



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

## INTERSESSIONAL PROGRAMME 2003-2004

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### STANDING COMMITTEE ON THE GENERAL STATUS AND OPERATION OF THE CONVENTION

#### Meeting Report 21 and 25 June 2004

#### I. Introduction

The meeting of the Standing Committee on the General Status and Operation of the Convention (SCGS) was convened by its Co-Chairs, Ms. Socorro Rovirosa of Mexico and Ambassador Chris Sanders of the Netherlands, with the support of its Co-Rapporteurs, Ms. Hine-Wai Loose of New Zealand and Ms. Nontombi Makupula of South Africa. The meeting was held in Geneva with the generous support of the Geneva International Centre for Humanitarian Demining (GICHD).

The agenda addressed the core issues of universalisation, resource mobilisation, and transparency reporting. There was a special focus on two issues that had been underlined at the Fifth Meeting of States Parties (5MSP): (a) regional activities on which States Parties recognised that “*in the pursuit of the implementation of the Convention, each region has unique challenges and capacities*”, and (b) the mandate to “*continue to share information and views, particularly with respect to Articles 1, 2 and 3 with a view to developing understandings on various matters by the First Review Conference*”.

#### II. Overview of the general status of implementation

**Ambassador Chaiyong Satjipanon**, on behalf of the President of the Fifth Meeting of the States Parties, His Excellency Dr Surakiart Sathirathai, Minister of Foreign Affairs of Thailand, reported on progress towards achieving the goals agreed to at 5MSP. There were 142 States Parties to the Convention, with the most recent State to join being Estonia. Since 1997, there had been a decline in the use, production and trade of antipersonnel (AP) mines. 50 States Parties had mined areas and two of those, Costa Rica and Djibouti, had reported on the completion of their clearance obligations. While over US\$2 billion had been generated for mine action funding since 1997, further assistance would be needed to ensure that mine-affected States Parties met their obligations. 122 States Parties no longer possessed stockpiled AP mines, with Lithuania having recently completed destruction of its stockpile. 9 million AP mines were held by the newest members of the Convention and would require destruction within the next four years. States Parties, together with NGOs and all parties concerned, had made significant efforts to support the care rehabilitation and reintegration of landmine survivors. Recognition of the rights of landmine survivors would be further supported by the work that was underway in the United Nations on a Draft Convention on the Protection and Promotion of the Rights and Dignity of Person with Disabilities.

#### III. Updates on regional conferences held since the last Standing Committee meeting

Four States Parties reported on regional meetings they had recently hosted. **Kenya** reported on the Workshop *Landmines and the Convention on the Prohibition of Anti-personnel Mines in East Africa, the Great Lakes and the Horn of Africa Regions*, that took place in Nairobi, from 3 – 4 March. The workshop called for increased mine action for Africa, action on the core obligations of the Convention either before the Nairobi Summit or at least before each State Party’s respective deadlines and for States of the region to participate at the Summit at the highest level. **Tajikistan** had organised the Dushanbe Conference *Progress Towards the Convention in Central Asia* from 15 – 16 April. The main goals of the Conference were to demonstrate the progress achieved by Tajikistan in fulfilling its obligations under the Ottawa Convention and to urge other countries of the region to be more closely

engaged in the Convention's process. **Jordan** had hosted the *Amman Seminar on Military and Humanitarian Issues Surrounding the Ottawa Convention* from 19 – 21 April. The seminar emphasised that the humanitarian impact of AP mines greatly outweighed their marginal military utility. States Parties to the Convention included several militarily significant States and several others that found themselves in complex security environments. Jordan welcomed the will of States not parties in the region to engage in a dialogue on addressing the threats posed by AP mines to peace and security. **Lithuania** had hosted the *Vilnius Seminar: Advancing the Ottawa Convention in Northern and Eastern Europe*, from 7 – 9 June. The main purpose of the seminar was to bring together all States in the region and to take stock of the challenges and progress in addressing the humanitarian impact of AP mines. Five States not parties participated and it was reported that Finland and Poland were reviewing their policies on landmines.

