



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 3 & 7 February 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 4MSP.

Mr. Paul Hannon of Mines Action Canada reported on the outcomes of a December 2002 international symposium on addressing the challenges of achieving a mine-free world, that included the need to reinforce and support the role and responsibility of mine-affected states. A detailed report would be made available.

The United Nations Mine Action Service (UNMAS), on behalf of the UN system, presented activities carried out to implement its 2002-2005 mine action strategy. Costa Rica reported that it had become the first mine affected State Party to have declared it had fulfilled its obligations under Article 5 of the Convention. Chad provided information on its national budget commitment to mine action. The International Campaign to Ban of Landmines (ICBL) emphasized the degree to which the Convention is becoming the international norm, as even many of those who remain outside the Convention are abiding by its standards. The ICBL, while highlighting the impressive and encouraging progress (e.g. stockpile destruction and Article 7 reporting), stressed that we must not be complacent, claiming that there remain 90 mine-affected countries, with approximately 15-20,000 new victims every year.

III. Overview of the General Status of universalization

Ms. Shannon Smith of Canada, Coordinator of the Universalization Contact Group, stressed the importance of taking action with respect to those states which remain outside of the

Convention. Particular focus should be given to those states, which are of high political and humanitarian significance because of their status as producers or users of anti-personnel mines. Furthermore, continuous efforts will be needed with those states identified as likely candidates to ratify or accede by the Review Conference. She also highlighted the need to focus on ways to make use of a variety of multilateral and regional fora to further the messages of the Convention and to secure new adherents. This latter point was illustrated by a panel, which included representatives of Austria, on behalf of the Human Security Network (HSN), the ICBL and Thailand.

Austria, as Chair of the HSN, expressed the firm commitment of the Network's members to the Convention and referred to the Network's declaration promoting the universalization of the Convention, which was presented during the 4MSP and which will serve as a reference for the HSN in the future. Thailand spoke on the coordinated efforts undertaken by its country with other States Parties in order to promote universalization in the Asia Pacific region prior to the 5MSP. The ICBL indicated how NGOs use their networks to complement states' efforts to promote universalization (e.g. raising public awareness, working with parliamentarians and government representatives, campaigning in collaboration with regional organizations, et cetera).

Several States Parties provided information on universalization efforts, including Italy, Japan, and New Zealand. Cyprus reported that it had ratified the Convention on 17 January 2003, thanked the Implementation Support Unit (ISU) for its support during the ratification process and indicated that it is in the process of adopting a national plan for its implementation. The Geneva Call reported on its work with armed non-state actors (NSAs) and stressed the importance of getting NSAs to agree to stop using anti-personnel mines. The OAS gave an overview of its efforts to promote acceptance of the Convention in the Americas and UNICEF presented the UN advocacy strategy to promote universalization, implementation and verification of the Convention.

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

The Co-Chairs recalled that with a view to sustaining the efforts to implement the Convention, the President's Action Programme of the 4MSP suggested that all relevant actors should take necessary steps now and maintain frequent contact to ensure that by the Review Conference a significant renewal of the collective commitment is made to finish the job of eliminating anti-personnel mines. In response, Norway had established a Resource Mobilisation Contact Group, which was welcomed at the 4MSP.

Mr. Knut Langeland of Norway, the Contact Group Coordinator, indicated various steps taken to obtain more information about domestic resource mobilization in mine-affected countries. This was followed by presentations by Peru, Croatia, Canada and Norway on their respective approaches to ensure sustainable funding.

Both Peru and Croatia demonstrated that even mine-affected developing countries, can succeed in mobilizing national resources when they have a sense of ownership of their mine problems. Canada raised two central aspects of the issue: the mobilization of additional resources for mine action and the effective and efficient uses of existing resources. Canada and Norway both stressed the importance of integrating mine action into general development programmes. In addition, Norway stressed that mine-affected countries that themselves commit their own resources to victim assistance and mine clearance programmes and integrate mine action in their national development plans will be in a better position to attract

external funding. Both Canada and Norway announced their commitments for the following five years: Canada announced the replenishment of the Canadian Landmines Fund to the level of CAN\$ 72 million and Norway announced a renewal of its contributions to mine action at the same level as in past years (US\$ 120 million).

