



Report on the Livingstone Conference on Cluster Munitions

31st March - 1st April 2008
Livingstone, Zambia

Ministry of Foreign Affairs, Zambia

April 2008

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EXECUTIVE SUMMARY

An African Conference on Cluster Munitions was held in Livingstone, Zambia from 31st of March, 2008 to 1st April 2008. The Livingstone Conference was the first round of discussions amongst African states to facilitate the creation of an international treaty that advocates for the prohibition of all cluster munitions as they cause unacceptable harm to civilians causing devastating effects on humanity. The International Conference is a continuation of the Oslo Process which began in Norway in February 2007, where states pledged to conclude a legally binding international agreement for the prohibition of cluster munitions that cause unacceptable harm to civilians. It is envisaged that an international treaty will be signed by the end of 2008.

The Livingstone conference convened with a view to enhancing support for the Wellington Declaration by encouraging subscription to the Livingstone Declaration, which will serve as a demonstration of Africa's support for a treaty similar to the Ottawa Convention aimed at imposing a world-wide ban on the manufacture and distribution of cluster munitions in general.

The conference discussed the global threats of cluster munitions with an emphasis on experiences on the African continent. In addition, the conference built on the various elements of discussions that were key issues in the meetings held in Oslo and Vienna. These included the clearance and destruction of the residuals of cluster munitions, storage and stockpiling, victim assistance as well as international cooperation and assistance.

The African consensus was that the rules of procedure for Dublin should not be changed to show a special status for the compendium since this was not agreed in Wellington. 39 subscribed to the Livingstone Declaration on Cluster Munitions and undertook where feasible to ratify national procedures between the adoption of the treaty in Dublin and endorsement in Oslo to speed up the process of entry into force. The African consensus was that Zambia would coordinate Africa's participation at the Dublin Conference based on the positions discussed in Livingstone.

A brief account of the background to recent developments regarding cluster munitions is provided followed by introductory remarks that were made at the conference. This report then brings out the salient features of the various presentations and discussions that were made by African states on the issues cited above. It then concludes with the way forward and recommendations made during the conference.

ACRONYMS AND ABBREVIATIONS

APMBT	Anti- Personnel Mine Ban Treaty
CMC	Cluster Munitions Coalition
ICRC	International Committee for the Red Cross
ODA	Official Development Assistance
NGO	Non Governmental Organization
UN	United Nations
UNDP	United Nations Development Programme
UNICEF	United Nations International Children's Fund
ZMAC	Zambia Anti-Personnel Mine Action Center

1. INTRODUCTION

Over the last three decades, several attempts have been made by the international community to curb the use of cluster munitions to reduce the unacceptable harm caused to civilians. In efforts to resolve this, the international community came together on various occasions to find possible solutions to the unfortunate consequences brought on by the use of this weapon. After the Oslo Conference on Cluster Munitions in February 2007, concerted efforts have been made by various states to advocate for the prohibition of the manufacture and use of cluster munitions in general. Since then 69 states convened in Lima for a similar Conference on Cluster Munitions in May 2007 where a draft convention text was presented for debate by the Chair and Co-Chairs.

Following this event, regional conferences were held in Costa Rica for Latin American states in September 2007 with the view to creating a zone free from cluster munitions in Latin America. Similarly, Serbia hosted the Belgrade Conference of States Affected by Cluster Munitions in October 2007 where several African states adversely affected by these weapons distinctly called for an urgent action and the prohibition of the use of cluster munitions.

In December 2007, the Vienna Conference on Cluster Munitions was convened with 138 countries participating. At this meeting, the text initially presented for discussion in Lima was reviewed with a consensus on strengthening several provisions such as victim assistance. It was after this event that the Wellington Conference on Cluster Munitions was held in February 2008 with 120 countries in attendance at which the Wellington Declaration was endorsed by more than 80 states.

The Declaration of African States emanating from the Livingstone Conference on Cluster Munitions, held from 31st March to 1st April 2008, is a crucial step to implementing an international ban on cluster munitions. It is envisaged that the Dublin Diplomatic Conference in May 2008 will finalise the Oslo Process where an international convention will be negotiated and adopted. It is also expected that the essential elements of such an instrument will include a prohibition on the use, production, transfer and stockpiling of cluster munitions that cause unacceptable harm to civilians with a framework for cooperation and rehabilitation of survivors and their communities, clearance of contaminated areas, risk education, and the destruction of stockpiles.

2. OPENING CEREMONY

The Livingstone Conference began with an opening ceremony giving participants an indication of the key issues relating to cluster munitions and what had transpired since the Oslo process began in 2007. The first statement was given by the Honourable Minister of the Southern Province Mr. Daniel Munkombwe who stated that it was a rare privilege for the country to host such an important

meeting that focused on effective responses to the humanitarian consequences caused by the use of cluster munitions and the threat caused by them.

