



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

INTERSESSIONAL PROGRAMME 2002-2003

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

Report of the 12 & 16 May 2003 Meeting

I. Introduction

Pursuant to the decisions of the Fourth Meeting of the States Parties to the Convention (4MSP), the meeting of the Standing Committee on the General Status and Operation of the Convention was convened by its Co-Chairs, Ambassador Wolfgang Petritsch of Austria and Mr. Gustavo Laurie of Peru, with the support of its Co-Rapporteurs, Ms. Socorro Rovirosa Priego of Mexico and Mr. Alexander Verbeek of the Netherlands. The meeting was held in Geneva with the support of the Geneva International Centre for Humanitarian Demining.

The Co-Chairs' agenda was designed to provide a broad overview of progress towards the achievement of the Convention's core humanitarian aims.

II. Update on the general status of implementation

Ambassador Jean Lint of Belgium, President of the 4MSP, provided an update on the general status of implementation and on the application of the President's Action Programme, giving examples of some actions taken to achieve the core humanitarian objectives of the Convention since the February meeting of the Standing Committee. In particular, Ambassador Lint highlighted the status of matters pertaining to stockpile destruction, mine clearance, victim assistance and universalization. In addition, he noted that a breadth of regional activity had been undertaken since the last meeting.

Ms. Jody Williams, 1997 Nobel Peace Prize Co-Laureate and International Campaign to Ban Landmines (ICBL) Ambassador, expressed pleasure with the accomplishments made, noting that the progress to date has demonstrated that governments and civil society, when working together, can make a difference. She further stated that the entire Convention community has a responsibility to achieve as much as possible both in advance and subsequent to the 2004 Review Conference. Ms. Williams reiterated the commitment of the ICBL to ensuring substantive input and helping to maintain strong momentum during this crucial phase in the life of the Convention.

III. Overview of the general status of universalization

The Canadian Coordinator of the Universalization Contact Group noted that since the February meeting of the Standing Committee two additional States had joined the Convention: Sao Tome and Principe and Timor Leste.

In addition, the Contact Group Coordinator reiterated that progress in universalization is a function of each interested actor applying itself to this cause in the most relevant and effective manner. In this context, Ms. Paddy Torsney, a Canadian Member of Parliament, was introduced to make a presentation on the role of parliamentarians in promoting acceptance of the Convention. Ms. Torsney emphasized the importance of coordinated efforts involving parliamentarians in advance of the Review Conference and noted recent discussions in this regard which took place on the margins of the April 2003 Inter-Parliamentary Union (IPU) conference in Santiago, Chile. Representatives of Japan, Landmine Action UK and Mines Action Canada also offered their support for the universalization efforts of parliamentarians.

In the context of the overview of universalization, Greece, Turkey and Lithuania all noted that they were in the final stages of ratification or accession. (Note: When the Co-Chairs reconvened the meeting on 16 May, it was reported that Lithuania's instrument of ratification had been deposited on 12 May.) In addition, Papua New Guinea and Indonesia reported on their progress towards joining the Convention.

Japan and Australia reported on their efforts to encourage acceptance of the Convention by States in South East Asia and the Pacific in advance of the Fifth Meeting of the States Parties (5MSP). As well, the ICBL and Austria – on behalf of the Human Security Network – provided updates on their universalization activities.

IV. Mobilising resources to achieve the Convention's humanitarian aims

The Co-Chairs noted that in February the Standing Committee welcomed the Norwegian initiative to establish a Resource Mobilisation Contact Group to provide a forum to address all aspects of securing sufficient resources to achieve the aims of the Convention. The Norwegian Contact Group Coordinator indicated that while the role of the State Party – be it a donor or a mine affected country – will continue to be significant in these ongoing discussions, the intention with this meeting was to highlight another aspect of resource mobilization: the role of multilateral agencies and organizations. Experts from three such organizations – the United Nations (UN), the Organization of American States (OAS) and the World Bank – were called upon to make presentations regarding their views on this matter.

The UN provided an extensive overview on how resources are mobilised to support the implementation of the Convention, integration of mine action in broader UN programming and ways to cooperate with mine-affected states. The OAS noted that its prime function is to support national government capabilities in coping with the landmine challenge, that the host country plays a key role in the management of the OAS projects, that beneficiary countries provide a considerable amount of their own resources with domestic resources matched by external resources, and that OAS mine action activities are proceeding well with prospects for successfully eliminating the mine problems in the region in the next few years. The World Bank stated that governments in most mine-affected states consider demining as a humanitarian activity and they are not willing to borrow money to fund mine action. It noted the paradox that demining begins as a humanitarian problem and continues to be considered as such. The World Bank emphasized that its mandate does not allow it to provide loans for humanitarian operations, but made suggestions regarding how mine affected countries could raise the profile of mine action as a development concern if it was a high priority for them.

