions in Iraq in 2003, the Secretary of State for Defence argued that the "right balance ha[d] been struck" between risk to civilians and the protection of coalition forces.¹²⁶⁴

In March 2005, the UK presented a working paper to the CCW on the military utility of cluster munitions. While reiterating that these weapons provided an "essential capacity," the paper also described the failure rate of the UK's air-dropped cluster munitions (RBL-755) as "unacceptably high" noting that "this particular weapon [would] go out of service in the coming years and by 2015 all submunitions [would] contain a self-destruct mechanism reducing their failure rate to less than 1%."¹²⁶⁵ A year later, in March 2006, the UK revealed that it had tested its M85 submunitions, fitted with self-destruct mechanisms, in Norway and that these tests gave a "bomblet failure rate of 2.3%."¹²⁶⁶ This contrasted with earlier official claims that these weapons had a failure rate of "less than 1% in test conditions."¹²⁶⁷

Just before the Third Review Conference of the CCW in November 2006, an article in *The Times* newspaper quoted a "leaked letter" from the Secretary of State for International Development to the Foreign Secretary. This letter argued that, given the very serious humanitarian impact that had resulted from cluster munition use in the past, the UK "should go into the conference advocating for a process that will lead to an effective ban of 'dumb' cluster munitions."¹²⁶⁸ During the CCW Review Conference, the UK announced that it recognized "the need for a ban on dumb cluster munitions" and proposed certain features that would characterize such "dumb" cluster munitions.¹²⁶⁹ Subsequently, a Foreign and Commonwealth Office ministerial statement on 4 December 2006 stated that the UK planned to withdraw its "dumb" cluster munitions from service "by the middle of the next decade."¹²⁷⁰

At the CCW Review Conference the UK did not, however, support a proposal for a mandate to negotiate a CCW protocol "that addresses the humanitarian concerns posed by cluster munitions."¹²⁷¹ Instead, it promoted a weak mandate simply to discuss explosive remnants of war, with a particular focus on cluster munitions.¹²⁷² The UK did not endorse a joint declaration by 25 other states calling for an agreement that would prohibit the use of cluster munitions "within concentrations of civilians," prohibit the use of cluster munitions that "pose serious humanitarian hazards because they are for example unreliable and/

¹²⁶³ A report by Landmine Action in 2005 was based on an analysis of some 900 entries relating to cluster munitions on the UK parliamentary record between 1990 and 2005. Landmine Action, "Out of Balance: The UK Government's efforts to understand cluster munitions and international humanitarian law," November 2005, p. 6. Much of the discussion revolved around UK use of cluster munitions in Iraq and Kuwait in 1991, in Kosovo and Serbia in 1999, and in Iraq in 2003.

¹²⁶⁴ Statement by Geoffrey Hoon, Secretary of State for Defence, House of Commons, *Hansard*, (London: Her Majesty's Stationery Office, HMSO, 7 April 2003), Column 29, www.publications.parliament.uk.

¹²⁶⁵ Working Paper on the Military Utility of Cluster Munitions, prepared by the UK, Tenth 2005 Session of the CCW Group of Governmental Experts (GGE) on Explosive Remnants of War, CCW/GGE/X/WG.1/WP.1, 21 February 2005.

¹²⁶⁶ The information was released in a letter from the Defence Logistics Organisation (DLO) Secretariat (Supply Chain), DLO Andover, to Richard Moyes, Landmine Action, 27 March 2006, in response to a request under the UK Freedom of Information Act.

¹²⁶⁷ Letter from Adam Ingram, Minister of State for the Armed Forces, Ministry of Defence, to Sarah Teather MP, 22 April 2004. See also, Adam Ingram, Written Answers, House of Commons, *Hansard* (London: HMSO, 26 January 2005), Column 332W, www.publications.parliament.uk, where Adam Ingram describes the M85 submunitions as having a "maximum failure rate of 2 percent at the 95 percent confidence level."

¹²⁶⁸ "Benn calls for cluster bomb ban," *BBC News*, 5 November 2006, news.bbc.co.uk; and "Benn slams cluster bombs," *The Times* (London), 5 November 2006, www.timesonline.co.uk.

¹²⁶⁹ Statement by Amb. John Duncan, Ambassador for Multilateral Arms Control and Disarmament, Third Review Conference of the States Parties to the CCW, Geneva, 13 November 2006. The UK proposed that "dumb" cluster munitions would have the following characteristics: numerous submunitions; an explosive content; would not have a target discriminatory capability, or would not have a self-destruction, neutralization or deactivation capability.

¹²⁷⁰ Statement by Kim Howells, Minister for the Middle East, Written Ministerial Statements, House of Commons, *Hansard* (London: HMSO, 4 December 2006), Column 1WS, www.publications.parliament.uk.

¹²⁷¹ Proposal for a Mandate to Negotiate a Legally-Binding Instrument that Addresses the Humanitarian Concerns Posed by Cluster Munitions, Presented by Austria, Holy See, Ireland, Mexico, New Zealand, and Sweden, Third Review Conference of the States Parties to the CCW, Geneva, CCW/CONF.III/WP.1, Geneva, 25 October 2006.

¹²⁷² Statement by Amb. John Duncan, Third Review Conference of the States Parties to the CCW, Geneva, 17 November 2006.

or inaccurate,” and require destruction of stockpiles of such cluster munitions.¹²⁷³ At the end of this CCW session, Norway announced that it would start an independent process outside the CCW to negotiate a cluster munition treaty and invited other governments to join.

Despite the UK calling for a ban on certain cluster munitions at the CCW, in Parliament on 23 November 2006, the Minister of State for the Armed Forces argued that the “United Kingdom believes that cluster munitions are legal weapons, that international humanitarian law is adequate to govern their use, and that the international community would be better served by implementing existing law in a consistent manner when using cluster munitions.”¹²⁷⁴

The latter part of 2006 also saw the Cluster Munition Prohibition Bill tabled as a Private Members Bill in the House of Lords.¹²⁷⁵ In the debate on this bill, many pointed to apparent contradictions in the government’s positions and challenged the coherence of terms such as “dumb” cluster munition.¹²⁷⁶

The UK participated in the Oslo Process from the outset, though it made clear its preference for the CCW, and frequently expressed reservations about the process and the draft convention text.

The UK participated in the initial conference in Oslo in February 2007, the three international diplomatic conferences to develop the convention text in Lima, Vienna, and Wellington, and the formal negotiations in Dublin in May 2008. It also attended the Belgrade conference for affected states (October 2007), and regional conferences in Brussels (October 2007) and Beirut (November 2008).

During the Oslo conference in February 2007, the UK was cautiously supportive of work on cluster munitions, but continued to call for negotiations in the CCW. While the UK ultimately endorsed the Oslo Declaration committing states to conclude in 2008 an international agreement prohibiting cluster munitions that cause unacceptable harm to civilians, it lobbied for the inclusion of a reference to ongoing work on cluster munitions “in other fora” (meaning the CCW), and stressed “the importance of including all major users and producers.” The UK also said in its view it was not clear what form a new international legally-binding instrument might take, “nor whether existing IHL might need to be strengthened.” The UK indicated that the goal should not be a categorical ban on cluster munitions, but only on certain types, and also noted that a transition period would be necessary to facilitate this.¹²⁷⁷

One month after the conference in Oslo, on 20 March 2007, the Secretary of State for Defence announced that the UK was withdrawing from service its so-called dumb cluster munitions (RBL-755 air-dropped bombs and M26 rockets for the Multiple Launch Rocket System) with immediate effect. In a statement given in parliament the Secretary noted that “the types that we intend to retain are legitimate weapons with significant military value which, as a result of mitigating features, is not outweighed by humanitarian factors.”¹²⁷⁸ The types left in service after this announcement were artillery projectiles with M85 submunitions with self-destruct mechanisms and helicopter rockets with M73 submunitions without self-destruct mechanisms.

During the Lima conference in May 2007, the UK essentially argued in support of transferring its domestic policy to an international agreement. In addition, it noted that stockpile destruction would be challenging and would require the possibility of deadline extensions for those that have “resource issues, technological issues or environmental issues” to contend with. It also supported proposals to allow retention of some stocks for training purposes.¹²⁷⁹

¹²⁷³ Declaration on Cluster Munitions, Third Review Conference of the States Parties to the CCW, CCW/CONF.III/WP.18, Geneva, 17 November 2006.

¹²⁷⁴ Statement by Adam Ingram, Ministry of Defence, House of Commons, *Hansard* (London: HMSO, 23 November 2006), Column 804, www.publications.parliament.uk.

¹²⁷⁵ The Cluster Munitions (Prohibition of Development and Acquisition) Bill was first introduced in the House of Lords by Lord Dubs on 23 November 2006, and it was debated extensively during a second reading in the House of Lords on 15 December 2006. On 31 January 2007 the Order of Commitment was discharged, and on 20 February 2007 the Bill was read a third time, passed, and sent to the House of Commons. The Bill was presented to the House of Commons by Nick Harvey MP, on 19 December 2006 but received no further parliamentary time. Text of the Bill is available at: www.publications.parliament.uk.

¹²⁷⁶ See, for example, Debate on Cluster Munitions (Prohibition) Bill, House of Lords, *Hansard*, (London: HMSO, 15 December 2006), Column 1764, www.publications.parliament.uk.

¹²⁷⁷ Statement by Amb. John Duncan, Oslo Conference on Cluster Munitions, 23 February 2007.

¹²⁷⁸ Statement by Des Browne, Secretary of State for Defence, House of Commons, *Hansard* (London: HMSO, 20 Mar 2007), Column 37WS, www.publications.parliament.uk.

¹²⁷⁹ Statement of the UK, Lima Conference on Cluster Munitions, 24 May 2007. Unofficial transcription by WILPF.

One month after the conference in Lima, discussions on cluster munitions in parliament revealed that the UK had revised its definition of a cluster munition. In 2006, parliamentary records showed that the UK had categorized its CRV-7 rocket equipped with nine M73 submunitions as a cluster munition.¹²⁸⁰ However, in June 2007, the government stated that “the CRV-7 with its [M73] multi-purpose submunitions does not fall within the UK’s understanding of a cluster munition primarily because of its direct fire capability and also because it has too few submunitions.”¹²⁸¹

In August 2007, two influential Select Committees in the House of Commons published reports recommending that the UK withdraw its remaining cluster munitions from service.¹²⁸² In November 2007, the government issued a response to the reports stating that this would “impose serious capability gaps on our Armed Forces.”¹²⁸³

On 12 November 2007, in his first foreign policy speech after taking office, Prime Minister Gordon Brown said that “having led the way by taking two types of cluster munitions out of service, we want to work internationally for a ban on the use, production, transfer and stockpiling of cluster munitions that cause unacceptable harm to civilians.”¹²⁸⁴

During the Vienna conference in December 2007, the UK again insisted that only certain types of cluster munitions needed to be prohibited. The UK argued that there should be no prohibition for cluster munitions containing a limited number of submunitions or that met “specified reliability benchmarks.” Again the UK noted that there would need to be a transition period for the introduction of any such prohibition. On other matters, the UK raised the issue of “interoperability” (joint military operations with states not party), saying that this would be a “major issue” for states adopting a new instrument on cluster munitions but operating in multinational military coalitions alongside states that were not party to such an instrument. With respect to victim assistance, the UK recognized the need for long-term care and reintegration of victims but was concerned that legal provisions for these could be discriminatory if based on the mechanism of injury.¹²⁸⁵ The UK opposed provisions in the draft text which would place special legal obligations on past users of cluster munitions.¹²⁸⁶

During the Wellington conference in February 2008, the UK aligned itself with the so-called like-minded group that put forward numerous proposals that the CMC sharply criticized as weakening the draft text. The UK continued to argue that weapons with a low number of submunitions and weapons that met “specified reliability and accuracy benchmarks” should not be considered as prohibited cluster munitions. It also said that “direct-fire weapons” should not be prohibited.¹²⁸⁷ The UK continued to call for a transition period for any prohibition, for new text on interoperability, and for deletion of provisions imposing retroactive obligations on past users of cluster munitions.¹²⁸⁸ The UK argued for lengthening the stockpile destruction deadline to 10 years, with the possibility for extensions, and supported proposals allowing cluster munitions to be kept for training and research purposes.¹²⁸⁹ The UK proposed to limit the definition of “cluster munition victims” to those people “directly impacted by cluster munitions” as opposed to affected families

¹²⁸⁰ Statement by Adam Ingram, House of Commons, *Hansard* (London: HMSO, 7 November 2006), Column 1453W, www.publications.parliament.uk.

¹²⁸¹ Statement by Bob Ainsworth MP, House of Commons, *Hansard* (London: HMSO, 16 July 2007), Column 22W, www.publications.parliament.uk.

¹²⁸² The reports both recognized that the failure rate of the M85 submunition was significant and that the potential to cause substantial humanitarian harm was high. House of Commons, Foreign Affairs Committee, “Global Security: The Middle East,” Eighth Report of Session 2006–07, 25 July 2007, pp. 7, 48, www.publications.parliament.uk; and House of Commons, Defence, Foreign Affairs, International Development and Trade and Industry Committees, “Strategic Export Controls: 2007 Review,” First Joint Report of Session 2006–07, 7 August 2007, pp. 15, 144–145, www.publications.parliament.uk.

¹²⁸³ Reports from the Defence, Foreign Affairs, International Development and Trade and Industry Committees, “Strategic Export Controls: HMG’s Annual Report for 2005, Quarterly Reports for 2006, Licensing Policy and Parliamentary Scrutiny – Response of the Secretaries of State for Defence, Foreign and Commonwealth Affairs, International Development and Business, Enterprise and Regulatory,” November 2007, pp. 34–35, www.official-documents.gov.uk; and Foreign Affairs Committee, “Global Security: The Middle East – Response of the Secretary of State for Foreign and Commonwealth Affairs,” Eighth Report, October 2007, p.16, collections.europarchive.org.

¹²⁸⁴ Statement by Prime Minister Gordon Brown, “Lord Mayor Banquet Speech,” 12 November 2007, www.number10.gov.uk.

¹²⁸⁵ Statement of the UK, Vienna Conference on Cluster Munitions, 6 December 2007. Notes by CMC/WILPF.

¹²⁸⁶ The UK said that language on user responsibility should be consistent with that in CCW Protocol V, although the UK has not yet ratified Protocol V. Statement of the UK, Vienna Conference, 5 December 2007. Notes by CMC/WILPF.

¹²⁸⁷ Compendium of Proposals Submitted by Delegations during the Wellington Conference on Cluster Munitions, p.13, www.mfat.govt.nz.

¹²⁸⁸ Statement by Amb. John Duncan, Wellington Conference, 18 February 2008, www.mfat.govt.nz; and Statement by Phil Tissot, Security Policy Department, Foreign and Commonwealth Office, Wellington Conference, 20 February 2008, ukunarmscontrol.fco.gov.uk.

¹²⁸⁹ Statement of the UK, Session on Storage and Stockpile Destruction, Wellington Conference, 21 February 2008. Notes by CMC.

and communities.¹²⁹⁰ It argued that the number of ratifications required to bring the convention into force should be increased from 20 to “at least 40” if not more.¹²⁹¹ At the conclusion of the conference, the UK associated itself with a statement made on behalf of the like-minded group declaring dissatisfaction with the conference as it felt different opinions and views had not been taken into account in a balanced way.¹²⁹² However, the UK announced it would subscribe to the Wellington Declaration, indicating its intention to participate fully in the Dublin negotiations on the basis of the Wellington draft text.¹²⁹³

On the opening day of the Dublin Diplomatic Conference on Cluster Munitions, 19 May 2008, *The Times* newspaper published a letter signed by nine senior former British military commanders calling on the UK government to give up its remaining stocks of cluster munitions and “establish a new benchmark for the responsible projection of force in the modern world.”¹²⁹⁴

During the negotiations the UK maintained many of the same lines of argument that it had developed since Vienna. It pushed, initially, for changes to Article 1 of the convention to address concerns over interoperability and then supported the inclusion of a new Article 21 on Relations with States not party to the Convention.¹²⁹⁵ The UK pushed for exemptions from prohibition for cluster munitions that incorporate technical devices to lower their failure rate, as well as for “direct fire” munitions and those with less than a certain number of cluster munitions—thus allowing the UK to keep the cluster munitions that it had in service at the time. It also proposed an exclusion of weapons that were for use only in “an air-defence role,” and this was reflected in the definition of cluster munition finally adopted.¹²⁹⁶ The UK argued for a provision allowing retention cluster munitions for development of clearance techniques or countermeasures.¹²⁹⁷ It sought to delete the special obligation for past users of cluster munitions to aid clearance in affected countries.¹²⁹⁸ This provision was amended from being a legally-binding obligation to a politically-binding obligation in the text that was adopted. On victim assistance, the UK was initially opposed to the use of a broad definition of “cluster munition victim” to include the individual, family, and community. When the majority of other states firmly supported this approach, the UK proposed a compromise and supported the convention’s provisions on victim assistance.¹²⁹⁹

On 28 May, as the negotiations were drawing to a close, Prime Minister Gordon Brown issued a statement saying, “In order to secure as strong a Convention as possible in the last hours of negotiations we have issued instructions that we should support a ban on all cluster bombs, including those currently in service by the UK.”¹³⁰⁰ In Dublin, the UK announced that instructions had been given for these cluster munitions to be withdrawn from service.¹³⁰¹ This change in the UK position was a major factor in many other nations deciding to support the convention text.

The UK then joined in the consensus adoption of the convention. In its closing statement, the UK paid tribute to the role of cluster munition survivors in the Oslo Process and heralded the convention text as a major contribution towards redefining the technological limits of war for the benefit of humanity.¹³⁰²

¹²⁹⁰ The UK maintained its concerns that legal provisions on victim assistance should not be discriminatory on the basis of the mechanism of injury and raised concerns about the jurisdiction of the proposed legal provisions on victim assistance. Statement of the UK, Session on Victim Assistance, Wellington Conference. Notes by CMC; UK proposal on victim assistance, Compendium of Proposals Submitted by Delegations during the Wellington Conference, pp. 13, 24, www.mfat.govt.nz.

¹²⁹¹ Statement of the UK, National implementation, Wellington Conference, 21 February 2008. Notes by CMC.

¹²⁹² Statement of France on behalf of like-minded countries, Closing Plenary, Wellington Conference, 22 February 2008, www.mfat.govt.nz.

¹²⁹³ Statement by Phil Tissot, Foreign and Commonwealth Office, Wellington Conference, 20 February 2008, ukunarmscontrol.fco.gov.uk.

¹²⁹⁴ “Letters to the Editor: Cluster bombs don’t work and must be banned,” *The Times* (London), 19 May 2009.

¹²⁹⁵ Proposal by Germany, supported by the Czech Republic, Denmark, France, Italy, Slovakia, Spain, and the UK, for the amendment of Article 1, Dublin Diplomatic Conference on Cluster Munitions, CCM/13, 19 May 2008.

¹²⁹⁶ Statement of the UK, Informal Discussions on Definitions, Dublin Diplomatic Conference, 21 May 2008. Notes by Landmine Action.

¹²⁹⁷ Australia, Denmark, Finland, Germany, Italy, Japan, Slovakia, Sweden, Switzerland argued for this as well.

¹²⁹⁸ Proposal by the UK for the Amendment of Article 4, Dublin Diplomatic Conference, CCM/33, 19 May 2008.

¹²⁹⁹ Statement of the UK, Informal Discussions on Victim Assistance, Dublin Diplomatic Conference, 21 May 2008. Notes by Landmine Action. The compromise was the addition of a qualifying phrase “affected by cluster munitions.”

¹³⁰⁰ Statement by Prime Minister Gordon Brown, “Breakthrough on cluster bombs draws closer,” 28 May 2008, www.number10.gov.uk.

¹³⁰¹ Statement of the UK, Committee of the Whole, Dublin Diplomatic Conference, 28 May 2008. Notes by Landmine Action.

¹³⁰² *Ibid*; and Statement of the UK, Closing Plenary, Dublin Diplomatic Conference, 30 May 2008, www.clustermunitionsdublin.ie.

Shortly after the negotiations, the government stated that it intended to sign the convention in Oslo in December.¹³⁰³ On 4 June 2009, the Prime Minister restated his intention to promote the convention internationally to ensure that it would become a global convention outlawing cluster munitions.¹³⁰⁴

Upon signing the convention in Oslo on 3 December 2008, Foreign Secretary David Miliband gave a strong statement calling it a “remarkable achievement.” He pledged the UK’s support in promoting the universalization of the convention “to encourage those countries not here today to accept that the world has changed, and that we have changed it.”¹³⁰⁵

UK cluster munition policy was subject to sustained analysis and criticism by NGOs from 1999 onwards. Coordinated by Landmine Action, a loose partnership of NGOs, civil society groups and parliamentarians, used parliamentary questions, freedom of information requests, research, and media opportunities to cast doubt on the adequacy of the government’s policies. The Diana, Princess of Wales Memorial Fund was a major supporter not only of work in the UK, but also of international civil society engagement throughout the Oslo Process.

Use, Production, Transfer, and Stockpiling

The UK used cluster munitions extensively in the past. It also produced, exported, and imported the weapon and had a sizable stockpile.

In March 2009, the UK stated, “Since the adoption of the [Convention on Cluster Munitions] CCM on 30 May the UK has taken steps to begin implementing the Convention’s provisions on transfers and stockpile destruction. On 1 October 2008 the Department for Business Enterprise and Regulatory Reform (BERR) placed cluster munitions in category ‘A’ of their new three tiered structure for trade controls, making them subject to the most stringent trade controls. This has put in place additional controls on trading cluster munitions between countries overseas: trading between two overseas countries where any part of that trading takes place within the UK or is carried out by UK persons anywhere in the world, will be controlled, as will any act calculated to promote the supply or delivery of cluster munitions.”¹³⁰⁶

On 5 June 2009, the government stated that although it does not deem it to be a legal requirement under the convention, in keeping with its spirit, the UK would seek the removal of all foreign stockpiles of cluster munitions from UK territory within the eight year period allowed for stockpile destruction.¹³⁰⁷

The UK used cluster munitions in the Falkland Islands in 1982, in Iraq and Kuwait in 1991, in the Federal Republic of Yugoslavia (including Kosovo) in 1999, and Iraq in 2003.¹³⁰⁸

The UK has produced several variations of one type of cluster bomb, the BL-755 with 147 submunitions, and has also produced the L20A1 artillery projectile with 49 M85 dual purpose improved conventional munition (DPICM) submunitions.

¹³⁰³ Statement by Lord Mark Malloch-Brown, House of Lords, *Hansard* (London: HMSO, 3 June 2008), Column 78, www.publications.parliament.uk.

¹³⁰⁴ Statement by Prime Minister Gordon Brown, House of Commons, *Hansard*, (London: HMSO, 4 June 2008), Column 769, www.publications.parliament.uk.

¹³⁰⁵ Statement by David Miliband, Secretary of State for Foreign and Commonwealth Affairs, Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008.

¹³⁰⁶ Letter from Nick Packard, Foreign and Commonwealth Office, 11 March 2009.

¹³⁰⁷ Statement by Bob Ainsworth, House of Commons, *Hansard* (London: HMSO, 5 June 2008), Column 1061W, www.publications.parliament.uk.

¹³⁰⁸ Human Rights Watch, “Cluster Munition Information Chart,” April 2009, www.hrw.org; Human Rights Watch, “Ticking Time Bombs: NATO’s Use of Cluster Munitions in Yugoslavia,” vol. 11, no. 6(D), June 1999, www.hrw.org; Human Rights Watch, “Civilian Deaths in the NATO Air Campaign,” vol. 12, no. 1(D), February 2000, www.hrw.org; and *Off Target: The Conduct of the War and Civilian Casualties in Iraq* (New York: Human Rights Watch, 2003), www.hrw.org.

The BL-755 cluster bombs produced in the UK have been exported to, or otherwise ended up being possessed by, the following countries: Belgium, Ethiopia, Germany, India, Iran, Italy, Netherlands, Nigeria, Oman, Pakistan, Saudi Arabia, Switzerland, Thailand, the United Arab Emirates, and the former Federal Republic of Yugoslavia.¹³⁰⁹

The UK purchased 59,364 L20A1 projectiles between 1996 and 2004. The L20A1 projectiles, 2,100 of which were used in the 2003 invasion of Iraq, were manufactured by BAE Systems Royal Ordnance under license from Israel Military Industries.¹³¹⁰

The UK has imported cluster munitions from the United States: M483 155mm artillery projectiles with 88 submunitions each; M26 rockets with 644 submunitions each for MLRS; M261 Multipurpose Submunition (nine M73 submunitions each) in the 70mm rockets used in the CRV-7 air-to-surface launchers; and CBU-87 cluster bombs with 202 submunitions each.

All UK stockpiles of cluster munitions have been removed from service and are now either in the process of being destroyed or contracts have been agreed for their destruction. The UK stockpiled 190,850 cluster munitions of six different types that contained 38,759,976 submunitions.

M26 ground rocket (43,692 rockets containing 28,137,648 submunitions): Disposal began in September 2007 at the NAMMO Buck facility in Germany and should be completed by the end of 2013.¹³¹¹ In September 2008, the UK stated that it would cost €45 million to destroy this stockpile.¹³¹²

L20A1 artillery projectile (56,000 projectiles containing 2,744,000 submunitions): The L20A1 shells, containing M85 submunitions, were the subject of a competitive tendering process as of March 2009 and disposal will be complete in 2010.¹³¹³

BL-755 bomb (3,687 bombs containing 541,989 submunitions): Stocks were shipped to Germany for destruction, which was expected to be completed in 2009.¹³¹⁴ The contract for disposal was placed on 22 January 2007.¹³¹⁵

CRV-7 rocket (4,571 rockets containing 41,139 submunitions):¹³¹⁶ On 6 October 2008 it was stated in parliament that a contract had recently been placed for the disposal of the CRV-7 cluster munitions variants and that it is due to be complete in 2009.¹³¹⁷

¹³⁰⁹ Robert Hewson, ed., *Jane's Air-Launched Weapons*, Issue 44 (Surrey, UK: Jane's Information Group Limited, 2004), pp. 468–470; Colin King, ed., *Jane's Explosive Ordnance Disposal 2007–2008* (Surrey, UK: Jane's Information Group Limited, 2007), CD-edition, entries for Germany, 14 December 2007; Iran, 10 January 2008; Italy, 10 January 2008; Netherlands, 10 January 2008; Oman, 10 January 2008; Pakistan, 10 January 2008; Saudi Arabia, 3 December 2007; Thailand, 10 January 2008; and United Arab Emirates, 10 January 2008; and Landmine Action, *Explosive remnants of war: unexploded ordnance and post-conflict communities*, (London: Landmine Action, 2002), www.landmineaction.org. Belgium, Germany, Montenegro, Netherlands, and Switzerland have destroyed or pledged to destroy these weapons.

¹³¹⁰ Adam Ingram, Written Answers, House of Commons, *Hansard* (London: HMSO, 17 November 2003), Columns 497W and 498W.

¹³¹¹ Statement by Bob Ainsworth, House of Commons, *Hansard* (London: HMSO, 6 October 2008), Column 248W, www.publications.parliament.uk.

¹³¹² Statement of the UK, Fourth 2008 Session of the CCW GGE on Cluster Munitions, Geneva, 2 September 2008. Notes by Landmine Action.

¹³¹³ Statement by Bob Ainsworth, House of Commons, *Hansard* (London: HMSO, 6 October 2008), Column 248W, www.publications.parliament.uk; and Letter from Nick Packard, Foreign and Commonwealth Office, 11 March 2009.

¹³¹⁴ Bob Ainsworth, Written Answers, House of Commons, *Hansard* (London: HMSO, 6 October 2008), Column 248W, www.publications.parliament.uk.

¹³¹⁵ Statement by Adam Ingram, House of Commons, *Hansard* (London: HMSO, 1 February 2007), Column 504W, www.publications.parliament.uk.

¹³¹⁶ Statement by Bob Ainsworth, House of Commons, *Hansard*, (London: HMSO, 6 October 2008), Column 248W, www.publications.parliament.uk.

¹³¹⁷ *Ibid.* In March 2009, the UK said destruction was underway and expected to be completed in 2009. Letter from Nick Packard, Foreign and Commonwealth Office, 11 March 2009.

M483 artillery projectile (82,900 projectiles containing 7,295,200 submunitions).¹³¹⁸ Disposal began in April 2005 and was completed in July 2008.¹³¹⁹ The contract for this was let under the NATO Maintenance and Supply Agency in conjunction with the Dutch Ministry of Defense and was awarded to an Italian company, Esplodenti Sabino.¹³²⁰

The US supplied the UK with 1,008 CBU-87 cluster bombs, with a total of 203,616 submunitions, at some point between 1970 and 1995, but they do not appear to be in service any longer.¹³²¹

URUGUAY

The Eastern Republic of Uruguay signed the Convention on Cluster Munitions in Oslo on 3 December 2008. On 18 March 2009, at a special event to promote the convention at the UN, Uruguay said that in the coming days, the President would sign the official request for Congress to begin the ratification process, and that it expects the process to be short.¹³²²

In February 2008, Uruguay confirmed that it has never produced, stockpiled, or used cluster munitions.¹³²³

Uruguay's first engagement in the Oslo Process came in September 2007, when it attended the Latin American Regional Conference on Cluster Munitions held in Costa Rica. Uruguay subsequently participated in the international treaty preparatory conferences in Vienna and Wellington, as well as the formal treaty negotiations in Dublin in May 2008. It also attended regional conferences in Mexico and Ecuador.

Uruguay worked for a strong treaty text at the negotiations in Dublin. Uruguay supported a comprehensive ban without exceptions or exclusions for certain weapons.¹³²⁴ It opposed the introduction of a transition period during which states could continue to use cluster munitions.¹³²⁵ It put high priority on strengthening victim assistance provisions.¹³²⁶

Upon signing the convention in Oslo, Ambassador Julio Moreira said that the convention was one of the government's "essential priorities" and that it is committed to continuing to work to put the convention into effect.¹³²⁷

Uruguay is party to the Convention on Conventional Weapons (CCW) and ratified Protocol V on Explosive Remnants of War on 7 August 2007. At the CCW meeting in November 2008, Uruguay was one of 26 states that issued a joint statement expressing their opposition to the weak draft text on a possible CCW protocol on cluster munitions, indicating it was an unacceptable step back from the standards set by the Convention on Cluster Munitions.¹³²⁸

¹³¹⁸ Bob Ainsworth, Written Answers, House of Commons, *Hansard* (London: HMSO, 6 October 2008), Column 248W, www.publications.parliament.uk.

¹³¹⁹ *Ibid.*

¹³²⁰ Adam Ingram, Written Answers, House of Commons, *Hansard* (London: HMSO, 12 March 2007), Column 51–52W, www.publications.parliament.uk.

¹³²¹ US Defense Security Assistance Agency, Department of Defense, "Cluster Bomb Exports under FMS, FY1970–FY1995," 15 November 1995, obtained by Human Rights Watch in a Freedom of Information Act request, 28 November 1995.

¹³²² CMC, "Report on the Special Event on the Convention on Cluster Munitions, United Nations, New York, 18 March 2009."

¹³²³ Wellington Conference on Cluster Munitions, 22 February 2008. Notes by CMC. Uruguay repeated this during the Dublin negotiations. Statement of Uruguay, Dublin Diplomatic Conference on Cluster Munitions, 30 May 2008. Notes by Landmine Action.

¹³²⁴ On 22 May 2008, Uruguay co-sponsored a proposal by Argentina to delete proposed Article 2(c) on definitions. CMC, "Day 4 – Towards Some Text Solutions – Dublin Diplomatic Conference," 22 May 2008, www.stopclustermunitions.org.

¹³²⁵ Summary Record of the Committee of the Whole, Eighth Session: 23 May 2008, Dublin Diplomatic Conference, CCM/CW/SR/8, 18 June 2008.

¹³²⁶ Proposal by Argentina, Chile, Costa Rica, Dominican Republic, Ecuador, Guatemala, Guinea, Honduras, Mexico, Nicaragua, Panama, Peru, Uruguay, and Zambia for the amendment of Article 5, Dublin Diplomatic Conference, CCM/70, 21 May 2008.

¹³²⁷ Statement by Amb. Julio Moreira, Deputy Director General for Political Affairs, Ministry of Foreign Affairs, Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008. Notes by Landmine Action.

¹³²⁸ Statement delivered by Costa Rica, Fifth 2008 Session of the CCW Group of Governmental Experts on Cluster Munitions, Geneva, 5 November 2008.

ZAMBIA

The Republic of Zambia signed the Convention on Cluster Munitions in Oslo on 3 December 2008. Upon signing the convention, Minister of Foreign Affairs Kabinga Pande announced that Zambia had already set in motion its ratification process.¹³²⁹ At a special event on the convention at the UN in New York on 18 March 2009, Zambia said that the ratification procedures would be completed soon.¹³³⁰

In a letter to Human Rights Watch dated 9 April 2009, the Minister of Foreign Affairs said the ratification process “has reached an advanced stage and Cabinet will soon approve” the deposit of the ratification instrument with the UN. He noted, “It is only after the ratification that we can start the process of domesticating and in turn implementing the Convention. This will require extensive consultation and involvement of stakeholders as is the practice in Zambia when we transform international conventions into our national law.”¹³³¹

Zambia is not believed to have used, produced, or stockpiled cluster munitions. Deminers with the NGO Norwegian People’s Aid working on a survey project in conjunction with the Zambia Anti-Personnel Mine Action Centre have encountered Alpha submunition duds at Chikumbi and Shang’ombo.¹³³² It is unclear what type of cluster munition was used to deliver the submunitions, who used them, or when. The Alpha submunition is most often associated with the South African-produced CB-470 cluster bomb.¹³³³

During the Oslo Process, Zambia played a leadership role and was influential in generating the broad and united support of many African states for a strong, comprehensive convention.

While Zambia did not attend the initial conference in Oslo to launch the Oslo Process in February 2007, it participated in all three subsequent international diplomatic conferences to develop the convention text in Lima, Vienna, and Wellington, as well as the formal negotiations in Dublin in May 2008. Zambia hosted an African regional conference on 31 March–1 April 2008, and attended the regional conference in Kampala in September 2008.

During the Wellington conference, Zambia was among the most vocal states in advocating for a comprehensive prohibition on cluster munitions. Zambia stated that it “supports any initiative that puts a total ban on cluster munitions because they cause harm [to] civilians.” Zambia asked which cluster munitions could be said to cause “acceptable” harm.¹³³⁴ Zambia placed priority on strengthening provisions on victim assistance, and opposed proposals for a transition period during which cluster munitions could be used, and proposals for new provisions to facilitate “interoperability” (joint military operations with states not party). Zambia subscribed to the Wellington Declaration, indicating its intention to participate fully in the Dublin negotiations on the basis of the Wellington draft text.

Zambia hosted the Livingstone conference on Cluster Munitions from 31 March–1 April 2008, in order to develop a unified African position that would strengthen the role of African states during the negotiations in Dublin. Thirty-nine African states, Norway, Ireland, UNDP, and the ICRC participated along with CMC campaigners, including cluster munition survivors. The Zambian Minister of Foreign Affairs opened the conference with a strong statement of Zambia’s support for the Oslo Process. The outcome of the conference was the Livingstone Declaration which presented the African States’ consolidated position in favor a comprehensive treaty with a prohibition that should be “total and immediate.”¹³³⁵ The conference also proved important in spurring many African states that had not done so to subscribe to the Wellington Declaration and then fully participate in the Dublin negotiations.

¹³²⁹ Statement of Zambia, Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008.

¹³³⁰ CMC, “Report on the Special Event on the Convention on Cluster Munitions, United Nations, New York, 18 March 2009.”

¹³³¹ Letter from Kabinga J. Pande, Minister of Foreign Affairs, MFA/104/22/148, 9 April 2009.

¹³³² Email from Dr. Robert E. Mtonga, Coordinator, Zambian Campaign to Ban Landmines, 10 February 2009.

¹³³³ Jane’s Information Group reports that the Alpha bomblet developed for the South African CB-470 cluster bomb was produced by Rhodesia (the predecessor of Zimbabwe). Robert Hewson, ed., *Jane’s Air-Launched Weapons*, Issue 44 (Surrey, UK: Jane’s Information Group, 2004), p. 440.

¹³³⁴ Statement of Zambia, Wellington Conference on Cluster Munitions, 19 February 2008.

¹³³⁵ Livingstone Declaration, Livingstone Conference on Cluster Munitions, 1 April 2008; CMC, “Report on the Livingstone Conference on Cluster Munitions, 31 March – 1 April 2008,” www.stopclustermunitions.org.

On 19 April 2008, representatives of the Zambian government, the UN, and Zambian CMC campaigners held a joint press conference to promote the convention and Zambia's role.¹³³⁶ Throughout the Oslo Process, Zambian CMC campaigners had a powerful role in support of their own country and in support of African states more broadly.

During the Dublin negotiations in May 2008, Zambia served as the coordinator of the African Group, consisting of the 38 participant and four observer states. As coordinator, Zambia held strategy meetings daily during the negotiations and appointed different African countries to represent the African Group in parallel informal sessions on interoperability, victim assistance, definitions, and clearance, in order to ensure Africa's effective representation and contribution.¹³³⁷

Zambia supported strong provisions on victim assistance, international cooperation and assistance, and special obligations for past users of cluster munitions to provide assistance to those they had harmed.¹³³⁸ It worked hard to defeat proposals that might weaken the convention. Zambia was strongly against the use of failure rates and other technical criteria as a basis for exemption of certain munitions from prohibition.¹³³⁹ Zambia, along with the African Group, was resolutely opposed to the inclusion of a transition period.¹³⁴⁰ It was also against the inclusion of provisions for interoperability.¹³⁴¹ On behalf of the African Group, Zambia proposed adding a clause that nothing in the proposed article on interoperability "shall, however, authorise a State Party to itself develop, stockpile, produce, transfer and otherwise use or expressly request the use of cluster munitions." A version of this language ended up in the final text, which Zambia accepted as a compromise.¹³⁴²

Zambia joined the consensus adoption of the convention at the end of the negotiations. On behalf of the African Group, Zambia stated that while it did not agree with the language of certain articles that ideally would have been stronger, nevertheless, in a spirit of compromise, the African Group endorsed the entire package.

Zambia added in its national capacity, for the diplomatic record, that it understood that the provisions for interoperability in Article 21 did not provide a loophole for States Parties to allow the indefinite stockpiling, investment in, or transit of cluster munitions in their territories.¹³⁴³

During the Kampala conference in September 2008, Zambia publicly announced that it would sign the convention in Oslo on 3 December, and that it was working to ratify at the same time. Zambia endorsed the Kampala Action Plan which declared that states should sign and "take all necessary measures to ratify the convention as soon as possible."¹³⁴⁴

Minister of Foreign Affairs Kabinga Pande signed the convention on behalf of Zambia, celebrating the achievements in the convention, emphasizing the importance of the provision on international cooperation and assistance for its implementation, and urging that "it is our moral conscience that should govern our decision-making when it comes to anything related to our convention."¹³⁴⁵

On 10 March 2009, Zambian campaigners held a parliamentary briefing to urge ratification of the convention.¹³⁴⁶

¹³³⁶ CMC, "Global Day of Action To Ban Cluster Bombs – What Happened," 7 May 2008, www.stopclustermunitions.org.

¹³³⁷ Sheila Mweeba, "An African Perspective on the Cluster Munition Convention," *Journal of Mine Action*, Issue 12.2, Winter 2008/2009, maic.jmu.edu.

¹³³⁸ Statement of Zambia, Committee of the Whole on Articles 4 and 5, Dublin Diplomatic Conference on Cluster Munitions, 20 May 2008. Notes by Landmine Action.

¹³³⁹ Statement of Zambia, Informal Discussions on Definitions, Dublin Diplomatic Conference, 20 May 2008. Notes by Landmine Action.

¹³⁴⁰ Statement of Zambia, Committee of the Whole, Dublin Diplomatic Conference, 23 May 2008. Notes by Landmine Action.

¹³⁴¹ Statement of Zambia, Informal Discussions on Interoperability, Dublin Diplomatic Conference, 22 May 2008. Notes by Landmine Action.

¹³⁴² Statement of Zambia, Committee of the Whole, Dublin Diplomatic Conference, 26 May 2008. Notes by Landmine Action.

¹³⁴³ *Ibid.*, 30 May 2008.

¹³⁴⁴ CMC, "Report on the Kampala Conference on the Convention on Cluster Munitions," 30 September 2008; Kampala Action Plan, Kampala Conference, 30 September 2008.

¹³⁴⁵ Statement of Zambia, Signing Conference, Oslo, 3 December 2008.

¹³⁴⁶ CMC, "CMC Newsletter," March 2009, www.stopclustermunitions.org.

In an April 2009 letter, the Minister of Foreign Affairs stated that Zambia does not believe that States Parties to the Convention on Cluster Munitions should “in any way assist the use [or] transfer of cluster bombs within or without their territories in the name of joint operations.”¹³⁴⁷

Zambia is not party to the Convention on Conventional Weapons (CCW), but has attended some CCW meetings as an observer.

¹³⁴⁷ Letter from Kabinga J. Pande, Minister of Foreign Affairs, MFA/104/22/148, 9 April 2009.

Non-Signatories

ALGERIA

The People's Democratic Republic of Algeria has not signed the Convention on Cluster Munitions. It is also not party to the Convention on Conventional Weapons (CCW). It participated in some of the CCW discussions on cluster munitions in 2007, but not in 2008.

Algeria attended some of the Oslo Process meetings, including the international treaty preparatory conferences in Vienna in December 2007 and Wellington in February 2008, as well as the regional conference in Livingstone in March/April 2008.

At the Vienna conference, Algeria said that “effective action must be taken urgently to protect, through a legally binding instrument, civilians from these evil weapons and assist the victims of these weapons.” However, it expressed its preference for work in the CCW and called for a universal instrument on cluster munitions with the support of the major users and producers of the weapon. It said that “we should endeavour to negotiate and conclude an international instrument that would adequately address the very serious and legitimate humanitarian concerns without ignoring the security requirements.”¹ At the Wellington conference, Algeria referred to its support for the Mine Ban Treaty (to which it belongs) and stated it was happy to see a similar process unfolding on cluster munitions. Algeria said it fully supported a legally binding instrument on cluster munitions, but noted that it could not ignore discussions happening in the CCW. It expressed concern that some states in the Oslo Process were seeking to weaken the draft convention text to preserve certain munitions that those states perceived as reliable and accurate, and called for participants to find a compromise that would not undermine the convention. It dismissed the issue of interoperability as “a fiction more than anything else.”²

Algeria endorsed the Wellington Declaration at the end of the conference, thereby indicating its intention to participate in the formal negotiations in Dublin in May 2008 on the basis of the Wellington draft text. However, Algeria did not attend the Dublin negotiations and did not sign the convention in Oslo.

Algeria is not believed to have used or produced cluster munitions, but is thought to have cluster munition stockpiles. Jane's Information Group notes that KMG-U dispensers that deploy submunitions are in service for Algerian Air Force aircraft.³ A media source reported that in 1999 Russia supplied Smerch 300mm surface-to-surface rockets to Algeria, but it is not known if these included versions with submunition payloads.⁴

ARGENTINA

The Republic of Argentina has not signed the Convention on Cluster Munitions, even though it was an active participant in the Oslo Process from the beginning, and joined in the consensus adoption of the convention at the end of the negotiations in Dublin in May 2008.

Argentina is party to the Convention on Conventional Weapons (CCW), but has not ratified Protocol V on Explosive Remnants of War (ERW).

¹ Statement of Algeria, Vienna Conference on Cluster Munitions, 5 December 2007. Notes by CMC/WILPF.

² Statement of Algeria, Session on Definitions, Wellington Conference on Cluster Munitions, 19 February 2008. Notes by CMC.

³ Robert Hewson, ed., *Jane's Air-Launched Weapons*, Issue 44 (Surrey, UK: Jane's Information Group Limited, 2004), p. 835.

⁴ “Russian Plant Supplies Multiple Rocket Launchers to Algeria,” *Interfax News Agency*, 17 August 1999.

Cluster Munition Ban Policy

At the CCW Third Review Conference in November 2006, Argentina supported a proposal for a mandate to negotiate a legally-binding instrument “that addresses the humanitarian concerns posed by cluster munitions.”⁵ However, when other CCW States Parties rejected such a mandate, Argentina did not join 25 nations in supporting a declaration calling for an agreement that would prohibit the use of cluster munitions “within concentrations of civilians,” prohibit the use of cluster munitions that “pose serious humanitarian hazards because they are for example unreliable and/or inaccurate,” and require destruction of stockpiles of such cluster munitions.⁶

Argentina participated in the initial conference to launch the Oslo Process in February 2007 and endorsed the Oslo Declaration, committing states to conclude a new legal instrument in 2008 prohibiting cluster munitions that cause unacceptable harm to civilians. However, Argentina stated its preference for the agreement to be concluded within the framework of the CCW.⁷

Argentina participated in all three of the international Oslo Process conferences to develop the convention text, in Lima, Vienna, and Wellington, as well as the formal negotiations in Dublin in May 2008. It also attended the Latin America regional meetings held in Costa Rica (September 2007), Mexico (April 2008), and Ecuador (November 2008).

At Lima conference in May 2007, Argentina’s proposal that the definition exempt cluster munitions with submunitions with self-destruct mechanisms was strongly opposed by several states as well as the CMC. Argentina also emphasized the importance of financial assistance to ensure developing states can fulfill their treaty obligations.⁸

Argentina was more supportive of a broader prohibition on cluster munitions during the Vienna conference, but continued to state that work on cluster munitions should be carried out in both the Oslo Process and the CCW.⁹ By the Wellington conference, Argentina’s position had evolved to support for a ban on cluster munitions without exceptions. It supported a six-year stockpile destruction deadline and opposed the retention of cluster munitions for training or research purposes arguing that retention could be a loophole that would weaken the convention.¹⁰

Argentina played an active role in the Dublin negotiations on a variety of issues. It was critical of the proposed exclusion for munitions that contain submunitions but that may not have the same negative humanitarian effects as cluster munitions. It unsuccessfully proposed deletion of this Article 2.2(c) exclusion.¹¹ Argentina argued against the inclusion of a transition period noting that this could lead to a greater use of the weapon.¹² It was skeptical of including a provision on “interoperability” (joint military operations with states not party), which it said could create a loophole for the use of cluster munitions by military coalitions.¹³ Argentina changed its position to support the retention of cluster munitions for training.¹⁴

⁵ Proposal for a Mandate to Negotiate a Legally-Binding Instrument that Addresses the Humanitarian Concerns Posed by Cluster Munitions, Presented by Austria, Holy See, Ireland, Mexico, New Zealand, and Sweden, Third Review Conference of the States Parties to the CCW, CCW/CONF.III/WP.1, Geneva, 25 October 2006.

⁶ Declaration on Cluster Munitions, Third Review Conference of the States Parties to the CCW, CCW/CONF.III/WP.18, Geneva, 17 November 2006.

⁷ Oslo Conference on Cluster Munitions, 22–23 February 2007. Notes by CMC/WILPF.

⁸ Lima Conference on Cluster Munitions, 23–25 May 2007. Notes by CMC/WILPF; CMC, “CMC Report on the Lima Conference and Next Steps,” May 2007, www.stopclustermunitions.org; and WILPF, “Report from the Lima Conference on Cluster Munitions,” May 2007, www.wilpf.int.ch.

⁹ Vienna Conference on Cluster Munitions, 5–7 December 2007. Notes by CMC/WILPF; WILPF, “The Vienna Conference on Cluster Munitions,” December 2007, www.wilpf.int.ch; and CMC, “CMC Report on the Vienna Conference on Cluster Munitions,” December 2007, www.stopclustermunitions.org.

¹⁰ Wellington Conference on Cluster Munitions, 18–22 February 2008. Notes by CMC; and Katherine Harrison, “Report on the Wellington Conference on Cluster Munitions, 18–22 February 2008,” WILPF, March 2008, www.wilpf.int.ch.

¹¹ CMC, “Day 4 – Towards Some Text Solutions – Dublin Diplomatic Conference,” 22 May 2008, www.stopclustermunitions.org; and Summary Record of the Committee of the Whole, Eleventh Session: 26 May 2008, Dublin Diplomatic Conference on Cluster Munitions, CCM/CW/SR/11, 18 June 2008.

¹² Summary Record of the Committee of the Whole, Eighth Session: 23 May 2008, Dublin Diplomatic Conference, CCM/CW/SR/8, 18 June 2008.

¹³ Summary Record of the Committee of the Whole, Tenth Session: 26 May 2008, Dublin Diplomatic Conference, CCM/CW/SR/10, 18 June 2008.

¹⁴ Summary Record of the Committee of the Whole, Third Session: 20 May 2008, Dublin Diplomatic Conference, CCM/CW/SR/3, 18 June 2008.

Argentina also advocated for a broad definition of “victims” and the inclusion of survivors in decision-making on victim assistance.¹⁵ It co-sponsored a proposal to strengthen the victim assistance provisions in the draft treaty.¹⁶ Argentina suggested adding a reference in the preamble to Security Council resolutions 1325 on women, peace and security and 1612 on children and armed conflicts.¹⁷

When the convention was adopted on 30 May 2008, Argentina stated that it would remain watchful of the Article 2.2(c) exclusion to see if there was a need for its revision in the future and said that Article 21 on interoperability should not appear in the convention, because it generated “uncertainty” without contributing to the aims of the convention.¹⁸ Argentina agreed, however, that these provisions were necessary in order to reach a consensus agreement on the text as a whole.

Argentina continued to support work on cluster munitions in the CCW following the adoption of the Convention on Cluster Munitions in Dublin. At a CCW meeting in July 2008, Argentina stated it believed that an agreement within CCW could supplement the convention.¹⁹ When the CCW negotiations in November 2008 failed to reach an agreement, Argentina expressed regret.²⁰ It said the CCW should continue to discuss cluster munitions in 2009. Argentina did not join 26 states that issued a joint statement expressing their opposition to the weak draft text on a possible CCW protocol on cluster munitions, indicating it was an unacceptable step back from the standards set by the Convention on Cluster Munitions.²¹

Argentina did not attend the regional Oslo Process meeting held in Quito, Ecuador in November 2008 to promote signature to the convention and was not present at the signing conference in Oslo in December 2008. In a March 2009 letter to Human Rights Watch, Argentina said that, while it did not sign the Convention on Cluster Munitions, the issue “remains under active consideration” at the CCW.²²

Use, Stockpiling, Transfer, and Production

The United Kingdom dropped 107 BL-755 cluster bombs containing a total of 15,729 submunitions on Argentine positions during the armed conflict in the Falkland/Malvinas Islands in 1982.²³

In March 2009, Argentina stated, “At present, the Republic of Argentina doesn’t have cluster munitions, it hasn’t utilized or transferred them.”²⁴ Argentina told delegates to the Lima conference in May 2007 that it had already destroyed its stocks of cluster munitions.²⁵ Jane’s Information Group reported that French Belouga and US Rockeye cluster bombs were in service with Argentina’s air forces.²⁶ Military officials informed Human Rights Watch in September 2006 that stocks of BLG-66 Belouga and Rockeye air-dropped bombs were destroyed by 2005.²⁷

In the past, Argentina developed and produced artillery-delivered cluster munitions. The Armed Forces Center for Technical and Scientific Research (Centro de Investigaciones Técnicas y Científicas de las Fuerzas Armadas, CITEFA) developed and produced the CME 155mm artillery projectile which contains 63 dual purpose improved conventional munition (DPICM) submunitions equipped with a backup

¹⁵ Proposal by Argentina, Costa Rica, Ecuador, Guatemala, Lebanon, Mexico, Palau, and Uruguay for the Amendment of Article 2, Dublin Diplomatic Conference, CCM/71, 21 May 2008; and Summary Record of the Committee of the Whole, Second Session: 20 May 2008, Dublin Diplomatic Conference, CCM/CW/SR/2, 18 June 2008.

¹⁶ Proposal by Argentina, Chile, Costa Rica, Dominican Republic, Ecuador, Guatemala, Guinea, Honduras, Mexico, Nicaragua, Panama, Peru, Uruguay, and Zambia for the amendment of Article 5, Dublin Diplomatic Conference on Cluster Munitions, CCM/70, 21 May 2008.

¹⁷ Summary Record of the Committee of the Whole, Tenth Session: 26 May 2008, Dublin Diplomatic Conference, CCM/CW/SR/10, 18 June 2008.

¹⁸ Summary Record of the Plenary and Closing Ceremony of the Conference, Fourth Session: 30 May 2008, Dublin Diplomatic Conference, CCM/SR/4, 18 June 2008.

¹⁹ Third 2008 Session of the CCW Group of Governmental Experts (GGE) on Cluster Munitions, Geneva, 7–25 July 2008. Notes by Landmine Action.

