



Resolution 1668 (2009)¹

Ban on cluster munitions

Parliamentary Assembly

1. Cluster munitions, due to their conception, cannot distinguish between civilians and military objectives. In 2006, a survey by Handicap International of countries and regions affected by cluster munitions found that 98% of recorded cluster munitions casualties were civilians. In fact, cluster munitions pose both an immediate and long-term danger to civilians due to three main characteristics: their wide-area impact, their inaccuracy and their unreliability.
2. Cluster munitions consist of a large container that opens in the air and disperses smaller explosive submunitions over a wide area. Although the majority of submunitions are designed to explode on, or shortly after, impact, a high proportion of submunitions fail to explode as intended. As each cluster munition can contain hundreds of submunitions, vast numbers can be dispersed in a very short period of time. The result is that massive amounts of unexploded ordnance remain on the ground and leave behind a devastating legacy that will persist for years after the conflict has ended.
3. Furthermore, the ground contamination from unexploded cluster submunitions has serious socio-economic consequences for individuals and communities. When unexploded munitions litter agricultural lands, or vital infrastructure and buildings, they may hamper the supply of basic necessities, including food, water and fuel, and hinder access to public services such as schools and hospitals.
4. Millions of cluster munitions containing billions of submunitions are still stockpiled in the arsenals of many countries today. If they should spread to an ever-increasing number of countries and actors, whose capacity and will to respect international humanitarian law may vary, the consequences for civilians in future conflicts may be devastating. The Parliamentary Assembly considers that the cluster munitions problem must therefore be tackled urgently, before these weapons are further deployed and the problem becomes even worse than it is today.
5. Despite consistent efforts by humanitarian organisations and some states to put this issue on the international agenda, it has only recently received serious attention from the international community.
6. The use of cluster munitions during the armed conflict in Lebanon, in the summer of 2006, brought renewed public and political attention to the humanitarian consequences of cluster munition use. Following extensive media coverage on the impact of cluster munitions on the civilian population in southern Lebanon, as well as renewed calls for action by the United Nations, the International Committee of the Red Cross (ICRC) and many non-governmental organisations, a growing number of countries have engaged in both national and international initiatives to tackle the problem.
7. In February 2007, the Norwegian Government launched an international diplomatic process to negotiate a treaty prohibiting cluster munitions, which “cause unacceptable harm to civilians”. The so-called Oslo Process resulted in the adoption of a Convention on Cluster Munitions by 107 states in Dublin, on 30 May 2008.

1. *Text adopted by the Standing Committee, acting on behalf of the Assembly, on 29 May 2009 (see [Doc. 11909](#), report of the Political Affairs Committee, rapporteur: Mr Pflug; [Doc. 11925](#), opinion of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Haibach; and [Doc. 11929](#), opinion of the Committee on Migration, Refugees and Population, rapporteur: Mrs Curtis-Thomas). See also [Recommendation 1871 \(2009\)](#).*



8. The Assembly warmly welcomes the adoption of this historic treaty, which provides a comprehensive response to the cluster munitions problem by prohibiting their use, production, stockpiling and transfer; requiring the destruction of existing stocks; and establishing a framework for co-operation and assistance to address their humanitarian consequences in areas already affected.

9. With this convention, the participating states have confirmed that cluster munitions, which have caused so much loss in past decades, are not only morally reprehensible, but are now considered illegal. This achievement demonstrates that the world has been moved by the suffering of the victims of cluster munitions and that the international community is capable of taking effective action to prevent such suffering in the future.

10. The convention was opened for signature at a ceremony in Oslo on 3 December 2008 and will enter into force six months after 30 states have ratified it. For the time being, 96 states have signed it and only 6 have ratified it, namely Austria, Ireland, the Holy See, Laos, Norway and Sierra Leone. The Assembly considers that the most urgent priority is therefore to encourage all states to sign and ratify the treaty in order to ensure its rapid entry into force and subsequent implementation. Only by doing so can states prevent the cluster munitions problem from continuing to grow and reduce the number of new victims claimed by these weapons each year.

11. In this context, the Assembly strongly condemns the use of cluster munitions – by both parties – during the August 2008 war between Georgia and Russia. It urges Georgia and Russia to continue, as a matter of urgency, to remove mines and unexploded ordnance and to raise awareness among the affected population about the danger posed by such devices.

