

The Convention, its status and its operations

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Señoras y señores: Deseo agradecer a Nicaragua por convocar este taller importante y a la Unión Europea para apoyarlo.

Deseo reconocer también el papel histórico de Nicaragua en esta Convención. Nicaragua presidió la Tercera Reunión histórica de los Estados Parte, la cual se llevo a cabo en Managua inmediatamente después de los ataques terroristas del 11 de septiembre de 2001 en los Estados Unidos. Mientras la pérdida de vida y devastación en Nueva York, Pensylvania y Washington pesaba en las mentes de delegados que se juntaron en Managua en septiembre de 2001, los delegados también se enfocaban en otra forma del terror, el terror causado por minas antipersonales.

En la declaración adoptada en la Tercera Reunión, los Estados Parte declararon lo siguiente:

Celebramos el éxito de la Convención, pero seguimos profundamente preocupados porque las minas antipersonal siguen matando, mutilando o amenazando diariamente a incontables personas inocentes; el terror de las minas impide a muchas personas rehacer sus vidas y los efectos duraderos de estas armas niegan a las comunidades la oportunidad de reconstrucción y desarrollo mucho después de haber finalizado los conflictos.

Manteniendo esta preocupación, los Estados Parte y sus compañeros han asegurado que desde el 2001, estamos mucho más cerca de terminar con el sufrimiento y las muertes causadas por minas antipersonales.

¿Cuál es el actual estado de la Convención, casi 8 años desde la Tercera Reunión histórica de los Estados Parte y casi 5 años desde la Primera Conferencia de Examen de la Convención en el 2004? La respuesta a esta pregunta es el objetivo de mi presentación.

I will address the matter of the status of the Convention not by providing an article-by-article overview. Rather, I will do so just as you, the States Parties have done in a very practical way since 2002, by breaking the Convention down into its core components.

The purpose of the Convention, which is contained in the first line of the preamble to the Convention, is to put an end to the suffering and casualties caused by anti-personnel mines.

The Convention sees that its purpose will be fulfilled through the achievement of four core aims – that is, achieving universal acceptance and full compliance with the Convention and its prohibitions; destroying stockpiled anti-personnel mines; clearing mined areas; and, assisting the survivors. Together these four aims ensure that the Convention is comprehensive – comprehensive in that the Convention seeks to both prevent future suffering and address existing suffering.

The States Parties have also recognized that the effort to implement the Convention also features work on other matters essential for achieving the Convention's core aims.

For instance, the centre-piece of the Convention is its provisions concerning cooperation and assistance, with each State Party possessing the right to seek and receive assistance from other States Parties to the extent possible, and, the responsibility of States Parties in a position to do so to provide assistance.

Next, transparency in implementation, through both formal and informal means, is another important matter essential for achieving the Convention's aims. I'm pleased that our good friend Peter Kolarov from the UN Office for Disarmament Affairs is here to describe these provisions in more detail tomorrow.

Another important matter is the set of measures contained in the Convention to ensure compliance. This includes the primary responsibility of ensuring compliance resting with individual States Parties with Article 9 of the Convention accordingly requiring each party to take all appropriate legal, administrative and other measures, including the imposition of penal sanctions, to prevent and suppress prohibited activities by persons or on territory under its jurisdiction and control. We are fortunate that Anton Camen of the ICRC has joined us to offer his expert assessment on the application of Article 9 tomorrow.

Finally, a basket of things we generally refer to as implementation support are essential for achieving the Convention's aims.

The States Parties' clear and unwavering focus on their four core aims and on those four other matters essential for achieving their aims has served them well. This focus has for over eight years been the framework for organizing work in the context of the Convention.

It has enabled all actors to find within this framework the space to discuss any matter related to the universalization or implementation of the Convention, but in such a way that the focus remains clear – that the ultimate purpose is the end to the suffering and that this vision can only be realized through universal acceptance and full compliance with the Convention's prohibitions and its other provisions, the destruction of stockpiled mines, the clearance of mined areas and assistance to the victims.

You can see how this organizing framework has been applied at the every formal meeting of the Convention since 2002, including at the 2004 First Review Conference where the review and action plan adopted by the States Parties were structured in accordance with these four core aims and the four other matters essential for achieving the Convention's aims.

Since the Convention's First Review Conference, great progress has been made towards achieving universal acceptance of the Convention. 156 States have ratified or have acceded to the Convention. In 2008, 164 Member States of the United Nations, including 20 States not parties to the Convention, voted in favour of the annual UN General Assembly resolution on the universalization and implementation of the Convention.

