

CLUSTER BAN NEWS

Friday, 23 May 2008

Dublin, Ireland

Edition 3

Editorial: Major Progress but Potential Pitfalls

After four days of negotiations, the vast majority of countries have now agreed that cluster munitions as a category of weapons must be banned under the new convention to be adopted one week from today. This is a major step forward in the negotiations, and it is a credit to the skills of Ambassador Don MacKay that this commitment has been reached from such a broad range of delegations.

The increasing focus on eliminating the effects of cluster munitions both during and after attacks is an encouraging sign that states will not weaken the treaty. However, strong concerns remain about efforts to exclude certain weapons that a number of governments argue do not have the effects of cluster munitions. This debate is central to the resolution of negotiations next week.

There is a firestorm brewing around a disturbing proposal circulated on interoperability. This proposal would gut the prohibition on assistance as it essentially allows an exception from the ban during joint operations with states not party. Such a proposal has no place at these negotiations. Any country serious about protecting civilians should reject it out of hand. The small group of countries promoting this proposal must pay less attention to the perceived requirements of

states that did not bother to attend. States should quickly produce much better text on this issue.

The humanitarian commitment of states shines through in the excellent progress on victim assistance, where groundbreaking developments linking human rights, humanitarian action, and arms control look set for adoption next week. The work on clearance has also progressed well, and many states are standing firm on the importance of noting the particular obligation of past users to provide support for affected states.

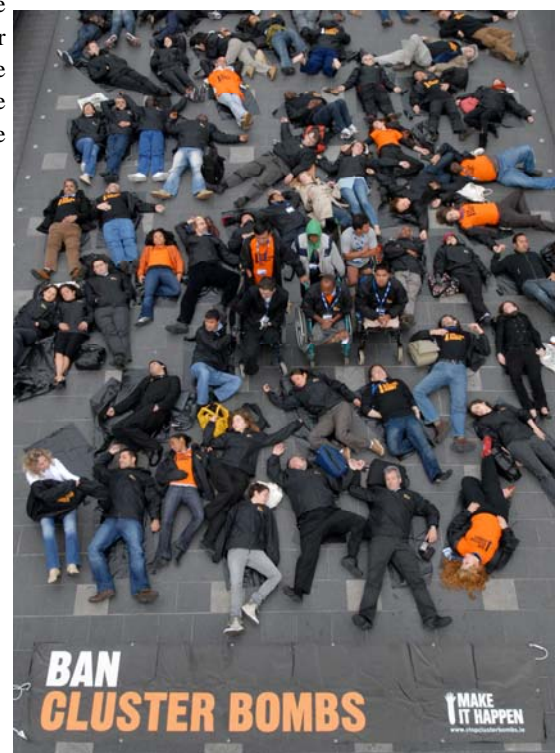
Stockpile destruction has been an area of early compromise with a clause for retention added to the treaty text, as well as an additional two years added to the destruction deadline.

The Cluster Munition Coalition's efforts in preparing for the conference through lobbying, public events, and media and parliamentary outreach have spurred delegates in Croke Park. We have great confidence that in one week states will adopt a watertight, far reaching, and historic treaty that will put an end to the suffering caused by cluster munitions, to do justice to the victims and survivors of these weapons, and to advance international humanitarian law.



Inside this issue:

Key Question	2
Make a Lot of Noise!	2
Sensor-Fuzed Submunitions	3
What Remains	4
Make a Lot of Noise!...cont	4
Step Up Victim Assistance	5
Behind Article 4(4)	5
Announcements	6

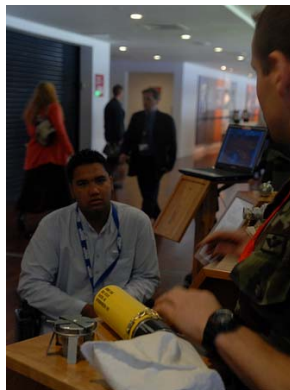


Key Question: As a young campaigner, how do you feel about the Dublin Conference?



