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# Convention on Cluster Munitions

19 September 2013

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## Fourth Meeting of States Parties

Lusaka, 10–13 September 2013

Item 10 (a) of the agenda

### Consideration of matters pertaining to the universalization of the Convention on Cluster Munitions

## Universalisation of the Convention on Cluster Munitions

### Submitted by Portugal and Ghana<sup>\*</sup>

1. For the past two years, Portugal has been strongly involved in the universalisation efforts of the Convention on Cluster Munitions, after having been appointed as co-coordinator by the Second Meeting of States Parties, held in September 2011, in Beirut, Lebanon.
2. In Beirut, Portugal joined Japan in the coordination and, in September 2012, was joined by Ghana, at the Third Meeting of States Parties, which was held in Oslo.
3. The present report gives an account of the efforts undertaken by the co-coordinators in the two intercessional periods between Beirut, Oslo and Lusaka, and is divided in four parts:
  - I. Latest figures
  - II. Action jointly-taken by the co-coordinators
  - III. Regional outreach
  - IV. Lessons learned

### I. Latest figures

4. Since the Second Meeting of States Parties (2011), the following 20 States, that is 31,7 per cent of the number of States that have become State-Parties so far, have ratified or acceded to the CCM, with eight of them (identified in bold) becoming States-Parties in the 2012-2013 intercessional period: **Andorra**, **Australia**, **Bolivia**, Cameroon, **Chad**, Côte d'Ivoire, Czech Republic, Dominican Republic, Honduras, Hungary, Italy, **Iraq**,

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<sup>\*</sup> Coordinators on universalization.

**Liechtenstein**, Mauritania, **Nauru**, **Peru**, Sweden, Switzerland, Togo, Trinidad and Tobago. (See annex I).

5. Geographically (see annex II), the new States Parties are distributed as follows:

- Five from Africa
- Five from the Americas
- One from Asia
- Seven from Europe
- Two from the Pacific

6. Four of the abovementioned States acceded to Convention (Andorra, Grenada, Swaziland and Trinidad and Tobago) during the period concerned. Seven countries ratified the Convention since the Third Meeting of States Parties (Peru, Australia, Nauru, Liechtenstein, Chad, Bolivia and Iraq). However, Twenty nine, which means 27 per cent, of the Signatories States, have yet to ratify the Convention on Cluster Munitions. It should be noted, however, that the number came down from thirty six States, since September 2012.

7. Taking into account that the Convention was only signed on 3 December 2008, the Convention on Cluster Munitions may be considered a very fortunate instrument of international law for its speedy entry into force, although the full universalisation seems to drag on mostly due to some security issues. Nevertheless, it looks as if the basic concerns of the Convention on Cluster Munitions are generally accepted: (a) to clear affected areas; (b) to assist victims; (c) and to destroy the enormous stockpiles of these weapons, thus making the Convention on Cluster Munitions not only a disarmament and non-proliferation instrument but also a very relevant humanitarian law mechanism.

## **II. Action jointly-taken by the co-coordinators**

8. As the Japanese colleagues reported last year, in a joint effort, Portugal and Japan delivered demarches in the capitals of 113 States that were not yet Parties to the Convention on Cluster Munitions. Around a hundred States replied, providing greater clarity on the status of the ratification/accession processes, as well as a better understanding of the difficulties that some States face when considering joining this disarmament convention.

9. As much as twenty-six States reported in 2011/2012 that their ratification processes were ongoing or expressed their will to join the Convention on Cluster Munitions in the near future. Since then one has become a State Party. The numbers reflect, however, that an extra effort is needed to bring the States that have not finish their legal ratification process to the realm of States parties. A great number has signalled their agreement with the principles and purposes of the CCM, but lacked the resources to immediately go through the process of ratification and/or accession, in face of other equally important priorities, namely concerning Human Rights and related instruments.

10. Also noteworthy among those States, there were concerns for the administrative burden of reporting and for the financial obligations that becoming a Party to the Convention on Cluster Munitions could entail, and which are not limited to the destruction of stockpiles.

