

BACKGROUND

The President-Designate of the 1st Meeting of States Parties to the Convention on Cluster Munitions (CCM), the People's Democratic Republic of Lao, has established an informal grouping of "Friends" to develop the topics for consideration at the upcoming First Meeting of States Parties (1MSP) as well as the preparatory process and work plan for 2011, including an elaboration of a possible architecture for the CCM. The Friends and their respective subject areas are as follows:

- Preparatory Process – Ireland
- Vientiane Political Declaration – Laos
- Vientiane Action Plan – Norway
- Work plan 2011 including architecture – Canada
- Universalization – Japan with assistance from Colombia and Chile
- Stockpile Destruction including retention, Article 3 – Germany with assistance from Belgium and Colombia and Norway
- Clearance, Article 4 – Australia with assistance from Slovenia
- Victim Assistance, Article 5 – Austria with assistance from Croatia
- International Cooperation and Assistance, Article 6 – South Africa
- Reporting Format, Transparency measures, Article 7 – Belgium with assistance from Norway
- National implementation measures, Article 9 – New Zealand

It is the President-Designates intention to request Friends to further elaborate on the topics allocated and present the work to the plenary for an informal exchange of views at the forthcoming Global Meeting on the CCM in Santiago, Chile, 7-9 June 2010. In particular, it is anticipated that the outcome of the informal exchange of views should inform 1) the Vientiane Action Plan, 2) the reporting formats required and, 3) the architecture and work plan for the continued work on the universalisation and implementation of the CCM. Thereafter the President-Designate will work with states to further develop the outcome documents for consideration at the 1MSP in time for the Preparatory Committee scheduled for 6 September in Geneva in advance of the 1MSP in Vientiane.

Lao PDR would like to take this opportunity to thank the Friends of the President-Designate for their invaluable assistance in driving this process forward in preparation for the 1MSP to the CCM.

Signed, incoming President-Designate of the CCM

Lao PDR

GENERAL OPERATION AND UNIVERSALISATION OF THE CONVENTION

VIENTIANE ACTION PLAN - NORWAY

Development and elements of an action plan to be agreed upon at the 1MSP to the CCM, to be held in Vientiane, Lao PDR, 9-12 November 2010.

Rationale

The implementation of all the provisions of the CCM is the key challenge following its entry into force. Experience from implementation of the Anti-personnel Mine Ban Convention (APMBC) and from other international conventions has demonstrated the utility of having an agreed document between the States Parties that sets out concrete and measurable steps, actions and targets and defines roles and responsibilities for relevant actors.

To support effective and efficient implementation of the CCM, States Parties gathered at the 1MSP could adopt an action plan for the period ahead.

The action plan can function as a reference tool to monitor progress and setbacks in the overall implementation during the coming period as well as an agreed priority list for States Parties and other actors.

As friend of the host and president-designate of the 1MSP, Lao PDR, Norway will coordinate the development of a draft Vientiane Action Plan (VAP).

Process

To be effective the action plan needs to have the full support of States Parties and from other key implementation actors; the UN, the ICRC and civil society. A focused, transparent and inclusive process developing the plan will be key to its legitimacy.

The draft VAP will build upon work done by other friends of Lao PDR who work on thematic issues. These friends have been asked to consider which specific time-bound actions could be included in such an action plan before the Universal Meeting in advance of the 1MSP to the CCM, to be held in Santiago, Chile, 7-9 June 2010.

Norway will, throughout the process and in close cooperation with Lao PDR, consult widely with all signatory states and relevant partners, including those who have expressed a particular interest in working on the VAP. Consultations will be done in the most practical and effective ways possible, including through email communications and in formal and informal meetings, making use of existing relevant meeting arenas, taking into account the views and interests of States Parties.

A formal draft VAP should be submitted well in advance of the 1MSP.

Structure

The action plan should be as concrete and action oriented as possible. To this effect, the structure of the VAP should be in accordance with the obligations of the CCM.

For the development of the structure of a VAP, the recently adopted Cartagena Action Plan 2010-2014 for the APMBC could offer constructive guidance. It should be noted that since the implementation of the CCM entails different tasks and challenges than the implementation of the well-established APMBC, the content and structure of the VAP will necessarily differ.

To guide the work of the States Parties during the first few years the plan could include specific actions to be undertaken within a shorter timeframe, even though the timeline for the VAP as a whole could cover the period up to the First Review Conference. What timeframe would be more

useful should be discussed in consultations ahead, and in light of what actions will be identified by other friends of Lao PDR.

FIRST MEETING OF STATES PARTIES TO THE CONVENTION ON CLUSTER MUNITIONS

VIENTIANE, 9-12 NOVEMBER 2010

VIENTIANE ACTION PLAN 2011-201?

1. Introduction

Overall aims, clarifications and contexts of the action plan (Lead: Norway and Lao PDR)

- The elements of the introductory chapter will depend on the nature and time period chosen for the action plan, and therefore on discussions during the Santiago conference and beyond. Suggested alternatives include a one-year action plan towards the Second Meeting of States Parties, and a five-year action plan towards 1st Review Conference. They can also be combined in a one year + four year approach
- The primary purpose of a short one-year plan could be to guide the States Parties in the first implementation year, and prepare for a more substantial 2MSP.
- A one-year action plan should be short with a few selected concrete actions within each field of implementation (Victim Assistance, Clearance, Stockpile Destruction, International Cooperation and Assistance). The actions need to reflect the high ambitions of the CCM but at the same time need to be realistic to implement within 12 months.
- A one-year action plan should also identify what steps States Parties need to take during the first year to ensure effective, efficient and sustainable implementation of the CCM for a longer period – for example a more comprehensive action plan for the time up to 1st Review Conference. (1+4 year approach)
- A 5 (4) year action plan could be more comprehensive and with more detailed actions on all aspects of the implementation of the CCM. Actions in many sections could be sequenced and temporal, identifying first, second and third (etc) steps of an implementation action, thus providing States Parties with guidance on priorities.
- Actions in a 5(4) year plan should be designed so implementation progress could be monitored at regular intervals (i.e. at the Second, Third and Fourth Meetings of States Parties).

2. Partnership/inclusion

Actions to ensure continued partnership and inclusion of all relevant actors in implementing the CCM (Lead: Norway and Lao PDR; work closely with partners such as CMC, the ICRC and the UN to identify challenges and relevant actions; work also with Ireland as friend on procedural matters)

- Actions in this section need to clearly identify all relevant implementation actors; including States parties, Civil Society (CMC) United Nations agencies and the International Committee of the Red Cross.
- Actions need to reaffirm that all aspects of implementation must include all relevant actors, reflecting the established partnership between States, Civil Society, UN, ICRC and other relevant organisations.

- Actions need to acknowledge the special role of survivors, victims and representatives from affected communities in the implementation efforts.
- Actions need to clarify roles and responsibilities for the different actors in the implementation efforts, including in the formal implementation forum (MSPs, RCs and relevant intermediate activities.)
- Actions should include facilitation of participation of actors in the implementation process – such as sponsorship programs etc.
- Efforts should be made to identify possible new partnerships that may assist rapid implementation, for instance with private sector

3. **Universalisation**

Actions to ensure global adherence to the CCM and promote it as a universal norm [Will incorporate elements that are suggested by Japan as friend on universalisation before/during Santiago Conference]

4. **Destroying stockpiled cluster munitions**

Actions to ensure rapid compliance with Article 3, and to avoid future violations of deadlines [Will incorporate elements that are suggested by Germany as friend on Article 3 before/during Santiago Conference]

5. **Clearing areas affected by cluster munitions**

Actions to facilitate rapid implementation of Article 4 [Will incorporate elements that are suggested by Australia as friend on Article 4 before/during Santiago Conference]

6. **Assisting the Victims**

Actions to facilitate Article 5 [Will incorporate elements that are suggested by Austria as friend on Article 5 before/during Santiago Conference]

7. **International Cooperation and Assistance**

Actions on how Article 6 can be best utilised as implementation support, in particular supporting the actions under 3, 4 and 5 [Will incorporate elements that are suggested by South Africa as friend on Article 6 before/during Santiago Conference]

8. **Additional actions essential to achieving the Convention's aims, including reporting and transparency**

Actions to facilitate implementation of other relevant articles (Lead: Norway and Lao PDR; work closely with Belgium as friend on reporting; with New Zealand as friend on Article 9 on national implementation measures; with Canada as friend on work plan 2011) [Will incorporate elements that are suggested by these states before/during Santiago Conference]

WORK PROGRAMME 2011 INCL. ARCHITECTURE - CANADA

The negotiation of the CCM has been informed by experience establishing and implementing the APMBC over more than a decade. Examination of the APMBC experience clearly demonstrates the value and need for an effective intersessional work programme, appropriate architecture including a coordinating mechanism for effective governance and an Implementation Support Unit (ISU) in order to facilitate the universalisation and implementation of the CCM.

