

## I. Global and regional instruments for conventional arms control

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This section reviews the key developments and negotiations that took place in three of the main global instruments for regulating the production, ownership, trade or use of conventional weapons: the 1981 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 Convention); the 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction (APM Convention); and the 2008 Convention on Cluster Munitions (CCM). In each case, events related to the weapons themselves—such as their production, use or destruction—are described, as well as procedural developments within the treaty regime in 2020.

Two further such global instruments are the 2001 United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All its Aspects (POA) and the 2013 Arms Trade Treaty (ATT). The seventh biennial meeting of states to consider the implementation of the POA, which was due to take place on 15–19 June 2020, was postponed until 26–30 July 2021 as a result of the Covid-19 pandemic. The ATT is discussed in chapter 14, as are controls on dual-use items and technology more generally—most new and emerging technologies are inherently dual-use and interconnected and require complex regulatory approaches to govern their use in civilian, commercial and military contexts.<sup>1</sup> Other sections in this chapter provide more detailed discussions on efforts to create new global instruments governing lethal autonomous weapon systems (LAWS, section II), cyberspace (section III), and space security (section IV).

At the regional level there are a number of instruments governing various aspects of conventional arms control in Africa, the Americas and Europe (see annex A, section II in this volume). Developments in the Open Skies Treaty in 2020 are discussed in section V of this chapter. Within Africa most of the regional instruments relate to efforts to tackle problems posed by small arms and light weapons (SALW). In August 2020 a revised version of the 2001 Protocol on the Control of Firearms, Ammunition and other related Materials in the Southern African Development Community (SADC) Region was adopted. It became the first regional instrument to take into account

<sup>1</sup>On international regulatory frameworks surrounding new and emerging technologies see Boothby, W. H. (ed.), *New Technologies and the Law in War and Peace* (Cambridge University Press: Cambridge, 2019).

**Box 13.1.** The Certain Conventional Weapons Convention and its protocols

The 1981 Certain Conventional Weapons (CCW) Convention originally contained three protocols: prohibiting the use of weapons that employ fragments not detectable in the human body by X ray (Protocol I); regulating the use of landmines, booby traps and similar devices (Protocol II); and limiting the use of incendiary weapons (Protocol III). In subsequent years, states added two protocols: prohibiting the use and transfer of blinding laser weapons was added in 1995 (Protocol IV); and on explosive remnants of war (ERW)—landmines, unexploded ordnance and abandoned explosive ordnance—in 2003 (Protocol V). In addition, amendments have expanded and strengthened the convention. Amended Protocol II, for example, places further constraints on the use of anti-personnel mines (APMs), while the scope of the convention was expanded in 2001 to situations of intra-state armed conflict. Because Amended Protocol II fell short of a ban on the use of landmines, a parallel process outside of the CCW Convention led to the creation of the 1997 APM Convention. States parties to the CCW Convention are required to ratify at least two of the original, amended or additional protocols, but are not required to sign up to all.

the 2016 African Union Roadmap for Silencing the Guns, as well as other updates to reflect contemporary African and global SALW policy.<sup>2</sup>

### The Certain Conventional Weapons Convention

The CCW Convention and its five protocols ban or restrict the use of specific types of weapon that are considered to cause unnecessary or unjustifiable suffering to combatants or to affect civilians indiscriminately.<sup>3</sup> It is a so-called umbrella treaty, to which agreements on specific weapon types can be added in the form of protocols (see box 13.1). As of 31 December 2020 there were 125 states parties to the original convention and its protocols. No new states joined the CCW regime in 2020. Not all the states parties have ratified all the amended or additional protocols.<sup>4</sup>

The CCW framework is also important for addressing the challenges posed by the development or use of new types of weapon and their systems with respect to international humanitarian law. Many of the contemporary debates on conventional arms control—such as those seeking to address the use of explosive weapons in populated areas (EWIPA), as discussed below—are shaped by the concept of ‘humanitarian disarmament’, which prioritizes the protection, security and well-being of people as opposed to states. In particular, this approach strives to increase the protection of civilians by

<sup>2</sup> ‘Southern Africa’s revised firearms protocol is an important step towards ending conflict and violence’, Institute for Security Studies, 25 Nov. 2020; and African Union Master Roadmap of Practical Steps to Silence The Guns In Africa By Year 2020, Lusaka Master Roadmap, 2016.

<sup>3</sup> For a summary and other details of the CCW Convention see annex A, section I, in this volume.