²⁰ Fifth 2008 Session of the CCW GGE on Cluster Munitions, Geneva, 3–7 November 2008. Notes by Landmine Action.

²¹ Statement delivered by Costa Rica on behalf of Austria, Belgium, Benin, Bosnia and Herzegovina, Chile, Croatia, Ecuador, El Salvador, Guatemala, Holy See, Honduras, Indonesia, Ireland, Lebanon, Mexico, New Zealand, Nicaragua, Norway, Peru, Philippines, Senegal, South Africa, Uganda, Uruguay, and Venezuela, Fifth 2008 Session of the CCW GGE on Cluster Munitions, Geneva, 5 November 2008.

²² Letter from Amb. Jorge Argüello, Permanent Mission of Argentina to the UN in New York, 13 March 2009.

²³ Human Rights Watch, “Cluster Munition Information Chart,” March 2009, www.hrw.org.

²⁴ Letter from Amb. Jorge Argüello, Permanent Mission of Argentina to the UN in New York, 13 March 2009.

²⁵ Statement of Argentina, Session on Stockpile Destruction, Lima Conference, 24 May 2007. Notes by CMC/WILPF.

²⁶ Colin King, ed., *Jane’s Explosive Ordnance Disposal 2007-2008*, CD-edition, 15 January 2008, (Surrey, UK: Jane’s Information Group Limited, 2008).

²⁷ Human Rights Watch, “Survey of Cluster Munition Policy and Practice,” February 2007, www.hrw.org.

pyrotechnic self-destruct mechanism.²⁸ According to military officials, this effort did not reach full scale production and was dismantled, and the projectiles were never fielded by the Armed Forces of Argentina.²⁹

AZERBAIJAN

The Republic of Azerbaijan has not signed the Convention on Cluster Munitions. Azerbaijan attended some Oslo Process meetings, including the conference for affected states in Belgrade in October 2007, the regional conference in Brussels in October 2007, and the international treaty preparatory conference in Vienna in December 2007. It did not attend the formal negotiations in Dublin in May 2008 or the Signing Conference in Oslo in December 2008.

Azerbaijan has not made a public declaration of its cluster munition policy. The Azerbaijan Campaign to Ban Landmines (AzCBL) has been active in engaging the government on the issue of cluster munitions and the Oslo Process.³⁰ According to the AzCBL, the line of argument that has been adopted by the Azerbaijani government is that as a stockpiler of cluster munitions, Azerbaijan cannot accede to a treaty banning cluster munitions as long as the prospect of renewed armed conflict remains a possibility.³¹

Azerbaijan is not party to the Convention on Conventional Weapons, but attended as an observer the 2008 sessions on cluster munitions, as well as the 2007 Meeting of States Parties and the 2006 Third Review Conference.

Use, Production, Stockpiling, and Transfer

Submunition contamination has been identified in Nagorno-Karabakh, a territory claimed by Azerbaijan, but occupied and under the control of a breakaway government since the 1992–1994 conflict between Azerbaijan and Armenia.³² It is unclear what armed forces used cluster munitions. Submunition types identified and cleared by deminers include PTAB-1, ShOAB-0.5, and AO-2.5. A survey of cluster munition strike sites completed by HALO Trust in mid-2008 identified 146 tasks over an area between 27 and 40km². In 2007, HALO deminers cleared 1,328 submunitions.³³

Azerbaijan is not known to have produced cluster munitions, but inherited a stockpile of cluster munitions from the Soviet Union. Jane's Information Group reports that RBK-250/275 and RBK-500 cluster bombs are in service with the country's air force.³⁴ RBK-250 bombs with PTAB submunitions are among the abandoned Soviet-era ammunition stockpiles located near the village of Saloglu in the northwestern part of the country.³⁵

²⁸ CITEFA, "Report Referring to Employment of Submunitions" ("Informe Referido a Empleo de Submuniciones"), undated, provided to Pax Christi Netherlands by the Permanent Mission of Argentina to the UN Office in Geneva, 14 June 2005; Argentina, "Replies to Document CCW/GGE/X/WG.1/WP.2, Entitled 'International Humanitarian Law and ERW,'" CCW/GGE/XI/WG.1/WP.10, 2 August 2005, p. 3.

²⁹ Remarks made to Human Rights Watch by members of the Argentina delegation to the Latin America Conference on Cluster Munitions, San José, Costa Rica, 5 September 2007.

³⁰ Advocacy activities have included televised discussions, roundtable meetings, and outreach with students and youth groups, supported by embassies, international organizations, other NGOs, and landmine survivors.

³¹ AzCBL, "Cluster Munitions in Azerbaijan," www.azcbl.org.

³² Nagorno-Karabakh is not recognized by any UN member state. Prior to the dissolution of the Soviet Union, the Parliament of the Nagorno-Karabakh Autonomous Province voted in 1988 to secede from the Azerbaijan Soviet Socialist Republic (SSR) and join the Armenian SSR, which resulted in armed conflict from 1988–1994. The region declared independence as the Nagorno-Karabakh Republic in 1991.

³³ ICBL, *Landmine Monitor Report 2008* (Ottawa: Mines Action Canada, 2008), pp. 1088–1089. There are also reports of contamination in other parts of occupied Azerbaijan, adjacent to Nagorno-Karabakh, namely the Fizuli, Tovuz, and Ter-Ter districts. The AzCBL states that it has identified nine people who have been killed by submunition duds and has gathered information on 41 cluster munitions survivors. AzCBL, "Cluster Munitions in Azerbaijan," www.azcbl.org.

³⁴ Robert Hewson, ed., *Jane's Air-Launched Weapons*, Issue 44 (Surrey, UK: Jane's Information Group Limited, 2004), p. 835.

³⁵ Observation during Human Rights Watch field visit to Saloglu, May 2005.

BAHRAIN

The Kingdom of Bahrain has not signed the Convention on Cluster Munitions, although it was a full participant in the formal treaty negotiations in May 2008 and adopted the convention text at the conclusion of the negotiations.

Bahrain first participated in the Oslo Process at the international treaty preparatory conference in Wellington in February 2008. In Wellington, Bahrain stated that action must be taken on cluster munitions, but that it was “regrettable” that a conference of such magnitude and importance was not being held “under the auspices of the United Nations.” Bahrain said, “Coming from the Middle East, a region with a long history of the use of cluster munitions in wars and conflicts... Bahrain believes that prohibition of the use, stockpiling, production and transfer of cluster munitions remains a matter of priority and concern, and strongly supports all efforts to eliminate all kinds of cluster munitions, and to prohibit their use, transfer, trade and stockpiling.” Bahrain called on all states “to stop using such weapons, and [to] consider such use as a crime against humanity. Further, countries manufacturing such lethal weapons to take measures to freeze trade or ban transfer of all cluster munitions until a new internationally legally binding instrument is concluded.”³⁶

The ambassador of Bahrain further said, “I assure you that Bahrain will remain faithful to the Oslo Process, and that we will continue our journey to put an end to the era of cluster munitions by doing our utmost to turn vision into reality. Let us all realise that we are building an effective and cooperative regime on cluster munitions. The commitment contained in the Oslo Declaration is a test and a challenge to all participants to conclude an agreed legally binding international instrument on cluster munitions by May 2008.”³⁷

Bahrain endorsed the Wellington Declaration, indicating its commitment to participate in the Dublin negotiations on the basis of the draft text. It stated, “Without prejudice to Bahrain’s position in the final negotiations to be held in Dublin, Ireland in May 2008...[Bahrain] strongly supports the Draft Cluster Munition Convention from a disarmament as well as humanitarian perspective, both of which are greatly important to Bahrain.” Bahrain affirmed that its position “at this stage of negotiations is to support the comprehensive approach to the prohibition of cluster munitions, without exceptions.”³⁸

During the Dublin negotiations, Bahrain reiterated its support for a comprehensive ban on cluster munitions and praised the achievement of a compromise text acceptable to all delegations. At the conclusion, Bahrain joined the consensus to adopt the convention, but also noted that its support for the consensus did not mean that the government of Bahrain was required to sign the convention.³⁹

Bahrain subsequently attended the regional conference in Beirut in November 2008, but did not attend the Signing Conference in Oslo in December 2008.

Bahrain is not a party to the Convention on Conventional Weapons (CCW), but attended the CCW sessions on cluster munitions in January and November 2008.

Use, Production, Stockpiling, and Transfer

Bahrain is not known to have used or produced cluster munitions, but it has received significant exports from the United States. The US transferred 30,000 artillery projectiles (M509A1, M449A1, M483) containing 5,060,000 dual purpose improved conventional munitions (DPICM) submunitions to Bahrain between 1995 and 2001 as this type of ammunition was being phased out of the US inventory.⁴⁰ The US has also provided M26 rockets and ATACMS-1A missiles with more than 1,000,000 submunitions to Bahrain for its Multiple Launch Rocket System (MLRS) launchers. Bahrain purchased 151 M26A1 MLRS

³⁶ Statement by Amb. Karim E. Al-Shakar, Ministry of Foreign Affairs, Wellington Conference on Cluster Munitions, 18 February 2008.

³⁷ Ibid.

³⁸ Ibid, 22 February 2008.

³⁹ Bahrain also called for the circulation of the convention in Arabic by the UN Secretary-General. Statement of Bahrain, Committee of the Whole, Dublin Diplomatic Conference on Cluster Munitions, 28 May 2008. Notes by Landmine Action.

⁴⁰ US Defense Security Cooperation Agency, Department of Defense, “Excess Defense Articles,” online database, www.dsca.osd.mil.

extended range rocket pods (with six rockets per pod, and 644 submunitions per rocket) in 1996, 55 rocket pods in 1997, and 57 rocket pods in 2003.⁴¹ In 2000, the US sold Bahrain 30 M39 ATACMS-1A missiles, each with 950 M74 submunitions.⁴²

BELARUS

The Republic of Belarus has not signed the Convention on Cluster Munitions. It did not participate in the diplomatic process that led to the development, negotiation, and signing of the convention in Oslo in December 2008.

Belarus is party to the Convention on Conventional Weapons (CCW) and ratified Protocol V on Explosive Remnants of War on 29 September 2008. Belarus has been an active participant in the CCW discussions on cluster munitions in recent years.⁴³

At a CCW meeting in November 2007, Belarus stated that it shared the concern over the use of cluster munitions by certain countries and supported proposals to continue to study the issue in a context which involved all parties to the greatest extent possible.⁴⁴ In January 2008, Belarus expressed the view that the humanitarian implications of the use of cluster munitions could be resolved through full implementation of CCW Protocol V on Explosive Remnants of War. It said any further agreement on cluster munitions should prohibit the use of cluster munitions against non-combatants and infrastructure critical to civilians, and should include a mechanism promoting national legislation aimed at full compliance with existing international humanitarian law.⁴⁵

At a CCW session on cluster munitions in April 2008, Belarus stated that it continued to believe that one of the main problems with cluster munitions was that existing international legal instruments were not universal. It said the Ministry of Defense was issuing revised instructions to its armed forces on compliance with norms of international humanitarian law. Belarus said that it would be difficult to find a mutually acceptable formula for an instrument on cluster munitions due to technological implications for various states. Belarus stated that the financial capacity of all States Parties must be considered and from a financial perspective, the establishment of new international standards requiring technological upgrading of weapons capabilities would not be acceptable or achievable.⁴⁶

The Belarus Support Center for Associations and Foundations (SCAF) has actively campaigned as part of the CMC to promote awareness of the Oslo Process and the Convention on Cluster Munitions in Belarus. As part of the Global Week of Action on cluster munitions from 28 October–2 November 2008, SCAF engaged local students, their parents, and community members in three regions of Belarus in a survey on attitudes on a ban on cluster munitions. The survey revealed the majority of participants felt that cluster munitions should be banned. Belarusian campaigners discussed the survey's findings with government representatives and were told that Belarus shared their humanitarian concerns over the use of cluster munitions and "is looking for solutions that are safe and [nationally] beneficial."⁴⁷

⁴¹ US Department of Defense, "Memorandum for Correspondents, No. 091-M," 10 May 1996; and "Bahrain Purchases Lockheed Martin's Multiple Launch Rocket System Extended-Range Rockets," Press release, Lockheed Martin Corporation, 20 December 2003. The total of 263 M26 rocket pods contained 1,578 rockets with 1,016,232 submunitions.

⁴² US Department of Defense, "Proposed Foreign Military Sale to Bahrain Announced," News Release No. 591-00, 26 September 2000. The 30 ATACMS missiles contained 28,500 submunitions.

⁴³ It participated in the Third Review Conference of the States Parties to the CCW in November 2006, the 2007 Meeting of the States Parties to the CCW, and the 2008 sessions of the CCW Group of Governmental Experts (GGE) on Cluster Munitions.

⁴⁴ Statement of Belarus, 2007 Meeting of the States Parties to the CCW, Geneva, 7 Nov 2007. Notes by WILPF.

⁴⁵ Statement of Belarus, First 2008 Session of the CCW GGE on Cluster Munitions, Geneva, 17 January 2008. Notes by WILPF.

⁴⁶ Statement of Belarus, Second 2008 Session of the CCW GGE on Cluster Munitions, Geneva, 8 April 2008. Notes by Landmine Action.

⁴⁷ CMC, "Report on the Global Week of Action to Ban Cluster Bombs," 28 October–2 November 2008; and SCAF interview with Ivan Grinevich, Counselor of Arms Control and Regional Security Development, Ministry of Foreign Affairs, Minsk, 29 October 2008.

Belarus is not believed to have used or produced cluster munitions. It inherited its stockpile from the Soviet Union. Jane’s Information Group reports that RBK-500 cluster bombs are in service with the country’s air force.⁴⁸ Belarus also possesses Uragan 220mm and Smerch 300mm surface-to-surface rockets, but it is not known if these include versions with submunition payloads.⁴⁹

BRAZIL

The Federative Republic of Brazil has not signed the Convention on Cluster Munitions. It participated minimally in the diplomatic process that resulted in the development, negotiation, and then signing of the convention in December 2008. Brazil produces and stockpiles cluster munitions. Brazil is a State Party to the Convention on Conventional Weapons (CCW), but has not ratified Protocol V on Explosive Remnants of War.

Cluster Munition Ban Policy

In a 2005 statement on the applicability of existing international humanitarian law to the use of cluster munitions, Brazil noted that high altitude aerial bombardment using cluster munitions violates the principle of distinction.⁵⁰ It also noted that cluster munition use should be limited depending on “weather conditions and terrain characteristics” and that “cluster bombs or submunition dispensers should not be released or launched from high altitudes” because the wide dispersal pattern is likely to “generat[e] greater risk of unnecessary harm to civilians.”⁵¹

Despite expressing concern over civilian casualties caused by cluster munitions in Lebanon in 2006—with one official urging a ban on the weapon—Brazil was not supportive of international efforts to ban cluster munitions in the aftermath of the Lebanon conflict.⁵² On 25 October 2006, Brazil did not support a proposal during the Third Review Conference of the CCW to establish an open-ended Group of Governmental Experts (GGE) to negotiate a legally-binding instrument that addresses the humanitarian concerns posed by cluster munitions.⁵³

Brazil’s first engagement with the Oslo Process came in September 2007, when it sent an observer to the Latin American regional conference in Costa Rica. Brazil said that it was not in a position to support the Oslo Process because it was taking place outside the UN system. It said that negotiations must include all interested actors, and not just take away weapons from those who do not have them. It asserted that cluster munitions are effective militarily and that it is not realistic to pretend that they will be eliminated. It pointed to existing international humanitarian law and CCW Protocol V as the appropriate way to address cluster munitions.⁵⁴

Brazil also attended the international treaty preparatory conference in Wellington in February 2008, but did not contribute to the deliberations and did not endorse the Wellington Declaration, which committed states to participate in the formal negotiations in Dublin in May 2008.⁵⁵ Brazil’s opposition to the Oslo

⁴⁸ Robert Hewson, ed., *Jane’s Air-Launched Weapons*, Issue 44 (Surrey, UK: Jane’s Information Group Limited, 2004), p. 836.

⁴⁹ International Institute for Strategic Studies, *The Military Balance 2005-2006* (London: Routledge, 2005), p. 112.

⁵⁰ Brazil Response, Responses to Document CCW/GGE/X/WG.1/WP.2, IHL and ERW, 8 March 2005, CCW/GGE/XII/WG.1/WP.1, 12 September 2005, p. 2.

⁵¹ *Ibid.*, p. 3.

⁵² During the debate at the UN Human Rights Council’s Commission of Inquiry on Lebanon on 1 December 2006, Brazil supported all the recommendations of the commission’s report but gave special attention to cluster munitions during its statement by highlighting and reading aloud the recommendation that “the Human Rights Council should take the initiative to promote urgent action to include cluster munitions to the list of weapons banned under international law.” Statement by Sergio Abrene Lima Florencio, UN Human Rights Council’s Commission of Inquiry on Lebanon, Geneva, 1 December 2006.

⁵³ The proposal was put forward by Austria, Holy See, Ireland, Mexico, New Zealand and Sweden, and formally supported by 20 other states. Proposal for a Mandate to Negotiate a Legally-Binding Instrument that Addresses the Humanitarian Concerns Posed by Cluster Munitions, Third Review Conference of the States Parties to the CCW, Geneva, CW/CONF.III/WP.1, 25 October 2006.

⁵⁴ Statement of Brazil, Latin American Regional Conference on Cluster Munitions, San José, 5 September 2007. Notes by Human Rights Watch.

⁵⁵ Brazil did not attend the Dublin negotiations, even as an observer. While it did not sign the convention in Oslo in December, it was represented at the conference by its ambassador to Norway.

Process was widely noted by national media and strongly criticized by NGOs actively supporting the campaign against cluster munitions.⁵⁶

On 3 June 2008, Brazil's objection to a resolution by the Organization of American States (OAS) that invites member states "to consider becoming parties to the Convention on Cluster Munitions" was cited in a footnote in the resolution.⁵⁷

On 17 June 2008, Brazil's Minister of Foreign Affairs Celso Amorim, while still expressing concerns about the Convention on Cluster Munitions, said that he considered cluster bombs an inhumane weapon that should be eliminated, and said that Brazil would review its position and in the future may join the convention.⁵⁸

At a CCW meeting in November 2008, Brazil said that the government's decision not to take part in the Oslo Process and support the Convention on Cluster Munitions was based on its view that the process and convention did not balance legitimate defense needs with humanitarian concerns.⁵⁹ Brazil cautioned that "prudence should be exercised before negotiating prohibitions and restrictions on certain conventional weapons outside the CCW, when they could be properly considered under this Convention, which...has stood the test of time with regard to its capacity of evolving and reflecting the ever-changing realities of States Parties. Parallel processes may expedite results, but they do not guarantee universality and effectiveness."⁶⁰

At a public hearing on cluster munitions held by the Brazilian Congress on 3 December 2008, Minister Amorim again called them an inhumane weapon, and said Brazil is reconsidering its position and may sign the convention in the future "for humanitarian reasons."⁶¹ However, he also said that Brazil did not agree with the convention's definition of a cluster munition as it opened the possibility of production of cluster munitions by other states and was thus discriminatory.⁶²

In February 2009, legislation was introduced in the Chamber of Deputies to ban the use, production, import, and export of cluster munitions.⁶³

Use, Production, Stockpiling, and Transfer

In January 2008, Brazil stated that it has never used cluster munitions.⁶⁴

At least three companies have produced cluster munitions in Brazil, according to the companies' own materials and to standard reference works. Avibras Aeroespacial SA has produced the ASTROS family of surface-to-surface rockets with submunition warheads. These weapons have been exported to Iran, Iraq, and Saudi Arabia.⁶⁵ The ASTROS multiple launch rocket system was used by Saudi forces against Iraqi forces during the battle of Khafji in January 1991, leaving behind significant numbers of unexploded submunitions.⁶⁶

⁵⁶ Active NGOs include the Brazilian Campaign Against Landmines, Instituto Sou da Paz, Associação Vida Brasil, and Grupo de Estudos de Ações Pacifistas (GEAPAC) from the Franciscan University (Santa Maria).

⁵⁷ OAS, AG/RES. 2433 (XXXVIII-O/08), "Promotion of and Respect for International Humanitarian Law," 3 June 2008, www.oas.org.

⁵⁸ He made the remarks to the meeting of the National Congress Chamber of Deputies Committee on Foreign Affairs and National Defense. Mylena Fiori, "Brasil poderá aderir a acordo para acabar com produção de bombas cluster" ("Brazil may join the agreement to end production of cluster bombs"), 17 June 2008, www.agenciabrasil.gov.br.

⁵⁹ Statement of Brazil, Fifth 2008 Session of the CCW GGE on Cluster Munitions, Geneva, 7 November 2008. Notes by Landmine Action.

⁶⁰ Statement by Amb. Luiz Felipe de Macedo Soares, Permanent Representative of Brazil to the Conference on Disarmament, 2008 Meeting of the States Parties to the CCW, Geneva, 13 November 2008.

⁶¹ "Brazil not to sign treaty banning cluster bombs," *Xinhua*, 4 December 2008, news.xinhuanet.com.

⁶² Denise Crispim Marin, "Brasil rejeita tratado para banir bombas de cachom" ("Brazil rejects treaty to ban cluster bombs"), estado.com.br, 3 December 2008, www.estadao.com.br. The statement is available in the audio records of the Chamber of Deputies, www.camara.gov.br.

⁶³ Email from Cristian Wittman, Brazilian Campaign Against Landmines, 21 February 2009.

⁶⁴ Statement of Brazil, Second 2008 Session of the CCW GGE on Cluster Munitions, Geneva, 8 April 2008. Notes by Landmine Action.

⁶⁵ Terry J. Gander and Charles Q. Cutshaw, eds., *Jane's Ammunition Handbook 2001–2002*, (Surrey, UK: Jane's Information Group Limited, 2001); and Jonathan Beaty and S.C. Gwynne, "Scandals: Not Just a Bank," *Time Magazine*, 2 September 1991, www.time.com.

⁶⁶ Human Rights Watch interviews with former explosive ordnance disposal personnel from a Western commercial clearance firm and a Saudi military officer with first-hand experience in clearing the dud dual purpose bomblets from ASTROS rockets, names withheld, Geneva, 2001–2003.

The company Ares Aeroespacial e Defesa Ltda has produced the FZ-100 70mm air-to-surface rockets, akin to the Hydra M261 multipurpose submunitions.⁶⁷ Additionally, Target Engenharia et Comércio Ltda. has produced two types of cluster bombs (BLG-120 and BLG-252) for the Brazilian Air Force and reportedly for export.⁶⁸

On 28 November 2007, a representative from the Ministry of Defense told a public hearing on cluster munitions that two private Brazilian companies were involved in the manufacturing of cluster munitions: Avibras Aeroespacial SA (producing the Astros rocket system and the BLG-120 and BLG-252 bombs) and Ares Aeroespacial e Defesa Ltda. The defense official noted the economic benefit of the production, stating that another 12 civil industries were involved in production.⁶⁹

CAMBODIA

The Kingdom of Cambodia has not signed the Convention on Cluster Munitions, despite the fact that it was an early, prominent, and influential supporter of the Oslo Process.

Cambodia is not believed to have used, produced, or transferred cluster munitions. It is not known whether Cambodia has a stockpile of the weapon. Cambodia remains extensively affected by the use of cluster munitions by the United States in the 1960s and 1970s.

Cambodia is party to the Convention on Conventional Weapons, but has not ratified Protocol V on Explosive Remnants of War.

Cluster Munition Ban Policy

Although Cambodia did not attend the initial meeting to launch the Oslo Process in February 2007, it soon became the first country to add its name to the list of 46 nations that endorsed the Oslo Declaration at that meeting, thereby committing to conclude in 2008 a new convention prohibiting cluster munitions that cause unacceptable harm to civilians. On 14 March 2007, the Deputy Prime Minister of Cambodia, Sok An, announced Cambodia's decision to join the Oslo Process, saying, "Cambodia supports this Oslo appeal to ban cluster munitions which cause unacceptable harm to civilians, and will become an active participant in the process."⁷⁰

Cambodia's announcement came on the eve of its hosting the first regional forum on cluster munitions in Southeast Asia, which took place on 15 March in Phnom Penh.⁷¹ The forum was organized by the ICBL and the CMC in cooperation with the government of Cambodia. Participants included Afghanistan, Austria, Cambodia, Canada, Germany, Japan, Jordan, Lao PDR, Norway, and Thailand, as well as UN agencies and the ICRC.⁷²

Cambodia then participated actively in all three of the international conferences to develop the convention text in Lima, Vienna, and Wellington, as well as the formal negotiations in Dublin in May 2008. It also attended the Belgrade conference for affected states in October 2007 and the regional conference in Lao PDR in October 2008.

At the Lima conference in May 2007, Cambodia delivered one of the keynote addresses in the opening session. The Secretary General of the Cambodian Mine Action Authority, Ambassador Sam Sotha, stated, "A treaty on cluster munitions must ban all weapons which may cause future harm, but equally it must

⁶⁷ Aeroespacial e Defesa Ltda, "Cabeza Cargo de Submuniciones" ("Head charged submunitions"), www.ares.ind.br.

⁶⁸ Brazilian Association of the Industries of Defense Materials and Security (ABIMDE), "Product List, 2000 to December 2005," abimde.com.br.

⁶⁹ The hearing was convened by the Committee on Foreign Affairs and National Defense of the Chamber of Deputies, Brasilia, 28 November 2007. Notes by the Brazilian Campaign Against Landmines.

⁷⁰ ICBL, "Cambodia Announces Support for New Treaty Banning Cluster Munitions," Press release, 14 March 2007, www.icbl.org.

⁷¹ *Ibid.*

⁷² ICBL, "Regional Forum in Southeast Asia: Taking Action on Cluster Munitions," Press release, 26 March 2007, www.icbl.org.

ensure the removal of all unexploded cluster munitions because today they are still killing in Cambodia and in many other countries throughout the world.” He added, “As a developing country, Cambodia is not interested in high tech solutions.” Cambodia affirmed that the Oslo Process was the only way to find the most effective solution to the humanitarian problems caused by cluster munitions. “The CCW moves too slowly and does not have enough developing countries involved,” Cambodia stated, adding that while it was too late to fix the wrongs of the 1970s, the Oslo Process was about prevention and ensuring that cluster munitions would not be used against innocent civilians again.⁷³

At the Vienna conference, Cambodia opposed exceptions from the definition of a cluster munition based on self-destruct and self-neutralization mechanisms. Cambodia raised concerns about the ability of heavily affected countries to complete clearance obligations in five years and called for extension provisions to be clarified. Cambodia stated it supported deadlines for clearance obligations, but these would need to be matched by concrete commitments of technical and financial assistance.⁷⁴

At the Wellington conference, Cambodia spoke of the Oslo Process reinforcing “the new model for conducting international diplomacy that has emerged since the adoption of the antipersonnel Mine Ban Treaty.”⁷⁵ Cambodia worked against efforts to weaken the draft convention text, and emphasized the following key aspects: strong language on victim assistance guided by the Convention on the Rights of Persons with Disabilities; inclusion of survivors in decision-making processes and the implementation of national survivor assistance initiatives;⁷⁶ a ban on all types of submunitions without permitting “exemptions to protect existing stockpiles or arms industries” or “exclusions based on unproven technological safeguards;”⁷⁷ no transition periods (during which cluster munitions could still be used); no provisions for interoperability (joint military operations with states not party); commitments for assistance from those able to provide it and plans for rapid and significant support to countries with extensive contamination or limited resources;⁷⁸ and obligations on the states which used cluster munitions to directly support clearance, including by providing strike information.⁷⁹

Cambodia maintained these positions during the formal negotiations in Dublin in May 2008 and joined the consensus adoption of the convention. Cambodia stated that that it was committed to working with partners to live up to the “ambitious promise” of the convention.⁸⁰

Despite Cambodia’s extensive and positive leadership role in the Oslo Process, it did not sign the convention in Oslo on 3 December. It attended the signing conference as an observer and made a statement reiterating its commitment to the convention, describing it as a “historic development.” However, Cambodia said that due to “recent security developments” in the region, it now needed more time to study the “impacts of the convention on its security capability and national defense.”⁸¹

Civil society campaigning in Cambodia on cluster munitions has been strong. During the Global Week of Action, on 27 October 2008, CMC campaigners launched the Cambodian Ban Bus in Phnom Penh.⁸² By July 2008, a little over one month after launching the People’s Treaty in Cambodia, Jesuit Refugee Service

⁷³ Statement by Amb. Sam Sotha, Advisor to the Prime Minister and Secretary General, Cambodian Mine Action and Victim Assistance Authority (CMAA), Opening Speech, Lima Conference on Cluster Munitions, 23 May 2007.

⁷⁴ Statement of Cambodia, Session on General Obligation and Scope, Vienna Conference on Cluster Munitions, 6 December 2008. Notes by CMC and WILPF.

⁷⁵ Statement by Amb. Sam Sotha, CMAA, Wellington Conference on Cluster Munitions, 18 February 2008.

⁷⁶ Statement of Cambodia, Session on Victim Assistance, Wellington Conference, 20 February 2008.

⁷⁷ Statement of Cambodia, Session on Definitions, Wellington Conference, 19 February 2008.

⁷⁸ Statement by Amb. Sam Sotha, CMAA, Wellington Conference, 18 February 2008.

⁷⁹ Statement of Cambodia, Session on International Cooperation and Assistance, Wellington Conference, 21 February 2008.

⁸⁰ Statement of Cambodia, Dublin Diplomatic Conference on Cluster Munitions, 30 May 2008. Notes by Landmine Action.

⁸¹ Statement by Amb. Hor Nambora, Representative of Cambodia to the United Kingdom, Denmark, Finland, Ireland, Norway, and Sweden, Convention on Cluster Munitions Signing Conference, Oslo, 4 December 2008. The “security developments” comment was an apparent reference to border incidents with Thailand.

⁸² Representatives from UNDP, Norwegian People’s Aid, Jesuit Service, the Cambodian Red Cross, Religions for Peace, and the Cambodian Mine and UXO Victim Information System participated in the initiative. CMC, “Global Week of Action to Ban Cluster Bombs, 27 October – 2 November 2008,” www.stopclustermunitions.org.

had collected nearly 10,000 signatures.⁸³ Youern Sam En and Tun Channareth, two survivors and “Ban Advocates” from Cambodia, were inspirational campaigners during the Oslo Process.⁸⁴

CHINA

The People’s Republic of China has not signed the Convention on Cluster Munitions. It did not participate in the diplomatic process in 2007 and 2008 that resulted in the development, negotiation and then signing of the convention in Oslo in December 2008. At that time, a spokesperson stated that China would continue to work for an “early and proper solution on the humanitarian problems arising from cluster bombs.”⁸⁵

China is party to the Convention on Conventional Weapons (CCW), but has yet to ratify Protocol V on Explosive Remnants of War. In a statement at the First Conference of the States Parties to Protocol V in 2007, China stated that it “will continue to actively promote domestic legal procedures for the ratification of the Protocol, with the aim of acceding to it at an early date.”⁸⁶

Cluster Munition Ban Policy

China has for years stated that the CCW is the only appropriate forum to address cluster munitions, and until 2008 took the position that Protocol V and existing international humanitarian law (IHL) were sufficient to deal with the issue. During the work of the CCW Group of Governmental Experts (GGE) sessions in Geneva in 2005, China noted that “the ERW Protocol has covered general generic preventative measures aimed at improving the reliability of munitions, which will be conducive to addressing the humanitarian problems caused by munitions, including submunitions.”⁸⁷

When CCW States Parties decided in November 2007 to spend the next year debating a new approach to cluster munitions, China was among a small group of states that viewed existing IHL and CCW rules as adequate. It did not support a new protocol, but was willing to continue discussions, since in its view “only in the framework of the CCW can relevant efforts achieve realistic and feasible significance.”⁸⁸

CCW States Parties failed to reach agreement on a draft protocol on cluster munitions in November 2008, but China stated its support, saying that the draft text had “managed to address military needs and humanitarian concerns in a relatively balanced way.”⁸⁹

Use, Production, Stockpiling, and Transfer

China is not known to have used cluster munitions, but it produces, stockpiles, and exports the weapons.

China Northern Industries (NORINCO) produces a range of conventional air-dropped and surface-launched cluster munitions including bombs, artillery projectiles, and rockets. The Sichuan Aerospace Industry Corporation produces and markets 302mm (WS-1, WS-1B, and WS-1E) and 320mm (WS-2) unguided multiple-launch surface-to-surface artillery rockets. Among the warheads available for these rockets are “armor-defeating and killing double use cluster,” “comprehensive effect cluster,” and “sensor

⁸³ CMC, “CMC Newsletter,” Issue 1, June – July 2008, www.stopclustermunitions.org.

⁸⁴ Stéphanie Castanié, “My story, by Yoeun Sam En,” Ban Advocates Blog, 26 May 2008, blog.banadvocates.org; CMC Ireland, “Dublin Diplomatic Conference on Cluster Munition, Civil Society Participants, Tun Channareth (Reth), Cambodia,” 8 May 2008, www.stopclusterbombs.ie.

⁸⁵ “Ministry: China supports int’l efforts to ban cluster bombs,” *Xinhua*, 2 December 2008, news.xinhuanet.com.

⁸⁶ Statement of China, First Conference of the High Contracting Parties to Protocol V to the CCW, Geneva, 8 November 2007, www.china-un.ch.

⁸⁷ Statement by Amb. Hu Xiaodi, Eleventh Session of the CCW GGE, Geneva, 2 August 2005.

⁸⁸ Statement by Amb. Cheng Jingye, 2007 Meeting of States Parties to the CCW, Geneva, 8 November 2007, www.china-un.ch.

⁸⁹ Statement by Amb. Wang Qun, 2008 Meeting of States Parties to the CCW, Geneva, 21 November 2008, www.fmprc.gov.cn.

fused cluster.⁹⁰ Additionally, a number of China's ballistic missile systems are credited with having warheads that contain conventional explosive submunitions, but few details are available.⁹¹

Cluster Munitions Produced in China⁹²

Type	Caliber	Carrier Name	Number	Submunition Type
Projectiles	120mm	Type W01	30	DPICM
	122mm	Type-83	30	Type-81 DPICM
	130mm	Type-59	35	Type-81 DPICM
	152mm	Type-62	63	Type-81 DPICM
	152mm	Type-66	63	Type-81 DPICM
	155mm	Unknown	72	Type-81 DPICM
	203mm	Unknown	100	DPICM
Bombs		Anti-Runway	12	Unknown
		Anti-Tank	16	Unknown
		BL-755 clone	147	Unknown
		340 Kg.	189	Unknown
		Type 2	42	AP bomblets
	Type 2	26	AT bomblets	
	Type 2	28	APAM	
Rockets	107mm	Type-63	16	Type-81 DPICM
	122mm	Type-81	39	Type-90 DPICM
	122mm	Type-90A	39	DPICM
	273mm	WM-80	320	DPICM
	302mm	WS-1, -1B, -1E	–	DPICM, CEM,SFW
	320mm	WS-2	–	DPICM, CEM, SFW

While the full extent of Chinese exports of cluster munitions is not known, explosive remnants of war from cluster munitions of Chinese origin have been found in Iraq, Israel, Lebanon, and Sudan. The non-state armed group Hezbollah fired over 100 Chinese Type-81 122mm rockets (containing Type-90 dual purpose improved conventional munition –DPICM– submunitions; these submunitions are also called MZD-2) into northern Israel in July/August 2006. Submunitions from these weapons were also found in southern Lebanon by UN and Lebanese deminers after the cessation of the conflict.⁹³

Another type of DPICM submunition of Chinese origin, called Type-81, was found and photographed by American deminers in Iraq in 2003.⁹⁴ The United States military's unexploded ordnance identification guide also identifies the Chinese 250kg Type-2 dispenser as being present in Iraq.⁹⁵ Additionally, the NGO Landmine Action photographed a Rockeye type cluster bomb with Chinese-language external markings in Yei, Sudan in October 2006.

⁹⁰ Sichuan Aerospace Industry Corporation, "Our Products," www.scaic.com.

⁹¹ Chinese ballistic missile systems credited with being capable of delivering conventional explosive submunitions among the warhead options include the DF-11, DF-15, DF-21, and M-7 (Project 8610). For details, see Duncan Lennox, *Jane's Strategic Weapons Systems 46* (Surrey, UK: Jane's Information Group Limited, January 2007).

⁹² The primary sources for information on China's cluster munitions are Robert Hewson, ed., *Jane's Air-Launched Weapons*, Issue 44 (Surrey, UK: Jane's Information Group Limited, 2004), p. 837, and Leland S. Ness and Anthony G. Williams, eds., *Jane's Ammunition Handbook 2007–2008* (Surrey, UK: Jane's Information Group Limited, 2007). This is supplemented with information from US Defense Intelligence Agency, Department of Defense, "Improved Conventional Munitions and Selected Controlled-Fragmentation Munitions (Current and Projected) DST-1160S-020-90," 8 June 1990, partially declassified and made available to Human Rights Watch under a Freedom of Information Act request.

⁹³ Human Rights Watch "Lebanon/Israel: Hezbollah Hit Israel with Cluster Munitions during Conflict," Press release, Jerusalem, 18 October 2006, www.hrw.org.

⁹⁴ Colin King, ed., *Jane's Explosive Ordnance Disposal 2007-2008*, CD-edition, 15 January 2008, (Surrey, UK: Jane's Information Group Limited, 2008).

⁹⁵ US Navy Explosive Ordnance Disposal Technical Division, "Iraq Ordnance Identification Guide, Dispenser, Cluster and Launcher-2," maic.jmu.edu.

CUBA

The Republic of Cuba has not signed the Convention on Cluster Munitions. It did not participate in the diplomatic process that led to the development, negotiation, and signing of the convention in Oslo in December 2008.

Cuba is party to the Convention on Conventional Weapons (CCW), but has not yet ratified Protocol V on Explosive Remnants of War.

In November 2008, as CCW negotiations on cluster munitions were failing to reach agreement, Cuba stated that it supported the adoption of an international instrument in the framework of the CCW which urgently addressed the humanitarian concerns associated with cluster munitions. Cuba said that it considered the UN to be the only framework in which to negotiate an international instrument that would be generally effective in the field of disarmament. Cuba stated it supported the prohibition of some cluster munitions because of their grave humanitarian impact on civilian populations and indiscriminate nature, but that it would not support the inclusion of a definition of cluster munitions that was based on the Convention on Cluster Munitions. Cuba favored the inclusion of a transition period before obligations took effect, but stated it should be as short as possible.⁹⁶

Jane's Information Group lists Cuba as possessing KMG-U dispensers that deploy submunitions, and RBK-250, RBK-275, and RBK-500 cluster bombs.⁹⁷

EGYPT

The Arab Republic of Egypt has not signed the Convention on Cluster Munitions. Egypt is not party to the Convention on Conventional Weapons (CCW), but regularly attends CCW meetings as an observer. Egypt is a producer, importer, and stockpiler of cluster munitions.

Cluster Munition Ban Policy

Egypt expressed interest in attending the first conference of the Oslo Process in February 2007 and was invited to participate by the government of Norway. During the conference, Egypt acknowledged that cluster munitions “have proven to cause high levels of civilian deaths and injury both during and after armed conflicts.” It stated its support for the Oslo Process as a “timely and necessary” initiative, but said that work should also continue in the CCW because “an inclusive approach—one that included major users and producers—offers the best way forward to reduce the humanitarian impact of these weapons and to guarantee the needed wide adherence and compliance.”⁹⁸

Egypt suggested a “gradual and incremental process towards...regulating cluster munitions” and proposed three elements: a prohibition on use against civilian targets and in areas where civilians and combatants co-mingle; gradual disposal of stocks older than 20 years and those with high failure rates; and, post-conflict remedial measures with clear responsibility for users of the weapons for clearance and victim compensation.⁹⁹ At the conclusion, Egypt endorsed the Oslo Declaration, committing states to conclude a new convention prohibiting cluster munitions that cause unacceptable harm to civilians in 2008.

⁹⁶ Statement of Cuba, Fifth 2008 Session of the CCW Group of Governmental Experts on Cluster Munitions, Geneva, 4 November 2008. Notes by Landmine Action.

⁹⁷ Robert Hewson, ed., *Jane's Air-Launched Weapons*, Issue 44 (Surrey, UK: Jane's Information Group Limited, 2004), p. 837.

⁹⁸ Statement by Ehab Fawzy, Deputy Assistant Foreign Minister for International Political Affairs, Oslo Conference on Cluster Munitions, 22 February 2007. Notes by CMC/WILPF.

⁹⁹ Ibid.

Egypt attended all three of the subsequent international conferences to develop the convention text in Lima (May 2007), Vienna (December 2007), and Wellington (February 2008), as well as regional conferences in Livingstone (March/April 2008), and Beirut (November 2008). Egypt attended the formal negotiations in Dublin in May 2008 as an observer.

During the Lima conference, Egypt proposed that the future convention prohibit cluster munitions without self-destruct mechanisms immediately and other cluster munitions after a transition period. Egypt also proposed that states should destroy cluster munitions produced before 1988 within six to 11 years. Egypt called for strong provisions on the responsibilities of past users of cluster munitions, and proposed that users should bear the cost of clearance and compensation of civilian victims.¹⁰⁰

At the Vienna conference, Egypt said that arguments for so-called smart cluster munitions were not convincing and would lead to a discriminating regime that would allow some countries to continue to use and produce munitions. It reiterated its call for users and producers to pay compensation to affected states. Egypt also stated that entry into force of the convention should explicitly depend on ratification by users and producers of cluster munitions.¹⁰¹

Following the Vienna conference, Egypt appeared to distance itself from the Oslo Process. It attended the Wellington conference, but did not endorse the Wellington Declaration, committing states to participate fully in the Dublin negotiations on the basis of the draft text. During the African regional conference in Livingstone, Egypt was the only country to refuse to endorse the Livingstone Declaration, which called for a comprehensive treaty with a prohibition that should be “total and immediate.”¹⁰² Egypt chose to attend the Dublin negotiations as an observer, and did not make substantial contributions. Egypt did not attend the Signing Conference in Oslo in December 2008.

Use, Production, Stockpiling, and Transfer

Egypt has said that it has never used cluster munitions.¹⁰³ However, it does have a stockpile and has produced and imported the weapons. The Helipolis Company for Chemical Industries has produced 122mm and 130mm caliber artillery projectiles which contain 18 and 28 M42D dual purpose improved conventional munitions (DPICM) submunitions, respectively.¹⁰⁴ The SAKR Factory for Developed Industries has developed and produced two types of 122mm surface-to-surface rockets: the SAKR-18 and SAKR-36, containing 72 and 98 M42D submunitions respectively.¹⁰⁵ A number of SAKR rockets were found in Iraq’s arsenal by UN weapons inspectors, possibly indicating export by Egypt.¹⁰⁶

Egypt is also a significant recipient of exports of cluster munitions, primarily from the United States. The US provided at least 760 CBU-87 cluster bombs, each containing 202 bomblets, to Egypt in the early 1990s.¹⁰⁷ Lockheed Martin Corporation was awarded US\$36.1 million to produce 485 M26A1 Extended Range Multiple Launch Rocket System (MLRS) rockets, each containing 644 submunitions, for Egypt in November 1991.¹⁰⁸ Between 1970 and 1995, the US supplied Egypt with 1,300 Rockeye cluster bombs,

¹⁰⁰ Proposal by Egypt for the Amendment of the Lima Discussion Text, Lima Conference on Cluster Munitions, 23–25 May 2007, www.wilpf.int.ch.

¹⁰¹ Statement of Egypt, Vienna Conference on Cluster Munitions, 5 December 2007. Notes by CMC/WILPF.

¹⁰² Livingstone Declaration, Livingstone Conference on Cluster Munitions, 1 April 2008; CMC, “Report on the Livingstone Conference on Cluster Munitions, 31 March – 1 April 2008,” www.stopclustermunitions.org.

¹⁰³ Statement of Egypt, Oslo Conference on Cluster Munitions, 22 February 2007.

¹⁰⁴ Leland S. Ness and Anthony G. Williams, eds., *Jane’s Ammunition Handbook 2007–2008* (Surrey, UK: Jane’s Information Group Limited, 2007), pp. 582, 589–590.

¹⁰⁵ *Ibid.*, p. 707.

¹⁰⁶ The SAKR rockets were the “cargo variant” but had been modified by the Iraqis to deliver chemical weapons. “Sixteenth quarterly report on the activities of the United Nations Monitoring, Verification and Inspection Commission in accordance with paragraph 12 of Security Council resolution 1284 (1999),” S/2004/160, Annex 1, p. 10.

¹⁰⁷ One report indicates Egypt purchased 160 CBU-87 cluster bombs in 1991: “Dozen + Mideast Nations Bought Weapons since Gulf War,” *Aerospace Daily*, 10 December 1991. Another report indicates Egypt then purchased 600 CBU-87 cluster bombs in 1992: Barbara Starr, “Apache buy will keep Israeli edge,” *Jane’s Defence Weekly*, 1 October 1992.

¹⁰⁸ “US Army Aviation & Missile Command Contract Announcement: DAAH01-00-C-0044,” US Department of Defense, Press release, No. 575–01, 9 November 2001, www.defenselink.mil.

each containing 247 bomblets.¹⁰⁹ Jane's Information Group also notes that KMG-U dispensers which deploy submunitions, likely produced by the Soviet Union, are in service for Egypt's aircraft.¹¹⁰

ERITREA

Eritrea has not signed the Convention on Cluster Munitions. It is not party to the Convention on Conventional Weapons.

Eritrea did not participate in any of the Oslo Process international conferences to develop the convention in Oslo, Lima, Vienna, and Wellington. It did attend the African regional conference in Livingstone from 31 March to 1 April 2008. There, Eritrea stated that it would support a ban on all weapons that kill and injure indiscriminately.¹¹¹ It endorsed the Livingstone Declaration, calling for a comprehensive treaty with a prohibition that should be “total and immediate.”¹¹²

Eritrea attended as an observer the formal convention negotiations in Dublin in May 2008. Thus, it did join other states in adopting the convention. Eritrea participated in the African regional conference in Kampala, where it stated that as an affected state it understood the problems caused by cluster munitions and supported a prohibition on the weapon.¹¹³ It endorsed the Kampala Action Plan, which declared that states should sign and “take all necessary measures to ratify the convention as soon as possible.”¹¹⁴ It attended as an observer the signing conference in Oslo in December 2008.

Eritrea has not produced cluster munitions, but it has stockpiled and used them. Eritrea reportedly inherited Chilean-manufactured CB-500 cluster bombs when it achieved independence from Ethiopia.¹¹⁵ The status and composition of current stocks is not known.

Eritrean and Ethiopian forces both used cluster munitions during their 1998–2000 border war. Eritrean aircraft attacked the Mekele airport in Ethiopia with cluster bombs in 1998.¹¹⁶

Ethiopia attacked several areas of Eritrea with cluster munitions. Ethiopian submunition duds have been found in the Asmara airport area, the Badme area, the ports of Assab and Massawa on the Red Sea coast, the Korokon Internally Displaced Persons (IDP) camp in Gash-Barka administrative sector, and the Adi Bare IDP camp in Shambiko. The Mine Action Coordination Center of the UN Mission in Ethiopia and Eritrea (UNMEE MACC) has identified approximately 30–40 strikes inside Eritrea. UNMEE reports that PTAB 2.5 and BL-755 submunitions have been encountered in Eritrea.¹¹⁷

A UN explosive ordnance disposal team in the area of Melhadega in Eritrea identified and destroyed a dud M20G dual purpose improved conventional munition (DPICM) submunition of Greek origin in October 2004, but it is not known who used the weapon.¹¹⁸

¹⁰⁹ US Defense Security Assistance Agency, Department of Defense, “Cluster Bomb Exports under FMS, FY1970-FY1995,” 15 November 1995, obtained by Human Rights Watch in a Freedom of Information Act request, November 28, 1995.

¹¹⁰ Robert Hewson, ed., *Jane's Air-Launched Weapons*, Issue 44 (Surrey, UK: Jane's Information Group Limited, 2004), p. 838.

¹¹¹ CMC, “Report on the Livingstone Conference on Cluster Munitions, 31 March – 1 April 2008,” www.stopclustermunitions.org.

¹¹² Livingstone Declaration, Livingstone Conference, 1 April 2008.

¹¹³ CMC, “Report on the Kampala Conference on the Convention on Cluster Munitions,” September 2008, www.stopclustermunitions.org.

¹¹⁴ *Ibid.*

¹¹⁵ Rae McGrath, “Cluster Bombs: The Military Effectiveness and Impact on Civilians of Cluster Munitions,” (London: Landmine Action, 2000), p. 38.

¹¹⁶ See Handicap International, “Circle of Impact: The Fatal Footprint of Cluster Munitions on People and Communities,” 2007, en.handicapinternational.be, p. 52, citing Eritrea–Ethiopia Claims Commission, Partial Award – Central Front – Ethiopia's Claim 2 between The Federal Democratic Republic of Ethiopia and the State of Eritrea, The Hague, 28 April 2004, p. 24.

¹¹⁷ Mines Action Canada, Actiongrouplandmine.de, and Landmine Action, *Explosive remnants of war and mines other than anti-personnel mines: Global Survey 2003-2004* (London: Landmine Action, 2005), pp. 60, 64–65, www.minesactioncanada.org; and Landmine Action, *Explosive remnants of war: Unexploded ordnance and post-conflict communities* (London: Landmine Action, 2002), pp. 50–53.

¹¹⁸ UNMEE MACC, “Weekly Update,” Asmara, 4 October 2004, p. 4.

ESTONIA

The Republic of Estonia has not signed the Convention on Cluster Munitions. Estonia is party to the Convention on Conventional Weapons (CCW) and ratified Protocol V on Explosive Remnants of War on 18 December 2006.

According to the Minister of Foreign Affairs, “Estonia has never produced or used cluster munitions.” The minister also disclosed in February 2009 that Estonia possesses “a small amount” of DM-632 155mm projectiles which it retains for “training and defensive purposes.”¹¹⁹

Cluster Munition Ban Policy

Estonia first participated in the Oslo Process at the Lima conference in May 2007. It attended subsequent Oslo Process meetings in Vienna, Wellington, and Dublin and the regional conference in Brussels.

During the Lima conference in May 2007, Estonia stated that it would support a proposal by Germany for a draft protocol on cluster munitions in the CCW. Although adding that it was “fully devoted to support the global effort to achieve a common goal concerning the new international legally binding instrument on cluster munitions,”¹²⁰ Estonia has consistently stated its preference for work in the CCW.

During the negotiation of the Convention on Cluster Munitions in Dublin in May 2008, Estonia called for the inclusion of provisions on “interoperability” (joint military operations with states not party).¹²¹ While it joined consensus in the adoption of the convention, Estonia was uncertain as to whether it would be in a position to sign it. Estonia called the convention a remarkable achievement and the best available compromise, but stated that signature would need further consideration.¹²²

During the September 2008 CCW Group of Governmental Experts (GGE) session on cluster munitions, Estonia supported proposals for a draft CCW instrument that would permit states to choose from any of a series of options by which to exclude cluster munitions from prohibition.¹²³ Estonia stated that it would not support proposals for a definition based on a limited number of submunitions or weight, claiming that they would hinder the development of effective and reliable cluster munitions in the future. Estonia maintained that the most important parameter in assessing the reliability of cluster munitions was the failure rate and stated that an appropriate benchmark would be 1%.¹²⁴ At that time, Estonia also called for a transition period of 10 years before any new requirements took effect.¹²⁵ During the November 2008 GGE session, Estonia stated that a transition period might be even longer, suggesting 15 years.¹²⁶

The CMC-supported Ban Bus advocacy initiative visited Tallinn, Estonia on 24 November 2008, nearing the end of its 12,000km journey through Europe to urge governments to sign the Convention on Cluster Munitions in Oslo. Campaigners met with the parliamentary adviser to the Foreign Affairs Committee who indicated that Estonia would not be able to sign the convention in Oslo but would consider it in time.¹²⁷

In February 2009, the Minister of Foreign Affairs stated that Estonia’s priority “has always been the negotiations in the CCW framework as they include all major cluster munitions producers and owners and concentrate to the limitation process.” Estonia regretted that the CCW was not able to achieve agreement on a draft protocol in 2008 and stated it would continue to support the CCW’s efforts on cluster munitions

¹¹⁹ Letter from Urmas Paet, Minister of Foreign Affairs, 12 February 2009. The DM-632 projectile contains 63 DM-1383 dual purpose improved conventional munition (DPICM) submunitions equipped with a pyrotechnic self-destruct back-up fuze. The DM designation is German, but there is no specific information on transfer of these weapons from Germany to Estonia.

¹²⁰ Statement of Estonia, Lima Conference on Cluster Munitions, 23–25 May 2007.

¹²¹ Statement of Estonia, Committee of the Whole on Article 1, Dublin Diplomatic Conference on Cluster Munitions, 19 May 2008. Notes by Landmine Action.