**Ecuador** and **Thailand** announced that they would be hosting regional meetings in the near future to promote the objectives of the Convention.

#### **IV. General status of universalisation**

Shannon Smith of Canada, **Coordinator of the Universalisation Contact Group**, underlined that the 5MSP had provided a strong direction to States Parties to make all possible efforts on universalisation in the lead-up to the Nairobi Summit. Special emphasis had been placed on engaging States that used AP mines. Of the 52 States not parties, 49 had been engaged on joining the Convention. The military to military and parliamentary dialogues had proven to be valuable tools. The ICBL, the ICRC and the United Nations were engaged in universalisation activities. The goal for Nairobi was 150 States Parties.

**Estonia** reported that it recently had acceded to the Convention. The Convention was part of its legal system and Estonia did not possess AP mines.

**Sri Lanka**, as a mine affected country, had established a National Steering Committee for Mine Action and had two mine action offices set up in the field to assist humanitarian demining organisations. Sri Lanka's accession to the Ottawa Convention was under consideration by the relevant authorities. **Ethiopia**, as one of the most severely affected countries, had conducted a National Landmine Impact Survey to assess the scope of its landmine and UXO problem and to set appropriate policies and strategies to deal with those issues. 588 people in the 24 months preceding the survey were killed and 737 people were injured. The Ethiopian Mine Action Office had devised a strategic plan for the period 2004 – 2007 for mine action. **Egypt**, as a mine affected State, reported that as part of its increased interest in the Convention it had for the first time last year attended a Meeting of the States Parties. **Vanuatu**, as a State not affected by AP mines nor possessing stockpiles, shared the international concerns regarding landmines. While it had voted in favour of the UNGA Resolution on the Ottawa Convention, ongoing political instability made ratification difficult. **Nepal** reported that its Government agencies were taking measures to avoid accidents involving landmines and to provide treatment to the victims of landmine explosions. It was faced with the problem of terrorists making use of landmines that were deployed or in stockpiles. The Government of Nepal was studying the full implications of joining the Convention.

Other States Parties to contribute to the discussion on universalisation were **Japan**, which continued to press for universalisation in the Asia-Pacific region and had raised this issue with Ukraine's Foreign Minister, and **Thailand**, which along with Australia, Canada and New Zealand had led a demarche on Singapore and Vietnam to urge those two States to join the Convention. The **ICBL** urged Finland, Haiti, those Pacific Island countries that were States not parties and Ukraine to join by the time of the Nairobi Summit. It had organised a number of regional seminars, including a seminar on "End mine-use in Burma".

#### **V. Update on the mobilisation of resources to achieve the Convention's humanitarian aims**

Merete Lundemo of Norway, **Coordinator of the Resource Mobilisation Contact Group**, reported that a review of resources that were applied to mine action was elaborated on last year by the Implementation Support Unit (ISU), and was being updated for this year. The Group had examined both bilateral and multilateral cooperation and resources. Resources flowed from both humanitarian and development budgets, which opened opportunities for flexible and long term financing. However, the situation posed challenges concerning coordination and integration of mine action into humanitarian and development plans. The Group had also examined a number of proposals on mainstreaming mine action into development activities. Those proposals included focusing on regional organisations and local NGOs, developing grass-root level approaches, addressing the mines issue more consistently in connection with demobilisation efforts and peace processes, increasing efficiency and cost-effectiveness, and engaging with development actors such as the World Bank. The Group had been consulted on a draft paper on co-operation and assistance for the consideration of the Review Conference.

**Thailand** informed the Standing Committee that its Foreign Minister had recently met with the President of the Marshall Legacy Institute, a non-profit organisation based in the United States, and representatives of the Royal Dutch Shell Company. The meeting had demonstrated the potential for co-operation between governments and the private sector, including multinational corporations. Thailand also reported that preparations were on track for the meeting between members of the Resource Mobilization Task Force and World Bank's Vice President.

