

## **PRELIMINARY OBSERVATIONS**

### **COMMITTEE ON THE COOPERATIVE COMPLIANCE (Iraq, Norway, Poland, Switzerland, Zambia)**

**Intersessional Meetings, 22-24 May 2019**

#### **PART 1: Introduction**

##### **Activities and general observations of the Committee**

1. The initial meeting of the Committee in 2019 took place on 17 December 2018 to begin the Committee's work of engaging in a cooperative dialogue with those States Parties confronted with allegations of use of anti-personnel mines as well as in internal deliberations.
2. Taking advantage of the presence of a delegation in Geneva, on 6 February 2019, the Committee met with representatives of Sudan, Ukraine and Yemen. Likewise, the Committee also reached out to the International Campaign to Ban Landmines (ICBL) and Human Rights Watch (HRW) in order to receive input from civil society with regard to compliance matters.
3. The Committee was grateful for the engagement of representatives these States Parties and values their willingness to meet with the Committee on a permanent basis. The Committee also values the important contribution of civil society to the work of the Committee.
4. On 15 April 2019, the Chair of the Committee sent a letter to Yemen, Sudan and Ukraine to encourage the provision of further information to the Committee prior to the 22-24 May 2019 intersessional meetings and to encourage their active participation in the meeting.
5. On 16 May 2019, the Chair of the Committee met with Ukraine to discuss matters contained in the communication from the Committee.

#### **PART 2: Observations**

6. On the basis of its deliberations and of the cooperative engagement with concerned States Parties, the Committee wishes to share the following background and status of compliance in these States:

##### **Sudan**

7. Allegations of the use of anti-personnel mines in Sudan – both by the Sudanese Armed Forces (SAF) and by the Sudan People's Liberation Army – North (SPLA-N) surfaced in 2011 and 2012. Sudan has been engaged in a dialogue with the Committee since December 2014 regarding these allegations. On several occasions Sudan has underlined that it complies fully with the Convention and has opened investigations to clarify several allegations that concern the areas of Troji, Hegleg, Jebel Kowa, Heiban, and Balila. While Sudan was able to provide to the Committee an investigative internal report for Hegleg, which came to the conclusion that no new anti-personnel mines were laid, it reported not being able to access other areas where allegations have arisen due to the security.

8. In the written update sent to the Committee on 31 August 2015, Sudan stated that mines in some areas of Southern Kordofan and Blue Nile, may have been planted by rebel groups in areas under the rebels' control. A Sudanese fact finding committee was unable to reach Jebel Kowa due to heavy rain, difficulty of movement and security and was scheduled to visit the area in November 2015.
9. On 1 February 2016, Sudan provided to the Committee two investigation reports on the alleged use of anti-personnel mines by the Sudanese Army. The investigations were conducted in the Kilemo district of Kadugli (South Kordofan) and in the Baleela region (West Kordofan) in October 2015 and concluded that the Sudanese Army observed the obligations under the Convention and that no new anti-personnel mines were laid. Allegations in the regions of Haeiban, Jebel Kowa and Troji could not be investigated as these regions are outside the control of the Sudanese Government. The report concluded that investigations must be carried out in these regions once the security situation permits.
10. On 17 February 2016 Sudan reiterated to the Committee the fact that it is committed to carrying out investigations into allegations of the use of mines but that some areas remain in conflict and it is not possible to carry out investigations in these areas.
11. On 3 May 2016, the Committee sent a letter to Sudan requesting updated information on the situation as well as information on measures in place to ensure compliance in accordance with Article 9 of the Convention and Action 29 of the Maputo Action Plan.
12. On 19 May 2016, on the margins of the intersessional meetings, Sudan reiterated its commitment to keep the Committee informed about the security situation in areas pending investigation and submitted to the Committee a copy of the Mine Action Act of 2010 which forbids those acts prohibited under Article 1.1 of the Convention and includes punitive measures.
13. On 8 February 2017, Sudan indicated to the Committee that the security situation which hampered investigations persists. Sudan reported that there is currently a national peace dialogue which may offer an opportunity for the Fact Finding Committee to carry out investigations in the remaining areas.
14. In addressing the intersessional meetings on 9 June 2017, Sudan recalled that it had established a committee to deal with allegations on compliance. Sudan further indicated that ongoing insecurity continues to prevent the committee from conducting investigations in three regions of the country.
15. On 23 April 2018 the Committee wrote to Sudan to request updated information on investigations into the pending allegations as well on collaboration with partners in order to ensure that investigations can take place as soon as possible. Sudan responded by indicating that the government has formed a committee of NGOs under the supervision of the National Mine Action Centre which carried out survey research and direct investigation through discussions with local inhabitants and military field commanders as well as corporate and humanitarian workers operating in the area. Sudan reported that security remains an impediment for investigations.
16. On 6 February 2019 the Committee met with Sudan to receive updated information on the status of investigations into compliance allegations. Sudan indicated that the situation in Sudan had not altered and that inaccessible areas which fell out of the government control will be considered for the future investigation by the Commission of Inquiry once security conditions improve and

