Summary of Compliance Issues

During the 13th Meeting of the States Parties to the Mine Ban Treaty, States Parties faced numerous compliance challenges, including a recent public statement from Yemen acknowledging that its armed forces had used antipersonnel mines during its internal conflict in 2011, as well as ongoing allegations of antipersonnel mine use by armed forces in South Sudan, Sudan and Turkey. The response from States Parties was broader and stronger than in the past, but still only coming from a small portion of treaty members.

During the ICBL General Exchange statement on Monday 2 December, ICBL Director Kasia Derlicka noted that while the Mine Ban Treaty undoubtedly remains a success story in the field of humanitarian disarmament, it is also faced with some very serious challenges where all states’ close attention and reaction are crucial. She said that maintaining the credibility and effectiveness of this treaty largely depends on how states and other partners collectively tackle these challenging issues.

ICBL Ambassador and Nobel Peace Laureate Jody Williams expressed her appreciation about Yemen’s statement on the use of antipersonnel mines in 2011, adding that the civil society was now expecting investigations to be carried out, not only in Yemen but also with regards to allegations of use in Sudan, South Sudan and Turkey.

A total of 18 states and one regional group took the floor during the meeting to express concern about the use or allegations of use of antipersonnel mines by a number of States Parties and not party, as well as non-state armed groups. These are Australia, Austria, Bulgaria, Canada, Colombia, Costa Rica, Croatia, Ecuador, Germany, Italy, Japan, Malaysia, Mexico, The Netherlands, New Zealand, Norway, South Africa and Switzerland, as well as the European Union. Also expressing concern were the UN Secretary-General, Nobel Peace Laureate Jody Williams, the UN Inter-Agency Coordination Group on Mine Action, the International Committee of the Red Cross and the ICBL.

Most of them took the floor during the session on compliance that was chaired by Bulgaria and New Zealand as Co-Chairs of the Standing Committee on the General Status and Operation of the Convention. In their joint statement, the Co-Chairs explained that the Mine Ban Treaty had already established a powerful norm whereby the use of antipersonnel mines cannot be tolerated under any circumstances, and that it was the responsibility of every State Party to ensure compliance with this norm. They said that any allegation of non-compliance should be “of utmost concern to all States Parties.”

The 13MSP Final Report included an expression of States Parties’ “concern” about allegations of use in different states; took note of the “breach of the Convention” in Yemen; welcomed Yemen’s transparency on the matter and its commitment to “investigate and take necessary action”; and listed a set of specific steps that Yemen committed to undertaking in order to investigate and follow
up on the use, with an interim report on these steps by 31 March 2014 and a final report by 31 December 2014.

**Landmine use by Yemen**

Yemen spoke during both the General Exchange of Views and the Compliance sessions, noting that there had been a violation of the Mine Ban Treaty during the country’s civil war and that it was taking steps, including the formation of an inter-governmental committee, to investigate and to take “corrective measures.” Yemen also noted that it would be undertaking MRE and clearance and called for the support of the international community. The statements closely paralleled the official statement given by the office of the Prime Minister on 17 November 2013.

Australia, Austria, Bulgaria, Canada, Colombia, Costa Rica, Croatia, Germany, Italy, Japan, Malaysia, The Netherlands, New Zealand, Norway and Switzerland directly or indirectly expressed concern over the use of antipersonnel mines in Yemen, with several states (Algeria, Australia, Austria, Bulgaria, Canada, Croatia, Germany, Italy, Malaysia, The Netherlands, New Zealand and Switzerland) also welcoming Yemen’s statement and transparency efforts.

In addition, Bulgaria, Germany, The Netherlands, New Zealand and Switzerland called on Yemen to carry out investigations and hold accountable those responsible for laying those mines. Austria, Canada, Malaysia, The Netherlands and Switzerland asked Yemen to report on a regular basis on measures taken in response to the confirmed use of antipersonnel mines. Norway urged Yemen to shed light as soon as possible on the origin of the antipersonnel mines used. Speaking on behalf of the ICBL, Steve Goose stated that Yemen was expected to provide additional details when possible on the timeframe and terms of reference of the investigation committee, and the determination of the origin of the mines.