Establishing well functioning structures (architecture) and governance processes within the APMBC was not a straightforward or easy process, however. The 1MSP of the APMBC authorized the establishment of an intersessional work programme and general architecture for the CCM. The 2nd Meeting of that convention established a Coordinating Committee to organize intersessional work and the 3rd Meeting of States Parties authorized the establishment of an ISU. All of these have undergone significant adjustment over time and continue to evolve according to the needs of States Parties. The APMBC intersessional work programme is currently under review and the ISU being evaluated which may result in further changes to each which may also affect the role, function and structure of the Coordinating Committee.

In order to ensure universalisation and effective implementation, it is possible that the CCM will employ similar but not necessarily identical structures and processes as have evolved in the APMBC.

Given the experience in the early years of the APMBC where it appears that very important decisions with respect to architecture and processes may have been made too early, the smaller number of States that will be full participants at the 1MSP to the CCM¹ and the lack of urgency for hard decisions particularly on architecture, it may be prudent for the 1MSP of the CCM to take only provisional decision on the intersessional work programme and CCM architecture. Additionally, as the first Article 7 reports are not due until January 2011, this would permit a full analysis of the needs of States Parties with regard to implementation before taking decisions on a structure for an intersessional work programme.

This would have the added benefit of allowing states to consider the results of the ongoing APMBC review of the intersessional work programme as well as the evaluation of the ISU and to factor relevant information/conclusions into decisions with respect to the CCM.

2011 Intersessional Programme - Proposal

In order to concentrate global efforts regarding cluster munitions, ensure continued momentum of the CCM, and to address the many important thematic topics as they relate to the VAP, it is proposed that the 1MSP in Vientiane agree to convene one informal intersessional meeting, in addition to scheduling the 2MSP.

It is suggested that the primary aim of the intersessional meeting would be to conduct thematic discussions on substantive topics such as victim assistance, clearance, stockpile destruction including retention, risk education, as well on the general status and operation of the CCM.

Further, it is proposed that the discussion of general status and operation would include consideration of decisions proposed to be taken at the 2MSP regarding architecture and means to coordinate the work of the CCM, future intersessional work, and whether or not to establish an ISU and, if so, the nature of the ISU.

¹ At the 1 MSP of the APMBC, 43 States Parties participated, 18 States that had ratified but for whom the Convention had not yet entered into force and 34 other signatories participated as observers. A further 13 States who had neither signed nor ratified, also participated as observers.

The discussion on general status and operation could also address universalization, national reporting and national implementation measures.

Proposed 2011 Meeting Schedule

In order to minimize costs, it would be beneficial to coordinate the timing and location of formal and informal meetings of the CCM with those of related Conventions (APMBC and the Convention on Certain Conventional Weapons (CCW)), as these conventions draw many of the same participants and demand similar skill sets. It is proposed, therefore, that the intersessional meeting be held in Geneva, Switzerland in June 2011 and that the 2MSP be held in either a cluster munition affected State Party or in Geneva, Switzerland in November 2011, contiguous with respect to scheduling of the APMBC, 11th Meeting of States Parties which will be held in Cambodia, as well as with the Fourth Review Conference of the CCW.

Participation

The work of the informal intersessional meeting should reflect the spirit and practice of inclusivity and cooperation that prevailed during the lead up to, negotiation of, and opening for signature and ratification of the CCM. It is proposed, therefore, that participants would include experts from States Parties, signatory States, other interested States, international and regional organizations and NGOs. A sponsorship programme to ensure the widest possible representation among states may be established from voluntary contributions.

Organization of Intersessional Work

It is proposed that the intersessional meeting in 2011 be chaired by the President of the 1MSP, with assistance as required, both in chairing and in reporting, from such "Friends" as the President may deem necessary. Should the intersessional meeting take place in Geneva, it would be useful to consider options with respect to venue and organizational work. The Geneva International Centre for Humanitarian Demining (GICHD) could offer practical support such as providing the necessary organization and venue, as could the United Nations Office in Geneva. Ideally, the intersessional meeting would be, no or low-cost, limited largely to expenses associated with attendance at the meeting.

UNIVERSALISATION – JAPAN

Article 21

Relations with States not Party to this Convention

1. "Each State Party shall encourage States not party to this Convention to ratify, accept, approve or accede to this Convention, with the goal of attracting the adherence of all States to this Convention."

Under Article 21 of the CCM, each State Party shall encourage non-State Parties to ratify, accept, approve or accede to the CCM, with the goal of attracting the adherence of all States to this convention. To reach the goal of universal adherence to the CCM, identification of obstacles faced by non-signatories as well as consideration of the possible ways of removing the obstacles are necessary.

Approach

- In order to facilitate the work on the universalisation of the CCM, contact points were set up. Belgium, Chile, Japan, and CMC will work as the contact points, and their main task is to approach non-signatories in the relevant regions and encourage them to ratify the CCM.
- Each contact point will compile information through meetings with the non-signatories and identify the reasons for not signing the CCM. In order to grasp the conditions faced by non-signatories in a unified form, a check list, as attached to this non-paper, will be used.
- Based on the information gathered, non-signatories will be categorized into different stages leading up to ratification. Based on the categorization, the contact points will decide which non-signatories to target for outreach activities. At the same time, steps to improve the conditions faced by non-signatories will be considered.

Working Schedule

- Toward the Conference in Chile, a letter cosigned by Lao PDR and Japan will be sent to the countries that have not signed the CCM through Japanese diplomatic missions. It informs the non-signatories of the contact points for universalisation and announces that they will contact non-signatories to improve their understanding on the CCM.
- After the issuance of the letter, the first outreach activities will be carried out as soon as possible (the preferable timing is before and shortly after the Conference in Chile). Each contact point country will approach non-signatories, share views on the significance of ratifying the CCM, and identify what kind of obstacles to ratification they face.
- Once the first outreach activities are complete, a strategy for the 2nd outreach activities will be planned. By targeting a certain group of countries, the second outreach activities will take place before the 1MSP.
- After the 1MSP, follow-up outreach activities will be conducted.

Possible reporting format

- States Parties report outreach activities which were undertaken individually or jointly with other States Parties.

(see annex 3 – draft Universalisation check-list)

STOCKPILE DESTRUCTION INCLUDING RETENTION, ARTICLE 3 – GERMANY**Article 3***Storage and stockpile destruction*

1. "Each State Party shall, in accordance with national regulations, separate all cluster munitions under its jurisdiction and control from munitions retained for operational use and mark them for the purpose of destruction."

Scope of the problem

There is limited information on global stockpiles available. The Cluster Munition Coalition (CMC) believes that a total of 87 countries have possessed stockpiles of cluster munitions at some point in time. Of these, 37 have signed the CCM as of March 2010. CMC considers 79 countries still to be in possession of stockpiles, of which 32 have signed the CCM. The total number of stockpiled cluster munitions is not known, but probably amounts to several billion submunitions. Most countries acquired their stockpiles from national production or importation, while others "inherited" the munitions upon gaining independence.

