

# The Landmine Factor in the Peacekeeping Debate in Africa

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## INTRODUCTION

The African continent faces the twinned challenges of on-going conflict and the widespread presence of anti-personnel landmines. While rarely linked at a policy level, in practice, with the deployment of an increasing number of peacekeeping forces across the continent, the two issues are closely related.

This paper examines the ways in which the establishment of peacekeeping standby forces at the continental and sub-regional levels in Africa requires a focus on landmines and how efforts to eradicate landmines fit into discussions on common defence policies and peacekeeping. It provides an overview of some recent political initiatives, at the international, regional and national levels on developing a stand-by African peacekeeping capacity and on African progress in implementing the Ottawa Convention, which bans anti-personnel landmine production, stockpiling and use. The paper concludes by arguing that international commitments aside, any discussion on deploying peacekeeping forces in Africa needs to take cognisance of the landmine realities that exist across the continent and the steps that are being taken to counter the use of these weapons.

## PEACEKEEPING AND THE AFRICAN STANDBY PEACEKEEPING FORCE

Recent initiatives have seen dramatic rhetorical progress towards the proposed establishment of an African standby force for peacekeeping purposes. Driven by the experiences of the United Nations during the Rwandan genocide in 1994 and Western disengagement after the United States' disaster in Somalia in 1993, Africa is experiencing a revival of the belief that peace enforcement can best be conducted outside of—but supported by—the United Nations framework by regional groupings of the willing.

Africa's blame game of the 1970s and 1980s has given way to increasing engagement, but at a time when the resources available to the continent for conflict management are declining each year. While South Africa has in the past two years brought unparalleled commitment and means to peacemaking in Africa, even that has its limits. United Nations and international commitment to the continent remain moderate, but is clearly not prioritized at the same level as Afghanistan and Iraq. Nor does the United Nations requirement for a prior binding and comprehensive ceasefire to be in place before the

deployment of peacekeepers offer a realistic response to regional and internal conflicts in Africa. In many cases, any number of protagonists engage with impunity in casual slaughter and regional genocide. Innovative solutions are being sought for Africa. Africans are often in the forefront of this search although Africa remains dependent for this on ever-increased levels of foreign support.

While countries such as France, the United Kingdom and the United States have been investing in token support to build African capacity for peace missions

for several years, more effective bilateral solutions have recently been developed that circumvent the cumbersome and expensive United Nations multilateral processes. Thus, the United Kingdom deployed a parallel mission to Sierra Leone, outside the United Nations mandate of UNAMSIL, to backstop what was essentially a third world peace mission. France, historically a major military actor on the continent, has similarly returned to areas such as Côte d'Ivoire and the eastern parts of the Democratic Republic of the Congo (DRC). Even the US, apparently the least concerned with stability where its national interests are not directly at stake, was pushed into token military engagement in Liberia.

In Burundi, on the other hand, Africa has been spurred into taking responsibility where the rest of the world has refused to do so. Desperate to maintain a momentum

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for peace at literally any cost, South Africa agreed to deploy troops, eventually taking the lead in the configuration of an African Mission in Burundi (AMIB).

Key to the continental initiative of deploying peacekeepers is the *Protocol Relating to the Establishment of the Peace and Security Council of the African Union* that was opened for ratification during the inaugural Summit of the African Union in Durban in July 2002. Once ratified by a simple majority of member states, (27 out of 53), the Peace and Security Council would serve as the “standing decision-making organ for the prevention, management and resolution of conflicts... a collective security and early warning arrangement to facilitate timely and efficient response to conflict and crisis situations in Africa.”<sup>1</sup> At a subsequent meeting of African Chiefs of Defence Staff in Addis Ababa during May 2003, agreement was reached on the framework for the proposed African Stand-by Force that will form part of the capacities of the Peace and Security Council. This is to consist of five regional standby-by brigades, established in two phases. The first phase will be in place within the next two years (by 2005) and this will lay the foundation for a second phase that will establish a more permanent force. By 2010 Africa should thus be in a position to police its own continent and be in a position to mediate its own conflicts. The force will manage complex missions across the continent and operate on the basis of six scenarios, ranging from observer missions to intervention.

The draft protocol subsequently served as the common African position during the Africa–G8 meeting in Evian, France in June 2003. At that meeting, the G8 reconfirmed its commitment to help Africa establish a brigade-size standby force, including the civilian and police component, in the field for 18 months by 2010. By definition such efforts will focus on the capabilities of key countries, most notably South Africa, Nigeria, Kenya and Ethiopia.

