

Towards

a Mine-Free Pacific

The Vanuatu Workshop

3 - 4 May 2007

Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction



The workshop *Towards a Mine-Free Pacific* was convened by Australia and Vanuatu with the purpose of taking stock of universalization, implementation and participation challenges in the region as they concern the Anti-Personnel Mine Ban Convention. The workshop was supported by the Convention's Implementation Support Unit (ISU) as the principal activity held pursuant to the second phase of the ISU's Small States Strategy. The basis for this strategy is the following:

There is a certain equality to all States but equality does not imply sameness in that the States of the world are obviously vastly different. Equal but different presents a certain dilemma. How can a State, with means limited by size, comply with its obligations under instruments of international humanitarian law, including the AP Mine Ban Convention. How can it actively participate in the multilateral implementation processes? Given the size of such States and that the immediate impact of anti-personnel mines is, with few exceptions, not found within their borders, what reasonable investment should be made in assisting such States in implementing the Convention and participating in the work of it?

The purpose of this publication is to disseminate to a wider audience of interested actors key documents related to the workshop, including the Co-Chairs' Summary.



Australian Government



Vanuatu Government

Department of Foreign Affairs and External Trade

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1. WORKSHOP CONCEPT

I. INTRODUCTION

The Anti-Personnel Mine Ban Convention is applicable to and relevant for all. Different approaches were available when the Convention was adopted in 1997. Limitations on prohibitions were proposed which would have favoured technologically advanced and developed states. In addition, territorial exceptions, which would have been applicable and relevant for a handful of states, were proposed. In the end, though, a simple set of comprehensive prohibitions and other provisions was adopted which suggest a certain equality of states. This is consistent with the United Nations Charter, which speaks of certain rights and responsibilities that are held in common by all sovereign states.

Equality, though, does not imply sameness in that the states of the world are obviously vastly different. Equal but different presents a certain dilemma. How can a state, with means limited by size, comply with its obligations under instruments of international humanitarian law, including the Convention? How can it actively participate in the multilateral implementation processes? Given the size of such states and that the immediate impact of anti-personnel mines is, with few exceptions, not found within their borders, what reasonable investment should be made in assisting such states in implementing the Convention and participating in the work of it?

Of the 153 states¹ that have ratified or acceded to the Convention, 43 – or over one quarter of all States Parties – are small states. Nine of these are in the Pacific.² An additional five small states in the region are not yet parties to the Convention.



¹ As of 3 May 2007.

² These States are: the Cook Islands, Fiji, Kiribati, Nauru, Niue, Papua New Guinea, Samoa, Solomon Islands, and Vanuatu.

I. WORKSHOP CONCEPT

II. ACHIEVING THE CONVENTIONS'S AIMS IN THE PACIFIC

While few states in the Pacific may have stockpiled anti-personnel mines or areas containing anti-personnel mines, challenges related to the pursuit of the Convention's aims remain:

Universalization

Universalization efforts with respect to this Convention have been carried out in a vigorous manner. Many small states in the Pacific have responded in a positive way. However, the following states have not yet acceded to or ratified the Convention: the Federated States of Micronesia, the Marshall Islands, Palau, Tonga, and Tuvalu.

In the course of universalization campaigns, it has been argued that the Convention is relevant for all states, including small states. The momentum towards universalization in the region could be undercut by a lack of support to small states to meet their obligations.

Clearance

Some states in the region have been the locations of conflicts in the past – with some facing challenges in addressing problems of unexploded ordnance. In addition, one State Party, Vanuatu, has indicated that it has areas in which anti-personnel mines are suspected to be emplaced. It may be required to fulfil obligations under Article 5 of the Convention.

Compliance

Simply because many states in the region are not or have not been mine-affected or stockpile holders does not guarantee the same would apply in the future. Hence, maintaining a high level of awareness amongst relevant officials – as well as the general public – is important in ensuring ongoing compliance with the Convention's core obligations.

