

# **A Study of the Development of National Mine Action Legislation**

**Geneva International Centre for  
Humanitarian Demining  
Centre International de  
Démunage Humanitaire - Genève**



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The **Geneva International Centre for Humanitarian Demining** (GICHD) supports the efforts of the international community in reducing the impact of mines and unexploded ordnance. The Centre is active in research, provides operational assistance and supports the implementation of the Mine Ban Treaty.

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# Summary of study conclusions, findings and recommendations

**T**his summary takes account of case studies of national mine action legislation conducted in 2001–2002, and other norms and standards, particularly decrees, rules and regulations, adopted in Afghanistan, Azerbaijan, Bosnia and Herzegovina, Cambodia, Colombia, Croatia, Eritrea, Ethiopia, Kosovo, Kyrgyzstan, Laos, Mozambique, Nicaragua, Rwanda, Tajikistan, Thailand, and Yemen. It addresses only incidentally legislative measures to implement the Anti-Personnel Mine Ban Convention.

The GICHD has published a *Guide to Developing Mine Action Legislation*, which is available in hard copy in Arabic, English, French, Russian and Spanish, and online in English.

#### **Conclusion 1.**

**National mine action legislation, other than to implement the Anti-Personnel Mine Ban Convention, has been adopted in only a minority of the cases studied.**

#### *Findings*

Of the cases studied, only in Bosnia and Herzegovina, Cambodia, Colombia, and Croatia have national mine action legislation been adopted, although such legislation is currently being drafted in Azerbaijan, while Kosovo remains under the auspices of a UN protectorate. In the remaining cases, the respective governments have typically passed decrees or orders to regulate the conduct of mine action.

There are potentially a number of advantages in adopting national mine action legislation. These are particularly well articulated in the Afghanistan case study, and include:

- reinforced coordination and communication between the mine action and mainstream relief/development sectors;
- greater control over who becomes involved in mine action;
- improved accreditation procedures and safety levels, including respect for the International Mine Action Standards (IMAS);

- improved coordination within mine action, including victim assistance service actors and the rest of the mine action sector;
- improved transparency regarding mine action planning and tasking; and accordingly
- better accountability to donors.

Of course, legislation typically requires the commitment of both time and effort, and must be considered by a national parliament amid many competing priorities, especially in a post-conflict context. It may require amendment as the situation develops (the Croatian parliament has already adopted two formal amendments to its national mine action legislation and is planning to adopt an entirely new law on demining). If mine and/or unexploded ordnance contamination is not severe, as is the case in Kyrgyzstan for instance, legislation may not be needed, and a simple governmental decree allocating responsibilities among relevant actors may suffice.

***Recommendation 1.***

***Where mine and unexploded ordnance contamination is severe, with the consequent need for prolonged mine action, States should give serious consideration to the adoption of national mine action legislation.***

**Conclusion 2.**

**The scope and detail of existing mine action legislation varies significantly, and may or may not be combined with provisions to implement the Anti-Personnel Mine Ban Convention.**

*Findings*

Both Bosnia and Herzegovina and Croatia have adopted detailed mine action legislation. Indeed, the case study for Croatia questions whether the existing law contains excessive technical detail on mine clearance, which should better be dealt with in subsidiary documentation such as rules and regulations. The new Demining Law in Bosnia and Herzegovina is said to represent “a considerable advance on its predecessors, particularly in the establishment of a unified MAC and in the requirement for a pan-Bosnian Demining Plan”. Although “deficient in a number of critical areas”, for the most part the deficiencies “stem from the country’s remarkable constitutional framework”.

Colombia is the only State Party to the Anti-Personnel Mine Ban Convention that has chosen to consolidate into one instrument detailed national mine action legislation with provisions to implement the treaty. Cambodian implementing legislation contains limited provisions governing the coordination and management of mine action, but the case study suggests that new legislation is required to do the job properly. Croatia has adopted separate legislation to implement the treaty.

***Recommendation 2.***

***Legislation should seek to avoid excessive detail in its regulation of mine action, which should preferably be dealt with in subsidiary regulations or standards. There is no obvious objection to combining implementing legislation for the Anti-Personnel Mine Ban Convention with broader mine action regulation, but no overriding requirement to do so either.***



**Conclusion 3.**

Although all mine action legislation will have commonalities, there is no “one size fits all”.

*Findings*

It is a truism that national legislation depends on the national context. Similarly, although the mine and unexploded ordnance threat bears comparison across affected States, the extent of the threat, its impact and the form of the mine action response may differ significantly. If, for example, a State is not party to the Anti-Personnel Mine Ban Convention, there may not be a need to include provisions on stockpile destruction in national legislation. This is the case in Azerbaijan, for instance, where the mine action legislation under development does not even refer to this pillar of mine action.

Based on the case studies, however, there are certain basic principles that are likely to form part of any national legislation, including:

- the goal of the mine action programme (e.g. to remove the *impact* of landmines and unexploded ordnance rather than simply to clear mines and UXO);
- the types of mine action activity to be undertaken;
- provision for the establishment and management of the mechanism(s) for the coordination and/or implementation of mine action (this issue is discussed further below);
- actors competent to undertake mine action in the country (subject to accreditation);
- the requirement that mine action staff, entities and organisations be appropriately accredited to work in the country, with the possibility of appeal to an independent authority in the event of rejection of an application for accreditation;
- the principle that priority should be given to mine action interventions that have a humanitarian rather than a military objective;
- a reference to the importance of adapting to the local context — and respecting — the International Mine Action Standards (IMAS);
- a requirement that quality of mine action interventions be monitored, controlled and assured throughout the lifetime of the national mine action programme; and
- the duty to provide and share mine action information as widely as possible (though respecting confidentiality where necessary, for instance to protect mine survivors and their families from unnecessary intrusion).

***Recommendation 3.***

*Legislation should be designed to address the specific mine action issues arising from the national context, while taking into account the commonalities of mine action programmes.*

**Conclusion 4.**

Mine action centres (MACs) have typically been established by a governmental decree or decision, or by the United Nations. In a number of cases, national mine action legislation has subsequently formalised the role, responsibility and structure of the MAC.

*Findings*

It is generally agreed that a national mine action cell or centre should coordinate

mine action within any given context. The MAC may also play a greater or lesser role in direct service provision, depending on the context, and would normally be responsible for drafting the national mine action plan, determining national priorities, and tasking mine action interventions. The mechanism is typically established by government decision or decree for reasons of expediency, but can usefully be regulated by governing legislative provisions. These provisions may usefully cover the following issues:

- the structure of the mine action (coordination) centre and its reporting responsibilities;
- details of the governing organs of the MAC (e.g. a government inter-ministerial commission and donor forum and the role of the United Nations);
- the procedure for the appointment of its senior level staff;
- the role and tasks of the MAC (i.e. does it merely coordinate, manage mine action information and ensure the quality of mine action interventions or does it also implement mine action directly?); and
- details of the subsidiary organs of the MAC where appropriate.

*Recommendation 4.*

*At the heart of mine action is the need for a national coordinating mechanism and structure; certain overriding principles should be incorporated in the mine action legislation, with the detailed specifics being left to administrative rules and regulations that can be updated as the situation evolves.*

# Introduction

## Background to the study

The United Nations (UN) defines mine action as

*“all those activities that aim to address the problems faced by civilians as a result of landmine contamination. UN mine action encompasses five complementary core components: (a) Mine awareness and risk reduction education; (b) minefield survey, mapping, marking and clearance; (c) victim assistance, including rehabilitation and reintegration; (d) advocacy to stigmatise the use of landmines and support a total ban on anti-personnel landmines; and (e) stockpile destruction. In support of these core components, other activities will be key to the success of mine action and mine action programmes, such as: resource mobilisation; national and local capacity building and requisite institutional support; information management; training of personnel; and quality management.”<sup>1</sup>*

One of the principal roles in mine action of the United Nations Development Programme (UNDP) is to support national and local capacity building. This includes advice on legislation, establishment of mine action centres, provision of funding mechanisms, and assistance with resource mobilisation. Thus far, assistance has focused mainly on the mine action centres and resource mobilisation.

An effective national coordinating structure, established by appropriate legislation, is integral to efficient, effective and accountable mine action. As the International Mine Action Standards (IMAS) state:

*“The primary responsibility for mine action lies with the Government of the mine-affected state. The responsibility is normally vested in a national mine action authority, which is charged with the regulation, management and coordination of a national mine action programme.”*

Unfortunately, in many countries, the requisite legislative framework within which a national mine action authority can be established does not exist. As a result, mine action activities run the risk of being compromised before they can begin. Yet, guidance is not available on the elements of such a framework. Accordingly, there is a need for

a study of the development of national legislation to establish and structure a national mine action authority.

## Terms of reference

The objectives of the study are:

- to assist governments of mine-affected states in drafting appropriate legislation that will provide a legal and structural basis for a national mine action authority;
- to assist all countries in dealing more efficiently with the problem of landmine contamination and particularly States Parties in meeting their obligations under the Anti-Personnel Mine Ban Convention.

This will be done by producing an information kit that covers the legal and legislative provisions and structure governing the many different aspects of mine action, including:

- national coordination of mine action;
- priority setting;
- mine survey;
- mapping and clearance;
- mine awareness;
- victim assistance and compensation;
- stockpile destruction;
- civilian and military involvement in mine action.

The study does not address the national implementation legislation of the Anti-Personnel Mine Ban Convention, as an information kit on this topic has already been developed by the International Committee of the Red Cross (ICRC).

The study has been requested by UNDP on behalf of States affected by landmines and unexploded ordnance (UXO). It is also expected that the findings will be of interest to the international mine action community in general, including donors seeking effectiveness in the programmes they fund. The ultimate beneficiaries of the study, however, should be the local communities in States implementing the recommendations.

## Study methodology

The study is based on a series of case studies, which, in accordance with the terms of reference, look at national mine action legislation and national mine action structure. Consultants were hired to undertake many of the case studies, as follows: Afghanistan (Andy Wheatley); Azerbaijan (Christina Nelke); Bosnia and Herzegovina (Ted Paterson); Cambodia (Ieng Mouly); Croatia (Vanja Sikirica); Eritrea and Ethiopia (Alistair Craib); Kosovo (Andy Wheatley); Laos (Phil Bean); Mozambique (Alberto M. Silva); Nicaragua (Almachiara de Angelo); and Yemen (Aisha Saeed). Analysis of the case studies and additional research was carried out by Stuart Maslen, and a guide to developing national mine action legislation based on the study findings was developed by Lou Maresca. *A Guide to Developing National Mine Action Legislation* has been published separately by the GICHD and is available in Arabic, English, French, Russian and Spanish.

## Report layout

Each case study contains two sections, the first dealing with mine action legislation, and the second addressing mine action structure. Where relevant, legislation or other administrative measures are annexed to the case study in question. A glossary of acronyms for the study as a whole is provided after the bibliography. Additional legislation or decrees are included in the appendixes.

## Note

1. See for instance *United Nations mine action: a strategy for 2001-2005*, UN doc. A/56/448/Add. 1 of 16 October 2001.



## Chapter 1

# Afghanistan

### Background

Afghanistan is affected by extremely severe mine and UXO contamination as a result of decades of conflict. Following the removal of the Taliban regime and the establishment of an Afghan Interim Authority (AIA), the United Nations and the World Bank undertook a preliminary needs assessment in preparation for the Tokyo Donors Conference in January 2002. The result of the assessment, entitled a *Preliminary Needs Assessment for Recovery and Reconstruction*, includes a substantial section on mine action (see Annex 1 for excerpts relevant to mine action activities). Significant funds have been pledged by the international community to assist the country in tackling the problem.

The document makes reference to the creation of a mine action authority, stating that in the longer term (undefined — but implied to be within five to seven years), “*mine action will be integrated into overall national development plans. A national Mine Action Program will be in place, with the necessary legislative framework and inter-ministerial oversight*”. The report does not go into further details, and it is not clear whether this is a recommendation or an expectation.

Afghanistan acceded to the Anti-Personnel Mine Ban Convention on 11 September 2002 and became a State Party on 1 March 2003.

### Mine action legislation

National legislation pertaining to mine action does not yet exist in Afghanistan. UN Security Council Resolution 1378 provides the framework for recovery and reconstruction efforts to buttress the political settlement. This is the current operating environment within which all current mine action work takes place.

There is currently a vacuum in legislation — causing a degree of confusion in a number of key areas of governance. It is considered that legislation of mine action would logically fit alongside legislation governing the work of non-governmental organisations (NGOs). This, such as it is, was until 1996 based on the 1977 civil code

which contained provisions regulating NGOs. The Taliban regime revoked the Civil Code and imposed Shari'a law. This in turn has now been annulled by the present government though the new government has not issued a formal pronouncement on whether the Civil Code has been reinstated. That being said, the current government includes a number of pre-Taliban officials, who, practically, may look to the Civil Code to fill the legislative vacuum. The situation remains less than clear, posing an additional hurdle to the implementation of legislation. Plans are underway to develop national oversight of mine action by building capacity within the national government.

## Mine action structure

### *The United Nations Mine Action Centre Afghanistan (MACA)*

The Mine Action Programme for Afghanistan (MAPA) has been operating under the coordination of the United Nations Office for the Coordination of Humanitarian Assistance to Afghanistan (UNOCHA) since 1989. In 2002, responsibility was transferred from UNOCHA to UNDP, in part to bring the MAPA in line with the global UN administrative and funding procedures for mine action. The MAPA comprises the UN Mine Action Centre for Afghanistan (MACA), eight UN Regional Mine Action Centres (RMACs), increased from five and renamed Area MACs in 2002, and 15 NGOs working as implementation partners. See Annex 2 for details of the structure.

The AMACs are responsible for the field-level management, coordination and oversight of mine action activities in their respective regions. The 15 NGOs implement most of the operational activities associated with mine action, including awareness, technical training, survey, and clearance, all under the coordination of the MACA. In the absence of an indigenous national coordinating body, the responsibilities of the MACA include mine action operational prioritisation, tasking and capacity allocation, financial services including auditing NGOs, reporting to donors and seeking funding, administrative, logistics, human resource management, procurement and communication support, and monitoring and external evaluation of operational programmes.

Afghanistan was the first large-scale mine action programme to be supported by the UN and the MACA was the first operational mine action centre to be established. From its inception until June 2002 the MACA was based in Islamabad. MAPA operations were disturbed by the military operations in late 2001, with damage from air strikes, widespread looting, and the threat to the safety of mine action personnel forcing it to significantly curtail its operations. Much of 2002 was therefore a period of retraining, re-equipping and reorganisation, during which time the MACA moved from Islamabad to Kabul. Priorities for 2002 were outlined in the draft 2001 annual report and are listed in Box 1.

Unlike other mine action programmes, the Afghan programme predominantly consists of indigenous organisations. Of the nine clearance organisations operating only two are non-Afghan (and even these are predominantly Afghan-led and managed) while two of the six organisations undertaking mine awareness activities are Afghan. This together with the age of the programme, its relatively mature and established systems and procedures, and the previously "off-shore" location has given the MACA a unique dynamic.



### Box 1. MAPA core components

**Mine /UXO Survey:** To ensure that mine areas are identified, marked and mapped, that resulting data is recorded, and that all necessary information on risk areas is disseminated. This component will contribute to the overall efficiency of the mine clearance and mine awareness tasks.

**Mine/UXO Clearance:** Within this component there are four objectives central to the project

- To reduce casualties among IDPs (internally displaced persons) and refugees and maintain mobility of humanitarian response within Afghanistan, within all eight areas of the country (Central, Northern, North Eastern, South eastern, central highlands, central eastern, West, East).
- To make areas safe for productive use through the application of safe and efficient clearance and destruction technology that will clear areas deemed to be “high priority” areas within seven years and permanently mark all low priority areas within the same period.
- To further improve the safety of demining personnel and reduce the rate of demining accidents.
- Make available a rapid reaction capacity for response to emergency EOD or mine clearance tasks.

**Awareness component:** To reduce casualties caused by mine and UXO through education regarding the identification and avoidance of risks associated with living in a mine/UXO contaminated environment.

**Interim Administration support:** To build capacity with relevant areas of the Afghan Government in order to prepare Afghan government officials to assume their coordination and policy making role for mine action in Afghanistan. In addition, awareness regarding the international legal instruments related to mine and UXO contamination will be promoted in order to pave the way for the government’s accession to key international instruments in this area.

**Technical development:** To strengthen the technical excellence of the MAPA, in order to promote greater safety, efficiency, and cost effectiveness within the MAPA.

**Coordination and training:** To ensure coordination of all aspects of mine action in Afghanistan, in cooperation with Afghan Government authorities, ensuring that MAPA remains a programme of excellence. To strengthen the capacity of MAPA’s Afghan and international implementing partners through training and the design and implementation of a Total Quality Management (TQM) strategy.

The development of a coherent exit strategy has been a hostage to the ongoing political and military developments within Afghanistan. While within the MACA there has been a strong ongoing commitment to the development of national capacity through the strengthening of national NGOs and implementing partners, and a strong commitment *in principle* to the national ownership of the MAPA, there has also been a recognition that such an approach must be undertaken very carefully if the capacity of the MAPA is not to be undermined. This reflects both a recognition of the difficulties of working with the Taliban regime, the fragile nature of the current regime, the weak existing government capacity to enact and implement legislation, the need to ensure that demining capacity is not misused, and lessons learned from the development of national capacity in other countries.

With the establishment of the Interim Government the MACA is now developing a three-year programme of capacity development. Over this period, capacity will be built up within the Afghan government structures to manage mine action coordination

prioritisation and tasking, and ownership transferred to the Government of Afghanistan, under the Department of Mine Clearance (DMC), within the Office of Disaster Preparedness (ODP).

### ***Mine action priority setting***

Priority setting is determined by the MACA, through a “bottom up” annual planning process initiated by the AMACs. It is envisaged that once the DMC/ODP is sufficiently robust it will itself oversee priority setting — particularly on a policy level with regard to the *type* of land (e.g. irrigated land, grazing land, urban/rural etc) to be considered priority areas.

### ***Mine action operators***

The MACA, in coordination with a UNICEF-seconded mine risk education (MRE) coordinator, undertakes policy, coordination and strategy issues. Implementation and training are undertaken by NGOs. NGO legislation is very unclear, leaving clearance organisations potentially exposed should the operating environment change. The current situation requires clarification — with something of a turf battle between various ministries (in particular the Ministry of Foreign Affairs and the Ministry of Planning) over who should be the lead body administering NGOs. The result has been NGOs receiving multiple demands for information from disparate ministries and departments, and often conflicting instructions.

The Afghan government has established an NGO commission to develop a coherent legal framework for NGOs but there is no clear timeframe for this activity. The challenge will then be implementation, recognising that Afghanistan currently lacks the infrastructure to enforce these laws effectively.

### ***Roles and responsibilities for mine action***

Roles and responsibilities are clearly outlined within existing programme documentation. However it should again be stressed that these are simply internal programme documents and are not a product of national legislation.

### ***Mine and UXO survey, mapping and clearance***

Currently the Mine Clearance Planning Agency (MCPA) and HALO Trust are the two organizations that undertake various survey activities in Afghanistan. Survey data from MCPA is used by all clearance agencies except HALO, which conducts survey operations for its own clearance teams.

Survey data is currently being integrated into the newly-established Information Management System for Mine Action (IMSMA) database. The UN Mine Action Centre for Afghanistan headquarters and regional staff have been trained on the IMSMA. Software has been installed to enable improved collection, collation, and analysis of mine information at the national and regional level. The transfer of existing data from MAPA’s Management Information System mine action database to the IMSMA is being done with technical assistance of the Geneva International Centre for Humanitarian Demining. This task will be done in several stages.

A full Landmine Impact Survey, with technical support and oversight from the Survey Action Centre, was scheduled to begin in October 2002. This will provide a clearer

picture of the socio-economic problems caused by mines and UXO and significantly strengthen the priority setting and planning capacity of the MACA. This survey will be a retrofit of existing data, building on that which currently exists, augmenting these resources to complete the data sets currently available. This process, linked with the IMSMA, will provide an effective tool for the MACA and hopefully later the Afghan Interim Administration to direct mine action activities at the national level.

### **Mine Risk Education**

Planning is based on civilian mine accident data from hospitals reported by the International Committee of the Red Cross, World Health Organization (WHO), and Handicap International Belgium, on the basis of analysis of key at-risk groups, and on requests from local organizations. Coordination is undertaken by the UNICEF MRE Officer seconded to the MACA.

### **Victim assistance**

Victim assistance does not function as an area of mine action within the MACA/MAPA. A number of organisations provide medical and prosthetics assistance however, including the ICRC, MSF, Emergency, the Guardians, Sandy Gall Afghan Appeal (SGAA) the International Assistance Mission (IAM) and the Comprehensive Disabled Afghans Project (UNOPS/CDAP).

