

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

Report

to the Open-ended

Task Force

on the

Implementation Support Unit (ISU)

1 September 2010

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

Foreword

Introduction

i This paper is the Independent Consultant's evaluation of the Implementation Support Unit (ISU) of the Anti-Personnel Mine Ban Convention (APMBC). It is in two parts. The first part comprises the Preliminary Report that the Consultant was required to produce by 15 April 2010. The second part, written 4 months later, contains additional analysis and options for the future of the ISU. The options are set out in Part II, paragraphs 105 to 108 on pages 69 to 71.

ii The options necessarily reflect a range of views expressed to the consultant. They should be considered against the overall finding that there are high levels of satisfaction with the ISU and with the manner in which its staff carry out their work to support the States Parties in implementing the Convention. The other main elements of the report deal with the financial and organisational underpinnings of the ISU, and offer options on how to sustain the efficiency, effectiveness and international profile of the Unit.

iii The next steps in the evaluation are for the open-ended Task Force chaired by Ambassador Susan Eckey (Norway) to review these options and make its own recommendations to the States Parties for consideration at their Tenth Meeting.

Methodology

iv The Terms of Reference for this evaluation required the consultant to provide the Task Force with three products:

- clear and concise insights into the work of the ISU since its inception, including development of the tasks and services that the ISU provides for States Parties,
- an analysis of the findings, and
- options for the future work, financing and organisation of the ISU, including the institutional framework of the Unit.

v Part I (the Preliminary Report of 15 April) sought to provide the Task Force with as many insights and as much analysis of the findings (i.e., (a) and (b) above) as was possible by that date, two months into the evaluation¹. The Preliminary Report summarised for the Task Force a number of considerations as a focus for its ongoing work (paragraphs 47, 64 and 94). Those sets of considerations relate to the core issues of the Terms of Reference:

- the tasks and responsibilities of the ISU,
- the financing of the Unit, and
- the institutional framework.

¹ The Open-ended Task Force endorsed the consultant's appointment on 10 February 2010

vi Most of the consultations took place after the completion of the Preliminary Report. Hence, Part II includes additional insights, findings and analysis, cross-referenced as appropriate to Part I. Each Part has its own indexes and sets of annexes.

Consultations

vii A breakdown of the range of States Parties and other entities consulted as required by the Terms of Reference is attached to Part II as **annex 2**. In brief, all Parties and stakeholders were approached in writing and invited to contribute their views. In addition, more than a quarter of the Parties (and a number of the other stakeholders) were consulted *in person*. Five-eighths of States consulted in that manner were represented by officials from capitals. Fifteen of the 26 States Parties that have declared a responsibility for a significant number of survivors were consulted, almost exclusively through their capital-based representatives who had come to Geneva for APMBC meetings. No travel therefore was undertaken by the consultant, except to Berne.

viii The ICBL, ICRC, IFRC and representatives of the UN Mine Action Team were also consulted, as, of course, were representatives of the GICHD and the ISU itself. The Directors of the GICHD and the ISU were briefed on progress on a “no surprises” basis, and were given advance copies of the Preliminary and Final Reports as a courtesy and as an opportunity to identify factual errors and omissions.

Comment

ix It needs to be reiterated that the options identified by the consultant are based on and arise from the evaluation itself. They represent the consultant’s efforts to reflect in a balanced manner the range of views expressed by stakeholders during the evaluation. The options put forward are, thus, the outcome of the first phase of the evaluation. They are not, and were never intended to be, the product of a “clean slate” approach to the “future work, financing and organisation of the ISU”.

Acknowledgements

x The forthcoming nature of all States Parties and other stakeholders consulted in this evaluation has been much appreciated, as have been all written and oral submissions of views. The high regard in which the Director, Kerry Brinkert, and all staff of the ISU are held, as reflected in the views of stakeholders, has been fully borne out in their professional approach to the evaluation and their untiring helpfulness throughout. The cooperation of Ambassador Stephan Husy, the Director of the GICHD and the Centre’s Deputy Director, Ian Mansfield AM, is also gratefully acknowledged.

Tim Caughley
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20 August 2010

Part I

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Geneva
15 April 2010

Part I

Preliminary Report to the Task Force on the Implementation Support Unit (ISU) as submitted on 15 April 2010

Summary

This Part is a progress report on the first two months of the evaluation of the ISU of the Anti-Personnel Mine Ban Convention (APMBC). Considerable numbers of consultations with States Parties and other stakeholders remain to be conducted, and no options have yet been formulated. However, the paper tightens the focus of the evaluation in a factual sense and in several analytical respects including on matters of the evolution of the Convention and the ISU's responsiveness to the **priorities** of States Parties. A number of aspects of the **financing** of the ISU are discussed. Similarly, some dimensions of the **institutional framework** for the Unit are set out for further examination, including the evolution of the relationship of the ISU with the Geneva International Centre for Humanitarian De-mining (GICHD). Key matters for further examination and consultation are grouped at the end of each of the three main chapters of the paper - in paragraphs 47, 64 and 94.

2 As a preliminary report, this paper is subject to revision and clarification in Part II, the final report to the Task Force that is due on 1 September once fuller consultations have been carried out, additional facts gathered, further analysis undertaken and feedback is taken into account. Given that numerous consultations have still to take place, it is necessary to reiterate that this Part is a preliminary report which neither draws conclusions nor articulates options.

Acknowledgement

3 The evaluation necessarily impinges on the day-to-day work of the ISU, and special gratitude is due to the Director of the ISU, Kerry Brinkert, and his staff for their responsiveness to date to all requests for information and administrative assistance on top of their regular tasks and responsibilities.

Background

4 The terms of reference (ToR) of the independent consultant are to provide the Task Force with clear and concise insights into the work of the ISU since its inception. Specifically, the ToR require the consultant to address issues related to securing the ISU's future support to the States Parties, including, but not limited to, the three following issues listed in the Foreword.

5 Those three central elements of the scope of the evaluation are also expressed in the ToR as "including development of the tasks and services that the ISU provides for

States Parties, an analysis of the findings, and options for the future work, financing and organisation of the ISU, including the institutional framework of the ISU”.

Methodology

6 The methodology for the evaluation of the ISU is set out clearly in the Terms of Reference. The structure of this preliminary report is to deal sequentially with the three principal matters of scope noted in the preceding paragraphs. This has meant that some significant aspects of the origins of the ISU are discussed not at the outset of this paper but under the third item of scope, the institutional framework for the Unit.

7 Because all relevant background materials relating to the call by the States Parties for an evaluation of the ISU are available electronically, references to them are not repeated in this preliminary report. They can be found at:

<http://www.apminebanconvention.org/implementation-support-unit/evaluation-of-the-isu/>.

The ToR for this evaluation, however, are attached as **annex A to Part I**.

A THE TASKS AND RESPONSIBILITIES OF THE ISU

8 This section of the preliminary report:

- (a) looks at the formal mandate of the ISU at its inception,
- (b) notes the impact on the Unit of the dynamic nature of the Convention,
- (c) traces the evolution of priorities of the States Parties and its impact on the ISU, and
- (d) foreshadows considerations about the tasks and responsibilities of the Unit that will need to be weighed during the course of the evaluation.

(a) Formal mandate of the ISU at its inception

9 Almost ten years ago in September 2001, the Third Meeting of the States Parties (MSP3) endorsed the President’s Paper on the Establishment of the Implementation Support Unit (ISU)². MSP3 also mandated the Geneva International Centre for Humanitarian Demining (GICHD) to establish the ISU, and encouraged States Parties in a position to do so to make voluntary contributions in support of the ISU for which purpose the GICHD established the Voluntary Trust Fund (VTF). (The relationship between the GICHD and the ISU is covered in greater depth later, under the heading “The institutional framework for the ISU”.)

10 In addition, the States Parties mandated the MSP3 President, in consultation with the Coordinating Committee, to draw up an Agreement between the States Parties and the GICHD on the functioning of the ISU. (The Coordinating Committee had been established by the States Parties in 2000 to comprise essentially the treaty’s President, Co-chairs and Co-Rapporteurs of Standing Committees to coordinate the activities of States Parties and to provide direction to the ISU in implementing the Convention between MSPs (i.e., “intersessionally”). Membership of the Committee has subsequently

² Annex II of APLC/MSP.3/2001/L.7

been expanded.) The Agreement on the functioning of the ISU was finalised between the States Parties and the GICHD by the President of MSP3 and the Director of the GICHD on 7 November 2001.

11 Under the Agreement, an annual **Budget** for the ISU was to be established by the Coordinating Committee and the Director of the GICHD. It was stipulated that the Budget for the forthcoming year “shall, if necessary, indicate a set of **priorities** that shall be understood as guidelines in order to **allocate available resources**”. (Emphasis is added to “priorities” and allocation of “available resources” because these are matters that are directly relevant to paragraphs 18 and 19 of the most recent Report on the functioning of the ISU³ which are discussed later in this preliminary report.)

12 The **general duties** of the ISU are listed in the Paper of the President of MSP3 that serves as the formal mandate for the Unit. Essentially, they can be broken down in this manner:

Table 1: Duties of the Implementation Support Unit

	Heading	Duties
1	<u>Meetings</u>	<p>(a) <i>Coordinating Committee (CC)</i></p> <ul style="list-style-type: none"> - Providing basic secretarial support, sending out notices of meetings, arranging meeting rooms, note taking, etc. - Administrative and other follow-up to CC meeting decisions and provision of advice, on request, to the President and CC Members on technical and institutional issues (interaction, coordination and synergy with other organizations, retrieval of data on practices, etc). <p>(b) <i>Standing Committees (SC)</i></p> <ul style="list-style-type: none"> - Providing basic secretarial support – sending out notices of meetings, arranging meeting rooms, note taking, etc. - Providing advice, support and assistance, on request, to Co-Chairs and Co-Rapporteurs, (a duty footnoted as particularly relevant in supporting mine-affected/developing countries as well as other small delegations). - Administrative follow-up to SC meeting decisions and provision of advice, on request, to the President and SC Co-Chairs and Co-Rapporteurs, on technical and institutional issues.
2	<u>Presidents</u>	<ul style="list-style-type: none"> - Providing support across all facets of the current and incoming President’s duties, including advice on technical and other issues, preparation of CC meetings, providing back-up and support for all liaison/interaction with States Parties, the ICBL, ICRC, the UN and other international organizations and agencies as well as

³ APLC/CONF/2009/5 of 23 November 2009

		media and communication support.
3	<u>Communication and liaison</u>	<ul style="list-style-type: none"> - Providing the support to ensure timely and consistent communication about the implementation process to all actors, including the preparation of media statements, organization of media briefings, preparation of briefing notes etc., and any communication that may be necessary for the current or incoming President to make. - Providing back-up and support for all liaison/interaction with States Parties, the ICBL, ICRC, the UN, and other international organizations and agencies. - Compiling contact lists etc., of actors involved in or interacting with the implementation of the Convention and keeping liaison channels active, including providing support to actors participating in the Intersessional Work, e.g., providing the public relations aspects of welcoming speakers, playing a coordination/information meeting place role as a one-stop location. - Ensuring that the GICHD web site contains the latest information on the implementation process.
4	<u>Sponsorship Programme</u>	- Providing assistance in administering the sponsorship programme (footnoted as being a continuation of the GICHD-administered sponsorship programme in existence in 2001).
5	<u>Budgeting and planning</u>	- Compiling the additional budget needed by the GICHD for the Implementation Support Unit as well as the planning for the years ahead based on the projection and analysis of Intersessional Work and other aspects related to implementation.
6	<u>Documentation</u>	- Collecting, collating, storing and retrieving documentation on the Convention and its implementation (to remedy the absence of a central collection for the <i>travaux preparatoire</i> of the Convention).

13 The President's Paper endorsed by MSP3 also specified three services that the GICHD would provide to augment the duties listed in this table. They were:

- preparing and supporting meetings of the Standing Committees and the Coordinating Committee, including writing summaries and facilitating follow-up activity;
- providing independent professional advice and assistance to the Coordinating Committee; and

- establishing a documentation and resource database facility (on the Ottawa Process, Oslo Diplomatic Conference, Meetings of State Parties, the four Standing Committees dealing with core issues of the Convention, and the Coordinating Committee).

These three services are relevant to the ISU's duties numbered 1 and 7 respectively in table 1. (The benefit in terms of "savings" to the ISU from the provision of the first of these three services by the GICHD is noted in paragraphs 74 and 75.)

(b) The impact on the ISU of the dynamic nature of the Convention

14 The Mine Ban Convention is a "living" treaty. Those Governments that participated in its negotiation prohibited the use, development, production, or transfer of anti-personnel mines by States immediately the Convention entered into force for each Party, but they also charted the course ultimately to a mine-free world through a progressive set of steps, many of them within specified time frames. These include:

- (a) the destruction of stockpiled anti-personnel mines by each State Party no later than 4 years after the Convention became binding on that Party (Article 4),
- (b) the destruction (clearance) by each States Party of all anti-personnel mines in mined areas under its jurisdiction no later than 10 years after the Convention became binding on that Party (Article 5.1) subject to possible extension of the deadline (Article 5.3),
- (c) the identification by each State Party of all areas under its jurisdiction in which anti-personnel mines were known or suspected to be emplaced, and the marking and monitoring of such areas until those mines had been destroyed (Article 5.2), and
- (d) the provision of assistance of various kinds to which mine-affected States have a right under the Convention to assist them fulfil their obligations and mitigate the consequences of mines including mine-related injuries and deaths (victim assistance) (Article 6).

15 To give expression to their determination to end the suffering and casualties caused by anti-personnel mines (preambular paragraph 1) and to their determination to "face the challenge of removing anti-personnel mines placed throughout the world, and assure their destruction" (preambular paragraph 2), the States Parties necessarily support another dynamic associated with the Convention, i.e., the promotion of its universality.

16 The dynamic nature of the Convention is also apparent from the requirements that States Parties fulfil various ongoing transparency/reporting requirements (Article 7), undertake specific national implementation measures and meet regularly for the purposes, amongst other things, of reviewing the implementation of the treaty.

17 It is clear, therefore, that the Convention is not a static one. While the deadlines in Articles 4 and 5 were, of course, known to the States Parties when they settled on the

mandate for the ISU in 2001, they could not anticipate, for example, the consequences of the relatively high number of Parties that would seek extended time to clear emplaced mines. Another factor relevant to any measurement of the tasks and responsibilities of the ISU and the demands made of it is the 42% increase in membership of the Convention since the ISU's mandate was agreed in 2001 (an additional 46 States from the 110 that were already bound by the Convention at the time MSP3 took place).

(c) Evolution of priorities of the States Parties and its impact on the ISU's tasks and responsibilities

18 The preceding section looked at the impact on ISU of the dynamic nature of the Convention, its implementation and its growth in membership. It is necessary next to look at the impact on the Unit of the evolution of priorities of the States Parties on the ISU.

19 Directions regarding priorities for the ISU are provided by States Parties principally through conclusions and understandings agreed at MSPs and Review Conferences. In this regard, standout expressions of priorities are those of MSP4 at which the States Parties “agreed to focus with even greater clarity on the achievement of the Convention's core humanitarian aims: clearing mined land, assisting victims, destroying stockpiled mines and universalizing the ban on anti-personnel mines”. Of particular significance, of course, are the outcomes of the Nairobi and Cartagena Review Conferences for 2005 to 2009 and 2010 to 2014 respectively. These will be analysed shortly. More immediate direction regarding or affecting priorities is received from time to time from the Coordinating Committee, ensuring ongoing input from States Parties into the work of the ISU, and mitigating the risk of any hiatus that might arise if all decisions were left to be taken only annually at Meetings of States Parties. The annual Progress Reports prepared for adoption at MSPs measure and assess implementation of the States Parties' priorities.

20 In taking a close look at priorities, the starting point for this evaluation is the most recent expression by States Parties, the Review of the Operation and Status of the Convention undertaken at Cartagena, the Action Plan adopted at that Conference, and the 2010 Budget (together with the Work Plan).

(i) Cartagena Review and Action Plan

21 In the summary of “achievements and challenges” in the opening paragraphs of the Review of the Operation and Status of the Convention, it is clear from the manner in which States Parties have measured their achievements to date and outlined their remaining challenges that their key priorities are as follows:

Universalising the Convention – “...attracting further adherents to the Convention has grown more difficult in recent years implying that future efforts to promote acceptance of the Convention and its norms will require intensive effort at as high a level as possible”.

Destroying stockpiled anti-personnel mines – “...the matter of stockpile destruction also persists as one of the Convention’s most complex remaining challenges. ... Non-compliance with the obligation to destroy stockpiled anti-personnel mines is a grave concern for the States Parties”.

Clearing mined areas – “...At the Nairobi Summit it was agreed that meeting these (Article 5) deadlines would be the most significant challenge to be addressed in the coming five years. The fact that large numbers of States Parties requested extensions on their deadlines for completing the destruction of emplaced anti-personnel mines suggests that there has been only minimal success in overcoming this challenge. An increased intensity of efforts will therefore be required in the years ahead to ensure that the Convention achieves its objectives on the ground”.

Assisting the victims – “...Significant progress has been made in pursuing a more strategic approach to victim assistance, particularly by many of these 26 States Parties. Victim assistance is now treated with greater precision in a manner similar to how the States Parties pursue their aims of destroying all stockpiled or emplaced anti-personnel mines. ... However, precisely because of the greater seriousness given to victim assistance, the challenges that remain are clearer and appear more daunting thus signaling that further intensity of effort will be required after the Second Review Conference. This intensity is especially required to achieve tangible results in meeting the needs and guaranteeing the rights of mine victims on an equal basis with others”.

Cooperation and assistance – “... At the Nairobi Summit, the States Parties remarked that while individual States Parties are responsible for implementing the Convention’s obligations in areas (under) their jurisdiction or control, (the Convention’s) cooperation and assistance provisions afford the essential framework within which those responsibilities can be fulfilled and shared goals can be advanced. Since the Nairobi Summit, the need for partnerships to achieve the aims of the Convention has become more important than ever. ... Ensuring that sufficient resources exist and seeing that available resources meet well expressed needs by States Parties demonstrating strong ownership over their implementation efforts may be the most significant challenges facing the States Parties during the period 2010 to 2014”.

Transparency – “... the annual transparency reporting rate has fallen below the level attained during the year of the Nairobi Summit. Renewed attention will need to be given to the ongoing fulfillment of transparency obligations. In addition, following the Second Review Conference, effective informal exchanges of information will be equally crucial”.

Implementation support – “... Since the Nairobi Summit, the States Parties have been well served by a diverse and flexible set of implementation support mechanisms. These include mechanisms contained in the text of the Convention itself (i.e., Meetings of the States Parties), mechanisms that exist pursuant to decisions of the States Parties (i.e., the Intersessional Work Programme, the Coordinating Committee and the Implementation Support Unit), and mechanisms that have emerged on an informal and voluntary basis (i.e., Contact Groups and the Sponsorship Programme). Successful implementation

support can in large part be attributed to the application of principles that the States Parties have considered central since their First Meeting of the States Parties: **continuity, coherence, flexibility, partnership, openness, transparency and a clear sense of purpose** (*emphasis added*). While continuing to apply these principles, the challenge for the States Parties following the Second Review Conference will be to continue to be pragmatic and flexible in adjusting implementation mechanisms in accordance with evolving needs and realities”⁴.

22 It must be repeated here that these challenges - these priorities - are stated at the very outset of the Review of the Operation and Status of the Convention conducted and agreed by the States Parties in Cartagena. It is also instructive to analyse the Cartagena Action Plan and, at the same time, to compare it with its predecessor, the Action Plan resulting from the first Review Conference, held in Nairobi in 2004. This can be tabulated using the headings of those Plans, as follows:

Table 2: Priority-setting: Review Conferences

Cartagena Action Plan	Act-ions	Nairobi Action Plan	Act-ions
I. Universalizing the Convention	6	Ditto	8
II. Destroying Stockpiled Anti-Personnel Mines	6	Ditto	8
III. Clearing Mined Areas (art 5)	10	Ditto	12
IV. Assisting the Victims	11	Ditto	11
V. International Cooperation and Assistance for achieving the Convention’s aims i.e., States Parties recognize that fulfilling their obligations will require sustained substantial political, financial and material commitments, provided both through national commitments and international, regional and bilateral cooperation and assistance, in accordance with the obligations under Article 6.	19	V. Other matters essential for achieving the Convention’s aims - Cooperation & Assistance	11
VI. Additional actions essential to achieving the Convention’s aims - Compliance Reporting and transparency Accountability	15	(absorbed into V. above) - Transparency & Exchange of information - Preventing and Suppressing Prohibited Activities, and	8 6

⁴ APLC/CONF/2009/WP.2 paragraphs 3 to 10

Implementation partnerships and support		Facilitating Compliance - Implementation Support	6
Total Actions	67		70

23 Allowing for some slight streamlining in methodology between 2004 and 2009, priorities of States Parties, as expressed in the two Action Plans to date, have changed only marginally. Too much should not be read into the reduction of intended actions on the major, current issue of clearing mined areas. This can be explained by greater precision in the characterisation of the Actions, stemming from actual experience of managing this aspect of the Convention.