¹²² Statement of Estonia, Closing Ceremony, Dublin Diplomatic Conference, 30 May 2008. Notes by Landmine Action.

¹²³ Statement of Estonia, Fourth 2008 Session of the CCW GGE on Cluster Munitions, Geneva, 1 September 2008. Notes by Landmine Action.

¹²⁴ *Ibid.*

¹²⁵ *Ibid.*

¹²⁶ Statement of Estonia, Fifth 2008 Session of the CCW GGE on Cluster Munitions, Geneva, 3 November 2008. Notes by Landmine Action.

¹²⁷ “Estonia,” The Ban Bus Blog, 26 November 2008, thebanbus.org.

in 2009. “We believe a future CCW protocol on cluster munitions and CCM [the Convention on Cluster Munitions] could co-exist side by side similarly to the Amended Protocol II of CCW and the Ottawa Convention on landmines.”¹²⁸

ETHIOPIA

The Federal Democratic Republic of Ethiopia has not signed the Convention on Cluster Munitions. It is not party to the Convention on Conventional Weapons.

Ethiopia had limited participation in the Oslo Process to develop the convention. It attended the Belgrade conference for affected states in October 2007 and the international conference in Vienna in December 2007.¹²⁹ Ethiopia attended the formal negotiations in Dublin in May 2008 as an observer. It issued a statement saying its attendance as an observer “should not...cast any doubt on its acceptance of, and commitment to the Oslo Process, which it principally and, to a large extent, substantively supports.”¹³⁰ Ethiopia raised concerns about the need for all states in its region to join the convention.

During a meeting with campaigners in October 2008, a representative of the Ministry of Foreign Affairs indicated that it was not a question of whether Ethiopia would sign, but rather when.¹³¹ It did not attend the signing conference in Oslo in December 2008.

Ethiopia has not produced cluster munitions, but used cluster munitions during its conflict with Eritrea between 1998 and 2000, and is believed to still possess cluster munition stockpiles, including UK-produced BL-755 cluster bombs, Soviet-produced PTAB cluster bombs, and Chilean-produced CB-500 cluster bombs.¹³²

Ethiopia attacked several areas of Eritrea with cluster munitions. Ethiopian aircraft attacked the Asmara airport with cluster bombs in 1998, and also dropped BL-755 bombs in the Gash-Barka province of western Eritrea.¹³³ Ethiopian submunition duds have also been found in the Badme area, the ports of Assab and Massawa on the Red Sea coast, the Korokon Internally Displaced Persons (IDP) camp in Gash-Barka, and the Adi Bare IDP camp in Shambiko. The Mine Action Coordination Center of the UN Mission in Ethiopia and Eritrea (UNMEE MACC) has identified approximately 30–40 strikes inside Eritrea. UNMEE reports that PTAB 2.5 and BL-755 submunitions have been encountered in Eritrea.¹³⁴

¹²⁸ Letter from Urmas Paet, Minister of Foreign Affairs, 12 February 2009.

¹²⁹ It did not attend the other international conferences to develop the convention in Oslo, Lima, and Wellington, or the African regional conferences in Livingstone and Kampala.

¹³⁰ “Perspectives and Considered Position of the Government of the Federal Democratic Republic of Ethiopia on the Global Process to Conclude a Legally Binding Treaty Aimed at Banning Cluster Munitions,” Dublin Diplomatic Conference on Cluster Munitions, CCM/CRP/1, 19 May 2008.

¹³¹ CMC, “CMC Newsletter” Issue 4, October 2008, 17 November 2008, www.stopclustermunitions.org. NGO campaigners have been active in Ethiopia, notably the Rehabilitation and Development Organization (RaDO) and Landmine Survivors Network. Ethiopian cluster munition survivors Berihu Mesele and Aynalem Zenebe have been strong campaigners in their home country and were present at many of the international and regional conferences of the Oslo Process. Both were part of the “Ban Advocates,” an initiative of Handicap International Belgium which brought together individuals affected by cluster munitions from many regions in the world. At the signing conference in December 2008, Berihu Mesele delivered a statement in the name of all of the Ban Advocates. Handicap International, “Ban Advocates Blog,” blog.banadvocates.org.

¹³² Mines Action Canada, Actiongrouplandmine.de, and Landmine Action, *Explosive remnants of war and mines other than anti-personnel mines: Global Survey 2003–2004* (London: Landmine Action, 2005), pp. 60, 64–65, www.minesactioncanada.org; Landmine Action, *Explosive remnants of war: Unexploded ordnance and post-conflict communities* (London: Landmine Action, 2002), pp. 50–53; and Rae McGrath, *Cluster Bombs: The Military Effectiveness and Impact on Civilians of Cluster Munitions* (London: Landmine Action, 2000), p. 38.

¹³³ Mines Action Canada, Actiongrouplandmine.de, and Landmine Action, *Explosive remnants of war and mines other than anti-personnel mines: Global Survey 2003–2004* (London: Landmine Action, 2005), pp. 60; 64–65, www.minesactioncanada.org.

¹³⁴ *Ibid.*; and Landmine Action, *Explosive remnants of war: Unexploded ordnance and post-conflict communities* (London: Landmine Action, 2002), pp. 50–53.

Eritrea also dropped cluster munitions on Ethiopia in the same conflict. Eritrean aircraft attacked the Mekele airport in Ethiopia with cluster bombs in 1998.¹³⁵

FINLAND

The Republic of Finland has not signed the Convention on Cluster Munitions. Finland participated in the Oslo Process from the outset, and adopted the convention at the end of the negotiations in Dublin in May 2008, but always expressed reservations about the process and the convention text.

Finland is party to the Convention on Conventional Weapons (CCW) and ratified Protocol V on Explosive Remnants of War on 23 March 2005. Finland has been an active participant in and supporter of the work on cluster munitions in the CCW in recent years.

Cluster Munition Ban Policy

Finland engaged with the issue of cluster munitions at the CCW Third Review Conference in November 2006 as President of the European Union (EU). Finland, on behalf of the EU, submitted a proposal for a mandate specifically on cluster munitions, calling for the establishment of a Group of Governmental Experts (GGE) “to address the humanitarian impact of cluster munitions, with the purpose of elaborating recommendations for further action in the CCW.”¹³⁶ When the EU proposal did not garner consensus, Finland stated, on behalf of the EU, that “we all share the responsibility in ensuring that this matter be dealt with urgently and effectively, and the CCW provides an appropriate forum for this.”¹³⁷

However, Finland did not then join 25 nations in supporting a declaration calling for an international agreement that would prohibit the use of cluster munitions “within concentrations of civilians,” prohibit the use of cluster munitions that “pose serious humanitarian hazards because they are for example unreliable and/or inaccurate,” and require destruction of stockpiles of such cluster munitions.¹³⁸

Finland was a participant throughout the Oslo Process, from the launch in Oslo in February 2007, to the three international diplomatic conferences to develop the convention text in Lima, Vienna, and Wellington, and as well the formal negotiations in Dublin in May 2008. However it attended the Oslo signing conference in December 2008 only as an observer.

At the first meeting of the Oslo Process in February 2007, Finland stated it was ready to participate in addressing the humanitarian problems caused by cluster munitions. It was one of 46 countries to endorse the Oslo Declaration, committing to conclude in 2008 a new international instrument banning cluster munitions that cause unacceptable harm to civilians.¹³⁹

At the Lima conference in May 2007, Finland began to call for a broad exception from a prohibition for cluster munitions with self-destruct and self-neutralization mechanisms. It said that cluster munitions with such technical features performed differently than those without. Finland stated that the military utility of cluster munitions should be taken into account in determining the extent of a prohibition and that only certain cluster munitions would need to be prohibited.¹⁴⁰ It argued for a long timeframe for stockpile

¹³⁵ See Handicap International, “Circle of Impact: The Fatal Footprint of Cluster Munitions on People and Communities,” 2007, en.handicapinternational.be, p. 52, citing Eritrea–Ethiopia Claims Commission, Partial Award – Central Front – Ethiopia’s Claim 2 between The Federal Democratic Republic of Ethiopia and the State of Eritrea, The Hague, 28 April 2004, p. 24.

¹³⁶ Proposal for a decision on a mandate on cluster munitions, presented by Finland on behalf of the EU, Third Review Conference of the States Parties to the CCW, Geneva, CCW/CONF.III/WP.14, 15 November 2006.

¹³⁷ Statement by Amb. Kari Kahiluoto, Permanent Mission of Finland to the Conference on Disarmament, on behalf of the EU, Third Review Conference of the States Parties to the CCW, Geneva, 17 November 2007.

¹³⁸ Declaration on Cluster Munitions, Third Review Conference of the States Parties to the CCW, CCW/CONF.III/WP.18, Geneva, 17 November 2006.

¹³⁹ Statement of Finland, Oslo Conference on Cluster Munitions, 23 February 2007. Notes by CMC/WILPF.

¹⁴⁰ Statement of Finland, Session on Definition and Scope, Lima Conference on Cluster Munitions, 24 May 2007. Notes by CMC/WILPF.

destruction due to the high financial, environmental, and technical costs. Finland also spoke of the need for a transition period to allow countries to replace the military capability of cluster munitions.¹⁴¹

At the Vienna conference in December 2007, Finland reiterated that only certain cluster munitions caused unacceptable harm and stated that problems could be solved by improving their reliability. Finland expressed the view that a proper response to the dangers of cluster munitions would be effective implementation of existing international humanitarian law and CCW Protocol V on Explosive Remnants of War, and the banning of cluster munitions without self-destruct mechanisms. It said that a broad categorical ban would not be supported by the major users and producers.¹⁴²

At the Wellington conference in February 2008, Finland restated its arguments against a categorical ban, saying this would result in countries needing to use large quantities of unitary munitions and would actually increase harm to civilians.¹⁴³ It also called for the inclusion of provisions to facilitate “interoperability” (joint military operations with states not party).¹⁴⁴ Finland associated itself with the so-called “like-minded” group that put forth a number of proposals strongly criticized by the CMC as weakening the draft text. It supported the joint statement of the like-minded group at the end of the conference expressing disappointment with the proceedings and the unwillingness to incorporate their proposals into the draft text.¹⁴⁵ Finland subscribed to the Wellington Declaration, indicating its intention to participate fully in the formal negotiations in Dublin, but stated that as the draft stood, Finland was not prepared to support it.¹⁴⁶

At the Dublin Diplomatic Conference in May 2008, Finland refined its position to advocate for an exception for cluster munitions with electronic self-destruction mechanisms.¹⁴⁷ It was skeptical of some of the technical criteria that ended up in the convention, saying that limiting the number of submunitions would not be effective and would result in the massive use of unitary munitions, while weight restrictions would only result in the creation of bigger bombs.¹⁴⁸ It continued to lobby for provisions on interoperability.¹⁴⁹

Finland joined consensus on the adoption of the convention. While stating that the new convention would be a remarkable milestone in international humanitarian law and victim assistance, Finland did not make a commitment to sign, saying that the text would be “carefully considered in capital.”¹⁵⁰

On 29 October 2008, as part of the Global Week of Action on cluster munitions, the Peace Union of Finland and the Committee of 100 delivered a petition to Minister of Foreign Affairs Alexander Stubb urging Finland to sign in Oslo. The Red Cross of Finland, Finnish UNICEF and FinnChurchAid also made a joint appeal to the government and participated in a press conference and seminar on the issue. The Ban Bus, a mobile advocacy initiative to promote awareness on cluster munitions and the convention, stopped in Helsinki during its 12,000km trip through 18 European countries. This coincided with a presentation on the Oslo Process in the Finnish parliament.¹⁵¹

On 31 October 2008, Finland announced that it would not sign the convention in Oslo.¹⁵² Minister of Defense Jyri Häkämies stated that “cluster munitions play an important role in the credibility [and] autonomy... of Finnish defense.” The Finnish military claimed that due to costs and other factors it would not be possible to replace Finland’s stockpile of cluster munitions with alternative weapons within five to

¹⁴¹ Statement of Finland, Session on Storage and Stockpile Destruction, Lima Conference, 24 May 2007. Unofficial transcription by WILPF.

¹⁴² Statement of Finland, Session on General Obligations and Scope, Vienna Conference on Cluster Munitions, 6 December 2007. Notes by CMC/WILPF.

¹⁴³ Statement of Finland, Session on Definitions, Wellington Conference on Cluster Munitions, 19 February 2008. Notes by CMC.

¹⁴⁴ Statement of Finland, Session on Definition and Scope, Wellington Conference, 18 February 2008. Notes by CMC.

¹⁴⁵ Statement by France on behalf of like-minded countries, Wellington Conference, 22 February 2008.

¹⁴⁶ Statement of Finland, Closing Statement, Wellington Conference, 22 February 2008. Notes by CMC.

¹⁴⁷ Statement of Finland, Informal Discussions on Definitions, Dublin Diplomatic Conference on Cluster Munitions, 20 May 2008.

¹⁴⁸ Statements of Finland, Informal Discussions on Definitions, Dublin Diplomatic Conference, 21 May 2008 and 22 May 2008. Notes by Landmine Action.

¹⁴⁹ Statement of Finland, Committee of the Whole on Article 1, Dublin Diplomatic Conference, 19 May 2008. Notes by Landmine Action.

¹⁵⁰ Statement of Finland, Closing Ceremony, Dublin Diplomatic Conference, 30 May 2008. Notes by Landmine Action.

¹⁵¹ CMC, “The Ban Bus in Finland, 26–27 November 2008,” 28 November 2008, www.stopclustermunitions.org.

¹⁵² “Disarmament: Finland Refuses to Sign Cluster Bomb Ban,” *Europolitics*, 4 November 2008. In a February 2009 letter to Human Rights Watch, Finland said the decision was made by the President and the Cabinet Committee on Foreign and Security Policy. Letter from Mari Männistö, Attaché, Unit for Arms Control, Ministry of Foreign Affairs, 26 February 2009.

10 years.¹⁵³ Finland has also cited security concerns over its border with Russia for its refusal to sign the convention.¹⁵⁴

Finland was represented at the Oslo signing conference by its ambassador to Norway, but did not make a statement to the plenary.

In February 2009, the Ministry of Foreign Affairs told Human Rights Watch that “the Cluster Munitions Convention will be discussed again after an evaluation of defence capabilities has been carried out and the international development work along with the supply and cost options of cluster munitions have been analysed. The Cabinet Committee on Foreign and Security Policy will follow the situation on an annual basis.”¹⁵⁵

In February, the Ministry of Foreign Affairs also stated, “Finland considers the Cluster Munition Convention significant from the humanitarian perspective and supports the objective of the Convention and efforts to make the Convention universal. Finland will participate in the implementation of the Cluster Munitions Convention through humanitarian mine action.”¹⁵⁶

Use, Production, Stockpiling, and Transfer

According to the Ministry of Foreign Affairs, “Finland does not produce cluster munitions nor has is never [sic] used them.”¹⁵⁷

In 2005, a Spanish company announced that it was going to co-produce with the Finnish defense company Patria¹⁵⁸ a 120mm mortar projectile with submunitions.¹⁵⁹ In 2006, Patria advertised a 120mm mortar projectile that contains 21 submunitions, stating that the dual purpose submunitions contain “electronic fusing...which involves both self-destruction and self-neutralization features, guarantees zero risk of dangerous duds.”¹⁶⁰ During the Dublin negotiations in May 2008, Finland said that it was in the process of acquiring electronically-fuzed cluster munitions from a Spanish manufacturer.¹⁶¹ However, there is no indication that a production line was ever opened up, and the deal was cancelled in light of Spain’s decision to sign the Convention on Cluster Munitions.¹⁶²

Finland has acknowledged possessing one type of cluster munition, the DM-662 155mm artillery projectile which contains 49 dual purpose improved conventional munition (DPICM) submunitions with back-up self-destruct fuzes.¹⁶³

In January 2006, the Dutch Ministry of Defense announced the transfer of 18 multiple launch rocket system (MLRS) launchers to Finland.¹⁶⁴ It was reported that 400 M26 rockets (each containing 644 M77 DPICM submunitions) were to be included in the sale for qualification testing and conversion into training rockets.¹⁶⁵

¹⁵³ “Disarmament: Finland refuses to sign cluster bomb ban,” *Europolitics*, 4 November 2008; and “Finland opts out of cluster munitions ban treaty,” *BBC Monitoring European*, 3 November 2008.

¹⁵⁴ “Why is Finland reluctant to ban cluster bombs?” *Mainichi Daily News*, 7 December 2008, mdn.mainichi.jp.

¹⁵⁵ Letter from Mari Männistö, Ministry of Foreign Affairs, 26 February 2009. Similarly, a November media report said Finland will review its position on the convention “once studies on the capacity of the Finnish armed forces have been carried out, as well as studies on the existence, availability and cost of alternative systems.” “Disarmament: Finland refuses to sign cluster bomb ban,” *Europolitics*, 4 November 2008.

¹⁵⁶ Letter from Mari Männistö, Ministry of Foreign Affairs, 26 February 2009.

¹⁵⁷ *Ibid.*

¹⁵⁸ Patria is owned by the State of Finland and the European Aeronautic Defense and Space Company NV (EADS).

¹⁵⁹ The Spanish company Instalaza announced, “The Finnish Defence Forces have selected the Spanish 120 mm Mortar Cargo Round MAT-120, developed and produced by the Spanish company Instalaza S.A., in order to be adapted for its specific needs... The modified round will be produced by co-operation between Instalaza S.A. and Patria Weapon Systems. The contract was signed at the end of 2004.” Instalaza SA, “News: Finland Chooses Instalaza’s Mat – 120 Mortar Cargo Round,” January 2005, www.instalaza.es.

¹⁶⁰ Patria Weapons Systems Oy., “Weapons Systems: Products for Defence and Peacekeeping,” June 2006, p. 11, www.patria.fi.

¹⁶¹ Statement of Finland, Informal Discussions on Definitions, Dublin Diplomatic Conference, 20 May 2008.

¹⁶² “Finland opts out of cluster munitions ban treaty,” *BBC Monitoring European*, 3 November 2008.

¹⁶³ Email from Tiina Raijas, Ministry of Defense, 8 June 2005.

¹⁶⁴ Dutch Ministry of Defense “Finland Receives Two MLRS Batteries,” Press release, 13 January 2006, translated by Defense-aerospace.com.

¹⁶⁵ Joris Janssen, “Dutch Plan to Update Cluster Weapons,” *Jane’s Defence Weekly*, 19 October 2005.

GEORGIA

Georgia has not signed the Convention on Cluster Munitions. It participated in two of the Oslo Process meetings to develop the convention—the regional conference in Brussels in October 2007 and the international conference in Vienna in December 2007—as well as the signing conference in Oslo on 3 December 2008 as an observer, but did not make any interventions.

Georgia is party to the Convention on Conventional Weapons (CCW) and ratified Protocol V on Explosive Remnants of War on 22 December 2008. It has participated in CCW work on cluster munitions in recent years.

Both Georgian and Russian forces used cluster munitions during their conflict in August 2008, which occurred only three months after 107 states had formally adopted the Convention on Cluster Munitions, which comprehensively bans the weapon, at the end of negotiations in May.

At first, Georgia repeatedly blamed Russia for using cluster munitions, but failed to acknowledge its own use. For example, the Ministry of Foreign Affairs issued a statement on 15 August 2008 that said, “It must be especially stressed, that the use of cluster munitions against civilian populations is especially cynical next to the background of the efforts applied by the international community to restrict and even ban such types of weaponry.”¹⁶⁶ The same day, Georgian President Mikheil Saakashvili, in a press conference with United States Secretary of State Condoleezza Rice, described cluster munitions as “an inhuman weapon” and the Russians as “21st century barbarians” and “cold-blooded killers” for using them against civilians.¹⁶⁷

During the CCW discussions on a future instrument on cluster munitions on 1 September 2008, Georgia and Russia accused each other of using cluster munitions. Georgia, while not acknowledging its own use of the weapon, called Russia’s use of cluster munitions “barbaric” and appealed to the international community to draw conclusions about Russia’s denial that it used cluster munitions during the conflict.¹⁶⁸

Shortly thereafter, Georgia publicly admitted its own use of the weapon, but claimed that its cluster munitions “were never used against civilians, civilian targets and civilian populated or nearby areas.”¹⁶⁹

In September 2008, the CMC launched an extensive letter writing action targeting Georgian President Saakashvili and Georgian missions around the world to urge Georgia to sign the Convention on Cluster Munitions.¹⁷⁰ While condemning Georgia’s decision to use the weapon, the CMC welcomed Georgia’s public acknowledgment of its use and hoped that it could be encouraged to take steps toward joining the convention.¹⁷¹ During the October 2008 Global Week of Action on cluster munitions, campaigners in Georgia organized a roundtable with representatives from the ministries of foreign affairs, education, defense, and health, labor, and social protection in the Georgian National Museum. The meeting received extensive media coverage. Public outreach activities included social forums and online campaigns to collect signatures for the People’s Treaty.¹⁷²

In October 2008, then-First Deputy Minister of Defense Batu Kutelia said that Georgia’s cluster munitions had important military utility, helping Georgia “contain the Russians for two days.”¹⁷³ He added that the Ministry of Foreign Affairs was asking the Ministry of Defense for its opinion on the Convention

¹⁶⁶ Ministry of Foreign Affairs, “Russians Use Cluster Munitions Against Civilians,” Press release, 15 August 2008, georgiamfa.blogspot.com; See “The War in Georgia: A Caucasian journey,” *The Economist*, 21 August 2008, www.economist.com; “Georgia Demands EU, NATO to confirm Use of Cluster Bombs by Russia,” *Trend News Agency*, 16 August 2008, trend.smart.az; and Neil Cavuto, “Interview With Georgian President Mikhail Saakashvili,” *FOX News Network LLC*, 18 August 2008.

¹⁶⁷ “Remarks with Georgian President Mikhail Saakashvili,” Secretary of State Condoleezza Rice, US Department of State, 15 August 2008.

¹⁶⁸ Statement of Georgia, Fourth 2008 Session of the CCW Group of Governmental Experts on Cluster Munitions, Geneva, 1 September 2008. Notes by Landmine Action.

¹⁶⁹ Ministry of Foreign Affairs, “Response to Human Rights Watch Inquiry about the use of M85 bomblets,” Press release, 2 September 2008, georgiamfa.blogspot.com.

¹⁷⁰ CMC, “CMC Actions on Georgia Against the Use of Cluster Bombs,” 8 September 2008, www.stopclustermunitions.org.

¹⁷¹ CMC, “CMC Condemns Georgian Use of Cluster Bombs: After admitting use, Georgia must sign global treaty banning weapon,” Press release, 2 September 2008, www.stopclustermunitions.org.

¹⁷² CMC, “Global Week of Action to Ban Cluster Bombs, 27 October – 2 November 2008,” www.stopclustermunitions.org/gwoa.

¹⁷³ Interview with Batu Kutelia, First Deputy Minister of Defense, Tbilisi, 21 October 2008. High-level officials from the Ministry of Defense and Ministry of Foreign Affairs reiterated Kutelia’s assessment that cluster munitions had slowed the Russian advance and described the weapons as a deterrent. Interview with Vasil Sikharelidze, Minister of Defense, Tbilisi, 26 January 2009; and Interview with Giga Bokeria, Deputy Minister of Foreign Affairs, Tbilisi, 24 January 2009.

on Cluster Munitions. Kutelia said, “As an agency, the Ministry of Defense in principle supports this type of convention to help us diminish civilian casualties and indiscriminate attacks on populated areas. We are ready to start reviewing, but we are not ready to make a commitment to abolish them from our arsenal.... Since Georgia is still under the occupation of a foreign military [referring to Russian troops in South Ossetia and Abkhazia], it is very sensitive for us.”¹⁷⁴

In January 2009, Minister of Defense Vasil Sikharelidze told Human Rights Watch that the Ministry of Defense had recommended that Georgia not sign the Convention on Cluster Munitions at this point. He said that Georgia was considering replacing cluster munitions with an alternative, but had immediate concerns about cost and security. The Minister said, “We need something more effective and need to be able to defend ourselves.... Technically cluster munitions should be possible to replace. How quickly and what would we replace them with? We don’t know.”¹⁷⁵

Later in January, Deputy Minister of Foreign Affairs Giga Bokeria said Georgia would consider joining the convention if one of three conditions is met: the Russian military withdraw, the government received some other guarantee of security, or if it could find a way economically to replace the weapons.¹⁷⁶

Use, Production, Stockpiling, and Transfer

Georgia is not known to have produced or transferred cluster munitions, or used them prior to the August 2008 conflict. It was thought to stockpile only cluster munitions inherited from the Soviet Union: RBK cluster bombs and KMG-U aircraft dispensers that deploy submunitions.¹⁷⁷

After Georgia initially strongly criticized Russia for using cluster munitions in the conflict,¹⁷⁸ the Ministry of Defense in early September acknowledged that Georgian Armed Forces used cluster munitions against the Russian military just south of the Roki tunnel, in the area north of Tskhinvali, from 8–11 August.¹⁷⁹

However, remnants of Georgian cluster munitions were found by Human Rights Watch south of the South Ossetian administrative border in or near a band of nine villages in the north of the Gori district: Brotsleti, Ditsi, Kvemo Khviti, Meghvrekisi, Pkhvenisi, Shindisi, Tirdznisi, Zemo Khviti, and Zemo Nikozi. Georgian cluster munitions caused at least four civilian deaths and eight injuries, and caused longer-term socio-economic harm in many locations.¹⁸⁰ Civilians remain at risk as deminers expect to be clearing submunitions from 15 million m² of land contaminated by Georgian and Russian submunitions until at least August 2009.¹⁸¹

The Ministry of Defense could not explain why its cluster munitions landed in these civilian areas. It stated in October 2008 that it had opened an investigation into the situation. In February 2009, it said that the investigation was ongoing with a focus on the possibility of a “failure of the weapons system.”¹⁸²

Georgian forces used M85 submunitions delivered by Mk.-4 160mm unguided surface-to-surface rockets, weapons that it bought pre-packaged from Israel. The Ministry of Defense said Georgia launched 24 volleys of 13 Mk.-4 rockets each.¹⁸³ The rockets would have carried 32,448 M85 submunitions.

¹⁷⁴ Interview with Batu Kutelia, First Deputy Minister of Defense, Tbilisi, 21 October 2008.

¹⁷⁵ Interview with Vasil Sikharelidze, Minister of Defense, Tbilisi, 26 January 2009.

¹⁷⁶ Interview with Giga Bokeria, Deputy Minister of Foreign Affairs, Tbilisi, 24 January 2009.

¹⁷⁷ Human Rights Watch, “Survey of Cluster Munition Policy and Practice,” February 2007, p. 28, www.hrw.org.

¹⁷⁸ Human Rights Watch, “A Dying Practice: Use of Cluster Munitions by Russia and Georgia in August 2008,” April 2009, p. 64, www.hrw.org.

¹⁷⁹ Ministry of Foreign Affairs, “Response to Human Rights Watch Inquiry about the use of M85 bomblets,” Press release, 2 September 2008, georgiamfa.blogspot.com; Interview with Batu Kutelia, First Deputy Minister of Defense, Tbilisi, 21 October 2008; and Response of the Georgian Ministry of Defense to Human Rights Watch Questionnaire, 12 February 2009.

¹⁸⁰ Human Rights Watch, “A Dying Practice,” pp. 56–57.

¹⁸¹ *Ibid.*, p. 1.

¹⁸² *Ibid.*, pp. 64–67. The rockets apparently landed short of their minimum range. There were more M85 duds than M85s that exploded on impact, and many of these duds were in an unarmed state. Witnesses did not report Russian troops in the area of the Georgian strikes. Widespread failure of the munitions, due to technical or human error, is one possible explanation of these factors.

¹⁸³ “Some Facts,” attachment to email from David Nardaia, Head of Analytical Department, Ministry of Defense, 18 November 2008.

In October 2009, then-First Deputy Minister of Defense Batu Kutelia said that M85s are the only submunitions that Georgia stockpiles for active use.¹⁸⁴ Human Rights Watch found many unexploded M85s in Georgia and all were of the non-self-destruct variety. Kutelia said that Georgian military deminers also found primarily non-self-destruct models, but he could not explain their presence since he claimed Georgia bought M85s exclusively with self-destruct mechanisms from Israel.

In 2004, Jane's Information Group reported that the Georgian Air Force also had KMG-U dispensers and RBK-500 cluster bombs, both of which can carry a variety of submunitions.¹⁸⁵ The Georgian Ministry of Defense told Human Rights Watch in February 2009 that it still has RBK-500 cluster munitions and BKF blocks of submunitions that are delivered by KMG-Us, but that their shelf-lives have expired and they are slated for destruction.¹⁸⁶

GREECE

The Hellenic Republic (Greece) has not signed the Convention on Cluster Munitions. It attended the international meetings of the Oslo Process in Lima in May 2007 and Vienna in December 2007 and was an observer during the treaty negotiations in Dublin in May 2008 and the signing conference in Oslo in December 2008. Greece also attended the regional conference in Sofia, Bulgaria in September 2008. It did not deliver statements at any of these meetings.

Greece has not made a public declaration of its cluster munition policy. During a September 2008 meeting with representatives of the CMC in New York, an official said that it was highly unlikely that Greece would sign the convention in Oslo because of national security considerations, including the need to use cluster munitions for national defense; concerns regarding the stockpile destruction deadline and the costs of destruction; and the fact that others in the region were not ready to sign. He also said that Greece preferred to see how the deliberations in the Convention on Conventional Weapons (CCW) played out and noted that the new United States policy based on the elimination of cluster munitions in 2018 would influence Greece's thinking greatly.¹⁸⁷

Greece is party to the Convention on Conventional Weapons, but has yet to ratify Protocol V on Explosive Remnants of War. It has not been a vocal participant in the discussions on cluster munitions in the CCW in recent years.

Use, Production, Stockpiling, and Transfer

Greece is not known to have used cluster munitions. Greece is a producer and importer of cluster munitions. Hellenic Defence Systems S.A. (EBO-PYRKAL), also known as EAS, produces two versions of the GRM-49 155mm artillery projectile with 49 dual purpose improved conventional munitions (DPICM) submunitions and the 107mm high explosive/improved conventional munition (HE/ICM) GRM20 mortar projectile containing 20 DPICM.¹⁸⁸

¹⁸⁴ Interview with Batu Kutelia, First Deputy Minister of Defense, Tbilisi, 21 October 2008.

¹⁸⁵ Robert Hewson, ed., *Jane's Air-Launched Weapons*, Issue 44 (Surrey, UK: Jane's Information Group Limited, 2004), p. 839.

¹⁸⁶ Response of the Ministry of Defense to Human Rights Watch Questionnaire, 12 February 2009. Then-First Deputy Minister of Defense Kutelia previously told Human Rights Watch that Georgian Air Force planes are not fitted for delivering these air-dropped cluster weapons. Interview with Batu Kutelia, First Deputy Minister of Defense, Tbilisi, 21 October 2008.

¹⁸⁷ CMC meeting with Eleftherios Kouvaritakis, First Counsellor, Permanent Mission of Greece to the UN, New York, 10 September 2008.

¹⁸⁸ "Our Products," Hellenic Defence Systems S.A. corporate website, www.eas.gr. The Greek Powder and Cartridge Company (Pyrkal) was merged into EAS in 2004.

Greece has imported 203mm DPICM artillery projectiles, M26 Multiple Launch Rocket System (MLRS) rockets, and Rockeye bombs from the US.¹⁸⁹ According to US export records, Greece also imported 4,008 CBU-55B cluster bombs at some point between 1970 and 1995.¹⁹⁰ Greece is the sole reported customer for the Autonomous Free Flight Dispenser System (AFDS), which disperses a variety of explosive submunitions, developed by General Dynamics (US) and LFK (Germany).¹⁹¹ Jane's Information Group lists Greece as also possessing BLG-66 Belouga and CBU-71 cluster bombs.¹⁹² In addition, Greece has imported DM-702 SMart-155 sensor-fuzed munitions from Germany. These contain two submunitions but are not considered cluster munitions under the terms of the Convention on Cluster Munitions.¹⁹³

A UN explosive ordnance disposal team in the area of Melhadega in Eritrea identified and destroyed a dud M20G DPICM grenade of Greek origin in October 2004.¹⁹⁴

GRENADA

Grenada has not signed the Convention on Cluster Munitions. During the Oslo Process, Grenada participated in the regional conference in Quito, Ecuador, but did not take part in any other international or regional meetings on the issue. It has not made any public statements regarding its policy on cluster munitions. Grenada is not party to the Convention on Conventional Weapons.

Grenada is not believed to have used, produced, stockpiled, or transferred cluster munitions. United States Navy aircraft dropped 21 Mk.-20 Rockeye cluster bombs on Grenada in close air support operations during the invasion of Grenada in November 1983.¹⁹⁵

INDIA

The Republic of India has not signed the Convention on Cluster Munitions. It did not participate in the diplomatic process in 2007 and 2008 that resulted in the development, negotiation, and then signing of the Convention in Oslo in December 2008. India produces, stockpiles, imports, and offers for export cluster munitions.

India is party to the Convention on Conventional Weapons (CCW) and ratified Protocol V on Explosive Remnants of War on 18 May 2005.

¹⁸⁹ The US sent 50,000 M509 203mm projectiles to Greece in 1996 under the Excess Defense Article program. Each M509A1 contains 180 M42/M46 DPICM. US Defense Security Cooperation Agency, "Excess Defense Articles," www.dsca.osd. For the M26, see US Defense Security Cooperation Agency news release, "Greece – M26A2 MLRS Extended Range Rocket Pods," Transmittal No. 06-47, 29 September 2006. For Rockeye bombs, see Colin King, ed., *Jane's Explosive Ordnance Disposal 2007-2008*, CD-edition, 15 January 2008, (Surrey, UK: Jane's Information Group Limited, 2008).

¹⁹⁰ US Defense Security Assistance Agency, Department of Defense, "Cluster Bomb Exports under FMS, FY1970-FY1995," November 15, 1995, obtained by Human Rights Watch in a Freedom of Information Act request, November 28, 1995.

¹⁹¹ Robert Hewson, ed., *Jane's Air-Launched Weapons*, Issue 44 (Surrey, UK: Jane's Information Group Limited, 2004), pp. 365–367.

¹⁹² *Ibid.*, p. 839. The Belouga was produced by France, and the CBU-71 was produced by the US.

¹⁹³ Leland S. Ness and Anthony G. Williams, eds., *Jane's Ammunition Handbook 2007-2008* (Surrey, UK: Jane's Information Group Limited, 2007), p. 668. Greece may also have imported DPICM artillery projectiles from Germany.

¹⁹⁴ UNMEE Mine Action Coordination Center, Weekly Update, Asmara, 4 October 2004, p. 4.

¹⁹⁵ US Department of the Navy, Attack Squadron Fifteen, Memorandum from Commanding Officer, Attack Squadron Fifteen, to Chief of Naval Operations, "Command History: Enclosure 5, Ordnance Expenditure for 1983," 18 February 1984, declassified 28 April 2000, www.history.navy.mil.

Cluster Munition Ban Policy

India considers that cluster munitions “offer distinct military advantages over other munitions in terms of economy of effort and wider area coverage in combat zones.”¹⁹⁶ It has also stated that “until [cluster munitions] can be replaced by other alternatives which are cost effective and perform the required military tasks, [cluster munitions] will continue to find a place in military armories as both point target as well as area target weapons.”¹⁹⁷

When States Parties to the CCW decided in November 2007 to debate a new approach to cluster munitions, India did not support negotiating mandates aimed at any sort of prohibition or with a deadline to conclude negotiations. India’s resistance to a possible new protocol was in part based on its view that “the use of cluster munitions is lawful and legitimate, if such use takes into account existing IHL [international humanitarian law].”¹⁹⁸ Earlier, India had noted, “States Parties to the CCW have varying security concerns and concepts such as reliability and accuracy are at best relative concepts and can be addressed through ‘best practices’ and cannot constitute legally binding provisions.”¹⁹⁹

During the CCW discussions in 2008, India position shifted somewhat. It said India “is prepared to negotiate an instrument...that strikes a balance between military and humanitarian concerns” but that efforts should focus on “effective regulation rather than the prohibition on the use of [cluster munitions].”²⁰⁰ India was opposed to several suggestions in the draft proposed by the Danish chairperson, including a deadline for the destruction of stockpiles.²⁰¹ It also noted that it would not prohibit any cluster munitions until they had reached the end of their shelf life.²⁰² India also supported flexible transition periods leaving it up to each state when a new protocol would enter into force.²⁰³

As a party to the CCW, India states it “is prepared to negotiate an instrument...that strikes a balance between military and humanitarian concerns.” However, India believes that the focus of efforts should be on “effective regulation rather than the prohibition on the use of [cluster munitions].”²⁰⁴

Use, Stockpiling, Production, and Transfer

India is not known to have used cluster munitions. The size and precise content of India’s stockpile of clusters munitions is not known.

The India Ordnance Factories produces and advertises for export 130mm and 155mm artillery projectiles containing dual purpose improved conventional munition (DPICM) submunitions, which are equipped with a self-destruct feature.²⁰⁵ These projectiles are the result of a transfer of production technology from Israel Military Industries and are produced at Khamaria Ordnance Factory near Jabalpur in Madhya Pradesh.²⁰⁶

¹⁹⁶ Statement by Amb. Jayant Prasad, Permanent Mission of India to the Conference on Disarmament, First Conference of the High Contracting Parties to Protocol V to the CCW, Geneva, 5 November 2007.

¹⁹⁷ Statement by Amb. Hamid Ali Rao, Permanent Mission of India to the Conference on Disarmament, Third Meeting of the CCW Group of Governmental Experts (GGE) on Cluster Munitions, Geneva, 7 July 2008.

¹⁹⁸ Statement by Amb. Jayant Prasad, First Conference of the High Contracting Parties to Protocol V to the CCW, Geneva, 5 November 2007.

¹⁹⁹ Statement by Amb. Hamid Ali Rao, Third Meeting of the CCW GGE on Cluster Munitions, Geneva, 7 July 2008.

²⁰⁰ Ibid.

²⁰¹ CMC, “CMC Update on the CCW Group of Governmental Experts on Cluster Munitions,” 4 September 2008, www.stopclustermunitions.org.

²⁰² Ibid.

²⁰³ Ibid, 5 September 2008.

²⁰⁴ Statement by Amb. Hamid Ali Rao, Third Meeting of the CCW GGE on Cluster Munitions, Geneva, 7 July 2008.

²⁰⁵ The 130mm projectile contains 24 submunitions and the 155mm projectile contains 49 submunitions. See the website of the India Ordnance Factories, www.ofbindia.gov.in.

²⁰⁶ “Ordnance Board to produce ‘cargo ammunition’ with Israeli company,” *The Hindu* (online edition), 6 August 2006, www.hindu.com.

In addition to artillery projectiles, the Defence Research and Development Organization of the Ministry of Defence produces a cargo rocket containing anti-tank/anti-material submunitions for the 214mm Pinaka multi-barrel rocket system.²⁰⁷ Other sources have claimed that warheads containing submunitions were developed for the Agni, Dhanush, and Prithvi missile systems.²⁰⁸

In addition to domestic production, India has also imported cluster munitions. Jane's Information Group lists India as possessing KMG-U dispensers, and BL-755, BLG-66 Belouga, RBK-250, RBK-275, and RBK-500 cluster bombs.²⁰⁹ In February 2006, India bought 28 launch units for the Russian produced 300mm Smerch multiple launch rocket system fitted with dual-purpose and sensor-fuzed submunitions; it was the third export customer for the system.²¹⁰

The United States announced in September 2008 that at the request of India, it was intending to sell 510 CBU-105 air-dropped Sensor Fuzed Weapons in an arms deal valued at as much as \$355 million.²¹¹ According to the US Department of Defense, "India intends to use the Sensor Fuzed Weapons to modernize its armed forces and enhance its defensive ability to counter ground-armored threats."²¹² The US has attached a term to the transfer, in compliance with Public Law 110-161 (26 December 2008), which requires that the submunitions have a 99% or higher reliability rate and stipulates that "the cluster munitions will only be used against clearly defined military targets and will not be used where civilians are known to be present."²¹³

India considers "terminally-guided precision munitions and sensor fused munitions as a new generation of cluster munitions, and not as alternatives to these munitions."²¹⁴

IRAN

The Islamic Republic of Iran has not signed the Convention on Cluster Munitions. It did not participate in the diplomatic process that led to the development, negotiation, and then signing of the convention in December 2008. Iran is also not party to the Convention on Conventional Weapons.

Iran has not made a public statement on its cluster munition policy. Iran is not known to have used cluster munitions, but has a stockpile. It has imported the weapon and also apparently produced cluster munitions. Jane's Information Group lists Iran as possessing KMG-U dispensers that deploy submunitions, PROSAB-250 cluster bombs, and BL-755 cluster bombs.²¹⁵ Media reports indicate that in November 2006, Iran tested a version of the Shahab-2 missile capable of delivering 1,400 submunitions.²¹⁶

²⁰⁷ Leland S. Ness and Anthony G. Williams eds., *Jane's Ammunition Handbook 2007–2008*, (Surrey, UK: Jane's Information Group Limited, 2007), p. 715.

²⁰⁸ Duncan Lennox, ed., *Jane's Strategic Weapons Systems 46* (Surrey, UK: Jane's Information Group Limited, January 2007), pp. 49–56, 85–87; Duncan Lennox, ed., *Jane's Strategic Weapons Systems 42* (Surrey, UK: Jane's Information Group Limited, January 2005), pp. 85–87.

²⁰⁹ Robert Hewson, ed., *Jane's Air-Launched Weapons*, Issue 44 (Surrey, UK: Jane's Information Group Limited, 2004), p. 840. While there is no information about specific transfers, the manufacturers are United Kingdom (BL-755), France (BLG-66), and Russia/USSR (RBKs).

²¹⁰ "India, Russia sign \$500 mn rocket systems deal," Indo-Asian News Service (New Delhi), 9 February 2006. Each Smerch rocket can carry five sensor-fuzed submunitions and either 72 or 646 dual-purpose, high explosive submunitions.

²¹¹ US Defense Security Cooperation Agency news release, "India: CBU-105 Sensor Fuzed Weapons," Transmittal No. 08-105, 30 September 2008.

²¹² "Policy Justification" sheet attached to a letter from Vice Admiral Jeffrey A. Wieringa, Director of the US Defense Security Cooperation Agency, to Senator Robert C. Byrd, Chairman of the Senate Committee on Appropriations (USP012679), 26 September 2008.

²¹³ Letter from Vice Admiral Jeffrey A. Wieringa, Director of the US Defense Security Cooperation Agency, to Senator Robert C. Byrd, Chairman of the Senate Committee on Appropriations (USP012679), 26 September 2008.

²¹⁴ Statement by Amb. Jayant Prasad, First Conference of the High Contracting Parties to Protocol V to the CCW, Geneva, 5 November 2007.

²¹⁵ Robert Hewson, ed., *Jane's Air-Launched Weapons*, Issue 44 (Surrey, UK: Jane's Information Group Limited, 2004), p. 840. It is not known how or when Iran acquired the cluster munitions, but the KMG-U and PROSAB-250 were likely produced by the Soviet Union, and the BL-755 by the United Kingdom.

²¹⁶ Nasser Karimi, "Iran Test-Fires New Longer-Range Missile," *Associated Press*, 2 November 2006.

IRAQ

The Republic of Iraq has not signed the Convention on Cluster Munitions. On 18 March 2009, at a special event on the convention at the UN in New York, Iraq stated that the Cabinet had recently approved signature of the convention and that the necessary legal procedures were underway.²¹⁷

Of the four international Oslo Process diplomatic conferences to develop the convention text, Iraq participated in one, in Vienna in December 2007.²¹⁸ It also attended the Belgrade Conference for affected states in October 2007, and a meeting in Beirut in November 2008.

Iraq attended the formal negotiations in Dublin in May 2008 as an observer, and stated that Iraq supported the negotiation of a legally-binding instrument on cluster munitions.²¹⁹ Iraq also attended the Oslo signing conference in December 2008 as an observer. It stated that Iraq was one of the countries in the world most affected by explosive remnants of war and that that Iraqi civilians continue to live with the daily threat of unexploded ordnance. Iraq welcomed the adoption of the convention and stated it would sign as soon as possible, after the completion of national and constitutional processes.²²⁰

In January 2009, Iraqi Minister of the Interior Jawad Alpolani confirmed to campaigners that Iraq would be able to sign the convention soon.²²¹ As noted above, in March 2009, Iraq reported that the Cabinet had approved signature and legal procedures had begun.²²²

Iraq is not party to the Convention on Conventional Weapons.

Use, Production, Stockpiling, and Transfer

There is no definitive evidence that Iraq used cluster munitions in the past. Coalition forces used large numbers of cluster munitions in Iraq in 1991 and 2003. The United States, France, and the United Kingdom dropped 61,000 cluster bombs containing some 20 million submunitions on Iraq and Kuwait in 1991. The number of cluster munitions delivered by surface-launched artillery and rocket systems is not known, but an estimated 30 million or more dual purpose improved conventional munition (DPICM) submunitions were used in the conflict.²²³ In the 2003 invasion of Iraq, the US and UK used nearly 13,000 cluster munitions containing an estimated 1.8 to 2 million submunitions.²²⁴

The current status of production facilities is not known, but the capability was likely destroyed in 2003. Prior to 2003, Iraq was active in acquiring surface-to-surface rockets with submunitions. This included joint development of the M-87 Orkan (known in Iraq as Ababil) with Yugoslavia.²²⁵ It also imported ASTROS cluster munition rockets from Brazil.²²⁶

²¹⁷ CMC, "Report on the Special Event on the Convention on Cluster Munitions, United Nations, New York, 18 March 2009"; CMC, "Laos Ratifies Cluster Bomb Ban Treaty," Press release, 19 March 2009, www.stopclustermunitions.org.

²¹⁸ It did not participate in the initial meeting in Oslo in February 2007 or subsequent meetings in Lima and Wellington.

²¹⁹ Although Iraq was not a negotiating state, it shared its view that there should be no exclusions from the definition of a cluster munition based on technical criteria, noting that technologically advanced weapons had caused suffering when used against the people of Iraq. Statement of Iraq, Committee of the Whole, Dublin Diplomatic Conference on Cluster Munitions, 26 May 2008. Notes by Landmine Action.

²²⁰ Statement of Iraq, Convention on Cluster Munitions Signing Conference, Oslo, 4 December 2008. Notes by Landmine Action.

²²¹ CMC, "CMC Newsletter," January 2009, 13 February 2009, www.stopclustermunitions.org. In October 2008, during the Global Week of Action on cluster munitions, Iraqi campaigners launched a media campaign to raise awareness of the issue of cluster munitions and to encourage Iraq to sign the convention. Campaigners organized a workshop and sent letters to government officials and Iraqi missions worldwide. CMC, "Global Week of Action to Ban Cluster Bombs, 27 October – 2 November 2008," www.stopclustermunitions.org.

²²² CMC, "Report on the Special Event on the Convention on Cluster Munitions, United Nations, New York, 18 March 2009"; and CMC, "Laos Ratifies Cluster Bomb Ban Treaty," Press release, 19 March 2009, www.stopclustermunitions.org.

²²³ Human Rights Watch, "Cluster Munition Information Chart," March 2009, www.hrw.org; and HRW, *World Report 2004* (New York: Human Rights Watch, 2004), pp. 253–254.

²²⁴ Human Rights Watch, *Off Target: The Conduct of the War and Civilian Casualties in Iraq* (New York: Human Rights Watch, 2003).

²²⁵ Terry J. Gandler and Charles Q. Cutshaw, eds., *Jane's Ammunition Handbook 2001–2002* (Surrey, UK: Jane's Information Group Limited, 2001), p. 641.

²²⁶ Jonathan Beaty and S.C. Gwynne, "Scandals: Not Just a Bank, You can get anything you want through B.C.C.I. — guns, planes, even nuclear-weapons technology," *Time Magazine*, 2 September 1991, www.time.com.

Iraq produced two types of cluster bombs called the NAAMAN-250 and NAAMAN-500.²²⁷ Jane's Information Group lists it as also possessing KMG-U dispensers (which deploy submunitions) and CB-470, RBK-250, RBK-275, and RBK-500 cluster bombs.²²⁸

Additionally, a number of SAKR rockets and CB-250 bombs modified to deliver chemical and biological agents were found by UN weapons inspectors in the arsenal of Iraq.²²⁹

ISRAEL

The State of Israel has not signed the Convention on Cluster Munitions. It did not participate at all in the diplomatic process to develop and negotiate the convention in 2007 and 2008, nor the signing conference in Oslo in December 2008.

Israel has been a major user, producer, exporter, importer, and stockpiler of cluster munitions. International outrage over Israel's extensive use of cluster munitions in south Lebanon during its July and August 2006 war with Hezbollah was a catalyst for the launching of the Oslo Process.

Israel is party to the Convention on Conventional Weapons (CCW), but has not ratified Protocol V on Explosive Remnants of War (ERW). Israel has participated actively in the deliberations on cluster munitions in the CCW in recent years.

Cluster Munition Ban Policy

Israel has long been resistant to any new international restrictions—much less prohibitions—on cluster munitions. From 2000, when the CCW first began discussing cluster munitions, until mid-2008, Israel opposed any new rules or regulations for states on the use of cluster munitions, insisting that existing international law was sufficient.

In justifying its use of cluster munitions in Lebanon in July and August 2006, Israel stressed that it did so in conformity with international humanitarian law (IHL). It said, "Both international law and accepted practice do not prohibit the use of... 'cluster bombs.' Consequently, the main issue... should be the method of their use, rather than their legality."²³⁰

In November 2006, during the Third Review Conference of the CCW, Israel did not support a proposal for a mandate to negotiate a legally-binding instrument "that addresses the humanitarian concerns posed by cluster munitions."²³¹

Israel's position was that any work in the CCW on cluster munitions should focus on prohibiting the transfer to and use by non-state armed groups (NSAG). "The use of arms including submunitions by terrorists against Israeli civilians has been well documented and raises serious questions regarding how such weapons reached those hands and how the international community can enhance its control over the transfer of those weapons to rogue groups.... This in our view should be the focus of future actions under the CCW framework, rather than adding provisions which could be used to provide further immunity for terrorists who prefer to operate from populated areas," Israel stated. It added that CCW Protocol V

²²⁷ *Jane's Air-Launched Weapons*, Issue 24, July 1996.

²²⁸ *Ibid.*, p. 840. The Iraq Ordnance Identification Guide produced for Coalition Forces also lists the Alpha submunition contained in the South African produced CB-470 as a threat present in Iraq. James Madison University Mine Action Information Center, "Iraq Ordnance Identification Guide, Dispenser, Cluster and Launcher," January 2004, p. 6, maic.jmu.edu. The KMG-U and RBKs were likely produced in the Soviet Union.

²²⁹ Chile produced the CB-250. UN Monitoring, Verification and Inspection Commission, "Sixteenth quarterly report on the activities of the United Nations Monitoring, Verification and Inspection Commission in accordance with paragraph 12 of Security Council resolution 1284 (1999)," S/2004/160, Annex 1, p. 10.

²³⁰ Ministry of Foreign Affairs, "Behind the Headlines: Legal and Operational Aspects of the Use of Cluster Bombs," 5 September 2006, www.mfa.gov.il.

²³¹ Proposal for a Mandate to Negotiate a Legally-Binding Instrument that Addresses the Humanitarian Concerns Posed by Cluster Munitions, Third Review Conference of the States Parties to the CCW, Geneva, CCW/CONF.III/WP.1, 25 October 2006.

“provides a good basis for further discussions on preventative measures as well as for finding the measures to ensure the safety and reliability of ammunition in order to reduce the risks of ERW.”²³²

After CCW States Parties agreed at the end of 2007 to “negotiate a proposal” on cluster munitions, Israel still strongly insisted that the use of cluster munitions was legitimate under IHL and that it was opposed to the creation of new rules of IHL specifically applicable to cluster munitions, as it claimed that existing IHL was sufficient.²³³ Israel continued to call for work on the issue of transfers of weapons to “terrorists.”²³⁴

In July 2008, following the adoption of the Convention on Cluster Munitions by 107 nations in Dublin in May, Israel’s position appeared to shift somewhat, in that it accepted the notion that the CCW should be negotiating a future legally-binding instrument on cluster munitions. However, it stated that any instrument on cluster munitions in the CCW should not be a categorical ban.²³⁵ It opposed a definition of cluster munition based on the definition in the Convention on Cluster Munitions.²³⁶ Moreover, Israel called for a lengthy transition period before any obligations placed on cluster munitions in a future instrument took effect.²³⁷

On other issues under discussion, Israel objected to the inclusion of a timeframe for stockpile destruction, and did not support the inclusion of a definition of cluster munition victim in a future instrument, on the basis that it could lead to discrimination between victims of cluster munitions and persons with other types of disabilities.²³⁸

While it had numerous objections to proposed provisions in the draft text under consideration in the CCW throughout 2008, Israel stated it was disappointed that States Parties were unable to reach agreement at the scheduled conclusion of the CCW negotiations in November—a failure which it blamed on a group of states that had chosen to align themselves with work carried out “in another forum.”²³⁹

In a 23 February 2009 letter to Human Rights Watch, Israel wrote that it “welcomes and supports the ongoing negotiations held within the framework of the...CCW aimed at urgently addressing the humanitarian impact of cluster munitions. In Israel’s view, the CCW is the appropriate forum to negotiate such matters, one that has traditionally enjoyed the membership and expertise of relevant states.... In light of the above, Israel is not in a position to support the Convention on Cluster Munitions (CCM). Israel shares the views of those states wishing to alleviate the humanitarian concerns that may be associated with the use of cluster munitions, and believes that this could be best achieved within the framework of the CCW.”²⁴⁰

Use

Israel used cluster munitions in 1973 in Syria against NSAG training camps near Damascus, in 1978 in south Lebanon, in 1982 in Lebanon against Syrian forces and NSAGs, and in 2006 in south Lebanon against Hezbollah.²⁴¹

²³² Statement by Meir Itzhaki, Representative to the Conference on Disarmament, Permanent Mission of Israel to the UN in Geneva, Third Review Conference of the States Parties to the CCW, Geneva, 7 November 2006.

