

**Africa Regional Workshop on Universalisation of the Convention on Cluster Munitions  
Addis Ababa, 4-5 August 2016**

**Presentation on Article 9 – National Implementation Measures (15 minutes)**

*Presenters have been asked to provide an overview of the relevant Convention Article and related specific obligations*

- I'm speaking to you today in NZ's capacity as the Convention's Coordinator for National Implementation Measures. We are aware that national implementation measures might seem like a rather dry subject to some – but we hope that by the end of my presentation you will agree with our (somewhat biased) view that it is in fact a fascinating subject – or at least an important one.
- My presentation today will focus on three key questions:
  1. Why is national implementation so important?
  2. What does the national implementation Article - Article 9 of the Convention – require of us?
  3. What tools are available to assist countries wishing to implement the Convention's provisions domestically?

Firstly, **why is national implementation so important?**

- At a basic level, once a country has joined the Convention it is obliged to implement its provisions domestically. This translation of international obligations into domestic ones is crucial – for the credibility of the Convention there can be no gap between what States say they are doing on the international stage and what they actually do domestically.
- NZ firmly believes that both universalisation and implementation of the Convention are essential to achieve its fundamental purpose – a fully global taboo against the possession, use or proliferation of cluster munitions.
- We also believe that the process of drafting, coordinating and enacting national law plays an important role in focusing the attention of national authorities on the State party's treaty obligations. It also helps in promoting a review of existing national legislation and practice, including military manuals.
- For NZ, one of the most powerful arguments for pursuing Convention on Cluster Munitions national implementation relates to its contribution to strengthening general understanding of the human security benefits of maintaining a high standard of compliance with international humanitarian law. Increased knowledge among the general public, the military, and at the highest levels of government are essential in achieving strict implementation of international humanitarian law. It is worthwhile recalling that the Convention in itself has set a new international humanitarian law rule: one that we can all take pride in – it has helped

defend civilian populations from the unacceptable and indiscriminate harm caused by these weapons.

So then, **how then does the Convention require us to implement its provisions in domestic law?**

- Article 9 of the Convention is our touchstone on national implementation measures. It reads:

*Each State Party shall take all appropriate legal, administrative and other measures to implement this Convention, including the imposition of penal sanctions to prevent and suppress any activity prohibited to a State Party under this Convention undertaken by persons or on territory under its jurisdiction or control.*

- Article 9 is not prescriptive about how States Parties should give effect to its legal obligations – and that is a proper recognition of the many different legal and administrative systems that exist around the world. Indeed, some countries’ legal systems do not require specific implementation legislation to give effect to the Convention’s provisions domestically. Others still might consider their existing laws sufficient to implement the Convention’s provisions.
- That being said, we do think that the process of drafting, coordinating and enacting national law can in itself be very important. This process plays an important role in focusing the attention of national authorities on the State party’s treaty obligations.
- At last year’s First Review Conference, the Convention adopted the **Dubrovnik Action Plan** – a plan to ensure that the Convention’s provisions are implemented effectively and fully. I want to briefly share the commitments that states parties have undertaken in regards to Article 9 – commitments that NZ as Coordinator for National Implementation Measures has been tasked to help deliver.

1. (DAP Action 7.1) **Enact national legislation to implement the CCM**

Those states parties that have not done so will review existing legislative and administrative measures to ensure that they have appropriate measures in place to fully implement the Convention.

2. (DAP Action 7.2) **Highlight challenges and request assistance**

States parties are encouraged to highlight challenges to the adoption of implementation measures – and to make their needs known – and we would welcome hearing more from any of you who might wish to share challenges either during the upcoming Q and A or in discussion during the break.

3. (DAP Action 7.3) **Raise awareness of national implementation measures**

States parties will take steps to increase awareness of national implementation obligations – for example through workshops such as our one today.

- Through implementation of the Dubrovnik Action Plan national implementation actions – it is hoped that by our next Review Conference in 2020 that all states parties will be in full compliance with Article 9.

Finally then, I want to end with a brief overview of the **tools that are available to help states implement the Convention.**

- As Coordinator for National Implementation Measures, we are well aware that some States face challenges in taking the necessary steps to implement the Convention domestically. For many States Parties, competing priorities, resource constraints and lengthy domestic procedures are some of the barriers to the enactment of legislation. In light of these challenges a number of tools are available to assist States Parties in their implementation of the Convention.
- The first tool is comprehensive model legislation developed by the ICRC and aimed in the main at common law countries. The ICRC model, available on the CCM website, covers the entire range of provisions in the CCM and which need to be implemented by States Parties who have produced, stockpiled or been contaminated by cluster munitions.
- The second tool is a simplified model of legislation for small states not possessing cluster munitions or contaminated by them. This model was developed by New Zealand and tabled at the second meeting of states Parties in 2011. It is also available on the CCM website.
- We initially prepared our simplified model legislation with the circumstances of our own neighbourhood in mind. Our country, and indeed most of our island neighbours in the Pacific have never produced or possessed cluster munitions, and have not been contaminated by them. We prepared the model legislation specifically in response to the request of small states who felt that current legislative models and precedents tended to cater for countries in different circumstances to their own – notably countries contaminated by cluster munitions.
- I am pleased also to be able to alert you to the existence now of a further legislative tool – specifically drafted with African States in mind. This model covers the circumstances of any African country whether civil or common law. Work on the African model was led by Ghana and facilitated also by Zambia, UNDP and the CMC. It is available in both French and English.
- We hope that this presentation has provided some insights into the importance of national implementation measures, the recognition that exists around the many different challenges States Parties face in their implementation efforts, and the tools that have been developed to assist States Parties in overcoming them. For those of you who would like to discuss assistance available for national implementation further, I'd be delighted to put you in

contact with my colleagues in Wellington and Geneva – please come and speak to me during the break.

Thank you.