

CHECKLIST

DOMESTIC MEASURES TO IMPLEMENT THE CONVENTION ON CLUSTER MUNITIONS

The Convention contains various measures and mechanisms for promoting its implementation and ensuring compliance with its provisions. Some of these may necessitate the adoption of States Parties of domestic legislation and administrative regulations. This may involve the adoption of criminal legislation, including the imposition of penal sanctions, to ensure respect for the Convention's provisions within their territory and by persons under their jurisdiction or control. It may also require issuing administrative instructions to the armed forces and introducing changes in military doctrine, policies and training.

This checklist provides guidance for States on the legal/regulatory/administrative framework necessary to ensure implementation of the Convention, as well as good practices.

The *Model Law* of the International Committee of the Red Cross (ICRC) provides a substantive guide to drafting legislative provisions; the checklist contains numerous references to it.

ARTICLE 9 IMPLEMENTATION

1. PROHIBITED CONDUCT

- Does your legal framework prohibit your nationals or other persons on territory within your jurisdiction or under your control from undertaking, in connection with cluster munitions, any of the following activities?
 - Using
 - Developing or producing
 - Acquiring
 - Possessing, retaining or stockpiling
 - Transferring
 - Assisting, encouraging or inducing, in any way, anyone to engage in any of the activities listed above.¹

(Model Law, Section 3)

2. OFFENCES AND PENALTIES

- Does your legal framework provide for the following?
 - An offence (criminal/administrative), in connection with cluster munitions, to:
 - Use
 - Develop

¹ Investment in the development and production of cluster munitions may be included as prohibited conduct.

- Produce
- Acquire
- Stockpile
- Retain
- Transfer

(Model Law, Section 4)

- A subsidiary offence to assist, encourage or induce, in any way, anyone to engage in any of the activities listed above.²

(Model Law, Section 3(3))

This can be done through a new piece of legislation ([Model Law here](#)) or by amending existing legislation (e.g. the penal code or firearms legislation; examples can be found in the ICRC's [National Implementation Database](#)).

3. EXTRATERRITORIAL APPLICATION

- Does the applicability of your legal framework, with regard to prohibited conduct, extend beyond the territory of your State?

(Model Law, Section 5)

4. DEFINITIONS

- Does your legal framework incorporate the definitions provided in Article 2 of the Convention, or are the definitions cross-referenced in the relevant offences?

(Model Law, Section 2)

5. EXCEPTIONS

- Does your legal framework permit a specified number of cluster munitions, explosive bomblets and explosive submunitions to be retained or acquired, for developing – or training personnel in – techniques for detecting, clearing or destroying cluster munitions, explosive bomblets and explosive submunitions, or for developing cluster-munition countermeasures, and does it provide an exception under the criminal/administrative offence for the handling of such materials?
- Does your legal framework ensure that the persons assigned to handle cluster munitions are duly authorized?
- Does your State undertake joint operations with States not party to the Convention, or engage in other forms of military cooperation with them? If so, does your legal framework provide for this explicitly, for instance by including a section dealing with Article 21 of the Convention?

(Model Law, Section 6)

6. VICTIM ASSISTANCE

- Does your legal/regulatory/administrative framework provide for medical care, physical rehabilitation and psychological support for victims of cluster munitions, and for their social and economic inclusion?
 - This may take various forms, such as:
 - assessing the needs of victims
 - drafting a national plan and budget, including time frames for the activities proposed or under consideration
 - ensuring non-discrimination
 - designating a focal point within the government to coordinate matters relating to the provision of medical care, physical rehabilitation and psychological support for victims, and assistance for their social and economic inclusion, with the allocation of a budget for these activities.

(Model Law, Section 10)

² This may include an offence of investment in the development and production of cluster munitions, if such investment is prohibited by national legislation.

7. STORAGE AND STOCKPILE DESTRUCTION

- Does your legal/regulatory/administrative framework require the destruction of all stockpiled cluster munitions other than those retained by your State or transferred to it for permitted purposes, and does it provide for your State to seek extensions when necessary?

(Model Law, Section 8)

8. CLEARANCE AND DESTRUCTION OF CLUSTER-MUNITION REMNANTS AND RISK EDUCATION

- Does your legal/regulatory/administrative framework establish how your State will ensure the clearance and destruction of all cluster-munition remnants in contaminated areas within its jurisdiction or under its control, and how it will seek extensions when necessary?
- Does your legal/regulatory/administrative framework provide for marking and monitoring of areas contaminated by cluster munitions and for measures to protect civilians pending clearance?
- Does your legal/regulatory/administrative framework ensure risk education to inform civilians of the risks posed by cluster-munition remnants?

(Model Law, Sections 7 and 9)




OTHER MEASURES TO FACILITATE IMPLEMENTATION

9. ARTICLE 7 REPORT

- Does your legal/regulatory/administrative framework give a national agency the task of collecting information and preparing this report?

MISSION

The International Committee of the Red Cross (ICRC) is an impartial, neutral and independent organization whose exclusively humanitarian mission is to protect the lives and dignity of victims of armed conflict and other situations of violence and to provide them with assistance. The ICRC also endeavours to prevent suffering by promoting and strengthening humanitarian law and universal humanitarian principles. Established in 1863, the ICRC is at the origin of the Geneva Conventions and the International Red Cross and Red Crescent Movement. It directs and coordinates the international activities conducted by the Movement in armed conflicts and other situations of violence.

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