²³³ Statement of Israel, First 2008 Session of the CCW Group of Governmental Experts (GGE) on Cluster Munitions, 14 January 2008. Notes by WILPF.

²³⁴ At an April 2008 CCW session, Israel submitted a proposal which would require states “not to transfer and not to authorize the transfer of [cluster munitions] to recipients other than a State or State agency authorized to receive such transfers and only if an end-user certificate is provided.” The proposal would also apply to unauthorized transfers of cluster munitions within territory under a State’s jurisdiction or control. Proposal on transfers of cluster munitions, submitted by Israel, Second 2008 Session of the CCW GGE on Cluster Munitions, Geneva, 9 April 2008, CCW/GGE/2008-II/WP.7.

²³⁵ Statement of Israel, Third 2008 Session of the CCW GGE on Cluster Munitions, 23 July 2008. Notes by Landmine Action.

²³⁶ Statement of Israel, Fourth 2008 Session of the CCW GGE on Cluster Munitions, 5 September 2008. Notes by Landmine Action.

²³⁷ *Ibid.*, 4 September 2008; and Statement of Israel, Fifth 2008 Session of the CCW GGE on Cluster Munitions, 3 November 2008. Notes by Landmine Action.

²³⁸ Statement of Israel, Third 2008 Session of the CCW GGE on Cluster Munitions, 14 July 2008. Notes by Landmine Action.

²³⁹ Statement of Israel, 2008 Meeting of the States Parties to the CCW, 13 November 2008. Notes by Landmine Action.

²⁴⁰ Letter from Rodica Radian-Gordon, Director, Arms Control Department, Ministry of Foreign Affairs, 23 February 2009.

²⁴¹ Human Rights Watch, “Cluster Munition Information Chart,” April 2009, www.hrw.org. During the 1978 and 1982 Lebanon conflicts, the US placed restrictions on the use of its cluster munitions by Israel. In response to Israel’s use of cluster munitions in 1982 and the civilian casualties that they caused, the US issued a moratorium on the transfer of cluster munitions to Israel. The moratorium was lifted in 1988. Human Rights Watch, “Flooding South Lebanon: Israel’s Use of Cluster Munitions in Lebanon in July and August 2006,” Volume 20, No.2(E), February 2008, p. 26, www.hrw.org.

Israel fired cluster munitions containing some four million submunitions into south Lebanon in 2006, twice the number used by Coalition forces in Iraq in 2003 and 15 times the number used by the United States in Afghanistan in 2001 and 2002. According to the UN, 90% of the cluster munitions were fired in the last 72 hours of the conflict.²⁴² A spokesperson for the UN Mine Action Coordination Centre Southern Lebanon said Israel's use of cluster munitions "was unprecedented and one of the worst, if not the worst, use of submunitions in history."²⁴³

Human Rights Watch's on-the-ground investigations found Israel's use to be both indiscriminate and disproportionate, in violation of IHL.²⁴⁴ Two UN investigations also concluded that Israel violated IHL, and a US inquiry determined Israel's use of cluster munitions may have violated the terms of the bilateral agreement under which the weapons were provided. Israel's own investigations judged the cluster munition attacks to be "in accordance with international law," but also found the use violated internal regulations, due to deviations from orders.²⁴⁵ In January 2008, the Winograd Commission of inquiry appointed by the Israeli government reported that there was a lack of clarity regarding the acceptable or appropriate use of these weapons.²⁴⁶

Israel has also been faulted by the UN, governments, humanitarian aid organizations, and clearance organizations for its failure to provide adequate strike data in a timely fashion to facilitate warnings to the civilian population and clearance of unexploded submunitions, despite repeated bilateral and international appeals.²⁴⁷

During the 2006 war between Israel and Hezbollah, Hezbollah fired over 100 Chinese made Type-81 122mm cluster munitions rockets into northern Israel.²⁴⁸ Israel has said that it has cleared all unexploded ordnance from these cluster attacks.

Production, Stockpiling, and Transfer

Israel is a major producer and exporter of cluster munitions, primarily artillery projectiles and rockets containing the M85 dual purpose improve conventional munition (DPICM) submunition equipped with a back-up pyrotechnic self-destruct fuze. Israel Military Industries (IMI) produces, license-produces, and exports cluster munitions including artillery projectiles (105mm, 122mm, 130mm, 152mm, 155mm, 175mm, 203mm), mortar bombs (120mm), and rockets (EXTRA, GRADLAR, LAR-160).²⁴⁹

²⁴² For details on Israel's use of cluster munitions in Lebanon and its impact, see Human Rights Watch, "Flooding South Lebanon: Israel's Use of Cluster Munitions in Lebanon in July and August 2006," Volume 20, No.2(E), February 2008, www.hrw.org; and Landmine Action, "Foreseeable harm: the use and impact of cluster munitions in Lebanon: 2006," October 2006.

²⁴³ UN Office for the Coordination of Humanitarian Affairs, "Lebanon: Deminers find new cluster bomb sites without Israeli data," *IRIN*, 22 January 2008, quoting Dalya Farran, spokeswoman for the UN Mine Action Coordination Centre Southern Lebanon, www.reliefweb.int.

²⁴⁴ Human Rights Watch, "Flooding South Lebanon: Israel's Use of Cluster Munitions in Lebanon in July and August 2006," Volume 20, No.2(E), February 2008, p. 1.

²⁴⁵ *Ibid.*, p. 95.

²⁴⁶ Landmine Action, "Cluster Munitions: A survey of legal responses," 2008, pp. 18–26. The Commission highlighted specific areas of dispute regarding the acceptability of cluster munition use, and it recommended that such disputes be clarified unequivocally for the future. Such situations included the use of these weapons around civilian areas where unexploded submunitions could cause civilian casualties, including situations where the civilian population has fled but such casualties might occur on their return. The Commission recommended that a re-examination of policy be conducted, that it also include parties outside the IDF, and that the main findings from the re-examination should be made public.

²⁴⁷ See "UN calls on Israel to hand over coordinates of cluster bomb strikes in Lebanon," *Haaretz*, 19 September 2006; and "UN calls Israel's use of cluster bombs in Lebanon 'outrageous,'" *Haaretz*, 19 September 2006. The UN Secretary-General, in his reports on the situation in Lebanon, repeatedly called on Israel to respond to the UN's many requests to provide the strike data. "This data is of critical importance and would greatly enhance the rate of clearance operations in southern Lebanon and reduce the risk to both civilians and mine clearance experts," the Secretary-General stated, calling the information "crucial and potentially life-saving." Report of the Secretary-General on the implementation of resolution 1701 (2006), S/2007/641, 30 October 2007, p. 10.

²⁴⁸ Human Rights Watch, "Civilians Under Assault: Hezbollah's Rocket Attacks on Israel in the 2006 War," Vol. 19, No. 3(E), August 2007, pp. 44–48, www.hrw.org.

²⁴⁹ Information on surface-launched cluster munitions produced and possessed by Israel is taken primarily from the IMI corporate website, www.imi-israel.com. It has been supplemented with information from Leland S. Ness and Anthony G. Williams, *Jane's Ammunition Handbook 2007–2008* (Surrey, UK: Jane's Information Group Limited, 2007); and US Defense Intelligence Agency, "Improved Conventional Munitions and Selected Controlled-Fragmentation Munitions (Current and Projected) DST-1160S-020-90."

IMI has reportedly produced over 60 million M85 DPICM submunitions.²⁵⁰ IMI concluded licensing agreements in 2004 with companies in India (Indian Ordnance Factories) and the US (Alliant Techsystems) to produce DPICMs. Companies in Argentina (CITEFA), Germany (Rheinmetall), Romania (Romtecnica), Switzerland (RAUG), and Turkey (MKEK and Rocketsan) have also assembled or produced these submunitions under license.²⁵¹

Israel transferred four GRADLAR 122mm/160mm rocket launcher units to Georgia in 2007. Georgia has acknowledged using the launchers with 160mm Mk.-4 rockets, each containing 104 M85 DPICM submunitions, during its August 2008 conflict with Russia.²⁵² Cluster munitions of Israeli origin have been reported in the Colombia's stockpile.²⁵³

Israel has also produced several types of air-dropped cluster munitions. The Rafael Corporation is credited with producing the ATAP-300, ATAP-500, ATAP-1000 RAM, TAL-1, and TAL-2 cluster bombs, as well as the BARAD Helicopter Submunition Dispenser.²⁵⁴

Israel has imported cluster munitions from the US, including M26 rockets (each with 644 submunitions) for its Multiple Launch Rocket System (MLRS) launchers and 155mm M483A1 projectiles (each with 88 submunitions), both used in south Lebanon in 2006. The US has also supplied Israel with Rockeye cluster bombs (with 202 bomblets each) and CBU-58B cluster bombs (with 650 bomblets each).²⁵⁵

The size and composition of Israel's current stockpile of cluster munitions is not known.

JORDAN

The Hashemite Kingdom of Jordan has not signed the Convention on Cluster Munitions. Jordan is party to the Convention on Conventional Weapons (CCW), but has not ratified Protocol V on Explosive Remnants of War.

Jordan displayed early concern about the humanitarian impact of cluster munitions. During a CCW meeting in June 2006, Jordan stated that "cluster bombs are not a safe weapon" due to their inaccuracy and propensity to leave unexploded ordnance, and called for an extensive discussion of the issue "in the near future."²⁵⁶

Jordan participated in the initial conference to launch the Oslo Process in February 2007 and endorsed the Oslo Declaration, which committed states to conclude a new convention prohibiting cluster munitions in 2008. At the time Jordan said it fully supported the declaration, looked forward to participating in the future Oslo Process meetings, and hoped for successful completion of a treaty by 2008.²⁵⁷

²⁵⁰ Mike Hiebel, Alliant TechSystems, and Ilan Glickman, Israel Military Industries, "Self-Destruct Fuze for M864 Projectiles and MLRS Rockets," Presentation to the 48th Annual Fuze Conference, Charlotte, North Carolina, 27–28 April 2004, Slide 9, www.dtic.mil.

²⁵¹ Human Rights Watch, "Flooding South Lebanon: Israel's Use of Cluster Munitions in Lebanon in July and August 2006," Volume 20, No.2(E), February 2008, p. 27.

²⁵² The transfer of the GRADLAR launchers was reported in Submission by Georgia, UN Register of Conventional Arms, Calendar Year 2007, 7 July 2008. The Georgian Ministry of Defense on 1 September 2008 admitted to using Mk.-4 rockets against Russian forces on its website. "Georgian Ministry of Defence's Response to the Human Rights Watch Inquire about the Usage of M85 Bomblets," 1 September 2008, www.mod.gov.ge, accessed 29 October 2008.

²⁵³ The CMC has received information from Colombian military sources that Colombia stockpiles M971 120mm mortar projectiles produced by Israel, which contain 24 DPICM submunitions. Regional Conference for Latin America and the Caribbean on Cluster Munitions, Quito, 7 November 2008. Notes by CMC.

²⁵⁴ Robert Hewson, ed., *Jane's Air-Launched Weapons*, Issue 44 (Surrey, UK: Jane's Information Group Limited, 2004), pp. 370–380.

²⁵⁵ Human Rights Watch, "Flooding South Lebanon: Israel's Use of Cluster Munitions in Lebanon in July and August 2006," Volume 20, No.2(E), February 2008, p. 27–28.

²⁵⁶ Statement of Jordan, Fourteenth Session of the CCW Group of Governmental Experts, Geneva, 20 June 2006.

²⁵⁷ Statement of Jordan, Oslo Conference on Cluster Munitions, 23 February 2007. Notes by CMC/WILPF.

Subsequently, Jordan only attended one other major Oslo Process meeting—in Vienna in December 2007, where it did not make any statements. It did not participate in the other international conferences to develop the convention in Lima or Wellington, and did not attend the formal negotiations in Dublin in May 2008.²⁵⁸ Jordan was not an active participant in CCW discussions on cluster munitions in 2008.

In early March 2009, CMC staff held a meeting with an official of the Jordanian Embassy in London. The official, who indicated she had been in contact with authorities in capital about the issue, stated that Jordan considered the convention as the second most important disarmament treaty after the Mine Ban Treaty.²⁵⁹ She stated that in principle Jordan sees no impediment to joining, and said that relevant authorities in Amman were actively considering the convention.²⁶⁰

Jordan is not believed to have used or produced cluster munitions, but it has a stockpile of imported cluster munitions. The United States transferred 31,704 artillery projectiles (M509A1, M483) containing over 3 million dual purpose improved conventional munitions (DPICM) submunitions to Jordan in 1995 as these were being phased out of the US inventory.²⁶¹ According to US export records, Jordan also imported 200 CBU-71 and 150 Rockeye cluster bombs at some point between 1970 and 1995.²⁶²

KAZAKHSTAN

The Republic of Kazakhstan has not signed the Convention on Cluster Munitions. It participated minimally in the diplomatic process in 2007 and 2008 that resulted in the development, negotiation, and then signing of the convention in Oslo in December 2008. A representative from Kazakhstan's embassy to the United Kingdom attended the treaty negotiations in Dublin in May 2008 as an observer, but made no statements.

Kazakhstan has not made a public declaration regarding its cluster munition policy. It is not known to have used, produced, or exported cluster munitions. Kazakhstan inherited a stockpile of cluster munitions from the Soviet Union. Jane's Information Group reports that RBK-500 cluster bombs are in service with the country's air force.²⁶³ It also possesses *Uragan* 220mm surface-to-surface rockets, but it is not known if these include versions with submunition payloads.²⁶⁴

Kazakhstan is not party to the Convention on Conventional Weapons.

DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA

The Democratic People's Republic of Korea (DPRK)—North Korea—has not signed the Convention on Cluster Munitions. It did not participate in the diplomatic process in 2007 and 2008 that resulted in the development, negotiation, and then signing of the convention in Oslo in December 2008. North Korea has not made a public declaration regarding its cluster munition policy.

²⁵⁸ Jordan attended smaller regional conferences on cluster munitions in Phnom Penh (March 2007), and Beirut (November 2008).

²⁵⁹ Jordan's relative absence of support for the Oslo Process has stood in noticeable contrast to its very active role in the 1997 Mine Ban Treaty, including hosting the Eighth Meeting of States Parties in November 2007. His Royal Highness Prince Mired Raad al-Hussein presided as the President of the Eighth Meeting of States Parties and on several occasions publicly stated his support for the Oslo Process and the draft convention.

²⁶⁰ Email from Thomas Nash, Coordinator, CMC, 4 March 2009; CMC, "CMC Newsletter," Issue 7, February 2009, www.stopclustermunitions.org.

²⁶¹ US Defense Security Cooperation Agency, Department of Defense, "Excess Defense Articles," online database, www.dsca.osd.mil.

²⁶² US Defense Security Assistance Agency, Department of Defense, "Cluster Bomb Exports under FMS, FY1970-FY1995," 15 November 1995, obtained by Human Rights Watch in a Freedom of Information Act request, 28 November 1995.

²⁶³ Robert Hewson, ed., *Jane's Air-Launched Weapons*, Issue 44 (Surrey, UK: Jane's Information Group Limited, 2004), p. 841.

²⁶⁴ International Institute for Strategic Studies, *The Military Balance 2005–2006* (London: Routledge, 2005), p. 241.

Jane's Information Group lists North Korea as producing and stockpiling submunition warheads for 122mm, 170mm, and 240mm rockets. Jane's also credits the air forces of North Korea as possessing KMG-U dispensers, RBK-500, and unspecified types of anti-armor and anti-runway cluster bombs.²⁶⁵ North Korea is not known to have used or exported cluster munitions.

North Korea is not party to the Convention on Conventional Weapons.

REPUBLIC OF KOREA

The Republic of Korea — South Korea — has not signed the Convention on Cluster Munitions. It is a producer and stockpiler of cluster munitions.

South Korea did not participate at all in the process in 2007 and 2008 that led to the development, negotiation, and adoption of the Convention on Cluster Munitions in Dublin in May 2008. It attended as an observer the signing conference in Oslo in December 2008, where 94 nations signed the convention.

South Korea is party to the Convention on Conventional Weapons (CCW), and ratified CCW Protocol V on Explosive Remnants of War (ERW) on 23 January 2008. It has participated in the CCW work on cluster munitions in recent years.

South Korea has not shown enthusiasm for any international action on cluster munitions, even within the CCW. In November 2006, at the Third Review Conference of the CCW, South Korea did not support a proposal for a mandate to negotiate a legally-binding instrument on cluster munitions.²⁶⁶ However, when the Oslo Process was initiated in the wake of the CCW's failure to agree to a mandate, South Korea began to maintain that the CCW was the most appropriate forum for work on cluster munitions.

In January 2008, South Korea described the CCW as “a lively and healthy regime” that includes the “most relevant states with regard to cluster munitions” and was therefore able to “generate a realistic and effective solution” to the problems that they cause.²⁶⁷ While South Korea now supported work in the CCW on a future instrument on cluster munitions, it maintained that cluster munitions were legitimate weapons that were “efficient...in deterring enemy attacks.”²⁶⁸

South Korea insists that “the real problem with cluster munitions lies in their irresponsible and indiscriminate use rather than in the weapon system itself.”²⁶⁹ It advocated that a future instrument on cluster munitions should focus on regulations on the use of cluster munitions, information-sharing for the effective clearance of explosive remnants of war, victim assistance, and the applicability of existing international humanitarian law (IHL). “We believe that stricter application, implementation and enforcement of the existing IHL would greatly contribute to effectively addressing concerns regarding cluster munitions,” it stated.²⁷⁰ “One of the main concerns with respect to cluster munitions is the problem of non-combatant casualties...in post-conflict situations. Given that such casualties are often heavier than civilian death tolls from the conflict itself, it is important to establish procedures for the release of information regarding the location of areas targeted by cluster munitions, as well as the number of cluster munitions used, in order to facilitate the clearing of ERW after the conflict,” it said.²⁷¹

²⁶⁵ Robert Hewson, ed., *Jane's Air-Launched Weapons*, Issue 44 (Surrey, UK: Jane's Information Group Limited, 2004), p. 841; and Terry J. Gander and Charles Q. Cutshaw, eds., *Jane's Ammunition Handbook 2001–2002*, (Surrey, UK: Jane's Information Group Limited, 2001).

²⁶⁶ Proposal for a Mandate to Negotiate a Legally-Binding Instrument that Addresses the Humanitarian Concerns Posed by Cluster Munitions, Presented by Austria, Holy See, Ireland, Mexico, New Zealand, and Sweden, Third Review Conference of the States Parties to the CCW, Geneva, CCW/CONF.III/WP.1, Geneva, 25 October 2006.

²⁶⁷ Statement by Amb. Dong-hee Chang, Permanent Representative to the Conference on Disarmament, First 2008 Session of the CCW Group of Governmental Experts (GGE) on Cluster Munitions, Geneva, 14 January 2008.

²⁶⁸ *Ibid.*

²⁶⁹ *Ibid.*

²⁷⁰ *Ibid.*

²⁷¹ Statement by Amb. Dong-hee Chang, Third 2008 Session of the CCW GGE on Cluster Munitions, Geneva, 7 July 2008.

South Korea has said that technical improvements could play an important role in reducing the impact of cluster munitions, but any guidelines based on technical standards in a future international instrument would need to take into account the economic and technical abilities of each State Party.²⁷² In the discussions on a possible future protocol on cluster munitions, South Korea has stressed the need for a lengthy transition period before restrictions and other obligations take effect.²⁷³

In November 2008, when the CCW again failed to reach agreement on cluster munitions after seven weeks of meetings, South Korea stated it was “disappointing” and supported continuing work in 2009.

At that time, South Korea announced that it was taking national measures on cluster munitions, after the establishment of a directive in 2008, requiring that in the future it only acquire cluster munitions with self-destruct mechanisms and a 1% or lower failure rate.²⁷⁴

During the October 2008 Global Week of Action on cluster munitions, campaigners in South Korea issued a statement by 28 organizations calling on the government to sign the Convention on Cluster Munitions in Oslo. Campaigners met with the Minister of Foreign Affairs and officials from the Ministry of National Defense to urge signature. Campaigners organized a concert to raise awareness on the issue and collected signatures for the People’s Treaty.²⁷⁵

At the signing conference in Oslo in December, South Korea in its capacity as an observer said, “We value the intent of the [Convention on Cluster Munitions], but considering the current relations between the North and the South, we can’t sign it.... Today I’m here to show our presence from our perspective of placing emphasis on human rights diplomacy.”²⁷⁶

To explain South Korea’s decision not to sign the convention, an official from the Ministry of National Defense said the “Republic of Korea, which confronts the heavily armed North Korean military, can’t abandon scatter bombs [cluster munitions].... We can’t ignore worldwide trends, but national security is our immediate priority.”²⁷⁷

Use, Production, Transfer, and Stockpiling

According to a July 2008 statement, “The Republic of Korea currently possesses cluster munitions for self-defense because of the unique security environment it faces. What should be noted here is that we have never used that weapon system in the real battlefield, and have never caused any harm to civilians. The stockpiles of cluster munitions are under strict oversight and management of military authority.”²⁷⁸

The Ministry of National Defense has said that “South Korea stopped production of old types of cluster munitions,” and “cluster munitions currently in production have a high level of reliability and most are equipped with [self-destruct] mechanisms.”²⁷⁹

The United States concluded a licensing agreement with South Korea in 2001 for production of dual purpose improved conventional munition (DPICM) submunitions for Multiple Launch Rocket System (MLRS) rockets.²⁸⁰ Two companies in South Korea, Hanwha and Poongsan, produce cluster munitions.

²⁷² Statement of the Republic of Korea, Third 2008 Session of the CCW GGE on Cluster Munitions, 15 July 2008. Notes by Landmine Action.

²⁷³ Statement of the Republic of Korea, Fifth 2008 Session of the CCW GGE on Cluster Munitions, 4 November 2008. Notes by Landmine Action.

²⁷⁴ Statement of the Republic of Korea, Ninth Meeting of States Parties to the CCW, Geneva, 13 November 2008. During 2008, South Korea included a representative of the Hanwha Company, a Korean company which produces cluster munitions, in its official delegation to the CCW.

²⁷⁵ CMC, “Global Week of Action to Ban Cluster Bombs, 27 October - 2 November 2008,” www.stopclustermunitions.org.

²⁷⁶ “Facing military confrontation, South Korea clings to cluster munitions,” *Mainichi Daily News*, 8 December 2008, mdn.mainichi.jp.

²⁷⁷ *Ibid.*

²⁷⁸ Statement by Amb. Dong-hee Chang, Third 2008 Session of the CCW GGE on Cluster Munitions, Geneva, 7 July 2008.

²⁷⁹ Communication from the Ministry of National Defense through the Permanent Mission of the Republic of Korea to the UN in Geneva, to Pax Christi Netherlands, 3 June 2005.

²⁸⁰ Notification to Congress pursuant to Section 36(c) and (d) of the Arms Export Control Act, Transmittal No. DTC 132-00, 4 April 2001, www.pmdtc.state.gov.

Both companies were excluded from investment under the Norwegian Petroleum Fund's ethical guidelines for producing cluster munitions, Poongsan in December 2006 and Hanwha in January 2008.²⁸¹

Hanwha responded to an inquiry from Norges Bank in Norway about its status as a producer by stating, "Hanwha Corporation has manufactured [multiple launch rocket systems] and 2.75 inch [Multi-Purpose Submunitions] rockets, which can be classified as cluster/cargo munitions and has also produced KCBU-58B in the past."²⁸² It lists a "scattering bomb for aircraft" as a product on its corporate website.²⁸³ In March 2008, Hanwha apparently exported an unknown quantity of M261 Multi-Purpose Submunition (MPSM) rockets (each containing nine M73 submunitions) to Pakistan.²⁸⁴

According to research conducted by the Ethical Council of the Norwegian Government Pension Fund (Global) in 2006, Poongsan's website advertised a 155mm projectile containing 88 submunitions designated DP-ICM TP, and another 155mm projectile with submunitions designated DP-ICM K305.²⁸⁵ In April 2009, Poongsan listed among its products the following two types of 155mm artillery projectiles that contain submunitions: K308 DP-ICM TP containing 88 K224 submunitions, and K310 DP-ICM B/B containing 49 K221 submunitions.²⁸⁶

Poongsan entered into a licensed production agreement with Pakistan Ordnance Factories in November 2004 to co-produce K310 155mm extended-range (base bleed) DPICM projectiles in Pakistan at Wah Cantonment. While the ammunition is primarily being produced for Pakistan's army, the two firms will also co-market the projectiles to export customers.²⁸⁷

In 2005, South Korea's Ministry of National Defense acknowledged that it "maintains stockpiles of old types of cluster munitions with a high failure rate" and stated, "There are currently no plans to upgrade these holdings.... Equipping old types of submunitions with [self-destruct] mechanisms is not considered feasible due to technical and financial problems."²⁸⁸

South Korea has imported a variety of cluster munitions from the US. It is known to possess M26 rockets, M26A1 extended range rockets and ATACMS missiles for its MLRS launchers. Between 1993 and 1999, the US provided 393 M26A1 Extended Range rocket pods, 271 M26 rocket pods, 111 ATACMS-1 missiles, and 111 ATACMS missiles.²⁸⁹ South Korea also stockpiles several artillery projectiles with DPICM submunitions (M483A1, M864, and M509A1) imported from the US.²⁹⁰

In 2001, the US supplied South Korea with 16 each of the following cluster bombs: CBU-87, CBU-97, CBU-103, and CBU-105.²⁹¹ Jane's Information Group lists it as possessing CBU-87 and Rockeye cluster bombs.²⁹²

²⁸¹ Norwegian Ministry of Finance, "South Korean producer of cluster munitions excluded from the Government Pension Fund – Global," Press release, 6 December 2006, www.regjeringen.no; and Norwegian Ministry of Finance, "One producer of cluster munitions and two producers of nuclear weapons excluded from the Government Pension Fund – Global," Press release, 11 January 2008, www.regjeringen.no.

²⁸² Norwegian Ministry of Finance, "Recommendation on exclusion of the companies Rheinmetall AG and Hanwha Corp.," 15 May 2007, www.regjeringen.no. MLRS are ground rocket systems. The 2.75 inch rockets are usually fired from helicopters. The MKCBU-58B is an air-dropped cluster bomb.

²⁸³ Hanwha Corporation, "Product Information, High Explosives," undated, english.hanwhacorp.co.kr.

²⁸⁴ The Omega Research Foundation in the UK provided Human Rights Watch with a copy of an Import General Manifest summary produced by the Pakistan Federal Revenue Board for the vessel BBC Islander at Karachi port, dated 19 March 2008, noting the goods were loaded at Busan, and identifying the importer as Chief Inspector, Inspectorate of Armament. The shipment of 1,219 tons included the cluster munition rockets and other weapons and materials. The MPSM rockets are usually fired from helicopters.

²⁸⁵ Letter from Council on Ethics for the Norwegian Government Pension Fund-Global, to the Norwegian Ministry of Finance, "Recommendation of 6 September 2006," 6 September 2006, www.regjeringen.no.

²⁸⁶ Poongsan, "Defence Products, Howitzer Ammunition," www.poongsan.co.kr.

²⁸⁷ "Pakistan Ordnance Factory, S. Korean Firms Sign Ammunition Pact," *Asia Pulse* (Karachi), November 24, 2006.

²⁸⁸ Communication from the Ministry of National Defense through the Permanent Mission of the Republic of Korea to the UN in Geneva, to Pax Christi Netherlands, 3 June 2005.

²⁸⁹ Date from US Defense Security Cooperation Agency, Department of Defense, "Notifications to Congress of Pending U.S. Arms Transfers," "Foreign Military Sales," "Direct Commercial Sales," and "Excess Defense Articles" databases, www.dsca.osd.mil. M26 rockets each contain 644 submunitions, and there are six rockets to a pod. M26A1 rockets have 518 submunitions each. ATACMS 1 missiles have 950 submunitions each.

²⁹⁰ M483A1 shells have 88 submunitions, M864 have 72.

²⁹¹ Defense Security Cooperation Agency, "Republic of Korea - F-15E/K Aircraft Munitions and Avionics," Press release, 15 February 2001, www.dsca.mil. It also provided 45 AGM-54 JSOW bombs, but it is not known if these were the version with bomblets.

²⁹² Robert Hewson, ed., *Jane's Air-Launched Weapons*, Issue 44 (Surrey, UK: Jane's Information Group Limited, 2004), p. 841. CBU-87 bombs have 202 submunitions, and Rockeyes 247.

KUWAIT

The State of Kuwait has not signed the Convention on Cluster Munitions. It is also not party to the Convention on Conventional Weapons.

Kuwait did not attend the first two international meetings of the Oslo Process in Oslo in February 2007 and Lima in May 2007, but participated in the Belgrade conference for affected states in October 2007, and the international conferences to develop the convention text in Vienna in December 2007 and Wellington in February 2008. It endorsed the Wellington Declaration, indicating its intention to participate fully in the formal negotiations in Dublin.

However, Kuwait subsequently chose to attend the Dublin negotiations in May 2008 only as an observer, and thus did not adopt the convention. It did not attend the Signing Conference in Oslo in December. Kuwait rarely spoke during the Oslo Process, and has not yet made a clear statement regarding its cluster munition policy.

Kuwait is not believed to have used or produced cluster munitions, but it has stockpiles. In 1995, Kuwait was the first export customer for the Russian produced 300mm Smerch multiple launch rocket system fitted with dual purpose and sensor-fuzed submunitions, buying 27 launch units.²⁹³

Kuwait is affected by cluster munitions which were used extensively during the 1991 Gulf War by the United States, France, and the United Kingdom.

LIBYA

The Socialist People's Libyan Arab Jamahiriya has not signed the Convention on Cluster Munitions. It has not made a clear statement of its cluster munition policy. It has used cluster munitions in the past and is believed to stockpile the weapon. Libya is not party to the Convention on Conventional Weapons.

Libya did not attend the initial meeting in Oslo to launch the Oslo Process in February 2007 or any of the three international diplomatic conferences to develop the convention text in Lima, Vienna, and Wellington.

Libya did participate in the African regional conference in Livingstone from 31 March to 1 April 2008, where it endorsed the Livingstone Declaration, which called on African states to support the negotiation in Dublin of a "total and immediate" prohibition on the use, production, stockpiling, and transfer of cluster munitions.²⁹⁴

Libya subsequently attended the formal negotiations of the Convention on Cluster Munitions in Dublin in May 2008, but only as an observer. Thus, it did not join 107 other states in adopting the convention. It made no interventions during the negotiations.

Libya also attended the African regional conference in Kampala in September 2008 and endorsed the Kampala Action Plan, which declared that states should sign and "take all necessary measures to ratify the convention as soon as possible."²⁹⁵

The CMC and the NGO Protection Against Armaments and Consequences conducted an advocacy mission to Libya on 2–4 November 2008. A military official told them that the military had studied the convention and informed the Ministry of Foreign Affairs that it did not object to signing.²⁹⁶

However, Libya did not attend the Oslo signing conference in December 2008.

²⁹³ "Kuwait to get smart submunitions for Smerch MRL," *Jane's Defence Weekly*, 21 April 1995.

²⁹⁴ Livingstone Declaration, Livingstone Conference on Cluster Munitions, 1 April 2008.

²⁹⁵ CMC, "Report on the Kampala Conference on the Convention on Cluster Munitions," 30 September 2008; and Kampala Action Plan, Kampala Conference, 30 September 2008.

²⁹⁶ Interview with Col. Aladdin Hanish, General Committee for Defense, Ministry of Defense, Tripoli, 3 November 2008.

Libya has used cluster munitions in the past and is believed to possess a stockpile, although the current status and composition of the stockpile are unknown. Libya is not thought to have produced cluster munitions.

Libyan forces used aerial cluster bombs, likely RBK bombs of Soviet/Russian origin, containing AO-1SCh and PTAB-2.5 submunitions at various locations during its intervention in Chad during the 1986–1987 conflict.²⁹⁷ Jane's Information Group lists Libya as possessing KMG-U dispensers (which deploy submunitions) and RBK-500 aerial cluster bombs, again presumably of Soviet/Russian origin.²⁹⁸

MONGOLIA

Mongolia has not signed the Convention on Cluster Munitions. It did not participate in the diplomatic process in 2007 and 2008 that resulted in the development, negotiation, and then signing of the convention in Oslo in December 2008. It has not made a public declaration regarding its cluster munition policy. Mongolia is not known to have used, produced, or exported cluster munitions. Jane's Information Group reports that KMG-U dispensers which deliver submunitions are in service with the country's air force.²⁹⁹

Mongolia is party to the Convention on Conventional Weapons (CCW), but has not been involved in the discussions on cluster munitions in recent years. It has not joined CCW Protocol V on Explosive Remnants of War.

MOROCCO

The Kingdom of Morocco has not signed the Convention on Cluster Munitions, despite the fact that it participated in the Oslo Process and adopted the convention at the conclusion of the negotiations in May 2008. Morocco has a stockpile of cluster munitions and used the weapon in the past.

Morocco is party to the Convention on Conventional Weapons (CCW), but has not ratified Protocol V on Explosive Remnants of War. It has taken part in and supported the CCW's work on cluster munitions in recent years.

Cluster Munition Ban Policy

At the CCW Third Review Conference in November 2006, Morocco did not support a proposal for a mandate to negotiate a legally binding instrument "that addresses the humanitarian concerns posed by cluster munitions."³⁰⁰ Morocco did not attend the initial meeting in Oslo in February 2007 to launch the Oslo Process, or the subsequent international conference in Lima.

By the time of the CCW Meeting of the States Parties in November 2007, Morocco's position had shifted and it said it now fully supported a legally binding instrument on cluster munitions in the framework of the CCW.³⁰¹ Morocco then participated in the last two international diplomatic conferences of the Oslo Process to develop the convention text in Vienna and Wellington.

In Vienna, Morocco stated that it attached special importance to the issue, but believed that the CCW was the right forum for negotiations, as it included the main producers and users of cluster munitions. Morocco stated it would support a proposal by Germany for a new protocol on cluster munitions in the CCW.³⁰²

²⁹⁷ Handicap International, "Circle of Impact: The Fatal Footprint of Cluster Munitions on People and Communities," Brussels, 2007, p. 48, en.handicapinternational.be.

²⁹⁸ Robert Hewson, ed., *Jane's Air-Launched Weapons*, Issue 44 (Surrey, UK: Jane's Information Group Limited, 2004), p. 842.

²⁹⁹ *Ibid.*

³⁰⁰ Proposal for a Mandate to Negotiate a Legally-Binding Instrument that Addresses the Humanitarian Concerns Posed by Cluster Munitions, Presented by Austria, Holy See, Ireland, Mexico, New Zealand, and Sweden, Third Review Conference of the States Parties to the CCW, Geneva, CCW/CONF.III/WP.1, Geneva, 25 October 2006.

³⁰¹ Statement of Morocco, 2007 Meeting of the States Parties to the CCW, Geneva, 7 November 2007. Notes by WILPF.

³⁰² Statement of Morocco, Vienna Conference on Cluster Munitions, 5 December 2007. Notes by CMC/ WILPF.

At the Wellington conference, Morocco continued to state its preference for work in the CCW, and said that the Oslo Process “complements the work of the CCW.” It reaffirmed its association with the humanitarian objectives of the Oslo Process.³⁰³ Morocco expressed its views on a number of provisions in the draft convention text, particularly on victim assistance.³⁰⁴ Morocco subscribed to the Wellington Declaration, indicating its intention to participate fully in the formal negotiations in Dublin on the basis of the Wellington text.

Morocco participated in the African regional conference in Livingstone from 31 March to 1 April 2008, where it endorsed the Livingstone Declaration, which called on African states to support a comprehensive convention with a “total and immediate” prohibition on the production, stockpiling, transfer, and use of cluster munitions.³⁰⁵

During the Dublin Diplomatic Conference in May 2008, Morocco weighed in on a number of issues, including that of “interoperability” (joint military operations with states not party).³⁰⁶ Morocco joined in the consensus adoption of the convention at the conclusion of the negotiations.

Morocco continued to support work in the CCW on cluster munitions. In the September 2008 session, Morocco spoke of the need for a legally binding instrument on cluster munitions that struck a balance between military and humanitarian considerations. It stated that a CCW instrument should be compatible with the Convention on Cluster Munitions.³⁰⁷ When CCW States Parties failed to reach agreement on a new protocol in November 2008, Morocco supported the continuation of work on cluster munitions in the CCW in 2009.³⁰⁸

During the Global Week of Action, from 26–29 October 2008, the CMC, ICBL, and the Egyptian NGO Protection Against Armaments and Consequences jointly organized an advocacy mission to Morocco to discuss the convention and urge Morocco to publicly announce it would sign in Oslo in December 2008.³⁰⁹ Senior military officials told the mission that they were not opposed to signing.³¹⁰ A senior Ministry of Foreign Affairs official said that internal consultations were being conducted at that time.³¹¹

However, Morocco attended the Oslo signing conference on 3–4 December 2008 only as an observer. It did not make a statement. Morocco has not provided a public explanation for why it has not yet signed the convention.

Use, Stockpiling, Transfer, and Production

Moroccan forces used artillery-fired and air-dropped cluster munitions against the Polisario Front (the Popular Front for the Liberation of Saguía el Hamra and Río de Oro) in the disputed territory of the Western Sahara at some point during their conflict from 1975–1988. Landmine Action reports that there is significant contamination in Western Sahara from CBU-71 cluster bombs with BLU-63 submunitions,

³⁰³ Statement of Morocco, Session on General Obligation and Scope, Wellington Conference on Cluster Munitions, 18 February 2008. Morocco also stated its intention to accede to Protocol V.

³⁰⁴ Statement of Morocco, Session on Victim Assistance, Wellington Conference, 20 February 2008. It supported including families and communities in the definition of cluster munition victim; reference to human rights, medical care, psychological support, and socio-economic rehabilitation of victims; the inclusion of victims in decision-making processes; and a non-discriminatory approach to assistance for victims.

³⁰⁵ Livingstone Declaration, Livingstone Conference on Cluster Munitions, 1 April 2008.

³⁰⁶ While initially opposed to any provisions on interoperability, in order to reach a compromise Morocco offered language that would require states not party to justify the military necessity of use of cluster munitions during joint operations. The language was ultimately not accepted. Proposal by Morocco, supported by Senegal and Mauritania, for the amendment of the Proposal by Germany, supported by Denmark, France, Italy, Slovakia, Spain, the Czech Republic, and the United Kingdom for the amendment of Article 1, Dublin Diplomatic Conference on Cluster Munitions, CCM/19, 20 May 2008.

³⁰⁷ Statement of Morocco, Fourth 2008 Session of the CCW Group of Governmental Experts on Cluster Munitions, Geneva, 1 September 2008. Notes by Landmine Action.

³⁰⁸ Statement of Morocco, 2008 Meeting of the States Parties to the CCW, Geneva, 13 November 2008. Notes by Landmine Action.

³⁰⁹ CMC, “Global Week of Action to Ban Cluster Bombs: 27 October – 2 November 2008,” www.stopclustermunitions.org.

³¹⁰ Interview with General Ben Elias, Office of the Army General Inspector, and two other generals, Rabat, 29 November 2008.

³¹¹ Interview with Nasser Bourita, Director of the Cabinet of the Minister of Foreign Affairs, Head of the International Organizations Department, Ministry of Foreign Affairs, Rabat, 29 November 2008.

and from M483A1 155mm artillery projectiles with M42 and M46 dual purpose improved conventional munition (DPICM) submunitions.³¹²

Between 1970 and 1995, the United States transferred 2,994 CBU-52, 1,752 CBU-58, 748 CBU-71, and 850 Rockeye cluster bombs to Morocco.³¹³ Combined, those cluster bombs contained nearly 2.5 million submunitions. The M483A1 artillery projectiles noted above are also produced in the United States.

Morocco is not known to have produced its own cluster munitions. The current status and composition of its stockpile of cluster munitions is not known.

NIGERIA

The Federal Republic of Nigeria has not signed the Convention on Cluster Munitions. It has been supportive of the Oslo Process and joined the consensus adoption of the convention at the conclusion of the negotiations in May 2008. It is not party to the Convention on Conventional Weapons.

While Nigeria did not attend the initial meeting to launch the Oslo Process in February 2007, it participated in all of the other international diplomatic conferences to develop the convention text in Lima, Vienna, and Wellington, as well as the formal negotiations in Dublin in May 2008. It also participated in the African regional conferences in Livingstone in March/April 2008 and Kampala in September 2008.

At the Wellington conference in February 2008, Nigeria called for a “strong and unambiguous definition, including the widest possible scope of its applicability.” Nigeria stated that it was “unimpressed with technical clarifications that seem to suggest that there are good munitions and bad munitions, and that only the bad ones should be put beyond use.”³¹⁴ Nigeria also advocated for a broad definition of cluster munition victim.³¹⁵ Nigeria endorsed the Wellington Declaration, indicating its intention to participate fully in the formal negotiations in Dublin.

At the conclusion of the Livingstone conference, Nigeria endorsed the Livingstone Declaration, which called on African states to support the negotiation in Dublin of a comprehensive treaty with a prohibition that should be “total and immediate.”³¹⁶ Campaigners in Nigeria stepped up their active engagement with the Nigerian government to urge them to support the convention and to raise public awareness on the issue.³¹⁷

At the Dublin negotiations in May 2008, Nigeria called for a comprehensive prohibition with no exceptions and no transition period during which cluster munitions could still be used.³¹⁸ Nigeria also opposed the inclusion of provisions to facilitate “interoperability” (joint military operations with states not party).³¹⁹ Nigeria initially opposed the inclusion of any technical characteristics in the definition, but stated that it would be flexible and listen to constructive ideas.³²⁰ Nigeria joined the consensus adoption of the convention and at the closing ceremony declared that the convention had opened a new chapter in

³¹² Landmine Action, “Explosive Ordnance Disposal and technical survey in Polisario-controlled areas of Western Sahara,” Project proposal, February 2006, p. 4. Email from Simon Conway, Director, Landmine Action, 3 May 2006; and Handicap International, “Circle of Impact: The Fatal Footprint of Cluster Munitions on People and Communities,” Brussels, 2007, p. 134, citing email from Capt. Muhammad Aimaar Iqbal, MINURSO, 19 April 2007, en.handicapinternational.be.

³¹³ US Defense Security Assistance Agency, Department of Defense, “Cluster Bomb Exports under FMS, FY1970–FY1995,” 15 November 1995, obtained by Human Rights Watch in a Freedom of Information Act request, 28 November 1995.

³¹⁴ Statement of Nigeria, Session on Definitions, Wellington Conference on Cluster Munitions, 19 February 2008.

³¹⁵ Statement of Nigeria, Session on Definitions, Vienna Conference on Cluster Munitions, 6 December 2007. Notes by CMC/WILPF.

³¹⁶ Livingstone Declaration, Livingstone Conference on Cluster Munitions, 1 April 2008.

³¹⁷ On 22 April 2008, the IANSA Women’s Network in Nigeria, the Nigerian Office of Oxfam GB, and Equity Advocates in Abuja held a press conference to urge the government to support a strong treaty. CMC, “Global Day of Action to Ban Cluster Bombs – What Happened,” 19 April 2008, www.stopclustermunitions.org.

³¹⁸ Statement of Nigeria, Committee of the Whole, Dublin Diplomatic Conference on Cluster Munitions, 19 May 2008; and Statement of Nigeria, Committee of the Whole, Dublin Diplomatic Conference, 23 May 2008. Notes by Landmine Action.

³¹⁹ Statement of Nigeria, Informal discussions on Interoperability, Dublin Diplomatic Conference, 20 May 2008. Notes by Landmine Action.

³²⁰ Statement of Nigeria, Committee of the Whole, Dublin Diplomatic Conference, 26 May 2008. Notes by Landmine Action.

disarmament and international humanitarian law. Nigeria stated that while not perfect, the convention was ambitious and balanced and would stigmatize these “odious” weapons.³²¹

In September 2008, Nigeria attended the Kampala regional conference and announced its intention to sign the convention at the Oslo signing conference in December.³²² Nigeria also endorsed the Kampala Action Plan, which declared that states should sign and “take all necessary measures to ratify the convention as soon as possible.”³²³

However, Nigeria attended the signing conference only as an observer. Nigeria reiterated its commitment to the convention and stated that as soon as its internal process was finished concluded, Nigeria would sign. Nigeria promised that this would “be sooner, rather than later.”³²⁴

Production, Transfer, Stockpiling, and Use

Nigeria is not known to have produced or exported cluster munitions, but imported them in the past and is thought to have a current stockpile. Jane’s Information Group reports that British-produced BL-755 cluster bombs are in service with the country’s air force.³²⁵

Sierra Leone has said that Nigerian ECOMOG peacekeepers used cluster munitions in Sierra Leone in 1997.³²⁶ According to sources close to the Sierra Leonean military, in 1997 Nigerian forces operating as ECOMOG peacekeepers dropped two cluster bombs on Lokosama, near Port Loko. ECOMOG Force Commander General Victor Malu denied these reports.³²⁷ According to media reports, Nigerian ECOMOG peacekeepers used French-produced BLG-66 Belouga cluster bombs in an attack on the eastern town of Kenema in Sierra Leone in 1997.³²⁸

OMAN

The Sultanate of Oman has not signed the Convention on Cluster Munitions. Oman has not made any public statements regarding its cluster munition policy. It attended the Oslo Process international preparatory conferences in Vienna in December 2007 and Wellington in February 2008, and attended as an observer the formal negotiations in Dublin in May 2008. It did not make any interventions during these meetings.³²⁹ It is not party to the Convention on Conventional Weapons.

Jane’s Information Group lists Oman as possessing BL-755 and Rockeye cluster bombs.³³⁰ In addition, the United States announced the sale of 50 CBU-97/105 Sensor Fuzed Weapons to Oman in April 2002.³³¹

³²¹ Statements of Nigeria, Closing Ceremony, Dublin Diplomatic Conference, 30 May 2008. Notes by Landmine Action.

³²² CMC, “Report Kampala Conference on the Convention on Cluster Munitions,” 30 September 2008, www.stopclustermunitions.org.

³²³ CMC, “Report on the Kampala Conference on the Convention on Cluster Munitions,” 30 September 2008; and Kampala Action Plan, Kampala Conference, 30 September 2008.

³²⁴ Statement of Nigeria, Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008. Notes by Landmine Action. At the time, Nigerian officials told the CMC that Nigeria was prepared to sign, but the formal Full Powers document had been mistakenly signed by the Defense Minister instead of the Foreign Minister. In January, the Nigerian Embassy in London confirmed to the CMC that arrangements were underway in Nigeria to ensure that it would be able to sign in the coming months. Nigerian officials had indicated to the CMC that it might be able to sign on 18 March during a special event on the convention at the UN in New York, but this did not occur.

³²⁵ Robert Hewson, ed., *Jane’s Air-Launched Weapons*, Issue 44 (Surrey, UK: Jane’s Information Group Limited, 2004), p. 843.

³²⁶ Statement of Sierra Leone, Vienna Conference on Cluster Munitions, 5 December 2008. Notes by CMC/WILPF. ECOMOG is the Economic Community of West African States Monitoring Group, established in 1990 to intervene in the war in Liberia.

³²⁷ UN Department of Humanitarian Affairs, Integrated Regional Information Network for West Africa, “IRIN-WA Weekly Roundup, 10/3/97,” www.africa.upenn.edu.

³²⁸ “10 Killed in Nigerian raid in eastern Sierra Leone,” *Agence France-Presse*, 11 December 1997; and Human Rights Watch, “Cluster Munition Information Chart,” March 2009, www.hrw.org.

³²⁹ Oman did not endorse the Oslo Declaration pledging to conclude a new cluster munition treaty in 2008 or the Wellington Declaration committing to participate fully in the Dublin negotiations.

³³⁰ Robert Hewson, ed., *Jane’s Air-Launched Weapons*, Issue 44 (Surrey, UK: Jane’s Information Group Limited, 2004), p. 843. The BL-755 is produced by the United Kingdom and the Rockeye by the US.

³³¹ US Defense Security Cooperation Agency news release, “Oman – F-16 Aircraft Munitions,” Transmittal No. 02-16, 10 April 2002. These cluster bombs are included in the convention’s definition of a cluster weapon.

PAKISTAN

The Islamic Republic of Pakistan has not signed the Convention on Cluster Munitions. It did not participate in the diplomatic process in 2007 and 2008 that resulted in the development, negotiation, and then signing of the convention in Oslo in December 2008. Pakistan produces, stockpiles, imports, and offers for export cluster munitions, but is not known to have used them.

Pakistan is party to the Convention on Conventional Weapons (CCW), and it consented to be bound by Protocol V on Explosive Remnants of War on 3 February 2009. It has been an active participant in discussions on cluster munitions within the Group of Governmental Experts (GGE) mandated by States Parties to the CCW.

Cluster Munition Ban Policy

While “supporting international efforts to address the humanitarian concerns arising from the irresponsible use of cluster munitions,” Pakistan has stated that “in view of Pakistan’s security environment and legitimate defence needs, we do not support a ban on use, production, and transfer of cluster munitions due to their military utility.”³³² Additionally, Pakistan has asserted that it “is important to avoid encouraging extra UN mechanisms” and that the Convention on Cluster Munitions “should supplement and not supplant the CCW process.”³³³

In CCW discussions, Pakistan has said that “the emphasis on using technologically advanced cluster munitions is not the right track” since it “would only deprive developing countries of weapons that offer military advantage at lower cost compared with other alternative weapons.”³³⁴ Pakistan has contended that “the cost of destroying current stocks of cluster munitions and moving to newer technologies would be huge.”³³⁵

In July 2008, Pakistan voiced its support for the CCW process, stating that CCW’s legal framework “is the only mechanism that brings the users and producers of cluster munitions and promoters of development and application of IHL [international humanitarian law] on one common platform.”³³⁶ At the same meeting, Pakistan played down the adoption of the Convention on Cluster Munitions text in May 2008 in Dublin and insisted that cluster munitions were lawful weapons if used properly. When the CCW negotiations were about to fail at the end of 2008, Pakistan voiced its support for continuing talks.

Use, Production, Stockpiling, and Transfer

Pakistan states that it has “never used cluster munitions in any conflict to date.”³³⁷

Pakistan Ordnance Factories (POF) produces and offers for export M483A1 155mm artillery projectiles containing 88 M42/M46 dual purpose improved conventional munition (DPICM) grenades.³³⁸ The South Korean company Poongsan entered into a licensed production agreement with POF in November 2004 to co-produce K-310 155mm extended-range DPICM projectiles in Pakistan at Wah Cantonment. While the ammunition is being produced for Pakistan’s army, the two firms have said they will also co-market the projectiles to export customers.³³⁹ The Pakistani army took delivery of the first production lots in April 2008.³⁴⁰

³³² Letter from Dr. Irfan Yusuf Shami, Director General for Disarmament, Ministry of Foreign Affairs, 16 February 2009.

³³³ Pakistan, Explanation of Vote on UN General Assembly First Committee draft resolution A/C.1/63/L.56, “Convention on Cluster Munitions,” (UNGA 63/71), 63rd Session, 30 October 2008.

³³⁴ Statement by Amb. Masood Khan, Permanent Mission of Pakistan to the Conference of Disarmament, First 2008 Session of the CCW GGE on Cluster Munitions, Geneva, 14 January 2008.

³³⁵ Ibid.

³³⁶ Statement by Amb. Masood Khan, Third 2008 Session of the CCW GGE on Cluster Munitions, Geneva, 7 July 2008.

³³⁷ Statement by Amb. Masood Khan, 2007 Meeting of the States Parties to the CCW, Geneva, 7 November 2007.