Each State Party – no matter how big or how small – has obligations under Article 9 of the Convention to take legislative measures to prevent and suppress acts prohibited by the Convention. A total of six small States Parties in the region have not yet reported legislation sufficient to give effect to the Convention.

Transparency

Initial reporting in accordance with Article 7 is essential on the part of all States Parties in order to provide an official indication that a particular State Party does or does not possess stockpiled anti-personnel mines and / or anti-personnel mines in mined areas. One small State Party in the region has not yet provided an initial report. Ongoing compliance with reporting obligations is an important indicator of the ongoing attention that a State gives to the provisions of the Convention and is a means of assessing broader seriousness in ensuring compliance. Seven States Parties in the region did not provide an updated transparency report as required in 2006.

Participation

The work of the Convention involves an ongoing effort to identify ways to overcome existing and emerging implementation challenges. Despite the limited bureaucratic and diplomatic resources of small states, many possess the expertise to contribute in a creative way to these discussions. None of the nine small States Parties and five states not parties in the region have Permanent Missions located in Geneva. It would make sense if, periodically, States Parties in the region were briefed on the status of the Convention and otherwise made aware of present day challenges in its implementation.

1. WORKSHOP CONCEPT

III. A WORKSHOP TO ENHANCE UNIVERSALIZATION, IMPLEMENTATION AND PARTICIPATION

Certainly implementation of the Convention is not as grave a matter for small States Parties in the Pacific as it is for those States Parties that must destroy large stockpiles or clear vast mined areas. However, challenges remain - as do challenges in ensuring a practical level of participation in the overall operations of the Convention. To make progress in overcoming these challenges small States Parties themselves could identify and put in place practical, common-sense and cost-effective ways to ensure that they can fulfil their obligations and participate in the work of the Convention to the extent to which they desire.

Towards a Mine-Free Pacific was a regional workshop intended as a starting point in overcoming challenges in the pursuit of the Convention's aims. The workshop aimed to be part of an ongoing and sustainable process. In addition, it was acknowledged that the AP Mine Ban Convention is one of several instruments of international humanitarian law relevant to Pacific States. An additional aim was to identify lessons applicable to implementation and participation challenges in other issue areas.

In summary, the workshop was intended to produce not a political outcome (e.g., a political statement), but practical outcomes (e.g., tools to assist in implementation, processes to support participation, etc.) which, in turn, may have a political impact. Officials attending the workshop arrived ready to actively participate in an informal dialogue. Assisting them in this dialogue was a number of experts from relevant organizations.



2. OPENING STATEMENT | VANUATU



Statement by the Minister of Foreign Affairs and International Trade of Vanuatu, delivered by John Shing, Political Advisor to the Minister and Workshop Co-Chair

Gudfala moning long yufala and welcome to Vanuatu and to *Towards a Mine-Free Pacific*.

On behalf of the Government of Vanuatu, I am extremely pleased to be given the opportunity to deliver a few short remarks to open this two-day regional workshop to advance the aims of the Anti-Personnel Mine Ban Convention – also known as the Ottawa Convention.

It is important that I acknowledge all the parties that contributed to this meeting. I would like to thank the Australian government and the Geneva International Centre for Humanitarian Demining for their strong support in organising and contributing resources to this regional workshop.

Vanuatu became a State Party to the Ottawa Convention in 2005 and last year submitted its first report to the office of the United Nations Secretary General. Many people question why Vanuatu, a country that does not produce, use or have landmines, has committed itself to the Ottawa Convention. The same could be said for many of the States represented at this meeting.

Many of our governments have international commitments to peace and security, both internationally and regionally. It is important that our governments protect, as much as possible, our peacekeepers and our people from destructive and indiscriminate weapons such as landmines. Achieving universality of this convention and its implementation, then, should be of the utmost importance.

The purpose of this workshop is to take stock of the universalisation, implementation and participation challenges of the Convention, and to find practical and cost-effective ways to overcome these challenges.

We hope that by having convened this workshop, Pacific Islands Forum (PIF) Member States – particularly those which are parties to the AP Mine Ban Convention – will feel that efforts have been made to provide them with a forum to express their needs and views regarding the implementation of the Convention.