accessibility is permitted. Sudan further mentioned that efforts continue with the aim of achieving peace in order to carry out the remaining investigations and to carry out humanitarian demining operations.

17. On 15 April 2019 the Committee wrote to Sudan requesting updated information on the security situation in the areas where allegations have surfaced and where Sudan indicated security presents an impediment to investigations. The Committee also welcomed information on the structure and work of the Committee and any collaboration with partners that has been carried out to ensure that investigations can take place as soon as possible as well information on the development of the peace process in these areas. The Committee further indicated in its letter that it will invite Sudan to take the floor during the intersessional meetings and encouraged Sudan to engage with the States Parties.

#### Observations of the Committee on Sudan

18. The Committee appreciates Sudan's engagement with the Committee and looks forward to engaging further with Sudan over the course of the year in the lead up to the Fourth Review Conference.
19. The Committee welcomed Sudan acting upon Action 28 of the Maputo Action Plan which indicates that "in cases of alleged or known non-compliance with the Convention's prohibitions, the State Party concerned will provide information on the situation to all States Parties in the most expeditious, comprehensive and transparent manner possible and work together with other States Parties in a spirit of cooperation to resolve the matter in an expeditious and effective manner, in accordance with Article 8."
20. The Committee observed that it would welcome continued updated information on the security situation in the remaining areas where allegations have surfaced and where Sudan indicated security presents an impediment to investigations. The Committee encourages Sudan to continue working with all partners in order to ensure that investigations can take place as soon as possible.

#### **Ukraine**

21. The claims of use of anti-personnel mines in Ukraine relate to the documentation of alleged presence of various types of anti-personnel mines (PFM, MON and OZM series) on Ukrainian territory since early 2014, without clear determination as to the parties responsible for such use. Ukraine has engaged in a dialogue with the Committee since May 2015 regarding these allegations, and has stressed that it complies fully with the Convention. Ukraine reiterated furthermore that its Armed Forces are authorised to use mines only in command-detonated mode (through electrical initiation), which is not prohibited by the Convention.
22. Ukraine made a declaration on this issue during the intersessional meetings in June 2015 and has been standing by its declaration since, indicating that there are no new elements to add.
23. Ukraine informed the Fourteenth Meeting of the States Parties in 2015 that there are mined areas under its jurisdiction, however, not under its control. Ukraine further informed that sabotage acts are carried out on its territory which is under the control of Ukraine, including mining territory and infrastructure.

24. On 18 February 2016, Ukraine reiterated to the Committee that it complies with the Convention and that all units of the Ukrainian Armed Forces are instructed on obligations of the Convention. Ukraine informed the Committee that anti-personnel mines are being used in victim-activated mode (including MON-15 mines with tripwire), which is prohibited under the Convention, by non-state armed groups in areas in the south-east of the country which are not under the control of Ukraine.
25. Ukraine reiterated that it possesses stockpiled anti-personnel mines with the destruction of these mines resumed in December 2015 after it had previously been paused. Ukraine indicated that these stockpiles are not in the proximity of the frontline (where there could be risk of theft). However, some anti-personnel mines have been seized by non-state armed groups in the territory not under the control of Ukraine (Crimea). Ukraine believes that some of these mines have now been used, and have since been found by Ukraine.
26. On 3 May 2016, the Committee sent a letter to Ukraine requesting updated information on the situation as well as to request information on measures in place to ensure compliance in accordance with Article 9 of the Convention and Action 29 of the Maputo Action Plan. In responding to the letter, Ukraine indicated that certain districts of the Donetsk and Luhansk oblasts of Ukraine remain temporarily not under the control of Ukraine but did not provide information concerning any legal administrative or other measures to ensure compliance.
27. During the intersessional meetings on 20 May 2016, Ukraine indicated that the type of mines located in Ukraine have never before been used in the territory of Ukraine (PMN1, PMN2, PMN4 and POM2R) and that the last stockpiles of these mines were destroyed in 2011. Ukraine further reported that it is possible that mines have been laid in the occupied territories of the Autonomous Republic of Crimea, Kherson Province and Donetsk.
28. On 7 February 2017, Ukraine indicated to the Committee that it continues to suspect the use of mines in Ukraine in areas under its jurisdiction but temporarily outside of its control and does not have information for areas outside of its control where it suspects mines to have been employed. Ukraine reported that it continues to locate mines that have never before been used in the territory of Ukraine (e.g. PMN2 and PMN4). Ukraine further reported to the Committee that drafts of a Mine Action Law have been developed and are currently debated prior to their adoption. With reference to the deadline for submission of a request for extension under Article 5 of the Convention, Ukraine indicated that preparations for the submission of a request are underway, while the timeline was yet to be determined. The Committee recalled that on-time submission would be important in order to avoid non-compliance with the Convention.
29. On 23 April 2018 the Committee wrote to Ukraine to request updated information on the security situation in areas where allegations have surfaced and which are not under the control of Ukraine as well as on efforts to taken any legal, administrative, or other measures 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, in accordance with Article 9 of the Convention and Action 29 of the Maputo Action Plan. As of 31 May, the Committee has not received updated information.
30. On 15 April 2019 the Committee wrote to Ukraine requesting updated information on the security situation in areas where allegations have surfaced and which are not under the control of Ukraine as well as on efforts to taken any legal, administrative, or other measures 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, in accordance with Article 9 of the Convention. The

