

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

Elements for the Post-Third Review Conference programme of meetings and Elements for a political declaration

Elements for the Post-Third Review Conference programme of meetings

The ICRC welcomes this paper, which contains a number of very relevant and timely ideas for the future work programme, but also provokes many questions regarding how these ideas are to be materialised. These questions will need to be addressed well before the Review Conference.

We agree there is a need to ensure the work programme is more effective, efficient and less repetitive of other processes within or outside the Convention's framework. We would recommend that the paper prepared by the ISU on "Considerations regarding a post-third Review Conference Meeting Programme" be made available to all States Parties to assist in their reflections on this issue.

Some specific comments follow:

5 – Changes in implementing mine action (p.3)

- (3rd para) We agree that the primary challenges for mine clearance today are political will and "implementation capacity". It is important to note that such capacity includes having the necessary financial resources, which are lacking in many affected States due to competing priorities.

(4th para) We have some concerns with the statement that questions whether the "victim assistance" approach as embedded in the practice of the Convention is still "relevant to meet the needs and ensure the rights of persons who have been injured and traumatised by landmines." The victim assistance practices developed by States Parties over many years are comprehensive and inclusive. They also form the basis of Article 5 of the Convention on Cluster Munitions and largely contributed to the Convention on the Rights of Persons with Disabilities (CRPD). We would wish to see an explanation of how VA practices may no longer be relevant. If it is considered that such practices have been overtaken by the CRPD, we would contend that the two Conventions are complementary. The CRPD has the potential to contribute to improving the situation of persons with disabilities. However, the CRPD is not a panacea, does not cover all victims (e.g. families and affected communities) and cannot replace the victim assistance obligations under the relevant weapons Conventions. While there is certainly a need for States Parties to re-visit what they want to achieve in VA and to optimize efforts in light of the range of elements involved, we would caution against throwing the baby out with the bathwater.

8 – A new Working Programme 2014-2019

a) Formal level – Annual Meeting of the States Parties

- (1st para) The ICRC agrees that the Meetings of the States Parties should continue on an annual basis. We also agree that quality reporting on compliance with treaty provisions should be an important element of those meetings. However, it would be useful to clarify

what is meant by “formal reporting” (and how this would differ from Article 7 reporting). Also, discussion of universalization should continue at the meetings, especially for as long as it remains part of the Plan of Action. More consideration could be given as to how to ensure “substantial discussions” on Article 5 extensions, including the engagement of a greater number of States Parties in this matter.

- (2nd para) We agree that the role of the Analysing Group should continue as before, as this is a system which is working very well overall.
- (3rd para) We would welcome more details on how a brief informal preparatory meeting could promote the submission of Article 7 reports.

a) Informal meetings

- In our view, the future meeting structure should be determined in accordance with an assessment of the best ways to address the key implementation challenges from 2014-2019.
- We agree that the intersessional meetings should be discontinued in their current form. We also find interesting the idea to allocate resources to support relevant regional and thematic meetings (including, for example, participation by the co-chairs in relevant meetings that are organised by bodies such as the ICRC). Regional meetings could help make the work of the Convention more efficient (in terms of reduced travel time and expense for participants) and relevant to the needs on the ground in affected countries. We would hope that the sponsorship programmes of the APMBC and CCM could cooperate and both contribute to the costs of participation in meetings on topics of relevance to both Conventions. (We understand there was such collaboration in regards to “back-to-back” intersessional meetings in recent years.)

Further consideration will, however, be needed as to how this would work in practice, and we would welcome a more comprehensive proposal in this regard. For example, how will funding be acquired for regional and thematic meetings (would a line be included in the ISU budget each year?), who will be responsible for organising them, and with which human resources? Assuming that resources will be limited, how will priorities be determined for the themes or regions to be addressed in any given year? Would this be determined by the Coordinating Committee, for example?

- The paper presents us with two options only: continue with the informal work programme more or less as it is or discontinue it and meet the needs by other means. We believe that other options could be explored, for example a different form of meeting that addresses current implementation challenges in a more informal manner and which maximises synergies with other relevant Conventions. If intersessional meetings are going to continue under the CCM, one could consider combining the informal work of the APMBC and CCM on victim assistance, clearance and cooperation and assistance (which should be very different to the formal State reporting at Meetings of States Parties), and limiting the “other business” under each Convention to 1-2 days so that both meetings are held in the same week. The pros and cons of such an option (including the human and financial resources required) should be assessed as an alternative to discontinuing the intersessional meetings altogether.

- Whether or not the intersessional meetings are discontinued, the ICRC would recommend further reflections on the future roles of the Co-Chairs and the Standing Committees, which could be better utilised to support the leadership of the Convention and work with selected States Parties to encourage better implementation of the Convention and better reporting. In addition to the Co-Chairs, membership of such Committees could include States Parties or other actors that have relevant expertise and who could be co-opted by the Co-Chairs. We also found interesting Canada's proposal to create a new Committee on compliance. We would like to propose that these options be explored in detail ahead of the Second Preparatory Meeting.

Elements for a political declaration

The ICRC finds this document quite comprehensive and we agree in principal with the outline provided. We have only a few specific comments.

Para 3: On track for a mine-free world:

(first bullet point): In our view it is premature to say that APM are considered a weapon of the past, given the number of States that remain outside the Convention (and still claim the need to maintain anti-personnel mines for security reasons), the ongoing use of APM as recorded by the Landmine Monitor, and the current compliance concerns. Perhaps wording such as “considered by at least 161 States to be a weapon of the past” would be an accurate reflection of the current situation, while underscoring the large number of States Parties achieved to date.

(second bullet point): The number of victims represents those *recorded* by Landmine Monitor (but is likely to be much higher). The source for this information should be cited, and it should be specified that this figure includes victims of mines *and* all kinds of ERW. (Legally, AP mines are not ERW.)

(third bullet point): This statement is quite general and needs to be nuanced. Can we say for certain that survivors in general have experienced these improvements?

We are pleased with the reference to international humanitarian law and would recommend it be mentioned also as a legal basis for the Convention under the Background in paragraph 2.

We recommend another bullet point recognising the high levels of funding and resources for mine action that have been applied over the past 15 years.

Para 4: What remains to be done?

(fourth bullet point): As the ongoing use of anti-personnel mines is a significant challenge to the success of the Convention we would recommend moving the final bullet point on use to the first point in this section. In addition, the fact that 36 States, including major former users and producers, remain outside the Convention, and that many of these still retain anti-personnel mines on security grounds, warrants mention.

Para 5: Commit to Complete

(second paragraph): Although this is a political declaration, it should nonetheless be as concrete and achievable as possible. Clarity could be provided as to what is meant by “a reaffirmation of a commitment to ensure that AP mines remain a stigmatized weapon” (i.e.

what does such stigmatization involve?). Unfortunately, the States Parties alone cannot “ensure ... that no actor will ever use them again.”

The ICRC thanks Mozambique for its cooperative approach and for the opportunity to comment on these documents. We look forward to working further with Mozambique in the lead-up to the Third Review Conference.