24 What is significant, however – especially in light of the call for this evaluation - is the increased emphasis on “International Cooperation and Assistance for achieving the Convention’s aims”. It is impossible not to conclude from these 19 Actions that the States Parties recognise the very real nature of the challenges outlined in the opening paragraphs of the Review of the Operation and Status of the Convention. Certainly, their overall aspirations as expressed under three headings in the Cartagena Declaration are clear enough: - after a “decade of saving lives”, “People remain at risk” but, with the necessary political will, a “mine free world is possible”.

25 This section on the Cartagena Review Conference relevant to the tasks and responsibilities of the ISU would not be complete without citing certain specific Actions agreed at the Conference:

“Action #63: Support the efforts of the President and the Coordinating Committee to ensure effective and transparent preparations and conduct of meetings of the Convention.

Action #64: Recognize the essential role of the Implementation Support Unit, hosted by the Geneva International Centre for Humanitarian Demining, in implementing the Convention, including by preparing the meetings of the Standing Committees, the Meetings of the States Parties and Review Conferences, supporting the President and the Coordinating Committee, providing advisory services to the States Parties and by administering the Sponsorship Programme.

Action #65: Make use of synergies with other relevant instruments of international humanitarian and human rights law.

States Parties in a position to do so will:

Action #66: Provide necessary financial resources for the effective operation of the Implementation Support Unit.

Action #67: Contribute to the Sponsorship Programme thereby permitting widespread representation at meetings of the Convention, particularly by mine-affected developing States Parties.”

26 As a final comment in this section on the Second Review Conference’s decisions on the priorities of the States Parties and their consequences for the workload of the ISU, it is necessary to draw attention to four key paragraphs of the Review of the Operation and Status of the Convention conducted and agreed by the States Parties in Cartagena. These extracts, quoted verbatim, are directly relevant to the impact on the ISU of the States Parties’ priorities.

“226. Since Nairobi, the ISU has evolved in terms of the support it provides, the ISU has grown in size, and there has been increasing appreciation on the part of the States Parties for the work of the ISU. States Parties have increasingly come to rely on the ISU to support them on a wide range of matters as concerns the implementation of the Convention, for example, seeking advice on matters related to compliance, requesting information or assistance in making good use of the Convention’s informal or formal meetings, asking for information on the status of implementation of various provisions of the Convention, et cetera.

227. As noted, the understandings on victim assistance adopted at the Nairobi Summit provided a basis for the States Parties to act strategically in this area of the Convention. Successive Co-Chairs have responded by requesting the support of the ISU to in turn support those States Parties responsible for significant numbers of landmine survivors in applying these understandings. While this work began in 2005 on a project basis (i.e., a fixed time period during which clear-cut objectives would be achieved), the ISU’s support to States Parties on victim assistance has evolved between 2005 and 2009 to become a core programmatic area of work for the ISU. That is, advice and support to relevant States Parties is necessary as long as such States Parties continue to need and desire advisory services in this area.

228. In 2007 States Parties implementing Article 5 of the Convention began preparing requests for extensions. The ISU responded by developing a strategy to provide advice and support to them in doing so. The magnitude of this work was greater than what many would have expected, given the large number of requests. Moreover, the decisions of the Seventh Meeting of the States Parties to establish a process for the preparation, submission and consideration of Article 5 request both underscored the advisory role of the ISU vis-à-vis requesting States Parties and established a role for the ISU to serve as a secretariat to the States Parties mandated to consider Article 5 extension requests.

229. Successive Presidents of Meetings of the States Parties, as well as some individual States Parties, have placed a heavy emphasis on promoting universalisation. The ISU has responded by serving as an expert resource in support of their efforts, some of which have been extensive and ambitious. In

addition, as the competency of the ISU has increased, in large part due to several years of experience in supporting and advising States Parties, the ISU has acquired niche expertise in various other areas. For instance, the ISU provides leading support to the States Parties on matters concerning the preparation of transparency reports. It has played an important role in leading seminars to assist various actors in understanding the Convention and how it works. It has developed a strategic response to address the needs of small States Parties. As well, it has provided inputs in a number of areas regarding how the lessons learned from the application of the Convention may be applicable elsewhere.”

27 These paragraphs of the Cartagena Review are evidence of a measure of elasticity of the Unit’s mandate in response to evolving needs of States Parties in the implementation of the Convention. The extent to which this elasticity is a natural, conscious development that warrants an updating of the mandate, will require analysis after further views have been canvassed among States Parties, together with an assessment of its consequences. For this preliminary report, the focus has been placed, in the meantime, first on viewing the mandate through the prisms of the direction of effort of staff of the ISU in meeting the priorities of States Parties, and then through the activities set out in the 2010 Work Plan.

(ii) ISU direction of effort

28 Bearing in mind the priorities expressed by States Parties as just noted, it is salutary to assess the ISU’s allocation of its resources to implementing those priorities in the current financial year, that is, the manner in which the time of the staff of the Unit is applied to discharging their tasks and responsibilities. A summary of the ISU’s direction of effort in percentage terms as projected for the current year is set out in **table 3**.

Table 3: Projected allocations, i.e., direction of effort, of ISU Staff in 2010

ISU: direction of effort in percentage terms	General Support	Article 5 Support	Article 5 Extension process	Victim Assistance	Total %
Director	70	15	10	5	100
*Implementation Support Specialist	85	10	5		100
Mine Action Implementation Specialist	5	95			100
Victim Assistance Specialist	5			95	100
Implementation Support Officer	75			25	100
*Administrative Assistant	100				100
* NB: these Staff members are part-time at 0.8 and 0.5 % full-time equivalence respectively					

Looking ahead, it is the ISU Director's assessment that implementation activities will warrant a fairly constant level of direction of effort during the entire period until the Third Review Conference, based on a projection of existing priorities and demands as well as allowing for a slight tailing off of requests for extension under Article 5.

(iii) The Work Plan as the basis for the 2010 budget

29 As we have seen, implementation of the Convention is a dynamic matter, and in addition, the wishes of Parties expressed especially as decisions of Meetings of States Parties and Review Conferences are sovereign. The needs and demands of States Parties have evolved commensurate not only with the spirit of cooperation that underpins implementation activities but also in direct consequence of the confidence that the ISU has earned as the Convention has gone from strength to strength. What the States Parties decide upon necessarily becomes the mandate for the ISU to the extent that resources exist or become available for the implementation of the States Parties' priorities, an important rider that will be developed progressively in this evaluation.

30 It is inherently difficult to translate the priorities of States Parties into a precisely weighted set of tasks for the ISU that would be frozen in time as if it were an inflexible mandate, year after year. It is possible, however, to gauge the comparative impact of the priorities of States Parties in terms of the direction of effort of the ISU in implementing them based on the annual Budget of the ISU and its accompanying **Work Plan**.

31 The elaboration of an annual Work Plan is a commendable development. It ensured that when the Coordinating Committee adopted the Budget on 19 November 2009 it did so with a clear idea of the relative costs of carrying out the priorities reflected in the Work Plan for 2010. The detailed elaboration of the budget by activity, and the initiation of a quarterly review of the Plan by the Coordinating Committee, will have the further advantage of enabling easier monitoring of the ISU financial situation. The 2010 Budget is attached as **annex B**.

32 To illuminate the headings in the top line of table 3, the Work Plan for 2010 is set out in **table 4**. Table 4 also expresses in percentage terms the allocation of budget resources to those headings. The Budget in question, to repeat, is the one adopted by the Coordinating Committee on 19 November 2009 on behalf of the States Parties.

Table 4: ISU Work Plan as encapsulated in the 2010 Budget

	Activity	% age of budget (approx.)
1	GENERAL SUPPORT	43.33
A	Provide advice State Parties on matters related to implementation and compliance.	
	Assist States Parties in maximising participation in the Convention's	

B	implementation processes	
C	Provide strategic direction to Co-Chairs	
D	Provide strategic direction to the Coordinator of the Sponsorship Programme	
E	Support States Parties in preparing transparency reports	
f	Lead seminars and provide training on understanding the Convention and its operations	
g	Support the President and individual States Parties in undertaking universalisation efforts	
h	Develop strategic responses to address the needs of small States Parties	
i	Provide advice on applying, in other areas, the lessons learned from implementing the Convention	
j	Supporting the President-Designate and the 10MSP host country in their preparations	
k	Continue to serve as the authoritative source of information on the Convention	
l	Maintain the Convention's Documentation Centre	
2	PUBLICATIONS	3.33
a	Make information on the Convention and implementation processes available in a professional manner	
3	SUPPORT FOR ARTICLE 5 IMPLEMENTATION	23.75
a	Support States Parties in achieving greater clarity in understanding the nature and extent of one's obligations	
b	Support States Parties in preparing Article 5 extension requests	
c	Support States Parties in achieving and declaring completion of Article 5 implementation	
4	SUPPORT FOR THE ARTICLE 5 EXTENSIONS PROCESS	4.17
a	Provide the secretariat support required by the President and the other States Parties mandated to analyse requests	
b	Acquire expert mine clearance, legal and diplomatic advice at the request of the analysing group	
c	Acquire working translations of requests submitted	
d	Make requests and other relevant documentation readily available	
5	SUPPORT FOR VICTIM ASSISTANCE IMPLEMENTATION	25.42
a	Support States Parties with good victim assistance objectives in developing good plans	
b	Support States Parties with underdeveloped objectives in developing more concrete objectives	

c	Support States Parties with good plans in advancing implementation of these plans	
d	Support States Parties that have engaged little to date in achieving a higher level of engagement	
e	Support States Parties in developing monitoring mechanisms	
		100%

(iv) The 2001 mandate 10 years on

33 The Work Plan serves not only to chart the activities of the ISU for the year ahead in an organized, transparent manner. For the purposes of this evaluation, it also serves to provide a gauge against which the original mandate of the Unit can be measured, i.e., table 1 placed alongside table 4. This raises the prior question whether the mandate of 2001 can realistically and usefully be applied 10 years later after almost a decade of experience and a 42% increase in membership of the Convention. In other words, a formulaic approach may be possible, but is it sensible? This is not the same question as to whether it is useful for States Parties to pause and reflect on the ISU's mandate, especially in the financial circumstances discussed later in this report.

34 Nonetheless, an analysis of tables 1 and 4 (which requires, in the case of the latter, an extrapolation of the Work Plan into the resulting duties of ISU staff) demonstrates principally that three of the original six areas of focus for the ISU remain central to its work. These are its support for the Coordinating Committee and Standing Committees, support for the President and Budgeting and Planning. The three other headings continue to be relevant and all are covered in one way or another in the 2010 Work Plan, although Communication and Liaison as a duty has become less prominent as a consequence of the high profile that has been achieved for the Convention through a range of means including Review Conferences at "Summit" level. Documentation, likewise, has become more of a routine matter, while the Sponsorship Programme - an activity of continuing significance - was nonetheless a function of the GICHD before the birth of the ISU.

35 Not surprisingly, there are a numbers of areas of support to States Parties that are set out in the Work Plan that have little or no echoes with the original list of duties. These relate to Article 5 implementation and the extension process, and to victim assistance. The cautious circumstances in which a modest ISU was established in 2001 are discussed under institutional matters in the third chapter of this report (especially paragraph 70), but those small beginnings had several rationales. It was thought that "resources should be devoted to mine clearance and victim assistance rather than to set up new structures"⁵, and there was concern that "the authority of States Parties might have been compromised by a separate institution capable of taking substantive decisions relating to the Convention"⁶.

⁵ Stuart Maslen, Commentaries on Arms Control Treaties Volume 1 (Oxford University Press, 2004), pp.262-263

⁶ *ibid*, p.263

36 In fact, the growth in the range of duties of the ISU has been in direct consequence of the need for supporting States Parties in relation to mine clearance and victim assistance. Moreover, that growth has taken place without anxiety over any subversion of the role of States Parties. It is noteworthy in this regard that virtually all of the entries in the draft Work Plan dealing with mine clearance and victim assistance, as submitted to the Coordinating Committee, begin “Support States Parties in...”. It must be emphasised that the Convention is well served by the manner in which, intersessionally, the mechanism of the Coordinating Committee exercises oversight of the work of the ISU.

37 It has already been mentioned that consultations on the desirable degree of elasticity of the Unit’s mandate are continuing, but without prejudging the issue it is important to note the opening words of the mandate establishing the ISU. These are, with emphasis added, “States Parties mandate the GICHD to establish an Implementation Support Unit to take care of issues related to the Convention...**in accordance with the duties approved by States Parties**”. The question that must be asked is whether the words in bold were intended to apply only to the duties approved at that time or at *any* time. Given the nature of the oversight exercised by States Parties over international secretariats in general, it is difficult not to conclude that those words enjoy dual application, i.e., to the original mandate coupled with future directions and decisions by States Parties.

38 It is this question – the manner in which the ISU is actually tasked through “directions and decisions” – that is brought into play at this point. Priorities contained, for example, in outcomes of Review Conferences have been adopted by the States Parties as a whole. Presidents, MSP Chairs and Co-Chairs may also seek inputs beyond the normal servicing of the needs of presiding officers, e.g., to pursue an initiative on a reporting format. At the other end of the spectrum there may be activities undertaken by the ISU at the behest of, and funded directly by, individual States Parties or groups of States Parties. It is apparent, for instance, from sources such as the President’s Summaries of Coordinating Committee meetings that activities conducted by the ISU sometime stem from *ad hoc* initiatives or projects such as the following:

- (a) Universalisation: With funds provided by the European Union, the ISU participated in the European Union Joint Action on the universalisation and implementation of the Convention. This involved responding to requests from States Parties for short term technical advisory visits and support to five States Parties to host regional workshops. To help offset the additional workload, funds provided by the European Union covered the costs of one full time staff position (i.e., the EU Joint Action Coordinator). The Joint Action was due to terminate in May 2010. With project funds provided by Australia, the ISU was also able to continue executing its small States strategy, including by working to assist States not party in the Pacific in overcoming remaining barriers to ratification of or accession to the Convention.

- (b) Enhanced support to the Presidency: The ISU, at the request of the Presidency, identified activities to support the Presidency over and above what the ISU could normally do in its 2010 work plan. These activities include the organisation of a workshop on cooperation and assistance, the efforts of the President's Special Envoy on the Universalisation of the Convention and enhanced support to the President-Designate of the 10MSP. Their cost of approximately CHF 220,000 was fully funded by Norway. (As an aside, a significant impact on the workload of the ISU in carrying out a responsibility laid down in the original mandate in recent years has been the commendable activism of a succession of Presidents.)
- (c) Victim Assistance: In 2009, with project funds provided by Australia, Norway and Switzerland, the ISU was able to cover the costs of its victim assistance advisory activities. As noted in paragraph 26, it has already been determined by the Coordinating Committee that the ISU's support to States Parties on victim assistance will be treated as a core programmatic area of work for the ISU because advice and support to relevant States Parties will be necessary for as long as such States Parties continue to need and desire advisory services. Therefore, in 2010 core advisory services on victim assistance have been incorporated into the ISU Trust Fund budget for the first time. (It should be noted that, in consequence, the Unit has developed a set of activities which are seen as parallel but additional programmes, measures and tools to assist States Parties in applying the Cartagena Action Plan. In total, these activities would cost approximately CHF 400,000).

39 These examples are cited not to suggest that such activities are in any way incompatible with broader implementation work in pursuit of the priorities of the States Parties at large, but simply to highlight divergent ways in which the ISU is tasked. It is apparent, however, that *ad hoc* tasking of the ISU gives rise to a range of factors that warrant further exploration.

40 For instance, there is a need to ensure that the Unit is not overloaded by requests that, while being fully in line with the priorities of States Parties, nonetheless prove labour-intensive. There is the risk also that requests may be made in the future that do not accord closely with existing priorities. More complicated is the situation where there might arise a divergent viewpoint among States Parties as to whether a particular new activity warrants the level of priority being accorded it.

41 Such a situation is potentially awkward for the ISU, especially in circumstances where budgetary constraints under the Voluntary Trust Fund come into play, inhibiting the Unit's efforts to discharge priorities already mandated by the States Parties (or by the Coordinating Committee on their behalf). If the initiating State Party or Parties provides dedicated funds to pursue the particular project, the Director of the ISU would thus be placed in the position of being, in effect, a project manager responsive to the fiscal and other reporting requirements of the initiating States Party or Parties.

42 Adding the duties of project manager to the existing tasks and responsibilities of the Director of the ISU in this manner may or may not be burdensome in a given case and

may or may not detract from his characteristically assiduous and efficient efforts to perform his pre-ordained functions. But it is difficult not to see such a role – as project manager – as potentially draining if there were an abundance of projects, and, given – as shall shortly be discussed – that he is already responsible on the one hand to the States Parties on all matters of substance and on the other to the Director of the GICHD on all organisational and administrative matters inherent in the services provided by the ISU to States Parties (paragraph 77 below).

43 The implications of this situation should not be overstated both because projects by nature are generally well defined and relatively transitory. The voluntary nature of the Trust Fund inherently leads to uncertainty about the extent to which priorities will be able to be met from within it. The use of specific projects can be seen as a pragmatic way of augmenting it, if for whatever reason the donor prefers not to channel resources through the VTF, or is unable to do so. And, in at least one case a project subsequently became absorbed in the regular budget by decision of the Coordinating Committee (paragraphs 26 and 38), bringing with it, in effect, a boost to the coffers of the VTF. Nonetheless, the extent to which this practice is adequately transparent warrants deeper consideration.

44 Several additional reflections on this bifurcation of funding of the work of the Convention are offered. The first is that the ISU has become a “victim of its own success”, attracting additional work from States Parties because of its perceived expertise, competency, efficiency and effectiveness. For States Parties whose public financing rules preclude, or complicate, the making of contributions to voluntary trust funds or institutions that have not been created by a treaty, the harnessing of the proven skills and perceived “value for money” of the ISU to carry out a mine action project is attractive, the more so if earmarking of funding is an important factor from the donor’s development assistance imperatives.

45 Secondly, the view has been expressed that the original use of projects stemmed from a measure of the caution that governed the creation of the ISU. From the outset, as already noted, the States Parties made it clear that its funding priorities were mine action, not bureaucracy. The founding documents speak of a “small” unit or a “small dedicated support unit ... accountable to the States Parties through the Coordinating Committee ... (to) optimise the use of resources”. In the early years of the Unit, States Parties appear to have held true to this ideal to the point where, in response to the dynamic nature of the Convention, implementation activities that seemed likely to exceed both a strict interpretation of the mandate, and also the Budget, required a measure of direct – or project-based – support from individual donors.

46 This evaluation to date has not attempted to assess the adequacy of the staffing levels of the ISU to meet the expectations of States Parties in discharging current priorities. Consultations conducted to date have not encountered any view that the Unit has grown in an uncontrolled manner or that it is absorbing a disproportionate amount of resources available for mine action. But with many further consultations to be conducted, no conclusions on this aspect of the evaluation can yet be drawn.

(d) Considerations relating to the tasks and responsibilities of the Unit that will need to be weighed during the course of the evaluation

47 It is clear that at this preliminary phase of the exercise, several considerations warranting further examination in the evaluation include:

- (a) the case for updating the ISU's original mandate (see paragraph 33 above),
- (b) the case for simply reviewing the ISU's mandate (paragraph 33),
- (c) the need for further analysis of the impact on the ISU of tasking it in an *ad hoc* manner (paragraph 38 to 45)
- (d) the need for a procedure to improve the transparency surrounding the taking on of projects by the ISU as a means of avoiding any skewing of the States Parties' priorities (paragraph 43)
- (e) the adequacy of the Unit's staffing resources to meet the expectations of the States Parties for the discharging of their priorities (paragraph 46), and
- (f) sustained availability to the ISU of the financial resources necessary for it to continue to respond efficiently and effectively to the expectations of States Parties (*inter alia*, paragraph 29).

The last of these points is clearly connected to the next section of this preliminary paper.

B THE FINANCING OF THE ISU

48 As noted in paragraph 9, when the States Parties agreed to mandate the establishment of the ISU in 2001, they also agreed to cover the costs of the operations of the Unit on a voluntary basis by contributing to the Voluntary Trust Fund established in 2001 by the GICHD as directed by the States Parties. At the end of each year, the Director of the ISU presents the Unit's Budget to the Coordinating Committee (accompanied now by a draft Work Plan). Once endorsed by the Coordinating Committee on behalf of the States Parties, that document becomes the basis for the Convention's President to mobilise resources from the States Parties.