A discussion followed with interventions by Canada, Peru, Colombia, Austria, Senegal, Sweden, Honduras and the ICBL. Speakers stressed the importance of the resource mobilisation initiative and the need to understand mine action in a more comprehensive and integrated manner, as well as the need for national coordination and ownership.

V. Matters pertaining to the general operations of the Convention

Ambassador Jean Lint of Belgium, Chair of the Coordinating Committee, provided an update on the activities of the Coordinating Committee, noting that since February it had met on three occasions with its attention focused on the preparations for the 12-16 May 2003 Standing Committee meetings.

The Director of the GICHD, Ambassador Martin Dahinden, and the Manager of the Implementation Support Unit (ISU), Mr. Kerry Brinkert, provided updates on the work of the ISU, noting in particular that the ISU is continuing to enhance steps to ensure that States Parties receive the necessary information to support their active participation in the work of the Convention. It was also recalled that the ISU has established the Convention's Documentation Centre and that with regard to finances a total of 11 States Parties have provided financial contributions to the ISU Trust Fund since its establishment. Australia and Canada announced new funding commitments for the ISU. Croatia expressed the hope that other mine affected States Parties would follow its example of contributing to the ISU.

The Coordinator of the Sponsorship Programme, Mr. John Wattam of the United Kingdom, reported that the group of donors had been able to raise enough funds to support widespread participation in the 12-16 May 2003 meetings. Recent contributions had been received from Australia, Canada, Denmark, and the United Kingdom. He also called for some creative thinking to supplement and enhance the level of sponsorship assistance outside the formal Sponsorship Programme and asked those of who have benefited from the programme to review their required level of assistance in order to ensure support for others.

VI. Overview of Article 7 reporting

Ambassador Lint, Coordinator of the Article 7 Contact Group, noted that 114 initial reports – or 90 percent of initial reports – have been submitted with only 14 states still late with their initial reports. He also reported that 7 states would soon be required to submit an initial report, that three States not Parties – Latvia, Lithuania and Poland – had provided voluntary reports. The Contact Group Coordinator called on other States not Parties to prepare voluntary reports, particularly the Co-Sponsors of the annual UN General Assembly resolution. He reported further that 45 percent of all annual reports covering 2002 had so far been received and that this percentage of annual reports may be due to technical difficulties experienced in the recent transfer of responsibilities from the UN Department for Disarmament Affairs (UNDDA) in New York to Geneva. In order to speed up the process of posting Article 7 reports to the website, the UNDDA urged States Parties to submit their reports electronically to the following address: mbc_article7@un.org.

Algeria, Argentina and Comoros each indicated that they had recently submitted reports. Afghanistan, Angola and Timor Leste noted that they were in the process of completing their initial reports, with Timor Leste stating that its initial report would indicate that it has no

stockpiles or mined areas. Australia congratulated Timor Leste on its efforts. New Zealand indicated that it has offered assistance to Pacific island countries in completing reports.

The ICBL congratulated States Parties for their efforts in meeting Article 7 deadlines and encouraged all States Parties to submit their initial reports in time for the 5MSP. The ICBL again urged States Parties to volunteer information in their reports on: victim assistance; the intended purpose and actual use of mines retained under Article 3; steps taken to ensure that Claymore-type munitions are available for use only in a command detonated mode; and, foreign stockpiles of antipersonnel (AP) mines.

VII. Updates by Contact Group Coordinators

The Coordinators of the Universalization Contact Group and of the Resource Mobilization Contact Group provided reports on the results of their meetings during the week: Canada reported on a new initiative to promote increased military-to-military dialogue. Norway reported on the main outcomes of discussions related to the role of multilateral institutions in resource mobilization.

VIII. Preparations for the Fifth Meeting of the States Parties

The Co-Chairs noted the need to make an adjustment to the draft programme for the 5MSP in order to accommodate the participation in the Meeting's opening ceremonies by a representative of the Thai royal family. In this context, the Co-Chairs noted that they had distributed a revised draft programme, which would see the 5MSP's opening ceremony commence at 11:00 a.m. on Monday 15 September instead of at 9:00 a.m. The formal portion of the meeting would then commence at 2:00 p.m. In addition, the revised draft programme included an afternoon session on Friday 19 September, from 2:00 to 5:00 p.m. As no objections were made, the Co-Chairs indicated that this proposal would be put before States Parties for their acceptance at the 5MSP.

