

No. 321E

05.06.2008

# BOFAXE



## Convention on Cluster Munitions adopted in Dublin on 30 May 2008

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by the Association of  
Friends and Sponsors of  
TU Dresden e.V.

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<http://www.ifhv.de>

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On 30 May 2008, fifteen months after the first meeting in Oslo and after ten days of intense negotiations under Irish leadership, 110 states and the Holy See adopted a new treaty to ban cluster munitions. A signature ceremony – open for all states – will take place in Oslo on 3 December 2008. Dublin, where the last meeting took place, served as crucial part of the „Oslo Process“ which was launched in Oslo in February 2007 and continued in Lima (May 2007), Vienna (December 2007), and Wellington (February 2008).

The participating states fulfilled their commitment made in the Oslo and Wellington Declarations to conclude a legally binding international instrument by 2008. The new treaty containing 23 articles prohibits in Article 1 para. 1 to use (lit a)), develop, produce, otherwise acquire, stockpile, retain or transfer to anyone, directly or indirectly (lit b)), and assist, encourage or induce anyone to engage in any activity prohibited to a State Party under this Convention (lit c)). Each State Party has to destroy or ensure the destruction not later than eight years after the entry into force of this Convention for the respective State Party (Article 3 para. 2), clearance and destruction of cluster munitions remnants shall be completed not later than ten years (Article 4 para. 1 lit. a)). The most important regulation is Article 5 (victim assistance), which determines that each State Party shall *inter alia* adequately provide age- and gender-sensitive assistance, including medical care, rehabilitation and psychological support (para. 1). Cluster munitions victims are defined in Article 2 para. 1, and include – as another crucial point – the affected families and communities. Furthermore, Article 6 establishes a framework for cooperation and assistance. Besides these agreements, the participating states did not accept proposals by Germany and Slovakia for a transition period during which specific cluster munitions can still be used.

As expected because of the previous meetings, the definition of cluster munitions (exceptions) as well as joint military operations with states which are not party to the new treaty were again the most controversial issues. The participating states agreed upon two new regulations following proposals by NATO allies such as Britain, France and Germany:

First, Article 2 para. 2 lit c) (i)-(v), whereby cluster munition does not mean a munition that contain fewer than ten explosive submunitions, weighs more than four kilograms, is designed to detect and engage a single target object, is equipped with an electronic self-destruction mechanism as well as with an electronic self-deactivating feature; second, Article 21, which allows joint military operations with states (such as the U.S.) which are not party to this Convention to use cluster munitions. The *Cluster Munition Coalition* (CMC), a network of around 200 civil society organisations and observer at the Oslo Process criticized the inclusion of this new Article as the “*major disappointment in the new Convention*” and underlined that “*the article is not clear that international assistance and indefinite foreign stockpiling are prohibited. States need to clarify these points.*”

As the Secretary-General of the United Nations, *Ban Ki-Moon*, stated via video message to the Diplomatic Conference on 19 May 2008: “(And) we can add a new chapter to international humanitarian law, alongside those on landmines and explosive remnants of war (.),” the formal adoption of the Convention showed that states were willing to follow the Secretary-General’s intention. The most important achievement of the negotiations were the British and German declarations on 28 and 29 May 2008 by which these states announced to stop using cluster munitions and to destroy them immediately.

However, we should keep clearly in mind that states like China, India, Israel, Pakistan, Russia, and the U.S. as the main producers and holders of stockpiles of cluster munitions did not participate in the Diplomatic Conference. The State Parties to the Convention – based on Article 21 para. 1 – shall undertake all necessary and possible steps to encourage these states to adopt this Convention. Only then we are able to build a safer world free from cluster munitions.

### Verantwortung

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