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An African Perspective on the Cluster Munitions Convention

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When most of the immediate landmine danger has been removed from southern Lebanon along its border with Israel, multiple factors have complicated the demining process throughout the country. In southern Lebanon, 43 percent of the contaminated land has been fully cleared, while another 49 percent was surface-cleared, according to the Mine Action Coordination Centre, South Lebanon. This has been a leading force in clearing mines in this area, and many of its clearance teams stopped working at the end of August 2008. As a result, the injury rate is expected to escalate because, as in the past, locals will likely attempt to remove contaminants themselves when they face a lack of assistance.

In July 2008, a Lebanese citizen, Abbas Akour, working with the Mines Advisory Group, was injured by a cluster bomb that detonated near him while he was attempting to disarm landmines in Zvaiter, a village in southern Lebanon. The cluster bomb was identified as one of the bombs dropped by Israel in southern Lebanon during 2006. About 50 Lebanese and international workers, as well as over 250 civilians, have already been injured by these cluster bombs.

In July, emergency crews fighting a forest fire in the Bnitik region of Lebanon faced a unique challenge: extinguishing a fire in an area where cluster munitions from the Israel-Lebanon conflict of 2006, as well as landmines from the Lebanese Civil War, were still polluting the land. The resulting explosions and decreased safety of the area caused several hectares of forest (one hectare equals approximately 2.5 acres) to be destroyed before the fire was eventually extinguished.

**United Nations**

The U.N. has indicated that the demining operations in Lebanon may need to be eliminated without extra funding. The U.S. Department of State has stated an initial sum of US$656,000 and is working with the American Task Force in Lebanon in the search for additional funding to keep the program afloat.
munications either at present or at the future. The burden of proof on why certain cluster munitions should be exempted was to be on the states proposing the exemption. Real evidence needed to be provided to prove that a particular weapon did not cause unacceptable harm to civilians during and after warfare. The focus was to remain on the effects of the weapon.

Victim assistance. Article 3 of the CCM, which relates to victim assistance, was also of great concern to Africa. In particular to states such as Sierra Leone that have a number of cluster-munition victims. The African consensus in Livingston was that the draft text was strong and should be maintained or strengthened further. It was also agreed that reporting on victim-assistance programs should be mandatory for States Parties to the CCM—unlike similar humanitarian conventions that have left individual states to implement victim-assistance programs according to their capabilities (if at all). This has allowed states to either not implement any programs or have ineffective programs in place. The purpose of making assistance reporting mandatory is to ensure that victims are not forgotten as they have been for so long.

It was essential that past users be held particularly responsible for victim assistance. It was noted that, while victim assistance would be the primary responsibility of States Parties, international cooperation should be an integral part of their interventions.

International cooperation and assistance. Article 5 ties in closely with Article 6, which addresses international cooperation and assistance. Africa called for strong language to be reflected in Article 6, which would hold past users liable for any clean-up in the territory where they used the weapons. As expected, there was fierce opposition to such language. The reality remains that Africa lacks the capability to rid itself of these weapons without external assistance. The lessons learned from the shortcomings of such lack of liability in the Anti-personnel Mine Ban Convention were made imperative to hold past users liable in the same way. The final language, which only "strongly encourages" past users to assist, is likely to have the same inadequacies as those of the Mine Ban Convention; furthermore, complexities attached to the appropriate methods of clearance that do not result in negative environmental consequences make it imperative that such assistance be provided. In Livingston, it was agreed that the CCM text needed to be strengthened in accordance with this understanding. This obliging past users to provide financial, technical, material and human assistance is a tough call for States Parties to the CCM. In debating this article, Zambia and a number of other states emphasized the need for this inclusion in the final text. The provision of cooperation and assistance was also to apply to clearance, victim assistance and risk education.

Interoperability. Of all the contentious issues, that of interoperability was the most problematic. Countries on the opposite side of the debate, such as the United Kingdom and other NATO members, argued for a more specific text regarding States Parties’ obligations in relation to the CCM during joint-military operations with non-States Parties. Article 5 will therefore be a thorn in the side of the African contingent supporting the CCM; Africa will be watching closely to ensure clauses are not used as loopholes by States Parties acting with non-States Parties. This issue will probably serve as the litmus test of the credibility of this convention.

Transition periods. The draft CCM convention text of Article 21, the basis of the negotiations in Dublin, did not allow for a transition period to use banned cluster munitions, and the African delegation agreed that such language should be retained in the final document. It was felt that allowing for a transition period would be defeating the main purpose of the CCM, which was to ban cluster munitions.