(a) VTF Contributions: a break-down

49 Regularity of contributions to the Trust Fund: In the 9 years of the VTF's existence a total of 37 States Parties have contributed CHF 5,167,602 to the Fund. The details are listed in **annex C**. One State Party, Norway, has contributed in each of those 9 years. A further three States Parties, Australia, Canada and Italy, have contributed in each of 8 years. Four Parties have contributed in each of 6 years - Belgium, Chile, Czech Republic and Germany. A further four, Austria, Hungary, Ireland and Turkey, have each contributed on 5 occasions during these past 9 years. This breakdown reveals that the desirable elements of security and predictability that would stem from application of the notion of multi-year funding is clearly absent. (NB: Switzerland's contributions – in supporting the GICHD – are covered in paragraph 75.)

50 Annual number of contributors: In terms of the number of States Parties contributing per year, few conclusions should be drawn from the pattern to date. It should be noted, however, that last year there were 14 States Parties contributing, the lowest number since 2003 (12). The most that have contributed in a single year is 24 Parties (2006) with the amounts ranging that year from CHF 113,610 down to CHF 600.

51 Pattern and range of contributions: The actual pattern of annual contributions is uneven, and there is quite some diversity among the sums contributed. As at 31 December 2009, the thirteen largest contributors have accounted for over **92%** of total contributions to the VTF since its inception (Norway CHF 1,224,813, Italy CHF 603,158 611,182, Canada CHF 561,619, Australia CHF 410,266, Czech Republic CHF 294,204, Austria CHF 295,093, Ireland CHF 259,688, Belgium CHF 212,228, Germany CHF 208,210, Netherlands CHF 196,032, Spain CHF 160,475, Chile CHF 108,046 and Sweden CHF 104,338).

52 Annual totals: There is inevitably a degree of randomness about a voluntary fund. Yet the annual total contributions since the ISU became active in 2002 have been remarkably even, fluctuating - with two exceptions - between CHF 468,719 in 2002 and CHF 592,160 in 2008. The two exceptions were the bumper year of 2007 (CHF 810,758) prior to the deterioration in the global economic climate and 2009 (CHF 1,110,884) during which one sizeable, extraordinary payment was made to forestall a deficit (see paragraph 61 below).

53 Several passing points need to be made about matters of funding before examining the current situation. First, funding the Convention's activities is a core element of the notion of international cooperation and assistance encapsulated in Article 6 and its obligations. Secondly, contributions to the VTF have come exclusively from States Parties. Thirdly, amongst the States Parties that have contributed to date, there have been 9 Developing States, some of them mine-affected, and a number of quite small Western countries. Fourthly, several nations that have not donated to the Fund contribute to mine action directly or indirectly in other ways (e.g., through the European Union), and are significant contributors under the scale of assessment that covers costs of Meetings of States Parties. Finally, a substantial contributor, Switzerland, supports the Convention in a manner that is the subject of attention in paragraphs 74, 75 and 92 of this report.

(b) Current funding situation [as at 15 April 2010]

54 To date, the Voluntary Trust Fund has been sufficient to meet expenditures incurred by the ISU in carrying out its mandate, given the GICHD's support outlined in paragraphs 73 and 74. As will shortly be discussed, the potential for over-spend in 2009 was the subject of an exceptional contribution, but as **table 5** shows, there has never been a negative year-end balance in the life of the ISU.

Table 5: Actual expenditures by the ISU since inception (as at 31 December 2009)

Financial year (FY)	Budget	Actual, expenditures, as audited	Contributions to VTF	Year-end balance all = surpluses	Comments
	CHF	CHF	CHF	CHF	
2010	1,200,000				See footnote 1
2009	945,000	981,768	1,097,472	258,176	(Cartagena) see footnote 2
2008	943,500	951,827	604,012	141,570	See footnote 3
2007	646,000	728,020	810,758	488,725	See footnote 4
2006	472,000	467,863*	545,614	334,580	
2005	469,000	434,925*	544,379	326,778	
2004	498,000	576,074	503,623	217,323	(Nairobi) see footnote 5
2003	451,000	419,278*	463,650	289,774	
2002	402,400	350,659*	468,719	245,402	
2001	100,600	0	127,342	127,342	See footnote 6
* expenditure was below budget (years 2002, 2003, 2005 and 2006)					
Footnote 1: Core victim assistance advisory services, previously budgeted separately, are incorporated into the ISU budget for the first time.					
Footnote 2: Deficit avoided due to an extraordinary CHF 266,193.43 contribution provided by one donor.					
Footnote 3: Budget increase due to (a) ISU budget called upon to pay for interpretation at meetings of the Standing Committees, and, (b) 1.0 FTE generalist professional officer position being converted into two 1.8 FTE positions.					
Footnote 4: Budget increase due to new staff position for increased workload related to Article 5 advisory services. Overspending a result of higher than expected demand for these services (i.e., 15 requesting States Parties was more than had been predicted).					
Footnote 5: Overspending was largely attributed to greater than expected demands placed on the ISU during the year of a Review Conference.					
Footnote 6: A 15-month budget for Oct 2001 - Dec 2002 was established. The budgeted numbers represent 3/15th of this. There were no expenditures in 2001 as the ISU did not begin operations until January 2002.					

55 Despite the elements of randomness inherent in funding the VTF, an analysis of the Budget and the ISU's management of it would not give rise to any serious concern but for the contents of footnotes 2 to 5 above. During the course of 2009, the worrying possibility of a deficit was brought to the attention of the States Parties in various ways. For example, the Review of the Operation and Status of the Convention adopted in Cartagena contains this passage:

“231. At the 29 May 2009 meeting of the Standing Committee on the General Status and Operation of the Convention, the Director of the ISU informed the States Parties that voluntary contributions were no longer keeping pace with the costs of services demanded by the States Parties. It was noted that the ISU will not be able to continue providing the level of support, advice and assistance that the States Parties have grown used to if additional and sustainable resources are not provided to fund its work. A challenge for the States Parties remains to ensure the sustainability of funding of the operations of the ISU, through either the existing method or another manner. Without a sustainable means of financing, the ISU will have to drastically reduce its service offerings, which no doubt would adversely affect the implementation process”.

56 The same document drew attention to the understanding among States Parties reached at the time of the establishment of the ISU, in these terms:

“230. When the States Parties agreed to mandate the establishment of the ISU, they agreed to assure that, on a voluntary basis, they would provide the resources necessary for the operations of the unit. Since the Nairobi Summit, (33) States Parties have made contributions to the ISU Trust Fund... In addition to receiving support from the States Parties on a voluntary basis through the ISU Trust Fund, the ISU has also continued to receive support from Switzerland in terms of its contributions to the general operations of the GICHD”.

57 At the Coordinating Committee's meeting of 19 November 2009 just prior to the Cartagena Summit, State Party members were made aware by the Director of the ISU, as recorded in the President's Summary⁷ of the Committee's meeting that day, of the following situation:

“The ISU Director recalled that the 2001 agreement on implementation support between the States Parties and the GICHD indicates that “an annual budget for the ISU will be established by the Coordinating Committee and the Director of the GICHD and that it shall include figures for the forthcoming financial year and, if necessary, a set of priorities that shall be understood as guidelines in order to allocate available resources.” The ISU Director highlighted some elements contained in the work plan and budget, including the following:

⁷ <http://www.apminebanconvention.org/co-ordinating-committee/2008-2009/>

- At present, it is estimated that the ISU Trust Fund will find itself in a deficit situation at the end of 2009 in the range of CHF 150,000 to CHF 300,000. If necessary additional contributions are not received between now and the end of 2009, this deficit will need to be covered in 2010. It should be noted that only one funding agreement for 2010, amounting to € 50,000, is in place.
- Compared to the budget 2009 of the ISU Trust Fund, there is an increase from CHF 945,000 to CHF 1.2 million (plus a potential deficit of the Trust Fund in 2009). This is due to core advisory services on victim assistance which have been incorporated into the 2010 ISU budget for the first time (over CHF 300,000). Previously this work was funded on a project basis outside of the ISU Trust Fund by a small number of interested States Parties.
- The 2010 budget does not contain, as it did in 2008 and 2009, the costs of interpretation at the meetings of the Standing Committees. (Prior to 2008, interpretation at these meetings had been provided on a voluntary basis by two donors. In 2008, the lead donor indicated that it was no longer in a position to provide funds to cover these costs.) These costs will be covered by the GICHD general budget, thus increasing the GICHD's support to hosting the Intersessional Work Programme from approximately CHF 80,000 in 2009 to CHF 130,000 in 2010.
- The 2010 budget provides a more detailed breakdown of the main areas of the ISU's work and related objectives thus providing the Coordinating Committee with a clear idea regarding what it is that the ISU intends to achieve in 2010 should sufficient funds be made available and what services the States Parties may need to forgo should funding not materialise.
- The ISU Director reminded the group that, while the States Parties have expressed their appreciation for the services provided by the ISU, the States Parties have not provided funds sufficient to cover the relatively modest costs of the operations of the ISU. The ISU Director encouraged the Coordinating Committee to take full ownership over this budget and work plan, by providing funding or otherwise working to obtain the contributions necessary to fund the ISU in 2010".

58 The Director of the GICHD made similar points in his Report on the Functioning of the ISU, November 2008 to November 2009, submitted to the Second Review Conference on 23 November 2009⁸. Given the significance to this evaluation of the financial state of affairs affecting the work of the ISU, the GICHD Director's 2009 report warrants especial attention.

59 The President's Summary of the Coordinating Committee's meeting of 19 November 2009 also records that "Coordinating Committee participants expressed concern about the possible deficit situation and asked about what possible cuts would

⁸ APLC/CONF/2009/5

have to be made”. The Summary goes on to note that the “Director of the ISU responded by expressing the hope that Coordinating Committee participants would first do what they can to generate the funds needed and that, if they were unsuccessful in doing so, the Coordinating Committee would need to take ownership over what services would no longer be provided”. At the end of that meeting the Coordinating Committee agreed to adopt the budget on the basis that it would be monitored on a quarterly basis throughout 2010 and revised if necessary.

60 Not surprisingly, this issue continues to pre-occupy the Coordinating Committee. At the Committee’s meeting on 11 February 2010, the President indicated that she would make it a priority to monitor the financial situation of the ISU throughout the year. The Summary⁹ of that meeting noted the President’s remark that “as all States Parties benefit from the work of the ISU, she will encourage all States Parties to consider making a contribution to the Unit’s operations. While acknowledging that States Parties may be able to contribute at different levels, she added that broad-based contributions to the ISU are important and underlined that any contribution is welcome”.

61 At the Coordinating Committee’s meeting on 11 March the following matters were recorded in the President’s Summary¹⁰:

“With respect to finances, the ISU Director reported that the 2009 ISU budget totalled CHF 945,500 and that actual expenditures in 2009 totalled CHF 992’685.89. On 1 January 2010, the ISU Trust Fund balance amounted to CHF 244,882.00. The ISU avoided ending 2009 in a deficit situation largely due to an extraordinary contribution provided by one State Party (Norway) that totalled CHF 266,193.43. This was extraordinary in the sense of its large size and that it was a second 2009 contribution from Norway and was specifically intended to ensure that the ISU Trust Fund would not find itself in a deficit situation in 2009. The Coordinating Committee expressed its appreciation for extraordinary measures taken by Norway to ensure that the ISU would be fully funded in 2009...”

Subsequent contributions, including second tranches for the year from Canada, Germany, Chile and Denmark, further shored up the VTF late in the year.

62 Quoting at length from the various proceedings of the States Parties has been necessary to underline the significance to this evaluation of the emergence of risks to the ongoing smooth conduct of the work of the ISU within the annual Budget and to the routine fulfilment of the States Parties’ priorities. It is salutary in this regard to repeat the words of the Director of the Unit as recorded in the Summary of the Coordinating Committee’s meeting of 19 November last year: “The Director of the ISU responded by expressing the hope that Coordinating Committee participants would first do what they can to generate the funds needed and that, if they were unsuccessful in doing so, the

⁹ <http://www.apminebanconvention.org/co-ordinating-committee/2009-2010/>

¹⁰ <http://www.apminebanconvention.org/co-ordinating-committee/2009-2010/>

Coordinating Committee would need to take ownership over what services would no longer be provided”.

63 It is easy to misinterpret the seemingly healthy year-end balances that have been a feature of the ISU’s accounts throughout the Unit’s existence. Although this under-expenditure can undoubtedly be attributed to prudent financial management, it also reflects the practical reality that a reasonable proportion of the budget needs to be harboured for liabilities (especially staff salaries) and other contingencies arising early in each new financial year. Under voluntary funding there is no certainty of the amount or timing of contributions to the VTF, although through the valuable consideration of the GICHD cash flow problems can be managed in liquidity crises. The ISU’s end of year “surpluses” should not be equated with under-expenditure.

(c) Considerations about managing any future financial constraints

64 It will form part of the balance of this exercise, in full consultation with States Parties and other stakeholders, to evaluate not only the options just voiced by the ISU Director about prioritising the Unit’s services, but also a range of other considerations. In sum, these will include the following, in no particular order:

- (a) redoubling Presidential efforts and appeals to States Parties to “generate the funds needed” and mobilise resources. This might entail increasing the numbers of contributors to the Voluntary Trust Fund as well as increases in volume of contributions, invoking the spirit of cooperation which the Convention is seen as characterising (paragraphs 48 and 60),
- (b) highlighting the significance of Article 6 of the Convention in respect of “International cooperation and assistance” (paragraph 53),
- (c) encouraging sustained, multi-year contributions from States Parties (paragraphs 49 and 63),
- (d) recognising the risks in the current global economic environment of relying on sustained levels of contributions from a small number of major donors – Norway, for instance had contributed by the end of December 2009 over one quarter of the entire funding deposited in the VTF since its inception (25.75%). The combined contributions of Italy and Canada have constituted a further sizeable chunk of the Fund’s income at a little over 22%. In any event, it will be necessary for the States Parties to recognise that they cannot bank on any further “one-off” contributions deposited specifically to ward off a deficit (paragraph 61),
- (e) recognising that for some Treasuries the notion of contributing to a “voluntary fund” is either circumscribed by government rules or unappealing in terms of fiscal discipline and forward-planning purposes on a multi-year basis. For some States Parties, an assessed contribution is a more predictable item of expenditure for which funds may be easier to secure from their Treasuries (paragraphs 44, 64 and 93),
- (f) weighing alternative means of funding the Convention, e.g., by assessed contributions comparable to the scale of assessments applied to States

- Parties for recouping the costs to the United Nations of facilitating MSPs and Review Conferences. This consideration, with its advantages in terms of stability offset by practical implementation difficulties, will be the subject of further examination and consultation (paragraph 93),
- (g) considering raising funds from alternative sources, a strategy that would have its own costs in the sense that it might require specialist assistance or additional staffing resources,
 - (h) embarking on a process of re-prioritisation, or to use the words employed by the ISU Director, “the Coordinating Committee would need to take ownership over what services would no longer be provided”. It should be noted, however, that prioritising the work of the ISU need not be quite such a blunt tool. For instance, with the help of the Work Plan, and through the new process of quarterly reviews of the Budget, it should be possible to identify several activities, or costs, that are less crucial to the needs of States Parties than others. Such activities would be pursued only as far as the accumulation of contributions to the VTF allowed (paragraph 62), and
 - (i) pursuing considerations identified in paragraph 47 in respect of the tasks and responsibilities of the ISU.

As already mentioned, it will fall to the next phase of this evaluation to develop, based on consultations, a more detailed set of options for consideration by the Task Force.

C THE INSTITUTIONAL FRAMEWORK FOR THE ISU

65 The phrase “institutional framework for the ISU” potentially covers a multitude of relationships with the range of stakeholders. This preliminary report will concentrate on only two of them, the GICHD and UNODA, Geneva Branch. These two entities are most relevant to that part of the ToR which requires the consultant to elaborate “options for the future work, financing and organisation of the ISU, including the institutional framework of the ISU”.

66 This evaluation does not examine institutional aspects such as the Intersessional Work Programme which is currently the subject of review by the Coordinating Committee. Nor does it deal with the role of the Coordinating Committee itself as States Parties have recently expressed themselves as satisfied with that institution¹¹. The same is true of the institution of Contact Groups and the Sponsorship Programme¹². In any event, the terms of reference for the evaluation are confined to the ISU: they do not extend to the operation of the Convention as a whole.

¹¹ paragraph 225 of the Review of the Operation and Status of the Convention, APLC/CONF/2009/WP.2

¹² paragraph 232 of the Review of the Operation and Status of the Convention, APLC/CONF/2009/WP.2

(a) GICHD

67 The GICHD is constituted, supported and oriented as follows:

- It is a non-profit foundation established by Switzerland in April 1998 under Swiss Civil Law. A status agreement with the Swiss Government provides the necessary conditions to fulfil the mandate to establish and host an ISU; in particular, the Swiss Federal Council guarantees the independence and freedom of action of the GICHD, recognizes the legal standing of the GICHD, ensures that the archives are inviolable, and confers on the approximately 50 GICHD staff including ISU staff inviolability for acts and omissions in the fulfilment of APMBC-related tasks.
- Its governing body is the Council of Foundation which supervises the activities of the Centre and decides on the allocation of the resources made available to it (see below). Its members are nominated by States contributing significantly to the Centre's broader activities and/or participating in the Centre's immediate activities, and include two nations (USA and Finland) that are not Party to the APMBC.
- It is financially supported by Switzerland and by approximately 15 other countries and international organisations. As well as hosting the ISU, the GICHD works, with its partners, "to provide capacity development support, undertake applied research, and develop standards, all aimed at increasing the performance and professionalism of mine action". The Centre is committed to the humanitarian principles of humanity, impartiality, neutrality and independence.

68 As noted at the outset of this report, the MSP3 President's Paper endorsed by States Parties on 28 September 2001, set out in the mandate to the GICHD, three services that the Centre would provide to support the Convention. They were:

- (a) preparing and supporting meetings of the Standing Committees and the Coordinating Committee, including writing summaries and facilitating follow-up activity;
- (b) providing independent professional advice and assistance to the Coordinating Committee; and
- (c) establishing a documentation and resource database facility (on the Ottawa Process, Oslo Diplomatic Conference, Meetings of State Parties, Standing Committees and the Coordinating Committee).

69 These services were embodied in the Agreement between the States Parties and the GICHD that was signed on 7 November 2001 by the President of MSP3 and the then Director of the Centre. Other relevant provisions of the mandate and the Agreement are as follows:

- (a) The Director of the GICHD is accountable to the States Parties for the work of the ISU and is required to submit an annual report on its functioning (mandate; Agreement, Article 9), together with an annual, audited financial report (Agreement, Articles 15 and 16)

- (b) The ISU operates under the Director of the Centre and is “part of the GICHD, receiving administrative, technical and logistical support and operating under the financial and administrative supervision of the Director (of the Centre)” (mandate),
- (c) “Where necessary, priorities will be defined by the Coordinating Committee and the Director (of the Centre), in consultations with the States Parties. Such priorities may be reviewed on a regular basis (Agreement, Article 5),
- (d) The GICHD Director is to participate as an observer at meetings of the Coordinating Committee to ensure effective and close communications and coordination (mandate; Agreement, Article 6),
- (e) The annual budget is to be established by mutual agreement between the President/Coordinating Committee and the Director of the GICHD (mandate; Agreement, Article 12),
- (f) “The budget document shall...if necessary, indicate a set of priorities (Agreement, Article 13),
- (g) “The States Parties endeavour to assure the necessary financial resources”. GICHD will assist in the effort of assuring the necessary financial resources for the ISU (mandate; Agreement, Article 14) and a Fund will be established for voluntary contributions (Agreement, Article 11) and included in the GICHD accounting system (Agreement, Article 16),
- (h) “Recruitment of staff would be the responsibility of GICHD in close consultation with the Coordinating Committee” (mandate; Agreement, Article 8), and
- (i) “The personnel working in the Implementation Support Unit shall have the same status as other regular GICHD staff” (Agreement, Article 7).

70 As an “institutional framework” for the ISU, it is clear from the founding documents that the States Parties in 2001 chose at that time to countenance for the fledgling Unit a strong embrace by the GICHD. The context needs to be understood, and it has several dimensions:

- (a) In the initial years of the Convention, the demands of servicing the implementation structures established by the State Parties proved to be labour and cost intensive for those Parties who were serving on the Coordinating Committee and Standing Committees as Co-Chairs and Co-Rapporteurs,
- (b) These demands were unduly onerous for small Developing nations, restricting the pool of potential participants in these bodies. There was, however, already some support to States Parties from the GICHD through the Centre’s provision of administrative and logistical resources to assist ensuring the effectiveness of meetings under the Intersessional Programme of Work, and its administration of the Sponsorship Programme,
- (c) As noted by the President’s Paper on the establishment of an ISU¹³, by providing “a more focused basis of support, by permitting broader and more effective participation of the States Parties, and by relieving Parties of

¹³ APLC/MSP3/2001/L.7

administrative and routine functions, a small dedicated support unit should enable a more efficient allocation of resources while contributing to the effective implementation of the Convention”,

- (d) The President’s Paper records the rationale for the choice of the institutional framework in these terms: “The proposal was made that the GICHD could be the appropriate entity through which to provide this enhanced support as this would build on existing efforts and require only a slight increase in staff and resources. The incremental resources could be funded on a voluntary basis by willing States with the support of the GICHD”, and
- (e) The decision to establish the ISU occurred in the early days of the Convention. It had been in force for only two and a half years at the time States Parties set up the Unit. Although the treaty already had over 100 Parties, the cautious and modest terms in which the ISU was established and the relationship forged with the GICHD were, as outlined earlier, suggestive of a concern to focus efforts and financial resources rather more on delivering the benefits of the Convention than on bureaucratic considerations.