Dr Robert Mtonga, a member of the Steering Committee of the Cluster Munition Coalition, who spoke on behalf of the Coalition (CMC), stated that the chasm between Wellington and Dublin was the most critical phase of the Oslo process. During this time, the CMC is supporting three regional initiatives bringing together Africa, South East Asia and Latin America and the Caribbean to ensure that there is wide support for a comprehensive International Treaty against Cluster Munitions with "no loopholes, no exceptions and no delays".

He informed the meeting that the CMC strived to convince producers and stockpilers such as the United Kingdom, France and Germany to commit to a categorical ban on cluster munitions. At the same time, the organisation worked to convince African Nations and all affected around the world to make this a high priority on respective agendas. He stressed that the shared interest would be to look beyond short-term military imperatives and reframe the security debate as a question of human security, of protecting individual people and not encouraging military forces that endanger civilians' safety. He emphasised the need for a common voice to dominate the negotiations at the Dublin Conference.

On behalf of the Norwegian Government, the Ambassador to Zambia, His Excellency Tore Gjos acknowledged the problems faced by all after the use of cluster munitions on the African continent. He pointed out that the Livingstone conference was a crucial phase in the process of banning cluster munitions, to gather momentum and support to prepare for the negotiations in Dublin. He added that the experience from the Ottawa process that led to the adoption of the Mine Ban Convention demonstrated that the participation of African states was essential to that successful outcome. He also stressed that the international convention would be an instrument that would prevent the transfer of cluster munitions and would help to avoid a humanitarian disaster of a similar magnitude as landmines posed a decade ago.

The Ambassador emphasised the need to establish a legal framework of obligations to stifle the demand for such weapons and further ensure that the controlled destruction of the large stocks of these weapons is implemented. He stated that the Oslo process was an inclusive process open to all states, NGOs and civil society that all share the objective of establishing a new, legally binding instrument against the manufacture and use of cluster munitions and all that endorse the Wellington Declaration. He also acknowledged the fact that different national positions would be taken but nonetheless appealed to all those that had not yet signed the Wellington Declaration to do so.

The United Nations Children's Fund (UNICEF) Country Representative Ms. Lotta Sylwander reaffirmed the support of the United Nations for all the efforts to conclude a legally binding international instrument prohibiting cluster munitions

that cause unacceptable harm to civilians. She indicated that the Secretary General of the UN had called upon all states to take measures to immediately freeze the production, use and transfer of all cluster munitions in order to address the everyday human rights, humanitarian and developmental impact of cluster munitions on affected communities.

She noted that UNICEF has often highlighted the terrible effects of cluster munitions on children representing 40% of cluster munitions casualties. She further noted that cluster munitions contamination has affected the lives and livelihoods of people in 27 countries and territories, of which nine (9) of these are in Africa and a total of 13,000 confirmed cluster munitions casualties have been identified by Handicap International.

Ms. Sylwander added that United Nations Development Programme (UNDP) and UNICEF have extensive experience on the ground and at global and local levels in providing assistance to governments to build capacity and eliminate the threat of cluster munitions with the support from the UN Mine Action Service. She hoped that African countries would conclude the Livingstone Conference by endorsing a far reaching Declaration that would have a profound impact on the process of negotiations in Dublin.

The opening Ceremony continued with remarks from the Honourable Minister of Foreign Affairs Mr Kabinga Pande, who observed that the issue of cluster munitions was a difficult one and that the weapons posed a threat to innocent civilians. The Minister acknowledged the fact that the continent lacked technical and financial capacity to deal with cluster munitions and called for the redirection of available resources to improving the lives of civilians and other affected individuals on the continent. Mr. Pande urged all present to strengthen Africa's position against the manufacture, distribution and use of cluster munitions and that all states that subscribe to the Livingstone Declaration would further strengthen the efforts of the Wellington Declaration.

3. SETTING THE SCENE

Brief accounts of personal experiences regarding accidental harm caused by cluster munitions began with Mr. Yona Phiri from the Zambia Campaign to Ban Landmines (ZCBL). He opened this session by giving a description of how he lost his limbs after a landmine exploded in Zambia during the Liberation wars in the 1960s. He appealed to states to support a strong treaty that would ban cluster munitions.

3.1 Global Threats to Cluster Munitions

Mr. Thomas Nash began his presentation with a general overview of the global threat of cluster munitions. He defined cluster munitions as a weapon comprising a number of explosive submunitions or bomblets that are dispersed from a container similar to peas in a pod and that the containers could be dropped from aircraft or fired from artillery rockets. The container was designed to open over the target and saturate an area, or footprint, which could be the size of several football fields flooded with explosive submunitions. Cluster munitions were designed to have indiscriminate effects at the time of attack because they scatter submunitions over a large area and kill or maim any civilians caught in the footprint leaving behind dangerous duds and creating de facto minefields.