Obligations

The CCM includes obligations concerning the storage and stockpile destruction for any type of munition falling under Art. 2 (2) CCM in its Art. 3.

These obligations include:

- to separate and to mark any cluster munition under a State Party's jurisdiction for final destruction;
- to undertake or ensure the destruction as soon as possible, but not later than eight years after the entry into force for the State Party (an extension of four years and in exceptional circumstances another four years can be granted);
- to ensure that the methods used for destruction comply with international health and environment standards;
- retention is permitted only for purposes of training in cluster munition and explosive submunition detection, clearance or destruction techniques, and for the development of cluster munition counter-measures, and the amount of munitions retained should not exceed the minimum number absolutely necessary for these purposes;
- to submit a detailed report about the retention, acquisition and transfer of such cluster munitions.

States bearing these obligations

States bearing these obligations are those which have ratified the convention, once the CCM enters into force for them. As of 10 May the following States have ratified: Albania, Austria, Belgium, Burkina Faso, Burundi, Croatia, Denmark, France, Germany, The Holy See, Ireland, Japan, Lao PDR, Luxembourg, FYR of Macedonia, Malawi, Malta, Mexico, Republic of Moldova, Montenegro, New Zealand, Nicaragua, Niger, Norway, Samoa, San Marino, Sierra Leone, Slovenia, Spain, United Kingdom, Uruguay and Zambia.

The deadlines set out in Article 3 start to run for each State Party at the time of entry into force of the CCM. For the first 30 ratifying States this will be August 1 2010. For the rest of the States Parties, the deadlines will start running six months after each State has ratified.

Standards for destruction

International standards for destruction are specified for anti-personnel mines and other types of conventional ammunition without appropriate references to cluster munitions. Recently, the UNGA has mandated works on International Ammunition Technical Guidelines that are considered to be completed by the end of 2010. Further, some regional and national standards with reference to cluster munitions including, but not limited to environmental aspects, techniques and facilities available (in case of cluster munitions and/or submunitions these include open detonation, closed detonation, closed incineration, disassembly, cryofracture and harvesting of components), regional options and transfers in case of lacking capacities.

Technical challenges

A number of countries do not yet have experience with cluster munition stockpile destruction. The destruction of stockpiled cluster munitions is more complicated than the destruction of other conventional munitions such as most anti-personnel mines due to their unique characteristics:

- there may be large numbers of individual submunitions in a container,;
- most explosive submunitions incorporate an integral detonator, some of which are very difficult to remove, and can, depending on the fuze, make manual reverse assembly hazardous or even impossible, and;
- large amounts of metal casing and packaging remain after the destruction of the explosive components.

An important challenge will be to avoid bottlenecks in the industrial destruction process.

Even though destruction of munitions is part of the normal procedures of stockpile management of the armed forces of many States, there is a lack of coherent information regarding the extent of existing challenges. The development of reporting formats is, for this and for other reasons, of high priority in order to gather relevant and essential information on implementation challenges.

In order for the States Parties of the CCM to collectively succeed in destroying their stockpiles, both industrial and small-scale destruction programmes are needed.

Financial challenges

The cost of cluster munition destruction depends on the amount and types of munitions to be destroyed and the technology chosen, as well as costs such as transportation, security and administration. So far, there is no comprehensive study on the cost of cluster munition destruction, but some figures are available:

- Germany estimates the cost of its stockpile destruction at approximately € 40 million;
- Japan estimates about €15 million for its stockpiles;
- Italy approximately €8 million;
- Spain €4.9 million;
- Austria €1 million; and
- Norway counts €40 per projectile.

This shows that significant amounts of money have to be budgeted for the destruction of cluster munitions, if industrialized and environmentally friendly processes are used. Whether transfer to an industrial facility or development of a national destruction programme is the best solution (in terms of costs, logistics, storage, security, bureaucracy, technically etc) however, depends on a range of factors, including complexity, size, condition and location of the stockpiles, as well as country-specific factors.

During the Berlin Conference, a number of participants from governments, international organizations and non-governmental organizations pointed out that political will will be very important in committing to the financial cost of destruction.

Information relevant to stockpile destruction to be reported

- Total of all stockpiled cluster munitions, including explosive submunitions, to include a breakdown of their type, quantity and, if possible, lot numbers of each type;
- Technical characteristics of each type of cluster munition produced by the State Party prior to entry into force of the CCM for it, to the extent known, and those currently owned or possessed by it, giving, where reasonably possible, such categories of information as may facilitate identification and clearance of cluster munitions;
- Status and progress of programmes for the conversion or decommissioning of production facilities for cluster munitions;
- Status and progress of programmes for the destruction of cluster munitions, including explosive submunitions, with details of the methods that will be used in destruction, the location of all destruction sites and the applicable safety and environmental standards to be observed;
- Types and quantities of cluster munitions, including explosive submunitions, destroyed including details of the methods of destruction used, the location of the destruction sites and the applicable safety and environmental standards observed;
- Stockpiles of cluster munitions, including explosive submunitions, discovered after reported completion of the programme and plans for their destruction;
- Name and contact details of the institutions mandated to provide information and to carry out the measures;
- Amount of national resources, including financial, material or in kind, allocated to the implementation of all obligations regarding stockpile destruction;
- Amounts, types and destinations of international cooperation and assistance for stockpile destruction.
- Planned and actual use of cluster munitions and explosive submunitions retained, acquired or transferred and their type, quantity and lot numbers, and in cases of transfer reference to the receiving party.

Possible specific time-bound actions (considered for action plan)

Even though the destruction of most stockpiled cluster munitions is in many ways more challenging than the destruction of anti-personnel mines, a number of lessons can be learned from the implementation of the APMBC:

- Technical concerns should be addressed as early as possible.
- Information on types and quantities of stocks should be made available by CCM States Parties to the other States Parties and used as quickly as possible in order to focus on specific and quantified implementation challenges.
- States should effectively chart progress, identifying potential problems and taking steps to overcome them.
- Due to the technical complexity and the high costs, cooperation and assistance including information exchange among States Parties is crucial. States in a position to provide assistance should make support to stockpile destruction an integral part of their overall assistance under CCM.
- States Parties should consider working together with partners with specific technical capacities and expertise (including other states, international organizations, non-governmental organizations, GICHD, NAMSA) or with those who can act as reliable intermediaries between donor states and national armed forces (OAS, United Nations Development Programme).
- States are encouraged to take advantage of the opportunity to transfer munitions for destruction, because it may prove to be a cheaper and easier solution.

Dealing with stockpile destruction in the intersessional work programme

A regular exchange of views concerning the progress of the destruction process would be helpful in order to clarify further technical or financial challenges occurring during the implementation process.

Continuation of consultations

In working on these first elements for a non-paper we had considerable contribution from Vera Bohle from GICHD, from our distinguished colleagues from the Norwegian Ministry of Foreign Affairs as well as from the Norwegian Defence Research Establishment and Norwegian People's Aid.

As proposed by the designate presidency a step-by-step approach seems to be a good way for continuously assuring that views of states, civil society and international organizations are reflected, since this paper could be circulated broadly in order to give everyone the opportunity to express one's views.

DRAFT

CLEARANCE, ARTICLE 4 – AUSTRALIA

Article 4

Clearance and destruction of cluster munition remnants and risk reduction education

1. "Each State Party undertakes to clear and destroy, or ensure the clearance and destruction of, cluster munition remnants located in cluster munition contaminated areas under its jurisdiction or control."

Scope of the problem

Clearing cluster munition contaminated areas poses a challenge to many State Parties to the CCM. These munitions can have a devastating impact that lasts for generations, including through severe injury to civilians, including women and children, reduced ability to use land (especially for returning refugees and internally displaced peoples), and significant other social-economic impacts as states attempt to recover from conflict, including on re-construction of infrastructure and on development.