These developments at the continental level have been preceded by discussions in two of Africa’s regions, namely West and Southern Africa, on the establishment of brigade-size peacekeeping forces as part of the proposed continental system. In the Southern Africa Development Community (SADC) region these discussions on the contribution that the region could and should make in the realm of peace and security culminated in the amendment to the SADC Treaty and the establishment of the SADC Organ on Politics, Defence and Security Cooperation.

The *Protocol on Politics, Defence and Security Cooperation* in SADC provides for a number of objectives for the Organ, including (Art 2) to: “consider the development of a collective security capacity and conclude a Mutual Defence Pact to respond to external military threats” and “develop peacekeeping capacity of national defence forces and co-ordinate the participation of State Parties in international and

regional peacekeeping operations.”<sup>2</sup> Apart from a commitment to the establishment of a regional peace support capacity, the subsequent Strategic Indicative Plan for the Organ (SIPO) speaks explicitly of the need to “promote the inter-operability of military equipment to be used in peace support operations.”<sup>3</sup> The SIPO also identifies landmine and unexploded ordnance (UXO) clearance as one of the key challenges impacting on the defence sector that still needs to be faced.<sup>4</sup> Similarly the SADC Mutual Defence Pact speaks at length about defence cooperation (Article 9) including “joint research, development and production under license or otherwise of military equipment including weapons and munitions, and to facilitate the supply of, or the procurement of defence equipment and services among defence-related industries, defence research establishment and their respective armed forces.”<sup>5</sup>

The requirement for defence collaboration and standardization within the context of a landmine-infested continent is obvious.

## FROM CONVENTIONAL TO SEMI-CONVENTIONAL OPERATIONS

The doctrine of professional armed forces on the use of landmines during conventional or ‘regular’ conflict is clear. Landmines are intended to protect military bases and key installations as well as hinder and otherwise deter the enemy. Landmines are also used to protect open flanks, deny routes and strategic positions, restrict the ability of opponents to manoeuvre, and force them to deploy in areas where they are most vulnerable or least likely to attack with success. Anti-personnel mines are generally used to protect anti-tank mines, but have an added deliberate intention to maim and wound enemy soldiers, thereby sapping morale and placing additional strains on support systems (such as medical and transport) and combat capabilities (fellow soldiers having to help their wounded comrades and being hesitant to move freely due to the evident threat of injury to themselves). Conventional armed forces have dedicated specialists (engineers) who are trained, practised and instructed in the use of mines, which are laid according to set patterns. Minefields are clearly demarcated and locations mapped in detail to enable the subsequent lifting of minefields or safe passage for friendly forces, while all combat forces receive general mine-awareness training.

Despite these clear guidelines and control, mine warfare has always been a dirty affair, even during so-called conventional operations between the armed forces of countries ‘formally’ at war. The problem in Africa is that there are few examples of ‘conventional’ war, or indeed of armed forces, that subscribe to the description just given. In general, armed conflict in Africa is an irregular affair within which semi-conventional and guerrilla tactics are the order of the day. There are few, if any, frontlines that are defended along a clearly defined line. Landmines, generally used

indiscriminately, are not marked and included as part of a formal defensive system. They are generally used in a lay-and-forget mode and are usually not lifted afterwards. Many of the landmines to be found in Africa are, furthermore, not of a self-destruct or disarm type and remain active and in the soil for decades after the conflicts have moved on and battle lines have shifted.

The indiscriminate use of anti-personnel mines is a fairly recent phenomenon, dating from the war in Indochina in the sixties and seventies when the US used so-called 'bombies', especially in attacks against Laos up to 1973. Following the 1979 invasion of Afghanistan, Soviet Army forces dropped vast quantities of so-called 'butterfly' anti-personnel mines over areas controlled or frequented by the insurgents. In these campaigns, anti-personnel mines were used indiscriminately by conventional armed forces against both their enemy and the civilian populations in those areas. These operational strategies are particularly problematic as mines leave a legacy long after the conflict has ended - evident in countries such as Egypt that is still suffering from the effects of the campaigns of the Second World War.<sup>6</sup> The challenge during the international peacekeeping operation in Cambodia, in the early 1990s and thereafter the situation in Kuwait following Operation Desert Storm underlined the disproportionate effect that mines had on innocent members of the civilian population years after the conflict had ended. Today international and African peacekeepers face these problems in the DRC, Liberia, Burundi and along the border between Ethiopia/Eritrea, while they are also faced by observers in Sudan and civilians in Angola.

