

Overview of the Anti-Personnel Mine Ban Convention

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Introduction:

As the Co-Chair has indicated, my name is Kerry Brinkert. My role in the life of the Convention is serving as the Manager of the Convention's Implementation Support Unit at the Geneva International Centre for Humanitarian Demining. I will explain what this means in the course of my presentation.

My role in this conference is to provide an overview of the Convention's elements, its cooperation and implementation mechanisms, and its status. While some of what I will share may be familiar to some of you, I hope that after I deliver this presentation the room as a whole will have the same base-line information about the Convention. In particular, I would like to answer:

- What is the Convention all about it?
- What are its main elements?
- How does it work?
- And, what is its status?

What is the Convention all about?

What is the Convention all about? It really comes down to first line in the preamble to Convention. This line concisely explains the purpose of the Convention. That is, what the Convention is all about is a determination to put an end to the suffering and casualties caused by anti-personnel mines.

How the Convention intends to fulfill its purpose of ending the suffering caused by anti-personnel mines is through the pursuit of four core aims: First, the Convention aims to assure the universal acceptance of and full compliance with a ban on anti-personnel mines. Second, it aims to see the destruction of all existing stockpiles of anti-personnel mines. Third, it aims to see that mined areas will be cleared. And fourth, it aims to see that assistance will be provided to victims of landmines.

In summary, the Convention is comprehensive in that it aims to put an end to the suffering caused by anti-personnel mines both by preventing future suffering – by prohibiting this weapon and destroying existing stocks, and, by addressing existing suffering – by clearing mined areas and assisting victims.

Prohibited actions:

The four core aims that I have mentioned are manifested in various elements of the Convention – elements that can be categorized simplistic terms as either being prohibited actions or required actions. With respect to prohibited actions, the Convention bans the use, production, development, acquisition and transfer of anti-personnel mines. The Convention does not ban mines other than anti-personnel mines. For example, the Convention does not ban mines that are exploded by the presence, proximity or contact of a vehicle (e.g., anti-tank mines) and does not ban anti-personnel munitions that are command-detonated (e.g., Claymore munitions in the command-detonated mode.)

While the Ottawa Convention has a very explicit focus on anti-personnel mines, other conventional weapons like anti-tank mines are restricted, although not prohibited, through another international instrument – the Convention on Certain Conventional Weapons (CCW).

The Ottawa Convention also prohibits States Parties from assisting, encouraging or inducing anyone to engage in any activity prohibited by the Convention. This is a particularly relevant matter with respect to the interoperability of States Parties and States not Parties in military alliances. For example, many States Parties have provided their armed forces personnel with special instructions on what their Convention obligations mean in regards to participation in combined operations with a State not Party.

Required actions:

With respect to required actions, the Convention requires each State Party to destroy stockpiled anti-personnel mines within four years of the entry into force of the Convention for that State. States Parties may, however, retain an amount of mines that “shall not exceed the minimum number absolutely necessary” for “the development of and training in mine detection, mine clearance, or mine destruction techniques.” Many States Parties have decided to retain no mines. Others, have decided to retain very few and to report on what these mines are being used for.

The Convention also requires that each State Party makes every effort to identify all areas under its jurisdiction or control in which antipersonnel mines are known or suspected to be emplaced. These States Parties must then ensure as soon as possible that all antipersonnel mines in mined areas under its jurisdiction or control are perimeter-marked, monitored and protected by fencing or other means, to ensure the effective exclusion of civilians, until all anti-personnel mines contained therein have been destroyed. And, the Convention requires each of these States Party to clear all areas under its jurisdiction or control “as soon as possible and not later than ten years after entry into force of the Convention” for that State Party.

With respect to assistance to victims, the preamble of the Convention indicates the wish of the States Parties “to do their utmost in providing assistance for the care and rehabilitation, including the social and economic reintegration of mine victims.” In the text of the Convention itself, this wish is translated into action in that “each State Party in a position to do so shall provide assistance for the care and rehabilitation, and social and economic reintegration, of mine victims.”

The Convention requires each State Party to provide an annual transparency report on matters such as stockpiled anti-personnel mines and the status of programs for destroying stockpiled mines, and mined areas and the status of programs to clear mined areas. These transparency reports are accessible to all on the Internet.

The final required action I wish to highlight concerns compliance. The Convention sees individual States Parties themselves as the first line of defence in ensuring compliance with the Convention. That is, the Convention requires each State Party to take “all appropriate legal, administrative and other measures” to prevent and suppress any activity prohibited by the Convention which are undertaken by persons or on the territory under the jurisdiction and control of that State Party. Many States have established stand-alone legislation making it a criminal offence to undertake an activity prohibited by the Convention.

