# CMC Report on the Vienna Conference on Cluster Munitions

## I. Summary

Representatives from 138 states and civil society participants from 50 countries attended the Vienna Conference on Cluster Munitions (VCCM) from 5-7 December, with the majority also attending the CMC International Forum on Cluster Munitions on 4 December. The level of participation was in itself a major success and a sign of the growing momentum and now well-established political will driving the Oslo Process towards a conclusion in 2008. Key themes of the meeting included:

- strong and vocal support for a comprehensive ban treaty from the developing world, including a united voice from African states;
- eloquent calls from affected states for a treaty that puts humanitarian imperatives first, responds to their needs and recognises the responsibility of past user states;
- broad consensus on the victim assistance provisions as drafted and calls from a number of states and organisations for even stronger provisions;
- broad consensus on the approaches for clearance and stockpile destruction with certain elements requiring more work; broad consensus on the international cooperation and assistance provisions;
- a highly effective presentation of new research on the poor performance of the M85 bomblet with a self-destruct mechanism in Lebanon in 2006, placing evidence at the heart of deliberations on the treaty;
- calls from mainly European producer and stockpiler states for provisions to weaken the treaty including exceptions for weapons with certain technical features (often corresponding to their own stockpiled munitions), transition periods in which the banned weapon could still be used and ways to deal with "interoperability" concerns (joint military operations with potential user states outside the treaty);
- calls from the same group of states for the involvement of other major users and stockpilers in the process, but much less talk of the CCW than during the previous Lima Conference;
- strong, coordinated action by civil society in the process with interventions from a range of voices in the CMC on all substantive items of the VCCM on the basis of a CMC commentary on the discussion text;
- increased involvement from survivors and other participants from affected countries, with survivors intervening on many of the substantive agenda items as well as the opening and closing sessions.

Overall the wide participation, the tone of the meeting and the level of engagement on the key issues left the clear impression that a new treaty will be signed in 2008 and that it will be a strong, comprehensive, and well-designed treaty based on lessons learned from the Mine Ban Treaty and supported by a critical mass of countries around the world.

## II. CMC interventions

CMC interventions from the Forum and the Conference are available as follows[1]:

- Remarks by Judith Majlath at the International Forum (CMC Austria)
- Statement from Soraj Ghulam Habib (Afghanistan)
- Appeal from the CMC to the Vienna Conference on Cluster Munitions (Thomas Nash, CMC)
- Opening Ceremony of the VCCM: Umarbek Pulodov (Tajikistan)
- Opening Ceremony of the VCCM: Sladjan Vuckovic (Serbia)
- Report from the International Forum (Judith Majlath, CMC Austria)
- Overview of CMC comments on Vienna Discussion Text (Thomas Nash, CMC)

[1] Sladjan Vuckovic, Dejan Dikic, Soraj Ghulam Habib, Umarbek Pulodov and Ahmed Najem are survivors of cluster munition accidents. They follow the Oslo Process and speak in their personal capacity. They are supported by the Ban Advocates project.

- Victim Assistance (Ken Rutherford, Landmine Survivor's Network)
- Victim Assistance (Ahmed Najem)
- Comments on definitions (Steve Goose, Human Rights Watch)
- Failure rates and definitions (Grethe Østern, Norwegian People's Aid)
- General Obligations and Scope, including Transition Periods and Interoperability issues (Steve Goose, Human Rights Watch)
- Stockpile Destruction (including Retaining for Training) (Rae McGrath, Handicap International)
- Stockpile Destruction (proliferation) (Bob Mtonga, IPPNW)
- International Cooperation and Assistance (Ayman Sorour, Protection)
- International Cooperation and Assistance, including user responsibility and retroactivity (Bonnie Docherty, Human Rights Watch)
- Transparency and Compliance (Tamar Gabelnick, ICBL)
- Transparency and Compliance (Dejan Dikic, Serbia)
- Procedural Matters (Steve Goose, Human Rights Watch)
- Closing statement: Branislav Kapetanovic (CMC Spokesperson, Serbia)

