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**31st INTERNATIONAL CONFERENCE
OF THE RED CROSS AND RED CRESCENT**

Geneva, Switzerland
28 November – 1 December 2011

**Reaffirming and implementing international humanitarian law
(Follow-up to Resolution 3 of the 30th International Conference)**

Report on implementation

**Document prepared by
The International Committee of the Red Cross**

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FOLLOW-UP TO THE 30th INTERNATIONAL CONFERENCE

Implementation of Resolution 3 on reaffirming and implementing international humanitarian law

I. Introduction

This part of the report has been compiled pursuant to Resolution 3 of the 30th International Conference of the Red Cross and Red Crescent (2007) – Reaffirmation and implementation of international humanitarian law: Preserving Human Life and Dignity in Armed Conflict. The report provides an overview of the steps taken by participants in the 30th International Conference to implement Resolution 3 and the pledges they made at the conference.

It is based on responses to a follow-up questionnaire. There were 100 responses, 65 from National Societies and 38 from States party to the Geneva Conventions (the discrepancy in the figures is the result of some States and National Societies submitting joint reports, an encouraging sign of the degree of cooperation between them). The answers provided represent a unique account of the activities implemented by the members of the International Conference in their follow-up to Resolution 3. The report includes all the replies received by 15 September 2011.

During the 30th International Conference, 66 governments, 71 National Societies and one observer made pledges about international humanitarian law (hereinafter referred to as IHL) and protection in armed conflict and other situations of violence. A total of 24 governments and 19 National Societies provided information on the implementation of their pledges, and this, too, was taken into account in the present report.

Other sources of information were also consulted: the ICRC Advisory Service's database on national measures for implementing IHL, issues of the *International Review of the Red Cross* containing biannual updates on national implementation measures (these are titled "National implementation of international humanitarian law: Biannual update on national legislation and case law") and official notifications by States of their adherence to IHL treaties.

The report analyzes the implementation of Resolution 3 from various angles. Firstly, it examines the steps taken by States and National Societies to respect and ensure respect of IHL. Secondly, it provides an overview of the main activities undertaken to reaffirm and apply the principles and provisions of IHL. Thirdly, it assesses progress in becoming part to IHL treaties, as well as in the implementation of these treaties at the national level, describes the most significant efforts to spread knowledge of IHL among armed forces and civilians, and reports on attempts to end impunity. Finally, it describes the ICRC's efforts to enhance knowledge of and compliance with IHL.

This report also provides examples of activities, in the form of best practices and lessons learnt. It does not set out to be exhaustive and describe all the work undertaken during the reporting period. More detailed information provided by individual participants, and information provided by participants whose follow-up to pledges made at the 30th International Conference could not be included in this report, can be found on a database titled *Pledges and follow-up to the 30th International Conference of the Red Cross and Red Crescent*, which is available on the ICRC's website.

II. Respect and ensure respect for IHL

Paragraph 1 of Resolution 3 of the 30th International Conference reaffirms "the obligation of all States and parties to an armed conflict to respect and ensure respect for international humanitarian law in all circumstances."

The ICRC also has a role to play in this regard. According to the Statutes of the International Red Cross and Red Crescent Movement (the Movement), the ICRC's role is, among other things, to work for the faithful application of international humanitarian law (IHL) applicable in armed conflicts, to work for the understanding and dissemination of knowledge of IHL applicable in armed conflicts, and to prepare any development thereof.¹

The ICRC does so primarily by engaging in a dialogue with parties to conflicts on their obligations in specific contexts. Further, it provides expertise and legal advice in an ongoing dialogue with States and other parties to armed conflicts in order to disseminate and contribute to the clarification and development of IHL. The following examples give an overview of some of the initiatives by States, National Societies and the ICRC in this respect.

A. Customary law study

Since the last International Conference, the ICRC has pursued its dissemination of the study on customary IHL first published in 2005.² Through the collection of State practice and the identification of *opinio juris*, the study seeks to clarify the customary international law nature of IHL rules applicable in situations of both international and non-international armed conflict. Since its publication, the customary law study has been recognized as an important legal reference with regard to international and non-international armed conflicts, including by courts, international organizations and non-governmental organizations. For instance, the government of Sweden established in 2007 a commission of inquiry which had the task of examining whether Sweden's international commitments with regard to IHL were properly implemented. It specifically analysed the rules of customary IHL, including the ones identified in the ICRC's study. Moreover, it examined the need for a national manual on IHL and submitted a proposal for such a manual.

In August 2010, the ICRC launched a free online version of the study with 50 percent more content than the original printed version. It is divided into two volumes. Volume I offers a comprehensive analysis of the customary rules of IHL deemed applicable in international and non-international armed conflicts. Volume II contains a summary of State practice relating to most aspects of IHL, as expressed in national legislation, military manuals, official statements and case law, and of the practice of other entities such as international organizations and international courts and tribunals. With the new database, these materials will be available for the first time in a single online source, accessible worldwide. The database, updated in association with the British Red Cross, is designed to be widely used as a legal reference in international and non-international armed conflicts, including by States, international organizations, courts, tribunals and academia. The database contains revised practice up to 2007. Updates will be provided regularly to ensure its topicality. By the first semester of 2012, the database will contain the revised practice of a majority of countries up to 2007. Practice for the years 2008-2010 is now being collected and will be analysed in the coming year. The collection of 2011 practice is due to start next year (2012). It is thus expected that updates of national practice will be done in the future on a yearly basis.

¹ Art. 5 (2) (c) and (g) of the Statutes of the Movement.

² J.M. Henckaerts, L. Doswald Beck (eds), *Customary International Humanitarian Law*, 2 vols, ICRC, Cambridge University Press, 2005.

B. Study on strengthening legal protection for victims of armed conflict

Beyond the dissemination of existing IHL and in particular the customary law study, the ICRC in 2007 started an internal process of reflection on the need to develop IHL. It conducted an in-depth study of over 35 fields of IHL to analyse whether existing IHL rules were still adequate in the light of the development of warfare over the last decades. The analysis found that, by and large, IHL is still an adequate body of law for responding to the humanitarian problems of contemporary armed conflicts, the main challenge consisting in achieving its implementation and observance by parties to conflicts. In some areas, however, the ICRC found that IHL could be strengthened to provide better legal protection. The study was concluded and its findings shared publicly in 2010. Its results are submitted in the report entitled *Strengthening Legal Protection for Victims of Armed Conflicts* under agenda item 5.4. The study was motivated by the need to ensure that IHL still provides an adequate response to the humanitarian problems occurring in the field. It constitutes a preliminary step and its conclusions must now be widely shared and discussed.

C. Ensuring respect by private military and security companies

The increasing resort by parties to armed conflicts to private military and security companies (PMSCs) to undertake tasks traditionally carried out by the armed forces gave rise to the need to clarify States' obligations to ensure respect for IHL by such companies and the obligations of PMSC personnel under IHL in armed conflict situations. In 2005, the government of Switzerland, in close cooperation with the ICRC, launched an international initiative on PMSCs, which led to the convening of five meetings with governmental experts between 2006 and 2008. Representatives of civil society and of the private military and security industry were also consulted. As a result, in September 2008, 17 States³ adopted a document entitled the Montreux Document on Pertinent Legal Obligations and Good Practices for States related to Operations of Private Military and Security Companies during Armed Conflict.

The Montreux Document is intended to promote respect for IHL and international human rights law in situations where PMSCs are present in armed conflicts. It recalls the existing legal obligations of States and PMSCs and their personnel (Part One) and provides States with good practices for promoting compliance with IHL and IHRL during armed conflicts (Part Two). It is not a legally binding instrument and does not affect the existing obligations of States under customary international law or international agreements. It highlights the legal responsibilities of three types of States: Contracting States (countries that hire PMSCs), Territorial States (countries on whose territory PMSCs operate) and Home States (countries in which PMSCs are based). It also recalls that PMSC personnel are bound by IHL and must respect its provisions at all times during armed conflicts, regardless of their status. Part Two contains a description of good practices that aims to provide guidance and assistance to States in regulating the activities of PMSCs and to promote responsible conduct in their relationships with these companies.

In October 2008, the Montreux Document was transmitted to the UN secretary-general by the permanent representative of Switzerland to the United Nations and is now available in Arabic, Chinese, English, French, Russian and Spanish.

There are now 36 States supporting the Montreux Document. The ICRC, together with the Swiss government, continues to be actively engaged in its promotion and to strongly encourage States to endorse it. For instance, a regional seminar organized by the Swiss

³ Afghanistan, Angola, Australia, Austria, Canada, China, France, Germany, Iraq, Poland, Sierra Leone, South Africa, Sweden, Switzerland, the United Kingdom, Ukraine and the United States of America.

government to promote this document was held in Chile in May 2011, and another one will be held in Mongolia in October 2011. The ICRC hopes that the Montreux Document will be useful for States in regulating the use of PMSCs. In this respect, the government of Canada, which participated in the initiative, reported that it is now using the good practices contained in the Montreux Document as guidance for contracts with PMSCs at its embassies.

Other initiatives aimed at providing guidance for PMSC activities have been undertaken. In 2010, the Human Rights Council established an intergovernmental working group to elaborate an international convention to regulate PMSCs,⁴ using as its basis the draft text presented to the Council by the Working Group on the use of mercenaries in September 2010.⁵ The ICRC follows these developments closely and has commented on the draft text.

Following the adoption of the Montreux Document, the Swiss government continued its endeavour in respect of PMSC activities. It launched, among other things, a process for members of the industry to develop an international code of conduct for their services. The International Code of Conduct for Private Security Service Providers was adopted in 2010 and 166 companies have signed it.⁶

D. Multinational operations

Multinational forces are increasingly operating in armed conflict situations and sometimes take an active part in hostilities, becoming parties to the conflict themselves. Yet there is still some controversy as to the nature of their participation in conflicts, the extent of their obligations, and the relationship among troop-contributing countries, in particular concerning international responsibility for wrongful acts.

The issue has also come to the fore in legal debates with the recent development of domestic, regional and international jurisprudence. Also, several State initiatives and academic processes aim to clarify the legal framework applicable to peace support operations. For instance, the Danish initiative on the handling of detainees in international military operations seeks to address the legal, political, operational and practical issues relating to the handling of detainees in such operations, and to put forward possible solutions to the challenges involved. The Swedish National Defence College project entitled *Responsibility in Multinational Military Operations* addresses the responsibility of those involved in multinational operations for violations of international law. The UN Peacekeeping Law Reform Project led by the University of Essex seeks to update the UN Model Status-of-Forces Agreement, which dates from 1990.

The ICRC has started a confidential dialogue with the relevant international organizations as well as with troop-contributing countries engaged in coalition warfare on how best to respect and ensure respect for IHL in such contexts. Furthermore, the ICRC regularly contributes to the different initiatives, in order to ensure that existing IHL is adequately taken into account in any new texts or documents that are produced.

E. The law of occupation

In recent years, along with traditional forms of occupation, the multiplication of extraterritorial military interventions has given rise to questions about the applicability and adequacy of the law of occupation to those situations. The latter have notably shown the importance of determining more clearly when and how an occupation begins and ends. The compatibility in

⁴ Human Rights Council Resolution A/HRC/RES/15/26 of 7 October 2010.

⁵ *Report of the Working Group on the Use of Mercenaries as a Means of Violating Human Rights and Impeding the Exercise of the Right of Peoples to Self-Determination*, Annex, doc. A/HRC/15/25, 5 July 2010.

⁶ The text of the International Code of Conduct and information about this process can be found online at <http://www.icoc-psp.org/>.

some contexts of occupation law with human rights and the right to self-determination has also been raised, as well as the question of whether and under what circumstances IHL and occupation law are applicable *de jure* or *de facto* to UN peace operations.

In the light of these new developments, the ICRC in 2008 initiated a project on occupation law with the intention of analysing whether and to what extent occupation law might need to be reinforced, clarified or developed. In 2008 and 2009, the ICRC convened three expert meetings. These meetings addressed questions such as the beginning and end of occupation, the rights and duties of the Occupying Power (including the issues of transformative occupation, prolonged occupation and the place and role of human rights in occupied territory), the relevance of the law of occupation for United Nations administration of territory, and the legal framework applicable to the use of force in occupied territory. The ICRC plans to release a report on the process at the end of 2011.

III. Fundamental guarantees under IHL

Resolution 3 of the 30th International Conference reaffirms that "all persons in the power of a party to an armed conflict, including persons deprived of their liberty for reasons related to the armed conflict, are entitled to the fundamental guarantees established by international humanitarian law in both international and non-international armed conflict and that, as a result, no one can be outside the law."

These fundamental guarantees include, among others, the obligation of humane treatment of all persons deprived of liberty, as well as procedural safeguards for internment.

European Union (EU) member States made a joint pledge at the 30th International Conference reaffirming their determination to respect fundamental procedural guarantees for all persons detained in relation to an armed conflict or other situation of violence as enshrined in relevant international humanitarian law (IHL) and/or international human rights law, as applicable. In this respect, Belgium, for instance, reported that members of its armed forces preparing for a mission abroad receive specific training on procedural safeguards.

The ICRC is engaged in dialogue with States and other parties to armed conflicts on detention, especially the treatment and conditions of persons deprived of liberty and procedural safeguards for internment. Furthermore, it has conducted different activities to help clarify legal obligations and to enhance knowledge of and compliance with IHL in regard to these fundamental guarantees.

A. Torture and cruel, inhuman or degrading treatment inflicted on persons deprived of liberty

Action against torture and cruel, inhuman or degrading treatment is a key focus of the ICRC's work. In 2011, the ICRC finalized its revised policy on torture and cruel, inhuman or degrading treatment inflicted on persons deprived of their liberty. The text of the policy was published in the *International Review of the Red Cross (IRRC)*, No. 882, and is available on the ICRC website. The policy reaffirms the ICRC's commitment to the struggle against torture, consolidates its longstanding practices and suggests new approaches. It addresses, among other things, the ICRC's work in the field of rehabilitation for victims of torture and other forms of ill-treatment, in partnership with other organizations; the support provided to national authorities to improve practices regarding detainees; and ICRC action to create and strengthen the legal, organizational and ethical environment favourable to the prevention of all forms of ill-treatment at the national, regional and international levels.

B. Procedural safeguards for internment

Deprivation of liberty of civilians for security reasons is an exceptional measure of control that may be taken in times of armed conflict. Internment of civilians in international armed conflicts may be imposed under the Fourth Geneva Convention for imperative reasons of security, and the Convention provides for a review of the internment. In non-international armed conflicts, Article 3 common to the four Geneva Conventions does not address procedural safeguards in internment. Internment of civilians is referred to in Additional Protocol II of 8 June 1977, but there is little additional guidance on the procedural guarantees to be observed. Recent State practice has highlighted significant divergences in respect of the legal review of detention in non-international armed conflicts.

In 2005, in order to provide guidance to its delegations in their operational dialogue with States and non-State armed groups, the ICRC adopted an institutional position entitled "Procedural principles and safeguards for internment/administrative detention in armed

conflict and other situations of violence." This document, which is based on law and policy, was annexed to the ICRC's report entitled *International Humanitarian Law and the Challenges of Contemporary Armed Conflicts*, presented to the 2007 International Conference.

Since the 2007 Conference, the ICRC has continued its endeavour to clarify procedural guarantees that should apply in this respect, especially in situations of non-international armed conflict. In September 2008, an informal expert meeting devoted to procedural safeguards for security detention in non-international armed conflicts was held in cooperation with Chatham House in London. Experts took part in the meeting in their personal capacity. The aim was to brainstorm some of the legal and practical issues involved in order to create a basis for broader subsequent discussions with other relevant actors. The meeting addressed the interplay between international humanitarian law and international human rights law during armed conflicts, the legal basis for internment in non-international armed conflicts (including internment by non-State actors), the right to information (for instance, questions relating to intelligence and classified information), and the review (initial and periodic) of the continued necessity of internment. The meeting summary is available on the ICRC website.

The issue of security detention was also discussed at an expert meeting convened by the ICRC and the Frederick K. Cox International Law Center at Case Western Reserve University in Cleveland in 2007. The report of this meeting is available on the ICRC website.

IV. Humanitarian and medical assistance

Resolution 3 of the 30th International Conference recalls a number of obligations of States with respect to humanitarian access and the protection of humanitarian relief personnel and of the distinctive emblems. It also emphasizes the legal protections for health care under IHL.

A. Humanitarian access

In many situations, access by humanitarian organizations to conflict zones has become more difficult and complex. Too often, relief operations are prevented from reaching populations in need.

The government of Switzerland organized an expert meeting on humanitarian access in situations of armed conflict in June-July 2008. The aim of the meeting was to identify the main constraints on humanitarian access and the means of overcoming these difficulties at the legal, political and operational levels. In March 2010, the government of Switzerland, in cooperation with Conflict Dynamics International, launched a project on humanitarian access. As part of this project, a handbook will be written, to be entitled "Humanitarian Access in Situations of Armed Conflict – Handbook on the Legal Framework." It is meant to be used by State actors and authorities, as well as by international and humanitarian organizations. The ICRC and the Geneva Academy of International Humanitarian Law and Human Rights have provided support and legal expertise for this initiative.

B. Respecting and protecting health care in armed conflict and other situations of violence

In situations of armed conflict, IHL provides a robust system of legal protection for health care. Maintaining adequate medical services and achieving respect for health-care personnel, facilities and transports and for those in need of medical attention in armed conflicts were the core concerns behind the foundation of the Movement. These concerns played a pivotal role in the development of IHL, including the four Geneva Conventions of 1949 and their Additional Protocols of 1977, which contain a detailed body of rules in that respect. The ICRC drafted a report entitled *Respecting and Protecting Health Care in Armed Conflict and Other Situations of Violence*, which was submitted to the 2009 Council of Delegates. Moreover, Resolution 8 of the 2009 Council of Delegates on "Respecting and protecting health care in armed conflict and other situations of violence" called upon the ICRC and National Societies to promote, disseminate and support the national implementation of IHL and human rights obligations to respect and protect health care in armed conflict and other situations of violence. The resolution also requested the ICRC to undertake a study on the extent, nature and impact of security problems of any kind on the delivery of effective and impartial health care, and to present a report on this issue to the 31st International Conference.

The ICRC has therefore continued to study this subject and has gathered information through its field operations. According to its research in 16 countries across the globe, millions could be spared if the delivery of health care were more widely respected. In August 2011, the ICRC launched a project entitled "Respecting and protecting health care in armed conflict and other situations of violence" (Health Care in Danger). The project's purposes are to improve the operational practice of the ICRC and National Societies with regard to health care in armed conflicts and other situations of violence, and to engage external stakeholders in a diplomatic process on this issue. The subject will be discussed under agenda item 5.3 at the 31st International Conference. The ICRC has prepared a report entitled *Health Care in Danger: Respecting and protecting health care in armed conflict and other situations of violence*, which, among other things, sets out the respective applicable legal frameworks.

C. Respect for the distinctive emblems

Respect for the distinctive emblems recognized under the Geneva Conventions of 1949 and their Additional Protocols of 1977 and 2005 and for the protection they afford under IHL is fundamental for humanitarian and medical assistance. It is also an essential condition for the fulfilment of the Movement's mission. Pursuant to a recommendation in the Strategy for the International Red Cross and Red Crescent Movement adopted by the Council of Delegates in 2001, the ICRC conducted a study on operational and commercial and other non-operational issues involving the use of the emblems. The Emblem Study analyses 51 issues identified by the ICRC, following extensive consultations within the Movement and with States, as recurrent in relation to the use of the distinctive emblems. The Study aims to ensure greater respect for the emblems at all times, and particularly to reinforce the protection they afford under IHL. It was first presented to the Council of Delegates in 2007 and submitted in its final version to the 2009 Council of Delegates. The Study is in the process of publication and has been the subject of an article published in the *IRRC*, No. 876.

The ICRC, the National Societies and the International Federation of Red Cross and Red Crescent Societies have jointly pursued their efforts, in support of States and national authorities, to monitor cases of misuse of the emblems and to undertake the necessary interventions in such instances.

V. Conduct of hostilities

Resolution 3 of the 30th International Conference recalled a number of principles and rules of IHL governing the conduct of hostilities. The ICRC has finalized its clarification process on the notion of "direct participation in hostilities." Also, progress has been made in protecting civilians against the indiscriminate use and effects of weapons, in particular cluster munitions, explosive remnants of war and anti-personnel landmines.

A. Direct participation in hostilities

From 2003 to 2008 the ICRC worked with a group of some 50 international legal experts, participating in their personal capacity, on a project aimed at clarifying the notion of "direct participation in hostilities" under IHL. Based on a thorough evaluation of the expert discussions and on further internal research and analysis, the ICRC finalized an outcome document entitled *Interpretive Guidance on the Notion of Direct Participation in Hostilities under IHL*. Published in 2009, it reflects solely the ICRC's views. The aim of this guidance is to help distinguish between civilians who must be protected against attack and those who, in exceptional circumstances, lose protection against direct attack. In particular, the Interpretive Guidance aims at clarifying three key questions: (1) Who is considered a civilian for the purposes of conducting hostilities? (2) What conduct amounts to direct participation in hostilities? (3) What modalities govern the loss of civilian protection against direct attack?

