



CMC INTERVENTION ON NATIONAL IMPLEMENTATION MEASURES

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Thank you, Chairman

The Convention on Cluster Munitions establishes powerful international law to end the humanitarian harm caused by cluster munitions. To realize the convention's full potential, however, states must implement it domestically. Article 9 requires states parties to take implementation measures, and adopting new, convention-specific legislation is the strongest means of fulfilling this obligation. States can supplement legislation with regulations and policies that provide more details, but national legislation is crucial to the effectiveness of the convention because it lays out binding, enduring, and unequivocal rules that leave less room for interpretation.

To implement the convention comprehensively, in accordance with Article 9, national legislation should address all of the convention's obligations. This week Human Rights Watch is distributing a thorough paper on elements of strong national legislation, but I want to highlight certain elements today. The Friend of the President's paper on Article 9 addresses some of them already, and we hope that the paper can be amended to reflect the rest.

An effective law naturally begins with prohibiting and establishing penal sanctions for the use, production, transfer, and stockpiling of cluster munitions, as mandated by Article 1. To help ensure compliance with these provisions, legislation should require states parties to provide clear directives and training to military and police forces about the prohibitions of the convention.

Legislation should also ban direct and indirect assistance to anyone with any prohibited activity. In particular, it should explicitly prohibit transit, stockpiling by a state not party on its territory, and investment of both public and private funds in the manufacture of cluster munitions or their components.

Cluster munitions will continue to endanger civilians if states parties allow exceptions to these absolute prohibitions. Therefore, implementation legislation should specify that the prohibitions enumerated in the convention, notably that on assistance, apply under all circumstances. While a state party can participate in joint military operations with a state not party, it should not permit exceptions to the law's strong and categorical prohibitions during such operations. Instead it should abide by and repeatedly notify its allies of its obligations at the political and military levels.

Fully implementing the Convention on Cluster Munitions demands codification of the convention's positive as well as negative obligations. With regard to stockpile destruction, national legislation should set the deadline for destruction at no more than eight years and, whenever possible, at even less. States should exclude provisions about retention of cluster munitions in their legislation because alternatives to training on live submunitions exist, making such provisions generally unnecessary.

In implementing Article 4, legislation should aim to have clearance completed in the shortest possible time period, and no later than within the 10-year deadline, except for the most heavily affected states. Related provisions should establish a process for clearance, mandate risk reduction education programs where appropriate, and require user states parties to assist with clearance of territory they previously contaminated with cluster munitions. Implementation legislation should designate a government focal point to coordinate victim assistance and require creation and execution of a national assistance plan in consultation with victims.

National legislation should address three other positive obligations. First, to help other states meet their obligations, legislation should require international cooperation and assistance for the topics enumerated in Article 6. Assistance could take a variety of forms—including but in no way limited to financial support—which means that virtually all states could offer a contribution. Second, legislation should mandate reporting on the status and progress of the implementation as laid out in Article 7. Third, as required by Article 21, legislation should obligate a state party to work for universalization of the convention, promote its norms, and discourage use.

Finally, to ensure breadth of coverage, national legislation should establish extra-territorial jurisdiction and jurisdiction over both individuals and corporations. It should also clarify that the legislation applies to explosive bomblets as well as cluster munitions.

In conclusion, states should prioritize not only joining the Convention on Cluster Munitions but also adopting national legislation to implement it. Through the Vientiane action plan, states parties should commit themselves to passing national legislation, as well as developing administrative and other implementation measures, no later than the Second Meeting of States Parties. Including all of the aforementioned elements would ensure that this legislation is strong and comprehensive.

Thank you.