We hope that this workshop is not an end in itself but rather a starting point for states in this region to work together and to reach out to those outside of the region to address challenges on an ongoing basis.

We also hope that those states in the region which are not yet parties to the Convention will consider initiating processes which will see themselves ultimately acceding to the Convention.

For those of you who have not been to Vanuatu before, I hope that this workshop also presents you with an opportunity to experience another part of our beautiful region.

With these brief remarks, I, on behalf of the Vanuatu Government, would like to now declare this workshop officially open. I wish you all success in your deliberations during these two days.

3. OPENING STATEMENT | AUSTRALIA

Statement by John Sullivan, Assistant Secretary for the Arms Control Branch, Department of Foreign Affairs and Trade of Australia and Workshop Co-Chair

Australia is delighted to support the Implementation Support Unit (ISU) of the GICHD to apply the ISU's Small States Strategy Workshop in the Pacific. I congratulate Kerry Brinkert and his team for having made the arrangements for getting us all here, ably assisted by the Vanuatu MFA and the Australian High Commission.

In addition to colleagues from the Pacific Islands Countries, I would also like to welcome expert participants from the ICRC, UNDP, and the International Campaign to Ban Landmines.

With now 153 States Parties, the Mine Ban Convention has the highest membership of all conventional arms control treaties. It is encouraging that this membership already includes the majority of the Pacific Islands Countries.

But universalisation of the Convention is about more than simply ratification or accession, or even a government taking the political and military decision not to use anti-personnel mines. The Convention includes specific obligations for all States Parties, whether or not they are mine-affected. All States Parties must take appropriate legal and administrative steps to enforce the prohibitions in the Convention, and also prepare an annual transparency report.

As noted in the workshop concept paper, how can a small state with limited means comply with its obligations? And, to paraphrase, why should such a state which is not mine-affected care? These are the key questions which we will address over the next two days, and I hope we will arrive at practical, regionally appropriate solutions to overcoming the challenges faced by Pacific Islands Countries in implementing their obligations.

We are particularly grateful to Vanuatu for offering to host this workshop, and look forward to hearing about its experiences when it ratified the Convention in 2005. The success of this workshop depends fundamentally on the active participation of all participants. To this end, my co-chair and I will keep proceedings at a very informal level in order to facilitate as much free exchange as possible.

Ladies and gentlemen, I wish you all a stimulating and productive workshop as we work together to find practical solutions to our shared challenges.



4. CO-CHAIRS' SUMMARY

I. INTRODUCTION

Towards a Mine-Free Pacific: Workshop to advance the aims of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction was held on May 3 and 4, 2007 in Port Vila, Vanuatu. The workshop was convened by Vanuatu's Department of Foreign Affairs and International Trade and Australia's Department of Foreign Affairs and Trade with the support of the Implementation Support Unit (ISU) of the Geneva International Centre for Humanitarian Demining (GICHD). Presiding over the workshop were its Co-Chairs, John Shing, Political Advisor to the Minister of Foreign Affairs and International Trade of Vanuatu, and, John Sullivan, Assistant Secretary of the Arms Control and Counter-Proliferation Branch, Department of Foreign Affairs and Trade of Australia.

The purpose of the workshop was to take stock of the universalization, implementation and participation challenges concerning the Convention, to find practical and cost-effective ways to overcome these challenges and to discuss how solutions identified in the context of the implementation of the Convention may be more broadly applicable. All Member States of the Pacific Islands Forum (PIF), as well as the PIF Secretariat, were invited to the workshop, with the following participating: Australia, Fiji, Kiribati, New Zealand, Palau, Samoa, Tonga and Vanuatu. Supporting the workshop were experts from the following organizations: the GICHD, the International Campaign to Ban Landmines (ICBL); the International Committee of the Red Cross (ICRC); and, the UN Development Programme (UNDP).

