

**Cluster Munition Coalition Statement on National Implementation Measures  
Convention on Cluster Munitions 4<sup>th</sup> Meeting of the States Parties  
Lusaka, 12 September 2013**



Thank you Madame Chair.

The Convention on Cluster Munitions is a binding international instrument that depends on national measures for its proper implementation and enforcement. Such steps need to be taken by every State Party, not just those that have stockpiled or used them in the past.

The CMC believes that effective implementation of Article 9 requires the passage of a new law, in addition to policies, directives, or other measures. Article 9 requires the imposition of criminal sanctions to "prevent and suppress" any activity prohibited under Article 1. Article 1's list of prohibited activities includes direct and indirect assistance with any prohibited activity, under any circumstances, and laws should include this prohibition as well.

Types of assistance that should explicitly be banned include the transit of cluster munitions through or over national territory, the hosting of stockpiles owned by a state not party, and investment of both public and private funds in the development or manufacture of cluster munitions. In addition, if a law includes language allowing participation in joint military operations with a state not party, the CMC recommends that it clearly oblige a State Party not to assist with the use of the banned weapon and to actively discourage such use.

The CMC remains deeply concerned about states whose laws suggest that Article 21 can override the prohibition on assistance. We are particularly disturbed by Canada's draft bill which explicitly permits some assistance with the use of cluster munitions and even allows Canadian soldiers on secondment to use them directly. We strongly urge Canada to revise the parts of its bill that so clearly go against the spirit and the text of the Convention.

Finally, we have seen insufficient progress on Article 9 to date. Only 22 States Parties – one quarter of the total – have passed national laws. Fulfillment of this article should be seen as an opportunity to ensure the Convention is fully respected. The ICRC, civil society, UN agencies, and other States Parties are ready to lend support in the drafting of such a law. In addition, ICRC and New Zealand have produced two model laws that can facilitate drafting of legislation.

Madame President, I would now like to give the floor to my colleague to speak about a study she has done on this issue.

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Madame President, my organization undertook a study of the process Guatemala went through to draft and pass its national implementation law with the goal of sharing lessons learned with other states in Latin America and elsewhere. Seeing the slow rate of progress in other countries, I would now like to take the opportunity to share with you some of what we observed.

Guatemala took its duty under Article 9 very seriously, beginning the process in January 2011, months before the Convention came into force in Guatemala. The Congress approved the Law on

Cluster Munitions on September 7, 2012, less than two years after the process began. The CMC was especially pleased to see the law include reference to the treaty's positive obligations. Article 9 requires states to implement these positive obligations at a national level, but most states' laws have not addressed them to date.

The steps Guatemala took to draft and pass its legislation in a relatively short period time may provide useful guidance to other states in the process of developing national implementation laws.

- The Guatemalan Commission for the Implementation of International Humanitarian Law began by analyzing existing national laws to see if they complied with the Convention's requirements, ultimately finding that they were not sufficient.
- The Commission is comprised of a diverse group of governmental experts, chaired by the Ministry of Foreign Affairs and including the participation of all relevant ministries, as well as a member of Congress. Having a multidisciplinary body proved essential since laws of this type require technical, political, security, and humanitarian expertise to properly analyze the requirements stemming from the Convention.
- A working group of the Commission drafted a bill using the ICRC's model law. It then sent it to the Advisory Service on International Humanitarian Law of the ICRC for review, which suggested the addition of further provisions.
- The Cluster Munition Coalition and other expert organizations also provided valuable additional input on the bill.
- A range of government agencies, including from the executive and judicial branches and the ombudsman office, as well as the ICRC, civil society, and other experts helped with advocacy in favor of the law.
- The law was presented to Parliament by a deputy who had participated in the drafting process, and who was therefore able to provide expert input and facilitate communication between other drafters and lawmakers about its content.

In closing, Madame Chair, the positive experiences in Guatemala and other states show it is feasible to pass good laws without much trouble. The CMC and its member organizations stand ready to help you should assistance be needed. We look forward to hearing good news about the passage of significantly more national implementation laws in the future.