Most recent wars involve non-conventional combatants; variously called insurgents, partisans, rebel groups, terrorists, guerrillas, freedom fighters or mujahadin. Regular armies fighting against them carry out 'counter-insurgency' campaigns, stability or emergency operations. In such conflicts both sides may make extensive use of mines, often in a random and unrecorded manner, as has been the case in countries such as Angola, Zimbabwe and Mozambique. Part of the problem is that not all users are governments (e.g. the Lord's Resistance Army in Uganda), not all governments are responsible and that certain countries, such as Egypt, argue that mines play an important defensive role and that their deployment along the country's borders is strictly controlled.<sup>7</sup>

Africa is believed to be the most contaminated landmine continent in the world. In 2002, Landmine Monitor listed 101 countries, and other areas that are not internationally recognized states, as affected with mines and other UXO. Of these, 30 are in Africa,

24 of which are in sub-Saharan Africa (see table 1).<sup>8</sup> Some of these countries suffer solely from the legacy of the explosive remnants of war (ERW) dating back to conflicts in the first half of the last century.<sup>9</sup>

Landmines and unexploded ordnance present a significant ongoing threat to the physical safety of people living in many African countries. Despite almost a decade of mine clearance activities, many

**Table 1: Landmine affected countries in Africa**

<ul style="list-style-type: none"> <li>• Algeria</li> <li>• Angola</li> <li>• Burundi</li> <li>• Chad</li> <li>• Democratic Republic of the Congo (DRC)</li> <li>• Djibouti</li> <li>• Egypt</li> <li>• Eritrea</li> <li>• Ethiopia</li> <li>• Guinea-Bissau</li> </ul>	<ul style="list-style-type: none"> <li>• Liberia</li> <li>• Libya</li> <li>• Malawi</li> <li>• Mauritania</li> <li>• Morocco</li> <li>• Mozambique</li> <li>• Namibia</li> <li>• Niger</li> <li>• Rwanda</li> <li>• Senegal</li> <li>• Sierra Leone</li> </ul>	<ul style="list-style-type: none"> <li>• Somalia</li> <li>• Somaliland</li> <li>• Sudan</li> <li>• Swaziland</li> <li>• Tunisia</li> <li>• Uganda</li> <li>• Western Sahara</li> <li>• Zambia</li> <li>• Zimbabwe</li> </ul>
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Source: Landmine Monitor 2003

people continue to be killed or maimed each year. Landmine Monitor reports that a number of SADC member states are still recording new victims, including Angola, Mozambique, Namibia, the DRC and Zimbabwe. Many countries with no new landmine casualties nevertheless have landmine survivors from prior years who continue to need assistance. The following countries in sub-Saharan Africa have reported landmine or UXO casualties in the past 18 months:

- Angola
- Burundi
- Chad
- DRC
- Eritrea
- Ethiopia
- Guinea-Bissau
- Kenya
- Mauritania
- Mozambique
- Namibia
- Niger
- Rwanda
- Senegal
- Somalia
- Sudan
- Uganda
- Zambia
- Zimbabwe

Anti-personnel landmines also continue to deny access to land for farming or infrastructural development, thereby presenting a barrier to food security and the overall socio-economic potential within these affected countries.

Mine/UXO casualties also include nationals from these African countries killed or injured while abroad engaged in peacekeeping operations, or other activities: Burundi, The Gambia, Mozambique, Namibia, Somalia, South Africa, Uganda and Zimbabwe.<sup>10</sup>

## THE OTTAWA CONVENTION AND THE BAN ON ANTI-PERSONNEL LANDMINES

The slogan that carried the *UN Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and their Destruction* (hereafter referred to as the Ottawa Convention) to success was that the negative humanitarian consequences of anti-personnel landmines far outweigh their military utility. The argument was that anti-personnel mines caused unnecessary suffering and maiming of soldiers and civilians and that they should be banned on humanitarian grounds.<sup>11</sup> Almost two decades before the successful conclusion of the Ottawa Convention, the *Convention on the Prohibitions or Restrictions on the Use of Certain Conventional Weapons which may be Deemed to be Excessively Injurious or to have Indiscriminate Effects* (CCW) was concluded in 1980 in Geneva and came into force on 2 December 1983. The convention was supplemented by three protocols, the second of which relates to the restrictions on the use of mines, booby-traps and other devices. Prior to the finalization of the Ottawa process, Protocol II of the CCW was the only legally binding international agreement regulating the use of anti-personnel and anti-vehicle mines.<sup>12</sup>