## **VI. Overview of Article 7 Reporting**

Paul Huynen of Belgium, **Coordinator of the Article 7 Contact Group**, gave a presentation on the "why, when, to whom and how" of reporting. He reiterated the importance of reporting as a legal obligation, transparency measures, reinforcement of humanitarian measures and that it provided an important guide to donors. The rate of initial reporting had increased to 91 percent and the overall reporting rate had increased to 72 percent in 2004 from a rate of 65 percent in 2003.

**Guinea, Togo, Guyana, Belarus, Comoros, Central African Republic and Namibia** provided updates on their progress towards implementing the Convention's obligations and submitting Article 7 reports. The **ICBL** encouraged voluntary reporting on the intended use of AP mines retained in accordance with Article 3 and on the rate of use. It also encouraged States Parties to report voluntarily on claymore-type munitions, including the use of those munitions in command-detonated mode, and on foreign stockpiles.

### ***Contact Group Updates***

The Coordinators of the Universalisation, Resource Mobilisation and Article 7 Contact Groups provided updates on the activities that had taken place during the week. The Universalisation Group had set specific goals to achieve in the lead-up to the Nairobi Summit. The Coordinator of the Resource Mobilisation Contact Group introduced a background paper that provided an overview of the resources generated to date in the contact of efforts to fulfil the Convention's objectives. The Coordinator of the Article 7 Group reported that three additional late annual reports had been submitted and that Belarus had submitted its initial report.

## **VII. Matters pertaining to the Convention's Compliance Mechanisms**

**Germany** gave a presentation on its Federal Armed Forces Verification Centre. The purpose of the Centre is to address the rights and obligations arising from arms control treaties and agreements. The Centre had specific tasks in regard to the Convention such as reviewing and evaluating all reports transmitted pursuant to Article 7. It was possible to establish the States Parties' need for assistance, universalisation goals and regional overviews.

The **ICRC** in a presentation on Article 9 emphasised that even those States Parties that were not mine-affected had to put in place implementing legislation to enable the Convention to be enforced. Implementing national legislation required penal sanctions, measures to enable information gathering for Article 7 reports and the facilitation of fact finding missions in accordance with Article 8. Only 37 States Parties had adopted (or amended) implementing legislation and 18 States Parties believed that existing legislation effectively implemented the Convention. 31 States Parties were in the process of adopting legislation.

**Senegal, Belarus, Mozambique, Congo, Algeria, Thailand, Kenya and Jordan** provided updates on their progress towards bringing into force implementing legislation. **France** reported on a workshop held during March, in Paris, on the issue of compliance. The **ICBL** expressed concern that only 37 States Parties had implementing legislation. It was also concerned that States Parties had not taken any steps towards operationalising Article 8, nor had mechanisms been developed for informal consultations.

### **VIII. Matters pertaining to Articles 1, 2 and 3**

**Turkmenistan** reported that at the time it ratified the Convention it held 1,174,384 mines of 14 various types and that 1,165,183 of those mines had been destroyed. Destruction was slow due to an insufficient number of specialist experts in this area, a problem that had been overcome by training of personnel. It had been necessary to pay attention to preventing the disappearance of mines from places of storage, during their transportation to the area of destruction and at the time of their destruction. In the first quarter of 2004 Turkmenistan destroyed 60,000 mines of the 69,200 mines it had previously reported as having retained in accordance with Article 3, with the remaining 9 200 mines to be destroyed later this year. **The ICBL** noted that Turkmenistan has actually destroyed 6.6 million mines due to the destruction of its PFM mines.

**Lithuania** reported that after joining the Convention last year it had reviewed the need to use live AP mines for training and concluded that mock mines were adequate. **Jordan** also stated that it believed live AP mines were unnecessary.

**Ambassador Chris Sanders, Co-Chair**, introduced a revised version of his non-paper, which had been presented on the first day of the meeting. Sanders emphasised that given the mandate from the 5MSP, the discussion on Articles 1, 2 and 3 would be important for the preparations that were underway for the Nairobi Summit. He noted that the non-paper attempted to reach convergence on the issues under discussion and for some would be too strong and others too weak.