<sup>4</sup> For lists of the CCW Convention states parties that have ratified the original, amended and additional protocols see annex A, section I, in this volume.

reducing the human and environmental impacts of arms.<sup>5</sup> In recent years, however, there have been increasing tensions between the prioritization of humanitarian demands and the perceived military needs of certain states, with the result that many of the discussions on the convention have become deadlocked.<sup>6</sup> Over 250 civil society organizations signed an open letter during 2020 calling for humanitarian disarmament as an approach to regulating weapons for an improved post-pandemic world.<sup>7</sup>

### *Meetings of states parties*

The states parties to the CCW Convention meet regularly at annual meetings and quinquennial review conferences. The Sixth Review Conference is scheduled to take place on 13–17 December 2021. These meetings also consider the work of the groups of governmental experts (GGEs) convened since 2001 in various formats. Amended Protocol II and Protocol V have their own implementation processes, which function in parallel with the CCW Convention. Seven CCW-related meetings were scheduled in 2020, but all but three were postponed due to Covid-19 restrictions (see table 13.1).

The Amended Protocol II group of experts meeting in September discussed improvised explosive devices (IEDs), a topic that it has been working on since 2009.<sup>8</sup> The focus remained on voluntary information exchange on national and multilateral measures, and on best practices regarding identification, humanitarian clearance and civilian protection from IEDs. The work of the GGE on LAWS is discussed in section II of this chapter.

In recent years, little progress has been made at these meetings due to the lack of consensus, and a handful of states have obstructed advances in most of the CCW agenda. Problems with the financial sustainability of the convention have also previously led to difficulties in organizing meetings. In 2020 the difficulties in these negotiations were aggravated by the inability to meet face-to-face due to the Covid-19 pandemic.

<sup>5</sup> See the discussions on humanitarian disarmament in Anthony, I., 'International humanitarian law: ICRC guidance and its application in urban warfare', *SIPRI Yearbook 2017*, pp. 545–53; and Davis, I. and Verbruggen, M., 'The Convention on Certain Conventional Weapons', *SIPRI Yearbook 2018*, p. 381. See also International Committee of the Red Cross (ICRC), 'International humanitarian law and the challenges of contemporary armed conflicts: Recommitting to protection in armed conflict on the 70th anniversary of the Geneva Conventions', *International Review of the Red Cross*, vol. 101, no. 911 (Aug. 2019), pp. 869–949.

<sup>6</sup> See e.g. the discussion on the 2016 CCW Review Conference in Davis, I. et al., 'Humanitarian arms control regimes: Key developments in 2016', *SIPRI Yearbook 2017*, pp. 554–61; and on developments since then in the 2018–20 editions of the *SIPRI Yearbook*.

<sup>7</sup> Humanitarian Disarmament, 'Covid-19 and humanitarian disarmament: Open letter from civil society', opened for signature June 2020.

<sup>8</sup> Amended Protocol II to the CCW Convention, 22nd Annual Conference, 'Report on improvised explosive devices', 20 Oct. 2020. Videos of the three sessions of the expert group meeting are available on UN Web TV.

**Table 13.1.** Meetings of the Certain Conventional Weapons Convention in 2020

Dates	Meeting
21–25 September	GGE on LAWS
28 September	Protocol V meeting of experts
29–30 September	Amended Protocol II group of experts
2–6 November <sup>a</sup>	GGE on LAWS
9 November <sup>a</sup>	14th Annual Conference of the Parties to Protocol V
10 November <sup>a</sup>	22nd Annual Conference of the Parties to Amended Protocol II
11–13 November <sup>a</sup>	CCW annual meeting

GGE = group of governmental experts; LAWS = lethal autonomous weapon systems.

Note: All meetings took place in Geneva and some were conducted in hybrid format to allow participation by those who could not travel to Geneva.

<sup>a</sup> Postponed until 2021 from the scheduled dates due to Covid-19 restrictions.

### *Towards a political declaration on the use of explosive weapons in populated areas*

The use of EWIPA—and especially the use of explosive weapons with a large destructive radius, an inaccurate delivery system or the capacity to deliver multiple munitions over a wide area—has frequently led to situations in which over 90 per cent of casualties in populated areas are civilian rather than combatants.<sup>9</sup> The use of EWIPA also has reverberating effects, with impacts on water, sanitation, ecosystems, healthcare, education and psychological well-being.<sup>10</sup>

The International Network on Explosive Weapons (INEW), a non-governmental organization (NGO) coalition formed in 2011, was the first to articulate EWIPA as an issue that demanded attention. Its efforts led to calls from an increasing number of states, successive UN secretary-generals, international bodies and other NGOs for measures to provide better protection for civilians and to prevent harm from EWIPA.<sup>11</sup> As a result of this increasing international political pressure, and after many years of

<sup>9</sup> Action on Armed Violence (AOAV), *Explosive Violence Monitor 2019* (AOAV: London, 2020), p. 3. See also International Committee of the Red Cross (ICRC), 'Explosive weapons in populated areas', [n.d.]; and International Network on Explosive Weapons (INEW), 'Protecting civilians from the use of explosive weapons in populated areas', May 2020.

