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THE OTTAWA TREATY AND CONVENTION ON CLUSTER MUNITIONS: CAN WE STILL AFFORD THEM?

A Policy Exchange Research Note

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Foreword

A lot has changed in the 28 years since the Ottawa Treaty was adopted, which banned the use of anti personnel mines amongst its signatories. 11 years later, representatives of 30 states convened in Oslo to sign the Convention on Cluster Munitions.

Like most bans, the problem these treaties were trying to address lay not in the equipment they control, but in their irresponsible and reckless use by certain powers. Not surprisingly those powers – Russia, China, North Korea – are the very powers which have refused to sign up to such prohibitions.

But, 28 years ago, the battle field was a very different place. No one imagined that swarms of drones, autonomous vehicles, and carpets of sensors would transform war. Electronic sentries have replaced human ones, and cameras have done the same to binoculars.

From my time as Secretary of State for Defence, I have first-hand experience of how the Ottawa Treaty prevented us and others from helping Ukraine. I was beset by lawyers applying old and out of date treaties to new capabilities which are vital to saving life and to countering Russian lethality.

So, while the treaties have stood still for nearly three decades, our adversaries haven't. All treaties must always be able to be modernised and, if not, then Governments should be prepared to leave them.

Today, too many treaties have stopped serving the interests of their signatories – and have instead become tools for our adversaries to use to their advantage. Unless these treaties can be updated to reflect modern security imperatives, we must leave them.

Rt Hon Sir Ben Wallace KCB, former Secretary of State for Defence

1: The Direction of Travel on the Eastern Flank

In mid-March, Poland and the Baltic States signalled their intent to withdraw from the Ottawa Treaty concurrently, triggering a broader evaluation of legal constraints on military power amongst Europe's eastern flank states.¹ This decision did not come as a surprise. In December 2024, Finnish Defence Minister Antti Hakkanen said Helsinki was considering exiting the Ottawa Treaty, which bans anti-personnel landmines, in light of the growing threat from Russia.² The Finnish defence ministry's announcement followed a public petition on the subject, signed by a number of former high-ranking Finnish military officers and defence ministers.³ Finland did not accede to the Convention on Cluster Munitions, and maintains a cluster munitions stockpile for wartime use.

Debates over the two treaties are under way across NATO's eastern flank. The Defence Committee of Estonia's parliament held a major inquiry into the Ottawa Treaty late last year.⁴ Debate in Latvia began in early 2024.⁵ In early March 2025, Lithuania withdrew from the Convention on Cluster Munitions, with its Defence Minister, Dovile Sakaliene saying the decision sent "strategic message that we are prepared to use absolutely everything" for national defence.⁶ Further south, Poland – historically a staunch supporter of both the Ottawa Treaty and the Convention on Cluster Munitions – has radically shifted tack. In a broader speech in early March that announced the introduction of mandatory military training, Polish Prime Minister Donald Tusk also asked the Defence Ministry to prepare the legal framework for withdrawing from both treaties.⁷

1 Andrius Sytas and Barbara Erling, "Poland and Baltic Nations Plan to Withdraw from Landmine Convention," *Reuters*, 18 March 2025, accessed via [link](#).

2 Anne Kauranen, "Finland Considering Exiting Anti-Personnel Landmine Treaty, Minister Says," *Reuters*, 18 December 2024, accessed via [link](#).

3 Aleksi Teivainen, "Finland Urged to Opt Out of Anti-Personnel Landmine Ban in Citizens' Initiative," *Helsinki Times*, 29 November 2024, accessed via [link](#).

4 "National Defense Committee to Discuss Re-Introduction of Anti-Personnel Landmines," *ERR News*, 25 November 2024, accessed via [link](#).

5 Agnija Lazdiņa, "Saeima to Discuss Latvia's Withdrawal from Ottawa Convention," *LSM.lv*, 15 January 2024, accessed via [link](#).

6 "Lithuania Quits Treaty Banning Cluster Bombs Despite Outrage," *France 24*, 6 March 2025, accessed via [link](#).