For ordinary young people, to be a part of this historic conference, alongside diplomats and technical experts is an amazing opportunity. This is truly a reflection of the “new diplomacy.” My participation is a personal commitment to ensuring that there will be a strong and comprehensive treaty, not just to make history but to make a real difference for the victims and for our future. —*Cristian Wittman, Brazil*

I was 10 years old when I lost both my legs to a cluster munition, and I forgot about what I wanted to become when I grew up. I am so happy to be here in Dublin. By working together during these two weeks we have a real chance of banning cluster munitions forever, and avoiding that other children like me get hurt. We can also ensure that affected communities receive the support and assistance they have been expecting for a long time. It will be hard work, but we will get it! —*Soraj Ghulam Habib, Afghanistan*



My involvement with the campaign is related to my work on humanitarian and disarmament matters. Every effort, including from young people like me, counts on the road to a cluster bomb ban treaty. It is incredible to be a part of a process with humanitarian concerns as the principal driver, fostered by great people! —*Gugu Dube, South Africa*



I am a student in international relations and an intern at Handicap International France. Participating and volunteering in such an event gives me the opportunity to learn and the confidence to be a good lobbyist in the future. The realisation that for negotiations some of the most important things happen outside the negotiation room, during coffee and lunch

breaks, is surprising. To think that I can give even the smallest help to achieve a strong treaty is humbling. —*Aurélie Beaujolais, France*

When you first arrive, you feel that you have taken on a huge responsibility as you are faced by a large number of international delegates. However, seeing the efforts of the campaigners from different parts of the world, one becomes optimistic and positive that a solution can be reached. It teaches me the meaning of international cooperation and I am optimistic that there will be a good and strong treaty! —*Mahmut Sansarkan, Turkey*



I feel exhilarated to be in Dublin. I'm able to mingle with inspiring campaigners trying to influence governments to serve civilians rather than the other way round. While helping with the day-to-day logistics, I am slowly turning into a day-to-day advocate, helping the campaign exercise pressure by numbers. —*Jonas van Gisbergen, Belgium*

Make a Lot of Noise: Direct Action and Youth

On Thursday, 22 May, more than a hundred Cluster Munition Coalition (CMC) campaigners staged a lie-down against cluster munitions on O'Connell Street in Dublin City Center.

The pavement was scattered with “cluster munition victims.” Campaigners invaded the bustling public space to illustrate to the world what would happen if a cluster bomb was dropped on Dublin. Cluster munitions saturate a wide area and are unable to distinguish between military targets and civilians. Anybody within that area, be they military or civilian, is likely to be torn apart. The CMC's message was clear-cut

enough that busy pedestrians on their way to work stopped in their tracks.

During the Dublin Conference, several other public events are scheduled to let Dubliners know about the historic process that is taking place in their hometown, including a march and festival on Sunday, 25 May. The involvement of civil society has been crucial to the Oslo Process, and will continue to be so throughout and after the conference. Campaigners have a full toolkit of activities to choose from in order to obtain their goal of a strong treaty banning cluster munitions. Political lobbying inside international conferences is

important, but certainly not the only tool at hand.

Direct action, such as the lie-down event yesterday, is a powerful tool to inform the public and create awareness on an issue. A special workshop was organized on Thursday afternoon on the involvement of youth in promoting the future Cluster Munitions Convention. The Brazilian Campaign to Ban Landmines, Mines Action Canada, and Pakistani NGO Sustainable Peace And Development Organization (SPADO) have extensive, specialized youth-focused cam-

(Continued on page 4)

Sensor-Fuzed Submunitions: Too Much Faith in Technology, An Interview with Rae McGrath

Demining expert Rae McGrath of Handicap International has conducted extensive research on weapons using sensor-fuzing technology. On 21 May, he shared his findings during a lunchtime talk at Croke Park that shed light on one of the most technical aspects of the Dublin negotiations. Though the Ash Suite was almost full, some delegates were unable to attend the event and have expressed interest in an encore. Rae is attending the Dublin Conference through 30 May and welcomes approaches by countries that stockpile sensor-fuzed weapons or are considering a purchase of such weapons.