<sup>10</sup> Wille, C., *The Implications of the Reverberating Effects of Explosive Weapons Use in Populated Areas for Implementing the Sustainable Development Goals* (United Nations Institute for Disarmament Research: Geneva, 2016); Dathan, J., *Blast Injury: The Reverberating Health Consequences from the Use of Explosive Weapon Use* (Action on Armed Violence: London, 2020); and Dathan, J., *The Broken Land: The Environmental Consequences of Explosive Weapons* (Action on Armed Violence: London, 2020).

<sup>11</sup> See e.g. Austrian Federal Ministry for Europe, Integration and Foreign Affairs, 'Vienna Conference on Protecting Civilians in Urban Warfare: Summary of the conference', Vienna, 1–2 Oct. 2019; and United Nations, 'Joint appeal by the UN secretary-general and the president of the International Committee of the Red Cross on the use of explosive weapons in cities', Press release, SG/2251, 18 Sep. 2019. For a list of 112 states and territories and 9 state groupings that have publicly acknowledged the harm caused by EWIPA in statements see International Network on Explosive Weapons (INEW), 'Political response', [n.d.].

seeking to address EWIPA issues within the CCW framework, a separate process led by the Government of Ireland gathered momentum in late 2019 and early 2020.<sup>12</sup>

The aim of this new process is the development of a political declaration to address the humanitarian harm arising from the use of EWIPA. Such a declaration would aim to establish a new international norm against the use of explosive weapons in towns and cities, which could in turn drive changes in military practice at the policy and operational levels.

Ireland convened a series of open consultations on the proposed declaration. The first rounds of consultations were held in Geneva on 18 November 2019 and 10 February 2020. The Covid-19 pandemic meant that consultations scheduled for 23–24 and 26–27 March 2020 in Geneva and the planned adoption of the declaration on 26 May 2020 in Dublin were abandoned. Instead, the last round of consultations was held online and the adoption of the declaration was postponed. The three rounds of consultations attracted written submissions from a total of at least 36 states (either individually or within a joint submission), 4 international organizations and 16 civil society groups.<sup>13</sup>

During the first consultation, most delegations called for the declaration to acknowledge the humanitarian impact of explosive weapons with wide-area effects. Most also supported the idea of it encouraging the sharing of best practices and policies on the protection of civilians in urban conflict settings and on the provision of victim assistance. Views differed, however, on how the declaration should relate to international humanitarian law and on whether it should seek to prohibit or limit specific types of weapon or uses of weapons.<sup>14</sup>

During the second consultation the Irish Government presented a paper (circulated on 20 January 2020) containing draft elements for the declaration.<sup>15</sup> Several states and civil society organizations welcomed these with reservations. They expressed concern that they did not contain a clear commitment against the use of explosive weapons that have wide-

<sup>12</sup> For developments in 2019 see Davis, I., 'Global instruments for conventional arms control', *SIPRI Yearbook 2020*, pp. 485–501.

<sup>13</sup> The submissions are available at Irish Department of Foreign Affairs, 'Written submissions—18 November 2019 consultations', 18 Nov. 2019; Irish Department of Foreign Affairs, 'Written submissions—10 February 2020 consultations', 10 Feb. 2020; and Irish Department of Foreign Affairs, 'Online submissions—Draft political declaration 17 March 2020', 17 Mar. 2020. See also Human Rights Watch and International Human Rights Clinic, 'Key questions and answers on a political declaration on the use of explosive weapons in populated areas', June 2020.

<sup>14</sup> Irish Department of Foreign Affairs, 'Protecting civilians in urban warfare', 2020. For a summary of the issues discussed see Reaching Critical Will, 'Towards a political declaration on the use of explosive weapons in populated areas: States need to ensure that expressed commitments translate into real impacts on the ground', 19 Nov. 2019.

<sup>15</sup> Irish Department of Foreign Affairs, 'Elements of a political declaration to ensure the protection of civilians from humanitarian harm arising from the use of explosive weapons in populated areas', [n.d.].

area effects in populated areas, and that, in parts, they risked normalizing the use of such weapons and weakening existing protection for civilians.<sup>16</sup> There were also suggestions that the political declaration should include language on the arms trade with linkages to the ATT.<sup>17</sup> The African Group, for example, suggested that it include a commitment to prevent diversion of arms, especially to non-state armed groups.<sup>18</sup>

Ireland continued the process online; it circulated a draft of the political declaration on 17 March 2020 and planned to circulate a second draft with a view to holding face-to-face consultations in Geneva as soon as possible.<sup>19</sup> To maintain momentum, Ireland hosted a webinar on 7 September 2020 highlighting the humanitarian harm caused by EWIPA, while in meetings of the First Committee of the UN General Assembly in October and November several states expressed their support for the ongoing political efforts.<sup>20</sup> The humanitarian consequences of the use of EWIPA were also discussed at the margins of the June 2020 humanitarian affairs segment of the UN Economic and Social Council (ECOSOC), an international platform for discussing the coordination of UN humanitarian assistance.<sup>21</sup>