In the years leading up to the adoption of the Ottawa Convention, anti-personnel mines became a humanitarian issue of global proportions that saw civil society organizations spearhead changes in international law. In May 1997, the First Continental Conference of African Experts on Landmines was held in Kempton Park, South Africa, under the auspices of the Organization of African Unity (OAU). This meeting was crucial in providing an overview of the devastating impact of landmines in Africa and in galvanising African states around a total and immediate ban on anti-personnel landmines. As a result of this meeting, African governments generally and many SADC states in particular were instrumental in ensuring a successful conclusion to the negotiations in Oslo that led to the Ottawa Convention.

The Kempton Park Conference discussed African policies on anti-personnel landmines, the momentum towards a global ban on anti-personnel landmines, legal aspects of humanitarian law pertaining to landmines and the pursuit of Africa as a landmine-free zone. Participants agreed:

- that the problem needed to be addressed in a co-ordinated and multifaceted manner and that efforts with regard to mine clearance and mine victim assistance needed to be intensified;

- to adopt as a goal the elimination of all anti-personnel landmines in Africa and the establishment of Africa as an Anti-Personnel Landmine-Free Zone; and
- that all African states should end all deployments of anti-personnel landmines and establish national prohibitions on their use, production, stockpiling, transfer and their destruction.<sup>13</sup>

The Ottawa Convention was developed and negotiated over an intensive twelve-month period and opened for signature on 3 December 1997. It entered into force on 1 March 1999. The Convention has been hailed by United Nations Secretary-General Kofi Annan as “a landmark step in the history of disarmament” and “a historic victory for the weak and vulnerable of our world.”<sup>14</sup>

The Ottawa Convention prohibits the manufacture, stockpiling, transfer and use of all types of anti-personnel landmines. Each State Party is required to enact domestic legislation to “prevent and suppress any activity prohibited” by the treaty, to clear mines, destroy existing stocks and to provide programs that address the socio-economic re-integration of survivors of landmine incidents. In addition, each State Party is obliged to report annually to the United Nations on progress made in implementing the Convention.

As of 26 September 2003, there are 150 signatories and 139 accessions/ratifications. To date, 50 African countries have either signed and/or ratified/acceded to the Convention. Egypt, Libya and Morocco are the only African countries remaining totally outside the Convention. Burundi, Sudan and Ethiopia have signed the Convention but have yet to ratify it. As far as can be determined, Egypt—at the same time one of the most affected countries on the continent—is the only African country to continue to produce anti-personnel landmines.<sup>15</sup>

It is Southern Africa, however, that is regarded as the most affected by the legacy of landmines,<sup>16</sup> and the region contains some of the world’s most heavily mined countries, including Angola and Mozambique.<sup>17</sup> The next section reviews developments in this sub-region.

## SADC AND MINE ACTION

In 1999, the Southern African Development Community Summit established the Mine Action Committee to deal with the consequence of landmines in the region. This followed the 17<sup>th</sup> Southern African Development Community (SADC) Summit held on 8 September 1997 in Blantyre, Malawi at which a declaration entitled “Towards a Southern Africa Free of Anti-personnel Landmines” was adopted. The Declaration envisaged a “landmine free” southern Africa, a region within

which armed forces would destroy their stockpiles of anti-personnel mines and the use of anti-personnel mines during conflict would be outlawed. The Declaration also contained a call for a ban on the use, production, trade and stockpiling of anti-personnel landmines in the territories of SADC member countries. The SADC Mine Action Committee has met a number of times and has initiated pilot projects covering all aspects of mine action from technologies needed to mechanisms to enhance information sharing, to victim assistance.<sup>18</sup> A number of workshops have also been held. For example, in September 2000, SADC held a workshop on victim assistance, in Luanda, Angola. More recently, in June 2002, a conference for mine action operators in the SADC region also took place in Luanda.

All SADC countries<sup>19</sup> have signed and ratified the Ottawa Convention. The Democratic Republic of the Congo and Angola were the last to join. The DRC acceded on 2 May 2002 and Angola ratified the Convention on 5 July 2002 (see table 2).