11. Finally, a number of States expressed misgivings about stock-destruction, stemming from their security needs. It must be recalled though, as was done by the coordinators in the demarches, that the Convention on Cluster Munitions allows States to keep a small stock of cluster munitions for training purposes, which includes detection, deactivation, and clearance.

12. This initiative is in line with action 3 of the Vientiane Action Plan, and in the demarches the coordinators have also advanced the goals foreseen in actions 5 and 6 of the Action Plan.

13. In addition, the question of the universalisation of the Convention on Cluster Munitions was also discussed in numerous bilateral political consultations, which also contributed to raise not only the profile of the Convention on Cluster Munitions but also the human suffering that these weapons cause. The universalisation team in Geneva also favoured a regional approach, as the Convention calls for and as it has clearly been endorsed in the Vientiane Action Plan (actions 2 and 4). The coordinators would recall here some of the initiatives led by some countries and non-State actors, without prejudice to others that may have taken place:

- A regional conference took place in Lomé, Togo on 22 and 23 May
- A workshop on the implementation of the Convention on Cluster Munitions was organized in Skopje, Macedonia on 14 and 15 May 2013;
- A regional conference took place in Accra on 28 and 29 May 2012;
- Palau has stated its availability to promote the Convention in the Pacific region;
- Along with the NGO Handicap International and other States Parties, France will develop a group of initiatives concerning the support to the Convention on Cluster Munitions;
- The International Committee of the Red Cross has informed that it is generically satisfied with the ratification rhythm and it will hold workshops on the matter.

14. There is a clear universal widespread group of countries that have worked towards the universalisation of the Convention, and the coordinators would like to thank all those States, as well as all non-States actors that have heavily contributed to this endeavour.

15. In 2013, in a letter signed by the Permanent Representatives of Portugal and Ghana to the United Nations Office at Geneva, the merits of the Convention on Cluster Munitions were again highlighted and 74 States, which were still not Parties and had missions in Geneva, were urged to consider joining the Convention. Unlike the demarches carried out the year before, the answers were very few and inconclusive.

16. The coordinators should note with regret that since 2011, if Africa has made a huge step regarding universalisation of the Convention on Cluster Munitions, in Asia and the Pacific region results have been minor. The Coordinators thus appeal to the countries that are still no State Parties to the Convention to consider once again their position by joining the Convention.

17. Following the path initiated in 2012, the coordinators herewith present a summary of the answers the co-coordinators received during the last two years to their initiatives.

18. The division on four types of countries made by Zambia in its universalisation paper (para.10) is accurate. However, the coordinators have tried to reduce the number of groups and to make it more in line with the reasons expressed by the different countries. They would note, like Zambia does, that it is regrettable that a large number of the countries that have not signed the Convention are indeed the major producers.

19. In addition, the States Parties of the Convention on Cluster Munitions need to continue a dialogue with the main producers and possessors of Cluster Munitions to bring them to join the Convention. Most of these main producers countries have supported the concept of restricting the use of cluster munitions under the Convention of Certain Convention Weapons process, which indicates that they are open to discuss this issue.

20. Even the largest possessors understand the humanitarian concerns caused by cluster munitions. Some States have indicated that armament stocks are being renewed taking in considerations the humanitarian consequences of cluster munitions. Although the Coordinators recognise that the efforts made by some States to significantly reduce the failure rate of cluster munitions, to one per cent or even less, efforts must continue to bring all countries to the Convention on Cluster Munitions and to achieve the major goal of a world rid of cluster munitions.

21. The Coordinators have divided the countries into three groups: Category I, those who have expressed their willingness to join the Convention on Cluster Munitions; Category II, comprised of 31 countries that have expressed interest in the Convention on Cluster Munitions or understand the humanitarian objectives of the Convention but whose ratification or accession may take time due to specific obstacles; and Category III, comprised of 21 countries that are unlikely to join the Convention on Cluster Munitions in the near future. In some cases, namely countries in category II could become States Parties in the near future, but that would require a greater national effort and the support and tenacity of the international community due to identified constraints. It should be also noted that on the renewed demarches this year, some countries reconfirm they will not ratify the Convention on Cluster Munitions in the near future.

