

## **Ten years of since the adoption of the Anti-Personnel Mine Ban Convention**

**Presentation to *New perspectives for a world without mines: Special event on the occasion of the tenth anniversary of the Anti-Personnel Mine Ban Convention***

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Excellencies, ladies and gentlemen:

Please allow me to extend greetings from Cornelio Sommaruga, President of the Council of the Foundation of the GICHD, and, Stephan Nellen, Director of the GICHD. If they were here, I'm sure they would join me and my colleague Sophie Delfolie, who is present, in expressing our gratitude to Belgium for convening this important commemorative event.

We are here to commemorate a multilateral process which was unique and the adoption of an international instrument which is special. While the story of the Convention's operations is somewhat more pedestrian, it is worth telling because it too is unique and special. And it is worth telling because it illustrates how the legacy of the Ottawa Process has been propagated.

Those familiar with the Convention when it was adopted in 1997 might not recognize what has become of it. What would be unrecognizable would be the solid foundation of implementation mechanisms, established since the Convention took effect on 1 March 1999. A multitude of implementation mechanisms was not foreseen in 1997 and yet various mechanisms are now seen as essential to the Convention's functioning. How did they come into being, and, why did they come into being? My presentation will attempt to address these questions.

Those around ten years ago tell us that while there were some discussions on implementation mechanisms in 1997, in the end, it was argued that State authority may be compromised by a separate institution capable of taking substantive decisions relating to the Convention, and, that resources should be devoted to mine clearance and victim assistance rather than to set up new structures.

The lack of a secretariat, however, did not prevent intensive discussions immediately after the adoption of the Convention on the practicalities of implementation. At December 1997 and March 1998 mine action forums convened by Canada's Minister of Foreign Affairs, it was asserted that the Convention's comprehensive nature provided a framework for the then emerging concept of *mine action*, that such a framework would be meaningless unless it was applied, and, that a coordinated international response was required to achieve the Convention's aims. These gatherings were critical stepping stones in the development of initiatives such as the *Landmine Impact Survey* and the *Landmine Monitor*.

Discussions also took place in Geneva. In early 1998 the Quaker United Nations Office began to convene the *Post-Ottawa Geneva Consultation Group* to promote the aims of the Convention. In September 1998 Burkina Faso ratified the Convention, thus assuring the Convention would take effect on 1 March 1999. At that point no formal process had been established to prepare for a Meeting of the States Parties. The *Post-Ottawa Geneva Consultation Group* stepped up to fill this void, including by discussing practical matters that should be considered by the First Meeting of the States Parties. These included the establishment of the Convention's first implementation mechanism – intersessional working groups. This idea became a reality at the May 1999 First Meeting of the States Parties when the Intersessional Work Programme, with its Standing Committees, was established.

The *Intersessional Work Programme* was an idea that did not emerge in isolation but rather it flowed from the Canadian Foreign Minister's 1997 and 1998 workshops' focus on the Convention as a

framework for mine action. The drafting of a proposal for what would become the *Intersessional Work Programme* might have taken place during a few brief weeks in 1999. However, it reflected the previous emphasis on both the need to avoid the temptation for specific types of actors to work in isolated pillars of activity and the importance of capturing the synergies of a community of actors working together to achieve a common purpose.

By providing an umbrella for a community of interested parties to take practical steps to end the suffering caused by anti-personnel mines, the *Intersessional Work Program* affirmed the idea that the Convention is a framework for mine action. In addition, it extended the notion of a core group of states maintaining ownership and responsibility over the operations of the Convention. Whereas a traditional secretariat may have removed the impetus for state-led initiative, the lack of a such a structure provided the space for innovative state-led shared ownership. In essence, the *Intersessional Work Programme* institutionalized perhaps not the Ottawa Process core group but rather a Ottawa Convention core group of concerned States Parties. Moreover, it provided for a large number of States Parties to step forward to make a contribution. Since 1999, 46 unique States Parties have served as Co-Chairs or Co-Rapporteurs. By sharing responsibility so widely, the *Intersessional Work Program's* committee structure has contributed to avoiding North-South divisions which are prominent in other multilateral forums.

During the first intersessional period in 1999-2000, coordination was limited with that that did exist being largely led by NGOs, not the Convention's States Parties. The vehicle for NGO-led coordination became known as the 20+2 – an initiative of the Geneva-based representative of the ICBL, who convened gatherings of the Co-Chairs and Co-Rapporteurs of the Intersessional Work Programme's Standing Committees, along with a few other invitees.