**III. Summaries of thematic issues**

- *Prohibition and definition*

There was divergence in Vienna on the issue of general obligations, particularly on the issue of the definition of what will be prohibited as well as on transition periods and interoperability. Colin King began the definition session with a run through of key terminology and the presentation of research from a new report jointly written by him, the Norwegian Defence Research Establishment and Norwegian People's Aid. Key findings were that submunitions with self-destruct mechanisms often fail to explode, that the arming of a submunition is a sequence of events could fail at any chain in the sequence, that an arming sequence can be completed by an accidental encounter, that the failure rate is more likely to be around 10% and that testing-conditions are never a reliable means of testing performance in combat situations.

A number of states spoke out in favour of a broad definition prohibiting all cluster munitions including Argentina, Austria, Bangladesh Cambodia, Ecuador, Guinea, Indonesia, Laos, Mali, Mexico, Nigeria, Senegal and Seychelles, as well as the CMC. Some states attempted to distinguish between cluster munitions that are unreliable and inaccurate and cause unacceptable harm and cluster munitions that they call "reliable and accurate" and which they argue should be exempt from a future instrument. These states (all stockpilers of cluster munitions) include Canada the Czech Republic, Denmark, Finland, France, Germany, Italy, Japan, Netherlands, Slovakia, Switzerland and UK. Germany tabled specific proposals for its three-step approach for phasing out cluster munitions, formally suggesting that this approach be adopted in the Oslo Process. There was very little support for this amongst states in Vienna.

The CMC called on governments to agree to the broad approach set out in the definition of the Vienna discussion text and the ICRC responded to references by numerous states to its position by noting that all cluster munitions that have been used in the past would need to be banned. The ICRC agreed with CMC that the burden of proof must be on governments to demonstrate that any exemptions in the treaty do not have the objectionable characteristics of cluster munitions. The ICRC noted that if states could make the case for any exceptions, then the exceptions would have to address all of the problems related to accuracy and reliability through cumulative requirements.

A number of states called for transition periods to phase out cluster munitions after the treaty has been signed, including France, UK, Germany, Japan, Switzerland and Slovakia. CMC, ICRC and Norway all strongly opposed the concept of a transition period. The Australia and Canada, Czech

Republic, Denmark, Japan and UK all raised concerns about the issue of interoperability. Norway reminded delegates to consider the diminishing relevance of cluster munitions in today's conflicts and that although it understands the issue of interoperability as a NATO member, cooperating states can find solutions.

The New Zealand Chairperson, Ambassador Don MacKay recognized the divergences on key issues in summarizing the session, but also recognized the strong support for the approach to definitions and prohibitions outlined in the discussion text. Rather than formally incorporating the proposals from certain states into the discussion text, as Germany suggested, Ambassador MacKay noted that since none of the proposals commanded consensus they would simply remain on the table for Wellington.

- *Victim Assistance*

There was a rich discussion on victim assistance with 24 States intervening as well as UNICEF, CMC and ICRC. The two CMC statements were delivered by cluster submunition/landmine survivors. The victim assistance discussion demonstrated commitment and consensus among states to the provision outlined in the Vienna Discussion Text. A number of states as well as the CMC indicated that the Vienna text could still be reinforced. The main points of the discussion included: strong support for an independent article on victim assistance; victim assistance as a human rights issue, including reference to the Convention on the Rights of Persons with Disabilities; a broad definition of 'victim' that would include individuals, families and communities to be added under Article 2; and that affected countries have the primary responsibility to provide assistance, promote the rights of their citizens, and ensure national laws and policies that support victim assistance, but all states must make a commitment to international cooperation and assistance.