7 "Nowa rzeczywistość bezpieczeństwa. Premier zapowiada szkolenia wojskowe", *TVP*, 7 March 2025, accessed via [link](#).

Are we now going to see a domino effect over the next few months against the backdrop of a deteriorating security situation on Europe's eastern flank? Should Britain join in with these allies and lead European policy in a more coordinated fashion? Last August, the Government criticised Lithuania's decision to withdraw from the CCM and reiterated its support for the Convention, going so far as to express regret at Lithuania's decision.⁸ This reaction predates recent events and should be reassessed. In view of the changed and rapidly evolving international situation, the Government must urgently review the UK's position under the Convention on Cluster Munitions and the Ottawa Treaty, and encourage western European partners to do the same and adopt a common position. We must act to provide timely and valuable diplomatic support for front-line allies exiting the treaties, and, more importantly, to show that we are ready to take the steps necessary to enhance our conventional deterrence at a time when, as a result of American disengagement and European disarmament, decisive action is required. The UK could then work with Ukraine, Poland, the Balts, and Finland to increase European military stockpiles of both critical weapons.

Finally, the viability of British leadership of the Joint Expeditionary Force (JEF) may become strained, should we remain committed to treaties prohibiting weapons which other JEF partners begin re-introducing into their arsenals in an act of self-defence. Beyond the obvious political difficulties which would arise from this scenario, there would also be the operational matter of how the UK could command a multinational force employing weapons it deems illegal.

⁸ "Lithuania: Convention on Cluster Munitions", UIN HL408, 1 August 2024, accessed via [link](#).

2: The Current Political Context

Alongside other treaties, like the Rome Statute of the International Criminal Court and the Arms Trade Treaty, the Ottawa Treaty and the Convention on Cluster Munitions are both artefacts of the post-Cold War *Pax Americana*. The geopolitical and military situation has shifted radically since then, compelling the Government to reconsider its position on both treaties.

Since the early 1990s, the UK and Europe have accepted a series of restrictions on their military forces that no British adversary has adopted. Enabled by a unique period of peace and stability across Eurasia, the UK and Europe together, alongside Canada, several Asian powers, and a number of NGOs, drove forward both the Ottawa Treaty and Convention on Cluster Munitions.

These two categories of weapons were targeted because of their potential to harm civilians in conflict zones. While standard artillery shells and bombs are meant to explode into fragments, cluster munitions deploy smaller bombs. Depending on the age and quality of these weapons, poorly serviced cluster bomblets may not explode immediately and can remain in the field for years before a civilian could set them off unintentionally. Anti-personnel landmines, meanwhile, are relatively cheap and easy to deploy in bulk. But depending upon employment patterns, identifying anti-personnel mines and neutralising them – either by digging them up and diffusing them or intentionally detonating them with specialised equipment – can be difficult and costly, especially with older variants that lack modern self-destruct mechanisms or technologies that neutralise their explosive charge. Moreover, during the Cold War's conflicts in Africa and southeast Asia, liberal use of both weapons near major civilian populations – admittedly by non-state combatants not party to international law – created a long-term threat to noncombatants. It is for this reason that Guy Willoughby and Colin Campbell established the HALO Trust in 1988, a non-government humanitarian organisation which clears landmines and other explosive devices from old conflict zones across the globe.

The inescapable reality, however, is that anti-personnel landmines and cluster munitions are extremely effective weapons – not least as a defensive capability to deter invasion and to dent invading forces if deterrence fails. Anti-personnel landmines deployed in large numbers can quickly help reinforce defensive lines,

channelise enemy movement, and slow down advances such that a defender may better impede and defeat an invading force.

Cluster munitions were developed to engage and disable targets spread over large areas. Older variants use in the order of 100 submunitions that spread over an area equivalent to several football pitches. Initially developed as a relatively cheap anti-infantry weapon, by the late Cold War the major powers had developed multi-purpose cluster munitions that could also target armoured vehicles, tanks, sophisticated military equipment, and command posts. They are effective against moving targets, and/or targets where a sequence of individual precision attacks might not be operationally feasible.

