



CONVENTION ON CLUSTER MUNITIONS NATIONAL IMPLEMENTATION MEASURES

REPORT ON WORKSHOP (17 MAY 2016)

Guided by the Dubrovnik Action Plan

1 In our role as National Implementation Measures Coordinator for the Convention on Cluster Munitions, New Zealand is actively looking for ways in which we can support achievement of the related objectives laid out in the Dubrovnik Action Plan. These objectives, supplemented by a number of sub-actions, are:

Action 7.1 – Enact national legislation to implement the CCM

Action 7.2 – Highlight challenges and request assistance

Action 7.3 – Raise awareness of national implementation measures

2 The results against which efforts to achieve these Actions will be measured are:

- By the Second Review Conference all States Parties will be in compliance with Article 9 and have reported on national implementation in formal meetings of the Convention and through Article 7 transparency reports; and
- By the Second Review Conference all relevant national actors, including armed forces, are informed of obligations under the Convention and of national implementation measures including as a result of their reflection, where necessary, in military doctrine, policies and training.

3 Efforts to strengthen national implementation measures were of course underway long before the Dubrovnik Action Plan was agreed in 2015. Assisted by the development of model legislation and the hosting of several national and regional workshops, in addition to regular outreach from State Parties, the Implementation Support Unit and civil society, there was already a solid baseline of achievement reported to the First Review Conference in August 2015, namely:

- 48 States Parties had already adopted legislation specifically aimed at the implementation of the CCM or had indicated that their existing laws and regulations were sufficient to implement it.
- 23 States Parties had reported that they were currently in the process of adopting legislation and other implementation measures.

4 As is evident from this baseline much work remains to be done. There are a significant number of States Parties that have not yet shared detailed information on their implementation of the Convention (either through their initial and/or transparency reports or at formal or informal meetings). In addition, several States Parties that have reported national legislation to be under development have been doing so for a number of years. Finally, there is a clear need for more activity and reporting with respect to non-legislative implementation measures.

New ideas, new opportunities

5 To build on what has already been achieved, and to help focus attention on the ongoing importance of national implementation measures, New Zealand hosted an informal brainstorming session in Geneva on 17 May 2016. Thanks to the active engagement of a number of States Parties, the Implementation Support Unit, the International Committee of the Red Cross and Red Crescent, the Cluster Munition Coalition and others, the session produced a number of new ideas that should certainly assist with achieving the actions relating to national implementation measures in the Dubrovnik Action Plan.¹

6 New Zealand is now exploring opportunities to implement as many of these ideas as possible and would wish to encourage others to do the same. Acknowledging that these ideas may well be relevant also for other sections of the Dubrovnik Action Plan, we have endeavoured to outline them fully in this information note in the hope that they can come to the attention of all interested States. In doing so we would hope to be able to strengthen our collective ownership of the Dubrovnik Action Plan and to encourage innovative thinking about how we can best advance its objectives. We remain open to engagement with, and additional ideas from, any State, organisation or member of civil society regarding national implementation measures and look forward to continuing our work as Coordinator on this issue, including in collaboration with the Coordinators for Universalisation and Reporting.

Action 7.1 Enact national legislation to implement the CCM

States parties that have not yet done so will, as a matter of priority, review existing national legislation, regulations and administrative measures to ensure that they have appropriate measures in place to fully implement the Convention.

States parties will prioritise, where necessary, the development and adoption of new comprehensive legislative, administrative or other implementing measures in accordance with Article 9.

States parties will share information on any reviews as well as on the content and application of implementing measures in their annual transparency reports and at meetings of the Convention with the aim to share good practice and lessons learnt and as a measure of transparency.

States parties may wish to consider enacting national legislation prohibiting investments in producers of cluster munitions.

¹ New Zealand would like to thank all those representatives who participated in the brainstorming session: Austria, Chile, Costa Rica, Ecuador, Ireland, Lebanon, Netherlands, South Africa, Switzerland, Zambia, CCM Implementation Support Unit, International Committee of the Red Cross and Red Crescent, UN Office of Disarmament Affairs and the Cluster Munitions Coalition.