³³⁸ Pakistan Ordnance Factories, “Products, Ordnance, Artillery Ammunition, 155mm HOW HE M483A1-ICM,” www.pof.gov.pk.

³³⁹ “Pakistan Ordnance Factory, S. Korean Firms Sign Ammunition Pact,” *Asia Pulse* (Karachi), 24 November 2006.

³⁴⁰ “Pak Army Gets First Lot of DPICM Ammunition,” *PakTribune* (online edition), 13 April 2008, www.paktribune.com.

Jane's Information Group credits the Pakistan Air Weapons Center with the production of the Programmable Submunitions Dispenser (PSD-1), which is reported to be similar to the United States Rockeye cluster bomb, and dispenses 225 anti-armor bomblets.³⁴¹ Jane's states that the Pakistan National Development Complex produces and markets the Hijara Top-Attack Submunitions Dispenser (TSD-1) cluster bomb.³⁴² It lists Pakistan's Air Force as possessing BL-755 cluster bombs.³⁴³ The US transferred to Pakistan 200 Rockeye cluster bombs at some point between 1970 and 1995.³⁴⁴

POLAND

The Republic of Poland has not signed the Convention on Cluster Munitions. In a September 2008 letter the Ministry of Foreign Affairs wrote, "Although we fully share the humanitarian objectives of the Oslo Process...we have decided at present to concentrate all our efforts and expertise on the forum of CCW [Convention on Conventional Weapons]."³⁴⁵ Poland produces and stockpiles cluster munitions.

Poland is party to the CCW, but has yet to ratify Protocol V on Explosive Remnants of War. In April 2007 the Ministry of Foreign Affairs stated that it had initiated preparations for ratification of this protocol.³⁴⁶

Cluster Munition Ban Policy

Poland was one of three states present at the February 2007 Oslo Conference on Cluster Munitions that did not endorse the Oslo Declaration committing states to conclude a cluster munition treaty in 2008. Poland also attended Oslo Process international treaty preparatory meetings in Lima and Vienna, but did not attend the Wellington conference in February 2008. It attended the formal negotiations in Dublin in May 2008 as an observer. At the Lima meeting, Poland noted that while the Oslo Process should be a source of inspiration, it should find commonality with the CCW in order to achieve substantial progress there.³⁴⁷ Poland did not deliver statements in the other Oslo Process meetings.

In September 2008, Poland stated that when the CCW finished its work, there would be two humanitarian legal regimes, the Convention on Cluster Munitions and a CCW protocol, and that those countries that have adopted a higher standard on cluster munitions should have no problem with others adopting a lesser one. For those adopting the lesser standard, it should be seen as a time of transition.³⁴⁸

During a November 2008 meeting with NGOs, an official from the Ministry of National Defense said that Poland would not sign the Convention on Cluster Munitions because Poland has very modern cluster munitions with a 98% reliability rate. He said Poland would use cluster munitions for defensive purposes only, and does not intend to use them outside its own territory.³⁴⁹

In a February 2009 discussion at a CCW meeting, Poland elaborated on its position, stating, "In our opinion it would be counterproductive to insist on establishing any ban covering the whole category of cluster munitions or any immediate prohibitions without a possibility for states to ask for a transitional period." Poland said that it was prepared to accept restrictions only for certain types of cluster munitions

³⁴¹ Robert Hewson, ed., *Jane's Air-Launched Weapons*, Issue 44 (Surrey, UK: Jane's Information Group Limited, 2004), p. 389.

³⁴² *Ibid.*

³⁴³ *Ibid.*, p. 843. BL-755s are manufactured by the United Kingdom.

³⁴⁴ US Defense Security Assistance Agency, Department of Defense, "Cluster Bomb Exports under FMS, FY1970-FY1995," 15 November 1995, obtained by Human Rights Watch in a Freedom of Information Act request, November 28, 1995.

³⁴⁵ Letter from Adam Kobieracki, Director, Security Policy Department, Ministry of Foreign Affairs, 22 September 2008.

³⁴⁶ ICBL, *Landmine Monitor Report 2008*: (Ottawa: Mines Action Canada, 2008), p. 790.

³⁴⁷ Statement of Poland, Lima Conference on Cluster Munitions, 23 May 2007. Notes by CMC/WILPF.

³⁴⁸ Statement of Poland, Fourth 2008 Session of the CCW Group of Governmental Experts (GGE) on Cluster Munitions, Geneva, 2 September 2008. Notes by Landmine Action.

³⁴⁹ ICBL and CMC meeting with representatives of Ministry of Foreign Affairs and Ministry of National Defense, Warsaw, 14 November 2008. The remarks were made by Captain Jerzy Niemec, Deputy Director, Department of International Security Policy, Ministry of National Defense. Email from Kasia Derlicka, Advocacy and Campaigning Officer, ICBL, 9 April 2009.

that cause unacceptable harm to civilians and also stressed that it does not share the view that a possible CCW agreement on cluster munitions would be contradictory to the Convention on Cluster Munitions.³⁵⁰

In a letter to Human Rights Watch dated 10 March 2009, a representative of the Ministry of Foreign Affairs stated, “Poland attaches the utmost importance to the humanitarian aspect of the use of cluster munitions and supports measures designed to reduce civilian losses and suffering.... However, due to legitimate security needs, we were not in the position to sign the Convention on 3 December 2008.”³⁵¹ Furthermore, the “Polish Armed Forces recognize that cluster munitions, which meet high reliability criteria, are legitimate weapons of significant military value, which are necessary to ensure [the] security of Poland.”

Use

According to the Ministry of Foreign Affairs, “The Polish Armed Forces have never used cluster munitions in combat.”³⁵² However, Polish forces deployed in Afghanistan may have possessed the weapon. According to a press account, the chief executive of a Polish company that produces cluster munitions said, “Polish troops at Nangar Khel in Afghanistan had mortar missiles with cluster munitions.”³⁵³

Stockpiling

Poland acknowledges possessing both air-dropped and surface-launched cluster munitions.³⁵⁴ Polish Land Forces are equipped with the following types:

- 122mm unguided rocket projectile M-21FK “FENIKS-Z,” containing 42 GKO submunitions. These munitions are deployed by BM-21/21M or RM 70/85 Multiple Launch Rocket Systems.
- 122mm unguided artillery shell “HESYT-1,” containing 20 GKO submunitions. These munitions are deployed by the self-propelled howitzer HS 2S1 “GOŹDZIK.”
- 98mm unguided mortar shell “RAD-2,” containing 12 GKO submunitions and deployed by M-98 mortar.

The Polish Air Force possesses the following types of cluster munitions:

- ZK-300 cluster bomb, containing 315 PLBOK fragmentation bomblets; both the carrier and bomblets were designed and produced in Poland.
- BKF expendable unit loader with anti-tank, incendiary and fragmentation bomblets, imported from the former Soviet Union.

According to the Ministry of Foreign Affairs, “The GKO submunitions are typical DPICM (Dual Purpose Improved Conventional Munitions) that combine anti-personnel fragmentation feature with an anti-armour shaped charge. It should be stressed that the GKO – the entirely Polish design – is relatively new and modern. Both the GKO submunitions and their carriers, which the Polish Armed Forces are equipped with, have been produced in Poland since 2001. The GKO incorporate a back-up self-destruction mechanism, which destroys the unexploded on impact submunitions after a set delay of about 20 seconds. The simple and reliable fuse sequence with two independent detonators ensures negligible failure rate of the submunitions in all environmental conditions. High reliability of the GKO has been confirmed during acceptance trials and field trials in different conditions.”³⁵⁵

The Ministry of Foreign Affairs also stated that the air-dropped “obsolete cluster munitions entered into service in 1980s during the Warsaw Pact Era. These weapons are carried by Su-22 aircrafts. It should be stressed that the current military Air Forces doctrine does not anticipate any use of air-delivered cluster munitions in military operations. Therefore, it is almost certain that those weapons will be left untouched

³⁵⁰ Statement of Poland, First 2009 Session of the CCW GGE on Cluster Munitions, Geneva, 16 February 2009.

³⁵¹ Letter from Adam Kobieracki, Ministry of Foreign Affairs, 10 March 2009.

³⁵² Ibid.

³⁵³ Marcin Górka, “Poland Sees Nothing Wrong in Cluster Bombs,” *Gazeta Wyborcza*, 9 September 2008, wyborcza.pl.

³⁵⁴ All information on current stockpiles is from a letter from Adam Kobieracki, 10 March 2009.

³⁵⁵ Ibid.

in their storage sites until their life span expires. The F-16 multirole fighters, which the Polish Air Forces have recently acquired, are not equipped with cluster munitions.”³⁵⁶

However, contradictory information exists that indicates cluster munitions were included in the F-16 sale. In 2001, the United States Defense Cooperation Agency notified the US Congress of a possible Foreign Military Sale to Poland including 384 CBU-87 combined effects cluster bombs.³⁵⁷ On 22 July 2002 another notification indicated that the US would supply 140 CBU-97 Sensor Fuzed Weapons with Wind Corrected Munitions Dispensers in an additional F-16 sale.³⁵⁸

In addition, the Jane’s Information Group lists Poland as possessing KMG-U dispensers, RBK-250, RBK-275, and RBK-500 cluster bombs.³⁵⁹

Production and Transfer

Several Polish companies have produced cluster munitions. According to the Ministry of Foreign Affairs, the types of cluster munitions it lists as being in the Polish arsenal “are produced by the Polish companies exclusively for the needs of the Polish Armed Forces.”³⁶⁰ The ministry states that Poland “has not exported any cluster munitions in recent years.”³⁶¹ Details on past exports are not available.

Regarding future procurement of cluster munitions, Poland stated in 2005, “The Ministry of Defense requires during acceptance tests less than 2.5% failure rate for the purchased submunitions.”³⁶²

The Polish company Dezamet has produced the ZK-300 Kisajno cluster bomb and also lists producing another type of cluster bomb called the LBKas-250, which contains 120 LBok-1 bomblets.³⁶³ The Kraśnik defense plant has produced cluster munitions for 98mm mortars, 122mm artillery, and 152mm artillery.³⁶⁴ The Polish company Tlocznia Metali Pressta Spolka Akcyjna has manufactured 122mm rockets.³⁶⁵

QATAR

The State of Qatar has not signed the Convention on Cluster Munitions. It is not party to the Convention on Conventional Weapons.

While Qatar did not attend the initial Oslo Process meeting in February 2007 or the second gathering in Lima, it participated in the other two international conferences to develop the convention text in Vienna and Wellington. While Qatar did not endorse the Wellington Declaration at the conclusion of the conference, it did so on 13 May 2008; endorsement indicated its intention to participate fully in the formal negotiations in Dublin on the basis of the draft Wellington text.³⁶⁶

³⁵⁶ Ibid.

³⁵⁷ US Defense Security Cooperation Agency, Department of Defense, “Poland - Sale of F-16 Fighters and Support Equipment,” Transmittal No. 01-18, 8 June 2001.

³⁵⁸ US Defense Security Cooperation Agency, “Poland – Sale of F-16 Fighter Aircraft,” News release, Transmittal No. 02-49, 22 July 2002. US CBU-97 Sensor Fuzed Weapons are cluster bombs that are prohibited under the Convention on Conventional Weapons.

³⁵⁹ Robert Hewson, ed., *Jane’s Air-Launched Weapons*, Issue 44 (Surrey, UK: Jane’s Information Group Limited, 2004), p. 844.

³⁶⁰ Letter from Adam Kobieracki, Ministry of Foreign Affairs, 10 March 2009.

³⁶¹ Ibid.

³⁶² Communication from the Polish Ministry of Defense, to Pax Christi Netherlands, 14 February 2005. The information was provided to Pax Christi Netherlands with the proviso that the “content of the paper does not necessarily reflect the official position of Poland.”

³⁶³ Robert Hewson, ed., *Jane’s Air-Launched Weapons*, Issue 44 (Surrey, UK: Jane’s Information Group Limited, 2004), p. 391; and Dezamet, “Air Armament,” undated, www.dezamet.com.pl.

³⁶⁴ Dezamet, “Cargo Ammunition,” www.dezamet.com.pl; and Marcin Górka, “Poland Sees Nothing Wrong in Cluster Bombs,” *Gazeta Wyborcza*, 9 September 2008, wyborcza.pl.

³⁶⁵ Terry J. Gander and Charles Q. Cutshaw, eds., *Jane’s Ammunition Handbook 2001–2002* (Surrey, UK: Jane’s Information Group Limited, 2001), p. 626.

³⁶⁶ New Zealand Ministry of Foreign Affairs and Trade, “List of countries subscribing to the Declaration of the Wellington Conference on Cluster Munitions,” 23 May 2008, www.mfat.govt.nz.

It then took part in the Dublin negotiations in May 2008 as a full participant (not just an observer) and joined the consensus in formally adopting the convention text. However, it did not make any interventions at any of the Oslo Process meetings. It attended the Oslo signing conference in December 2008 as an observer, but again did not speak.

In a March 2009 letter to Human Rights Watch, Qatar said that it “is very zealous about the prohibition of cluster bombs,” and noted that it adopted the convention in Dublin in May. It went on to state that it established a committee to study the convention and to produce recommendations about joining it. The committee indicated that Qatar should postpone signing the convention “for a further period” in order to study the positions of countries producing cluster munitions, and to allow it to seek clarification on the positions of Arabic countries regarding the convention, as Qatar is a member of the Arab League. It noted that there are some countries in the region that possess cluster munitions but do not have any desire to sign the convention.³⁶⁷

Qatar has stated that it does not use or produce cluster munitions.³⁶⁸ However, it has a stockpile of ASTROS rockets with submunitions acquired from Brazil.³⁶⁹

ROMANIA

Romania has not signed the Convention on Cluster Munitions. It produces and stockpiles cluster munitions.

Romania is party to the Convention on Conventional Weapons (CCW), and ratified Protocol V on Explosive Remnants of War on 29 January 2008. Romania has participated in the CCW work on cluster munitions in recent years.

Cluster Munition Ban Policy

In a March 2009 letter to Human Rights Watch, Romania stated, “Romania did not use, is not using and does not intend to use cluster munitions in the operational theatres where it is engaged with military personnel. This type of munitions is used exclusively on our territory, under the national defense programme.”³⁷⁰

It went on to state, “Romania supports the current need for identifying solutions for all humanitarian problems caused by the use of cluster munitions (CM) and recognizes the importance of establishing a legal regime for CM use, production and transfers, taking into account the humanitarian impact on the civilian population.... Romania, together with other NATO and EU member countries, considers that the UN mechanism offered by the CCW is the appropriate multilateral framework for negotiating an international legally-binding instrument to stipulate the CM regime.”³⁷¹

Romania chose to participate in the initial diplomatic meeting that launched the Oslo Process in February 2007. However, at the conclusion of the Oslo conference, Romania was one of only three states out of the 49 present that did not adopt the Oslo Declaration, in which states committed to conclude in 2008 a new treaty banning cluster munitions that cause unacceptable harm to civilians. Romania stated that it would wait for the outcome of the CCW work on cluster munitions before making further commitments.³⁷²

Romania subsequently attended the regional Oslo Process conference in Brussels in October 2007 and one of the three international conferences to develop the convention text—in Vienna in December 2007. It attended the formal negotiations in Dublin in May 2008 only as an observer, and thus did not join the

³⁶⁷ Letter from Amb. Nassir Adbulaziz Al-Nasser, Permanent Mission of the State of Qatar to the UN in New York, 9 March 2009. The letter stated this was “the response of the concerned authority” in Qatar, and contained an Annex with an unofficial translation into English.

³⁶⁸ Ibid.

³⁶⁹ Terry J. Gander and Charles Q. Cutshaw, eds. *Jane’s Ammunition Handbook 2001–2002* (Surrey, UK: Jane’s Information Group Limited, 2001), pp. 630–631.

³⁷⁰ Letter from Amb. Adrian Vierita, Representative of Romania to the United States, 3 March 2009.

³⁷¹ Ibid.

³⁷² Statement of Romania, Oslo Conference on Cluster Munitions, 23 February 2007. Notes by CMC/WILPF. Japan and Poland also did not endorse the Oslo Declaration.

107 states adopting the convention. It participated in the regional conference in Sofia in September 2008 aimed at encouraging signature of the convention, but did not come to the signing conference in Oslo in December.

In October 2008, the Ban Bus, a mobile advocacy initiative to promote awareness on cluster munitions and the convention, stopped in Bucharest during its 12,000km trip through 18 European countries.³⁷³

Production, Stockpiling, and Transfer

According to Jane's Information Group, the company Romarm produces two types of 152mm dual purpose improved conventional munition (DPICM) artillery projectiles called the CG-540 and CG-540 ER, which contain GAA-001 submunitions. Jane's reports this to be a joint production and marketing venture with Israel Military Industries. The GAA-001 submunition is described as identical to the Israeli M85 and is produced by the Romanian company Aerotech SA.³⁷⁴

Jane's reports that the company ROMAIR has developed and produced the CL-250 cluster bomb, which is described as similar in appearance to the Soviet RBK-250. It reportedly carries BAAT-10 antitank bomblets and BF-10T antipersonnel bomblets.³⁷⁵

Jane's also lists Romania as possessing KMG-U dispensers (which deploy submunitions), and RBK-250, RBK-275, and RBK-500 cluster bombs.³⁷⁶

Jane's Information Group has reported that Aerostar SA has produced the LAR-160 multiple launch rocket system, which can use the MK4 rocket that contains 104 M85 submunitions.³⁷⁷ In August 2008, Aerostar SA told Human Rights Watch that it "is not involved in any way in the production of cluster munitions or their components."³⁷⁸ Aerostar SA's website states that it performs "repairs and modernization of the entire range of 122mm launchers," but in bold, capital letters proclaims: "TO BE CONCLUSIVE: AEROSTAR DOES NOT PRODUCE AND/OR PROMOTE ANY KIND OF AMMUNITION DESIGNATED FOR THESE SYSTEMS, ESPECIALLY CLUSTER AMMUNITION."³⁷⁹

RUSSIA

The Russian Federation has not signed the Convention on Cluster Munitions. In March 2009, the Deputy Minister of Foreign Affairs stated that Russia "cannot agree to the classifications and restrictions of cluster munitions outlined in [the Convention on Cluster Munitions] because they were established with disregard for the input from the Russian Federation. Therefore, we are not considering the ratification."³⁸⁰ Russia did not choose to participate in the Oslo Process, although dozens of nations that have not yet signed the convention did so either as full participants or as observers.³⁸¹

Russia has used cluster munitions, most recently in Georgia in August 2008, and likely possesses significant stockpiles. Russia is a major producer and exporter of cluster munitions, as was the Soviet Union. The Soviet Union used cluster munitions in 1943 against German forces and from 1979–1989 in

³⁷³ Campaigners organized a public forum in conjunction with the Federation of NGOs for Development in Romania, the Peace Action Training and Research Institute of Romania, and the Embassy of Norway. CMC, "The Ban Bus in Romania, 20 – 23 October 2008," 24 October 2008, www.stopclustermunitions.org.

³⁷⁴ Terry J. Gander and Charles Q. Cutshaw, eds., *Jane's Ammunition Handbook 2001-2002* (Surrey, UK: Jane's Information Group Limited, 2001), p. 322.

³⁷⁵ Robert Hewson, ed., *Jane's Air Launched Weapons*, Issue 44 (Surrey, UK: Jane's Information Group Limited, 2004) p. 290.

³⁷⁶ *Ibid.*, p. 844.

³⁷⁷ Leland S. Ness and Anthony G. Williams, eds., *Jane's Ammunition Handbook 2007-2008* (Surrey, UK: Jane's Information Group Limited, 2007), p. 714.

³⁷⁸ Letter from Grigore Filip, President and General Director, Aerostar SA, No. 246, 26 August 2008.

³⁷⁹ Aerostar SA, "Programmes – Ground Defence Systems Integration," updated 30 October 2008, www.aerostar.ro.

³⁸⁰ Letter from Sergey Ryabkov, Deputy Minister of Foreign Affairs, 20 March 2009. Translation by Human Rights Watch.

³⁸¹ The Oslo Process was an open diplomatic process that was self-selecting. Russia attended one of the Oslo Process regional conferences, in Brussels in October 2007, as an observer and did not intervene.

Afghanistan. Russia used cluster munitions in Chechnya from 1994–1996 and in 1999, and again in 2008 in Georgia.

Russia is party to the Convention on Conventional Weapons (CCW) and ratified Protocol V on Explosive Remnants of War on 21 July 2008.

Cluster Munition Ban Policy

Russia has been among the states most opposed to pursuing any work internationally on cluster munitions, even in the CCW. In 2005, as other states began to look seriously at how to deal with the humanitarian problems caused by cluster munitions, Russia argued that the problems associated with cluster munition use are “mythical,” and asserted that submunitions can be accurately targeted to minimize civilian damage.³⁸² Russia stated, “As for...cluster munitions use, the Russian armed force are guided in their activities by the principles of legality, distinction, proportionality, precautions, environmental protection and military necessity.”³⁸³

In November 2006, during the Third Review Conference of the CCW, Russia stated, “We cannot accept the logic of restrictions or even bans on ammunition artificially and groundlessly declared as the most ‘dangerous weapons.’ This path would lead us to a stalemate. It could only result in a split and weaken the [CCW] and its Protocols.”³⁸⁴ It rejected a proposal for a mandate to negotiate in the CCW a legally-binding instrument “that addresses the humanitarian concerns posed by cluster munitions.”³⁸⁵ Given the unwillingness of some CCW States Parties to address cluster munitions, at the conclusion of the Review Conference Norway announced that it would start an independent process outside the CCW to negotiate a cluster munition treaty prohibiting cluster munitions that cause unacceptable harm to civilians, and invited other governments to join.

In November 2007—after another year of discussions on cluster munitions in the CCW, and after a well-developed draft treaty text had been produced in the Oslo Process—Russia continued to oppose a mandate to negotiate a legally-binding instrument on cluster munitions in the CCW. Russia maintained it would only commit to negotiate a “proposal” as opposed to a legally-binding “protocol.”³⁸⁶ Russia stated it had “lingering doubts about the specific ‘product’ of future work” and that “the practical basis for starting the negotiations is not very well developed.” Russia outlined its position: first, it would only support proposals “that will not lead to a reduction of its defence capabilities in connection with the use of cluster munitions;” second, the implementation of proposals on cluster munitions “must not have any economic or financial implications;” and third, proposals should be based on developing measures to ensure “the appropriate use of cluster munitions...and not towards technical restrictions on cluster munitions.” Russia stated any technical restrictions on cluster munitions must be non-binding and accompanied by a considerable transition period.³⁸⁷ In the end, CCW States Parties agreed only to negotiate “a proposal” on cluster munitions.

In November 2008—after seven weeks of CCW negotiations, after 107 nations had formally adopted the Convention on Cluster Munitions comprehensively banning the weapon in May, and after Russia used cluster munitions against Georgia in August—Russia still maintained that it was “premature to talk about a protocol” on cluster munitions, and referred back to the mandate to negotiate a “proposal.”³⁸⁸ Although the negotiations were scheduled to conclude, CCW States Parties could not reach agreement, and decided to extend the work into 2009.

³⁸² Presentation of the Russian Federation, “Cluster Weapons: Real or Mythical Threat,” Eleventh Session of the CCW Group of Governmental Experts (GGE), Geneva, 2–12 August 2005, p. 3.

³⁸³ Statement of the Russian Federation, “Applicability of Rules of the International Humanitarian Law to the Explosive Remnants of War,” Eleventh Session of the CCW GGE, Geneva, 2 August 2005.

³⁸⁴ Statement by Anatoly I. Antonov, Director, Department for Security Affairs and Disarmament, Ministry of Foreign Affairs, Third Review Conference of the States Parties to the CCW, Geneva, 7 November 2006.

³⁸⁵ Proposal for a Mandate to Negotiate a Legally-Binding Instrument that Addresses the Humanitarian Concerns Posed by Cluster Munitions, Third Review Conference of the States Parties to the CCW, CCW/CONF.III/WP.1, Geneva, 25 October 2006.

³⁸⁶ Statement of the Russian Federation, 2007 Meeting of the States Parties to the CCW, Geneva, 13 November 2007. Notes by WILPF.

³⁸⁷ Prospects for the work of the Group of Governmental Experts on the problem of cluster munitions, submitted by the Russian Federation, 2007 Meeting of the States Parties to the CCW, CCW/MSP/2007/WP.2, Geneva, 7 December 2007.

³⁸⁸ Statement of the Russian Federation, Fifth 2008 Session of the CCW GGE on Cluster Munitions, Geneva, 3 November 2008. Notes by Landmine Action.

At the end of the CCW session in November 2008, Russia stated, “We have done considerable and, we believe, positive work on issues related to cluster munitions (CM). We are united in that CMs pose a serious humanitarian danger. Their appropriate use and technical improvement will help to reduce humanitarian risks related to this type of weapons.... We believe that the very attempts to apply the standards and arrangements agreed in other international formats [the Oslo Process] to our Convention [the CCW] did not allow us to reach the compromises suitable to all.... It can be stated today there are opposing approaches to solving problems related to cluster weapons. This will objectively prevent us from bringing the positions of states closer together.... Intensive work is ahead of us.... On our part, we would like to assure all participants of the Meeting of the Russian Delegation’s readiness to most active and constructive cooperation.”³⁸⁹

In a press release on 3 December 2008, the day the Convention on Cluster Munitions opened for signature in Oslo, the Russian Ministry of Foreign Affairs stated that cluster munitions are “a legitimate type of weapon that is not banned by international humanitarian law and plays a significant role in the defense interests of Russia.... We cannot stop using [cluster munitions]. We base our attitude to cluster munitions on a balance of humanitarian and defense interests. We are against unjustified restrictions and bans on cluster munitions.”³⁹⁰

The ministry’s press release also noted that “Russia admits that the use of cluster munitions in the course of armed conflicts in recent years has had serious negative consequences. Seeking to make our contribution to their solution, we participate in negotiations in Geneva on this subject under the Inhumane Weapons Convention [CCW].” Russia stated that it considered the CCW as the most appropriate forum for dealing with cluster munitions as it involves the major users and producers, adding that “if the Geneva negotiation process results in agreements on cluster munitions, we will be prepared to undertake commitments that they would involve.”³⁹¹

Use

Both Russia and Georgia used cluster munitions during their conflict in August 2008.³⁹² Russian cluster munition strikes on populated areas killed 12 civilians and injured 46 more. Clearance personnel have found Russian air-dropped AO-2.5 RTM and rocket-delivered 9N210 submunitions, delivered by RBK aerial bombs and *Uragan* ground rockets, respectively. Russia used cluster munitions in or near nine towns and villages in the Gori-Tskhinvali corridor south of the South Ossetian administrative border.³⁹³

Based on its on-the-ground investigations, Human Rights Watch concluded, “Russia, which deployed the weapons in circumstances in which they were incapable of distinguishing between civilian and military objects, violated international humanitarian law with its use of cluster munitions. Its attacks in or near villages, towns and one city were inherently indiscriminate and thus unlawful.”³⁹⁴

Russia has denied using cluster munitions in Georgia since the first reports about cluster munition use were published by Human Rights Watch. In a daily news briefing on 15 August 2008, Col. Gen. Anatoly Nogovitsyn, deputy head of the General Staff, said, “We did not use cluster bombs, and what’s more there was absolutely no necessity to do so.”³⁹⁵ The Ministry of Defense said it did not use cluster munitions “in the area of the Georgian-Ossetian conflict.”³⁹⁶ In a 30 January 2009 letter to Human Rights Watch, a

³⁸⁹ Statement by Amb. Anatoly I. Antonov, 2008 Meeting of the States Parties to the CCW, Geneva, 13 November 2008.

³⁹⁰ “Russia explains refusal to join cluster bombs convention,” *Interfax: Russia & CIS Military Newswire*, 8 December 2008.

³⁹¹ *Ibid.*

³⁹² For more details on use of cluster munitions during this conflict, see Human Rights Watch, “A Dying Practice: Use of Cluster Munitions by Russia and Georgia in August 2008,” April 2009, www.hrw.org.

³⁹³ *Ibid.*, pp. 2, 40. Human Rights Watch identified Russian cluster munition attacks on or near Akhaldaba, Dzlevijvari, Gori, Pkhvenisi, Ruisi, Variani, and Varianis Meurneoba. Additionally, in early 2009 Norwegian People’s Aid (NPA) deminers found evidence of Russian 9N210 submunitions in two additional villages: Kvemo Khviti and Zemo Nikozi. Emails from Jonathon Guthrie, Program Manager, NPA, 10 March and 27 March 2009. An investigation by the Dutch Ministry of Foreign Affairs into the death of a Dutch cameraperson in Gori concluded that he was killed by a Russian submunition (type unknown) from an Iskander SS-26 surface-to-surface missile.

³⁹⁴ Human Rights Watch, “A Dying Practice: Use of Cluster Munitions by Russia and Georgia in August 2008,” April 2009, www.hrw.org.

³⁹⁵ “Russia Denies Use of Cluster Bombs in Georgia,” *RIA Novosti*, 15 August 2008, en.rian.ru.

³⁹⁶ The ministry did not explain what is included in the Georgian-South Ossetian conflict zone and whether it includes areas of Georgian territory beyond South Ossetia. Ministry of Defense, “Russia Did Not Use Cluster Bombs in the Zone of the Georgian-South Ossetian Conflict Zone,” Press release, 15 August 2008, www.mil.ru.

Russian Ministry of Foreign Affairs official wrote, “Despite Georgian aggression in South Ossetia, the Russian Federation did not employ the use of cassette [cluster] bombs or antipersonnel landmines.”³⁹⁷

Russia used cluster munitions extensively in Chechnya between 1994 and 1996 and again in 1999. Russian forces made use of multiple types of cluster munitions, including air-dropped bombs, tactical missiles, and multiple rockets systems, and directed many of its cluster munition attacks at civilian areas.³⁹⁸ The attacks led to at least 636 casualties, including 301 deaths, according to Handicap International.³⁹⁹ The Soviet Union used cluster munitions in Afghanistan during the conflict from 1979 to 1989.⁴⁰⁰

Production and Transfer

Russia is a major producer and exporter of cluster munitions, as was the Soviet Union. Additionally, a number of states inherited stocks of cluster munitions when the Soviet Union dissolved. According to the Ministry of Foreign Affairs, “Our records on the production, usage, and export of cluster munitions...are confidential and will not be publicized.”⁴⁰¹

According to international technical reference materials, the following Russian companies are associated with the production of cluster munitions: Bazalt State Research and Production Enterprise (air-dropped bombs), Mechanical Engineering Research Institute (120mm, 152mm, and 203mm artillery projectiles), and Splav State Research and Production Enterprise Rocket (122mm, 220mm, and 300mm rockets).⁴⁰²

Cluster munitions of Russian/Soviet origin are reported to be in the stockpiles of the following 33 states: Algeria, Angola, Azerbaijan, Belarus, Bulgaria,⁴⁰³ Croatia, Cuba, Czech Republic,⁴⁰⁴ Egypt, Hungary,⁴⁰⁵ Georgia,⁴⁰⁶ Guinea,⁴⁰⁷ Guinea-Bissau, India,⁴⁰⁸ Iran, Iraq, Kazakhstan, North Korea, Kuwait,⁴⁰⁹ Libya,

³⁹⁷ Letter from Andrei Kelin, Director, Fourth Department for CIS Countries, Ministry of Foreign Affairs, 30 January 2009.

³⁹⁸ Mennonite Central Committee, “Clusters of Death: Global Report on Cluster Bomb Production and Use,” 2000, chapter 3, mcc.org. The chapter cites an email attachment, “Summary of Incidents in Chechnya,” from HALO Trust to Virgil Wiebe, Landmine Monitor Researcher, 10 May 2000. The attack on the Grozny market on 21 October 1999, probably the most high-profile one in Chechnya, caused more than 100 deaths according to HALO Trust, a UK-based demining organization. See also Human Rights Center Memorial, “Counterterrorist Operation: Starye Atagi, September 1999–May 2002,” 2002, www.memo.ru; and O. Orlov and A. Cherkasov, “Russia–Chechnya: A Chain of Mistakes and Crimes,” Human Rights Center Memorial, www.memo.ru.

³⁹⁹ Handicap International, “Circle of Impact: The Fatal Footprint of Cluster Munitions on People and Communities,” 2007, p. 85. All but 24 of the 636 documented casualties came during strikes, not afterwards. Not all post-conflict casualties, however, may have been reported.

⁴⁰⁰ Mennonite Central Committee, “Drop Today, Kill Tomorrow: Cluster Munitions as Inhumane and Indiscriminate Weapons,” June 1999, www.mineaction.org, p. 5. Additionally, cluster munitions were used by various forces in several conflicts that resulted from the breakup of the USSR, in Azerbaijan, Nagorno-Karabakh, and Tajikistan. The degree of involvement of Russian forces in the use of cluster munitions in these conflicts is not known but cannot be discounted.

⁴⁰¹ Letter from Sergey Ryabkov, Deputy Minister of Foreign Affairs, 20 March 2009.

⁴⁰² The main sources for information on Russian companies that produce cluster munitions are Robert Hewson, ed., *Jane’s Air-Launched Weapons*, Issue 44 (Surrey, UK: Jane’s Information Group Limited, 2004) and Leland S. Ness and Anthony G. Williams, eds., *Jane’s Ammunition Handbook 2007–2008* (Surrey, UK: Jane’s Information Group Limited, 2007). State Research and Production Enterprise details the numerous types of rockets it produced on its corporate website: www.splav.org.

⁴⁰³ The Bulgarian Ministry of Foreign Affairs notes, “There are limited amounts of cluster munitions of the type RBK-250 and RBK-500 which are currently held by the Bulgarian Armed Forces.” Email from Lachezara Stoeva, Chief Expert, Arms Control and International Security Department, NATO and International Security Directorate, Bulgaria Ministry of Foreign Affairs, 17 May 2008.

⁴⁰⁴ The Ministry of Defence of the Czech Republic currently holds, in storage, 67 containers and 5,377 pieces of RBK-500 and KMGU BKF PTAB submunitions. Letter from Jan Michal, Director of the UN Department, Czech Republic Ministry of Foreign Affairs, 17 March 2009.

⁴⁰⁵ In 2006, officials acknowledged Hungary possessed Soviet-era air-dropped cluster bombs and said that their status was under review. Human Rights Watch interviews with members of Hungary’s delegation to the Fourteenth and Fifteenth Sessions of the CCW GGE, Geneva, 19 June 2006 and 31 August 2006.

⁴⁰⁶ The Georgian Ministry of Defense reports having RBK-500 cluster munitions and BKF blocks of submunitions that are carried in KMGU dispensers, but it told Human Rights Watch that their shelf-lives have expired and they are slated for destruction. Response of Georgian Ministry of Defense to Human Rights Watch Questions, 12 February 2009.

⁴⁰⁷ Moldova reported the transfer to Guinea in 2000 of 860 9M27K rockets, each containing 30 submunitions, for Guinea’s 220mm *Uragan* multiple launch rocket system. Republic of Moldova, UN Register of Conventional Arms, Submission for Calendar Year 2000, 30 May 2001.

⁴⁰⁸ In February 2006, India bought 28 launch units for the 300mm *Smerch* multiple launch rocket system fitted with dual purpose and sensor-fuzed submunitions. “India, Russia sign \$500 mn rocket systems deal,” *Indo-Asian News Service* (New Delhi), 9 February 2006.

⁴⁰⁹ In 1995, Kuwait was the first export customer for the Russian produced 300mm *Smerch* multiple launch rocket system fitted with dual purpose and sensor-fuzed submunitions, buying 27 launch units. “Kuwait to get smart submunitions for *Smerch* MRL,” *Jane’s Defence Weekly*, 21 April 1995.

Moldova, Mongolia, Peru,⁴¹⁰ Poland,⁴¹¹ Romania, Slovakia, Sudan, Syria, Turkmenistan, Uganda, Ukraine, Uzbekistan, and Yemen.⁴¹²

Stockpiling

According to the Ministry of Foreign Affairs, “The quantity and types of cluster munitions stockpiled in the Russian Ministry of Defence are confidential and will not be publicized.”⁴¹³ It is thought that Russia possesses a significant stockpile of cluster munitions which could contain hundreds of millions of submunitions. The following chart is based on a wide variety of publicly available materials.⁴¹⁴

A number of international reference sources note that at least two Russian/Soviet ballistic missile systems are equipped with submunition payloads, but confirmed details are not publicly available.⁴¹⁵

Type	Caliber	Carrier Name	Number of Submunitions	Submunition Type
Projectile	152mm	3-O-23	42	DPICM
	152mm	3-O-13	8	DPICM
	203mm	3-O-14	24	DPICM
Bomb		KMGU	Mix of: 96 8 98 248	AO-2.5 APAM ODS-OD FAE PTAB 2.5 PTAB-1M
		PROSAB-250	90	PROSAB bomblet
		RBK-250	48	ZAB 2.5 Incendiary
		RBK 250-275	60	AO-2.5 APAM
		RBK 250-275	60	AO-2.5-2 APAM
		RBK 250-275	150	AO-1SCh bomblet
		RBK 250-275	30	PTAB 2.5M
		RBK-500	108	AO-2.5 APAM
		RBK-500	108	AO-2.5-2 APAM
	RBK-500	75	PTAB 2.5	

⁴¹⁰ In May 2007 it was disclosed that the Peruvian Air Force possesses stockpiles of RBK-500 bombs. Ángel Páez, “Peru se suma a iniciativa mundial para prohibir y destruir las ‘bombas de racimo’” (“Peru joins global initiative to ban and destroy the ‘cluster bombs’”), *La República* on line, 26 May 2007. Human Rights Watch was shown photographs of these cluster munitions by a member of the national media in May 2007. See also, Ángel Páez, “Se eliminarán las bombas de racimo” (“Cluster bombs will be eliminated”), *La República* on line, 27 May 2007.

⁴¹¹ The Polish Air Force possesses “BKF expendable unit loader with anti-tank, incendiary and fragmentation bomblets, imported from USSR.” Letter from Adam Kobieracki, Director, Security Policy Department, Poland Ministry of Foreign Affairs, 10 March 2009.

⁴¹² Unless otherwise footnoted, the source for this information is Jane’s Information Group.

⁴¹³ Letter from Sergey Ryabkov, Deputy Minister of Foreign Affairs, 20 March 2009.

⁴¹⁴ This chart comes from a tabulation of information in Robert Hewson, ed., *Jane’s Air-Launched Weapons*, Issue 44 (Surrey, UK: Jane’s Information Group Limited, 2004), pp. 414–415, 422–432; Leland S. Ness and Anthony G. Williams, eds., *Jane’s Ammunition Handbook 2007–2008* (Surrey, UK: Jane’s Information Group Limited, 2007), pp. 572, 597–598, 683, 703–706, 715–716, 722–723; US Defense Intelligence Agency, “Improved Conventional Munitions and Selected Controlled-Fragmentation Munitions (Current and Projected),” partially declassified and made available to Human Rights Watch under a Freedom of Information Act request; and “Russia’s Arms Catalog: Volume IV, Precision Guided Weapons and Ammunition, 1996–1997,” (Military Parade: Moscow), 1997, pp. 138–139, 148–152, 373–392, 504, 515–516. This research has been supplemented by information found on the Splav State Research and Production Enterprise corporate website: www.splav.org.

⁴¹⁵ The R-65/70 Luna M (FROG-7) and Iskander (SS-26). Duncan Lennox, *Jane’s Strategic Weapons Systems*, 46 (Surrey, UK: Jane’s Information Group Limited, January 2007), pp. 123–124; 139–141.

Type	Caliber	Carrier Name	Number of Submunitions	Submunition Type
Bomb		RBK-500	268	PTAB 2.5M
		RBK-500	565	ShOAB-0.5 bomblet
		RBK-500	12	BetAB bomblets
		RBK-500	117	ZAB 2.5 Incendiary
		RBK-500	15	SPBE-D SFW
		RBK-500U	10 26 15 352	OFAB-50 APAM OFAB 2.5 APAM SPBE-D PTAB
Rocket	122mm	Grad (9M218)	45	DPICM
	122mm	Grad (9M217)	2	SFW
	220mm	Uragan (9M27K)	30	APAM
	300mm	Smerch (9M55K)	72	APAM
	300mm	Smerch (9M55K1)	5	SFW
	300mm	Smerch (9M55K5)	646	APAM

SAUDI ARABIA

The Kingdom of Saudi Arabia has not signed the Convention on Cluster Munitions. Saudi Arabia has not made any public statements regarding its cluster munition policy. It attended the international preparatory conferences of the Oslo Process in Vienna in December 2007 and Wellington in February 2008, and attended as an observer the formal negotiations in Dublin in May 2008. It did not make any interventions during these meetings.⁴¹⁶

Saudi Arabia is party to the Convention on Conventional Weapons (CCW), but has not joined Protocol V on Explosive Remnants of War. Saudi Arabia has not participated actively in the CCW discussions on cluster munitions in recent years.

Both Saudi and United States forces used cluster munitions on the territory of Saudi Arabia in 1991 in response to an incursion by Iraqi armor units in the prelude to Operation Desert Storm. Human Rights Watch has been told that Saudi forces used cluster munition rockets from the Brazilian-produced ASTROS multiple launch rocket system⁴¹⁷ against Iraqi forces during the battle of Khafji in January 1991, leaving behind significant amounts of unexploded submunitions.⁴¹⁸

Jane's Information Group reports that British-produced BL-755 cluster bombs are in service with the Saudi air force.⁴¹⁹ The US transferred to Saudi Arabia 1,000 CBU-58 and 350 CBU-71 cluster bombs at some point between 1970 and 1995.⁴²⁰ In 1991, the US announced its intent to transfer 1,200 CBU-87

⁴¹⁶ It did not endorse the Oslo Declaration pledging to conclude a new cluster munition treaty in 2008 or the Wellington Declaration committing to participate fully in the Dublin negotiations.

⁴¹⁷ Terry J. Gander and Charles Q. Cutshaw, eds., *Jane's Ammunition Handbook 2001–2002*, (Surrey, UK: Jane's Information Group Limited, 2001), p. 630.

⁴¹⁸ Human Rights Watch interviews with former explosive ordnance disposal personnel from a Western commercial clearance firm and a Saudi military officer with first-hand experience in clearing dud dual-purpose bomblets from ASTROS rockets and dud bomblets from US Rockeye cluster bombs, names withheld, Geneva, 2001–2003.

⁴¹⁹ Robert Hewson, ed., *Jane's Air-Launched Weapons, Issue 44* (Surrey, UK: Jane's Information Group Limited, 2004), p. 845.

⁴²⁰ US Defense Security Assistance Agency, Department of Defense, "Cluster Bomb Exports under FMS, FY1970-FY1995," 15 November 1995, obtained by Human Rights Watch in a Freedom of Information Act request, 28 November 1995.

Combined Effects Munitions cluster bombs to Saudi Arabia.⁴²¹ In addition, the US transferred 600 CBU-87 cluster bombs to Saudi Arabia as part of a larger arms sales package announced in 1992.⁴²²

Saudi Arabia is not known to have produced or exported cluster munitions.

SERBIA

Although the Republic of Serbia played an important role in the Oslo Process and adopted the Convention on Cluster Munitions in Dublin in May 2008, it did not sign the convention in Oslo on 3 December 2008. Serbia attended the signing conference only as an observer.

Serbia is affected by cluster munitions, and stockpiles the weapon. Serbia is party to the Convention on Conventional Weapons (CCW), but has yet to ratify Protocol V on Explosive Remnants of War.

Cluster Munition Ban Policy

In November 2006, during the Third Review Conference of the CCW, Serbia supported a proposal for a mandate to negotiate a legally binding instrument “that addresses the humanitarian concerns posed by cluster munitions.”⁴²³ When that proposal was rejected by other CCW States Parties, Serbia was one of 25 nations that endorsed a declaration calling for an international agreement that would prohibit the use of cluster munitions “within concentrations of civilians,” prohibit the use of cluster munitions that “pose serious humanitarian hazards because they are for example unreliable and/or inaccurate,” and require destruction of stockpiles of such cluster munitions.⁴²⁴

Serbia participated in the Oslo Process from its beginning, attending the Oslo conference in February 2007, and the subsequent international meetings to develop the convention text in Lima and Vienna. Serbia did not attend in the Wellington conference in February 2008, but adopted the Wellington Declaration on 3 March 2008, indicating its intention to participate fully in the formal negotiations in Dublin in May 2008.⁴²⁵

Serbia hosted an Oslo Process conference for cluster munition affected states in October 2007, gathering together affected states to discuss critical issues for them as the new treaty was being developed. Serbia also attended regional Oslo Process conferences in Brussels (October 2007) and Sofia (September 2008).

At the Oslo conference in February 2007, Serbia stated that it was fully aware of the dangers and impact of cluster munitions on civilian populations, having experienced 78 days of NATO bombing in 1999, and appealed to NATO to provide the coordinates of its cluster munition strikes on Serbian territory.⁴²⁶ Serbia endorsed the Oslo Declaration, committing states to conclude in 2008 a new convention prohibiting cluster munitions that cause unacceptable harm to civilians. It also said it would soon join CCW Protocol V.⁴²⁷ During the Lima conference, Serbia advocated for provisions on international cooperation and assistance. It also reiterated its appeal for NATO strike coordinates and stated it was accelerating its efforts toward joining Protocol V.⁴²⁸

⁴²¹ US Defense Security Assistance Agency, Department of Defense, “Notifications to Congress of Pending US Arms Transfers,” 25 July 1991.

⁴²² US Defense Security Cooperation Agency, Department of Defense, “Notifications to Congress of Pending US Arms Transfers,” #92–42, 14 September 1992.

⁴²³ Proposal for a Mandate to Negotiate a Legally-Binding Instrument that Addresses the Humanitarian Concerns Posed by Cluster Munitions, Presented by Austria, Holy See, Ireland, Mexico, New Zealand, and Sweden, Third Review Conference of the States Parties to the CCW, Geneva, CCW/CONF.III/WP.1, Geneva, 25 October 2006.

⁴²⁴ Declaration on Cluster Munitions, Third Review Conference of the States Parties to the CCW, CCW/CONF.III/WP.18, Geneva, 17 November 2006.

⁴²⁵ New Zealand Ministry of Foreign Affairs and Trade, “List of countries subscribing to the Declaration of the Wellington Conference on Cluster Munitions,” 23 May 2008, www.mfat.govt.nz.

⁴²⁶ Serbia stated that while good results had been achieved in demining its territory, the biggest threat came from cluster munition remnants. Statement by Amb. Bratislav Djordjevic, Director General for NATO and Defense Affairs, Ministry of Foreign Affairs, Oslo Conference on Cluster Munitions, 22 February 2007. Notes by CMC/WILPF.

⁴²⁷ *Ibid.*

⁴²⁸ Statement of Serbia, Lima Conference on Cluster Munitions, 23 May 2007. Notes by CMC/WILPF.

On 3–4 October 2007, Serbia hosted the Belgrade Conference for States Affected by Cluster Munitions. Twenty-two governments from affected states participated in the conference and cluster munition survivors from Serbia played an active role.⁴²⁹ At the outset of the conference, Serbian Minister of Foreign Affairs Vuk Jeremić stated that Serbia was discussing the possibility of enacting a unilateral moratorium on the use of cluster munitions.⁴³⁰ During the conference, Albania announced it would not produce or trade in cluster munitions, and Montenegro and Uganda announced they would destroy their stockpiles.⁴³¹

In November 2007, during the Meeting of the States Parties to the CCW, Serbia announced that NATO had provided it with the coordinates of its cluster munitions strikes after it became a member of NATO's Partnership for Peace. Serbia also stated that it would unilaterally declare a moratorium on the use of cluster munitions in the near future. However, this moratorium was never declared. Serbia said it would support both the work of the Oslo Process and the efforts of the CCW to produce an instrument on cluster munitions.⁴³²

During the Dublin negotiations in May 2008, Serbia raised concerns that a five-year deadline for clearance was too short and that there were insufficient financial resources provided by donors. Serbia instead suggested a ten-year deadline for clearance. Serbia supported provisions regarding the responsibilities of past users of cluster munitions. Serbia said that timely and effective assistance for victims was among its highest priorities and it supported the inclusion of a broad definition of victim.⁴³³ Serbia joined the consensus adoption of the convention, stating that it was the best possible text.⁴³⁴

On 1 October 2008, the Ban Bus, a mobile advocacy initiative to promote awareness on cluster munitions and the convention, started in Serbia on a 12,000km trip through 18 European countries.⁴³⁵ Serbian cluster munition survivors Branislav Kapetanović, Dejan Dikić, Dusica Vučković, and Slađan Vučković have been strong campaigners in Serbia and at many of the international and regional conferences of the Oslo Process. Together with campaigners from other affected countries and Handicap International Belgium, they formed the “Ban Advocates,” a group of individuals affected by cluster munitions who took an active role in supporting the Oslo Process as prominent campaigners, powerful lobbyists and a source of inspiration.⁴³⁶

Despite Serbia's strong engagement throughout the Oslo Process, it did not sign the convention in Oslo on 3 December 2008. There has not been an official explanation given for the decision. Serbia is the only country from the former Yugoslavia that did not sign the convention.

When questioned by journalists, representatives from the Serbian Ministry of Foreign Affairs and Ministry of Defense made statements seeming to support signature of the convention, but claimed that neither ministry could decide independently on the matter. On 12 March 2009, a representative of the Serbian Ministry of Defense told the BETA news agency that the Ministry of Defense “has sent its opinion on the matter to the Foreign Ministry and National Security Council.” The representative also reported that

⁴²⁹ CMC, “Report on the Belgrade Conference,” 3–4 October 2007, www.stopclustermunitions.org. Countries that attended were: Afghanistan, Albania, Angola, Azerbaijan, Bosnia and Herzegovina, Cambodia, Chad, Croatia, DR Congo, Ethiopia, Guinea-Bissau, Iraq, Kuwait, Laos, Lebanon, Montenegro, Sierra Leone, Sudan, Tajikistan, Uganda, Vietnam, and Yemen.

⁴³⁰ “Cluster Bomb Conference in Belgrade,” *B-92 News*, 3 October 2007, www.b92.net.

⁴³¹ CMC, “Survivors and States Join Forces Against Cluster Bombs,” Press release, Belgrade, 4 October 2007. Statement by Steve Goose, CMC co-chair and director of the Arms Division at Human Rights Watch, Opening Session, Belgrade Conference on States Affected by Cluster Munitions, 3 October 2007: In an address to the opening session, Steve Goose, CMC co-chair and director of the Arms Division at Human Rights Watch, said, “This is a rather extraordinary gathering. The very concept of it is quite radical in international affairs. With this meeting, we are saying that the interests of those who have suffered the effects of an indiscriminate weapon—effects that sometimes last for decades on end—their interests are paramount, not the interests of those who want to continue to use, produce, stockpile, and trade in that pernicious weapon. This boldness in approach—putting humanitarian concerns above all else—is why we will succeed in concluding a new treaty banning cluster munitions in 2008.”

⁴³² Statement of Serbia, 2007 Meeting of the States Parties to the CCW, Geneva, 7 November 2007. Notes by WILPF.

⁴³³ Statement of Serbia, Committee of the Whole on Articles 4 and 5, Dublin Diplomatic Conference on Cluster Munitions, 20 May 2008. Notes by Landmine Action.

⁴³⁴ Statement of Serbia, Committee of the Whole, Dublin Diplomatic Conference, 28 May 2008. Notes by Landmine Action.

⁴³⁵ CMC, “The Ban Bus in Serbia, 1–3 October 2008,” 4 October 2008, www.stopclustermunitions.org.