American opposition to both the Ottawa Treaty and the Convention on Cluster Munitions is illustrative. Even during the 1990s, the US had an enduring military commitment against a large-scale conventional adversary on the Korean Peninsula, a situation that no other power faced after the USSR's collapse. The US refused to sign the Ottawa Treaty principally because it recognised that banning anti-personnel landmines would rapidly sap the US and South Korea's ability to deter and defeat a North Korean attack.⁹ This position became entrenched further in 2020 when then-US Secretary of Defense Mark Esper issued a memo arguing that landmines were indispensable to "becoming more lethal, resilient, agile, and ready across a range of potential contingencies and geographies."¹⁰

The UK signed the Ottawa Treaty in 1997 and ratified it in 1998, alongside most other European countries. Finland hesitated but eventually – in 2012 – it too became a party. The UK liquidated its stocks of anti-personnel landmines in the decade following ratification. Meanwhile, Russia, China and the United States never joined.

In the mid-2000s, international pressure intensified for a Convention on Cluster Munitions, which was adopted in Dublin in 2008. Once again, the US opposed the treaty for military-operational reasons. British Prime Minister Gordon Brown's support for the treaty was ultimately decisive.¹¹ His announcement that

9 Marla Keenan, 25 Years Later: the Work of the Mine Ban Treaty is Unfinished, Center for Naval Analyses, 28 February 2024, [link](#).

10 Ibid.

11 "Observers laud landmark cluster bomb ban", *AFP*, 1 June 2008, accessed via [link](#).

the UK would unilaterally eliminate all cluster munitions from its stockpiles and join the Convention on Cluster Munitions occurred despite intense opposition from the US and the British Armed Forces.¹² By the time the Convention was adopted, fears about Russian revanchism had begun to grow on NATO's eastern flank: 2008 is the year of Russia's war against Georgia. It is no coincidence that, unlike with the Ottawa Treaty, most of Russia's close neighbours this time decided to follow the US's lead rather than Britain's: Finland, Estonia, Latvia, Poland, Ukraine and Romania stayed out. Lithuania, which had joined, withdrew on 6 March 2025.

Our backing of the Ottawa Convention is a legacy of the time, the post-1989 unipolar moment where we believed we could use our armed forces not for grave concerns of national defence, but as a "Force for Good", the MOD's motto following the Strategic Defence Review (SDR) of 1997/98 that was created in the shadow of Rwanda and Srebrenica. We did not feel a visceral threat to our homeland, or even to our NATO allies, and our military was constructed around Blair's Chicago Doctrine and its animating 'Responsibility to Protect'. If that is the national mantra for a military conceived as an armed 'Blue Light Service', electively deployed for the essentially humanitarian purpose of protecting the world's persecuted, then it is a small step to limit one's weaponry accordingly.

It is telling that the United States, and its Combatant Commanders charged with serious responsibilities and a requirement to generate viable war plans against significant threats, never felt able to limit its arsenal as the European powers did as they entered what at the time was considered to be a "post-military era". European militaries quite clearly calculated that they could rely on American weapons if needed to win major wars. We should, therefore, reconsider our support of the Ottawa Convention not in terms of arms limitation in the abstract - we can all agree that landmines are not intrinsically nice or good things - but as another part of the divergence between US and European approaches to NATO that has finally come to a head under President Trump. Such was the force of *Pax Americana* that weaker countries took little persuading before agreeing to give up weapons that a much stronger neighbour (Russia) was holding on to. Indeed, Russia is not a party to either the Convention on Cluster Munitions or the Ottawa Treaty and extensively uses both anti-personnel landmines and

12 UK Parliament: Hansard, Cluster Munitions (Prohibitions) Bill [HL], vol. 715: debated on Tuesday 8 December 2009, [link](#).

cluster munitions in combat. Things have changed. Europe can no longer use its military to signal normative intent if doing so now fatally undermines its ability to defend itself.