How does the Convention work?

If that is what the Convention contains, how does it really work? I would suggest that it works because certain key principles are embedded into the Convention. For example, the Convention speaks of a necessity to work in an efficient and coordinated manner. It indicates the agreement of States Parties to work together in a spirit of cooperation. And, it places a heavy emphasis on cooperation.

These key principles are manifested in a variety of implementation mechanisms. First: There are mechanisms that exist in the text of the Convention itself. Second: There are mechanisms that have been established through decisions taken by the States Parties. Third: There are mechanisms that have emerged on an informal basis.

With respect to implementation mechanisms in the text of the Convention, we are mainly talking about the cooperation and assistance elements contained in Article 6. Article 6 provides each State Party with the right to seek and receive assistance in fulfilling its Convention obligations. Article 6 also requires each State Party “in a position to do so” to provide assistance for mine clearance, mine awareness, stockpile destruction and the care, rehabilitation and reintegration of landmine victims.

Also in the text of the Convention is the provision for annual Meetings of the States Parties, which are mandated to discuss the Article 6 cooperation provisions. In addition, the Convention provides for Review Conferences, the first of which will take place this year.

How does Article 6 really work? How is a link drawn between States Parties requiring assistance and those in a position to provide assistance? Deeper in the text of Article 6, further direction is provided: That is, the Article suggests that assistance can be provided through or requested from a variety of places. In particular, the Article says that assistance may be provided through the United Nations system, international or regional organizations or institutions, non-governmental organizations or institutions, the International Committee of the Red Cross and National Red Cross or Red Crescent Societies, or on a bilateral basis, or by contributing to the United Nations Voluntary Trust Fund for Mine Action, or other regional funds. In addition to cooperation on a bilateral basis and with organizations like these, it has since been made clear by mine affected States Parties themselves that two other additional sources of resources are national budgets and development banks.¹

With respect to implementation mechanisms that have been established pursuant to decisions of the States Parties, there are three that must be mentioned. First, the States Parties at their first annual meeting in 1999 established the Intersessional Work Programme. This involves four Standing Committees, roughly dedicated to facilitating informal discussions on the pursuit of the Convention four core aims, each meeting twice a year in Geneva. These meetings are open to all interested actors – including States not parties.

The next set of meetings of the Standing Committees takes place June 21 to 25.² Invitations to participate, along with a programme and background documents, will be sent on May 12 to the Permanent Missions of all States in Geneva and New York. These meetings provide important opportunities for participation by the State represented at this conference:

- Mine-affected States like Jordan or Yemen may wish to use the opportunities presented by the Standing Committees on Mine Clearance and on Victim Assistance to provide updates on their problems, their plans, their progress to date and their priorities for assistance.
- States like Qatar, which have contributed to mine action, may wish to highlight during the Standing Committee on the General Status and Operation of the Convention the manner in which they are acting upon the call for States Parties in a position to do so to provide assistance to others.
- And at the same meeting, States not Parties from this region may wish to share their views on the Convention.

The States Parties have also taken a decision to establish a Coordinating Committee, which is designed to ensure effective coordination of the intersessional work programme. It is presided over by the President of the most recent Meeting of the States Parties, which means this year our friends from

¹ See attached diagram, *Opportunities for assistance and cooperation*.

² See attached diagram, *Intersessional Work Programme: June 2004 Meetings*.

Thailand chair the Coordinating Committee, and it involves the participation of the Co-Chairs and Co-Rapporteurs of the four Standing Committees.

The third mechanism established on the basis of a decision of the States Parties is the Implementation Support Unit (ISU). At their third annual meeting in 2001, the States Parties agreed to provide a mandate to the Geneva International Centre for Humanitarian Demining to establish such a unit.

The ISU provides independent advice and support to the Convention's President, President-Designate, Co-Chairs and other States Parties that have taken on positions of responsibility. It serves as the secretary to the Coordinating Committee. It provides advice, information and support to individual States Parties on implementation matters. The ISU coordinates with actors like the United Nations which are central to and supportive of the States Parties' aims and efforts. And it provides information on the Convention to all whom are interested – including to States not Parties. In addition, another important part of the Implementation Support Unit's mandate is to maintain the Convention's documentation centre. We work to make many of these documents accessible through the internet, on our web site³ as well as a special site established for the Review Conference.⁴

Finally with respect to implementation mechanisms, there are those that have emerged on an informal basis: Contact groups – informal gatherings of States Parties and interested organizations – exist to promote universalization of the Convention, timely reporting in accordance with Article 7 of the Convention and resource mobilization. In addition, a sponsorship programme has emerged on an informal basis to ensure widespread participation in meetings related to the Convention.