12. Once states have become party to the Convention on Cluster Munitions, national parliaments will have a key role to play, in particular in establishing implementing legislation, including penal sanctions for activities prohibited by the treaty.

13. Parliamentary action will be crucial to ensure allocation of the resources needed for implementation, including the destruction of stockpiles in those states possessing cluster munitions and for the clearance and destruction of abandoned or unexploded cluster munitions in areas under the state's jurisdiction or control. The necessary resources and structures must also be put in place to provide, in accordance with international humanitarian law, adequate medical care, rehabilitation and psychological support to cluster munitions victims and to ensure their social and economic inclusion. These cluster munitions victims include all persons who have been killed or suffered physical or psychological injury, economic loss, social marginalisation or substantial impairment of their rights caused by the use of cluster munitions. They include those persons directly affected by cluster munitions, as well as their families and communities.

14. Under the new treaty, states parties in a position to do so are required to provide technical, material and financial support to assist other states parties that are affected by cluster munitions in implementing the treaty.

15. The Parliamentary Assembly regrets that, while the new treaty provides the only viable solution to eliminate weapons that have caused tremendous civilian harm over several decades, a number of states, including major military powers, did not participate in its adoption and are unlikely to join the treaty in the short term. In the interim, the Assembly considers that it will nevertheless be important to ensure their adherence to, and implementation of, other relevant legal norms pertaining to cluster munitions such as Protocol V on Explosive Remnants of War (28 November 2003) to the United Nations Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which may be Deemed to be Excessively Injurious or to have Indiscriminate Effects (CCW). These states are also in the process of examining alternative options for regulating the use of cluster munitions, which – even if they fall short of the prohibition contained in the new treaty – could contribute to reducing their humanitarian consequences.

16. Where international forces (for example, the North Atlantic Treaty Organization (NATO) or bodies created by or acting under the delegated authority of the United Nations Security Council) undertake demining and related activities, clear lines of command, control, responsibility and accountability must be established.

17. Consequently, the Assembly urges the member states, states holding observer status with the Organisation and states whose parliaments hold observer status with the Assembly to:

17.1. make every necessary effort to bring about a total ban on the manufacture, use, transfer and stockpiling of cluster munitions worldwide;

17.2. immediately destroy the existing stocks of cluster munitions in territories under their jurisdiction or control;

- 17.3. without further delay, if they have not already done so, sign and ratify the Convention on Cluster Munitions;
 - 17.4. apply criminal sanctions against the use of cluster munitions in violation of the rules of international humanitarian law;
 - 17.5. accept responsibility, for states which have used cluster munitions, for the clearance of these munitions, and in particular, keep accurate records of where such munitions have been used and undertake to support de-mining activities by marking, identifying and reporting on the location of cluster munitions sites, and in turn, to exchange such information with all relevant stakeholders, in order to help clearance efforts following conflicts;
 - 17.6. contribute to rehabilitation and assistance programmes for cluster munitions victims in Europe and the rest of the world with a view to their social rehabilitation and re-entry into working life;
 - 17.7. encourage the media to circulate relevant information among populations exposed to the danger of cluster munitions and run major awareness campaigns, aimed at children and other potential victims, on a continuous basis, until no risk remains, in order to avoid new victims;
 - 17.8. raise their population's awareness of the dangers of cluster munitions and promote action in order to mobilise international public opinion in respect of the harmful effects of cluster munitions.
18. The Assembly also urges the national parliaments of the aforementioned states to:
 - 18.1. encourage their governments, if they have not already done so, to sign the Convention on Cluster Munitions without further delay;
 - 18.2. ratify the said convention;
 - 18.3. introduce national legislation for a total ban on cluster munitions in their territory or, as a first step towards a total ban, introduce national measures to ban, suspend or take other restrictive measures against cluster munitions, in particular concerning their use, production and transfer, and impose criminal sanctions in relation to these measures.
19. Until such time that states become party to the Convention on Cluster Munitions, the Assembly urges them to sign and ratify Protocol V of 28 November 2003 on Explosive Remnants of War to the United Nations Convention on Certain Conventional Weapons, as it provides at least a partial response to the cluster munitions problem by alleviating the dangers to civilians when these weapons have been used.
20. The Assembly strongly opposes any attempt to bypass the Convention on Cluster Munitions by developing an alternative legal instrument – such as a draft protocol to the Convention on Certain Conventional Weapons – that would merely regulate, but not ban, the use of cluster munitions.