### **Stockpile destruction**

To date, this has not been an issue within the MAPA (other than the destruction of stockpiles discovered during the course of operations), due to the fact that past regimes were not bound by the Anti-Personnel Mine Ban Convention. With the change in circumstances, the issue of stockpile destruction should become of increasing relevance in the future.

## **Emerging issues**

As has been seen, there is no national ownership of the MAPA – although the Department of Mine Clearance within the Office of Disaster Preparedness did have some limited oversight during the Taliban period. The establishment of full ownership will require substantial capacity building, systems development and transparent financial structures prior to the handover from the MACA. MACA intends to strengthen the ODP through the provision of a capacity development adviser.

While it is important that national ownership be created, it is equally important to build on the success of the programme rather than to undermine it. To date, the absence of national ownership at governmental level does not appear to have damaged the programme – in part possibly due to the high level of national involvement throughout the decision-making process and the bottom-up nature of planning and resource allocation.

Parties questioned during this study had given this area limited consideration, or indicated their overall satisfaction with the current systems and felt there were few areas where national legislation would be of particular additional benefit. A number of NGOs have expressed the view that while they welcome the eventual ownership of the MAPA by the Afghan government, they feel a number of prerequisites are required. These include:

- The need for there first to be a successful election for the national government – so that the authority is seen to have legitimacy rather than being a mechanism of factional manipulation. Just as it was important that the MACA be seen to be unbiased, so must the national authority.
- The need for substantial capacity building and systems development prior to responsibility being handed over from the MACA.
- Changing the structure of the DMC/ODP so that rather than being a department within a government ministry, it is developed into a parastatal body. This would allow greater flexibility with regard to payment of staff and so have implications for the calibre of staff attracted to the department.
- Legislation governing NGOs be developed so as to avoid confusion as to roles and responsibilities.
- Financial structures be developed that ensure transparency and the correct use of funds — preferably through joint UNDP administration.
- Tasking and planning remain on a regional level where it has proved to be most effective — rather than being transferred to Kabul.

But well-crafted mine action legislation potentially holds many advantages, such as:

**Improving coordination and communication between the mine action and mainstream relief/development sectors.** Widening cross-sectoral understanding of the role of mine action within Afghanistan, within Government, within international organisations, donor bodies and NGOs. At present, mine action plans receive limited input from organisations and government bodies outside the mine action sector. This has been noted as a weakness in the annual planning process in past evaluations of the programme. National legislation could result in mine action planning receiving a higher and possibly more formalised profile — resulting in greater buy-in and input to the planning and prioritisation process particularly between the mine action sector and mainstream relief/development bodies.

**Greater control over who becomes involved in mine action.** At present, the MACA has *de facto* control over the process, but this authority rests on little other than informal networks, consensus and peer pressure at various levels. Agencies could in theory involve themselves in mine action with no reference to the MAPA — with substantial implications for planning, coordination and resource usage. This also links closely with the following issue.

**Improved accreditation procedures and safety levels.** National legislation for overseeing mine action will require agencies wishing to be involved in mine action to apply for accreditation to the mine action coordination body. Accreditation will be given or withheld depending on various criteria, including proven capacity, track record and ability to conform to the International Mine Action Standards. While this is currently undertaken informally, national legislation would formalise and strengthen the process.

**Improved links between victim assistance bodies and the rest of the mine action sector.** While the MAPA members include those involved in clearance, mine risk education and advocacy initiatives, victim assistance activities are not well linked. National legislation outlining roles and responsibilities in this regard would assist coordination.

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**Improved transparency regarding mine action.** A key issue within the MAPA is the issue of socio-economic prioritisation and land use. National legislation may assist in building clarity and legitimacy with regard to land type receiving priority treatment.

## Annex 1.

# Preliminary needs assessment for recovery and reconstruction

Prepared by the Asian Development Bank, the UNDP and the World Bank Preliminary Needs Assessment Team (pp. 21-22).

“ ...

### **D. Mine Action**

#### **1. Current Situation**

1. Afghanistan is the most mine- and unexploded ordnance (UXO)-affected country in the world, with 732 km<sup>2</sup> of known mined area, of which an estimated 100km<sup>2</sup> are mined in former frontline areas, and approximately 500 km<sup>2</sup> of UXO in contaminated battle areas. There are some 200,000 survivors of mine/UXO accidents and a death and injury rate running at 150-300 per month prior to the current crisis.

2. The mine and UXO problem in Afghanistan has been exacerbated by recent events, with new areas being contaminated by Coalition UXO. Ammunition depots in major towns, when hit, have spread UXO over as much as a 5km radius. Mine/UXO injuries have escalated due to new contaminations and to increased population movement, often in unfamiliar areas.

3. In addition to the human toll and the loss of valuable livestock, mines/UXO are an obstacle to IDP and refugee return. They deny people access to farm and grazing land, shelter and water, and prevent the rehabilitation of essential infrastructure such as roads, bridges, irrigation systems, schools, and other public buildings. At least 60 per cent of mine and UXO contaminated areas are within such areas, resulting in major losses to both Afghan economy and society.

4. Mine action in Afghanistan has been extremely cost-effective based on experienced UN and NGO mine clearance teams and large-scale use of mine detection dogs. Each dollar spent yields about US\$4.60 in economic returns. The annual yield for one square kilometre of clearance is as much as US\$2,000 for grazing land and from US\$13,500-520,000 for farmland. Cleared roads provide some US\$250,000 in economic benefits per 50km. Mine action has resulted in an estimated 50 per cent reduction in civilian mine victims, and has facilitated the return or resettlement of approximately 1.53 million refugees and IDPs.

#### **2. Short Term Priorities**

##### **a. Immediate Actions**

- (i) Emergency response and resumption of regular operations in which 5,000 existing mine action personnel will undergo supplementary training and be equipped to

return to Afghanistan. In this emergency phase the main goal is to clear mines and UXO from roads and facilities to support humanitarian activities response and to allow more than two million IDPs to safely return to their homes;

- (ii) Recruitment, training and equipping of an additional 4,000 mine action personnel, with particular focus on demobilized former combatants;
- (iii) The Afghan Campaign to Ban Landmines (ACBL) — in partnership with the Mine Action Centre (MACA), UNICEF and 64 NGOs and other partners — to develop a new advocacy strategy;
- (iv) A stockpile destruction strategy to be developed by MACA;
- (v) The Department of Mine Clearance to be re-established and developed.

#### **b. Other Priorities in the First 2.5 Years**

- (i) *Expansion.* The extent and pace of the expansion of mine action will be dependent on funds available, absorption capacity and early identification of bottlenecks such as training time, equipment purchase lead time and the availability of external resources such as trained mine dogs. A full Landmine Impact Survey (LIS) will help develop priorities.

### **3. Longer Term Needs and Options**

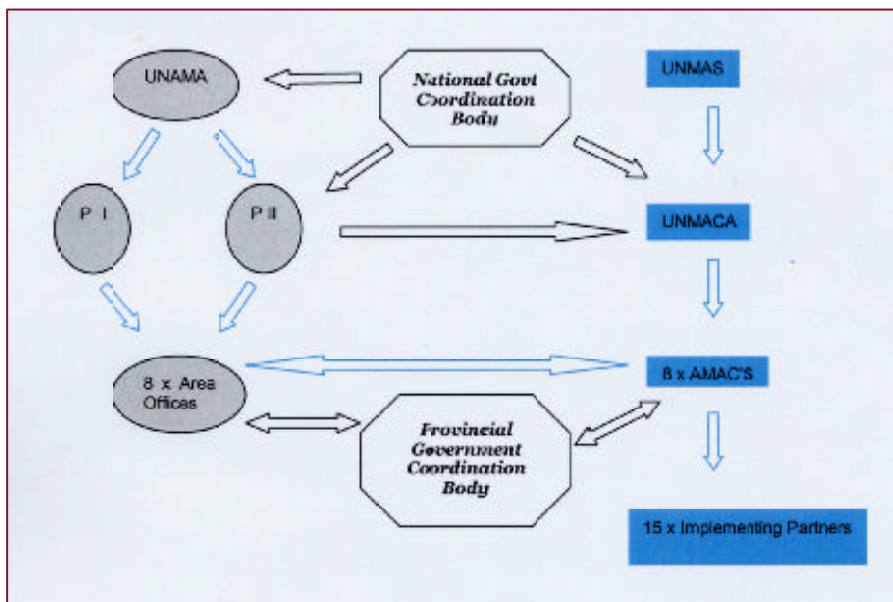
5. In five years or seven years (depending on its availability of resources) Afghanistan could be free from the impact of mines and UXO. “Impact free” means:

- (i) All high priority mined areas and battle areas will have been cleared and other lower priority areas will have been surveyed and permanently marked;
- (ii) The number of mine/UXO victims will have been reduced significantly, and adequate reporting, accident surveillance, medical care, and rehabilitation will be available to mine survivors through public and community health services;
- (iii) Mine awareness/risk reduction education will be available to all through schools, health and other community education programs, and community leaders;
- (iv) The Government of Afghanistan will have enacted legislation banning the production, sale or use of mines. All existing stockpiles of mines will have been destroyed. ...”

Mine action will be integrated into overall national development plans.

Annex 2.

## Overall mine action coordination structure for Afghanistan

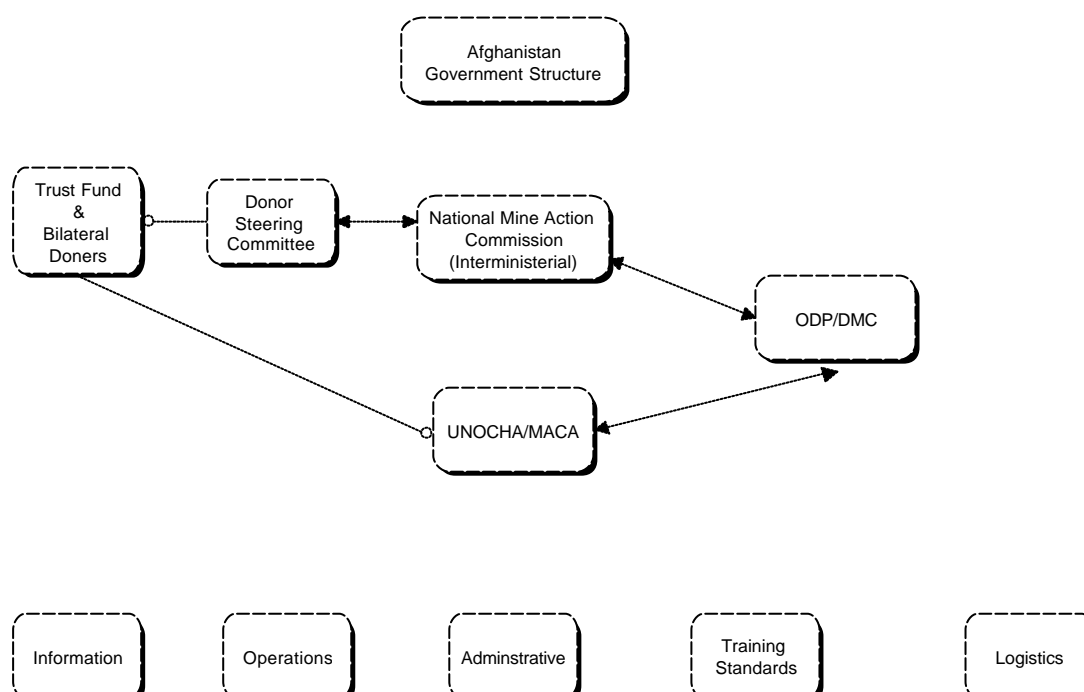


**Note:** PI refers to political systems and structures, PII being humanitarian activities.



## Annex 3.

## Schematic of transitional phase management structure



## Annex 4. List of MAPA implementing partners – National bodies

Local NGO name	Major activities	Major locations of activities (by region throughout the year)				Address
		Central	South	East	West North	
Afghan Technical Consultant (ATC)	Manual clearance (21 MCTs) EOD teams (4) Mechanical teams (4)	✓	✓	✓	✓	45, D-4 Old Jamrud Road, University Town, Peshawar, Pakistan. Tel: 92 51 40412/43589
Agency for Rehabilitation and Energy Conservation (4 teams) in Afghanistan (AREA)	Community-based mine clearance, (4 teams)	✓	✓	✓	✓	Main Office: 39-D/3, Saueed J. Afghani lane, University Town, P.O. Box 709, Peshawar, Pakistan. Tel: 92 91 45417-844647 Regional Office for Demining: Hada-e-Chaparhar, opposite Qari Jan Shahid, Reg Shamand, Jal, Afg
Ansar Relief Organization (ARI)	Iranian based - direct mine awareness in border exit stations.				✓	HNo. 385/3, in front of Majan St, Malekabad Blvd, Mashed, Iran, P.O. Box 91895 – 1196
Afghan Red Crescent Society (ARCS)	Direct mine awareness training by 4 teams-(3 male 1 female), quick response and impact monitoring team. Female team to be expanded to 6 to cover Kabul Logar and Parwan provinces	✓				C/o: ICRC, Charrahi Haji Yaqub Shar-I – Nw, Kabul Afghanistan.
Demining Agency for Afghanistan (DAFA)	Manual clearance (11 MCTs) Mechanical clearance (3)		✓	✓		Main Office: Shar-e-Naw, Kandahar city, close to Dand District Center, Kandahar province, Afghanistan. (Liaison Office): H. 32A, Jinnah town, Quetta, Pakistan. Tel: 92 91 825237
Mine Clearance Planning Agency (MCPA)	46 Mine Survey teams (supported by 33 Mine dog sets) are performing level-I and II surveys of mine/UXOs areas.	✓	✓	✓	✓	Main Office: Wazir Akbar Khan, St 13, Kabul, Afghanistan. Liaison Office: H 58h2, Phase II, Hayatabad, Peshawar, Pakistan. Tel: 92 91 810803, 810124.
Monitoring Evaluation and Training Agency (META)	Training of all MAPA staff in clearance techniques, management skills, and undertakes external monitoring of agencies, and QA/QC functions for all MAPA partners	✓				Shah- Darak Main Road, Pul-I-Mahmmud Khan, Kabul City

Local NGO name	Major activities	Major locations of activities (by region throughout the year)				Address
		Central	South	East	West North	
Mine Detection Dog Centre (MDC)	Mine dog clearance (17 mine dog groups)	✓	✓	✓	✓	Main Office: HNo. 189, Wazir Akbar Khan, St 13, P.O. Box 449 Kabul, Afghanistan. Sub-Office: Peshawar, Pakistan P.O. Box 1324, Tel: 92 91 842684
Organization for Mine Clearance and Afghan Rehabilitation (OMAR)	Manual clearance (6 teams) Direct mine awareness and indirect through community 17 teams including male and female	✓	✓	✓	✓	Main Office: HNo. 206, Street-10 Zal, Wazer Akbar Khan, Kabul Afghanistan. Sub-office: H. 15, St 1, D-2 Phase 1, Hayatabad, Peshawar, Pakistan, Tel: 92 91 81 2084
BBC Afghan Education Project BBC -AEP	Broadcast of mine awareness messages through radio soap opera «New Home New Life»	✓	✓	✓	✓	Office: 8-Abdara Road, University town, P.O. Box 946, Peshawar, Pakistan. Tel: 92 91 842319, 42409
Danish Demining Group (DDG)	Manual clearance (3)	✓	✓			Main Office: Wazer Akbar Khan, Kabul Afghanistan. (Sub-Office): HNo., 4, St 12, F-6/3, Islamabad, Pakistan. Tel: 92 51 2870018-21
HALO Trust	Manual clearance (30 teams) Bomb disposal teams/BAC (5) Mechanical clearance (10 teams) Mine awareness teams	✓	✓	✓	✓	Char Rahi Haji Yaqoob, P.O. Box 3036, Shar-e-Naw, Kabul City, Afghanistan.
Handicap International (HI)	Direct mine awareness and indirect through mine committees: (7 x 2 person teams)	✓	✓			Main Office: HNo. 3 <sup>rd</sup> Shar-e- Naw, Highway Sector, Kandahar City, Afghanistan Sub-Office: Arbab Karam Khan road, P.O. Box 477, Quetta, Pakistan. Tel: 91 81 440142, 444793
ICRC	Mine victim data gathering since 1998 Support to ACRS from 1995 Established own community programme in Jalalabad and soon to establish in northern region. To expand from 17 to 27 staff for 2003		✓	✓	✓	Main Office: Charrahi Haji yaqoob, Shar-I-Now, Kabul, Afghanistan.

Local NGO name	Major activities	Major locations of activities (by region throughout the year)				Address
		Central	South	East	West North	
Save the Children Fund (US)	Direct child focused mine awareness and indirect through community volunteers and partner trainers: (10 x 2 person teams) plus approx 500 of community volunteers.	✓				Pakistan/Afghanistan Field Office: P.O. 1952, 7-A, St 58, F-7/4, Islamabad, Pakistan. Tel: 92 51 279211-3, 812686
RONCO	Providing support to RMACs through secondment of TAs, undertaking training for clearance of 2001 dropped munitions	✓	✓	✓	✓	

Note: The information with regard to the number of resources and their activities are provided from the MAPA National Operational plan-2001, which is updated as at 01 March 2001, or from direct discussion with the agencies concerned. For this report it was only possible to visit Kabul based organisations. Tables adapted and updated from Annex N Report on the Review of UNOCHA's Mine Action Programme for Afghanistan. 2001

## Chapter 2.

# Azerbaijan

### Background

The conflict between Armenia and Azerbaijan from 1988 to 1994 resulted in the occupation of 20 per cent of the Azerbaijani territory and displacement of about 10-15 per cent of the population of Azerbaijan. UNMAS estimates that up to 45 of Azerbaijan's 65 regions may be mine- and or UXO-affected.

A general landmine/UXO survey in 2000 completed in 11 regions of the accessible areas revealed that an estimated 60 million square metres of land is contaminated in 64 villages in these regions. The scope of the problems in the areas still occupied by Armenia is not known.

Azerbaijan has not signed or acceded to the Anti-Personnel Mine Ban Convention. In a response to the Azerbaijan Campaign to Ban Landmines (AzCBL) a letter was sent in October 2001 by the Minister of Foreign Affairs, Vilayat Guliyev, where he stated that "despite the Government's support of the goals of the Anti-Personnel Mine Ban Convention (Ottawa Convention), there can not be any talk of Azerbaijan's signing this Convention until the territories occupied by Armenia are liberated. For this reason the non-joining of Azerbaijan to this Convention must be explained by its incapability to fulfil the obligations put forward in the Convention".

### Mine action legislation

The Azerbaijan National Agency for Mine Action (ANAMA) was established by a Presidential Decree of 18 July 1998 (*see Annex 1*). The Decree states that the Azerbaijan National Agency for Mine Action will be a body set up under the State Commission for Reconstruction and Rehabilitation of Azerbaijan providing safety for Azeri displaced persons returning to their homes that had been affected by the war. On 2 April 1999, UNDP and The State Commission for Rehabilitation and Reconstruction signed a joint project document to cover the first two years of a sustainable mine action capacity development in Azerbaijan.

ANAMA has been working on a draft of national legislation on mine action for Azerbaijan for several years (*see Annex 2*). The draft is being prepared mainly by the UN Chief Technical Advisor and the Operations Manager at ANAMA. The latter has a legal background as a former staff member of the Ministry of Justice (Deputy Chief of Law Division). Before preparing this draft he looked into the UNDP guidelines, the mine action laws of Bosnia and Herzegovina and Croatia and the principles of European Council laws and tried to adapt the draft according to laws in Azerbaijan so that it will not conflict with the national principles or other laws. It is still not complete but in its final stages and, if the procedures work out well, it could be adopted by the government in 2003.

It covers the role and responsibilities of the decision-making body, which is the State Commission for Rehabilitation and Reconstruction, the executive body, which is the National Mine Action Agency (ANAMA), a consulting body, the Inter Ministerial Mine Action Working Group and a consulting and funding decision-making body, the Donors' Support Group.

The draft proposes regulations for humanitarian demining activities, their professional supervision and quality control, and penal provisions. The rules for becoming a certified deminer and security issues are also set out.

### ***Basic provisions of the draft legislation***

Article 1 states that the law should regulate the organisational structure for mine clearance and removal of unexploded ordnance (hereafter demining) in the territory of the Azerbaijan Republic.

It shall determine bodies competent for demining, rights and obligations of persons performing demining activities and monitor the implementation of the law.

It should not, however, include disposal of rejects in the process of production of weapons and military equipment, or reproduction material in the production process and stocked products beyond the date of expiry.

Article 2 explains that humanitarian demining is of great importance for the security of the Azerbaijan Republic and is also a concern for environmental protection and people's health.