⁴³⁶ Ban Advocates Blog, blog.banadvocates.org. At the opening ceremony of the signing conference in Oslo in December 2008, Branislav Kapetanović, a former deminer who lost his arms and legs in a cluster munition accident, made a moving statement, saying, “The Oslo Process gave me a new life, gave me strength to live on. Now my life has a new meaning, and I have a future. Now I feel there is light. I'm extremely glad to have come here to Oslo for the second time in less than two years to witness the Treaty signing. It is a mere coincidence that tomorrow is my birthday and I think that I'm the happiest person in the world.” Statement by Branislav Kapetanovic, Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008.

the Minister of Defense personally supported signing the convention. The decision to sign the convention rests with the National Security Council.⁴³⁷

Use, Production, Stockpiling, and Transfer

Cluster munitions were used by the Socialist Federal Republic of Yugoslavia as well as numerous ethnic militias and secessionist forces during the conflicts resulting from the breakup of Yugoslavia starting in 1991. Forces of the successor Federal Republic of Yugoslavia used cluster munitions during the 1998–1999 conflict in Kosovo. Yugoslav forces also launched several cluster rocket attacks into border regions controlled by Albania. Additionally, aircraft from the United States, United Kingdom, and the Netherlands dropped cluster bombs in Serbia and Kosovo during the 1999 NATO air campaign.⁴³⁸

Serbia stated in May 2007 that it was an “unwilling possessor” of cluster munitions inherited from the former Yugoslavia which “will be, of course, destroyed.”⁴³⁹ In February 2009, Serbia informed Human Rights Watch that it does not have the capacity to produce cluster munitions and has not produced cluster munitions since the dissolution of the Socialist Federal Republic of Yugoslavia.⁴⁴⁰

According to standard reference works, Serbia inherited some of the production capabilities of the Socialist Federal Republic of Yugoslavia. The company Yugoimport-SDPR was associated with the production of 152mm 3-O-23 artillery projectiles (containing 63 KB-2 submunitions) and 262mm M87 Orkan surface-to-surface rockets (containing 288 KB-1 submunitions).⁴⁴¹ Yugoslavia was the first non-Western country to produce and export dual purpose improved conventional munition (DPICM) submunitions.⁴⁴²

According to Jane’s Information Group, “At the 1991 Paris Air Show it became known that the Yugoslav Air Force was in possession of several bomblets of various types and at least one cluster bomb and cluster bomb unit. Some bombs were thought to have been bought direct from the USSR, and it is believed that others were manufactured under license or even designed by the Federal Directorate of Supply and Procurement (SDPR) in Belgrade, now Serbia.”⁴⁴³ The designations of the cluster bombs are RAB-120 and KPT-150. Jane’s Information Group also lists Serbia as possessing BL-755 cluster bombs.⁴⁴⁴

SINGAPORE

The Republic of Singapore has not signed the Convention on Cluster Munitions. It attended as an observer the formal treaty negotiations in Dublin in May 2008, but did not participate in the rest of the diplomatic process in 2007 and 2008 that resulted in the development and signing of the convention in Oslo in December 2008. Singapore is not party to the Convention on Conventional Weapons.

Singapore produces and stockpiles cluster munitions and has imported them in the past. It enacted an indefinite unilateral moratorium on exports in November 2008.

⁴³⁷ “Serbian MoD on convention on cluster munitions,” *BETA*, 12 March 2009, www.emportal.rs. The National Security Council includes the President, Prime Minister, Ministers of Defense, Justice, and Police, Army Chief of Staff, and Directors of civilian and military intelligence agencies.

⁴³⁸ Human Rights Watch, “Civilian Deaths in the NATO Air Campaign,” vol. 12, no. 1(D), February 2000, www.hrw.org; Human Rights Watch, “Cluster Munition Information Chart,” March 2009, www.hrw.org; Norwegian People’s Aid, “Yellow Killers: The Impact of Cluster Munitions in Serbia and Montenegro,” 2007, www.stopclustermunitions.org; and Norwegian People’s Aid, “Report on the Impact of Unexploded Cluster Munitions in Serbia,” January 2009, www.stopclustermunitions.org. The three countries dropped 1,765 cluster bombs containing 295,000 submunitions in what is now Serbia, Montenegro, and Kosovo.

⁴³⁹ Statement of Serbia, Lima Conference on Cluster Munitions, 24 May 2007. Notes by WILPF.

⁴⁴⁰ Letter from Dr. Slobodan Vukcevic, Permanent Mission of the Republic of Serbia to the UN in Geneva, No. 235/1, 9 February 2009.

⁴⁴¹ Leland S. Ness and Anthony G. Williams, eds., *Jane’s Ammunition Handbook 2007–2008* (Surrey, UK: Jane’s Information Group Limited, 2007), pp. 598–599, p. 720.

⁴⁴² US Defense Intelligence Agency, “Improved Conventional Munitions and Selected Controlled-Fragmentation Munitions (Current and Projected) DST-1160S-020-90.”

⁴⁴³ Robert Hewson, ed., *Jane’s Air-Launched Weapons*, Issue 44 (Surrey, UK: Jane’s Information Group Limited, 2004), p. 291.

⁴⁴⁴ *Ibid.*, p. 845.

Cluster Munition Ban Policy

In a letter to Human Rights Watch in February 2009, Singapore stated that “as many countries still see the need to use cluster munitions for legitimate self-defence purposes, Singapore shares the view that it is not practical to have a blanket ban on cluster munitions.”⁴⁴⁵

In remarks at the UN in October 2008, Singapore said it “supports and will continue to support all initiatives against the indiscriminate use of cluster munitions, especially when they are directed at innocent and defenseless civilians. At the same time, Singapore believes that humanitarian considerations must be balanced with a State’s legitimate security concerns and the right to self-defence. In this context, Singapore supports...on-going international efforts to resolve humanitarian concerns over cluster munitions.”⁴⁴⁶

Singapore attended the May 2008 Dublin negotiations as an observer, but did not make any statements. Singapore and Malaysia were the only states from the region that did not attend the Southeast Asia Regional Conference on Cluster Munitions in Lao PDR in October 2008.

Use, Stockpiling, Production, and Transfer

Singapore is not known to have used cluster munitions. Details on the size of Singapore’s stockpile remain unknown, as the government has not chosen to disclose such information. Singapore’s stocks are reported to consist of 155mm projectiles, 120mm mortar bombs, and CBU-71 bombs. According to Jane’s Information Group, Advanced Material Engineering Pte Ltd., a subsidiary of Singapore Technologies Kinetics (STK), produces 155mm dual purpose improved conventional munition (DPICM) artillery projectiles, each consisting of 64 bomblets and equipped with electro-mechanical self-destruct fuzes.⁴⁴⁷ The company also produces a 120mm mortar bomb which delivers 25 DPICM grenades.⁴⁴⁸ Singapore received 350 CBU-71 cluster bombs from the United States at some point between 1970 and 1995.⁴⁴⁹

In the past, companies in Singapore publicly advertised cluster munitions for sale. However, it is not known if exports actually occurred. On 26 November 2008, Singapore announced that, while it did not plan to sign the Convention on Cluster Munitions, it would impose an indefinite moratorium on the export of cluster munitions with immediate effect. In a joint press statement by the Ministry of Foreign Affairs and the Ministry of Defense, Singapore stated, “The imposition of an indefinite export moratorium will ensure that Singapore’s cluster munitions will not be transferred to other parties who might use them in an irresponsible and indiscriminate manner. Through this imposition, we help stem the proliferation of cluster munitions.”⁴⁵⁰

SLOVAKIA

The Slovak Republic has not signed the Convention on Cluster Munitions. Slovakia participated in the Oslo Process from the outset, and adopted the convention at the end of the negotiations in Dublin, but consistently expressed reservations about the process and the convention text.

Slovakia is party to the Convention on Conventional Weapons (CCW) and ratified Protocol V on Explosive Remnants of War on 23 March 2006. Slovakia actively participated in the CCW work on cluster munitions in recent years.

⁴⁴⁵ Letter from Yvonne Ow, First Secretary, Permanent Mission of the Republic of Singapore to the UN, Geneva, 6 February 2009.

⁴⁴⁶ Singapore, Explanation of Vote on UN General Assembly First Committee draft resolution A/C.1/63/L.56, “Convention on Cluster Munitions,” (UNGA 63/71), 63rd Session, New York, 30 October 2008.

⁴⁴⁷ Leland S. Ness and Anthony G. Williams, eds., *Jane’s Ammunition Handbook 2007–2008* (Surrey, UK: Jane’s Information Group Limited, 2007), pp. 657–658. The bomblets have an advertised dud rate of less than 3%.

⁴⁴⁸ Singapore Technologies Engineering, “Product: 155m Cargo Round,” www.stengg.com.

⁴⁴⁹ US Defense Security Assistance Agency, Department of Defense, “Cluster Bomb Exports under FMS, FY1970–FY1995,” 15 November 1995, obtained by Human Rights Watch in a Freedom of Information Act request, November 28, 1995.

⁴⁵⁰ “Joint Press Statement By Ministry Of Foreign Affairs And Ministry Of Defence: Singapore Imposes A Moratorium On The Export Of Cluster Munitions,” 26 November 2008, app.mfa.gov.sg.

Cluster Munition Ban Policy

At the CCW Third Review Conference in November 2006, Slovakia supported a proposal for a mandate to negotiate a legally-binding instrument “that addresses the humanitarian concerns posed by cluster munitions.”⁴⁵¹ When other CCW States Parties rejected such a mandate, Slovakia joined 24 other nations in supporting a declaration calling for an international agreement that would prohibit the use of cluster munitions “within concentrations of civilians,” prohibit the use of cluster munitions that “pose serious humanitarian hazards because they are for example unreliable and/or inaccurate,” and require destruction of stockpiles of such cluster munitions.⁴⁵²

Slovakia participated in all of the Oslo Process international diplomatic conferences to develop the convention text, including in Oslo, Lima, Vienna, and Wellington, as well as the formal negotiations in Dublin in May 2008. However, it only attended the Oslo signing conference in December 2008 as an observer.

At the initial conference to launch the Oslo Process in February 2007, Slovakia was one of 46 states endorsing the Oslo Declaration that committed states to conclude a new treaty in 2008 prohibiting cluster munitions that cause unacceptable harm to civilians. However, Slovakia indicated its preference for work on cluster munitions in the CCW, and stated that the stricter the prohibition, the less the chance that it would be adhered to universally. Slovakia expressed its hope that the Oslo Process would exert pressure on the CCW.⁴⁵³

At the CCW Meeting of the States Parties in November 2007, Slovakia stated it strongly supported a mandate for a legally-binding instrument on cluster munitions, and said a failure of the CCW to address the issue effectively would affect the CCW’s credibility.⁴⁵⁴

At the Vienna conference in December 2007, Slovakia reiterated its position that the objective of the Oslo Process was not to conclude a categorical ban on cluster munitions, but rather to define cluster munitions which cause unacceptable harm on the basis of reliability, and to place restrictions on their use. In order to allow for broad participation later, a future instrument should allow for a transition period, Slovakia stated.⁴⁵⁵

At the Wellington conference in February 2008, Slovakia again insisted that the objective of the Oslo Process was not a categorical ban and stated that its participation in the process was founded on this understanding. Slovakia argued that a “total ban” would not be universalized and would have doubtful utility on the ground.⁴⁵⁶ Slovakia supported the addition of provisions on “interoperability” (joint military operations with states not party), and stated that it placed great importance on the retention of submunitions for training and research purposes.⁴⁵⁷ Slovakia associated itself with the so-called like-minded group that put forth a number of proposals strongly criticized by the CMC as weakening the draft text. Slovakia supported the joint statement of the like-minded group at the end of the conference expressing disappointment with the proceedings and the unwillingness to incorporate their proposals into the draft text.⁴⁵⁸ Nevertheless, Slovakia subscribed to the Wellington Declaration, indicating its intention to participate fully in the formal negotiations in Dublin.

⁴⁵¹ Proposal for a Mandate to Negotiate a Legally-Binding Instrument that Addresses the Humanitarian Concerns Posed by Cluster Munitions, Presented by Austria, Holy See, Ireland, Mexico, New Zealand, and Sweden, Third Review Conference of the States Parties to the CCW, Geneva, CCW/CONF.III/WP.1, Geneva, 25 October 2006.

⁴⁵² Declaration on Cluster Munitions, Third Review Conference of the States Parties to the CCW, CCW/CONF.III/WP.18, Geneva, 17 November 2006.

⁴⁵³ It said it subscribed to the 2006 declaration in the CCW because it proposed a prohibition only against certain cluster munitions. Statement of Slovakia, Oslo Conference on Cluster Munitions, 23 February 2007. Notes by CMC/WILPF.

⁴⁵⁴ Statement of Slovakia, 2007 Meeting of the States Parties to the CCW, Geneva, 7 November 2007. Notes by WILPF.

⁴⁵⁵ Statement of Slovakia, Session on General Obligations and Scope, Vienna Conference on Cluster Munitions, 6 December 2007. Notes by CMC/WILPF.

⁴⁵⁶ Statement of Slovakia, Session on Definitions, Wellington Conference on Cluster Munitions, 19 February 2008. Notes by CMC.

⁴⁵⁷ Statement of Slovakia, Session on Definition and Scope, Wellington Conference, 18 February 2008; and Statement of Slovakia, Session on Storage and Stockpile Destruction, Wellington Conference, 21 February 2008. Notes by CMC.

⁴⁵⁸ Statement of France on behalf of like-minded countries, Wellington Conference, 22 February 2008.

During the Dublin negotiations in May 2008, Slovakia called for broad exemptions from prohibition for certain types of cluster munition. It proposed exemptions for cluster munitions with self-destruction, self-neutralization, or self-deactivation mechanisms and those considered to have a 1% failure rate.⁴⁵⁹ Slovakia proposed a transition period “for a limited period of time not exceeding 12 years” during which it would be permitted to continue to use prohibited cluster munitions “only when strictly necessary.”⁴⁶⁰ Slovakia continued to support proposals for retention of cluster munitions and to facilitate interoperability.

At the closing ceremony of the Dublin conference, Slovakia noted that it had suggested an alternative approach to that contained in the convention and reiterated its conviction that Slovakia’s approach would have attracted the support of more countries. Nevertheless, Slovakia praised the convention’s important provisions to address the humanitarian concerns posed by cluster munitions. While joining the consensus adoption of the convention, Slovakia stated it would report back to capital on the proceedings in Dublin and that the Slovak authorities would study the text thoroughly.⁴⁶¹

In early November 2008, the Slovak government decided that it would not be in a position to sign the convention in Oslo in December 2008.⁴⁶² Slovakia attended the signing conference as an observer.

In February 2009, a Ministry of Foreign Affairs spokesperson told reporters that the convention would place a great burden on the Slovakian state budget because of the cost of re-equipping the Slovak Armed Forces. However, he said Slovakia considers the convention as an important part of its humanitarian agenda and will continuously assess its position on signing in relation to its defense and security requirements.⁴⁶³

Use, Production, Stockpiling, and Transfer

Slovakia has not used cluster munitions, but has produced and exported them and currently has a stockpile. In February 2009, the Slovak Ministry of Defense reportedly cancelled orders of M26 multiple launch rocket system (MLRS) cluster munitions and suggested that it would replace its existing stocks of cluster munitions with other munitions by 2016 to 2020 at the latest.⁴⁶⁴

The company Konstrakta Defense SA has produced 152mm artillery projectiles that contain dual purpose improved conventional munition (DPICM) type submunitions with a self-destructing capability.⁴⁶⁵ It also has produced a 122mm rocket called AGAT that contains 50 dual purpose and six incendiary submunitions; both types of submunition can self-destruct.⁴⁶⁶ Slovakia reported the export of 380 AGAT rockets to Turkey in 2007.⁴⁶⁷

The company has also produced the FOBOS anti-runway dispenser that ejects between one and nine “bombs” which appear to weigh 50kg each, and if so, would not be prohibited by the Convention on Cluster Munitions.⁴⁶⁸

In 2004, Germany transferred 270 M26 multiple launch rockets with submunitions to Slovakia.⁴⁶⁹ It transferred another 132 in 2005.⁴⁷⁰

⁴⁵⁹ Proposal by Slovakia for the amendment of Article 1, Dublin Diplomatic Conference on Cluster Munitions, CCM/63, 19 May 2008; and Proposal by Slovakia for the amendment of Article 2, Dublin Diplomatic Conference, CCM/64, 19 May 2008.

⁴⁶⁰ Proposal by Slovakia for additional text, New Article (18 bis), Dublin Diplomatic Conference, CCM/66, 19 May 2008.

⁴⁶¹ Statement of Slovakia, Closing Statement, Dublin Diplomatic Conference, 30 May 2008. Notes by Landmine Action.

⁴⁶² “Slovakia not to ratify convention on cluster munitions,” *BBC Monitoring European*, 5 February 2009.

⁴⁶³ *Ibid.*

⁴⁶⁴ “Slovak Defense Ministry cancels orders for cluster munitions,” *Zibb*, 3 February 2009, www.zibb.com. The original source cited is the Slovak News Agency website, www.sita.sk, Bratislava, BBC Monitoring.

⁴⁶⁵ Terry J. Gander and Charles Q. Cutshaw, eds., *Jane’s Ammunition Handbook 2001-2002* (Surrey, UK: Jane’s Information Group Limited 2001), pp. 321, 627.

⁴⁶⁶ Konstrakta Defense SA, “Our products – results of our R&D work, AGAT – 122mm Cargo Rocket,” undated, www.kotadef.sk.

⁴⁶⁷ Slovakia, Submission for Calendar Year 2007, UN Register of Conventional Arms, 12 June 2008.

⁴⁶⁸ Konstrakta Defense SA, “Our products – results of our R&D work, FOBOS – Anti-runway Aviation System,” undated, www.kotadef.sk. In Article 2.2, the convention defines a cluster munition as a munition that disperses submunitions “each weighing less than 20 kilograms.”

⁴⁶⁹ Germany, Submission for Calendar Year 2004, UN Register of Conventional Arms, 26 May 2005. It is unclear if this was 270 individual rockets or 270 pods containing six rockets each. Each rocket has 644 submunitions.

⁴⁷⁰ Germany, Submission for Calendar Year 2005, UN Register of Conventional Arms, 1 June 2006. It is unclear if this was 132 individual rockets or 132 pods containing six rockets each. Each rocket has 644 submunitions.

Slovenia has reported that it possesses 1,080 155mm artillery projectiles, designated PAT-794, that contain submunitions.⁴⁷¹ While the origin of the PAT-794 projectile is uncertain, knowledgeable sources have speculated that the PAT-794 was produced by the ZVS Company from Slovakia and contains 49 DPICM submunitions.

SRI LANKA

The Democratic Socialist Republic of Sri Lanka has not signed the Convention on Cluster Munitions. It participated in just one meeting of the Oslo Process, in Vienna in December 2007, but did not make an intervention.

Sri Lanka is party to the Convention on Conventional Weapons (CCW), but has not ratified Protocol V on Explosive Remnants of War. Sri Lanka has not been an active participant in CCW discussions on cluster munitions in recent years.

Sri Lanka is not believed to have produced cluster munitions. Sri Lanka has denied that it possesses cluster munitions, although there are some indications that it may.⁴⁷²

There have been media reports of Sri Lanka using cluster munitions on its own territory against the Liberation Tigers of Tamil Eelam (LTTE) in 2008 and 2009, but Sri Lanka has denied the claims, and there has been no confirmation or compelling evidence of such use.⁴⁷³

In February 2009, Sri Lankan forces were accused of using cluster munitions against the LTTE, and specifically targeting the Pudukkudyirippu hospital.⁴⁷⁴ A UN spokesperson initially said the hospital had been hit with cluster munitions, but after further investigation retracted the statement.⁴⁷⁵

The Sri Lankan government's Media Center for National Security posted the following statement on its website on 4 February 2009: "The Government wishes to clarify that the Sri Lanka army do not use these cluster bombs nor do they have facilities to use them. The Sri Lanka army use no such lethal munitions against innocent civilians in their war against terror. Furthermore cluster bombs are banned in the UN convention and Sri Lanka being a party to this convention respects these laws."⁴⁷⁶

On 5 February 2009, the Ministry of Defence website posted a statement saying Sri Lanka never fired cluster munitions and never brought them into the country.⁴⁷⁷ Military spokesperson Brigadier Udaya Nanayakkara was quoted stating, "We don't have the facility to fire cluster munitions. We don't have these weapons."⁴⁷⁸

⁴⁷¹ Letter from Samuel Žbogar, Minister of Foreign Affairs, 25 February 2009.

⁴⁷² For example, in July 2007 when the LTTE claimed to have shot down a Kfir bomber, Sri Lanka Air Force sources were cited as saying that in fact the debris was from a cluster bomb from a MiG-27 attack aircraft that "disintegrated upon impact." "It was a cluster bomb, not Kfir," *Sunday Times Online*, 15 July 2007. Media reports have indicated that Sri Lanka has sought to purchase cluster bombs. See for example, "Sri Lanka to purchase defence equipment from Pakistan," *LankaNewspapers.com*, 30 December 2006; and "Sri Lanka looks for high-tech weapons," *Agence France-Presse*, 13 September 1999. Sri Lanka possesses both aircraft and rocket launchers capable of deploying cluster munitions.

⁴⁷³ "Tamil Tiger political chief urges UN to probe Sri Lankan government's war crimes," *BBC Monitoring South Asia*, 15 March 2009; "Sri Lanka Cluster Bomb Claims," TV news report, *Sky News*, 4 February 2009, news.sky.com; and "TNA MP urges global community's awareness on Sri Lanka's use of cluster munitions," *TamilNet*, 3 December 2008, www.tamilnet.com.

⁴⁷⁴ "U.N. cites Sri Lanka cluster bomb use: The U.S., EU, Norway and Japan join in a plea to the Tamil Tiger rebels to end their failing separatist struggle and avoid more deaths," *Los Angeles Times*, 4 February 2009.

⁴⁷⁵ "UN accepts Sri Lanka has not used cluster bombs – website," *BBC Monitoring South Asia*, 5 February 2009; and Walter Jayawardhana, "UN Spokesman Accepts Sri Lanka Never Had Cluster Bombs," Ministry of Defence, 5 February 2009, www.defence.lk.

⁴⁷⁶ The reference to the UN convention is apparently the CCW, which does not, however, ban cluster munitions in any way. Media Centre for National Security, "Government denies the attack on Pudukkudyirippu hospital or using cluster bombs," 4 February 2009, www.nationalsecurity.lk. The Media Centre for National Security is the government of Sri Lanka's agency for disseminating all national security and defense-related information to the media and public.

⁴⁷⁷ The reference lacked clarity in English, declaring: "Sri Lanka has categorically denied that it had neither fired cluster munitions nor it had any ever bought cluster bombs into the country." Walter Jayawardhana, "UN Spokesman Accepts Sri Lanka Never Had Cluster Bombs," Ministry of Defence, 5 February 2009, www.defence.lk.

⁴⁷⁸ Walter Jayawardhana, "UN Spokesman Accepts Sri Lanka Never Had Cluster Bombs," Ministry of Defence, 5 February 2009, www.defence.lk.

On 18 February 2009, the CMC wrote a letter to Sri Lankan President Rajapaska asking the government to officially state whether Sri Lanka possesses cluster munitions and to provide “clarification on whether Sri Lanka has imported either cluster bombs for use in Kfir attack aircraft or 122mm cluster rockets for RM-70 rocket launchers.”⁴⁷⁹ As of mid-April 2009, Sri Lanka had not responded.

SUDAN

The Republic of Sudan has not signed the Convention on Cluster Munitions. It has been supportive of the Oslo Process and joined the consensus adoption of the convention at the conclusion of the negotiations in May 2008. It is not party to the Convention on Conventional Weapons.

Although Sudan did not attend the initial meeting to launch the Oslo Process in February 2007 or the subsequent international conference in Lima in May 2007, it participated extensively thereafter. It attended the Belgrade conference for affected states in October 2007, the last two international conferences to develop the convention text in Vienna and Wellington, the African regional conference in Livingstone in March/April 2008, the formal negotiations in Dublin in May 2008, and the African regional conference in Kampala in September 2008. However, it came to the Oslo Signing Conference in December only as an observer.

Sudan was not a vocal participant during most of the Oslo Process meetings, but stated that it was fully supportive of the objectives of the convention. It endorsed the Wellington Declaration, indicating its intention to participate fully in the Dublin negotiations on the basis of the draft Wellington text. Sudan also endorsed the Livingstone Declaration calling for a comprehensive treaty with a prohibition that should be “total and immediate.”⁴⁸⁰

On 20 April 2008, a workshop on cluster munitions was organized in Khartoum as part of the Global Day of Action on cluster munitions, with participation from the Ministry of Defense, other government agencies, and national and international NGOs.⁴⁸¹

During the Dublin negotiations, Sudan stated that it was strongly committed to a convention prohibiting cluster munitions in all their aspects.⁴⁸² Sudan called for a broad definition of cluster munitions, which it called “danger bombs” for Sudanese children and their families.⁴⁸³ Sudan opposed the inclusion of a transition period during which prohibited munitions could still be used.⁴⁸⁴ Sudan joined the consensus adoption of the convention.

At the Kampala conference in September 2008, Sudan endorsed the Kampala Action Plan, which declared that states should sign and “take all necessary measures to ratify the convention as soon as possible.”⁴⁸⁵ On 29 October 2008, a workshop on the convention was organized by the JASMAR Human Security Organization on behalf of the Sudan Campaign to Ban Landmines.⁴⁸⁶

Although Sudan did not sign the convention at the Oslo signing conference in December 2008, Sudan attended and spoke as an observer. Sudan stated that it remained committed to the principles of the convention and would sign as soon as possible, once logistical and national measures had been completed.⁴⁸⁷

⁴⁷⁹ CMC, “Open Letter to Sri Lanka: Join Convention on Cluster Munitions,” 18 February 2009, www.stopclustermunitions.org.

⁴⁸⁰ Livingstone Declaration, Livingstone Conference on Cluster Munitions, 1 April 2008.

⁴⁸¹ CMC, “Global Day of Action To Ban Cluster Bombs – What Happened,” 7 May 2008, www.stopclustermunitions.org.

⁴⁸² Statement of Sudan, Committee of the Whole, Dublin Diplomatic Conference on Cluster Munitions, 19 May 2008. Notes by Landmine Action.

⁴⁸³ Statement of Sudan, Informal Discussions on Definitions, Dublin Diplomatic Conference, 21 May 2008. Notes by Landmine Action.

⁴⁸⁴ Ibid, 23 May 2008. Notes by Landmine Action.

⁴⁸⁵ CMC, “Report on the Kampala Conference on the Convention on Cluster Munitions,” 30 September 2008; and Kampala Action Plan, Kampala Conference, 30 September 2008.

⁴⁸⁶ Some 50 participants, including high level government delegates from the ministries of foreign affairs, justice, defense, social welfare, and human affairs attended the event at the Ministry of Social Welfare in Khartoum, as well as national and international NGOs, the ICRC, disabilities unions, representatives from the UN, and the media. Campaigners collected signatures for the People’s Treaty from participants and the public. CMC, “Global Week of Action to Ban Cluster Bombs, 27 October - 2 November 2008,” www.stopclustermunitions.org.

⁴⁸⁷ Statement of Sudan, Convention on Cluster Munitions Signing Conference, Oslo, 3 December 2008. Notes by Landmine Action. Officials told the CMC that Sudan intended to sign, but the Minister of Foreign Affairs was unexpectedly unable to come and no one else had authorization to sign.

Use, Stockpiling, Transfer, and Production

Sudan has used cluster munitions in the past. It has apparently imported cluster munitions from a number of countries. The current status and composition of its stockpile are not known. Sudan is not believed to have produced or exported cluster munitions.

Sudanese government forces sporadically used air-dropped cluster munitions, including Chilean made PM-1 submunitions, in southern Sudan between 1995 and 2000.⁴⁸⁸ Landmine Action photographed a Rokeye-type cluster bomb with Chinese-language external markings in Yei in October 2006. Additionally, clearance personnel in Sudan have identified a variety of submunitions, including the Spanish-manufactured HESPIN 21, US-produced M42 and Mk118 (Rokeye), and Soviet-manufactured PTAB-1.5.⁴⁸⁹

Jane's Information Group reports that KMG-U dispensers which deploy submunitions are in service with the country's air force.⁴⁹⁰

SYRIA

The Syrian Arab Republic has not signed the Convention on Cluster Munitions. It did not participate in the diplomatic process that resulted in the negotiation and signing of the convention in December 2008. Syria has not made a public declaration of its cluster munition policy. It is not party to the Convention on Conventional Weapons (CCW), but has participated as an observer in the CCW Group of Governmental Experts that has been working on cluster munitions in recent years.

Jane's Information Group lists Syria as possessing KMG-U dispensers, RBK-250, RBK-275, and RBK-500 cluster bombs.⁴⁹¹ Israel used air-dropped cluster munitions against Palestinian camps near Damascus in 1973.⁴⁹²

TAJIKISTAN

The Republic of Tajikistan has not signed the Convention on Cluster Munitions. Tajikistan is party to the Convention on Conventional Weapons (CCW) and ratified Protocol V on Explosive Remnants of War on 18 May 2006. It has not been an active participant in CCW discussions on cluster munitions in recent years.

It is not believed that Tajikistan produces or stockpiles cluster munitions. Unknown forces used cluster munitions in Tajikistan during its civil war in the 1990s. The Tajikistan Mine Action Centre has found ShOAB and AO-2.5RT submunitions in the town of Gharm in the Rasht Valley.⁴⁹³

Tajikistan first participated in the Oslo Process at the Belgrade conference for affected states in October 2007. It then attended the international conferences to develop the convention text in Vienna and Wellington.

At the Vienna conference, Tajikistan officially endorsed the Oslo Declaration, committing states to conclude in 2008 a new convention prohibiting cluster munitions that cause unacceptable harm to civilians. It spoke in favor of concrete obligations for the clearance of cluster munitions, but noted that meeting deadlines for clearance would depend on external assistance.⁴⁹⁴

⁴⁸⁸ Virgil Wiebe and Titus Peachey, "Clusters of Death, Chapter 4: Cluster Munition Use in Sudan," Mennonite Central Committee, 2000, mcc.org.

⁴⁸⁹ Handicap International, "Circle of Impact: The Fatal Footprint of Cluster Munitions on People and Communities," Brussels, 2007, en.handicapinternational.be, p. 55.

⁴⁹⁰ Robert Hewson, ed., *Jane's Air-Launched Weapons*, Issue 44 (Surrey, UK: Jane's Information Group Limited, 2004), p. 846.

⁴⁹¹ Robert Hewson, ed., *Jane's Air-Launched Weapons*, Issue 44 (Surrey, UK: Jane's Information Group Limited, 2004), p. 846.

⁴⁹² Anthony H. Cordesman and Abraham R. Wagner, *Lessons of Modern War Volume 1: The Arab Israeli Conflicts, 1973-1989* (Boulder, Colorado: Westview Press, 1990), p. 98.

⁴⁹³ TMAC, "Cluster munitions in Gharm," undated, but reporting on an April 2007 assessment.

⁴⁹⁴ Statement of Tajikistan, Session on International Cooperation and Assistance, Vienna Conference on Cluster Munitions, 7 December 2007. Notes by CMC/WILPF.

While Tajikistan did not endorse the Wellington Declaration at the conclusion of the conference in February 2008, it did so on 23 April 2008; endorsement indicated its intention to participate fully in the formal negotiations in Dublin on the basis of the draft Wellington text.⁴⁹⁵ However, Tajikistan did not attend the Dublin negotiations in May 2008, even as an observer.

Tajikistan did not attend the signing conference in Oslo in December 2008, and has not provided a public explanation for why it has not signed.

In April 2008, the NGO Harmony of the World and Umarbek Pulodov, a cluster munition survivor from Tajikistan, organized a roundtable on cluster munitions in Gharm.⁴⁹⁶ During the Global Week of Action on Cluster Munitions in October 2008, Harmony of the World held a roundtable discussion about cluster munitions and the Oslo Process to encourage the government to sign the convention.⁴⁹⁷

THAILAND

The Kingdom of Thailand has not signed the Convention on Cluster Munitions. It is not party to the Convention on Conventional Weapons (CCW).

Thailand is not believed to have ever used or produced cluster munitions. The United States supplied it with 500 Rockeye and 200 CBU-71 cluster bombs at some point between 1970 and 1995.⁴⁹⁸ The status and composition of its current stockpile is not known.

Thailand did not attend the initial meeting to launch the Oslo Process, but participated in the regional conference in Cambodia and all three of the international conferences to develop the convention text in Lima, Vienna, and Wellington. Thailand then chose to attend the formal negotiations in Dublin in May 2008 as an observer. It subsequently attended the regional conference in Lao PDR aimed at promoting signature to the convention, but attended the signing conference in Oslo in December 2008 again only as an observer.

At the Lima conference, Thailand said it supported the development of an international instrument on cluster munitions, but noted the difficulties for affected countries and emphasized the importance of financial assistance to help such countries comply with any future agreement.⁴⁹⁹ At the Vienna conference, Thailand again stressed the importance of international assistance.⁵⁰⁰ It supported the rights-based approach to victim assistance and emphasized the importance of including provisions relating to data collection on cluster munitions victims.⁵⁰¹ Although only attending the Dublin negotiations in May 2008 as an observer, Thailand described the text as well balanced and welcomed its adoption.⁵⁰²

The ICRC hosted a Southeast Asia regional meeting on cluster munitions in Bangkok on 24–25 April 2008. This was not a formal part of the Oslo Process. Participants from the region included Brunei, Indonesia, Laos, Malaysia, the Philippines, Thailand, and Vietnam. Representatives of Australia, Ireland, Japan, Norway, the UN, CMC, and other NGOs also attended. Conference participants discussed the global

⁴⁹⁵ New Zealand Ministry of Foreign Affairs and Trade, "List of countries subscribing to the Declaration of the Wellington Conference on Cluster Munitions," 23 May 2008 www.mfat.govt.nz.

⁴⁹⁶ Thirty-five survivors, along with representatives from the government, UNDP, and NGOs, participated in the forum, which was broadcast on Tajikistan's national television channel. Stephanie Castanie, "Roundtable on Banning Cluster Munitions: Tajikistan 1 April 2008," Handicap International, Ban Advocates Blog, 10 April 2008, blog.banadvocates.org. Also in April, events were organized to mark International Mine Action Day and the Global Day of Action on Cluster Munitions, which helped to highlight the issue of cluster munitions and gather support for campaign efforts in Tajikistan. CMC, "Global Day Of Action To Ban Cluster Bombs – What Happened," 7 May 2008, www.stopclustermunitions.org.

⁴⁹⁷ The event saw high-level government engagement and broad press coverage of the issue on both television and radio, including a documentary on the effects of cluster munitions. CMC, "Global Week of Action to Ban Cluster Bombs, 27 October – 2 November," www.stopclustermunitions.org.

⁴⁹⁸ US Defense Security Assistance Agency, Department of Defense, "Cluster Bomb Exports under FMS, FY1970–FY1995," 15 November 1995, obtained by Human Rights Watch in a Freedom of Information Act request, 28 November 1995.

⁴⁹⁹ Statement of Thailand, Lima Conference on Cluster Munitions, 23 May 2007. Notes by CMC/WILPF.

⁵⁰⁰ Statement of Thailand, Vienna Conference on Cluster Munitions, 5 December 2007. Notes by CMC/WILPF.

⁵⁰¹ Statement of Thailand, Session on Victim Assistance, Vienna Conference, 6 December 2007. Notes by CMC/WILPF.

⁵⁰² Summary Record of the Committee of the Whole, Sixteenth Session: 28 May 2008, Dublin Diplomatic Conference on Cluster Munitions, CCM/CW/SR/16, 18 June 2008.

humanitarian impact of the weapon, as well as specific problems that it poses in Southeast Asian states. States discussed their national policy perspectives, efforts to address cluster munitions through the Oslo Process and the CCW, and key issues that would come up during the Dublin negotiations.⁵⁰³

On 2 November 2008 as part of the Global Week of Action on cluster munitions, the Thailand “Ban Bus” was launched in central Bangkok, along with an exhibition and public activities, then traveled across the country raising awareness and promoting the convention.⁵⁰⁴

At the Oslo signing conference in December 2008, Thailand made a statement affirming that it had no intention of using cluster munitions or acquiring more of them in the future. It said it recognized a moral commitment to provide for the victims of the weapons. However, Thailand stated that as it maintained stocks of cluster munitions, it would require further time to evaluate the convention. Thailand said it was concerned about the high cost of stockpile destruction and was seeking ways to develop a comprehensive plan for destruction. Thailand added that it wished to see all stakeholders, including the manufacturers of cluster munitions, join the convention. Furthermore, Thailand argued that the prohibition in the convention was not sufficiently broad and that countries in a position to acquire munitions not prohibited by the convention would be able to use them “with impunity.”⁵⁰⁵

On 22 February 2009, Nonviolence International held a meeting with the Secretary General of the Association of Southeast Asian Nations (ASEAN) Secretariat and Thailand’s Minister of Foreign Affairs, who committed to discuss the convention during the ASEAN meeting of Defense Ministers on 26 February 2009, in Pattaya, Thailand.⁵⁰⁶

Thailand hosted a regional workshop in Bangkok in April 2009 on the Mine Ban Treaty, in advance of the Second Review Conference. Following the workshop, Australia hosted, with Lao PDR co-chairing, a briefing on the Convention on Cluster Munitions with the aim of encouraging states from the Southeast Asia region to sign.⁵⁰⁷

TURKEY

The Republic of Turkey has not signed the Convention on Cluster Munitions. It has produced, exported, and imported cluster munitions, and has a stockpile.

Turkey is party to the Convention on Conventional Weapons (CCW), but has not joined Protocol V on Explosive Remnants of War.

Cluster Munition Ban Policy

In a letter to Human Rights Watch in March 2009, Turkey stated that it “attaches importance to the restriction of the use of cluster munitions” and shares the “humanitarian concerns behind the efforts limiting the indiscriminate use of cluster munitions.” Turkey stated that while it was “not making use of cluster munitions,” its primary aim is to fulfill its obligations under the Mine Ban Treaty. “Therefore, for the time being, we are not considering to sign the 2008 Convention on Cluster Munitions,” it said.⁵⁰⁸

At the Third Review Conference of the CCW in November 2006, Turkey did not support a proposal for a mandate to negotiate a legally-binding instrument “that addresses the humanitarian concerns posed by cluster munitions.”⁵⁰⁹

⁵⁰³ ICRC, “Southeast Asia Regional Meeting on Cluster Munitions, Summary Report,” April 2008, www.stopclustermunitions.org.

⁵⁰⁴ CMC, “Global Week of Action to Ban Cluster Bombs, 27 October – 2 November 2008,” www.stopclustermunitions.org.

⁵⁰⁵ Statement of Thailand, Convention on Cluster Munitions Signing Conference, Oslo, 4 December 2008. Notes by Landmine Action.

⁵⁰⁶ CMC “CMC Newsletter, February 2009,” 17 March 2009, www.stopclustermunitions.org.

⁵⁰⁷ CMC, “Bangkok Workshop on Achieving a Mine-Free South-East Asia,” 9 March 2009, www.stopclustermunitions.org.

⁵⁰⁸ Letter from Amb. Tomur Bayer, Director-General, International Security Affairs, 2 March 2009.

⁵⁰⁹ Proposal for a Mandate to Negotiate a Legally-Binding Instrument that Addresses the Humanitarian Concerns Posed by Cluster Munitions, Presented by Austria, Holy See, Ireland, Mexico, New Zealand, and Sweden, Third Review Conference of the States Parties to the CCW, Geneva, CCW/CONF.III/WP.1, Geneva, 25 October 2006.

Turkey did not attend the first two international meetings of the Oslo Process in Oslo in February 2007 and Lima in May 2007. It did participate in the regional conference in Brussels in October and the two subsequent international conferences to develop the text of the convention in Vienna in December 2007 and Wellington in February 2008.

During the Vienna conference, Turkey stated that it favored a balanced approach to cluster munitions, taking into account both military and humanitarian concerns.⁵¹⁰ Turkey stated that it supported civil society assuming a role in the future convention similar to the one it played in monitoring the Mine Ban Treaty, though this should be contingent on the consent of the state concerned.⁵¹¹

At the Wellington conference, Turkey raised concerns over the implications of the future convention for “interoperability” (joint military operations with states not party).⁵¹² Turkey supported a provision for retaining cluster munitions for training and research purposes.⁵¹³ Turkey said that the proposed timeframe for the destruction of cluster munition stockpiles must be realistic, based on its experience with destruction of its stockpiles of antipersonnel mines under the Mine Ban Treaty.⁵¹⁴ At the conclusion of the conference, Turkey did not join other states in subscribing to the Wellington Declaration, indicating a state’s intention to participate fully in the formal negotiations in Dublin on the basis of the Wellington text.

At a January 2008 session of the CCW, Turkey said it viewed the CCW and Oslo Processes as complementary and was supportive of an instrument in the CCW on cluster munitions.⁵¹⁵ In April, Turkey submitted a proposal for the main elements of a CCW protocol on cluster munitions.⁵¹⁶ During the same session, Turkey stated that a transition period is needed permitting states to use, stockpile, and possess cluster munitions “when strictly necessary,” as any restrictions on cluster munitions would require a new procurement process and the allocation of resources for alternative weapons.⁵¹⁷

In May 2008, Turkey attended the negotiations of the Convention on Cluster Munitions in Dublin only as an observer, and as such did not join the 107 states that endorsed the convention text at the conclusion. At the time, a Turkish official defended Turkey’s position, saying, “In a war against a legitimate enemy, cluster munitions remain to be the most effective weapons against area targets, and we’ve got a lot of these munitions in our stocks. Unless you find a viable option to cluster munitions, you can’t simply rule out their use.” Instead of banning cluster munitions, the objective should be to make them safer for civilians, the official stated.⁵¹⁸

Turkey participated in an Oslo Process regional conference in Sofia in September 2008 aimed at promoting signature of the convention. However, in December 2008, Turkey attended the Oslo signing conference only as an observer.

At the opening of the CCW session in November 2008, when the CCW negotiations on cluster munitions were scheduled to conclude, Turkey stated that it appreciated the standards reached in the Oslo Process, but cautioned that the CCW was a different setting which included major stockpilers and producers; it said a CCW protocol on cluster munitions would allow states not ready to join the Convention on Cluster Munitions “to engage themselves in the same direction.” It went on to say that “parallel processes do not need to overlap each other entirely. Furthermore, we need to see whether or not initiatives conducted outside the scope of the UN do contribute to the stability and effectiveness of global disarmament goals.”⁵¹⁹ When the CCW states failed to reach consensus, Turkey stated it supported the continuation of work in the CCW in 2009.⁵²⁰

⁵¹⁰ Statement of Turkey, Vienna Conference on Cluster Munitions, 5 December 2007. Notes by CMC/WILPF.

⁵¹¹ Statement of Turkey, Session on Transparency and Compliance, Vienna Conference, 7 December 2007. Notes by CMC/WILPF.

⁵¹² Statement of Turkey, Session on Definition and Scope, Wellington Conference on Cluster Munitions, 18 February 2008. Notes by CMC.

⁵¹³ Statement of Turkey, Session on Storage and Stockpile Destruction, Wellington Conference, 21 February 2008. Notes by CMC.

⁵¹⁴ Ibid. Turkey failed to meet its four-year deadline for stockpile destruction under the Mine Ban Treaty.

⁵¹⁵ Statement of Turkey, First 2008 Session of the CCW Group of Governmental Experts (GGE) on Cluster Munitions, 14 January 2008. Notes by WILPF.

⁵¹⁶ Proposal for Main Elements of a Draft CCW Protocol on Prohibitions or Restrictions of Cluster Munitions, Submitted by Turkey, CCW/GGE/2008-II/WP.6, 8 April 2008. The restrictions and prohibitions consisted of Turkey’s view of the relevant elements of existing international humanitarian law.

⁵¹⁷ Statement of Turkey, Second 2008 Session of the CCW GGE on Cluster Munitions, 8 April 2008. Notes by Landmine Action.

⁵¹⁸ “Turkey, US won’t join cluster bomb ban,” *Turkish Daily News*, 30 May 2008.

⁵¹⁹ Statement of Turkey, Fifth 2008 Session of the CCW GGE on Cluster Munitions, 3 November 2008. Notes by Landmine Action.

⁵²⁰ Statement of Turkey, 2008 Meeting of the States Parties to the CCW, 13 November 2008. Notes by Landmine Action.

During the Oslo Process there were domestic demands for Turkey to support a prohibition. Member of Parliament Ufuk Uras, chairperson of the Freedom and Solidarity Party, was especially active in pushing the government, as was the Initiative for a Mine-Free Turkey on the civil society side.⁵²¹ In October 2008, the Ban Bus, a mobile advocacy initiative to promote awareness on cluster munitions and the convention, stopped in Istanbul during its trip through 18 European countries. The Initiative for a Mine-Free Turkey held a widely covered press conference calling Turkey to go to Oslo to sign the convention.⁵²²

Use, Production, Transfer, and Stockpiling

In March 2009, Turkey stated that it “is not making use of cluster munitions.”⁵²³ It is not known if or how often Turkey may have used cluster munitions in the past. In January 1994, the Turkish air force carried out an attack on the Zaleh camp of the Kurdistan Worker’s Party (PKK) in northern Iraq near the Iranian border.⁵²⁴ Turkish television reported that United States-supplied cluster bombs were used.⁵²⁵

Turkey has produced, imported, and exported cluster munitions and has a stockpile.

The Turkish company Makina ve Kimya Endustrisi Kurumu (MKEK) has produced under license M483A1 155mm artillery projectiles with dual purpose improved conventional munition (DPICM) submunitions.⁵²⁶ It is unclear if this projectile is still in production. MKEK now produces an extended range M396 155mm projectile which contains self-destructing M85 DPICM submunitions.⁵²⁷

The firm Roketsan has produced the TRK-122 122mm rocket, which contains 56 M85 DPICM submunitions.⁵²⁸ Turkey sold 3,020 of the TRK-122 122mm rockets to the United Arab Emirates in 2006–2007.⁵²⁹

A media article in August 2008 reported that Turkey and Pakistan were looking at potential cooperation in the “production of cluster bombs with 300–400 bomblets each for different missions,” as well as “the sale and production of 122 millimeter short-range and long-range multiple rocket launcher ammunition.”⁵³⁰

The US supplied Turkey with 3,304 Rockeye cluster bombs, each with 247 submunitions, at some point between 1970 and 1995.⁵³¹ In 1995, the US announced that it would provide Turkey with 120 ATACMS missiles with submunitions for its Multiple Launch Rocket System (MLRS) launchers.⁵³² Turkey also possesses US-supplied M26 rockets, each with 644 submunitions, for its MLRS. The US announced in October 2004 its intent to transfer to Turkey two CBU-103 Combined Effects Munitions cluster bombs, each with 202 submunitions, and two AGM-154 Joint Stand-Off Weapons (JSOW), each

⁵²¹ ICBL, “Cluster Bombs Can Be Banned – List of Events Worldwide,” 5 November 2007, www.icbl.org; and “Record of General Assembly,” Turkey Grand National Assembly, 16 April 2008, www.tbmm.gov.tr.

⁵²² CMC, “The Ban Bus in Turkey, 18 October 2008,” 21 October 2008, www.stopclustermunitions.org.

⁵²³ Letter from Amb. Tomur Bayer, International Security Affairs, 2 March 2009.

⁵²⁴ The PKK is currently listed as a terrorist organization by the European Union, NATO, the US, Canada, the United Kingdom, and Australia.

⁵²⁵ It stated, “Fifty F-16 and F-4 warplanes, one reconnaissance plane, and five helicopters took part in the operation. The warplanes made 52 sorties during close to 30 minutes. They dropped a total of 132 bombs, including cluster bombs and 500- and 2000-pound bombs.” Human Rights Watch, “U.S. Cluster Bombs for Turkey?” Vol. 6, No. 19, December 1994, www.hrw.org, citing Foreign Broadcast Information Network, Western Europe, FBIS-WEU-94-0919, 28 January 1994, p. 26, from Ankara TRT Television Network in Turkish, 11:00 GMT, 18 January 1994.

⁵²⁶ Leland S. Ness and Anthony G. Williams, eds., *Jane’s Ammunition Handbook 2007–2008* (Surrey, UK: Jane’s Information Group Limited, 2007), pp. 635–636.

⁵²⁷ MKEK, “155 mm M396 ERDP Ammunition,” undated, www.mkek.gov.tr.

⁵²⁸ Roketsan, “122 mm Artillery Weapons Systems, Extended Range Rockets and 122 mm MBRL System,” undated, www.roketsan.com.tr; and Leland S. Ness and Anthony G. Williams, eds., *Jane’s Ammunition Handbook 2007–2008* (Surrey, UK: Jane’s Information Group Limited, 2007), p. 702.

⁵²⁹ Turkey, UN Register of Conventional Arms, Submission for Calendar Year 2006, 22 March 2007, and submission for Calendar Year 2007, 7 July 2008.

⁵³⁰ “Turkey to upgrade Pakistani F-16s as US sanctions ease,” *Today’s Zaman*, 8 August 2008, www.todayzaman.com.

⁵³¹ US Defense Security Assistance Agency, Department of Defense, “Cluster Bomb Exports under FMS, FY1970–FY1995,” 15 November 1995, obtained by Human Rights Watch in a Freedom of Information Act request, 28 November 1995.

⁵³² Congressional Record, “Proposed Sale of Army Tactical Missile System to Turkey,” 11 December 1995, p. E2333, www.fas.org. Each ATACMS missile contains 300 or 950 submunitions.

with 145 submunitions.⁵³³ In September 2005, it announced the proposed sale of another 50 CBU-103 and 50 JSOW.⁵³⁴

Slovakia reported the export of 380 AGAT 122mm rockets, each containing 56 submunitions, to Turkey in 2007.⁵³⁵

TURKMENISTAN

Turkmenistan has not signed the Convention on Cluster Munitions. It did not participate in the diplomatic process in 2007 and 2008 that resulted in the development, negotiation and then signing of the Convention in Oslo in December 2008. It has not made a public declaration regarding its cluster munition policy.

Turkmenistan is not known to have used, produced, or exported cluster munitions. It inherited a stockpile of cluster munitions from the Soviet Union. It possesses Uragan 220mm and Smerch 300mm surface-to-surface rockets.⁵³⁶ Turkmenistan destroyed a very large stockpile of antipersonnel mines as a State Party to the Mine Ban Treaty, and may also have a sizeable stock of cluster munitions, as the main ammunition storage facility for Soviet combat operations in Afghanistan was located in Charjoh (now Turkmenabad), according to military officials.⁵³⁷

Turkmenistan is party to the Convention on Conventional Weapons (CCW), but has not been involved in the discussions on cluster munitions in recent years. It has not joined CCW Protocol V on Explosive Remnants of War.

UKRAINE

Ukraine has not signed the Convention on Cluster Munitions. Ukraine attended the international conferences of the Oslo Process to develop the text of the convention in Vienna in December 2007 and Wellington in February 2008. It attended the formal negotiations in Dublin in May 2008 as an observer, and also came to the Oslo signing conference in December 2008 as an observer. It rarely intervened at these diplomatic meetings.

Ukraine is party to the Convention on Conventional Weapons (CCW), and ratified Protocol V on Explosive Remnants of War on 17 May 2005. Ukraine has participated regularly in the work of the CCW on cluster munitions in recent years.

Cluster Munition Ban Policy

During a CCW session in April 2008, Ukraine stated that cluster munitions had long-term and deadly consequences for humanity, and should be dealt with effectively and urgently. Ukraine appealed to all states to declare a moratorium on the use of inaccurate and unreliable cluster munitions.⁵³⁸

⁵³³ US Defense Security Cooperation Agency, Department of Defense, “Notifications to Congress of Pending US Arms Transfers,” No. 05-12, 7 October 2004.

⁵³⁴ US Defense Security Cooperation Agency, “Turkey—Munitions and Aircraft Components for F-16 Aircraft,” Press release, Transmittal No. 05-29, 8 September 2005, www.dscs.mil; and US Defense Security Cooperation Agency, “Turkey—AGM-154A/C Joint Standoff Weapons,” Press release, Transmittal No. 05-33, 6 September 2005, www.dscs.mil.

⁵³⁵ Slovakia, UN Register of Conventional Arms, Submission for Calendar Year 2007, 12 June 2008.

⁵³⁶ Colin King, ed., *Jane’s Explosive Ordnance Disposal*, CD-edition, 10 January 2008, (Surrey, UK: Jane’s Information Group Limited, 2008).

⁵³⁷ Interviews with officers from the Ministry of Defense of Turkmenistan, Turkmenabad, 8 April 2004.

⁵³⁸ Statement of Ukraine, Second 2008 Session of the CCW Group of Governmental Experts on Cluster Munitions, 8 April 2008. Notes by Landmine Action.

However, Ukraine also insisted that the CCW was the only international forum in which an appropriate solution could be found. Ukraine called on all States Parties to the CCW to continue to promote the universality and efficiency of Protocol V to demonstrate the CCW's relevance to work on issues such as cluster munitions and international humanitarian law.⁵³⁹

At the CCW in July 2008, Ukraine noted the adoption of the Convention on Cluster Munitions in Dublin, which it stated contained comprehensive norms prohibiting cluster munitions. Ukraine affirmed it would continue to study the convention and repeated its call for all states to enact a moratorium on the use and acquisition of cluster munitions which are unreliable and inaccurate. Ukraine stated that the CCW should try and promote synergies with the Oslo Process, especially in areas concerning victim assistance, international cooperation and assistance, and the protection of civilians and civilian objects.⁵⁴⁰

In September 2008, Ukraine again reiterated its call for a moratorium and welcomed the decision by the United States to place restrictions on the use, transfer, and stockpiling of cluster munitions with a failure rate of more than 1% by 2018.⁵⁴¹

At the signing conference in December 2008, Ukraine, speaking as an observer, said that its participation reflected its desire to be "a supportive power" and wished the Oslo Process and the convention "every possible success."⁵⁴²

On 11 December 2008, the Ministry of Foreign Affairs reported that Ukraine abstained from signing the convention because it believed the introduction of a new global prohibition on a class of weapons should be based on universal principles and mandatory application, and it asserted that the majority of producers of cluster munitions were against a ban on cluster munitions. The Ministry of Foreign Affairs stated that while Ukraine supports the intention to renounce the use of cluster munitions as a means of warfare, at the same time, cluster munitions remain a legitimate weapon whose use is not prohibited under international humanitarian law.⁵⁴³

Use, Production, Stockpiling, and Transfer

Ukraine is not known to have used, produced, or transferred cluster munitions. It inherited a stockpile of cluster munitions from the Soviet Union. Jane's Information Group lists Ukraine as possessing KMG-U dispensers (which deploy submunitions), and RBK-250, RBK-275, and RBK-500 cluster bombs.⁵⁴⁴ According to Jane's, Ukraine also possesses *Uragan* 220mm and *Smerch* 300mm surface-to-surface rockets, but it is not known if these include versions with submunitions.

