Article 9 legislation

Meetings of the Standing Committees of the States Parties to the Ottawa Convention
May 2006

International Committee of the Red Cross

Minimum requirement of Article 9:

"Each State Party shall take all appropriate legal, administrative and other measures, 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."
Who must implement Article 9?

"Each State Party shall take all appropriate legal, administrative and other measures, 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."

National legislation must:

- Define as crimes and provide penal sanctions for all activities prohibited by Article 1(a), (b) and (c) (use, develop, produce, otherwise acquire, stockpile, retain or transfer – see also assist, encourage, induce)
  - i.e. hold all individuals (military and civilian) accountable for violations of the Convention
- Apply definitions consistent with those of Article 2
- Recognize the exceptions permitted under Article 3, as required
Article 9 Measures:

- **Who?** – Each State Party must
  - **What?** Take all appropriate measures
    - Legal, administrative and other measures
    - Including penal sanctions
  - **Why?** to prevent and suppress any activity prohibited by the Convention
  - **Where?** Undertaken by persons or on territory under its jurisdiction or control

ICRC Proposed checklist

- In order to guide States in the preparation of their Annual Article 7 reports:
  - The ICRC has distributed a checklist
  - No need to complete this checklist and return it
  - Please review the answers in Form A regarding national measures (especially legislation)
This checklist includes two parts:
Firstly, legislative measures required by Article 9

<table>
<thead>
<tr>
<th>Part of the Article</th>
<th>Does your legislation prohibit and provide punishment for these violations? (Art. 9)*</th>
<th>Is there a prohibition for assisting, encouraging and inducing these violations? (Art. 9)*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Use (Art. 1 a)</td>
<td></td>
<td></td>
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<tr>
<td>Acquisition (Art. 1 b)</td>
<td></td>
<td></td>
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<td>Stockpiling (Art. 1 b)</td>
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<td></td>
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<tr>
<td>Retention (Art. 1 b)</td>
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<tr>
<td>Transfer, including the physical movement of AP mines into or from national territory, and the transfer of title to and control over the mines (Art. 1 b, and Art. 2(4))</td>
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<tr>
<td>Development (Art. 1 b)</td>
<td></td>
<td></td>
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<tr>
<td>Production (Art. 1 b)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

And, secondly:

- 2. Other appropriate legal, administrative and other measures
  - a) How would a fact finding mission (Art. 8) be facilitated: under what law, regulation, or other measure?
  - b) Is destruction of AP mines (Art. 4 and 5) provided for by law, regulation or by other measure?
  - c) Is there legislation, regulation or other measure to assist the Ministry or Department responsible for annual Article 7 reports, for example by requiring all persons, including other government officials, to provide the necessary information?
Other appropriate national implementation measures include:

- For all States Parties:
  - measures to facilitate information-gathering for Article 7 reports
  - measures to facilitate fact-finding missions under Article 8
  - other measures to ensure respect for the Convention (e.g. harmonizing military doctrine with the Convention)

Other appropriate national implementation measures (cont'd):

- For States Parties with stockpiles:
  - measures to facilitate stockpile destruction (Article 4)

- For mine-affected States Parties:
  - measures to facilitate implementation of Article 5 (i.e. mine clearance and other mine action) see GICHD Guide to Developing Mine Action Legislation
Each State may choose the form of its legislation:

1. Special legislation;
2. Amendment to existing legislation; or
3. Combination of 1 and 2

50 States Parties report having adopted legislation to implement the Convention (of 150)

*Albania  
Australia  
Austria  
Belarus  
Belgium  
Belize  
*Bosnia and Herzegovina  
Brazil  
Burkina Faso  
Cambodia  
Canada  
Colombia  
Costa Rica  
*Croatia  
*Cyprus  
Czech  
Republic  
El Salvador  
Estonia  
France  
Germany  
Guatemala  
Honduras  
Hungary  
Iceland  
Italy  
Japan  
Liechtenstein  
Luxembourg  
Malaysia  
Mali  
Malta  
Mauritius  
Monaco  
New Zealand  
Nicaragua  
Niger  
Norway  
*Saint Vincent and the Grenadines  
Seychelles  
South Africa  
Spain  
Sweden  
Switzerland  
Trinidad & Tobago  
Turkey  
United Kingdom  
*Yemen  
Zambia  
Zimbabwe  