Despite this evidence of strong political commitment to the Ottawa Convention, SADC's institutional weakness has been apparent in its inability to effectively facilitate the work of mine-action operators in the region. At the same time, however, the region is at the forefront of the international movement to eradicate anti-personnel landmines from military arsenals. Two countries (Zimbabwe and Mauritius) already have national implementing legislation and three others (South Africa, Seychelles and Zambia) are in the process of preparing domestic laws to criminalise the mere possession of anti-personnel landmines.

As required by the Ottawa Convention, Mozambique, Namibia, South Africa and Zimbabwe have reported destruction of their entire anti-personnel mine stockpiles, only retaining a limited number of mines for training purposes. Tanzania has destroyed 9,837 of 23,837 so far and intends to complete destruction by 2005. Botswana, Mauritius and Zambia have stated that they only have small stockpiles of anti-personnel mines for training purposes. It is believed that Angola and to a lesser extent the DRC still have large stockpiles but neither country has as yet reported details on the quantities in question.

There have been various assessments of the mine problem in Angola, Mozambique, Namibia, Zambia and Zimbabwe. For example, in September 2001,

**Table 2: Ratification Status for SADC Member States**

Country	Signatory Date	Ratification/Accession Date
Angola	4 December 1997	5 July 2002
Botswana	3 December 1997	1 March 2000
Democratic Republic of the Congo	—	2 May 2002 (Acceded)
Lesotho	4 December 1997	2 December 1998
Malawi	4 December 1997	13 August 1998
Mauritius	3 December 1997	3 December 1997
Mozambique	3 December 1997	25 August 1998
Namibia	3 December 1997	21 September 1998
Seychelles	4 December 1997	2 June 2000
South Africa	3 December 1997	26 June 1998
Swaziland	4 December 1997	23 December 1998
Tanzania	3 December 1997	13 November 2000
Zambia	12 December 1997	23 February 2001
Zimbabwe	3 December 1997	18 June 1998

Source: *Landmine Monitor 2003*

the Mozambique's National Demining Institute (IND) published the results of the country's first-ever comprehensive "Landmine Impact Survey". Carried out by the Canadian International Demining Corps, the survey defined the landmine problem in terms of scale, type, location, hazard and social and economic impacts experienced by local communities. It also aimed to improve national planning efforts by allowing for clear prioritization of resources; foster development of national plans with well-defined immediate, intermediate and end-state objectives; and, establish baseline data for measuring performance. It found that virtually all of Mozambique experiences negative social and economic consequences from landmines and UXO contamination. It identified 791 landmine-impacted communities and 1,374 areas contaminated by landmines and/or UXO. The survey confirmed that landmines and UXO are widely distributed throughout Mozambique. The Suspected Mined Areas cover an estimated 562 square kilometres of land and affect the livelihoods and safety of at least 1.5 million persons. Landmine incidents continue to occur (with 172 new victims recorded while the study was being carried out).<sup>20</sup>

A Landmine Impact Survey (LIS) in Angola, which is known to be heavily mined, started in December 2002 with funding from the Government of Germany, the Canadian International Development Agency (CIDA) and the US Department of State Humanitarian Demining Programme. The European Commission has also pledged to support the survey. Under the auspices and support of the Inter-Sectoral Commission on Demining and Humanitarian Assistance (CNIDAH), HALO Trust, InterSOS, Santa Barbara Foundation, Norwegian Peoples' Aid (NPA) and Mine Advisory Group (MAG) will conduct the survey with oversight and monitoring from the Survey Action Centre (SAC).

Although in August 2003, a team of experts from the United Nations Mine Action Group visited Malawi on a fact-finding mission, no comprehensive assessments or impact surveys have yet been carried out in Malawi or Tanzania. In Swaziland, the landmine problem may not be serious enough to warrant a comprehensive assessment. In others, such as the DRC, the prevailing security situation may still be too difficult to allow for a comprehensive assessment or impact survey to be implemented—although SAC is planning to conduct advance survey missions in 2004). However, it has already been confirmed that mines in locations such as Bunia and Kisangani, and along the border with Angola, prevent the predominantly agricultural populations in these regions from using their land, roads, schools, and other infrastructure. Some 1,172 mines were disarmed and cleared in Bunia in April 2003 and about 622 in and around Kisangani in December 2002.

The capacity to clear mines is available in Angola, Mozambique, Malawi, Namibia, Zambia, Zimbabwe and South Africa. In Angola, Mozambique and Namibia a number of non-profit and commercial organisations have been engaged in mostly humanitarian mine clearance for a number of years. In Malawi, the national police remove mines and UXO on request. In Zimbabwe, the mine clearance programme was suspended in December 2000 due to the withdrawal of external funding and the Armed Forces' Engineers Squadron now conducts clearance. In Swaziland the Umbutfo Swaziland Defence Force is responsible for mine action activities, having been trained by the US.