71 Irrespective of the circumstances that prompted the institutional framework created between the GICHD and the ISU in 2001, the relationship between the two has evolved just as the tasks and responsibilities of the ISU have developed over time¹⁴. Noting that the States Parties recorded in Cartagena that they have “benefited greatly” from the “invaluable contribution” to the work of the Convention of the GICHD, along with the ICBL, the ICRC, the UN and regional and other organisations¹⁵, it will be instructive during the course of the evaluation to attempt to measure the linkages and the support provided by the GICHD in current terms, noting where relevant any evolutionary aspects in the relationship with the ISU.

72 The starting point for evaluating this institutional linkage is the GICHD’s own perspective of its current involvement with the Convention. This perspective has been expressed in several ways. On the GICHD’s website, in the context of another treaty, the Centre notes in connection with the Anti-Personnel Mine Ban Convention that:

“Despite its physical and administrative integration into the GICHD, the ISU ... exclusively works within the mandates provided by the States Parties through the Coordinating Committee. Neither the GICHD Director nor the GICHD Council of Foundation has any authority over the substantive activities of the ISU”.¹⁶

¹⁴ For an account of the evolution of the mechanisms implementing the Convention, see K. Brinkert, chapter 6, “Banning Landmines” edited by Jody Williams, Stephen D. Goose and Mary Wareham, Rowman & Littlefield Publishers, Inc

¹⁵ paragraph 233 of the Review of the Operation and Status of the Convention, APLC/CONF/2009/WP.2

¹⁶ GICHD paper of 31-03-2010: “Food for thoughts” on the establishment and hosting of an Implementation Support Unit (ISU CCM)” <http://www.gichd.org/fileadmin/pdf/CCM/CCM-ISU-Food-for-thoughts-31Mar2010.pdf>

73 In a paper “The GICHD and the ISU APMBC” of 9 March 2010 made available to the consultant during consultations with the Director of the Centre, the relationship of the GICHD to the States Parties is expressed as one of “host organisation” of which the Director of the Centre “is accountable to the States Parties for the work of the ISU”. As “host”, the GICHD provides a number of facilities to the Unit, free of charge. These include:

- (a) Office space
- (b) Supply and maintenance of information technology (IT) and other office equipment and material: computers, phones, and office equipment
- (c) Development and maintenance of the website
- (d) Coordinating the production of ISU publications
- (e) Travel services
- (f) Administration of the Sponsorship Programme (a GICHD activity that pre-dates the setting up of the ISU)
- (g) Logistical conference support for the Intersessional Programme of Work, Standing Committees, Coordinating Committee and Contact Groups through the provision of venues for meetings
- (h) Documentation and archiving facilities
- (i) Human resources management including administration for staff of requirements of the Swiss social security and pension system. (ISU staff, incidentally are also liable for local income tax.)
- (j) Accounting and financial controlling, reporting and auditing, including oversight of the ISU Director’s travel returns
- (k) Cash flow management, and
- (l) General oversight and accountability by the Director GICHD.

74 These administrative and logistical resources can be seen as providing “savings” to the States Parties to the extent that, if the GICHD was not hosting the ISU and no other organisations were prepared to offer the same services, the States Parties would need to decide whether themselves to purchase all of those services or augment the Unit in such a way as to make it self-sufficient. The monetary value of these “savings” can be estimated from several sources:

(i) In his report to the Cartagena Review Conference on the functioning of the ISU from November 2008 to November 2009, the Director of the GICHD advised States Parties that the ISU received the following “additional support or administered the following additional funds in 2009:

(a) Costs for basic infrastructure and services in support of the ISU (office space, information technology, telecommunications, postage, publications coordination, travel support, human resources management, accounting, audit and other administrative support, etc.) are not included in the costs covered by the ISU Trust Fund. These costs are covered by the GICHD general budget, on the basis of funds provided by Switzerland, and were valued at approximately CHF 440,000 in 2009.

(b) While costs associated with providing strategic direction to the Sponsorship Programme are covered by the ISU budget, costs related to the administration of the Sponsorship Programme are covered by the GICHD budget, again on the basis of funds provided by Switzerland. The value of these costs was CHF 40,000 in 2009.

(c) While costs associated with providing support to the Co-Chairs in their preparations for the meetings of the Standing Committees are covered by the ISU budget, the GICHD budget, on the basis of funds provided by Switzerland, covers the costs (*edit: quantified in paragraph 20 of the Report*) of hosting these meetings. In 2010, this will include, for the first time, the costs of providing interpretation at these meetings. In 2008 and 2009, the ISU’s budgets included the costs of interpretation. Prior to 2008, interpretation at these meetings had been provided on a voluntary basis by two donors. In 2008, the lead donor indicated that it was no longer in a position to provide funds to cover these costs”.

(ii) In his paper of 9 March just mentioned, the GICHD Director provided a further break-down of the costs of the Centre’s infrastructure and administrative services to the States Parties in these terms:

- “Through different services estimated in the range of CHF 380,000 per year: administration and support services regarding conferences, website, publications, travel, HR management, accounting, archives and data base, IT as well as office occupancy.
- A special budget line of CHF 60,000 is provided that covers specific office costs such as office supplies, mailing and telecommunication costs.
- Another CHF 130,000 is budgeted by the GICHD to cover the costs of the Meetings of the Standing Committees. This amount includes in 2010, for the first time, the costs of interpretation (CHF 50,000).
- The costs of administering the APMBC sponsorship programme estimated at CHF 40,000 per year are covered by the GICHD general budget as well. The APMBC Sponsorship Programme fund, which is not included in the GICHD budget, is expected to sponsor approximately 100 delegates in 2010.

- Finally, the GICHD general budget advances money to the ISU Trust Fund in periods of cash flow problems. It would also be the last resort in case of a deficit.”

75 The conclusion based on these sources is that the GICHD’s costs of supporting the ISU in the current manner amounted in 2009 to CHF 560,000, with a further CHF 50,000 budgeted for interpretation in 2010. Including contributions to the Sponsorship Programme, Swiss support for the Convention thus amounts to a sum in excess of CHF 600,000, a sizeable proportion (roughly one-third) of the costs of servicing the States Parties in an ordinary year (i.e., one that does not involve a Review Conference).

76 While it is not a one way street, less tangible or quantifiable benefits to the States Parties are the close proximity the ISU enjoys from its location within GICHD headquarters to the mine action experts employed in the Centre’s Operations Division, whose “independent professional advice and assistance”, as reflected in the second of the three original GICHD services listed in the Agreement, could be drawn upon by the Coordinating Committee (*edit, rather than the Unit itself*). A question that has arisen in this connection, however, is one of identity. In consultations conducted to date, there have been indications that third parties are sometimes confused between the roles of staff of the ISU in servicing the needs of States Parties on the one hand and the advisory capacity of GICHD experts on the other. Instances have occurred in the field during visits to States Parties where the blurring of the distinction between these two functions has led to misunderstandings, albeit of a transitory nature. These situations are capable of easy resolution through the manner in which visits are organized as well as the way in which staff are identified, for instance, through the use now of distinctive business cards. The need for donors to differentiate clearly between contributions being made to help fund the GICHD’s broader activities and those intended specifically for the ISU is another element in the identity equation.

77 In this same vein, uncertainties have been expressed about the comparative roles and responsibilities of the Director of the GICHD and the Director of the ISU. As consultations are continuing, no conclusions are drawn on this aspect in this preliminary report. On paper, the roles and responsibilities of the GICHD Director are clearly defined as set out especially in paragraph 69 above. And as he himself has said: “Neither the GICHD Director nor the GICHD Council of Foundation has any authority over the **substantive** activities of the ISU”¹⁷.

78 The emphasis added to that quotation is to distinguish the substantive activities of the Unit from matters of administration and organisation. It is clear from the original Agreement with the GICHD, including the context in which the provision of three particular services “in support of the Mine Ban Treaty” was specified, that the GICHD would play a significant part in supporting the States Parties in a manner that would

¹⁷ GICHD paper of 31-03-2010: “Food for thoughts” on the establishment and hosting of an Implementation Support Unit (ISU CCM)” <http://www.gichd.org/fileadmin/pdf/CCM/CCM-ISU-Food-for-thoughts-31Mar2010.pdf>

necessitate a commitment of its own resources. Inevitably, therefore, the oversight of the Director of the Centre would be engaged.

79 The three services to which reference has just been made relate directly to the GICHD, not the ISU itself, leaving open the question of the responsibility, if any, of the Unit's Director in ensuring their performance, although the second service is of an "as needed" kind while the third has in effect been discharged. It might be assumed that this was a matter left to the "Terms of Reference" to be agreed by the GICHD with the States Parties as required by the original mandate under the heading, "C. Management of the Unit". Those Terms of Reference were, in fact, the Agreement of 7 November 2001, and they are silent on the role and responsibilities of the ISU Director not only in respect of the three specific services but also in general. In practice, the GICHD Director has in the intervening years upgraded the original title of the manager of the Unit to Director and delegated to the Director the responsibility for supporting the Coordinating Committee and the Standing Committees.

80 These points about the functional relationship between the Director of the GICHD and the Director of the ISU are made to illuminate another aspect of the identity of the ISU vis-à-vis the GICHD. This relates to perceptions about the relative independence of the Director of the ISU in carrying out his duties, and the degree to which the ISU is embedded in the GICHD. "Independence" is a sensitive word because it can invoke a variety of reactions in the context of the range of institutional options for operating a Support Unit. And it raises the question whether a Unit that has been deliberately kept small can be truly independent. Thus, the expression "*relative independence*" is used here. In essence, this situation arises because the ISU Director has dual responsibilities. As already noted, the GICHD Director does not purport to hold any authority over the substantive activities of the Unit. While the 2001 mandate specifies that the ISU "will operate under the Director" of the GICHD" as to its "functioning", the Agreement makes it explicit that in the "performance of its substantive duties on implementation issues" the Unit will "receive direction from and support the work of the Coordinating Committee, ensuring ongoing input from States Parties into the work of the ISU".

81 On the other hand, the responsibility of the Director of the GICHD for the functioning of the ISU, not least as comptroller in relation to the GICHD as conduit for financial flows, is an inevitable consequence of the original decision of the States Parties not to establish a Unit at that time that would enjoy complete self-sufficiency with attendant cost implications. In any event, the significance for the ISU of this division of the Unit Director's duties between the States Parties and the Director of the GICHD for the institutional framework will be weighed in greater depth as the evaluation proceeds.

82 Perceptions of the relative independence of the Director of the ISU can, however, be addressed in practical manner. States Parties might wish to receive annually from the Unit Director a report on his responsibilities to them alongside, and comparable to, the annual report that would continue to be furnished by the Director of the GICHD. Ongoing efforts, already under discussion with the GICHD, could also help differentiate the "branding" – the identity – of the ISU from the GICHD without diminishing the

latter's longstanding role in support of the Convention. Matters of symbolism should not be under-estimated if they allow the Unit to enjoy a profile commensurate with the international standing of the Mine Ban Convention, reflecting well not only on the Unit but also on the fundamental functional support tendered by the GICHD.

83 In any routine evaluation, consideration of the efficiency and effectiveness, including cost-effectiveness, of a body under review is a central part of the process. Additionally in the case of the ISU, the principles governing the implementation of the Convention that States Parties have considered central since their First MSP, and which they reiterated in Cartagena, are those of "continuity, coherence, flexibility, partnership, openness, transparency and a clear sense of purpose". While views are still being elicited from States Parties, feedback on the Unit to date is uniformly positive on these fronts.

84 Measuring the Unit's effectiveness and efficiency is premature at this stage of the evaluation. In terms of effectiveness, sustained positive feedback to date from States Parties through their Geneva diplomatic staff and personnel from capitals, together with other stakeholders, suggests high levels of satisfaction with the focus and delivery by the ISU of expected outcomes. In terms of efficiency, the next phase of the evaluation should enable some comparisons to be made with other comparable Support Units as to the costs of producing those outcomes, including options for different ways of sourcing inputs.

85 Reflection during the balance of this evaluation, as just mentioned, on comparable Support Units or alternative models for an institutional framework for the ISU including in a stand-alone capacity will be required for the sake of completeness. That much is clear from the Terms of Reference, and should not be interpreted as in any way a comment on the *status quo*.

(b) UNODA

86 The current institutional framework for the ISU has a hybrid nature. While the GICHD provides support to the States Parties for meetings other than MSPs and Review Conferences, the UN through the Office for Disarmament Affairs, Geneva, arranges the servicing of MSPs and Review Conferences, recovering costs (under APMBC, Article 14) on the basis of the UN scale of assessment calibrated to the membership of the Convention (and in the occasional case, the attendance of observer States). In effect, the cost recovery relates to interpretation, documentation, translation and conference servicing expenses arising from the deployment of specialist UN staff for those purposes under the supervision of UNODA.

87 While the budget for such services is approved by the States Parties and covers a measure of administrative support employed by UNODA to assist with the organisation of conference services, some services provided to the Convention by UNODA are absorbed by the UN regular budget. These services include time dedicated by UNODA to the Convention (through professional and general support staff) to oversee not only the organisation of MSPs and Review Conferences and serve as Conference Officers but also

– to date - the reporting of States Parties in fulfilment of Article 7 and the dissemination of those reports. It should be noted, however, that the Convention provides that costs incurred by the UN under Article 7 (and also under Article 8 (compliance) together with the costs of any fact-finding mission (Article 8.8)) are to be borne by States Parties in accordance with the UN scale of assessments adjusted appropriately.

88 Irrespective of the savings to States Parties of inputs by UNODA that are not the subject of cost recovery, it is obvious that the services provided in respect especially of formal meetings of States Parties relieve the ISU from the need either to buy in such assistance when needed or to create its own capacity to provide such services. The costs of what are generally five-day meetings of States Parties and Review Conferences ranges between CHF 400,000 and 500,000.

89 The estimates for the Cartagena Review Conference were US\$ 519,500 but this figure does not include the costs of the two Preparatory Meetings of US\$136,200 and 287,600 – a total of US\$943,300 (CHF 1,016,500). Applying the modified UN scale of assessments to the costs of the Review Conference and its Preparatory Meetings means that the liabilities of States Parties ranges from approximately CHF 240, 000 (Japan) to CHF 70 (small Developing nations). Contributions are also assessed under the same scale for those Signatory and Observer States that participate in MSPs, thereby helping defray some of the total costs.

90 The costs of the 2010 Meeting of States Parties (MSP10) which will take place in Geneva are estimated to be US\$472,000 (CHF 509,000). It can be concluded that in current circumstances a five day meeting of States Parties will result in assessed contributions ranging from approximately CHF 115, 000 (Japan) to CHF 30 (the smallest contributors). The task of recouping the assessed sums falls to UNODA, not the ISU.

91 It is apparent that the annual costs of the Convention's implementation machinery have three main components:

- (a) The first component is voluntary contributions made by States Parties. Over the past 5 years, leaving aside the one-off payment by Norway referred to earlier (paragraph 61), these contributions have averaged CHF 660,000 per annum.
- (b) The second component relating to the hosting of the ISU, based on the monetary value of the Swiss Government's funding of the GICHD's services to the APMBC, amounts to a further CHF 600,000 approximately (including funding of the Sponsorship Programme).
- (c) Finally, as just noted, the formal Meetings of States Parties (not including preparatory meetings for Review Conferences) add up to an additional CHF 500,000.

In total, therefore, it costs roughly **CHF 1,760,000** to fund activities carried out under the Convention annually, (and more when the Sponsorship Programme is included and during years in which Review Conferences are held). (It needs to be noted that this total includes calculations of the value of in-kind contributions which are inherently less

susceptible to cost-benefit analysis than if the Unit needed to actually “buy-in” that support or elements of it.)

92 It is apparent from this breakdown of the costs of implementing and operating the Convention that only a quarter of the expenditure is recovered from States Parties (funding MSPs) through assessed contributions. Thus, under the current institutional framework, the Swiss Government through the GICHD’s in kind support, together with Parties’ support for the VTF, contribute a sizeable balance of the funds allocated annually to the activities of implementing the Convention. This, of course, assumes that if the ISU was not benefiting from the sum of money allocated for in kind support, in the absence of any alternative it would need to raise an equivalent amount from the States Parties.

93 In the evaluation to date, it is already clear that there is a sharp divergence of views on the notion of funding activities of the Convention through assessed contributions of all Parties. Amongst some States Parties there is no appetite, especially in the current global economic climate, to apply the UN scale of assessments to costs beyond those that arise for the conduct of MSPs. Moreover, a number of practical matters of implementation of the assessment scale would need to be considered, including how it would be administered and whether it would be merged with the scale applied to MSPs. On the other hand, as noted earlier (paragraphs 44 and 64), it is easier for some Treasuries if funding is secured for international bodies via a system of assessed rather than voluntary contributions. Further consultations can be expected also to allow conclusions to be drawn on the advantages and disadvantages – the risks and benefits - of retaining the status quo under which, in terms of both the contribution to the hosting of the ISU by the GICHD and the bulk of funding of Voluntary Trust Fund, the sustained implementation of the Mine Ban Convention is in the hands of a small, if dedicated, number of nations.

(c) Considerations about the institutional framework for the ISU

94 To conclude this section on the institutional framework, these considerations in relation to the GICHD arise:

- (a) Whether the dual roles of the ISU Director are sufficiently clear in terms of respective lines of authority on matters of substance and administration (paragraphs 79 to 81),
- (b) In relation to the identity of the ISU vis-à-vis the GICHD what is the scope for additional differentiation beyond initiatives already taken or proceeding on such things as letterheads, websites and business cards (paragraph 82)?
- (c) More specifically, does the institutional framework, ten years on, continue to serve the principles of the States Parties and reflect the standing of the Convention, operating in an efficient and effective manner (paragraph 83), and, if not, what are the adjustments that can be made within the range of needs and resources of States Parties?
- (d) To what extent, if any, is there a case for updating the 2001 Agreement and mandate (see also paragraph 47)? Depending on resources, such a revision

might range from matters of structure to simply serving to clarify matters of detail, e.g., that the Director of the ISU is accountable on all matters of substance to States Parties and should thus report on matters of substance to States Parties directly (paragraph 82), or through the Coordinating Committee, while the Director of the GICHD would continue to report on the Centre's current administrative support, including comptrollership. (On the other hand, it would not be necessary to amend the Agreement to effect such a change), and

- (e) Are there realistic alternatives to the existing institutional relationship with the GICHD that would serve States Parties as well as current arrangements and the existing depth of support (paragraphs 85 and 93)?

95 Additional considerations emerging during the course of ongoing consultations will be covered in **Part II** of this report to the Task Force which is due on 1 September.

Annexes

Annex A	Terms of reference for the evaluation
Annex B	2010 Budget adopted by the Coordinating Committee on 19 November 2009 and Work Plan
Annex C	ISU Voluntary Trust Fund Contributions as of 31 December 2009

Tim Caughley
15 April 2010

Terms of Reference for the Independent Consultant

Background

1. In 2001, the Third Meeting of the States Parties to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction (MBC) endorsed the President's Paper on the Establishment of an Implementation Support Unit (ISU). States Parties warmly welcomed the establishment, within the Geneva International Centre for Humanitarian Demining (GICHD), of an Implementation Support Unit to further enhance the operation and implementation of the Convention. Since then, the ISU's tasks have been developed and amended according to the demands of the States Parties. The States Parties have expressed their appreciation for the manner in which the ISU is making a positive contribution to implement the Convention.
2. At the same time, the work to implement and ensure compliance of the Convention has in many ways evolved and matured, and the demands on the ISU have increased in quantity and changed in quality. As a result, the competence and capacity of the ISU has developed to respond to increasing demands by States Parties. Activities such as support for victim assistance efforts, which started as a separate project, have evolved into ongoing continuous implementation support that constitutes part of the ISU's everyday responsibilities; activities formerly financed through special project funds increasingly rely on the Voluntary Trust Fund (VTF). Moreover, there is an increasing demand from States Parties for additional support on other implementation issues, including issues under Article 5.
3. Between 2001 and 2007, the voluntary contributions for the ISU covered the expenses and the ISU VTF closed with a positive remaining balance. From 2008, however, as a result of increasing requests from States Parties the financial situation of the ISU presents challenges because voluntary contributions through the ISU Trust Fund do not cover the ISU's budget. At the same time, contributions received were lower than expected.