3: Landmines and Cluster Munitions in Modern Ground Combat

Although anti-personnel landmines and cluster munitions, like any weapon of war depending upon its use, can pose risks to civilians, both are crucial tools. As always, the best way to prevent harm to civilians is to deter war in the first place. Ukraine's experience has confirmed this: the absence of a credible deterrent in 2022 was followed by full scale invasion; the conduct of Ukraine's self-defence illustrated the indispensability of landmines and cluster munitions once Russia's invasion began. But the UK and most of European NATO, since becoming parties to the Convention on Cluster munitions in particular, assumed that they could turn to US stockpiles to provide these crucial weapons. This explains, for instance, the carve-out in the Convention on Cluster Munitions that allows for joint military operations between non-signatories and signatories by providing legal immunity for convention-compliant personnel when allied nations use cluster munitions in joint operations. The UK and Europe could therefore call on US cluster munitions stocks, even if they could not deploy cluster munitions themselves.¹³

Both Ukraine and Russia have used anti-personnel mines since the Donbas War began in 2014 and have employed them even more extensively since Russia's full-scale 2022 invasion.¹⁴ The Ukraine War has taken on positional characteristics, with both sides constructing thick trench lines, fortifying towns and cities, and fighting small engagements over specific houses, hills, and treelines. In this context, anti-personnel landmines are crucial offensive and defensive tools. Both sides lay mines in specific patterns that funnel attacking troops into kill zones. They also deploy mines in the rear of enemy formations, preventing them from retreating once in contact. Remote mine deployment – either with drones or purpose-built mine-launching equipment – has been

13 Rob Evans and David Leigh, "WikiLeaks Cables: Secret Deal Let Americans Sidestep Cluster Bomb Ban," *The Guardian*, 1 December 2010, accessed via [link](#).

14 Eve Sampson and Samuel Granados, "Evidence mounts for use of banned mines by Ukrainian forces, rights group says", *Washington Post*, 30 June 2023, accessed via [link](#).

essential.¹⁵ These techniques allowed Russia to reconstitute defensive positions during Ukraine's summer 2023 offensive and have allowed Ukraine to cede ground slowly while exacting a disproportionate cost to the attacker. The combination of extensive, responsive mining, drone and satellite-enabled reconnaissance, and cheap, plentiful attack drones combined with artillery explains much of the defensive success in the Ukraine War.¹⁶

Despite its relevance to the future of combat, a future major Russia-NATO conflict is unlikely to resemble the Ukraine War due to the latter's unique political and geographic characteristics. A continuous trench line on the Russia-NATO border is improbable. However, anti-personnel mines will remain crucial weapons in any major war with Russia, allowing the UK and allied forces to compress Russian advances into designated kill zones, isolate and destroy Russian forward units, and disrupt Russian avenues of attack and retreat and logistics.

Ukraine never joined the Convention on Cluster Munitions, but its pre-war cluster munition stockpile was relatively small – with only a few instances of use in 2022 and early 2023. However, Ukraine began to lobby the US to transfer older cluster munitions from American stockpiles, both for dismantlement and use as individual drone-dropped bombs and artillery employment. In the latter role, cluster munitions have been extremely effective. Cluster munitions built after 1990 are effective as well, but they are very expensive and designed for more bespoke military problem sets. The majority of cluster munition artillery shells transferred were Dual Purpose Improved Conventional Munitions (DPICM), which can be used effectively against infantry in the open field or Russian armour. Per some open-source estimates, Ukraine has inflicted upwards of 300,000 casualties with cluster munitions of various types.¹⁷ Even relatively old US-provided cluster munitions have thus had an enormous battlefield effect. A single cluster munition can do the job of several unitary-explosive artillery shells or rockets, with its much greater area of effect. This reduces ammunition consumption needs, a long-term problem for Ukraine given relatively limited

15 Malu Cursino, "Anti-Landmine Groups Criticise US for Sending Mines to Ukraine," *BBC News*, 20 November 2024, accessed via [link](#).