The next section describes the tasks and responsibilities of the State Commission for Rehabilitation and Reconstruction (hereinafter the Commission) regarding mine action.

Article 3 states that the Commission is the central body for determining the scope of work and financing.

The Commission, which is an Inter-Ministerial body, chaired by the Deputy Prime Minister, deals with many other tasks than mine action. The advantage is that the plans for a long-term mine action programme can be harmonised with other humanitarian development programme plans. The disadvantage is that since so many other tasks have to be dealt with it sometimes takes time to get the issues up on the agenda.

It is therefore of great importance that an Inter-Ministerial Working Group, consisting of deputy ministers from different relevant ministries and the ANAMA Director, appointed by the Chair of the Commission, should meet regularly with a mandate of

two years at a time, in order to consult on the matters before they are presented to the Commission for decision (*see Article 5*).

Article 9 explains the role of the Board of Donors. This is the forum for international organisations and governments' representatives supporting mine action in Azerbaijan. It has a consultative as well as a funding decision-making role.

The members of the State Commission for Reconstruction and Rehabilitation and members of the Inter-Ministerial Working Group (which, confusingly, is sometimes called the Committee, a translation problem) may be invited to the meetings of the Board of Donors as observers, as required. However the Director and the UN Chief Technical Advisor of ANAMA will attend all meetings of the Board of Donors as observers and facilitators.

The coordination of mine action works accordingly: ANAMA presents their proposal for a mine action plan to the Inter-Ministerial Working Group and Boards of Donors for discussion and consultation. The Commission in consultation with the Board of Donors will approve according to their priorities and the final decision is made by the Cabinet, that will pass the Plan (*see Article 11*).

### ***Roles and responsibilities of ANAMA***

ANAMA (the National Mine Action Centre) is established as the Technical Service of the Commission. The HQ is in Baku, the capital of Azerbaijan. Already one regional office is established in the Fizuly region. If required, ANAMA may establish more regional offices (*see Article 7*).

ANAMA executes the following tasks (*see Article 8*):

- collects and processes data on the mined areas and/or objects, data on cleared areas and objects, and data on destroyed mines and explosives. Keeps separate records on those activities, organises and files necessary documents;
- prepares reports on estimated mine contamination of certain areas and/or objects;
- carries out marking of mine suspected areas and/or objects;
- implements public tender procedure for mine clearance;
- minefield survey and marking of mine suspected areas and/or objects;
- inspection;
- quality control;
- research, development of demining technologies;
- provides professional support and necessary information to the authorised entities on mines, explosives and UXO;
- mine risk education coordination;
- mine victims assistance coordination;
- collaborates with international organisations dealing with mine clearance;
- prepares workplans, budgets for its activities, as well as reports and accounts subject to approval by the Commission, which shall subsequently be presented to the Board of Donors;
- verifies the ability of authorised legal entities to perform mine clearance; and
- issues the license for legal entities to conduct humanitarian demining activities in the Republic of Azerbaijan.

### ***The role and responsibility of the Inter-Ministerial Working Group***

These are to (see Article 6):

- ensure that mine action strategic plans are supporting the government's strategic development plans;
- provide guidance and timely information on government strategic plans for input into ANAMA's annual workplans and strategic mine action plan;
- provide regular updates to ANAMA on individual ministries and government agencies priorities and plans;
- assist with provision of required support to ANAMA by relevant government ministries and agencies to ensure effective and efficient implementation of ANAMA's mine action operations;
- ensure that ANAMA's operating and administrative procedures are in accordance with laws and regulations of Azerbaijan;
- comment on ANAMA's strategic plans;
- review and advise ANAMA on any appeal by staff members or implementing partners against administrative/legal decisions alleging non-observance of their terms of appointment or contracts (this last topic is a paragraph still under consideration);
- attend the meeting of the Board of Donors as observers, as and when invited;
- report to the Chair of the State Commission for Reconstruction and Rehabilitation on the Working Group's activities; and
- keep the Board of Donors informed on its activities related to ANAMA.

It is also regulates that the group should meet at least four times per year and that agreements should be made by consensus. The chair should be elected by consensus for a period of one year and rotate among the members.

### ***The role and responsibility of the Board of Donors***

Article 9 provides that the Board of Donors shall provide guidance to the Commission and ANAMA. The Board of Donors shall inter alia:

- comment on — in cooperation with the Commission — the financial plan and the budget of ANAMA, for approval by the Government;
- comment on — in cooperation with the Commission — workplans and budget proposed by the ANAMA;
- select – jointly with the Commission — qualified and competent candidates for the posts of, in case they become vacant, Director, Department Managers and Chief of Finance of the ANAMA, for approval by the Government;
- receive the quarterly financial statements submitted by the ANAMA;
- receive the reports indicating the results of the auditing and verification of the ANAMA accounts;
- participate in recruitment of the staff of the ANAMA; and
- perform other tasks related with mine action and Explosive Ordnance Disposal, as required.

### ***The National Mine Action Plan***

Articles 11 and 12 state that the Humanitarian Demining Activities in Azerbaijan are being done on the basis of the Mine Action Plan of the Republic of Azerbaijan (hereinafter the Plan) passed by the government of Azerbaijan. A proposal for the



Plan is prepared by ANAMA after seeking the opinion of the Working Group and approved by the State Commission for Reconstruction and Rehabilitation in cooperation with the Donors Board (see Article 11).

The Plan contains the following information (*see Article 12*):

- data on the areas and facilities within Azerbaijan contaminated with mines or explosive ordnance;
- an assessment of available and required personnel for implementation of the demining;
- data on the material, the technical resources and the equipment needed for demining;
- assessment of required financial resources for the plan implementation and the compensation amount for the personnel dealing with the demining activities;
- list of areas where demining is required with the established demining deadlines;
- assessment of the areas planned for demining;
- demining priorities;
- operational plan for demining; and
- the project aim, the project description, the location description, the investor's name, area photos and the project boundaries.

Funding for mine clearance will be provided by the State budget, donors' funds and other sources. ANAMA will be in charge of the implementation of the Plan. The Government of Azerbaijan submits the annual report on the progress of the Plan and the use of funds to the Parliament of the Azerbaijan Republic.

The mine action activities (mapping, surveying, marking, mine clearance) according to the Plan passed by the Government shall be contracted out to qualified non-governmental and private companies. ANAMA is in charge of their accreditation (see article 17). The Military Force of Azerbaijan, The Ministry of Internal Affairs are not allowed to conduct humanitarian demining activities (*see Article 16*). The responsibilities for monitoring and quality control rest with ANAMA.

Mine Risk Education is not specifically mentioned in the existing draft. However, after this researcher pointed out that mine risk education was not elaborated on, the drafter of the law promised to add it! At the moment mine risk education is carried out by UNICEF in coordination with ANAMA.

Article 13 states that the demining activities (demining hereby means all mine action parts not only mine clearance) identified by the Plan shall be handed over to commercial and non-governmental organisations based upon public tenders, conducted by a tender commission appointed by ANAMA. Exceptionally, demining activities may be handed over by direct agreement to governmental or non-governmental organisations when it is necessary to urgently clear a certain area or facility of mines due to justified economical or safety reasons or other reasons: these can include reasons of environmental protection or public health, or if a donor or potential investor in the infrastructure development wishes to clear a certain area of mines.

Article 14 regulates the surveys that shall be carried out: General, Technical and Final surveys.

Article 15 states that a demining organisation shall be obliged to secure operational activities in accordance with the mine/UXO clearance regulations and standards of the Azerbaijan Republic. The International Mine Action Standards (IMAS) are not

mentioned here, though are referred to in Article 17 (*see below*).

Articles 19, 20, 22, 23, 24, 25 and 26 deal with the qualifications, working conditions, insurance and pensions for persons being allowed to carry out demining activities.

Articles 27, 28, 29, 30 and 31 deal with Professional Supervision of Demining Activities, which lies directly in the hands of ANAMA, which shall have a special Quality Control Officer employed.

Penalties for illegal demining operations or not following the rules laid out in the law are stated in article 34.

The final articles deal with Special Provisions where persons employed in the demining structures shall not be related to the management or have a financial interest in any of the activities related to the mine/UXO clearance and that they shall provide a written statement thereof.

Roles and responsibilities for mine risk/mine awareness education, victim assistance or stockpile destruction are not mentioned in the law.

On victim assistance, there is already a disability law in place, although when it was last amended (2001) it resulted in less compensation than before. The reason is that earlier assistance was given more in kind while now it is all in cash and this amount does not correspond to the value of the earlier benefits.

On stockpile destruction, it is not mentioned since Azerbaijan has not acceded to the Anti-Personnel Mine Ban Convention. The government admits to having a stockpile of landmines but would not give any figures, since this is labelled as classified information.

The translation from Azeri into English might give some distorted meaning to the law. Demining sometimes means the same as mine action but not always. Sometimes it only has the meaning of mine clearance. However, the law clearly gives more space to mine clearance activities.

The IMAS are only mentioned in Article 17, whereby an organisation wishing to do mine clearance must provide copies of SOPs that must be in accordance with IMAS.

The Anti-Personnel Mine Ban Convention is not mentioned in the existing draft but following discussions with the researcher, a paragraph is likely to be added.

## Mine action structure

The Azerbaijan National Agency for Mine Action (ANAMA) structure is included in Annex 3. ANAMA works under control of the State Commission for Reconstruction and Rehabilitation. The Deputy Prime Minister chairs the Commission.

ANAMA's headquarters are in the capital city of Baku. It is set up with three different departments — Operations, Information and Support, managed by a national Director. The Chief Technical Advisor declared that he would have liked to see a fourth section, to deal with programme issues, such as proposals and report writing.

From the start UNDP has been supporting ANAMA in its national capacity building efforts.

Currently a CTA and two Technical Advisors are provided by the UN.

ANAMA and UNDP are in the process of establishing a Donors' Support Group and a Mine Action Working Group to consist of various government representatives and development agencies to coordinate mine action operations with other aid and development initiatives. Existing draft terms of reference for the two groups are attached.

There is already in the structure "The Joint Working Group" which has only met a couple of times but was intended to work regularly. It was not clear why it failed to do so, but to rectify this it is now put into the draft law as the Inter-Ministerial Working Group.

The **Operations Department** is responsible for:

- tasking, prioritisation and planning of all mine clearance and survey operations;
- establishing standards and operational procedures;
- accreditation of operators;
- receiving and checking technical reports;
- quality control of cleared areas;
- monitoring of ANAMA's contracts from a technical point of view to check that technical standards are followed at the operations sites; and
- training.

Special teams for Training, Monitoring and Quality Assurance have been established.

A Regional Office where the ANAMA Training Centre is also located manages the operations in Fizuly and surrounding regions.

The commercial companies, INGOs and NGOs that have already worked with ANAMA are:

**Companies:** Mine Tech, a Zimbabwean demining organisation, introduced an explosive detection dog capacity project, which was later taken over and expanded by RONCO, an American commercial company.

**INGOs:** Mines Advisory Group (MAG) conducted training of deminers and the monitoring and quality assurance team, and helped with revision of the national standard operations procedures. The Survey Action Center (SAC) is advising on the landmine impact survey that is underway.

**Other international agencies:** ICRC has undertaken mine awareness activities. UNICEF is currently funding the mine awareness programme.

**National NGOs:** Relief Azerbaijan does mine clearance. International Eurasia Press Fund did the general survey and mine clearance, and they will also do the Landmine Impact Survey.

**Foreign government support:** Personnel from the United States Military Forces conducted five training courses for ANAMA staff in summer 2002. The courses were on mine awareness, basic demining, advanced medical assistance, UXO and special staff training.

The **Information Department** is responsible for:

- information management (IMSMA);
- mine awareness;

- training and human resources development;
- public relations and press; and
- maintenance of the information system.

The **Support Department** is responsible for all administrative and logistics support to ANAMA and its implementing partners:

- procurement of vehicles, computer equipment and materials;
- supply of equipment for NGOs working under ANAMA's umbrella;
- coordination and support to deployment of mine action companies;
- getting required licenses for procurement of detonators and manufacturing of mine models and acquiring training mines and UXO from the Ministry of Defence.

### *Mine victim support*

ANAMA is only responsible for coordination and information sharing of mine victim support activities between different government organisations and humanitarian aid agencies. The information management unit keeps the record of mine victims.

Overall, the structure seems well in place once the Inter-Ministerial Working Group and Donor's support group start meeting regularly, though there may be a lack of information sharing and close cooperation between some of the departments. For instance, the mine clearance and survey teams seemed not to be working regularly with the mine awareness teams.

Victim assistance (with only one staff member) was very loosely attached to the rest of the structure. It is formally under the Information Department, but the staff member sits in another office.

## Annex 1.

## Presidential Decree No. 854 establishing the ANAMA

### DECREE FROM THE PRESIDENT OF AZERBAIJAN REPUBLIC

Concerning the establishment of Azerbaijan National Agency for Mine Action at State Commission for Reconstruction and Rehabilitation of Azerbaijan Territories occupied and affected as a result of armed conflict

For providing safety for Azerbaijan population returned to their home places occupied and affected in the result of armed conflict and in connection with reconstruction and rehabilitation of these territories I conclude the following:

1. *Azerbaijan National Agency for Mine Action at State Commission for Reconstruction and Rehabilitation of Azerbaijan territories occupied and affected in the result of armed conflict to be established.*
2. *State Commission for Reconstruction and Rehabilitation of Azerbaijan territories occupied and affected in the result of armed conflict to be tasked with the following.*
  - To provide the Cabinet of Ministers with proposals on Azerbaijan National Agency for Mine Action regulations draft and number of Agency personnel within one month;
  - To provide the activities of Azerbaijan National Agency for Mine Action.

**Heydar Aliyev**  
**The President of Azerbaijan Republic**

**Baku, 18 July 1998**  
**№854**

## Annex 2.

# Azerbaijan Law on Humanitarian Demining

*Draft proposal May 2002*

### **I. BASIC PROVISIONS**

#### *Article 1*

This Law shall regulate the organisational structure for mine clearance and removal of unexploded ordnance (hereinafter demining) in the territory of The Republic of Azerbaijan, shall determine bodies competent for demining, rights and obligations of persons performing demining activities and monitoring the implementation of this Law.

For the purpose of this Law, demining shall not include the following:

- Disposal of rejects in the process of production of weapons and military equipment, reproduction material in the production process and the stocked products beyond the date of expiry.

#### *Article 2*

Humanitarian demining, concerning this Law, is of great importance for the security of The Republic of Azerbaijan and also concern environment protection and people's health.

### **BODIES AT THE LEVEL OF AZERBAIJAN**

1. State Commission For Rehabilitation and Reconstruction in Azerbaijan

#### *Article 3*

For the purpose of performing the long term de-mining tasks in Azerbaijan, the State Commission for Rehabilitation and Reconstruction (hereinafter the Commission) as the central body for demining tasks determining its scope of work and manner of financing.

#### *Article 4*

The Commission establishes Interministerial Mine Action Working Group (hereinafter Group) which is acting under the control the Commission.

#### *Article 5*

### **INTER-MINISTERIAL MINE ACTION WORKING GROUP**

1. The State Commission for Reconstruction and Rehabilitation, at the request of the Azerbaijan National Agency for Mine Action (ANAMA) and UNDP has formed this Inter-Ministerial Mine Action Working Group.

2. The Working Group shall consist of ... members based on the invitation of the Chair of the State Commission for Reconstruction and Rehabilitation and nominated by relevant ministries. The members nominated shall be at the rank of Deputy Minister or equivalent for a term of two years.

Director of ANAMA is appointed as a chairman of this Group

#### *Article 6*

3. The Working Group has the following responsibilities:
- a. ensure that Mine Action strategic plans are supporting the government strategic development plans;
  - b. provide guidance and timely information on government strategic plans for input into ANAMA's annual work plans and strategic mine action plan;
  - c. provide regular updates to ANAMA on individual ministries and government agencies priorities and plans;
  - d. assist with provision of required support to ANAMA by relevant government ministries and agencies to ensure effective and efficient implementation of ANAMA's mine action operations. See Annex A to this document for a list of possible assistance by various government authorities. This list may be updated as needed;
  - e. ensure that ANAMA's operating and administrative procedures are in accordance with laws and regulations of Azerbaijan;
  - f. comment on ANAMA's strategic plans;
  - g. review and advise ANAMA on any appeal by staff members or implementing partners against administrative/legal decisions alleging non-observance of their terms of appointment or contracts.
  - h. attend the meeting of ANAMA's Board of Donors, as observer members, as and when invited;
  - i. report to the Chair of the State Commission for Reconstruction and Rehabilitation on the Working Group's activities;
  - j. keep the Board of Donors informed on its activities related to ANAMA.
4. The Working Group shall make agreements by consensus and shall meet at least once every quarter year. The chairmanship of the Working Group shall be elected by consensus for a period of one year and rotate among the members.
5. ANAMA will provide secretarial support including recording and circulation of minutes and Agenda of the meetings of the Working Group
6. The Working Group as an organisation shall not be engaged in any commercial activities related to mine action for profit and shall not make any distributions to State or Regional Governments or their officials of profits or dividends.
7. No member of the Working Group may be associated with the management of, or hold a financial interest in, any business concern related with Mine Action and/or Explosive Ordnance Disposal.

#### *Article 7*

### **MINE ACTION CENTRE IN THE REPUBLIC OF AZERBAIJAN**

The Mine Action Centre in Azerbaijan — Azerbaijan National Agency for Mine Action (hereinafter ANAMA) shall be established as the Technical Service of the Commission.

The HQ of ANAMA shall be established in Baku.

As appropriate, ANAMA may establish regional offices, if required.

*Article 8*

ANAMA possesses a public authorisation for the execution of works

ANAMA executes the following works:

- collects and processes data on the mined areas and/or objects, data on cleared areas and objects, and data on destroyed mines and explosives, keeps separate records on those activities, organises and files necessary documents;
- prepares reports on estimated mine contamination of certain areas and/or objects;
- carries out marking of mine suspected areas and/or objects;
- implements public tender procedure for mine clearance;
- mine field survey and marking of mine suspected areas and/or objects;
- inspection;
- Quality Control;
- research, development of demining technologies;
- provides professional support and necessary information to the authorised entities on mines, explosives and UXO;
- mine victims assistance co-ordination;
- mine risk education;
- collaboration with international organisations dealing with mine clearance;
- prepare work plans, budgets for its activities, as well as reports and accounts subject to approval by the Commission, which shall subsequently be presented to the Board of Donors;
- verification of the ability of demining organizations to perform mine clearance;
- issue on the license for local demining organizations to conduct humanitarian demining activities in the Republic of Azerbaijan.

**INTERNATIONAL BODIES****Donors Support Group***Article 9***STATUTES OF THE BOARD OF DONORS (OR BOARD OF ADVISORS)****Purpose**

1. The Board of Donors shall reflect the will of the international community to assist the people of the Azerbaijan in its efforts to achieve a Nation free from the impacts of mines, and shall also serve as forum to ensure the fair and efficient distribution of funds and resources provided by donor agencies and/or governments.

**Membership**

2. Membership in the Board of Donors shall be open to all-international organisations and governments that contribute to the efforts in the field of Mine Action in Azerbaijan.

3. The admission of any such organisation or government to membership shall be effected by a decision of the Board of Donors.

4. Membership in the Board of Donors ends with the declaration of the relevant member or by a unanimous decision taken by all members not directly affected.

1) ...

2) **Observers**

5. The members of the State Commission for Reconstruction and Rehabilitation (hereinafter the "Commission"), members of the Inter-Ministerial Mine Action Working



Group, may be invited to the meetings of the Board of Donors as observers, as required. The Director Azerbaijan National Agency for Mine Action (hereinafter the “ANAMA”) and the UN Chief Technical Advisor to ANAMA (hereinafter the “CTA”) will attend all meetings of the Board of Donors as observers and facilitators.

### 3) **Activities**

6. The Board of Donors shall provide guidance to the Commission and the ANAMA.
7. The Board of Donors shall inter alia:
  - a. comment on — in co-operation with the Commission — the financial plan and the budget of ANAMA, for approval by the Government;
  - b. comment on — in co-operation with the Commission — work plans and budgets proposed by the ANAMA;
  - c. select — jointly with the Commission — qualified and competent candidates for the posts of, in case they become vacant, Director, Department Managers and Chief of Finance of the ANAMA, for approval by the Government;
  - d. receive the reports submitted by the Commission on the activities and national capacity building of the ANAMA and of the progress of demining and Explosive Ordnance Disposal operations;
  - e. receive the quarterly financial statements submitted by the ANAMA;
  - f. receive the reports indicating the results of the auditing and verification of the ANAMA accounts;
  - g. participate in the recruitment of the staff of the ANAMA; and
  - h. other tasks related with Mine Action and Explosive Ordnance Disposal, as required.

