Background

Over the past year, more states have condemned the use of incendiary weapons, but recent evidence of continued incendiary attacks in Syria shows that expressions of concern are not enough. States should take concrete action to prevent the horrific injuries and harm that these weapons cause.

Incendiary weapons, which produce heat and fire through the chemical reaction of a flammable substance, inflict excruciatingly painful burns that are difficult to treat and lead to long-term physical and psychological injury. The weapons also start fires that can destroy civilian objects and infrastructure.

Public revulsion at the suffering caused by napalm and other incendiary weapons during the Indochina War served as a catalyst for the adoption in 1980 of Protocol III to the Convention on Conventional Weapons (CCW). The protocol prohibits certain uses of incendiary weapons, but its restrictions have failed to stop the civilian harm seen in Syria and elsewhere.

The CCW protocol has two major loopholes. First, it prohibits the use of air-delivered incendiary weapons in “concentrations of civilians,” but has weaker regulations for ground-launched models. Second, many states parties believe the current definition does not cover multipurpose munitions, such as white phosphorus, because the definition is based on the purpose for which they were “primarily designed,” rather than on their effects.

The CCW’s Fifth Review Conference in December 2016 provides a key opportunity for CCW states to show they can do more than simply criticise use. They should agree to review the flawed protocol and determine how to strengthen it.

Current context

Syrian government forces have used air-dropped and ground-launched incendiary weapons in Syria since 2012. Use of the weapons in that country appears to have increased since Russia began its joint operation with Syrian government forces on 30 September 2015. At one point during May and early June 2016, incendiary weapons rained down on an opposition-controlled area north of Aleppo almost daily. At the time, Syrian ground forces and their allies were seeking to drive out opposition forces with the support of Russian air power.

A YouTube video, published by Russia Today on 18 June 2016, showed a Russian Su-34 fighter-ground attack aircraft equipped with RBK-500 ZAB-2.5SM bombs at Russia’s airbase in Syria. This evidence suggests that Russia has been using incendiary weapons in Syria although
Russia has neither confirmed nor denied such use. In an earlier letter, delivered to Human Rights Watch in November 2015, Russia’s Minister of Foreign Affairs Sergey Lavrov acknowledged the “significant humanitarian damage” caused by incendiary weapons in Syria, but attributed it to their “improper use”.¹

Since 2010, more than three dozen countries, along with the International Committee of the Red Cross, the UN Secretary-General, and non-governmental organisations, have publicly acknowledged the harm that incendiary weapons can cause to civilians. Most have condemned recent incendiary weapon attacks, particularly in Syria. Many have called for CCW Protocol III to be revisited and strengthened, and others have said they are prepared to discuss the adequacy of the protocol.²

At the CCW meeting in November 2015, fifteen countries addressed the issue of incendiary weapons. Most of these countries called for closing the protocol’s loopholes, while others said they wanted at least to revisit existing rules. Six countries—Bulgaria, Costa Rica, India, Montenegro, Russia, and Zambia—commented on incendiary weapons for the first time in this forum, demonstrating growing recognition of the problem.³ Yet for the fifth consecutive year the meeting’s final report included a weak reference to concerns about incendiary weapon, stating that “the Meeting noted the concerns raised by a number of High Contracting Parties over the allegations of use of incendiary weapons against civilians.”⁴

In 2016, countries should move beyond talk and take action. States not party to CCW Protocol III should join as soon as possible. The 113 states that are party should agree to review the protocol for the first time since its adoption more than 35 years ago. Closing the protocol’s loopholes will not only create stronger

Footage showing what Human Rights Watch arms experts have identified as RBK-500 ZAB-2.5SM incendiary bombs mounted on a Russian attack aircraft at a Russian air base in Syria, 18 June 2016. © 2016 Russia Today/YouTube
international law that binds CCW states parties, but it will also increase the stigma against incendiary weapons, thus discouraging any use, even by those outside the treaty.

Recommendations

_During First Committee, delegations should:_

- Call for a review of Protocol III and amendments to address the negative humanitarian impact of incendiary weapons; and
- Publicly condemn incendiary weapons use in Syria and urge the Syrian government to accede to the Convention on Conventional Weapons and its Protocol III.

_Beyond First Committee, states should:_

- Agree to a mandate at the CCW Review Conference that sets aside time in 2017 to discuss the implementation and adequacy of Protocol III; and
- Report on their current practices and policies with respect to incendiary weapons and indicate their position on the call for strengthening international law governing the weapons.