A discussion followed, with interventions by Austria, Thailand, Sweden, Mozambique, Niger, Nicaragua, South Africa, Afghanistan, Germany, Japan, Djibouti, Bangladesh, UNDP, EC and ICBL. All speakers warmly welcomed this important initiative and agreed that mobilizing resources is crucial for the implementation of the Convention. UNMAS presented its Mine Action Portfolio and E-mine web site. The ICBL pledged its close collaboration with the Contact Group as well as donors and mine-affected countries with the goal of ensuring that the necessary resources are provided.

V. Matters pertaining to the general operations of the Convention

Ambassador Jean Lint of Belgium, in his capacity as Chair of the Coordinating Committee, presented a report on the activities of the Coordinating Committee, noting that attention was concentrated on the preparations for the 3-7 February 2003 Standing Committee meetings and their agendas.

The Director of the GICHD, Ambassador Martin Dahinden, and the Manager of the Implementation Support Unit (ISU), Mr. Kerry Brinkert, provided an update on the work of the ISU, noting in particular the establishment of a documentation centre and reminding States Parties of their collective responsibility for assuring necessary financial resources for the ISU.

The Coordinator of the Sponsorship Programme, Mr. John Wattam of the United Kingdom, reported on the Programme's achievements, particularly its increase in the number of representatives that it has been able to assist. While he stressed the sustained level of contributions of its current donors, joined for the first time by Australia, Denmark and France, he also pointed out that additional contributions would be needed to sustain the programme at the 5MSP and thereafter into 2004.

VI. Overview of Article 7 Reporting

The Co-Chairs recalled that Article 7 reporting has proven to be essential to the collective effort to implement the Convention and reminded the Standing Committee that in 2001-2002, it was highlighted that Article 7 reporting provides valuable information to both support cooperation and assess progress.

Ambassador Lint, the Coordinator of the Article 7 Contact Group, noted that approximately 80 per cent of States Parties had submitted an initial Article 7 report. He highlighted that one State not Party (Lithuania) had voluntarily submitted an Article 7 report.

Ambassador Enrique Roman-Morey, head of the Geneva Branch of the United Nations Department for Disarmament Affairs (UNDDA), informed about progress made in enhancing the UN's online database of Article 7 reports, specifically the transfer to the Geneva Branch, of the responsibility for the management of the database related with these reports. In addition, Ms. Celina Tuttle of Landmine Monitor highlighted enhancements made to the Landmine Monitor's online database and how it can be a useful tool to all actors seeking information on the general status of the Convention. As well, the ICBL encouraged States

Parties to make full use of the voluntary report “Form J” to report on victim assistance and reiterated its appeal to use Form D to indicate the intended purpose and actual use of mines retained for training and to use Form B to report on stocks of Claymore munitions and steps taken to ensure that all such munitions are in a command-detonated mode.

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 that the need to continue efforts towards universalization, especially with producers and users, was stressed. Norway reported that the need to further integrate mine action into development and national programmes was emphasized, and that the Contact Group in May would examine the role of multilateral institutions.

VIII. Preparations for the Fifth Meeting of the States Parties

Following usual practice, the Co-Chairs sought views on a draft agenda, programme and rules of procedure for the Fifth Meeting of the States Parties (5MSP). It was noted that these documents were identical to those used at the past two MSPs, with the following exceptions:

- In place of the traditional item dealing with the date, duration and location of the next Meeting of the States Parties an item entitled, “date, duration and location of the First Review Conference, and matters pertaining to the preparations for the Review Conference” was included on the draft agenda and programme.
- It was proposed that the 5MSP be one-half-day longer than the 4MSP, to take into account the reality of the number of statements that are traditionally made during the General Exchange of Views.

No objections were made with respect to these draft documents. It was the sense of the Co-Chairs that they could be put before States Parties for their acceptance at the 5MSP.

No objections were made either to the draft cost estimates presented by the UNDDA. It was the sense of the Co-Chairs that they could be put before States Parties for their acceptance at the 5MSP. The Co-Chairs thanked the UNDDA for their efforts to produce such a cost-effective budget estimate for the 5MSP.

The Co-Chairs recalled that it has been a tradition that the Standing Committee request that the UN Secretary General appoint an Executive Secretary for the upcoming Meeting. In this context, the Co-Chairs noted their understanding that the United Nations intended to appoint Ambassador Enrique Roman-Morey as the Executive Secretary of the 5MSP. Similarly, the Co-Chairs of the Standing Committee had traditionally designated a Secretary General for Meetings of States Parties, subject to the confirmation by the Meetings of States Parties. Therefore it was the sense of the Co-Chairs that the Standing Committee wished that Thailand as the host to the 5MSP should be asked to designate a Secretary General for the Meeting, to coordinate arrangements for the meeting’s opening ceremonies and side events as well as other efforts in support of the Meeting.