### **Decision-making**

8. The Board of Donors shall decide by consensus.

### 4) **Procedure**

9. The Board of Donors shall be chaired by ...
10. The Board of Donors shall meet at least twice per year.
11. The chair shall provide the Board of Donors with a permanent secretariat based in ....

### **No financial contributions**

12. The Board of Donors shall not have a budget of its own and shall not financially reimburse its members in any way.

### **Modification**

13. The present provisions may be modified or amended at any time by consensus, upon request of any member of the Board of Donors.

### **Effect**

14. The present provisions become effective on ....

The Board of Donors shall be established as a body that supports the work of ANAMA and shall consist of the UNDP and other donors representatives.

The Co-chair of the Board of Donors shall be appointed by the Chair of the Commission (or by the Board members)

The representatives of the international organisations and governments supporting de-

mining programs shall be invited to be members of the Board of Donors.

Members of the Commission can participate in the work of the Board of Donors.

The ANAMA Director may, if necessary, be invited to submit his\her report to the Board of Donors.

The Board of Donors shall exist as long as the members find it necessary.

Apart from the Board of Donors, other international bodies may be established to participate in the de-mining process, which shall be regulated by the relevant decisions.

### **Usage of demining equipment**

#### *Article 10*

Demining equipment that is proven to be usable can be used for demining activities.

The usability of equipment is proven by compatibility certificate.

The demining equipment stated in Item 1 of this Article consists of material and technical devices for surveying, disarming, destruction; protective equipment, instruments for mine detection and demining machines.

This Law considers mine detection dogs to be the demining equipment.

### **HUMANITARIAN DEMINING ACTIVITIES**

#### *Article 11*

Humanitarian demining in Azerbaijan is being done on the basis of the Mine action Plan of the Republic of Azerbaijan (hereinafter the Plan) passed by the Government of Azerbaijan

A proposal for the Plan is being prepared by ANAMA previously providing opinions of Group for comments and approved by the Commission in co-operation with the Donors

#### *Article 12*

The Plan contains the following information on:

1. data on the areas and facilities within Azerbaijan contaminated with mine-explosive ordnance,
2. the plan of available and the assessment of necessary personnel for the implementation of de-mining,
3. data on the material and technical resources and the equipment necessary for de-mining,
4. the assessment on required financial resources for the Plan implementation and the compensation amount for the personnel dealing with de-mining activities,
5. the list of areas where de-mining is required with the established de-mining deadlines,
6. the assessment of the areas planned for de-mining,
7. de-mining priorities,
8. operational plan of de-mining,
9. the project aim, the project description, the location description, the investor's name, area photos and the project boundaries.

The Plan determines the areas or facilities the mine clearance whereof will be priority so that this priority is presented in quarterly, semi-annual, annual and three-year period.

Funding for mine clearance will be provided by the State Budget, donors fund and other sources.

ANAMA will be in charge of implementation of the Plan.

The Government of the The Republic of Azerbaijan submits the annual report on the progress of the Plan and the funds used to the Parliament of Azerbaijan Republic.

*Article 13*

The de-mining activities in the areas and facilities identified by the Plan shall be handed over to the commercial and nongovernmental organisations based upon public tenders, conducted by the Tender Commission as appointed by ANAMA. Exceptionally of the regulation referred to in Paragraph 1 of this Article, de-mining activities may be handed over by the direct agreement to governmental and non-governmental organisations, when it is necessary to urgently clear a certain area or facility of mines due to the justified economical or safety reasons or other reasons, conditioned by the environment protection and the population's health or if the donor or potential investor in the infrastructure development wishes to clear a certain area of mines.

The Commission shall pass (or ANAMA shall pass through Commission ?) the Rulebook that shall more precisely regulate the public tender process for the selection of the organisation for the execution of de-mining activities.

*Article 14*

Contamination of the area and/or object by mines explosives or UXO will be determined by minefield survey.

The following activities will be considered the activities of the mine field survey from paragraph 1 of this Article:

- general survey of the mined area and/or object (hereinafter: General Survey);
- technical survey of the mined area and/or object (hereinafter: Technical survey);
- final survey (Clearance) of the mined area and/or object (hereinafter: Final Survey).

ANAMA will carry out activities listed in paragraph 2, indent 1 and 2 of this Article.

The contracted organizations will carry out activities from paragraph 2 indent 3 of this article, based on the public tender procedure.

The qualified international and local de-mining organisations, accredited by ANAMA shall carry out the de-mining activities in Azerbaijan.

Upon ANAMA proposal the Commission shall pass the Rulebook, which shall regulate conditions required for registration of organisations.

Organisations that obtained a de-mining job through tender procedure may exceptionally subcontract other firms accredited for the execution of de-mining activities not exceeding ( 49% of the job?).

*Article 15*

A de-mining organisation shall be obliged to secure operational activities in accordance with the mine/UXO clearance regulations and standards of The Republic of Azerbaijan.

*Article 16*

Only an authorised demining organizations are allowed to conduct humanitarian demining activities based on the license issued by ANAMA.

Military force of the The Republic of Azerbaijan, the Ministry of Internal Affairs are not allowed to conduct humanitarian demining activities.

*Article 17*

Applications for the humanitarian mine clearing authorisation are to be forwarded to ANAMA.

With the application from paragraph 1 of this Article, the following will be attached:

- SOPs according IMAS;
- CVs of professional staff evidence ;
- evidence that a demining organization was registered in accordance with national legislation;
- should pass accreditation by ANAMA HQ;
- to present all required permits (licence);
- evidence on possession of an adequate work premises for storage of explosives and ignition devices, arranged according to the Regulations on a special premises and technical requirements for such premises;
- information on the person in charge within the legal entity;
- demining organization's by-law, with the organisational chart listing the posts for humanitarian demining personnel, professional requirements and job description for each of the posts;
- evidence that the person in charge within the demining organization has not been convicted for the crime against the the Republic of Azerbaijan, against a person or a property, and for other criminal acts with elements of violence, self-interest and harmful intent;
- evidence that the person in charge within the demining organization has not been convicted for the misuse of the explosives.

An demining organization must submit evidence that deminers were insured in the case of death or injury that might occurred in the course of mine clearance, before the work or public tender procedure starts.

ANAMA will cancel the given authorisation for mine clearance, from Article 14 thereof, in writing, if the demining organization ceases to meet the requirements.

*Article 18*

The demining organization will, within ... days upon the receipt of the approval from Article 14 thereof, report to ANAMA on available capacity for mine clearance activities and submit their Standard Operating Procedures (SOP) for verification.

ANAMA will evaluate the capability of the demining organization to execute mine clearance activities and verify its SOP within 15 days since the day of receipt of the documentation from paragraph 1 of this Article.

The demining organization will execute mine clearance activities using the capacity, methods and equipment reported in verified SOP only.

**DEMINERS***Article 19*

Persons certified for de-mining may carry out de-mining activities (hereinafter: deminers)

A deminer can be any person who meets the following requirements that s/he:

- has turned 18;
- has completed at least the secondary education;
- has not been convicted for crimes against the Republic of Azerbaijan, against the life and body or against property or for any other criminal act with the element of violence, personal gain and base instincts;
- is mentally and physically capable, which shall be proved by a certificate of the

- authorised health institution;
- has passed the adequate qualification exam.

ANAMA shall issue authorizations to carry out de-mining activities.

*Article 20*

Training of deminers shall be carried out in accordance with the Standards of The Republic of Azerbaijan

*Article 21*

A deminer may perform de-mining activities at the longest for seven an half consecutive hours during daily working hours.

*Article 22*

Before s/he starts to work the deminer has to have an interrupted daily rest in duration of twelve hours at least.

While carrying out de-mining activities, a deminer shall be obliged to carry a personal de-mining card containing personal identification data, blood group, records on completed courses, training and additional training as well as records on employment history.

A deminer shall be obliged to present his/her de-mining card for an insight to the person authorised for supervision of de-mining activities.

*Article 23*

The time that deminers spend in de-mining activities shall be included into years of service for retirement in duration of 18 months for each year.

The time that not field personal spend in demining activity shall be included into years of service for retirement in duration of 16 months for each year.

The activity of deminer is adequate to military service?

*Article 24*

In case of an injury, or death of a deminer while carrying out de-mining activities, the deminer, i.e. members of his family shall be entitled as follows:

1. To rights based on health insurance;
2. To rights based on pension and disability insurance.

*Article 25*

A de-mining organisation shall be obliged to conclude a contract with an insurance company on life insurance of their deminers in case of death or injury caused by the execution of de-mining activities:

- in case of death, the amount shall be not less than ? manat;
- in case of an injury caused by the execution of de-mining activities, the amount should be calculated considering the level of disability.

*Article 26*

In case of an injury or death of a deminer during the execution of de-mining activities, the deminer or a member of his/her family shall also be entitled to damage compensation in accordance with National legislation.

## **PROFESSIONAL SUPERVISION OF DE-MINING ACTIVITIES**

*Article 27*

Quality officer (hereinafter: officer) shall carry out the professional supervision of demining activities.

The officer shall be employees of ANAMA and they shall report to the Director of ANAMA through Ops. Manager

ANAMA shall authorize officer for performance of professional supervision.

The Director of ANAMA shall prescribe requirements to be met by officer.

#### *Article 28*

During performance of de-mining activities in a certain area or facility, the officer may control the effect and level of de-mining on a daily basis.

Upon the completion of de-mining activities, the officer shall be obliged to carry out a control of the area and /or facilities cleared by a contractor and make a special record on professional supervision over the execution of de-mining activities.

#### *Article 29*

If the officer observe irregularities in the performance of de-mining activities, they shall request the contractor to carry out the work in accordance with Azerbaijan Standards and the contract. If the deviations from the contracted way of work or the rules of profession are such that they cannot be corrected, the contractor shall be barred from continuing the work, in accordance with Azerbaijan Standards.

In the case referred to in paragraph 1 of this Article, officer shall have to issue a written decision preventing the continuation of the works immediately or not later than within the three days.

An appeal may be filed against the decision referred to in paragraph 2 of this Article to the Director of ANAMA, who has to issue a decision concerning the appeal within three days.

The appeal referred to in paragraph 3 of this Article shall not stay the enforcement of the decision.

In case of a major irregularity or gross violation of law or Azerbaijan Standards, the following measures may be taken against the contractor:

- revocation of the work license;
- revocation of the work permit of the responsible persons.

#### *Article 30*

The demining organization shall report to ANAMA upon completion of clearance operations on the minefield or a building. Based on the Completion report of demining organization ANAMA conducts Quality Control on the cleared area.

#### *Article 31*

ANAMA shall issue a certificate of clearance to the contractor and requestor confirming that a certain area has been de-mined in accordance with this Law and the Republic of Azerbaijan's Mine Action Standards.

### **PENAL PROVISIONS**

#### *Article 34*

The demining organization will be fined by ANAMA to the amount of ... manat. if:

1. conducting mine clearance jobs without being licensed for mine clearance by ANAMA;
2. a medical team and necessary equipment for first aid were not present during mine clearance activities;
3. mine clearance activities were conducted without the signed Contract with

ANAMA;

4. the mine clearance and the auxiliary works of mine clearance were conducted by personnel without license for such works;
5. the deminer was engaged in mine clearance activities for more than 7.5 hours during daily working hours and 5 weekly days without approval from ANAMA;
6. the deminer did not have 12 hours of continuous rest before working hours;
7. the deminer did not carry the license and personal supervision booklet while conducting demining, or if he did not enter the time of working activities and the time of rest into the personal supervision booklet or if he did not submit the booklet to the authorized QA Officer;
8. the deminers and assistant mine clearance workers were not insured in case of death (?) or injury (?) that could occur during mine clearance activities.

The responsible person of the demining organization be fined with ? manat.to ? manat for a violation of the paragraph 1 of this Article.

### **SPECIAL PROVISIONS**

#### *Article 35*

Persons employed in the de-mining structures shall not be related to the management or have the financial interest in any of activities related to the mine/UXO clearance and they shall provide a written statement thereof.

ANAMA is responsible for the area that was checked during final QC the rest area on the site is responsibility

#### *Article 36*

By-laws shall be enacted within ? days from the day of entry into force of this Law.

#### *Article 37*

Natural and legal persons who have legal, economic or security interests for de-mining of a facility or an area they use or intend to use may, irrespective of the de-mining deadlines established by the Plan, request ANAMA to clear the facility or the area of mines.

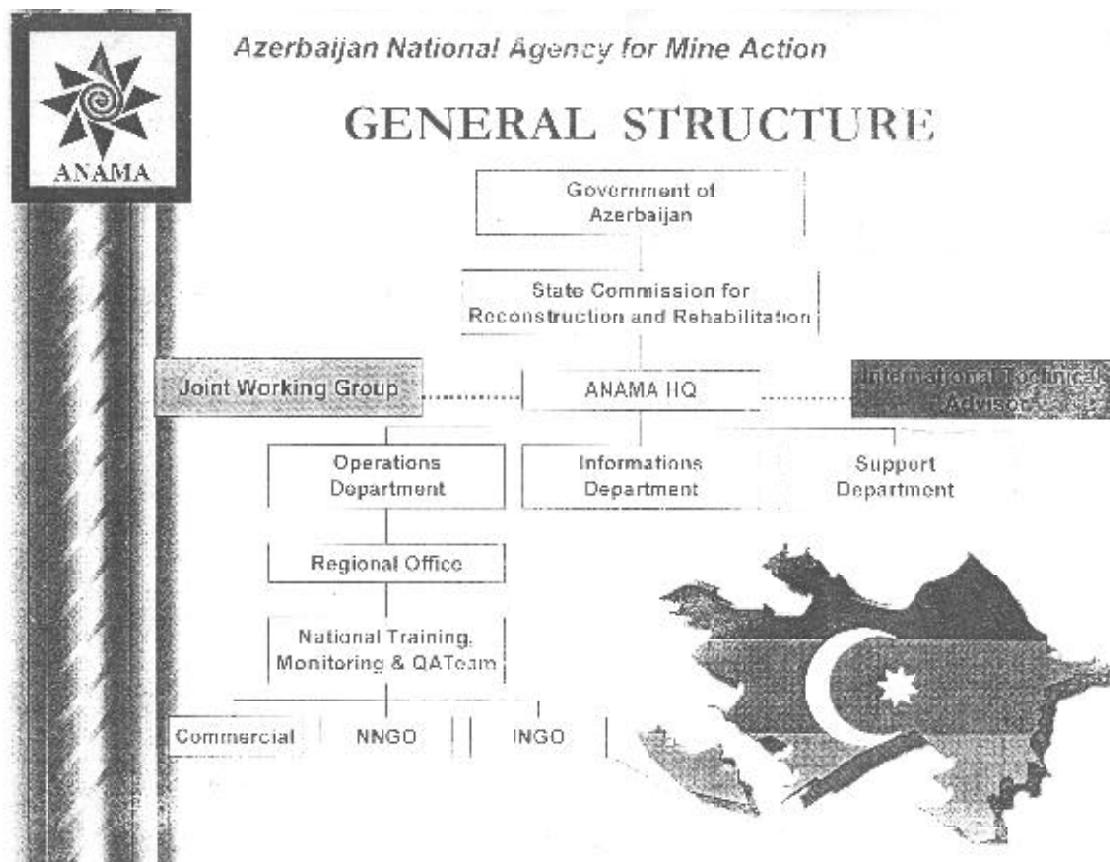
#### *Article 38*

This Law shall enter into force on the ...day from the day of its publication in the "Azerbaijan" (official newspaper of the Milly Majlis).

This Law shall be also published in the Official newspaper of the President's office "Khalg".

## Annex 3.

## The structure of the Azerbaijan National Agency for Mine Action





## Chapter 3.

# Bosnia and Herzegovina

### Background

The 1992-95 Bosnian war among the “constituent peoples of Bosnia”<sup>1</sup> left the country with an estimated 18,000 minefields — particularly in bands of contamination along former confrontation lines and around housing, public buildings, and key infrastructure — as well as extensive UXO contamination. Another heritage of the war was a governance structure that is remarkable in many ways, and that has had a profound impact on the evolution of mine action and the relevant legislation in Bosnia.

Three years of fighting resulted in 200,000 fatalities, 1.2 million refugees and massive internal displacement. However, the conflict remained unresolved and none of the combatants achieved their principal war aims by the time pressure by the international community resulted in the General Framework Agreement for Peace (GFAP, commonly known as the Dayton Agreement).<sup>2</sup> The GFAP confirmed Bosnia and Herzegovina (BiH) as a single state, but with a very weak central government (the State<sup>3</sup>) plus two “entity” governments — the Federation of Bosnia-Herzegovina (hereinafter Federation) with a Bosniak majority and a significant Croat minority, and the Republika Srpska (RS) with a Serb majority.<sup>4,5</sup> The central BiH government has minimal powers and greater authority is reserved for the entity governments.<sup>6</sup> The central government also has no distinct taxing authority and it depends on financial contributions from the entities.<sup>7</sup> Further, the make-up and procedures of both the legislative and executive branches of the central government are designed to ensure that representatives from any of the constituent peoples can effectively block legislation.

Such complex governance mechanisms might have been barely adequate to cope in a situation in which the political leaders of the ethnic groups had broadly similar objectives and displayed mutual goodwill: in fact, the opposite has more often been true. Recognizing the unresolved nature of the conflict, the Dayton Agreement also provided for a multilateral military force<sup>8</sup> and established the position of the High Representative, representing the international community, to “... *coordinate the activities of the organizations and agencies involved in the civilian aspects of the peace settlement*” (GFAP, Annex 4, Article I: 2).<sup>9</sup> Finally, the international community created a vehicle for its continued involvement in the governance of post-war Bosnia: the Peace

Implementation Council (PIC) as “*the overall structure supervising peace implementation*”.<sup>10</sup> Frustrated with slow implementation of the peace provisions during 1997 and 1998, the PIC granted additional executive authority to the Office of the High Representative (OHR) to accelerate progress; in effect turning BiH into a quasi-protectorate (Dahrendorf and Balian, 1999, p. 21).

## Mine action legislation

Because of the country’s constitutional framework, passing pan-Bosnian legislation entails tortuous negotiations among representatives from each of the constituent peoples within the BiH government and then between the central and entity governments. Should this process fail or (as often happens) result in an unworkable compromise — or should the PIC Steering Board require action — the High Representative may enact a decree with binding effect. As a result, the evolution of the legal framework for mine action in BiH has been quite complex.

### *Establishing the initial legal framework for mine action*

In December 1996, the IC required the BiH government to establish a national authority to (1) channel donor resources to the entities, (2) maintain a central database and mapping facility, (3) set standards for mine clearance operations, and (4) coordinate mine clearance projects which cross the Inter-Entity Boundary Line (IEBL).<sup>11</sup> Accordingly, the BiH government appointed a three-member Demining Commission in January 1997 and, in October of that year, the government entered into an agreement<sup>12</sup> (the “Agreed Principles”<sup>13</sup>) with the Board of Donors<sup>14</sup> to establish the Bosnia and Herzegovina Mine Action Centre (BH MAC) to assume the roles played by the MAC that had been established by the UN in May 1996.<sup>15</sup> Meanwhile, the entities had established distinct Mine Action Centres (Fed MAC and RS MAC) that coordinated actual mine action operations within their respective territories, so the Memorandum of Understanding with the donors resulted in a welter of legislation to bring the various authorities and structures into line with the Agreed Principles.<sup>16</sup>

The resulting system never worked as hoped. One problem was that the various donors had different views concerning how mine action should be conducted and, particularly, how mine clearance capacity should be developed in the country. The World Bank and the U.S. focused most of their funding on international and local commercial companies. The EU supported programmes to build capacity in the civil protection corps of both entities. Norway financed a large Norwegian People’s Aid (NPA) programme. The UNDP played its usual role in establishing a national Mine Action Centre, while UNHCR formed its own demining teams in support of refugee return efforts.

A number of donor countries provided funding via SFOR for demining by the entity armed forces, while others supported the start-up of local demining NGOs. The result was a rapid build-up of capacity beyond the level that the donors would collectively support<sup>17</sup> and, hence, intense competition for funding among commercial firms, NGOs, UN agencies, and local government bodies. Given the breakdown of the rule of law in post-war Bosnia, this led inevitably to allegations of widespread corruption and a crisis in donor confidence, culminating in the High Representative’s dismissal of the Demining Commissioners in October 2000 for conflict of interest.

Part of the problem was that BH MAC (and the UN MAC before it) endeavoured to coordinate the entity MACs, but had no direct authority over them. For example, the Fed MAC and RS MAC continued to establish clearance priorities for the respective entities<sup>18</sup> for approval by the entity governments for presentation to the Board of Donors.<sup>19</sup> As a result, there was no body charged with the responsibility for devising or enforcing a Bosnia-wide strategy for mine action that might have provided some coherence to the often divergent efforts by donors, local bodies, and clearance operators.