Thirty-six states and territories are known to be affected to varying degrees by cluster munitions from use in armed conflict. Many of those affected are developing countries. Many States have already begun addressing the problem of cluster munition remnants. In some cases such as Kosovo and Lebanon, good progress was made following armed conflicts to clear affected areas to address the immediate humanitarian problem. In the case of the most heavily contaminated countries such as Laos, while much work has been done, a great deal more is needed. A great deal of experience in cluster strike clearance has been gathered over the past two decades in mine action programmes worldwide. Any future action should benefit from and build on this available experience

Subject to adequate funding and effective international assistance, it should be possible for the majority of States Parties to meet their obligations under the CCM to clear contaminated areas within 10 years of ratification, acceptance, approval or accession. International cooperation and assistance will need to play a key role in facilitating the clearance of cluster munition remnants in many cases. Risk reduction education will also contribute to reducing the devastating impact of cluster munition remnants until clearance has been completed.

Obligations and who bears them

Key obligations

The obligation to clear cluster munition contaminated areas and provide risk reduction education is outlined in Article 4 of the CCM.

In this Article, each States Party undertakes to clear and destroy, or ensure the clearance and destruction of, cluster munition remnants located in cluster munition contaminated areas under its jurisdiction or control within 10 years of the entry into force of the CCM for that country (for cluster munition remnants existing at the time of entry into force) or, for subsequent cluster munition remnants, 10 years after the end of active hostilities during which cluster munitions were used.

In doing so each States Party has an obligation to:

- a) survey, assess and record the threat posed by cluster munition remnants, making every effort to identify all cluster munition contaminated areas under its jurisdiction or control
- b) assess and prioritise needs in terms of marking, protection of civilians, clearance and destruction, and take steps to mobilise resources and develop a national plan to carry out these

- activities, building, where appropriate, upon existing structures, experiences and methodologies;
- c) take all feasible steps to ensure that all cluster munition contaminated areas under its jurisdiction or control are perimeter-marked, monitored and protected by fencing or other means to ensure the effective exclusion of civilians;
 - d) clear and destroy all cluster munition remnants located in areas under its jurisdiction or control; and
 - e) conduct risk reduction education to ensure awareness among civilians living in or around cluster munition contaminated areas of the risks posed by such remnants.

In conducting these activities, State Parties are obliged to take into account international standards, including the International Mine Action Standards (IMAS), when undertaking clearance.

Article 4 also outlines States Parties' obligations in cases where cluster munitions have been used or abandoned by one State Party prior to entry into force of the CCM for that State Party and have become cluster munition remnants that are located in areas under the jurisdiction or control of another State Party at the time of entry into force for the latter.

In such circumstances States Parties who have used or abandoned cluster munitions are strongly encouraged to provide, inter alia, technical, financial, material or human resources assistance to the State Party affected by the cluster munitions, in order to facilitate the marking, clearance and destruction of such cluster munition remnants. Such assistance shall include, where available, information on types and quantities of the cluster munitions used, precise locations of cluster munition strikes, and areas in which cluster munition remnants are known to be located. Assistance may be provided bilaterally or through a mutually agreed third party.

If States Parties are unable to meet the deadlines for action under Article 4(1), they may submit a request for extension to a Meeting of States Parties or a Review Conference for a renewable period of up to five years.

States Parties affected by cluster munitions remnants and that bear obligations under article 4:

Albania, Croatia, United Kingdom (Falkland Islands/Malvinas), Lao PDR, Montenegro, Sierra Leone, Zambia.

Signatory states affected by cluster munitions remnants that will bear Article 4 obligations following their ratification:

Afghanistan, Angola, Bosnia and Herzegovina, Chad, Democratic Republic of the Congo, Iraq, Lebanon, Uganda.

Specific challenges that may be faced in implementation

A **national plan** is an important element to the commencement and progress on clearance of cluster munitions remnants and risk reduction education. Collecting data, identifying and assessing the scope of problem and requirements to address them will be essential to the elaboration of a national plan. This may be difficult when little information is known about the threat, or if the threat is not considered significant especially in comparison with other development and ERW challenges faced by the State. Other impacts of clearance, such as environmental and socio-economic impacts, will need to be taken into account when developing plans and proceeding with clearance. Identifying the priority given to clearance will be very important, taking into account the domestic priorities and international obligations of a state. Identification of the need for cooperation and assistance will be an important factor in developing a national plan.

Clear criteria for identifying priorities should be formulated. In this context, the decision whether an area will be cleared, or rather marked, monitored and protected by fencing or other means has to be taken. It is also important to link the national plan and priority setting to the overall development efforts and plans of a country, as well as generating national ownership of the problem of cluster munition contamination.

It will be important for the 1MSP to emphasise the importance of starting planning and proceeding with clearance early. This should help result in the least number of States needing to apply for extensions as possible.

Suggestion: Early commencement of planning for, and proceeding with, clearance of cluster munition remnants should be emphasised by future meetings under the CCM.

There are significant **operational challenges** that will need to be faced in implementing Article 4. Clearance should build on work already undertaken domestically and best practice clearance efforts elsewhere in the world. While operational challenges are considerable and will vary according to national circumstances, it is important to recognise and take in account the progress made in States Parties on clearance of cluster munitions. States which have already engaged in successful clearance programmes are encouraged to share their lessons learned at the 1MSP in Laos, as well as in future meetings under the CCM.

At the 1MSP and future meetings, there should be opportunities for affected States to present their clearance priorities and plans and challenges faced. Donors should also be encouraged to share their experiences of working with and assisting affected States. Additionally, expert guest presenters, such as UNMAS, GICHD and mine clearance operators, could provide advice on clearance techniques and methodologies and lessons learned at appropriate opportunities.

States Parties may also benefit from workshops or seminars for experts on clearance organised in the margins of meetings or during intersessional periods.

Suggestion: States which have already engaged in successful clearance programmes should be encouraged to share their lessons learned in future meetings under the CCM.

Another challenge for clearance, from both technical and policy/planning perspectives, will be to **reorientate the approach taken by national clearance operators to the different demands of clearing cluster munition contaminated areas after considerable experience clearing minefields**. A different approach is required taking into account the characteristics of the munitions and how they are delivered. Using mine clearance techniques to clear cluster munitions can be dangerous for clearance personnel, limit progress and drain resources. States Parties should ensure that the clearance techniques deployed are such that remove the threat in the safest and most cost effective manner and in the shortest possible time which gives the best impact for the affected community.

The approach of clearance of cluster munitions and mines differs, as one should take into the account the characteristics of the munitions and how they were delivered. For example, in cluster munitions clearance, the best approach where there has been a single strike usually is to determine the centre of the strike and then proceed to clear from the centre outwards. Often, unexploded cluster munitions on and above the surface of the ground represent the greatest danger to civilians, so it is most efficient to clear the surface in immediate post-conflict situations where there are hard surfaces, followed by sub surface-level clearance if required. Cluster munitions often require destruction on the ground, rather than removal to another location for disposal.

Precise and accurate technical assessments of the best methods of clearance to employ in a particular area will be crucial to the success of clearance efforts. For example, in some circumstances it may be more appropriate to mark the perimeter of a cluster munitions strike area rather than to fence it. Fencing can be very costly, particularly when cluster munitions have contaminated a large area, and it suggests the effective exclusion of civilians once outside the fenced area. Assessments of elements such as the level of contamination, the risk of injury and the level of risk awareness in the area will be fundamental to efficient and effective clearance and risk reduction education.

In some cases, an area can be **cross-contaminated** by cluster munitions remnants as well as mines and other explosive remnants of war. Such clearance projects can present complex challenges to affected States and must be approached holistically.

The approaches needed for **risk reduction education** for cluster munitions and landmines are very similar. Many of the lessons learned from landmine risk reduction education programs can be drawn upon in planning for cluster munitions education. In many cases it may be possible to combine risk reduction education programs. While risk education is fundamental, removing the economic imperatives for individuals to enter a contaminated area will also be crucial to reducing the number of injuries and deaths caused by cluster munitions.

Suggestion: Risk reduction education programs for cluster munitions and landmines should be combined.