In addition to NGO-led informal coordination, in 1999-2000 the Canadian and South African Co-Chairs of the Standing Committee on the General Status and Operation of the Convention periodically convened informal dinner meetings of the initial Co-Chairs to discuss practical matters that had not been considered when the Intersessional Work Programme was established. These decidedly informal gatherings both reinforced a sense of group ownership and led to the understanding on the part of those who had accepted ownership that there was a need to address in a more systematic way the relationship between the informal *Intersessional Work Programme* and the Convention's formal meetings. Corrective actions were taken at the Second Meeting of the States Parties in 2000 when the States Parties streamlined the *Intersessional Work Programme* and established a Coordinating Committee chaired by the Convention's President.

Coordination on basic organizational issues improved as a result of the establishment of the Coordinating Committee. However, the President and Co-Chairs carried out their duties with only ad hoc support. As well, individual States Parties, in engaging in the work of the Standing Committees and in proceeding to implement the Convention, did so with no clear point of contact or authoritative information source.

The need to further address such matters continued to be discussed by a group of representatives of both States Parties and organizations that had been central in the effort to establish the Convention who periodically met informally to share ideas about the implementation of the Convention. These individuals included representatives of developing, mine-affected States Parties who raised the need for some kind of mechanism that would enable delegations like theirs to have an enhanced role in the work of the Convention. A secretariat in the traditional sense was still not perceived as necessary but some form of standing, substantive and logistical support was seen as a good idea.

In early 2001, representatives of leading States Parties began to engage the Geneva International Centre for Humanitarian Demining – or GICHD – on a way forward. The interest of the former coincided with the GICHD's desire to become more actively engaged in the work of the Convention. In May 2001 initial ideas had evolved and were consolidated in a discussion paper that noted that, while a handful of personalities had worked closely to fulfill the functions a proper secretariat, governments and budget priorities change, people are transferred and time marches on. As human

capacity is temporary, sustainable institutional capacity was necessary. In addition, without support, widespread ownership over the operations of the Convention was in peril.

The suggestion made in the May 2001 was that enhanced support could assist in ensuring sustainability with such support provided by the GICHD through the establishment of a unit within the GICHD specifically designed for this purpose. The role of the GICHD in establishing such a unique structure was at the time both logical and practical-minded given a history of GICHD support to the Convention and its existence as an independent centre of excellence on mine action.

As one might expect with the proposal to do something unique and unprecedented in the context of a multilateral instrument, a number of questions or concerns were raised about the concept of an Implementation Support Unit (ISU). Several States Parties expressed the need for clear accountability. Others raised the matter of the scope of the ISU's responsibilities. As well, a point was made regarding whether the ISU would simply be an instrument intended to serve the interests of one or a few States Parties or the interests of all States Parties. For example, the ICBL, while supporting the proposal to establish the unit, argued that the ISU mandate had to be independent and answerable to the States Parties, that is, not just Switzerland since the ISU would be in the GICHD, a Swiss-established institution.

Concerns notwithstanding, the States Parties agreed in September 2001 to mandate the GICHD to establish the ISU and the ISU began its operations on 14 January 2002. While the ISU is a part of the GICHD, it is a special part given that its existence flows from a mandate received externally by the parties of an international legal instrument. Moreover, it is a unique part of the GICHD because the Director of the GICHD is not responsible to the GICHD's governing body for the unit's functioning. Rather, the Director of the GICHD is accountable to the States Parties for the work of the ISU. The ISU is also unique in terms of its funding arrangements with the States Parties having agreed to assure, on a voluntary basis, the necessary financial resources for the ISU's functioning. To date, more than 40 States Parties have contributed to the ISU including both traditional donors such as Belgium and middle and low income States such as Albania, Burundi, Chile, Cyprus, Malaysia, Mexico, Nigeria, the Philippines, South Africa and Turkey.

In addition to implementation mechanisms established by or pursuant to formal decisions of the States Parties, a variety of mechanisms have emerged on an informal or voluntary basis. In 2000, *the Sponsorship Programme* was established by a group of donors pooling their resources to address in a meaningful way the barriers to participation faced by mine-affected developing States Parties. Another informal mechanism – *the Universalization Contact Group* – also was formed in 2000, with a view to converting into action one of the easiest throw away lines in any multilateral context, that “we must universalize the Convention.” To the Contact Group's founder, “we” had to be specific rather than an ambiguous throw-away and a deliberate strategy was required in order for progress to be made towards universal acceptance of the Convention. The seed was therefore planted for other actors to take similar initiatives in other areas. At the September 2001 Third Meeting of the States Parties, Jean Lint of Belgium's initiative to launch the *Article 7 Contact Group* was recorded and at the 2002 Fourth Meeting of the States Parties the Norwegian-initiated *Resource Mobilisation Contact Group* was born.