### *The shift to the current legal framework*

Following the High Representative's dismissal of the original Demining Commissioners, the Council of Ministers appointed three new Commissioners in January 2001 — this time responsible to the Ministry for Civil Affairs and Communication rather than to the collective cabinet — and submitted a draft for a new Demining Law to the Parliamentary Assembly. As is common in BiH, passage of the new legislation took far longer than anticipated, and it was not until February 2002<sup>20</sup> that the Demining Law cleared the legislative hurdles. The principal changes were (1) the creation of a unified Mine Action Centre, absorbing the former entity MACs,<sup>21</sup> and (2) a requirement that BH MAC prepare a “Demining Plan for Bosnia and Herzegovina” (a pan-Bosnian mine action strategy and implementation plan).

### *Scope of the legislation*

The law covers the clearance, survey, and removal of landmines and UXO (collectively referred to as “demining”), and specifies:

- the roles and responsibilities of:
  - BiH bodies empowered to implement the law and the demining programme;
  - entity-level bodies involved in demining;
  - international bodies involved in demining.
- the contents to be contained in the Demining Plan for BiH;
- the general obligations of accredited demining organisations;
- the rights and obligations of deminers;
- the processes by which demining quality will be assured and land or facilities will be certified as cleared “*in accordance with the Law and the BH Standard*”;
- penalties for “misdemeanours”;
- a provision that persons employed in the “demining structures” must not be related to the owners of, or have a financial interest in, organisations undertaking mine clearance or UXO removal.

The law does not cover the removal of explosives resulting from criminal deeds, which are under the jurisdiction of the criminal investigation and justice system, the use and disposal of explosive ordnance in stockpile or for training purposes by the entity armed forces, the production of ammunition and military equipment, or the use of explosives by industry. Destruction of landmine stockpiles is not covered; however, BiH signed the Anti-Personnel Mine Ban Convention on 2 December 1997<sup>22</sup> and SFOR subsequently supervised stockpile destruction, which was completed on 15 November 1999.<sup>23</sup> Mine awareness is not mentioned other than noting the BH MAC shall “*carry out mine awareness activities...*” (Article 11, paragraph 1a). Other than compensation due to deminers or their families following death or injury during the conduct of demining activities, victim assistance is not mentioned.<sup>24</sup>

## Mine action structure

### *BiH bodies*

The 2002 Demining Law (see Annex 1) confirms the prior establishment of the BH Demining Commission consisting of three members of the Council of Ministers<sup>25</sup> — one from each of the constituent peoples — located in and responsible to the Ministry of Civil Affairs and Communications (MCAC). Commissioners are elected for two year terms by the Council of Ministers following its receipt of a recommendation by the Minister and two Deputy Ministers of the MCAC. The Commission’s principal responsibilities are to:

- represent BiH at international mine action events;
- approve the BH Standard for Mine Clearance and Unexploded Ordnance and for training programmes;
- supervise the work of BH MAC;
- adopt regulations governing the tendering and appoint a Tenders Commission;
- keep the Council of Ministers and the Board of Donors informed concerning the activities of the Commission and progress achieved in demining;
- propose for adoption by the Council of Ministers:
  - candidates for the senior positions in the BH MAC (Director, Deputy Directors, and Chief of Finance);
  - the Demining Plan for Bosnia and Herzegovina.
- facilitate cooperation between the Federation and the RS and, in conjunction with the Board of Donors, “organise the structure which will channel the funds for mine clearance.”<sup>26</sup>

Under the new Demining Law, the BH MAC absorbs the entity MACs and is required to maintain offices in Sarajevo (the capital of both BiH and the Federation) and Banja Luka (the RS capital).<sup>27</sup> Its main responsibilities are to:

- Maintain and operate the central minefield database and mapping facility;
- Accredite international and national demining organisations<sup>28</sup> and issue special work permits for deminers;
- Carry out mine awareness activities, mine marking, survey and mine clearance;<sup>29</sup>
- Coordinate demining activities with operational agencies, and inspect demining sites for compliance with safety and technical standards;
- Conduct quality assurance inspections and analyses;
- Propose to the Demining Commission:
  - technical, safety, quality assurance, and training standards;
  - the Demining Plan for BiH;
  - demining priorities for the inter-entity boundary line;
  - work plans and budgets for BH MAC activities.
- Propose to the entity governments:
  - Demining priorities — the “priority task list” — within each entity.

### *Entity and international bodies*

The Demining Law also outlines the roles of “entity bodies” and “international bodies”, although the BiH government has no legal authority over these. The entities are to establish bodies for timely and efficient “*decisions in accordance with the donors and the Board of Donors on allocation of resources made available to the Entity Governments*” and to “*propose [the] priority programme for the presentation to the Board of Donors*”. (Article 12)

Note the BiH government or its demining bodies are not mentioned in this context; the relationships are direct between the entity governments and the donors.<sup>30</sup> The Law also recognises the role of the civil protection organisations existing in both entities, and of the entity armed forces.<sup>31</sup>

The civil protection organisations<sup>32</sup> operate within their own legal framework dating back to the creation of the Federated Republic of Yugoslavia after World War II. Their primary mandate is to protect the populations from natural and man-made disasters. These organisations assumed Explosive Ordnance Disposal (EOD), Rapid Response and Emergency Response roles<sup>33</sup> and engaged a number of EOD and demining personnel who had earlier been trained with funding from the European Commission. In 1999, both civil protection organisations were accredited for demining by BH MAC. They subsequently absorbed the UNHCR demining teams and began house and area clearance operations in response to spontaneous refugee returns (i.e., not part of an official refugee return assistance project), as well as a limited amount of contract work for various clients.<sup>34</sup> In addition, most municipalities in both the Federation and the RS have nominated civil protection officers as their points-of-contact with the BH MAC and other demining organisations and, in the RS, the RS CPA plays a role in determining entity demining priorities.

Similarly, the entity armed forces operate within their own legal frameworks but, with respect to their humanitarian demining activities undertaken as part of the Dayton Agreement obligations and subsequent PIC instructions,<sup>35</sup> the armed forces work only on tasks from the priority task lists developed by BH MAC and are subject to BH MAC inspection and quality assurance processes.

The Demining Law also notes the existence and responsibilities of one international body — the Board of Donors — to “participate in the demining process.” The Demining Law recognises the authority of the Board of Donors to vet certain key documents, including the Demining Plan and the use of donor resources for mine action.

### ***The Demining Plan and its implementation***

The Demining Law requires BH MAC to prepare the Demining Plan for Bosnia and Herzegovina, containing (all from Article 17):

- data on contamination of both land and built structures;
- data on the resources (personnel, equipment, etc.) available for demining;
- an assessment of the financial resources required;
- a list of areas requiring demining, with priorities and deadlines;
- demining “priorities”<sup>36</sup>;
- operational plans (for quarterly, semi-annual, annual, and three-year periods);
- details on the specific clearance projects to be undertaken in the coming period.

The plan — which can be seen as a combination of a long-term strategic plan and a rolling implementation plan — is then to be submitted to the Demining Commission for approval “*in cooperation with the Board of Donors*” and ultimately, to the Council of Ministers for “*adoption*” (Article 16:1). The Council of Ministers is required to report annually to the Parliament Assembly on implementation progress and the resources expended.

### **Coordination between the BiH and entity governments**

While the establishment of a unified MAC and the requirement that a long-term, pan-

Bosnian demining plan be adopted by the BiH government has improved mine action structure, implementation remains problematic. Implementation plans will still be based on lists of priority tasks, and the Demining Law requires BH MAC to prepare three separate priority lists. Separate lists are to be prepared for both entities for submission to and approval by the two entity governments. (Article 11:1:e) The third list covers demining requirements within the inter-entity boundary line, to be submitted to the Demining Commission for approval. (Article 9:1:e) Although BH MAC is also charged with proposing the criteria to be used in establishing priorities as part of the Demining Plan, the Law does not require entity governments to adopt that Plan<sup>37</sup> and, hence, the proposed criteria.

While the Law enjoins the Demining Commission to facilitate cooperation between the entity governments (*Article 6:1:e*), there is no guarantee the entity governments will accept the same set of criteria or, should they do so, interpret these criteria in the same manner. Also, the three priority lists will be mutually exclusive as they relate to non-overlapping territories. This could give rise to situations in which, for example, the Federation needs clearance of an area in the RS (e.g., when the only access road for an agricultural area runs through the other entity). There is no requirement in the Law that one entity government consider the needs of the other entity when adopting its priority list of tasks or for a joint or higher authority to integrate the priority lists according to some overarching logic or principal.

It would be unfair to view this as a weakness in the Demining Law as it stems from the Constitution itself: the BiH government does not have authority over the entity governments on this matter. So long as the vast bulk of funding for demining comes from international donors, the Board of Donors will be able to exert considerable pressure on the parties to abandon intransigent positions on important issues. However, on many practical matters the donors are far from cohesive and different donors often hold divergent opinions.

### Coordination within the BiH government

The Demining Law contains explicit provisions for coordination within the BiH government. The Demining Commission is drawn from members of the Council of Ministers, which also is to adopt key documents and receive periodic reports. In this way, ministers and their deputies from each BiH ministry will be informed of demining plans and progress. This may be adequate to avoid glaring policy inconsistencies, but does not suffice for coordination in planning and operations on matters which cross administrative boundaries.<sup>38</sup> The Demining Commissioners all serve on a part-time basis and are required to meet at least once a month. However, the Commission has no administrative secretariat<sup>39</sup> or any full-time personnel attached to it, and the responsibilities of the BH MAC do not explicitly include a requirement to coordinate with other BiH ministries or bodies; rather, its focus is coordination among the many organisations involved in demining.

### Other matters

Minor criticisms of the Demining Law are:

- Mine awareness is, essentially, not covered by the Law, and there is no provision for accrediting mine awareness organisations or their programmes and staff;
- Article 34 empowers BH MAC inspectors to suspend work that is not in compliance with the BH Standard. It provides for an appeals process, but this is

to the BH MAC Director (*Article 34:3*). In an environment such as Bosnia's in which corruption is alleged to be rife at all levels, a second level of appeal to an independent body is warranted;

- BH MAC is empowered to evaluate the credentials of international and national organisations and to accredit them (*Articles 9:1:c and 21:1*), but there is no provision for appeal. The Demining Commission is to issue regulations governing the accreditation process, and we recommend these make explicit provision for appeals, which should allow ultimately for an appeal to an independent body;
- Article 19:1 states that demining activities “determined by the Plan are to be handed over to commercial organisations based on the executed soliciting for tenders.” While the following paragraph provides for demining activities to be handed over by a direct agreement (i.e., without going through the tender process), the intent of the Article is that demining contracts will normally be awarded via a competitive tender process. It is unclear why such competitions should be restricted to “commercial organisations” when there are now – or could be in the future — demining NGOs or government bodies capable of competing successfully for such work.
- Various Articles contain details that may become obsolete (e.g., fines for misdemeanours; minimum levels of insurance coverage), and which should be covered in subsidiary regulations or standards that the Demining Commission or Council of Ministers could amend without recourse to the Parliamentary Assembly;
- The Law empowers the Demining Commission or Council of Ministers to adopt subsidiary regulations or standards relating to certain matters (accreditation of demining organisations, tender procedures, plus technical, safety, quality assurance, and training standards), but does not empower them in general to issue other regulations as may be warranted to ensure the efficient and effective administration of the Law.

## Concluding remarks

The new Demining Law represents a considerable advance on its predecessors, particularly in the establishment of a unified MAC and in the requirement for a pan-Bosnian Demining Plan. The Law is deficient in a number of critical areas and particularly in the provisions for the implementation of the Demining Plan in a coordinated fashion by the BiH and entity governments. For the most part, however, the deficiencies stem from the country's remarkable constitutional framework, which cannot be resolved by legislation enacted by the Parliamentary Assembly of the Republic of Bosnia and Herzegovina.

## Notes

1. This refers to Bosniaks (or Bosnian Muslims), Bosnian Serbs, and Bosnian Croats, which together constitute more than 90 per cent of the country's population.
2. The agreement was signed by the Republic of Croatia and the Federal Republic of Yugoslavia, as well as the Republic of Bosnia and Herzegovina.
3. In BiH the term "nation" is frequently used to refer to the three constituent peoples, so "state" is used to refer to the national level of government.
4. The Constitution formed Annex 4 of the GFAP.
5. There is also a special zone — District Brcko — under direct administration of the international community.
6. Entity authority embraces most of the public issues that are important to mine action, including land and building control, public safety, natural resources and the environment, the delivery of public services including utilities, agriculture and industry, and education.
7. The GFAP only states that the Federation shall provide two-thirds and the RS one-third of the financing required for the central budget. (Annex 4, Article VIII: 3)
8. Initially, the Implementation Force (IFOR) which after one year was replaced by the Stabilisation Force (SFOR) — both established under authority of a United Nations Security Council Resolution.
9. This was endorsed by the UN Security Council its resolution 1031 of 15 December 1995.
10. The PIC meets periodically in Peace Implementation Conferences. There is a PIC Steering Committee meeting monthly "to provide the High Representative with political guidance on peace implementation". In practice, the PIC Steering Board also selects the High Representative. (PIC London Conclusions, 5 December 1996)
11. Office of the High Representative, December 1996, *London Peace Implementation Conference Conclusions*, available from [www.ohr.int](http://www.ohr.int), accessed on 7 March 2002. The GFAP provided for a "zone of separation" two kilometres wide on either side of the IEBL.
12. *Memorandum of Understanding of the Council of Ministers Regarding the Demining Commission of Bosnia and Herzegovina*, issued 30 October 1997.
13. Formally: *Demining in Bosnia Herzegovina after 1 January 98 – Agreed Principles*, Annex 1 to the Memorandum of Understanding, *ibid*.
14. This is a donor coordination mechanism for donor countries supporting mine action. It is co-chaired by the UN Mission in BiH and the OHR.
15. The handover from UN MAC to BHM MAC eventually took place in July 1998.
16. *Agreement between the Federation of Bosnia and Herzegovina and the Republika Srpska on Cooperation in the Field of Mine Action*. (30 December 1997). This was an agreement to establish BHM MAC as a "Joint Entity Body".
  - Council of Ministers of Bosnia and Herzegovina (n.d.), *Decision on the Establishment of the Bosnia and Herzegovina Commission for Demining*.
  - The Council of Ministers of Bosnia and Herzegovina (n.d.), *Decision on the Establishment of the Bosnia and Herzegovina Mine Action Centre (BHM MAC)*.
  - Government of the Federation of Bosnia and Herzegovina (n.d.), *Decree on the Establishment of the Fed MAC* (version 2.4.98)
  - Government of the Republika Srpska (23 April 1998), *Decision on Establishment of the Republika Srpska Mine Action Centre*. No: 02/1-020-650/98
17. For example, BHM MAC estimates there are over 1800 accredited deminers, only 40-to-60 per cent of who are actively demining at any particular time.
18. In the Agreement between the Federation of Bosnia and Herzegovina and the Republika Srpska on Cooperation in the Field of Mine Action, the parties agreed on the following priorities for mine action (Article IV):
  - humanitarian purposes for the resettlement of refugees and displaced persons and other forms of human settlement;
  - economic purposes for the expansion of agriculture and grazing land, and rehabilitation, reconstruction and development projects.
 These priorities were reflected verbatim in Article VIII of the subsequent decision by the RS government to establish the RS MAC, but appeared in slightly modified form (without the phrase "and other forms of human settlement" at the end of the first clause, and the word "projects" at the end of the second) in Article 8a of the decree establishing Fed MAC. As a result, the two entity MACs were legally charged with slightly different mandates.
19. Note that these priority programmes were to be submitted by the entity governments directly to the Board of Donors, without first going through BHM MAC, the Demining Commission, or the



BiH government. (*Agreed Principles*, Article 11, paragraph b; *Decision on the Establishment of the Bosnia and Herzegovina Mine Action Centre*, Article 8; *Decision on Establishment of the Republika Srpska Mine Action Centre*, Article VI)

20. Demining Law in Bosnia and Herzegovina. (Issn 1512-7494) It passed the House of Peoples (i.e., senate) on 20 November 2001 and the House of Representatives on 12 February 2002. It was gazetted on 17 March 2002 and entered force eight days thereafter.

21. Technically, the Fed MAC and RS MAC had been created by statutes passed by the respective entity governments, and could not be disestablished via legislation passed by the BiH government. In practice, the Board of Donors has decided to work through a unified structure and to cease recognising the entity MACs as distinct statutory bodies.

22. *Landmine Monitor Report 1999*, 1999:552.

23. "VRS complete anti-personnel mine destruction", *SFOR Informer*, 15 November 1999.

24. An agreement between BiH and the Republic of Slovenia provides for assistance from the International (Slovene) Trust Fund for "ensuring assistance and rehabilitation to mine victims" but specifies the Ministries of Health of the Federation and the RS as the "competent agencies" for the rehabilitation and assistance of mine victims. (Memorandum of Understanding between the Council of Ministers of Bosnia and Herzegovina and the Government of the Republic of Slovenia, 11 December 1998, Articles 1, 3, and 7:2)

25. This includes both ministers and deputy ministers 'who shall not be of the same constituent people as their Ministers'. (Constitution of Bosnia and Herzegovina, Article V:4:b)

26. The phrase "*channel resources for mine clearance*" was used in the London Peace Implementation Conference in December 1996 to refer to the process of arranging equitable amounts of international funding for the Federation and the RS. It has since been used in the key agreements between BiH authorities and both the Board of Donors and the entity governments. Equitable shares of mine action resources are generally understood to mean a ratio of two-thirds for the Federation and one-third for the RS, but that or any other proportion is nowhere specified in the Conclusions issued after the London Peace Implementation Conference. The fact that the term "channel" is used in the new Demining Law – even though entity governments are no longer responsible for orchestrating mine action within their respective territories – implies the intent to adhere to the two-thirds/one-third ratio in demining expenditures across the entities, irrespective of other criteria adopted for establishing demining priorities.

27. Article 8:3. By clause 4 of the same Article, BH MAC is empowered to establish regional offices. These are now located in Pale (covering part of the RS), Mostar (covering the majority-Croat cantons of the Federation), Bihac, and Tuzla.

28. Article 9:1:c speaks only of "international and national demining companies", seemingly excluding NGOs and government bodies, whether civil or military. However, Article 21:1 refers to "demining organisations, accredited by BH MAC". This discrepancy may result from the translation process.

29. In practice, BH MAC personnel only clear mines and UXO when this is necessary for safe survey or marking.

30. The word "donors" implies donor countries that are making their bilateral decisions, with collective donor decisions being made by the Board of Donors.

31. Constitutionally, defence is a responsibility of the entity governments; not the BiH State. There are, effectively, three distinct "entity" armed forces. The RS has its own (the VRS), while in the Federation the Croat Defence League (HVO) operates separately from the Federation entity army (A BiH).

32. The Federal Administration Civil Protection (FACP) and RS Civil Protection Administration (RS CPA) have recently established a Joint Operations Office for Emergency Response and Inter-Entity Operations. In the event of an emergency, the most accessible EOP or demining team will respond even if this means it will be operating in the other entity. This office also is responsible for a joint operations demining team serving District Brcko.

33. EOD Rapid Response occurs when random UXO is found in populated areas, while Emergency Response is when someone has been injured or killed, or has walked into a contaminated area.

34. For example, under contract to the International Centre for Missing Persons they survey and clear exhumation sites.

35. The PIC London Conference in December 1996 instructed Bosnian authorities to "*use their military forces for demining according to internationally recognised standards*". The BH MAC ultimately accredited them as capable of demining to humanitarian standards in July 1998.

36. In at least the English translations of mine action documents from BiH, the word "priority" is used to signify both a priority clearance task and a criterion to be used to decide which tasks

should be priorities. The author understands that the phrase “demining priorities” generally refers to the list of criteria to be used to establish priorities.

37. Given the Constitution, it seems unlikely that the BiH government could compel the entity governments to comply with any elements of the Law.

38. For example, an important issue in Bosnia is the resettlement of refugees and displaced persons, which often involves civil engineering to refurbish houses and infrastructure and to restore utilities services, provisions for other public services (police, fire, education, etc.), and demining.

39. The UNDP did commission a capacity building study relating to the Demining Commission in late 2001 but, as of August 2002, has not distributed or endorsed the report.

