

II. Anti-Personnel Mines and Cluster Munitions

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The Anti-Personnel Mines Convention

The 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction (APM Convention) prohibits, among other things, the use, development, production and transfer of anti-personnel mines. These are mines that detonate on human contact, that is they are ‘victim-activated’, and therefore encompass improvised explosive devices (IEDs) that act as APMs, also known as ‘improvised mines’.¹ At the 2014 Review Conference, states parties set a target of fully eliminating APMs and addressing the consequences of past use by 2025.

Compliance with the APM Convention has generally been good. Core obligations have largely been respected and ambiguities, where they have arisen, have been dealt with in a satisfactory manner. However, the APM Convention continues to be undercut by the refusal of some states, such as China, Iran, Israel, the Democratic People’s Republic of Korea (DPRK, or North Korea), Russia, Saudi Arabia and the United States, to sign it.²

There are currently 164 states parties to the APM Convention. These include all the European Union (EU) member states, every state in sub-Saharan Africa and every state in the Americas apart from Cuba and the USA. Only 33 states remain outside the treaty.³ No new states joined in 2018. Each year since 1997, a resolution in support of a total ban on APMs and the APM Convention has been passed in the UN General Assembly. In 2018, Resolution 73/61 was passed with 169 votes in favour (two more than the previous highest ever vote in favour in 2017), none against and 16 abstentions.⁴

Use of APMs in 2018

New use of APMs by states is now extremely rare. According to *Landmine Monitor, 2018*, only Myanmar—a state outside the treaty—recorded use in the period October 2017 to October 2018, and has been deploying APMs for the past 20 years.⁵ The 2018 report by the UN Independent International

¹ IEDs are also discussed in the CCW Convention, see section I in this chapter.

² Editorial, ‘Why do land mines still kill so many?’, *New York Times*, 6 Jan. 2018.

³ For a summary of the APM Convention see annex A, section I, in this volume.

⁴ United Nations, General Assembly, Implementation of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction, A/RES/73/61, 5 Dec. 2018. On the significance of voting patterns on General Assembly resolutions see International Campaign to Ban Landmines, ‘Frequently asked questions regarding the UNGA Mine Ban Treaty Resolution’, [n.d.].

⁵ International Campaign to Ban Landmines (ICBL–CMC), *Landmine Monitor, 2018* (ICBL–CMC: Geneva, Nov. 2018), pp. 1, 8–9. The report focuses on the calendar year 2017 with information included up to Nov. 2018 wherever possible.

Fact-finding Mission, which investigated mine use allegations in the previous year, found that it had ‘reasonable grounds’ to conclude that landmines had been planted by the Myanmar military in the border regions and in northern Rakhine state ‘with the intended or foreseeable effect’ of injuring or killing Rohingya civilians fleeing to Bangladesh. In addition, new APMs were placed in border areas as part of a ‘deliberate and planned strategy of dissuading Rohingya refugees from attempting to return to Myanmar’.⁶ Although Syrian state forces used APMs in the previous reporting period, the International Campaign to Ban Landmines (ICBL) found no evidence of new use in the most recent period.

The use of APMs, including victim-activated IEDs, by non-state armed groups in conflicts is a growing problem. APMs were used by such groups in at least eight countries between October 2017 and October 2018: Afghanistan, Colombia; India, Myanmar, Nigeria, Pakistan, Thailand and Yemen. There were also unconfirmed allegations of use by non-state armed groups in eight other states: Cameroon, Iraq, Libya, Mali, the Philippines, Syria, Tunisia and Ukraine.⁷ Geneva Call, an NGO which works to promote respect for international humanitarian norms in armed conflict among armed non-state actors, has since 2000 been seeking pledges from such groups to ‘deeds of commitment’, which provide a public platform for armed groups to commit to specific humanitarian norms. To date, 52 groups have signed the specific deed of commitment on APMs and there is evidence to suggest that many have shown high levels of compliance with their obligations.⁸ In Western Sahara, for example, 2500 stockpiled APMs were destroyed by the Popular Front for the Liberation of Saguia el Hamra and Río de Oro (Polisario Front) in May 2018.⁹

In 2017, the last year for which data is available, the ICBL recorded 7239 casualties linked to mines/explosive remnants of war (ERW), of which at least 2793 were fatal. This marked a third successive year of exceptionally high casualties, albeit lower than in 2016, and a second year in a row in which the highest number of annual casualties was caused by improvised mines.¹⁰ The two countries with the most casualties were Afghanistan and Syria, where high levels of casualties seem to have continued in 2018.