UNITED ARAB EMIRATES

The United Arab Emirates (UAE) has not signed the Convention on Cluster Munitions. It did not participate in the diplomatic process that resulted in the negotiation and signing of the convention in December 2008. The UAE joined the Convention on Conventional Weapons (CCW), including Protocol V on Explosive Remnants of War, on 26 February 2009. It did not participate in the CCW discussions on cluster munitions in recent years. The UAE has not made any public statements regarding its cluster munition policy.

⁵³⁹ Ibid.

⁵⁴⁰ Statement of Ukraine, Third 2008 Session of the CCW GGE on Cluster Munitions, 25 July 2008. Notes by Landmine Action.

⁵⁴¹ Statement of Ukraine, Fourth 2008 Session of the CCW GGE on Cluster Munitions, 1 September 2008. Notes by Landmine Action.

⁵⁴² CMC, "Convention on Cluster Munitions Signing Conference – Update 4 December 2008," 8 December 2008, www.stopclustermunitions.org.

⁵⁴³ "Ukraine will not abandon the use of cluster munitions," *Unian Net*, 11 December 2008, unian.net. UNIAN is the press service of the Ukrainian Ministry of Foreign Affairs.

⁵⁴⁴ Robert Hewson, ed., *Jane's Air Launched Weapons*, Issue 44 (Surrey, UK: Jane's Information Group Limited, 2004), p. 847.

The UAE is not believed to have used or produced cluster munitions. It has imported them from several sources. In 1999, the United States announced the sale of 1,800 CBU-87 Combined Effects Munitions cluster bombs to the UAE.⁵⁴⁵ In September 2006, the US sold the UAE several types of cluster munitions: 101 M39A1 ATACMS missiles, 104 M26 Multiple Launch Rocket System (MLRS) rocket pods, and 130 M30 Guided MLRS dual purpose improved conventional munitions (DPICM) rocket pods.⁵⁴⁶ The US Congress was notified in June 2007 of a proposed commercial sale of “technical data, defense services, and defense articles to support the sale of the Sensor Fuzed Weapons” to the UAE.⁵⁴⁷

In 2006–2007, Turkey sold the UAE 3,020 TRK-122 122mm unguided surface-to-surface rockets, each containing 56 M85 DPICM submunitions.⁵⁴⁸ Jane’s Information Group has reported that British-produced BL-755 bombs are in service with the UAE’s air force.⁵⁴⁹

UNITED STATES OF AMERICA

The United States of America has not signed the Convention on Cluster Munitions. It did not participate directly at all in the diplomatic “Oslo Process” in 2007–2008 to develop and negotiate the convention, which as of April 2009 had been signed by 96 nations, including most of the US’s closest military allies.

According to Secretary of Defense Robert M. Gates, “The US did not participate in the Cluster Munitions Convention negotiations because we believe that cluster munitions are an integral part of our and many of our coalition partners’ military operations. The elimination of cluster munitions from our stockpiles would put the lives of our soldiers and those of our coalition partners at risk. There are no substitute munitions, and some of the possible alternatives could actually increase the damage that results from an attack.”⁵⁵⁰

The US has been the most prolific user of cluster munitions, and one of the biggest producers and exporters as well. It stockpiles cluster munitions containing between 700 million and one billion submunitions.

The US is party to the Convention on Conventional Weapons (CCW) and ratified Protocol V on Explosive Remnants of War (ERW) on 21 January 2009.

Cluster Munition Ban Policy

The US was among the first nations to take steps at the national level to lessen the dangers that cluster munitions pose to civilians. It focused on technical measures to improve the reliability and accuracy of the weapons—steps that also made cluster munitions more appealing from a military perspective. In 2001, then-Secretary of Defense William Cohen issued a policy memorandum stating that all submunitions reaching a production decision in fiscal year 2005 and beyond must have a dud rate of less than 1%.⁵⁵¹ This policy did not affect the hundreds of millions of submunitions already in US arsenals.

⁵⁴⁵ US Defense Security Cooperation Agency, Department of Defense, “Notifications to Congress of Pending US Arms Transfers,” November 1999. Each cluster bomb contains 202 BLU-97 submunitions.

⁵⁴⁶ US Defense Security Cooperation Agency, “United Arab Emirates – High Mobility Artillery Rocket System,” News release, Transmittal No. 06-55, 21 September 2006. Each ATACMS missile contains 300 M74 antipersonnel/antimaterial submunitions. Each MLRS rocket pod contains six rockets, and each rocket contains 644 M77 DPICM submunitions. The final configuration of the M30 GMLRS DPICM rocket, including the submunition type and fuze, is not publicly known.

⁵⁴⁷ Letter from Jeffrey T. Bergner, Assistant Secretary for Legislative Affairs, US Department of State, to Nancy Pelosi, Speaker of the US House of Representatives, Transmittal No. DDTC 017-07, 7 June 2007. Sensor Fuzed Weapons are cluster bombs that are prohibited by the Convention on Cluster Munitions.

⁵⁴⁸ Republic of Turkey, Submission for Calendar Year 2006, UN Register of Conventional Arms, 22 March 2007; and Report for Calendar Year 2007, 7 July 2008.

⁵⁴⁹ Robert Hewson, ed., *Jane’s Air-Launched Weapons*, Issue 44 (Surrey, UK: Jane’s Information Group Limited, 2004), p. 847.

⁵⁵⁰ Letter from Secretary of Defense Robert M. Gates to Senator Patrick Leahy, 12 September 2008.

⁵⁵¹ Secretary of Defense William Cohen, “Memorandum for the Secretaries of the Military Departments, Subject: DOD Policy on Submunition Reliability (U),” 10 January 2001.

At the international level, the US was not interested in any new rules or regulations on cluster munitions, much less any sort of prohibition. Its position was that the best way to address cluster munitions, as one of many types of ERW, was through the implementation of existing humanitarian law and improvements in the technical reliability of munitions. During the discussions, then negotiations, on ERW in the Convention on Conventional Weapons from 2001–2003, the US would only accept provisions dealing with post-conflict remedial measures, but would not discuss possible use restrictions or specific weapons systems, such as cluster munitions.⁵⁵²

Some states kept the issue of cluster munitions on the CCW agenda, however, and in response to concerns raised over their indiscriminate effects, the US in 2004 said it would join an effort aimed at “increasing reliability of cluster munitions through improved fusing and self-destruct mechanisms” and said that “[e]nhancing the reliability of munitions systems is an important goal from a military as well as a humanitarian point of view.”⁵⁵³ The US was still not interested in discussing any restrictions on use of the weapon.⁵⁵⁴

In September 2006, Senator Dianne Feinstein, along with Senator Patrick Leahy, introduced the first legislative action in the US to address cluster munitions. Their proposed amendment, to “protect civilian lives from unexploded cluster munitions,” would have prevented the use of cluster munitions by US armed forces in or near any concentrated population of civilians. It was defeated 30–70.⁵⁵⁵

As international pressure to deal with cluster munitions grew in 2006, especially after Israel’s massive use of the weapons in south Lebanon, a number of CCW States Parties began calling for the negotiation of a new international legally-binding instrument on cluster munitions. At the opening of the CCW Third Review Conference in November 2006, however, the US position was that it was unnecessary to talk about new rules of international humanitarian law. Instead, states should apply existing laws “rigorously” and focus on the implementation of Protocol V on ERW.⁵⁵⁶ The US rejected a specific proposal for a mandate to negotiate a legally-binding instrument “that addresses the humanitarian concerns posed by cluster munitions.”⁵⁵⁷ The US agreed not to block a compromise proposal from the United Kingdom for a vague mandate to “consider further the application and implementation of existing international humanitarian law” to weapons which might cause ERW, “with a particular focus on cluster munitions.”⁵⁵⁸

At closing of the Review Conference on 17 November 2006, in the wake of the failure of the CCW to take meaningful steps on cluster munitions, Norway announced its decision to initiate the Oslo Process. The US responded by saying that “the US government was disappointed at the announcement...of a separate meeting to go outside this CCW framework to have talks and to negotiate concerning cluster munitions. While recognizing that this is an important humanitarian issue, the process to deal with cluster munitions, we feel, should be one that is inside the current framework, the framework of the CCW. The effort to go

⁵⁵² CCW States Parties agreed to Protocol V on ERW on 28 November 2003, and it entered into force on 12 November 2006. The US did not ratify it until 21 January 2009.

⁵⁵³ Statement by Col. W. Renn Gade, Deputy Legal Counsel, Joint Chiefs of Staff, “Implementation of Existing International Humanitarian Law,” Eighth Session of the CCW Group of Governmental Experts (GGE), Geneva, 7 July 2004.

⁵⁵⁴ For example, it stated that a prohibition on the use of cluster munitions in or near populated areas was “an overly simplistic approach that ignores the observations of recent conflicts. The imposition of such a prohibition would provide further incentives to those who employ the unlawful tactic of positioning lawful military targets among civilians and civilian infrastructure in an attempt either deter or shield legitimate attacks or deliberately endanger noncombatants to gain political advantage. Inevitably, a targeting prohibition of this type would potentially increase harm to civilians, rather than further reduce humanitarian risk.” Statement by Col. W. Renn Gade, Joint Chiefs of Staff, “Implementation of Existing International Humanitarian Law,” Eighth Session of the CCW GGE, Geneva, 7 July 2004.

⁵⁵⁵ Senate Amendment 4882 to the FY2007 Defense Appropriations Bill (H.R. 5631), Roll Call Vote 232, 6 September 2006. The amendment would also have prevented the export of cluster munitions unless the recipient nation agreed not to use them in populated areas. Then-Senator Barack Obama voted in favor of the amendment. See Friends Committee on National Legislation, “Feinstein Amdt. No. 4882; To protect civilian lives from cluster bombs,” 6 September 2006, capwiz.com.

⁵⁵⁶ The US said that in negotiating Protocol V, CCW States Parties “have considered the issue of ERW in a careful and comprehensive way across a broad range of weapons systems. The law in the field has been shown to be adequate.” The US indicated that future 5-year review conferences of Protocol V would be an appropriate place for discussions on cluster munitions, “rather than continue discussion of the issue at this time.” Statement by Ronald J. Bettauer, Third Review Conference of the States Parties to the CCW, Geneva, 7 November 2006.

⁵⁵⁷ Proposal to Negotiate a Legally-Binding Instrument that Addresses the Humanitarian Concerns Posed by Cluster Munitions, Presented by Austria, Holy See, Ireland, Mexico, New Zealand, and Sweden, Third Review Conference of the States Parties to the CCW, CCW/CONF.III/WP.1, Geneva, 25 October 2006. It also declined to join 25 nations that issued a joint declaration calling for an agreement that would prohibit the use of cluster munitions “within concentrations of civilians,” prohibit the use of cluster munitions that “pose serious humanitarian hazards because they are for example unreliable and/or inaccurate,” and require destruction of stockpiles of such cluster munitions. Declaration on Cluster Munitions, Third Review Conference of the States Parties to the CCW, CCW/CONF.III/WP.18, Geneva, 17 November 2006.

⁵⁵⁸ Proposal for a Mandate on Explosive Remnants of War, presented by the UK, Third Review Conference of the States Parties to the CCW, Geneva, CCW/CONF.III/WP.15, 15 November 2006.

outside, we think, is not healthy for the CCW, is not healthy for the development of widely adhered to rules of international humanitarian law....”⁵⁵⁹

At the next CCW meeting, in June 2007, the US announced a shift in its stance on international action, indicating that it was now prepared not only to talk about cluster munitions, but even to consider future negotiations as long as they occurred in the framework of the CCW.⁵⁶⁰ Some observers described the shift as more of an attempt to deal with the Oslo Process than an attempt to address cluster munitions, with no real indication that US views on cluster munitions had changed at all.⁵⁶¹ The US maintained that “cluster munitions continue to be legitimate weapons when employed properly and in accordance with existing international humanitarian law” and argued that “in many instances, cluster munitions result in much less collateral damage than unitary weapons would if used for the same mission.”⁵⁶²

A few months earlier, in February 2007, Senators Feinstein and Leahy, and Representative James McGovern, had introduced the “Cluster Munitions Civilian Protection Act of 2007.” The act would limit the use and transfer of cluster munitions to those munitions that have a 99% or higher reliability rate, and would prohibit use of cluster munitions in areas where civilians are known to be present. The act would also require the President to submit a plan to Congress for clean-up of unexploded duds if the US used cluster munitions or if another country used cluster munitions that it had received from the US.⁵⁶³ The act gathered support in the Senate and House of Representatives throughout 2007 and 2008, but was not brought to a vote.

In December 2007, Congress passed the Consolidated Appropriations Act for fiscal year 2008 which placed a one-year moratorium on the transfer of cluster munitions unless they have a 99% or higher tested reliability rate. The legislation also required that any state receiving cluster munitions from the US must agree that those cluster munitions will only be used against clearly defined military targets and will not be used in areas where civilians are known to be present.⁵⁶⁴

At the end of 2007, CCW States Parties could still not agree on a mandate to negotiate a legally-binding instrument on cluster munitions, but instead agreed to “negotiate a proposal.” The US continued to assert that the CCW was the most appropriate framework for negotiation on cluster munitions, because “it is most likely to achieve a result that balances humanitarian concerns with military utility and is, therefore, likely to have a more substantial impact than a result that fails to garner the support of many military powers.”⁵⁶⁵

At the beginning of the CCW negotiations in 2008, the US opposed any sort of ban on cluster munitions and suggested that identifying good military practices relating to the use of cluster munitions, such as “protections and safeguards that can be implemented through the targeting process,” could be beneficial, but only in the form of best practice measures, not legally-binding treaty provisions. The US supported addressing technical improvements for the reliability of cluster munitions as a “long term” approach to addressing humanitarian concerns, but stated that “the cost and complexity of implementing such improvements suggest that it will not be possible to achieve consensus on requiring [technical] improvements immediately or on a short-term basis.”⁵⁶⁶

⁵⁵⁹ Statement of the US, Third Review Conference of the States Parties to the CCW, Geneva, 17 November 2006. Unofficial transcription by Landmine Action.

⁵⁶⁰ Statement by Ronald J. Bettauer, “Statement on the Outcome of the CCW Group of Government Experts Meeting,” 2007 Session of the CCW Group of Governmental Experts (GGE), Geneva, 22 June 2007.

⁵⁶¹ See, for example, Stephen Goose, “Cluster Munitions: Ban Them,” *Arms Control Today*, January/February 2008, pp. 8–9. At the same June CCW meeting, the US made a presentation on the military utility of cluster munitions which cited as “common misconceptions” that cluster munitions are “outdated weapons” and “indiscriminate and inaccurate.” Presentation by Col. Gary Kinne, “The Ongoing Military Utility and Role of Cluster Munitions,” 2007 Session of the CCW GGE, Geneva, 19 June 2007. It also made an intervention asserting that the “impacts of cluster munitions are episodic and limited.” Statement by Richard Kidd, Director, Office of Weapons Removal and Abatement, Department of State, “US Intervention on the Humanitarian Impacts of Cluster Munitions,” 2007 Session of the CCW GGE, Geneva, 20 June 2007.

⁵⁶² The US stated that “if the use of cluster munitions were banned or unreasonably restricted, certain missions would require our forces to fire many times more non-cluster projectiles to achieve the objectives, potentially causing greater civilian casualties and damage to infrastructure.” Statement by Ronald J. Bettauer, Head of US Delegation, 2007 Meeting of the States Parties to the CCW, Geneva, 7 November 2007.

⁵⁶³ Cluster Munitions Civilian Protection Act of 2007 (S. 594), 110th Congress, 2007.

⁵⁶⁴ Consolidated Appropriations Act, 2008 (H.R. 2764), 110th Congress, 2007. In September 2008, Congress passed a continuing resolution to extend the Consolidated Appropriations Act, and thus the moratorium, through 6 March 2009.

⁵⁶⁵ Statement by Stephen Mathias, Head of US Delegation, First 2008 Session of the CCW GGE on Cluster Munitions, Geneva, 14 January 2008.

⁵⁶⁶ Statement of the US, First 2008 Session of the CCW GGE on Cluster Munitions, Geneva, 17 January 2008.

After the adoption of the Convention on Cluster Munitions by 107 States (including 71 CCW States Parties) in Dublin in May 2008, the US said that it chose not to participate in the process because it did “not support a sweeping ban on cluster munitions” and stated that it did not view the new convention as establishing a norm against the use of cluster munitions.⁵⁶⁷ Senators Feinstein and Leahy introduced a joint resolution calling on the US to sign the convention when it opened for signature in December 2008.⁵⁶⁸

While not participating directly in the Oslo Process and the negotiations, the US worked hard to influence them. A State Department official said the US had communicated its views on the process and draft convention to more than 100 nations. Foremost among the concerns it raised with other states about the possible impact of a future convention that prohibits cluster munitions was the issue of “interoperability” (joint military operations involving the US and States Parties to the convention), with the US seeking to ensure that a new convention did not inhibit its ability to employ cluster munitions in NATO and other coalition military operations.⁵⁶⁹

During the negotiations, campaigners in Dublin, the US, and elsewhere protested US efforts to undermine the convention. US Senator Patrick Leahy visited the Dublin negotiations, where he urged delegates to “be guided by the conviction that this is, above all, more than a military issue. It is a moral issue.”⁵⁷⁰ Nobel Peace Laureate Jody Williams, through statements to the media, challenged the US to come to Dublin to “do its own dirty work and not hide behind its allies.”⁵⁷¹ Victims of cluster munitions used by the US in Afghanistan, Cambodia, and Iraq joined campaigners outside the US embassy in Dublin on 23 May 2008 to protest what they called the “elephant not in the room” at the Dublin negotiations.

On 9 July 2008, the US Department of Defense released a new policy stating that by the end of 2018, the US will no longer use cluster munitions that result in more than 1% unexploded ordnance (UXO).⁵⁷² Until 2018, effective immediately, use of cluster munitions that exceed the 1% UXO rate must be approved by the Combatant Commander.⁵⁷³ The government has stated that the 10-year transition period “is necessary to develop the new technology, get it into production, and to substitute, improve, or replace existing stocks.”⁵⁷⁴

According to the policy memorandum issued by Secretary of Defense Gates, military departments will also initiate removal of all cluster munition stocks “that exceed operational planning requirements or for which there are no operational planning requirements” from active inventories as soon as possible, but no later than 19 June 2009. These excess cluster munitions will be demilitarized as soon as practicable.⁵⁷⁵

⁵⁶⁷ Statement of the US, Third 2008 Session of the CCW GGE on Cluster Munitions, Geneva, 7 July 2008. Notes by Landmine Action.

⁵⁶⁸ A joint resolution expressing the sense of Congress that the US should sign the Declaration of the Oslo Conference on Cluster Munitions and future instruments banning cluster munitions that cause unacceptable harm to civilians (S. J. Res. 37), 110th Congress, 2008.

⁵⁶⁹ See, for example, Stephen Goose, “Cluster Munitions: Ban Them,” *Arms Control Today*, January/February 2008, pp. 8–9. The US prepared a paper detailing concerns about interoperability, and US officials visited a number of capitals to discuss the issue. During the Dublin negotiations, the highest level US officials reportedly weighed in with their counterparts on this issue, which was identified by many states as the most important consideration in their ability to adopt and sign the convention. Negotiators agreed to a new Article 21 in the convention that the CMC strongly criticized for being politically motivated and leaving room for interpretation about what is allowed or not under the prohibition on assistance with prohibited acts. However, the article also requires States Parties to discourage use of cluster munitions by those not party and to encourage them to join the convention.

⁵⁷⁰ Jamila Hodayun, “U.S. Leadership and Set-Backs,” *Cluster Ban News* (CMC newsletter), Edition 5, 28 May 2008, www.stopclustermunitions.org.

⁵⁷¹ Jody Williams, “US subverts the cluster bomb ban,” *Boston Globe*, 24 May 2008, www.boston.com.

⁵⁷² The policy memorandum was dated 19 June, but not formally released until 9 July 2008. Secretary of Defense Robert M. Gates, “Memorandum for the Secretaries of the Military Departments, Subject: DOD Policy on Cluster Munitions and Unintended Harm to Civilians,” 19 June 2008, www.defenselink.mil. Presumably rendered meaningless by the legislatively enacted export ban, the policy allows transfer of cluster munitions that do not meet the 1% UXO rate, consistent with US law and policy, provided that the receiving state agrees not to use the munitions after 2018, and after 2018, the US will not transfer cluster munitions that do not meet the 1% UXO rate, except for purposes of destruction, training, or development of clearance and detection methods.

⁵⁷³ The new policy requires cluster munitions used after 2018 to meet a 1% UXO rate not only in testing, but in actual use during combat operations within the variety of operational environments in which US forces intend to use the weapon. Combatant Commander is the title of a major military leader of US armed forces, either of a large geographical region or of a particular military function, formerly known as a commander-in-chief.

⁵⁷⁴ Statement by Stephen Mathias, “United States Intervention on Technical Improvements, Third 2008 Session of the CCW GGE on Cluster Munitions, Geneva, 15 July 2008, ccwtreaty.state.gov.

⁵⁷⁵ Secretary of Defense Robert M. Gates, “Memorandum for the Secretaries of the Military Departments, Subject: DOD Policy on Cluster Munitions and Unintended Harm to Civilians,” 19 June 2008, www.defenselink.mil.

The Department of Defense stated that the new policy “is viewed as a viable alternative to a complete ban proposal generated by the Oslo Process in Dublin, Ireland,” and the policy serves as the basis for the US position in negotiations on an agreement on cluster munitions in the CCW.⁵⁷⁶

By November 2008, when CCW negotiations were scheduled to conclude, the US was one of the strongest supporters of a draft protocol on cluster munitions. The US favored an optional set of restrictions on cluster munitions, although it maintained that in practice these would result in the replacement of 95% of cluster munitions in its stockpiles.⁵⁷⁷ It insisted on the necessity of a transition period before key requirements took effect.⁵⁷⁸ It opposed a deadline for stockpile destruction.⁵⁷⁹ While it supported the inclusion of provisions for assistance to the victims of cluster munitions, the US was among the few states that raised objections to a broad definition of victim which included the victim’s family and affected communities,⁵⁸⁰ and proposed weakening language on victim assistance taken from the Convention on Cluster Munitions.⁵⁸¹

When the CCW failed to reach agreement on an instrument on cluster munitions at the end of the November 2008 session, the US stated it was deeply disappointed and accused states, especially those associated with the Oslo Process, of leaving “significant humanitarian benefits on the table” and “risking the credibility of the CCW.”⁵⁸² States Parties agreed to continue work on cluster munitions in 2009.

The US export ban that had been in place since 2007 was made permanent on 11 March 2009 when an omnibus budget bill (HR 1105) was signed into law.⁵⁸³ On 11 February 2009, the “Cluster Munitions Civilian Protection Act” (S. 416/H.R. 981) was reintroduced in the Senate by Senators Feinstein and Leahy and in the House by Representative McGovern.⁵⁸⁴ As of April 2009, the legislation had attracted 24 Senate cosponsors.

The US Campaign to Ban Landmines and Cluster Bombs, coordinated by the Washington, DC-based Friends Committee on National Legislation, spearheads NGO campaigning in the US against cluster munitions.⁵⁸⁵ From 6–17 October 2008, the US Campaign organized a speaking tour by cluster munition survivors from Afghanistan, Lebanon, and the US through 11 Midwest cities to build awareness and support for the ban.

The US did not participate in the Oslo Signing Conference of the Convention on Cluster Munitions on 3–4 December 2008, although 20 other observer states attended. When asked, a White House spokesperson could not explain why the Bush administration was not signing.⁵⁸⁶ An Obama spokesperson released a statement that said: “President-elect Obama is deeply concerned about the well-being of civilians in situations of conflict, as reflected by his support of the legislation in 2006 that would have prohibited the use of cluster munitions near concentrations of civilians. As president, he will carefully review the new treaty and work closely with other countries to ensure that the United States is doing everything feasible to promote protection of civilians in conflict.”⁵⁸⁷

On 10 February 2009, leaders of 67 US organizations sent a joint letter to President Obama requesting a review of US policy on landmines and cluster munitions. As of April 2009, no response had been received.

⁵⁷⁶ Department of Defense, “Cluster Munitions Policy Released,” Press release, 9 July 2008, No. 577-08, www.defenselink.mil.

⁵⁷⁷ Statement of the US, Fifth 2008 Session of the CCW GGE on Cluster Munitions, Geneva, 5 November 2008. Notes by Landmine Action.

⁵⁷⁸ *Ibid.*, 3 November 2008. Notes by Landmine Action.

⁵⁷⁹ Statement of the US, Fourth 2008 Session of the CCW GGE on Cluster Munitions, Geneva, 2 September 2008; and Statement of the US, Fourth 2008 Session of the CCW GGE on Cluster Munitions, Geneva, 4 September 2008. Notes by Landmine Action.

⁵⁸⁰ Statement of the US, Third 2008 Session of the CCW GGE on Cluster Munitions, Geneva, 22 July 2008; and Statement of the US, Fifth 2008 Session of the CCW GGE on Cluster Munitions, Geneva, 5 November 2008. Notes by Landmine Action.

⁵⁸¹ Statement of the US, Fifth 2008 Session of the CCW GGE on Cluster Munitions, Geneva, 3 November 2008. Notes by Landmine Action.

⁵⁸² Statement of the US, 2008 Meeting of the States Parties to the CCW, Geneva, 13 November 2008. Notes by Landmine Action.

⁵⁸³ Making omnibus appropriations for the fiscal year ending September 30, 2009, and for other purposes (H.R. 1105), 111th Congress, 2009, thomas.loc.gov. Section 7056 deals with the export of cluster munitions.

⁵⁸⁴ The new version dropped the requirements related to transfer, since these had passed as part of the Consolidated Appropriations Act, 2008, and its extension.

⁵⁸⁵ US Campaign to Ban Landmines and Cluster Bombs, www.banminesusa.org.

⁵⁸⁶ Friends Committee on National Legislation, “White House Can’t Remember Why the U.S. Doesn’t Like Cluster Bomb Ban Treaty,” 4 December 2008, www.fcnl.org.

⁵⁸⁷ Jack Healy, “Will Obama Ban Cluster Bombs?” *The Lede* (New York Times blog), 2 December 2008, thelede.blogs.nytimes.com.

Use

The US used cluster munitions in Cambodia, Lao PDR, and Vietnam in the 1960s and 1970s, Grenada in 1983, Lebanon in 1983, Iraq, Kuwait, and Saudi Arabia in 1991, Serbia, Montenegro, and Kosovo in 1999, Afghanistan in 2001 and 2002, and Iraq in 2003. Despite the ongoing conflicts, they have not used cluster munitions in Afghanistan since 2002 or in Iraq since 2003.

US forces made extensive use of cluster munitions in bombing campaigns in Cambodia, Lao PDR and Vietnam between 1965 and 1975. According to an analysis of US bombing data by Handicap International, approximately 80,000 cluster munitions, containing 26 million submunitions, were dropped on Cambodia between 1969 and 1973; over 414,000 cluster bombs, containing at least 260 million submunitions, were dropped on Lao PDR between 1965 and 1973; and over 296,000 cluster munitions, containing nearly 97 million submunitions, were dropped in Vietnam between 1965 and 1975.⁵⁸⁸

US Navy aircraft dropped 21 Mk.-20 Rockeye cluster bombs on Grenada in close air support operations during the invasion of Grenada in November 1983. The same US Navy unit used 12 CBU-59 and 28 Rockeye bombs against Syrian air defense units near Beirut in December 1983.⁵⁸⁹

Between 17 January and 28 February 1991, the US and its allies (France and the UK) dropped 61,000 cluster bombs, containing some 20 million submunitions on Iraq and Kuwait. A significant number of surface-delivered cluster munitions were also used; one source estimates that over 30 million dual purpose improved conventional munition (DPICM) submunitions were used in the conflict.⁵⁹⁰ The number of civilian casualties caused by the cluster strikes is not known. At least 80 US military casualties were attributed to its own cluster munition duds.⁵⁹¹

In the former Yugoslavia (including Serbia, Montenegro, and Kosovo), the US, along with the UK and the Netherlands, dropped 1,765 cluster bombs, containing about 295,000 bomblets, from March to June 1999. Human Rights Watch documented that cluster strikes killed 90–150 civilians, and injured many more. This constituted 18–30% of the total civilian deaths in the conflict, even though cluster bombs amounted to just 7% of the total number of bombs dropped.⁵⁹²

In Afghanistan, the US dropped about 1,228 cluster bombs containing 248,056 bomblets between October 2001 and March 2002.⁵⁹³ In a limited sampling of the country, Human Rights Watch confirmed that at least 25 civilians died and many more were injured during cluster strikes in or near populated areas.

The US used 10,782 cluster munitions, containing about 1.8 million submunitions, in the three weeks of major combat in Iraq between March and April 2003. Human Rights Watch's field investigation concluded that cluster munition strikes, particularly ground attacks on populated areas, were a major cause of civilian casualties; hospital records show cluster strikes caused hundreds of civilians deaths and injuries in Baghdad, al-Hilla, al-Najaf, Basra, and elsewhere.⁵⁹⁴ In after-action reports, US forces called their own cluster munitions "relics" and "losers" and questioned the weapon's utility.⁵⁹⁵

⁵⁸⁸ Handicap International, "Circle of Impact: The Fatal Footprint of Cluster Munitions on People and Communities," 2007, pp. 23, 30, 39, en.handicapinternational.be.

⁵⁸⁹ US Department of the Navy, Attack Squadron Fifteen, Memorandum from Commanding Officer, Attack Squadron Fifteen, to Chief of Naval Operations, "Command History: Enclosure 5, Ordnance Expenditure for 1983," 18 February 1984, declassified 28 April 2000, www.history.navy.mil.

⁵⁹⁰ Colin King, "Explosive Remnants of War: A Study on Submunitions and other Unexploded Ordnance," commissioned by the ICRC, August 2000, p. 16, citing Donald Kennedy and William Kincheloe, "Steel Rain: Submunitions," *U.S. Army Journal*, January 1993.

⁵⁹¹ US General Accounting Office (GAO), "Military Operations: Information on U.S. Use of Land Mines in the Persian Gulf War," Report to the Honorable Lane Evans, House of Representatives, GAO-02-1003, Washington, DC, September 2002, p. 17, figure 2. All casualty figures were provided to the GAO by US Armed Services.

⁵⁹² Human Rights Watch, "Civilian Deaths in the NATO Air Campaign," vol. 12, no. 1(D), February 2000, www.hrw.org; and Human Rights Watch, "Ticking Time Bombs: NATO's Use of Cluster Munitions in Yugoslavia," vol. 11, no. 6(D), June 1999, www.hrw.org.

⁵⁹³ Human Rights Watch, "Fatally Flawed: Cluster Bombs and Their Use by the United States in Afghanistan," vol. 14, no. 7(G), December 2002, www.hrw.org.

⁵⁹⁴ Human Rights Watch, *Off Target: The Conduct of the War and Civilian Casualties in Iraq* (New York: Human Rights Watch, November 2003), www.hrw.org.

⁵⁹⁵ US Army, Third Infantry Division, After-Action Briefing, "Fires in the Close Fight: OIF [Operation Iraqi Freedom] Lessons Learned," undated, www.globalsecurity.org.

Production

In 2001, then-Secretary of Defense William Cohen issued a policy memorandum stating that all submunitions reaching the “Milestone 3” production decision in fiscal year 2005 and beyond must have a dud rate of less than 1%.⁵⁹⁶ According to an October 2004 Pentagon report to Congress on cluster munitions, submunitions procured in past years are exempt from the policy, but “[f]uture submunitions must comply with the desired goal of 99% or higher submunition functioning rate or must receive a waiver.”⁵⁹⁷

US manufacturers have had difficulties meeting the reliability requirement of the Cohen policy, within budgetary constraints. The US has apparently not produced any cluster munitions since 2005, except for Sensor Fuzed Weapons, which reportedly meet the 99% standard, and M30 Guided Multiple Launch Rocket System (GMLRS) rockets with DPICM submunitions.

It appears that subsequent to the Cohen policy, a waiver was granted in an Operational Requirements Document (ORD) approved by the Pentagon’s Joint Requirements Oversight Committee (JROC) that established a new, higher, hazardous dud requirement for M30 GMLRS rocket DPICM submunitions. This higher dud rate requirement sets a “less than 2% dud rate between ranges of 20-60 kilometers” and “less than 4% dud rate under 20 kilometers and over 60 kilometers.”⁵⁹⁸

The first funding for the production of M30 GMLRS began in June 2003 with actual deliveries beginning in May 2004. The final purchase was contracted in December 2007.⁵⁹⁹ The US canceled plans in December 2008 to buy additional M30 GMLRS rockets with submunitions and only buy unitary warhead rockets after the deliveries of previously contracted M30 rockets with submunitions are completed in mid-2009.⁶⁰⁰

As of 2007, according to one military source, the US stockpiled 1,518 M30 rockets.⁶⁰¹ Each M30 rocket carries 404 M101 DPICM submunitions. Lockheed Martin produces the M30 GMLRS at a facility in Camden, Arkansas. BT Fuze Products (formerly Bulova Technologies), a subsidiary of L-3 Communications, produces the self-destruct fuze for the M101 DPICM submunition.⁶⁰²

The rate of unexploded ordnance (UXO) resulting from production qualification testing of M30 rockets and M101 DPICM submunitions conducted in November 2006 totaled 6.5% and the submunition dud rate averaged 1.5%.⁶⁰³ The M30 rocket will be placed in the war reserve inventory and will require the approval of a combatant commander before they are used. After 2018, they can no longer be used.⁶⁰⁴ In future production, the warhead containing DPICM will be replaced by an alternative non-cluster munition warhead.⁶⁰⁵

⁵⁹⁶ Secretary of Defense William Cohen, “Memorandum for the Secretaries of the Military Departments, Subject: DoD Policy on Submunition Reliability (U),” 10 January 2001. In other words, submunitions that reach “full rate production,” i.e. production for use in combat, during the first quarter of Fiscal Year 2005 must meet the new standard.

⁵⁹⁷ Office of the Under Secretary of Defense (Acquisition, Technology and Logistics), Department of Defense, “Report to Congress: Cluster Munitions,” October 2004, p. ii.

⁵⁹⁸ Office of the US Army Product Manager, Precision Fires Rocket and Missile Systems, “Briefing on Precision Guided Missiles and Rockets; Self Destruct Fuze Efforts,” February 2007, Slide 2.

⁵⁹⁹ Department of the Army, Committee Staff Procurement Backup Book, “Fiscal Year 2009 President’s Budget: Missile Procurement, Army, February 2008, Guided MLRS Rocket,” pp. 46–64. It is not possible, based on budget documents, to differentiate between buys of unitary and DPICM submunition variants. They say “Operational requirements may dictate a change in the actual quantity mix (Unitary/DPICM) of munitions proposed.”

⁶⁰⁰ Kate Brannen, “Army Will Complete 2007 DPICM Sale Despite New Law From Congress,” Inside the Army, 23 March 2009.

⁶⁰¹ Briefing by Lt. Col. Mark Pincoski, Product Manager PGM/R, Precision Fires Rocket & Missile Systems, to the Precision Guided Missiles and Rockets Program Review, 24 April 2007, Slide 5.

⁶⁰² Department of the Army, Committee Staff Procurement Backup Book, “Fiscal Year 2009 President’s Budget: Missile Procurement, Army, February 2008, Guided MLRS Rocket,” pp. 46–64; and Briefing by Lt. Col. Mark Pincoski, to the Precision Guided Missiles and Rockets Program Review, 24 April 2007, Slide 5.

⁶⁰³ Office of the US Army Product Manager, Precision Fires Rocket and Missile Systems, “Briefing on Precision Guided Missiles and Rockets; Self Destruct Fuze Efforts,” February 2007, Slides 6, 7, and 9. While the UXO rate and dud rate are treated as separate entities by the Pentagon, there are additional undefined qualifiers on the end-state condition of the submunitions which differentiate between “hazardous” and “sterilized” duds. For example, the aim of the testing was to determine if the self-destruct fuze for the M101 DPICM “could attain fuze functioning requirements of <1% hazardous dud rate” and a greater than “95% reliability functioning rate.” It was noted that the self-destruct fuze “nearly achieved the functioning requirements desired.”

⁶⁰⁴ Kate Brannen, “Army Will Complete 2007 DPICM Sale Despite New Law From Congress,” Inside the Army, 23 March 2009.

⁶⁰⁵ US Army Aviation and Missile Command (Missile), “Request for Pre-Solicitation Conference for the Alternative Warhead for the Guided Multiple Launch Rocket System,” Solicitation Number: W31P4Q-09-R-0002, 9 January 2009. Previously, according to US Army budget documents, the US intended to spend \$91.3 million for an additional 816 M30 rockets between fiscal years 2007 and 2009. Department of the Army, Procurement Programs, Committee Staff Procurement Backup Book, “Fiscal Year 2008/2009 Budget Estimates, Missile Procurement, Army, February 2007,” p. 46.

However, the US apparently also intends to produce and export 780 M30 GMLRS rockets with submunitions to the United Arab Emirates (UAE) as part of a larger US\$752 million foreign military sale announced in September 2006.⁶⁰⁶ The Defense Security Cooperation Agency notified Congress of the DPICM sale to the UAE on 21 September 2006. Colonel David Rice, project manager for precision fires, rockets and missiles systems, told *Inside the Army* that the deal was signed in 2007, well before the export legislation was introduced, and that the Army obtained legal opinions that confirm the validity of the final sale.⁶⁰⁷

Stockpiling

An October 2004 report to the US Congress by the Department of Defense provides details on a stockpile of 5.5 million cluster munitions containing about 728.5 million submunitions.⁶⁰⁸ This figure however does not appear to be a full accounting of cluster munitions available to US forces. In particular, the tally does not include cluster munitions that are part of the War Reserve Stocks for Allies (WRSA).⁶⁰⁹ In 1994 the stockpile, including the WRSA, consisted of 8.9 million cluster munitions containing nearly one billion submunitions.⁶¹⁰

Cluster munitions are particularly ubiquitous in the stores of US ground forces. According to the report, the Army has about 638.3 million cluster submunitions (88% of the total inventory) and the Marine Corps has about 53.3 million (7%). The report states, “Cannon and rocket artillery cluster munitions comprise over 80% of Army fire support capability,” and they “comprise the bulk of the Marine Corps artillery munitions.”⁶¹¹ The Air Force stockpiles about 22.2 million air-delivered cluster bombs (3% of the cluster inventory) and the Navy about 14.7 million (2 %).

Of the 728 million submunitions cited in the report, only 30,990 have self-destruct devices (.00004%).⁶¹² The Department of Defense report cites failure rates of 2–6% for most of the submunitions, based on lot acceptance testing and stockpile reliability testing. Previous Department of Defense documents have indicated much higher failure rates for the most common submunitions.⁶¹³

Over the past decade, the US has destroyed on average 7,000 tons (seven million kg) of cluster munitions per year at an average annual cost of \$6.6 million. This represents less than 10% of the annual ammunition demilitarization appropriation. As of 2006, at least 103,473 tons (103.5 million kg) of outdated cluster munitions awaited destruction.⁶¹⁴

⁶⁰⁶ Kate Brannen, “Army Will Complete 2007 DPICM Sale Despite New Law From Congress,” *Inside the Army*, 23 March 2009. The original notification is Defense Security Cooperation Agency, “United Arab Emirates: High Mobility Artillery Rocket Systems,” Press release, Transmittal No. 06-5521, September 2006, p. 1.

⁶⁰⁷ Kate Brannen, “Army Will Complete 2007 DPICM Sale Despite New Law From Congress,” *Inside the Army*, 23 March 2009.

⁶⁰⁸ Office of the Under Secretary of Defense (Acquisition, Technology and Logistics), Department of Defense, “Report to Congress: Cluster Munitions,” October 2004.

⁶⁰⁹ Under this program, munitions are stored in foreign countries, but kept under US title and control, then made available to US and allied forces in the event of hostilities.

⁶¹⁰ See Human Rights Watch, “Cluster Munitions a Foreseeable Hazard in Iraq,” March 2003, www.hrw.org. The one billion submunitions figure is mostly drawn from US Army Material Systems Analysis Activity, “Unexploded Ordnance (UXO) Study,” April 1996. The US may have removed from inventory and destroyed a significant number of expired cluster munitions since that 1996 study. The new Department of Defense report also does not include an unknown number of SADARM cluster munitions and TLAM cruise missiles with conventional submunitions.

⁶¹¹ Office of the Under Secretary of Defense (Acquisition, Technology and Logistics), Department of Defense, “Report to Congress: Cluster Munitions,” October 2004, p. 2–3.

⁶¹² These are CBU-97 and CBU-105 Sensor Fuzed Weapons (SFW) held by the Air Force and Navy. The Army’s SADARM cluster munitions, which are similar to SFW, are not included in the Department of Defense report.

⁶¹³ See Office of the Under Secretary of Defense (Acquisition, Technology and Logistics), Department of Defense, “Unexploded Ordnance Report,” undated, table 2–3, p. 5, transmitted to the US Congress on 29 February 2000.

⁶¹⁴ Figures are compiled from annual editions of Department of the Army, Committee Staff Procurement Backup Book, Ammunition Procurement, Army from FY00 to FY09.

US Stockpile of Cluster Munitions, 2004⁶¹⁵

Type	Number of Submunitions Per Munition	Active Inventory	Submunition Total	Total Inventory	Submunition Total
Army					
ATACMS 1	950	1,091	1,036,450	1,304	1,238,800
ATACMS 1A	400	405	162,000	502	200,800
M26 MLRS	644	368,928	237,589,632	438,546	282,423,624
M26A1	518	4,128	2,138,304	4,128	2,138,304
M449 APICM	60	27	1,620	40	2,400
M449A1 APICM	60	24	1,440	49	2,940
M483/M483A1	88	2,881,693	253,588,984	3,489,279	307,056,552
M864	72	575,623	41,444,856	585,459	42,153,048
M444	18	30,148	542,664	134,344	2,418,192
M261 MPSM	9	74,591	671,319	83,589	752,301
Total		3,936,658	537,177,269	4,737,240	638,386,961
Marine Corps					
M26	644	648	417,312	648	417,312
M483/M483A1	88	455,173	40,055,224	458,494	40,347,472
M864	72	172,386	12,411,792	174,282	12,548,304
Total		628,207	52,884,328	633,424	53,313,088
Air Force					
CBU-87 CEM	202	99,282	20,054,964	99,282	20,054,964
CBU-97 SFW	10	214	2,140	214	2,140
CBU-103 CEM WCMD	202	10,226	2,065,652	10,226	2,065,652
CBU-105 SFW WCMD	10	1,986	19,860	1,986	19,860
CBU-105 SFW P3I	10	899	8,990	899	8,990
AGM-154A JSOW-A	145	151	21,895	151	21,895
Total		112,758	22,173,501	112,758	22,173,501
Navy					
Mk-20 Rockeye	247	58,762	14,514,214	58,762	14,514,214
AGM-154A JSOW-A	145	518	75,110	965	139,925
Total		59,280	14,589,324	59,727	14,654,139
Grand Total		4,736,903	626,824,422	5,543,149	728,527,689

⁶¹⁵ Office of the Under Secretary of Defense (Acquisition, Technology and Logistics), Department of Defense, "Report to Congress: Cluster Munitions," October 2004. The report lists 626,824,422 submunitions in the "Active Inventory" and 728,477,489 in the "Total Inventory." Active inventory denotes serviceable ammunition items that can be safely used in training or combat. Total inventory may include damaged, suspended, or unserviceable ammunition that is awaiting disposal or repair.

Transfer

Legislation (the omnibus budget bill HR 1105) signed into law on 11 March 2009 by President Obama made permanent a ban on nearly all cluster bomb exports by the US. Under the law, the US can only export cluster munitions that leave behind less than 1% of their submunitions as duds.⁶¹⁶ The legislation also requires the receiving country to agree that cluster munitions “will not be used where civilians are known to be present.” The US export ban was first enacted in a budget bill in December 2007, but that law mandated it for only one year.

While the historical record is incomplete, the US has transferred hundreds of thousands of cluster munitions containing tens of millions of unreliable and inaccurate submunitions to at least 30 countries: Argentina, Australia, Bahrain, Belgium, Canada, Egypt, Denmark, France, Germany, Greece, Honduras, India, Indonesia, Israel, Italy, Japan, Jordan, South Korea, Morocco, the Netherlands, Norway, Oman, Pakistan, Poland, Saudi Arabia, Spain, Thailand, Turkey, the UAE, and the UK.

US-supplied cluster munitions have been used in combat by Israel in Lebanon and Syria, by Morocco in the Western Sahara, by the UK and the Netherlands in the former Yugoslavia, and by the UK in Iraq.

Known Exports of Selected Cluster Munitions by the US

M483A1 projectile	Bahrain, Belgium, Canada, Greece, Israel, Japan, Jordan, South Korea, Morocco, Netherlands, Pakistan, Turkey, UK
Rockeye bomb	Argentina, Australia, Canada, Denmark, Egypt, Greece, Honduras, Indonesia, Israel, Jordan, South Korea, Morocco, Norway, Oman, Pakistan, Spain, Thailand, Turkey
CBU-58 bomb	Australia, Israel, Saudi Arabia
CBU-87 bomb	Egypt, Japan, South Korea, Netherlands, Poland, Saudi Arabia, Turkey, UAE
CBU-97/CBU-105 bomb	India, South Korea, Oman, UAE
M26 rocket	Bahrain, Egypt, France, Germany, Greece, Israel, Italy, Japan, South Korea, Netherlands, Turkey, UAE, UK
ATACMS missile	Bahrain, Greece, South Korea, Turkey, UAE

The US has also licensed the production of cluster munitions, including with South Korea in 2001 for production of DPICM submunitions for MLRS rockets. Also in 2001, the US provided assistance and technical data to support Japan’s production of CBU-87 Combined Effects Munitions. In addition, the US licensed production of DPICM artillery projectiles to the Netherlands, Pakistan, and Turkey.

In addition to the GMLRS sale to the UAE detailed above, the US most recently announced in September 2008 that at the request of India, it was intending to sell 510 CBU-105 air-dropped Sensor Fuzed Weapons in an arms deal valued at as much as \$355 million.⁶¹⁷ According to the US Department of Defense, “India intends to use the Sensor Fuzed Weapons to modernize its armed forces and enhance its defensive ability to counter ground-armored threats.”⁶¹⁸ The US has attached a term to the transfer, in compliance with Public Law 110–161 (26 December 2008), which requires that the submunitions have a 99% or higher reliability rate and stipulates that “the cluster munitions will only be used against clearly defined military targets and will not be used where civilians are known to be present.”⁶¹⁹

⁶¹⁶ The only cluster munitions that might meet this standard are CBU-97 and CBU-105 SFW with self-destruct and self-deactivation mechanisms, as well as individually targetable submunitions. According to Department of Defense statistics from 2004, SFW make up 3,099 of the 5,543,149 US cluster munitions.

⁶¹⁷ US Defense Security Cooperation Agency, “India: CBU-105 Sensor Fuzed Weapons,” Press release, Transmittal No. 08-105, 30 September 2008.

⁶¹⁸ “Policy Justification” sheet attached to a letter from Vice Admiral Jeffrey A. Wieringa, Director of the US Defense Security Cooperation Agency, to Senator Robert C. Byrd, Chairman of the Senate Committee on Appropriations (USP012679), 26 September 2008.

⁶¹⁹ Letter from Vice Admiral Jeffrey A. Wieringa, US Defense Security Cooperation Agency, to Senator Robert C. Byrd, Chairman of the Senate Committee on Appropriations (USP012679), 26 September 2008.

UZBEKISTAN

The Republic of Uzbekistan has not signed the Convention on Cluster Munitions. It did not participate in the diplomatic process in 2007 and 2008 that resulted in the development, negotiation and then signing of the convention in Oslo in December 2008. It has not made a public declaration regarding its cluster munition policy.

Uzbekistan is not known to have used, produced, or exported cluster munitions. It inherited a stockpile of cluster munitions from the Soviet Union. Jane's Information Group reports that KMG-U dispensers that deploy submunitions are in service with the country's air force.⁶²⁰ Uzbekistan also possesses Uragan 220mm surface-to-surface rockets, but it is not known if these include versions with submunition payloads.⁶²¹

Uzbekistan is party to the Convention on Conventional Weapons (CCW), but has not been involved in the discussions on cluster munitions in recent years. It has not joined CCW Protocol V on Explosive Remnants of War.

VIETNAM

The Socialist Republic of Vietnam has not signed the Convention on Cluster Munitions. It is not party to the Convention on Conventional Weapons.

Vietnam is not believed to have ever used, produced, stockpiled, or transferred cluster munitions. However, Vietnam remains extensively affected by the widespread use of cluster munitions by the United States in the 1960s and 1970s. This contamination continues to claim lives and require extensive clearance operations.

While Vietnam did not attend the initial Oslo Process meeting in February 2007 or the second gathering in Lima, it participated in the Belgrade conference for affected states in October 2007, and the other two international conferences to develop the convention text in Vienna and Wellington.⁶²²

During the Wellington conference, Vietnam stated that "having suffered from warfare (with much damage done by cluster munitions), Viet Nam shares the humanitarian concerns of the international community over the effects of cluster munitions, and supports international efforts to help victims of cluster munitions and assist countries in their endeavours to recover from the damage caused by cluster munitions and to foster social and economic development. Viet Nam takes note of the goodwill and the spirit of humanity with which states and international organizations are working towards an international instrument that regulates this particular weapon. Viet Nam believes that, as any other international treaty on disarmament, the development of such an instrument should involve a broad range of countries and take into account the specific characters as well as the legitimate needs to manufacture, import and retain conventional weapons for self-defence and security purposes of each state."⁶²³

Vietnam attended the formal negotiations of the convention in Dublin in May 2008 as an observer. During the conference, Vietnam emphasized that 30 years after cluster munitions were dropped on its territory the Vietnamese people were still suffering, and it called on international donors to help end the suffering.⁶²⁴ As an observer, it did not join 107 states in the consensus adoption of the convention text. In October 2008, Vietnam attended the regional conference hosted by Lao PDR to promote signature of the convention.

⁶²⁰ Robert Hewson, ed., *Jane's Air-Launched Weapons*, Issue 44 (Surrey, UK: Jane's Information Group Limited, 2004), p. 848.

⁶²¹ International Institute for Strategic Studies, *The Military Balance 2005–2006*, (London: Routledge, 2005), p. 250.

⁶²² Vietnam did not endorse the Wellington Declaration which would have indicated its intention to participate fully in the Dublin negotiations on the basis of the draft Wellington text.

⁶²³ Statement of Vietnam, Wellington Conference on Cluster Munitions, 21 February 2008.

⁶²⁴ Statement of Vietnam, Committee of the Whole, Dublin Diplomatic Conference on Cluster Munitions, 28 May 2008. Notes by Landmine Action.

On 27–28 October 2008, the first national workshop on cluster munitions was hosted in Hanoi by the Landmine Working Group of the VUFO-NGO Resource Center Vietnam, the Ho Chi Minh City Department of External Relations, and Landmine Survivors Network-Vietnam. It included extensive participation by Vietnamese officials from a variety of departments and ministries concerned with explosive remnants of war issues.⁶²⁵

Vietnam attended the signing conference in Oslo in December as an observer, but did not make a statement.

During the Oslo Process, Landmine Survivors Network-Vietnam, the Vietnam Veterans Memorial Fund, and Vietnam Assistance for the Handicapped conducted numerous campaign activities to urge the Vietnamese government to sign the convention.⁶²⁶ Vietnamese cluster munition survivor Pham Quy Thi was a strong campaigner as part of the “Ban Advocates,” an initiative of Handicap International Belgium which brought together individuals affected by cluster munitions to raise awareness on cluster munitions and promote the convention.⁶²⁷

YEMEN

The Republic of Yemen has not signed the Convention on Cluster Munitions. Yemen participated in two meetings of the Oslo Process, the international conference in Lima in May 2007 and the Belgrade conference for states affected by cluster munitions in October 2007.