#### **Category I: 25 States**

22. Countries in this category<sup>1</sup> expressed interest in joining the Convention on Cluster Munitions. Some have provided information about ongoing preparations or their intention to join in the future. Some countries expressed great interest in becoming Party to the Convention, however, they are concerned about implementing the Conventions obligations, for example the clearance deadline, and may need international assistance or some kind of reassurance in this area. Another difficulty expressed has to do with administrative procedures, to which assistance, upon request, could be granted.

23. For those countries that are considering becoming Party to the Convention on Cluster Munitions, it seems that the Convention status in their region may also have much influence on their policy change. When the majority of States in a particular region join the Convention on Cluster Munitions, the remaining States not parties will be inclined to consider joining the Convention as well. This is why it is believed that a regional approach to universalisation is important, and that a regional universalisation coordination team should be set by future Co-coordinators of universalisation.

#### **Category II: 31 States**

24. There were 31 countries<sup>2</sup> that expressed interest or understand the humanitarian objectives of the Convention on Cluster Munitions but may take time due to specific obstacles: for internal reasons it is not a priority issue; there are concerns on the regional membership and reciprocity between neighbours; the costs that alternative weaponry may imply.

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<sup>1</sup> Angola, Brunei Darussalam, Cambodia, Colombia, Democratic Republic of the Congo, Gabon, Haiti, Iceland, Jamaica, Kenya, Libya, Madagascar, Nigeria, Oman, Palau, Philippines, Qatar, Serbia, Slovakia, South Africa, Tanzania, Uganda and Viet Nam.

<sup>2</sup> Algeria, Argentina, Armenia, Bahrain, Benin, Djibouti, Estonia, Ethiopia, Finland, Guinea, Jordan, Indonesia, Kyrgyzstan, Latvia, Micronesia (Federated States of), Mongolia Nepal, Maldives, Mauritius, Myanmar, Paraguay, Solomon Islands, Papua New-Guinea, Romania, Rwanda, Saudi Arabia, Thailand, Tonga, Turkey, Uzbekistan and Zimbabwe.

25. A notable number of countries expressed that they have been supporting the regulation on cluster munitions under the Convention on Certain Conventional Weapons, and the main reason for this was that the main producers and possessors of cluster munitions were part of the negotiations, although some regrets have been raised for the fact that the main producers did not join the Convention on Cluster Munitions. Some countries expressed doubt regarding the effectiveness of the Convention on Cluster Munitions, because the main producers and possessors of cluster munitions are not State Parties of the Convention.

26. Regarding countries that are of this view, States Parties need to continue to approach them with the strong conviction that the Convention on Cluster Munitions is an effective framework and that their participation would only make the Convention stronger and its ultimate goal even more effectively attainable. On the other hand, the fact that not all major producers and possessors of cluster munitions are not State Parties should not be used as an excuse for countries will not support the cause of prohibiting cluster munitions through this already established framework.

27. Many Category II countries also mentioned that they could not join the Convention on Cluster Munitions before other countries join from their own region. Some of these countries do not stockpile, use or produce cluster munitions and agree with the concepts of the Convention, and the only reason that holds them back is regional adherence.

28. Again, the importance of regional universalisation should be reiterated, and the observers to this Conference are invited to take a regional initiative. Regional discussion on the adherence to the Convention on Cluster Munitions would be a useful opportunity for regional confidence building.

### **Category III: 21 States**

29. 21 Countries<sup>3</sup> in this category are unlikely to join the Convention on Cluster Munitions in the near future. Responding to our joint demarche, they have answered that a major improvement in their security environment or a major transformation in their domestic political circumstances would have to take place before it considers signing the Convention. Most of these countries do not deny the inhumane consequences associated with cluster munitions, however, they have a tendency to emphasize that major possessors need to join the Convention on Cluster Munitions first, while they themselves possess cluster munitions. Instead of waiting for change to happen, we call upon all of these countries to lead an example first so that others will follow.