## **SOUTH AFRICA'S POLICY ON LANDMINES**

Until 1993 South Africa had no consistent policy on landmines other than that they were integral to its military doctrine. In 1994, shortly before the first democratic elections, the former National Party government announced a moratorium on the marketing, export and transit of all types of landmines. Subsequently South Africa, in the past a large producer of landmines, has made significant policy changes, moving from a position which was at first ambivalent to one that by 1995, supported a ban on so-called dumb mines.

In September 1995, at the commencement of the CCW Review Conference, South Africa announced its intention to discontinue using so-called long-life anti-personnel mines and, instead, to develop self-destructing and self-deactivating anti-personnel mines (smart mines). This concept, also put forward by a number of other governments, met with international condemnation, captured in the slogan 'Smart mines, dumb idea'.

In 1996, the South African Cabinet took the decision to prohibit the export of all types of landmines from South Africa. In early 1997, the Cabinet further decided to prohibit the use, development, production and

stockpiling of anti-personnel landmines. By 1998, anti-personnel landmines held by the Department of Defence had been destroyed, well before the Ottawa Convention—with its requirement of destruction of landmine stockpiles—entered into force.

The South African government has consistently stated that peace and security in the region and in the continent is a top priority and that this will only come about through regional debate and the implementation of common programmes.<sup>21</sup> This is largely reflected in South Africa's recent approach to anti-personnel landmines at a national, regional and international level.

Today the South African government is not only fully committed to banning the production of anti-personnel landmines on its soil and destroying all of its stockpile, but also to providing affected countries with mine risk education (mine awareness), clearance of laid mines and victim assistance in the Southern African region. South Africa is also aware that technological developments often can and sometimes do undermine the definition of anti-personnel landmines, and that NGOs and State signatories therefore need to monitor if the definitions of what constitutes mines and other prohibited munitions have become outdated because of these technological developments.<sup>22</sup>

South Africa also continues to play a leading role in efforts to universalise the Ottawa Convention in Africa and actively participates in the inter-sessional committees and the annual meeting of States Parties to the Ottawa Convention.

Key to understanding the legislative framework that reflects South Africa's current policy on landmines are two recent pieces of legislation: the Anti-Personnel Mines Prohibition Act and the National Conventional Arms Control Act.

In terms of section 231 (4) of the South African Constitution, an international agreement needs to be enacted into law through national legislation. South Africa has reported to the United Nations since 1999 that it is in the process of developing such enabling legislation. After a protracted process, the Anti-Personnel Mines Prohibition Act was approved by both Houses of Parliament in 2003 and is presently awaiting signature by President Mbeki before being gazetted into law.

The key objectives of the Act are to:

- prohibit the use, stockpiling, production and transfer of anti-personnel mines within South Africa;
- address transgressions by South African citizens, permanent residents and juristic persons incorporated or registered in the Republic outside the borders of the Republic;
- empower the Minister to exempt certain persons from the prohibition, for example for retaining or transferring mines for training or development of techniques relating to mine-detection, mine-clearance and mine-destruction;

- enable the South African National Defence Force to participate in operations, exercises or other military activities with the armed forces of a State that is not a party to the Convention, as long as it is not in contravention of the Convention or amounts to assistance in any activity prohibited by the Convention; and
- place an obligation on the Minister of Defence to report on South Africa's compliance to Parliament and, via the Minister of Foreign Affairs, to the Secretary-General of the United Nations.

If found guilty of an offence under the Act, a person is liable for a fine or imprisonment for a period not exceeding 25 years, or to both a fine and imprisonment. Any juristic person (company) that contravenes the Act can be fined up to R1 million.

The work of the South African government's Mine Ban Treaty (MBT) Enabling Legislation Drafting Committee has ensured that South Africa has developed legislation that is already being seen by the international and regional community as 'international best practice'. This is reflected for example, in its clarity on what is, and what is not, allowed during joint operations with states not party to the Convention (South Africa will not participate in combined operations with any force that uses anti-personnel mines) and in relation to the definition of anti-personnel mines used in the legislation (which makes any victim-activated munition an anti-personnel mine).

In South Africa, the definition of armaments includes demining equipment and the sale and export of such equipment, as well as the provision of mine clearance services by South African companies. These are all controlled and regulated by the government's National Conventional Arms Control Committee (NCACC). The Act that governs this Committee was given presidential assent on 20 February 2003 and is due to be promulgated during 2003.