In his wrap-up of the session, the Norwegian co-chair underlined four suggestions made by Ahmed Najem, a cluster submunition survivor from Iraq: 1) Treaty text should include a reference to national victim assistance strategies with clear objectives and implementation plans. 2) Treaty text should include a reference to an annual reporting obligation for States Parties on victim assistance funding but also on concrete achievements made under the national action plan and targets. 3) Local NGOs need to be able to build capacity in order to adequately support directly affected individuals, their families and communities in the long term. 4) It should be understood that governments in some affected states will need external support from the international community to achieve their victim assistance goals. In that case those governments should be able to request support provided that they present clear plans and objectives as well as a detailed needs evaluation and a timeline for implementation.

- *Clearance*

In discussions on provisions for clearance and destruction of cluster munitions, Article 4 of the Vienna Text, the UNDP, the CMC and a number of States highlighted the need for changes in language to reflect the importance of risk education. States agreed on the value of building on lessons learned in the landmine process, but contention emerged on the issue of the Vienna Text's shortening of the deadline for clearance from 10 to 5 years. The CMC, UNDP and ICRC stated that the 5 year deadline would establish an important timeframe, allowing countries to present concrete plans for clearance and draw attention to their needs for assistance, with the possibility of invoking an extension for extreme circumstances. Laos raised a legitimate concern that the 5 year deadline would be unrealistic for it to complete clearance operations. Other States such as France also questioned the realism of a 5 year deadline.

- *Stockpile destruction*

There was a limited discussion on stockpile destruction with the main issue revolving around the proposed 6 year deadline to destroy stockpiles. Germany and the UK questioned this as too short a time period. Austria announced that its stockpiles would be destroyed within 3 years of passage to

the treaty. There was also some concern about the need to separate stocks from other stockpiled weapons and whether this would involve the establishment of new facilities. Norway and the CMC highlighted that stockpile destruction is an important measure to prevent further proliferation.

- *International Cooperation and Assistance*

Discussions on international cooperation and assistance had a high level of participation from both developing and traditional donor countries. There was general consensus on the importance of international assistance for the implementation of a future instrument. Several countries emphasized the importance of incorporating assistance into long-term national development plans and building affected states' national capacity for implementation. Other issues were raised such as insertion of language on risk education, victim assistance, integration with human rights law, and the inclusion of a disability perspective.

A number of countries advocated for stronger provisions on the responsibility of users of cluster munitions to provide assistance. The CMC and the UNDP called for more specific language about the type of information users of cluster munitions should be required to provide, such as the type, quantity, date, and precise location of cluster munitions strikes.

## IV. Key threats to the new treaty

The Vienna Conference served to clarify the key areas of divergence between states regarding the Oslo Process and the new treaty under development. Below is an outline of the claims made by governments on each key issue, some of which were not discussed formally during the Vienna Conference. Early in 2008, a series of one page briefing papers will be prepared dealing with each of these issues in turn.

- *Exemptions based on a specified failure rate (e.g. 1%)*

This is based on the claim that if the proportion of bomblets that fail to detonate can be kept to a specific low percentage rate, the post-conflict problem will be solved or mitigated.

- *Exemptions based on the rate of "non-dangerous duds"*

This is based on the claim that some items of unexploded ordnance are not dangerous (or less dangerous) and therefore do not need to be considered when calculating failure rate %. According to Germany, a 'non-dangerous' dud is one that has not fully armed.

- *Exemptions based on self-destruct / self-deactivation / self-neutralisation mechanisms*

This is based on the claim that adding a "self-destruct" mechanism or similar feature to the bomblets stops them from causing post-conflict contamination or sufficiently reduces the risk to civilians.

- *Exemptions based on electronic fuzes*

This is based on the claim that electronic fuzes will be more reliable (and can be more accurately be tested) than mechanical fuzes and thus cluster munitions with such fuzes will not pose the same problems.

- *Exemptions based on "direct fire" weapons*

This is based on the claim that a distinction should be drawn between indirect fire cluster weapons and those engaging targets within line of sight.

- *Exemptions based on a limit to the number of submunitions (e.g. less than 10)*

This is the claim that munitions with less than 10 submunitions should be exempted from the prohibition because they do not pose the same wide area effects or post-conflict contamination.

