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# ICRC

Meeting of States Parties to the  
Convention on the Prohibition of Anti-Personnel Mines,  
Geneva, Switzerland, 3-7 December 2012

**ICRC Statement on Preventing and Suppressing Prohibited Activities  
(Article 9 of the Convention)**

Mr. President,

As we mark the third anniversary of the adoption of the Cartagena Plan of Action, (adopted on 4 December 2009), it merits recalling, for the purpose of this Meeting of States Parties, Action #59, dealing with accountability and implementation.

By virtue of this Action #59, it was agreed that, as a matter of urgency, States Parties who had yet to do so, were to develop, and adopt the necessary laws and regulations and other administrative measures in accordance with Article 9 of the Convention. In so doing, States Parties would be fulfilling their obligations thereunder, and also contribute to full compliance with the Convention.

Full implementation by each State of its obligations under the Convention would also make it possible to achieve Action #61 of the Plan of Action. Under Action #61, States recognised the importance of being able to hold non-state actors, operating under their jurisdiction or control, responsible for acts prohibited to State Parties under the Convention, in accordance with national measures taken under Article 9.

To be sure, many States Parties have adopted robust national action plans and developed excellent policies to give effect to the underlying objectives of the Convention. However, good policy is not a substitute for good law.

As the International Committee of the Red Cross has previously noted: in order to ensure full respect for the obligations under Article 9 of the Convention, it is crucial that national laws be adopted by **each and every State Party**, regardless of whether or not they are affected by or have stockpiles of anti-personnel mines. As a minimum, in addition to other requirements, States are obliged to ensure that domestic law is capable of providing penal sanctions for any activity prohibited by the Convention. As any criminal lawyer knows, there can be no crime, and no punishment can be administered, without the necessary legal framework.

Indeed, without an adequate domestic legal framework, States are not in a position to prosecute offenders for violations of the Convention. The rationale for this requirement is to ensure that the norm prohibiting anti-personnel mines is enforceable everywhere, and is therefore truly universal. In addition to the measures on repression of violations, national legislation should also include provisions to facilitate the implementation of mine action, and of the compliance mechanisms envisaged by Article 8 of the Convention

Without a doubt, as Article 7 reports show, there has been progress over the past decade by States Parties adopting the necessary legislation to give full effect to their treaty obligations. Of the 160 State Parties, nearly 60% have either taken new national implementation measures, or have reported that existing laws suffice to meet their obligations.

However, as the ICRC and others have noted at previous meetings of State Parties, there remain just under 40% of States Parties that have yet to take the required domestic measures to implement fully the Convention. Of these, around 1/3 have reported that they are in the process of adopting legislation, even though the majority of these States have been in the same position for a number of years.

Of greater concern though is the fact that nearly 40 States have reported no progress on implementation, have provided no information on their Article 9 obligations, or have provided information that is unclear.

The ICRC is fully aware that the drafting, parliamentary vetting and adoption of any new laws are exercises that can be fraught with frustrations, capacity constraints and delays. Moreover, in these days of economic turmoil, it is arguably understandable that calls to push through laws to give effect to such instruments as the Mine Ban Convention will not necessarily be heard, let alone embraced as priorities by Governments.

However, it is exactly because of the times we now live in, that efforts need to be redoubled to ensure that the Convention is universally implemented. The scourge of anti-personnel mines will not disappear merely because these inhumane weapons are no longer making front-page news.

As such, the ICRC would like to call upon those States that have reported being in the process of adopting legislation to finalise their work, to encourage their Parliaments to adopt existing drafts and for those that have not initiated a legislative process to do so as a priority. The objective should be to increase substantially the number of State Parties with enabling national legislation by the next Review Conference.

For its part, the ICRC will continue to provide assistance for the development of national implementing legislation to States Parties. Legal advisers of the ICRC's Advisory Service both in Geneva and in 12 Regional positions around the world, supported by a network of national lawyers, stand ready to assist more States in developing national legislation. The ICRC has developed a number of tools to assist States in the development of their national implementing legislation, including a model law. We also work closely with National International Humanitarian Law Committees or similar inter-ministerial advisory bodies, which have been established by Governments in 101 countries worldwide.

The ICRC has prepared a Table of Article 9 National Implementation Measures, which is based on Article 7 reports by States and laws that are available on the ICRC's database on national implementation. The document will be made available electronically to the Implementation Support Unit.

The ICRC welcomes any further information, which States may, have to update and complete our information and encourages States to approach us if they require assistance with implementing measures.

Thank you.