To clarify these questions, the Interpretive Guidance, which is not legally binding, contains ten recommendations, addressing, among other things, the definition of a civilian in international and non-international armed conflicts, the constitutive elements of the notion of direct participation in hostilities, the restraints on the use of force in direct attack, and the consequences of regaining civilian protection.

In the course of the expert process it was not feasible to reach a unanimous view on the questions addressed. While the wide variety of views expressed during the expert discussions are recorded and published in separate expert meeting reports, available on the ICRC website, the Interpretive Guidance provides the ICRC's own recommendations as to how provisions of IHL relating to the notion of direct participation in hostilities should be interpreted.

A debate between some experts who participated in the process and have expressed dissenting views and the ICRC was published in the *New York University Journal of International Law and Politics* in 2010. The ICRC is closely following the reception of the Interpretive Guidance and the different positions expressed in relation to some of the recommendations made, and is ready to engage in further exchanges aimed at both clarifying particular aspects of the Guidance and explaining their interlinking nature.

The Interpretive Guidance has meanwhile been translated into Arabic, Chinese, French and Spanish. The ICRC has also engaged in a proactive dialogue with military, governmental, non-governmental, humanitarian and academic circles in order to explain and promote the Interpretive Guidance. The ICRC will now focus on developing tools to further ensure the promotion of the Interpretive Guidance and the inclusion of its content in military doctrines and manuals.

The ICRC hopes that the Interpretive Guidance will be persuasive to States, non-State actors, practitioners and academics alike and that, ultimately, it will help to better protect the civilian population from the dangers of warfare.

B. Protecting civilians against the indiscriminate use and effects of weapons: cluster munitions, explosive remnants of war and anti-personnel mines

There have been important developments on cluster munitions and explosive remnants of war since the 30th International Conference. The most significant was the adoption in 2008 of the **Convention on Cluster Munitions (CCM)**, for which the Movement had made enormous efforts at the national and international levels. This agreement prohibits the use, production, stockpiling and transfer of cluster munitions and commits States to clear contaminated areas and destroy their stockpiles. It also contains significant provisions on victim assistance. The Convention was signed by 108 States and entered into force on 1 August 2010. As of 22 August 2011, the CCM had 60 States Parties. The First Meeting of States Parties was convened shortly after the Convention's entry into force, from 9 to 12 November 2010 in Vientiane, Laos. The Movement took part in this historic meeting and shared in the commitment and the progress made. The Second Meeting of States Parties will be held in Beirut, Lebanon, from 12 to 16 September 2011.

At the Vientiane meeting, States Parties adopted a plan of action which outlines specific commitments to accelerate progress on the clearance of cluster submunitions, the destruction of stockpiles and assistance for victims. In the Vientiane Action Plan, partnership is listed as the number one action. All States Parties are called upon to develop partnerships with relevant actors, including the Movement, for the implementation of the CCM. The CCM's victim assistance requirements are notable, as they are the most far-reaching obligations of this type ever included in an IHL treaty. As a result of these developments, IHL now has a comprehensive and robust instrument with which to address the civilian casualties and suffering caused by cluster munitions and prevent their occurrence in future conflicts. A CD-ROM containing the ICRC's statements and other materials on this topic published between 1976 and 2009 is now available.

The States party to the **Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects as amended on 21 December 2001 (Convention on Certain Conventional Weapons, or CCW)** have also been working to conclude an instrument on cluster munitions. Negotiations in the CCW have been ongoing since 2008 with the aim of developing rules for States not ready to adhere to the Convention on Cluster Munitions. Progress in the CCW, however, has been slow and a protocol has not yet been concluded. Important further steps in this matter will be taken at the Fourth Review Conference of the CCW, to be held from 14 to 25 November 2011, at which States Parties are expected to decide on whether to adopt a new protocol on cluster munitions or to extend or end the CCW's negotiations on this issue.

The operationalization of the CCW's **Protocol V on Explosive Remnants of War** (Protocol V) has also advanced since the last International Conference. Adopted in 2003, the Protocol entered into force on 12 November 2006; as of 26 July 2011, 72 States were party to the instrument. The Protocol sets up a framework to facilitate the rapid clearance of the unexploded and abandoned ordnance resulting from an armed conflict. In the expert meetings and Meetings of States Parties held between 2007 and 2011, States developed a number of tools to facilitate the Protocol's implementation. These included the adoption of a guide and formats to assist national reporting under the Protocol, and several amendments to procedures for requesting assistance for the clearance of explosive remnants of war. In 2009, States party to Protocol V adopted a plan of action on victim assistance that mirrors the obligations of the Cluster Munitions Convention. No other CCW protocol has provisions or requirements in this area.

The total number of States Parties to the 1997 **Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction (Anti-Personnel Mine Ban Convention)** has remained stable for several years, at 156, but important progress has been made in eliminating these weapons and addressing the problems they have caused in countries contaminated by them. As a result of these efforts – in particular the almost total worldwide halting of the use of anti-personnel mines (even by States not party to the Convention), along with mine clearance and mine awareness programmes – the number of victims of mines, as well as of cluster munitions and other explosive remnants of war, has continued to decline. An overview of the state of implementation of the Convention's obligations at the national level can be found in Section VI (B) (1) (d) below. The year 2009 marked the tenth anniversary of the Convention's entry into force, and the Movement, including more than 20 National Societies, attended the Summit and took the opportunity to reaffirm and further strengthen efforts on anti-personnel mines. The 2009 Review Conference of States Parties adopted the Cartagena Action Plan, which commits States Parties to undertake a range of specific actions to promote universal adherence to the Convention and strengthen the implementation of its key areas, namely, victim assistance, the clearance of mined areas and stockpile destruction. This plan will be re-examined at the next review conference, which is expected to be held in 2014.

The Movement participated actively in these developments and worked towards further adherence to and implementation of the instruments mentioned above. One of the most significant actions was the adoption of the Movement Strategy on Landmines, Cluster Munitions and Other Explosive Remnants of War: Reducing the Effects of Weapons on Civilians, adopted by the 2009 Council of Delegates (2009 Movement Strategy). The 2009 Movement Strategy aims to: (1) re-engage the Movement in efforts to prevent civilian suffering caused by anti-personnel mines, cluster munitions, and other explosive remnants of war, reduce the risks to civilians when weapon contamination occurs, and assist victims when preventive and risk reduction efforts fail, and (2) ensure the Movement's capacity to respond to the needs of affected populations during armed conflicts, in the immediate or extended post-conflict period or when natural disasters affect weapon-contaminated areas.

Components of the Movement have been working to implement the strategy since its adoption. A number of National Societies ran first-aid services in areas affected by anti-personnel mines and explosive remnants of war or were engaged in physical and other rehabilitation activities for victims. National Societies were also actively involved in preventive activities to reduce the impact of weapon contamination on the civilian population, by running their own programmes, undertaking bilateral projects, engaging in integrated or other partnerships with the ICRC or contributing financial, material or human resources to ICRC-run programmes. While the ICRC engaged in such activities in many countries, it also continued to provide technical and financial support to a number of National Societies carrying out these activities themselves.

For its part, the ICRC continued its efforts to ensure the ratification and implementation of IHL instruments on cluster munitions, anti-personnel mines and explosive remnants of war. It was actively involved in the Oslo Process which led to the conclusion of the CCM and participated in the First Meeting of States Parties and the June 2011 meeting of experts to further the implementation of the Convention's obligations. The ICRC also participated in the Meetings of States Parties and the intersessional expert work of the Mine Ban Convention and of Protocol V to the CCW. In addition, the ICRC contributed to the CCW's negotiation of a protocol on cluster munitions by providing insight and commentary on the impact in humanitarian terms and the legal implications of the draft protocol under discussion.

ICRC delegations organized many regional and national meetings to promote understanding of each of these instruments and adherence to them by States that were not yet parties. For example, national meetings to facilitate understanding of the CCM were organized in Jordan

and Thailand in 2010. Regional events on anti-personnel mines and explosive remnants of war were held in 2007 in Kuwait for Gulf Cooperation Council States and in Tunis for States of the Maghreb. These treaties are also regularly on the agenda of ICRC-organized regional meetings on IHL issues, such as the annual meeting held in South Africa for States of southern Africa.

The ICRC also produced and distributed a variety of communication materials on these treaties. These included ratification kits for States and films and brochures outlining the treaty requirements. Such materials are regularly used by ICRC delegations and National Societies in their promotion activities to raise awareness and encourage the ratification and full implementation of the Convention.

C. Mechanisms to review the legality of new weapons, means and methods of warfare

Despite pledges made by some States at the 2007 International Conference, the ICRC is not aware of the establishment of any procedures to review the legality of new weapons in a State that did not already have such a mechanism. Such mechanisms are required by Article 36 of Additional Protocol I to ensure that new weapons, means or methods of warfare are not prohibited by IHL or any other rule of international law.

D. Measures to control the availability of arms and ammunition

At the 30th International Conference, States stressed that, "in light of the obligation of States to respect and ensure respect for IHL, adequate measures to control the availability of arms and ammunition are required so that they do not end up in the hands of those who may be expected to use them in violation of international humanitarian law."

Since the last International Conference, the UN General Assembly has repeatedly recognized that the absence of common international standards for the transfer of conventional arms contributes to armed conflict, the displacement of people, crime and terrorism, which, in turn, undermine peace, reconciliation, safety, security, stability and sustainable social and economic development. In January 2010, the General Assembly decided to convene the 2012 UN Conference on the Arms Trade Treaty to elaborate a legally binding instrument on the highest possible common international standards for the transfer of conventional arms. In 2010 and 2011, States, international organizations and NGOs actively participated in Preparatory Committee sessions to begin discussing the elements of an Arms Trade Treaty (ATT) in preparation for the 2012 diplomatic conference. Many States have expressed the view that the ATT should contain a standard by which States shall not authorize a transfer of arms if there is a substantial risk that they will be used to commit or facilitate serious violations of IHL. The negotiation and eventual adoption and implementation of the ATT will create a historic opportunity to reduce the human cost of the widespread and poorly regulated availability of weapons by setting clear norms for the transfer of conventional arms.

In 2008, 2010 and 2011, UN Member States met to discuss their implementation of the UN Programme of Action on Small Arms and Light Weapons. They principally focused on marking, record-keeping and cooperation in tracing, national frameworks, regional cooperation, international assistance and capacity-building, stockpile management and surplus disposal, illicit brokering, and border control mechanisms, including trans-border customs cooperation and networks for information-sharing among law enforcement, border and customs control agencies.

The past four years have also seen many developments at the regional level. In December 2008, the EU Code of Conduct on Arms Exports became a legally binding instrument, which is now known as the EU Common Position on Arms Exports. It defines common rules

governing the control of exports of military technology and equipment, such as the duty to “deny an export licence if there is a clear risk that the military technology or equipment to be exported might be used in the commission of serious violations of international humanitarian law.”

On 29 September 2009, the 2006 ECOWAS Convention on Small Arms and Light Weapons, their Ammunition and Other Related Materials entered into force. On 30 April 2010, 11 African countries⁷ adopted the Central African Convention on the Control of Small Arms and Light Weapons, their Ammunition and All Parts and Components that can be used for their Manufacture, Repair and Assembly (also referred to as the Kinshasa Convention). Both these African regional instruments set out a number of arms transfer standards, some of which are based on the arms recipients’ likely respect for IHL and IHRL, and both aim to deny arms transfers when serious violations can be foreseen. They also call on their States Parties to adopt other measures to control the availability of weapons on their territory, such as stockpile management practices, destruction of surplus weapons, and marking and tracing of weapons.

In 2009, the Council of Delegates adopted a resolution in which it encouraged "National Societies, to the extent possible in their own contexts, to actively raise public awareness of the human costs of unregulated arms availability and to promote a culture of non-violence." National Societies have been engaging their respective governments to encourage their participation in the ATT process.

The ICRC strongly supports all these important instruments and processes. In particular, it has been participating actively in UN and regional meetings to promote the adoption of the ATT. To support and encourage the negotiation of a strong and comprehensive ATT containing a strict IHL criterion, it published a practical guide on applying IHL criteria in arms transfer decisions, which outlines a set of indicators that can be used as a basis for assessments, provides a list of grave breaches and war crimes, and proposes an illustrative list of sources of information relevant to risk assessments. The ICRC more recently published a leaflet describing the ATT process and setting out its position on the objective of the treaty and on the need for strict IHL criteria and a broad scope of weapons and transactions.

⁷ Angola, Burundi, Cameroon, Central African Republic, Chad, Democratic Republic of the Congo, the Congo, Equatorial Guinea, Gabon, Rwanda, and Sao Tome and Principe.

VI. Achieving universal acceptance and effective implementation of IHL treaties

Resolution 3 of the 30th International Conference recalls specific obligations pertaining to achieving effective implementation of international humanitarian law (IHL), such as those referring to the need for States to: adopt all the legislative, regulatory and practical measures necessary to incorporate IHL into domestic law and practice; ensure that the law be translated into measures and mechanisms, at the level both of doctrine and of procedures; and comply with their obligation to respect IHL enforcement, in particular through the rigorous application of the system of individual responsibility for serious violations of IHL in order to put an end to impunity and to encourage future respect.

Since the 30th International Conference in 2007, considerable progress has been made in achieving the widest possible adherence to IHL treaties and in ensuring the effective national implementation of these treaties.

Over the past four years, participants in the 30th International Conference have concentrated their efforts in the following areas:

- participating in treaties that are relevant for the protection of persons and objects in situations of armed conflict and that limit means and methods of warfare;
- implementing at the national level the obligations flowing from these treaties;
- translating IHL into measures and mechanisms at the levels of doctrine, training and education; and
- ending impunity for serious IHL violations.

A. Adherence to IHL treaties

The Geneva Conventions of 1949 and their Additional Protocols are at the core of treaties dealing with the protection of victims of armed conflict, but a growing number of other conventions and protocols covering specific aspects of the law governing armed conflict enhance such protection. It is important that States become party to IHL treaties because these treaties are the result of an international consensus on the necessity of limiting the effects of armed conflict. Universal acceptance of the relevant treaties should lead to enhanced protection for victims of armed conflict since it implies that the same rules apply to all parties. The fact that the four Geneva Conventions have been accepted by almost all States shows that there is universal agreement about the legal obligations to protect victims. Since December 2007, there has been steady progress in the adherence to IHL treaties. Of particular note is the adherence of Afghanistan, Fiji, and Morocco to Protocols I and II, and of Iraq to Protocol I to the Geneva Conventions of 1949. This shows that more and more States recognize the obligations stemming from these instruments; by doing so they contribute to fortifying the international framework of fundamental rights and help to strengthen protection for those who are most vulnerable during armed conflicts.

(See Annex A for a list of new accessions to/ratifications of the main IHL treaties)

The ICRC has supplied national authorities with advice and technical assistance to facilitate their States' adherence to IHL treaties, and helped them to adopt the laws needed for this. It has updated and added to its series of "ratification kits." New or updated versions of these kits were made available for the following instruments: the three Protocols additional to the Geneva Conventions of 1949 and the declaration, under Article 90 of Additional Protocol I, of acceptance of the International Humanitarian Fact-Finding Commission; the 1980 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects and its

Protocols I-V; the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict and its Protocols; the 1998 Rome Statute of the International Criminal Court; the 1997 Convention on the Prohibition of Anti-Personnel Mines and on their Destruction; and the 2008 Convention on Cluster Munitions. These ratification kits may be downloaded from the ICRC's website.

B. National implementation

For IHL to be fully respected, States must do more than just accede to the pertinent instruments of international law. They must also incorporate, into domestic law and practice, the norms contained in these treaties. To achieve this, a number of measures – legislative, regulatory and practical - are required.

Since 2007, many States, with the support of their National Societies, have strengthened their domestic and regulatory frameworks in various areas by incorporating the pertinent IHL norms. Measures relating to these areas as listed in Resolution 3 of the 30th International Conference include those related to protection and use of the distinctive emblems as provided for by the Geneva Conventions and their Additional Protocols, incorporation of sanctions for serious violation of IHL into the criminal legislation, protection of cultural property in the event of armed conflict, regulation of the use of certain weapons, and protection for the rights of missing persons and of their families. To facilitate the adoption of these measures, States have put up inter-ministerial bodies called national committees on IHL.

1. Measures adopted

a) Protection and proper use of the red cross, red crescent and red crystal emblems

Various States have passed or reviewed legislation containing rules on the use and protection of the red cross, red crescent and red crystal emblems; these rules specify the persons and organizations authorized to use the emblems and provide for criminal or disciplinary penalties in the event of their misuse. For example, Australia, Canada, Fiji, Kiribati and the United Kingdom amended their Geneva Conventions Act to incorporate the changes brought about by Protocol III of 8 December 2005 additional to the Geneva Conventions, which concerns the adoption of an additional distinctive emblem. Austria, El Salvador, Switzerland, and Ukraine amended their existing emblem laws. New emblem laws were also adopted by Kosovo,⁸ Slovakia, Sudan and the United Kingdom, while new National Society laws containing emblem provisions were enacted in Jordan and Viet Nam. Other States, such as Argentina, Costa Rica, Ecuador, Guatemala and the Philippines, are reported to be in the process of adopting legislation on the issue.

In **El Salvador**, a law protecting the red cross emblem was passed by Decree No. 808 of January 2009, published on 13 February 2009. An amendment to the previous decree on the subject, it provides for the inclusion of the red crystal and replaces the round emblem of the Salvadorean Red Cross Society with a rectangle that contains no indication of the date of foundation of that National Society.

Mexico has had a law protecting the red cross emblem since March 2007. As part of its programme for 2011, the Inter-Ministerial Committee on International Humanitarian Law, with the help of the Mexican Red Cross, is preparing a draft implementing regulation of the law.

⁸ See UN Security Council Resolution 1244.

The National Societies of Belgium, Colombia, Ecuador, El Salvador, Germany, Honduras, Mexico, Montenegro, Spain, Sweden and the United Kingdom encouraged their respective governments to adopt such legislation. The National Societies of Azerbaijan, Colombia, Palestine, the Philippines and Turkmenistan conducted campaigns aimed at promoting better understanding of the emblem.

The Red Crescent Society of Azerbaijan: In 2008 and 2009, volunteers from the National Society visited a number of medical institutions to discuss the misuse of the red crescent emblem. Some 13 cases of misuse of the red cross and red crescent emblems, in medical institutions and other places, were discovered and adequate measures taken.

b) Incorporation into penal laws and procedures of sanctions for violations of IHL, and domestic implementation of the Statute of the International Criminal Court

IHL requires States Parties to enact domestic legislation providing effective penal sanctions for serious violations of IHL, and the 1998 Rome Statute of the International Criminal Court (ICC) in particular affirms that effective prosecution of the most serious crimes of concern to the international community, including war crimes, must be ensured by both enhancing international cooperation and taking measures at the national level. The Rome Statute also reminds States of their primary responsibility for exercising criminal jurisdiction over those responsible for these crimes and establishes the jurisdiction of the ICC as complementary to national jurisdictions.

In **Chile**, Law No. 20357 was enacted on 26 June 2009 and published in the Official Gazette on 18 July 2009. This law punishes the war crimes set out in the Rome Statute, the 1949 Geneva Conventions, and Additional Protocol I of 1977.

From December 2007 to August 2011, twelve States ratified or acceded to the Rome Statute, bringing the total number of States Parties to 117.

In a number of instances, States, in implementing the Rome Statute, incorporated, either by amending or adopting penal law, not only the crimes listed in the Statute but went further to include the full range of obligations deriving from IHL in the area of repression.

In States with a common-law system, sanctions for serious violations of IHL were mainly incorporated into a Geneva Conventions Act and/or an ICC Implementation Act. In countries following a code-based system, such crimes were incorporated into already existing penal legislation or into penal laws adopted specifically for this purpose.

In **the Philippines**, both chambers of the Congress of the Philippines, in cooperation with the Philippine Red Cross and the ICRC, organized a series of IHL events, including a briefing session with Judge Abdul Koroma of the International Court of Justice, and several training sessions for executive and legislative technical staff. This contributed to the enactment in 2009 of Republic Act No. 9851 on Crimes Against International Humanitarian Law, Genocide and Other Crimes Against Humanity.

The enactment of this law paved the way towards revitalizing interest in IHL in all pertinent sectors, especially since the law itself mandates that the government agencies concerned implement training in IHL for judges, prosecutors and investigators. It has also laid the groundwork for the ratification of the Rome Statute of the International Criminal Court, as well as future adherence to Additional Protocol I of 1977.