Thailand provided an update on its preparations for the 5MSP and distributed a document containing important information on logistics and administrative arrangements for the meeting. This information included advice to delegates on making hotel reservations and underscored the fact that, in the context of the global emergence of SARS, Thailand remains a safe place for travel and visits.

Mr. Richard Lennane of the UNDDA reported that the UN Secretary General had sent official notification of the 5MSP to all permanent missions in New York. Mr. Lennane also urged all States Parties to promptly pay their initial assessments for the meeting.

The Co-Chairs provided an update on their consultations to nominate new Co-Rapporteurs to serve during 2003-2004. Based upon their consultations and the interest that had been expressed to them, the Co-Chairs informed the meeting that they will propose to States Parties at the 5MSP the following States Parties as new Co-Rapporteurs during this period:

- Standing Committee on the General Status and Operation of the Convention: South Africa and New Zealand.

- Standing Committee on Victim Assistance and Socio-Economic Reintegration: Nicaragua and Norway.
- Standing Committee on Mine Clearance, Mine Risk Education and Mine Action Technologies: Algeria and Sweden.
- Standing Committee on Stockpile Destruction: Bangladesh and Canada.

The Co-Chairs also recalled that the States Parties' expectations for the Co-Rapporteurs who would serve during the 2003-2004 Intersessional Work Programme would be different than in the past given that the culmination of the upcoming Intersessional Programme will be a Review Conference rather than an annual Meeting of the States Parties. Therefore, the Co-Chairs noted that the appointment of Co-Rapporteurs for 2003-2004 should be made without prejudice to the decisions taken at the Review Conference with respect to these Co-Rapporteurs assuming further roles in the period following the Review Conference.

In the context of preparations for the 5MSP, Peru announced that it would host a regional conference in July focusing on the application of the Convention in the Americas. Ecuador noted that it too would like to host a regional event in advance of the 2004 Review Conference. Angola indicated that it would soon make a request to South Africa to host a regional meeting focusing on Southern Africa. Croatia expressed interest to host the first Meeting of the States Parties to take place after the Review Conference and that it would be prepared to cover some costs of the meeting which are normally shared by all States Parties (e.g., costs of a conference facility).

IX. Experiences in implementing Article 1

The Co-Chairs noted that they had again provided an opportunity for States Parties to share information in an informal and voluntary manner on their national experiences with the implementation of Article 1.

The ICBL recalled its concerns about the issue of joint military operations involving States Parties and States not Parties that may use AP mines. The ICBL noted that it had particular concerns related to military operations in Afghanistan and Iraq but expressed satisfaction that AP mines had apparently not been used by coalition forces and that States Parties had apparently operated in a manner consistent with Article 1 of the Convention. The ICBL also reiterated its concerns related to foreign stockpiles and the transit of AP mines.

The ICBL stated that it had reviewed the approximately 30 statements made by States Parties on this matter. In its belief, there are emerging common views about what States Parties should not do when engaged in a joint military operation with a State not Party. These views include that there should be: no participation in planning for possible use of AP mines; no participation in training activities involving use of AP mines; the rejection of rules of engagement permitting the use of AP mines; no agreement to operational plans authorizing use of AP mines by a combined force; the rejection of any orders to use AP mines; no request for the use of AP mines by others if one is in command of a combined force; no participation in a battle where a State Party's forces gain direct military benefit from the use of AP mines by others; and, no assistance in laying, transporting, or providing security for stocks of AP mines. The ICBL urged States Parties to comment on these points with a view to reaching a common understanding by the Review Conference. The ICRC supported the ICBL's views.

The United Kingdom (U.K.) expressed considerable sympathy for the ICBL's concerns, noting that, on the matter of gaining direct military benefit, in practical terms on the battlefield perhaps all information cannot be known in advance. The U.K. stated that transit is "assistance" and banned under the Convention and it clarified that ships anchored off Diego Garcia remain the sovereign territory of the country concerned, although it was clear that any AP mines, which may be on board, could not be moved off the ships.

New Zealand stated that its legislation makes it clear that its defense forces cannot actively assist in any way with AP mines, including complicity, causation, training or planning. However, its defense forces would be unable to prevent receiving indirect benefit of cover from others' AP mines.