What explains the proliferation of machinery to support the implementation and operations of the Convention? The answer in part rests with the fact that the Convention itself provides the basis for the development of implementation machinery. As noted, the Convention is a framework for what has become known as *mine action*, with the emphasis on *action* obviously implying that deeds shall be done. Hence, to logical minded principals of the Ottawa Process, it was obvious that some kind of implementation support was needed to address the practical demands of the Convention. In addition, the central place of cooperation and assistance in the Convention provided a basis to establish implementation machinery, if for anything, to ensure that obligations to cooperate and assist would translate into concrete actions rather than remaining as words on paper.

Certainly a basis for establishing implementation support machinery was and is provided by the Convention itself. However, it is unlikely that anything more than the text of the Convention would exist in support of its application if it were not for a large dose of human agency. Just as during the Ottawa Process a determined set of individuals were successful in achieving, as a widely accepted principle, the idea that a ban on anti-personnel mines was the only effective solution to the problems caused by these weapons, in the context of challenges posed by implementing the Convention, individual action played a major role in developing and propagating understanding of the need to take action to implement.

It is safe to say that the implementation machinery of the Convention would not have developed in the manner that it did – or at all – if it were not for the actions of certain human beings applying themselves to their context. Perhaps not coincidentally, many key individuals were involved both in the Ottawa Process since the beginning and in the implementation phase that followed.

The role of such key individuals also illustrates the significance of the Ottawa Process' working modalities being grounded in the essential role of matters both formal and informal as well as an interrelationship between the two. Following entry into force, key NGO leaders ensured a continuation of informal networks of individuals. The results of these informal processes were both concrete initiatives for establishing formal implementation processes and the maintenance of the social processes necessary to achieve further acceptance of the imperative to implement. The formally adopted implementation machinery in turn was designed to both advance implementation and provide a basis for the further social transmission of accepted understandings of the landmine problem, the solution to it and modalities of work.

A concrete example concerns the actions of the Quaker United Nations Office in bringing actors together to informally discuss matters of common interest. This informal forum provided leaders from the era of the Ottawa Process with the opportunity to advance ideas concerning formally established implementation machinery. This formally established machinery in turn provided the opportunity for post-Ottawa Process state representatives, including Ambassador First Class, His Excellency Jean Lint of Belgium, to internalize what one might call the Convention's cultural norms, to become integrated parts of this culture and to take action in their own right. Their actions were then central to establishment of additional implementation machinery such as the ISU and the Contact Groups.

While the States Parties have been served well by the implementation machinery, it has its limitations and is far from perfect. Moreover, the evolution of implementation machinery has to some degree challenged actors involved in the work to implement the Convention. In terms of challenges, many of these flow from the fact that social interaction intended to advance implementation can both propagate and alter shared understandings. Certainly mechanisms like the Intersessional Work Programme and contact groups have enabled an increased number of individuals engaged in the Convention's social processes which could result in their acceptance of existing principles and modalities. However, it is also normal to assume that newcomers to a group, while possibly being infected by a norm, may also affect the norm. For instance, while it is undoubtedly beneficial that states from all regions are engaged in the implementation process, the participation in the work of the Convention by an increasing number of states from regions where diplomacy is conducted a more traditional manner has challenged or surprised individuals who have a deep grounding in the Ottawa Process and its ways of doing business.

That is not to say that alterations of common understandings and methods of work need be detrimental to the effort to apply the Convention. In fact, perhaps as a result of the contributions of post-Ottawa Process actors such as Cecilia Sanchez of Nicaragua, Gustavo Laurie of Peru, Jean Lint of Belgium and Peter Sagar of Canada, the work of the *Intersessional Work Programme* was recalibrated in 2002 to focus with greater clarity on those areas most directly related to the core humanitarian objectives of the Convention. This recalibration established the organizing principle for the work of the Convention which has been maintained to this day.

In conclusion, the Anti-Personnel Mine Ban Convention itself has been referred to as “an extraordinary measure of what is considered to be success within international diplomacy.” The fact remains, however, that the Convention would simply be nice words on paper if the text of the Convention had not been acted upon and implemented. While the Convention’s ambitious set of positive obligations or implementation requirements and its cooperation and assistance provisions meant that a degree of support or guidance was required to ensure success, the need presented by and opportunity contained within the Convention itself would not have been enough. Without the applied commitment of individual representatives of states and non-governmental organizations, it is unlikely the Convention would see itself rest on a solid foundation of implementation machinery.

Finally, it would be inconsistent with the spirit of the Ottawa Process to not continually question whether the mechanisms established continue to meet the needs of the States Parties. The legacy of the Ottawa Process is decidedly not one of institutionalization as an end in itself. Rather, the legacy of the Ottawa Process is one of taking a practical minded approach to addressing challenges that lie in the path of applying the Convention’s comprehensive approach to ending, for all people for all time, the suffering and casualties caused by anti-personnel mines. If the challenges faced by the States Parties change over the next decade, I would fully expect that when we again gather in Brussels in 2017 the Convention’s implementation machinery may again look unrecognizable relative to what we find today.