During the Lima conference, Yemen stated that the international community must push forward its work on the prohibition of cluster munitions. During discussions of victim assistance, the representative of Yemen recalled a story of a young girl who lost her hands and eye to a submunition, emphasizing the horrific consequences of cluster munitions for civilians, especially children.⁶²⁸

Yemen did not attend even as an observer the formal negotiations of the convention in Dublin in May 2008, and did not attend the signing conference in Oslo in December 2008. Yemen has not made a public statement about why it has not signed yet.

Yemen is not party to the Convention on Conventional Weapons.

Yemen is not believed to have used or produced cluster munitions. It appears that Yemen does have a stockpile. Jane’s Information Group reports that KMG-U dispensers that deploy submunitions are in service with the country’s air force.⁶²⁹ Moldova exported 13 220mm *Uragan* multiple rocket launch systems to Yemen in 1994, but it is not known if these include versions with submunitions.⁶³⁰ There are unconfirmed reports that Yemen is affected by cluster munitions.

ZIMBABWE

The Republic of Zimbabwe has not signed the Convention on Cluster Munitions. Zimbabwe’s only participation in the Oslo Process was at the two African regional conferences in Livingstone in March/April 2008 and Kampala in September 2008. Zimbabwe is not party to the Convention on Conventional Weapons.

⁶²⁵ CMC, “Global Week of Action to Ban Cluster Bombs, 27 October – 2 November 2008,” www.stopclustermunitions.org. VUFO is the Vietnam Union of Friendship Organizations, and the VUFO-NGO Resource Center was established in 1993 to serve the community of international NGOs working in Vietnam and their Vietnamese partner institutions.

⁶²⁶ OneWorld, “Vietnam Landmine Survivors Urge Cluster Bomb Ban,” 5 September 2008, us.oneworld.net.

⁶²⁷ Stephanie Castanie and Pham Quy Thi, “My story, by Pham Quy Thi,” 21 May 2008, The Ban Advocates Blog, blog.banadvocates.org.

⁶²⁸ Statement of Yemen, Session on Victim Assistance, Lima Conference on Cluster Munitions, 23 May 2008. Translation by WILPF.

⁶²⁹ Robert Hewson, ed., *Jane’s Air-Launched Weapons*, Issue 44 (Surrey, UK: Jane’s Information Group Limited, 2004), p. 848.

⁶³⁰ Republic of Moldova, Submission for Calendar Year 1994, UN Register of Conventional Arms, 28 April 1995.

During the Livingstone conference from 31 March–1 April 2008, Zimbabwe was an active and vocal participant. Zimbabwe announced its support for the Oslo Process and a legally-binding instrument on cluster munitions. It advocated for a comprehensive definition of a cluster munition without exceptions.⁶³¹ Zimbabwe endorsed the Livingstone Declaration, which called on African states to support the negotiation in Dublin of a comprehensive convention with a “total and immediate” prohibition on the use, production, stockpiling, and transfer of cluster munitions.⁶³² However, Zimbabwe did not attend the Dublin Diplomatic Conference in May 2008.

Zimbabwe participated in the Kampala Conference on the Convention on Cluster Munitions in September 2008. Zimbabwe endorsed the Kampala Action Plan, which called on all African states to sign the convention in Oslo on 3 December; ratify the convention as soon as possible; ensure its effective implementation; and to act cooperatively to ensure public awareness and support for the convention.⁶³³ Zimbabwe did not attend the signing conference in Oslo.

Zimbabwe is not known to have used, produced, or exported cluster munitions. It may have a stockpile. Jane’s Information Group reports that the Alpha bomblet developed for the South African CB-470 cluster bomb was produced by Rhodesia (the predecessor of Zimbabwe), and that “Zimbabwe may have quantities of the Alpha bomblet.”⁶³⁴

⁶³¹ CMC, “Report on the Livingstone Conference on Cluster Munitions, 31 March – 1 April 2008,” April 2008, www.stopclustermunitions.org.

⁶³² Livingstone Declaration, Livingstone Conference, 1 April 2008.

⁶³³ CMC, “Kampala Conference on the Convention on Cluster Munitions,” September 2008, www.stopclustermunitions.org; Kampala Action Plan, Kampala Conference, 30 September 2008.

⁶³⁴ Robert Hewson, ed., *Jane’s Air-Launched Weapons*, Issue 44 (Surrey, UK: Jane’s Information Group Limited, 2004), p. 440.

Appendices

Oslo Conference on Cluster Munitions, 22 – 23 February 2007

Declaration

A group of States, United Nations Organisations, the International Committee of the Red Cross, the Cluster Munitions Coalition and other humanitarian organisations met in Oslo on 22 – 23 February 2007 to discuss how to effectively address the humanitarian problems caused by cluster munitions.

Recognising the grave consequences caused by the use of cluster munitions and the need for immediate action, states commit themselves to:

1. Conclude by 2008 a legally binding international instrument that will:
 - i. prohibit the use, production, transfer and stockpiling of cluster munitions that cause unacceptable harm to civilians, and
 - ii. (establish a framework for cooperation and assistance that ensures adequate provision of care and rehabilitation to survivors and their communities, clearance of contaminated areas, risk education and destruction of stockpiles of prohibited cluster munitions.
2. Consider taking steps at the national level to address these problems.
3. Continue to address the humanitarian challenges posed by cluster munitions within the framework of international humanitarian law and in all relevant fora.
4. Meet again to continue their work, including in Lima in May/June and Vienna in November/December 2007, and in Dublin in early 2008, and welcome the announcement of Belgium to organise a regional meeting.

Oslo, 23 February 2007

Declaration of the Wellington Conference on Cluster Munitions

States met in Wellington from February 18 to 22, 2008, to pursue an enduring solution to the grave humanitarian consequences caused by the use of cluster munitions. They are convinced that this solution must include the conclusion in 2008 of a legally binding international instrument prohibiting cluster munitions that cause unacceptable harm to civilians.

In that spirit they affirm that the essential elements of such an instrument should include:

- A prohibition on the use, production, transfer and stockpiling of cluster munitions that cause unacceptable harm to civilians,
- A framework for cooperation and assistance that ensures adequate provision of care and rehabilitation to survivors and their communities, clearance of contaminated areas, risk education, and destruction of stockpiles.

The following States:

encouraged by the work of the Wellington Conference, and previous Conferences in Vienna, Lima and Oslo;

encouraged further by numerous national and regional initiatives, including meetings in Brussels, Belgrade and San José, and measures taken to address the humanitarian impact of cluster munitions;

encouraged by the active support given to this subject by the United Nations, and in other fora;

encouraged, finally, by the active support of the International Committee of the Red Cross, the Cluster Munition Coalition and numerous other Non-Governmental Organisations;

welcome the convening of a Diplomatic Conference by the Government of Ireland in Dublin on 19 May 2008 to negotiate and adopt a legally binding instrument prohibiting cluster munitions that cause unacceptable harm to civilians;

also welcome the important work done by participants engaged in the cluster munitions process on the text of a draft Cluster Munitions Convention, dated 21 January 2008, which contains the essential elements identified above and decide to forward it as the basic proposal for consideration at the Dublin Diplomatic Conference, together with other relevant proposals including those contained in the compendium attached to this Declaration and those which may be put forward there;

affirm their objective of concluding the negotiation of such an instrument prohibiting cluster munitions that cause unacceptable harm to civilians in Dublin in May 2008;

invite all other States to join them in their efforts towards concluding such an instrument.

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

DUBLIN 19-30 MAY 2008

CCM/77
30 MAY 2008
Original: ENGLISH
FRENCH
SPANISH

Convention on Cluster Munitions

The States Parties to this Convention,

Deeply concerned that civilian populations and individual civilians continue to bear the brunt of armed conflict,

Determined to put an end for all time to the suffering and casualties caused by cluster munitions at the time of their use, when they fail to function as intended or when they are abandoned,

Concerned that cluster munition remnants kill or maim civilians, including women and children, obstruct economic and social development, including through the loss of livelihood, impede post-conflict rehabilitation and reconstruction, delay or prevent the return of refugees and internally displaced persons, can negatively impact on national and international peace-building and humanitarian assistance efforts, and have other severe consequences that can persist for many years after use,

Deeply concerned also at the dangers presented by the large national stockpiles of cluster munitions retained for operational use and *determined* to ensure their rapid destruction,

Believing it necessary to contribute effectively in an efficient, coordinated manner to resolving the challenge of removing cluster munition remnants located throughout the world, and to ensure their destruction,

Determined also to ensure the full realisation of the rights of all cluster munition victims and *recognising* their inherent dignity,

Resolved to do their utmost in providing assistance to cluster munition victims, including medical care, rehabilitation and psychological support, as well as providing for their social and economic inclusion,

Recognising the need to provide age- and gender-sensitive assistance to cluster munition victims and to address the special needs of vulnerable groups,

Bearing in mind the Convention on the Rights of Persons with Disabilities which, *inter alia*, requires that States Parties to that Convention undertake to ensure and promote the full realisation of all human rights and fundamental freedoms of all persons with disabilities without discrimination of any kind on the basis of disability,

Mindful of the need to coordinate adequately efforts undertaken in various fora to address the rights and needs of victims of various types of weapons, and *resolved* to avoid discrimination among victims of various types of weapons,

Reaffirming that in cases not covered by this Convention or by other international agreements, civilians and combatants remain under the protection and authority of the principles of international law, derived from established custom, from the principles of humanity and from the dictates of public conscience,

Resolved also that armed groups distinct from the armed forces of a State shall not, under any circumstances, be permitted to engage in any activity prohibited to a State Party to this Convention,

Welcoming the very broad international support for the international norm prohibiting anti-personnel mines, enshrined in the 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction,

Welcoming also the adoption of the Protocol on Explosive Remnants of War, annexed to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects, and its entry into force on 12 November 2006, and *wishing* to enhance the protection of civilians from the effects of cluster munition remnants in post-conflict environments,

Bearing in mind also United Nations Security Council Resolution 1325 on women, peace and security and United Nations Security Council Resolution 1612 on children in armed conflict,

Welcoming further the steps taken nationally, regionally and globally in recent years aimed at prohibiting, restricting or suspending the use, stockpiling, production and transfer of cluster munitions,

Stressing the role of public conscience in furthering the principles of humanity as evidenced by the global call for an end to civilian suffering caused by cluster munitions and *recognising* the efforts to that end undertaken by the United Nations, the International Committee of the Red Cross, the Cluster Munition Coalition and numerous other non-governmental organisations around the world,

Reaffirming the Declaration of the Oslo Conference on Cluster Munitions, by which, *inter alia*, States recognised the grave consequences caused by the use of cluster munitions and committed themselves to conclude by 2008 a legally binding instrument that would prohibit the use, production, transfer and stockpiling of cluster munitions that cause unacceptable harm to civilians, and would establish a framework for cooperation and assistance that ensures adequate provision of care and rehabilitation for victims, clearance of contaminated areas, risk reduction education and destruction of stockpiles,

Emphasising the desirability of attracting the adherence of all States to this Convention, and determined to work strenuously towards the promotion of its universalisation and its full implementation,

Basing themselves on the principles and rules of international humanitarian law, in particular the principle that the right of parties to an armed conflict to choose methods or means of warfare is not unlimited, and the rules that the parties to a conflict shall at all times distinguish between the civilian population and combatants and between civilian objects and military objectives and accordingly direct their operations against military objectives only, that in the conduct of military operations constant care shall be taken to spare the civilian population, civilians and civilian objects and that the civilian population and individual civilians enjoy general protection against dangers arising from military operations,

HAVE AGREED as follows:

Article 1

General obligations and scope of application

1. Each State Party undertakes never under any circumstances to:
 - a. Use cluster munitions;
 - b. Develop, produce, otherwise acquire, stockpile, retain or transfer to anyone, directly or indirectly, cluster munitions;
 - c. Assist, encourage or induce anyone to engage in any activity prohibited to a State Party under this Convention.
2. Paragraph 1 of this Article applies, *mutatis mutandis*, to explosive bomblets that are specifically designed to be dispersed or released from dispensers affixed to aircraft.
3. This Convention does not apply to mines.

Article 2

Definitions

For the purposes of this Convention:

1. “**Cluster munition victims**” means all persons who have been killed or suffered physical or psychological injury, economic loss, social marginalisation or substantial impairment of the realisation of their rights caused by the use of cluster munitions. They include those persons directly impacted by cluster munitions as well as their affected families and communities;
2. “**Cluster munition**” means a conventional munition that is designed to disperse or release explosive submunitions each weighing less than 20 kilograms, and includes those explosive submunitions. It does not mean the following:
 - a. A munition or submunition designed to dispense flares, smoke, pyrotechnics or chaff; or a munition designed exclusively for an air defence role;
 - b. A munition or submunition designed to produce electrical or electronic effects;
 - c. A munition that, in order to avoid indiscriminate area effects and the risks posed by unexploded submunitions, has all of the following characteristics:
 - i. Each munition contains fewer than ten explosive submunitions;
 - ii. Each explosive submunition weighs more than four kilograms;
 - iii. Each explosive submunition is designed to detect and engage a single target object;
 - iv. Each explosive submunition is equipped with an electronic self-destruction mechanism;
 - v. Each explosive submunition is equipped with an electronic self-deactivating feature.
3. “**Explosive submunition**” means a conventional munition that in order to perform its task is dispersed or released by a cluster munition and is designed to function by detonating an explosive charge prior to, on or after impact;
4. “**Failed cluster munition**” means a cluster munition that has been fired, dropped, launched, projected or otherwise delivered and which should have dispersed or released its explosive submunitions but failed to do so;
5. “**Unexploded submunition**” means an explosive submunition that has been dispersed or released by, or otherwise separated from, a cluster munition and has failed to explode as intended;
6. “**Abandoned cluster munitions**” means cluster munitions or explosive submunitions that have not been used and that have been left behind or dumped, and that are no longer under the control of the party that left them behind or dumped them. They may or may not have been prepared for use;
7. “**Cluster munition remnants**” means failed cluster munitions, abandoned cluster munitions, unexploded submunitions and unexploded bomblets;
8. “**Transfer**” involves, in addition to the physical movement of cluster munitions into or from national territory, the transfer of title to and control over cluster munitions, but does not involve the transfer of territory containing cluster munition remnants;
9. “**Self-destruction mechanism**” means an incorporated automatically-functioning mechanism which is in addition to the primary initiating mechanism of the munition and which secures the destruction of the munition into which it is incorporated;
10. “**Self-deactivating**” means automatically rendering a munition inoperable by means of the irreversible exhaustion of a component, for example a battery, that is essential to the operation of the munition;
11. “**Cluster munition contaminated area**” means an area known or suspected to contain cluster munition remnants;
12. “**Mine**” means a munition designed to be placed under, on or near the ground or other surface area and to be exploded by the presence, proximity or contact of a person or a vehicle;

13. **“Explosive bomblet”** means a conventional munition, weighing less than 20 kilograms, which is not self-propelled and which, in order to perform its task, is dispersed or released by a dispenser, and is designed to function by detonating an explosive charge prior to, on or after impact;
14. **“Dispenser”** means a container that is designed to disperse or release explosive bomblets and which is affixed to an aircraft at the time of dispersal or release;
15. **“Unexploded bomblet”** means an explosive bomblet that has been dispersed, released or otherwise separated from a dispenser and has failed to explode as intended.

Article 3

Storage and stockpile destruction

1. Each State Party shall, in accordance with national regulations, separate all cluster munitions under its jurisdiction and control from munitions retained for operational use and mark them for the purpose of destruction.
2. Each State Party undertakes to destroy or ensure the destruction of all cluster munitions referred to in paragraph 1 of this Article as soon as possible but not later than eight years after the entry into force of this Convention for that State Party. Each State Party undertakes to ensure that destruction methods comply with applicable international standards for protecting public health and the environment.
3. If a State Party believes that it will be unable to destroy or ensure the destruction of all cluster munitions referred to in paragraph 1 of this Article within eight years of entry into force of this Convention for that State Party it may submit a request to a Meeting of States Parties or a Review Conference for an extension of the deadline for completing the destruction of such cluster munitions by a period of up to four years. A State Party may, in exceptional circumstances, request additional extensions of up to four years. The requested extensions shall not exceed the number of years strictly necessary for that State Party to complete its obligations under paragraph 2 of this Article.
4. Each request for an extension shall set out:
 - a. The duration of the proposed extension;
 - b. A detailed explanation of the proposed extension, including the financial and technical means available to or required by the State Party for the destruction of all cluster munitions referred to in paragraph 1 of this Article and, where applicable, the exceptional circumstances justifying it;
 - c. A plan for how and when stockpile destruction will be completed;
 - d. The quantity and type of cluster munitions and explosive submunitions held at the entry into force of this Convention for that State Party and any additional cluster munitions or explosive submunitions discovered after such entry into force;
 - e. The quantity and type of cluster munitions and explosive submunitions destroyed during the period referred to in paragraph 2 of this Article; and
 - f. The quantity and type of cluster munitions and explosive submunitions remaining to be destroyed during the proposed extension and the annual destruction rate expected to be achieved.
5. The Meeting of States Parties or the Review Conference shall, taking into consideration the factors referred to in paragraph 4 of this Article, assess the request and decide by a majority of votes of States Parties present and voting whether to grant the request for an extension. The States Parties may decide to grant a shorter extension than that requested and may propose benchmarks for the extension, as appropriate. A request for an extension shall be submitted a minimum of nine months prior to the Meeting of States Parties or the Review Conference at which it is to be considered.
6. Notwithstanding the provisions of Article 1 of this Convention, the retention or acquisition of a limited number of cluster munitions and explosive submunitions for the development of and training in cluster munition and explosive submunition detection, clearance or destruction techniques, or for the development of cluster munition counter-measures, is permitted. The amount of explosive submunitions retained or acquired shall not exceed the minimum number absolutely necessary for these purposes.

7. Notwithstanding the provisions of Article 1 of this Convention, the transfer of cluster munitions to another State Party for the purpose of destruction, as well as for the purposes described in paragraph 6 of this Article, is permitted.
8. States Parties retaining, acquiring or transferring cluster munitions or explosive submunitions for the purposes described in paragraphs 6 and 7 of this Article shall submit a detailed report on the planned and actual use of these cluster munitions and explosive submunitions and their type, quantity and lot numbers. If cluster munitions or explosive submunitions are transferred to another State Party for these purposes, the report shall include reference to the receiving party. Such a report shall be prepared for each year during which a State Party retained, acquired or transferred cluster munitions or explosive submunitions and shall be submitted to the Secretary-General of the United Nations no later than 30 April of the following year.

Article 4

Clearance and destruction of cluster munition remnants and risk reduction education

1. Each State Party undertakes to clear and destroy, or ensure the clearance and destruction of, cluster munition remnants located in cluster munition contaminated areas under its jurisdiction or control, as follows:
 - a. Where cluster munition remnants are located in areas under its jurisdiction or control at the date of entry into force of this Convention for that State Party, such clearance and destruction shall be completed as soon as possible but not later than ten years from that date;
 - b. Where, after entry into force of this Convention for that State Party, cluster munitions have become cluster munition remnants located in areas under its jurisdiction or control, such clearance and destruction must be completed as soon as possible but not later than ten years after the end of the active hostilities during which such cluster munitions became cluster munition remnants; and
 - c. Upon fulfilling either of its obligations set out in sub-paragraphs (a) and (b) of this paragraph, that State Party shall make a declaration of compliance to the next Meeting of States Parties.
2. In fulfilling its obligations under paragraph 1 of this Article, each State Party shall take the following measures as soon as possible, taking into consideration the provisions of Article 6 of this Convention regarding international cooperation and assistance:
 - a. Survey, assess and record the threat posed by cluster munition remnants, making every effort to identify all cluster munition contaminated areas under its jurisdiction or control;
 - b. Assess and prioritise needs in terms of marking, protection of civilians, clearance and destruction, and take steps to mobilise resources and develop a national plan to carry out these activities, building, where appropriate, upon existing structures, experiences and methodologies;
 - c. Take all feasible steps to ensure that all cluster munition contaminated areas under its jurisdiction or control are perimeter-marked, monitored and protected by fencing or other means to ensure the effective exclusion of civilians. Warning signs based on methods of marking readily recognisable by the affected community should be utilised in the marking of suspected hazardous areas. Signs and other hazardous area boundary markers should, as far as possible, be visible, legible, durable and resistant to environmental effects and should clearly identify which side of the marked boundary is considered to be within the cluster munition contaminated areas and which side is considered to be safe;
 - d. Clear and destroy all cluster munition remnants located in areas under its jurisdiction or control; and
 - e. Conduct risk reduction education to ensure awareness among civilians living in or around cluster munition contaminated areas of the risks posed by such remnants.
3. In conducting the activities referred to in paragraph 2 of this Article, each State Party shall take into account international standards, including the International Mine Action Standards (IMAS).
4. This paragraph shall apply in cases in which cluster munitions have been used or abandoned by one State Party prior to entry into force of this Convention for that State Party and have become cluster munition remnants that are located in areas under the jurisdiction or control of another State Party at the time of entry into force of this Convention for the latter.

- a. In such cases, upon entry into force of this Convention for both States Parties, the former State Party is strongly encouraged to provide, inter alia, technical, financial, material or human resources assistance to the latter State Party, either bilaterally or through a mutually agreed third party, including through the United Nations system or other relevant organisations, to facilitate the marking, clearance and destruction of such cluster munition remnants.
 - b. Such assistance shall include, where available, information on types and quantities of the cluster munitions used, precise locations of cluster munition strikes and areas in which cluster munition remnants are known to be located.
5. If a State Party believes that it will be unable to clear and destroy or ensure the clearance and destruction of all cluster munition remnants referred to in paragraph 1 of this Article within ten years of the entry into force of this Convention for that State Party, it may submit a request to a Meeting of States Parties or a Review Conference for an extension of the deadline for completing the clearance and destruction of such cluster munition remnants by a period of up to five years. The requested extension shall not exceed the number of years strictly necessary for that State Party to complete its obligations under paragraph 1 of this Article.
6. A request for an extension shall be submitted to a Meeting of States Parties or a Review Conference prior to the expiry of the time period referred to in paragraph 1 of this Article for that State Party. Each request shall be submitted a minimum of nine months prior to the Meeting of States Parties or Review Conference at which it is to be considered. Each request shall set out:
 - a. The duration of the proposed extension;
 - b. A detailed explanation of the reasons for the proposed extension, including the financial and technical means available to and required by the State Party for the clearance and destruction of all cluster munition remnants during the proposed extension;
 - c. The preparation of future work and the status of work already conducted under national clearance and demining programmes during the initial ten year period referred to in paragraph 1 of this Article and any subsequent extensions;
 - d. The total area containing cluster munition remnants at the time of entry into force of this Convention for that State Party and any additional areas containing cluster munition remnants discovered after such entry into force;
 - e. The total area containing cluster munition remnants cleared since entry into force of this Convention;
 - f. The total area containing cluster munition remnants remaining to be cleared during the proposed extension;
 - g. The circumstances that have impeded the ability of the State Party to destroy all cluster munition remnants located in areas under its jurisdiction or control during the initial ten year period referred to in paragraph 1 of this Article, and those that may impede this ability during the proposed extension;
 - h. The humanitarian, social, economic and environmental implications of the proposed extension; and
 - i. Any other information relevant to the request for the proposed extension.
7. The Meeting of States Parties or the Review Conference shall, taking into consideration the factors referred to in paragraph 6 of this Article, including, inter alia, the quantities of cluster munition remnants reported, assess the request and decide by a majority of votes of States Parties present and voting whether to grant the request for an extension. The States Parties may decide to grant a shorter extension than that requested and may propose benchmarks for the extension, as appropriate.
8. Such an extension may be renewed by a period of up to five years upon the submission of a new request, in accordance with paragraphs 5, 6 and 7 of this Article. In requesting a further extension a State Party shall submit relevant additional information on what has been undertaken during the previous extension granted pursuant to this Article.

Article 5

Victim assistance

1. Each State Party with respect to cluster munition victims in areas under its jurisdiction or control shall, in accordance with applicable international humanitarian and human rights law, adequately provide age and gender-sensitive assistance, including medical care, rehabilitation and psychological support, as well as provide for their social and economic inclusion. Each State Party shall make every effort to collect reliable relevant data with respect to cluster munition victims.
2. In fulfilling its obligations under paragraph 1 of this Article each State Party shall:
 - a. Assess the needs of cluster munition victims;
 - b. Develop, implement and enforce any necessary national laws and policies;
 - c. Develop a national plan and budget, including timeframes to carry out these activities, with a view to incorporating them within the existing national disability, development and human rights frameworks and mechanisms, while respecting the specific role and contribution of relevant actors;
 - d. Take steps to mobilise national and international resources;
 - e. Not discriminate against or among cluster munition victims, or between cluster munition victims and those who have suffered injuries or disabilities from other causes; differences in treatment should be based only on medical, rehabilitative, psychological or socio-economic needs;
 - f. Closely consult with and actively involve cluster munition victims and their representative organisations;
 - g. Designate a focal point within the government for coordination of matters relating to the implementation of this Article; and
 - h. Strive to incorporate relevant guidelines and good practices including in the areas of medical care, rehabilitation and psychological support, as well as social and economic inclusion.

Article 6

International cooperation and assistance

1. In fulfilling its obligations under this Convention each State Party has the right to seek and receive assistance.
2. Each State Party in a position to do so shall provide technical, material and financial assistance to States Parties affected by cluster munitions, aimed at the implementation of the obligations of this Convention. Such assistance may be provided, inter alia, through the United Nations system, international, regional or national organisations or institutions, non-governmental organisations or institutions, or on a bilateral basis.
3. Each State Party undertakes to facilitate and shall have the right to participate in the fullest possible exchange of equipment and scientific and technological information concerning the implementation of this Convention. The States Parties shall not impose undue restrictions on the provision and receipt of clearance and other such equipment and related technological information for humanitarian purposes.
4. In addition to any obligations it may have pursuant to paragraph 4 of Article 4 of this Convention, each State Party in a position to do so shall provide assistance for clearance and destruction of cluster munition remnants and information concerning various means and technologies related to clearance of cluster munitions, as well as lists of experts, expert agencies or national points of contact on clearance and destruction of cluster munition remnants and related activities.
5. Each State Party in a position to do so shall provide assistance for the destruction of stockpiled cluster munitions, and shall also provide assistance to identify, assess and prioritise needs and practical measures in terms of marking, risk reduction education, protection of civilians and clearance and destruction as provided in Article 4 of this Convention.
6. Where, after entry into force of this Convention, cluster munitions have become cluster munition remnants located in areas under the jurisdiction or control of a State Party, each State Party in a position to do so shall urgently provide emergency assistance to the affected State Party.

7. Each State Party in a position to do so shall provide assistance for the implementation of the obligations referred to in Article 5 of this Convention to adequately provide age- and gender-sensitive assistance, including medical care, rehabilitation and psychological support, as well as provide for social and economic inclusion of cluster munition victims. Such assistance may be provided, inter alia, through the United Nations system, international, regional or national organisations or institutions, the International Committee of the Red Cross, national Red Cross and Red Crescent Societies and their International Federation, non-governmental organisations or on a bilateral basis.
8. Each State Party in a position to do so shall provide assistance to contribute to the economic and social recovery needed as a result of cluster munition use in affected States Parties.
9. Each State Party in a position to do so may contribute to relevant trust funds in order to facilitate the provision of assistance under this Article.
10. Each State Party that seeks and receives assistance shall take all appropriate measures in order to facilitate the timely and effective implementation of this Convention, including facilitation of the entry and exit of personnel, materiel and equipment, in a manner consistent with national laws and regulations, taking into consideration international best practices.
11. Each State Party may, with the purpose of developing a national action plan, request the United Nations system, regional organisations, other States Parties or other competent intergovernmental or non-governmental institutions to assist its authorities to determine, inter alia:
 - a. The nature and extent of cluster munition remnants located in areas under its jurisdiction or control;
 - b. The financial, technological and human resources required for the implementation of the plan;
 - c. The time estimated as necessary to clear and destroy all cluster munition remnants located in areas under its jurisdiction or control;
 - d. Risk reduction education programmes and awareness activities to reduce the incidence of injuries or deaths caused by cluster munition remnants;
 - e. Assistance to cluster munition victims; and
 - f. The coordination relationship between the government of the State Party concerned and the relevant governmental, intergovernmental or non-governmental entities that will work in the implementation of the plan.
12. States Parties giving and receiving assistance under the provisions of this Article shall cooperate with a view to ensuring the full and prompt implementation of agreed assistance programmes.

Article 7

Transparency measures

1. Each State Party shall report to the Secretary-General of the United Nations as soon as practicable, and in any event not later than 180 days after the entry into force of this Convention for that State Party, on:
 - a. The national implementation measures referred to in Article 9 of this Convention;
 - b. The total of all cluster munitions, including explosive submunitions, referred to in paragraph 1 of Article 3 of this Convention, to include a breakdown of their type, quantity and, if possible, lot numbers of each type;
 - c. The technical characteristics of each type of cluster munition produced by that State Party prior to entry into force of this Convention for it, to the extent known, and those currently owned or possessed by it, giving, where reasonably possible, such categories of information as may facilitate identification and clearance of cluster munitions; at a minimum, this information shall include the dimensions, fusing, explosive content, metallic content, colour photographs and other information that may facilitate the clearance of cluster munition remnants;
 - d. The status and progress of programmes for the conversion or decommissioning of production facilities for cluster munitions;

- e. The status and progress of programmes for the destruction, in accordance with Article 3 of this Convention, of cluster munitions, including explosive submunitions, with details of the methods that will be used in destruction, the location of all destruction sites and the applicable safety and environmental standards to be observed;
 - f. The types and quantities of cluster munitions, including explosive submunitions, destroyed in accordance with Article 3 of this Convention, including details of the methods of destruction used, the location of the destruction sites and the applicable safety and environmental standards observed;
 - g. Stockpiles of cluster munitions, including explosive submunitions, discovered after reported completion of the programme referred to in sub-paragraph (e) of this paragraph, and plans for their destruction in accordance with Article 3 of this Convention;
 - h. To the extent possible, the size and location of all cluster munition contaminated areas under its jurisdiction or control, to include as much detail as possible regarding the type and quantity of each type of cluster munition remnant in each such area and when they were used;
 - i. The status and progress of programmes for the clearance and destruction of all types and quantities of cluster munition remnants cleared and destroyed in accordance with Article 4 of this Convention, to include the size and location of the cluster munition contaminated area cleared and a breakdown of the quantity of each type of cluster munition remnant cleared and destroyed;
 - j. The measures taken to provide risk reduction education and, in particular, an immediate and effective warning to civilians living in cluster munition contaminated areas under its jurisdiction or control;
 - k. The status and progress of implementation of its obligations under Article 5 of this Convention to adequately provide age- and gender- sensitive assistance, including medical care, rehabilitation and psychological support, as well as provide for social and economic inclusion of cluster munition victims and to collect reliable relevant data with respect to cluster munition victims;
 - l. The name and contact details of the institutions mandated to provide information and to carry out the measures described in this paragraph;
 - m. The amount of national resources, including financial, material or in kind, allocated to the implementation of Articles 3, 4 and 5 of this Convention; and
 - n. The amounts, types and destinations of international cooperation and assistance provided under Article 6 of this Convention.
2. The information provided in accordance with paragraph 1 of this Article shall be updated by the States Parties annually, covering the previous calendar year, and reported to the Secretary-General of the United Nations not later than 30 April of each year.
 3. The Secretary-General of the United Nations shall transmit all such reports received to the States Parties.

Article 8

Facilitation and clarification of compliance

1. The States Parties agree to consult and cooperate with each other regarding the implementation of the provisions of this Convention and to work together in a spirit of cooperation to facilitate compliance by States Parties with their obligations under this Convention.
2. If one or more States Parties wish to clarify and seek to resolve questions relating to a matter of compliance with the provisions of this Convention by another State Party, it may submit, through the Secretary-General of the United Nations, a Request for Clarification of that matter to that State Party. Such a request shall be accompanied by all appropriate information. Each State Party shall refrain from unfounded Requests for Clarification, care being taken to avoid abuse. A State Party that receives a Request for Clarification shall provide, through the Secretary-General of the United Nations, within 28 days to the requesting State Party all information that would assist in clarifying the matter.
3. If the requesting State Party does not receive a response through the Secretary-General of the United Nations within that time period, or deems the response to the Request for Clarification to be unsatisfactory, it may submit the matter through the Secretary-General of the United Nations to the next Meeting of States Parties. The Secretary-General of the United Nations shall transmit the submission, accompanied by all appropriate information pertaining to the Request for Clarification,

to all States Parties. All such information shall be presented to the requested State Party which shall have the right to respond.

4. Pending the convening of any Meeting of States Parties, any of the States Parties concerned may request the Secretary-General of the United Nations to exercise his or her good offices to facilitate the clarification requested.
5. Where a matter has been submitted to it pursuant to paragraph 3 of this Article, the Meeting of States Parties shall first determine whether to consider that matter further, taking into account all information submitted by the States Parties concerned. If it does so determine, the Meeting of States Parties may suggest to the States Parties concerned ways and means further to clarify or resolve the matter under consideration, including the initiation of appropriate procedures in conformity with international law. In circumstances where the issue at hand is determined to be due to circumstances beyond the control of the requested State Party, the Meeting of States Parties may recommend appropriate measures, including the use of cooperative measures referred to in Article 6 of this Convention.
6. In addition to the procedures provided for in paragraphs 2 to 5 of this Article, the Meeting of States Parties may decide to adopt such other general procedures or specific mechanisms for clarification of compliance, including facts, and resolution of instances of non-compliance with the provisions of this Convention as it deems appropriate.

Article 9

National implementation measures

Each State Party shall take all appropriate legal, administrative and other measures to implement this Convention, including the imposition of penal sanctions to prevent and suppress any activity prohibited to a State Party under this Convention undertaken by persons or on territory under its jurisdiction or control.

Article 10

Settlement of disputes

1. When a dispute arises between two or more States Parties relating to the interpretation or application of this Convention, the States Parties concerned shall consult together with a view to the expeditious settlement of the dispute by negotiation or by other peaceful means of their choice, including recourse to the Meeting of States Parties and referral to the International Court of Justice in conformity with the Statute of the Court.
2. The Meeting of States Parties may contribute to the settlement of the dispute by whatever means it deems appropriate, including offering its good offices, calling upon the States Parties concerned to start the settlement procedure of their choice and recommending a time-limit for any agreed procedure.

Article 11

Meetings of States Parties

1. The States Parties shall meet regularly in order to consider and, where necessary, take decisions in respect of any matter with regard to the application or implementation of this Convention, including:
 - a. The operation and status of this Convention;
 - b. Matters arising from the reports submitted under the provisions of this Convention;
 - c. International cooperation and assistance in accordance with Article 6 of this Convention;
 - d. The development of technologies to clear cluster munition remnants;
 - e. Submissions of States Parties under Articles 8 and 10 of this Convention; and
 - f. Submissions of States Parties as provided for in Articles 3 and 4 of this Convention.

2. The first Meeting of States Parties shall be convened by the Secretary-General of the United Nations within one year of entry into force of this Convention. The subsequent meetings shall be convened by the Secretary-General of the United Nations annually until the first Review Conference.
3. States not party to this Convention, as well as the United Nations, other relevant international organisations or institutions, regional organisations, the International Committee of the Red Cross, the International Federation of Red Cross and Red Crescent Societies and relevant non-governmental organisations may be invited to attend these meetings as observers in accordance with the agreed rules of procedure.

Article 12

Review Conferences

1. A Review Conference shall be convened by the Secretary-General of the United Nations five years after the entry into force of this Convention. Further Review Conferences shall be convened by the Secretary-General of the United Nations if so requested by one or more States Parties, provided that the interval between Review Conferences shall in no case be less than five years. All States Parties to this Convention shall be invited to each Review Conference.
2. The purpose of the Review Conference shall be:
 - a. To review the operation and status of this Convention;
 - b. To consider the need for and the interval between further Meetings of States Parties referred to in paragraph 2 of Article 11 of this Convention; and
 - c. To take decisions on submissions of States Parties as provided for in Articles 3 and 4 of this Convention.
3. States not party to this Convention, as well as the United Nations, other relevant international organisations or institutions, regional organisations, the International Committee of the Red Cross, the International Federation of Red Cross and Red Crescent Societies and relevant non-governmental organisations may be invited to attend each Review Conference as observers in accordance with the agreed rules of procedure.

Article 13

Amendments

1. At any time after its entry into force any State Party may propose amendments to this Convention. Any proposal for an amendment shall be communicated to the Secretary-General of the United Nations, who shall circulate it to all States Parties and shall seek their views on whether an Amendment Conference should be convened to consider the proposal. If a majority of the States Parties notify the Secretary-General of the United Nations no later than 90 days after its circulation that they support further consideration of the proposal, the Secretary-General of the United Nations shall convene an Amendment Conference to which all States Parties shall be invited.
2. States not party to this Convention, as well as the United Nations, other relevant international organisations or institutions, regional organisations, the International Committee of the Red Cross, the International Federation of Red Cross and Red Crescent Societies and relevant non-governmental organisations may be invited to attend each Amendment Conference as observers in accordance with the agreed rules of procedure.
3. The Amendment Conference shall be held immediately following a Meeting of States Parties or a Review Conference unless a majority of the States Parties request that it be held earlier.
4. Any amendment to this Convention shall be adopted by a majority of two-thirds of the States Parties present and voting at the Amendment Conference. The Depositary shall communicate any amendment so adopted to all States.

5. An amendment to this Convention shall enter into force for States Parties that have accepted the amendment on the date of deposit of acceptances by a majority of the States which were Parties at the date of adoption of the amendment. Thereafter it shall enter into force for any remaining State Party on the date of deposit of its instrument of acceptance.

Article 14

Costs and administrative tasks

1. The costs of the Meetings of States Parties, the Review Conferences and the Amendment Conferences shall be borne by the States Parties and States not party to this Convention participating therein, in accordance with the United Nations scale of assessment adjusted appropriately.
2. The costs incurred by the Secretary-General of the United Nations under Articles 7 and 8 of this Convention shall be borne by the States Parties in accordance with the United Nations scale of assessment adjusted appropriately.
3. The performance by the Secretary-General of the United Nations of administrative tasks assigned to him or her under this Convention is subject to an appropriate United Nations mandate.

Article 15

Signature

This Convention, done at Dublin on 30 May 2008, shall be open for signature at Oslo by all States on 3 December 2008 and thereafter at United Nations Headquarters in New York until its entry into force.

Article 16

Ratification, acceptance, approval or accession

1. This Convention is subject to ratification, acceptance or approval by the Signatories.
2. It shall be open for accession by any State that has not signed the Convention.
3. The instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary.

Article 17

Entry into force

1. This Convention shall enter into force on the first day of the sixth month after the month in which the thirtieth instrument of ratification, acceptance, approval or accession has been deposited.
2. For any State that deposits its instrument of ratification, acceptance, approval or accession after the date of the deposit of the thirtieth instrument of ratification, acceptance, approval or accession, this Convention shall enter into force on the first day of the sixth month after the date on which that State has deposited its instrument of ratification, acceptance, approval or accession.

Article 18

Provisional application

Any State may, at the time of its ratification, acceptance, approval or accession, declare that it will apply provisionally Article 1 of this Convention pending its entry into force for that State.

Article 19
Reservations

The Articles of this Convention shall not be subject to reservations.

Article 20
Duration and withdrawal

1. This Convention shall be of unlimited duration.
2. Each State Party shall, in exercising its national sovereignty, have the right to withdraw from this Convention. It shall give notice of such withdrawal to all other States Parties, to the Depositary and to the United Nations Security Council. Such instrument of withdrawal shall include a full explanation of the reasons motivating withdrawal.
3. Such withdrawal shall only take effect six months after the receipt of the instrument of withdrawal by the Depositary. If, however, on the expiry of that six-month period, the withdrawing State Party is engaged in an armed conflict, the withdrawal shall not take effect before the end of the armed conflict.

Article 21
Relations with States not Party to this Convention

1. Each State Party shall encourage States not party to this Convention to ratify, accept, approve or accede to this Convention, with the goal of attracting the adherence of all States to this Convention.
2. Each State Party shall notify the governments of all States not party to this Convention, referred to in paragraph 3 of this Article, of its obligations under this Convention, shall promote the norms it establishes and shall make its best efforts to discourage States not party to this Convention from using cluster munitions.
3. Notwithstanding the provisions of Article 1 of this Convention and in accordance with international law, States Parties, their military personnel or nationals, may engage in military cooperation and operations with States not party to this Convention that might engage in activities prohibited to a State Party.
4. Nothing in paragraph 3 of this Article shall authorise a State Party:
 - a. To develop, produce or otherwise acquire cluster munitions;
 - b. To itself stockpile or transfer cluster munitions;
 - c. To itself use cluster munitions; or
 - d. To expressly request the use of cluster munitions in cases where the choice of munitions used is within its exclusive control.

Article 22
Depositary

The Secretary-General of the United Nations is hereby designated as the Depositary of this Convention.

Article 23
Authentic texts

The Arabic, Chinese, English, French, Russian and Spanish texts of this Convention shall be equally authentic.

Convention Status Table

Country	Convention on Cluster Munitions		Adopted in Dublin, 30 May 2008	Mine Ban Treaty	Convention on Conventional Weapons	
	Signature Date	Ratification Date			Status	Protocol V, Ratification Date
Afghanistan	3 December 2008			State Party	Signatory	
Albania	3 December 2008		Yes	State Party	State Party	12 May 2006
Algeria				State Party		
Andorra				State Party		
Angola	3 December 2008			State Party		
Antigua and Barbuda				State Party		
Argentina			Yes	State Party	State Party	
Armenia						
Australia	3 December 2008		Yes	State Party	State Party	4 January 2007
Austria	3 December 2008	2 April 2009	Yes	State Party	State Party	1 October 2007
Azerbaijan						
Bahamas				State Party		
Bahrain			Yes			
Bangladesh				State Party	State Party	
Barbados				State Party		
Belarus				State Party		
Belgium	3 December 2008		Yes	State Party	State Party	29 September 2008
Belize			Yes	State Party		
Benin	3 December 2008		Yes	State Party	State Party	
Bhutan				State Party		
Bolivia	3 December 2008		Yes	State Party	State Party	
Bosnia and Herzegovina	3 December 2008		Yes	State Party	State Party	28 November 2007
Botswana	3 December 2008		Yes	State Party		

Convention Status Table

Country	Convention on Cluster Munitions		Adopted in Dublin, 30 May 2008	Mine Ban Treaty	Convention on Conventional Weapons	
	Signature Date	Ratification Date			Status	Protocol V, Ratification Date
Brazil				State Party	State Party	
Brunei Darussalam			Yes	State Party		
Bulgaria	3 December 2008		Yes	State Party	State Party	7 November 2005
Burkina Faso	3 December 2008		Yes	State Party	State Party	
Burundi	3 December 2008		Yes	State Party		
Cambodia			Yes	State Party	State Party	
Cameroon			Yes	State Party	State Party	
Canada	3 December 2008		Yes	State Party	State Party	
Cape Verde	3 December 2008			State Party	State Party	
Central African Republic	3 December 2008			State Party		
Chad	3 December 2008		Yes	State Party		
Chile	3 December 2008		Yes	State Party	State Party	
China					State Party	
Colombia	3 December 2008			State Party	State Party	
Comoros	3 December 2008		Yes	State Party		
Congo, Democratic Republic of the	18 March 2009		Yes	State Party		
Congo, Republic of the	3 December 2008		Yes	State Party		
Cook Islands	3 December 2008		Yes	State Party		
Costa Rica	3 December 2008		Yes	State Party	State Party	
Côte D'Ivoire	4 December 2008		Yes	State Party		
Croatia	3 December 2008		Yes	State Party	State Party	7 February 2005
Cuba					State Party	
Cyprus				State Party	State Party	

Convention Status Table

Country	Convention on Cluster Munitions		Adopted in Dublin, 30 May 2008	Mine Ban Treaty	Convention on Conventional Weapons	
	Signature Date	Ratification Date			Status	Protocol V, Ratification Date
Czech Republic	3 December 2008		Yes	State Party	State Party	6 June 2006
Denmark	3 December 2008		Yes	State Party	State Party	28 June 2005
Djibouti				State Party	State Party	
Dominica				State Party		
Dominican Republic			Yes	State Party		
Ecuador	3 December 2008		Yes	State Party	State Party	10 March 2009
Egypt					Signatory	
El Salvador	3 December 2008		Yes	State Party	State Party	23 March 2006
Equatorial Guinea				State Party		
Eritrea				State Party		
Estonia			Yes	State Party	State Party	18 December 2006
Ethiopia				State Party		
Fiji	3 December 2008		Yes	State Party		
Finland			Yes		State Party	23 March 2005
France	3 December 2008		Yes	State Party	State Party	31 October 2006
Gabon				State Party	State Party	
Gambia	3 December 2008			State Party		
Georgia					State Party	22 December 2008
Germany	3 December 2008		Yes	State Party	State Party	3 March 2005
Ghana	3 December 2008		Yes	State Party		
Greece				State Party	State Party	
Grenada				State Party		
Guatemala	3 December 2008		Yes	State Party	State Party	28 February 2008

Convention Status Table

Country	Convention on Cluster Munitions		Adopted in Dublin, 30 May 2008	Mine Ban Treaty	Convention on Conventional Weapons	
	Signature Date	Ratification Date			Status	Protocol V, Ratification Date
Guinea	3 December 2008		Yes	State Party		
Guinea-Bissau	4 December 2008		Yes	State Party	State Party	6 August 2008
Guyana				State Party		
Haiti				State Party		
Holy See	3 December 2008	3 December 2008	Yes	State Party	State Party	13 December 2005
Honduras	3 December 2008		Yes	State Party	State Party	
Hungary	3 December 2008		Yes	State Party	State Party	13 November 2006
Iceland	3 December 2008		Yes	State Party	State Party	22 August 2008
India				State Party	State Party	18 May 2005
Indonesia	3 December 2008		Yes	State Party		
Iran						
Iraq				State Party		
Ireland	3 December 2008	3 December 2008	Yes	State Party	State Party	8 November 2006
Israel				State Party	State Party	
Italy	3 December 2008		Yes	State Party	State Party	
Jamaica			Yes	State Party	State Party	
Japan	3 December 2008		Yes	State Party	State Party	25 September 2008
Jordan			Yes	State Party	State Party	
Kazakhstan				State Party	State Party	
Kenya	3 December 2008		Yes	State Party	State Party	
Kiribati				State Party	State Party	
Korea, Democratic People's Republic of						
Korea, Republic of					State Party	23 January 2008

Convention Status Table

Country	Convention on Cluster Munitions			Mine Ban Treaty	Convention on Conventional Weapons	
	Signature Date	Ratification Date	Adopted in Dublin, 30 May 2008		Status	Protocol V, Ratification Date
						Status
Kuwait				State Party		
Kyrgyzstan			Yes			
Lao People's Democratic Republic	3 December 2008	18 March 2009	Yes		State Party	
Latvia				State Party		
Lebanon	3 December 2008		Yes			
Lesotho	3 December 2008		Yes	State Party		
Liberia	3 December 2008			State Party		16 September 2005
Libya						
Liechtenstein	3 December 2008			State Party		12 May 2006
Lithuania	3 December 2008		Yes	State Party		29 September 2004
Luxembourg	3 December 2008		Yes	State Party		13 June 2005
Macedonia, Former Yugoslav Republic of	3 December 2008		Yes	State Party		19 March 2007
Madagascar	3 December 2008		Yes	State Party		14 March 2008
Malawi	3 December 2008		Yes	State Party		
Malaysia			Yes	State Party		
Maldives				State Party		
Mali	3 December 2008		Yes	State Party		
Malta	3 December 2008		Yes	State Party		22 September 2006
Marshall Islands				Signatory		
Mauritania			Yes	State Party		
Mauritius				State Party		
Mexico	3 December 2008		Yes	State Party		
Micronesia				State Party		

Convention Status Table

Country	Convention on Cluster Munitions		Adopted in Dublin, 30 May 2008	Mine Ban Treaty	Convention on Conventional Weapons	
	Signature Date	Ratification Date			Status	Protocol V, Ratification Date
Moldova	3 December 2008		Yes	State Party	State Party	21 April 2008
Monaco	3 December 2008			State Party	State Party	
Mongolia					State Party	
Montenegro	3 December 2008		Yes	State Party	State Party	
Morocco			Yes		State Party	
Mozambique	3 December 2008		Yes	State Party		
Myanmar						
Namibia	3 December 2008			State Party		
Nauru	3 December 2008			State Party	State Party	
Nepal						
Netherlands	3 December 2008		Yes	State Party	State Party	18 July 2005
New Zealand	3 December 2008		Yes	State Party	State Party	2 October 2007
Nicaragua	3 December 2008		Yes	State Party	State Party	15 September 2005
Niger	3 December 2008		Yes	State Party	State Party	
Nigeria			Yes	State Party	Signatory	
Niue				State Party		
Norway	3 December 2008	3 December 2008	Yes	State Party	State Party	8 December 2005
Oman						
Pakistan					State Party	3 February 2009
Palau	3 December 2008		Yes	State Party		
Panama	3 December 2008		Yes	State Party	State Party	
Papua New Guinea			Yes	State Party		
Paraguay	3 December 2008		Yes	State Party	State Party	3 December 2008

Convention Status Table

Country	Convention on Cluster Munitions			Adopted in Dublin, 30 May 2008	Mine Ban Treaty	Convention on Conventional Weapons	
	Signature Date	Ratification Date	Status			Status	Protocol V, Ratification Date
Peru	3 December 2008		Yes	State Party	State Party		
Philippines	3 December 2008		Yes	State Party	State Party		
Poland				Signatory	State Party		
Portugal	3 December 2008		Yes	State Party	State Party	22 February 2008	
Qatar			Yes	State Party			
Romania				State Party	State Party	29 January 2008	
Russian Federation					State Party	21 July 2008	
Rwanda	3 December 2008			State Party			
Samoa	3 December 2008		Yes	State Party			
San Marino	3 December 2008		Yes	State Party			
São Tomé e Príncipe	3 December 2008		Yes	State Party			
Saudi Arabia					State Party		
Senegal	3 December 2008		Yes	State Party	State Party	6 November 2008	
Serbia			Yes	State Party	State Party		
Seychelles			Yes	State Party	State Party		
Sierra Leone	3 December 2008	3 December 2008	Yes	State Party	State Party	30 September 2004	
Singapore							
Slovakia			Yes	State Party	State Party	23 March 2006	
Slovenia	3 December 2008		Yes	State Party	State Party	22 February 2007	
Solomon Islands				State Party			
Somalia	3 December 2008						
South Africa	3 December 2008		Yes	State Party	State Party		
Spain	3 December 2008		Yes	State Party	State Party	9 February 2007	

Convention Status Table

Country	Convention on Cluster Munitions		Adopted in Dublin, 30 May 2008	Mine Ban Treaty	Convention on Conventional Weapons	
	Signature Date	Ratification Date			Status	Protocol V, Ratification Date
Sri Lanka					State Party	
Saint Kitts and Nevis				State Party		
Saint Lucia				State Party		
Saint Vincent and the Grenadines				State Party		
Sudan			Yes	State Party	Signatory	
Suriname				State Party		
Swaziland			Yes	State Party		
Sweden	3 December 2008		Yes	State Party	State Party	2 June 2004
Switzerland	3 December 2008		Yes	State Party	State Party	12 May 2006
Syria						
Tajikistan				State Party	State Party	18 May 2006
Tanzania	3 December 2008		Yes	State Party		
Thailand				State Party		
Timor-Leste			Yes	State Party		
Togo	3 December 2008		Yes	State Party	State Party	
Tonga						
Trinidad and Tobago				State Party		
Tunisia	12 January 2009			State Party	State Party	7 March 2008
Turkey				State Party	State Party	
Turkmenistan				State Party	State Party	
Tuvalu						
Uganda	3 December 2008		Yes	State Party	State Party	
Ukraine				State Party	State Party	17 May 2005

Convention Status Table

Country	Convention on Cluster Munitions			Mine Ban Treaty	Convention on Conventional Weapons	
	Signature Date	Ratification Date	Adopted in Dublin, 30 May 2008		Status	Protocol V, Ratification Date
United Arab Emirates					State Party	26 February 2009
United Kingdom	3 December 2008		Yes	State Party	State Party	
United States of America					State Party	21 January 2009
Uruguay	3 December 2008		Yes	State Party	State Party	7 August 2007
Uzbekistan					State Party	
Vanuatu			Yes	State Party		
Venezuela			Yes	State Party	State Party	
Vietnam					Signatory	
Yemen				State Party		
Zambia	3 December 2008		Yes	State Party		
Zimbabwe				State Party		

