

## CHECK AGAINST DELIVERY



UNITED NATIONS

NATIONS UNIES

### **UNMAT Statement related to Interoperability Dublin, 20 May 2008**

*the UN Mine Action Team*

Many have questioned whether States party to the Treaty participating in a UN peacekeeping mission or UN authorized operation in which other States, who are not party to the Treaty, used cluster munitions during the operation, would it mean that the State party had “assisted”, “encouraged” or “induced” the use of cluster munitions?

On the request of the UNMAT, the UN Office of Legal Affairs has provided the following information. The interpretation of the provisions of the Treaty fall to the States that are party to it. Therefore, it is for States participating in the UN peacekeeping operations who are parties to the Treaty, to decide whether their mere participation in the UN operation would be in violation of their Treaty obligation not to “assist”, “encourage” or “induce” such use.

While States participating in UN authorized operations are bound by both customary and conventional international humanitarian law, UN peacekeeping operations are, strictly speaking, bound by customary international law only, and therefore, would not be considered to be in violation of any international law principle if the use of cluster munitions were otherwise legal. The Secretary-General, however, may undertake, on behalf of the UN operations, to be bound by higher (conventional) standards of international humanitarian law.

*(Source OLA note to DPKO dated 3/3/08)*