The following are among the States that have adopted or amended domestic legislation for penal repression of serious violations of IHL: Argentina, Bangladesh, Bosnia and Herzegovina, Burkina Faso, Chile, Colombia, Ecuador, Fiji, Ghana, Kenya, Mauritius, Nicaragua, Norway, Peru, the Philippines, Spain, Sudan, Switzerland, Timor-Leste, and Uganda.

Processes to develop or amend such penal legislation were reported to be under way in Bolivia, Brazil, Costa Rica, the Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Paraguay and Suriname.

Salvadorean Red Cross Society: Besides encouraging the government to accede to the Rome Statute, the Salvadorean Red Cross, as a member of the country's Inter-Agency Committee on International Humanitarian Law, is also engaged in the process of amending the domestic penal code in order to include crimes listed under the Statute.

Yemen, Jordan, and Sudan have drafted legislation on war crimes where national committees on IHL contributed to the drafting process. In Egypt, the National Committee on International Humanitarian Law is developing legislation on war crimes.

For further information on States' efforts, as well as those of the ICRC, to enact domestic legislation on repression of serious violations of IHL, please refer to section D of this report.

c) Protection of cultural property in the event of armed conflict

Members of the 30th International Conference have also taken action to protect cultural property in the event of armed conflict. Since December 2007, five States have ratified or acceded to the 1954 Hague Convention for the Protection of Cultural Property (Hague Convention), bringing the total number of States Parties to 123. Three more States have acceded to the First Protocol to the Convention (1954), which now has 100 States Parties; and twelve more have acceded to the Second Protocol (1999), bringing the number of States Parties to 60.

Following its participation in the Commonwealth of Independent States' second regional seminar on IHL implementation (held in St Petersburg in 2008), where the issue of protecting cultural property was discussed, the Ministry of Culture of the **Russian Federation** drafted an amendment to domestic law to facilitate implementation of the Hague Convention, and established a commission to implement the Convention.

Several States made efforts aimed at the domestic implementation of obligations deriving from these treaties, the adoption of adequate measures to safeguard and protect cultural property in the event of armed conflict and the repression of violations of relevant international norms.

On 27 November 2009, the Federal Council of **Switzerland** approved an inventory of cultural property of national importance pursuant to Article 3 of the ordinance adopted on 17 October 1984 (on the protection of cultural property during armed conflict).

The Netherlands adopted an Implementation of the 1970 UNESCO Convention on the Illicit Import, Export and Transfer of Ownership of Cultural Property Act on 12 June 2009 as domestic legislation for the protection of cultural property: . El Salvador, Guatemala and Paraguay identified and established inventories of cultural sites and property and have begun to mark them.

National authorities in Armenia benefited from the ICRC's advice on implementing the conventions on cultural property and Belarus made headway in implementing the Hague Convention.

It must be noted that many national committees on IHL and similar bodies were actively involved in efforts to adopt national measures for protecting cultural property in the event of armed conflict. In Belarus, under the auspices of the country's Commission on Implementation of International Humanitarian Law, a study examining the compatibility of the domestic legal framework with obligations deriving from the Hague Convention and its Protocols was presented to authorities at a national roundtable.

As part of its contribution to the work of the Belgian inter-ministerial commission for humanitarian law, the **Belgian Red Cross** (Francophone Community and Flanders) was involved in the publication, dissemination and promotion of a brochure on the protection of cultural property in Belgium during armed conflict and peacetime.

In Ecuador, the *Comisión Nacional para la Aplicación del Derecho Internacional Humanitario* worked towards the ratification of the Hague Convention. In Malaysia, members of the national committee on IHL, *Jawatankuasa Undang-Undang Kemanusiaan Antarabangsa Malaysia* – who sit on sub-committees, including those on matters related to the protection of cultural property – attended basic and advanced ICRC-led briefings on IHL. In Egypt, the National Committee on International Humanitarian Law worked on draft legislation to incorporate the repression of war crimes and the provisions of the Hague Convention into domestic law. In Nepal, National Committee for the Implementation of IHL has recommended that the country accede to the Hague Convention and its Second Protocol. In Guatemala, the *Comisión Guatemalteca para la Aplicación del Derecho Internacional Humanitario* has done a great deal of work to identify and mark cultural sites and property.

The authorities in **Cameroon** and **Congo** built up their capacity to incorporate IHL into domestic law by taking part in briefings and workshops – convened in cooperation with the ICRC – on protecting cultural property. **Estonia** and **Bosnia and Herzegovina** organized international conferences on implementing treaties protecting cultural property. **Malaysia** conducted a workshop for government officials on the protection of cultural property during armed conflict. **Pakistan** organized a national conference on IHL and identified the Hague Convention as one of the IHL treaties it could ratify. At a conference organized by UNESCO in Beirut in 2009, the ICRC provided Lebanese authorities with comprehensive information on legal aspects of the Hague Convention.

Improved Azerbaijani translations of the Hague Convention and its two Protocols were published. In addition, a conference on the protection of cultural property during armed conflict was co-organized by the Ministry of Culture and Tourism in Azerbaijan; the ministry subsequently began to draft a plan of action to implement the Convention. In Afghanistan, the ICRC used Dari and Pashto translations of the Convention during seminars and meetings.

With support from the ICRC, a number of States organized meetings on the issue of protecting cultural property during armed conflict; the subject was also addressed in workshops and conferences involving international and/or regional organizations and the ICRC.

Members of the League of Arab States discussed the issue within the framework of a regional seminar on IHL conducted in

Beirut, as did members of the Commonwealth of Independent States (CIS) within the framework of a regional seminar on implementing IHL that was held in St Petersburg in 2008.

In addition, the Interparliamentary Assembly of the CIS reviewed recommendations for implementing the Hague Convention. The ICRC contributed to the UNESCO review, "Protecting Education from Attack," and to the five meetings of the UNESCO Committee for the Protection of Cultural Property in the Event of Armed Conflict established on the basis of the Second Protocol of 1999 to the Hague Convention.

d) Regulating the means and methods of warfare, particularly the use of certain weapons

Since the last International Conference, there have been significant developments in the effort to make weapons treaties universally accepted in terms of adherence: three States ratified or acceded to the Protocol for the Prohibition of the Use of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare; five to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction; six to the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction; 11 to the Convention on Certain Conventional Weapons (CCW); 16 to the CCW revised Framework Convention; 11 to Protocol I to the CCW (non-detectable fragments); five to Protocol II to the CCW (mines, booby-traps and other devices); nine to Amended Protocol II to the CCW (application in non-international armed conflicts); 12 to Protocol III to the CCW (incendiary weapons); 12 to Protocol IV to the CCW (blinding laser weapons); and 35 to Protocol V to the CCW (explosive remnants of war).

In Australia, Belgium, Bulgaria, Germany, the Netherlands, New Zealand, Norway, and Spain, National Societies have appealed to the pertinent national institutions to contribute to efforts to ratify the CCW in 2008.

The Convention on Cluster Munitions (CCM) is a significant step forward in the evolution of IHL, particularly in the area of weapons. It is a relatively young treaty, having entered into force only on 1 August 2010. Even so, it has already been ratified by 60 States and implementation of its key provisions is well under way.

During the period covered by this report, various countries adopted domestic laws on weapons. Bahrain, Cook Islands, Peru, Samoa and Sri Lanka implemented the Convention on Chemical Weapons. Fiji recently enacted legislation against biological weapons. Cook Islands, Colombia, Kiribati, Ireland and Mauritania adopted laws to implement the 1997 Mine Ban Convention. Austria, France, Germany, Ireland, Japan, Luxembourg, New Zealand, Norway and the United Kingdom enacted legislation on cluster munitions. South Africa adopted a law on certain conventional weapons. Peru passed a law on small arms and light weapons. Guatemala adopted the weapons and munitions law that penalizes the manufacture, export-import and possession of arms and munitions by private individuals, and forbids the army to use weapons banned by the treaties it ratified. The United States introduced a moratorium on landmines and cluster munitions.

Other countries that enacted penal legislation for tackling serious violations of IHL also adopted, out of necessity, penal sanctions for violations related to the means and methods of warfare, which included prohibitions against the use of certain weapons. Ecuador, Ghana, Nicaragua, Norway, Peru, the Philippines, Sudan, Timor-Leste and Uganda were among the countries that did so.

National Societies also played an important role in efforts to promote the ratification and implementation of the Convention on Cluster Munitions, the AP Mine Ban Convention and Protocol V to the CCW. Some National Societies have also been very active in helping shape

national implementing legislation for these instruments.

In addition to enacting domestic legislation to penalize violations, States must act in certain other areas to fully implement the treaties regulating weapons. Such action often includes destruction of stockpiles of prohibited weapons, clearance of contaminated land and provision of assistance to victims. Domestic measures and programmes in these areas are essential for dealing with and reducing the impact of anti-personnel landmines, cluster munitions and other explosive remnants of war.

A full assessment of the variety and extent of the domestic measures taken by States Parties to fulfil their commitments under weapons-related treaties is not within the scope of this document. Nevertheless, information provided by States Parties and non-governmental organizations sheds some light on the

Ireland was one of the States that promoted the development of a new IHL instrument on cluster munitions, a major international initiative that culminated in the negotiation and adoption by consensus of the CCM at a diplomatic conference hosted and chaired by the government of Ireland in Dublin in May 2008. The Convention was adopted at the Dublin conference by 107 States. Ireland signed and ratified the Convention on 3 December 2008.

On 2 December 2008, the Irish parliament enacted the Cluster Munitions and Anti-Personnel Mines Act of 2008 to give effect in domestic law to the CCM and to give further effect to the Mine Ban Convention of 1997.

In November 2010, Ireland made a substantial contribution to a trust fund managed by the United Nations Development Programme; the fund provided support for meetings of the States Parties and has, since 2006, also provided over 4.6 million euros for the clearance of landmines in Laos.

Cyprus: Ministerial Order 257/2005 was issued in order to implement EU Common Position 2008/944/CFSP. It establishes a system for controlling the export of arms and defines the conditions under which the Minister for Commerce, Industry and Tourism may approve the export of military equipment listed in the Common Military List of the European Union. A committee made up of representatives of various government departments assists the minister in the exercise of his or her duties. All competent authorities of the Republic of Cyprus cooperate closely to prevent the unlawful transfer of conventional weapons and related technology.

implementation of two of the weapons-related agreements concluded in recent years, namely the Mine Ban Convention and the CCM.

Of the total of 156 State Parties to the Mine Ban Convention, 86 have completed the destruction of their stockpiles of anti-personnel mines: they have collectively destroyed over 45 million anti-personnel mines in accordance with their obligations under the treaty. Most of the other States Parties have no stockpiles to destroy. In addition, 18 States Parties have completed the clearance of mined areas under their jurisdiction or control. In other States Parties affected by anti-personnel mines, the implementation of the Convention's clearance obligations is in progress. However, some States are facing major difficulties in fulfilling their obligations in these areas. Four States have not met the four-year deadline for completing the destruction of their stockpiles. In addition, 22 States Parties have requested extensions of their 10-year deadline for clearing anti-personnel mines. The Convention permits such extensions when they are justified. While strong progress is being made in the implementation of important provisions of the Convention, attention and efforts must remain focused on these areas.

With regard to measures for implementing the CCM, as at 1 June 2011, eight States Parties reported that they had already completed the destruction of their stockpiles of cluster munitions;⁹ two additional States Parties are in the process of doing so. States party to the CCM have, reportedly, already destroyed 589,608 cluster munitions containing over 64.4 million sub-munitions. Other States Parties with stockpiles of cluster munitions indicated that they have either begun the physical destruction of their cluster munitions or are in the process of developing a national plan to meet their obligations in this area. All States Parties with stockpiles have indicated they will complete the destruction of their stockpiles before the expiration of the eight-year deadline mandated by the Convention.

With regard to clearance, four States party to the CCM are affected to a significant degree by cluster munition remnants; in each, clearance programmes are in progress.

The provision of assistance to victims remains a challenge under both the Mine Ban Convention and the Convention on Cluster Munitions. While the Mine Ban Convention does not contain explicit operative requirements on victim assistance (it is included as an element of international assistance and cooperation) significant practise on assistance at the national level has nonetheless developed. Based in large part on experience gained in treating the survivors of anti-personnel mines, negotiating States included detailed requirements on victim assistance in the CCM and, in the context of the CCW, developed a plan of action on victim assistance for the Protocol on Explosive Remnants of War (Protocol V).

e) Protecting the rights of missing persons and their families

In armed conflicts and other situations of violence, hundreds or even thousands of people go missing, causing anguish and uncertainty for their families and friends. Since the 30th International Conference, numerous governments and National Societies, as well as the ICRC and the International Federation, have continued to conduct activities and implement measures with a view to protecting the rights of persons missing in connection with armed conflicts or other situations of violence and the rights of their families.

Such measures included: conducting studies to determine the compatibility of domestic legal and regulatory frameworks with obligations deriving from international law, in order to identify gaps; enacting legislation and taking other steps to prevent persons from becoming unaccounted for, such as distributing personalized identity cards and tags to members of armed forces, journalists, medical personnel, etc.; taking steps to ascertain the fate of missing persons and protect their rights and those of their families; collecting and managing data to identify the mortal remains of missing persons, as well as handling human remains; and establishing and reinforcing mechanisms at appropriate levels that would be responsible for dealing with the issue of missing persons.

Domestic measures, including legislation and the establishment of specific mechanisms for protecting the rights of missing persons and their families, and addressing their needs, have either been adopted or amended since December 2007 or are beginning to be developed in several States around the world. Legislative measures included regulations and directives on the handling and identification of human remains, the establishment of a system of reparations/compensation for families of missing persons and the creation of a national register of missing persons. In many instances, National Societies and national committees on IHL were involved in these efforts.

⁹ This includes the information provided by States Parties for cluster munitions and explosive sub-munitions destroyed before the entry into force of the CCM.

A number of States have adopted domestic legislation or regulations for protecting the rights of missing persons and their families, such as: **Colombia** (Ley de Homenaje a las Víctimas de las Desapariciones Forzadas – a law that ensures respect for victims of disappearance by providing for, among other things, the establishment of a national DNA database on missing persons, protection for *ningún nombre*, or anonymous, burials in cemeteries, dignified restitution of remains, psychosocial support for families, and memorials; Victims' Rights and Land Restitution Law 1448 of 2011, which covers measures of reparation and various services to victims of the armed conflict since 1985 and their families, including missing persons; Armed Forces Directive No. 10/2007 on the Reaffirmation of the Obligations of the Law Enforcement Authorities to Prevent Homicide against Protected Persons; and adoption of the CONPES 3590 document of 1 June 2009, which made it possible to consolidate tracing and identification mechanisms for missing persons), **Kyrgyzstan** (Law of the Kyrgyz Republic on Information of a Personal Nature, 14 April 2008), **Montenegro** (Decision No. 03-2160 of the Government of the Republic of Montenegro to form a Commission on Missing Persons), **Peru** (Supreme Decree n° 051-2011 - PMC of 15 June 2011 establishing the deadline for the conclusion of the process for the identification and determination of the beneficiaries of the program for economic reparations and the possibility to provide such reparation which lists among the identified beneficiaries of the program the families of missing persons that will be eligible for financial reparation), **Spain** (Law No.52/2007 to Recognize and Broaden Rights and to Establish Measures in Favour of those who Suffered Prosecution or Violence during the Civil War and the Dictatorship) and **Switzerland** (the amended Federal Act on Data Protection of 19 June 1992 [Status as at 1 January 2011]).

A significant amount of work has also been done to assess the accuracy of existing legislation and/or amend or develop such legislation in the following countries: Armenia, Bolivia, Chile, Georgia, Guatemala, Kosovo,¹⁰ Lebanon, Mexico, the Philippines and Uruguay.

As part of their efforts to reinforce their normative framework with regard to missing persons, a number of countries acceded to the International Convention for the Protection of All Persons from Enforced Disappearance or initiated processes aimed at their becoming party to this instrument; many of them included the crime of forced disappearance in their legislation. The following were among the countries that took these steps: Argentina, Armenia, Belgium, Bolivia, Brazil, Burkina Faso, Chile, Cuba, Ecuador, France, Gabon, Germany, Honduras, Iraq, Japan, Kazakhstan, Mali, Mexico, the Netherlands, Nigeria, Panama, Paraguay, Senegal, Serbia, Spain, Tunisia, Uruguay and Venezuela.

¹⁰ See UN Security Council Resolution 1244.

A number of States have been working on draft legislation, such as: **Bolivia** (a preliminary Supreme Order drafted in 2007 – related to suitable operational practices for handling human remains and information on missing persons and to a judicial declaration of absence owing to forced disappearance – is pending approval), **Guatemala** (Bill 3590, drafted by the country's IHL committee – related to the creation of a national tracing committee – is pending approval by the Guatemalan Congress), and **Mexico** (a draft law on the creation of a national register for missing persons – Ley del Registro Nacional de datos de personas extraviadas o desaparecidas – is pending final approval by the Mexican Congress. The law covers all missing and disappeared persons, regardless of age or sex, as well as those who have been found, arrested, detained, interned or hospitalized, all those who for some reason are unable to provide their personal data, information about domicile, etc., and persons who are dead but unidentified, and whose families regard them as having disappeared).

In a number of countries, the authorities showed their willingness to assume their responsibilities with regard to missing persons and their families, in particular by improving forensic procedures and the management of human remains. In Kosovo,¹¹ two major laws were adopted: the Law on the Establishment of the Department of Forensic Medicine in June 2009 (which made the department the public authority responsible for providing expertise in forensic medicine and in medico-legal death investigations; the department's responsibilities included exhuming human remains related to the armed conflict in Kosovo¹² and returning them to families) and the Law on Forensic Medicine in April 2010 (which regulated the working procedures of forensic practitioners). The Iraqi government established the Mass Graves Department at the Medico-Legal Institute in Baghdad and began to build DNA laboratories for it. In Mexico, the Supreme Court and the ICRC organized the first national meeting of forensic services, which resulted in the creation of a working group to draw up a national protocol for the identification of dead bodies. In Peru, the attorney-general issued a humanitarian directive to ease the work of prosecutors in charge of forensic investigations. Argentina, with support from the ICRC, developed a manual on the use of DNA to identify corpses or human remains during criminal investigations.

In **Colombia**, a number of important developments have taken place. The Ministry of the Interior, the national civil registry and the national medico-legal institute began implementation of a large-scale project to compare fingerprints from data at the registry with autopsy reports on unidentified bodies: so far, over 5,000 matches have been made, which enabled the death of these persons to be confirmed and their bodies, after they were located, to be returned to families. An internal directive of the medico-legal institute on autopsies of complicated cases – to ensure that unidentified remains and cases involving possible victims of human rights and IHL violations were being handled by experts and not by inexperienced rural doctors – was also adopted. Additionally, a number of internal resolutions of various State institutions, regarding the implementation of search mechanisms, were adopted.

¹¹ See UN Security Council Resolution 1244.

¹² See UN Security Council Resolution 1244.

In several regions and States, including Bosnia and Herzegovina, Kosovo,¹³ and Nepal, domestic institutions for tackling the issue of missing persons have been established or strengthened (in some places, the process is under way). Expertise and capacity have been widened and enhanced to better serve the needs of missing persons and their families. In some cases, as in East Timor and Guatemala, transitional justice processes were used. In addition, multi-party working groups were created to deal with cases of persons missing as a result of armed conflict: during the Iran-Iraq war from 1980-1988 and during the conflict between the Russian Federation and Georgia over South Ossetia and Abkhazia. In some instances, the parties involved have been willing to exchange plans of action, to better monitor the steps taken to respond effectively to the needs of missing persons and their families (Kuwait/Iraq and Kosovo).¹⁴

Uganda: The Uganda People's Defence Force distributed personalized identity cards and tags to its personnel to facilitate the identification of military casualties and to prevent or resolve cases of disappearance.

The German Red Cross has supported the reform of the legal basis for protecting the rights of missing persons and their families as set out in the following laws:

- Federal Act on the German Red Cross of 5 December 2008 specifying the RFL activities of the German Red Cross as defined in the Geneva Conventions;
- Federal Act of 2 April 2009 regulating the handling of personal data within the tracing service of the German Red Cross and the tracing services of ecclesiastical welfare associations in compliance with domestic laws on the protection of personal data.

Some States (e.g. Azerbaijan, Kyrgyzstan, Nepal, Serbia, and Timor-Leste) have considered – either by amending existing domestic legislation or through specific provisional decrees – granting victims, including the families of missing persons, specific social and financial benefits. These include such benefits as pensions for the families of missing soldiers, reduced health care and tuition fees, child allowances, food assistance and interim relief.

In 2007, the International Red Cross and Red Crescent Movement adopted a ten-year Restoring Family Links Strategy to strengthen its capacity and action during

armed conflict and other situations of violence, disasters, migrations and other situations requiring a humanitarian response, and to better address the needs of separated families and people without news of their loved ones.