Approximately 70 percent of the States that at one time produced anti-personnel mines are now parties to the Convention and therefore have accepted that they never again shall produce the

weapon. New use of anti-personnel mines has been stigmatised and is rare. Moreover, several States not parties have indicated a willingness to consider accession to the Convention.

And much of this progress towards universalization is driven by an undying commitment by the Canadian universalization contact group coordinator and successive Convention presidents who have placed a high priority on universalization, including by the Convention's current President, His Excellency Jürg Streuli of Switzerland who has committed to an ambitious series of universalization initiatives.

Since the end of 2004, 12 States have ratified or have acceded to the Convention: Bhutan, Brunei Darussalam, the Cook Islands, Haiti, Indonesia, Iraq, Kuwait, Latvia, Montenegro, Palau, Ukraine and Vanuatu. This leaves 39 States that have not ratified or acceded to the Convention, including two States in the Americas.

The fact that 39 States have not yet accepted the Convention is the most apparent fact that indicates that work to universalize the Convention is not complete. In addition, while there has been little new use in recent years, several States not parties perceive that they derive utility from mines previously emplaced. And others remain ready to use mines. In addition, millions of mines likely are stockpiled by these States not parties. As well, armed non-State actors continue to use anti-personnel mines.

With respect to stockpile destruction, you will recall that each State Party "undertakes to destroy or ensure the destruction of all stockpiled anti-personnel mines it owns or possesses, or that are under its jurisdiction or control, as soon as possible but not later than four years after the entry into force of this Convention for that State Party." The exception to this rule is that States Parties may retain "a number of anti-personnel mines for the development of and training in mine detection, mine clearance, or mine destruction techniques." This number "shall not exceed the minimum number absolutely necessary" for these purposes.

At the end of the 2004, 128 States Parties no longer held stocks of anti-personnel mines, either because they had destroyed their stocks or because they had reported that they had not held stocks. 16 States Parties were still in the process of destroying stocks.

At the end of last year, there were 150 States Parties that no longer held stocks of anti-personnel mines and only 6 States Parties remain in the process of destroying their stocks. In 2004, stockpile destruction in the Americas was nearly complete. Today, it is complete. For some this matter is a distant memory, with Argentina, Brazil, Canada, Chile, Colombia, Ecuador, El Salvador, Honduras, Nicaragua, Peru, Suriname, Uruguay, and Venezuela having destroyed their mines some time ago. In 2004, it was possible to account for the States Parties having destroyed approximately 37 million mines. As of today, approximately 41 million mines have been destroyed by the States Parties.

In terms of challenges, many remain. Allow me to use not my words but those contained in the Geneva Progress Report of the Ninth Meeting of the States Parties to characterize these. The Geneva Progress Report states: "In the 8MSP's Dead Sea Progress Report 2006-2007, it was noted that while the number of States Parties which must fulfil Article 4 obligations is small, serious challenges remain. At the 2 June 2008 meeting of the Standing Committee on Stockpile

Destruction, it was noted that these challenges are even more profound than initially anticipated and expressed at the 8MSP.”

The Geneva Progress Report goes on to say that “the failure by Belarus, Greece and Turkey, which together have almost eight million stockpiled anti-personnel mines, to comply with the obligations contained in Article 4 by their deadlines represents a matter of serious concern.”

The Geneva Progress Report furthermore states that “three States Parties, Equatorial Guinea, Gambia and Haiti, that are assumed to not possess stockpiled anti-personnel mines, remain overdue in submitting an initial transparency report. As well, one State Party, Cape Verde, for which information emerged prior to the 8MSP indicating that it indeed held stocks and that these have been destroyed, is overdue in providing an initial transparency report to clarify the types and quantities of mines destroyed after entry into force.”

In terms of the aim of clearing mined areas, please allow me to recall a few pertinent details from the Convention, which will be explained in more detail by my colleague Juan Carlos Ruan later today. First, the Convention defines a “mined area” as “an area which is dangerous due to the presence or suspected presence of mines.” Each State Party is obliged to identify, under Article 5, and to report, under Article 7, all mined areas containing or suspected to contain anti-personnel mines.

Each State Party reporting mined areas must, as soon as possible or no later than 10 years after entry into force for that State Party, render these areas no longer dangerous due to the presence or suspected presence of AP mines. And finally, if a State Party believes it will be unable to do this, it may request an extension.