In December 2020, Ireland issued an update on the process, explaining that it would circulate a revised draft political declaration in January 2021, taking into account the submissions received as part of the written consultations and the bilateral feedback it received in 2020. Following this, Ireland planned to schedule an open and informal exchange of views on the revised draft in March 2021, and then a final consultation to conclude the negotiation of the text in mid 2021 (either fully in-person or in a hybrid format, depending on the prevailing public health situation).<sup>22</sup>

<sup>16</sup> See e.g. Acheson, R., 'Impacts, not intentionality: The imperative of focusing on the effects of explosive weapons in a political declaration', *Reaching Critical Will*, 14 Feb. 2020; and Article 36, 'Rejecting calls to address only the "indiscriminate use" of explosive weapons in populated areas', Feb. 2020.

<sup>17</sup> *Reaching Critical Will* (note 14).

<sup>18</sup> Group of African States, Draft statement at the informal consultations on the political declaration on EWIPA, 10 Feb. 2020.

<sup>19</sup> Irish Department of Foreign Affairs, 'Draft political declaration on strengthening the protection of civilians from humanitarian harm arising from the use of explosive weapons in populated areas', 17 Mar. 2020.

<sup>20</sup> Geyer, K., 'Ireland's webinar on explosive weapons keeps momentum on the process for a political declaration on the protection of civilians', *Reaching Critical Will*, 9 Sep. 2020; and Boillot, L., 'Explosive weapons', *First Committee Monitor*, vol. 18, no. 2 (18 Oct. 2020), pp. 16–17.

<sup>21</sup> UN Office for the Coordination of Humanitarian Affairs (OCHA), Inter-Agency Standing Committee, '2020 ECOSOC humanitarian affairs segment', June 2020.

<sup>22</sup> Communiqué from Michael Gaffey, Permanent Representative of Ireland to the United Nations and other International Organisations in Geneva, 17 Feb. 2021.

## The Anti-Personnel Mines Convention

The 1997 APM Convention prohibits, among other things, the use, development, production and transfer of APMs.<sup>23</sup> These are mines that detonate on human contact—that is, they are ‘victim-activated’—and therefore encompass IEDs that act as APMs, also known as ‘improvised mines’.<sup>24</sup> At the Third Review Conference of the convention, in 2014, the states parties set a target of fully eliminating APMs and addressing the consequences of past use by 2025.<sup>25</sup>

While compliance with the APM Convention has generally been good, it continues to be undermined by the refusal of some states, such as China, Iran, Israel, the Democratic People’s Republic of Korea (DPRK, North Korea), Russia, Saudi Arabia and the United States, to sign it. As of 31 December 2020 there were 164 states parties to the APM Convention, including all member states of the European Union (EU), every state in sub-Saharan Africa and every state in the Americas apart from Cuba and the USA. Only 33 UN member states remained outside the treaty. No new states joined in 2020.

### *Production and use of APMs in 2019–20*

New use of APMs by states is now extremely rare. According to the International Campaign to Ban Landmines (ICBL), Myanmar (which is not a party to the APM Convention) is the only state to have used APMs in the period mid 2019 to October 2020, and it has been deploying them for the past 20 years.<sup>26</sup>

More than 50 states have produced APMs in the past, but the ICBL identifies only 12 as current producers (and only four as likely active producers: India, Iran, Myanmar and Pakistan).<sup>27</sup> This is an increase of one country—the USA—compared to the previous ICBL report following a change in US landmine policy. In January 2020 the US administration of President Donald J. Trump rescinded a 2014 directive issued by President Barack Obama, which banned production and acquisition of APMs, as well

<sup>23</sup> For a summary and other details of the APM Convention see annex A, section I, in this volume.

<sup>24</sup> IEDs are also discussed in the CCW regime (see above) and in the UN General Assembly First Committee, including through the submission of resolutions. See Seddon, B. and Baldo, A. M., *Counter-IED: Capability Maturity Model & Self-assessment Tool* (United Nations Institute for Disarmament Research: Geneva, 2020).

<sup>25</sup> APM Convention, 3rd Review Conference, Final document, APLC/CONF/2014/4, 16 Mar. 2015, annex II, para. 6.

<sup>26</sup> International Campaign to Ban Landmines–Cluster Munition Coalition (ICBL-CMC), *Landmine Monitor 2020* (ICBL-CMC: Geneva, Nov. 2020), pp. 1, 8–11. The report focuses on the calendar year 2019 with information included up to Oct. 2020 where possible.