**Argentina** supported paragraph 1, agreed with the language on sensitive fuses, AP mines retained under Article 3 should be for the purposes of use and not numbers, and States Parties should be required to submit reports on the retention of AP mines. Argentina said that these were only preliminary comments.

**Germany** emphasised its strong support for the humanitarian objectives of the Convention. It acknowledged that Article 3, which granted an exemption from the general obligations in Article 1, would profit from guidelines on quantity and transparency. Germany questioned whether there was a need for improvement or clarification in the implementation of the Convention and had the following concerns in regard to the non-paper: it served as interpretation rather than facilitating implementation; it took on a decision-making role when the substance of the Convention had already been agreed; it would create more open issues that it would actually help to resolve; there was no merit in duplicating processes that were already underway in other competent fora – such as the issue of sensitive fuzes which appropriately dealt with in the CCW; the participation of German forces in joint operations, sanctioned by international law, but with armed forces of States not party to the Convention that engaged in activity prohibited under the Convention was not to be considered as an activity pursuant to Article 1(1)(c) of the Convention; and the non-paper as circulated included a number of issues that crossed the borderline between facilitating implementation of the Convention and amending it.

**Japan** also did not support the non-paper for the reasons that the additional rules and requirements might jeopardize universalisation efforts, some parts of the paper attempted to define or refine the meanings of some Articles, the Convention represented a subtle balance and compromise arrived at through lengthy negotiations, re-opening a debate of a legalistic nature might deviate efforts from achieving the Convention's core objectives. Japan believed that the priority should be to (1) work together to overcome these difficulties, (2) further promote international and regional cooperation through concrete projects for mine-clearance and victim assistance, and (3) further universalise the Convention.

**Landmine Action** spoke on behalf of 14 organisations, which supported the view that the Ottawa Convention provided a clear definition on what was actually banned by the Convention. It was disappointed that a small group of countries including Germany, United Kingdom, France, Japan and Denmark were against a common understanding on this issue. Landmine Action had launched an online-petition urging States Parties not to oppose the understanding that every mine, which was likely by the functioning of its design to be detonated by the presence, proximity or contact of a person, was an APM and therefore prohibited by the Convention. The petition could be viewed at [www.landmine-petition.net](http://www.landmine-petition.net).

**The ICRC** welcomed that the non-paper addressed divergent issues that would, in its view if not clarified, otherwise undermine the Convention. It believed that efforts to clarify the understandings of Articles 1, 2 and 3 were in keeping with the most fundamental reason for review conferences – to strengthen the Convention's norms and build the confidence of States Parties. Such understandings were a routine practise in other forums such as the Biological Weapons Convention. ICRC acknowledged that a common understanding had not been reached, but that giving in would set States Parties back by five years.

**France** supported the views of Germany. France believed that the goal of States Parties was to facilitate the full implementation of the Convention and in this context the non-paper only highlighted a part of it. The "clarifications" proposed appeared to present more disadvantages than advantages for the proper functioning or even image of the Convention. On Article 1, the non-paper was misleading because it implied that States Parties participated in joint operations in a way that weakened the Convention. The language on Article 2 would cause confusion. The purpose of the Convention was to address AP mines and there were more appropriate forums for addressing antivehicle (AV) mines. As for the language on Article 3, it would weaken the norm proposed by the text of the Convention, which rather than "hundreds" or "thousands" spoke of "the smallest number possible" that could therefore be a lot less. France expressed concern at the harmful nature of the non-paper because it would create divergences or divisions between States Parties, whereas it would in the interest of the Convention to reduce such divergences. It was important that States Parties established what were to be the real priorities for the Review Conference.

**The ICBL** supported the efforts to reach conclusions. It was an exercise that would bring clarity on issues that were unclear and was not an attempt to amend the Convention. The non-paper reflected the practise of States Parties that had spoken against it. The ICBL disagreed with the language on Article 2 as there had been examples of States Parties that had tried to keep tilt rods on anti-vehicle mines. Further clarification was needed on the issue of joint operations with States not parties and it could not prohibit only the actual physical laying of AP mines. The ICBL believed that there was common ground between States Parties and that work should continue on these issues in the lead-up to the Nairobi Summit.