⁶ Human Rights Council, Report of the detailed findings of the Independent International Fact-finding Mission on Myanmar, A/HRC/39/CRP.2, 17 Sep. 2018, p. 288. On the conflict in Myanmar, see chapter 2, section III, in this volume.

⁷ International Campaign to Ban Landmines (note 5), pp. 1, 8–12; and Beaumont, P., ‘Landmines made by ISIS undo progress made by Princess Diana campaign’, *The Guardian*, 31 May 2018.

⁸ International Campaign to Ban Landmines (note 5), p. 13; Konaev, M. and Fazal, T., ‘Can International Humanitarian Law restrain armed groups? Lessons from NGO work on Anti-Personnel Landmines’, *Lawfare*, 30 Sep. 2018; and Geneva Call, ‘Landmine ban’, [n.d.].

⁹ Geneva Call, ‘Destruction of 2,500 stockpiled anti-personnel mines in Western Sahara’, 30 May 2018.

¹⁰ International Campaign to Ban Landmines (note 5), pp. 2, 49–57.

In Afghanistan, the use of improvised mines by non-state armed groups is mainly attributed to Islamic State of Khorasan Province (ISKP) and to Taliban forces. According to the UN Assistance Mission in Afghanistan (UNAMA), attacks on civilians using IEDs have reached 'extreme levels'. Since the start of 2018 almost half of all civilian casualties linked to conflict-related violence by such groups have been caused by IEDs.¹¹ Between 1 January and 30 September 2018, UNAMA documented 3634 civilian casualties (1065 killed and 2569 injured) from suicide and non-suicide IED attacks, a 21 per cent increase on the same period in 2017.

In Syria, APMs have been killing and injuring civilians returning to areas previously controlled by the Islamic State (IS) group. In Raqqa, for example, heavy landmine contamination resulted in more than 491 people being injured or killed by APMs in the period 21 October 2017 to 20 January 2018.¹²

Clearance and destruction measures

In 2017, international support for mine action—the clearance of landmines and other ERW in order to release land back to the community—increased by over \$200 million: 37 donors contributed \$673.2 million to 38 states and three other areas. This is the highest amount in more than two decades. The top five mine action donors—Germany, Japan, Norway, the USA and the European Union—contributed almost 80 per cent of all international funding in 2017.¹³ A third international Pledging Conference was hosted by Afghanistan in Geneva in February 2018. Among the pledges of support in 2018 were: a March 2018 pledge of \$20 million from South Korea for clearance work in Viet Nam; a June 2018 pledge of \$14.2 million by Australia for mine action activities in Iraq and Syria; and a September 2018 pledge of \$58 million by the United Kingdom for multiple mine action projects.¹⁴

In 2017, 128 square kilometres of land was cleared of landmines and more than 168 000 landmines were destroyed—both decreases compared to 2016.¹⁵ Mauritania completed clearance of its landmines in 2018. Among the

¹¹ UNAMA, Special report, *Afghanistan: Protection of Civilians in Armed Conflict, Increasing Harm to Afghan Civilians from the Deliberate and Indiscriminate Use of Improvised Explosive Devices* (UNAMA: Kabul, Oct. 2018). See also Human Rights Watch, *No Safe Place: Insurgent Attacks on Civilians in Afghanistan* (Human Rights Watch: USA, 2018). On the conflict in Afghanistan, see also chapter 2, section III, in this volume.

¹² Human Rights Watch, 'Syria: Landmines kill, injure hundreds in Raqqa', 12 Feb. 2018. See also Amnesty International, *War of Annihilation: Devastating Toll on Civilians, Raqqa, Syria* (Amnesty International: London, June 2018). On the conflict in Syria, see also chapter 2, section V, in this volume.

