

# **ICRC Statement on Preventing and Suppressing Prohibited Activities**

## **Articles 9 of the Convention**

**1 December 2005**

Thank you Mr. Co-Chair,

Article 9 requires each State Party to take all appropriate legal, administrative and other measures -- including the imposition of penal sanctions -- to prevent and suppress any prohibited activity undertaken by persons, or on territory, within its jurisdiction or control. Article 9 embodies the principle whereby treaty enforcement is first and foremost the responsibility of each State. This is clearly stated in paragraph 8 of the Nairobi Action Plan.

The Nairobi Action Plan contains four specific commitments aimed at ensuring implementation of this fundamental Convention obligation (Actions #59-62). The ICRC is encouraged that since the Review Conference, a number of States Parties have adopted legislation in accordance with Article 9, and others have begun the process of developing implementing legislation. We note, however, that still too few States Parties -- a total of slightly over 70 States Parties -- have adopted legislation or have stated through Article 7 reports (or elsewhere) that they consider their existing laws to be sufficient. We are also concerned that no new information has emerged on the integration of the Convention's prohibitions and requirements into military doctrine as called for by Action #61.

In order to ensure full respect for the Convention, it is crucial that such measures be taken and that all States that have not yet done so ensure that their legislation is capable, at a minimum, of preventing and suppressing any activity prohibited by the Convention. National legislation should also include provisions to facilitate the implementation of mine action, as well as provisions to facilitate the operationalization of the compliance mechanisms envisaged by Article 8 of the Convention.

It is important to note that Article 9 requires each and every State Party -- regardless of whether or not it is affected by anti-personnel mines -- to prevent and suppress 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.

As noted in paragraph 122 of the Zagreb Progress Report, the ICRC has since the Review Conference been providing assistance for the development of national implementing legislation to some 16 States Parties. Legal advisers of the ICRC's Advisory Service stand ready to assist more States Parties in developing national legislation. As is known, the ICRC has developed a number of tools to assist States in the development of their national implementing legislation. These include a legislation kit -- available in English, French, Spanish and Russian -- as well as model legislation for common law States.

Finally Mr. Co-Chair, we wish to inform this meeting that the ICRC is currently working on an easy to use checklist of minimum requirements to fulfil Article 9 obligations, which we will present at the May intersessional meetings, and which can be used by all States Parties to ensure that their legislation conforms with Article 9, including those States Parties that may consider that their existing legislation is sufficient.

We have taken note of the statement just made by Germany regarding the development of "best practices" for Article 9 implementing legislation. We welcome this initiative and stand ready to work with the German delegation on this issue.

Thank you.