X. Experiences in implementing Article 2

The Co-Chairs noted that they had again provided an opportunity for States Parties to share information in an informal and voluntary manner on their experiences in implementing Article 2 of the Convention.

Croatia stated that its Claymore-type munitions did not fall under Article 2, as they could not be victim-activated and that it also did not possess anti-vehicle mines with anti-handling devices, which can be accidentally activated, as the thresholds are greater than 120 kg (i.e., between 150 – 300 kilos). Croatia expressed a willingness to discuss, in the context of Article 2, anti-vehicle mines equipped with tilt rods with low thresholds (1.3 – 1.7 kg) as these mines could be activated by the unintentional act of a person.

The ICBL expressed concern with the lack of progress in the discussions on Article 2, and stressed that it had regarded the provisions of this Article on anti-vehicle mines equipped with anti-handling devices as problematic at the time of the negotiations in 1997. The ICBL recalled the interpretation of Convention negotiators in Oslo. The ICRC stated that despite significant progress under the Convention, States Parties have not been able to clarify Article 2 definitions and that this should be achieved by or at the 2004 Review Conference. The ICBL and the ICRC reiterated their view of the interpretation of Convention negotiators, arguing that it was a view shared by many States Parties. Mexico supported this view and stated this item should be kept on the agenda until resolved.

XI. Addressing the humanitarian impact of mines that may pose similar risks to civilian populations as anti-personnel mines

The Co-Chairs noted that they had again provided an opportunity for a discussion on steps taken, and possible approaches, to reduce the humanitarian impact of mines that may pose similar risks to civilian populations as AP mines.

The ICRC recalled that it had proposed, during the February 2003 meeting of the Standing Committee, a process in the lead-up to the Review Conference on "best practices" regarding sensitive fuses and sensitive anti-handling devices which would cause anti-vehicle mines to be easily detonated by a person. The ICRC reported that based upon its consultations it was of the view there was not a willingness to resolve this issue through a "best practices" approach within the context of the Convention. Hence, it would not proceed with an expert meeting on the matter in February 2004. In addition, the ICRC noted its scepticism that

addressing this matter in other fora would resolve specific issues for States Parties to the Convention.

The ICBL expressed disappointment that States Parties are apparently unwilling to engage in a process of identifying “best practices” in the context of the Convention. It noted that while anti-handling devices may be a controversial issue for some States Parties, the issue of sensitive fuses should not be controversial – arguing that mines with sensitive fuses that explode from the presence, proximity or contact of a person are already captured under Article 2 definitions. The ICBL repeated doubts that the CCW was the most appropriate forum to address this issue and reiterated that it was not its intention, nor that of the ICRC or certain States Parties, to expand the scope of the Convention. The ICBL urged States Parties to come to the Review Conference prepared to formally conclude that mines with sensitive and low-pressure fuses are prohibited.

France reiterated that this important question should be addressed by the international community, and that this should be done within the framework of the CCW and not under the this Convention. The UK supported France, agreeing that there was a humanitarian issue regarding sensitive fuses and that a humanitarian solution could be found most easily outside the Convention within the CCW. Japan supported France and the UK.

New Zealand and Mexico stressed that it was important to keep the issue on the agenda and stated that the ICRC and the ICBL had made valid points. They also expressed hope that the ICRC would continue with a “best practices” process. Norway agreed with New Zealand, and stated that its position on this issue had been previously explained. Norway also stated that deliberations on these matters should not result in a distraction from working together to fully implement the Convention.

XII. Experiences in implementing Article 3

The Co-Chairs again provided an opportunity for States Parties to share information, regarding reasons why mines are retained for training and development under Article 3. Austria, Belgium, New Zealand and Norway used the opportunity to confirm that the understanding of negotiators of the Convention was that the number of mines retained should number in the hundreds or thousands, not in the tens of thousands and expressed concern regarding the large numbers of mines retained by some States Parties

New Zealand stated that it was not necessary to use live mines for training purposes. Norway stated that it had chosen not to retain any mines, even though it is heavily involved in mine clearance. It urged States Parties, as a voluntary measure, to note the intended purpose and actual use of retained AP mines in their Article 7 reports. Austria stated that live mines are not needed for training purposes and expressed concern about the high levels kept by one State Party with which it will raise this matter. Afghanistan stated that there was no need to retain AP mines under Article 3 as such reserves would lower prevalent security levels in the country. Belgium reported that it had used 300 to 400 retained mines each year since 2000.