**Belgium** emphasised that 35 States Parties had earlier in the week contributed to the exchanging views on mine clearance and victim assistance and that these discussions had been constructive. Given the workload in the lead-up to the Nairobi Summit, Belgium's preference was to concentrate on the core humanitarian objectives of the Convention.

**New Zealand** believed that the non-paper helped to sharpen the focus of States Parties as the Convention 5 years after its entry into force was reviewed. Failure to find the common ground could be corrosive for the Convention. The efforts to reach common understandings were consistent with trends of the intersessional meetings, which generally had been to reinforce the objectives of the Convention consistent with overwhelming international public opinion. New Zealand supported all means to help strengthen the Convention and believed that the non-paper embodied that spirit. It supported strengthening the language in paragraph 4 made by including references to a phasing out to zero of mines retained for training purposes given the utility of simulators. On the legal issues surrounding common understandings, it was really an issue of form over substance and if there was a will to make a difference then the matters of form won't be insurmountable.

**Canada** needed more time to comment on the substance of the non-paper. It acknowledged that there was a mandate for common understandings and would continue to participate actively in the consultations on these issues. However, the results of the Nairobi Summit would be dependent on solid review and action plan. **Colombia**, while expressing support for the non-paper, disagreed with the language on Article 2, which appeared to be a "categorisation" of mines that Colombia considered to be banned by the Convention. The **United Kingdom** believed that it was possible to reach an agreement on common understandings and that more work needed to be done in the preparatory process. It could agree to stronger language in some areas. The United Kingdom said that it was important that the non-paper reflected the actual practise of States Parties and cautioned against entering into areas that were within the domain of the Vienna Convention on the Law of Treaties. **South Africa** commented on paragraph 5 of the non-paper. It did not see the need for States Parties to report on the purpose for which AP mines were retained under Article 3, as this had already been made clear in the text of that Article. Requesting States Parties to report such information may place extra obstacles in the way of some States Parties, which already had difficulties in meeting all of their commitments under the Convention. If such reporting was acceptable to the majority of States Parties then it should be voluntary.

**Mexico** supported the non-paper as a good basis for further work. It requested that the language on Article 1 be strengthened. Mexico was concerned that the debate had focused on process and form rather than substance and shared the concern that the lack of common understandings could in the long term prove erosive for the Convention. The non-paper was still the subject of analysis as Argentina and the United Kingdom had indicated. Finally, Mexico stated that the Nairobi Summit needed to result in a strengthening of the Convention, which could be achieved through agreement on common understandings.

**Australia** supported the language on Article 3 as attaching a figure to the number of AP mines that could be retained for training purposes may serve as a useful guide. On Articles 1 and 2, Australia questioned whether more could be achieved; the non-paper may only lead to further debate and it was unclear what meant by the phrase "direct military benefit". The CCW was the appropriate forum for addressing AV mines with sensitive fuses.

**Chile** supported including the non-paper in the documents that were to be presented in preparing for the Review Conference. The substance of the paper was similar to declarations presented at review conferences for the Chemical Weapons Convention and the Biological Weapons Convention.

**Jordan** asked how States Parties would address the issue of joint operations and the use of AP mines in the case of one State being not being a party if there was no clear understanding or framework for joint operations.

**The ICRC** responded to several points that had been raised in the discussion. As regards paragraph 3 of the non-paper on Article 2, it considered the text to set a lower standard than that in the Convention. The ICRC reminded participants of the negotiating history of the definition of an AP mine. That in the Convention was based on the text of Amended Protocol II of the CCW. The single most controversial word in that text had been the word "primarily" before the words "designed to be

detonated by the presence, proximity or contact of a person". "Primarily" introduced a dangerous ambiguity into the definition that had been taken advantage of by some who renamed certain dual function (AP mine and AV mine) mines as being "primarily" AV mines so as to escape the Protocol's restrictions. To clarify this matter more than 20 States made an unopposed interpretative statement on adoption of the protocol to clarify that "primarily" meant only that AV mines equipped with anti-handling devices were not covered by the definition of an AP mine. No country opposed that interpretation. This understanding was integrated directly into the Ottawa Convention definition of an AP mine. Therefore those States Parties that now considered that both anti-handling devices and sensitive fuses attached to mines were excluded from prohibition as AP mines were re-opening the definition of AP mines, both under this Convention and under Amended Protocol II of the CCW.