Mr. Nash explained that the significant event in the development and subsequent use of cluster munitions was the Korean War, when USA commanders confronted the threat of seeing their forces over-run by hordes of enemy soldiers. They were born from a fear of unlimited manpower. The result was a revolution in anti personnel weapons with an emphasis on producing of fast flying lethal fragments designed to maximise the damage to soft tissue over the largest possible area. The next steps in the development of cluster munitions were the inclusion of anti-armour capacity to create the first “combined effects’ and the increase of the sheer numbers of submunitions delivered.

As to who the cluster munitions were designed to be used against - massive quantities have been used not only in response to human wave attacks, but also in a largely unsuccessful attempt to hamper enemy movement, lines of communications and logistical stores. The munitions have been used in plain jars in Laos, affecting an entire generation; Vietnam, Western Sahara, Croatia, Eritrea-Ethiopia war, Kosovo, Lebanon, Afghanistan and in the Gulf War among others.

3.2 Introduction to Cluster Munitions in Africa

Ms. Margaret Arach Orech (CMC-Uganda) informed the conference that there were 30 affected countries with 34 known to have produced these weapons and a further 76 identified to stockpile. She told the meeting that in February 2008, 40 states participated in the Oslo Process to ban cluster munitions and that so far, 19 African nations were subscribed to the Wellington Declaration.

As stated in the opening remark above Ms Orech pointed out that cluster munitions were known to kill and maim people and added that the weapons deny access to agricultural land and retard the development of a nation. She further stated that it was a well known fact that undocumented casualties were much higher than documented ones. Recorded evidence shows that a total of 369

casualties in Africa were brought on by cluster munitions accidents and provided the following data:

Country	Number of Casualties
Ethiopia	272
Democratic Republic of Congo (DRC)	5
Guinea Bissau	11
Sierra Leone	39
The Sudan	43

She said the cluster munitions contamination in Africa includes countries like Chad, the Sudan, Eritrea, Ethiopia, Uganda, DRC, Angola, Sierra Leone and Western Sahara. Two States are known to produce cluster munitions in Africa. These are Egypt and South Africa, while those that stockpile are Algeria, Angola, Egypt, Ethiopia, Eritrea, Guinea Bissau, Guinea, Libya, Morocco, Nigeria, South Africa, Sudan, Uganda and Zimbabwe,

In conclusion she emphasised the fact that Africa has been brutally affected by the casualties brought on by cluster munitions and that it was important to make concerted efforts to rid the continent of the weapons and pave way for progressive development. She added that measures must be put in place to prevent further contamination that will reduce the number of new victims and curb proliferation

3.3 From Oslo to Dublin

The Irish Ambassador to Zambia, His Excellency Mr. Bill Nolan expressed concerns over the experiences of the African continent, and how its people suffered directly from the horrendous impact of cluster munitions. He pointed out that the weapons represented a major humanitarian and political challenge that the international community must tackle. Ireland has long sought urgent action to address the problem of cluster munitions and it is a priority issue for the Irish Government. He also stated that it was desirable that no further populations were affected by cluster munitions and that every effort should be made to prevent further use.

In view of large and growing international consensus, the key priority would be the adoption of a legally binding international instrument prohibiting the use of cluster munitions, which have such impact. He informed the conference that Ireland is therefore particularly pleased to host the Dublin Diplomatic Conference on Cluster Munitions in May 2008 to adopt a new instrument of international humanitarian law prohibiting cluster munitions that cause unacceptable harm to civilians and that the Treaty will be the most comprehensive of its kind in addressing challenges posed by cluster munitions.

He informed the meeting that the Conference would take place from 19th to 30th May 2008 at the Croke Park Convention Centre and that a sponsorship programme was available for participating states that are low-income or cluster munitions affected countries. The Ambassador appealed to those States which had not endorsed the Wellington Declaration to do so as the Declaration sets out the basis for negotiation at the Diplomatic Conference and subscription to the Declaration is required for full participant status in Dublin.

Some intervention statements were made after presentations. Discussion began with the delegation from Sierra Leone that stated that it is one of the nine (9) countries on the continent that are negatively affected by the incidence of cluster munitions. They added that Sierra Leone is an ardent supporter of the Oslo Process and strong advocate for an international legal instrument on cluster munitions. There was, therefore, need to adopt the treaty in Dublin. Similar sentiments were expressed by Guinea Bissau being a post conflict country. In addition to this, the delegation informed the meeting that it endorsed the Wellington Declaration and was ready to sign the Livingstone Declaration. In addition, despite not being represented at Wellington, Tanzania subscribed to the Wellington Declaration and indicated that it would also endorse the Livingstone Declaration to support Africa's position for the prohibition of cluster munitions.

