



Non-paper submitted by Spain with co-sponsors Chile, Croatia, Mexico and Portugal on the subject of **The Convention on Cluster Munitions up to the 1st Review Conference: achievements, challenges and possible lines of action.**

The first Review Conference of the Convention on Cluster Munitions (CCM) will take place in 2015. This important event will afford a necessary and inevitable assessment of the CCM from two angles: firstly, a review of the achievements and pending tasks of this multilateral instrument since its entry into force; and secondly, a view forward including possible lines of action that will strengthen its implementation for the future.

If we take a glance into the past, we will coincide in that the history of the Convention yields a positive balance. From its entry into force in 2010 and the adoption one year later of the Vientiane Action Plan, the CCM has become a solid and effective instrument, an appropriate legal framework for the elimination of these abominable weapons. Equally, it is a moral standard that reaches beyond the increasingly numerous community of States Parties and Signatory States.

However, in the CCM's recent history we have also witnessed some challenges, weaknesses and tasks pending in areas such as universalization, cooperation and assistance, and transparency, as well as in its synergies with instruments of like nature.

The purpose of this document is to produce a strategic analysis examining the strengths of the CCM, taking notice of its challenges and identifying the opportunities that give it the momentum to stay on its course. We also strive to draw conclusions that will drive a debate towards prioritising international community efforts and lay the possible foundations for a likely departure point for a midterm working plan.



1. The CCM agreement: strong points and achievements

The CCM has proven to be a reference on the multilateral stage in several aspects:

- *Effective combination of the humanitarian dimension with the disarmament perspective:* the CCM contains principles, norms and obligations of both disarmament and humanitarian nature, giving them the same level of importance.
- *Exemplary in its decisive thrust on Action,* as seen in the adoption of the Vientiane Action Plan (VAP), with 66 Actions covering all areas of the CCM.
- *A model regime for interaction amongst civil society, international organisations and States:* the role of civil society has acquired increasing importance in the implementation and support of the CCM.
- *Prominent importance of the operational provisions¹:*
 - *Important boost of stockpile destruction:* nearly 95% of the States Parties with stockpiles have presented plans and/or are presently destroying those stockpiles, or have already destroyed them. Moreover, major stockpiles will most probably be destroyed years in advance of the agreed deadlines.
 - *Significant progress in clearing contaminated areas:* almost all the States Parties (SP) who have reported on contaminated areas have already taken measures, have ongoing clearing processes or have already cleared their territories, including some States not Party with highly contaminated areas.
 - *Victim awareness and assistance:* most of the States Parties have already taken practical measures in this regard, from the most basic measures such as establishing focal points to those more complex such as the implementation of assistance programmes.
 - *Flexibility and effectiveness of international cooperation:* although there is ample room for improvement, despite the current economic downturn, the number of States Parties that have provided funds for applying the CCM is twice the number of those applying for these funds, including aid to States Parties, States not Party and Signatory States. Furthermore, it is important to note the existence of humanitarian initiatives implemented bilaterally between State Parties or from Observer States to States Parties, providing appropriate and agile responses to the current reality, without delay in dealing with risks and effects.

¹ Elaborated from the reports *Cluster Munitions Monitor 2012* and *Lusaka Progress Report 2013*.
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2. Main midterm challenges for CCM

The midterm challenges facing the CCM can be grouped into three categories: universality, economics and implementation/organisation:

Limits to the universalization process

- The number CCM States that have joined the CCM is more than half of the UN Member States². However, amongst States not Party we find important producers and possessors of cluster munitions, and some of these have not even attended the last two annual Meetings of States Parties as observers.
- Some States, that still have not ratified the Convention, share the same humanitarian principles of the Convention, but are not in a position to accede it because of a different approach to national security and military doctrine.
- The main challenge of the CCM for the midterm is the universalization process, leaving a group of States of certain considerable weight in the international community outside the regime, which will have negative effects on the full implementation of the Convention.

Negative impact of the economic juncture:

- The international economic situation of recent years has limited some of the significant advancements achieved by the CCM. This limitation has taken hold on processes related to disarmament such as stockpile destruction, building national capabilities or achievements related to humanitarian issues. Assistance to victims, clearance of contaminated areas and international cooperation are good examples of the latter.
- The uncertainty regarding the evolution of the current economic juncture and the pace of recovery causes a decrease in the allocation of resources and the reorganization of priorities, not only for States Parties but also for those considering adhesion to the CCM.

² A total of 112 States have signed or acceded to the Convention on Cluster Munitions as of 31 July 2013, of which 83 are States Parties legally bound by all of the convention's provisions.