The status of the Convention:

With respect to the Status of the Convention, 141 States have accepted the Convention through ratification or accession. The Convention membership includes:

- every State in the Western Hemisphere except Cuba, Haiti and the USA;
- almost every State in Europe;
- all of Sub-Saharan Africa with the exception of Ethiopia and Somalia; and,
- the world's most mine-affected States.

According to the International Campaign to Ban Landmines (ICBL), the drop in the global use of anti-personnel mines in the mid-1990s continued in 2003: “In recent years, anti-personnel mines have been used in fewer countries and in lesser numbers than seen from the 1960s through the early 1990s.”

Global production of anti-personnel mines has been reduced dramatically. At one time over fifty States produced anti-personnel mines. Thirty-eight (38) of these States are now parties to the Convention and thus have forsworn production and have converted / dismantled production facilities. In addition, some States not Parties have ceased production and others like the Republic of Korea and the United States have not produced anti-personnel mines for several years.

According to the ICBL, in recent years “the trade in anti-personnel mines has dwindled to a very low level of illicit trafficking and unacknowledged trade.” In addition, the ICBL has noted that several States not Parties, such as Poland and Singapore, have put in place indefinite moratoria on the export of anti-personnel mines.

With respect to the destruction of stockpiled anti-personnel mines, one-hundred-twenty (120) States Parties to the Convention now no longer hold stockpiled anti-personnel mines, because they either have destroyed their mines in accordance with the Convention's obligations or did not hold stockpiles at the time of the Convention's entry into force. Combined, sixty-eight (68) States Parties have

³ www.gichd.ch

⁴ www.nairobisummit.org

destroyed more than 31.4 million stockpiled landmines. Approximately 9 million additional anti-personnel mines are held by the newest States Parties to the Convention and hence will be destroyed within four years. In the mid-1990s the Secretary General of the United Nations reported that it could cost on average between US\$ 300 and US\$ 1,000 to clear a landmine. Therefore, had these 31+ million mines been deployed, the cost of demining – in addition to the human cost of the use of these mines – would have been in the billions of dollars.

In terms of the aim of clearing mined areas, approximately 50 States Parties are mine-affected, either having reported mined areas or having not yet submitted an initial transparency report but are assumed to be mine affected. These include the most mine-affected States in the Middle East (Jordan and Yemen), Europe (Bosnia and Herzegovina and Croatia), Africa (Angola, Mozambique and Sudan), Central, South and Southeast Asia (Afghanistan, Cambodia, Tajikistan and Thailand) and the Americas (Colombia and Nicaragua). Significant progress has been made in each of these countries, although many challenges remain.

With respect to assisting victims, the number of individuals who have been killed or injured by landmines likely numbers in the hundreds-of-thousands. Those who have survived for the most part live in some of the world's poorest countries. Medical care, rehabilitation and reintegration services available to many of these survivors are limited. The Convention has raised awareness not only of the challenges faced by landmine survivors but also of the challenges faced by all persons with disabilities in developing countries. Millions of dollars have been generated to assist mine-affected States in fulfilling their responsibility to the care of these individuals. For example, by the end of 2002, the ICRC's *Special Appeal – Mine Action* had raised over 24 million Swiss Francs.

The Convention is at a mid-way point between entry-into-force and the first deadlines for mine clearance. At this mid-way point, the First Review Conference will be held. In advance of the First Review Conference, as I mentioned, meetings of the Standing Committees will take place as will the Second Preparatory Meeting in advance of the Review Conference.⁵

Concluding thoughts:

To conclude, I would like to offer three observations:

First, the Convention is about States taking responsibility. For example, when it comes to compliance, States Parties have not devolved responsibility but rather serve as the first line of defence in ensuring full compliance with the Convention. Moreover, the States Parties have not abrogated their responsibility for national security. Rather, they have accepted that they can fulfil national security requirements without anti-personnel mines. And they have expanded their sense of security to encompass human security.