Ideas to help implementation of Action 7.1

- There may be value in approaching outreach on national legislation in the same way as universalisation, namely by **focusing attention on a small number of target countries**. Key messages are more likely to have an impact when concentrated on a select group of targets, particularly if they are repeated by different actors engaging at varying levels (e.g., with parliamentarians, diplomats, officials and experts).
- There could be a number of opportunities to **synchronise outreach to States on both the CCM and the Anti-Personnel Mine Ban Convention**, particularly where necessary changes to legislation might be made as a package.
- Consideration could be given to **working with other organisations for whom promotion of the ratification and implementation of the CCM aligns with their objectives** (for example, UNICEF in light of the harm caused to children by cluster munitions).
- An approach could be made to the **International Parliamentary Union**, in particular to its committee on international humanitarian law regarding a possible side event or meeting focusing on CCM implementation (as has been done in the past on universalisation). Similarly, there could be an opportunity to raise the CCM at the **international and regional ICRC meetings of national IHL committees**. Consideration could be given to linking with UNESCO on education aspects.
- It may be helpful to **develop a “basket” of tools that States might need to implement the CCM** – for example, in addition to legislation States may also require policy and military directives. In doing so it should also be remembered that those with implementation obligations (for example defence or humanitarian agencies) may not have had any previous exposure to the CCM or the political process that led to its signature and/or ratification.
- Consideration could be given to whether there was any value in developing **model legislation specifically for use in civil law jurisdictions** (as has already been done for common law countries).
- It would be useful for those with the resources to **sponsor visits to target States by experts who can assist with the completion of initial and annual reports**.
- For States Parties that have already adopted national implementing legislation, it is perhaps unlikely that they will reopen it for the purposes of adding a **new prohibition on investments**. Consideration could be given to including this issue in outreach to non-States Parties (as well as States Parties that have yet to adopt legislation), and to looking at ways in which such a prohibition could be supported in the absence of national legislation, for example through the policies and practices of investment funds.

- **Action 7.2 Highlight challenges and request assistance**

States parties are encouraged to highlight factors and challenges that may be preventing progress in the revision/adoption of national legislation in transparency reports and at meetings of the Convention.

States parties are encouraged to make their needs known to States parties, the ISU, and other relevant actors in instances when assistance would be welcomed in the development/revision of implementing measures.

Ideas to help implementation of Action 7.2

- The **identification of regional “champions”** could help raise the profile of CCM universalisation and implementation among neighbouring countries.
- **Lessons could be learned from regional activities designed to increase national implementation of other international obligations**, for example the African Union’s Strategy on Small Arms and Light Weapons and its activities relating to UNSCR 1540 (including the hosting of workshops to draft national reports on implementation).
- Reporting fatigue and normal “bureaucracy overload” are both challenges for implementation of the CCM. Consideration could be given to **approaching regional structures to assist with reporting**, particularly for countries with similar legal systems and national obligations (for example, could CARICOM provide assistance for countries in that region? Could a State Party that has completed reports or that has already developed national legislation be encouraged to share it with others in the region?).
- There is scope for a **more collaborative approach** between States, the President and Coordination Committee, the ISU and civil society, particularly with respect to **collecting and sharing data**.
- Work is needed to **develop a culture of regular reporting** as well as an atmosphere in which States regularise their contact with the ISU, Coordinators and others with respect to the challenges they may be facing with respect to national implementation measures. It was noted that some States are reluctant to reach out for assistance lest it be formally reported or seen as a failure.

Action 7.3 – Raise awareness of national implementation measures

States parties will, as a matter of priority, take steps to:

(a) Increase awareness among all relevant stakeholders of obligations under the Convention, and of their national implementation measures;

(b) Ensure that the obligations of the Convention and their national implementation measures are disseminated to their armed forces and, as necessary, reflected in military doctrine, policies and training;

(c) Report on progress in this area in their Article 7 reports and to meetings of the Convention.

Ideas to help implementation of Action 7.3

- Noting that the ICRC already provides valuable training on international humanitarian law and human rights to mid-level military staff, **consideration could be given to the ICRC providing high-level briefings to Generals/Colonels and others who take decisions about the prioritisation and content of military manuals.**
- Although there was some reluctance to issue another questionnaire to States Parties requesting information on military doctrine, policies and training, it would be valuable for **States that have developed relevant practices to share them with others that have yet to do so.** The ICRC could look into available manuals relating to CCM obligations (noting, however, that most militaries do not update their manuals or directives frequently or make them widely available) with a view to the sharing of a **'best practice' military manual relating to cluster munitions.**
- States that have **well-developed media strategies or national dissemination policies could be invited to share relevant practices, including training modules** that could be adapted and used by other States Parties.