¹³ International Campaign to Ban Landmines (note 5), pp. 2–3, 73–86.

¹⁴ Anti-Personnel Mine Ban Convention, Third Annual Pledging Conference for the Implementation of the Anti-Personnel Mine Ban Convention, Third Pledging Conference report, 17 Apr. 2018; UNDP, 'Viet Nam: Mine Action Project launched with support from Korea', Press release, 9 Mar. 2018; Anti-personnel Mine Ban Convention, Intersessional meetings, 7–8 June 2018, Statement of Australia International Cooperation and Assistance and UK Department for International Development, 'UK aid will protect more than 820,000 people from threat of lethal landmines', Press release, 6 Sep. 2018.

¹⁵ International Campaign to Ban Landmines (note 5), pp. 3–4, 23–31.

56 states and four other sovereignty-disputed areas that are known to have mine contamination, 32 are states parties to the APM Convention. Only four of these appear to be on track to meet the 10-year deadline for clearance of known landmine contamination: the Democratic Republic of the Congo, Peru, Sri Lanka and Zimbabwe.¹⁶ Among the states parties that are still to fulfil their mine clearance obligations are some of the most mine-affected in the world, such as Afghanistan, Angola, Azerbaijan, Bosnia and Herzegovina, Cambodia, Chad, Croatia, Iraq, Thailand, Turkey and Yemen.

The demilitarized zone (DMZ) separating North Korea and South Korea is estimated to be among the most heavily mined areas in the world, but very little data is available on the extent of the contamination. On 1 October 2018, however, as part of the inter-Korean thaw in relations and proposed denuclearization of the peninsula, it was announced that troops from both North and South Korea had begun to clear some of the estimated 1.8–2.2 million landmines buried along the shared border. The clearing process was largely a symbolic confidence-building measure and limited to the removal of small numbers of landmines at two sites in the DMZ: the Joint Security Area in the shared village of Panmunjom; and Arrow Head Hill, a Korean War war grave.¹⁷ The joint demining effort was completed in Panmunjom on 25 October and at Arrow Head Hill on 30 November.¹⁸

Collectively, states parties have destroyed more than 54 million stockpiled APMs, including the more than 500 000 destroyed in 2017. Oman announced the completion of its stockpile destruction in November 2018, leaving only two states parties with stockpile destruction obligations: Greece and Ukraine. Both countries missed their stockpile destruction deadlines (of 2008 and 2010 respectively) and neither state has indicated when its deadline might be met. Greece has successfully restarted a destruction process that was halted in 2014 following an explosion at a facility in Bulgaria where its stocks were being destroyed. Ukraine faces the challenge of destroying a stockpile that mostly consists of Soviet-era PFM 1 mines, which are extremely hazardous and technically difficult to destroy.¹⁹

The total remaining global stockpile of APMs is estimated to be less than 50 million. With the exception of Ukraine, the largest stockpilers are

¹⁶ International Campaign to Ban Landmines (note 5), pp. 31–33.

¹⁷ 'North and South Korea begin removing mines along DMZ', CBS News, 1 Oct. 2018. On the proposed denuclearization of the Korean peninsula and the peace process between North and South Korea see chapter 7, section I in this volume.

¹⁸ 'In 19 days, land mines are cleared from JSA', *Korea JoongAng Daily*, 20 Oct. 2018; and 'Koreas to complete work to remove some guard posts, land mines in DMZ', Yonhap News Agency, 30 Nov. 2018.

¹⁹ See the updates on progress provided by Greece and Ukraine to the 17th Meeting of States Parties to the Convention in 'Conclusions on the Status of Implementation of Article 4 (Stockpile Destruction) of the Anti-personnel Mine Ban Convention', APLC/MSP.17/2018/7, 25 Sep. 2018; International Campaign to Ban Landmines (note 5), p. 17; and APM Convention, 'Landmine conference calls for increased condemnation of anti-personnel mines of an improvised nature and recognition of contamination by these weapons', Press release, 30 Nov. 2018.

non-signatories: Russia (26.5 million), Pakistan (6 million), India (4–5 million), China (5 million), Ukraine (4.4 million) and the USA (3 million).²⁰

