

CONCLUSIONS OF THE COMMITTEE ON COOPERATIVE COMPLIANCE¹

Submitted by the Committee on Cooperative Compliance

(Austria, Iraq, Peru, Sweden and the United Kingdom)

PART 1: Introduction

Activities of the Committee

1. The Committee met on a regular basis starting on 25 January 2017 engaging in a cooperative dialogue with those States Parties confronted with allegations of use of anti-personnel mines as well as in internal deliberations.
2. The Committee finalised the drafting of its working methods which consider the decision to take on a case, the preferred order of proceedings, the idea of identifying an indicative set of questions which could be used as openers for new cases, the structure of the reports of the Committee, what to do in case of a conflict of interest, and the Committee's relations with civil society. The Committee underlined that the working methods of the Committee will remain flexible enough to alterations as the Committee sees fit.
3. Over the course of 8-10 of February 2017, the Committee met with representatives of South Sudan, Sudan and Ukraine. The Committee met on 21 April 2017 with Yemen. The Committee was grateful for the engagement of representatives of these States and the information they provided to the Committee. The Committee also reached out to the International Campaign to Ban Landmines (ICBL) and Human Rights Watch in order to receive input from civil society with regard to compliance matters.
4. On 5 May 2017, the Chair of the Committee sent a letter to Yemen, South Sudan, Sudan and Ukraine to encourage the provision of further information to the Committee prior to the 8-9 June intersessional meetings.

PART 2: Conclusions

5. On the basis of its deliberations and of the cooperative engagement with concerned States Parties, the Committee wishes to share the following conclusions and status on compliance:

South Sudan

6. Starting in 2014, the Committee considered allegations about South Sudan's compliance with the Convention's prohibitions contained in Article 1.1 of the Convention. These allegations concerned the deployment of anti-personnel mines by the Government of South Sudan's Forces in the area around Nassir in the Upper Nile state and stemmed from the "Summary of Latest Reports of Violations of the Cessation of Hostilities Agreement (COHA) investigated and verified

¹ These conclusions have been prepared using information submitted by the States Parties through their Article 7 reports and through statements delivered at Meetings of the States Parties and intersessional meetings.

by the IGAD Monitoring and Verification Mechanism in South Sudan from 1 March 2015 to 16 March 2015”.

7. In May 2015 South Sudan informed the Committee that its national army has not possessed anti-personnel mines since 2008. The government also indicated that due to insecurity the concerned area was difficult to access. The security situation was confirmed by representatives of the UNMAS office in South Sudan who also indicated that the security situation made it difficult to conduct investigations into alleged mine use.
8. During a meeting on 29 September 2015, South Sudan expressed hope that the peace agreement signed on 26 August 2015 would lead to improved security in the states of Unity, Jonglei and Upper Nile and facilitate investigations. The Committee was also informed that the Ministry of Defence set up a commission to investigate these allegations once the security situation improves and welcomed UNMAS and civil society to form a joint verification mission with the Government to establish the facts regarding the allegations.
9. On 17 February 2016, South Sudan informed the Committee that the commission was being formed to carry out investigations around Nassir in the Upper Nile State now that the security situation has improved; however, South Sudan requires assistance to facilitate transport of the investigation team to Nassir, an area which is only accessible by air.
10. On 3 May 2016, the Committee wrote to South Sudan requesting updated information on the situation as well as to request information on measures in place to ensure compliance in accordance with Article 9 of the Convention and Action 29 of the Maputo Action Plan. In 2016 South Sudan reported through its Article 7 report that it has not taken legal, administrative, or other measures to prevent and suppress any activity prohibited to a State Party under this Convention but is committed to doing so in the future and to reporting on these measures.
11. On 10 February 2017, South Sudan reported to the Committee that in 2016 the security situation had deteriorated and that it would not be possible at the moment to address the allegations. South Sudan also indicated that given the many laws before the Assembly it was difficult at present to address the issue of national legislation.
12. The Committee appreciates South Sudan’s engagement with the Committee and the States Parties and looks forward to continued engagement with South Sudan. The Committee welcomes updates from South Sudan on efforts to address allegations. Specifically, the Committee welcomes updated information on the security situation in areas where allegations have surfaced and where security presents an impediment to investigations. The Committee encourages South Sudan to work with all partners in order to ensure investigations can take place as soon as possible. The Committee further welcomes updated information on South Sudan’s efforts to taken any legal administrative, or other measures to prevent and suppress any activity prohibited to a State Party under this Convention, in accordance with Article 9 of the Convention and Action 29 of the Maputo Action Plan.