<sup>27</sup> The other 8 listed producers are China, Cuba, North Korea, South Korea, Russia, Singapore, the USA and Viet Nam. International Campaign to Ban Landmines–Cluster Munition Coalition (note 26), pp. 17–18.

as their use other than in a future conflict on the Korean Peninsula. The new policy allows the USA to again use landmines ‘in exceptional circumstances’ in conflicts around the world.<sup>28</sup> The US decision was criticized by several European allies, including the EU.<sup>29</sup>

While there is a de facto moratorium on the production and use of the weapon among most states in the world, the use of APMs, including victim-activated IEDs, by non-state armed groups in conflicts is a growing problem.<sup>30</sup> APMs were used by such groups in at least six states between mid 2019 and October 2020: Afghanistan, Colombia, India, Libya, Myanmar and Pakistan. There were also unconfirmed allegations of use by non-state armed groups in 13 other states: Burkina Faso, Cameroon, Chad, Egypt, Mali, Niger, Nigeria, the Philippines, Somalia, Syria, Turkey, Tunisia and Yemen.<sup>31</sup>

In 2019, the most recent year for which comparative data is available, the ICBL recorded 5554 casualties linked to APMs or other ERW (such as cluster munitions), of which at least 2170 were fatal and the vast majority (80 per cent) were civilian.<sup>32</sup> This marked a fifth successive year of high casualties, albeit lower than in 2016–18. The three states with the most casualties in 2019 were Afghanistan (1538), Mali (345) and Ukraine (324).<sup>33</sup> According to another source, APM and ERW casualties in north-east Nigeria worsened in 2020 as a result of conflict involving non-state armed groups, especially Boko Haram.<sup>34</sup>

#### *Clearance and destruction measures*

In 2019, \$561.3 million was contributed by donors and affected states to international support for mine action, which includes humanitarian demining, risk education, victim assistance, stockpile destruction and threat reduction

<sup>28</sup> Esper, M. T., US Secretary of Defense, ‘DoD policy on landmines’, Memorandum, US Department of Defense, 31 Jan. 2020. See also White House, ‘Statement from the Press Secretary’, 31 Jan. 2020; and Human Rights Watch, ‘US: Trump administration abandons landmine ban’, 31 Jan. 2020.

<sup>29</sup> International Campaign to Ban Landmines–Cluster Munition Coalition (note 26), p. 16; and European External Action Service (EEAS), ‘Anti-personnel mines: Statement by the Spokesperson on the United States’ decision to re-introduce their use’, 4 Feb. 2020.

<sup>30</sup> E.g. APM Convention Implementation Support Unit, ‘Afghanistan’s Chief Executive on growing number of non-state actors using improvised landmines’, 27 Feb. 2018; and Luke, D., *Old Issues, New Threats: Mine Action and IEDs in Urban Environments* (LSE Ideas: London, Feb. 2020).

<sup>31</sup> International Campaign to Ban Landmines–Cluster Munition Coalition (note 26), pp. 1, 11–14. On the use of IEDs by the Islamic State in Syria see Anfinson, A. and Al-Dayel, N., ‘The threat of the Islamic State’s extensive use of improvised explosives’, International Centre for Counter-Terrorism, 21 July 2020.

<sup>32</sup> International Campaign to Ban Landmines–Cluster Munition Coalition (note 26), pp. 2, 36–39.

<sup>33</sup> International Campaign to Ban Landmines–Cluster Munition Coalition (note 26), pp. 2, 36–39. In Afghanistan, the problem spans several decades. See Fiederlein, S. and Rzegocki, S., ‘The human and financial costs of the explosive remnants of war in Afghanistan’, Costs of War project, Brown University, 19 Sep. 2019.

<sup>34</sup> Mines Advisory Group (MAG), *Hidden Scars: The Landmine Crisis in North-East Nigeria* (MAG: Manchester, Dec. 2020). On the armed conflict in Nigeria see chapter 7, section II, in this volume.



advocacy.<sup>35</sup> This was a decline of 13 per cent compared to 2018 and the first time since 2016 that international support fell below \$600 million. The top five mine action donors—the USA, the EU, the United Kingdom, Norway and Germany—contributed 72 per cent of all international funding in 2019 (about the same proportion as in 2018).<sup>36</sup>

An estimated 156 square kilometres of land was cleared of APMs in 2019 (compared to 146 km<sup>2</sup> in 2018) and more than 123 000 APMs were destroyed (compared to 98 000 in 2018). Since the APM Convention entered into force, 31 states parties have completed clearance of all APMs from their territory, with Chile and the UK doing so in 2020.<sup>37</sup> In November 2020 the UK announced that the Falkland Islands/Malvinas were now clear of nearly all APMs, 38 years on from the war there, and a formal declaration of completion is expected to be submitted in 2021.<sup>38</sup>

In 2020 mine action activities faced additional challenges from the pandemic. Clearance operations were temporarily suspended due to Covid-19-related restrictions in Armenia, Bosnia and Herzegovina, Chad, Colombia, Kosovo, Lebanon, Peru, Senegal, Viet Nam, Western Sahara and Zimbabwe as well as in the Falkland Islands/Malvinas.<sup>39</sup>