The 17th Meeting of States Parties to the APM Convention

The 17th Meeting of States Parties (MSP) to the APM Convention took place in Geneva on 26–30 November 2018 under the presidency of Afghanistan.²¹ The conference reaffirmed its support for the convention and the 2025 mine-free ambition, expressed concern over the growing use of improvised landmines and called on non-states parties to join the treaty as soon as possible. The conclusions and recommendations of various committees on the operation and implementation of the convention were noted and adopted.²²

Seven states parties—Bosnia and Herzegovina, Croatia, Cyprus, Serbia, Sudan and Ukraine, which had been in violation of Article 5 of the treaty for missing its 1 June 2016 clearance deadline, and the UK—requested and were granted extensions of their mine clearance deadlines.²³ Croatia, which joined the convention in 1998, requested and was granted an extension to 2026, while the other six states were granted deadline extensions that fell within the global 2025 mine-free target.²⁴ Finally, the meeting agreed to hold the Fourth Review Conference in Oslo on 25–29 November 2019, with an inter-sessional meeting on 22–24 May 2019.

The Convention on Cluster Munitions

The 2008 Convention on Cluster Munitions (CCM) is an international treaty of more than 100 states, among which are former major producers and users as well as affected states. It addresses the humanitarian consequences of, and unacceptable harm to civilians caused by, cluster munitions—air-dropped or ground-launched weapons that release a number of smaller submunitions intended to kill enemy personnel or destroy vehicles. There are three main criticisms of cluster munitions: they disperse large numbers of submunitions imprecisely over an extended area; they frequently fail to detonate and are difficult to detect; and submunitions can remain explosive hazards for many decades.²⁵ The CCM establishes an unconditional prohibition

²⁰ International Campaign to Ban Landmines (note 5), pp. 4–5, 16–19.

²¹ For details of the proceedings, documents and statements by states parties, see Anti-personnel Mine Ban Convention, Seventeenth Meeting of the States Parties, Geneva, 26–30 Nov. 2018.

²² See United Nations, Meeting of the States Parties to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction, Seventeenth Meeting, Geneva, 26–30 Nov. 2018, Final Report (advance copy), 6 Dec. 2018.

²³ For details of each of the requests, additional information submitted by the state party, analysis and decisions, see the APM website, 'Requests for extensions on mine clearance deadlines'.

²⁴ United Nations (note 22).

²⁵ Congressional Research Service (CRS), *Cluster Munitions: Background and Issues for Congress*, CRS Report to Congress RS22907 (CRS: Washington, DC, 2019).

and a framework for action.²⁶ It also requires the destruction of stockpiles within eight years, the clearance of areas contaminated by cluster munition remnants within 10 years and the provision of assistance for victims of such weapons.

In 2018, the CCM celebrated its 10th anniversary and gained three additional states parties: Gambia and Namibia ratified the convention on 11 December and 31 August, respectively, while Sri Lanka deposited its instrument of accession on 1 March 2018. As of 31 December 2018, the CCM had 105 states parties and 15 signatory states.

In December 2018, 144 states, including 32 non-signatories to the convention, voted to adopt the fourth UN General Assembly resolution supporting the CCM.²⁷ The resolution provides states outside of the CCM with an important opportunity to indicate their support for the humanitarian rationale of the treaty and the objective of its universalization. Zimbabwe was the only state to vote against the resolution (for the fourth successive year) but 38 states abstained, including Russia which had voted against the resolution in 2017.²⁸ Debates on the CCM in the UN General Assembly First Committee focused on condemnations of use of the weapon and calls for universalization of the convention.²⁹

Use of cluster munitions in 2018

No state party has used cluster munitions since the CCM was adopted and most of the states still outside of the convention abide de facto by the ban on the use and production of the weapon. Despite international condemnation, however, there was continued use of cluster munitions in Syria in 2018, albeit seemingly at lower levels than in previous years. Cluster munitions have been used in Syria since mid 2012. According to *Cluster Munition Monitor, 2018* there were at least 36 cluster munition attacks in the 12 months to June 2018, mostly carried out by the armed forces of the Syrian Government.³⁰ In addition, Amnesty International recorded cluster munition use in Syria in September 2018.³¹

²⁶ For a summary of the Convention on Cluster Munitions see annex A, section I, in this volume.