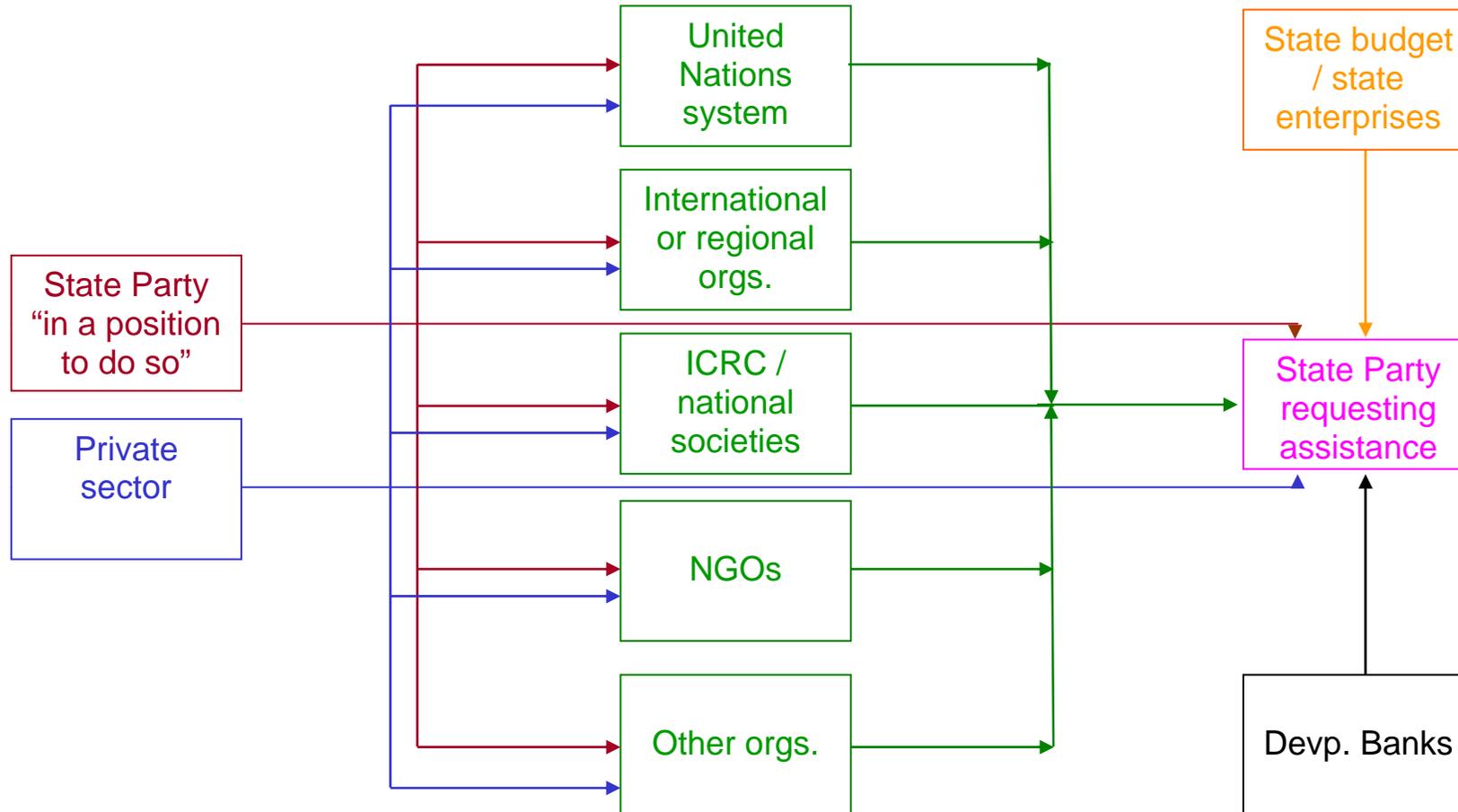
Second, the Convention was never intended to solve all the world's problems related to conventional weapons. Its purpose, as I've outlined, is to end the suffering caused by anti-personnel mines. Nevertheless, the Convention has served as the catalyst for approximately US\$ 2 billion having been generated since 1997 to clear all mines and unexploded ordnance that remain after conflicts have ended. In addition, the Convention has served as an inspiration to breathe new life into the CCW, which last year concluded a protocol on explosive remnants of war and which is holding vibrant discussions on further restrictions on anti-vehicle mines.

Third, the Convention serves as a living example of multilateralism at work and of the value of collective action to address a pressing humanitarian problem.

Thank you.

⁵ See attached diagram, *AP Mine Ban Convention: A mid-way point.*

Opportunities for assistance and cooperation



Intersessional Work Programme: June 2004 Meetings

	Mon. 21 June	Tues. 22 June	Wed. 23 June	Thurs. 24 June	Fri. 25 June
10h to 13h	General Status and Operation of the Convention	Mine Clearance, Mine Risk Education and Mine Action Technologies	Victim Assistance and Socio- Economic Reintegration	Stockpile Destruction	General Status and Operation of the Convention
Break					
15h to 18h	Mine Clearance, Mine Risk Education and Mine Action Technologies	Mine Clearance, Mine Risk Education and Mine Action Technologies	Victim Assistance and Socio- Economic Reintegration	Stockpile Destruction	General Status and Operation of the Convention

AP Mine Ban Convention: A mid-way point