II. OPENING STATEMENTS

The opening of the meeting featured a message from the Minister of Foreign Affairs and International Trade of Vanuatu, which was delivered by John Shing, as well as statements made by John Sullivan of Australia and Ambassador Stephan Nellen, Director of the GICHD. In addition, in opening the meeting, the Co-Chairs indicated that they had the following aspirations for the workshop: that it would result in PIF Member States feeling that efforts had been made to provide them with a forum to express their needs and views regarding the implementation of the Convention; that the workshop would be seen not as an end in itself but as a starting point for states in this region to address challenges on an ongoing basis; that those states in the region which are not yet parties to the Convention would consider initiating processes which would see themselves ultimately acceding to the Convention; and, that the outcomes of the workshop could be shared with the rest of the Convention community at the Convention's Eighth Meeting of the States Parties (8MSP) in Jordan from 18 to 22 November 2007.

III. AN OVERVIEW OF IMPLEMENTATION AND PARTICIPATION CHALLENGES

Kerry Brinkert, Manager of the AP Mine Ban Convention Implementation Support Unit of the GICHD provided an overview of the Convention's core aims and its status. He highlighted the relevance of the Convention for the region and suggested certain objectives: that states not parties in the region start accession processes; that States Parties in the region use PIF meetings to promote the Convention; that states in the

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region be aware of who to contact to seek information and assistance with obligations; that States Parties in the region take steps towards establishment of implementing legislation; that States Parties in the region be aware of easy ways to prepare and submit annual reports, thus bringing themselves up to date with reporting obligations; and, that Pacific-to-Pacific efforts be identified to support the Convention on an ongoing basis.

Mary Wareham of the ICBL highlighted the grave humanitarian consequences that result from the use of anti-personnel mines, responses to these problems and the role of non-governmental organizations in bringing this matter to the attention of the international community. In addition, Mary Wareham acknowledged certain challenges in the universalizing and implementing the Convention in the Pacific but argued that these challenges can be overcome - given that assistance is available, that the obligations are minimal and that all States have a moral responsibility to adhere to the Convention's norms.



IV. GOOD PRACTICES IN THE ESTABLISHMENT OF NATIONAL IMPLEMENTING LEGISLATION

The Co-Chairs recalled that in accordance with Article 9 of the Convention States Parties are required to “take all appropriate legal, administrative and other measures, including the imposition of penal sanctions, to prevent and suppress any activity prohibited to a State Party under this Convention undertaken by persons or on territory under its jurisdiction or control.” Christopher Harland of the ICRC made a presentation on this matter, highlighting the main elements of good national implementing legislation. He explained why such legislation is necessary, noting that it is an explicit treaty obligation, that it gives effect to the Convention domestically, that it ensures execution of the Convention and that it helps avoid loopholes. He noted that in most cases legislation should take into account the Convention's definitions, the totality of the acts prohibited by the Convention, enforcement, the destruction of stockpiled mines and the clearance of mined areas, the exceptions

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which permit States Parties to retain a minimum number of mines necessary for certain purposes that are consistent with the Convention's humanitarian purpose, the Convention's transparency reporting obligations, the facilitation of fact finding missions, and the administration of the legislation.

Stephen Wong of New Zealand made a presentation on New Zealand's experience in establishing national implementing legislation, highlighting that New Zealand had largely acted in accordance with what the ICRC would consider good practice and that New Zealand had been slower than some to ratify the Convention because of the importance it attached to having implementing legislation in place prior to formal acceptance of the Convention. In addition, Ada Cheung of Australia shared her country's experience in taking administrative and other measures to prevent prohibited acts. These measures included the Department of Defence issuing a formal internal memorandum alerting all personnel to Australia's obligations under the Convention.