The Minister of State for Relief, Disaster Preparedness and Refugees in Uganda, Hon. Musa Ecweru pointed out that Africa has been used as a dumping ground for dangerous weapons including cluster munitions, and emphasised the need for African nations to support efforts to ban the use of cluster munitions. He also informed the meeting that Uganda was ready to host another Africa regional meeting after the Dublin negotiations in September this year. This was to further commit themselves to the cause for the ban on cluster munitions in Africa.

He stressed that Uganda did not stockpile cluster munitions and had never designed or manufactured cluster munitions, despite the fact that submunitions have been found in the country as a result of the use by non-state armed groups and other states. He added that Uganda was doing everything possible to destroy submunitions found and implored states and non-state actors who use, transfer or stockpile cluster munitions to stop immediately. Uganda has endorsed the Wellington Declaration.

Mozambique informed the conference that it was among the first 46 states to subscribe to the Oslo Process and that the Livingstone Conference would be a milestone in the process to ban cluster munitions. The meeting was told that Mozambique had endorsed the Wellington Declaration and that it would support the Livingstone Declaration.

Other countries that announced their support for the Wellington Declaration and would support the Livingstone Declaration included Zimbabwe, Morocco and

Kenya. Cameroon a war torn state, informed the meeting that it had not endorsed the Wellington Declaration but supported the efforts of ongoing negotiations.

4. DEFINITION AND FUNCTIONS OF CLUSTER MUNITIONS

Professor Ove Dullum, Chief Scientist under the Division for protection from the Norwegian Defence Establishment, began the second session of the conference with an account of cluster munitions giving an overview of the various types and uses. He defined cluster munitions as weapons containing multiple explosive submunitions that are launched from a surface or from the air and are designed to break open in midair, releasing the submunitions and densely covering large areas of land at a time.

In his presentation, Prof. Dullum informed the meeting that there were four basic types of cluster munitions. These are 1) cluster bomb 2) canister (ejected bomblets) 3) artillery delivered units and 4) rocket delivered bombs. He added that cluster munition bombs could also come in the form of rocket launched units (from a helicopter) or from tank ammunition. The overall effect of these bombs is the dispersion of fragments over a wide area, blasts, heat or penetration with at least 700 pieces dispelled by each bomblet. He contended that cluster munitions could be done away with and were not irreplaceable capacity weapons. He concluded that alternative solutions exist that are more effective with lower incidences of duds remaining after the bombs are deployed.

Further considerations for the abolition of cluster munitions were provided by Mr Richard Moyes, Policy and Research Director for the NGO Landmine Action, Steering Committee member of the CMC. He pointed out that the draft convention in its current form provides a prohibition for stockpiling, production and transfer of cluster munitions as a whole category with no distinction over what type may be considered good or bad. He contended that this approach was critical to making an effective treaty for the protection of civilians internationally as it would make cluster munitions a stigmatised weapon.

Mr Moyes pointed out that a small group of countries are proposing exclusions based on various technical characteristics under Article 2 of the convention. Proposals include the exclusion of cluster munitions that contain a lower number of submunitions, direct fire cluster munitions, supposedly reliable cluster munitions that self destruct and finally those with computerised sensors to identify individual targets on the ground. The CMC does not believe that any exclusion has been adequately justified as there is no real evidence to support the fact that the post conflict contamination effects would actually be minimised. He emphasised that the focus of the arguments should be on the humanitarian effects of these weapons. The exclusion clauses could be used to allow for continued use of weapons that might pose great risk to civilians. In the same vein, the African consensus requires that the definition structure remains as it is

in the current text and that a categorical prohibition is the only way to make the treaty meaningful.

5. GENERAL OBLIGATIONS AND SCOPE

Key issues for African countries were calls for no transition period to be allowed in the international convention, implying that there must be no amendments to the current text of the treaty. It also required that the text on assistance should be clear and should not be watered down to accommodate joint operations with non-states parties; this would also entail maintaining the current text. In addition, the African consensus called for the banning of assistance which includes financial investment in cluster munitions and advocates that positive obligations to undertake victim assistance, clearance and stockpile destruction should also be under obligations, implying that the text in the current treaty must be strengthened.

Discussions on Article 1 were led by Mr. Louis Maresca from the International Committee of the Red Cross who presented a paper on the General Objectives and Scope of the draft Convention emphasising the importance of the Livingstone Conference in the Oslo Process. It was shown that Article 1 was not the goal in itself but merely outlines the prohibition on cluster munitions. Like previous conventions, such as the Chemical Weapons Convention, the draft prohibits certain types of weapons. He noted the need for a separate article on the scope of applications.