**Allegations of use by other States Parties and instances of use by states not party or by other actors**

Turkey stated that following reports of an explosion in 2009, one member of its military had been sentenced\(^1\) with over six years imprisonment following a thorough investigation, and that the case was currently in appeal. It reported that an investigation was still ongoing following another report of explosion in 2009, and that any development on this issue would be promptly shared with the ISU and with States Parties.

South Sudan noted that there have been “several unconfirmed and unverified reports by some international organizations” of use of antipersonnel mines by state armed forces, but stated that they had not been independently verified and that it was not appropriate to lay blame on one particular party to the conflict (i.e., government forces). It indicated that access to the region was impossible during the rainy season. It did note that a fact-finding mission had taken place, but that it concluded there was no evidence of new mine use. It added that it would continue to investigate and

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\(^1\) However according to information provided by Turkey in May 2013, the verdict and sentence do not seem to be related to Turkey’s obligations under the Mine Ban Treaty, since there was no mention of the illegal use of antipersonnel mines.
monitor new mine laying and, if confirmed, take measures to ensure such mine laying stops and that those responsible are brought to justice.

During the presentation of its request for an Article 5 extension on 3 December, and in response to several mentions of allegations of use of antipersonnel mines, Sudan stated that it would investigate allegations of use but could not yet reach the areas because of the ongoing security situation. It said it would continue fact-finding as soon as it could access the areas in question.

Australia, Italy, Japan and Switzerland said they were deeply concerned by allegations of use by States Parties. Canada expressed its concern about all incidents of use and outstanding allegations of use, noting that such allegations are of greater concern when involving States Parties. Mexico expressed concern with allegations of use and said, like Ecuador, that any use of antipersonnel mines was a violation of the principles of International Humanitarian Law. The Netherlands noted its deep concern over allegations of use of antipersonnel mines and called for further discussion on how to address compliance issues. Norway said that alleged and known use, including the violation in Yemen and allegations of use in South Sudan, Sudan and Turkey, were a threat to the viability of the convention.

The European Union expressed concerns over the reported use of antipersonnel landmines in several States Parties and urged all concerned to conduct an investigation and to report back on their findings at the earliest opportunity. Similarly, Ecuador and Switzerland demanded that an independent and impartial investigation be carried out to establish responsibilities and penalties. Australia, Austria, Canada, Italy, Japan, Mexico and the ICRC called on States Parties with mine use allegations to launch investigations and/or to take the necessary transparency measures.

Colombia recalled that the Cartagena Declaration condemned any use by any actor. Costa Rica, Malaysia and New Zealand (speaking from the floor) also condemned any use by any actor. In addition, a number of delegations expressly condemned landmine use by states not party or other entities. Austria urged Syria and Myanmar to refrain from using antipersonnel mines. Extremely concerned over the use of antipersonnel landmines in Syria, the European Union called on Syria to respect the norms established by the treaty and to accede to it. The UN Secretary General joined his voice to that of states that have condemned the use of antipersonnel mines in Syria, Myanmar and Nagorno-Karabakh in 2013.

Other compliance issues

With regard to stockpile destruction, Norway and the ICBL reminded participants that Belarus, Greece and Ukraine are still in breach of their obligations under Article 4.

On the issue of mines retained for development and training purposes under Article 3, the ICBL noted that far too many States Parties who retained mines never used them for the stated purposes, meaning that, in effect, these mines become stockpiled mines, which at some point becomes a compliance issue. The ICBL also pointed to the low level of reporting under Article 7 – barely 50% in 2013 – as another compliance concern.
The ICRC remarked that about 40% of States Parties had still not fulfilled their obligations under Article 9. Afghanistan indicated that its draft legislation to implement the Mine Ban Treaty and Convention on Cluster Munitions was being reviewed by the Ministry of Justice.

Mexico and Norway, along with the ICRC and ICBL, suggested that states should consider the facilitation and clarification of compliance procedure under Article 8 of the treaty in response to what Norway described as “an emerging pattern of non-compliance.” The Co-Chairs of the Standing Committee on the General Status and Operation of the Convention, Bulgaria and New Zealand, explained the various steps they had taken with “four States Parties” to follow up on concerns about compliance “in furtherance of the aims of Article 8.” They urged all States Parties to consider how they can act now and in the future to implement the provisions of Article 8 and to facilitate ongoing compliance with the treaty. They also invited them to continue to share their views on this question at the Third Review Conference.