

**CMC statement on Compliance**  
**Second Meeting of States Parties, Convention on Cluster**  
**Munitions,**  
**Beirut, Lebanon**  
**16 September 2011**



Thank you Mr. President.

This week we have heard about the efforts States Parties, and also signatories, are making to ensure full and swift compliance with their obligations under the Convention on Cluster Munitions. Such activities show the determination of States Parties and signatories to fully implement the Convention as soon as possible. It is especially encouraging to see that many states are building on experience gained in implementing the Mine Ban Treaty and are actively working to avoid a slow start to implementation, which can lead to potential compliance issues such as missed deadlines for stockpile destruction.

States Parties must already be vigilant to ensure that *all* of the Convention's obligations are implemented fully and on time. Ten States Parties are late in submitting their initial Article 7 transparency report, a legal obligation for all States Parties, even those which are not affected by cluster munitions or are not stockpilers. The CMC urges these ten States Parties to complete their valuable A7 reports in the near future.

Any issue of non-compliance should be treated in a cooperative and constructive manner. While States Parties should be watchful to guard against any future situation of non-compliance, they should also ensure now that sufficient preparations exist to handle any issue that might arise as the Convention matures. Article 8.6 of the Convention proposes that, in addition to the formal complaint procedures, States Parties adopt general procedures or specific mechanisms for clarification of compliance and resolution of instances of non-compliance. We strongly encourage States Parties to start working on the establishment of such mechanisms, so that any future instance of non-compliance can be effectively and quickly addressed. Such mechanisms would also reinforce the credibility and efficiency of the Convention.

The CMC also considers the promotion of universal compliance with the norms of the Convention on Cluster Munitions as key to achieving its objectives. So we have been pleased that so many states have condemned or expressed serious concern about the recent use of cluster munitions by Libya and Thailand. We would like to see all States Parties and signatories make public statements and diplomatic demarches to condemn any use of cluster munitions and encourage universal adherence to the Convention. This is in keeping with obligations under Article 21, as well as the Vientiane Action Plan.

Mr. President, there is also a potential compliance issue related to the current negotiations of a protocol on cluster munitions under the Convention on Conventional Weapons.

States Parties to the Convention on Cluster Munitions that actively support and facilitate adoption of a protocol that expressly permits—indeed even encourages—the use of cluster munitions are acting counter to the positive obligations contained in Article 21 to discourage use, to promote the norms the Convention establishes, and to encourage states to join the Convention. Support for such a protocol also contradicts the commitment of States Parties under the Vientiane Action to “discourage in every way possible all use, development, production, stockpiling and transfer of cluster munitions” and to promote the convention’s universalization (actions 2-7). It is difficult to see how States Parties are discouraging future use by working towards a new legal framework to allow the continued use, production, and stockpiling of a wide variety of cluster munitions.

The CMC believes that States Parties’ participation in the creation of a lower legal standard that would explicitly permit activities banned by the Convention on Cluster Munitions could also be seen as contrary to the obligations of Article 1(c) of the Convention, which prohibits assistance, encouragement or inducement of prohibited activities. For States Parties to the Convention, proactively working towards securing an agreement which provides legal guarantees for others to continue to use, produce, transfer, and stockpile cluster munitions, could be seen as assisting, encouraging and inducing prohibited activities.

Finally, allowing the adoption of such an agreement that establishes legal protection for the continued use of cluster munitions is fundamentally at odds with the object and purpose of the Convention on Cluster Munitions “to end for all time” the suffering caused by cluster munitions.

A number of States Parties and the ICRC have also questioned the compatibility between a protocol allowing the use of cluster munitions and the Convention on Cluster Munitions’ obligations. It is an issue that should be treated seriously and considered by each and every State Party.

States which have joined the Convention on Cluster Munitions must not be complicit in the adoption of a protocol in the CCW which would be seen by some as re-legitimizing cluster munitions they have already banned, and weaken the norm against their use. Instead, States Parties should use opportunities presented in the framework of the CCW and other fora to encourage non-States Parties to join the convention and educate them about the humanitarian harm caused by cluster munitions.

Thank you Mr. President.