

CMC Statement on National Implementation Measures

*Convention on Cluster Munitions 12th Meeting of States Parties,
Geneva, 10-13 September 2024*

Thank you, Madame President,

Under Article 9 of the Convention on Cluster Munitions, States Parties are required to take “all appropriate legal, administrative and other measures to implement this Convention, including the imposition of penal sanctions.” Legislation is the most binding and enduring means of ensuring that the obligations articulated in the convention are implemented and enforced domestically.

To withstand the test of time, implementation legislation should establish firm and unequivocal prohibitions on the use, development, transfer, and stockpiling of cluster munitions. National laws should make clear that countries are forbidden from assisting with any of those activities, even when operating with allied forces that might use them. It is critical that the convention’s prohibitions should be enforced in national legislation with penal sanctions, such as imprisonment and/or fines.

National implementation measures should also include steps to ensure the convention’s positive obligations, including on clearance and victim assistance, are put into effect. Article 9 requires national implementation of all provisions of the convention.

According to Cluster Munition Monitor, at least 76 States Parties have reported that they have national measures in place to govern their implementation of the convention.

Of these, 33 States Parties have enacted specific implementation legislation with penal and fiscal sanctions. Niue was the last country to enact legislation for the convention, in 2021.

The other 43 States Parties report that they have reviewed their existing laws, including Penal Codes, and regulations and found them to be robust and comprehensive enough to implement the provisions of the convention.

At least an additional 24 States Parties have said in their transparency reports and statements that they are either planning or are in the process of drafting, reviewing, or adopting national legislation for the convention. That group includes South Sudan, which reported in May 2024 that if it finds the necessary “legal, technical and financial support...a legal framework will be approved with penal sanctions, to

prevent and suppress any illegal activity under this Convention.” The list also includes Gambia and São Tomé e Príncipe, which reported this year that legislation is in the works.

The remaining dozen States Parties are still considering what is needed or they have not yet shared their views on this issue.

The Cluster Munition Coalition urges all States Parties that have not yet done so to enact comprehensive, and preferably dedicated, national legislation to implement the convention’s provisions and provide binding, enduring, and unequivocal rules.

Civil society can play a fundamental role in this area. Yesterday, at the side event «Promoting the CCM norm through national legislation» organized by the Italian Campaign Against Landmines, a member of the CMC, we had an opportunity to hear about the experience and good practices from the outreach that led to the adoption of Law No. 220 of 9 December 2021 «Measure to counter the financing of companies producing anti-personnel mines, cluster munitions and submunitions». It was the first time, the principle that a financial investment can be prohibited by law if it generates a negative impact on the community.

We remind you of the Lausanne Action Plan’s goal to adopt appropriate national implementation measures by the 11th Meeting of States Parties in September 2023, and we are concerned that, as far as the Monitor is aware, no State Party has enacted implementation legislation for the convention since Niue in 2021.

We also note that the progress report for the Lausanne Action Plan asks what can be done to increase overall compliance with Article 9 and what specific support and tools are needed.

Mr. President, we appreciate these questions and encourage States Parties and signatories to weigh in with their ideas.

The Cluster Munition Coalition is grateful to Iraq for taking over the role of National Implementation Measures Coordinator from New Zealand. Iraq has been diligent in its outreach and follow-up on this issue as has the Implementation Support Unit, which has surveyed States Parties.

The Cluster Munition Coalition endorses the key elements of strong legislation produced by Human Rights Watch and Harvard Law School’s International Human Rights Clinic and has developed a model law based on those elements. In addition, to expedite the legislative process, 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.

We stand ready to assist any state working to fully implement the treaty’s provisions at the domestic level.