It was noted that the treaty contained an unlimited duration clause indicated by the phrase "Never under any circumstances" will a State Party to the future Convention on Cluster Munitions use, produce, stockpile or transfer cluster munitions. As such each State Party undertakes never under any circumstances to use cluster munitions, develop, produce, otherwise acquire, stockpile, retain or transfer to anyone, directly or indirectly, cluster munitions. It also ensures that a state party shall not under any circumstances assist, encourage or induce anyone to engage in any activity prohibited of a State Party under this Convention.

The Convention does not apply to "mines" as defined by the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-traps and Other Devices, as amended on 3 May 1996, 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.

As was seen at the Vienna and Wellington Conferences, interoperability and transition were two controversial issues under discussion on the scope of the future treaty. It was explained that two divisions might emerge in Dublin concerning military interoperability, one that contends that national rules and declarations are not enough to address the violations of provisions of the

convention and that national declarations and rules of engagement were adequate to address these concerns. It was further explained that countries advocating for transition want time to develop alternative weapons. It is recommended that such States should not subscribe to the convention until such a time when they are ready to join.

Ms Susan B. Walker, ICBL Advisor on Cluster Munitions made a presentation on the prohibition on assistance. She stated that the overall objective in the Oslo Process was nothing less than to deliver a humanitarian gift to the world in 2008 by concluding a legally binding treaty for a comprehensive ban on the production, use, stockpiling and transfer of cluster munitions, as defined in the treaty. This could be accomplished with the help of each country working in close partnership with the CMC, the ICRC and the UN.

The Cluster Munitions Coalition called for a Convention “*Without Exceptions, without delays and without loopholes*”. This call was supported and echoed by a number of countries reflecting the commitment of African countries to the achievement of a strong and comprehensive Convention in Dublin. The draft Convention, as it stands, was excellent hence the need to work together to ensure that it is only strengthened and not weakened in Dublin.

It was explained that the cornerstone of a strong convention was contained in Article 1 of the draft Convention covering the “General Obligations and Scope”. Article 1 was crucial because it contains the comprehensive ban and stigmatizes cluster munitions. “Never under any circumstances” will a State Party to the future Convention on Cluster Munitions use, produce, stockpile or transfer cluster munitions. The three things that are apparent are the idea of a transition period; Article 1.c – the prohibition on assistance; and the possible inclusion of positive obligations in Article 1.

The CMC strongly opposes inclusion of any transition period which lasts for several years, as being proposed by some countries. The reason being that if cluster munitions are banned because they cause unacceptable harm to civilians, then why allow them to continue to be used for 8 more years. The CMC was emphatic issue as it would undermine the purpose and integrity of the treaty. Additional reasons not to include a transition period can be found in the CMC Position Papers.

Concerning Article 1, under General Obligations, the CMC recommends that states should consider including positive obligations in Article 1 on stockpile destruction, clearance of cluster munition remnants and providing risk education and victim assistance so that they will bear the same importance as other obligations. Addressing victim assistance alongside other general obligations under the cluster munitions convention will appropriately codify the status of international standards, such as within the Mine Ban Treaty framework, which recognizes victim assistance as a main pillar.

Article 1(c) is the prohibition on providing assistance to anyone to use, produce, and transfer or stockpile cluster munitions. The CMC encourages delegations in Dublin to elaborate for the diplomatic record what acts are prohibited and what acts might be permissible and to articulate a common understanding on the matter - including that the prohibition on assistance also includes a prohibition on investments in cluster munitions. Other acts include “interoperability” issues, which have been raised as a concern by a number of states in the Oslo Process. Prohibited acts in interoperability or joint operations would include, for example, participating in planning for use of cluster munitions; agreeing to rules of engagement permitting use of the weapon; accepting orders or requesting others to use the weapon; knowingly derive military benefit from the use of the weapons by others; training others to use the weapon or providing security, transport or storage for cluster munitions.

As outlined in the Landmine Monitor Fact Sheet in Wellington, the experience of the past decade with the 1997 Anti-Personnel Mine Ban Convention shows that this kind of situation can be dealt with devoid of fracturing alliances. Senegal raised concerns on the transfer of cluster munitions hence the need for a concise definition within the convention so that misrepresentation was avoided and also called for a reduction in the transition period to a 5 year period.

Benin opposed the idea of having a transition period in the convention because it was against the principal of the Oslo process. The conference was informed by Zimbabwe that there was need to focus more on the humanitarian aspect of what the convention intended to achieve, as such a transition period was not in the best interest of the convention. Further, imbedding a transition period in the convention negated the whole essence of having a convention against the use of cluster munitions. In general, there was consensus on endorsement of the Wellington Declaration and the subsequent Livingstone Declaration by Congo Brazzaville, Benin, Zimbabwe, Senegal and Malawi.