What are the main issues at stake when it comes to sensor-fuzing?

The term “sensor-fuzed weapons” does not refer to a genre of weapons which share sufficient design or impact properties that, for the purpose of this treaty, could enable us to define them as a separate group of cluster munitions. For example, it does not refer to a specific type of sensor or sensors. Therefore, there is a major question as to whether you can have blanket exclusion for a genre that does not exist. States should have to deal with each sensor-fuzed weapon individually.

What do we know about sensor-fuzing?

Part of the problem is that we know very little about how this technology is used by

weapons manufacturers. What we do know is that the only sensor-fuzed weapon to have been used in battle did not work as designed. That was the BLU-108 submunition, which was used in the Baghdad and Mosul areas in Iraq by the US in April 2003.

Was the BLU-108 thought to be “safe”?

Its manufacturers claimed it had 99% reliability, height and time self-destruct devices, a self-neutralizing feature, and that it would “leave a clean battlefield.” There is well-documented evidence that this has not been the case. There have been catastrophic failures of the post that carries the four submunitions, and individual submunitions that have failed to operate. The use of these weapons resulted in hazardous areas. We are unable to get information on weapons that have not been used. But the one time that sensor-fuzed submunitions were used, they did not work. How can you base a treaty exclusion on that?

Is it a matter of investing more resources to get more sophisticated submunitions?

The BLU-108 sensor-fuzed cluster munition has been developed over many years, with enormous budgets, by the world’s best-resourced nation. All the necessary skills and experience were available and yet the BLU-108 does not work. If the US struggles to produce a reliable cluster

munition using sensor-fuzing, how likely is it that lesser resourced nations could do so? States must demonstrate clearly that the weapon they intend to use will not cause unacceptable harm to civilians. This lies within the state’s responsibility. For many countries, this will require a far more rigorous testing and procurement regime than currently exists. I was once discussing the need for stronger testing with a representative from the Ministry of Defence, and as the discussion heated up she asked: “What do you want us to do? Will we have to test it on innocent civilians?” But this is exactly what has been done! No responsible country should accept that. —
Amélie Chayer, Staff Writer



This picture was taken in the Mosul area (Iraq) after the April 2003 strikes. The weapon has not operated as designed resulting in hazardous unexploded ordnance.

Some states have argued that submunitions designed to detect so-called point-targets should be excluded from the ban. The ability to identify and strike such point-targets is based on technology loosely referred to as sensor-fuzing—an electronic fuze that incorporates multiple sensors such as a heat sensor combined with a laser to determine the shape/size of the heat source.



Rae McGrath of Handicap International giving a presentation on sensor-fuzed cluster munitions on 21 May 2008.

What Remains: Art With a Conscience Displayed in Dublin

Alison Locke and Chris Anderson went to southern Lebanon in the aftermath of the 2006 war with Israel. The consequences of Israel's cluster munition use were plain to see: adults and children killed or maimed, uninhabitable villages, and the economic infrastructure of a country ground to a halt.

"After seeing the situation in Lebanon we wanted to give an idea of the global problem. When it comes to cluster munitions, what we are dealing with is not an isolated case but a system that has caused devastation for over 40 years," explains Anderson.

For two years, Locke, a photographer, and Anderson, a photographer and filmmaker,

travelled the world on a Landmine Action funded project to collect stories about the effects of cluster munitions on civilians. The result is *What Remains*, a stunning multimedia exhibition on display until 31 May at the Dublin Gallery of Photography, in the lively Temple Bar district. A well-attended private view of the exhibition was organised on 21 May for Dublin Conference participants.