Mandate

4. The Second Review Conference of the States Parties to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction endorsed the President's Paper on the Establishment of an open ended Task Force with a mandate to develop terms of reference for an evaluation of the ISU, as contained in document number APLC/CONF/2009/8/Rev.1 and as Part V of the Final Report. The Task Force will be responsible for an independent evaluation of the ISU for the year 2010 and for presenting its recommendations on the future of the ISU to the Tenth Meeting of the States Parties.
 5. At its first meeting on 10 February 2010, the Task Force decided to hire an independent consultant to conduct the evaluation, and to this end adopted these Terms of Reference.
 6. These Terms of Reference serve as the basis for the contract with the consultant.
- Purpose

7. The purpose of the evaluation by the consultant will be to provide the Task Force with clear and concise insights into the work of the ISU since its inception, including development of the tasks and services that the ISU provides for States Parties, an analysis of the findings, and options for the future work, financing and organisation of the ISU, including the institutional framework of the ISU.

Scope

8. In conformity with the Working Methods of the Task Force, the evaluation should address issues related to securing the ISU's future support to the States Parties, including, but not limited to, the following issues:

- The tasks and responsibilities of the ISU
- The financing of the ISU
- The institutional framework for the ISU

Methodology

9. In order to ensure a broad and comprehensive analysis the consultant will actively consult and obtain views from States Parties in a representative manner, reflecting interests of both affected and other States Parties (including as needed visits to affected States Parties), paying particular attention to the main users and beneficiaries of the ISU, including e.g. previous, current and incoming Presidents, Co-Chairs and Co-Rapporteurs of the Standing Committees. All States Parties will be invited to provide their input directly to the consultant in writing if they so wish.

10. The consultant will consult fully with the Director and the staff of the ISU, and with the Director of the Geneva International Centre for Humanitarian Demining.

11. The consultant will actively consult and obtain views from relevant actors such as civil society organisations and international organisations, including the International Campaign to Ban Landmines, the International Committee of the Red Cross, and members of the United Nations Mine Action Team, in full transparency with the Task Force.

12. The consultant will review relevant documents from the establishment of the ISU in 2001 until 2010, including decisions made by the States Parties on the mandate and tasks of the ISU, the agreement between the States Parties and the Geneva International Centre for Humanitarian Demining, and relevant parts of the documents of Meetings of the Standing Committees, of the Meetings of the States Parties and Review Conferences as well as the approved budgets and audited accounts of the ISU.

13. The consultant will attend the meetings of the Task Force as appropriate.

14. The Chair of the Task Force will prepare summaries of the Task Force meetings to be distributed to all States Parties.

Evaluation Reports

15. The consultant will prepare updates on the progress of the evaluation before every meeting of the Task Force, and present these to the Task Force.

16. The consultant will prepare a preliminary report to the Task Force by 15 April 2010.

17. The consultant will prepare a final evaluation by 1 September 2010.

2010 ISU Budget: Expenditures**Annex B****GENERAL SUPPORT****Objectives**

- Provide advice State Parties on matters related to implementation and compliance.
- Assist States Parties in maximising participation in the Convention's implementation processes
- Provide strategic direction to Co-Chairs
- Provide strategic direction to the Coordinator of the Sponsorship Programme
- Support States Parties in preparing transparency reports
- Lead seminars and provide training on understanding the Convention and its operations
- Support the President and individual States Parties in undertaking universalisation efforts
- Develop strategic responses to address the needs of small States Parties
- Provide advice on applying, in other areas, the lessons learned from implementing the Convention
- Supporting the President-Designate and the 10MSP host country in their preparations
- Continue to serve as the authoritative source of information on the Convention
- Maintain the Convention's Documentation Centre

PUBLICATIONS Objective

- Make information on the Convention and implementation processes available in a professional manner

SUPPORT FOR ARTICLE 5 IMPLEMENTATION**Objectives**

- Support States Parties in achieving greater clarity in understanding the nature and extent of one's obligations
- Support States Parties in preparing Article 5 extension requests
- Support States Parties in achieving and declaring completion of Article 5 implementation.

SUPPORT FOR THE ARTICLE 5 EXTENSIONS PROCESS**Objectives**

- Provide the secretariat support required by the President and the other States Parties mandated to analyse requests
- Acquire expert mine clearance, legal and diplomatic advice at the request of the analysing group
- Acquire working translations of requests submitted
- Make requests & other relevant documentation readily available

SUPPORT FOR VICTIM ASSISTANCE IMPLEMENTATION**Objectives**

- Support States Parties with good victim assistance objectives in developing good plans
- Support States Parties with underdeveloped objectives in developing more concrete objectives
- Support States Parties with good plans in advancing implementation of these plans
- Support States Parties that have engaged little to date in achieving a higher level of engagement
- Support States Parties in developing monitoring mechanisms.

2009 DEFICIT Objective

- Cover the costs of any deficit incurred in 2009 Subtotal

TOTAL**Costs CHF**

Salaries	394'155
Employer's payroll contributions	82'773
Travel	21'000
Other costs	21'531
Subtotal	519'459

Costs CHF

Subtotal (Layout / Printing)	40'000
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Costs CHF

Salaries	172'871
Payroll contributions	36'303
Travel	60'000
Other costs	15'000
Subtotal	284'174

Costs CHF

Salaries	25'240
Payroll contributions	5'300
Translations	17'500
Other costs	2'500
Subtotal	50'540

Salaries	178'370
Payroll contributions	37'458
Travel	75'000
Other costs	15'000
Subtotal	305'827

?

CHF 1,200,000

2010 Work Plan and Budget Adopted by the Coordinating Committee, 19 November 2009

Background

1. At the September 2001 Third Meeting of the States Parties (3MSP) the States Parties endorsed the 3MSP President's Paper on the Establishment of the Implementation Support Unit (ISU) and mandated the Geneva International Centre for Humanitarian Demining (GICHD) to establish the ISU. The 3MSP also encouraged States Parties in a position to do so to make voluntary contributions in support of the ISU. In addition, the States Parties mandated the President of the 3MSP, in consultation with the Coordination Committee, to finalise an agreement between the States Parties and the GICHD on the functioning of the ISU. The GICHD Council of Foundation accepted this mandate on 28 September 2001.
2. In accordance with the above-mentioned actions taken by the States Parties at the 3MSP, an agreement on implementation support for the Convention was finalised between the States Parties and the GICHD by the President of the 3MSP and the Director of the GICHD on 7 November 2001. This agreement indicated that an annual budget for the ISU will be established by the Coordinating Committee and the Director of the GICHD and that it shall include figures for the forthcoming financial year and, if necessary, a set of priorities that shall be understood as guidelines in order to allocate available resources.
3. The general duties – hence the general priorities – of the ISU are listed in the 3MSP President's Paper that serves as the mandate for the Unit. Also in a manner consistent with this mandate, more specific direction regarding priorities is received from the Coordinating Committee, thus ensuring ongoing input from States Parties into the work of the ISU. Moreover, clear direction regarding priorities for the ISU in 2010 will be provided by all States Parties through conclusions and understandings agreed to at the Second Review Conference, including the adoption of the Cartagena Action Plan 2010-2014.
4. On 29 May 2009, the Director of the ISU informed the States Parties that resources greatly in excess of those provided in 2008 are required in 2009 if the ISU will be able to carry its operations without incurring a deficit. At the 1 September 2009 meeting of the Coordinating Committee, the Director of the ISU repeated that additional contributions were required in order to end the year without incurring a deficit. Given underfunding in 2009, the Director of the ISU sought direction from the Coordinating Committee regarding planning for a 2010 budget. On 1 September 2009, Coordinating Committee participants indicated their desire for the ISU maintain services in 2010 at a level provided in 2009. The Director the ISU informed the Coordinating Committee that he would prepare a 2010 budget on this basis, that this would include costs totaling approximately CHF 1.2 million, and that the Coordinating Committee must take responsibility for ensuring that the necessary resources would be found to support such a budget.
5. Compared to the budget 2009 of the ISU Trust Fund, there is an increase from CHF 945,000 to CHF 1.2 million (plus a potential deficit of the Trust Fund in 2009). This is due to core advisory services on victim assistance which have been incorporated into the 2010 ISU budget for the first time (over CHF 300,000). On the other hand, the budget does not contain any more costs of interpretation at the meetings of the Standing Committees. (The ISU's 2008 and 2009 budgets included the costs of interpretation at the meetings of the Standing Committees. Prior to 2008, interpretation at these meetings had been provided on a voluntary basis by two donors. In 2008, the lead donor indicated that it was no longer in a position to provide funds to cover these costs.) At the 1 September 2009 meeting of the Coordinating Committee, the ISU Director indicated that, given funding shortfalls in 2009, these costs would not be included in a 2010 budget. The costs of approximately CHF 50,000 will be covered by the GICHD general budget.

Priorities

6. On the basis of the direction received from the Coordinating Committee, in 2010 the ISU will continue to provide the support consistent with that provided in 2009. This will include advising State Parties on matters related to implementation and compliance, furnishing information or assistance in maximising participation in the Convention's implementation processes, providing strategic direction to Co-Chairs and the Coordinator of the Sponsorship Programme, supporting States Parties in preparing transparency reports, leading seminars and providing training on understanding the Convention and its operations, supporting the President and individual States Parties in undertaking universalisation efforts, developing strategic responses to address the needs of small States Parties, supporting the preparations of the Tenth Meeting of the States Parties, serving as the authoritative source of information on the Convention, maintaining the Convention's Documentation Centre and advising on applying in other areas the lessons learned from implementing the Convention.
7. A specific area of support that the ISU will continue to provide concerns Article 5 extension requests. In 2006, the States Parties agreed to encourage States Parties requesting extensions in accordance with Article 5 of the Convention "as necessary, to seek assistance from the Implementation Support Unit in the preparation of their requests." In doing so, the States Parties underscored the already increasing workload of the ISU in providing to individual States Parties and to Co-Chairs professional support and advice on matters concerning the implementation of Article 5. This additional workload was taken into account in ISU budgets since 2007 and again is reflected in the 2010 budget.
8. In addition in 2006, the States Parties agreed on a process to assist them in considering requests for extensions including: (a) that in preparing "an analysis" of extension requests "the President, Co-Chairs and Co-Rapporteurs, in close consultation with the requesting State, should, where appropriate, draw on expert mine clearance, legal and diplomatic advice, using the ISU to provide support;" and, (b) that all States Parties in a position to do so are encouraged "to provide additional, earmarked funds to the ISU Trust Fund to cover costs related to support the Article 5 extensions process." This aspect also was taken into account in ISU budgets since 2007 and again is reflected in the 2010 budget.
9. Another area of support that the ISU will continue to provide concerns victim assistance. At the 2004 First Review Conference, the States Parties adopted understandings on victim assistance that provided a basis for the States Parties to act strategically in this area.

Successive Co-Chairs have responded by requesting the support of the ISU to assist those States Parties responsible for significant numbers of landmine survivors in applying the 2004 understandings. This work began in 2005 on a project basis (i.e., a fixed time period during which clear-cut objectives would be achieved), funded outside of the ISU Trust Fund by a small number of interested States Parties.

10. Since 2005, the ISU's support to States Parties on victim assistance has become a core programmatic area of work for the ISU. That is, advice and support to relevant States Parties is necessary as long as such States Parties continue to need and desire advisory services. Therefore, core advisory services on victim assistance have been incorporated into the 2010 ISU budget for the first time.

Work plan, staffing, and balance of possible deficit 2009

11. General support and publications: As in the past, the ISU expects to receive hundreds of requests from State Parties on matters related to implementation and compliance. Immediately in advance of the meetings of the Standing Committees and the Tenth Meeting of the States Parties (10MSP), the ISU expects dozens of requests to furnish information or assistance in maximising participation in the Convention's implementation processes. In terms of providing strategic direction to Co-Chairs, the ISU typically takes part in dozens of small group planning meetings which culminate in approximately six meetings of the Coordinating Committee each year. A proposed strategic plan for the Coordinator of the Sponsorship Programme will be developed twice – once in the lead up to the meetings of the Standing Committees and once in the lead up to the 10MSP. The ISU typically responds to approximately 50 requests a year from States Parties requiring assistance or advice preparing transparency reports. In any particular year, personnel from the ISU may be called upon 10 to 25 times to lead seminars and provide training on understanding the Convention and its operations.

12. The ISU will continue to provide secretariat support to the Universalisation Contact Group, which usually meets twice a year, and provide information to the Contact Group Coordinator. If requested, ISU personnel will support the President and individual States Parties in undertaking universalisation efforts. In recent years, this may involve preparing background information for four to ten individual initiatives and accompanying the President and other States Parties on the same number of visits. In 2005, the ISU developed a "Small States Strategy to address the needs of small States Parties. The ISU will revise this strategy in 2010. The ISU will fulfil its traditional role of supporting the preparations of the Tenth Meeting of the States Parties, particularly by providing substantive advice to the President. In addition, the ISU will continue to maintain the Convention's Documentation Centre, receiving and making available up to 1,000 new documents in 2010 related to the implementation process.

13. The ISU will continue to produce publications containing the programmes and information on the Intersessional Work Programme and on the Tenth Meeting of the States Parties. In addition, the ISU will update its background brochures on the Convention and on victim assistance in the context of the Convention, taking into account the decisions of the Second Review Conference, and make these publications available in languages in addition to English.

14. Article 5 Implementation Support: The ISU will carry out approximately 10 advisory visits in response to requests by States Parties wishing to meet one of the following objectives: (a) to achieve greater clarity in understanding the nature and extent of one's obligations, (b) to advance preparations of a request for an extension, and, (c) to achieve and declare completion. Priorities for the ISU will be those States Parties with Article 5 deadlines that occur in 2011 and 2012 and those States Parties that lack clarity regarding the nature and extent of their implementation challenges.

Article 5 Deadlines

Article 5 Deadlines in 2011

- Chad
- • Colombia
- • Congo, Rep. of
- • Denmark
- • Guinea Bissau
- • Mauritania
- • Zimbabwe

Article 5 Deadlines in 2012

- Angola
- • Chile
- • Ethiopia
- • DRC
- • Eritrea
- • Jordan
- • Nigeria

ISU Voluntary Trust Fund Contributions (as of 31 December 2009)

	2001	2002	2003	2004	2005	2006	2007	2008	2009	Totals CHF
Albania						1,000	1,000	1,000		3,000
Australia	25,668		45,045	29,011	38,572	76,044	80,104	63,000	86,500	443,944
Austria		8,030		70,380	70,840		89,970	55,873		295,093
Belgium		12,012	14,470		23,094	38,492	48,535		75,625	212,228
Bosnia & Herzegovina					2,560					2,560
Burundi						600				600
Canada		92,589	46,553	47,789	57,137	53,660	105,594	18,936	139,362	561,619
Chile				11,500	24,300	18,150	17,530	15,285	21,281	108,046
Croatia			1,357	2,580						3,937
Czech Republic			39,375	37,295	38,010	56,691	58,593	67,040		297,004
Cyprus						2,700		2,700	4,560	9,960
Denmark									80,031	80,031
Estonia						2,340	4,056			6,396
Germany			38,250	37,500		23,257	24,229	24,229	60,576	208,210
Hungary				12,400	12,700	12,500	10,927	10,737		59,264
Iceland			6,550	10,000	1,300					17,850
Ireland		73,990			53,900		24,445	55,081	52,273	259,688
Italy		78,408	120,218	60,000	61,600	71,550	80,240	64,796	74,370	611,182
Lithuania					5,345			10,000		15,345
Luxembourg					23,100					23,100
Malaysia				1,833		5,162		1,774		8,769
Malta						750	1,800			2,550
Mexico		8,880		7,500	12,300	6,250				34,930
Netherlands		94,032		63,000	7,000	32,000				196,032
New Zealand			19,064							19,064
Nigeria					2,460	3,630				6,090
Norway	96,698	100,778	91,750	101,667	108,962	113,610	161,526	157,558	397,039	1,329,588
Philippines						1,300				1,300
Qatar								11,921		11,921
Senegal						4,827				4,827
South Africa	4,976					5,305				10,281
Slovenia						6,496	6,740	7,907	7,563	28,706
Spain						7,950	48,660	44,133	59,732	160,475
Sweden			34,068				35,058		35,212	104,338
Thailand			6,950							6,950
Turkey					1,200	1,250	1,753	1,974	3,348	9,525
United Kingdom				11,168						11,168
Annual totals	127,342	468,719	463,650	503,623	544,379	545,614	810,758	604,012	1,097,472	5,165,569

Part II

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Part II

Analysis and Options

Structure of this Part

1 Part I (the Preliminary Report) was set out in the same order as the core issues of the Terms of Reference. The approach taken in Part II (sometimes referred to as the Final Report), however, is different. The logic dictated by the outcome of the consultations is that the Final Report should begin with the issue of the financing of the ISU.

2 The options listed at the end of the Report appear in yet another order, designed to facilitate their consideration by the open-ended Task Force.

Financing of the ISU

(a) Introduction

3 Not a single State Party or organisation consulted expressed any doubt about the need for the ISU. More than that, the level of admiration for the Unit's services, efficiency and all round professionalism was of the highest order.

4 As to the size of the ISU, a strong wish was evident amongst mine-affected Parties that the ISU should be expanded, especially to increase its role on matters of victim assistance, and possibly also to intensify fund-raising efforts.

5 More cautious positions were taken by other stakeholders. Although no one actually proposed any reduction of the Unit, cautionary points that were made included:

- the need for a stock-take on the growth of the services of the ISU relative to the original Mandate¹⁸,
- no further expansion of the Unit should take place other than by a considered decision of a formal Meeting of States Parties, and
- the need for a recalibration of the priorities with which the Unit has been tasked by the States Parties.

6 The strong sense of need attached to the work of the ISU is universal. Given the growth of the budget at a time of global economic belt-tightening, there is also widespread recognition that the Unit's continued effectiveness and productivity is dependent first and foremost on the **availability of sufficient financial resources**.

¹⁸ See http://www.apminebanconvention.org/fileadmin/pdf/mbc/MSP/3MSP/3MSP_Fina_Report_ISU_en.pdf

7 At the time of finalising this paper, funds received or pledged for the 2010 financial year totalled approximately CHF 770,000 (US\$ 745,000 at the exchange rate of 0.9675 on 20 August). In addition, oral commitments had been received from two traditionally large donors whose contributions can be expected to significantly reduce the current shortfall of CHF 433,000 (US\$ 420,000) to meet the budget total (CHF 1,200,000 or US\$ 1,161,000).

(b) Sources of funding

8 To recap¹⁹, the ISU is dependent on financial support from **three** sources. The first, as stipulated in the Convention, relates to **assessed contributions** covering an important but relatively confined activity. The negotiators of the Mine Ban Convention (APMBC) agreed – in Article 14.1 - that the “costs of the Meetings of the States Parties, the Review Conferences and the Amendment Conferences shall be borne by the States Parties ... in accordance with the United Nations scale of assessment adjusted appropriately”.

9 What about the other costs of implementing the Convention, i.e., the work carried out by the ISU in supporting Parties on various aspects of victim assistance, mine clearance, stockpile destruction, universalisation, reporting, and meetings not mentioned in Article 14.1 (Standing Committees, Co-ordinating Committee, parallel programme on victim assistance etc)?

10 These activities are all dependent on two further sources of funding. They are:

- **voluntary contributions** from States Parties administered by the GICHD through the Voluntary Trust Fund (VTF). A table of contributors to the VTF since 2001 is set out in **Annex C to Part I** of this report.

11 The third source of financial assistance is:

- indirect Swiss funding, i.e., the “**in kind**” support provided by Switzerland through the GICHD covering the costs of administrative and logistical support for the ISU²⁰.

12 It became a matter of concern to the consultant that these three elements of the funding of the activities of the Convention – set out fully in the Preliminary Report - were not universally understood by the Parties. While nearly every State consulted was aware of the “in kind” support provided indirectly by Switzerland through the GICHD, a small number of Parties were unaware that the assessed contributions that they pay annually cover **only** a single five-day Meeting of States Parties (MSP)²¹.

¹⁹ See Part I paragraph 91

²⁰ Ibid paragraph 13

²¹ Throughout this report the abbreviation MSP is used to cover the annual Meetings of States Parties, the Review Conferences and the Amendment Conferences.

(c) Risks

13 This evaluation in large part has been shaped as already indicated by one concern, a concern that has echoed throughout the consultations. Given universal agreement on the need for the ISU and support for its work, how should the States Parties and other stakeholders best ensure the Unit's sustainability in the face of its dependence on voluntary contributions and on a sizeable underwriting of its running costs by a single State Party, the Swiss Government?

14 Behind these concerns lie a variety of considerations. They include first the reality that in times of global economic turmoil States Parties may be constrained from volunteering the funding needed for the Unit to carry out the Parties' priorities.