- *Exemptions based on sensor-fuzed submunitions*

This is the claim that submunitions that detect vehicles as the submunitions fly through the air provide a solution to the problems.

- *Transition periods for banned weapons*

This is the claim that the treaty's prohibition on the use of cluster munitions should not apply immediately so that states have time to replace exisitng weapons.

- *Concerns about interoperability*

This is the concern about the impact and implications of joint military operations by States Parties to the cluster munition ban treaty with states not bound by the treaty who may use cluster munitions.

- *The influence of the Oslo Process without the major users and producers*

Certain states have argued that the Oslo Process and the treaty it will produce will be of less value if they do not include major users and producers such as the US, China, Russia, India, Pakistan and Israel.

**V. Campaigners meeting**

During the week of the conferences campaigners met with the other campaigners from their world region to discuss the work they have been doing, the positions and policies of their governments and what actions they are going to take next. At the campaigners' workshop at the end of the conference, a campaigner from each region did a short presentation on the discussion had during the week.

**Africa** – More African countries are coming onboard the treaty process with full support for a ban of all cluster munitions. Action will focus on strengthening the support of African countries at the international conferences and ensuring a common African position through the organisation of the African regional conference in March 2008. **Asia and Pacific** – A divergent group of countries in terms of states' policies and practice. Action needed varies between countries but broadly includes engaging Pacific Island countries at the Wellington conference and strengthening the support of Afghanistan and Bangladesh. **Europe / tricky countries** – Many European countries and a few others including Australia, Canada and Japan can be considered a group of 'likeminded' states that are advocating policies threatening to weaken the treaty. Action will include systematically countering governments on these policy arguments and developing a set of policy papers on each of the issues. **Middle East –** One of the most heavily affected regions, action by campaigners will focus on engaging more countries in the region in the Oslo Process through the support of Egypt and Lebanon. Latin **America – Latin** American countries have not yet been able to declare a cluster munition free region, mainly because of Brazil and Colombia. Action will focus on strengthening the support of the countries onboard and targeting action to neutralise or try and bring onboard the problem countries.

**VI. Next steps:**

The immediate focus for the CMC will be the Wellington Conference where states will be invited to endorse a 'Wellington Declaration' indicating their intention to participate in the Dublin negotiations using the text to emerge from the Wellington meeting as the basis for negotiations.

Broadly the CMC network has three main challenges in ensuring state support for the Oslo Process:

1) **Strengthening the support and presence at conferences of states committed to the process**. General objectives include:

a) Encouraging continued attendance at the upcoming Oslo Process conferences;
b) Preparing delegates to counter policy arguments given by states threatening the strength of the future treaty by regularly providing information and counter arguments;
c) Ensuring that they will support the approach in the Vienna text and the Wellington Declaration;

2) **Countering arguments by states within the process that threaten the strength of the future treaty**. General objectives include:
   a) Systematically countering arguments through policy analysis and regular meetings and correspondence with government representatives (including with parliamentarians);
   b) Generating public awareness and media coverage of the government's inadequate position and the calls of the CMC;
   c) Ensuring that they will support the approach in the Vienna text and the Wellington Declaration;

**3) Reaching out to involve 'silent states' within the process as well as new states.** General objectives include:
   a) Follow-up with 'silent states' (i.e. those that have attended OP conferences but not endorsed the Oslo Declaration or stated their position) or new countries that are influential regionally, through letter-writing and providing information and organising meetings with governments representatives;
   b) Organising a public awareness campaign and generating media coverage of the issue;
   c) Ensuring that they will support the approach in the Vienna text and the Wellington Declaration;

**1. Target countries: strengthening the support and presence at conferences of states committed to the process.**
Afghanistan, Albania, Angola, Argentina, Bangladesh, Bosnia & Herzegovina, Bulgaria, Chad, Chile, DR Congo, Egypt, El Salvador, Ghana, Jordan, Kenya, Laos, Liberia, Nicaragua, Nigeria, Sierra Leone, Sudan, Tajikistan, Thailand

**2. Target countries: countering policy arguments by states that are participating in the process that threaten the strength of the future treaty.**
Australia, Canada, Colombia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Italy, Japan, Latvia, Netherlands, Poland, Slovakia, Slovenia, South Africa, Sweden, Switzerland, United Kingdom.