16 Valerii Zaluzhnyi, "Modern Positional Warfare and How to Win in It", *The Economist* (November 2023), accessed via [link](#).

17 John Nagl and Dan Rice, "Defeating the Russian way of war in Ukraine", *Ukrinform*, 15 October 2024, accessed via [link](#).

Western artillery ammunition stockpiles and production constraints. Cluster munitions also compel the enemy to change tactics, creating more sophisticated fortifications, spreading out and concealing armoured vehicles, and generally speaking dispersing concentrations of troops that would be vulnerable to attack. Dispersal of an enemy's forces, in turn, makes it far harder for the enemy to carry out offensive operations.

A Europe-UK war with Russia would be much more fluid than the Ukraine War, again by virtue of geography in northeastern Europe and Scandinavia. But cluster munitions would provide the same advantages to British and European troops as they do to Ukrainian troops. This is particularly relevant if Russia tries to move quickly on the offensive, concentrating large mechanised units for attacks that cluster munitions can saturate and destroy.

From the viewpoint of military effectiveness, then, cluster munitions and anti-personnel landmines are essential for British and allied deterrence and combat capacity, serving as key components of a broader force structure.

4: Legal Mechanisms for Withdrawal

Turning to the legal aspect of withdrawal, Article 20 of the Ottawa Treaty and of the Convention on Cluster Munitions contains detailed and almost identical provisions which allow state parties to withdraw from the Treaty. First, Article 20(1) of both treaties state that their duration is unlimited. Next, Article 20(2) of both treaties state that any state party is entitled to withdraw “in exercising its national sovereignty”. Before withdrawing, it has to give notice to all other state parties, to the depositary (the Secretary-General of the United Nations), and to the United Nations Security Council. The instrument of withdrawal “shall include a full explanation of the reasons motivating this withdrawal.”

Article 20(3) of both treaties state that the withdrawal shall take effect six months after the depositary has received notice of withdrawal. However, if “on the expiry of that six-month period, the withdrawing State Party is engaged in an armed conflict, the withdrawal shall not take effect before the end of the armed conflict.” Neither treaty contains a definition of what constitutes an “armed conflict”. And finally, the Ottawa Treaty, but not the Convention on Cluster Munitions, contains an Article 20(4) that states tritely that withdrawal “shall not in any way affect the duty of States to continue fulfilling the obligations assumed under any relevant rules of international law.”

As will be seen, the withdrawal provisions of the Ottawa Treaty and the Convention on Cluster Munitions are structured restrictively, particularly in their deferral of the entry into force of the withdrawal if there is an ongoing armed conflict at the end of six months. In the case of the Ottawa Treaty, the provision was described by senior American negotiator Robert Bell as “exceedingly odd”, for “it seemed to us that that’s [in wartime] precisely when you might need it most”.¹⁸ It was also pointed out that every other comparable arms control treaty prior to the Ottawa Treaty allowed for withdrawal in time of war.

In the event, this restrictive clause was one of the reasons why the United States declined to become a state party to the Ottawa Treaty although, of course, the Convention on Cluster Munitions has copied the Ottawa Treaty’s highly

¹⁸ “U.S. Leads in Land Mine Removals While Others Talk”, *Defense Issues* 12(47) (1997).

inflexible approach. The restrictive withdrawal provisions have also affected Ukraine, which has recently acquired anti-personnel mines from the United States in order to defend itself from Russia, but against the terms of the Ottawa Treaty.¹⁹

Unsurprisingly, NGOs are pointing to this feature of the Ottawa Treaty to argue that Ukraine's use of land-mines is a breach of the Treaty and are urging Ukraine "to recommit to the Mine Ban Treaty's strict prohibitions".²⁰ We may be on the verge of a decision to deploy British and European troops in what will be a highly uncertain scenario, it is imperative to reassess these legal commitments in advance of any such deployments given the limits they impose on withdrawal once an armed conflict has begun.

