

**GROUP OF GOVERNMENTAL EXPERTS OF  
THE STATES PARTIES TO THE 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**

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**Application and implementation of existing  
international humanitarian law to specific munitions  
that may cause explosive remnants of war,  
with particular focus on cluster munitions,  
including the factors affecting their reliability  
and their technical and design characteristics,  
with a view to minimizing the humanitarian  
impact of the use of these munitions**

## **TREATY PRINCIPLES**

Submitted by Cluster Munition Coalition (CMC)

1. Since its establishment in November 2003, the Cluster Munition Coalition (CMC) has consistently expressed concern over the severe humanitarian and socio-economic impact of cluster munitions on individuals and communities around the world. Through the longstanding experience of its more than 200 member organizations in approximately 50 countries, the CMC has gained important insights into these humanitarian and socio-economic effects. The CMC has consistently called on states to begin work towards a legally binding instrument on cluster munitions. In this regard, the CMC welcomes the ongoing deliberations certain states are engaged in to conclude by 2008 a new instrument prohibiting cluster munitions that cause unacceptable harm to civilians and establishing a framework of care and assistance to survivors and their communities. The CMC believes that the new instrument on cluster munitions should conform to the 19 principles listed below. The CMC hopes that these principles will contribute to the reflection of all states in their consideration of the appropriate solution to the pressing international humanitarian issues presented by the use, production, stockpiling and transfer of cluster munitions.
2. The CMC considers that any treaty on cluster munitions must include:
  - (i) A prohibition on the use, production, transfer and stockpiling of cluster munitions, as defined;

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- (ii) A definition of cluster munitions that does not exclude those that have submunitions equipped with self-destruct mechanisms;
- (iii) No provision allowing for cluster munitions with submunitions with a certain reliability standard;
- (iv) Application in all circumstances, including during conflicts of an international and non-international nature;
- (v) A prohibition on providing assistance to anyone to use, produce, transfer or stockpile cluster munitions;<sup>1</sup>
- (vi) An obligation to destroy their stockpiles of cluster munitions within a specified period of time, which must be as short as possible;
- (vii) An obligation to mark and fence contaminated areas as soon as possible, to clear contaminated areas as soon as possible, but no later than a specified deadline and to establish and maintain an effective capacity to undertake these actions;
- (viii) An obligation to provide assistance with marking, fencing and other warnings, risk education, and clearance; users of cluster munitions should have special obligations for such assistance, including provision of timely and detailed information on use;
- (ix) An obligation to provide victim assistance. This includes but is not limited to: the implementation of data collection, emergency and continuing medical care, physical rehabilitation, psychological support and social inclusion, economic inclusion and/or reintegration, legal support and disability laws and policies;
- (x) An obligation to promote, protect, ensure and report on the full and equal enjoyment of all human rights and fundamental freedoms by all cluster munition victims (affected individuals, their families and communities), and to promote respect for their inherent dignity;
- (xi) An acknowledgement of the responsibility to protect civilians from cluster munitions at all times through the obligations contained in the new treaty;
- (xii) A compliance provision committing states to provide maximum cooperation and transparency;

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<sup>1</sup> “Assistance” should be understood to include, among other things, a prohibition on investments, on involvement in joint military activities in which cluster munitions may be used, and on transit of cluster munitions.

- (xiii) An obligation to submit annual transparency reports;<sup>2</sup>
- (xiv) A requirement to adopt national implementation measures, including penal sanctions;
- (xv) A provision prohibiting any reservations to any articles of the treaty;
- (xvi) A provision prohibiting withdrawal from the treaty if engaged in armed conflict;
- (xvii) Provisions for annual meetings of States Parties and regular Review Conferences;
- (xviii) No provision for a transition period on the prohibition on use, production and transfer;
- (xix) No geographic exceptions for the prohibition on use, production and transfer.

3. The CMC recognises that states may propose a treaty approach that excludes from a definition of cluster munitions certain weapon systems that have submunitions that are capable of identifying and engaging targets. The CMC believes that the burden must be on governments to demonstrate that such weapons do not cause unacceptable harm to civilians.

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<sup>2</sup> The reports should include, for example, information on national implementation measures, stockpiles and stockpile destruction, contaminated areas and clearance activities, risk education activities, victim assistance activities, and victims' rights.