The 60 states and other areas that are known to have mine contamination include 33 states parties to the APM Convention. Among them are some of the most mine-affected states in the world: Afghanistan, Bosnia and Herzegovina, Cambodia, Croatia, Ethiopia, Iraq, Thailand, Turkey, Ukraine and Yemen.<sup>40</sup> As of December 2020, 26 of the 33 states parties had deadlines to meet their mine clearance obligations before or during 2025, while seven states parties had deadlines after 2025: Bosnia and Herzegovina (2027), Croatia (2026), Iraq (2028), Palestine (2028), Senegal (2026), South Sudan (2026) and Sri Lanka (2028).<sup>41</sup>

Collectively, states parties have destroyed more than 55 million stockpiled APMs. More than 269 000 were destroyed in 2019 (compared to 1.4 million in 2018). Only three states parties have remaining stockpile destruction obligations: Greece, Sri Lanka and Ukraine. The total remaining global

<sup>35</sup> UN Mine Action Service (UNMAS), *Guide for the Application of International Mine Action Standards (IMAS): IMAS 01.10*, 2nd edn, amendment 9 (UNMAS: New York, Mar. 2018).

<sup>36</sup> International Campaign to Ban Landmines–Cluster Munition Coalition (note 26), pp. 2–3, 85–97.

<sup>37</sup> International Campaign to Ban Landmines–Cluster Munition Coalition (note 26), p. 26, 53–57; and APM Convention Implementation Support Unit, ‘Chile ends mine clearance operations: The Americas a step closer to becoming a mine-free region’, Press release, 3 Mar. 2020.

<sup>38</sup> Rawlinson, K., ‘Falklands cleared of nearly all landmines, 38 years on from war’, *The Guardian*, 10 Nov. 2020; and British Foreign and Commonwealth Office, ‘Falklands demining programme work plan under Article (5)’, 30 Apr. 2020.

<sup>39</sup> International Campaign to Ban Landmines–Cluster Munition Coalition (note 26), pp. 40–42.

<sup>40</sup> International Campaign to Ban Landmines–Cluster Munition Coalition (note 26), pp. 29–33.

<sup>41</sup> International Campaign to Ban Landmines–Cluster Munition Coalition (note 26), pp. 2–4, 26–33, 57–63.

stockpile of APMs is estimated to be less than 50 million, down from about 160 million in 1999. With the exception of Ukraine, the largest stockpilers are non-signatories: Russia (26.5 million), Pakistan (6 million), India (4–5 million), China (5 million), Ukraine (3.3 million) and the USA (3 million).<sup>42</sup>

### *The 18th meeting of states parties*

The 18th meeting of states parties of the APM Convention took place virtually due to Covid-19 restrictions on 16–20 November 2020.<sup>43</sup> It was the first opportunity to assess progress in the Oslo Action Plan adopted at the Fourth Review Conference, in 2019. The plan adopted a gender perspective, advanced mine risk education to prevent new casualties and challenged states parties to increase the pace of mine clearance.<sup>44</sup> Nine states parties requested and were granted extensions to their Article 5 mine clearance obligations: Bosnia and Herzegovina (until 2027), Colombia (2025), the Democratic Republic of the Congo (2022), Mauritania (2022), Niger (2024), Nigeria (2021), Senegal (2026), South Sudan (2026) and Ukraine (2023).<sup>45</sup>

## **The Convention on Cluster Munitions**

The 2008 CCM is an international treaty of more than 100 states, among which are former major producers and users of cluster munitions as well as affected states.<sup>46</sup> The 10th anniversary of the entry into force of the convention fell on 1 August 2020. The convention 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 unexploded submunitions can remain explosive hazards for many decades.<sup>47</sup> The CCM establishes an unconditional prohibition and a framework for action. It also requires the destruction of stockpiles within 8 years of entry into force of

<sup>42</sup> International Campaign to Ban Landmines–Cluster Munition Coalition (note 26), pp. 4, 19–20.

<sup>43</sup> On the proceedings, documents and statements by states parties see APM Convention, ‘Eighteenth meeting of the states parties’, 16–20 Nov. 2020.

<sup>44</sup> APM Convention, 4th Review Conference, Final document, part II, APLC/CONF/2019/5/Add.1, 22 Jan. 2020.

<sup>45</sup> For details of each of the requests, additional information submitted by the state party, analysis and decisions see APM Convention, 18th Meeting of the States Parties, Final report, APLC/MSP.18/2020/10, 27 Nov. 2020; and APM Convention (note 44).

<sup>46</sup> For a summary and other details of the CCM see annex A, section I, in this volume.

<sup>47</sup> Feickert, A. and Kerr, P. K., *Cluster Munitions: Background and Issues for Congress*, Congressional Research Service (CRS) Report for Congress RS22907 (US Congress, CRS: Washington, DC, 22 Feb. 2019).

the Convention (Article 3), the clearance of areas contaminated by cluster munition remnants within 10 years (Article 4) and the provision of assistance for victims of such weapons (Article 5).