19 Samya Kullab, Illia Novikov, Lolita C. Baldor, and Matthew Lee, "US to Give Antipersonnel Mines to Ukraine to Help Slow the Russian Advance," *Associated Press*, 21 November 2024, accessed via [link](#).

20 "Ukraine: Banned Landmines Harm Civilians," *Human Rights Watch*, 31 January 2023, accessed via [link](#).

5: A Sense of Urgency

The Government faces an acute international crisis. The war in Ukraine has deferred direct confrontation between NATO and Russia for several years. But this grace period is quite obviously ending – and quickly at that. Whether or not a negotiated settlement is reached this year, the direction of travel is clear. The US is reducing its security commitments to Europe, just as Russia, with its military-industrial production at near-full-tilt and a growing land army, may eye greater European gains. Moreover, major arms control initiatives between Russia and the West have also broken down, making the proliferation of a variety of weapons quite likely. The UK's key allies on Europe's Eastern Flank already assume they are in a pre-war or near-war situation. Conscription and mandatory military training are returning, as Eastern Europe arms for what it sees as a near-inevitable extended confrontation with a high chance of exploding into outright warfare.²¹

To remain a credible international actor, the UK must rearm. Defence expenditure is part of the solution – the Government's commitment to a 2.5%-of-GDP defence budget is welcome – but may be revised upwards by events. In this context, it is not insignificant that cluster munitions and anti-personnel landmines in particular are highly effective compared to stationing trip-wire forces on the ground. In turn, putting money down is only part of a much broader series of efforts. The UK must actually field forces and procure equipment that allow it to fight a high-intensity, modern war against a committed adversary like Russia, which demands the development of deep reserves of artillery ammunition and landmines alongside newer capabilities like cheap unmanned systems. It must also revisit the legal scaffolding surrounding war conduct, which has steadily thickened in the post-Cold War, to ensure that we are not placing ourselves, by our own decisions, at a critical disadvantage.

Unlike Russia, the UK, like the US and our European allies, will always be law-abiding belligerents. We will scrupulously observe our legal obligations even when we are dealing with the enemies who show no such respect. But this is a

²¹ Csongor Körömi, "Threat of Global War 'Serious and Real,' Poland's Tusk Warns," *POLITICO*, 22 November 2024, accessed via [link](#).

reason to be more circumspect than we have been recently about accepting new legal constraints and to resist expansive interpretations; and, where the strategic assumptions under which we had agreed to join certain treaties change, we should be ready to exercise our right of withdrawal if it is in our interest to do so. The Conventions pertaining to cluster munitions and anti-personnel landmines are examples of treaties which we accepted at a time when we could afford to, and against the counsel of our closest ally. Can we do so now? They are both brakes on our self-defence, and canary in the coal mine issues for signalling collective Western resolve.

Delivering a credible military capacity demands the UK support capabilities that actually generate combat effectiveness. Restrictions like the Ottawa Treaty and Convention on Cluster Munitions directly and appreciably hamper British combat capacity and do the same to British allies. The Government should thus urgently lay the legal framework to withdraw from both treaties, thereby providing crucial diplomatic support for our allies who would be on a future conflict's front-line.

Sluggish diplomatic and legal responses not only sap the UK's credibility, but they also undermine fundamental elements of international arms control that it is in the British national interest to preserve. Polish Prime Minister Donald Tusk's announcement that Warsaw would seriously contemplate a nuclear programme may well lack long-term focus.²² But it indicates the shift in perception in Eastern Europe. As German armaments spending increases, and the Scandinavian powers also rebuild their militaries in anticipation of a confrontation with Russia, there is a distinct possibility that various European powers will turn to unconventional weapons to offset Russia's numerical advantages. By jettisoning the imprudent legal restrictions on military hardware of a bygone era, the UK can help ensure that its European partners can actually fight and win a war with Russia by purely conventional means – whilst preserving key international restrictions on nuclear and other non-traditional weapons.

²² Henry Foy and Leia Abboud, "Poland must look at acquiring nuclear weapons, says Tusk", *Financial Times*, 7 March 2025, accessed via [link](#).