Committee further indicated in its letter that it will invite Ukraine to take the floor during the intersessional meetings and encouraged Ukraine to engage with the States Parties.

31. On 6 February 2019 the Committee met with Ukraine to receive updated information on the status of investigations into compliance allegations. During the meeting, Ukraine provided updated information on the efforts being carried out in Ukraine on the establishment of national legislation and collaboration with partners to update standards, among other matters. Ukraine expressed its commitment to the Convention and indicated that the security situation remains the main challenge.
32. On 16 May 2019, the Chair of the Committee had a bilateral meeting with Ukraine in which Ukraine expressed its commitment to the Convention and to addressing the issues raised by the Committee as soon as possible. Ukraine further emphasized that the conflict continues to be the main impediment to Ukraine's efforts to implementing the Convention.

#### Observations of the Committee on Ukraine

33. The Committee appreciates Ukraine's past engagement in continued dialogue and exchange of information concerning allegations and looks forward to engaging further with Ukraine over the course of the year in the lead up to the Fourth Review Conference.
34. The Committee welcomed Ukraine acting upon Action 28 of the Maputo Action Plan which indicates that "in cases of alleged or known non-compliance with the Convention's prohibitions, the State Party concerned will provide information on the situation to all States Parties in the most expeditious, comprehensive and transparent manner possible and work together with other States Parties in a spirit of cooperation to resolve the matter in an expeditious and effective manner, in accordance with Article 8."
35. The Committee would welcome information from Ukraine on its efforts 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" in accordance with Article 9 of the Convention.
36. The Committee also recalls Action 29 of the Maputo Action Plan which requests "each State Party that has not yet done so, will, as soon as possible and no later than by the Fourth Review Conference, take all appropriate legal, administrative and other measures to prevent and suppress any activity that is prohibited the Convention undertaken by persons or on territory under its jurisdiction or control. States Parties will report on such measures as required by the Convention and thereafter inform the States Parties of the use of such measures to respond to cases of alleged or known non-compliance with the Convention's prohibitions." The Committee welcomes Ukraine updating the Committee on this regard.

#### **Yemen**

37. Through an Official Communiqué on 17 November 2013, Yemen acknowledged and confirmed allegations of use of anti-personnel mines by the Republican Guard Forces in the area of Wadi Bani Jarmoz, near Sana'a, in 2011. Since then, Yemen has provided to the States Parties an interim report (29 March 2014) and a final report (15 January 2015), in accordance with its commitment made at the Twelfth Meeting of the States Parties, to inform States Parties on (a) the status and outcome of Yemen's investigation; (b) the identification of those responsible for

deploying anti-personnel mines, and subsequent measures taken; (c) information on the source of the antipersonnel mines and how those mines were obtained, particularly given that Yemen had long ago reported the destruction of all stockpiles; (d) the destruction of any additional stockpiles discovered and the clearance of the mined areas in question; and (e) actions to prevent and suppress any possible future prohibited activities undertaken by persons or on territory under its jurisdiction or control. According to these reports and to information provided to the Committee, internal investigations were opened and referred to a military tribunal in order to consider and verify the evidence. However, according to Yemen, these procedures were subsequently halted due to internal security, political and technical restraints.