15 Another downside is that, given the voluntary nature of contributions to the VTF, such funding is unpredictable and complicates forward planning, making execution of plans for which there is no funding impossible. In this regard, **multi-year commitments** of the kind formally entered into by Australia to contribute to the ISU over a three year period²², and sustained annual contributions by Parties mentioned in paragraphs 51 and 64 (d) of Part I, if replicated by other donors, would greatly shore-up the ISU against the planning uncertainties and risks that have come under so much scrutiny in this evaluation.

16 The ISU's cash flow problems to date have been cushioned by the GICHD's preparedness to tide the ISU over, and the Centre's coverage of the Unit's administrative and logistical support has been unwavering. Indeed, the staunchness of support for the Unit from voluntary contributors as well as from the Centre has been both a reflection of and a surety for the success of the Convention to date.

17 The global financial downturn however has raised concerns that virtually all the eggs of the APMBC are in two baskets. Competition for funding has intensified. New causes have emerged (e.g., cluster munitions).

18 These factors have prompted several lines of thought, with varying degrees of support:

- States Parties should satisfy themselves that any re-prioritisation that is forced on them by insufficient funding should be a matter for all of them, not only the Co-ordinating Committee.
- An intensified resource mobilisation strategy.
- A broader funding base should be explored.
- Synergies might be sought with other treaties.
- More predictable funding would improve the ability of the ISU to plan for the implementation of the Parties' priorities.

²² the sum of US\$170,000 per annum

- The purposes of this treaty are being so successfully realised that all States Parties should contribute to its implementation, based on an appropriate scale of affordability.
- The international significance and profile of the Convention is such that its implementing agency warrants individual international personality and should be placed on an independent, stand-alone footing, funded on an agreed scale of assessments.

(d) Assessed contributions

19 Irrespective of the ideas summarised in the immediately preceding paragraph, the factors most frequently cited in connection with the funding of the ISU were the need for predictable and sustainable sources to underpin ongoing effectiveness and longer term planning. Amongst those consulted, these considerations were rated above the question of the *level* of funding although, as noted, some States Parties advocated increased efforts towards victim assistance-related support.

20 Secretariats of international treaties generally depend for their lifeblood on mandatory contributions of the States Parties, on a sliding scale of assessment. Such treaties usually create the obligation to contribute in the treaty itself, or devolve it to a decision of States Parties through the decision-making machinery of the instrument once the treaty enters into force. A range of examples is listed in **annex 2**.

21 As we have seen, the Parties to the APMBC have already accepted the concept of mandatory assessed contributions, albeit in a limited way (Article 14.1). Assessed contributions for MSPs amount to approximately US\$470,000 on a scale that ranges from US\$ 110,000 (Japan) to US\$ 30 (smallest contributors). For the five-yearly Review Conference the range from highest to lowest contributor is roughly double those levels²³.

22 Should the Article 14.1-assessment scheme be extended beyond its current narrow application, and if so, what are the practicalities?

23 Dealing with the practicalities first, it is clear that several formal matters would need to be resolved. If the costs to which assessments would be applied were extended beyond MSPs to include, say, the costs of all meetings (Standing Committees, Co-ordinating Committee, parallel process on victim assistance etc), an immediate practical reality is that the providers of these services are two quite separate entities, the UN and GICHD respectively. How would States Parties be billed in such circumstances? By whom? Should the providers be somehow merged? Should a new institution be constituted? Finding answers to these questions is, of course, relevant to the section of this report that deals with the institutional framework of the ISU.

24 Moreover, extending the ambit of Article 14 to cover costs beyond those arising from MSPs would require an amendment to the APMBC. Article 13 prescribes the

²³ Part I paragraphs 88-90

procedure for amending the Convention. It requires that amendments be adopted at an Amendment Conference by a majority of two-thirds of the States Parties present and voting.

25 For instance, a new sub-paragraph could be added to Article 14 to the effect that the costs of meetings not covered by Article 14.1, as well as other defined operational costs arising from the ISU's core activities, would also be subject to mandatory assessed contributions based on the UN scale of assessment adjusted appropriately. Like any amendment to the APMBC, such a change would enter force only when a majority of States Parties had deposited their instruments of acceptance. For the remaining States Parties, the amendment would not enter into force until they had deposited their instruments of acceptance.

26 A hiatus would thus exist until all States Parties had formally accepted the amendment. Making and collecting assessed contributions during that hiatus would be a complex and clumsy matter. Liability for the costs of MSPs arising under Article 14.1 would continue to exist for all States Parties. Liability for costs defined under the new sub-paragraph would arise in a staggered manner, depending on entry into force of the provision for each APMBC State Party on completion of their domestic procedures for accepting the amendment. If they chose not to accept the amendment, they would remain bound by the original Article 14.1. Two scales of assessment would therefore be needed.

27 Is it possible to extend the scope of the current mandatory assessment in a manner that falls short of amending the Convention? In theory, the States Parties could reach an understanding that amounted to a willingness to *interpret* the coverage of Article 14.1 more broadly than its exact terms. For example, the States Parties to the BWC have developed "Additional Understandings And Agreements Reached By Review Conferences Relating To Each Article Of The Biological Weapons Convention". An "additional understanding or agreement" is defined by the BWC Parties as one which:

- interprets, defines or elaborates the meaning or scope of a provision of the Convention; or
- provides instructions, guidelines or recommendations on how a provision should be implemented.

But on an aspect as fundamental as funding, such a device could only be implemented if there were no objection by any State Party. It is inconceivable that an informal understanding to interpret a treaty obligation could be instituted if a State Party found it unacceptable, unless some opt-out procedure was agreed. This could be explored.

28 While there is widespread support for extending the scope of assessed contributions, that support is not universal. Resistance to any expansion of the notion of mandatory contributions has been expressed in several different ways. For some States Parties, their governments are simply not receptive to new commitments, even small ones, at a time when they are trying to reduce public expenditure. For others, such a scheme would be unattractive if it was complicated and time-consuming to introduce, or if it put at risk certain aspects of the status quo such as the Swiss indirect contribution through the GICHD.

29 Some Parties, developed and developing, have expressed concerns about what an extended application of the scale of assessments would mean in monetary terms. Applied to the current budget (US\$ 1,161,000) plus the expected cost of the annual MSP (US\$ 470,000), the result produces extremes of US\$ 260,000 (Japan at 16.624%) and US\$ 80 (least developed countries (LDCs) at 0.001%). The budget shares of countries such as Canada, France, Germany, Italy, Mexico, Spain and the UK would be in a range of roughly US\$ 140,000 to US\$ 60,000. Middle level developing countries who contribute about 0.01% under the UN scale of assessments would be liable for US\$ 190.

30 Increases to current individual contribution levels that would result from an extension of the mandatory scale of assessments would be comparatively modest spread across the States Parties. And, of course, it would be possible to tailor the scale in such a way as to impose floors, below which LDCs would not be required to contribute at all, and ceilings to reduce the impact at the upper end of the scale. Even the UN scale itself contains floors – 0.001% for LDCs, and ceilings – 22% for the US²⁴. Any such modifications would result in a slight increase in the contributions of all other Parties.

31 Alternatively, to ease the burdens both of calculating the level of contributions under such a scale and of collecting very small amounts (or following up arrears), a simplified scale of units could be devised. The permutations are endless, and could involve elements of self-selection by a Party as to the contribution percentage to be applied to it. In any event, the implementation of cross-the-board mandatory assessed contributions need not preclude the making of additional, voluntary contributions²⁵. Even voluntary contributions could be made the subject of scheme whereby a standard level was prescribed informally and States Parties were invited to subscribe at that level. If they chose to contribute at higher or lower levels they would, of course, be entirely free to do so.

32 A number of mine-affected States recognised that the individual burden of an extension of the catchment area for assessed contributions would be negligible. More importantly, none saw a difficulty in persuading their authorities to increase the existing line in their national budgets accordingly. As one such Party expressed it, in order to receive assistance from other States, the need for a measure of “self-help” is seen as a natural part of taking ownership of the problem.

33 Some Parties are constrained by national practices from making voluntary contributions to international organisations. For such States a mandatory scale of assessment (as under Article 14.1) is their only vehicle for contributing to APMBC activities beyond MSPs and Review Conferences. Other States were less sanguine about their ability to argue for increasing their assessed contributions above current (Article 14.1) levels, and others were wary about changing the status quo for various reasons.

²⁴ A/RES/64/248. Under this scale, Japan is assessed at 12.53%.

²⁵ Such an approach is used by the Parties to the Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR), financial regulation 7.

34 Reasons against making changes to the current system of funding the ISU included:

- There was greater scope for augmenting existing voluntary funding through targeted efforts either amongst Parties through mechanisms such as a high-level “Friends of the Convention” group or more broadly to sympathetic foundations and other potential benefactors. Additional staff resources might be warranted to carry out or support fund-raising activities.
- The relative blurring of administrative and implementation (or “field”) costs under the existing system suits those who fear that any delineation of those categories would complicate their efforts to secure voluntary funding. This is based on the reality that taxpayers are generally more positive to public funds being applied in the field than they are towards running international institutions.
- A sense of inappropriateness, given the deliberately limited ambitions for the ISU at the outset, to make its financial basis more concrete. The Unit should be seen as an informal support mechanism, albeit a very useful one, which in the event of achieving a mine-free world would ultimately be scaled down.
- A concern that any extended coverage of the scale of assessments would make it harder to persuade national financial authorities of the desirability of funding project-based mine action under the APMBC (or generally) or other ad hoc voluntary contributions.

35 On this last point, the growth of direct project-based funding of mine ban objectives as noted in the Preliminary Report²⁶ has given rise to concerns about both the implications for the Unit Director’s all ready heavy workload and also the transparency surrounding the taking on of such undertakings. These concerns, however, appear to have abated, and in the case of transparency have been addressed squarely in the Unit Director’s “Update on the ISU’s activities and finances” which he presented to the General Status and Operation Standing Committee on 21 June.

36 To return to the question of the acceptability of an extended reach for compulsory, assessed contributions, for some Parties any such reform would have to be coupled with some or all of the following measures:

- Development of more involvement by States Parties in the elaboration of the budget,
- Fuller debate of the budget and work plan - i.e., priority-setting - by MSPs,
- The instigation of a rule of zero net growth in the budget,
- The realignment of the mandate of the ISU to its 2001 terms, and
- Rationalisation of the activities of the ISU and, if necessary, of staffing levels.

37 Imposing greater fiscal disciplines was seen by some, in any event, as inevitable in current circumstances. In the view of one State Party, the consequences of the near deficit in 2009 are twofold. First, the ISU henceforth should adopt as a matter of course a conservative approach to carrying out its tasks, confining them within actual or promised

²⁶ Part I paragraphs 38-45.

funding levels. Secondly, no increase in the budget for the following year should be proposed in the absence of the clearest possible indications that additional funding, over and above that *actually* collected the previous year, would become available. (Note, however, that the 27% increase in the 2010 budget over that of 2009 stemmed from inclusion of an element (victim assistance advisory services) that had previously been funded by several Parties on a project basis outside the VTF²⁷ (albeit through the GICHD).)

(e) Hybrid approaches

38 The previous section of this report deals with the possibility of extending the system of mandatory assessed contributions beyond coverage of the costs of MSPs to cover the funding of all activities currently supported by the VTF. In the event that the ISU were to be established as a stand-alone body, costs of rent and other logistical support provided by the GICHD would also have to be met.

39 Suggestions have been made, however, for developing systems of contributions that would entail a mix of compulsory and voluntary or project funding. One idea put forward was to take a four-tiered approach to the budget. The first tier – the funding of MSPs under Article 14.1 – already exists. The second and third tiers would result from a division of activities currently funded through the VTF. The fourth tier would be the ongoing administrative and logistical support of the GICHD.

40 Under such a scheme, the activities currently funded through the VTF that would be sub-divided are as follows. One set would cover the costs of organisational support for States Parties in general – essentially related to the ISU’s support for Parties for Geneva-based meetings other than MSPs. The first and second tiers, in essence, would cover the costs of supporting the **collective** activities of the Parties – the logistics of their various meetings and the administration of the ISU.

41 The other set of VTF-funded activities (third tier) would have a “field” focus. That is, it would cover the costs of supporting the implementation activities of **individual** States Parties especially those affected by anti-personnel landmines. Naturally, all Parties have an interest in supporting such activities, and those “in a position to do so” in the terms of Article 6 have funded field implementation activities through their voluntary contributions and in several cases through sponsoring specific projects²⁸.

42 The ISU Director’s “Update on the ISU’s activities and finances” referred to earlier, points the way towards such a delineation of the core work of the Unit currently funded through the VTF. In essence, the subdivisions identified in the Director’s “Update” illustrate, activity by activity, the distinction drawn between collective and field activities in the preceding paragraphs. The relevant extract from his paper is attached as **annex 3** to Part II of the Report.

²⁷ See Part I, paragraph 57, second bullet point

²⁸ Part I paragraphs 38-45.

43 How would these tiers or sub-divisions be funded? For the Parties that favour a stand-alone ISU independent of the GICHD, the system of mandatory assessed contributions would apply to all four tiers. In that event, the utility of tiers two and three would essentially be confined to shedding greater light on the make-up of the budget.

44 For others, assessed contributions would be applied just to the first two tiers. The third tier would be funded, as of now, by voluntary contributions. The GICHD's contribution would be affected only to the extent that the scale of assessments would not be applied to Switzerland for so long as it continued to make its "in kind" contribution through the Centre.

45 A variation on this theme would be for the States Parties to divide the work of the ISU into categories of "essential" and "desirable" activities. Under such a prioritisation, assessed contributions would be applied to the former, while funding for the latter would be drawn from voluntary sources. (Incidentally, the budget of the Chemical Weapons Convention draws a distinction between administrative and other costs on the one hand, and those relating to verification activities on the other²⁹. That is, it distinguishes between administrative and substantive aspects of implementation. Mandatory contributions apply to both areas, but the distinction ensures greater transparency in the use of funds.)

(f) Status quo or thereabouts

46 Other variations suggested during this evaluation have a closer relationship with the status quo. For example, there would be no extension of the coverage of assessed contributions, but the dichotomy mentioned in the previous paragraph of distinguishing between essential and desirable activities would be more deliberately applied by the States Parties. This active determination of priority setting would guide expenditure by the ISU until such time as the States Parties had cause to revise their priorities.

47 Circumstances warranting an updating of priorities might include:

- Improved, or deteriorating, economic circumstances,
- A change of emphasis in implementation needs (e.g., a re-balancing of priorities between victim assistance and mine clearance, i.e., Article 5 extension requests), or
- Opportunities for institutional synergies.

48 Another way of approaching such a rationalisation, as favoured by several Parties, is not only to classify the activities of the ISU in the manner just described but also to determine which should be placed on a back burner pending more certain funding or ceased altogether. This leads directly into the next chapter of the evaluation.

²⁹ Chemical Weapons Convention article VIII.7.

Tasks and Responsibilities of the ISU

a) Revision of the Mandate

49 The Preliminary Report analysed in some depth the ISU's mandate of 2001 and the growth of demands on the Unit since. In the light of the dynamic nature of the APMBC and the growth of its membership by 42%, the question was asked whether the original mandate remains valid ten years later³⁰.

50 Subsequent consultations have shown that the views of States Parties are divided on this question. Some prefer a liberal approach, meaning that the expressions by the Parties of their priorities especially through the Nairobi and Cartagena Action Plans should be read alongside the 2001 mandate.

51 Others take a more literal approach. They do not seek to diminish the standing of the Action Plans but they believe that in straitened economic circumstances, the original rationale needs to be re-asserted and the mandate updated. Many Parties, whether in the liberal or literal camps, believe that in any event the mandate should at least be *reviewed*. Others who are more neutral on this issue are dubious about the practical benefits of such a review.

52 Compared to the ISU's Work Plan as reflected in the 2010 budget³¹, the original mandate³² is quite mechanical in nature. Indeed, it reflects a literal translation of the ISU's actual title. In other words, it is an implementation *support* unit, akin to treaty bodies such as the ISUs of the Biological Weapons Convention (BWC) and the Convention on Conventional Weapons (CCW). This is in contrast to the broader concept that would be evoked by "implementation unit" or implementation organisation such as the secretariats established by the Chemical Weapons Convention (CWC) and the Comprehensive Test Ban Treaty (CTBT).

53 Notwithstanding the small size of the ISU, that qualification is seen by several Parties as significant. Nonetheless, beyond the view that matters such as mine clearance and victim assistance should be the direct responsibility of States, no specific rationalisations of the Unit's activities were proposed to the consultant.

54 Neither victim assistance nor mine clearance (Article 5 extension requests) is mentioned in the original mandate. In the 2010 Work Plan, the ISU's activities devoted to those central planks of the Convention exceed 50%. As noted previously, in 2009 the ISU covered the costs of its victim assistance advisory work from project funds provided

³⁰ Part I paragraph 33.

³¹ Ibid Table 4, p.14.

³² Ibid Table 1, p.5

by Australia, Norway and Switzerland³³. The *source* of that assistance in 2009 is not contentious. But notwithstanding the high priority attached to victim assistance in the Cartagena Action Plan³⁴, the determination of the Co-ordinating Committee to make a core programmatic area of work at a time of budgetary uncertainty is regarded by some Parties as risky, if not premature.

55 Resolving this area of contention is beyond the scope of the consultant's contribution to the evaluation. But it needs to be recorded that the *role* of the ISU in conducting victim assistance advisory activities is also a matter of contention. On the one hand, as noted earlier, many mine-affected States deeply value the Unit's involvement in this area. They view this function as an intrinsic part of the ISU's implementation activities, and would like to see it expanded, especially in order to facilitate follow-up visits to those Parties. On the other hand, some stakeholders fear that the ISU's increased activities in this area are beginning to impinge on a role traditionally provided mainly by Non-Governmental Organisations and thus risk impairing the sense of partnership on which the APMBC is based. The notion of making the victim assistance work of the ISU a stand-alone activity, funded by dedicated voluntary contributions, was also expressed.

56 These various views would need to be weighed by the States Parties in the event that budgetary pressures required a re-prioritisation of the ISU's overall activities and expenditure. Similarly, they would need to be weighed if after a review of the ISU's mandate a decision was taken to update it. It must be repeated here that in this regard, as recorded in the Preliminary Report, the modest beginnings of the ISU in 2001 had several rationales³⁵.

b) Effectiveness and efficiency of the ISU

57 One of the original rationales of the Parties was that resources should be concentrated on victim assistance and mine clearance in the field rather than on bureaucratic entities. While there are conflicting views as to the growth of the Unit's role on victim assistance-related support, no one interviewed in this evaluation asserted that the growth of the ISU itself has been at the expense of victim assistance and mine clearance activities in the field. On the face of it, the answer to the question whether over the years an imbalance has emerged between resources that are absorbed on matters of administration, as opposed to those available for implementation support in the broader sense, would seem thus to be in the negative or neutral thanks in part to the indirect Swiss "in kind" support, and in part also to the high levels of all-round knowledge and expertise built up within the Unit.

58 As noted at the outset of this report, the ISU is seen universally as a very motivated team, led by a Director with unparalleled knowledge of the work area and

³³ Ibid paragraph 38 (c). For the 2010 figures, see also "Update on the ISU's activities and finances", the ISU Director's paper of 21 June 2010.

³⁴ See paragraph 22, Part I

³⁵ Part I paragraphs 35 and 45.

organisational skills of the highest order. Highly efficient, focused, responsive, dedicated, supportive, well prepared – these terms were frequently used to describe the work of the Unit to the consultant. No criticism of any staff member was made.

59 Constructive suggestions, however, were put forward about the role of the ISU and some of its activities. Those suggestions were aimed essentially towards the Parties themselves rather than to the Unit. For instance, some stakeholders took the view that the Parties needed to take more ownership of the running of many of their meetings, especially those of the Standing Committees, relieving the Director to some degree from his prodigious efforts to script presidents, co-chairs and chairs of the various processes.

60 This suggestion is perhaps easier to make than to remedy. Tight time management of meetings requires skilled handling, and the script serves as a means of keeping the conduct of a meeting on track. The script, the use of which is in any event optional, also serves to provide a basis for writing the record of the meeting. And one of the original reasons for the ISU was to assist chairs from small Missions respond to the demands of running a meeting. Presidents and chairs that had availed themselves of the Unit's scripts were highly appreciative of them.

61 Nonetheless, there exists a concern that scripting especially of informal meetings, albeit for sound reasons, risks inhibiting healthy debate. The spirit of co-operation for which the APMBC is noted will not be jeopardised, it is argued, by healthy debate. Indeed, on matters, for example, of suspected non-compliance, it might do a disservice to the Convention if concerns were not openly aired particularly in the informal atmosphere of intersessional meetings. On the other hand, there have been instances where the script has ensured that sensitive issues have been put to the meeting when they might otherwise have been by-passed.

