

**CMC Statement during the General Exchange of Views
Third Meeting of States Parties
Convention on Cluster Munitions
Oslo, Norway
12 September 2012**



Thank you, Mr. President,

We in the CMC could not be more delighted than to be back in Norway. The Oslo Process that led to the Convention on Cluster Munitions was of course born here in February 2007, and culminated here with the Signing Conference in December 2008. But much more than that, we are pleased to be here because it reinforces the determined and visionary political and humanitarian leadership that Norway has provided in guiding this Convention from the beginning to this day, and we trust, far into the future.

And we thank you for your close cooperation with the Cluster Munition Coalition and civil society more broadly, and the special role you have allowed us to play, in recognition that such partnership is at the core of the Oslo Process and a key to progress. We also thank Lebanon for its dedication, enthusiasm, and skills in fulfilling the role of President of the 2MSP.

At this early point in its life, the Convention on Cluster Munitions already must be considered a rousing success. It has been embraced by a majority of the world's nations, including many former users, producers, and stockpilers, as well as contaminated states. It is clearly establishing a new international standard rejecting any use of the weapon, a powerful standard that affects even those that have not yet joined the Convention.

We have long talked about this Convention as being largely preventive in nature. Cluster munitions have been used relatively infrequently in the past, but when used, they have had devastating humanitarian consequences. Thus, a key objective has been to prevent any use in the future, by any actor. We estimated that at one point, more than 90 nations had stockpiles collectively totalling many millions of cluster munitions containing more than a billion submunitions. The Convention on Cluster Munitions is the best means, really the only means, of ensuring that the humanitarian disaster that would ensue from the use of those staggering arsenals will never occur.

The preventive impact of the Convention and the standard it is establishing can already be seen in many areas. Most notably, stockpiles of about 750,000 cluster munitions and 85 million submunitions have already been destroyed. The small number of confirmed instances of use of cluster munitions since entry into force of the Convention—Libya and Thailand in 2011—were strongly condemned by many in the international community, as were the serious allegations of use by Syria and Sudan in 2012, even though none of those four states are party to the ban convention. Even the failed effort to conclude a weak protocol on cluster munitions in the Convention on Conventional Weapons (CCW) last November demonstrated the power of the stigma against the weapon, and the degree to which even those outside the ban convention recognize the unacceptable dangers cluster munitions pose to civilians.

The Convention has already had other types of preventive effects as well, in that it has helped to accelerate clearance of contaminated areas—thus preventing casualties—and has promoted

victim assistance and the rights of survivors—thus preventing suffering and discrimination. There is a long way to go in these areas, but the Convention is helping to move things in the right direction.

Moreover, the Convention on Cluster Munitions has great significance beyond its achievements in saving lives, limbs, and livelihoods. It is one of the most successful examples of humanitarian disarmament in action—characterized by humanitarian impact taking precedence over narrow perceived military interests, and by a strong partnership among progressive governments, civil society, and international organizations.

The Convention is at the same time a milestone for international humanitarian law (IHL). The Convention reinforces the importance of the foundational rules of IHL in the new millennium. It bans weapons that are prone to violating IHL's cornerstones of distinction and proportionality, and it explicitly references IHL in its preamble. The Convention also advances IHL's underlying principle of civilian protection by adopting groundbreaking provisions to eliminate unacceptable civilian harm.

Contemporary IHL is inextricably linked to humanitarian disarmament because both govern the means of war. While the Mine Ban Treaty witnessed the birth of humanitarian disarmament, the Convention on Cluster Munitions proves that this branch of IHL is here to stay.

Mr. President, while it cannot be denied that the Convention is having an immediate humanitarian impact, and will have a long-lasting impact on diplomacy and international humanitarian law, it is also undeniable that there are challenges ahead.

The credible allegations of use of cluster munitions this year by Syria and Sudan pose a threat to our emerging norm against any use of the weapon. While we do not have sufficient access to these areas to independently confirm 100% the instances of use, the photographic and video evidence is compelling, and deserves the attention of States Parties. We appreciate that some States Parties have already made inquiries and expressed concern about these reports.

One of the key challenges facing us today is universalization of the Convention. The CMC has identified this as its top priority for the coming years. A total of 111 States Parties and signatories is impressive, but not nearly good enough, and efforts need to be intensified, and with a sense of urgency before the window of opportunity created by the relative newness of the convention shuts.

We are pleased to see such a good turnout for this Meeting, particularly the high number of non-signatories, about 30, or more than one-third of the non-signatories worldwide. This is a concrete demonstration of the determination of the international community to eradicate this weapon. We hope to hear positive signs from as many of the non-signatories as possible.

We congratulate the 11 states that have ratified since the 2nd Meeting of States Parties (Italy, Czech Republic, Dominican Republic, Mauritania, Cote d'Ivoire, and Honduras, and since we met in April for intersessionals Sweden, Togo, Hungary, Cameroon, and Switzerland), as well as the one accession (Trinidad and Tobago).