Since then, the ICRC has developed new technical guidelines, materials and mechanisms to provide support for domestic and international efforts aimed at restoring family links (RFL) during emergencies. A pool of 64 specialists from the ICRC and various National Societies has been operational since early 2009. A total of 19 members of the pool have been deployed in nine different crises: earthquakes in Indonesia, Haiti and Chile; tropical storm Agatha in Guatemala; floods in Pakistan; civil unrest and armed violence in Kyrgyzstan, Côte d'Ivoire and Libya; and the earthquake and tsunami in Japan.

Between 2008 and 2011, National Societies incorporated RFL needs and

As part of its RFL strategy, the **Red Cross of Chad** has established throughout the country a structure that meets RFL needs and provides services. This has helped to strengthen coordination and cooperation with the ICRC's delegation in Chad and increase support for RFL activities. During the events of 2 February 2008, the inhabitants of N'Djamena were able to contact their relatives outside the city; the same work is being done at present at Faya in Borkou with people who have returned from Libya.

¹³ See UN Security Council Resolution 1244.

¹⁴ See UN Security Council Resolution 1244.

risks more effectively into their national disaster/emergency preparedness and response plans. Now, during an emergency, RFL needs are systematically assessed and RFL specialists (staff and volunteers from National Societies or the ICRC) deployed to respond effectively.

Following the 30th International Conference of the Red Cross and Red Crescent, the Advisory Committee of the UN Human Rights Council prepared a report on best practices with regard to the issue of missing persons. Additionally, parliamentarians working on the complex issue of missing persons and their families can now draw on a handbook on the subject jointly produced by the Inter-Parliamentary Union and the ICRC: it was formally launched within the framework of the 121st Assembly of the Inter-Parliamentary Union in October 2009. At the regional level, the General Assembly of the Organization of American States has adopted on a yearly basis a resolution on "Persons Who Have Disappeared and Assistance to Member [sic] of Their Families." Following an international conference on IHL in St Petersburg, the Inter-Parliamentary Assembly of the Commonwealth of Independent States adopted a model law on missing persons that member States could replicate. At the Council of Europe, the Committee of Experts on Family Law adopted a recommendation concerning missing persons and the presumption of death, which emphasizes the importance of providing missing persons and their families with a legal status and adequate assistance for the latter.

Beside the ten-year RFL strategy, the ICRC continues to work on the Family Link Website.¹⁵ This web-based platform has been launched in 1996 for the first time for the Balkan conflict, it serves the purpose of issuing lists of missing persons in armed conflict and for people to directly register and search information on persons missing or confirmed alive after a disaster. This website is being upgraded in order to facilitate its management by National Societies and interaction with field operations. It is currently active in six countries: Bosnia and Herzegovina, Croatia, Japan, Kosovo,¹⁶ Nepal and Somalia. For each of these countries, the National Society is involved in the process. About 60 members of the RFL specialist pool and about 40 ICRC data administrators work on this database.

International and regional organizations, in particular the United Nations Human Rights Council, the Inter-Parliamentary Union, the Inter-Parliamentary Assembly of the Commonwealth of Independent States, the Organization of American States and the Council of Europe stepped up their efforts to raise awareness of the issue of people missing as a result of armed conflict and other situations of violence and to seek ways of alleviating the suffering of their families.

f) Other measures for national implementation

During the period covered by this report, many States also adopted other domestic measures related to IHL. Particular attention was paid to the development of laws and regulations to protect children during armed conflict. The United States of America adopted the Child Soldiers Accountability Act of 2008, which criminalized the recruitment, enlistment or conscription into armed forces or armed groups of persons under the age of 15, or the use of such persons to actively participate in hostilities; the law also provides a definition of 'active

¹⁵ See <http://www.icrc.org/FAMILYLINKS>.

¹⁶ See UN Security Council Resolution 1244.

participation in hostilities. Besides criminalizing the enlistment or use of children below the age of 18 in armed forces or armed groups, a newly adopted law in the Democratic Republic of the Congo also guaranteed protection for children affected by armed conflict, as well as education and reintegration. Norway raised the minimum age for conscription of children from 15 to 18 and criminalized the use of children under 18 to participate actively in hostilities.

Denmark has initiated the "Copenhagen Process on the Handling of Detainees" that aims at identifying a solution to the challenges of handling detainees in international military operations. On the Copenhagen Process, the Danish government held the Second Copenhagen Conference in June 2009. A draft on Guiding Principles on the handling of detainees in international military operations has been produced on the basis of discussions at various events as well as other input received throughout the process. This draft is now being discussed with all participants in the Copenhagen Process.

In Peru, a draft law on the modification of the Children and Teenagers' Code and of the Criminal Code was presented to the Congress of the Republic by the Executive authorities in January 2011 (Draft Law n° 461/210). The draft law aims at incorporating into the penal code the crime of recruitment or enlisting by any civil or public servant or any other person of minors under 18 years in to either the armed forces or armed groups. It also provides for an amendment of the Children and Teenager's Code with a view to align its provisions with the new crime to be established.

New domestic measures on judicial guarantees have been adopted. For instance, the United States has adopted the following: the Military Commissions Act of 2009, which provides for increased

judicial guarantees for, among others, privileged enemy belligerents; and executive orders on Ensuring Lawful Interrogations and on the Review And Disposition Of Individuals Detained At The Guantanamo Bay Naval Base And Closure Of Detention Facilities.

2. National committees on IHL

States continued, during the last four years, to show their commitment to the domestic implementation of IHL. Nineteen new national committees on IHL or similar bodies were created, bringing the total number to 101. A few national committees also underwent some restructuring. In Comores, the *Commission interministérielle du droit international humanitaire* was reorganized in 2010 to make it more effective

Many existing and new national committees and similar bodies on IHL continued to show, through their efforts and activities, that they can play a valuable role in helping States to implement IHL.

The composition of these bodies is extremely heterogeneous: they consist of representatives not only from ministries of justice, defence and foreign affairs, but also from ministries of health, education, labour, women's affairs, and finance. Most of them also include a representative from the National Red Cross or Red Crescent Society and representatives from the

New national committees on IHL or similar bodies were established in **Algeria, China, Cook Islands, Honduras, Iceland, Ireland, Lebanon, Malaysia, Mexico, Morocco, Mongolia, Nigeria, Samoa, Saudi Arabia, Serbia, Spain, Switzerland, Turkmenistan and Uganda.**

parliament, the armed forces, civil society and academia.

The mandate of national committees on IHL or similar bodies is to advise on and facilitate coordination in all matters relating to the implementation of IHL at the national level, and to promote knowledge of and compliance with the law. The assistance they provide can take many forms. Some national committees on IHL only draft legislation relating to IHL, especially when they are closely affiliated to the executive branch of government, as in Belgium. Others may serve only as advisers: for example, in the United Kingdom, the Interdepartmental Committee on International Humanitarian Law ensures that IHL is always taken into consideration. A number of national committees on IHL are also involved in monitoring, education, promotion and coordination.

In **Lesotho**, the National Red Cross Society has an influential role. As a member of the national IHL committee, it plays a part in ensuring that the various government ministries are aware of the importance of IHL.

In **Australia, Brazil, Canada, China, Denmark, Ecuador, Germany, Macedonia, Germany, Hungary, Iran, Japan, Jordan, New Zealand, the Philippines, Slovakia, the United Arab Emirates and Yemen**, the National Red Cross / Red Crescent Societies act as the secretariat for the national IHL committee.

National committees on IHL of various countries have maintained contact with one another and worked together on several issues. For example, El Salvador was able to help Guatemala with the task of making an inventory of cultural sites and property and marking them for protection. The Moroccan National Commission for International Humanitarian Law established contact with that of Peru, and the national committee of Serbia was invited to attend a meeting of the newly established Swiss interdepartmental commission for IHL.

Last year, several national committees on IHL attended regional meetings to share experiences and best practices. The International Conference of National Committees on International Humanitarian Law of Latin America and the Caribbean was held in Mexico from 30 June to 2 July 2010. Organized by the ICRC, the Secretary of Foreign Affairs of Mexico and the Mexican Inter-Ministerial Commission on International Humanitarian Law, the conference was

In **Romania**, a wide-ranging strategy for the implementation of IHL was drawn up by the national IHL committee: it targets many sectors, such as the armed forces, the media, and the universities.

attended by 16 national committees on IHL and Suriname. It adopted a number of conclusions and recommendations: members of the national committees that were in attendance recommended that such an event be repeated at regular intervals.

In 2009, the National Committee for the Implementation of International Humanitarian Law of Jordan, in collaboration with the League of Arab States and the ICRC, organized a regional meeting for Arab experts and members of national committees on IHL on domestic implementation of IHL. In 2010, the Egyptian national committee, in cooperation with the Arab Inter-Parliamentary Union and the ICRC, organized a regional meeting for Arab parliamentarians on their role in implementing IHL. In 2011, the Moroccan national committee, the League of Arab States, and the ICRC organized a regional meeting for Arab experts and members of national committees on IHL on incorporating the crimes under the jurisdiction of the ICC into domestic law. Also in 2009, to increase the capacity, commitment

and activities of Commonwealth governments in the field of IHL, through the use of their national committees on IHL, 15 such bodies met in New Delhi, India,

Finally, national committees on IHL and other State observers participated in the Third Universal Meeting of National Committees for the Implementation of International Humanitarian Law organized by the ICRC and held in Geneva in October 2010. The objectives of the meeting were twofold: a) to provide a forum for national committees to meet and exchange information about their respective mandates, operations, and activities as well as to discuss their successes and their difficulties in implementing IHL at the national level; and b) to explore the role of domestic law in preventing and responding to serious violations of IHL.

In late 2009 and early 2010, the national IHL committee of **Peru** (CONADIH) prepared two legislative proposals on regulating the use of force. They were adopted by the Ministry of Justice and, with the help of the Ministry of Defence, presented to the Council of Ministers. The laws brought into being by the CONADIH proposals were adopted by decree on 1 September 2010.

3. The ICRC's efforts to enhance implementation of IHL

a. Provision of legal and technical advice

To achieve worldwide ratification and implementation of IHL treaties, the ICRC Advisory Service on International Humanitarian Law works closely with governments, taking into account their specific needs and their respective political and legal systems; it helps them in their efforts to accede to or ratify IHL treaties and to put in place comprehensive domestic laws and regulations to implement the obligations deriving from these treaties.

Through its network of legal advisers the ICRC has continued, since December 2007, to engage in active dialogue with national authorities throughout the world to promote accession to and domestic implementation of IHL treaties. It provided legal and technical advice to governments in many countries seeking to develop domestic legislation, organized seminars and meetings of experts, compiled fact sheets and other specialized documents and collected and supplied information on laws and regulations that have been adopted (and on the related case law). It has worked closely with governments, taking into account their specific needs and political and legal systems, and cooperated with National Societies, national committees on IHL and similar bodies, academic institutions, and international and regional organizations.

The ICRC continued to pursue its efforts to improve the capacities of governments and local bodies to deal with the issue of protecting the rights of missing persons and their families: it combined awareness-raising with the provision of technical support (legal advice and, sometimes, financial support and assistance). National Societies often provided support for these efforts. The ICRC's activities in this area since the 30th International Conference included, but were not limited to the following: promoting the pertinent provisions of IHL and international human rights law; lending support for the development of appropriate domestic legislation and regulations; assisting authorities in setting up mechanisms for addressing the issue of missing persons; cooperating with the authorities and other interested parties with a view to ascertaining the fate of missing persons, including by passing on relevant information; tracing people who are unaccounted for; helping the pertinent authorities to handle human remains; and providing support for the families of missing persons.

The issue was periodically raised with the pertinent State authorities in various regions, particularly in the countries of the Western Balkans, in the northern and southern Caucasus, in South-East Asia, in Nepal and in Latin America. It was also often the subject of discussion

in regional and national workshops and conferences organized with the involvement of the ICRC: in Nepal and in Bujumbura, during seminars on missing persons for national authorities; in the Philippines, at an international workshop for prosecutors on mechanisms to prevent forced disappearances; in Australia, during an Asia-Pacific regional seminar on forensic capacities and in Argentina at a similar conference aimed at promoting a manual on the use of DNA in the identification of human remains; and at an international conference in St Petersburg.

In October 2008, the ICRC and the State Commission on Prisoners of War, Hostages and Missing Persons of the Republic of **Armenia** signed a framework agreement on the collection and centralized management of ante-mortem data on persons missing in relation to the Nagorny Karabakh conflict. Following the signing of an operational project agreement by the Armenian Red Cross and the ICRC, National Society volunteers were trained and data collection began. Volunteers also received follow-up training and psychological support. By the end of the year, some 90 families had been interviewed by these volunteers and ICRC staff in all 11 districts of the country, including Yerevan.

During the period covered by the report, the ICRC provided legal expertise on the issue of missing persons, and in particular on the establishment of suitable mechanisms in, *inter alia*, Armenia, Bosnia and Herzegovina, East Timor, Guatemala, ., ¹⁷ Nepal and Peru.

The ICRC continued to work throughout the Caucasus with all those involved, to determine the fate of missing persons and to provide support for their families. In Armenia and Azerbaijan, the authorities and the ICRC concluded framework agreements on the collection and management, by the respective State commissions on missing persons, of ante-mortem data relating to the Nagorny Karabakh conflict.

In the Western Balkans, ascertaining the fate of the approximately 14,000 people

still unaccounted for remained a priority for the ICRC, which continued to remind all the parties of their obligations in this regard. The organization also lent its support to exhumation and identification processes and to the Missing Persons Institute of Bosnia and Herzegovina: this included the passing on of relevant data. It maintained contact with the families of missing persons and provided support for their associations. It chaired several sessions of the Working Group on Missing Persons, the only forum for dialogue between Belgrade and Pristina on the issue of missing persons, and assisted in obtaining relevant information from external sources, such as the International Criminal Tribunal for the former Yugoslavia.

b) Universal, regional and national meetings

The ICRC also organized, or contributed to, a broad range of national and regional conferences, seminars and workshops in relation to IHL and its incorporation into domestic law. Many of these were either organized in cooperation with State authorities, including national committees on IHL, or held under their auspices.

The interdisciplinary discussions among experts that began in 2006, on the role and effect of sanctions against perpetrators of serious violations of IHL in ensuring greater respect for the law, continued. The proceedings of this initiative were published in the *International Review of the Red Cross* (Vol. 90, No. 870, June 2008) and the issue was discussed during a series of regional and national seminars on the subject of domestic implementation of IHL.

¹⁷ See UN Security Council Resolution 1244.

Discussions were also held with all those concerned on the issue of jurisdiction for prosecuting serious IHL violations, including universal jurisdiction.

In order to assist States further in their implementation of IHL treaties, experts convened in Nairobi (Kenya) at a meeting jointly organized by the ICRC and the United Nations Environment Program (UNEP) to discuss the implementation of legislation to protect the environment during armed conflicts. They examined guidelines, with a view to improving domestic implementation of international treaty law and customary rules on environmental protection. At another expert meeting on children in armed conflict, which was held in Geneva (Switzerland), 45 participants worked on developing guiding principles for domestic implementation of the law relating to children associated with armed forces or armed groups.

The ICRC also organized, or contributed to, a broad range of national and regional conferences, seminars and workshops in relation to IHL and its incorporation into domestic law. These included events organized in Abidjan (Côte d'Ivoire), Abu Dhabi (United Arab Emirates), Abuja (Nigeria), Amman (Jordan), Apia (Samoa), Bangkok (Thailand), Baku (Azerbaijan), Beirut (Lebanon), Cairo (Egypt), Dakar (Senegal), Dhaka (Bangladesh), Douala (Cameroon), Jakarta (Indonesia), Kathmandu (Nepal), Lima (Peru), London (United Kingdom), Lomé (Togo), Manila (Philippines), Mexico City (Mexico), Minsk (Belarus), New Delhi (India), Praia (Cape Verde), Pretoria (South Africa), Rabat (Morocco), San Jose (Costa Rica), Santiago de Chile (Chile), Seoul (Republic of Korea), St Petersburg (Russian Federation), Suva (Fiji), Tallinn (Estonia), Tehran (Islamic Republic of Iran), Tunis (Tunisia), Vienna (Austria), Vilnius (Lithuania), Washington, DC (United States) and Yaoundé (Cameroon).

The government of **Malaysia** and the Malaysian Red Crescent Society, with the support of the United Kingdom Foreign and Commonwealth Office, the British Red Cross and the ICRC, organized the 3rd Commonwealth Red Cross and Red Crescent International Humanitarian Law Conference in Kuala Lumpur in June 2011. The meeting brought together participants from Commonwealth governments and their national IHL committees, as well as members of Commonwealth National Societies. The meeting achieved its aims of increasing capacity, commitment and activities in the realm of IHL implementation, sharing experiences related to domestic implementation of the law, and discussing developments in IHL. It was also a chance to preview and discuss topics related to IHL that were on the agenda of the Commonwealth Law Ministers Meeting in July 2011, follow up on the 30th International Conference of the Red Cross and Red Crescent, and prepare for the 31st International Conference.

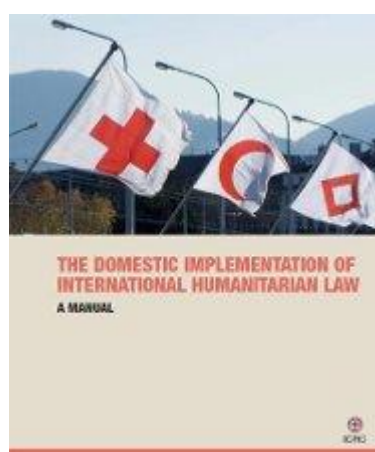
c) Tools developed to assist States in implementing IHL

The ICRC, through its Advisory Service on IHL, continued, over the period covered in this report, to collect, analyse and publish pertinent laws and regulations adopted by States and to produce a broad range of specialized guidance documents. Its objectives were twofold: to make it easier to provide technical advice for governments and to facilitate the exchange of information on the IHL implementing measures that have been adopted,

The ICRC's Advisory Service has updated and added to its series of *technical fact sheets*, and produced and contributed to the development of *model laws* and *guiding principles* that are related either to specific obligations deriving from IHL or to facilitating the domestic implementation of specific treaties.

Among these documents or tools the following are especially noteworthy: factsheets on cluster munitions and on protection for and use of the red cross, red crescent and red crystal emblems; a model Geneva Conventions and Protocols Act; model laws for States taking a common-law approach to the Biological and Toxin Weapons Convention and the Mine Ban Convention; and a model law on the issue of missing persons, as well as a handbook for parliamentarians on the same subject. In 2010, the ICRC also published *The Domestic Implementation of International Humanitarian Law: A Manual*, which is an exhaustive compilation of available guidance documents.

The Domestic Implementation of International Humanitarian Law: A Manual is a practical tool to assist policymakers, legislators and others throughout the world in ratifying IHL instruments. Drawing on the ICRC Advisory Service's 15 years of experience, the manual offers guidelines to help States implement IHL and meet all their obligations under it, particularly the suppression of serious violations of the law.



Considerable progress has also been made in developing and updating the database of domestic measures to implement IHL. This database, which can be accessed via the ICRC website (<http://www.icrc.org/ihl-nat>), contains the texts of primary and secondary legislation adopted by States as well as domestic case law relating to IHL and its domestic implementation.

Tools to aid States in their efforts to implement IHL include:

- reports of experts meetings/previous meetings of national committees on IHL;
- ratification kits to facilitate States' adherence to IHL treaties;
- a database of customary IHL;
- guiding principles/model laws: principles for legislating the situation of persons missing as a result of armed conflict or internal violence, and measures to prevent persons from going missing and to protect the rights and interests of missing persons and their families;
- *Missing People, DNA Analysis and Identification of Human Remains: A Guide to Best Practice in Armed Conflicts and Other Situations of Armed Violence*;
- *Management of Dead Bodies after Disasters: A Field Manual for First Responders*;
- an electronic data-management tool for assistance in the search for missing persons and in forensic identification of human remains;
- a handbook on "accompanying" the families of missing persons;
- *Guiding Principles for the Domestic Implementation of a Comprehensive System of Protection for Children Associated with Armed Forces or Armed Groups*.

d) Dialogue with international and regional organizations

The ICRC continued to cooperate with various international and regional organizations and maintained its dialogue with various international, regional and mixed judicial institutions assigned to try international crimes and with various non-governmental organizations. It

continued to cooperate with UNESCO and others, strengthened its relations with the Commonwealth Secretariat and maintained an active dialogue on promotion, acceptance and implementation of IHL with the African Union and its regional economic organizations (particularly the Economic Community of West African States), the League of Arab States, the Organization of American States, the European Union, the Council of Europe, the Inter-Parliamentary Union, the Inter-Parliamentary Assembly of the Commonwealth of Independent States, and the Asian-African Legal Consultative Organization, as well as with sub-regional organizations. It took part in meetings of States party to treaties such as the Cluster Munitions Convention, the Mine Ban Convention, the Second Protocol to the Hague Convention for the Protection of Cultural Property, the Convention on Certain Conventional Weapons, and the Rome Statute of the International Criminal Court.