The operational challenges faced by states undertaking cluster munitions clearance and risk reduction education are obviously considerable. One way to overcome some of these challenges, particularly in technical and planning capacity would be to build on the successful contribution made by the IMAS, and develop some **best practice guidelines or standards for cluster munitions clearance and/or risk reduction education**. The guidelines or standards could include guidance on:

- Identification of cluster munitions contaminated sites:
 - conducting surveys to obtain information on precise locations;
 - obtaining where possible information on cluster munitions strike areas from state concerned.
- Developing a national strategy/plan, including:
 - a stock take of clearance efforts to date;
 - a timeframe for clearance;
 - the need for risk reduction education;
 - strategy for mobilising resources, both at the national level and from donors.
- Perimeter marking of contaminated areas if this has not been done.
- Data collection tools (for example IMSMA or similar) for purposes of planning, management and national reporting on clearance.
- Consultation with international organisations, NGOs and donors as necessary on best practices in clearance.
- Provision of assistance by donor states where possible.

Limited **technical resources and knowledge** will constrain the progress achieved in implementing Article 4 by some States Parties. Challenges can include: a lack of capacity in undertaking surveys, data collection and retention, assessing and recording the threat posed by cluster munitions remnants, and in prioritising needs particularly for risk reduction education. There may also not be sufficient expertise in explosives and technical capacities to destroy cluster munitions.

Another pressing challenge for cluster munition affected States Parties will be that of obtaining **financial resources for clearance** given that the large majority of affected states are developing countries, and may have emerged recently from conflict situations.

Limited technical and financial resources will require **international cooperation and assistance**, and effective resource mobilisation, in order that clearance can be conducted within the timeframes stipulated in the CCM. It will also be important for a State Party to make an assessment of what national resources are available for clearance and risk reduction activities, and what challenges may exist that prevent greater resources being allocated to them. A range of international cooperation and assistance is available to help meet these challenges and future meetings under the CCM should consider how needs can be matched with available resources. Article 6(4) of the CCM provides that States in a position to do so are to provide assistance for clearance and destruction of cluster munition remnants and information concerning various means and technologies related to clearance of cluster munitions, as well as lists of experts, expert agencies or national points of contact on clearance and destruction of cluster munition remnants and related activities. Coordination of clearance efforts, both within a country and between recipient States and donors will also be key to avoiding duplication.

Suggestion: International cooperation and assistance for clearance of cluster munition remnants should be considered at future meetings under the CCM.

Annual reports

Specific items of data required

According to Article 7 on transparency measures, states are obliged to the extent possible to report on the

- to the extent possible, the size and location of all cluster munition contaminated areas under its jurisdiction or control;
- type and quantity of each type of cluster munition remnant in each such area and when they were used;
- the status and progress of programmes for the clearance and destruction of all types and quantities of cluster munition remnants cleared and destroyed in accordance with Article 4 of this CCM;
- the size and location of the cluster munition contaminated area cleared and a breakdown of the quantity of each type of cluster munition remnant cleared and destroyed; and
- measures taken to provide risk reduction education and, in particular, an immediate and effective warning to civilians living in cluster munition contaminated areas under its jurisdiction or control.

Specific questions that could be asked to facilitate reporting:

- What are the locations of cluster munition contaminated sites under your jurisdiction or control?
 - What is the size of the contaminated area?
 - What was the date of use, if known?
 - What are the types and quantities of cluster munition remnants?
- What are the suspected locations of cluster munition contamination?
 - If possible, estimate the types and quantities of cluster munition remnants.

- What was the date of use, if known?
- In the case of each contaminated area;
 - What is the status and progress of clearance programs?
 - What is the size and location of the cluster munitions contaminated area that has been released.
 - What is the size and location of the cluster munition contaminated area that has been cleared
 - Provide a breakdown of the quantity of each type of cluster munition remnant cleared
- What measures have been taken to provide risk education?
- What measures have been put in place to provide immediate and effective warning to civilians living in cluster munition contaminated areas?

(Other possible questions)

- What has your State done with regard to the provision of technical, financial, material or human resources assistance to facilitate the marking, clearance and destruction of cluster munition remnants?
- What information has your state provided in accordance with paragraphs (a) and (b) of Article 4 regarding types and quantities of cluster munitions and areas in which cluster munitions are known to be located?

Explanation of how the consultations on this issue will be taken forward

As Friends of the Chair on cluster munition clearance and risk education, Australia and Slovenia will:

- consult international organisations, NGO and governmental experts both in Geneva and capitals on the Action Plan and reporting template on clearance;
- hold bilateral consultations with affected states in Geneva, New York or elsewhere;
- as necessary, hold small group meetings for interested organisations and states in Geneva;
- as necessary, hold open ended meetings in Geneva; and
- consult with States, experts and civil society organisations at the International Meeting in Chile.

VICTIM ASSISTANCE, ARTICLE 5 – AUSTRIA

<p>Article 5</p> <p><i>Victim assistance</i></p> <p>1. "Each State Party with respect to cluster munitions victims in areas under its jurisdiction or control shall, in accordance with applicable international humanitarian and human rights law, adequately provide age and gender-sensitive assistance, including medical care, rehabilitation and psychological support, as well as provide for their social and economic inclusion. Each State Party shall make every effort to collect reliable relevant data with respect to cluster munition victims."</p>

Non-paper by Austria together with Croatia as friends of Lao PDR submits for further development by 28 May and for facilitating discussions during the Global Conference on the CCM in Santiago in June.

The ratio behind this non-paper is to provide a first basis for our discussions leading to substantive input on the issue of Victim Assistance for the VAP. It offers a structured overlook of texts with specific relevance to the issue of Victim Assistance.

This non-paper got developed from consultations we held in Geneva and the understandings that we received. Strong support was shown for the following criteria:

- no creation of new obligations additional to the CCM provisions on Victim Assistance,
- intention to building on what we already have on Victim Assistance and to make it best operational and effective on the ground in the context of the CCM,
- the Cartagena Action Plan is a good basis with regard to the issue of Victim Assistance, while at the same time differences between the two conventions are being recognized;

We would like to continue our discussions with everybody interested on these understandings and on the basis of the attached non-paper to facilitate substantive input on Victim Assistance for a VAP.

CCM	Cartagena Action Plan	Nairobi Action Plan	Vientiane Action Plan
Article 5 (1) Each State Party with respect to cluster munition victims in areas under its jurisdiction or control shall, in accordance with applicable international humanitarian and human rights law, adequately provide age- and gender-sensitive assistance, including medical care, rehabilitation and psychological support, as well as provide for their social and economic inclusion. Each State Party shall make every effort to collect reliable relevant data with respect to cluster munition victims.	Action #25: Collect all necessary data, disaggregated by sex and age, in order to develop, implement, monitor and evaluate adequate national policies, plans and legal frameworks including by assessing the needs and priorities of mine victims and the availability and quality of relevant services, make such data available to all relevant stakeholders and ensure that such efforts contribute to national injury surveillance and other relevant data collection systems for use in programme planning.	Action #34: Develop or enhance national mine victim data collection capacities to ensure better understanding of the breadth of the victim assistance challenge they face and progress in overcoming it, seeking as soon as possible to integrate such capacities into existing health information systems and ensuring full access to information to support the needs of programme planners and resource mobilization.	
Article 5 (2) (a) Assess the needs of cluster munition victims	(see Action #25)	(see Action#34)	

