

Cluster Munitions – Questions and Answers

Earl Turcotte
Ottawa, Ontario
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earl.turcotte@sympatico.ca
613-224-7515

Q. What is a cluster munition?

A. A cluster Munition is a conventional weapon designed to release or disperse explosive sub-munitions over a wide area. Cluster munitions typically contain hundreds of sub-munitions. On average, one cluster bomb can cover one square kilometer.

Q. Do cluster munitions have military utility?

A. Yes, but it is limited in modern warfare. The weapons were designed for Cold War-era operations with large formations of tanks or troops. Today's combat often takes place in civilian populated environments where the humanitarian harm of cluster munitions is significant, both during and post-conflict (due to their high dud rate). Modern warfare requires weapons of far greater precision.

Q. Why do cluster munitions pose a humanitarian problem?

A. Cluster munitions, if not inherently indiscriminate, are prone to indiscriminate effect. Most have no technical means to locate and engage a legitimate military target, they have a wide area effect and high dud rates, thus presenting ongoing humanitarian risk and an obstacle to development for many decades after conflict has ended. Ninety-eight (98%) of all known cluster munition casualties have been civilian.

Q. Where have cluster munitions been used?

A. Thirty five states and territories have been affected by cluster munitions: Afghanistan, Albania, Angola, Azerbaijan, Bosnia and Herzegovina, Cambodia, Chad, Chechnya, Croatia, DR Congo, Eritrea, Ethiopia, Falkland Islands (Malvinas), Georgia, Grenada, India/Pakistan (Kashmir), Iraq, Israel, Kosovo, Kuwait, Lao PDR, Lebanon, Libya, Montenegro, Nagorno-Karabakh, Russia (Chechnya), Saudi Arabia, Serbia (Kosovo), Sierra Leone, Sudan, Syria, Tajikistan, Uganda, Vietnam and Western Sahara.

Q. Who has used cluster munitions?

A. At least 15 countries including: by Eritrea in Ethiopia, by Ethiopia in Eritrea, by France in Chad, Iraq and Kuwait, by Georgia in Georgia, By Israel in Lebanon and Syria, by Lebanon (Hezbollah) in Israel, by Libya in Libya, by Morocco in Western Sahara, by

Netherlands in former Yugoslavia (Kosovo, Montenegro and Serbia), by Nigeria in Sierra Leone, by Russia in Chechnya, Afghanistan and Georgia, by Saudi Arabia in Saudi Arabia, by Sudan in Sudan, by Tajikistan in Tajikistan, by Uganda in Uganda, by U.K. in the Falkland Islands, Iraq, former Yugoslavia (Kosovo, Montenegro and Serbia), by USA in Afghanistan, Cambodia, Grenada, Iraq, Kuwait, Lao PDR, Saudi Arabia, Vietnam, Former Yugoslavia (Kosovo, Montenegro and Serbia), former Yugoslavia in Albania, Bosnia and Herzegovina and Croatia.

Q. Who possesses cluster munitions?

A. At least 77 states including: Algeria, Angola, Austria, Azerbaijan, Bahrain, Belarus, Bosnia and Herzegovina, Brazil, Bulgaria, Canada, Chile, China, Croatia, Cuba, Czech Republic, Denmark, Egypt, Eritrea, Ethiopia, Finland, France, Georgia, Germany, Greece, Guinea, Guinea Bissau, Hungary, India, Indonesia, Iran, Iraq, Israel, Italy, Japan, Jordan, Kazakhstan, North Korea, South Korea, Kuwait, Libya, Moldova, Mongolia, Montenegro, Morocco, Netherlands, Nigeria, Norway, Oman, Pakistan, Peru, Poland, Portugal, Romania, Russia, Saudi Arabia, Serbia, Singapore, Slovakia, South Africa, Spain, Sri Lanka, Sudan, Sweden, Switzerland, /Syria, Thailand, Turkey, Turkmenistan, Uganda, Ukraine, UAE, UK, USA, Uzbekistan, Yemen and Zimbabwe.

Q. What Is the Convention on Cluster Munitions?

A. The *Convention on Cluster Munitions* is a legally binding international treaty negotiated outside the traditional UN disarmament architecture. The process - known as the 'Oslo Process' because of the leadership of Norway, with close support from Austria, Ireland, Mexico, New Zealand and the Holy See – commenced in Oslo in February 2007. Pre-negotiation conferences were held in Lima, Vienna and Wellington and formal negotiations were held in Dublin in May 2008.

Upon conclusion, 107 participating states unanimously adopted the Convention Text. Today there are 108 signatories, 57 of whom have ratified the Convention.

Q. What are the basic provisions of the Convention on Cluster Munitions?

A. The *Convention on Cluster Munitions*:

- i) bans all cluster munitions (as defined in the Convention);
- ii) establishes deadlines for stockpile destruction (8 years)
- iii) establishes a deadline for clearance of contaminated areas (10 years).
- iv) It also imposes obligations on states to rehabilitate cluster munition victims and affected members of their families and communities;
- v) Requires states, in a position to do so to provide international cooperation and assistance to states in need to meet their obligations under the convention.
- vi) The Convention contains no 'transition period' i.e. the obligations it imposes obtain immediately upon the coming into effect of the Convention for a state party.

Q. What penalties are other countries imposing for the commission of prohibited acts?

A.

Australia – Imprisonment for 10 years;

France – up to 10 years and fine of Euro 150,000;

Ireland – Summary Conviction : 5,000 pounds or 12 months imprisonment or both; For conviction on indictment: 1,000,000 pounds or up to 10 years imprisonment or both;

New Zealand: up to 7 years imprisonment, \$500,000 fine or both;

Norway – Fine or imprisonment not to exceed 2 years. An act of ‘negligence’ is punishable by a fine or imprisonment for a term not exceeding 6 months. Aiding and Abetting is subject to the same penalty;

United Kingdom – A fine, imprisonment not to exceed 14 years or both.

Q. What is the status of negotiations on cluster munitions in the *Convention on Weapons Deemed to be excessively Injurious or to have Indiscriminate Effects (CCW)*?

The CCW has established a Group of Government Experts that has been negotiating a new instrument on cluster munitions for more than 3 years. There has been no agreement to date and the negotiation mandate has been renewed for a 4th year. As the CCW operates on the basis of consensus decision-making, any one state can and often does, prevent agreement on substantive measures.

The latest Chair’s text contains:

- i) a complete ban only of cluster munitions produced before 1980;
- ii) no required technical measures to ensure greater accuracy of such weapons, beyond a general statement that States should strive for greater accuracy;
- iii) only one fail-safe feature to ensure greater reliability (which has proven inadequate to date);
- iv) no limitation on the number or weight of submunitions,
- v) no deadline for stockpile destruction.
- vi) No definition of a cluster munition victim;
- vii) Moreover, it provides for a deferral period of up to 12 years during which any cluster munition produced after 1980 can be used.

If widely adopted, this weak text could lead to the fragmentation of international humanitarian law and possibly undermine the *Convention on Cluster Munitions*. Moreover, it will be of negligible humanitarian benefit.