Major General Gitti Suksomstarn, Director General of Thailand Mine Action Center, informed the Standing Committee of preparations for hosting the 5MSP and invited the participants to visit on Sunday 14 September, a mine-affected area at Ban Nong Sa Kaeo.

Finally, the Co-Chairs read a statement regarding the appointment of future Co-Rapporteurs of the Standing Committees, noting that it was their intention to proceed in the traditional manner with a view to developing a list of prospective Co-Rapporteurs for presentation at the May meeting of the Standing Committee, bearing in mind the principles of ensuring a regional balance, a balance between mine-affected and donor State Parties, and a balance between the need of rotation and continuity. The Co-Chairs asked that interested States Parties express their interest to them as soon as possible.

The Co-Chairs noted that the appointment of Co-Rapporteurs for the 2003-2004 should be made without prejudice to the decisions that States Parties may wish to take at the Review Conference regarding the implementation mechanisms (e.g. the Intersessional Work Programme).

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.

France noted that it had taken measures to ensure that its participation in joint-operations would not infringe upon its obligations under the Convention. Italy recalled that its domestic law allows joint military operations with States not Parties only as long as such operations are compatible with the provisions of the Convention and noted that its armed forces in Afghanistan were given written instructions to categorically refrain from any participation in actions contrary to the Convention. Belgium recalled that according to its legislation military staff cannot participate in any action involving AP mines and that this fact had been communicated to NATO partners.

Brazil stressed that Article 1 clearly bans joint operations with States not Parties that may involve the use of AP mines, even if the States Parties involved in such operations do not participate directly and actively in the laying of AP mines. Brazil noted that in the absence of such an interpretation of the term “assist”, Article 1 would contain a serious and unfortunate loophole. Switzerland supported this view and appealed to all to respect the letter and spirit of the Convention. Mexico, in noting its support for Brazil’s statement, reiterated the need for a common understanding of the term “assist”.

South Africa reiterated its position, clearly reflected in its national implementing legislation, and gave examples of situations when the participation in joint operations in which of AP mines may be used would be prohibited by Article 1. The United Kingdom shared its views that the transit of AP mines would be prohibited and that British forces may not seek benefit from the anti-personnel mines used by other allies and stated its view that the interpretation of the Convention would have to take into consideration battlefield realities at the time.

The ICBL expressed its concern regarding the possible use of AP mines in joint operations in case of a war in Iraq and urged all States Parties to make every effort to ensure that no party to such a conflict would use any AP mines. The ICBL noted with satisfaction that, to date, more than 30 States Parties had stated their views on Article 1 and encouraged others to do so. The ICBL provided details of what this means in operational terms, and said that many States Parties hold the same views. The ICBL stated that respect for Article 1 obligations is essential to maintaining the integrity of the Convention.

The Co-chairs thanked the delegations for sharing their experiences in implementing Article 1 and noted the increasing clarity being brought to bear on this matter.

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.

The ICRC provided examples of countries that have adopted measures related to anti-vehicle (AV) mines to ensure conformity with Article 2 and it reiterated the need to discuss ways to minimize risks to civilians from certain AV mines that function as AP mines. It also urged States Parties to continue working on this matter in order to achieve a common understanding by the 2004 Review Conference, and offered to host a meeting for interested States on the issue after the 5MSP.

Italy recalled that its legislation defines AP mines to include mines that could function or that could be adapted to function like AP mines. It endorsed the approach of best practices and supported the idea of the ICRC moving forward on this issue after the 5MSP.

France reiterated its position that the design of the mine determines what constitutes an AP mine rather than its potential effects and stressed that the Convention on Certain Conventional Weapons (CCW) was the appropriate framework to address matters related to AV mines. Japan supported this view and expressed concern that discussion of Article 2 in relation to anti-vehicles mines could hamper the universalization of the Convention. While welcoming the initiative of the ICRC to encourage discussion on this question, the UK stated that the best place to address this issue was in the context of the CCW, where it was committed to moving the process forward. It also indicated that it was reviewing fusing systems on its AV mines. New Zealand stated that Claymore munitions could only be used in a command-detonated mode.