C. Doctrine, training and education

Ratifying IHL treaties and incorporating them into domestic law are necessary steps towards compliance. Disseminating their content as widely as possible is an important element of any strategy that aims to create an environment conducive to lawful behaviour. These measures, however, are not sufficient. The conduct of weapon-bearers during military operations is shaped by certain crucial factors, such as doctrine, training and education, into which the law must be fully incorporated if these operations are to be conducted lawfully.

1. Armed forces and security forces

Armed forces and security forces play the main role in armed conflict. They are in the unique position of both causing victims and becoming victims themselves, of being able to facilitate humanitarian operations and hinder them. Thus, it is essential that armed forces personnel at all levels be properly trained in the application of IHL.

Over the period 2008-2010, the armed forces of 160 countries as well as around 80 non-state armed groups engaged the ICRC to assist them in promoting respect for applicable law. More than 80 countries conducted workshops, roundtables and exercises involving some 30,000 military, security and police personnel.

A total of 123 military officers from 30 States attended military courses in IHL at the International Institute of Humanitarian Law in Sanremo, with ICRC support, and 183 generals and senior officers from 50

In **Colombia**, the Defence Ministry accepted the ICRC's recommendations on pedagogical materials related to the promotion of IHL and the proper use of force. The findings of an ICRC report on the conduct of hostilities in 2009 were used in "after action review" exercises, during which officers analysed case studies and suggested corrective measures. The armed forces implemented a formal directive issued by the Defence Ministry: with the help of National Society and ICRC expertise, they organized and ran 12 four-day IHL training workshops for key personnel.

The police, too, pursued efforts to enhance training for their personnel in the pertinent provisions of international human rights law and IHL. For the first time, members of the National Police Intelligence Directorate in Bogotá and the military police in Medellín participated in two ICRC seminars on the legal use of force during security operations in an urban context: during the course of the seminars they also learnt how to incorporate these legal requirements into training. Acting on an ICRC/National Society assessment of police schools, the director of police training made recommendations to the various establishments and scheduled follow-up visits to ensure that IHL and international human rights law were properly incorporated into police training and education.

countries took part in the Senior Workshop on International Rules Governing Military Operations held in Switzerland and France.

Qualified delegates in Africa, Asia, Europe, and North America represented the ICRC and observed the operationalization of IHL or international human rights law at 37 international military exercises.

In a number of States, the ICRC reinforced its dialogue with armed forces: the purpose of this dialogue is to enhance understanding of the ICRC and the International Red Cross and Red Crescent Movement and ensure access to victims of armed conflict and internal disturbance. To ensure respect for applicable law, the ICRC also provided support for armed forces and security forces in incorporating the law into doctrine, operating procedures and training.

In 2010 in Peru, senior police officers and the ICRC discussed strategies to limit the use of force in situations of violence, starting with police doctrine and education and focusing on special units. At two ICRC-supported training events, 30 instructors upgraded their teaching skills in the area of human rights, and 50 riot policemen studied human rights norms.

Ecuadorean Red Cross: The Ministry of National Defence, the ICRC and the Ecuadorean Red Cross have signed, and are currently executing, a tripartite agreement for the incorporation of IHL into the armed forces.

In Uganda, with ICRC support, the Uganda People's Defence Force worked towards the systematic incorporation of IHL into military training, doctrine and operating procedures. To consolidate progress already made, it was agreed in April 2010 to extend cooperation on the incorporation of IHL to the end of 2012. Officers of the

armed forces lend support to the process of incorporation by learning how to teach IHL during train-the-trainer courses. Senior officers take part in discussions on incorporating IHL with representatives of other armed forces in the region. Other personnel, including military legal experts, intelligence officers and commanders, attend various IHL courses in Uganda; in addition, senior Ugandan military officers have attended the Senior Workshop on International Rules Governing Military Operations.

The incorporation of IHL and international human rights law into doctrine and operating procedures can be done in a number of ways. The following are two positive examples:

The Colombian air force has completely revised the working procedures of its staff. For instance, a manual provides the personnel involved in selecting targets with a complete checklist for identifying military objectives, defining the expected military advantage and assessing potential incidental damages (and balancing the two), and identifying alternate targets of comparable value. This procedure is used not only for planning and executing a mission, but also to record the decision and to evaluate it later in "after action reviews."

In the U.K., the Royal School of Artillery instructs its students to anticipate a radius of dispersion around the target. Accordingly, the students are taught what precautionary measures to take in order to minimize incidental damage. Such measures include no-fire lines or zones, preferring certain artillery systems to others, and restricting the use of certain munitions in particular circumstances.

2. Civil society and the general public

States have primary responsibility for educating the civilian population in IHL. To teach IHL in schools and universities is to invest in a new generation of decision-makers and, more importantly, to contribute to the development of experts in the field, particularly influential

academics capable of promoting respect for the law outside the classroom, among national authorities and weapon-bearers.

Since the 30th International Conference, States have worked closely with National Societies and the ICRC to include programmes such as Exploring Humanitarian Law (EHL) in the

In **Egypt**, more than 700 instructors have been trained in EHL in various governorates and some schools have already begun to teach EHL. There is also an ongoing plan to include information on IHL in school syllabuses.

In **Canada**, a partnership between the Department of Education and the Canadian Red Cross Society has resulted in EHL being implemented throughout the province of Nova Scotia: trained teachers have engaged over 6000 young people in EHL activities. An evaluation of the programme conducted in 2010 revealed the success of the curriculum: all of the teachers surveyed stated that EHL played an essential role in their classrooms and helped foster the personal development of their students. EHL has also been implemented to a significant degree in New Brunswick and Prince Edward Island; implementation is under way in the provinces of Ontario and Manitoba.

In **Bulgaria**, in 2010, an international youth camp on EHL was organized for the purpose of testing a shorter version of the programme; it was attended by 60 young people from 17 countries. A new Bill on education, expected to pass in 2013, will incorporate this shorter version into the mandatory curriculum for the tenth and eleventh grades. Also in 2010, the Bulgarian Red Cross Youth organized a national training course in EHL for volunteers, during which 56 people from all parts of the country were trained in basic IHL and introduced to the methodology of EHL.

In **China**, the Red Cross Society of China implemented the EHL programme in the four pilot regions of Tianjin, Shanghai, Henan and Sichuan as well as in Hong Kong SAR. The programme, which targets young people between the ages of 13 and 18, aims to help them understand the basic principles and rules of IHL, add to their knowledge of the International Red Cross and Red Crescent Movement, and stir their interest in humanitarian work.

curricula of secondary schools. By mid-2011, 34 States had made EHL part of their school curricula; 17 others are testing the programme. Certain States have also worked on translating EHL into their languages and some, such as Norway and Sweden, are revising it to make it more suitable for them.

Furthermore, many National Societies developed other educational tools to promote IHL among young people in Red Cross Youth groups and primary and secondary schools, such as learning kits, interactive websites and photo exhibitions. In 2008, the **Swiss Red Cross** organized a "Raid Cross" event with 600 young scouts; the **Italian Red Cross** introduced it in high schools in 2009, and promoted it locally and regionally.

IHL is being taught in universities and other institutions of higher learning in many States. National Societies and the ICRC are often actively involved in promoting the inclusion of IHL in university curricula. In line with Resolution 3, paragraph 27 of the 30th International Conference, National Societies have been working in partnership with universities to spread knowledge of IHL in all sectors of society. They have done so by organizing conferences, seminars and IHL competitions. The target audience for these activities includes students of law, international relations, journalism and public health. In several States, National Societies have also developed training materials and training opportunities for NGOs and humanitarian professionals. During the period covered by this report,

In 2009, the **German Red Cross** launched two introductory programmes on IHL, developed in accordance with the age of the intended participants: *Ways of Humanity: A Child-Friendly Introduction to IHL*, a learning kit containing DVDs and booklets, designed for children between the ages of 8 and 10; and 'H.E.L.P.', a role-playing exercise developed by the Niedersachsen Youth Group for adolescents between the ages of 15 and 19, in which participants assume the roles of diplomats negotiating the solution to a fictitious conflict. Schools that use the latter activity and that develop and implement a humanitarian project may also win a "humanitarian school" award, in recognition of their work and as an incentive for further work of the same kind.

the ICRC, in partnership with the Polish, Swiss, Belgian and French National Societies, continued to organize annual summer courses in IHL, in English and in French, for graduate students and humanitarian practitioners.

The **Serbian Red Cross** has been organizing, single-handedly, a national IHL competition for university students since 2009. The **Spanish Red Cross** directs a two-year Master's programme in IHL and international criminal justice at Universitat Oberta de Catalunya. The **Italian Red Cross** runs a biannual national competition, the Premio Giuseppe Barile e Pietro Verri, for the best doctoral dissertations on IHL, human rights law and refugee law, and has collaborated actively with the Master's programme in Peace-keeping and Security Studies offered by the Department of Political Science at Roma Tre University. In 2007, the **Canadian Red Cross Society**, in partnership with the Lui Institute for Global

Issues at the University of British Columbia and the government of Canada, launched the Edges of Conflict project, designed to better understand the changing nature of armed conflicts and the application of IHL in complex security environments. In 2009, the **Hellenic Red Cross** organized a series of 12 lectures on the Fundamental Principles and the basic elements of IHL for university students and for volunteers.

Many National Societies joined the ICRC in using the 60th anniversary of the 1949 Geneva Conventions as an opportunity to raise awareness throughout the world of the importance of IHL. Media reports indicate that statements made by the ICRC and various components of the Movement, in connection with this occasion, contributed to debate and commentary on the relevance of IHL today, in which a number of entities were engaged, such as the EU Presidency and the Inter-Parliamentary Union, as well as academic institutions and the humanitarian sector.

In 2009, to mark the 60th anniversary of the Geneva Conventions and the 150th anniversary of the Battle of Solferino, the ICRC commissioned an in-depth survey of eight countries affected by armed conflict or other situations of violence. The survey¹⁸ gathered the views of nearly 4,000 people, both on the

The National Societies of **Denmark, Finland, Norway, Sweden and Iceland** – through a plan of action covering the period 2010-2011 and a commitment to renew the partnership for the years 2012-2017 – reaffirmed and deepened their partnership with the ICRC for the communication and promotion of IHL. Activities conducted under this partnership included engaging with military and political authorities at national and regional levels to strengthen and ensure States' respect for and implementation of IHL, as well as sustained dialogue with educational authorities concerning instruction in IHL for young people. During the period 2010-2011, the Danish and Finnish National Societies, in close cooperation with the ICRC, also designed and conducted four intensive courses in IHL for humanitarian professionals and policymakers. These courses drew over 100 humanitarian decision-makers from around the world, mainly from NGOs and IGOs and the government and military sectors.

¹⁸ See <http://www.icrc.org/eng/resources/documents/publicat>

impact of armed conflict on their lives and on what they considered acceptable behaviour by combatants during armed conflict. The results showed strong support for core ideas of IHL such as the principle of distinction, the obligation to respect and protect health-care workers and ambulances, and the idea that all wounded and sick persons are entitled to treatment.

Since 2007, the ICRC has also regularly worked with a cross-section of National Societies and other civil society actors to raise public awareness of IHL rules and treaties concerning the means and methods of warfare. Notable examples are the communication activities in support of the 2009 Convention on Cluster Munitions and the ICRC's *Interpretive Guidance on the Notion of Direct Participation in Hostilities under International Humanitarian Law*,¹⁹ published in 2009.

Finally, the ICRC has made considerable progress in developing an IHL training module specifically targeting media personnel. It expects to be able to put this at the disposal of National Societies within the next few months.

Mexico: In 2010, as part of the effort to spread knowledge of IHL in all sectors of society, the Inter-Ministerial International Humanitarian Law Commission organized the first annual course on respecting and implementing IHL at the

D. Ending impunity

States are obliged to repress serious violations of IHL or war crimes. Sanctions are an integral part of every coherent legal system and the threat of effective punishment has a dissuasive effect. States must then ensure compliance with the rules set out in international agreements or arising from customary international law, and must take whatever measures are necessary to prevent and sanction violations thereof. Such measures may include military regulations, administrative orders and other regulatory steps. Where serious violations of IHL have been committed, the perpetrators must face criminal prosecution.

Since the 30th International Conference, there have been a number of positive developments in combating impunity for serious violations of IHL, at both the international and the national level. At the international level, the revision conference of the 1998 Rome Statute of the International Criminal Court held in Kampala in May 2010 brought the Statute more in line with the requirements of IHL by amending its Article 8 related to war crimes and, more particularly, by adding to the list of war crimes in non-international armed conflicts the use of expanding bullets, asphyxiating or poisonous gases and poison. At the same conference, several countries made pledges on ending impunity (for a list of these pledges, see Annex C).

Belgium: In the follow-up to UN Security Council Resolution 1325 on women, peace and security, Belgium drew up a national action plan, "Women, Peace and Security." The plan specifies the guidelines that Belgium will defend, in its bilateral and multilateral relations. "Continue condemning impunity and encouraging prosecution" is the first of them.

Two additional States (Estonia and Lesotho) formally recognized the competence of the International Humanitarian Fact-Finding Commission (IHFFC), which obtained observer status at the United Nations General Assembly on 17 December 2009. The Commission, created by article 90 of Protocol I of 8 June 1977 additional to the Geneva Conventions, is a permanent body that may be requested by States and parties to an armed conflict to investigate

alleged violations of IHL. Its task is to clarify the relevant facts. However, the binding competence of the IHFFC does not follow automatically from a State's ratification of

¹⁹ See <http://www.icrc.org/eng/resources/documents/publication/p0990.htm>.

Additional Protocol I and the State needs to make a specific declaration to this effect, which has already been made by 72 States. UN General Assembly Resolution 65/29 – Status of the Protocols Additional to the Geneva Conventions of 1949 and Relating to the Protection of Victims of Armed Conflicts – stressed the role of the IHFFC in gathering information on alleged violations of applicable international law; it also encouraged States to recognize the competence of the IHFFC and invited them to consider making use, where appropriate, of the services of the Commission in accordance with the provisions of article 90 of Additional Protocol I.

Affirming that the principle of *universal jurisdiction* was an important tool for ending impunity, the UN General Assembly also adopted Resolution 65/33: The Scope and Application of the Principle of Universal Jurisdiction. The resolution invites “Member States and relevant observers, as appropriate, to submit, before 30 April 2011, information and observations on the scope and application of universal jurisdiction, including, where appropriate, information on the relevant applicable international treaties, their domestic legal rules and judicial practice, and requests the Secretary-General to prepare and submit to the General Assembly, at its sixty-sixth session, a report based on such information and observations.” The ICRC, as a relevant observer, has submitted its contribution, which was based on the information available to it.

International judicial cooperation among States, as well as between States and international and hybrid criminal courts and tribunals, was enhanced during the period covered by this report. **Belgium** cooperated with partner countries such as **Rwanda** in strengthening their judicial systems. **Canada** made substantial contributions to assist **Colombia**, the **Democratic Republic of the Congo**, and **Guatemala** in developing the capacities of their domestic courts; it also provided substantial support for the Special Court for Sierra Leone and the Special Tribunal for Lebanon. **Portugal** continued to negotiate and conclude international conventions on international judicial cooperation (mutual assistance in criminal matters, transference of sentenced persons and extradition), both bilateral and multilateral. In 2009, Justice Rapid Response, an intergovernmental standby facility of active-duty criminal experts specifically trained in international investigations, became operational.

At the national level, many States incorporated war crimes and other international crimes into their domestic penal legislation or took steps to this end [see section IV (B) (1) (b) of this report].

A total of 79 national committees on IHL from around the world, 21 observer States and 16 observer organizations convened for the Third Universal Meeting of National Committees for the Implementation of International Humanitarian Law held in Geneva in October 2010. The meeting was an opportunity for the participants, not just to meet and exchange views on their respective roles and activities, but also to discuss the legal measures and domestic mechanisms required to support an integrative system for the repression of serious violations of IHL. More particularly, the ICRC’s Advisory Service on IHL was able to: explain the scope of an integrative system for the repression of serious violations of IHL and provide an overview of the domestic legal and institutional framework required, while stressing the role of the Rome Statute of the ICC; update participants on recent developments pertaining to the domestic incorporation of the provisions and

mechanisms necessary for the repression of serious violations of IHL; provide a forum for discussing tools to assist and support national committees on IHL in supporting the implementation of an efficient system for punishing serious violations of IHL, drawing particular attention to the domestic legal and institutional framework required; and discuss

the key role of national committees on IHL in incorporating serious violations of IHL into domestic legislation and ensuring that such legislation has the maximum preventive effect.

As highlighted by the participants of the third universal meeting, States have found a number of different solutions for complying with their duty under IHL to incorporate into their criminal law war crimes, as well as other crimes listed under the Rome Statute and the provisions necessary to prosecute and punish those who have committed them. Fiji, Ghana and Trinidad and Tobago, like most common-law countries, adopted or amended their Geneva Conventions Act. Colombia, Ecuador, East Timor, Norway and Peru – like most countries where provisions for prosecuting and punishing those who have committed the most serious violations of IHL are scattered among a number of implementing texts – updated their penal/military codes or adopted special laws. States who have ratified the Rome Statute of the ICC – including Argentina, Bosnia and Herzegovina, Burkina Faso, France, Kenya, Switzerland and Uganda – proceeded to incorporate the crimes of the Statute into their national legislation, and seized the occasion for also implementing other international obligations related to repression of violations.

Burkina Faso adopted the Law Regarding the Competences and Procedures Required for the Implementation of the Rome Statute of the International Criminal Court by National Courts (No. 52) on 31 December 2009. The law vests domestic courts with criminal jurisdiction over genocide, crimes against humanity, and war crimes, including grave breaches of the 1949 Geneva Conventions, violations of IHL committed in international armed conflicts, violations of Article 3 common to the 1949 Geneva Conventions and other violations of IHL committed during non-international armed conflicts. Various forms of criminal responsibility, such as complicity, ordering, inciting, and aiding and abetting, and under certain circumstances even the attempt to commit certain offences, are provided for. The defence of ‘superior’ orders is recognized in court under strict conditions, among them the argument

The way international obligations related to punishment for serious violations of IHL and other international crimes are implemented, and the extent to which this is done, varies from country to country. Furthermore, jurisdiction for such crimes may be vested with ordinary courts, military courts or both. For example, in Bosnia and Herzegovina, Canada and the Philippines, ordinary courts have exclusive jurisdiction to try the perpetrators of these crimes, even if they are military personnel. Other judicial systems have instituted concurrent jurisdiction, the determining factors being the status of the accused (civilian or military) and whether or not he was on duty.

Finland: When it ratified the Rome Statute in 2000, Finland also passed an act on the implementation of the Statute, which stipulated that the provisions of the Statute, insofar as they are of a legislative nature, shall be in force as applicable law in the country. Further legislative work was then undertaken and the Criminal Code revised in 2008 to enable domestic courts to be fully able to exercise jurisdiction over crimes within the ICC’s jurisdiction. The amendments concerned the criminalization of genocide, crimes against humanity and war crimes.

As regards punishments provided for war crimes, some judicial systems make no distinction as to the severity of crimes and impose the same penalty regardless of the crime. Others distinguish between war crimes that have caused deaths from those that have not; a lesser penalty is provided for the latter (Fiji, Ghana and the Philippines). The most severe sentences for war crimes are life imprisonment and the death penalty (Ghana and, in exceptional cases, Peru).

Some judicial systems provide for optional additional penalties, generally in the form of fines (Kenya, the Philippines) or deprivation of certain rights (the Philippines). Some military laws include additional penalties that usually affect the individual's military rank or status (the Philippines).

Some war crimes may also be offences under military law and tried as such by the competent courts or tribunals (Israel, Sudan). The crimes to which this dual regime applies – they also happen to be among the most common crimes of this kind – are pillage, acts of violence against a person hors de combat with a view to despoiling him or her, and misuse of the emblems protected under IHL.

A number of States have provided for universal jurisdiction for the repression of serious violations of IHL within their domestic law. They have done so using a range of methods. Some States with a code-based system provide for universal jurisdiction within their ordinary and/or military penal code. Others provide for universal jurisdiction in their criminal procedural law or in a law on the organization of the courts. There are also those who do so by means of a special stand-alone law referring only to specific offences. In countries without code-based systems – generally, those with a common-law system – it is the usual practice to provide for universal jurisdiction in primary legislation defining both the jurisdictional and material scope of the offence. Whatever the method used, in most cases, the exercise of universal jurisdiction is conditional: for instance, the exercise of jurisdiction may require the presence of the perpetrator on the territory of the prosecuting State (as in Kenya, the Philippines, Spain, Sudan and Switzerland), or even residence there (as in France).

Other legal principles unique to the prosecution of serious violations of IHL have also been adopted. The principle of command responsibility is expressed clearly in new domestic legislation in France, Peru, the Philippines and Uganda. The non-applicability of statutory limitations for war crimes has been incorporated into Philippine and Ugandan law.