The Outcome of the Negotiations
Most of Africa should have been ecstatic that at least one whole category of weapons affecting many African states and territories has been banned. However, this was not so. African states at the Livingston Conference, except for South Africa, wanted an absolute ban on these weapons, which would most likely end up in their territories that are prone to conflict and wars. The African consensus at the Dublin Conference, however, was to approve a convention that banned as many of the currently used cluster munitions as possible. More importantly, Africa’s concern was that the use of cluster munitions is now effectively stigmatized.

Despite noticeable shortcomings in the final document, which the African contingent agreed to provide no other delegations remorse the text. Africa was pleased with many provisions in the convention. African negotiators were particularly pleased with the comprehensiveness of Article 5, which deals with the long-neglected issue of victim assistance. In Livingston, the African contingent was expected to set a new standard that would be the point of the victims of explosive remnants of war in general and cluster munitions in particular. States Parties would be required to do more than ever for the victims of conflicts. To say that the final convention language is ambiguous is an understatement, and Africa is certainly satisfied with it. Affected countries such as Sierra Leone will undoubtedly be able to do more for their people because of this convention.

Developmental Impact
ERW contamination has an adverse impact on development. Landmine and ERW contamination continues to be a major hindrance to economic development on most of the African continent; cluster munitions would exacerbate this situation even further. Ethiopia and Eritrea certainly face these challenges in their post-conflict reconstruction. The one area in which the weapons were used in Zambia remains contaminated and untold over 20 years after munition deployment. Africa, therefore, could not stress enough the necessity of international cooperation and assistance and will use Article 9 as one measure of the convention’s success.

The omission of transition periods, though, not much of a bargaining chip, was a major concession to African countries that felt that many concessions had been given without reciprocal good will. Such a provision would have permitted the continued use of cluster munitions after the convention had entered into force, thus defeating the purpose of the ban. The CCM is a convention on whose transition period is essential for its implementation. The Kampala Action Plan was adopted by acclamation by the over 40 African countries present. The Kampala Action Plan prescribes a number of actions the states are encouraged to undertake before and after the Oslo Signing Conference scheduled for 2–4 December 2008. All the states agree to travel to Oslo to sign the CCM, to publically signal their intent to ratify the CCM as soon as possible, to immediately undertake interim internal measures to ensure the effective implementation of the convention, and to engage civil society, non-governmental organizations and international agencies such as the United Nations and the International Committee of the Red Cross to ensure public awareness and support for the CCM. Only South Africa expressed reservations, particularly in the process of reviewing its own internal policies regarding the matter. The issue of banning cluster munitions has also been taken up by the African Union, which has urged its Member States to support the initiative. In addition, the adoption of the CCM also involves being encouraged to get on board and be present for the signing in Oslo. With the extensive participation of Africa in the ban process (if all 30 states sign and ratify the CCM simultaneously), they would do what they said they would do, it would be enough for the convention to enter into force by mid-2019 even if no other states signed and ratified it. During informal African contingent deliberations, African states expressed some suggestions that the group could even go a step further and declare Africa a “cluster munitions-free zone” by developing an African convention banning the weapon on the continent.

Which Way Forward?
What remains to be seen is how well implemented the convention will turn out. Africa, for its part, remains determined to continue leading, ensuring that munitions are maintained and that national implementation measures are put in place well before entry into force of the CCM. To this end, a second African conference on munitions clauses was held in Kampala, Uganda, 29–30 September 2008. At the end of the two-day meeting, the Kampala Action Plan was adopted by acclamation for by the over 40 African countries present. The Kampala Action Plan prescribes a number of actions the states are encouraged to undertake before and after the Oslo Signing Conference scheduled for 2–4 December 2008. All the states agree to travel to Oslo to sign the CCM, to publically signal their intent to ratify the CCM as soon as possible, to immediately undertake interim internal measures to ensure the effective implementation of the convention, and to engage civil society, non-governmental organizations and international agencies such as the United Nations and the International Committee of the Red Cross to ensure public awareness and support for the CCM. Only South Africa expressed reservations, particularly in the process of reviewing its own internal policies regarding the matter. The issue of banning cluster munitions has also been taken up by the African Union, which has urged its Member States to support the initiative. In addition, the adoption of the CCM also involves being encouraged to get on board and be present for the signing in Oslo. With the extensive participation of Africa in the ban process (if all 30 states sign and ratify the CCM simultaneously), they would do what they said they would do, it would be enough for the convention to enter into force by mid-2019 even if no other states signed and ratified it. During informal African contingent deliberations, African states expressed some suggestions that the group could even go a step further and declare Africa a “cluster munitions-free zone” by developing an African convention banning the weapon on the continent.