## Annex 1.

# Demining Law in Bosnia and Herzegovina

## I. BASIC REGULATIONS

### **Article 1.**

1. This Law regulates the organisational structure for mine clearance, survey and removal of UXO (hereinafter: demining) in Bosnia and Herzegovina. It determines bodies authorised for the conduct of demining, rights and obligations of persons carrying out demining, as well as monitoring over the implementation of this Law.
2. Demining under this Law does not include:
  - a) Removal of unexploded improvised subversive-terrorist devices that are subject to criminal deeds or violations and are subject to the exclusive authorisation of Internal Affairs.
  - b) Specific needs of Entity armies during the process of removal and disposal of used but not exploded ordnance during and after the training of their forces, of the stocks that are out of use.
  - c) Disposal of debris in the process of production of ammunition and military equipment, reproduction material in the production process and stocked products out of use.

### **Article 2.**

1. Demining activities in this Law are the activities of importance for the safety of Bosnia and Herzegovina as well as for protection of environment and health of people.
2. Providing conditions for long-term implementation of demining is the responsibility of BH authorities and those of the Entity Governments.

## II. DEMINING STRUCTURE IN BOSNIA AND HERZEGOVINA

### **Article 3.**

Organisational structure for demining in Bosnia and Herzegovina shall consist of state level, entity level and international level bodies.

#### **A. BH LEVEL BODIES**

##### **1. BH Demining Commission**

### **Article 4.**

1. For the purpose of the implementation of long-term task of demining in Bosnia and

Herzegovina, BH Demining Commission is hereby established (hereinafter: The Commission) by the Decision of the Council of Ministers of Bosnia and Herzegovina (hereinafter: Council of Ministers) as the central body for demining activities. The Council of Ministers establishes its scope of work and ways of financing.

2. The Commission is located within the Ministry of Civil Affairs and Communications and is responsible to the Ministry for its work.

**Article 5.**

1. The Commission consist of three members appointed by a separate Decision of the Council of Ministers from amongst serving officials of the Council of Ministers.

2. The Council of Ministers shall elect the members of the Commission for a two years period.

3. The members of the Commission shall be elected from the three constituent peoples after the proposal of Minister and two Deputy Ministers from the Ministry of Civilian Affairs and Communications.

4. The Commission shall meet at least on a monthly basis.

**Article 6.**

1. The Commission shall obtain the following responsibilities:

- a) The Commission shall represent Bosnia and Herzegovina at all the conferences, both national and international, related to the mine action, particularly in the campaign to ban landmines, as well as at the technical conferences.
- b) The Commission shall approve Standard for Mine Clearance and unexploded ordnance (hereinafter: UXO) operations in Bosnia and Herzegovina (hereinafter BH Standard).
- c) The Commission shall propose qualified and competent candidates for the positions of BH MAC director, BH MAC director's assistants and the chief of finance, to be nominated by the Council of Ministers.
- d) At the proposal of the director, approves internal regulations for work in Mine Action Centre Bosnia and Herzegovina (hereinafter BH MAC).
- e) Facilitates cooperation between the Federation of Bosnia and Herzegovina and the Republic of Srpska
- f) Submits report to BH Council of Ministers and informs on a regular basis the Board of Donors about the activities on the Commission's activities as well as about the progress in demining, as per reports provided by MAC.
- g) Conducts other tasks in accordance with the Decision on Establishment of the Commission

**Article 7.**

The Commission shall in cooperation with the Board of Donors, consisting of the UN Mission (hereinafter: UNDP), Office of the High Representative (hereinafter OHR) and other donors, organise the structure which will channel the funds for mine clearance and will enable BH MAC to implement its extensive and efficient operations of humanitarian demining.

**2. Mine Action Centre Bosnia and Herzegovina**

**Article 8.**

1. The Mine Action Centre Bosnia and Herzegovina (hereinafter BHMAC) shall be established as the technical service of BH Demining Commission.

2. BH MAC is established by the Decision of the Council of Ministers and its organisation and activities thus defined and conducted on behalf of the BH Demining Commission.
3. BH MAC shall have its offices in Banja Luka and Sarajevo, which are responsible for their work to BH MAC.
4. BH MAC may establish temporary regional offices if needed.

**Article 9.**

1. BH MAC shall on behalf of the BH Demining Commission carry out the following functions:
  - a) Maintain and operate the central minefield database and mapping capacities.
  - b) Propose technical and safety standards as well as quality assurance standards of the demining operations completed and propose certificates for approval to the Commission.
  - c) Evaluate the credentials on the competence of the international and national demining companies for their accreditation.
  - d) Propose standards for training for approval by the Commission and monitor/report on their implementation.
  - e) Prepare proposals for demining activities across the IEBL, for approval by the BH Commission.
  - f) Prepare work plans and budgets for its activities, as well as reports and financial records for the approval of the BH Demining Commission and further presenting to the Board of Donors.
  - g) Perform other tasks in accordance with the Decision on Establishment.

**Article 10.**

The Commission shall supervise the work of BH MAC.

**Article 11.**

1. The BH MAC office shall perform activities as follows:
  - a) Carry out mine awareness activities, mine marking, survey and mine clearance (in accordance with technical standards approved by the Commission and with the use of the existing civilian expertise from the structure within the Entity Governments).
  - b) Provide information for the Central Minefield Database.
  - c) Coordinate demining activities with other operational agencies, ensuring them to work in accordance with approved priorities and in compliance with Standard approved.
  - d) Prepare proposals of priorities for humanitarian demining operations, issue operational tasks during demining operations; conduct inspections and, after the task is completed, conduct Quality Control analyses; propose Certificate on Quality Control conducted of the cleared area.
  - e) Propose the priority task list to the Entity Governments.
  - f) Prepare working plans, budgets, reports and financial reports to the Entity Governments, BH MAC, Commission and the Board of Donors.
  - g) Perform other tasks in accordance with the Decision on Establishment.

**B. ENTITY BODIES**

**Article 12.**

1. The Entity bodies shall establish bodies that shall provide for a timely and efficient:
  - a) Decisions in accordance with the donors and the Board of Donors on allocation of

- resources made available to the Entity Governments;
- b) Propose priority programme for the presentation to the Board of Donors.

## **2. Civilian Protection**

### **Article 13.**

The Entity Governments shall, in accordance with the law and other regulations, provide competence and responsibilities of the Civilian Protection Organisations in the mine action activities, in accordance with the Demining Law in BH.

## **3. Entity Armies**

### **Article 14.**

The Entity Armies shall participate in mine clearance operations in accordance with the demining plan and funds provided for demining aimed to be conducted by Entity Armies.

## **C. INTERNATIONAL BODIES**

### **1. Board of Donors**

#### **Article 15.**

1. The Board of Donors supports the work of the Commission and BH MAC, and shall consist of UNDP, OHR and other donor countries representatives.
2. The High Representative for Bosnia and Herzegovina and the UN shall appoint the Co-chairs.
3. The representatives of the international organisations and governments supporting demining programmes shall be invited to act as members of the Board of Donors.
4. Members of the Commission participate in the work of the Board of Donors.
5. BH MAC Director may be, if necessary, invited to submit report to the Board of Donors.
6. The Board of Donors shall exist as long as the members find it necessary.
7. Apart from the Board of Donors, other international bodies may be established to participate in demining process, which shall be regulated by the relevant decisions.

## **III IMPLEMENTATION OF DEMINING**

### **Article 16.**

1. The demining of areas is being implemented based on the Demining Plan for Bosnia and Herzegovina (hereinafter: the Plan), which, proposed by BH MAC, is approved by the Commission in cooperation with the Board of Donors and adopted by the Council of Ministers.

### **Article 17.**

1. The Plan from Article 16. of this Law contains:
  - a) Data on the areas and structures throughout Bosnia and Herzegovina contaminated with mine-explosive ordnance.
  - b) The plan of available and the assessment of necessary personnel for the implementation of demining.
  - c) Data on the material and technical resources and the equipment necessary for demining.

- d) The assessment on required financial resources for the Plan implementation and the compensation amount for the personnel dealing with demining activities.
  - e) The list of areas that require demining with the established demining deadlines.
  - f) The assessment of areas planned for demining.
  - g) Demining priorities.
  - h) Operational plan for demining.
  - i) The project purpose, the project description, the location description, the investor's name, area photos and the project boundaries
2. That Plan determines the areas or structures that have the advantage in demining so that advantage is to be presented in quarterly, semi-annual, annual and three-year period.
  3. The Council of Ministers submits the annual report on the Plan implementation and resources spent to the Parliament Assembly of Bosnia and Herzegovina.

**Article 18.**

The resources for the implementation of Demining Plan are ensured from the donors' resources, Bosnia and Herzegovina budget and Entities' budgets, as well as from other resources.

**Article 19.**

1. The demining activities on the areas of structures determined by the Plan are handed over to commercial organisations based on the executed soliciting for tenders, conducted by the Tender Commission that is appointed by the Demining Commission.
2. As an exception to the regulation given in paragraph 1. of this Article, demining activities may be handed over by a direct agreement, when there is a necessity to demine a certain area or structure, due to the justified economical or safety reasons as well as other reasons, conditioned by the environment protection and the population's well-being. This is also the case when a donor or a potential investor in the infrastructure development wishes to demine a certain area.
3. The Commission will make the Provisions that will more precisely regulate the tender process for the selection of organisations for the conduct of demining activities.

**Article 20.**

The Mine Action Centre directly implements the Plan in accordance to the Commission's instructions.

**Article 21.**

1. The qualified international and national demining organisations, accredited by BH MAC, shall carry out demining activities in Bosnia and Herzegovina.
2. The Commission shall make the Regulations, which will contain necessary set of conditions for organisations' accreditation, upon the proposal of BH MAC.
3. The organisations that obtained the demining tasks through the tender procedure may exceptionally give up to 30 per cent of the task to other companies accredited for the conduct of demining operations.

**Article 22.**

1. The demining organisations are obliged to insure operational activities on the area they are working on, in accordance to the BH Standard for mine clearance and UXO

clearance set of regulations and other regulations,

**Article 23.**

Organisations carrying out demining in Bosnia and Herzegovina are obliged to carry out registration procedure according to the regulations of Bosnia and Herzegovina and its Entities.

**IV – DEMINERS**

**Article 24.**

1. The persons authorised for demining activities may carry out demining (hereinafter: deminers)
2. The deminer can be a person who:
  - a) Turned 18 years of age,
  - b) Has at least secondary education,
  - c) Has not been convicted for the criminal activities against Bosnia and Herzegovina, for criminal activities against the life and body or against the property, as well as for the other criminal activities containing elements of violence, self-interest and base instincts.
  - d) Is mentally and physically capable, which is proved by the certificate of the authorised health institution,
  - e) Passed the adequate technical exam
3. BH MAC provides the authorisation for the deminers' activities conduct.

**Article 25.**

Training of deminers shall be carried out in accordance with the BH Standard.

**Article 26.**

The deminer may perform demining activities for five hours at the most during daily working hours.

**Article 27.**

- 1) Before the working hours begin, the deminer must have a continuous daily rest of at least 12 hours.
- 2) During the conduct of demining activities, the deminer is obliged to carry out a personal deminer's logbook containing identification data on the deminer, blood group, courses completed, training and additional training as well as the data on history of employment.
- 3) The deminer is obliged to provide a deminer's logbook for an insight to the person authorised for the supervision over the conduct of demining activities.

**Article 28.**

The time a deminer spends carrying out demining activities shall be included into the pension years of service, as insurance years of service in duration of 16 months for each year.

**Article 29.**

In case of injury, i.e. the deminer's death during the conduct of demining activities, the deminer, i.e. the members of his family is/are entitled to:



- a) Health insurance rights,
- b) Pension – disablement insurance rights.

**Article 30.**

The demining organisation is obliged to make an agreement with an insurance company on the life insurance of its deminers in case of death or injury caused by the conduct of demining activities as follows:

- a) In case of death, the amount is at least 100 000 KM
- b) In case of injury caused by the conduct of demining activities, the amount is at least 200 000 KM.

**Article 31.**

In case of injury or the death of a deminer during the conduct of demining activities, the deminer or a member of his family is entitled to the damage compensation in accordance with the general regulations of the obligatory law.

**V – EXPERT SUPERVISION OVER THE CONDUCT OF DEMINING ACTIVITIES****Article 32.**

1. The Quality Assurance inspectors (hereinafter: the inspectors) shall carry out the supervision over the conduct of demining activities.
2. The inspectors are BH MAC employees and are responsible for their work to BH MAC Director.
3. The MAC authorises the inspectors for carrying out the supervision.
4. The MAC Director shall regulate the conditions to be fulfilled by the inspectors.

**Article 33.**

1. During the conduct of demining activities on a certain area or structure, the inspectors may regularly supervise the effect and the progress of demining.
2. Upon the completion of demining activities, the Inspectors are obliged to carry out the supervision over the area and/or structure demined by the conductor (organisation) and make a separate report on the supervision over the conduct of demining activities.

**Article 34.**

1. If the inspector notices irregularities in the conduct of demining operations, they shall request the work conduct in compliance with BH Standard and the contract. If the deviations from the contracted way of working or the rules of profession are such that they cannot be corrected, the work conductor shall be suspended for the work continuation, in accordance with BH Standard.
2. In case from Paragraph 1 of this Article, the Inspector has to make a written order for the suspension of further works immediately or within three days at least.
3. The complaint may be placed against the order from the Paragraph 2. of this Article to the Mine Action Centre Director, who has to make a decision regarding the complaint within three days.
4. The complaint from the Paragraph 3. of this Article shall not postpone the execution of the order.
5. In case of major irregularities or severe violations of either the Law or the BH

Standard, the operations conductor may:

- a) Lose the accreditation for work or
- b) The responsible person may lose the working permit.

**Article 35.**

The MAC makes the record on the hand-over of the cleared area or structure together with the conductor (organisation).

**Article 36.**

The BH MAC provides the certificate on executed quality control to the organisation, which confirms that a certain area has been cleared in accordance with the Law and the BH Standard.

## **VI – MISDEMEANOURS REGULATIONS**

**Article 37.**

1. A fine from 500 to 1000 KM shall be imposed upon a deminer for the following misdemeanours:

- a. Conduct of activities without the regulated authorisation,
- b. Continuous conduct of demining activities for more than 5 (five) hours,

2. A fine from 1000 to 3000 KM shall be imposed upon the responsible person of the authorised organisation for the misdemeanour from the items 1. and 2. of this Article.

In case from item 1., Paragraph 1. of this Article, the Misdemeanour Court shall also utter the protective measures of the suspension of the conduct of deminer's activity.

**Article 38.**

A fine from 500 to 1000 KM for misdemeanour shall be imposed upon:

- a A deminer who did not have his regulated 12 hours continuous rest before the beginning of his working hours.

**Article 39.**

A fine from 15.000 to 20.000 KM for misdemeanour shall be imposed upon the working organisation that oppositely forms the regulations from Article 23. of this Law, carries out activities of demining in Bosnia and Herzegovina.

## **VII – SPECIAL REGULATIONS**

**Article 40.**

The persons employed in the demining structures must not be related to the management or have financial interest in any of the activities related to the mine clearance and UXO removal, regarding which they shall provide a written statement.

**Article 41.**

The Decrees shall be enacted within 60 days from the day when this Law enter into force.

**Article 42.**

BH MAC and Entity MACs established in accordance with previously valid regulations for the area of demining in Bosnia and Herzegovina shall continue their work until replaced with new bodies in accordance with this Law.

**Article 43.**

The moment this Law enters into force, the Memorandum on Understanding issued October 30<sup>th</sup> 1997, and Principles Agreed issued January 1<sup>st</sup> 1998 by the Council of Minister and regarding the Demining Commission of Bosnia and Herzegovina, shall not be valid any more.

**Article 44.**

1. Physical and legal personnel (with legitimate, economical or safety interest in demining buildings or areas which are being or are to be used) may out of Plan deadline require form the Centre activities of mine clearance, building clearance and area clearance.
2. In relation to the above-mentioned principle of demining a separate demining contract shall be made.

**Article 45.**

1. This Law enters the force on the eight day of its publishing in the "Official Gazettes of Bosnia and Herzegovina".
2. This Law will be published in the official gazettes in Entities as well as in Brcko District.



## Chapter 4.

# Cambodia

### Background

In the history of mine action, Cambodia has experienced different situations starting from emergency humanitarian to developmental demining, and from UN-owned programme to a national UN-assisted programme. The history of mine action activities is tightly linked to the UN involvement in the implementation of the Paris Peace Agreement signed in October 1991. In its Annex 1, the Agreement provided for a mandate to the UN Transitional Authority in Cambodia (UNTAC) to assist Cambodia in mine clearance, and to undertake training programmes in mine clearance and a mine awareness programme among the Cambodian people.

This UNTAC mandate led to the creation of the Cambodian Mine Action Centre (CMAC) by the Supreme National Council of Cambodia (SNC). Since then, CMAC has grown very quickly to become a successful national mine action institution. At the beginning, as provided for in its first statutes<sup>1</sup> and in order to implement its objectives, CMAC undertook four programmes of activities as follows: mine awareness, mine marking, mine clearing and training in mine clearing. When its statutes were revised and adopted by Royal Decree in 1995, CMAC was assigned two additional activities: the coordination of all demining activities and the sharing of CMAC expertise and experiences with all countries which have land mine problems<sup>2</sup>.

As a result of its commitment to the Anti-Personnel Mine Ban Convention, Cambodia finally enacted a national law on the prohibition of the use of all anti-personnel mines. This law was adopted by the National Assembly on 28 April 1999 and promulgated by the King of Cambodia on 28 May 1999. The law determined the responsibilities of CMAC, namely, to coordinate all mine action activities and to control all types of anti-personnel mines as well as to coordinate with all state institutions in order to fulfil the obligation of the Kingdom under international treaties, conventions, agreements or other legal instruments.<sup>3</sup> However, since the creation of the Cambodian Mine Action Authority (CMAA) in September 2000, CMAC has become a national mine action service provider executing its first core programmes as previously assigned.<sup>4</sup> The new CMAA — created to separate mine action service provision from mine action regulation — currently assumes all national responsibilities for mine action.

## Mine action legislation

The main legislation on mine action in Cambodia is the law on the prohibition of the use of all anti-personnel mines. This law was drafted, in 1995, in the context of a growing global movement for the ban on landmines, before the adoption by the international community of the Ottawa Convention. But the Cambodian National Assembly only adopted the law in April 1999, just a few days before the First Meeting of the States Parties to the Convention in Maputo, Mozambique.

The law stipulates the definition of anti-personnel mines, the authority controlling all types of land mines and penalties for any breach. It contains five chapters and 13 Articles. The first chapter contains general provisions spelling out the purpose of the law prohibiting the use, production, and possession, trade, export and import of any anti-personnel mines.<sup>5</sup> It defines an anti-personnel mine as a mine designed to be exploded by the presence, near or far or contact of a person and to injure, incapacitate or kill one or more persons. Furthermore, the law defines a mine as ammunition designed to be placed under or on the ground, or on other surface area and to be exploded by the presence, near or far or by the contact of a person, an animal, a material or a vehicle.<sup>6</sup> Article 3 of the law clearly prohibits all civilians, government officials, members of armed forces, military police and national police from using all types of anti-personnel mines, except for the case of development and training.

The second chapter deals with the authority of CMAC in addition to its roles and responsibilities provided for by Royal Decree. Under this chapter CMAC is responsible for overseeing and taking part in the enforcement of the prohibition law. Articles 4 and 5 specifically designate CMAC as the national agency for the enforcement of the law.<sup>7</sup>

CMAC's responsibilities include:

- taking part in the inspection with other law enforcement agencies at any place where the prohibition law is violated;
- deciding on the destruction of all existing and discovered anti-personnel mines as well as all types of mines and UXO which are not under control of competent authorities;
- cooperating with foreign organizations to stop the use of anti-personnel mines;
- receiving reports from other organisations about the use, possession, transfer, trade, export and import of all types of anti-personnel mines to transmit to the government;
- being responsible for the administration, control or coordination of all mine and UXO clearance activities of all NGOs that are currently or will be operating in mine action in Cambodia and for cooperation with all institutions to fulfil the country obligations under the treaties, conventions, international agreements or legal instruments relating to anti-personnel mines.

Finally, the law stipulates that ministries and institutions to be involved with inspection shall be determined by Sub-Decree.<sup>8</sup> The inspection normally entails the investigation into any breach of the law; these investigations shall be conducted in cooperation with other competent authorities.