Sudan

13. Allegations of the use of anti-personnel mines in Sudan – both by the Sudanese Armed Forces (SAF) and by the Sudan People’s Liberation Army – North (SPLA-N) surfaced in 2011 and 2012. Sudan has been engaged in a dialogue with the Committee since December 2014 regarding these allegations. On several occasions Sudan has underlined that it complies fully with the Convention and has opened investigations to clarify several allegations that concern the areas of Toroji,

Higleg, Jabalko, Heiban, and Belila. While Sudan was able to provide to the Committee an investigative internal report for Higleg, which came to the conclusion that no new anti-personnel mines were laid, it reported not being able to access other areas where allegations have arisen due to the security situation in these areas.

14. In the written update sent to the Committee on 31 August 2015, Sudan stressed that it does not stockpile or manufacture any kind of mines. Sudan stated that mines in some areas of Southern Kordofan and Blue Nile, may have been planted by rebel groups in areas under the rebels' control. A Sudanese fact finding committee was unable to reach Jabalko due to heavy rain, difficulty of movement and lack of security and was scheduled to visit the area in November 2015.
15. On 1 February 2016, Sudan provided to the Committee two investigation reports on the alleged use of anti-personnel mines by the Sudanese Army. The investigations were conducted in the Kilemo district of Kadugli (South Kordofan) and in the Baleela region (West Kordofan) in October 2015 and concluded that the Sudanese Army observed the obligations under the Convention and that no new anti-personnel mines were laid. Allegations in the regions of Hayman, Jabalko and Tirougi could not be investigated as these regions are outside the control of the Sudanese Government. The report concluded that investigations must be carried out in these regions once the security situation permits.
16. On 17 February 2016 Sudan reiterated to the Committee the fact that it is committed to carrying out investigations into allegations of the use of mines but that some areas remain in conflict and it is not possible to carry out investigations in these areas.
17. On 3 May 2016, the Committee sent a letter to Sudan requesting updated information on the situation as well as information on measures in place to ensure compliance in accordance with Article 9 of the Convention and Action 29 of the Maputo Action Plan.
18. On 19 May 2016, on the margins of the intersessional meetings, Sudan reiterated its commitment to keep the Committee informed about the security situation in areas pending investigation and submitted to the Committee a copy of the Mine Action Act of 2010 which forbids those acts prohibited under Article 1.1 of the Convention and includes penalties for contraventions.
19. On 8 February 2017, Sudan indicated to the Committee that the security situation which hampered investigations persists. Sudan reported that there is currently a national peace dialogue which may offer an opportunity for the Fact Finding Committee to carry out investigations in the remaining areas.
20. In addressing the intersessional meetings on 9 June 2017, Sudan recalled that it had established a committee to deal with allegations on compliance which, based on the surveys conducted, concluded that anti-personnel mines were not used in areas controlled by the Government of Sudan. Sudan further indicated that ongoing insecurity continues to prevent the committee from conducting investigations in three regions of the country.
21. The Committee appreciates Sudan's engagement with the Committee and the States Parties. In view of the information received from Sudan, the Committee is looking forward to continuing its engagement with Sudan and welcomes any update from Sudan on efforts to address allegations through the Committee established by Sudan to address this matter. Specifically, the Committee concluded that it would welcome updated information on the security situation in the remaining

areas where allegations have surfaced and where Sudan indicated security presents an impediment to investigations. The Committee encourages Sudan to continue working with all partners in order to ensure that investigations can take place as soon as possible.