²⁷ United Nations, General Assembly Resolution 73/54, Implementation of the Convention on Cluster Munitions, 5 Dec. 2018.

²⁸ Cluster Munitions Coalition, 'UNGA vote on 2018 CCM Resolution', 10 Dec. 2018.

²⁹ For a summary of the debates on the CCM in the General Assembly First Committee, see Reaching Critical Will, *First Committee Monitor*, no. 6 (11 Nov. 2018), pp. 11–12.

³⁰ *Cluster Munition Monitor, 2018* focuses on calendar year 2017, with information included to Aug. 2018 where possible. International Campaign to Ban Landmines–Cluster Munition Coalition (ICBL–CMC), *Cluster Munition Monitor, 2018* (ICBL–CMC: Geneva, Sep. 2018), pp. 15–18. On the conflict in Syria, see chapter 2, section V, in this volume.

³¹ Amnesty International UK, 'Syria: Cluster munitions and barrel bombs being used against civilians in Idlib', Press release, 14 Sep. 2018.

There were also unverified allegations of cluster munition use in Egypt and Libya.³² In Yemen, however, where multiple cluster munitions attacks were recorded in the three-year period 2015–17, there was no evidence of new use in 2018.³³

Destruction, transparency and clearance measures

As of the end of July 2018, 33 of the 41 states parties that possessed stockpiles of cluster munitions had completed the destruction of nearly 1.4 million stockpiled cluster munitions containing 177 million submunitions. This represents the destruction of 99 per cent of all the cluster munitions and submunitions declared as stockpiled under the CCM. In June–July 2018, Croatia, Slovenia and Spain completed destruction of their stockpiled cluster munitions.³⁴ It is not possible to provide a global estimate of the quantity of cluster munitions currently stockpiled by non-signatories to the CCM as too few have disclosed information on the types and quantities they possess. In September 2018, Israel announced that it would destroy some of its older stocks of cluster munitions.³⁵

As of July 2018, 89 states parties had submitted an initial transparency report as required by the convention, while 13 states parties had failed to do so, including four that were originally due in 2011. In addition, 56 states parties had submitted their annual updated transparency report covering activities in 2017.³⁶

Conflict and insecurity made the clearance of cluster munitions more challenging in several countries, but at least 93 km² of contaminated land was cleared in 2017, resulting in the destruction of 153 000 submunitions—both increases compared with 2016.³⁷ More than three-quarters of the land cleared was in three countries: Cambodia, Laos and Viet Nam. These are estimated to be the world's most contaminated countries, as a result of the cluster munitions used by the USA in the region in 1965–75.³⁸ Laos also recorded the highest number of casualties linked to cluster munition remnants in 2017 (32), demonstrating the continuing legacy of cluster munition use 50 years on.³⁹

³² International Campaign to Ban Landmines–Cluster Munition Coalition (note 30), pp. 20–21; and Amnesty International, 'Egypt: Use of banned cluster bombs in North Sinai confirmed by Amnesty International', News release, 1 Mar. 2018.

³³ International Campaign to Ban Landmines–Cluster Munition Coalition (note 30), pp. 19–20.

³⁴ International Campaign to Ban Landmines–Cluster Munition Coalition (note 30), pp. 25–33.

³⁵ Kubovich, Y., 'Israel Air Force plans to destroy controversial cluster bombs', Haaretz, 18 Sep. 2018.

³⁶ International Campaign to Ban Landmines–Cluster Munition Coalition (note 30), pp. 35–36.

³⁷ International Campaign to Ban Landmines–Cluster Munition Coalition (note 30), pp. 60–64.

³⁸ An estimated 790 000 cluster munitions, containing at least 383 million submunitions, were dropped on those 3 countries between 1965 and 1975. International Campaign to Ban Landmines–Cluster Munition Coalition (note 30), p. 53.

³⁹ International Campaign to Ban Landmines–Cluster Munition Coalition (note 30), p. 94; and Convery, P., 'US bombs continue to kill in Laos 50 years after Vietnam War', Al Jazeera, 21 Nov. 2018.