* = countries are new in this category
32 States Parties report being in the process of adopting legislation to implement the Convention

* = countries are new in this category

<table>
<thead>
<tr>
<th>Afghanistan</th>
<th>Argentina</th>
<th>Bangladesh</th>
<th>Benin</th>
<th>Botswana</th>
<th>Cameroon</th>
<th>Chad</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chile</td>
<td>D.R. Congo</td>
<td>R. Congo</td>
<td>Côte d’Ivoire</td>
<td>Djibouti</td>
<td>Guinea</td>
<td>Jamaica</td>
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<tr>
<td>Malawi</td>
<td>Mauritania</td>
<td>Mozambique</td>
<td>Nigeria</td>
<td>Panama</td>
<td>Paraguay</td>
<td>Peru</td>
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<td>Philippines</td>
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<td>Rwanda</td>
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<td>Senegal</td>
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<tr>
<td>Serbia &amp; Montenegro</td>
<td>Suriname</td>
<td>Swaziland</td>
<td>Thailand</td>
<td>Togo</td>
<td>Uganda</td>
<td>Uruguay</td>
</tr>
</tbody>
</table>

25 States Parties report considering existing laws to be sufficient to give effect to the Convention

* = countries are new in this category

<table>
<thead>
<tr>
<th>Algeria</th>
<th>Andorra</th>
<th>Bulgaria</th>
<th>Central African Republic</th>
<th>Denmark</th>
<th>Guinée-Bissau</th>
<th>Holy See</th>
<th>Ireland</th>
<th>Jordan</th>
<th>Kiribati</th>
<th>Lesotho</th>
<th>Lithuania</th>
<th>FYR Macedonia</th>
<th>Mexico</th>
<th>Moldova</th>
<th>Netherlands</th>
<th>Papua New Guinea</th>
<th>Portugal</th>
<th>Romania</th>
<th>Samoa</th>
<th>Slovakia</th>
<th>Slovenia</th>
<th>Tajikistan</th>
<th>Tanzania</th>
<th>Tunisia</th>
</tr>
</thead>
</table>

ICRC
5 States Parties report assessing whether to adopt legislation

Namibia, Nauru, Sierra Leone, Solomon Islands, Timor-Leste

34 States Parties for which information is as yet unavailable or unclear

* = countries are new in this category

Angola
Antigua and Barbuda
Bahamas
Barbados
Bolivia
Burundi
Cape Verde
*Comoros
Dominica
Dominican Republic
Ecuador
Equatorial Guinea
Eritrea
Ethiopia
Fiji
Gabon
Gambia
Ghana
Greece
Grenada
Guyana
*Latvia
Liberia
Madagascar
Maldives
Niue
Qatar
Saint Kitts & Nevis
Saint Lucia
San Marino
Sao Tome & Principe
Sudan
Turkmenistan
Venezuela
Changes between 2005 and 2006, number of States Parties in the following categories:

<table>
<thead>
<tr>
<th>Category</th>
<th>2005</th>
<th>2006</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legislation adopted</td>
<td>43</td>
<td>48</td>
</tr>
<tr>
<td>Considering whether to adopt legislation</td>
<td>6</td>
<td>5</td>
</tr>
<tr>
<td>State considers its existing legislation is adequate</td>
<td>25</td>
<td>25</td>
</tr>
<tr>
<td>Legislation is in process</td>
<td>36</td>
<td>32</td>
</tr>
<tr>
<td>Unclear or not reported</td>
<td>34</td>
<td>34</td>
</tr>
<tr>
<td>New States parties that have not yet reported</td>
<td></td>
<td>6</td>
</tr>
<tr>
<td>Totals</td>
<td>144</td>
<td>150</td>
</tr>
</tbody>
</table>

Tools for implementing Art. 9:

- ICRC – ICBL – Gov. of Belgium *Information Kit on the Development of National legislation to implement the Ottawa Convention* (English, French, Spanish, Russian)
- ICRC *Model Legislation for Common Law States* (English)
- ICRC Table of Article 9 National Implementation Measures, and the ICRC Article 9 Checklist (May 2006)
- ICRC's Advisory Service assists States in developing implementing legislation