Ukraine

22. The claims of use of anti-personnel mines in Ukraine relate to the documentation of alleged presence of various types of anti-personnel mines (PFM, MON and OZM series) on Ukrainian territory since early 2014, without clear determination as to the parties responsible for such use. Ukraine has engaged in a dialogue with the Committee since May 2015 regarding these allegations, and has stressed that it complies fully with the Convention. Ukraine reiterated furthermore that its Armed Forces are authorised to use mines only in command-detonated mode (through electrical initiation), which is not prohibited by the Convention.
23. Ukraine made a declaration on this issue during the intersessional meetings in June 2015 and has been standing by its declaration since, indicating that there are no new elements to add.
24. Ukraine informed the Fourteenth Meeting of the States Parties in 2015 that there are mined areas under its jurisdiction, however, not under its control. Ukraine further informed that sabotage acts are carried out on its territory which is under the control of Ukraine, including mining territory and infrastructure.
25. On 18 February 2016, Ukraine reiterated to the Committee that it complies with the Convention and that all units of the Ukrainian Armed Forces are instructed on obligations of the Convention. Ukraine informed the Committee that anti-personnel mines are being used in victim-activated mode (including MON-15 mines with tripwire), which is prohibited under the Convention, by non-state armed groups in areas in the south-east of the country which are not under the control of Ukraine.
26. Ukraine reiterated that it possesses stockpiled anti-personnel mines with the destruction of these mines resumed in December 2015 after it had previously been paused. Ukraine indicated that these stockpiles are not in the proximity of the frontline (where there could be risk of theft). However, some anti-personnel mines have been seized by non-state armed groups in the territory not under the control of Ukraine (Crimea). Ukraine believes that some of these mines have now been used, and they have since been found by Ukraine.
27. On 3 May 2016, the Committee sent a letter to Ukraine requesting updated information on the situation as well as to request information on measures in place to ensure compliance in accordance with Article 9 of the Convention and Action 29 of the Maputo Action Plan. In responding to the letter, Ukraine indicated that certain districts of the Donetsk and Luhansk oblasts of Ukraine remain temporarily not under the control of Ukraine but did not provide information concerning any legal administrative or other measures to ensure compliance.
28. During the intersessional meetings on 20 May 2016, Ukraine indicated that the type of mines located in Ukraine have never before been used in the territory of Ukraine (PMN1, PMN2, PMN4 and POM2R) and that the last stockpiles of these mines were destroyed in 2011. Ukraine further reported that it is possible that mines have been laid in the occupied territories of the Autonomous Republic of Crimea, Kherson Province and Donetsk.
29. On 7 February 2017, Ukraine indicated to the Committee that it continues to suspect the use of mines in Ukraine in areas under its jurisdiction but temporarily outside of its control and does not have information for areas outside of its control where it suspects mines to have been employed.

Ukraine reported that it continues to locate mines that have never before been used in the territory of Ukraine (e.g. PMN2 and PMN4). Ukraine further reported to the Committee that drafts of a Mine Action Law have been developed and are currently debated prior to their adoption. With reference to the deadline for submission of a request for extension under Article 5 of the Convention, Ukraine indicated that preparations for the submission of a request are underway, while the timeline was yet to be determined. The Committee recalled that on-time submission would be important in order to avoid non-compliance with the Convention.

30. The Committee appreciates Ukraine's engagement in a continued dialogue concerning these allegations and the Committee looks forward to engaging further with Ukraine. Specifically, the Committee would welcome updated information on the security situation areas where allegations have surfaced and which are not under the control of Ukraine. The Committee noted that Ukraine had not, at the time of the development of the Committee's conclusions, submitted a request for extension of its Article 5 obligation and would therefore urge Ukraine to do so in order to end its non-compliance status with the Convention. Furthermore, the Committee would further welcome updated information on Ukraine's efforts to taken any legal, administrative, or other measures to prevent and suppress any activity prohibited to a State Party under this Convention, in accordance with Article 9 of the Convention and Action 29 of the Maputo Action Plan.