62 Of greater concern to some stakeholders is the risk that unless States Parties take fuller ownership for running their meetings they will in effect create a vacuum on matters of substance that could be filled by the manner in which a given meeting is scripted, conducted and recorded. The preparations for and handling of Article 5 extension requests was cited as a case in point, although the development of the eventual procedure was undoubtedly a contestable one. These observations are made in connection with the second rationale behind creating a modest ISU - that it should not usurp in any manner the role of States Parties³⁶. But, to be quite clear, these points entail no suggestion that that is the case. As already mentioned in paragraph 59, they are directed towards the States Parties rather than the Unit.

c) Structure of the ISU

63 A concern of a structural kind is the pivotal nature of the role of the Director of the Unit. Although all staff members of the ISU are seen as highly competent, Mr Brinkert's experience and organisational skills are, as already noted, exceptional.

³⁶ Part I paragraphs 35 and 45.

Modern communications mean that the need for him to delegate his responsibilities during his absences on business or leave is negligible. Nonetheless, the absence of a fully groomed understudy to deputise for him is seen by some as a risk to the continued smooth implementation of the Convention.

64 Another idea of a structural nature that was suggested during the consultations relates to the lack of an advisory body from which guidance could be sought or offered to the Director of the Unit. The Coordinating Committee is not seen as fulfilling this role in existing circumstances by virtue of its dependence on the inputs of the ISU Director in carrying out its tasks. This suggestion is mentioned because it is a reflection of the gradual growth in the depth and spread of the Director's responsibilities and their complexity, and the lack of deputy director capacity in the Unit.

65 In part, too, this notion reflects a more fundamental consideration as to the role of the Director. The ISU was established by States Parties to be responsible to them - that is, to governments - for assisting Parties to implement the Convention according to their agreed priorities. Nonetheless, the sense of partnership that runs beyond Parties to civil society and inter-governmental organisations especially the Red Cross and the UN that created the APMBC still runs deeply in its veins.

66 The point here is that there is an expectation that the Unit Director's support to States Parties particularly through the guidance provided to presiding officers will reflect, as independently as the position allows, the sense of partnership that underpins the treaty. A governing body representative of all stakeholders but having an advisory role rather than involvement in day-to-day or intersessional business might help impart that sense of partnership in a manner not achieved by the similarly representative Co-ordinating Committee. (As pointed out in the Preliminary Report³⁷, the consultant believes that it is beyond his mandate to offer options relating to the operation of the Convention as a whole including the role of the Coordinating Committee.)

(d) Size of the ISU

67 There are currently four full-time members of the Unit. In addition, there are two part-time staff, the Implementation Support Specialist (80%) and the Administrative Assistant number (50%)³⁸. Their combined salaries, as costed in the 2010 budget, total US\$ 733,000³⁹. Payroll contributions (for social welfare) by the GICHD account for an additional US\$ 154,000. In its first full year of operation, the comparable figures for the 2.5-person ISU were US\$ 323,000 and US\$ 54,000 respectively.

68 The ISUs of the BWC (three staff) and the CCW (two staff) are more recent in origin. Their founding documents are attached as **annexes 4 and 5**. Those two ISUs support treaties that have 163 and 112 parties respectively, although the CCW has a

³⁷ Ibid paragraph 66.

³⁸ Part I Table 3, p.13.

³⁹ Ibid Annex B.

number of legally binding adjuncts, the Parties to which number between 67 for the latest (Protocol V) and 110 for the first (Protocol I). The budgets of those two ISUs are approximately:

- US\$ 720,000 inclusive of the costs of three BWC ISU staff and 10 days of meetings of States Parties, and
- US\$ 1,300,000 for the estimated costs of two CCW staff of the new ISU (to be recruited) and 20 days of meetings respectively (Convention and Protocols).

Neither of these totals includes the costs of the Review Conferences for each treaty both of which will take place in 2011.

69 The staff figures cited for the BWC and CCW ISUs do not include *any* administrative staff. The administrative services required by those two Units are provided by the United Nations, through UNODA, Geneva. The costs of those services are also absorbed by the UN except for a service charge of 13% (included in the totals listed in the previous paragraph) levied by the UN Office, Geneva (UNOG) on the budgets approved by Meetings of States Parties of the respective treaties.

70 Likewise, the APMBC ISU draws a measure of administrative support from the GICHD as part of the indirect Swiss contribution to the Unit. This is set out in the Preliminary Report⁴⁰ and covers travel services, accounting, financial controlling, reporting, and oversight including of the Director's travel claims, and human resources management including administration for staff of the requirements of the Swiss social security and pension system.

71 Given the different stages of development of these three ISU, their varying missions and the differing sources of their administrative support, precise comparisons are difficult. The CCW ISU has yet to recruit its two staff, while the BWC ISU is not yet four years old. Any expansion of the latter would be directed towards intensifying outreach activities, the equivalent of "Communication and liaison" of the mandate of the APMBC's ISU, a classic treaty implementation activity. The fact that two of the three ISUs are currently housed and supported by UNODA, an Office which also plays a role in support of the APMBC ISU, is a matter for treatment under the next heading in this report, the institutional framework for the Unit.

72 There is no objective formula that can be used to measure the value for money of an implementation support unit. The full costs of the ISU – like those of its BWC and CCW counterparts - are masked to an extent by the cost-structures of the host organisation. In the final analysis, the need for 5.3 fulltime equivalent staff at a total cost in 2010 of almost US\$ 890,000 (compared to nearly US\$ 380,000 in 2001) is a matter of affordability for the States Parties. On the strength of the range of views canvassed from a quarter of the membership of the treaty and other stakeholders, most are content with the status quo. Some would like to see an increase in staffing levels, while several believe that this evaluation process offers an opportunity for a hard-headed review of the **mandate** of the ISU – and by implication a rationalisation of staffing numbers.

⁴⁰ Ibid paragraphs 73-74.

73 It needs to be reiterated that no interlocutors proposed a reduction in staffing levels. Rather, there is seen to be a need for States Parties collectively to take a firmer approach to determining future staff levels. As already noted, this means, in essence, that MSPs rather than the Coordinating Committee should be involved in all decisions that affect staff levels.

Institutional Framework for the ISU

a) Introduction

74 This section of the evaluation covers the options available to the States Parties for the optimal organisational status for the ISU nine years after its establishment. Those options range from the status quo – continuation of the GICHD’s “maternal” support, “adoption” by other possible hosts such as UNODA, or, at the other end of the spectrum “adulthood” or full independence.

75 The parent-child analogy has its limitations. Any change in status resulting from the evaluation would not be instantaneous and would require time for careful consideration by the States Parties and other partners before implementation. Today’s 9-year old child might be a little older before any major change in the status quo could be effected.

76 The case for full independence from the Centre is based on principle. Reflecting the status of the APMBC as a highly subscribed treaty and its international significance, the argument is that the ISU has come of age and warrants its own international legal personality. Placing the Unit on a stand-alone basis is not regarded as necessitating a larger body. Even if an independent ISU chose to supplement its current staffing levels to the level notionally allocated to staffing support by the GICHD in 2009 (see **annex 6**), the annual cost would be less than US\$ 150,000. That sum, however, covers the combined services of several GICHD staff who could not necessarily be “replaced” by a sole new member of the Unit although it might be sufficient in the hands of the ISU for contracting out such services including travel arrangements. In any event, it would be in the hands of the States Parties to ensure through budgetary controls that a stand-alone ISU did not grow beyond their needs and wishes.

77 There is no doubt that the ISU has become a respected secretariat of a treaty that has been ratified by over 80% of all nations and is a major plank of international humanitarian law. The Unit has established a reputation for energetic and effective implementation of the Convention, performing multifaceted tasks from organisation of meetings to practical support and advice to mine-affected Parties in the implementation of the treaty in pursuit of a major humanitarian objective, a mine-free world with all its resultant humanitarian and developmental benefits. It is more appropriate, the argument goes, for the ISU to stand on its own feet than to continue to be part of a Swiss

foundation, albeit one with respected mine action credentials and a Council comprising 17 States⁴¹.

78 The case for the status quo is based not so much on a divergence of views about the international standing of the ISU but on pragmatism. Independence of the ISU would come at a price. Are States Parties prepared to pay that price? Some clearly are. What would be that price? What would be the practical benefits?

b) The GICHD

79 The various facets of the support of the Swiss Government through its assistance to the GICHD were set out in depth in the Preliminary Report⁴². In the GICHD's most recent estimation (**annex 6**), Swiss support amounted to US\$ 365,000. This sum does not include US\$ 48,000 for the Sponsorship programme and US\$ 61,000 for the Intersessional meetings, two areas of assistance by the Centre that predate the setting up of the ISU. The comparable figures for 2010 are estimated to be US\$ 422,000 plus US\$ 38,000 (Sponsorship Programme) and US\$ 125,000 (Intersessionals including interpretation), a total for 2010 of US\$ 585,000.

80 Whether or not this level of Swiss support is viewed in total or as excluding the costs of underpinning the Sponsorship Programme and the Intersessionals, it amounts to approximately 27% of the overall costs of APMBC activities in 2010. Even excluding the Sponsorship Programme and Intersessionals, the Swiss contribution would cover 21% of the costs of the ISU.

81 To view it from another perspective, if this support had been made available in 2009 in cash instead of kind it would have represented a third of the contributions made to the VTF that year. Expressed in terms of the impact on States Parties if such an additional amount had to be secured through a system of mandatory assessed contributions, it would translate into highs and lows of US\$ 58,400 (for Japan) and US\$ 35 (for LDCs) respectively per annum.

82 It should be made clear, however, that the *value* placed on this in-kind support is that ascribed to it by the Centre rather than by the ISU. In that sense, it is a notional figure. It is based on an extrapolation of the GICHD's own costs in renting premises, providing services, covering the salaries of the Centre's relevant staff and utility costs. As it is not "cash-in-the-hand" of the Unit, it does not necessarily reflect ISU spending priorities. Nor is it discounted by the reciprocal value that the GICHD derives both from the Unit's inputs to the Centre and from the ISU's international profile and standing.

83 Advantages of the GICHD's hosting of the ISU are not confined to the logistical, administrative or staffing support identified in paragraph 70 of this Part or to the other

⁴¹ See also paragraph 67, part I for a fuller description of the status of the GICHD's Council of Foundation

⁴² Part I paragraphs 67-85.

support listed in Part I⁴³. A benefit on which it is difficult to put a price stems from the ready access of the ISU to the mine action expertise within the GICHD and vice-versa. It could be expected, however, that that expertise would continue to be made available on an as needs basis were the ISU to become independent. In other words, there are mutual benefits that stem from the current relationship on mine action matters: there is no reason why that would change if the two bodies were separated organisationally.

84 States Parties also benefit from the reality that the GICHD in its hosting role cushions the ISU's Director from the impact of many day-to-day administrative and logistical demands that would impinge if the ISU were to become fully independent of the Centre, an advantage that would be offset to some extent, however, by being released from the GICHD's administrative requirements. The "opportunity costs" that would result from one-off "start-up" activities such as finding and leasing office accommodation, equipping it, installing IT and other office systems, hiring or contracting out some human resource and travel support, and agreeing with the Swiss and cantonal authorities on the legal and taxation formalities of the ISU's new status, would also have to be factored in.

85 On the other hand, independence would obviate the current bifurcation under which the Unit Director is responsible to the States Parties on matters of substance and to the Centre's Director on matters of Unit administration⁴⁴. As paragraph 72 of the Preliminary Report noted, the GICHD has asserted that: "*Neither the GICHD Director nor the GICHD Council of Foundation has any authority over the substantive activities of the ISU*"⁴⁵. To ensure that there is no confusion with the original Mandate, this aspect of the institutional framework of the ISU should be documented in the formal relationship between the GICHD and ISU Directors, clearly enunciating that the latter's "masters" on all matters relating to the implementation of the Convention are the States Parties.

c) Synergies

86 The possibility of positioning the ISU to derive benefits from new synergies was a refrain voiced constantly during the consultations. The rationale is that synergies may alleviate concerns about financial pressures that, as already noted, have been an undercurrent of this evaluation. The context is the opportunity for forging institutional links with the new Convention on Cluster Munitions (CCM). Given that the CCM States Parties are beginning to turn their attention to the nature of implementation support for that Convention, this question is very much a live one. The GICHD have been active in

⁴³ Ibid paragraph 73. Note also that under the original mandate, it is provided that the Director of the GICHD, or a representative, shall participate as an observer at meetings of the Coordinating Committee to ensure effective and close communications and coordination" a responsibility that the Director proposes to exercise in person for resource planning and resource utilisation purposes.

⁴⁴ Ibid paragraphs 77-82.

⁴⁵ GICHD paper of 31-03-2010: "Food for thoughts" on the establishment and hosting of an Implementation Support Unit (ISU CCM)"

arguing the case for hosting the CCM alongside the APMBC ISU. On its website,⁴⁶ the Centre says:

“The GICHD could be the appropriate organisation through which to provide enhanced implementation support to the CCM, building on existing knowledge, experience and a solid track record. There are many areas of common concern for the APMBC and the CCM. The hosting of an ISU CCM at the GICHD would enable the pooling of resources and the optimal use of synergies between the ISU CCM, the ISU APMBC, the Administration and Support Division and the Operations Division of the GICHD without impinging on the specific mandates of the two ISUs and their governance mechanisms. The strategic chart in the annex [see the website] shows the various interfaces of support and exchange”⁴⁷.

87 The consultant’s attention was drawn by the GICHD Director and several other stakeholders to the efforts recently made by the States Parties to the Basel, Rotterdam and Stockholm environmental treaties to merge their secretariats. Those treaties, like the APMBC and the CCM in the field of IHL, have common purposes related to protecting human health and the environment from the potentially harmful effects of hazardous chemicals and wastes. The three treaties have been ratified by 173, 134 and 170 States respectively. With a critical mass of approximately 130 States Parties bound by all three Conventions, focused efforts towards achieving synergies both in terms of joint secretariats and through holding simultaneous meetings to reduce venue and travel cost are beginning to reap dividends, although these have not been quantified. As the CCM grows in membership, this precedent may bear close scrutiny.

88 The question of implementation support for the CCM is a matter the Parties to that treaty have yet to address formally. To the extent that most of them - though not all - are also Parties to the APMBC, they will be aware of the considerations for and against establishing a CCM ISU as a stand-alone body. They will also be aware of the scope for possible organisational synergies if the GICHD were to house a CCM ISU as well as the APMBC Unit. But such synergies cannot be costed until decisions are made by the CCM States Parties. If a CCM ISU was established along similar lines to the APMBC ISU, and if the two Units were housed under the same roof (whether by the GICHD, the UN or some other organisation), they might be able to share some common administrative services. But these matters are necessarily speculative at this point.

89 What can be said about synergies is that to the extent that officials who attend meetings of two Conventions are often the same, costs can be saved by holding meetings back-to-back. These savings – mainly in travel costs for delegates – will accrue to the States attending rather than to the respective ISUs. It should also be noted that synergies might relate not only to cost saving. Substantive benefits, such as enhancing effectiveness of the delivery of victim assistance through the minimisation of duplication of effort, may also occur. And, as a final observation, synergies can be forged between the two Conventions irrespective of their institutional framework or frameworks.

⁴⁶ <http://www.gichd.org/fileadmin/pdf/CCM/CCM-ISU-Food-for-thoughts-31Mar2010.pdf>

⁴⁷ "Food for thoughts" on the establishment and hosting of an Implementation Support Unit (ISU CCM).

d) Other potential hosts for the ISU

90 In the event that the APMBC States Parties opt not to set up the ISU as a stand-alone entity, what other options arise? One possibility suggested by some interlocutors would be to bring the ISU under the wing of the UN Office for Disarmament Affairs, Geneva (UNODA). (No other possible hosts of the ISU as an alternative to the status quo were suggested to the consultant during this evaluation.)

91 The existing relationship of the APMBC States Parties with UNODA is set out in the Preliminary Report⁴⁸. As well as overseeing the servicing of formal Meetings of the States Parties and administering the recovery of their costs under the UN scale of assessment (calibrated to APMBC membership), UNODA's involvement extends to handling Article 7 reports and providing Conference officer services. The latter role has been drawn on by presidents to augment advice on substance and tactics provided by the Director of the ISU.

92 As noted earlier, UNODA already houses two other ISUs – one for the BWC and the other for the CCW and its Protocols. The terms in which the two Units were established are similar⁴⁹. Both ISUs were set up to be “within the Geneva Branch of” UNODA. The BWC ISU is funded by States Parties for the period from 2007-2011, at which point an evaluation will be conducted and its mandate reviewed before its future is determined. The CCW ISU is to be funded by the States Parties “through the estimated costs of the CCW meetings”. It will carry out its work “under the authority of the annual Meetings of the High Contracting Parties to the Convention”.

93 UNODA's strengths as a possible host to the APMBC ISU have several dimensions. It has developed a close relationship with the ISU through carrying out its responsibilities for reporting and for organising MSPs (including Review Conferences). Through the latter responsibility, it enjoys a close relationship with the UN interpretation, translation, documentation and conference service staff that deliver MSP services for all three ISUs, and employs its own documentation officer who is familiar with the work of the APMBC and the CCW.

94 UNODA's policy staff are well-versed in relevant disarmament issues, in supporting meetings, arranging for assessed contributions and budgets. On matters of substance they are active members of the UN Mine Action Team (UNMAT). UNMAT's participation in the CCW, CCM and the APMBC bring synergies of substance for all three treaties.

95 In addition, UNODA's own administrative staff are highly able and experienced. However, in the decision of the States Parties of the CCW to create an ISU it was noted that “the increased work relating to the CCW and its Protocols could benefit from a

⁴⁸ Part I paragraphs 86-91.

⁴⁹ See annexes 5 and 6 of this Part of the report

strengthened UNODA, Geneva branch”. This rider reflects concerns about the pressures being placed on UNODA especially in terms of administrative support. Implicit also is the recognition that UNODA must rely for human resources and travel support from UNOG. Its inability to process such matters itself is burdensome and time-consuming. As already noted, each ISU is charged 13% for “programme support” costs by UNOG, levied on “conference servicing requirements” and all other costs of the Units that are met directly and agreed by States Parties.

96 A decision by the States Parties to move the ISU from the GICHD to UNODA, Geneva would depend on several key considerations. Would the costs associated with making such a change be offset by synergies harnessed in the change of host? Would the indirect Swiss funding of the ISU through the GICHD be monetarised and diverted to UNODA, an Office of the United Nations Secretariat (albeit one based in Geneva)?

97 And what would be the administrative advantages, if any, of switching from a small, focused body like the GICHD to a large and therefore comparatively unwieldy organization like the UN? In the event that the Parties opted to implement a mandatory scale of assessments to replace the VTF, would the extension of compulsory assessments beyond the costs of MSPs more sensibly be housed in UNODA as an extension of its existing Article 14.1 responsibility?

98 On the face of it, the answers to these questions come down to affordability, that is, as to whether the start-up costs arising from a change of host could be justified and secured in the current economic environment. This, of course, is a similar dichotomy to that which arises in considering whether the institutional framework for the ISU should remain much as it is currently or whether as a matter of principle it should be established on an independent footing.

e) Identity of the ISU

99 An issue associated with the international standing of the ISU that arose throughout the consultations is the identity the Unit projects in the international community⁵⁰. For some States Parties this matter can most effectively be resolved by setting up the Unit independently of the GICHD or any other host. For others, the manner in which the ISU presents itself on the international stage is simply a matter of detail of identity, one on which progressive changes have been made over time including through use of a distinctive logo for the Convention.

100 The nub of this issue is the extent to which, to an objective observer, the host organisation obscures the identity of the ISU. The aspects of identity that are in play here are the following:

- The functional relationship between the Director of the GICHD and the Director of the ISU,

⁵⁰ Part I paragraphs 76-82.

- Website,
- Email addresses,
- Letterheads,
- Business cards,
- Media releases, and
- Financial reporting.

101 The position of head of the ISU has already been upgraded from “Manager” to “Director” by the Director, GICHD. But the question here is not the designation of the position but its projection. An idea reflected in the Preliminary Report – and widely supported in subsequent consultations - is that States Parties might wish to receive annually from the Unit Director a formal report on his responsibilities alongside, and comparable in status to, the annual administrative report that would continue to be furnished by the Director of the GICHD.

102 As to the ISU’s website, a Google search conducted with the words “Mine Ban ISU” or “landmines ISU” duly led to www.apminebanconvention.org. Similarly, “Mine Ban intersessionals”, “Mine Ban Standing Committees” or “Mine Ban Meetings of States Parties” produced a result in which the same website featured in the top three sites. This was also the case even when searching with the words “GICHD ISU”. And on the GICHD’s homepage, there is a “shortcut” to the “AP Mine Ban Convention”, a link to the webpage listed earlier in this paragraph. While that webpage allows access to “Implementation Support Unit” *via* its index, the dominant subject is the Convention itself. In that sense, the APMBC has a website, while the ISU does not. This drawback warrants remedying in the next revamping of the site.