<p>Article 5 (2) (b) Develop, implement and enforce any necessary national laws and policies</p>	<p>Action #26: Develop, or review and modify if necessary, implement, monitor and evaluate national policies, plans and legal frameworks with a view to meet the needs and human rights of mine victims.</p>	<p>Action #33: Ensure that national legal and policy frameworks effectively address the needs and fundamental human rights of mine victims, establishing as soon as possible, such legislation and policies and assuring effective rehabilitation and socio-economic reintegration services for all persons with disabilities.</p>	
<p>Article 5 (2) (c) Develop a national plan and budget, including timeframes to carry out these activities, with a view to incorporating them within the existing national disability, development and human rights frameworks and mechanisms, while respecting the specific role and contribution of relevant actors;</p>	<p>Action #27: Develop and implement, if they have not yet done so, a comprehensive plan of action and budget that addresses the rights and needs of mine victims through objectives that are specific, measurable, achievable, relevant and time bound, ensuring that such a plan is integrated into broader relevant national policies, plans, and legal frameworks.</p>		
<p>Article 5 (2) (d) Take steps to mobilise national and international resources;</p>	<p>Action #34: Without delay, and no later than the Tenth Meeting of the States Parties, develop or update national plans as well as map the national resources available to meet their obligations and the needs for international cooperation and assistance.</p> <p>Action #35: Make their needs known to other States Parties and relevant organisations if they require financial, technical or other forms of international cooperation and assistance to meet obligations under the Convention, and identify these activities as a priority in relevant development goals and strategies.</p> <p>Action #36: Promote technical cooperation, information exchange on good practices and other forms of mutual assistance with other affected States Parties to take</p>	<p>Action #36: Act upon their obligation under Article 6 (3) to promptly assist those States Parties with clearly demonstrated needs for external support for care, rehabilitation and reintegration of mine victims, responding to priorities for assistance as articulated by those States Parties in need and ensuring continuity and sustainability of resource commitments.</p>	

	<p>advantage of the knowledge and expertise acquired in the course of fulfilling their obligations.</p>		
<p>Article 5 (2) (e) Not discriminate against or among cluster munition victims, or between cluster munition victims and those who have suffered injuries or disabilities from other causes; differences in treatment should be based only on medical, rehabilitative, psychological or socio-economic needs</p>	<p>Para 14. States Parties are resolved not to discriminate against or among mine victims, or between mine survivors and other persons with disabilities, and to ensure that differences in treatment should only be based on medical, rehabilitative, psychological or socio-economic needs of the victims.</p> <p>Action #31: Increase availability of and accessibility to appropriate services for female and male mine victims, by removing physical, social, cultural, economic, political and other barriers, including by expanding quality services in rural and remote areas and paying particular attention to vulnerable groups.</p>	<p>Action #33: Ensure that national legal and policy frameworks effectively address the needs and fundamental human rights of mine victims, establishing as soon as possible, such legislation and policies and assuring effective rehabilitation and socio-economic reintegration services for all persons with disabilities.</p> <p>Action #35: Ensure that, in all victim assistance efforts, emphasis is given to age and gender considerations and to mine victims who are subject to multiple forms of discrimination in all victim assistance efforts.</p>	
<p>Article 5 (2) (f) Closely consult with and actively involve cluster munition victims and their representative organisations;</p>	<p>Action #23: Ensure the inclusion and full and active participation of mine victims and their representative organisations as well as other relevant stakeholders in victim assistance related activities, in particular as regards the national action plan, legal frameworks and policies, implementation mechanisms, monitoring and evaluation.</p>	<p>Action #38: Ensure effective integration of mine victims in the work of the Convention, inter alia, by encouraging States Parties and organizations to include victims on their delegations.</p>	
<p>Article 5 (2) (g) Designate a focal point within the government for coordination of matters relating to the implementation of this Article;</p>	<p>Action #24: Establish, if they have not yet done so, an inter-ministerial/ inter-sectoral coordination mechanism for the development, implementation, monitoring and evaluation of relevant national policies, plans and legal frameworks, and ensure that this focal entity has the authority and resources to carry out its task.</p> <p>Action #30: Strengthen national ownership as well as develop and implement capacity building and training plans to promote and enhance the capacity of the women, men</p>		

	and associations of victims, other organisations and national institutions charged with delivering services and implementing relevant national policies, plans and legal frameworks.		
Article 5 (2) (h) Strive to incorporate relevant guidelines and good practices including in the areas of medical care, rehabilitation and psychological support, as well as social and economic inclusion.	<p>Action #29: Ensure the continued involvement and effective contribution in all relevant convention related activities by health, rehabilitation, social services, education, employment, gender and disability rights experts, including mine survivors, inter alia by supporting the inclusion of such expertise in their delegations.</p> <p>Action #32: Ensure that appropriate services are accessible through the development, dissemination and application of existing relevant standards, accessibility guidelines and of good practices to enhance victim assistance efforts.</p>	<p>Action #39: Ensure an effective contribution in all relevant deliberations by health, rehabilitation and social services professionals and officials inter alia by encouraging States Parties -- particularly those with the greatest number of mine victims -- and relevant organizations to include such individuals on their delegations.</p>	
Article 7 (1) Each State Party shall report to the Secretary-General of the United Nations as soon as practicable, and in any event not later than 180 days after the entry into force of this Convention for that State Party, on: (k) The status and progress of implementation of its obligations under Article 5 of this Convention to adequately provide age- and gender- sensitive assistance, including medical care, rehabilitation and psychological support, as well as provide for social and economic inclusion of cluster munition victims and to collect reliable relevant data with respect to cluster munition victims; (l) The name and contact details	<p>Action #28: Monitor and evaluate progress regarding victim assistance within broader national policies, plans and legal frameworks on an ongoing basis, encourage relevant States Parties to report on the progress made, including resources allocated to implementation and challenges in achieving their objectives, and encourage States Parties in a position to do so to also report on how they are responding to efforts to address the rights and needs of mine victims.</p>	<p>Action #37: Monitor and promote progress in the achievement of victim assistance goals in the 2005-2009 period, affording concerned States Parties the opportunity to present their problems, plans, progress and priorities for assistance and encouraging States Parties in a position to do so to report through existing data collection systems on how they are responding to such needs.</p>	

<p>of the institutions mandated to provide information and to carry out the measures described in this paragraph; (m) The amount of national resources, including financial, material or in kind, allocated to the implementation of Articles 3, 4 and 5 of this Convention;</p>			
	<p>Action #33: Raise awareness among mine victims about their rights and available services, as well as within government authorities, service providers and the general public to foster respect for the rights and dignity of persons with disabilities including mine survivors.</p>		

DRAFT

INTERNATIONAL COOPERATION AND ASSISTANCE, ARTICLE 6 – SOUTH AFRICA**Article 6***International cooperation and assistance*

1. "In fulfilling its obligations under this Convention each State party has the right to seek and receive assistance."

A number of States Parties particularly the highly affected countries face challenges regarding the implementation of the CCM. The main challenges are lack of resources and the strengthening of national capabilities to undertake this task. In this connection, Article 6 on International Cooperation and Assistance provides the legal basis for States to seek and receive assistance in meeting their obligations towards the CCM. Moreover, it sets out parameters and is one of the key provisions that can ensure the full implementation of the CCM. The problem of lack of resources is both short and long term and affects almost all the States Parties. States can work together to achieve this noble goal of addressing challenges associated with cluster munitions.

Article 6 (1) of the CCM states that, 'In fulfilling its obligations under this Convention each States Party has the right to seek and receive assistance.' Paragraph 6 (2) further states that, 'Each State Party in a position to do so shall provide technical material and financial assistance to state parties affected by cluster munitions aimed at the implementation of the obligations of this Convention'. Such assistance may be provided inter alia, through the United Nations system, international, regional or national organisations or institutions, non-governmental organisations or institutions or on bilateral basis. Likewise, paragraph 6 (8), and 6 (9) refer to assistance to contribute to the economic and social recovery and to relevant trust funds, as well as paragraph 6 (11) relates to the possibility of request assistance with the purpose of developing national action plans. In terms obligations, all States that have victims and survivors, contaminated territories and those with stockpiles of cluster munitions have the responsibility to cooperate (including the technical and financial assistance to the effective implementation of the CCM.

A number of States Parties will need financial and technical resources for education, training, rehabilitation and socio-economic integration of the Victims of cluster munitions (as defined in Article 2 of the CCM). Technical expertise will be required for the States that have stockpiles and areas that have been contaminated by unexploded submunitions. This can be done through exchanging technical experts to assist with clearance and destruction. In addition, nationals can be trained in order to increase capacity so as to finish as soon as possible.