In 2020 the CCM gained three additional states parties: Sao Tome and Principe, Niue, and Saint Lucia. As of 31 December 2020, the CCM had 110 parties and 13 signatory states. In the UN General Assembly in December 2020, 147 states voted to adopt its sixth resolution supporting the CCM.<sup>48</sup> The resolution provides states outside the CCM an important opportunity to indicate their support for the humanitarian rationale behind the treaty and the objective of its universalization. For the first time, no state voted against the resolution, while 38 states abstained (as was the case in 2019) and 32 non-states parties supported it (1 more than in 2019).<sup>49</sup>

#### *Use and production of cluster munitions in 2019–20*

No CCM state party has used cluster munitions since the convention was adopted and most of the states still outside the convention abide de facto by the ban on the use and production of these weapons. Despite international condemnation, however, there was continued use of cluster munitions in Syria in 2019, albeit at decreasing levels. According to the Cluster Munition Coalition, there were at least 11 cluster munition attacks between 1 August 2019 and 31 July 2020 (down from 38 in the previous 12 months), carried out by the armed forces of the Syrian Government with the likely support of Russia, and at least 686 cluster munition attacks by government forces were reported between July 2012 and June 2020.<sup>50</sup> Cluster munition attacks were also documented in Libya during 2019 and unsubstantiated allegations of use in Kashmir in July 2019 and Yemen in June 2020.<sup>51</sup> During 2010–19 at least 4315 cluster munition casualties were identified in 20 countries and other areas. Notably, more than 80 per cent of the global casualties were recorded in Syria.<sup>52</sup>

The most recent use of cluster munitions occurred in the armed conflict in Nagorno-Karabakh between Armenia and Azerbaijan (both non-parties to

<sup>48</sup> UN General Assembly Resolution 75/62, 'Implementation of the Convention on Cluster Munitions', 7 Dec. 2019, A/RES/75/62, 15 Dec. 2020.

<sup>49</sup> CCM Implementation Support Unit, 'UNGA adopts 2020 CCM resolution with zero no votes', 8 Dec. 2020. For a summary of the debates on the CCM in the General Assembly First Committee see Mosquera, D. C. P., 'Cluster munitions', *First Committee Monitor*, vol. 18, no. 4 (8 Nov. 2020), p. 17.

<sup>50</sup> International Campaign to Ban Landmines–Cluster Munition Coalition (ICBL-CMC), *Cluster Munition Monitor 2020* (ICBL-CMC: Geneva, Nov. 2020), pp. 1, 16–18. *Cluster Munition Monitor 2020* focuses on the calendar year 2019 with information included to Sep. 2020 where possible. On the armed conflict in Syria see chapter 6, section II, in this volume.

<sup>51</sup> International Campaign to Ban Landmines–Cluster Munition Coalition (note 50), pp. 2, 18–20; and Ahmed, K., 'Unexploded bombs pose rising threat to civilians in Libya', *The Guardian*, 17 Feb. 2020. On the armed conflicts in Libya and Yemen see chapter 6, sections IV and V respectively, in this volume.

<sup>52</sup> International Campaign to Ban Landmines–Cluster Munition Coalition (note 50), pp. 44, 52–56.

the CCM) in October 2020. Two NGOs, Amnesty International and Human Rights Watch, assessed that Azerbaijan had used Israeli-made M095 cluster munitions, while Azerbaijan made counter-allegations of use by Armenia, but without providing any evidence.<sup>53</sup>

Sixteen states, none of which are states parties to the CCM, are listed by the Cluster Munition Coalition as producers of cluster munitions, although a lack of transparency means that it is unclear whether any of them were actively producing such munitions in 2019–20.<sup>54</sup> However, China and Russia were researching and developing new types of cluster munition in 2020.<sup>55</sup>

### *Destruction and clearance measures*

As of November 2020, 36 of the 41 states parties that had declared possession of cluster munitions had completed the destruction of their stockpiles.<sup>56</sup> This destruction of 1.5 million stockpiled cluster munitions containing 178 million submunitions represents the destruction of 99 per cent of all the cluster munitions and submunitions declared as stockpiled under the CCM. Four of the five states parties with remaining cluster munitions stockpiles—Bulgaria, Peru, Slovakia and South Africa—still had a combined total of nearly 11 300 to destroy as of 31 December 2019.<sup>57</sup> The fifth, Guinea-Bissau, was still verifying the existence of cluster munitions within its stocks. During 2020 Bulgaria and Peru requested deadline extensions to complete the destruction of their stockpiles (until 1 October 2022 and 1 April 2024, respectively), and these requests were being considered at the Second Review Conference of the CCM (see below). 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.