In conjunction with the ICRC, the 22 members of the **League of Arab States** conducted regional seminars, for government officials, on refining mechanisms for incorporating IHL into domestic legislation and into the curricula of training institutes for judges and diplomats. As follow-up to a plan of action adopted by Arab government experts in 2009, responses to an Arabic version of a draft model law on the Rome Statute of the ICC were submitted to the Arab League for circulation amongst its members. In parallel, at the second meeting of Arab parliamentarians on IHL, held in Cairo and organized jointly by the Arab Inter-Parliamentary Union, the Egyptian parliament and the ICRC, 37 parliamentarians representing 11 Arab countries agreed a plan of action for adopting and implementing IHL treaties.

Finally, some laws also provide for remedies – such as compensation – for victims (Kenya), including the institution of a fund to provide aid for victims.

There have been an increasing number of suspected perpetrators of IHL violations tried by national courts. According to decisions made publicly available during the past four years. Bosnia and Herzegovina, Canada, Chile, Colombia, Croatia, Germany, Italy, Kosovo,²⁰ Montenegro, the Netherlands, Norway, Serbia and the United States prosecuted perpetrators of war crimes before their domestic courts. In some cases, however, prosecution was not made due to the refusal to acknowledge the existence of an armed conflict; yet in other

²⁰ See UN Security Council Resolution 1244.

cases, the difficulty in having to prove an additional element - the existence of an armed conflict – led States to apply domestic laws relating to ordinary crimes (murder, manslaughter, assault).

Canada: In 2009, Canada prosecuted two Rwandan nationals under the Crimes Against Humanity and War Crimes Act: Désiré Munyaneza, who was found guilty of all seven counts of war crimes, crimes against humanity and genocide with which he was charged; and Jacques Mungwarere, who was charged with one count of genocide in the area of Kibuye, Rwanda and held in custody.

More information on state practice can be found at the website of the ICRC under the national implementation of international humanitarian law database (<http://www.icrc.org/ihl-nat>), as well as the “National implementation of international humanitarian law: Biannual update on national legislation and case law” published in the *International Review of the Red Cross*.

Annex A: Table of new accessions to/ratifications of the main IHL treaties
(as of 31 August 2011)

Protection of victims of armed conflicts				International Criminal Court			
AP I 1977		AP III 2005		Opt Prot. CRC 2000		ICC Statute 1998	
Since Dec. 2007: 4 Total: 171		Since Dec. 2007: 34 Total: 58		Since Dec. 2007: 23 Total: 142		Since Dec. 2007: 12 Total: 117	
Afghanistan	10.11.2009	Albania	06.02.2008	Albania	09.12.2008	Bangladesh	23.03.2010
Fiji	30.07.2008	Argentina	16.03.2011	Algeria	06.05.2009	Chile	29.06.2009
Iraq	01.04.2010	Armenia	12.08.2011	Bhutan	09.12.2009	Cook Islands	18.07.2008
Morocco	03.06.2011	Australia	15.07.2009	Burundi	24.06.2008	Czech Republic	21.07.2009
		Austria	03.06.2009	China	20.02.2008	Grenada	19.05.2011
		Belarus	31.03.2011	Congo	24.09.2010	Madagascar	14.03.2008
		Brazil	28.08.2009	Cyprus	02.07.2010	Moldova (Republic of)	12.10.2010
		Chile	06.07.2009	Djibouti	27.04.2011	Philippines	30.08.2011
		Costa Rica	30.06.2008	Gabon	21.09.2010	Saint Lucia	18.08.2010
		Dominican Republic	01.04.2009	Georgia	03.08.2010	Seychelles	10.08.2010
		Estonia	28.02.2008	Guyana	11.08.2010	Suriname	15.07.2008
		Fiji	30.07.2008	Hungary	24.02.2010	Tunisia	24.06.2011
		Finland	14.01.2009	Iraq	24.06.2008		
		France	17.07.2009	Malawi	21.09.2010		
		Germany	17.06.2009	Mauritius	12.02.2009		
		Greece	26.10.2009	Netherlands	24.09.2009		
		Guatemala	14.03.2008	Russian Federation	24.09.2008		
		Guyana	21.09.2009	Saint Vincent and the Grenadines	29.03.2011		
		Italy	29.01.2009	Saudi Arabia	10.06.2011		
		Kazakhstan	24.06.2009	Seychelles	10.08.2010		
		Mexico	07.07.2008	Singapore	11.12.2008		
		Moldova (Republic of)	19.08.2008	South Africa	24.09.2009		
		Nicaragua	02.04.2009	Uzbekistan	23.12.2008		
		Paraguay	13.10.2008				
		Poland	26.10.2009				
		Serbia (Republic of)	18.08.2010				
		Singapore	07.07.2008				
		Slovenia	10.03.2008				
		Spain	10.12.2010				
		The former Yugoslav Republic of Macedonia	14.10.2008				
		Timor-Leste	29.07.2011				
		Uganda	21.05.2008				
		Ukraine	19.01.2010				
		United Kingdom	23.10.2009				
AP I Declaration Art. 90							
Since Dec. 2007: 2 Total: 72							
Estonia	20.02.2009						
Lesotho	13.08.2010						
AP II 1977							
Since Dec. 2007: 3 Total: 166							
Afghanistan	10.11.2009						
Fiji	30.07.2008						
Morocco	03.06.2011						

Weapons

CCW Prot. IV 1995		CCW Amdt 2001		CCW Prot. V 2003			
Since Dec. 2007: 12 Total: 99		Since Dec. 2007: 16 Total: 74		Since Dec. 2007: 35 Total: 71			
Antigua and Barbuda	23.08.2010	Belarus	27.03.2008	Belarus	29.09.2008	Madagascar	14.03.2008
Dominican Republic	21.06.2010	Bosnia-Herzegovina	17.03.2008	Belgium	25.01.2010	Mali	24.04.2009
Gabon	22.09.2010	Colombia	20.05.2009	Canada	19.05.2009	Moldova (Republic of)	21.04.2008
Guinea-Bissau	06.08.2008	Costa Rica	03.06.2009	Chile	18.08.2009	Pakistan	03.02.2009
Iceland	22.08.2008	Dominican Republic	21.06.2010	China	10.06.2010	Panama	29.11.2010
Jamaica	25.09.2008	Ecuador	10.03.2009	Costa Rica	27.04.2009	Paraguay	03.12.2008
Kazakhstan	08.07.2009	Georgia	08.06.2009	Cyprus	11.03.2010	Peru	29.05.2009
Madagascar	14.03.2008	Guatemala	13.02.2009	Ecuador	10.03.2009	Portugal	22.02.2008
Paraguay	03.12.2008	Guinea-Bissau	06.08.2008	Gabon	22.09.2010	Qatar	16.11.2009
Saint Vincent and the Grenadines	06.12.2010	Iceland	22.08.2008	Georgia	22.12.2008	Romania	29.01.2008
Saudi Arabia	07.12.2007	Jamaica	25.09.2008	Guatemala	28.02.2008	Russian Federation	21.07.2008
United States of America	21.01.2009	Paraguay	03.12.2008	Guinea-Bissau	06.08.2008	Saint Vincent and the Grenadines	06.12.2010
		Portugal	22.02.2008	Honduras	16.08.2010	Saudi Arabia	08.01.2010
		Slovenia	02.07.2008	Iceland	22.08.2008	Senegal	06.11.2008
		Tunisia	11.03.2009	Italy	11.02.2010	Tunisia	07.03.2008
		United States of America	21.01.2009	Jamaica	25.09.2008	United Arab Emirates	26.02.2009
				Korea (Republic of)	23.01.2008	United States of America	21.01.2009
				Latvia	16.09.2009		

Weapons

ENMOD Conv. 1976		Geneva Gas Prot. 1925		BWC 1972		CWC 1993	
Since Dec. 2007: 1 Total: 74		Since Dec. 2007: 3 Total: 137		Since Dec. 2007: 5 Total: 164		Since Dec. 2007: 6 Total: 188	
Honduras	16.08.2010	Costa Rica	17.03.2009	Cook Islands	04.12.2008	Bahamas	21.04.2009
		El Salvador	26.02.2008	Madagascar	07.03.2008	Congo	04.12.2007
		Slovenia	08.04.2008	Mozambique	29.03.2011	Dominican Republic	27.03.2009
				United Arab Emirates	19.06.2008	Guinea-Bissau	20.05.2008
				Zambia	15.01.2008	Iraq	13.01.2009
						Lebanon	20.11.2008

Cluster Munitions 2008

**Since Dec. 2007: 61
Total: 61**

Albania	16.06.2009	Ecuador	11.05.2010	Luxembourg	10.07.2009	Saint Vincent and the Grenadines	29.10.2010
Antigua and Barbuda	23.08.2010	El Salvador	10.01.2011	Malawi	07.10.2009	Samoa	28.04.2010
Austria	02.04.2009	Fiji	28.05.2010	Mali	30.06.2010	San Marino	10.07.2009
Belgium	22.12.2009	France	25.09.2009	Malta	24.09.2009	Senegal	03.08.2011
Bosnia-Herzegovina	07.09.2010	Germany	08.07.2009	Mexico	06.05.2009	Seychelles	20.05.2010
Botswana	27.06.2011	Ghana	03.02.2011	Moldova (Republic of)	16.02.2010	Sierra Leone	03.12.2008
Bulgaria	06.04.2011	Grenada	29.06.2011	Monaco	21.09.2010	Slovenia	19.08.2009
Burkina Faso	16.02.2010	Guatemala	03.11.2010	Montenegro (Republic of)	25.01.2010	Spain	17.06.2009
Burundi	25.09.2009	Guinea-Bissau	29.11.2010	Mozambique	14.03.2011	The former Yugoslav Republic of Macedonia	08.10.2009
Cape Verde	19.10.2010	Holy See	03.12.2008	Netherlands	23.02.2011	Tunisia	28.09.2010
Chile	16.12.2010	Ireland	03.12.2008	New Zealand	22.12.2009	United Kingdom	04.05.2010
Comoros	28.07.2010	Japan	14.07.2009	Nicaragua	02.11.2009	Uruguay	24.09.2009
Cook Islands	23.08.2011	Lao (People's Dem.)	18.03.2009	Niger	02.06.2009	Zambia	12.08.2009
Costa Rica	28.04.2011	Lebanon	05.11.2010	Norway	03.12.2008		
Croatia	17.08.2009	Lesotho	28.05.2010	Panama	29.11.2010		
Denmark	12.02.2010	Lithuania	24.03.2011	Portugal	09.03.2011		

Annex B: National legislation adopted between December 2007 and July 2011

Sources:

"National implementation of international humanitarian law: Biannual update on national legislation and case law" (published in the *International Review of the Red Cross*)

ICRC national implementation database

Responses to the questionnaire on the follow-up to the 30th International Conference of the Red Cross and Red Crescent as at July 2011

Original:

English/French/Spanish

Algeria

Décret présidentiel No. 08-163 du 29 Jomada El Oula 1429 correspondant au 4 juin 2008 portant création de la commission nationale du droit international humanitaire

Argentina

Ley 26.679, Modifícanse el Código Penal y el Código Procesal Penal de la Nación, Delitos Contra la Libertad, Abril 13 de 2011

Australia

Defence Legislation (Miscellaneous Amendments) Act 2009

Austria

Federal Law on the Recognition of the Austrian Red Cross and the Protection of the Red Cross Emblem (Red Cross Law – RKG), 6 December 2007

Federal Law on the Prohibition of Cluster Munitions, 7 May 2009

Bahrain

Ministerial Resolution No. 5 on the establishment and formulation of the National Committee for the prohibition of the creation, production, stockpiling and use of chemical weapons and their destruction, 10 February 2011

Bangladesh

The International Crimes (Tribunals) (Amendment) Act, 2009

Bosnia and Herzegovina

Amendments to the Criminal Procedure Code of Bosnia and Herzegovina, 2009 (providing for the compulsory detention of persons sentenced at first instance to five years' imprisonment or more)

Law on Implementation of the Rome Statute of the International Criminal Court and Cooperation with the International Criminal Court, 19 October 2009

Burkina Faso

Loi 052-2009/AN du 03 décembre 2009 portant détermination des compétences et de la procédure de mise en oeuvre du Statut de Rome

Canada

The Geneva Conventions' Amendment Act (approved on 22 June 2007 and entered into force on 31 January 2008)

Central African Republic

Loi no 10.001 du 06 janvier 2010 portant code pénal centrafricain

Loi no 10.002 du 06 janvier 2010 portant code de procédure pénale centrafricaine

Colombia

Ley 1224 de 2008, Por la cual se implementa la Defensoría Técnica de la Fuerza Pública Diario Oficial, N° 47.052, 16.07.2008

Ley 1232 de 2008, Por la cual se modifica la Ley 82 de 1993, Ley Mujer Cabeza de Familia y se dictan otras disposiciones, Diario Oficial N° 47.053, 17.07.2008

Ley 1232 de 2008, Por la cual se modifica la Ley 82 de los derechos de los adultos mayores, Diario Oficial N° 47.053, 17.07.2008

Ley 1251 de 2008, Por la cual se dictan normas de los derechos de los adultos mayores, Diario Oficial N° 47.186, 27.11.2008

Ley 1257 de 2008, Por la cual se dictan normas de sensibilización, prevención y sanción de formas de violencia y discriminación contra las mujeres, se reforman los Códigos Penal, de Procedimiento Penal, la Ley 294 de 1996 y se dictan otras disposiciones, Diario Oficial N° 47.193, 04.12.2008.

Ley 1346 de 2009, Por medio de la cual se aprueba la 'Convención sobre los derechos de las personas con discapacidad' adoptada por la Asamblea General de las Naciones Unidas el 13 de diciembre de 2006, Diario Oficial N° 47.427, 31.07.2009

Ley 1373 de 2010, Por la cual se garantiza la vacunación gratuita y obligatoria a toda la población colombiana, objeto de la misma, y se actualiza el Programa Ampliado de Inmunizaciones (PAI), Diario Oficial N° 47.586, 08.01.2010

Ley 1373 de 2010, Por la cual se expide el Código Penal Militar, Diario Oficial N° 47.586, 08.2010

Ley 1407 de 2010, Por la cual se expide el Código Penal Militar, Diario Oficial N° 47.807, 20.08.2010

Ley No. 1408 de 2010, Por la cual se rinde homenaje a las víctimas del delito de desaparición forzada y se dictan medidas para su localización e identificación, Diario Oficial N° 47.807, 20.08.2010.

Ley 1410 de 2010, Por medio de la cual se aprueba la Convención Internacional para la Abolición de la Pena de diciembre de 2006, Diario Oficial N° 47.910, 10.12.2010

Ley 1418 de 2010, Por medio de la cual se aprueba la Ley 418 de todas las Leyes 548 de diciembre de 2006, Diario Oficial N° 47.910, 10.12.2010

Ley 1421 de 2010, Por la cual se prorroga la Ley 418 de 1997, prorrogada y reparacion a las Leyes 548 de 1999, 782 de 2002 y 1106 de 2006, Diario Oficial N° 47.937, 29.12.2010

Ley 1424 de 2010, Por la cual se dictan medidas de aencion, asistencia y reparacion a las victimas del conflicto armado interno y se dictan otras disposiciones, Diario Oficial N° 47.937, 29.12.2010.

Consejo Nacional de Política Económica y Social República de Colombia- Departamento Nacional de Planeación, Documento CONPES 3590 de 1 de junio de 2009. Consolidación de los Mecanismos de Búsqueda e Identificación de Personas Desaparecidas en Colombia

Policia Nacional Directiva 007 de 2011, Implementación del Registro Nacional de Personas Desaparecidas

Directiva interna de la Fiscalía General de la Nación, Memorando 0015 de 2011. Mecanismo de Búsqueda Urgente de Personas

Democratic Republic of the Congo

Loi No 09/001 du 10 Janvier 2009 Portant Protection de l'Enfant

Ecuador

Ley reformatoria al Código Penal para la Tipificación de los Delitos cometidos en el Servicio Militar Policial', Registro Oficial N° 196, de 19 de mayo de 2010

El Salvador

Decreto Legislativo 808 del 11 Febrero 2009, reforma la Ley de Protección del Emblema y el Nombre de la Cruz Roja y Media Luna Roja, emitida por Decreto Legislativo 175 de 19 Octubre 2000 (D. O. de 18 Diciembre 2000), concerniente a cambiar el título actual de la Ley por el de: "Ley de Protección del Emblema y Nombre de la Cruz Roja" y modifica otras disposiciones

Fiji

The Geneva Conventions Promulgation Act, No. 52 of 2007, 13 December 2007

Crimes Decree No. 44 of 2009 (amending the former Penal Code of 1945. Part 12 – "Offences Against the International Order" – to implement the Rome Statute of the International Criminal Court)

Geneva Conventions (Amendment) Promulgation 2009 (allowing for the protection of the distinctive emblem of the red crystal in accordance with Protocol III of 8 December 2005 additional to the Geneva Conventions)

The Biological and Toxin Weapons Decree 2011, Decree No. 17 of 2011, 28 April 2011

Finland

Amendment of the Criminal Code to enable domestic courts to be fully able to exercise jurisdiction over crimes within the jurisdiction of the International Criminal Court (2008).

Act passed on the implementation of Protocol III of 8 December 2005 additional to the Geneva Conventions (2009)

France

Loi no 2010-819 du 20 juillet 2010 tendant à l'élimination des armes à sous-munitions

Loi no 2010-930 du 9 août 2010 portant adaptation du droit pénal à l'institution de la Cour pénale internationale

Loi no 2011-13 du 5 janvier 2011 relative à la lutte contre la piraterie et à l'exercice des pouvoirs de police de l'Etat en mer

Loi no 2011-266 du 14 mars 2011 relative à la lutte contre la prolifération des armes de destruction massive et de leurs vecteurs

Loi no 2011-392 du 14 avril 2011 relative à la garde à vue

Décret no 2011-150 du 3 février 2011 portant publication de la convention internationale pour la protection de toutes les personnes contre les disparitions forcées (ensemble une déclaration française), ouverte à la signature à Paris le 6 février 2007

Germany

Gesetz zu dem Übereinkommen vom 30. Mai 2008 über Streumunition

Act Amending the Regulations of the German Red Cross of 5 December 2008

Ghana

Geneva Conventions Act 2009, 708th Act of Parliament, 6 January 2009

Guatemala

Ley de Armas y Municiones, Decreto Numero 15-2009, Diario de Centro América Numero 69, 21 de Abril 2009.

Ireland

The Cluster Munitions and Anti-Personnel Mines Act 2008, 2 December 2008

Authority for the Ministry of Foreign Affairs to establish a National Committee on International Humanitarian Law, 29 April 2008

Israel

Military Order 1651, Order Regarding Security Provisions [Consolidated Version] (Judea and Samaria) (No. 1651) 5770-2009, 1 November 2009

Japan

Act on the Prohibition of the Production of Cluster Munitions and the Regulation of the Possession of Cluster Munitions, 10 March 2009

Jordan

Amended Law of the Jordan Red Crescent Society for the Year 2009, No. 3/2009, 4 January 2009

Kenya

Act No. 16 of 2008, International Crimes Act 2008, 1 January 2009

Kiribati

Anti-Personnel Mines (Prohibition) Act 2008, 23 December 2008

Geneva Conventions (Amendment) Act 2010 (An Act to amend the Geneva Conventions Act of 1993), 21 May 2010

Kiribati Red Cross Society (Amendment) Act 2010 (An Act to amend the Kiribati Red Cross Society Act of 1989), 21 May 2010

Kosovo²¹

Law No. 03/L – 180, Law on the Use and Protection of the Emblem of the Red Cross and other Distinctive Emblems and Signals, 10 June 2010

Law No. 03/L – 179, Law on the Red Cross of the Republic of Kosovo,²² 10 June 2010

Kyrgyzstan

Law of the Kyrgyz Republic on information of a personal nature, Bishkek, 14 April 2008 No. 59

Lebanon

Presidential Decree No. 4382 creating the Lebanese National International Humanitarian Law Committee, 21 June 2010

Luxembourg

Loi du 4 juin 2009 portant approbation de la Convention sur les armes à sous-munitions, ouverte à la signature à Oslo le 3 décembre 2008

Madagascar

Le règlement intérieur du Commission Nationale Du Droit International Humanitaire, 29 février 2008

Mauritania

Loi N° 2008-06 relative à l'interdiction des mines antipersonnel en Mauritanie, 16 Mars 2007

²¹ See UN Security Council Resolution 1244.

²² See UN Security Council Resolution 1244.