**3. Target countries: reaching out to involve 'silent states' in the process and new states.**
Algeria, Azerbaijan, Bahrain, Cameroon, Congo (Republic of), Côte d'Ivoire, Cyprus, Ethiopia, Fiji, Haiti, Iraq, Jamaica, Kuwait, Malaysia, Nepal, Philippines, Romania, Saudi Arabia, Singapore, Sri Lanka, Syria, Trinidad & Tobago, Tunisia, Ukraine. (This list is not exhaustive but includes a number of states where we believe more commitment is possible and achievable.)

## VII. Tools and materials

### Public campaigning materials
'Cluster Bombs Can Be Banned – Make It Happen!' campaign materials:
Leaflets, badges, stickers, action cards, exhibition poster set and folders for public awareness campaigning.

The artwork for these materials is on the 'Make It Happen Campaign Materials' CD that was distributed in Vienna for campaigners to adapt and print materials themselves. We can send the CD and hard copies.
These are currently available in English although we will create Arabic, French and Spanish versions of some of the materials.

The joint CMC, Diana Fund, UN advertisement 'Spot the odd one out' can also be reproduced and reprinted.

**Lobbying and advocacy materials**
In early 2008 CMC will circulate a series of 1-page briefing papers analysing each of the key frontline issues emerging as threats to the treaty.

The Vienna lobbying guide includes key arguments and objectives as well as information on lobbying coordination (this will be updated for Wellington), CMC Response to the Vienna Discussion Text, CMC Definition, Treaty Principles.

The Oslo Process States spreadsheet gives an overview of the states that have attended the various conferences, whether they have endorsed the Oslo Process or Oslo Declaration and the number of users, producers, affected and stockpiling countries in the treaty process.

A Parliamentary Action Pack has been developed for parliamentarians to provide information on the cluster munition problem, the Oslo Process, actions in national parliaments and specific actions they can take.

Specific letters to governments about the Wellington Conference as well as other specific information on their position or policy are being created and will be submitted together with campaigners.

**Multimedia tools**
Documentary films: Chris Anderson for Landmine Action and the CMC has produced two new films called "Unacceptable Harm" in 5 and 30 minute versions, which were screened for the first time at the Vienna Conference on Cluster Munitions. An advert for screening on television is being developed for use in the UK by Landmine Action which can be adapted for other countries. The film "Yellow Killers" produced for Norwegian People's Aid in Serbia is also available for distribution.

Photo Exhibition: Alison Locke for Landmine Action and the CMC has developed photo exhibitions which CMC campaigners can use including 'From Lao to Lebanon', 'Lebanon 2006' and an exhibition that includes pictures from Afghanistan, Kosovo, Guinea-Bissau, Eritrea, Lao and Lebanon. We would like to encourage campaigners to use these, contact Laura to arrange them to be sent to you.

The Principles Photo Booklet that was distributed in Vienna illustrates the CMC Treaty Principles with photographs from Alison Locke's exhibition and a DVD with the 5 and 30-minute versions of 'Unacceptable Harm'.

Suggestions on additional materials needed by campaigners can be sent to Laura.

