

CMC Statement on National Implementation Measures

CCM 11th Meeting of States Parties

Geneva, 11-14 September 2023



Thank you, Mr. President,

Fulfilling the promise of the Convention on Cluster Munitions depends on strong actions at the national level. Article 9, therefore, obliges states parties to adopt national implementation measures. In addition, the Lausanne Action Plan established a deadline for doing so and encouraged the provision of international cooperation and assistance to help states parties meet it. Nevertheless, significant work remains to be done.

States Parties committed in the Lausanne Action Plan to adopt appropriate national measures by this Eleventh Meeting of States Parties, or within two years of the Convention's entry into force for a new State Party.

The Monitor is not aware of any State Party enacting implementing legislation for the Convention during 2022 or the first half of 2023. Nigeria indicated in April 2023 that it "needs to enact specific legislation to enforce provisions of the Convention." The last state to adopt a national law was Niue in 2021.

As of today a total of 33 States Parties enacted specific legislation implementing the Convention. Another 43 States Parties consider existing legislation sufficient, and at least 20 states parties have indicated that they are either planning or are in the process of drafting, reviewing, or adopting specific legislation.

The Lausanne Action Plan also says States Parties should consider "enacting legislation prohibiting investments in all producers of cluster munitions and their crucial components." Currently, 11 states parties have laws prohibiting investment in cluster munitions, although 38 states parties and signatories have declared that they regard investments in cluster munition production as a form of assistance that is prohibited by the convention. As per the Action#47 of the Lausanne Action Plan - all States Parties should consider enacting national legislation prohibiting investments in all producers of cluster munitions and their crucial components.

While there are a range of administrative and other measures that can help operationalize the convention, dedicated national implementation legislation, which is both binding and more enduring, is essential. Legislation advances universalization because, for many states, it is a prerequisite to joining the treaty. It promotes the compliance of states parties obliged by Article 9 to adopt implementation measures. Furthermore, strong laws can bolster the norm against cluster munitions, discouraging future use, even by states not party. Taking a clear stand against cluster munitions is critical at a time of ongoing use.

Strong legislation penalizes violations of the convention's prohibitions. It ensures a state party fulfills stockpile destruction, clearance, victim assistance, and reporting duties. It

applies to explosive bomblets, covers corporations and individuals, and establishes extraterritorial jurisdiction.

Adopting such legislation need not be burdensome. The Lausanne Action Plan urges states parties to identify challenges they face in adopting or revising relevant laws and to request assistance when they need it. Other states parties in a position to do so should respond to these requests.

There are also several models states can follow to expedite the adoption of national legislation. New Zealand has disseminated a model law for small states that neither possess nor are contaminated by cluster munitions. The ICRC has issued model legislation for common law states.

Human Rights Watch and Harvard Law School's International Human Rights Clinic have identified key elements of strong legislation, and the Cluster Munition Coalition has developed a model law based on those elements.

In light of recent events, it is particularly crucial, that as part of their national implementation, states parties uphold their obligations under Article 21 to "promote the norms" of the Convention and make their "best efforts to discourage States not party ... from using cluster munitions."

Furthermore, States Parties should ensure they do not assist with the transfer or use of the US cluster munitions being sent to Ukraine; for example, they should not allow transit of those munitions through their territory. More than 35 States Parties have taken the position, either in their implementation legislation or official statements, that both transit and assistance with use of cluster munitions are prohibited even during joint military operations.

In conclusion, we want to thank New Zealand for its leadership over the past twelve years. We welcome Iraq in the role of the new Coordinator and we look forward to working together on this important area of work.

Thank you.