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**Sub-Directorate:  
Conventional Arms  
Foreign Affairs ZA**

# Fax

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<b>To:</b> Mr Steve Goose	<b>From:</b> Rob Wensley
<b>Fax:</b> 00 1 202 612-4333	<b>Date:</b> 12 March 2009
<b>Phone:</b>	<b>Pages:</b> Three
<b>Re:</b> Letter of response	<b>CC:</b>

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Herewith a letter of response to Mr Steve Goose's letter of 30 January 2009. The HRW letter took some time to filter down to us.



**DEPARTMENT: FOREIGN AFFAIRS  
REPUBLIC OF SOUTH AFRICA**

Private Bag X152, Pretoria, 0001, Tel: (012) 351 1000

Mr Stephen D Goose  
Executive Director, Arms Division  
Human Rights Watch  
1630 Connecticut Ave, NW #500  
WASHINGTON DC 20009  
USA

Fax No: 00 1 (202) 612-4333

Dear Mr Goose

**Human Rights Watch enquiry on cluster munitions**

Minister Dlamini Zuma has requested that I respond to your letter dated 30 January 2009 on her behalf.

Within the Department of Foreign Affairs, my Business Unit has the responsibility of initiating the process of South Africa's ratification of the Convention on Cluster Munitions. The first step towards ratification was to have an exchange of views with our counterparts in the Department of Defence and we, as the Department of Foreign Affairs have taken it upon ourselves to drive the ratification process.

You have also raised a number of other questions for your planned State policy and practice publication, which I will attempt to respond to as best I am able to at this time.

As to your question regarding past production and transfer of cluster munitions, it is widely known that South Africa was a producer of such munitions for large-calibre artillery systems, but that its industry ceased to produce cluster munitions some years ago. We are unfortunately not in a position to respond to the aspect of possible past transfers of these munitions, as South Africa only makes public its transfers of major conventional arms systems through, for instance, its annual reports to the United Nations Register of Conventional Arms, which excludes ammunition.

On the issue of whether South Africa has ever used cluster munitions, I can only speak for the post-1994 democratic South African Government that has not been involved in any armed conflict since that date and which has as a consequence never used cluster munitions.

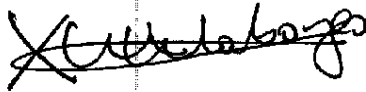
The Department of Defence will have the responsibility of compiling most of the technical information as required by Article 7 of the Convention, "Transparency measures", once South Africa has become a State Party. Thus, in response to your request for further details on the size and composition of South Africa's remaining stockpiles, we are currently not in a position to furnish you with this information other than to confirm that it is relatively small and that it has in any event been earmarked for destruction. The relevant details as required by Article 7 will be included in South Africa's first transparency report following ratification.

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With regard to expressing South Africa's views on interpretative matters, specifically the issue of the general obligation never to "assist" anyone with a prohibited activity, you may recall that our country has been consistent in its pronouncements on this issue in terms of the Mine Ban Treaty.

In addition, South Africa's "Anti-Personnel Mines Prohibition Act" (Act number 36 of 2003) prohibits South African forces from assisting a State not a party to that Convention with any activity prohibited by the Mine Ban Treaty. That Act also includes the term, "transit" under its definition of transfers. My expectation is that the provisions of the Anti-Personnel Mines Prohibition Act will serve as the principal guideline when South Africa drafts its national legislation for the Convention on Cluster Munitions.

Yours sincerely



**Mr Xolisa Mabhongo**  
**Chief Director: United Nations (Political)**

Date: 12 MARCH 2009

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