**VIII. Upcoming meetings and events:**

**Wellington Conference on Cluster Munitions, 18 – 22 February 2007**
The Wellington Conference on Cluster Munitions is the 4th International Oslo Process Conference and will be the last discussion-focused conference before the negotiating conference in Dublin in May 2008. The format of the conference will differ slightly from the previous conferences including the potential for smaller groups to brainstorm approaches and ways forward on specific areas of the treaty. Key issues such as the General Scope of Obligation and the Definition will continue to be dealt with in plenary. The main objectives for the conference will be:

1. A high level of state attendance at senior level (about 100) and at least 10 new endorsers of the Oslo Declaration and / or Process.
2. The endorsement of the Wellington Declaration by as many as possible of the states attending the Wellington Conference. (NB states can also adopt the Wellington Declaration even if they are unable to attend the conference). By endorsing the Declaration, states will be indicating their intention to participate in the Dublin negotiations using the text to emerge from the Wellington meeting as the basis for negotiations.
3. Broad consensus on treaty articles in the Discussion Text on Victim Assistance, Clearance and Stockpile Destruction.
4. Consensus on the basic approach to the definition and the prohibition in the draft discussion text.
5. An understanding of potential ways forward for key divergences on exceptions; transition periods and interoperability.
6. Well-coordinated and prepared campaigners able to lobby effectively on the key issues.
7. Extensive media coverage of the conference worldwide, with particular emphasis on international media and media in the key countries.

Practical information about the conference including information on visas can be found on the CMC New Zealand website:
http://www.stopclusterbombs.org.nz/the-conference/

Additional information about the conference and the online government registration form can be found at:
http://www.mfat.govt.nz/clustermunitionswellington/

**African Regional Conference on Cluster Munitions, March 2008 (TBC)**
The government of Zambia announced at the Vienna Conference its intention to co-host an Oslo Process conference for African States in March 2008 together with Uganda. The practicalities of the conference including the location and the exact dates are being worked out. The purpose of the conference will be to form a common African position on cluster munitions and the Oslo Process.

**Global Day of Action to Ban Cluster Munitions, 19 April 2008**
The second Global Day of Action will take place on Saturday 19 April 2008. It will be an important opportunity exactly one month before the Dublin Conference on Cluster Munitions where the treaty will be negotiated, to call on governments to support a comprehensive ban on cluster munitions through coordinated media and public action. More information will follow shortly in an action alert.

**Dublin Diplomatic Conference on Cluster Munitions, 19 – 30 May**
The treaty will be negotiated at the Dublin Diplomatic Conference on Cluster Munitions over a period of 2 weeks. A strategy for the conference will be available after the Wellington Conference has taken place.

## IX. Specific actions for campaigners

**1. Encourage your government to attend the Wellington Conference on Cluster Munitions.**
- Send a letter to your government encouraging their attendance at the conference.
- Provide information on how to register (see practical information on the Wellington Conference above).
- Inform CMC staff about your communications with your government.

**2. Encourage you government to adopt a national moratorium.**

- Send a letter urging your government to follow in the footsteps of Austria, Belgium, Hungary and Norway and announce a national ban or moratorium on the use, production and transfer of cluster munitions.
- States can also announce progress towards a moratorium as Bulgaria, Croatia and Serbia have done.
- Inform CMC staff about communications with your government regarding a moratorium.

**3. Brief your government on the treaty discussions**

- Follow up with your government on its position and policy towards the treaty provisions.
- Talk through and try and get support for the CMC's calls for a future treaty (see the Vienna Discussion Text and the CMC response to this text and our principles document and definition).
- Inform CMC staff about your briefing sessions with government officials.

**4. Follow up with parliamentarians in your country**

- Send the Parliamentary action pack to your parliamentarians and seek a meeting to brief them.
- Encourage them to make contact with the global network of parliamentarians coordinated by Portia Stratton: pstratton@landmineaction.org.

**5. Organise media work around the Wellington Conference**

- Issue a press release before and after the Wellington conference. Template press releases will be provided by the CMC.

**6. Organise a public event in the run up to or during the Wellington conference.**

- For more information and ideas on how to undertake an event based on the public event that will take place in Wellington during the Wellington Conference – which involves getting members of the public to draw chalk outlines on the ground – go to: http://www.stopclusterbombs.org.nz/take-action/ where you can also request a campaign kit.
- Inform CMC staff if you are planning to organise an event.