In conclusion, African countries were encouraged to be strong on not allowing any transition period in the Convention and to make clear the understanding that the objective of Article 1.c is to stigmatize and discourage in every possible way any use of cluster munitions by any armed force. They were further encouraged to consider including positive obligations on victim assistance, clearance and stockpile destruction.

6. CLEARANCE AND STOCKPILE DESTRUCTION

African consensus concerning clearance and stockpile destruction centred around past users having an obligation to facilitate the clearance of cluster munitions in places where they have used them, implying that the current text of the treaty had to be enhanced to emphasis this. Key points for African consensus were that past user states should have a particular obligation to facilitate the

clearance of cluster munitions in places where they have used them, implying that the current strength of the text should be maintained.

In the discussion, the Angolan delegation observed that the matter of clearance and stockpile destruction deserved significant attention. Angola having been affected by landmines takes keen interest in the subject. The delegation informed the meeting that a number of munitions were still laying in most parts of Africa, hence the need for combined efforts in order to prepare a bright future for Africa's children. Angola further informed the meeting that they fulfilled the provisions of the Ottawa convention and had recently endorsed a National Strategic Plan to reduce the areas of impact by 2010.

On the transition period, Mauritania proposed a reduction of the period to 4 years. The legal provisions in Article 4.2 would therefore need to be strengthened accordingly. Zimbabwe made a clarification that they had no stockpile of cluster munitions as had been implied in the presentation made earlier.

The Guinea Bissau delegation reiterated the adverse effects of cluster munitions and made a call to the international community for help in the disarmament processes. They informed the meeting that they had received technical aid from among others, the United States of America; and were in the process of getting help from the European Union, to embark on an exercise to destroy cluster munitions.

Senegal called upon other countries and the international community to help in the disarmament process as well. The delegation acknowledged the assistance that Morocco had been offering to Senegal in the destruction of cluster munitions.

The Burkina Faso delegation expressed appreciation of the Oslo process. The delegation assured their full support for a comprehensive ban on cluster munitions as they posed a security threat on the African continent. The delegation noted the need to strengthen article 9 of the draft convention on the measures to be undertaken to apply obligations into national legislative processes, plus the inclusion of parliamentarians in the process and strengthening the civil society.

The Egyptian delegation contends that countries that were producing cluster munitions were not participating in these deliberations and that those using them were seeking for amendments to the draft convention. To this end, Egypt noted that the convention did not have clear obligations on countries selling or using the cluster munitions. Thus the delegation proposed amendments to the Livingstone declaration before it could subscribe to it.

In conclusion, the discussion noted the need for retention of Article 4 of the convention that past user states should have a particular obligation to facilitate the clearances of cluster munitions in places were they have been used.

Morocco proposed that African countries need to facilitate the process by strengthening the present treaty text as this would provide inspiration. Angola, Burkina Faso and Senegal expressed their desire to endorse the Livingstone declaration during the session.

7. VICTIM ASSISTANCE

In this session, discussions began with the Co Chairs acknowledging that atrocities committed during war left behind negative psycho-social effects. They pointed out the need to have a post conflict victim assistance programme in place. It was also noted that while victim assistance was the primary obligation of states, it was important that international cooperation be an integral part of interventions. It was also important to have a legal instrument that would address support for victims.

Presentations were made by two survivors from Rwanda (Aimable Rukundo – Handicap International/ Landmine Survivors Network) and Ethiopia (Berihu Mesele Arefaine – Landmine Survivors Network). The two were both maimed by cluster bomb explosions in two separate incidents in their respective countries. Mr. Rukundo recounted that he sustained injuries in a blast at a bus stop while Mr. Arefaine was injured while trying to evacuate children from a school during the Ethiopia/Eritrea conflict. They both applauded efforts by African states to come up with a common front on dealing with the issue. They further urged African states to maintain strong treaty text that would facilitate victim assistance and reintegration so they would contribute positively to the development of their communities.

Ken Rutherford, Co-Founder of the Landmines Survivors Network also made a presentation during this session. Mr. Rutherford who is a mine victim gave a background of how Africa was instrumental in coming up with a strong position on the Anti Personnel Mine Ban Treaty (APMBT). In his presentation, he pointed out that while the APMBT was a milestone in arms control, the draft cluster munitions treaty presented an opportunity to raise the standard by the inclusion of clauses in the text that dealt, for the first time, with victims and their families and communities; human rights and mandatory reporting.

