

CCM Inter-sessionals

Statement by Norway, 29 June 2011

COMPLIANCE

Madam Chair,

The experience with the Convention on Cluster Munitions, as well as with other treaties banning specific weapons, is that *compliance makes a difference*. Compliance discussions in the context of the CCM should mainly focus on stockpile destruction, clearance, victim assistance, international cooperation and assistance. Only through full compliance with the provisions of the Convention can we achieve its humanitarian objectives. We are still in the first year after the Convention entered into force, but as has been mentioned on many occasions, we need to focus on completing obligations as soon as possible, complying with our obligations in a swift and determined manner. This week has demonstrated several examples of how states are moving forward at a good pace. We need to maintain this focus and accelerate progress on all provisions of the Convention.

In light of the current discussions within the context of the Convention on Certain Conventional Weapons, CCW, however, we would like to flag an additional compliance issue in today's informal discussion on compliance.

More specifically, we would like to question to whether supporting efforts to adopt a protocol that could allow the use, stockpiling, transfer etc. of cluster munitions by States Parties to the CCM can be seen as compatible with the States' obligations under this convention.

The text of the current Chairman's draft protocol under the CCW Framework Convention suggests a substantially lower standard than the existing CCM standard for defining cluster munitions. It will for example allow for the use of cluster munitions that are designed to leave up to 1% unexploded ordnance as well as cluster munitions where the explosive munitions possess only one safeguard mechanism. In addition, compliance may as a point of departure be deferred for 12 years, even for the types of munitions that would eventually fall under a ban in a protocol to the CCW.

Madam Chair,

If adopted in its current form, it seems clear that the future CCW Protocol will contribute to re-legitimizing the use, production, development, transfer etc. of weapons that are known to cause unacceptable harm to civilians and are prohibited by the CCM for that reason, for instance the M85 being one example.

The draft CCW protocol does specify that the higher standards of the CCM will prevail for its States Parties in the event of a conflict between the two instruments. But even if the draft protocol's much lower standards will not apply to CCM States Parties, we

question whether accession to this new instrument could be seen as compatible with the obligations under the CCM.

Moreover, one may question whether to accept the adoption of such a protocol might be problematic with regard to the obligations laid down in the CCM. Under its Article 21, paragraph 2, States Parties undertake to *promote* the norms the CCM establishes and make their best efforts to *discourage* States not party to the CCM from using cluster munitions.

Madam Chair, in our view, supporting the adoption of a protocol that will legitimize the use of cluster munitions cannot be seen as promoting the Convention on Cluster Munitions, nor can it be seen as discouraging States not party to the CCM from using cluster munitions.

In addition, there is in our view reason to discuss whether such activities could be seen as contrary to the prohibition against encouragement or inducement to the use etc. of cluster munitions as stated in Article 1 (c) of the CCM.

Madam Chair,

The Declaration by the First Meeting of States Parties to the CCM in Vientiane, Laos, in 2010 states: “...we condemn the use of cluster munitions that causes unacceptable harm to civilian populations and objects, by any actor. Our aim is universal adherence to the Convention.” Also in the Vientiane Action Plan, the States Parties undertake to “Discourage in every way possible all use, development, production, stockpiling and transfer of cluster munitions.” These documents emphasize the agreement by the Meeting of States Parties regarding the interpretation of the CCM. They underline the fundamental difficulties with reconciling the adoption of a protocol allowing the use of cluster munitions, with the obligations of *inter alia* Article 21 of the CCM.

Madam Chair,

We are considering the possibility of raising these issues as a matter of concern with regard to compliance with the CCM, at the Second Meeting of States Parties of the CCM.

Thank you.