

ICRC comments on documents submitted by Mozambique for discussion at the First Preparatory Meeting for the Third Review Conference

Review of the operation and status of the Convention 2010-2014 and Elements for consideration of the Plan of Action for 2015-2019

Preparing the Review of the operation and status of the Convention 2010-2014

The ICRC agrees with the approach taken. We would suggest that the review document be comprehensive but as concise as possible, and include a short summary that highlights the key implementation challenges remaining in 2014.

Elements for consideration of the Plan of Action for 2015-2019

The ICRC supports the proposal for a succinct Action Plan and the general direction of the current draft. We nevertheless have some comments and suggestions. In particular, though we understand the objective, we see some challenges in identifying time-bound objectives for some action points, which will also allow for tailored and context-specific approaches (para 4 of the introductory remarks). For certain actions, it may prove difficult to fix timeframes that will suit all States Parties.

We have some further specific suggestions on various topics:

I Universalisation

(points 1 & 2) These two action points could be partly combined, and be more specific as to how States Parties can promote the Convention's norms, e.g.:

Actively promote adherence* to the Convention by States not Parties and adherence to its norms in States that are not yet in a position to accede, such as through official moratoriums on use, production and export, the destruction of stockpiles, clearance of mined areas and the provision of victim assistance.

point 2 could then read:

Condemn and discourage in every possible way the use, stockpiling, production and transfer of anti-personnel mines by any actor.

*As there is only one State (the Marshall Islands) left that can ratify the Convention, "adherence" would capture both situations.

In addition to these specific action points, the ICRC would recommend that States Parties and States not party be invited to make pledges at the Review Conference on universalization for the coming five years. For example, a State not party could pledge to maintain a moratorium on use, production and export, to declare or destroy its stockpiles (or a proportion thereof), or to adopt a Plan of Action on victim assistance and work towards its implementation. States Parties, for their part, could pledge to host a meeting on universalization in a State not party, or to use their networks of embassies to promote the Convention and its norms in a particular region.

II Destroying Stockpiled Anti-personnel Mines

(points 3 & 4) These two paragraphs could be combined, e.g. “Comply, without delay, with Article 4, by destroying all stockpiles of anti-personnel mines. Pending such compliance, develop, announce and implement a plan for compliance with Article 4, including a proposed end-date, and report annually on the implementation of this plan.”

(point 5) The two States Parties that have reported being in this situation (Finland and Poland) have announced that they will complete stockpile destruction ahead of their Article 4 deadlines and seem to already be well advanced in the development of the necessary national frameworks. A third State Party, Somalia, is verifying if it will have stockpiles to destroy, and more clarity should be provided in its next transparency report. We would suggest deleting this paragraph so that the Action Plan remains relevant and focused on current key implementation challenges. Subsequent Meetings of States Parties could still make relevant decisions on this matter between Review Conferences if necessary.

III Clearing mined areas

(point 7) While the ICRC supports the objective of this action point, it is unworkable for all States Parties that have received extended deadlines (27 of 32 States Parties with Article 5 obligations). It is unfortunately already clear that some States Parties will not be able to meet their extended deadlines for clearance. Others received an extension of time primarily to conduct surveys to understand the extent of contamination but with the expectation that further extensions would be required – so will not be in a position to complete implementation of Article 5 by their extended deadlines.

(point 8) It will be difficult to have a "one size fits all" date for providing this information, as the date will necessarily vary by context (e.g. if new States Parties) and in accordance with individual decisions on extension requests.

IV. Assisting the Victims

We would suggest the existing paragraphs be modified as follows:

“States Parties accountable to and responsible for the wellbeing of mine victims will:

(point ##) Ensure the inclusion of and full and active participation of mine victims and their representative organisations in victim assistance related activities, including the development, implementation and monitoring of national action plans for victim assistance.

(point ##) Taking into account the necessary data on victims' needs, disaggregated by sex and age, adapt existing plans of action or develop a new plan of action for victim assistance by the end of 2015 that addresses victims' needs through objectives that are specific, achievable, relevant, time bound, and integrated into broader policy and legal frameworks.

(point ##) Each year, adopt specific measures, including the allocation of a corresponding budget, to ensure the effective implementation and monitoring of the plan of action for victim assistance. Report annually on the measures taken and on the status of implementation of the plan.

(point ##) By no later than the Fourth Review Conference in 2019, be able to demonstrate a measurable improvement in the availability of, and access to, services for mine victims.”

V. International Cooperation & Assistance

(point 14) We would recommend amending this action point, as references to plans and resources are partly repetitive of more specific action points under other headings. We would also recommend adding: "and develop national and/or international resource mobilisation strategies and report annually to the States Parties on their implementation.”

(point 16): As some States Parties risk losing international support for victim assistance (as well as for dealing with residual contamination) following fulfilment of their Article 5 obligations, we would suggest amending action point 16 as follows:

“Endeavour to continue supporting States Parties that have completed their Article 5 obligations in their efforts to ~~establish institutions to~~ address the humanitarian consequences resulting from mine and explosive remnants of war contamination, including the provision of assistance to the victims.”

VI. Compliance

(point 18) We agree that in most cases, States Parties should respond to compliance concerns in a manner consistent with Article 8(1). However, as compliance is one of the most significant challenges facing the Convention, the door should be left open to have recourse to other provisions of Article 8 if deemed necessary. We would therefore recommend that this point end with “in a manner consistent with Article 8.”

In addition, as highlighted in the discussions during the 13MSP, national implementation measures to enable States Parties to enforce the Convention’s prohibitions are very important for resolving compliance concerns. We would therefore suggest an additional action point such as this:

(point ##) “As soon as possible and no later than the Fourth Review Conference, States Parties without national implementing legislation demonstrate that they have made substantial progress in putting in place the necessary domestic legal framework to give effect to their treaty obligations.”