Mr. Rutherford urged delegates to endorse the Livingstone Declaration to show a united African stand; the Wellington Declaration to facilitate their participation at the Dublin Conference in May 2008 and to support the new standard for victim assistance. His concluding remarks included a quote by Yona Phiri, a Zambian mine survivor, and Nobel Peace Prize Laureate Jody Williams who stated respectively “Vision and Determination” and “Feelings without action is meaningless”.

In response, Eritrea submitted that cluster bombs had been used in its territory during the Ethiopia-Eritrea conflict and civilians in major cities and internally

displaced persons in resettlement areas, fell victim to attacks. The delegation further stated its full support for the prohibition of all weapons which indiscriminately maim and kill. Similarly, Mauritania, Lesotho and Madagascar all expressed their total support for the Oslo Process, the Wellington and Livingstone Declarations and also called on African states to take a common position during the Dublin negotiations. In addition, Malawi and Zambia contended that the legal obligation by user states to provide assistance to victims should be maintained in the treaty text, and that this would be a milestone in setting a new standard in victim assistance.

Tanzania, as the Chair of African Union, Malawi, Namibia, Uganda, Niger, Zambia and Liberia all suggested that treaty text should have a provision to improve the living standards of victims and that it was important for victims to be involved in decision making and for all subscribe to the objectives of the Livingstone Declaration. Angola also contended that there was need to have policies that would address the plight of women and children who were victims. Further consideration was given for a penal clause that would deal with the humanitarian aspect to ensure victims get the full benefit of assistance. South Africa supported a text that would comprehensively address the needs of victims of cluster munitions that cause unacceptable harm. Norway highlighted the fact that the issue of cluster munitions was a humanitarian one therefore; the solution required a humanitarian response. There was a discussion over who would be Africa's representatives to give the African position while clarification was sought on whether producers should be obligated to give victim support.

8. INTERNATIONAL COOPERATION AND ASSISTANCE

Article 6 of the Convention stipulates that there should be a particular responsibility on past user states to provide assistance to states affected by their past use. Calls were made to strengthen the text in the new treaty, in line with international law. Uganda expressed concern and proposed the inclusion of clause that would clearly state a mechanism to help affected states with clearance. The DRC and Morocco both reiterated the need to strengthen the treaty in this regard and that the Livingstone Declaration was a step towards endorsing the Wellington Declaration.

However, the DRC had reservations over the transition period as it left room for the production of cluster munitions. The Government of the DRC felt that as highly indebted country victim assistance should be a large part of the international cooperation and assistance to aid the process of poverty alleviation. In addition, users should be obligated to provide financial assistance and that affected countries should create strategies to address the needs that must be covered such as victim assistance, infrastructural damage and risk education. The DRC also stressed the need to address the socio-economic aspects of victim assistance, calling for emphasis to be on re-integration of the victims of

cluster munitions. The clause should stress a mandatory aspect of assistance for user countries. Similar sentiments were expressed by Kenya who focused on strengthening the legal implications and feasibility of the clause.

Victim assistance under Article 6.7 was addressed by Guinea-Bissau pointing out that more emphasis must be put on it at the Dublin Conference, since it had not been a high priority on the agenda of previous conferences. Benin informed the meeting that as a means to contributing to humanity the Benin Government has established a school that provides training in de-mining that is available to all African and international states, however, operations were impeded by material, logistical and financial constraints. The international cooperating partners were called upon to support the school. The school is currently in the process of being certified by the United Nations.

Senegal proposed for the inclusion of states that are not party to the treaty so as to enable countries access more financial assistance in this area. On the other hand, Liberia believed that restriction on the countries must be maintained in Article 6 and that all should recognise that several states are not users or producers but are affected by the incidence of residual cluster munitions nonetheless.

In general, The Oslo Process, the Wellington and Livingstone Declarations and a comprehensive ban are all supported by more than 75 percent of the African States, with the exception of South Africa that feels there should be exclusions from the ban for some cluster munitions as they may be necessary for national defence and Egypt which will not sign the treaty unless all major producers and users sign it.

It was agreed that one African country would be appointed to coordinate the process towards Dublin. It was also decided that the African Union would be notified about the outcomes of its deliberations by Zambia, as the host and that its delegation would coordinate Africa's participation in Dublin. Liberia agreed with the proposal that the African Union be approached. Zimbabwe, Uganda, Nigeria, Morocco and Libya agreed with the suggestion. The meeting noted that going by the proposal it would ensure that Africa spoke with one voice in Dublin.

9. CONCLUSION

In summary, the African consensus was that Zambia would coordinate Africa's participation at the Dublin Conference based on the positions discussed in Livingstone. To begin with, it was agreed that the rules of procedure for Dublin would not be changed to show a special status for the compendium since this was not agreed in Wellington. Secondly, States should undertake to ratify national procedures between the adoption of the treaty in Dublin and endorsement in Oslo to speed up the process of entry into force.