V. PRACTICAL MEANS TO COMPLY WITH TRANSPARENCY REPORTING OBLIGATIONS

The Co-Chairs recalled that transparency measures help assure progress in the achievement of the Convention's core aims. Sophie Delfolie of the Implementation Support Unit of the GICHD made a presentation on this matter, explaining what States Parties are required to report and why transparency reporting is important, noting that initial and annual transparency reporting are legal obligations, that reporting clarifies for which States Parties key obligations are relevant, that annual reporting demonstrates individual States Parties' ongoing seriousness to the aims and objectives of the Convention and that aggregate annual reporting is an indicator of the overall health of the Convention. She also provided some suggestions on how States Parties in the Pacific could fulfill their reporting obligations, suggesting that two States Parties should use the standardized reporting format and that for other States Parties in the region reports could be prepared quickly and easily using a one-page short format.

VI. NATIONAL RESPONSES TO ELIMINATING EMPLACED ANTI-PERSONNEL MINES AND DEALING WITH THE PROBLEMS CAUSED BY OTHER EXPLOSIVE REMNANTS OF WAR

Ambassador Stephan Nellen, Director of the GICHD, provided an overview of good practices in the establishment of a national mine clearance and explosive ordnance disposal response. He noted in particular the importance of national ownership, inter-ministerial coordination, legislation to assign and clarify mandates and responsibilities, working in accordance with agreed standards, high quality information management, training, understanding socio-economic dynamics, risk reduction education and environmentally friendly approaches.

Kerry Brinkert, Manager of the Implementation Support Unit at the GICHD highlighted the breadth of the international legal framework aimed at addressing problems caused by anti-personnel and anti-vehicle mines, booby traps, other devices, unexploded ordnance and abandoned explosive ordnance. He observed that it is possible that a state may face problems with respect to some or all of the items and

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that the field of mine action seeks to address the totality of challenges faced. Regardless of the nature of the challenge faced, states may need assistance and there are others in a position to provide it.

Captain Arnold Vira of the Vanuatu Paramilitary Forces made a presentation on Vanuatu's challenges with abandoned explosive ordnance. He indicated that, while Vanuatu may not have a problem with anti-personnel mines, this does not minimize the problems it faces with ordnance that remain from the Second World War, particularly the threat posed to human life and the economic development of Vanuatu. He expressed the need for proper survey techniques and disposal methods, training and gathering of information from those who may know what was disposed of on the territory of Vanuatu.

VII. TOWARDS UNIVERSAL ACCEPTANCE OF THE CONVENTION IN THE PACIFIC

Marvin Ngirutang of Palau provided an update on Palau's process towards accession to the Convention, noting the need to ensure that Palau could both comply with Convention obligations and fulfill bilateral treaty responsibilities with a state not party to the Convention. Finau Heuitanga Limulua indicated that Tonga is in a period of national mourning and that reconstruction is currently the country's top priority. Therefore, rapid accession to the Convention would be difficult. Nevertheless she felt there was some scope for progress given the useful information shared at the workshop.

VIII. AN OVERVIEW OF CURRENT ISSUES IN THE LIFE OF THE CONVENTION

Kerry Brinkert, Manager of the AP Mine Ban Convention Implementation Support Unit at the GICHD, provided an overview of the status of the Convention and the States Parties' 2005-2009 work programme. It was noted that while tremendous progress has been made towards the fulfilment of the Convention's promise to put an end to the suffering and casualties caused by anti-personnel mines, great challenges remain. It was also noted that the Convention's States Parties find themselves in the middle of a five year period between the Convention's first and second review conferences – a period when the States Parties are trying to achieve additional progress through the application of the Nairobi Action Plan 2005-2009.



IX. PRACTICAL WAYS TO OVERCOMING IMPLEMENTATION AND PARTICIPATION CHALLENGES

Justus Okoko of the UNDP made a presentation on the UNDP's role in state capacity building and how this applies to the UNDP's support to States' mine action efforts. In addition, the Director of the GICHD, Sophie Delfolie of the ISU and Chris Harwood of the ICRC all provided summaries of the services they could provide to assist Pacific states in overcoming implementation and participation challenges.

