

**CMC intervention on emerging challenges to the norm prohibiting cluster munition**  
*Intersessional Meeting, Convention on Cluster Munitions, 7-8 April, 2025*

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Thank you, Chair,

**Providing the evidence base**

For over two decades, members of the Cluster Muniton Coalition and other civil society groups have provided research that helped bring to light the massive harm to civilians caused by cluster munitions and how their inherently indiscriminate nature at time of use and long afterwards meant that it was virtually impossible for them to be used in accordance with international humanitarian law. These findings from the field formed the evidence base for our advocacy and for the Convention on Cluster Munitions itself. They continue to do so to this day.

One of the first Human Rights Watch [reports on cluster munitions](#) condemned NATO's use of cluster bombs in its 1999 air campaign against the Federal Republic of Yugoslavia. We detailed how five children in Kosovo were killed after handling “colourful” and “volatile live remnants” of US submunitions used in NATO airstrikes in Kosovo. We detailed how a NATO attack on the airfield in Nis went off target, hitting a hospital complex and adjoining civilian areas. The immediate and long-term humanitarian impact of cluster munitions on civilians was apparent from the start.

At that time—1999—we estimated that cluster bombs used by the United States had an estimated mechanical and fuze failure rate of 5 percent. We warned about how the widespread use of cluster bombs can also pose a severe hazard to friendly ground force operations, including peacekeeping forces, as happened to international forces in the 1991 Gulf War.

We laid this out [in a memo](#) distributed at the Convention on Conventional Weapons in December 1999, which made the case for a global moratorium on the use of cluster bombs until humanitarian concerns could be adequately addressed. We continued to raise the alarm at CCW and elsewhere, issuing detailed reports documenting civilian harm from US cluster munition use in [Afghanistan in 2001](#) in its [2003 invasion of Iraq](#), as well as from Israel's use in south [Lebanon in 2006](#).

In November 2003, Human Rights Watch joined 84 other civil society groups [in launching](#) the Cluster Muniton Coalition, a global campaign that called for no use of cluster munitions “until their humanitarian problems have been resolved” and later for a comprehensive ban. Over the next five years, the CMC helped reframe how cluster munitions were viewed, through its documentation of unacceptable dangers to civilian populations and [spotlight on technical flaws](#) associated with these weapons.

In November 2006, the CCW adopted Protocol V on Explosive Remnants of War. We [described](#) the protocol as potentially helpful to reinforce the urgent need to clean up the deadly leftovers of war, but warned that “the text is so weak, the success of the protocol will depend on aggressive and thorough implementation by governments.” Protocol V is replete with qualifiers and ambiguities, to the extent that its key provisions could be considered voluntary.

The Cluster Munition Coalition then [urged](#) states to go further by adopting a treaty on cluster munitions. By that point, it was clear that even cluster munitions with low dud rates in tests had been shown to have much higher rates when used in actual conflict situations, such as in Lebanon where massive bombing by Israeli forces in the last days of the 2006 war left contamination still being cleared today. Norwegian People’s Aid found around 10% of cluster submunitions failed to explode on impact and 25% of self-destruct submunitions did not function as intended. During negotiations, when states were seeking multiple exemptions, we challenged states to demonstrate conclusively that any specific cluster munition was accurate and reliable enough to avoid excessive harm to civilians.

### **Norms established by the convention**

The end result is the Convention on Cluster Munitions, adopted in Dublin on May 30, 2008, which now has 111 States Parties following Lithuania’s withdrawal last month.

The biggest accomplishment has not just been the convention itself, but also its stigmatization of cluster munitions by establishing a new international norm against use, production, transfer and stockpiling of these weapons. This can be seen in Lithuania’s experience as one of the many countries that has never produced, stockpiled, transferred, or used cluster munitions despite its proximity to a potentially threatening neighbor.