38. In July 2015, new allegations of the use of anti-personnel mines in the provinces of Aden, Abyan, and Lahij surfaced. Media reports referred to declarations made by both mine action officials and health officials.
39. At the Fourteenth Meeting of the States Parties, Yemen informed that it has been made aware by the media of the use of anti-personnel mines in the centre and south of the country where battles are taking place. Yemen further informed that the locations of these mines remain unclear and affirmed that one of the Government's priorities is to collect evidence to provide specific information on the allegations.
40. On 19 February 2016, Yemen informed the Committee that the situation remains unchanged and that no new investigations into the alleged use of anti-personnel mines have been conducted. The last investigation took place in 2011 but had to be halted due to the political and security situation.
41. Yemen further informed the Committee that there is anti-personnel mine contamination in the centre of the country, the south (Aden) and possibly the east near the governorate of Taiz. Yemen indicated that due to the conflict these mined areas cannot be visited.
42. On 3 May 2016, the Committee sent a letter to Yemen requesting updated information on the situation as well as to request information on measures in place to ensure compliance in accordance with Article 9 of the Convention and Action 29 of the Maputo Action Plan.
43. In 2016, Yemen reported through its Article 7 report that it has national legislation in place that makes it an offence to possess, produce, design, import, export, trade, transfer and stockpile anti-personnel mines and includes penalties for doing so.
44. On 19 May 2016, Yemen informed the Committee that it is committed to keep the Committee informed about the security situation. Yemen further indicated that the mines being used in Yemen have not been stockpiled or used in Yemen in the past but have recently been illicitly transferred into Yemen. Yemen indicated that the government will carry out an investigation of this issue.
45. In addressing the intersessional meetings on 20 May 2016, Yemen reiterated that it faces a number of new challenges including new contamination and that a number of steps have been taken including the development by the government of a new strategy to facilitate the work of fulfilling its obligations under the Convention. Yemen reaffirmed the government's commitment to investigate the use of mines and that there will be penalties for the individuals responsible for the importation and use of mines.
46. On 21 April 2017, Yemen indicated to the Committee that the current security situation, lack of capacity and lack of information has made it impossible to carry out the pending investigations.

Yemen indicated that it was also difficult to acquire reliable information on the source of anti-personnel mines being used in Yemen. Yemen indicated that at the moment efforts to attain accountability have been side-lined by pressing humanitarian priorities to provide mine risk education to the population, carry out clearance activities and provide victim assistance. Yemen indicated that one of the ongoing efforts is to implement the emergency response plan and integrate mine action efforts within the UN to facilitate implementation of the Convention.

47. In addressing the intersessional meetings on 9 June 2017, Yemen reiterated that the mines being identified in Yemen were illicitly transferred into the country. Yemen also indicated that it hopes to be able to submit conclusions of a fact finding mission undertaken and determine accountability in response to the allegations and stated its readiness to answer any questions and keeping the Committee informed.
48. On 23 April 2018 the Committee wrote to Yemen to welcome any new information on the security situation and efforts to respond to allegations of the use of anti-personnel mines within Yemen as well as the results of investigations into the transfer and use of mines within areas under its jurisdiction or control. As of 31 May, the Committee has not received updated information.
49. The Committee appreciates Yemen's engagement in a continued dialogue and exchange of information concerning allegations and looks forward to engaging further with Yemen over the course of the year in the lead up to the Seventeenth Meeting of the States Parties.
50. On 6 February 2019 the Committee met with Yemen to receive updated information on the status of investigations into compliance allegations. Yemen indicated that the situation in Yemen had not altered and conflict continues with anti-personnel mine being planted and having a serious impact on the civilian population. Yemen committed to continue its dialogue with the Committee concerning these allegations but stated that at the moment, given the situation, any investigation is not feasible.
51. On 15 April 2019 the Committee wrote to Yemen requesting updated information on the security situation and efforts made by Yemen to carry out investigations on allegations and on the transfer and use of mines within areas under its jurisdiction or control. The Committee further indicated in its letter that it will invite Yemen to take the floor during the intersessional meetings and encouraged Yemen to engage with the States Parties.

#### Observations of the Committee on Yemen

52. The Committee appreciates Yemen's engagement with the Committee and looks forward to engaging further with Yemen over the course of the year in the lead up to the Fourth Review Conference.
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54. The Committee observed that it would welcome continued updated information on the security situation and efforts made by Yemen to carry out investigations on allegations and on the transfer and use of mines within areas under its jurisdiction or control.