Mexico

Decreto Presidencial del 12 de Agosto de 2009 por el que se crea con carácter permanente la Comisión Intersecretarial de Derecho Internacional Humanitario CIDIH-México

Decreto por el que se expide la Ley de Migración y se reforman, derogan y adicionan diversas disposiciones de la Ley General de Población, del Código Penal Federal, del Código Federal de Procedimientos Penales, de la Ley Federal contra la Delincuencia Organizada, de la Ley de la Policía Federal, de la Ley de Asociaciones Religiosas y Culto Público, de la Ley de Inversión Extranjera, y de la Ley General de Turismo [25 de mayo de 2011], Diario Oficial de la Federación Tomo 692, no. 17, 1a sección, miércoles 25 de mayo de 2011, p. 2-33

Montenegro

Decision No. 03-2160 of the Government of Montenegro to form a Commission on Missing Persons

Morocco

Décret 2.07.231 du 9 juillet 2008, publié dans le journal officiel *Al-Jarida Al-Rasmiya*, n° 5646 (10 juillet 2008), portant création de la Commission nationale de mise en oeuvre du droit international humanitaire du Maroc

Netherlands

Implementation of the 1970 UNESCO Convention on the Illicit Import, Export and Transfer of Ownership of Cultural Property (Implementation) Act, 2009

New Zealand

Cluster Munitions Prohibition Act, 2009

Nicaragua

Ley No. 641, Código Penal, 13 de noviembre del 2007

Nigeria

Inauguration, by the Attorney-General of the Federation and the Minister for Justice, of the National International Humanitarian Law (IHL) Committee of Nigeria, 23 July 2010

Norway

Amendment to the Norwegian General Civil Penal Code introducing genocide, crimes against humanity and war crimes, 7 March 2008

Cluster Munitions Act 2008 (Om lov om gjennomføring av Konvensjonen om klaseammunisjon), 17 October 2008

Paraguay

Decreto 5.864, que active la Oficina Nacional de Información, en caso de cualquier conflicto interno o externo, 20 de Diciembre del 2010

Peru

Ley N° 29248, Ley de servicio military, 6 de Junio del 2008

Ley N° 2939, Ley sobre medidas de control de sustancias químicas susceptibles de empleo para las fabricación de armas químicas, Diario Oficial 'El Peruano', 29 de Mayo del 2008

Decreto Legislativo N° 1094, Código Penal Militar Policial, 1 de septiembre de 2010

Philippines

Act No. 9851 on Crimes against International Humanitarian Law, Genocide and Other Crimes against Humanity, 11 December 2009

Act No. 9745, Anti-Torture Act of 2009, 10 November 2009

Samoa

An Act to give effect to the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, and for related matters, 19 October 2010

Serbia

Establishment of the Serbian International Humanitarian Law Committee, 29 April 2010

Slovakia

The Slovak Red Cross and Protection of the Emblem and Name of the Red Cross and on Amendment and Supplement to Certain Acts' Act, 20 September 2007

South Africa

Prohibition or Restriction of Certain Conventional Weapons Act No. 18 of 2008, 13 October 2008

Spain

Ley Orgánica 1/2009, de 3 de noviembre, complementaria de la Ley de reforma de la legislación procesal para la implantación de la nueva Oficina judicial, por la que se modifica la Ley Orgánica 6/1985, de 1 de julio, del Poder Judicial, 4 de noviembre de 2009

Real Decreto 1513/2007, de 16 de noviembre, por el que se crea y regula la Comisión Española de Derecho Internacional Humanitario

Ley 52/2007, de 26 de diciembre, por la que se reconocen y amplían derechos y se establecen medidas en favor de quienes padecieron persecución o violencia durante la guerra civil y la dictadura

Sri Lanka

Chemical Weapons Convention Act, No. 58 of 2007, 20 November 2007

Switzerland

Décision du Conseil fédéral du 16 décembre 2009 relative à la création d'un Comité interdépartementale de droit international humanitaire

Loi fédérale portant modification de lois fédérales en vue de la mise en oeuvre du Statut de Rome de la Cour pénale internationale du 18 juin 2010

Loi fédérale sur le matériel de guerre (LFMG) du 13 décembre 1996 (état le 1er janvier 2010)

Loi fédérale sur la protection de la population et sur la protection civile (LPPCi) du 4 octobre 2002 (état le 1er janvier 2010)

Loi fédérale sur l'entraide internationale en matière pénale (Loi sur l'entraide pénale internationale, EIMP) du 20 mars 1981 (état le 1er janvier 2010)

Loi fédérale pour la protection des armoiries publiques et autres signes publics du 5 juin 1931 (état le 1er août 2008)

Loi fédérale sur la protection des données du 19 juin 1992 (état le 1er janvier 2008)

Timor-Leste

New Penal Code of Timor-Leste, Law No. 19/2009, 8 April 2009

Trinidad and Tobago

Act no. 25 of 2008: an Act to enable effect to be given to certain Conventions done at Geneva on 12th August, 1949 and to the Protocols additional to those Conventions done at Geneva on 8th June, 1977 and for related purposes

Uganda

Act 11, The International Criminal Court Act, 25 May 2010

Resolutions on IHL, 29 May 2009 (on which the inaugural meeting reconstituting the Ugandan national IHL committee, held from 29 to 30 September 2010, was based)

Ukraine

Law Amending Various Legislative Acts of Ukraine (Law No. 1675-VI) of 22 October 2009

United Kingdom

Geneva Conventions and United Nations Personnel (Protocols) Act 2009, 2 July 2009

Cluster Munitions (Prohibition) Act 2010, 25 March 2010

United States of America

The Child Soldiers Accountability Act of 2008, 3 October 2008.

Executive Order – 'Ensuring Lawful Interrogations,' 22 January 2009

Executive Order – 'Review And Disposition Of Individuals Detained At The Guantanamo Bay Naval Base And Closure Of Detention Facilities,' 22 January 2009

Lord's Resistance Army Disarmament and Northern Uganda Recovery Act of 2009

Military Commissions Act of 2009

Viet Nam

Law on Red Cross Activities, 3 June 2008

Zambia

Cabinet Order No. MOJ/7/14/1 establishing the National Committee for the Implementation of International Humanitarian Law, 2007

Annex C: States' pledges at the ICC Review Conference, Kampala, 2010**International Criminal Court****RC/9****Review Conference of the Rome Statute**Distr.: General
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**I. States Parties to the Rome Statute of the International Criminal Court/
États Parties au Statut de Rome de la Cour pénale internationale/
Estados Partes en el Estatuto de Roma de la Corte Penal Internacional**

ARGENTINA¹

1. The Argentine Republic pledges to disseminate the results of the Review Conference of the Rome Statute at the national level in order to exchange views with the relevant stakeholders, inter alia, by holding a seminar immediately after the Conference.
 2. The Argentine Republic pledges to expedite a process to reach an agreement with the Court on the relocation of witnesses.
-

1. La República Argentina promete difundir a nivel nacional los resultados de la Conferencia de Revisión del Estatuto de Roma con vistas a intercambiar puntos de vista con los interlocutores relevantes, en particular, mediante la realización de un seminario inmediatamente después de concluida la Conferencia.
2. La República Argentina promete avanzar en el proceso que permita concluir un acuerdo con la Corte sobre reubicación de testigos.

AUSTRALIA

1. To make a voluntary contribution of €100,000 to the Trust Fund for Victims in 2010, noting the importance of the participation of victims in the Review Conference and the unique role of victims under the Rome Statute.
2. To make a voluntary contribution of €50,000 to the Trust Fund for Least Developed Countries (LDCs) in 2010, noting the importance of participation by LDCs in the Assembly of States Parties and the goal of universality of the Rome Statute.
3. To progress Australia's consideration of accession to the International Criminal Court Privileges and Immunities Agreement, noting the importance of this Agreement to the functioning of an effective and independent Court.

AUSTRIA

1. To make a contribution to the International Criminal Court's Trust Fund for Victims of €30,000 by September 2010.
2. To enter into discussions with the International Criminal Court with a view to signing a Memorandum regarding the relocation of witnesses of the International Criminal Court to Austria.
3. To complete the process of integrating the crimes falling under the jurisdiction of the International Criminal Court into Austrian domestic criminal law pursuant to Resolution ICC-ASP/5/Res.3. An inter-ministerial working group under the lead of the Federal Ministry for European and International Affairs has already made good progress.

¹ Original submitted in Spanish.

BELGIUM²

1. Conclusion with the International Criminal Court of a framework agreement on the enforcement of sentences, in time for the opening of the Review Conference in Kampala.

1. Conclusion avec la Cour pénale internationale d'un accord-cadre en matière d'exécution des peines, pour l'ouverture de la Conférence de révision de Kampala.

BULGARIA

1. To provide technical assistance to States which are not Parties to the Rome Statute, to include crimes set out in articles 6, 7 and 8 of the Statute, as punishable offences under their national laws, to establish jurisdiction over these crimes, and to ensure effective enforcement of those laws.

BURKINA FASO³

1. To ratify the Agreement on Privileges and Immunities of the Court.

2. To appoint a national focal point for ICC related issues.

3. To implement laws in order to facilitate cooperation with the ICC in a manner consistent with the rules and principles of the Statute.

4. To establish an inter-ministerial or inter-agency think-tank within national governments to coordinate information related to requests for cooperation.

5. To appoint a focal point for ICC issues in embassies that have a link to the ICC owing to their location, in particular in The Hague, New York or Addis Ababa, and introduce those focal points to the ASP facilitator on cooperation.

6. Inter alia, to cooperate with international and regional organizations on ICC related initiatives, in particular relating to the adoption of resolutions which support the ICC, prepare implementing legislation templates and develop plans for improved competence in relation to the ICC.

7. To pledge to improve legal training and enhance competence in relation to the Rome Statute in domestic education and justice systems.

1. Ratification de l'Accord sur les privilèges et immunités de la Cour.

2. Désignation d'un point focal national pour les affaires liées à la CPI.

3. Mise en oeuvre de lois qui faciliteraient la coopération avec la CPI, de façon compatible avec les normes et principes du Statut.

4. Constitution d'un groupe de réflexion interministériel ou inter-agences au sein des gouvernements nationaux pour coordonner l'information à propos des demandes de coopération.

² Original submitted in French.

³ Original submitted in French.

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5. Désignation d'un point focal pour les affaires liées à la CPI dans les ambassades ayant, en raison de leur localisation, un lien avec la CPI, notamment à La Haye, New York ou Addis-Abeba et présentation de ce point focal au facilitateur de l'AEP sur la coopération.

6. Coopération avec les organisations internationales et régionales dans leurs initiatives liées à la CPI, notamment pour l'adoption de résolutions soutenant la CPI, la rédaction de modèles de loi de mise en oeuvre, la création de projets de renforcement des capacités sur la CPI, entre autres.

7. Engagement à améliorer la formation juridique et à renforcer les capacités sur le Statut de Rome dans les systèmes nationaux d'éducation et de justice.

CHILE⁴

1. To deploy every effort to submit a bill on cooperation with the International Criminal Court to the Parliament before December 2011.

1. Efectuar todos los esfuerzos posibles encaminados a presentar ante el Parlamento Nacional un Proyecto de Ley sobre cooperación con la Corte Penal Internacional, antes de diciembre de 2011.

COLOMBIA

1. Colombia will continue to provide support and cooperation to the ICC in accordance to the provisions of the Rome Statute in a transparent, constructive, and effective manner.

2. Colombia will strive to investigate and prosecute crimes at the national level more effectively.

3. Colombia will present to the National Congress the ICC Cooperation Bill.

4. Colombia will continue to support positive complementarity initiatives such as the Justice Rapid Response Mechanism (JRR).

COSTA RICA⁵

1. Costa Rica hereby pledges to make every effort to foster greater awareness of and to promote the International Criminal Court, as well as to increase its support and recognition amongst other public institutions. It will also participate in and support academic activities to promote international criminal justice.

2. Costa Rica hereby pledges to cooperate with the International Criminal Court in accordance with the provisions of the Rome Statute and the relevant resolutions of the Assembly of States Parties. With this end in view, Costa Rica hereby pledges to adopt a "National Protocol on Cooperation with the International Criminal Court" to implement, inter alia, the provisions of Part 9 of the Rome Statute.

The "Protocol" will list national focal points (the Department of Foreign Policy (MFA), the Department of Legal Affairs (MFA), the International Humanitarian Law Commission of

⁴ Original submitted in Spanish.

⁵ Original submitted in Spanish.

Costa Rica) and set out the role of the various national institutions which may be called upon to implement a request for cooperation from the International Criminal Court. Furthermore, it will lay down the procedure that shall apply from the moment the Legal Department of the Ministry of Foreign Relations and Worship receives a request until it is carried out. The document will contain the definition of the principles of complementarity, surrender of persons, immunity and life imprisonment enshrined in the Rome Statute and their relation to the national constitutional framework.

Finally, an assessment will be made regarding the issues relating to national implementation that still need to be addressed and the possibility of doing so on the medium or long term.

1. Costa Rica se compromete a realizar todos los esfuerzos necesarios para impulsar una mayor difusión y promoción de la Corte Penal Internacional, así como a expandir su apoyo y entendimiento en otras instituciones públicas. Además, participará y apoyará la celebración de actividades académicas centradas en la promoción de la justicia penal internacional.

2. Costa Rica se compromete a cooperar con la Corte Penal Internacional, de conformidad con lo establecido en el Estatuto de Roma y las resoluciones sobre la materia de la Asamblea de los Estados Partes, para ello, el país se compromete a adoptar un “Protocolo nacional de cooperación con la Corte Penal Internacional” que desarrolle, entre otras, las disposiciones Capitulote la Parte IX del Estatuto de Roma.

El ‘Protocolo’ identificará los puntos de enlace nacional (Dirección Política Exterior MREC, Dirección Jurídica MREC, Comisión Costarricense Derecho Internacional Humanitario) y el papel de las diversas instituciones nacionales llamadas a aplicar una solicitud de cooperación judicial de la Corte Penal Internacional. Además, detallará el procedimiento aplicable desde su recepción en la Dirección Jurídica del Ministerio de Relaciones Exteriores y Culto hasta la ejecución de la solicitud. El documento definirá los principios de complementariedad, entrega de personas, inmunidad y pena perpetua, a la luz del Estatuto de Roma y su correspondencia en el marco constitucional nacional.

Por último, se hará un balance sobre los temas pendientes de implementación a nivel nacional y se medirá la posibilidad de cumplirlos a mediano o a largo plazo.

CROATIA

1. To organize a seminar for Government employees, judges and prosecutors in charge of cooperation with the International Criminal Court so as to reaffirm Croatia’s commitment to cooperation with the ICC and to the fight against impunity, with special focus on the Review Conference results.

CZECH REPUBLIC

1. The Czech Republic will start the accession process to the Agreement on Privileges and Immunities of the International Criminal Court by the end of 2010.

DENMARK

1. A contribution of €130.000 to the ICC Special Fund for the Relocation of Witnesses.

2. Enter into Enforcement of Sentences Agreement with the ICC.

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3. Denmark has for 2010 contributed approximately US \$10.000 to CICC to support their activities, including participation on the Review Conference.

FINLAND

1. To commit to enhance complementarity worldwide by supporting financially and through other means the work of the Coalition for the International Criminal Court in its efforts to raise awareness of the work of the ICC, to promote ratifications of the Rome Statute and to enhance the readiness of national jurisdictions to meet their obligations under the Rome Statute.
2. To support financially the participation of the least developed countries and other developing States in the sessions of the Assembly of States Parties.
3. To continue to support the efforts of the Trust Fund for Victims for the benefit of victims of crimes within the jurisdiction of the Court, and of the families of such victims by contributing funds to the Trust Fund.
4. To continue to enhance cooperation with the ICC and to assist States with complementarity through Justice Rapid Response (JRR), the first multilateral stand-by facility of criminal justice professionals from the global south and north who are trained in international investigations and who are available at short notice to respond to requests of assistance appropriately made under international law; working with partners to help more than double the roster of readily available experts to 100 by July 2011; to ensure full regional, gender and linguistic balance in this roster; and to support constantly upgraded training program that can ensure that the roster is “ evergreen ” and consists of actually available experts to assist the States, the ICC and the UN system.
5. To conclude an Agreement on the Enforcement of Sentences with the International Criminal Court as a follow up to the declaration of the willingness of Finland to accept persons sentenced by the Court, for the purpose of enforcement of sentences of imprisonment in Finland, in accordance with article 103 (1) (b) of the Rome Statute, which was submitted to the Court after the Rome Statute had been ratified by Finland.

FRANCE⁶

1. France pledges to continue its cooperation with the International Criminal Court in 2010 and 2011 in organizing regional outreach seminars on international criminal justice, as well as training seminars on the mechanisms and procedures of the Court, such as the one entitled “ Perspectives on the challenges facing international justice and its prospects: the International Criminal Court and domestic jurisdictions ”, held in Senegal from 7 to 11 December 2009.

These seminars are open to both States Parties and non-States Parties to the Rome Statute.

2. France will continue to support NGO outreach programmes on the work of the International Criminal Court.

1. La France s’engage à continuer en 2010 et 2011 sa coopération avec la Cour pénale internationale dans l’organisation de séminaires régionaux de sensibilisation à la justice pénale internationale, ainsi que de formation aux mécanismes et procédures de la Cour, tels

⁶Original submitted in French.

que celui intitulé « Regards croisés sur les enjeux et perspectives de la justice internationale : la Cour pénale internationale et les juridictions nationales » organisé au Sénégal du 7 au 11 décembre 2009.

Ces séminaires sont destinés aux États parties comme aux États non parties au Statut de Rome.

2. La France maintiendra son soutien aux programmes d'ONG de sensibilisation aux activités de la Cour pénale internationale.

GEORGIA

1. Georgia hereby pledges to organize two types of events promoting the knowledge regarding the International Criminal Court, namely:

a) Training Center of Ministry of Justice will organize a Summer School for law/international law students regarding the Rome Statute, the International Criminal Court and other treaties related to international humanitarian law.

b) Training Center for Ministry of Justice of Georgia will organize training for prosecutors on the issues relating to the International Criminal Court.

GERMANY

1. To support the Trust Fund for Victims by a voluntary contribution of €300,000 for the budgetary year 2010.

2. To fund the secondment of a legal expert for a fixed-term appointment as legal adviser to the Trust Fund for Victims for the years 2010 and 2011.

3. To make funds of €250,000 available in 2010 in order to support projects related to the promotion of accession to or implementation of the Rome Statute.

ITALY

1. To adopt national policies in view to enforce its cooperation with the International Criminal Court (ICC), in particular in contributing to arrest operations and the execution of arrest warrants requested by the ICC. To achieve this goal it will be created, in the Ministry of Justice in Rome, within the Direzione Generale Contenzioso e Diritti Umani, a specific office called Ufficio II, directly responsible in matters related with judicial assistance, extradition, surrender, and promoting the adoption of national legislation or promulgation of internal regulations and procedures, linked with the International Criminal Court.

2. To adopt national policies directed towards the fight against impunity, spreading knowledge about international criminal law and promoting the ICC and its Statute, more particularly through a number of workshops and international conferences to be held in Italy, with the support of the Italian Government. Among these initiatives: 1) an international conference will be held already in September, at the Istituto Superiore Internazionale di Scienze Criminali (ISISC), founded by Prof. Bassiouni in Siracusa (in the south of Italy) followed by; 2) workshop in Rome (in the center of Italy) at the University "Roma 3" on the Review Conference of the Rome Statute of the ICC in Kampala and; 3) by a seminar on the

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same subject, which will be held at the University of Trento (in the north of Italy) before the end of the present year.

3. To adopt national policies directed towards the mainstreaming of ICC support, and to create, within the Ministry of Foreign Affairs in Rome, a national focal point with the International Criminal Court in The Hague, and the Secretariat of the Assembly of States Parties (ASP) of the ICC, in its Department, called “Contenzioso Diplomatico”. The focal point will receive all relevant information, questions, requests from the ICC and the ASP and will forward them in a direct and expeditious way to the competent offices within the national administration. The focal point will also provide the Italian Government, with all necessary information for the enforcement of Court decisions, for the support of the ICC activities in the regional and international fora, promoting the adoption of national legislation or of international regulations, in favour of the International Criminal Court and its judicial activities.

IRELAND

1. As part of its continuing support for international criminal justice and the rule of law to make, amongst others, the following financial contributions by end 2010:

- €100,000 to the ICC Trust Fund for Victims;
- €25,000 to the ICC Trust Fund for the Participation of Least Developed Countries;
- €150,000 to the Special Court for Sierra Leone;
- €6.5 million to the Justice, Law and Order Sector in Uganda (€27.5 million over the period 2010 - 2014);

2. To promote awareness of the ICC and Ireland’s domestic implementing legislation by including discussion of ICC related issues in meetings of the National Committee on International Humanitarian Law and the Department of Foreign Affairs NGO Committee on Human Rights commencing autumn 2010.

3. As a Member State of the European Union, Ireland aligns itself with the European Union’s pledges for the Review Conference.

LIECHTENSTEIN

1. To make further steps for the full domestic implementation of the Rome Statute, beyond the explicit criminalization of genocide in the Liechtenstein Penal Code (Section 321) and the 2004 *Law on Cooperation with the International Criminal Court and Other International Tribunals*, with a view to including specific provisions on war crimes and crimes against humanity in the Penal Code within the next two years.