An accurate estimate of the total size of the area contaminated by cluster munition remnants is also not possible because the extent of contamination and the progress of clearance are difficult to identify in many states, especially non-signatory states. At least 25 UN member states and 3 other

<sup>53</sup> Amnesty International, 'Armenia/Azerbaijan: Civilians must be protected from use of banned cluster bombs', 5 Oct. 2020; and Human Rights Watch, 'Azerbaijan: Cluster munitions used in Nagorno-Karabakh', 23 Oct. 2020. On the armed conflict in Nagorno-Karabakh see chapter 5, section II, in this volume.

<sup>54</sup> The 16 states are Brazil, China, Egypt, Greece, India, Iran, Israel, North Korea, South Korea, Pakistan, Poland, Romania, Russia, Singapore, Turkey and the USA. International Campaign to Ban Landmines–Cluster Munition Coalition (note 50), pp. 20–22.

<sup>55</sup> International Campaign to Ban Landmines–Cluster Munition Coalition (note 50), pp. 9, 21; and Huang, K., 'Chinese state broadcaster reveals details of new airborne weapon Tianlei 500 as tensions simmer with Taiwan', *South China Morning Post*, 18 Aug. 2020.

<sup>56</sup> Convention on Cluster Munitions, 2nd Review Conference, 'Review Document of the Dubrovnik Action Plan', CCM/CONF/2020/13, 1 Oct. 2020, para. 28; and Convention on Cluster Munitions, 2nd Review Conference, Interim report, CCM/CONF/2020/L.1, 10 Dec. 2020, para. 27.

<sup>57</sup> International Campaign to Ban Landmines–Cluster Munition Coalition (note 50), pp. 23–29.

states or areas remain contaminated by cluster munitions.<sup>58</sup> Over the past decade, six state parties have completed clearance of areas contaminated by cluster munition remnants, most recently Croatia and Montenegro in July 2020.<sup>59</sup> Five states parties have requested extensions to their clearance deadlines: Germany and Laos had five-year extensions (to 1 August 2025) granted in 2019; and extension requests by Bosnia and Herzegovina (to 1 September 2022), Chile (to 1 June 2022) and Lebanon (to 1 May 2026) were being considered at the Second Review Conference.<sup>60</sup>

### *The Second Review Conference*

Due to Covid-19-related restrictions, it was agreed to split the Second Review Conference of the CCM into two parts: a virtual meeting (held on 25–27 November 2020) and a hybrid format (scheduled for 4–5 February 2021 but subsequently postponed indefinitely).

The first part of the conference focused on procedural matters, including discussion (but not adoption) of extension requests on stockpile destruction and clearance, and other financial and administrative issues.<sup>61</sup> It also reviewed progress in implementing the convention since the First Review Conference, in 2015, and its adoption of the Dubrovnik Action Plan, which listed concrete steps to implement the CCM in the period 2015–20.<sup>62</sup>

The draft decisions, including recommendations to adopt all of the extension requests, were to be considered at the second part of the Second Review Conference.<sup>63</sup> Substantive discussions were also due to take place on possible measures to address concerns about the financial status of the CCM.<sup>64</sup>

<sup>58</sup> The 10 CCM states parties with cluster munition remnants are Afghanistan, Bosnia and Herzegovina, Chad, Chile, Germany, Iraq, Laos, Lebanon, Mauritania, and Somalia. Two CCM signatory states also have remnants: Angola and the Democratic Republic of the Congo. In addition, there are remnants in 13 non-signatory UN member states—Azerbaijan, Cambodia, Georgia, Iran, Libya, Serbia, South Sudan, Sudan, Syria, Tajikistan, Ukraine, Viet Nam and Yemen—and 3 other states or areas—Kosovo, Nagorno-Karabakh and Western Sahara. International Campaign to Ban Landmines–Cluster Munition Coalition (note 50), pp. 45–52.

<sup>59</sup> The other 4 are Grenada, Mauritania, Mozambique and Norway. International Campaign to Ban Landmines–Cluster Munition Coalition (note 50), p. 45.

<sup>60</sup> Convention on Cluster Munitions, ‘Extension requests to be considered at the Second Review Conference (2RC)’, 2020.

<sup>61</sup> For videos, documents and decisions of the first part of the conference see CCM Implementation Support Unit, ‘First part of the Second Review Conference’, 25–27 Nov. 2020.

<sup>62</sup> Convention on Cluster Munitions, ‘Dubrovnik Action Plan’, adopted 11 Sep. 2015. For an update on progress see Convention on Cluster Munitions, CCM/CONF/2020/13 (note 56).

<sup>63</sup> Convention on Cluster Munitions, CCM/CONF/2020/L.1 (note 56).

<sup>64</sup> Convention on Cluster Munitions, 2nd Review Conference, ‘Elements on possible measures to address the financial predictability and sustainability of United Nations assessed contributions’, CCM/CONF/2020/11, 28 Sep. 2020.