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<sup>3</sup> Bangladesh, Belarus, Brazil, China, Cuba, Egypt, Georgia, Greece, India, Islamic Republic of Iran, Israel, Malaysia, Morocco, Pakistan, Poland, Singapore, South Korea, Sri Lanka, Russian Federation, United Arab Emirates and the United States of America.

30. At this stage the status of membership to the Convention is as follows:

<i>States</i>	<i>Signature</i>	<i>Ratification/Accession</i>
<i>Total</i>	<i>108</i>	<i>83</i>
Afghanistan	03.12.2008	08.09.2011
Albania	03.12.2008	16.06.2009
Andorra		09.04.2013
Angola	03.12.2008	
Antigua and Barbuda	16.07.2010	23.08.2010
Australia	03.12.2008	08.10.2012
Austria	03.12.2008	02.04.2009
Belgium	03.12.2008	22.12.2009
Benin	03.12.2008	
Bolivia (Plurinational State of)	03.12.2008	30.04.2013
Bosnia and Herzegovina	03.12.2008	07.09.2010
Botswana	03.12.2008	27.06.2011
Bulgaria	03.12.2008	06.04.2011
Burkina Faso	03.12.2008	16.02.2010
Burundi	03.12.2008	25.09.2009
Cameroon	15.12.2009	12.07.2012
Canada	03.12.2008	
Cape Verde	03.12.2008	19.10.2010
Central African Republic	03.12.2008	
Chad	03.12.2008	26.03.2013
Chile	03.12.2008	16.12.2010
Colombia	03.12.2008	
Comoros	03.12.2008	28.07.2010
Congo	03.12.2008	
Cook Islands	03.12.2008	23.08.2011
Costa Rica	03.12.2008	28.04.2011
Côte d'Ivoire	04.12.2008	12.03.2012
Croatia	03.12.2008	17.08.2009
Cyprus	23.09.2009	
Czech Republic	03.12.2008	22.09.2011
Democratic Republic of the Congo	18.03.2009	

<i>States</i>	<i>Signature</i>	<i>Ratification/Accession</i>
<i>Total</i>	<i>108</i>	<i>83</i>
Denmark	03.12.2008	12.02.2010
Dominican Republic	10.11.2009	20.12.2011
Djibouti	30.07.2010	
Ecuador	03.12.2008	11.05.2010
El Salvador	03.12.2008	10.01.2011
Fiji	03.12.2008	28.05.2010
France	03.12.2008	25.09.2009
Gambia	03.12.2008	
Germany	03.12.2008	08.07.2009
Ghana	03.12.2008	03.02.2011
Grenada		29.06.2011
Guatemala	03.12.2008	03.11.2010
Guinea	03.12.2008	
Guinea-Bissau	04.12.2008	29.11.2010
Haiti	28.10.2009	
Holy See	03.12.2008	03.12.2008
Honduras	03.12.2008	21.03.2012
Hungary	03.12.2008	03.07.2012
Iceland	03.12.2008	
Indonesia	03.12.2008	
Iraq	12.11.2009	14.05.2013
Ireland	03.12.2008	03.12.2008
Italy	03.12.2008	21.09.2011
Japan	03.12.2008	14.07.2009
Jamaica	12.06.2009	
Kenya	03.12.2008	
Lao People's Democratic Republic	03.12.2008	18.03.2009
Lebanon	03.12.2008	05.11.2010
Lesotho	03.12.2008	28.05.2010
Liberia	03.12.2008	
Liechtenstein	03.12.2008	04.03.2013
Lithuania	03.12.2008	24.03.2011