The objectives of the National Conventional Arms Control Act are to:

- establish in law a National Conventional Arms Control Committee;
- ensure the implementation of a legitimate, effective and transparent arms control system;
- foster national and international confidence in the control procedures;
- provide for an inspectorate to ensure compliance with the provisions of the legislation;
- provide guidelines and criteria to be used when assessing applications for permits made in terms of the Act;

- ensure adherence to international treaties and agreements; and
- ensure proper accountability in the trade of conventional arms.<sup>23</sup>

This Act thus also affects the services that South African mine action operators render in the region and globally.

## CONCLUSION

The Ottawa Convention, the NCAC Act and the Anti-Personnel Mines Prohibition Act provide the regulatory regime within which the problems associated with the legacy of landmines can be dealt with by South Africa as well as impacting on the role and responsibilities of African peacekeeping or standby forces in relation to mine use and clearance.

In an African-wide context, the New Partnership for Africa's Development (NEPAD) provides an important political framework. Countering the proliferation of small arms and landmines is on the peace and security agenda of NEPAD, which promotes the long-term conditions for development and security in Africa, as well as that of the African Union.

NEPAD aims to enhance poverty eradication in Africa and to place African countries, both individually and collectively, on a path of sustainable growth and development in the world economy. NEPAD's Peace and Security Initiative focuses on building Africa's capacity to manage all aspects of conflict by strengthening existing continental and regional institutions that deal, amongst others, with

combating the illicit proliferation of small arms, light weapons and landmines.<sup>24</sup>

The Minister of Defence recently placed South Africa's leading role in demining, in the training of deminers and in improving the cost efficiency of such operations in the context of NEPAD. When the South African government approved the restructuring of Denel, the state-owned arms company, it insisted that its de-mining component (what the Minister called, "Denel's de-mining technology powerhouse") should neither be shut down nor privatised, as "it is a critical component of humanitarian assistance".<sup>25</sup> A key commitment as set out in the founding document of NEPAD is the need for "detailed and costed measures required...for combating the illicit proliferation of small arms, light weapons and landmines".<sup>25</sup> It is thus important for mine clearance operators to engage NEPAD's leadership on this issue and to assist them in this costing exercise.

## Countering the proliferation of small arms and landmines is on the peace and security agenda of NEPAD

While the Ottawa Convention and national laws govern what is legally possible, the Peace and Security Council of the African Union, the African Standby Force, the SADC Protocol on Politics, Defence and Security Cooperation and the SADC Mutual Defence Pact can all provide the impetus for interoperability and standardization within Africa. In addition, peacekeeping forces deployed in Africa need to not only respect the ban on anti-personnel landmines use but also need to be well trained in mine countermeasure techniques. When Africa is ready to police its own continent and mediate its own conflicts through either observer missions or interventions, the ideal of an African continent without anti-personnel landmines may well be realised.