The exhibition features photos by Locke of cluster munition survivors and a video installation projected on three large screens. It tells in a sober manner the story of people trapped in war and illustrates the consequences of conflict, specifically, the brutal

effects of cluster munitions. Compassionate yet never over-sentimental, the photos and videos depict the survivors in their daily environment, facing the camera and living their lives despite the physical, emotional, and economic impact of cluster munitions.

"We really wanted to put a human face on the suffering caused by cluster muni-

tions. It is striking how similar the experiences of these people from eight different regions are," added Anderson. Be it for a Kosovo widow whose psychological scars won't heal or a young Ethiopian kept out of school due to her disability, the lack of assistance to survivors and their families stands out as a common denominator.

These collected stories are also featured in a documentary film directed by Anderson. On Wednesday evening, as rain started to pour on Dublin, enthusiastic viewers gathered under umbrellas in the outside courtyard of the Gallery of Photography for a screening of *Unacceptable Harm, 40 Years of Cluster Munitions*.

"Art is an important tool for raising awareness. I hope this exhibition and documentary let the general public see the problem and understand what everyone in Croke Park is doing," said Anderson. With comments left in the Gallery's visitors' book that read "brilliant, emotional, shocking" or "everyone should see it to help make change and stop this happening," there is no doubt Anderson's message resonated with viewers.

A selection of photos from *What Remains* are displayed in Croke Park near the Cusack Suite. A short version of *Unacceptable Harm* is available for download at www.myspacetv.com. —Amélie Chayer, Staff Writer



Make a Lot of Noise: Direct Action and Youth

(Continued from page 2)

paigns.

Through capacity building and awareness raising these organizations involve youth in the process to ban cluster munitions. Some civil society groups may not want to invest in the extra effort to train youth campaigners, but Paul Hannon, Executive Director of Mines Action Canada, explains,

"[Youth] have a lot of time and energy they want to use. Peer-to-peer education and awareness raising are important tools, and young people tend to be able to put the message across in a clear-cut and simple way."

When asked about the use of direct action in youth campaigning, Paul Hannon was a bit more careful. "Precisely because of the amount of energy young people have, you

will have to channel this energy carefully in direct action events. If you do it right, however, it doesn't take a lot of youth to make a lot of noise."

Thursday's event is a prime example of type of direct action that CMC employs and is a model for involving youth in international campaigns. —Roos Boer, Staff Writer

Step Up Victim Assistance – Stay Strong!

Since the beginning of the Oslo Process, victim assistance (VA) has been one of the core issues discussed, with VA components of the draft convention growing progressively stronger, thanks to the commitment of all countries.

The participation of cluster munition survivors in the process has also contributed to bringing home to diplomats and military experts the real consequences of cluster munitions use and the need to ensure effective and sustainable VA provisions in this treaty.

The Cluster Munition Coalition (CMC) came to the Dublin Conference with very high expectations for a strong treaty which would include comprehensive VA provisions. Therefore, the CMC was

extremely pleased with the submission of an official proposal for VA reflecting two of its main advocacy goals. The first is the inclusion of human rights principles such as non-discrimination, full and effective participation, and inclusion of survivors in society. The second is the strengthening of provisions on national implementation measures to give states clearer indications of what they are expected to do to make sure that VA has a real impact on the lives of victims. National implementation measures—including laws, policies, national action plans developed in close consultation with the victims themselves, and the mobilization of resources—are the key to making things happen in the field.

Efficient and effective use of resources is also crucial to VA. This is best achieved by

incorporating victim assistance into existing mechanisms, instead of creating a separate track solely for cluster munition victims, which would segregate victims—thus exacerbating their suffering and waste limited resources. This is also important to ensure that the funding and efforts provided to assist affected countries in meeting the needs of victims get the expected results—a better life for victims.

