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CCM: INTERSESSIONAL MEETING, 16-19 APRIL 2012
NATIONAL IMPLEMENTATION MEASURES

REMARKS BY THE CO-ORDINATOR, NZ.
18 APRIL 2012

Introductory remarks

- Thank you Sara and good afternoon dear colleagues. May I first express the appreciation of my delegation to Lebanon for the excellent way in which they are guiding our work during this intersessional meeting. Our thanks too go to Sara and her team for all their support in keeping us on track.

- New Zealand was pleased to be confirmed as Co-ordinator for National Implementation Measures at the Second Meeting of States Parties in Beirut last year. We look forward to working with all parties to ensure that the Convention's provisions are reflected appropriately at a national level as outlined in Article 9 of the Convention.

- As with other areas of the Convention, the Vientiane Action Plan continues to be our touchstone to guide efforts in the short-term on national implementation. In the Action Plan, States parties that have not adopted national implementation measures undertook to develop and adopt comprehensive legislative, administrative or other implementing measures as a matter of urgency to implement all obligations under the Convention (Action 63).

- At the same, all States parties undertook to share information on the content and application of implementing measures through reports made in accordance with Article 7 and at formal and informal meetings of the Convention (Action 64) and to provide clear directives to all relevant state agencies about the prohibitions and requirements of the Convention (Action 65).

- As colleagues will be aware, Article 9 of the Convention is a brief but very important provision. It sets the requirement that States underpin their ratification of or accession to the Convention with the ability to enforce it in their domestic legal system.

- As we have said before there are of course many different legal systems and therefore different ways of giving legal effect to Article 9 – a one size fits all approach is just not possible. For this reason, we see value in an ongoing dialogue on States parties' differing experiences and lessons learned in meeting their Article 9 obligations. This session provides such an opportunity.

- A key requirement of Article 9 is to put in place penal sanctions to prevent or suppress any activity prohibited under the Convention. Each party has to satisfy itself that it has the legislative basis necessary to penalise anyone convicted of violating the prohibitions set out in Article 1.

- The Convention does not, however, specify what actual penalty should be set for violations of its terms – this is left to States parties to determine for themselves. These penalties should, however, be severe enough to act as an effective deterrent to carrying out prohibited activities.

- The penal sanctions required by Article 9 need, in certain circumstances, to extend extra-territorially. In addition, as well as dealing with the direct commission of prohibited acts, there is also the question of what constitutes the "aiding and abetting" of prohibited conduct.

- There is also the question of opting to legislate against investment in the production of cluster munitions. The CMC has done some very good analysis on this aspect and many of you will have seen their papers outside the room in this regard. We note that there appears to be a growing trend against investment in the production of cluster munitions either in the form of legislation, parliamentary initiatives or interpretive statements.

- The main challenge with respect to national implementation measures is ensuring that all States swiftly develop and adopt whatever legislation may be required for the effective implementation of the Convention.

- Some progress is being made in this regard. Drawing largely on Article 7 reports, we know that more than 20 States parties have reported that they have adopted legislation or that they consider their existing legislation to be sufficient. Several States have reported that legislation is in train and we are aware that a number of signatory States are also in the process of enacting implementing legislation that would enable their ratification. These developments are very welcome.

- More work needs to be done, however. A quick survey of Article 7 reports shows that many CCM States parties, including those whose deadlines for initial reports have passed, have not yet reported on their efforts to meet their Article 9 obligations. We continue to urge all States parties to make good use of Form A of the Article 7 reports to provide updates on their efforts to implement their Article 9 obligations. Updates today in this session would also be most welcome.

- As Co-ordinator, we are aware of the challenges that States may face in putting in place implementing legislation for the CCM. Resource constraints and competing priorities are just a few that have been raised with us in recent months. In this regard, I would emphasise that a

number of tools that are available to assist States with their Article 9 obligations. In particular, I would like to highlight the comprehensive model legislation produced by the ICRC as part of their ratification toolkit and the simpler model legislation for small States that doe not possess cluster munitions and have not been contaminated by them produced by New Zealand. Copies of the latter model are available just outside the room for those interested.

- In our letter of 22 March 2012, New Zealand invited interested delegations to raise all matters pertaining to national implementation noting in particular the relevant action points in the Vientiane Action Plan. As noted above, some delegations have already provided brief updates on their efforts to give effect to both the prohibitions and positive obligations of the Convention but we would nonetheless welcome any further explanations that these delegations may wish to provide.

- We would also welcome any other updates from delegations on their efforts to put in place legislation and other measures as required under Article 9 of the Convention. The floor is now open for any delegation that may wish to intervene in this regard.

Concluding remarks

- I would like to thank once again those delegations that have spoken this afternoon to share their experiences on national implementation measures. We have had a good exchange which will be useful for the drafting of relevant language for the Oslo Progress Report. We would, of course, welcome any further information that delegations may wish to provide on this topic for the Progress Report. Colleagues can either contact me direct or through the Executive Co-ordinator.

- In closing, I would like to reiterate that New Zealand remains available to assist all delegations meet their Article 9 obligations. Colleagues should feel free to make contact with New Zealand direct or through the Executive Co-ordinator if need be.