## NOTES

- 1 Protocol Relating to the Establishment of the Peace and Security Council of the African Union, Article 2.1.
- 2 Southern African Development Community, Protocol on Politics, Defence and Security Cooperation, August 2001.
- 3 Southern African Development Community, Strategic Indicative Plan for the Organ (SIPO), 2003, Objective 6(v).
- 4 Southern African Development Community, Strategic Indicative Plan for the Organ (SIPO), 2003, 4.2 (vi).
- 5 Southern African Development Community, Mutual Defence Pact, August 2003.
- 6 International Committee of the Red Cross (ICRC), *Landmines: Time for Action – International Humanitarian Law*, Geneva, undated, p. 10.
- 7 See Statement by the Head of the Delegation of the Republic of Korea, International Strategy Conference Towards a Global Ban on Anti-Personnel Mines, Ottawa, 3–5 October 1996.
- 8 International Campaign to Ban Landmines, *Landmine Monitor Report 2002: Towards a Mine-Free World*, Human Rights Watch, Washington, 2002, p 53.
- 9 Ibid.
- 10 International Campaign to Ban Landmines, *Landmine Monitor Report 2003: Towards a Mine-Free World*, Human Rights Watch, Washington, 2003.
- 11 This was in line with Article 35 of Protocol 1 additional to the Geneva Conventions of 1949 which reflects a long-standing customary rule of humanitarian law: “It is prohibited to employ weapons ... of a nature to cause superfluous injury or unnecessary suffering” This rule is intended to prohibit the infliction, by design, of more injury than is needed to take a soldier out of combat. Campaigners argued that anti-personnel mines were deemed to fall in the same category as poison gas, blinding lasers and dumdum bullets.
- 12 South Africa acceded to the CCW Convention on 13 September 1995 and became a State Party to the Convention on 13 March 1996.
- 13 Plan of Action: First Continental Conference of African Experts on Landmines, published in *Towards a Landmine Free Africa: proceedings of the First Continental Conference of African Experts on Landmines*. (The first Continental Conference of African Experts on Landmines was held in Kempton Park, Republic of South Africa, from 19 to 21 May 1997. The Conference was attended by forty member states of the AU, UN specialised agencies, a wide spectrum of representatives of the donor community and non-government organisations. Available at <http://www.iss.co.za> or <http://www.smallarmsnet.org>
- 14 UN Secretary-General Kofi Annan, Address to the Signing Ceremony of the Antipersonnel Mines Convention, Ottawa, Canada, 3 December 1997.
- 15 According to Landmine Monitor 2002, the Egyptian government cites a figure of 23 million emplaced landmines in the country. The same source also states that while the Ministry of Military Production claims that mine production ceased in 1988, no written statement to this effect has been issued.
- 16 See for example, Graca Machel, *Small Arms in Southern Africa*: speech delivered to Oxfam, 24 October 1997, [www.oxfam.uk](http://www.oxfam.uk); A. Vines, *Still Killing: Landmines in Southern Africa*, Human Rights Watch, London, 1997; A. Vines, Landmines in Southern Africa in J. Cock and P. McKenzie, *From Defence to Development: Redirecting Military Resources in South Africa*, David Philip, Cape Town, 1998).
- 17 K Harpviken, Landmines in Southern Africa: regional initiatives for clearance and control. *Contemporary Security Policy* 18(1), 1997.
- 18 For a background to these pilot projects and to the SADC-EU landmine initiative see, “The Southern African Development Community and the Landmine Ban Treaty”, *African Security Review* 9(5/6), 2000.
- 19 The number of member countries is now 13. Seychelles announced in August 2003 that it was withdrawing from the sub-regional body.
- 20 Canadian International Demining Corps, Landmine Impact Survey: Republic of Mozambique, 2001. See <http://www.cidc.ws/CIDC-CanadianInternationalDeminingCorp.htm>
- 21 Statement by Mosiuoa Lekota, Minister of Defence, South Africa, to the Regional Workshop on “Humanitarian Mine Action and Development: the Missing Link?” hosted by the South African Institute of International Affairs (SAIIA), 10–11 October 2002.
- 22 Statement by Mosiuoa Lekota, Minister of Defence, South Africa, to the Regional Workshop on “Humanitarian Mine Action and Development: the Missing Link?” hosted by the South African Institute of International Affairs (SAIIA), 10–11 October 2002.
- 23 See the National Conventional Arms Control Act (No. 41 of 2002).
- 24 Statement by Mosiuoa Lekota, Minister of Defence, South Africa, to the Regional Workshop on “Humanitarian Mine Action and Development: the Missing Link?” hosted by the South African Institute of International Affairs (SAIIA), 10–11 October 2002.
- 25 Mr M Lekota, Speech Delivered at the National Council of Provinces, on Anti-Personnel Landmines Bill, Cape Town, 5 June 2003.
- 26 The New Partnership for Africa’s Development (NEPAD), Abuja, Nigeria, October 2001.





# The ISS mission

The vision of the Institute for Security Studies is one of a stable and peaceful Africa characterised by a respect for human rights, the rule of law, democracy and collaborative security. As an applied policy research institute with a mission to conceptualise, inform and enhance the security debate in Africa, the Institute supports this vision statement by undertaking independent applied research and analysis; facilitating and supporting policy formulation; raising the awareness of decision makers and the public; monitoring trends and policy implementation; collecting, interpreting and disseminating information; networking on national, regional and international levels; and capacity building.

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## About this paper

The African continent faces the twinned challenges of on-going conflict and the widespread presence of anti-personnel landmines. While rarely linked at a policy level, in practice, with the deployment of an increasing number of peacekeeping forces across the continent, the two issues are closely related.

This paper examines the ways in which the establishment of peacekeeping standby forces at the continental and sub-regional levels in Africa requires a focus on landmines and how efforts to eradicate landmines fit into discussions on common defence policies and peacekeeping across the continent.

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