

Lessons learned from the AP Mine Ban Convention for the destruction and retention of cluster munitions in accordance with the Convention on Cluster Munitions

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Part I: Destruction

Lesson #1: Seek to immediately address any technical concern

During the first years following the entry into force of the Anti-personnel Mine Ban Convention (APMBC), the States Parties organized regional meetings to consider the technical ways and means of the destruction of stockpiled anti-personnel mines. The discussions served a valuable purpose of highlighting the relative simplicity of the task, motivating States Parties to act with some urgency to meet their obligations, and demystifying the cost of destruction. Given that the destruction of cluster munitions will be technically more challenging, States Parties to the Convention on Cluster Munitions (CCM) should seek to immediately address any technical concern related to destruction rather than waiting until the entry into force of the CCM.

Lesson #2: Make use of initial transparency information as soon as possible to know who has what implementation challenge

States Parties to the APMBC are obliged to provide information on the numbers and types of stockpiled mines awaiting destruction. However, it took States Parties to the APMBC 3 years to compile a list of who was required to destroy how many mines and by when. States Parties to the CCM should not wait three years but rather immediately, i.e., at the First Meeting of States Parties, make use of the transparency information provided in order to focus on specific and quantified implementation challenges.

Lesson #3: Make good use of an informal exchange of information to chart progress and identify potential problems

Once baseline information has been reported by States Parties as required, an informal exchange of information can be used to chart progress and identify potential problems. The States Parties to the APMBC established an informal work programme early, but it took a few years that the space was opened up to and encouragement given to States Parties implementing stockpile production provisions to provide updates on progress and to highlight challenges that they face. States Parties to the CCM could as soon as possible an informal exchange of information and make good use of it to chart progress and identify potential problems.

Lesson #4: Focus on the task at hand

Effectively charting progress, identifying potential problems and taking steps to overcome these problems means focusing on the task at hand. The first discussions on the

destruction of anti-personnel mines showed there is a risk to see the agenda loaded by politically charged matters that are more legal in nature than administrative, logistical and technical. If the agenda is not focused on the task at hand, the effort to undertake the task will suffer. The CCM could benefit as well by ensuring fora dedicated to the obligation to destroy stockpiled cluster munitions remain focused on the task ahead.

Lesson #5: Ensure that the right to request an extension does not delay work proceeding as soon as possible

The APMBC does not allow for extensions of deadlines to destroy stockpiled mines but does permit extensions on deadlines for destroying emplaced mines. The experience of the implementation of these two obligations has demonstrated that the possibility to request more time might cause a diminished urgency to complete destruction by an initial deadline. The lesson for the CCM is to ensure the focus remains on the prompt implementation of the obligation rather than on the process to ask for an extension of the eight year deadline.

Lesson #6: Take seriously the obligation to provide assistance

Both APMBC and the CCM specify that States Parties have the right to seek and receive assistance in fulfilling their obligation and that those in a position to do so shall provide assistance. Few States Parties to the APMBC have provided assistance for the destruction of stockpiled mines. Given that the destruction of cluster munitions will be more complicated and expensive, there could be greater appeals for assistance than in the context of the AP MBC. Therefore, States Parties to the CCM should take seriously the obligation to provide assistance.

Lesson #7: Make good use of implementing partners and their mechanisms

States Parties to the CCM should seize the opportunity to collaborate with a variety of implementing partners in order to channel their support. As it has been observed in the implementation process of the APMBC, specialized actors can effectively support States Parties in providing specific capacities and expertise (NAMSA, GICHD) or in acting as a reliable intermediary between donor States and national armed forces (UNDP, OAS).

Lesson #8: Take advantage of the opportunity to transfer munitions for destruction

Both the APMBC and the CCM permit transfers for the purpose of destruction. Only a limited number of States Parties to the APMBC have made use of this provision. This can be explained by the relative technical simplicity of anti-personnel mines' destruction. The more specialized nature of cluster munitions destructions might convince some States Parties to the CCM to opt for transferring their stockpiled cluster munitions to destruction facilities in other countries.

Lesson #9: Be transparent in implementation

Both the AP MBC and the CCM require a minimum level of transparency on the whole destruction process. The implementation of the APMBC has demonstrated the value of being transparent in a voluntary manner that goes beyond the minimal obligations. The invitation of civil society representatives and media to a destruction event is an example thereof. The implementation of voluntary transparency measures will not only builds confidence among States Parties, but also maximize the public relations value that flows, for instance, from destruction event.

Part II: Retention

Lesson #1: Find virtue in the fact that the number of retained munitions is not quantified

A good lesson for the implementation of the CCM is to resist the potential push by actors other than States Parties, observed in the context of the APMBC, to conclude a political understanding quantifying the number of cluster munitions retained for permitted purposes that is “minimally necessary”. The flexibility of “the minimum number absolutely necessary” allows States Parties to adapt the number of retained cluster munitions, falling under Article 3 definition, to planned activities. A State Party might, for instance, perceive the need to retain cluster munitions for activities such as research and development or EOD training, whereas for another not engaged in such activities the minimum necessary would be zero. In addition, the establishment of a understanding of a maximum quantity that is minimally necessary might result in the such a ceiling becoming the floor.

Lesson #2: Emphasise transparency

As previously outlined in the context of the obligation to destroy stockpiles, transparency on retention builds confidence among States Parties and can have an effect in ensuring that the number retained for permitted purposes truly is the number minimally necessary. Emphasis on transparency will help to better understand the reasons why certain States Parties retain cluster munitions and also why some do not.