CCM Architecture

- There should be a specific session in informal and formal CCM meetings for States Parties to present needs for cooperation and assistance, as well as lessons learned and good practices by other states.

Reporting

In the context of each annual report, regarding the information, that should be provided in annual reports, the following detailed information should be provided on cooperation and assistance in a clear and user-friendly reporting template, under the umbrella of "International Cooperation and Assistance":

- Information on the extent of the contamination of cluster munitions in areas under a State's jurisdiction and control;

- Information regarding the programmes and the resources needed for risk education and awareness activities;
- The plan, budget and the amount of funds and equipment required for clearance of cluster munitions in areas under a State's jurisdiction and control;
- Information should also be provided on any stockpile of cluster munitions in areas under a State's jurisdiction and control. This plan should include particulars on time frame, budget and other resources (financial, human and technical) needed in order to undertake the work of stockpile destruction.
- Information on the status of current victim assistance programmes in areas under a State's jurisdiction and control.
- The kind of assistance required by the State i.e. for training, capacity building, education, rehabilitation etc in order to meet its obligations on victim assistance as mandated by Article 5 of the CCM.
- The kind of cooperation that the State has already undertaken either internationally, regional or nationally. In particular, the State should indicate the thematic area in which cooperation was undertaken and the cost associated with it.
- The Article 7 reporting template on Stockpile destruction, clearance and victim assistance should include a table for affected states to report on international cooperation and assistance including funds, materials or other assistance received and disaggregated by source (including intermediate sources such as trust funds) and target activities.
- An additional form for those in a position to do so should report on international cooperation and assistance provided, disaggregated by destination (including intermediate destinations such as trust funds and target activities).

Actions

States Parties bear the responsibility for the implementation of the CCM, however they acknowledge that financial, political and technical commitments provided through cooperation and assistance will help ensure the full implementation of the CCM.

States Parties with obligations to clear all the contaminated areas, assist cluster munitions victims and to destroy stockpiled cluster munitions should undertake the following:

Action 1: Promptly and before the Second Meeting of States Parties develop comprehensive national plans for meeting all corresponding obligations.

1bis: Identify resources currently available to meet these obligations and identify gaps in resources that will prevent or hinder them from doing so.

1ter: Correspondingly and identify the type of international cooperation and assistance that will be needed in order to address such gaps.

Action 2: Identify interested relevant civil society groups, corporations, organisations and other States Parties who may be in a position to assist in addressing these gaps, due to their relevant knowledge, experience and expertise in accordance with national plans.

Action 3: Initiate and promote collaboration with these groups, corporations, organizations and States, before the Second Meeting of States Parties.

Action 4: Identify other affected States Parties as soon as possible and promote cooperation with them through the exchange of information and technical expertise so as to be able to gain from each others' experience in implementation of the CCM.

Action 5: All States Parties that have used cluster munitions before becoming a State Party to the CCM should immediately provide relevant information such as maps and other technical information to states indicating to the extent possible where they directed to or used to facilitate clearance.

States Parties in a position to do so should undertake the following

Action 6: Promptly assist States Parties that have outlined their need in their national plans, and have correspondingly requested for cooperation/assistance in the areas of victim assistance, clearance and stockpile destruction to the extent possible.

Action 7: To the extent possible, fund those existing State sponsored cluster munitions related programmes particularly in the most affected countries.

Action 8: Support inter alia through the allocation of resources, the cluster munitions related programming being undertaken by the civil society organisations in affected areas.

Action 9: Be encouraged to make additional allocation in their national budgets for rapid provision of assistance for clearance should a need ever arises to provide emergency assistance for cluster munitions clearance.

Action 10: Promote synergies with other related conventions to ensure that there is no discrimination towards other persons with disabilities whilst taking into account the special needs of cluster munitions victims.

Action 11: Develop a portfolio of resources and expertise available for stockpile destruction, clearance and victim mechanisms and timeframes, areas of expertise and material resources available.

All States Parties will:

Action 12: Ensure that the cluster munitions related activities of the United Nations, national and international non-governmental organisations and other actors, where relevant are incorporated into national planning frameworks and are consistent with national priorities and international obligations.

Action 13: Promote cooperation amongst all States Parties in order identify the possible areas of support and cooperation such as exchange of information and technical expertise with a view to ensuring the full implementation of the CCM.

Action 14: Initiate and promote bilateral and regional cooperation in sharing experience, good practices, resources, technology and expertise to ensure the full implementation of the CCM.

Action 15: Encourage full cooperation amongst governments, civil society, private sector and international organisations to address problems associated with cluster munitions.

Action 16: Share good practices at meetings of the CCM through their experience in destroying cluster munitions stock, clearing cluster remnants and/or providing assistance to victims, especially in response to specific calls for assistance from other States Parties.

REPORTING, ARTICLE 7 TRANSPARENCY MEASURES - BELGIUM**Article 7***Transparency Measures*

1. "Each State Party shall report to the Secretary-General of the United Nations as soon as practicable, and in any event not later than 180 days after entry into force of the Convention for that State Party, on:"

First reporting date after entry into force: end of January 2011

Background

According to Article 7 of the CCM, each State Party shall report to the Secretary-General of the United Nations as soon as practicable, and in any event, not later than 180 days after the entry into force of this convention for State Party. In practical terms, this means that the 30 States already Parties to this convention will have to report before the end of January 2011. Information shall be updated annually and reported to the UN SG not later than 30 April of each year.

The elements to be reported are defined in Article 7 (1) of CCM. However, it will be up to the States Parties to agree on the reporting formats, as well as on other relevant modalities of reporting (e.g. way of submission; status of the national reports and updates; circulation/database location, etc.).

The disarmament environment has strongly evolved during the last twelve years. The entry into force of the CCW Amended Protocol II in December 1998, the APMBC in March 1999 and the CCW Protocol on Explosive Remnants of War in November 2006 has engendered new obligations in terms of reporting. As a consequence, many countries suggest taking stock of the previous experience and adopting solutions that will not increase unnecessarily the burden of reporting.

Strategic objectives

The implementation of Article 7 of the CCM will be facilitated by an early agreement on the reporting formats. Due to the fact that State Parties have to report before the end of January 2011, it would be highly desirable and useful for States Parties if a decision on the reporting formats was made no later than the 1MSP.

Based on the experience from the first reporting cycle and future comments, the reporting formats could be further improved by the next meeting(s) of the States Parties.

Operational objectives

- to agree on the possible reporting formats and their structure.²
- to submit the first draft of the reporting formats for consideration at the Preparatory meeting on 6 September 2010
- to submit the draft reporting formats for adoption to the 1MSP in Vientiane in November 2010.

Working methods

Reporting is a crosscutting issue that requires the coordination and the involvement of States Parties/Friends of the Chair in charge of thematic issues.

The work on the reporting formats is organized and coordinated by a coordinator(s)/Friend(s) of the Chair (FOC). In his/her task, he/she is assisted by States Parties/Friends of the Chair and other stakeholders on specific thematic issues, acting alone or in small working groups.

²Suggestions for discussion will be made during the Global Meeting in Santiago (Chile).

Stakeholders involved in the drafting of the formats constitute together the informal group on reporting. Logically, a FOC on a thematic issue should be involved in the drafting of the respective reporting format.

Timing

- 15 April 2010: meeting of the Lao Support Group organized by Germany - presentation of the draft paper on reporting;
- 22 April 2010: kick-off meeting on reporting with all States and experts interested in it;
- 10 May 2010: submission of the draft basic document;
- 19 May 2010: bilateral meetings with concerned State Party and eventual interested experts;
- 7-9 June 2010: first consideration of the drafts in the margins of the Chile Conference;
- 6 September 2010: official submission of the drafts for discussion and possible approval at the preparatory meeting in Geneva;
- 9-12 November 2010: 1MSP in Vientiane, submission of the draft reporting formats for adoption.