There are encouraging reports of progress in many of the 36 countries that have signed but not yet ratified. For virtually all of these countries, it seems to be just a matter of time, and

that no nation has signed with the intention of delaying ratification for many years. Thus, our focus should be on encouraging the non-signatories to accede. We have a list of more than a dozen states that have said they are seriously considering accession. Among the non-signatories are some who adopted the convention at the end of the Dublin negotiations, and many who are party to the Mine Ban Treaty, a treaty with very similar aims and provisions.

The Convention on Cluster Munitions is unique in its legal requirement for States Parties to promote universalization, and States Parties can and should expand such activities, and better report on them.

On contamination and clearance, *Cluster Munition Monitor* found that 24 states and three disputed areas are believed to have cluster munition remnants on their territory. This includes ten States Parties and three signatories. In 2011, about 53,000 unexploded submunitions were destroyed during clearance operations of about 55 square kilometers of contaminated land in 10 states and two other areas, all increases from the previous year. The data, however, is known to be incomplete.

It seems clear that with national ownership and commitment, partnership of all stakeholders, and sustained support of the donors, most States Parties can finish clearance within five years. By now *every* affected State Party should already have started clearance. We encourage all affected states to conduct non-technical and technical survey at the outset of their operations in order to be able to focus clearance assets on confirmed hazardous areas from the beginning. We also encourage them to prioritize clearance efforts, using updated methods that are focused on clearing only confirmed contaminated areas.

On victim assistance, States Parties are still not doing enough to meet this legal obligation, and to carry out the Vientiane Action Plan. There has been progress, notably in surveying victims and planning to meet their needs. But, too many survivors are still without access to healthcare, rehabilitation, jobs and other forms of victim assistance. Perhaps the greatest need is expanded psychological and economic support. And access to services in rural areas remains a fundamental problem. There must be better implementation of new laws and regulations, so that they really make a difference in the lives of survivors. Cluster munition survivors need to be involved in all aspects of victim assistance.

The sharp drop in funding for victim assistance last year must be reversed. Donor states need to make victim assistance more of a priority, and affected states have to get better at asking for help.

Stockpile destruction—the essence of prevention—continues to be a great success story for the Convention. Let us first congratulate the Netherlands for having completed its stockpile destruction. We were informed last week that completion occurred earlier this year. Fourteen States Parties have completed destruction of their stockpiled cluster munitions. A total of 19 States Parties have reported the destruction of nearly 745,000 cluster munitions containing over 85 million submunitions. There are now 17 States Parties with stockpiles still to destroy. All of these states have indicated they will complete destruction within the convention's eight-year deadline, if not sooner.

We do not see any reason that any state should need longer than eight years to fulfill this obligation, and therefore we expect the article's deadline extension provision never to be used.

The CMC, and many States Parties, believe that *all* cluster munitions should be destroyed. We have repeatedly called into question the need to retain cluster munitions or submunitions. While the convention allows for the retention of the “minimum number absolutely necessary” for training or research purposes, we firmly believe that most, if not all, states should determine that the minimum number of cluster munitions necessary is zero. To date, most states that have destroyed their stocks have decided not to retain any. If states decide to retain, they should be clear about how they determined the “minimum number” and should review that number annually. And, as called for in the convention, retained cluster munitions and submunitions should be the subject of detailed reporting.

On national implementation measures, the CMC views national legislation as the strongest means of fulfilling this obligation as it enshrines the convention’s provisions at the domestic level and provides binding, enduring, and unequivocal rules. According to *Cluster Munition Monitor*, so far 18 of 75 States Parties have enacted legislation to implement the convention. This is clearly one of the areas of the Convention where much more progress is needed. The CMC urges all States Parties to adopt new, convention-specific legislation to implement both the positive obligations and the prohibitions of the convention and to criminalize the use, production, transfer, and stockpiling of cluster munitions, as well as assistance with prohibited activities. The CMC has deep concerns about the national implementation legislation recently adopted by the Australian Senate, as well as draft legislation being considered in Canada. We view both as inconsistent with the Convention, and will elaborate our views during the session on national implementation measures later this week.

But our objections to those pieces of legislation relate to the final challenge we will cite today, Mr. President. There appears to be a lack of agreement about how to interpret certain provisions in the Convention. This particularly applies to the Article 1 prohibition on assistance with prohibited acts. There is a danger that the convention will be greatly compromised if States Parties cannot agree on what they have banned. According to the government statements collected by *Cluster Munition Monitor*, the predominant views expressed by States Parties to date are that: (1) the convention’s Article 1 prohibition on assistance with prohibited acts is *not* overridden by the Article 21 “interoperability” provisions on relations with states not party during joint military operations; (2) transit of cluster munitions through a State Party’s territory is prohibited; (3) stockpiling of cluster munitions by a state not party on a State Party’s territory is prohibited; and, (4) investment of public or private funds in the manufacture of cluster munitions is prohibited.

In closing, let me note that our annual *Cluster Munition Monitor* report is now available. You have heard many of the findings today and will hear more throughout the week. The report and individual country profiles are also available online.

While many challenges remain, we should all be heartened at the immediate humanitarian impact that the Convention on Cluster Munitions has already had, and should re-dedicate ourselves to fulfilling its great potential to prevent and alleviate human suffering and advance international humanitarian and disarmament law.

Thank you.