



**Closing Summary of Session 1: “The CCM as a new legal international norm”
Sofia Regional Conference on the Convention on Cluster Munitions
Delivered by Thomas Nash, CMC Coordinator on 19 September 2008**

Panellists noted the success of the outcome in the Dublin Diplomatic Conference as an historic step forward for international humanitarian law and for humanitarian action on the ground. It was also noted that the CCM would stigmatise the weapon even amongst those outside it.

The session heard a summary of the most difficult areas of the negotiations in Dublin:

- *Transition periods*: these were deemed illogical and unjustifiable and were therefore rejected during the negotiations.
- *Interoperability*: this article was added to relieve state legal responsibility for the actions of military partners who had not signed the treaty. However it does not allow any derogation from the core obligations and prohibitions in the treaty including the prohibition on assistance with banned acts.
- *Definition*:
 - exceptions for cluster munitions with self-destruct mechanisms or limited numbers of submunitions were rejected despite strong calls from a number of states;
 - the flaws in approaches based on failure rates or other technical fixes were also noted;
 - it was a categorical ban on a class of weapon and only the 7th time in history this had happened;
 - the definition was effects-based and captured weapons based on their wide area effect and their risk of unexploded ordnance;
 - there was a precise and clear explanation of those submunitions which are not cluster munitions because they do not have the effects of cluster munitions.

The session covered the basis for the new Convention under international humanitarian law, whereby although indiscriminate attacks are already banned by the Geneva Convention the specific nature and effects of cluster munitions required a specific new rule prohibiting the weapon.

The standard setting aspects of the new Convention were also highlighted: the categorical ban; the effects based definition; the precautionary approach where the burden of proof rests with those seeking a weaker standard; and the strong victim assistance standard.

It was noted that the long-term military aims of an operation are seriously hampered by the short-term military aims of using cluster munitions.

The session also heard a brief discussion on the process which was led by those directly affected; was based on field realities and evidence and was a partnership between states, civil society and international organisations. It was noted that the process to develop the Convention was part of a long tradition of finding innovative ways forward on urgent and difficult issues with likeminded states and civil society and this is indeed how much of IHL has been developed.

Finally there was a strong sense during the session that all hoped for a strong participation from the region at the signing conference in Oslo on 3 December and for rapid ratification and entry into force of the Convention.