<i>States</i>	<i>Signature</i>	<i>Ratification/Accession</i>
<i>Total</i>	<i>108</i>	<i>83</i>
Luxembourg	03.12.2008	10.07.2009
Madagascar	03.12.2008	
Malawi	03.12.2008	07.10.2009
Mali	03.12.2008	30.06.2010
Malta	03.12.2008	24.09.2009
Mauritania	19.04.2010	01.02.2012
Mexico	03.12.2008	06.05.2009
Monaco	03.12.2008	21.09.2010
Montenegro	03.12.2008	25.01.2010
Mozambique	03.12.2008	14.03.2011
Namibia	03.12.2008	
Nauru	03.12.2008	04.02.2013
Netherlands	03.12.2008	23.02.2011
New Zealand	03.12.2008	22.12.2009
Nicaragua	03.12.2008	02.11.2009
Niger	03.12.2008	02.06.2009
Nigeria	12.06.2009	
Norway	03.12.2008	03.12.2008
Palau	03.12.2008	
Panama	03.12.2008	29.11.2010
Paraguay	03.12.2008	
Peru	03.12.2008	26.09.2012
Philippines	03.12.2008	
Portugal	03.12.2008	09.03.2011
Republic of Moldova	03.12.2008	16.02.2010
Rwanda	03.12.2008	
Saint-Vincent and Grenadines	23.09.2009	03.11.2010
Samoa	03.12.2008	28.04.2010
San Marino	03.12.2008	10.07.2009
Sao Tome and Principe	03.12.2008	
Seychelles	13.04.2010	20.05.2010
Senegal	03.12.2008	03.08.2011



<i>States</i>	<i>Signature</i>	<i>Ratification/Accession</i>
<i>Total</i>	<i>108</i>	<i>83</i>
Sierra Leone	03.12.2008	03.12.2008
Slovenia	03.12.2008	19.08.2009
Somalia	03.12.2008	
South Africa	03.12.2008	
Spain	03.12.2008	17.06.2009
Sweden	03.12.2008	23.04.2012
Swaziland		13.09.2011
Switzerland	03.12.2008	17.07.2012
The former Yugoslav Republic of Macedonia	03.12.2008	08.10.2009
Togo	03.12.2008	22.06.2012
Trinidad and Tobago		21.09.2011
Tunisia	12.01.2009	28.09.2010
Uganda	03.12.2008	
United Kingdom of Great Britain and Northern Ireland	03.12.2008	04.05.2010
United Republic of Tanzania	03.12.2008	
Uruguay	03.12.2008	24.09.2009
Zambia	03.12.2008	12.08.2009

### III. Regional outreach

31. Representatives from 35 African States were outspoken in calling for a “concerted and accelerated effort” towards an Africa-wide ban on cluster bombs at a meeting in Lomé, Togo from May 22 and 23 2013.

32. African States adopted the “Lomé Universalisation Strategy on the Convention on Cluster Munitions” at the meeting, which sets out concrete steps states will take to achieve continent-wide membership of the 2008 Convention on Cluster Munitions and a commitment to the full, effective, rapid implementation of the treaty. These include: establishing a regional working group on universalisation, an expert meeting on the elaboration of model legislation to be convened by Ghana and an initiative to engage parliamentarians to ensure their support in joining the Convention on Cluster Munitions.

### IV. Lessons learned

33. After consulting with interested States, including many States that have yet to become Party to the Convention on Cluster Munitions, we came to the conclusion that universalisation efforts have greater impact when three different lines of action are taken: (a) regional approach; (b) target approach; (c) the landmark features of this legally binding instrument that is equally relevant to disarmament, non-proliferation and Humanitarian law.

The efforts regarding universalisation must continue and we should take the moment of the Fourth Meeting of States Parties to promote it and to appeal to States not parties to adhere to this major instrument of International Law.

34. A group of initiatives should be kept, starting with the regional approaches, which have so far proved to be a very effective means, but also because it may contribute to confidence building between countries. This regional approach should be assumed in the more flexible way, so that the goal of universalisation can be put forward.

35. In addition, the promotion among political groupings has translated into a positive result. From our side, we can inform that efforts within the Portuguese speaking countries have proven to be very useful, and we assume that other, like the European Union, Association of Southeast Asian Nations, Asian-Pacific Economic Cooperation, Arab League, Islamic Conference, commonwealth, the francophonie, just to name a few, may have an identical result.

36. It is of equal importance to continue to fully engage with the main producers and stockpilers, underlining the lethal indiscriminate character of these weapons. The Humanitarian nature of the Convention on Cluster Munitions (action 7 of Vientiane Action Plan) should continue to be highlighted in these discussions.