2. To continue to support the ICC Trust Fund for Victims (TFV) through voluntary contributions (2011: CHF10,000).

3. To continue to support the Coalition for the International Criminal Court (CICC) through voluntary contributions.

MEXICO⁷

1. To continue, in 2010, 2011 and 2012, submitting to the General Assembly of the Organization of American States the draft resolution on “Promotion of the International Criminal Court”, collaborating actively with other States in this initiative with a view to promoting the universality and implementation of the Rome Statute.
 2. To continue, in 2010, 2011 and 2012, the active work of the Inter-Ministerial Committee on International Humanitarian Law of Mexico (CIDIH-Mexico) relating to monitoring the implementation of the Rome Statute at the national level.
 3. To conduct, in the second half of 2010, a seminar to raise awareness of the work of the Court among government officials, representatives of non-governmental organizations and academics, with particular emphasis on the outcome of the Review Conference, in particular the stocktaking of international criminal justice.
 4. To organize, in the first half of 2011, a seminar for government officials, legislators, members of the judiciary, academic experts and civil society organizations, to analyse progress and challenges in the implementation of the Rome Statute in Mexico, with particular emphasis on the process of legislative harmonization.
 5. To support the renewal, in June 2010, of the mandate of the Inter-American Juridical Committee of the Organization of American States to prepare a template of Rome Statute implementing legislation for Member States of the OAS, and to support the Committee in this task in the course of 2010 and 2011.
 6. To submit draft amendments to the Federal Criminal Code to the Congress of the Union during the first half of 2011, in order to bring it into line with the provisions of the Rome Statute of the International Criminal Court with regard to the crimes within its jurisdiction.
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1. Continuar presentando en la Asamblea General de la Organización de los Estados Americanos, en 2010, 2011 y 2012, el proyecto de resolución “Promoción de la Corte Penal Internacional”, colaborando activamente con otros Estados en dicha iniciativa para promover la universalidad e implementación del Estatuto de Roma.
2. Continuar, en 2010, 2011 y 2012. Los trabajos activos de la Comisión Intersecretarial de Derecho Internacional Humanitario de México (CIDIH-México). En materia de seguimiento del proceso de implementación del Estatuto de Roma a nivel nacional.
3. Llevar a cabo, durante el segundo semestre de 2010, un seminario para dar a conocer el trabajo de la Corte entre funcionarios gubernamentales, no-gubernamentales y académicos, con especial énfasis en los resultados de la Conferencia de Revisión y en particular el ejercicio de evaluación de la justicia penal internacional.
4. Realizar, durante el primer semestre de 2011, un seminario con funcionarios gubernamentales, legisladores, miembros del poder judicial, expertos académicos y organizaciones de la sociedad civil, a fin de profundizar sobre los avances y retos de la implementación del Estatuto de Roma en México, con especial énfasis en el proceso de armonización legislativa.

⁷Original submitted in Spanish.

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5. Promover, en junio de 2010, la renovación del mandato del Comité Jurídico Interamericano de la OEA para la elaboración de una legislación modelo en materia de implementación del Estatuto de Roma para los Estados miembros de la OEA, y apoyar los trabajos del Comité tendientes a dicha elaboración a lo largo de 2010 y 2011.

6. Presentar ante el Congreso de la Unión, durante el primer semestre de 2011, un proyecto de enmiendas al código penal federal, para armonizarlo con las disposiciones del Estatuto de Roma de la Corte Penal Internacional en lo referente a los crímenes de su competencia.

NETHERLANDS

1. To continue to support effective implementation of the ICC principle of complementarity by supporting initiatives aimed at enhancing national capacity to investigate and prosecute the crimes of the Rome Statute, such as the ICC Legal Tools Project and the Justice Rapid Response initiative (JRR).

2. In this context, The Netherlands hereby pledges to support from 2010 to 2013 the ICC Legal Tools Project and activities of its Outsourcing Partners with a structural financial contribution of €25.000 per year.

3. The Netherlands pledges moreover to support JRR efforts by hosting and supporting a certification course at the Netherlands Forensic Institute in June 2010 and by supporting the JRR Secretariat with €50.000.

4. The Netherlands further pledges to organize a legal expert meeting in a yet-to-be confirmed State Party in 2011 on the investigation and prosecution of international crimes in national jurisdictions.

5. To support the activities of the Trust Fund for Victims which address the harm resulting from crimes under the jurisdiction of the International Criminal Court by assisting victims to return to a dignified and contributory life within their communities.

6. In this context, The Netherlands hereby pledges to make a financial contribution to the Trust Fund for Victims in 2010 of €40.000 and encourages other States Parties to consider financial support for the TFV.

NEW ZEALAND

1. To continue to work actively with other States, especially in the Asia Pacific region, to promote ratification and implementation of the Rome Statute.

2. To continue to undertake technical assistance activities in the Pacific region concerning the Rome Statute, including through the Pacific Islands Law Officers Network.

3. To designate the Director of the Legal Division of the Ministry of Foreign Affairs and Trade of New Zealand to be the New Zealand national contact point for coordination.

4. To support the work of the Commonwealth Secretariat in promoting expansion of Rome Statute membership among Commonwealth countries.

NORWAY

1. Norway hereby pledges to submit a proposal to the Court for an agreement on the enforcement of sentences, by 1 June 2010.

PERU⁸

1. Peru pledges, in accordance with the provisions of the Rome Statute of the International Criminal Court, to take the appropriate steps at domestic level, prior to 2013, to draw up legislative proposals to enable the implementation of legislation on the crimes covered in articles 5, 6, 7 and 8 of the Rome Statute of the International Criminal Court and, in this regard, also pledges to implement the provisions of the four Geneva Conventions of 1949 and Additional Protocol I of 1977.

2. Peru pledges to coordinate with the appropriate sectors and bodies of the Congress of the Republic with a view to promoting the ratification of the Agreement on Privileges and Immunities of the International Criminal Court (2011–2012).

3. Peru pledges to continue to promote respect for and the application of the Rome Statute and the provisions of international law on human rights and International Humanitarian Law related to the Statute, and to disseminate the work of the International Criminal Court. It further pledges, for the period 2010–2013, to carry out awareness-raising and capacity building activities for the relevant officials and authorities and members of civil society on these matters.

4. Peru pledges, in accordance with the provisions of the Rome Statute of the International Criminal Court, the four 1949 Geneva Conventions and their Additional Protocols of 1977, to take, by 2013, internal steps towards the adoption of specific national implementation measures to control, to the extent necessary, the use and protection of the Red Cross emblem and other such protective emblems referred to in the Rome Statute.

5. Peru pledges to work with other stakeholders, including international, regional and subregional organizations, in applying the complementarity regime set out in the Rome Statute. In particular, Peru pledges to continue supporting the significant initiatives mounted by the Organization of American States (OAS) concerning cooperation between the member States of OAS and the Court, together with the implementation of the Rome Statute of the International Criminal Court into their domestic State legal systems.

Peru also pledges to support the adoption of resolutions, in relevant international organizations, in particular the OAS and its member States, to promote the effective implementation of the Rome Statute (2010–2013).

6. Peru pledges to attend and to participate actively in the Assembly of States Parties to the International Criminal Court.

To allow for the necessary budgetary and human resources for Peru to participate in the Assembly of States Parties of the International Criminal Court.

1. El Perú se compromete, de conformidad con lo establecido en el Estatuto de Roma de la Corte Penal Internacional, a realizar, antes del 2013, las gestiones internas conducentes para la elaboración de las propuestas legislativas que permitan la implementación de la legislación que tipifique los crímenes contenidos en los artículos 5, 6, 7, y 8, del Estatuto de

⁸ Original submitted in Spanish.

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Roma de la Corte Penal Internacional; tomando en cuenta este último caso, se compromete también a implementar lo establecido en los cuatro Convenios de Ginebra de 1949 y el Protocolo Adicional I de 1977.

2. El Perú se compromete a coordinar con los sectores y entidades concernidas con el Congreso de la República a fin de coadyuvar en el proceso de aprobación del Acuerdo de Privilegios e Inmunidades de la Corte Penal Internacional (2011-2012).

3. El Perú se compromete a continuar promocionando el respeto y vigencia del Estatuto de Roma así como de las normas del derecho internacional de los derechos humanos y de las normas de derecho internacional humanitario, conexas a dicho Estatuto, y difundiendo la labor de la Corte Penal Internacional. Asimismo, se compromete a realizar, durante el período 2010-2013, actividades para la sensibilización y capacitación de funcionarios y autoridades competentes, así como de la sociedad civil, sobre estas materias.

4. El Perú se compromete, de conformidad con lo establecido en el Estatuto de Roma de la Corte Penal Internacional los cuatro Convenios de Ginebra de 1949 y sus Protocolos Adicionales de 1977, a realizar, antes del 2013, las gestiones internas conducentes para a la adopción de medidas nacionales de aplicación que permitan regular adecuadamente el uso y protección del emblema de la Cruz Roja y otros signos protectores mencionados en el Estatuto de Roma.

5. El Perú se compromete a trabajar con otras partes interesadas, incluidas las organizaciones internacionales regionales y subregionales, en la aplicación del régimen de complementariedad previsto en el Estatuto de Roma. En particular, el Perú se compromete a continuar apoyando las importantes iniciativas impulsadas desde la Organización de los Estados Americanos (OEA) respecto a la cooperación de los Estados Miembros de la OEA con la Corte, así como la implementación del estatuto de Roma de la Corte Penal Internacional dentro de los ordenamientos internos de los Estados.

Apoyar la aprobación de resoluciones de las organizaciones internacionales pertinentes, en particular de la OEA y sus Estados Miembros relativas al fomento de la plena efectividad del Estatuto de Roma (2010-2013).

6. El Perú se compromete a asistir y participar activamente durante la Asamblea de Estados Partes de la Corte Penal Internacional.

Prever los recursos presupuestales y humanos que permitan la participación del Perú en la Asamblea de Estados Partes de la Corte Penal Internacional.

POLAND

1. To implement fully the Rome Statute, and to this aim to complete, as quickly as feasible, the process of introducing amendments to the Polish Criminal Code, which will complement the existing legislation, with a view to reflect fully crime of genocide, crimes against humanity and war crimes as defined by the Rome Statute.

2. To continue to work actively with our partners in the European Union to promote universality and integrity of the Rome Statute, in particular in those countries which are not yet parties to the Statute (so-called “ ICC clauses” in EU agreements concluded with third countries, raising the issue in the EU political dialogues and negotiations with those countries, making relevant EU demarches) – in accordance with the Common Position of the Union (2001/443/CFSP, 2002/474/CFSP and 2003/444/CFSP) as well as to achieve this goals through bilateral cooperation with non State-parties.

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3. To continue to follow efficiently the implementation process of the Rome Statute by the relevant national authorities, including in the framework of the National Committee on International Humanitarian Law.
4. To continue making every year voluntary contribution to the Trust Fund for Victims up to the budgetary constrains.
5. To continue making every year voluntary contribution to the Trust Fund for the participation of the least developed countries and other developing States in the sessions of the Assembly of States Parties up to the budgetary constrains.
6. To strengthen mainstreaming international criminal justice issues in the domestic system of the higher education, in particular at law faculties of the universities.

REPUBLIC OF KOREA

1. To provide education and training programs for those in the sector of criminal justice in other countries during the second half of 2010, with a view to helping them to strengthen their national criminal jurisdictional capacity and thus enhancing the principle of complementarity of the Rome Statute.
2. To provide a voluntary financial contribution to the International Criminal Court in order to assist its activities by the end of this year.⁹

SLOVAKIA

1. Under the Plan of action of the Assembly of States Parties for achieving universality and full implementation of the Rome Statute of the International Criminal Court, to:
 - a) Convene a regional seminar for legal experts of permanent missions of Caribbean States to the United Nations in New York, aimed at promoting ratification and full implementation of the ICC Rome Statute by Caribbean States; and to
 - b) Organize a conference in cooperation with the New York University for wider dissemination of information about the International Criminal Court and its role among public, academia and civil society.
2. The Slovak Republic will undertake these activities in close cooperation with representatives of the International Criminal Court, States, academia, the ICRC, civil society, international organizations and other stakeholders.

SPAIN¹⁰

1. To initiate negotiations with the International Criminal Court to reach an Agreement on the Relocation of Witnesses.
2. To promote the universality and integrity of the Rome Statute in bilateral relations through appropriate diplomatic initiatives in favor of ratification and by including the

⁹ In consultation with the Court regarding the project/program on which the contribution can have a best effect (by 31 October 2010).

¹⁰ Original submitted in Spanish.

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International Criminal Court on the agenda of ongoing political dialogues, in accordance with the EU common position on the International Criminal Court.

3. To maintain democratic governance and peace-building as priorities in Spain's development assistance policy, in the form of specific objectives to improve access to justice and to strengthen social and institutional capacities for peaceful conflict resolution, as well as to support structural reforms to promote the rule of law, thereby contributing to the proper application of the principles of cooperation and complementarity enshrined in the Rome Statute.

4. To maintain multiannual financing to the Trust Fund for Victims in the form of yearly voluntary contributions made by the Spanish Government, until 2012 minimum.

1. Iniciar con la Corte Penal Internacional la negociación de un acuerdo de reubicación de testigos.

2. Promover la universalidad e integridad del Estatuto de Roma en sus relaciones bilaterales a través de la realización de las oportunas gestiones diplomáticas a favor de la ratificación y mediante la inclusión de la Corte Penal Internacional en la agenda de los diálogos políticos permanentes, en consonancia con la posición común de la Unión Europea sobre la Corte Penal Internacional.

3. Mantener como prioridad sectorial de la política de ayuda al desarrollo española la gobernabilidad democrática y la construcción de la paz que se traduzcan en objetivos específicos tendentes al fortalecimiento del acceso a la justicia y de las capacidades institucionales y sociales para la resolución pacífica de los conflictos así como el apoyo de las reformas estructurales que desarrollen el estado de derecho, contribuyendo así al buen funcionamiento de los principios de cooperación y complementariedad previstos en el Estatuto de Roma.

4. Mantener una financiación plurianual del Fondo Fiduciario en beneficio de las víctimas, en forma de contribuciones voluntarias anuales, acordadas por el Gobierno de la Nación, hasta por lo menos el año 2012.

SWITZERLAND¹¹

1. Initiate, before the end of 2011, an internal procedure to ratify the Agreement on Privileges and Immunities of the International Criminal Court (APIC), signed by Switzerland on 10 September 2002.

2. Ensure that the legislative amendments required for the general implementation of the Rome Statute in the domestic legal order enter into force.

3. Provide technical and financial support to States and NGOs that support universal ratification and the effective implementation of the Statute, depending on the means available.

4. Contribute on a voluntary basis to the Special Trust Fund for Victims, depending on the means available.

1. Avant la fin de 2011, lancer la procédure interne en vue de la ratification de l'Accord sur les privilèges et immunités de la Cour pénale internationale (APIC), signé par la Suisse le 10 septembre 2002.

¹¹ Original submitted in French.

2. Assurer l'entrée en vigueur des modifications législatives nécessaires à la mise en oeuvre globale du Statut de Rome dans l'ordre juridique national.
3. Soutenir, au niveau technique et financier et en fonction des moyens à disposition, les États et organisations non gouvernementales en faveur de la ratification universelle et de la mise en oeuvre efficace du Statut.
4. Contribuer volontairement au Fonds d'affectation spéciale au profit des victimes en fonction des moyens à disposition.

TRINIDAD AND TOBAGO

1. The Republic of Trinidad and Tobago hereby pledges to continue to promote the universality of the Rome Statute of the International Criminal Court ("the Statute") among Member States of the Caribbean Community (CARICOM) which are not States Parties to the Statute. In order to achieve this objective, Trinidad and Tobago will:

- a) Use its initiative to advise on the ratification or other procedures required for non-States Parties in the region to become adherents to the Statute.
- b) Make available to other States within the region its national legislation implementing the provisions of the Statute. This can be used as model legislation.
- c) Advocate for the ratification of the Agreement on the Privileges and Immunities of the International Criminal Court (ICC).

UGANDA

1. Undertake activities to promote increased awareness on the activities of the ICC at national level.
2. Commit to improve legal training and capacity building on the Statute with the national judicial and education system.
3. Development of legislation on victim and witness protection geared towards fulfilling implementing obligations under the Statute.

UNITED KINGDOM

1. To provide the International Criminal Court with full political and practical support, in accordance with our Rome Statute obligations and our agreements signed with the Court on witness protection, sentence enforcement and information sharing; and to ensure that our national authorities comply comprehensively and effectively to requests for assistance from the organs of the Court.
2. To play an active role in delivering justice to the victims of serious crimes, in particular to take measures to support the victims of sexual violence; and to seek to help victims re-establish their livelihoods, including by continuing our support for the Trust Fund for Victims.

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3. To support States in their efforts to adopt relevant national legislation pertinent to their Rome Statute and wider International Humanitarian Law obligations; and to promote ratification and implementation of the Rome Statute within Commonwealth States, including the provision of support to revise the Commonwealth Model Law.

UNITED REPUBLIC OF TANZANIA

1. To present to the Parliament by 30 December 2011 a draft law for the adoption of the resolution for ratification of the Agreement on Privileges and Immunities of the International Criminal Court and adopting specific national measures implementing the Rome Statute by 30 December 2011.

2. To contribute to the Trust Fund for Victims by 30 December 2011.

VENEZUELA (BOLIVARIAN REPUBLIC OF) ¹²

1. The Bolivarian Republic of Venezuela hereby pledges to incorporate the crimes set out in the Rome Statute into Venezuelan criminal law.

2. The Bolivarian Republic of Venezuela hereby pledges to promote the awareness, application and implementation of the Rome Statute by organizing training seminars for government officials.

3. The Bolivarian Republic of Venezuela hereby pledges to give high priority to the content of the Rome Statute of the International Criminal Court and of the crimes contained therein more widely, and to highlight the importance of the Court in the fight against impunity for the most serious crimes of concern to the international community as a whole.

4. The Bolivarian Republic of Venezuela hereby pledges to work in the framework of the regional initiative “Bolivarian Alliance for the Peoples of Our America - Peoples' Trade Agreement (ALBA-TCP, in Spanish)” aimed at promoting the ratification of and accession to the Rome Statute of the International Criminal Court among States that belong to the Alliance and which have not yet done so, thereby promoting the universality of the International Criminal Court.

1. La República Bolivariana de Venezuela promete incorporar los crímenes contemplados en el Estatuto de Roma como delitos en la legislación penal venezolana.

2. La República Bolivariana de Venezuela se compromete a promover el conocimiento, la aplicación e implementación del Estatuto de Roma a través de jornadas de capacitación a funcionarios del Poder Público Nacional.

3. La República Bolivariana de Venezuela se compromete a dar la más amplia divulgación al contenido del Estatuto de la Corte Penal Internacional y los crímenes en ella tipificados, así como a resaltar la importancia de la Corte en la lucha contra la impunidad de los crímenes más graves de trascendencia para la comunidad internacional en su conjunto.

4. La República Bolivariana de Venezuela se compromete a trabajar en el marco de la iniciativa regional “Alianza Bolivariana para los Pueblos de Nuestra América - Tratado de Comercio de los Pueblos (ALBA-TCP)”, a fin de promover la ratificación y adhesión del Estatuto de Roma de la Corte Penal Internacional por parte de los Estados que integran dicha

¹² Original submitted in Spanish.

Alianza que aún no lo hayan hecho, y fomentar con ello la universalidad de la Corte Penal Internacional.

ZAMBIA

1. Zambia hereby pledges to reaffirm her intention to take steps to ratify/accede to the Agreement on Privileges and Immunities of the International Criminal Court.

**II. Observer States/
États observateurs/
Estados observadores**

UNITED STATES OF AMERICA

1. The United States renews its commitment to support rule-of-law and capacity building projects which will enhance States' ability to hold accountable those responsible for war crimes, crimes against humanity and genocide.
2. The United States reaffirms President Obama's recognition on May 25, 2010 that we must renew our commitments and strengthen our capabilities to protect and assist civilians caught in the LRA's wake, to receive those that surrender, and to support efforts to bring the LRA leadership to justice.

**III. Entities, intergovernmental organizations and other entities/
Entités, organisations intergouvernementales et autres entités/
Entidades, organizaciones intergubernamentales y otras entidades**

EUROPEAN UNION

1. To continue to promote the universality and preserve the integrity of the Rome Statute.
 2. To include the fight against impunity for the most serious crimes of international concern as one of the shared values of the EU and its partners through the insertion of ICC and international justice related provisions into its agreements with third parties.
 3. To continue its financial support to the Court, civil society and to the third States interested in receiving assistance in order to become party to the Rome Statute or to implement it.
 4. To review and update its instruments in support of the Court following the Review Conference.
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