The ICBL noted that 63 States Parties are retaining AP mines in accordance with Article 3, that 54 States Parties are not retaining any, and that state practice has clearly been in keeping with the understanding of Oslo negotiators. The ICBL, while indicating its pleasure that Turkmenistan had reported the destruction of more than one million AP mines, noted concern

that that State Party is retaining 69,200 AP mines. The ICBL called on States Parties to engage Turkmenistan with a view to it drastically reducing this number. The ICBL also expressed concern with countries retaining more than 10,000 mines and congratulated Chile for dramatically reducing the numbers it intends to retain as well as its satisfaction with Zambia's reversal of its decision to retain its entire stock. The ICBL reiterated its position that live mines are not needed for training and urged States Parties to agree to this understanding at either the 5MSP or the Review Conference.

Sweden explained that a previously unknown stock maintained by the BOFORS company for use in testing mine clearance equipment had recently been discovered and that discussion are ongoing on how to reduce these numbers. The UK expressed its intention to lower the numbers retained under Article 3. Ecuador reported that the correction to the number of mines retained in its Article 7 report was due to mistakes of an accounting nature. Algeria responded to the ICBL, emphasising that determining the number of AP mines retained is left to the discretion of each individual State Party.

XIII. Update on the dialogue related to the facilitation and clarification of compliance

The Co-Chairs recalled that the 2001-2002 Standing Committee had recommended that Canada should continue facilitating a dialogue related to the facilitation and clarification of compliance. Canada indicated its readiness to host further discussions in the context of this ongoing dialogue. Canada reported that since the February meeting no State Party had come forward with a suggestion for a discussion topic. Canada reiterated its invitation bring to its attention any matter that States Parties thought would be a useful topic for discussion.

XIV. Matters pertaining to compliance concerns

The Co-Chairs noted that as was the case with the Co-Chairs in 2001-2002, they had provided an opportunity for informal discussions on any matter related to compliance concerns. The ICBL urged States Parties, in time for the Review Conference, to put a high priority on operationalizing Article 8 and on finding new ways of ensuring a more coordinated and effective response to compliance concerns. It noted that two States Parties in their Article 7 reports had revealed that they had used antipersonnel mines when they were signatories to the Convention. A third State Party had also acknowledged such use. The ICBL recalled in that connection that the Vienna Convention on the Law of Treaties states that treaty *signatories* must refrain from acts that would defeat the purposes of the instrument they have signed.

XV. Updates on implementation of Article 9

The Co-Chairs noted that they had again provided an opportunity for States Parties to share views with respect to efforts to establish legislative, administrative and other matters in accordance with Article 9 to prevent or sanction any activity prohibited by the Convention.

The ICRC provided an overview of the status of implementation of this article, informing that 35 States Parties have adopted legislation, 20 States Parties were in the process of adopting such legislation, and 13 States Parties considered their existing laws to be sufficient to meet Article 9 obligations.

XVI. Other matters

Chile suggested that more recognition should be given in the context of the preparations for the Review Conference in 2004 to the deminers, who put their lives and livelihoods at stake in combating the scourge of AP mines.

XVII. Closing Remarks

The President of the 4MSP noted that during the 2002-2003 Intersessional period a priority had been placed on providing mine affected States Parties and those in the process of destroying stockpiles with sufficient opportunities to share information on their plans and needs for assistance. In this context, the President expressed his satisfaction that during the 12-16 May meetings so many States Parties had taken advantage of the opportunities provided to share their problems, plans, progress and priorities for assistance. He also noted his satisfaction in the rich discussions that took place regarding universalization, resource mobilization and Article 7 reporting and urged States not Parties to ratify or accede to the Convention before the 5MSP.

The ICBL stated that the hallmark of this process has been the very strong partnership between States and civil society, as well as the cooperation among States Parties. The ICBL stressed that our common objective is a Review Conference, which not only celebrates the success of the first five years, but also results in the reinforced political will and financial commitments necessary to fulfill the promise of the Convention.

In his remarks to close the week of Standing Committee meetings, the Director of the GICHD, Ambassador Martin Dahinden, expressed his optimism that the Convention community could overcome any problems that have been identified, particularly regarding resource mobilization. In addition, he indicated his appreciation for the ongoing participation of landmine survivors in the process and thanked delegates for the many kind words addressed to the GICHD and its staff.