The third chapter of the law provides for penalties, which comprise imprisonment and fine. Sentences vary with the degrees of violation of the prohibition. The possession of anti-personnel mines is punished with imprisonment for terms ranging from one month to one year and fines ranging from one to five million riels,<sup>9</sup> while for the use

of anti-personnel mines terms of imprisonment range from one to five years and fines from five to ten million riels, not including heavy punishment for criminal offences causing harm to the life and body of a person and civil liability.<sup>10</sup> Any violation of the prohibition of the production, trade, import or export of any anti-personnel mine is punished with imprisonment terms ranging from five to ten years and fines from ten to twenty million riels.<sup>11</sup> For repeated offences, whether related to the possession, use, production, trade, export or import of anti-personnel mines, the punishment will be doubled. Moreover, the law also provides for a maximum penalty, without reduction of sentence, if the offender is an agent or an official of CMAC or an agent or an official of other NGOs carrying out similar activities to those of CMAC.<sup>13</sup>

The fourth chapter contains transitional provisions for anyone who possesses any type of mine, be this possessor a ministry or an institution, to report their possession to CMAC within a time frame of 90 days after the law has come into force, specifying the types, numbers of mine and other details related to the mines in their possession.<sup>14</sup> Based on the information received, CMAC must destroy all the mines within one year after the entry into force of this law.<sup>15</sup>

This chapter concludes with a provision making null and void laws, rules and regulations related to all types of anti-personnel mines which are contrary to this law. The final provision states that the law shall come into force immediately after its promulgation.<sup>16</sup>

### *Royal Decrees, Sub-Decrees and other regulations*

In practice, once a law is adopted by the Parliament, the Government issues a Sub-Decree to detail the roles and responsibilities of the agencies or institutions which are to enforce that law. The Sub-Decree is generally adopted by the Council of Ministers and signed by the Prime Minister. In addition, since 1993 the Royal Government has more often issued a Royal Decree to create a new agency or authority, when the importance or special interest of the said new agency or authority is emphasized, e.g. the creation of CMAC and CMAA, in the case of mine action sector. A Royal Decree is equivalent to an executive order, which is prepared by the Government, adopted by the Council of Ministers, and signed by the King.

The new status of CMAC, as a service provider, is defined by the Royal Decree dated August 7, 2001, which limits the roles of CMAC in implementing its core programmes: mine awareness, minefield information and survey, mine clearance including EOD, training in mine action. Other responsibilities of CMAC, provided for by the law of prohibition, are entrusted with the newly created CMAA<sup>17</sup>.

CMAA was created in September 2000, as a result of the Royal Government's policy to separate mine action service provision from mine action regulation. The Royal Decree dated 4 September 2000<sup>18</sup> provides for roles and responsibilities of the Authority which include national coordination, planning, monitoring as well as the representation of Cambodia in international meetings dealing with mine action and mine victim assistance. The Royal Decree was supplemented in August 2001 by a Sub-Decree dated 8 August 2001<sup>19</sup> detailing the organization and the functioning of the new mine action authority. The Sub-Decree also defines mine action terminology and adjustment to some overlapping provisions and shortcoming of the Royal Decree dated September 4, 2000, which was prepared in a hurry.

In addition to the two Royal Decrees and the Sub-Decree relating to mine action regulations, it is worth mentioning two other instruments, a Sub-Decree dated 30 April 1999, on the control of arms and explosives, and a Prakas (Decision) of the Ministry of Social Affairs, Labour, Vocational Training and Youth Rehabilitation, dated 26 October 1999, on the organisation of the Disability Action Council. The Sub-Decree defines also all types of mine in the categories of arms and explosives, which fall under the control and the authority of the Ministry of Defence and the Ministry of Interior.

### *Coordination*

Under the current arrangements, CMAA is playing a central role in coordination at the national level. These new arrangements make CMAA into a coordinating authority in the mine action sector, which will be integrated within national planning at the macro level, particularly in poverty alleviation and rural development plans.

As an element of the national development objectives and strategy, the Royal Government has already included mine action in its First Socio-Economic Development Plan (1996-2000). The National Assembly adopted the plan in January 1997. The Second Socio-Economic Development Plan (2001-2005) is underway.

CMAA serves also as a focal point for all stakeholders as it is responsible for the organization of half-yearly meetings of the Mine Action Advisory Board. The board comprises representatives of Government Ministries, the donor community, UNDP and other UN agencies, international organizations and NGOs. The meeting of the Mine Action Advisory Board is a forum where issues such as progress reports and workplans of mine action activities are reviewed.

At the provincial and local levels, CMAA liaises with the provincial authorities, relevant ministries, and mine action operators to ensure the effective prioritization of mine action in line with the National Mine Action Strategy.

### *Priority setting for mine clearance or other mine action activities*

The 2002 workplan of CMAA presented to the Mine Action Advisory Board in March 2002 indicates that the development of a long-term strategy for mine action in Cambodia will be a priority for CMAA in 2002. The strategy will be developed using information from the Landmine Impact Survey (completed in May 2002) in order to identify priorities.

Since 2000, CMAC has cooperated with the Land Use Planning Unit of the Provincial Rural Development Committee to conduct assessment on the high casualty rates and the socio-economic impacts of minefields. As provided by its statutes, CMAC selects minefields according to high casualty rates and to high priorities for human settlement or development projects.

### *Mine action agencies and institutions*

The following agencies and institutions are dealing with mine action:

- CMAA, as the mine action regulator;
- CMAC, as a national mine action operator;



- Royal Cambodian Armed Forces/Engineering Corps, as a mine action operator;
- international non-governmental organisations: Halo Trust, Mine Advisory Group; and
- private companies when accredited by the CMAA.

### ***Roles and responsibilities (and deadlines) for mine survey, mapping and clearance***

Article 25 of the Sub-Decree dated 8 August 2001 provides the Secretariat General of the CMAA with responsibility for managing all data of the mine action activities in the Kingdom of Cambodia. There are no deadlines yet for mine survey, mapping and clearance, even though a national Landmine Impact Survey was completed in May 2002.

In addition, Article 5 of the new Royal Decree on CMAC defines minefield information and survey as one of the four programmes of CMAC's activities.

### ***Roles and responsibilities for mine awareness***

According to its 2002 workplan, CMAA will provide both coordination and regulation with regard to mine awareness education in Cambodia. Coordination will be through various means, including the Mine Awareness Education Advisory Board chaired by CMAA that will provide recommendations for the regulatory function.

### ***Roles and responsibilities for victim assistance and compensation***

CMAA is responsible for the coordination and monitoring of assistance to mine victims. However, the Authority has delegated the responsibility for coordinating victim assistance activities to the Ministry of Social Affairs, Labour, Vocational Training and Youth Rehabilitation,<sup>20</sup> and the Disability Action Council (DAC).<sup>21</sup>

The DAC has been set up by the Ministry of Social Affairs, Labour, Vocational Training and Youth Rehabilitation as an advisory board dealing with all issues affecting the well-being of people with disabilities. It also serves as a national focal point on disability matters to facilitate the development of a comprehensive national approach to rehabilitation, equalization of opportunities and prevention of disabilities. DAC is composed of representatives of the Cambodian Government and of national and international NGOs.

### ***Roles and responsibilities (and deadlines) for stockpile destruction***

Article 3 of the Royal Decree dated 4 September 2000 provides for CMAA the responsibility for the destruction of any anti-personnel landmines in stockpiles and UXO that are encountered. However, Cambodia has declared zero stockpile. Consequently there are no deadlines for stockpile destruction.

However, police and military units still find and collect weapons, ammunitions and mines from various sources, locations and caches. Those mines are handed over to CMAC for destruction.

## Mine action structure

The national mine action sector in Cambodia is organised in such a way that there is a clear separation between mine action regulation and mine action service provision. Since its creation in September 2000, CMAA has become a Government agency to coordinate, plan, monitor all mine action activities. Under this new arrangement, CMAC is responsible for the implementation of its core programmes, as a national mine action service provider.

### *The Cambodian Mine Action and Mine Victim Assistance Authority (CMAA)*

CMAA is established by a Royal Decree and is placed under the direct leadership of the Prime Minister. It is effectively independent from all mine clearance operators. Its roles and responsibilities are defined by the Royal Decree dated 4 September 2000 and by the Sub-Decree dated 8 August 2001.<sup>22</sup>

The Authority is presided over by the Prime Minister, with the Senior Minister in charge of the Council of Ministers as its Vice-President and a high-ranking official as its Secretary-General. It is composed of the representatives of the following ministries and organizations: Ministry of Foreign Affairs, Ministry of Interior, Ministry of Social Affairs, Labour, Vocational Training and Youth Rehabilitation, Ministry of Economy and Finance, the Cambodian Development Council, Ministry of Land Management, Urbanization and Construction, the Council of Demobilization of Armed Forces and a legal expert. In general, the Authority is convened quarterly by the President. He can delegate this power to the Vice-President, if he so desires.

CMAA has a Standing Committee, which is composed of the President, the Vice-President and the Secretary-General. The Standing Committee has the power to take any decision.<sup>23</sup>

In addition, a Secretariat General manages the day-to-day business of the Authority. It is headed by the Secretary-General who coordinates all activities of mine action operators and donor community. The Secretary-General conducts regular meeting with all mine action operators and organises meetings with donors to ensure coordination and to strengthen partnership<sup>24</sup>. The Secretariat General may comprise, but is not limited to, six departments covering the following functions: regulation and legislation, planning, monitoring and database, victim assistance, coordination and public relations, administration, personnel and logistics, and finance.<sup>25</sup>

Apart from the Standing Committee and the Secretariat General, the Sub-Decree dated 8 August 2001 provides for the CMAA Secretariat General's responsibility for setting mechanisms to deal with such issues as technical monitoring and regulations, planning, monitoring, implementation and database management, management of cleared land, and victim assistance. Except for the management of cleared land and the assistance to mine victims, the mechanism is generally a Consultative Group.

The mechanism for technical monitoring and regulations is a technical consultative group on mine action, which is composed of representatives from relevant national and international operators and from relevant ministries.<sup>26</sup> This technical consultative group advises on policies and procedures for accreditation and licensing of all mine action operators.

The mechanism of planning, monitoring, implementation and database management is a consultative group, which is composed of representatives from the following ministries and institutions: Ministry of Foreign Affairs and International Cooperation, Ministry of Defence, Ministry of Interior, Ministry of Economy and Finance, Royal Cambodian Armed Forces/Engineering Corps, Ministry of Rural Development, Ministry of Planning, Ministry of Social Affairs, Labour, Vocational Training and Youth Rehabilitation, Ministry of Public Works and Transportation, Ministry of Water Resource and Meteorology, Ministry of Industry, Mines and Energy, Ministry of Land Management, Urbanization and Construction, Ministry Agriculture, Forestry and Fisheries, relevant national and international organizations involved in mine action, and donors. The consultative group advises on the development of long-term strategy for mine action<sup>27</sup>.

With regard to the management of cleared land, CMAA issues policies describing mine action planning and management processes<sup>28</sup>. The Authority is responsible for ensuring that all provinces and mine action operators are aware of national mine action priorities and the criteria Provincial Rural Development Committees are to apply in the selection of local priorities.

As far as the mechanism for victim assistance is concerned, as previously mentioned, CMAA delegates its coordination and responsibility to the Ministry of Social Affairs, Labour, Vocational Training and Youth Rehabilitation, and DAC<sup>29</sup>.

In addition to its roles of coordination, planning and monitoring of all mine action activities, CMAA also represents the Kingdom of Cambodia at international meetings on mine action<sup>30</sup>.

### *The Cambodian Mine Action Centre*

CMAC is a public administrative institution with legal entity placed under the responsibility of the Prime Minister. Under the status of a public institution, the centre is able to enter into contracts or other types of arrangements, to recruit and to employ staff to carry out its activities.<sup>31</sup> As a national mine action service provider for humanitarian and developmental purposes, CMAC has also the right to provide contractual mine action services.<sup>32</sup>

The organization of CMAC consists of a Governing Council and an Executive Unit.<sup>33</sup> The Governing Council is composed of seven high-ranking officials and has the following functions:<sup>34</sup>

- to set up strategy and policy;
- to oversee CMAC activities;
- to approve workplans, budget, accounts and reports;
- to approve internal rules and regulations, and the organisational structure of CMAC;
- to make decisions on other important issues related to CMAC; and
- to request the Prime Minister for the appointment of the Director-General, and to make recommendation to the Prime Minister — if necessary, based on the result of the assessment and evaluation on performance grounds — his replacement.

The Prime Minister is the statutory Chairman of the Governing Council. But when the Prime Minister in person is unable to assume this function, the King of Cambodia, upon request of the Prime Minister, can appoint a delegated Chairman.<sup>35</sup> The

Governing Council meets quarterly with an annual meeting at the end of each fiscal year.<sup>36</sup> The Royal Decree provides for the possibility that funding agencies and donors can participate as observers in the meetings of the Governing Council.<sup>37</sup> In addition, a Treasurer advises the Governing Council on issues relating to financial regulations.<sup>38</sup>

The Executive Unit of CMAC is headed by the Director-General who is appointed by a Royal Decree for a three-year mandate, upon the request of the Governing Council to the Prime Minister.<sup>39</sup> The Director-General of CMAC performs the following functions:

- to organize and administer CMAC in accordance with its statutes;
- to implement policy directive as advised by the Governing Council;
- to submit programmes, workplans, budget, annual accounts and reports to the Governing Council for its approval;
- to submit annual financial statements and reports to the Ministry of Economy and Finance, CMAA, funding agencies and donors;
- to administer effectively and with transparency all mine and UXO clearance activities in accordance with its approved workplans and programmes;
- to manage and to authorize all expenditures as provided in the approved budget; and
- to appoint and to manage CMAC personnel, and to enforce disciplinary measures in accordance with internal regulations approved by the Governing Council.

The Director-General is authorised to propose the setting up or the closure of Department(s) and/or Demining Unit(s) to the Governing Council<sup>40</sup>. The Executive Unit of CMAC has three departments, six demining units and one training centre. The three departments are: operations and planning, support and human resources, and finance.

### ***Royal Cambodian Armed Forces (RCAF)***

The engineering corps of the Royal Cambodian Armed Forces conducts also mine clearance activities for developmental purposes. The Royal Government recognises the military engineering corps as one of accredited mine action operators and annually allocates specific financial contribution to their demining activities.

### ***NGOs and private companies***

The Royal Government of Cambodia does not prohibit NGOs and private companies from conducting mine action activities. CMAA is responsible for the accreditation and licensing of all mine action operators. The following international NGOs are operating in Cambodia: Halo Trust and Mine Advisory Group for mine clearance activities, Handicap International and Norwegian Peoples' Aid for mine action related activities.

A few private companies are also operating in mine action. But their accreditation and licensing are unconfirmed.

## **Concluding remarks**

The mine action structure is well organized in such a manner that reflects a clear separation of mine action regulation from mine action service provision. The structure

also entails the ownership of Cambodia with the partnership of the international community.

The law on the prohibition of the use of anti-personnel mines is an important legislation dealing with landmine problems in Cambodia. However, the law needs to be amended in order to respond to the present situation of mine action, which has evolved from emergency and humanitarian to developmental purposes. Furthermore, the Cambodian law should be revised to reflect the current management of mine action following the change of the CMAC status to assume its present responsibilities and following the creation of CMAA. The law also needs to be amended to include clauses on clarification procedure with reference to the Article 8 of Ottawa Convention.

Finally, all other regulation instruments including the two Royal Decrees on CMAC and CMAA as well as the Sub-Decree on the control of arms and explosives need to be revised and amended to avoid contradiction and overlapping provisions, so that their enforcement and implementation would be harmonized with their hierarchy of executive orders.

## Notes

1. By its decision of 10 June 1992, the Supreme National Council of Cambodia adopted the statutes of the Cambodian Mine Action Centre and of the Governing Council of the Centre — Article 2 of the Statute of the Cambodian Mine Action Centre defined the four programmes. (Document 1)
2. A Royal Decree dated 25 February 1995 defined the Establishment of the Cambodian Mine Action Centre as a public institution. Its Articles 3 said, “*CMAC shall coordinate all demining activities*”, and Article 4, “*CMAC may share its expertise and experiences with all countries which have landmine problems*”. (Document 2)
3. The Article 4 and 5 of the Law on the prohibition of the use of all anti-personnel mine dated 28 May 1999 empowered CMAC to fulfil those responsibilities. (Document 3)
4. The current Royal Decree dated 7 August 2001 defines, in its Article 5, the four programmes of CMAC as follows: mine awareness, mine marking, mine and UXO clearing and training in mine clearing. (Document 4)
5. See Article 1 of the Law (Document 3).
6. See Article 2 of the Law (Document 3).
7. Article 4 of the Law stipulates, “*The controlling of all types of all anti-personnel mine is the competence of the Cambodian Mine Action Centre*” (Document 3).
8. See Article 5 of the Law (Document 3).
9. See Article 6 of the Law (Document 3). 1 US\$ is equivalent to 4,000 Riels (Riel is the national currency).
10. See Article 7 of the Law (Document 3).
11. See Article 8 of the Law (Document 3).
12. See Article 9 of the Law (Document 3).
13. See Article 10 of the Law (Document 3).
14. See Article 11 of the Law (Document 3).
15. See Article 12 and 13 of the Law (Document 3).
16. See Article 3 and 5 of the Royal Decree dated August 7, 2001. Article 3 refers to the law of prohibition and transfers all duties of CMAC other than its four programmes to CMAA (Document 4).
17. See Document 5.
18. See Document 6.
19. In principle, the Ministry of Social Action, Labour, Vocational Training and Youth Rehabilitation is responsible for all issues relating to social welfare and labour, as the law on its creation provides for. In this respect, the delegation of responsibility needs to be revised so that the law, Royal Decree and Sub-Decree will be harmonized with each other.
20. See document 7.
21. See Document 5 and 6.
22. See Article 8 of the Royal Decree dated 4 September 2000 (Document 5).
23. See Article 6 of the Sub-Decree dated 8 August 2001 (Document 6).
24. See Article 7 of the Sub-Decree dated 8 August 2001 (Document 6).
25. See Article 19 of the Sub-Decree dated 8 August 2001 (Document 6).
26. See Article 21 of the Sub-Decree dated 8 August 2001 (Document 6).
27. See Article 27 of the Sub-Decree dated 8 August 2001 (Document 6).
28. See Article 29 of the Sub-Decree dated 8 August 2001 (Document 6).
29. See Article 30 of the Sub-Decree dated 8 August 2001 (Document 6).
30. See Article 1 of the Royal Decree dated 7 August 2001 (Document 4).
31. See Article 2 of the Royal Decree dated 7 August 2001 (Document 4).
32. See Article 7 of the Royal Decree dated 7 August 2001 (Document 4).
33. See Article 19 of the Royal Decree dated 7 August 2001 (Document 4).
34. See Article 9 of the Royal Decree dated 7 August 2001 (Document 4).
35. See Article 15 of the Royal Decree dated 7 August 2001 (Document 4).
36. See Articles 11 and 12 of the Royal Decree dated 7 August 2001 (Document 4).
37. See Article 21 of the Royal Decree dated 7 August 2001 (Document 4).
38. See Article 23 of the Royal Decree dated August 7, 2001 (Document 4).
39. See Article 22 of the Royal Decree dated August 7, 2001 (Document 4).

## Chapter 5.

# Colombia

### Background

Colombia is in the throes of an ongoing armed conflict in which landmines and improvised explosive devices continue to be used. The government has, though, renounced the use of anti-personnel mines and is a full State Party to the Anti-Personnel Mine Ban Convention.

### Mine action legislation

In legislating for the implementation of its obligations under the Anti-Personnel Mine Ban Convention, Colombia is one of the few States to have incorporated broader mine action legislation within the same legal instrument (*see Annex 1*). Accordingly, it not only institutes criminal penalties for violations of the treaty, it also establishes formally the National Inter-sectoral Mine Action Commission, and the Technical Committees on Prevention and the Care of the Victims, and on Signposting, Mapping and Mine Removal, and the Anti-Personnel Mine Observatory.

### Mine action structure

#### *National Inter-sectoral Mine Action Commission*

The National Inter-sectoral Mine Action Commission, and the Technical Committees on Prevention and the Care of the Victims, and on Signposting, Mapping and Mine Removal, were set up by Decree 2113 of 8 October 2001 bringing together all concerned governmental authorities and a representative of the NGO community. The principal functions of the Commission include ensuring compliance with Colombia's obligations under the Anti-Personnel Mine Ban Convention, and promoting and coordinating cooperation between the State, civil society and the international community. The Commission has not yet formally met.

At the request of the Minister of Defence, a Ministerial Committee of the Military Forces General Command, responsible for defining and ensuring agreement within the armed forces about mine action, has been set up within the Ministry of Defence.

### ***Colombian Mine Action Coordination Centre (CoMACC)***

The Observatoria de Minas Antipersonal, which should perhaps appropriately be translated into English as the Colombian Mine Action Coordination Centre (CoMACC), falls under the responsibility of the Vice-Presidential Human Rights Programme. Current capacity in the CoMACC, which is limited, includes coordination of the centre, data collection and entry for the Information Management System for Mine Action, a Geographic Information System specialist, and victim assistance expertise.