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X. LESSONS FROM THE AP MINE BAN CONVENTION FOR OTHER RELEVANT INSTRUMENTS / ISSUE AREAS

Chris Harland of the ICRC provided an overview of other humanitarian, arms control or disarmament instruments which may pose similar implementation and participation challenges for small states. He highlighted in particular the role and objectives of the ICRC's Advisory Service as well as the many tools that the Advisory Service makes available to address challenges in implementing a wide range of instruments. In addition, Ada Cheung of Australia highlighted the particular case of the Chemical Weapons Convention and what steps should be taken to ensure full implementation.

XI. CO-CHAIRS' CONCLUSIONS

The Co-Chairs expressed their pleasure that the workshop met, if not exceeded, their expectations. The Co-Chairs also noted the importance of follow-up actions to ensure that the workshop would not be an end in itself but a starting point for Pacific region states to address challenges on an ongoing basis. The Co-Chairs concluded that they:

- > recalled that competing priorities and legislative demands as well as a perceived lack of relevance may present challenges in proceeding with accession to the Convention in the region. Equally, though, the Co-Chairs noted that the obligations of the Convention are relatively light and that a great deal of assistance is available, both during the accession process and during implementation. In this regard, the Co-Chairs encouraged states in the region that are not parties to the Convention to initiate or continue with accession processes. They highlighted that the November 2007 Eighth Meeting of the States Parties may be a good opportunity to announce progress made in, or the completion of, accession processes.
- > recalled the repeated mention of the value of Pacific Islands Forum meetings to promote the universalization and implementation of the Convention and encouraged follow-up in this regard. They concluded that initiatives to do so should be state-led, drawing upon, as necessary, the wealth of expert resources that are available.
- > highlighted the value of the Implementation Support Unit of the GICHD as a means of providing all states, big or small, with support and assistance. They encouraged states in the region to make use of the ISU as an information source and a point of contact for all matters of concern related to the Convention.
- > encouraged follow-up by States Parties in the region with the ISU with a view to seeing that these states would bring themselves up to date with their reporting obligations. The Co-Chairs recalled the short reporting format which is intended to reduce the burden on small States Parties. The Co-Chairs also encouraged States Parties in the region, in a position to do so, to provide assistance to the one neighbouring State Party which has not yet submitted an initial transparency report.
- > recalled that ministries with few staff, combined with numerous legislative demands, may make the establishment of national implementing legislation a low priority. Equally, though, the Co-Chairs reminded participants of the relative simplicity of the legislation required to give effect to the AP Mine Ban Convention, the existence of the ICRC's model law for common law states as a guide, and the

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valuable legal advisory services offered by the ICRC. The Co-Chairs encouraged follow-up with the ICRC with a view to progress in the establishment of national legislation in time for subsequent Meetings of the States Parties to the Convention.



- > noted that while the host country indicated that it does not necessarily have obligations under the Convention concerning destroying stockpiled or emplaced anti-personnel mines, it does have a problem with abandoned explosive ordnance which pose threats to human life and economic development. It was noted that states in the region that face such problems or problems with unexploded ordnance may need assistance. In this regard, the Co-Chairs recalled that a variety of actors could be called upon to assist, including the GICHD, the UNDP and other states.
- > observed that the workshop had succeeded in again raising awareness in the region of the devastating humanitarian impact of anti-personnel mines and the efforts that have been undertaken in the context of the AP Mine Ban Convention to address these problems. They recalled that while PIF Member States largely had been spared the scourge of this weapon, ongoing efforts were required to ensure a mine-free status in this region and to eliminate the problem in other areas of the world.

Finally, the Co-Chairs expressed their commitment to share with the rest of the Convention community, at the Convention's Eighth Meeting of the States Parties (8MSP) in Jordan from 18 to 22 November 2007, both the outcomes of the workshop as well as the progress in the pursuit of the Convention's aims which may have resulted between the time of the workshop and the 8MSP.



This document has been prepared by the Implementation Support Unit of the Anti-Personnel Mine Ban Convention in support of the Australian Government Department of Foreign Affairs and Trade, and the Vanuatu Government Department of Foreign Affairs and External Trade who convened the Vanuatu Workshop of 3 - 4 May 2007. This was one of the activities which celebrated the 10th anniversary of the Convention.

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