In their deliberation, African countries called for no transition period to be allowed in the international convention, implying that there must be no amendments to the current text of the treaty. It was also established the text on assistance should be clear and should not be watered down to accommodate joint operations with non-states parties; this would also entail maintaining the current text. African consensus also called for the banning of assistance, which includes financial investment in cluster munitions.

Finally, obligations to undertake victim assistance, clearance and stockpile destruction should also be under consideration, implying that the text in the current treaty must be strengthened. The African consensus calls for past user states to have a particular obligation to facilitate the clearance of cluster munitions in places where they have used them, implying that the current strength of the text should be maintained.

APPENDICES

A-1 LIVINGSTONE DECLARATION ON CLUSTER MUNITIONS

Preamble: *the following declaration has been endorsed by the following African States present at the Livingstone Conference on Cluster Munitions; Algeria, Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Comoros, Congo (Republic of), Cote d'Ivoire, Democratic Republic of Congo, Eritrea, Ghana, Guinea Conakry, Guinea-Bissau, Kenya, Lesotho, Liberia, Libya, Madagascar, Malawi, Mali, Mauritania, Morocco, Mozambique, Namibia, Niger, Nigeria, Senegal, Seychelles, Sierra Leone, South Africa, Sudan, Swaziland, Tanzania, Tunisia, Uganda, Zambia and Zimbabwe.*

African States met in Livingstone from March 31 to April 1, 2008, within the framework of the Oslo process to consider effective responses to the humanitarian consequences caused by the use of cluster munitions and the proliferation threat thereof. African States endorsing the Livingstone Declaration on Cluster Munitions:

cognisant that for decades African communities have suffered from the uncontrolled proliferation of conventional weapons to the continent. More than 30 African countries have been contaminated to various degrees by landmines and Unexploded Ordnance (UXO). Most of them are still facing the challenges this contamination poses to development and human security years after conflicts have ended. Cluster munitions have so far been used in a comparatively low number of countries in Africa;

convinced that by the end of 2008 this solution must include the conclusion of a legally binding international convention prohibiting production, stockpiling, use and transfer of cluster munitions that cause unacceptable harm to civilians, with a framework for cooperation and assistance that ensures adequate provision of care and rehabilitation to survivors and their communities, clearance of contaminated areas, risk reduction education, and destruction of stockpiled cluster munitions;

African states strongly believe that Victim Assistance is an essential component of the treaty, and support strong provisions requiring each state to provide assistance to survivors of cluster munitions their families and communities in care, rehabilitation, economic and social inclusion and participation of survivors in the decision-making processes that affect their lives.

cognisant that several African States have experienced the devastating humanitarian, and developmental effects cluster munitions' cause on children, women and men and their communities;

convinced that it is vital to spare all other African countries from additional contamination and ensure that these weapons are not used in Africa in the future;

cognisant of the devastating effects that cluster munitions pose on humanity and that all harm is unacceptable;

convinced that only a new legally binding convention can prohibit the transfer, stockpiling, production and use of cluster munitions that cause unacceptable harm to civilians as well as prevent Africa from continually being a dumping ground for weapons obsolete in other places;

convinced that African States were crucial in securing the Anti-Personnel Mine Ban Convention in 1997. That Convention addressed an acute crisis affecting hundreds of thousands of Africans. A new Cluster Munitions Convention will effectively prevent such a disaster from unfolding again;

encouraged by work done at previous conferences welcome the convening of a Diplomatic Conference by the Government of Ireland in Dublin from May 19th to 30th 2008 to negotiate and adopt such a Convention;

affirm the objective of concluding the negotiation of a new comprehensive convention prohibiting the production, stockpiling, transfer and use of cluster munitions that cause unacceptable harm to civilians in Dublin in May 2008;

recognise and welcoming the efforts made by all participants in the process to establish a new comprehensive convention prohibiting production, stockpiling, transfer and use of cluster munitions that cause unacceptable harm to civilians by the end of 2008;

encourage all African States to endorse the Wellington Declaration on Cluster Munitions and thereby join in their efforts towards concluding such an instrument;

declare that ALL cluster munitions that cause unacceptable harm must be subject to the negotiations of a legally binding international convention in Dublin that prohibits their production, stockpiling, transfer and use. Such prohibition should be total and immediate from the convention's entry into force in order to prevent further suffering.

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Benin
Botswana
Burkina Faso
Burundi
Cameroon
Comoros
Congo
Cote d' Ivoire
D.R. Congo
Eritrea
Ghana
Guinea Conakry
Guinea-Bissau
Kenya
Lesotho
Liberia
Libya

Madagascar
Malawi
Mali
Mauritania
Morocco
Mozambique
Namibia
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