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- The CCM shares the humanitarian principles with those of the Anti-personnel Mine Ban Convention and the Certain Conventional Weapons Convention. Nevertheless, the different sovereign positions of some countries regarding issues of military security in each agreement entails a different configuration of the set of States Parties present in each of these conventions. The main consequence is the hindrance to optimisation of resources produced by the relative scattering of humanitarian aid and international cooperation.

Implementation and Organisation

- Obstacles to arranging synergies with conventions and instruments of similar nature, such as CCW or the Ottawa Convention. The CCM enshrines, like other conventions, the disarmament-humanitarian duality, sharing universal humanitarian principles. Despite this given, each convention has its own range of States Parties and there is notorious reticence expressed by some of them regarding the possible establishment of synergies that could carry obligations in other security aspects.
- While respecting the different sovereign positions of the States Parties on each issue, the debates that yield no consensus on these matters wrest momentum and energy from other efforts to be made in non-controversial areas where great margin for progress still exists.
- The role of regional and sub-regional organizations could be galvanized for the purposes of CCM, especially in cases of border contamination.
- Downward trend in submitting reports³. The pace for submitting initial and/or annual reports is on a slow-down. This is a worrisome trend that is spreading to other similar conventions. The lack of commitment to national obligations can lead to limitations on active efforts in other areas such as universality or international cooperation. Nevertheless, we must avoid a report fatigue and facilitate procedures as far as reporting is concerned, both regarding the format of reporting and the time-frame for such reporting.
- Attention must be given to attempts to widen the scope of the Convention, namely as far as definitions of article 2 are concerned, refusing any limitation on definitions previously agreed.

³ The submission of reports has fallen year after year since the entry into force of the Convention". Statement issued by the coordinator of the working group, on the occasion of the 4th Meeting of States Parties held in Lusaka. Non-paper, submitted by Spain with co-sponsors Chile, Croatia, Mexico and Portugal.



3. Opportunities for boosting the progress and implementation of the CCM

For strategic reasons, we could prioritise those points within the Vientiane Action Plan framework that provide a new boost to the compliance of the CCM. Amongst these points of action, the following can be considered:

Foster synergies between agreements of similar nature in those areas where there are shared common and universal principles. This would involve:

- Improving partnership dynamics between civil society, international organisations and States Parties, reducing the scattering of financial, human and technological efforts amongst agreements with like humanitarian principles and objectives.
- Focusing efforts of States Parties, placing priority on those areas where there is a consensus and therefore ample room for advancement: support the building of national capabilities, the creation of national legislation and assisting national reporting.

Improve the CCM scope of action in humanitarian aspects

- Progress effectiveness in reaching humanitarian objectives that are common to all of these multilateral instruments. This is a strategy that can become more dynamic, bearing in mind that the States Parties are firmly committed in their obligations to disarmament and that their objectives for destruction will be reached within the schedules established by the CCM. Training medical personnel to deal with permanent injuries related to cluster munitions (both physical and psychological) could be a target. This training being similar to the one provided to medical personnel within the context of the Ottawa Convention.

Strengthen mechanisms for interaction amongst States Parties, international organisations and civil society to ensure the support and technical assistance that facilitate national implementation.

- Combine formal structures such as coordination committees and intersessional meetings with functional solutions such as the use of alternative platforms, new technologies (web portals) and best practices catalogues that could help move these issues forward. Taking into account the specificities of this subject, it could also be of some use to include non-States Parties and other actors in the discussions.



Promote dialogue and cooperation with States that have not signed the Convention, in humanitarian areas and assistance to third parties

- Create common ground that will facilitate their future adhesion to this instrument, as far as we all share the humanitarian universal principles of the CCM.

4. Conclusion

The CCM presents a unique regime because of the history of its creation; the characteristics of its norms and obligations (bearing humanitarian and disarmament issues simultaneously); because of the dynamism of the collaboration amongst civil society, international organisations and States; and also the optimism generated by the landmarks achieved to date. It is imperative that important challenges be met through collective reflexion: universality, economic and organisational challenges and those regarding implementation in the midterm.

In this sense, within the framework of the Vientiane Action Plan, it is advisable to concentrate on those priority action points that can be used to counter these obstacles *in order to maintain the high momentum of the CCM*: promote synergies between similar agreements in those areas where common and universal principles are shared, broaden the scope of CCM actions on humanitarian issues, strengthen cooperation mechanisms between key CCM players and foster dialogue with States not Party.