37. The strategy of prioritization of countries as a result of demarches so far made, may contribute to a faster pace of universalisation, as well as to a more precise idea on the reasoning behind countries' positions on the Convention on Cluster Munitions. The differentiation is of analytical nature, and intends only to be a reference in order to have a more guided or targeted approach.

38. Taking into account the motives presented by the different States, we consider that:

(a) The benefits and merits of the Convention on Cluster Munitions, both at political and at administrative level, should continue to be highlighted;

(b) Further clarification of the advantages of the Convention on Cluster Munitions and differences between the Convention and a Protocol to the Convention on Certain Conventional Weapons should be provided;

(c) Technical expertise on clearance and destruction of stockpiles must continue to be provided in order to assist those countries that may require help, thus overcoming one of the greatest obstacles identified to universalisation of the Convention on Cluster Munitions;

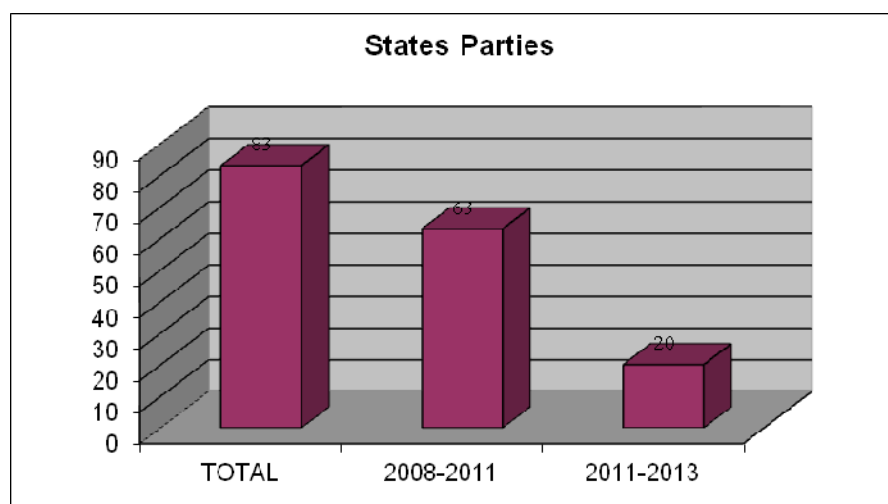
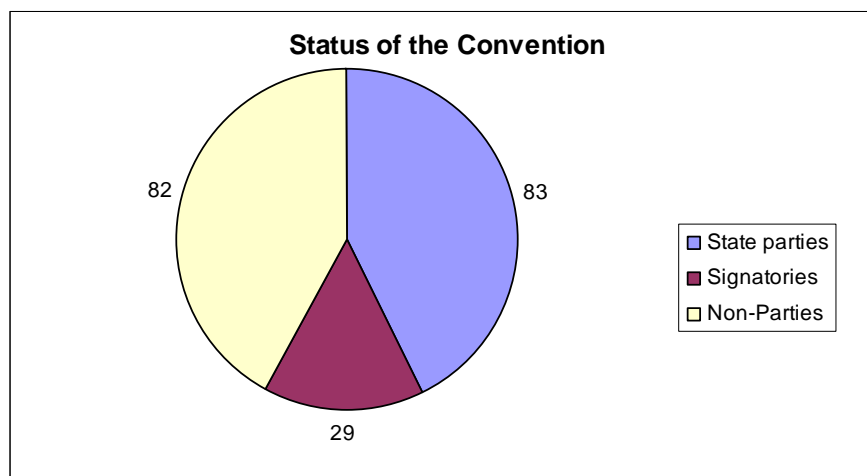
(d) An extra effort may be made in order to facilitate the adoption of the Convention on Cluster Munitions into internal law by some States;

(e) Confidence building measures should be developed at regional level to foster an environment in which the promotion of the Convention could be more effective;

(f) The Convention on Cluster Munitions site could be updated on all regional events regarding the Convention, which will also require from the organisers to inform the Secretariat (UNDP Geneva).

## Annex I

[English only]



## Annex II

[English only]