Between 2010 and 2017, more than 688 000 submunitions were destroyed and at least 518 km² of land was cleared worldwide. Nonetheless, at least 26 states and three other areas remain contaminated by cluster munitions.⁴⁰ An accurate estimate of the total size of the contaminated area is not possible because the extent of contamination and the progress of clearance are difficult to discern in many states, especially non-signatory states. Eight states parties have so far completed clearance of areas declared contaminated under the CCM.⁴¹ Only Croatia among the 13 states parties with declared contaminated areas and ongoing clearance programmes is judged to be on track to meet its mandated 10-year clearance deadline.⁴²

A regional workshop on conventional arms control treaties convened by New Zealand in Auckland on 12–14 February 2018 held a discussion on the convention.⁴³

Eighth Meeting of the States Parties to the CCM

The Eighth Meeting of the States Parties to the CCM took place in Geneva on 3–5 September 2018 under the presidency of Nicaragua. It was the third formal meeting since the adoption of the 2015 Dubrovnik Action Plan, a five-year plan that provides a roadmap for states to implement and universalize the CCM.⁴⁴ In the final report of the meeting, states parties ‘expressed their strong concern regarding recent incidents and evidence of use of cluster munitions in different parts of the world’ and ‘condemned any use by any actor’. They also expressed satisfaction at the progress made with the implementation of the Dubrovnik Action Plan.⁴⁵

⁴⁰ The states parties with cluster munition remnants are: Afghanistan, Bosnia and Herzegovina, Chad, Chile, Croatia, Germany, Iraq, Laos, Lebanon, Montenegro, Somalia and the United Kingdom; signatory: Angola; non-signatories: Azerbaijan, Cambodia, Georgia, Iran, Libya, Serbia, South Sudan, Sudan, Syria, Tajikistan, Ukraine, Viet Nam and Yemen; other areas: Kosovo, Nagorno-Karabakh and Western Sahara. International Campaign to Ban Landmines–Cluster Munition Coalition (note 30), pp. 59–64.

⁴¹ Albania, the Democratic Republic of the Congo, Grenada, Guinea-Bissau, Mauritania, Mozambique, Norway and Zambia. International Campaign to Ban Landmines–Cluster Munition Coalition (note 30), p. 69.

⁴² The other 12 are: Afghanistan, Bosnia and Herzegovina, Chad, Chile, Colombia, Germany, Iraq, Laos, Lebanon, Montenegro, Somalia and the UK. International Campaign to Ban Landmines–Cluster Munition Coalition (note 30), pp. 69–70.

⁴³ See ‘Auckland Declaration on Conventional Weapons Treaties’, Pacific Conference on Conventional Weapons Treaties, Auckland, New Zealand, 12–14 Feb. 2018.

⁴⁴ The Dubrovnik Action Plan was adopted at the First Review Conference of the CCM in Dubrovnik, Croatia, on 11 Sep. 2015. For the text of the plan see Implementation Support Unit of the Convention on Cluster Munitions, *Dubrovnik Action Plan*, 27 May 2016. For an update on progress see CCM, ‘Convention on Cluster Munitions, 8MSP progress report’, Monitoring progress in implementing the Dubrovnik Action Plan, Submitted by the President of the Eighth Meeting of States Parties, CCM/MSP/2018/5, 9 July 2018.

⁴⁵ CCM, Final Report, CCM/MSP/2018/9, 19 Sep. 2018. See also the coverage of the meeting on the website of the CCM Implementation Support Unit, ‘The Eighth Meeting of States Parties’.

While no state party has so far missed its deadlines under Article 3 (stock-pile destruction) or Article 4 (clearance and destruction of cluster munition remnants) several are likely to do so in the coming years. Hence, the meeting adopted guidelines for states submitting extension requests under these articles (as Annexes II and III, respectively, of the final report). In addition, given the CCM's continuing financial instability due to arrears of payments of assessed contributions, the meeting asked the president of the 2019 meeting to identify measures for improving the financial predictability and sustainability of the convention.⁴⁶

⁴⁶ CCM, Final Report (note 45).