

Review Conference of States Parties to the Convention on Cluster Munitions

23 December 2014

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First Preparatory Meeting for the First Review Conference

Geneva, 5 February 2015

Item 5 of the provisional agenda

Presentation on the review of the Vientiane Action Plan

Review of the Vientiane Action Plan

X. National implementation measures

Submitted by the President to the Fifth Meeting of States Parties

Key messages

1. Taking all appropriate legal, administrative and other measures to implement the Convention at the national level is a legal obligation under Article 9 and is one of the key elements for ensuring that the Convention lives up to its humanitarian objectives.
2. Since entry into force, States parties have expressed support for the importance of Article 9 and a number of tools have been developed in collaboration with expert organisations to assist States parties as well as States considering adherence to the Convention to fulfil this obligation. Many States parties have already taken the required action but others should adopt or review their implementing legislation if they have not already done so. All States Parties are encouraged to present information on the measures taken under Article 9 through their Article 7 transparency reports.
3. Concern has been expressed by a number of expert organisations about the provisions of some national laws relating to activities in support of joint military operations and cooperation with states not party to the Convention. All States Parties have been urged to ensure that all provisions of national law and other implementation measures are fully consistent with the object and purpose of the Convention.

Scope

4. 53 per cent of all States Parties report either that they have adopted legislation specifically aimed at the implementation of the Convention or that their existing laws and regulations are sufficient to implement it. A further 21 per cent report that they are currently in the process of adopting legislation and other implementing measures. A number of States Parties have not yet shared detailed information on their implementation of the Convention in this area either through their initial and/or annual transparency reports

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or at formal and informal meetings. In some instances, this lack of information limits on the implementation assistance that States might receive from expert organisations.

Progress

5. The development and adoption of legislation to enable effective implementation of the Convention remains a challenge for a number of States Parties. To support States Parties in this process, a number of tools have been developed: in 2013, the International Committee of the Red Cross published a guidance paper entitled “Model law: Convention on Cluster Munitions - Legislation for Common Law States on the 2008 Convention on Cluster Munitions”. In 2011, the Coordinator on national implementation measures prepared and published a shorter model entitled “Model Legislation: Cluster Munitions Act 201[]” tailored for non-possessor, non-contaminated States.¹ In addition, and with the support of the Democratic Republic of the Congo, the International Committee of the Red Cross, the Cluster Munitions Coalition and the Coordinator on National Implementation Measures, Ghana has been working on drafting model legislation for African countries under civil and common law systems. In pursuit of this goal, two workshops were held in Geneva in early 2014 to explore the challenges faced by African States in the process of ratifying the Convention. A model legislation drafting workshop was also held in San José, Costa Rica in August 2014.

Challenges highlighted since the First Meeting of States Parties

6. To ensure that all States Parties, as a matter of urgency, review and if deemed necessary, develop and adopt the appropriate legislation required for the effective implementation of the Convention.

Recommendations

7. Review national legislation and as deemed necessary, develop and adopt comprehensive legislative, administrative or other implementing measures, as appropriate, in accordance with Article 9.

8. Share information on the revision/adoption as well as content and application of implementing measures by means of annual transparency reports and at opportunities provided by formal and informal meetings of the Convention.

9. Highlight in transparency reports and at formal and informal meetings the factors that may be preventing progress in the revision/adoption of national legislation as well as the assistance required to overcome the challenges identified.

10. Inform all relevant national actors, including armed forces, of obligations under the Convention and of national implementation measures introduced.

¹ CCM/MSP/2011/WP.6.