103 The only point to be made about letterheads, email addresses, business cards and media releases is that in all cases the organisation in question should be clearly identified as the ISU itself. Any references to the GICHD should be only in the context of the *address* of the ISU, rather than its institutional relationship. As alluded to in Part I, confusions can otherwise arise. For instance, a media release arranged by the ISU to laud Nicaragua’s mine free status emerged under the name of the GICHD rather than the ISU after a journalist from the Associated Press who was seeking supplementary information found himself referred to the Centre as the superior body to the ISU. Equally, it would help remove confusions over the respective roles of the GICHD and the ISU if the email addresses of staff of the Unit were in the name of the ISU rather than the GICHD.

104 In terms of financial reporting, there is scope in the GICHD’s Council of Foundation reporting for clearer delineation of funding for ISU-related activities notwithstanding Article 16 of the 2001 Agreement between the Centre and the States Parties. This is not an auditing issue – the accounts are audited by an external auditor – but a matter of differentiation. The question of a more distinct identity for the ISU has unfolded with the passage of time since the Agreement was signed, symptomatic of the Unit’s growing stature. Matters of symbolism should not be under-estimated if they allow the Unit to project a profile commensurate with the international character of the Mine Ban Convention. This need not be seen in itself as the thin end of the wedge

towards assertion of full independence from the GICHD – options for the future institutional framework for the ISU, including the need for updating the original Agreement, are a matter for the Parties to decide.

Options

105 The options that have been identified during the course of the consultations conducted with States Parties and other stakeholders during this evaluation are listed in an order that is intended to facilitate discussions in the open-ended Task Force that will make its recommendations to States Parties at the 10th MSP. The “default” option, that is, the option to retain the status quo unchanged, is listed first under the logic that it will be the point of departure for any changes the Task Force may wish to recommend to the current state of affairs.

106 Necessarily, there are overlaps among the options identified under the three headings of the terms of reference. The more far-reaching the option, the greater is the likelihood that the original Mandate and agreement with the GICHD would be affected.

107 Neither the options nor their order of listing is weighted in any way. Nor are any judgments made as to the timeframe in which any change might be implemented. Considerations of time are usually apparent from their context. The more complex the option available to States Parties, the more the Parties may need to deepen their consideration of the pros and cons of it. For instance, where the Task Force sees merit in a particular option but believes it needs fuller consideration, it is obviously open to it to recommend the initiation of a process to examine the option in greater depth.

108 Options identified by the consultant during his evaluation are the following:

1 Institutional framework for the ISU

- (a) **Status quo:** ISU remains with the GICHD – no changes (Part II, paragraphs 78 to 84).
- (b) **Status quo modified:** ISU remains with the GICHD, but with several changes
 - i) on formal reporting by the ISU Director (Part II, paragraph 101);
 - ii) on documenting the formal relationship between the GICHD and ISU Directors (Part II, paragraph 85);
 - iii) to enhance further the identity of the Unit to reflect its international role and standing (Part II, paragraphs 102 and 103).
- (c) **ISU is co-located with any unit established by the CCM:** for reasons of synergies identified in Part II, paragraphs 88 and 89.

(d) **ISU to be moved to within UNODA, Geneva:** for reason of synergies identified in Part II, paragraphs 92 to 94 including administration of any expansion of the system of mandatory assessed contributions – see options 2 (c) to (e).

(e) **ISU to be established as a stand-alone entity,** institutionally independent of any other entity with its own international legal personality (Part II, paragraphs 76 and 77).

2 The financing of the ISU

(a) **Status quo:** States Parties would continue to rely on the three sources of funding:

- i) voluntary contributions to the VTF,
- ii) mandatory assessed contributions under Article 14.1 to cover the costs of MSPs including Review Conferences, and
- iii) Switzerland’s indirect funding or “in kind” contribution provided through the GICHD’s support to the ISU).

(b) **Status quo modified:** States Parties would weigh the need to intensify fund-raising activities of the ISU and more broadly. For example, fund-raising is made an activity of the ISU requiring a new position or rationalisation of current staff priorities; States Parties establish a “Friends of the APMBC” for fund-raising; an intensified resource mobilisation strategy would be developed (see also Part II, paragraph 18 and the Preliminary Report paragraphs 48, 60, 64 (a) and (g)).

(c) **Hybrid funding variant A:** (see Part II, paragraphs 38 to 45). This option envisages an expansion of the existing system for covering the costs of MSPs through a mandatory assessed scale of contributions under Article 14.1. The system would be expanded to cover some but not all of the costs of the ISU currently covered by voluntary contributions. The three elements of hybrid variant A are:

- i) mandatory assessed scale of contributions to cover MSPs (Article 14.1) plus all costs associated with supporting other meetings,
- ii) voluntary funding to cover all substantive or “field” implementation activities including especially advisory services to mine-affected Parties, and
- iii) continuation of the GICHD’s “in kind” contribution.

(d) **Hybrid funding variant B:** (Part II, paragraphs 38 to 45). This option entails a merging of the first two elements of variant A. It would consist of just two strands of funding:

- i) mandatory assessed scale of contributions to cover MSPs, all costs associated with supporting other meetings, and all costs arising from substantive or “field” implementation activities including especially advisory services to mine-affected Parties, and
- ii) continuation of the “in kind” contribution through the GICHD.

(e) **Mandatory assessed scale of contributions to cover all activities of the ISU:** (Part II, paragraphs 19 and 43). If States Parties chose this option, they would presumably wish to leave open the possibility that States Parties could make voluntary contributions in cash or kind over and above their assessed contributions (Part II, paragraph 31).

3 The tasks and responsibilities of the ISU

(a) **Status quo:** No changes would be made to the Unit's task and responsibilities.

(b) **Status quo modified:** The ISU Director's status would be enhanced if the States Parties invited the incumbent to report formally to MSPs (Part II, paragraph 101; see also option 1 (b) i) above).

(c) **Expansion of the ISU:** To intensify its victim assistance advisory services especially to mine-affected Parties (Part II, paragraph 55) and to augment fund-raising activities (Part II, paragraph 34).

(d) **Priorities review variant A:** Invite the ISU Director to conduct or initiate a review of the Unit's activities to develop a list of priorities for the Unit in descending order of importance based on the States Parties' own determination of priorities as reflected in the Nairobi and Cartagena Action Plans. The purpose of the review would be to ensure maximum responsiveness of the States Parties in the event that financial circumstance

- i) either indicated scope for an expansion of the kind envisaged under option 3 (c),
- ii) or required a cut-back in activities.

The following variants of the options for reviewing the priorities of the ISU necessarily entail a review also of the 2001 Mandate. All three variants leave open the question of whether the review of priorities would lead to replacing the original Mandate or simply supplementing it with additional understandings.

(e) **Priorities review variant B:** Invite the ISU Director or small group of Parties and stakeholders to conduct a zero-based review of the tasks and responsibilities of the Unit with a view to realigning the Mandate of the ISU to its 2001 terms but taking into account the dynamic nature of the Convention as traced in the Preliminary Report (Part I, paragraphs 14 to 27).

(f) **Priorities review variant C:** Invite a small group of Parties and stakeholders to conduct a zero-based review of the tasks and responsibilities of the Unit with a view to realigning the Mandate of the ISU to its 2001 terms (Part II, paragraph 36).

Conclusion

109 Based on consultations with a significant number of States Parties and Stakeholders, there are high levels of satisfaction with the ISU in terms of its support for the objectives of the States Parties as they have evolved since the Unit's inception. Concerns exist about aspects of the Unit's financial underpinnings, and a range of suggestions have been put forward for addressing them and for refining or revamping its institutional framework. In the absence of a clear consensus on ways forward, the options will need careful assessment. The next phase is for the open-ended Task Force to conduct, in effect, a reality check on the current shape of the Unit, its financing and its institutional framework against the options identified by the consultant, with a view to making recommendations to the States Parties for the future of the ISU.

Tim Caughley
Independent Consultant
20 August 2010

ANNEXES

Annex 1

Consultations

- a) All States Parties and other stakeholders were invited in writing to contribute their views to the consultant. They were approached by letters despatched by the ISU on 11 and 24 March 2010 respectively. Oral invitations to provide views to the consultant were made at meetings with the Task Force on 10 March and 2 May and during the meeting of the [Standing Committee on the General Status and Operation of the Convention on 21 June](#).
- b) Forty-five States Parties were consulted *in person* or provided written views. Twenty-five of those States were represented by, or provided written inputs from, officials from capitals.
- c) Fifteen mine-affected States Parties were consulted, almost exclusively through their capital-based representatives who had come to Geneva for APMBC meetings.
- d) In view of the opportunities to consult Parties in Geneva, no travel was undertaken by the consultant, except to Berne.
- e) Direct, face-to-face consultations took place with various representatives of the ICBL, the ICRC, UNODA, UNDP, and UNMAS. Written views were received by the International Federation of the Red Cross and Red Crescent.
- f) Following individual approaches to them during the first week of May, the views of people who have had a close association with the ISU, including past MSP Chairs and Directors of the GICHD, were also solicited by the consultant.

All consultations took place on an “in confidence” basis. The views of all who were consulted, including written inputs, have been protected accordingly.

Examples of the use of mandatory assessed contributions

Anti-Personnel Mine Ban Convention (APMBC)

“Article 14

Costs

1. The costs of the Meetings of the States Parties, the Special Meetings of the States Parties, the Review Conferences and the Amendment Conferences shall be borne by the States Parties and States not parties to this Convention participating therein, in accordance with the United Nations scale of assessment adjusted appropriately.
2. The costs incurred by the Secretary-General of the United Nations under Articles 7 and 8 and the costs of any fact-finding mission shall be borne by the States Parties in accordance with the United Nations scale of assessment adjusted appropriately”.

Biological Weapons Convention (BWC)

There is no article in the treaty that deals with costs. The Rules of Procedure adopted for the most recent Review Conference (BWC/CONF.VI/6) state as to costs:

“Rule 12

The costs of the Review Conference, including the session of the Preparatory Committee, will be met by the States Parties to the Convention participating in the Review Conference in accordance with the United Nations assessment scale pro-rated to take into account differences between the United Nations membership and the number of States Parties participating in the Conference. States which have signed but not yet ratified the Convention and which accept the invitation to take part in the Review Conference as provided by rule 44.1 will share in the costs to the extent of their respective rates of assessment under the United Nations scale. For States Parties or signatories which are not members of the UN the share will be determined on the basis of the similarly pro-rated scale in force for determining this share in the activities in which they take part”.

Costs additional to BWC MSPs, including the new ISU, are similarly pro-rated.

Chemical Weapons Convention (CWC)

Article VIII.7 of the CWC states:

“The costs of the Organization's activities shall be paid by States Parties in accordance with the United Nations scale of assessment adjusted to take into account differences in membership between the United Nations and this Organization, and subject to the provisions of Articles IV and V. Financial contributions of States Parties to the Preparatory Commission shall be deducted in an appropriate way from their contributions to the regular budget. The budget of the Organization shall comprise two separate chapters, one relating to administrative and other costs, and one relating to verification costs”.

Cluster Munitions Convention (CCM)

“Article 14

Costs and administrative tasks

1. The costs of the Meetings of States Parties, the Review Conferences and the Amendment Conferences shall be borne by the States Parties and States not party to this Convention participating therein, in accordance with the United Nations scale of assessment adjusted appropriately.
2. The costs incurred by the Secretary-General of the United Nations under Articles 7 [transparency measures] and 8 [compliance] of this Convention shall be borne by the States Parties in accordance with the United Nations scale of assessment adjusted appropriately.
3. The performance by the Secretary-General of the United Nations of administrative tasks assigned to him or her under this Convention is subject to an appropriate United Nations mandate”.

As to paragraph 3, the normal procedure, including with the APMBC is that the UN Secretary-General is requested in annual UN General Assembly resolutions to “render the necessary assistance and to provide such services, including summary records, as may be required for” a specified event or series of events”.

Comprehensive Test Ban Treaty (CTBT)

Article II.9 provides that the “costs of the activities of the [CTBT] Organisation shall be met annually by the States Parties in accordance with the United Nations scale of assessments adjusted to take into account differences in membership between the United Nations and the Organisation”.

Convention on Certain Conventional Weapons (CCW)

Although there is nothing about costs in the CCW, the Rules of Procedure provide that costs are to be shared among the States Parties participating in CCW conferences, based upon the United Nations scale of assessment pro-rated to take into account the number of States Parties participating in the meetings.

The decision taken by the States Parties at their annual MSP in 2009, as recorded in the Final Report of that meeting (CCW/MSP/2009/5), states:

“35. The ISU will consist of two full-time staff members within the Geneva Branch of the United Nations Office for Disarmament Affairs and will be funded by the States through the estimated costs of the CCW meetings”.

Annex 3

The core work of the Implementation Support Unit

Extract from the ISU Director's paper, "Update on the ISU's activities and finances", 21 June 2010

Support to the implementation machinery	Implementation support to individual States Parties
	<ul style="list-style-type: none"> • Provide advice State Parties on matters related to implementation and compliance.
<ul style="list-style-type: none"> • Assist States Parties in maximising participation in the Convention's implementation processes 	<ul style="list-style-type: none"> • Assist States Parties in maximising participation in the Convention's implementation processes
<ul style="list-style-type: none"> • Provide strategic direction to Co-Chairs 	
<ul style="list-style-type: none"> • Provide strategic direction to the Coordinator of the Sponsorship Programme 	
	<ul style="list-style-type: none"> • Support States Parties in preparing transparency reports
<ul style="list-style-type: none"> • Lead seminars and provide training on understanding the Convention and its operations 	
<ul style="list-style-type: none"> • Support the President and individual States Parties in undertaking universalisation efforts 	<ul style="list-style-type: none"> • Support the President and individual States Parties in undertaking universalisation efforts
<ul style="list-style-type: none"> • Develop strategic responses to address the needs of small States Parties 	<ul style="list-style-type: none"> • Develop strategic responses to address the needs of small States Parties
<ul style="list-style-type: none"> • Provide advice on applying, in other areas, the lessons learned from implementing the Convention 	
<ul style="list-style-type: none"> • Supporting the President-Designate and the 10MSP host country in their preparations 	
<ul style="list-style-type: none"> • Continue to serve as the authoritative source of information on the Convention 	
<ul style="list-style-type: none"> • Maintain the Convention's Documentation Centre 	
	<ul style="list-style-type: none"> • Support States Parties with good victim assistance objectives in developing good plans
	<ul style="list-style-type: none"> • Support States Parties with underdeveloped objectives in developing more concrete objectives
	<ul style="list-style-type: none"> • Support States Parties with good plans in advancing implementation of these plans
	<ul style="list-style-type: none"> • Support States Parties that have engaged little to date in achieving a higher level of engagement
	<ul style="list-style-type: none"> • Support States Parties in developing monitoring mechanisms
	<ul style="list-style-type: none"> • Support States Parties in achieving greater clarity in understanding the nature / extent of one's obligations
	<ul style="list-style-type: none"> • Support States Parties in preparing Article 5 extension requests
	<ul style="list-style-type: none"> • Support States Parties in achieving and declaring completion of Article 5 implementation
<ul style="list-style-type: none"> • Provide the secretariat support required by the those mandated to analyse requests 	
<ul style="list-style-type: none"> • Acquire expert mine clearance, legal and diplomatic advice at the request of the analysing group 	
<ul style="list-style-type: none"> • Acquire working translations of requests submitted 	
<ul style="list-style-type: none"> • Make requests and other relevant documentation readily available 	
<ul style="list-style-type: none"> • Make information available in a professional manner. 	

BWC ISU**Decisions and Recommendations of the Sixth Review Conference, 2006, extract from Final Document BWC/CONF.VI/6**

“Implementation Support Unit

Taking into account the importance of providing administrative support to meetings agreed by the Review Conference as well as comprehensive implementation and universalisation of the Convention and the exchange of confidence-building measures, the Conference decides that an “Implementation Support Unit” (ISU) shall be established and will consist of three full time staff members within the Geneva Branch of the United Nations Department for Disarmament Affairs, funded by States Parties for the period from 2007-2011, to perform the following tasks:

A. Administrative support:

- (i) Providing administrative support to and preparing documentation for meetings agreed by the Review Conference;
- (ii) Facilitating communication among States Parties and, upon request, with international organizations;
- (iii) Facilitating, upon request, States Parties’ contacts with scientific and academic institutions, as well as non-governmental organizations;
- (iv) Serving as a focal point for submission of information by and to States Parties related to the Convention;
- (v) Supporting, as appropriate, the implementation by the States Parties of the decisions and recommendations of this Review Conference.

B. Confidence Building Measures:

- (i) Receiving and distributing confidence-building measures (CBMs) to/from States Parties;
- (ii) Sending information notices to States Parties regarding their annual submissions;
- (iii) Compiling and distributing data on CBMs and informing on participation at each Meeting of States Parties;
- (iv) Developing and maintaining a secure website on CBMs to be accessible only to States Parties;
- (v) Serving as an information exchange point for assistance related to preparation of CBMs;
- (vi) Facilitating activities to promote participation in the CBM process, as agreed by the States Parties.

The Unit's mandate will be limited to the above-mentioned tasks. The Unit will submit a concise annual written report to all States Parties on its activities to implement this mandate. The Unit's performance will be evaluated and its mandate will be reviewed by States Parties at the Seventh Review Conference”.

CCW ISU

Conclusions And Recommendations of the Meeting of States Parties to the CCW and its Protocols, Geneva, 12-13 November 2009, extracts from the Final Report, CCW/MSP/2009/5

“34. Taking into account the importance of securing the continuity and stability of the support provided by the Secretariat to the CCW High Contracting Parties and observer States with regards to the effective and comprehensive implementation and universalization of the Convention and its annexed Protocols, including the exchange of information and cooperation among the High Contracting Parties, the Meeting decided that an “Implementation Support Unit” (ISU) shall be established, while noting that the increased work relating to the CCW and its Protocols could benefit from a strengthened UNODA, Geneva branch.

35. The ISU will consist of two full-time staff members within the Geneva Branch of the United Nations Office for Disarmament Affairs and will be funded by the States through the estimated costs of the CCW meetings. It will work under the authority of the annual Meetings of the High Contracting Parties to the Convention.

36. The CCW ISU will operate in the most efficient way and will perform the following tasks:

- (a) Provide administrative support to and prepare documentation for meetings agreed by the meetings of the High Contracting Parties to the CCW, Amended Protocol II and Protocol V;
- (b) Facilitate communications among High Contracting Parties and, upon request, with international organizations;
- (c) Serve as a focal point for submission of information by and to the High Contracting Parties related to the Convention and its annexed Protocols; develop and maintain the CCW website and the CCW databases as directed by the annual Meetings of the High Contracting Parties;
- (d) Support the High Contracting Parties, on request, in the implementation of the CCW and its Protocols and assist the Secretary-General of the United Nations in the discharge of his/her responsibilities pursuant to Article 11 (2) of Protocol V, Article 14 (4) of Amended Protocol II and the CCW Compliance mechanism;
- (e) Contribute to the promotion of the universalisation of the CCW and its annexed Protocols and support the High Contracting Parties in the implementation of the CCW Plan of Action for the Universalisation of the CCW and its Protocols and the CCW Sponsorship Programme;
- (f) Perform any other duty as mandated by the High Contracting Parties of the CCW or its Protocols.

37. The Head of the ISU will report to the annual Meetings of the High Contracting Parties to the Convention on the operation of the ISU. The Unit's performance will be evaluated by the annual Meetings of the High Contracting Parties to the CCW. The number of staff employed and the functions of the ISU will be reviewed by the Fourth Review Conference”.

Annex 6

GICHD support to ISU / APMBC 2009/2010 in CHF: Accounts 2009
as calculated by the GICHD

1. Salaries support services

	CHF	CHF
WebSite Dep.	23'931.60	
Archives Dep.	8'103.07	
Publication Dep.	56'082.19	
Travel Dep.	31'909.71	
Conference Dep.	18'787.61	
Assistance	4'264.22	
Total		143'078

2. Office rent

Office rent total for GICHD	527,000	
ISU:- Number of windows 29 out of 181 16.02%		84'436.46
GICHD Admin total 30.22 out of 181 16.70%		
Total % Admin for ISU including Interpretation 19.40% 3.24%		17'073.75
Total		101'510.00

3. Admin services other costs

Misc. running costs	39'669.10	39'669.10	accounted
Printers / communication costs	67'894.95	13'076.43	x 16.02% + 3.24%
Maintenance IT	62'500.00	12'037.38	x 16.02% + 3.24%
Audit costs	25'000.00	6'000.00	estimate
Accounting costs	27'578.87	27'578.87	% of accounting entries
HR Management	39'191.84	39'191.84	% of HR
Total		135'558.62	

4. Totals for 2009 for the three tables above, plus estimated figures for 2010

	2009	2010
GICHD support to ISU (for 2009 =totals of tables 1-3)	380'147	440'000
Costs APMBC Intersessional	63'964	130'000 *
Administration of APMBC Sponsorship Programme	49'832	40'000
Notionally CHF	493'944	610'000

* incl. Interpretation

These figures exclude oversight tasks of GICHD Director and Support Director.