The ICRC also responded to comments that efforts to clarify matters related to Articles 1-3 could distract attention from the core humanitarian objectives of the Convention. It highlighted the fact that those involved in this effort were not mine clearance or medical personnel who would otherwise be doing work in those fields but legal, diplomatic and military experts who had both the expertise and mandate to resolve such issues. The mandate of the Review Conference, in its view, was precisely to review all aspects of implementation and promote a convergence of views and practice among States Parties."

**Japan and France** reiterated that they could not support the non-paper.

**Norway**, as Friend of the President-designate, undertook to move these issues forward by taking all views and concerns into account in order to end up with conclusions that all accepted and to the best for the implementation of the Convention.

**Ambassador Wolfgang Petritsch of Austria, as President-designate**, said that whatever conclusions were to be adopted were in the hands of the States Parties as it was they that had initiated the process. Common understandings were an important matter, but it was also important that a commensurate amount of time was given to the concerns of States Parties, in particular those that were mine-affected.

Ambassador Sanders, **Co-Chair**, concluded that the debate had been useful that this was as far as the Standing Committee on the General Status and Operation of the Convention could take the matters. The non-paper had been developed on the basis of inputs of a number of States Parties and reflected a considerable degree of convergence. It was now up to the preparatory process to determine the further course of action on this matter.

## **IX. Matters pertaining to the general operations of the Convention**

### *Coordinating Committee*

Ambassador Chaiyong Satjipanon reported that since February the Coordinating Committee had met three times. Its work had included assessing the results of the February Standing Committee meetings and preparing for the June meetings. The Coordinating Committee had served as an effective engine to prepare for the Intersessional Work Programme and in the months leading up to the Nairobi Summit, it would continue to work closely together with a view to assisting the President-designate to ensure that Nairobi was a success.

### *Implementation Support Unit*

**Ambassador Martin Dahinden**, at his last meeting as **Director of GICHD**, welcomed the fact that the Implementation Support Unit (ISU) with an annual budget totalling less than €400,000 and only 2.5 permanent staff members, had lived up to the expectation by States Parties in 2001 that "it (had) become clear that the extent of our future success and sustainability of the process (would) hinge on ensuring adequate, but limited, continuing dedicated support for States Parties related to the

(Intersessional Work Programme) and the implementation of the Convention.” The establishment of the ISU by the GICHD was a symbol of the Convention’s principle of States Parties’ ownership over implementation. Finally Ambassador Dahinden encouraged additional States Parties to provide contributions to the ISU’s budget and to consider doing so on an annual – as opposed to one-time basis. Kerry Brinkert, **Manager of the ISU**, acknowledged the contribution made by the ISU’s permanent and temporary staff – Sophie Delfolie, Stephanie Power and Matylda Hagmayer – and its intern, Nathan Turner. **Belgium** announced that it would be contributing €25,000 to the ISU in 2004. **Mexico** expressed its appreciation for the work carried out by the ISU.

### ***Sponsorship Programme***

John Wattam of the United Kingdom, **Coordinator of the Sponsorship Programme**, reported that 2004 had been a challenging year for the Programme as rising expectations had to be managed against budgetary constraints. The Programme had provided support for 83 delegates from 54 countries at the June meetings and it was aiming to support 90 delegates to attend the First Review Conference on the assumption that funding pledges were honoured. Decisions that would be taken at the Review Conference would impact on the work of the Sponsorship Programme next year.

### **X. Other matters**

Croatia reiterated its offer to host the next Meeting of States Parties.