General Remarks on a Draft Report, Article 7 CCM - proposal

- Reporting must be seen as a transparency measure and as a tool to decide programmes and actions. The CCM gives clear reporting obligations.
- The philosophy of the structure is to gather all reporting forms of one thematic issue. This gives the advantage of having all data of one specific thematic issue following, in contradiction with the approach of first reporting the overall scoop of the problem followed by the progress of dealing with the problem.
- As much as possible, the different forms are determined by the obligations set out in the CCM. However, the format has to foresee space for “free wording” reporting for each thematic issue. This can also be done in Form J “Other Relevant Matters”. In order to encourage SP to take use of this possibility, the redaction of a “guideline for reporting” can be considered.
- All titles are indicative, just trying to give a general description of the topic as foreseen in Art 7.
- The subtitles are an indication of the different tables we can find in the form. More details about the compulsory data to be found are listed below.
- All wording is of course a proposal and not definitive.
- The details per form listed below do not have the intention to determine the content of the forms (which will be coordinated by the respective “Friends of the Chair”), but to serve as an aide-mémoire of what is foreseen in the CCM, completed, there where applicable, with possible issues on the subject.
- SP in charge of a specific thematic issue for which reporting is expected, are invited to suggest more precisely what should/could be reported on this issue. Bilateral consultations were held and suggestions have been integrated.
- There seems to be a common ground for the way of submitting the reports. Reports can be submitted on a paper format OR on an electronic format, i.e. a WORD-document which makes it possible to integrate common data for different Convention reports. The issue of a web based report has been discussed, but this seems to be a longer term project building on the experience of such reporting in other conventions.
- Although the reporting on “Retention and Transfer” is imposed in Art 3 and not in Art 7, a separate Form is foreseen in the Art 7 Report Format. This allows having one comprehensive report for all issues.
- Some issues on cross cutting matters are still open and will be discussed in Santiago. We reaffirm our intention to consult and listen to all parties wishing to contribute to the CCM reporting.

(see Annex 5 – Draft Article 7 Reporting format)

NATIONAL IMPLEMENTATION MEASURES, ARTICLE 9 – NEW ZEALAND

Article 9

National Implementation Measures

"Each State Party shall take all appropriate legal, administrative and other measures to implement this Convention, including the imposition of penal sanctions to prevent and suppress any activity prohibited to a State Party under this Convention undertaken by persons or on territory under its jurisdiction or control."

Overview and Background

New Zealand, in capacity as a Friend of the Chair of the 1MSP, has prepared this draft non-paper on national implementation measures for the CCM.

Following entry into force on 1 August 2010, swift and effective implementation of the CCM will be vital towards achieving its aims. National implementation will require new primary legislation for most States, as well as likely changes to secondary legislation, policies and practices at the administrative level. Effective implementation of the CCM will be a long-term and ongoing challenge for all States Parties.

Experiences of national implementation measures under the APMBC will be instructive to States, as will guidance provided by the ICRC, GICHD among others.

What are the obligations required by Article 9, and who bears them?

Under Article 9 of the CCM, States Parties undertake to take all appropriate legal, administrative and other measures to implement the CCM, including the imposition of penal sanctions to prevent and suppress any activity prohibited under the CCM. This applies to prohibited activity undertaken by persons, or on territory, under the State Party's jurisdiction or control.

In summary, the obligations States Parties have assumed (and are thus required to implement domestically), are:

- never to use, develop, produce, acquire, stockpile, retain or transfer cluster munitions as defined by the treaty (Article 1)
- to destroy stockpiles of cluster munitions within eight years (Article 3)
- to clear cluster munition contaminated areas under [New Zealand] jurisdiction or control, within ten years, and conduct risk reduction education among civilians in affected areas (Article 4)
- to provide adequate age and gender sensitive assistance, including medical care, rehabilitation and psychological support to cluster munition victims in areas under their jurisdiction or control (Article 5)
- to provide "if in a position to do so" (Article 6):
 - assistance to other States Parties for: destruction, clearance and assistance to victims
 - urgent assistance to a State Party in which cluster munitions are used after the entry into force of the convention
 - contributions to the economic and social recovery needed as a result of the use of cluster munitions in affected States Parties
 - contributions to relevant trust funds in order to facilitate the provision of assistance
- to facilitate and have the right to participate in the fullest possible exchange of equipment and scientific and technological information concerning the implementation of the CCM (Article 6)
- to provide an initial, then annual, report on compliance with the CCM (Article 7)

- to consult and cooperate with other States Parties, through the United Nations, regarding implementation of the CCM (Article 8)
- to take all appropriate legal, administrative and other measures to implement the CCM (Article 9)
- to attend regular meetings of States Parties and Review Conferences (Articles 11 and 12)
- to encourage States not Party to ratify, accept, approve or accede to the CCM (Article 21).

Although the understanding and interpretation of some of these obligations may evolve over time (thus potentially requiring further steps in the future for full implementation), generally the obligations in the CCM are immediately applicable to States Parties at the time of entry into force of the treaty. Any failing in the domestic law of a State Party is not an excuse not to comply with the international obligations contained in the CCM. Prior to entry into force, signatory States have an obligation not to act in a manner inconsistent with the object and purpose of the treaty.

How should States domestically implement the obligations?

Depending on the nature of their legal tradition (that is, monist, dualist or somewhere between the two), different States will have different methods of incorporating the provisions of the CCM into their domestic law. Some States Parties will be able to directly invoke the CCM domestically from the moment of ratification (assuming the treaty is already in force). Others will require specific legislative action to incorporate the treaty domestically. Some States may have existing legislative arrangements that partially implement certain provisions of the CCM. For example, States Parties to the Rome Statute of the International Criminal Court may have existing domestic legislation proscribing war crimes, which would already criminalise the use of cluster munitions where such use meets the definition of war crime. Nonetheless, in most cases, new legislation will be required to incorporate the CCM into national legislation. In addition, some provisions of the CCM may be able to be implemented through policy or practice, without requiring specific legislative incorporation (such as decisions taken as to which government agency would be responsible for fulfilling reporting requirements).

The required new legislation is likely to be broadly similar to that which implemented the APMBC. The primary purpose of new legislation would be to give effect to the core obligation of the CCM: the prohibition on the use, development, production, acquisition, stockpiling, retention and transfer (including import/export) of cluster munitions. It would be necessary to create offences to criminalise those actions and provide for penalties at an appropriate level.

The implementing legislation:

- would also establish a system to deal with the presence and/or use of cluster munitions domestically - for example cluster munitions imported without detection. The system would define who could deal with such munitions; ensure that authorised persons dealing with those munitions were exempted from the offences above; and provide for the seizure, forfeiture and destruction of those cluster munitions.
- may allow for the potential importation of cluster munitions by the appropriate military authorities for training in clearance techniques, if deemed necessary in the future and authorised by the government.
- could provide for the supply of information to the government by persons dealing with cluster munitions so that the government is able to meet its reporting obligations under the CCM (with an offence for the failure to provide information and a penalty at an appropriate level also attached).
- should establish the CCM's relationship to dependant territories, if any.

In addition, consequential amendments to existing legislation may be required. For example, States may have legislation on restricted weapons, allowing for some limited uses of those weapons. Amendments would ensure that those exceptions to the restrictions would not apply to cluster munitions.

Specific challenges?

Some States Parties may face capacity challenges in implementing the CCM, and all States could benefit from the sharing of good practices and information related to national implementation measures. In this case, other actors have an important role to play. It has been suggested that an Implementation Support Unit (as proposed in the Cartagena Action Plan in the land mines context) would be a useful initiative related to the CCM. This would enable a source of independent technical advice for States requesting such assistance and provide a quality platform for the sharing of good practices. Draft model legislation could also be useful to some States, such as that prepared by the ICRC for the APMBC. Civil society actors are particularly pertinent in this regard, notably the GICHD, CMC and others such as ICRC and HRW.

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