Yemen

31. Through an Official Communiqué on 17 November 2013, Yemen acknowledged and confirmed allegations of use of anti-personnel mines by the Republican Guard Forces in the area of Wadi Bani Jarmoz, near Sana'a, in 2011. Since then, Yemen has provided to the States Parties an interim report (29 March 2014) and a final report (15 January 2015), in accordance with its commitment made at the Twelfth Meeting of the States Parties, to inform States Parties on (a) the status and outcome of Yemen's investigation; (b) the identification of those responsible for deploying anti-personnel mines, and subsequent measures taken; (c) information on the source of the antipersonnel mines and how those mines were obtained, particularly given that Yemen had long ago reported the destruction of all stockpiles; (d) the destruction of any additional stockpiles discovered and the clearance of the mined areas in question; and (e) actions to prevent and suppress any possible future prohibited activities undertaken by persons or on territory under its jurisdiction or control. According to these reports and to information provided to the Committee, internal investigations were opened and referred to a military tribunal in order to consider and verify the evidence. However, according to Yemen, these procedures were subsequently halted due to internal security, political and technical restraints.
32. In July 2015, new allegations of the use of anti-personnel mines in the provinces of Aden, Abyan, and Lahij surfaced. Media reports referred to declarations made by both mine action officials and health officials.
33. At the Fourteenth Meeting of the States Parties, Yemen informed that it has been made aware by the media of the use of anti-personnel mines in the centre and south of the country where battles are taking place. Yemen further informed that the locations of these mines remain unclear and affirmed that one of the Government's priorities is to collect evidence to provide specific information on the allegations.
34. On 19 February 2016, Yemen informed the Committee that the situation remains unchanged and that no new investigations into the alleged use of anti-personnel mines have been conducted.

The last investigation took place in 2011 but had to be halted due to the political and security situation.

35. Yemen further informed the Committee that there is anti-personnel mine contamination in the centre of the country, the south (Aden) and possibly the east near the governorate of Taiz. Yemen indicated that due to the conflict these mined areas cannot be visited.
36. On 3 May 2016, the Committee sent a letter to Yemen requesting updated information on the situation as well as to request information on measures in place to ensure compliance in accordance with Article 9 of the Convention and Action 29 of the Maputo Action Plan.
37. In 2016, Yemen reported through its Article 7 report that it has national legislation in place that makes it an offence to possess, produce, design, import, export, trade, transfer and stockpile anti-personnel mines and includes penalties for doing so.
38. On 19 May 2016, Yemen informed the Committee that it is committed to keep the Committee informed about the security situation. Yemen further indicated that the mines being used in Yemen have not been stockpiled or used in Yemen in the past but have recently been illicitly transferred into Yemen. Yemen indicated that the government will carry out an investigation of this issue.
39. In addressing the intersessional meetings on 20 May 2016, Yemen reiterated that it faces a number of new challenges including new contamination and that a number of steps have been taken including the development by the government of a new strategy to facilitate the work of fulfilling its obligations under the Convention. Yemen reaffirmed the government's commitment to investigate the use of mines and that there will be penalties for the individuals responsible for the importation and use of mines.
40. On 21 April 2017, Yemen indicated to the Committee that the current security situation, lack of capacity and lack of information has made it impossible to carry out the pending investigations. Yemen indicated that it was also difficult to acquire reliable information on the source of anti-personnel mines being used in Yemen. Yemen indicated that at the moment efforts to attain accountability have been side-lined by pressing humanitarian priorities to provide mine risk education to the population, carry out clearance activities and provide victim assistance. Yemen indicated that one of the ongoing efforts is to implement the emergency response plan and integrate mine action efforts within the UN to facilitate implementation of the Convention.
41. In addressing the intersessional meetings on 9 June 2017, Yemen reiterated that the mines being identified in Yemen were illicitly transferred into the country. Yemen also indicated that it hopes to be able to submit conclusions of a fact finding mission undertaken and determine accountability in response to the allegations and stated its readiness to answer any questions and keeping the Committee informed.
42. The Committee appreciates Yemen's engagement in a continued dialogue and exchange of information concerning allegations and looks forward to engaging further with Yemen over the course of next year. Specifically, the Committee concluded that it would welcome updated information on efforts by Yemen to carry out investigations of the use of mines and any additional information on the transfer and use of mines within areas under its jurisdiction or control.