Knowing this, we hope that all the countries that have constructively contributed to the process so far will continue to stay strong and work for the adoption of a final treaty text that will ensure a better future for cluster munition victims. —*Handicap International/Survivor Corps*

Behind Article 4(4): Precedent and Principle

One of the most important provisions for achieving the humanitarian goal of the Cluster Munitions Convention is Article 4(4). It requires user states to assist with clearance of unexploded submunitions they have left behind, even if use occurred before the treaty takes effect.

The provision on user state responsibility flows from obligations laid out in Convention on Conventional Weapons (CCW) Protocol V on Explosive Remnants of War (ERW). Protocol V requires user states to assist with clearance of new ERW and all states parties, in a position to do so, to assist with clearance of existing ERW. The current treaty text under negotiation in Dublin explicitly combines these two obligations—special responsibility for user states and clearance of ERW that predates the treaty. Affected states will still bear ultimate legal responsibility to ensure that contaminated areas are cleared, and user states can contribute in a variety of ways.

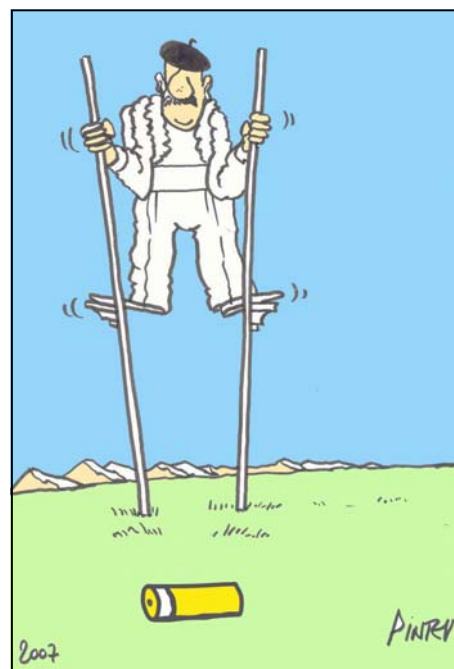
The provision on user state responsibility is based on extensive legal precedent. First, international bodies have held states responsible for present harm stemming from past actions regardless if the latter were

initiated before a treaty took effect. While launched in the past, cluster munition duds pose present danger to civilians. Second, a legal principle that stems most notably from environmental law establishes an obligation for actors to clean up contamination that is foreseeable, even if it predates codified law. States have been able to foresee cluster munition duds since the weapons' earliest use. Finally, international law allows states to bind themselves to take responsibility for actions that occurred before a treaty entered into force. User states should agree to accept such responsibility for cluster munition clearance in order to reduce humanitarian harm.

Article 4(4) will minimize civilian casualties by ensuring that clearance is as efficient and effective as possible. It will, for example, require user states to provide information about the types, quantities, and locations of cluster munitions used, which is essential knowledge for deminers.

To live up to the humanitarian goals of this convention, states must not only prohibit future cluster munition attacks but also prevent additional civilian casualties from those that have already occurred. Based on

well-established legal precedent and invaluable to clearance personnel, Article 4(4) is a crucial provision for minimizing cluster munitions' ongoing harm to lives and livelihoods. —*Bonnie Docherty, Human Rights Watch*



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Announcements

TODAY

Film Screening: "Bomb Harvest," 1-2pm, Ash Suite, Croke Park, hosted by Austcare

Book Launch: "Banning Landmines," 2-3:30pm, Ash Suite, Croke Park. Come hear editors Jody Williams, Stephen Goose, Mary Wareham and contributors Liz Bernstein, John Borrie and Peter Herby discuss their new book, "Banning Landmines: Disarmament, Citizen Diplomacy and Human Security."

SUNDAY, 25 MAY

Protest March: Make it Happen, 12:00pm, Garden of Remembrance, Parnell Square

Join the CMC for a protest march through Dublin city centre, calling for a comprehensive international ban on cluster bombs. The march will be followed by a festival of Irish Music and Poetry



**Elephant NOT in the
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