Human Rights Watch noted that an AV mine, regardless of its design, which is capable of being activated by the unintentional act of a person, meets the definition of an AP mine under the Convention. It urged States Parties to come to a common understanding and commended States Parties that had already taken positive steps domestically. It also urged States Parties to review their AV mine inventories and apply best practices. The ICBL added that AV mines equipped with anti-handing devices that function as AP mines, were banned by the Convention, and expressed its concern about the limited progress to clarify this issue. It commended States Parties that have destroyed its AV mines with highly sensitive fuses and urged States Parties to achieve a common understanding by the 2004 Review Conference.

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

As had been the case in 2001-2002, the Co-Chairs 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 attempts that had been made to agree on a common approach on how to deal with such mines and that it had hosted an experts meeting in March 2001 in order to identify practical steps to this end.

XII. Updates on implementation of 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.

While no State Party took this opportunity, the ICBL reiterated that in the past many States Parties had indicated their understanding that the number of mines retained under Article 3 should be in the hundreds or thousands, but not in the tens of thousands. It also encouraged an ongoing exchange of information on the intended purpose and actual use of mines retained under Article 3 and encouraged States Parties to include this information in their Article 7 reports. The ICBL made a special appeal to those countries which in its view retain large numbers. The ICBL was pleased that Chile had reduced the number of their AP mines retained and also that Chile and Bangladesh are reviewing these numbers. The ICBL quoted a Human Rights Watch Fact Sheet on mines retained for training and development, which claims that: 20 States Parties have not yet declared their position, 54 States Parties have chosen not to retain any and 57 have decided to retain. Of those 57, only 10 retain more than 5,000 AP mines, 31 between 1000-5000 AP mines, 13 less than 1000 and 3 had not yet indicated a number.

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 provided an update on activities undertaken in the context of this dialogue. In addition, Canada highlighted that VERTIC had presented its *Guide to Fact Finding Missions* to interested States Parties and organizations. Ms. Angela Woodward of VERTIC briefly introduced this Guide.

Brazil raised doubts about the need for a guide to fact-finding missions and questioned the approach taken by VERTIC. It stressed that efforts regarding compliance should also take into account victim assistance and mine clearance. Chile indicated that it shared this view.

Ms. Brigitte Stern of the French National Commission for the Elimination of Anti-Personal Mines (CNEMA), while noting existing divergent points of view, recalled that there was a general agreement to continue working on this matter. She presented the preliminary conclusions of the CNEMA research based on different international treaties that contained compliance mechanisms, in particular environmental treaties.

The ICBL reiterated the need for States Parties to be prepared in the event that serious allegations of non-compliance are made and that Article 8 should be operational. It underlined that this was not just an academic exercise, but a real concern in case of a serious violation of the Convention.

The Co-Chairs concluded this item by reiterating that if any State Party has a topic that it wishes to discuss a part of this informal dialogue, it should notify the Canadian delegation.

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. No delegation took the floor under this agenda item.

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 stressed that the Convention had established a new norm of International Humanitarian Law (IHL) obliging States Parties to take measures for national implementation, including enacting national legislation. The ICRC provided an overview of the status of implementation of this article, informing that 35 States Parties had adopted legislation, 17 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. Croatia informed that its national authorities are working on a criminal law on the use of AP mines.

XVI. Closing Remarks

The ICBL highlighted the positive and intensified work undertaken by Standing Committees, which it attributed to more concrete, practical and focused agendas. It stressed that more important than the number of participants was the active and substantial participation in the discussions, particularly by mine-affected States Parties. The ICBL expressed satisfaction with the improved Article 7 reporting rate, as well as the rate of compliance of stockpile destruction within the Convention's four-year deadline, and outlined challenges ahead.

The President of the 4MSP noted his pleasure in how States Parties had responded to the call made in his President's Action Programme to make full use of the opportunity presented to them by the Intersessional Work Programme. The President noted in particular that during the week of 3-7 February, 14 mine affected States Parties provided updates regarding victim assistance, 19 mine affected States Parties did the same with respect to mine clearance and 25 States Parties shared progress on stockpile destruction. He expressed his pleasure in the progress that had been made during the course of the week and encouraged further updates on progress at the 12-16 May meetings of the Standing Committees.

The Director of the GICHD noted the record participation in the 3-7 February meetings, both in number of participants (more than 500) and in participating States (more than 115), which indicates the ongoing importance attached to the Intersessional Programme after three years.