Wednesday 21 May 2008
CAMPS EMERGE ON KEY ISSUES

On Wednesday, 21 May 2008, the third day of the Dublin Diplomatic Conference on Cluster Munitions, negotiations on critical issues shifted from mainly political discussions to the consideration of textual proposals. Four informal sessions were held on definitions, interoperability, storage and stockpile destruction, and victim assistance. Discussions were increasingly technical and tough at times, but work is progressing at a rapid pace. Discussions on definitions moved from considering an itemized list of individual criteria to discussing cumulative sets of criteria that might be considered for an exemption under Article 2(c). A significant development occurred when Norway circulated the first informal textual proposal for Article 2(c).

Under the proposal, cluster munitions are all munitions that contain explosive sub munitions which weigh less than 20 kilograms. It would, however, exclude from the prohibition cluster munitions containing sub munitions that weigh more than 5 kilograms AND are designed to seek, detect and engage point targets, AND are equipped with electronic self destruct and self deactivation mechanisms. While the proposal requires careful further study, it appears that, in plain terms, it would mean that virtually all cluster munitions that have been used to date would be banned under the Treaty. The CMC maintains that the best possible solution would be to have no exclusions under Article 2(c). The focus of work on definitions should be based on the effects of cluster munitions and to ensure that no weapons are allowed under the treaty that have the effects of cluster munitions. As discussions on definitions pick up speed, a tripartite division amongst delegations is emerging. One group of countries continues to call for exceptions for cluster munitions corresponding to those on their shelves—the Czech Republic, Denmark, Finland, Slovakia, and the United Kingdom. A second group is opposed to any exception in Article 2(c), such as Indonesia, Ghana, Nigeria, Mexico, Costa Rica, Jamaica, Malawi, Lebanon, Botswana, Lesotho, and Senegal, to name a few. A third group are countries consolidating around a position that there are some munitions with more than one submunition that do not have the wide area and unexploded ordnance effects of cluster munitions and that could be excluded under a cumulative set of criteria in Article 2(c), such as Australia, Canada, France, Germany, the Netherlands, Norway, Portugal, Sweden, and Switzerland. It is feared though that many of these states will seek a transition period allowing them to use cluster munitions. Nonetheless the middle group’s willingness to prohibit cluster munitions as an entire category of weapons is a substantial shift and a far cry from the polarization of the Wellington Conference’s “likeminded” group. During
informal discussions on storage and stockpile destruction, Friend of the 
President Ambassador Kongstad of Norway went through a revised 
version of the text of Article 3 with delegations and will revise the article 
again. France and the UK maintained that a 6 year minimum clearance 
deadline might be unrealistic, or cause a multitude of extension 
requests. Regrettably, most States continue to support a stockpile 
destruction extension provision, which was reduced from 10 years to 2 
four year periods. With objections from the CMC, they also added a 
 provision allowing retention of cluster munitions for training, research, 
and development of countermeasures. Informal discussions on 
 interoperability were closed to NGOs today. A potentially negative 
textual proposal on interoperability is expected to be circulated 
tomorrow. In contrast, informal discussions on victim assistance (Article 
5 and the definition of cluster munition victim contained in Article 2) 
were nothing short of fantastic, in large part due to the hard work of 
many CMC campaigners. Initially, the UK stated that the definition of 
cluster munition victim, including the individual, their family and 
community was too broad, especially in regard to the notion of 
Ocommunity.¹ The UK proposed narrowing the definition of victim to 
apply only in ³affected areas.² A number of delegations defended the 
definition, citing significant problems arising from the fact that victims 
remain victims regardless of where they are and that people usually 
have to leave affected areas. Australia saved the day by proposing that 
the definition should cover victims and their ³affected families and 
communities,² which proved satisfactory to all. Guatemala introduced a 
joint proposal on behalf of Argentina, Ecuador, Uruguay, the Dominican 
Republic, Mexico, Nicaragua, Panama, Peru, Costa Rica, Chile, 
Honduras, Zambia, and Guinea, clarifying obligations on 
victim assistance including implementation, inclusion of 
survivors, nondiscrimination, and national focal points. 13 additional 
countries signed on in support of the proposal in the first hour. The 
Committee of the Whole reconvened as well today to revisit Articles 
11 through 22. Articles 11 (Meetings of States Parties), 12 
(Review Conferences), 13 (Amendments), 15 (Signature), 16 
(Ratification), 21 (Depositary), and 22 (Authentic Texts) were the first 
articles of the Treaty were provisionally concluded, meaning that the 
President had ascertained there was consensus on the articles and they 
were ready for a final review in the Committee of the Whole. Article 17 
on the required number of ratifications for the Treaty’s entry into force 
was contentious. France led a list of 9 States<Fiji, Germany, Indonesia, 
the Netherlands, the Philippines, Slovakia, Switzerland, and the United 
Kingdom<who called for raising the number of necessary 
ratifications from 20 to 40. They were overwhelmingly opposed by a 
total of 20 States who urged that the number remain at 20 to trigger a 
rapid entry into force. Articles 18 (Provisional Application) and 19 
(Amendments) will be revisited later. Disturbingly, a few States,
including the UK, were reluctant to discuss reservations (currently prohibited under the Treaty) until the scope and definition in the treaty became clearer. The Committee of the Whole will meet again at 10am on Thursday to consider proposals for additional articles to the Treaty. Delegates will discuss a proposal by Switzerland on the relationship of the Treaty to other instruments of international law; a proposal for a transition period from Switzerland (for cluster munitions with self-destruct, self-deactivation, and self-neutralization mechanisms for an unspecified period of years); and a proposal from Slovakia (for all cluster munitions for a period of 12 years). NGO sponsored events consisted of a workshop on engaging Parliamentarians, run by Portia Stratton and Anne Villeneuve; a lunchtime talk on sensor-fuzed munitions, held by Rae McGrath; a lunchtime talk on progress towards an Arms Trade Treaty, presented by Amnesty International, Oxfam and IANSA; and two evening events, an exhibition of "What Remains," photography documenting the humanitarian harm caused by cluster munitions by Alison Locke and Chris Anderson; and an outdoor film screening of a new cut of Chris Anderson's film "Unacceptable Harm."