The status of this matter of the Convention at the end of 2004 included that 50 States Parties had reported mined areas containing or suspected to contain anti-personnel mines. Four of these 50 States Parties had, by the time of the First Review Conference, reported that they had completed implementation of Article 5. This included two States Parties in the Americas – Costa Rica and Honduras. While four States Parties had reported completion, there was little information regarding when which States Parties would be next to complete. And there was no means to declare or report “completion”.

In addition, in 2004, there was a sense that it may take decades to clear perceived massive amounts of mined areas. With respect to many States Parties implementing Article 5, little information was available on the nature, extent and location of implementation challenges. And, there was no process for handling requests submitted under Article 5.

What is the status now?

52 States Parties have reported mined areas. Two additional States Parties had originally reported mined areas containing anti-personnel mines but since have corrected the record. Ten of these 52 States Parties have now reported implementation complete. This includes four States Parties in the Americas, with Guatemala and Suriname having joined Costa Rica and Honduras as States that have fulfilled their Article 5 obligations.

Whereas in 2004 we knew little about who was next to complete when, now 6 to 8 States Parties have made it known they likely will complete in 2009 or 2010.

On the basis of an initiative undertaken by Guatemala in 2006, the States Parties have adopted a model declaration to voluntarily report completion.

Whereas in 2004, completion seemed like a near impossibility in many cases, we now know how to approach a landmine problem smarter. In particular, at the Ninth Meeting of the States Parties, the States Parties recommended the full use of practical technical and non-technical means to release, with confidence, areas suspected to contain anti-personnel mines in order that expensive and time-consuming clearance assets could be directed to where they are needed the most.

Thanks in large part to the efforts of those States Parties that submitted extension requests last year, there is much better information detailing progress made and challenges that remain. And finally, the States Parties have adopted a process for dealing with Article 5 extension requests and have proven that they intend to deal with them in a rigorous manner.

In terms of the aim of assisting the victims, the Convention contains an important promise to the survivors. In the preamble to the Convention, the States Parties' wish to do their utmost in providing assistance for the care and rehabilitation, including the social and economic reintegration of mine victims is recorded. And later it is specified that each State Party in a position to do so shall provide assistance for the care and rehabilitation, and social and economic reintegration, of mine victims.

What was the status prior to 2004?

Perhaps because of the tentative nature of the obligation as concerns survivors, prior to 2004 victim assistance was not treated with the same seriousness or precision as other provisions of the Convention. It was an easy throw away line to say that more time should be spent talking about victim assistance. But until the First Review Conference, little thought went in to discerning who was actually responsible and what the main focus in the context of the Convention should be.

Moreover, unlike obligations to destroy stocks or to clear mined areas, the aim of assisting the victims was not measurable nor time bound. NGO critiques of States' actions therefore amounted to well meaning appeals to do more, but how much more, what more, where, by when and by whom?

In 2004, there as a major achievement in the area of victim assistance, however, when after five years of intersessional work the States Parties adopted key conclusions that provided them with the basis to act strategically.

Victim assistance is now largely treated in a manner analogous to other obligations. The First Review Conference and the period that followed made it clear that, like with other obligations, sovereign States are ultimately responsible for matters under their control or jurisdiction, including the well being of their populations. As such, it is now clear that those States Parties with the responsibility for significant numbers of survivors – and 26 of them have self-identified – need to be provided with the space and the support to chart the course forwards.

Major strides have been taken to see that like stockpile destruction and mine clearance, victim assistance will be measurable. For instance, more States Parties have better data on numbers of survivors and most have developed specific, measurable, achievable, relevant and time-bound objectives. With these objectives having been expressed by the States Parties, NGOs can now critique relative to a benchmark.

Since 2004, States and Co-Chairs, including Nicaragua and Norway in 2005, have acted strategically on the basis of the conclusions adopted at the First Review Conference. In addition, the practices used in the context of this Convention have become a new legal standard in the Convention on Cluster Munitions.

Para concluir, ustedes, los Estados Parte que han ejercido su soberanía aceptando este instrumento importante de derecho humanitario internacional, han logrado mucho desde la Primera Conferencia de Examen en el 2004.

Ustedes tiene una gran oportunidad en este taller, a lo largo de 2009, y avanzando hacia la Segunda Conferencia de Revisión en Cartagena, Colombia para registrar este progreso impresionante, examinar los desafíos pendientes y establecer un plan para vencer estos desafíos.

Mis colegas y yo tenemos ganas de apoyarlos y les deseamos lo mejor para un taller acertado y un camino productivo hacia Cartagena y más allá.

Muchas gracias