National Implementation
Legislation:
APMBC
Anti-personnel Mine Ban Convention Implementation
Kelisiana Thynne, ICRC
Recommendations from an operational perspective:

- Ensure robust priority setting by multi-ministerial oversight over annual mine action planning mechanisms.
- Ensure “duty of care” for staff and affected communities.
- Ensure dignified recovery and handling of mortal human remains in situations with suspect weapon contamination.
Legal basis of the Convention

Based on fundamental IHL principles and rules

- The rights of the parties to a conflict are not unlimited

- Weapons of a nature to cause superfluous injury or unnecessary suffering should not be used.

- Distinction must be made at all times between civilians and combatants
General Prohibitions

- Anti-Personnel Mine Ban Convention (APMBC): 1997

General Prohibitions:

- never under any circumstances use, develop, produce, otherwise acquire, stockpile, retain or transfer to anyone, directly or indirectly
- or assist, encourage or induce anyone to do so
Treaty obligations

• Destruction of existing stockpiles
• Clearance of mined areas/CM remnants
• Assistance to survivors
• Annual transparency reporting
• Measures to prevent / suppress violations
• Universalization
National Implementation Measures  
(Art. 9)  

"Each State Party shall take all appropriate legal, administrative and other measures, including the imposition of penal sanctions, to prevent and suppress any activity prohibited to a State Party under this Convention undertaken by persons or on territory under its jurisdiction or control."
Elements to consider in national implementation legislation

- Penal sanctions
  *exceptions (art. 3 APMBC)*
- Definitions
- Destruction
- Clearance
- Victim Assistance
- Reporting
- Right to seek assistance from other States
- Clarification procedure: fact-finding missions
Useful tools developed by ICRC

- Model law
- Factsheet
- Checklist
- Information kit
Prohibited conduct

• Does your legal framework prohibit your nationals or other persons on territory within your jurisdiction or under your control from undertaking, in connection with anti-personnel mines, any of the following activities?
  • Using
  • Developing or producing
  • Acquiring
  • Possessing, retaining or stockpiling
  • Transferring
  • Assisting, encouraging or inducing, in any way, anyone to engage in any of the activities listed above
  
• *(Model Law, Section 3)*

• Do these have offences and penalties attached to them?
### Penal sanctions

<table>
<thead>
<tr>
<th>Activity</th>
<th>Does your legislation <strong>prohibit and provide punishment</strong> for these violations? (Art. 9)*</th>
<th>Is there a prohibition for <strong>assisting, encouraging and inducing</strong> these violations? (Art. 1 c and Art. 9)*</th>
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<tbody>
<tr>
<td>Use (Art. 1 a)</td>
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<td>Acquisition (Art. 1 b)</td>
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<td>Stockpiling (Art. 1 b)</td>
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<td>Retention (Art. 1 b)</td>
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<td><strong>Transfer</strong>, including the physical movement of AP mines into or from national territory, and the transfer of title to and control over the mines (Art. 1 b, and Art. 2(4))</td>
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<td>Development (Art. 1 b)</td>
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<td>Production (Art. 1 b)</td>
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Definitions

• Does the legislation have the correct definitions from article 2?
Exceptions

• Does your law have exceptions to allow for destruction, training etc article 3?

• Are personnel who engage in clearance duly authorised?
Destruction

• Does your legal/regulatory/administrative framework
  ▶ require the destruction of all stockpiled anti-personnel mines other than those retained or transferred for permitted purposes (Articles 3 and 4)?
  ▶ establish how your State will ensure the clearance of all anti-personnel mines in mined areas within its jurisdiction or under its control, and how it will seek extensions when necessary (Article 5)?
  ▶ provide for marking and monitoring of mined areas and for measures to protect civilians pending clearance (Article 5)?
Other measures

• Article 7 report
• Designated authority
• Fact-finding mission facilitation
• Victim assistance
When implementing the Convention, each State may choose from:

1. Stand-alone legislation;
2. Amendment to existing legislation; or
3. Combination of 1 and 2
Types of legislation to consider

• Criminal Code
  ▶ But consider where victims assistance and other issues can be placed too

• Mine Action Law
  ▶ Ensure criminal sanctions are also included

• Firearms and explosives law
  ▶ Ensure correct definitions
  ▶ Crimes

• New legislation
ICRC support

• Regional meetings
• Bilateral drafting workshops
• Bilateral dialogue
• Model Law
• Regional legal advisers network
Thank you for your attention.

kethynne@icrc.org