

**Cluster Munition Coalition**  
**Statement on National Implementation Measures**  
**First Intersessional Meetings of the Convention on Cluster Munitions**  
**Geneva, Switzerland**  
**29 June 2011**

Thank you.

In the Vientiane Action Plan, States Parties committed to implementing the Convention on Cluster Munitions at the national level, in accordance with Article 9. They declared they would implement “all obligations under the Convention” and do so “as a matter of urgency.” States Parties should adopt new, convention-specific legislation, which is the strongest type of national measure because it lays out binding, enduring, and unequivocal rules that leave less room for interpretation. States can supplement such legislation with regulations and policies that provide more details.

National legislation should of course implement the core prohibitions of the convention. It should criminalize use, production, transfer, and stockpiling of cluster munitions. Legislation should also ban direct and indirect assistance to anyone with any prohibited activity. In particular, it should explicitly prohibit: 1) transit of cluster munitions through the State Party’s territory, 2) stockpiling of cluster munitions by a state not party on the State Party’s territory, and 3) investment of both public and private funds in the manufacture of cluster munitions or their components.

If States Parties allow exceptions to these absolute prohibitions, cluster munitions will continue to endanger civilians. Therefore, implementation legislation should specify that the prohibitions enumerated in the convention, notably that on assistance, apply under all circumstances. While a State Party may participate in joint military operations with a state not

party, it should not permit exceptions to the law's strong and categorical prohibitions during such operations. Instead it should abide by and repeatedly notify its allies of its obligations at the political and military levels. These obligations are not limited to informing allies that it is a State Party to the Convention, but also that as a State Party they are prohibited from assisting with the use of cluster munitions under any circumstance.

Fully implementing the Convention on Cluster Munitions demands codification of the convention's positive as well as negative obligations. Legislation should establish strict deadlines for stockpile destruction and clearance of 8 and 10 years respectively, or less. Implementation legislation should also designate a government focal point to coordinate victim assistance and require creation and execution of a national assistance plan in consultation with victims.

National legislation should address three other positive obligations: the provision of international cooperation and assistance, reporting on the progress of the convention's implementation, and the duty to work to universalize the convention, promote its norms, and discourage use.

Finally, to ensure breadth of coverage, national legislation should establish extra-territorial jurisdiction and jurisdiction over both individuals and corporations. It should also clarify that the legislation applies to explosive bomblets as well as cluster munitions.

Proposed and existing laws serve as examples of both problematic and promising approaches to implementation. Australia's proposed legislation falls short of meeting the spirit and the letter of the convention in several ways. Most notably, it would allow assistance with use of cluster munitions during joint military operations. According to the Australian Department of Defence, the bill would permit participation in planning of cluster munition

attacks and provision of intelligence and logistical support for such attacks. In addition, it would exempt foreign troops from prosecution for transferring or stockpiling cluster munitions on Australian territory in violation of the convention.

Other states have passed stronger laws that provide better models for how to implement certain provisions. For example, New Zealand and Norway allow for participation in joint military operations yet preserve the convention's prohibitions. Austria and Germany explicitly ban transit, and Austria has set a deadline of just three years for stockpile destruction. Belgium, Ireland, Luxembourg, and New Zealand prohibit certain forms of investment.

In conclusion, states should adopt comprehensive national implementation measures as soon as possible. They should meet their obligations under Article 9 and live up to their commitments under the Vientiane Action Plan. Only in so doing can states ensure that the convention achieves its full potential.