Yet during 2024, Lithuanian defense officials began to assert that cluster munitions were a necessary weapon due to changes in the national security situation, especially since Russia’s full-scale invasion of Ukraine in February 2022. At the time, Lithuania’s then-Deputy Minister of Defense [told parliament that](#) “the move to denounce the Convention is motivated by the need to make the most of all opportunities to strengthen our deterrence and defense.”

This is a very generic statement: we need to use anything and use all opportunities to defend one’s country. It is not an explicit emphasis on, or vigorous argument for, the military importance of cluster munitions. It reflects how this is a potentially futile exercise in deterrence, a signal to the Russians that Lithuania will not stop at anything to defend its territory and maintain its sovereignty, though Ukraine’s own ability to use cluster munitions as a state not party did nothing to deter Russian aggression in 2022.

But most importantly, during the 2008 negotiation of the Convention on Cluster Munitions, no states made the case for the ban on cluster munitions to apply *unless or until a state feels compelled to use them*. The convention thus applies in all circumstances—in peacetime and during armed conflict. Article 20 of the convention explicitly prevents a State Party that is engaged in armed conflict from withdrawing before the end of the conflict for this very reason.

### **Fast forward to 2025**

Three-quarters (23) of the 32 NATO member states and three-quarters (20) of the 27 European Union are party to the Convention on Cluster Munitions.

It's clear that Russia's full-scale invasion of Ukraine and uncertainty over Europe's future security are contributing to a challenging environment. As Europe prepares its security arrangements, Estonia, Finland, Greece, Latvia, Lithuania, Poland, Romania, Türkiye could now potentially resort to using cluster munitions.

We say potentially because there's little evidence that any of these states possess significant stocks of cluster munitions let alone have the military doctrine and training in place for using them responsibly. Over time, Cluster Munition Monitor has documented stockpile destruction, halts in production, and changes in acquisition that indicate cluster munitions are not regarded as a priority in these states, not since the convention's adoption in 2008.

There are many reasons for this, not least sensitivity to the development of legal norms, public scrutiny, and a tacit acknowledgment of the humanitarian underpinnings of the convention.

One practical reason can be seen in the convention's prohibition on assisting with banned activities during joint military operations. Article 21 allows a State Party to engage in joint military operations with states not party even if those states reserve the right to use cluster munitions.

This provision complicates rules of engagement, as participating States Parties must not intentionally or deliberately assist, induce, or encourage any activity prohibited under the Convention on Cluster Munitions. Forms of prohibited assistance include, but are not limited to:

- Participating in planning for use of cluster munitions by a state not party;
- Accepting orders from a state not party to use cluster munitions;
- Requesting a state not party to use cluster munitions; and
- Securing, storing, or transporting cluster munitions that belong to a state not party.

More than three-dozen States Parties have agreed that the convention's Article 21 provision on interoperability should not be read as allowing states to avoid their specific obligation under Article 1 to prohibit assistance with prohibited acts.

The injunction not to provide any form of direct or indirect assistance with prohibited acts contained in Article 1 of the Convention on Cluster Munitions should also be seen as banning the transit of cluster munitions across or through the national territory, airspace, or waters of a State Party as well as storing or stockpiling of cluster munitions by a state not party on the territory of a State Party.

### **Promoting the convention**

In closing, Mr. President, we urge all States Parties to use every opportunity to discourage use or other prohibited activities as required by Article 1, and to promote the convention's norms and promote universalization, as required by Article 21. These are legal requirements of all States Parties, and being silent, or ambiguous in communications, is not an option, especially when essential norms are under threat. For the good of these conventions and IHL more broadly, it is critical to note that it is unacceptable to abandon norms created to protect civilians in conflict *because* conflict appears more likely. Indeed, Lithuania told us privately that it went ahead with its decision in part because some of its allies showed understanding about their withdrawal behind closed doors. And the five states now planning to leave the Mine Ban Treaty have also stated publicly and privately that they are hearing similar messages of tacit support from NATO allies.

We therefore call upon states to be absolutely clear in their public and bilateral conversations that there are red lines that may not be crossed in times of conflict, and the use of cluster munitions and landmines lies firmly behind those lines.

Thank you.