There is an urgent need to build on existing capacity within CoMACC by a programme of training and technical assistance. Although funding has been scarce for the CoMACC, the adoption of the law should give it access to regular resources, which could be supplemented by international organisations, such as the United Nations Development Programme.



## Annex 1.

# National Mine Action Legislation

**THE CONGRESS OF COLOMBIA  
HEREBY DECREES:**

## **I. DEFINITIONS**

*Article 1:*

The following terms shall be defined as indicated below and must be taken into account for purposes of this Legislation:

“Ottawa Convention” is understood to mean the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and their Destruction.

“Anti-personnel mine” is understood to mean all mines conceived in such a way so as to explode in the presence, proximity or contact with a person, and which in case of exploding, the device having the potential to disable, injure and/or kill one or more people. Mines designed to detonate as a result of the presence, proximity or contact of a vehicle, and not of a person, equipped with an anti-handling device, shall not be considered anti-personnel mines as a result of the fact that they are so equipped.

“Mine” is understood to mean all explosive ordnance devised in such a way that it may be placed under, on or near the land or soil surface or any other area and conceived to exploit in the presence, proximity or contact of a person or vehicle.

“Anti-handling device” is understood to mean a device provided to protect a mine and which is made part of it, as connected, fixed, attached, or placed under the mine, and which may be activated whenever it is manipulated, touched or intentionally activated or whenever an attempt is made to do so.

“Transfer” is understood to mean, in addition to the physical transfer of anti-personnel mines towards or from a national territory, the transfer of ownership or control over the mines, but not the transfer of any territory containing anti-personnel mines which may have been planted.

“Transfer” is understood to mean the physical transfer of anti-personnel mines within the national territory.

“Mined area” is understood to mean a dangerous area as a result of the fact that mines are present or suspicion may exist that they may be present.

“Mine launching or deployment means” are understood to mean such vectors or

mechanisms specifically devised as launching or deployment means for anti-personnel mines.

“Accident” is understood to mean an undesired event caused by anti-personnel mines producing physical and/or psychological damage to one or more persons.

“Incident” is understood to mean an event related to anti-personnel mines that may increase to the point of becoming an accident or having the potential of leading to an accident.

“Explosive trap” is understood to mean an anti-personnel mine assembled in an apparently harmless object.

“Powder magazine” is understood to mean the construction or building which meets certain technical and security standards and which is used to store explosives in a permanent or transient manner.

## II. CRIMINAL LEGISLATION

### *Article 2*

The Criminal Code shall include an article under number 367A. This Article shall read:

Art. 367A. EMPLOYMENT, PRODUCTION, MARKETING AND STORAGE OF ANTI-PERSONAL MINES.

Whoever employs, produces, markets, transfers and stores, whether directly or indirectly, anti-personnel mines or vectors specifically conceived as a means to launch or deploy anti-personnel mines, shall be penalized with ten (10) to fifteen (15) years of prison, the payment of a fine equivalent to five hundred (500) to one thousand (1,000) minimum legal monthly wages in force, and shall be declared incompetent to hold a public office and exercise public rights and duties for five (5) to ten (10) years.

Notwithstanding the above, the Ministry of National Defense shall be authorized to:

- Keep any anti-personnel mines it has stored according to the term provided for under Article 4, Law 554 of 2000 as well as those mines which it may be using for the protection of military bases, the power and communications infrastructure, as of March 1<sup>st</sup>, 2001, provided they have the necessary markings and guaranteeing the civil population is protected, within the terms provided for by the “Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and their Destruction, in the way established by Article 5, Law 554 of 2000”.
- Transfer any anti-personnel mines in furtherance of the destruction plan and exclusively for that purpose.
- Retain, keep and transfer a certain amount of anti-personnel mines for the development of mine detection, cleaning or destruction techniques and training in such techniques. Such an amount may not exceed one thousand (1,000) mines.

If any anti-personnel mine has an anti-handling device or has been assembled as an explosive trap, the penalty shall be fifteen (15) to twenty (20) years of prison, the fine shall be one thousand (1,000) to two thousand (2,000) legal minimum monthly wages in force and the declaration of incompetence to exercise public rights and duties shall be for a period of ten (10) to fifteen (15) years.

### *Article 3*

The Criminal Code shall include an Article under number 367B. Such an Article shall read:

Art. 367B.- ASSISTANCE AND PERSUASION TO EMPLOY, PRODUCE AND TRANSFER ANTI-PERSONAL MINES.

Whoever promotes, assists, facilitates, encourages or persuades another person to be involved in any of the activities contemplated under Article 367 A of the Criminal Code, shall be liable to six (6) to ten (10) years of prison and to the payment of a fine equivalent to two hundred (200) to five hundred (500) legal minimum monthly wages in force.

### **III. REGULATIONS COVERING THE DESTRUCTION OF ANTI-PERSONAL MINES**

#### *Article 4*

In agreement with Article 1 of the Ottawa Convention, the Colombian State binds itself to destroy or secure the destruction of all anti-personnel mines within the terms provided for in Articles 4 and 5 of such a Convention.

For such purpose, the Ministry of Defense shall submit the corresponding destruction plan to the National Intersectoral Mine Action Commission, within six (6) months following the date in which this Law shall become effective. The destruction of anti-personnel mines shall take place in accordance with the environmental law-abiding procedures of the area where they are destroyed.

Notwithstanding the above, and as an exception to the provisions of Article Two of this Law, the Ministry of National Defense shall be authorized to:

- Keep any anti-personnel mines it has stored as well as those it may be using for the protection of military bases, the power and communications infrastructure as of March 1<sup>st</sup>, 2001, provided they are properly marked and guaranteeing the civil population is protected, within the terms established by the “Convention to Ban the Use, Storage, Production and Transfer of anti-personnel mines and the destruction thereof”.
- Transfer anti-personnel mines in furtherance of the destruction plan and exclusively for that purpose.
- Retain, keep and transfer a certain amount of anti-personnel mines for the development of mine detection, cleaning or destruction techniques and training in such techniques. Such an amount may not exceed one thousand (1,000) mines within the period of time provided for in Article 4, Law 554 of 2000.

### **IV. NATIONAL INTERSECTORAL MINE ACTION COMMISSION**

#### *Article 5*

#### **CREATION AND SET-UP OF THE NATIONAL INTERSECTORAL MINE ACTION COMMISSION.**

An Intersectoral Commission, adjunct to the Administrative Department of the Presidency of the Republic, is hereby created. Such a Commission shall be called “National Intersectoral Mine Action Commission”, and shall be made up as follows:

- a) The Vice-President of the Republic or his delegate
- b) The Minister of the Interior or his delegate
- c) The Minister of Foreign Affairs or his delegate
- d) The Minister of National Defense or his delegate
- e) The Minister of Health or his delegate
- f) The Director of the National Planning Department or his delegate
- g) The Director of the Presidential Program for the Promotion, Respect and Guaranty of Human Rights and Enforcement of International Humanitarian Law or his delegate, or such body acting in his name.

Paragraph 1: Permanent guests: The following shall be permanent guests of the National Intersectoral Mine Action Commission:

- a) The High Commissioner for Peace or his delegate or whoever acts as such

- b) The Ombudsman or his delegate
- c) Two representatives from NGOs working with victims of anti-personnel mines
- d) The Nation's Prosecutor General or his delegate
- e) The Nation's Attorney General or his delegate
- f) The General Commander of the Military Forces or his delegate
- g) The General Director of the National Police or his delegate
- h) All those people which, in its view, the Commission considers appropriate and wishes to invite.

Paragraph 2: Chair of the Commission: The National Intersectoral Mine Action Commission shall be presided over by the Vice-President of the Republic or his delegate and on its own right it shall meet once every four months.

#### *Article 6*

#### DUTIES OF THE NATIONAL INTERSECTORAL MINE ACTION COMMISSION.

The duties of the National Intersectoral Mine Action Commission shall be as follows:

1. To submit a document to the Economic and Social Policy Council (CONPES) explaining the State's action with regard to national measures to enforce the Ottawa Convention, as far as the following aspects: Humanitarian Demining; Victims Assistance; Promotion and Defense of Humanitarian Rights and International Humanitarian Law; Destruction of Stored Anti-personnel Mines; and, Awareness Campaigns. The document shall be submitted and approved within six months following the date in which this Law shall become effective.
2. To ensure that the national enforcement measures approved by the National Economic and Social Policy Council (CONPES) have been complied with, as the case may be, pursuant to the commitments acquired by Colombia as a Party State to the Ottawa Convention.
3. To promote and coordinate any cooperation process with national authorities between the State, civil society and the international community, aimed at Humanitarian Demining Actions; Victims Assistance; Promotion and Defense of Humanitarian Rights and International Humanitarian Law; Destruction of Stored Anti-personnel Mines, and Awareness Campaigns, as well as all other assistance and cooperation aspects as required by the Ottawa Convention.
4. To approve any reports submitted by the Technical Secretariat and disseminate the country's official information on the subject of anti-personnel mines to be disclosed to the national and international community, through the Ministry of Foreign Affairs. Likewise, to send such reports to the Senate and House of Representative's 2<sup>nd</sup> Commission. To invite national or international guests or organizations as deemed appropriate for the fulfillment of its functions.
5. To ask the Ombudsman's Office and the Nation's General Attorney's Office to appoint "National Humanitarian Missions to verify any events and put forth recommendations" as well as to evaluate any reports submitted by the corresponding Humanitarian Mission.
6. To establish the National Intersectoral Commission's internal regulations as well as those of the Intersectoral Technical Sub-commission for Assistance to Victims and Integral Prevention, Marking, Mapping, and Humanitarian Demining, one (1) month after this Law has been passed.
7. To perform all other duties inherent in the specific nature of its activity.

#### *Article 7*

#### BODIES OF THE NATIONAL INTERSECTORAL MINE ACTION COMMISSION.

The following shall be the bodies of the National Intersectoral Mine Action Commission:

- a) The Technical Secretariat;
- b) The Intersectoral Technical Sub-commission for Victim Assistance;

- c) The Intersectoral Technical Sub-commission for Integral Prevention, Marking, Mapping, and Humanitarian Demining;
- d) All other bodies that the members of the National Intersectoral Mine Action Commission consider necessary.

The Technical Secretariat of the National Intersectoral Mine Action Commission shall be under the responsibility of the Administrative Department of the President's Office, through the Presidential Program for the Promotion, Respect and Guaranty of Human Rights and Enforcement of International Humanitarian Law, or of the agency performing its duties.

The Intersectoral Technical Sub-commission for Assistance to Victims shall be made up of the following agencies' representative or delegate: Ministry of National Defense, Ministry of the Interior, Ministry of National Education, Ministry of Labor and Social Security, Ministry of Communications, Ministry of Health, Colombian Institute for Family Welfare, Social Solidarity Network or the agency performing its duties and Presidential Program for the Promotion, Respect and Guaranty of Human Rights and the Enforcement of International Humanitarian Law or the agency performing its duties.

The representatives or delegates from the National Consultative Committee for the Disabled, Reinsertion Program of the Ministry of the Interior, Office of the Presidential Counselor for Social Policy or the agencies performing their duties, as well as all others the Commission believes to be appropriate shall be permanent guests to the meetings of the Technical Intersectoral Sub-commission for Victims Assistance.

The Technical Intersectoral Sub-Commission for Integral Prevention, Marking, Mapping and Humanitarian Demining shall be made up by the representative or delegate from the Ministry of the Interior, Ministry of National Defense, Ministry of the Environment, National Planning Department, Agustin Codazzi Geographical Institute, and Presidential Program for the Promotion, Respect and Guaranty of Human Rights and the Enforcement of International Humanitarian Law or the agency performing its duties.

The representative or delegate from the Office of the High Commissioner for Peace, the Reinsertion Program of the Ministry of the Interior or the agencies performing their duties and all others deemed appropriate by the Commission shall be permanent guests to the meetings of this Technical Intersectoral Sub-Commission.

#### *Article 8*

##### DUTIES OF THE TECHNICAL SECRETARIAT.

The following shall be the duties of the Technical Secretariat of the National Intersectoral Mine Action Commission:

1. To prepare the necessary technical supports for the performance of the duties inherent in the National Intersectoral Commission and to submit them for the consideration of its Members.
2. To convene the agencies which are parties to the National Intersectoral Mine Action Commission to hold regular or special meetings.
3. To ask the Technical Intersectoral Sub-commissions to submit the relevant reports according to the Economic and Social Policy Council (CONPES).
4. To perform all other duties inherent in the nature of its activity.

#### *Article 9*

##### DUTIES OF THE TECHNICAL INTERSECTORAL SUBCOMMITTEES FOR VICTIMS ASSISTANCE AND INTEGRAL PREVENTION, MARKING, MAPPING AND HUMANITARIAN DEMINING.

According to their sphere of work, the following shall be the duties of the Technical

Intersectoral Sub-commissions:

1. To put forward the technical components of and submit them to the Technical Secretariat.
2. To coordinate technical assistance with the governments of the Territorial Areas for harmonization and execution by the Economic and Social Policy Council (CONPES).
3. To designate instruments and strategies for the execution, follow-up and evaluation of the Economic and Social Policy Council (CONPES).
4. To submit to the Technical Secretariat all 6-month period management reports and an annual consolidated report.
5. To convene the agencies or persons it may deem necessary to perform its duties.
6. All others inherent in the nature of its activity.

## V. HUMANITARIAN MISSIONS

*Article 10*

NATIONAL HUMANITARIAN MISSIONS.

The National Government shall set up “National Humanitarian Missions to verify any events and put forth recommendations” on mine actions for the protection of the civil population fundamental rights on life and personal integrity within the Colombian territory.

National Humanitarian Missions shall be coordinated by the Ombudsman’s Office which may ask government agencies, human rights and international humanitarian law, national and international organizations, diplomatic missions, members of the church, and experts, whose involvement is considered necessary or convenient, to be part of them. The National Government shall issue any relevant regulations.

All agencies part of such humanitarian missions shall bear any cost their development may involve.

In order to carry out inspections and visits throughout the national territory, local authorities shall provide their assistance to allow the members of the Mission to have access to the places, information and people who are aware of any aspects concerning the corresponding Humanitarian Mission.

*Article 11*

DUTIES OF NATIONAL HUMANITARIAN MISSIONS.

“National Humanitarian Missions” shall have the following duties so as to verify any facts and put forth recommendations:

1. Visit any places where anti-personnel mines are present or where the presence thereof is suspected.
2. Verify, through inspections and interviews, that anti-personnel mines exist in any of the places visited.
3. Request reports from the civil, military and police authorities on any events that give rise to the Mission.
4. Evaluate the risk the civil population living in the place visited is subject to.
5. Request any required technical assistance in order to perform their duties.
6. Put forth recommendations and observations for the Government to adopt all necessary measures, as soon as possible, in order for any anti-personnel mines that may be detected or the existence of which is suspected, to have the perimeter marked and the mines isolated by fences or other means, until they are properly destroyed, as well as disclose any relevant information that may allow to prevent any mine accidents or incidents to occur within the corresponding region.

7. As a preventive measure, provide trustworthy and accurate information on the situation in the place where such verification may be carried out and warn the population that may be at risk.
8. Promote other necessary humanitarian actions in a coordinated manner.
9. Follow up the fulfillment of any recommendations issued by such Missions.
10. Submit reports to the National Inter-sectoral Mine Action Commission, the Ombudsman's Office and the Nation Attorney General's Office, at the end of the Mission and at the time when ensuring that any recommendations have been fulfilled.
11. Perform all other duties and functions inherent in the nature of their activity.

#### *Article 12*

#### INTERNATIONAL FACT FINDING MISSIONS.

Whenever the Colombian Government requests Fact Finding Missions, as provided for in Article Eight of the Ottawa Convention, such Missions may be sent to all areas and facilities of the Colombian territory where they may operate in agreement with the procedures established by such Article.

Missions shall be made up of experts designated by the Secretary General of the United Nations and shall enjoy the privileges and immunities pursuant to Article VI of the Convention on United Nations Privileges and Immunities, adopted on February 13<sup>th</sup>, 1946.

At the highest possible level, the National Government shall guarantee the logistics support and security of the members of the Mission, designate a team to accompany them and determine which duties such team must perform.

Should the Mission need to inspect any private property, the owner shall be asked to issue an authorization. If such an authorization cannot be obtained, the Mission shall resort to the provisions of internal procedure standards.

The accompanying team shall ensure that the necessary conditions are met for the Mission to perform its duties and shall see to it that any equipment brought into the national territory by the experts, provided that the notice indicated by the Ottawa Convention has been obtained, is exclusively used to collect information about any facts the occurrence of which is being questioned. Likewise, it shall seek to give the Mission the opportunity to talk to people who may provide useful information for the Mission.

#### **VI. FOLLOW-UP**

#### *Article 13*

#### ANTI-PERSONAL MINES OBSERVATORY.

The National Government shall set up an Anti-personnel Mines Observatory, the operation of which shall be under the responsibility of the Administrative Department of the Presidency of the Republic through the Presidential Program for the Promotion, Respect and Guaranty of Human Rights and Enforcement of International Humanitarian Law or the agency performing its duties.

As a basis for the Mine Action Information System, the Observatory shall be in charge of collecting, automating, centralizing, and updating all information on the subject, as well as facilitating any decision-making for the prevention, marking, mapping, removal of mines and victims assistance. For this purpose, the Ministry of Defense shall send a monthly report on all events related to anti-personnel mines that have come to the knowledge of its troops. Likewise, administrative authorities of the Territorial Areas and municipal representatives shall have the duty of informing about any mine accident or incident they may have learned about.

As soon as the accident or incident comes to the knowledge of the Presidential Program for the Promotion, Respect and Guaranty of Human Rights and Enforcement of International Humanitarian Law, or the Agency performing its duties, such Program or Agency shall proceed to ask the competent authorities to undertake all integral prevention, marking, humanitarian demining and victims assistance actions as may be necessary.

## **VII. SEIZURE AND DESTRUCTION**

### *Article 14*

Stockpiled anti-personnel mines or vectors specifically conceived as launching or deployment means for anti-personnel mines found by the Military or Police Forces or by any authorities which perform the duties of Judicial Police, provided such artefacts do not entail any risk of explosion, shall be seized and made available as soon as possible to the Nation Prosecutor General's Office. An order shall be issued by the Prosecutor General's Office for them to be subject to a technical evaluation by the Nation Attorney General's Office, the Military Industry, the Technical Investigation Corps or the Security Administrative Department (DAS) and, once it has been determined they meet the definitions of this Legislation, the experts of the Ministry of National Defense shall proceed to destroy them.

Whenever anti-personnel mines are planted and may involve a risk for any person, they will be immediately destroyed, if possible, and evidence will be collected after the explosion and submitted, together with a report to be handed over to the Nation Prosecutor General's Office. This report shall be considered as a technical certificate on the existence of such ordnance and its destruction. Whenever it is not advisable to destroy anti-personnel mines, the area shall be provided with the necessary signs and markings, as soon as practicable. The marking shall adjust at least to the standards provided for by the Protocol to ban or restrict the use of mines, trap weapons and other ordnance.

### *Article 15*

Stockpiled anti-personnel mines and vectors specifically conceived as launching or deployment means for anti-personnel mines may be sent to a powder magazine where they shall be kept under custody of the Public Forces while an order is obtained to destroy them. Such destruction must be carried out as soon as possible.

Any material placed under the control and custody of the Public Forces shall remain as such for up to three months, from the date of receipt, after which it shall be destroyed.

The act of destruction of anti-personnel mines shall, to the extent possible, be carried out under the presence of the international community.

## **VIII. MISCELLANEOUS PROVISIONS**

### *Article 16*

The National Government shall allocate the necessary resources for the national enforcement measures of the Ottawa Convention to be undertaken concerning the following aspects: Humanitarian Demining; Victims Assistance; Promotion and Defense of Human Rights and International Humanitarian Law; Destruction of Stockpiled Anti-personnel Mines; and, Awareness Campaigns, as well as Humanitarian Missions and the maintenance of the Mine Action Information System.

### *Article 17*

#### **INTERNATIONAL COOPERATION**

The National Government shall, through the Ministry of Foreign Affairs and the National Planning Department, undertake all necessary measures to obtain the technical and financial support of international cooperation agencies and the party States to the Ottawa



Convention, to preparation and implement programs and projects related to the purpose of this Legislation.

*Article 18*

COMMITMENTS OF THE MINISTRY OF NATIONAL DEFENSE

The Ministry of National Defense shall designate military staff specializing in humanitarian demining techniques to undertake detection, marking, geo-referencing tasks in the danger areas, cleaning and elimination of anti-personnel mines. Furthermore, the National Government shall fund any expenses derived from the destruction of anti-personnel mines that the Military Forces have stored or shall identify and obtain international cooperation resources for such purpose, through the Ministry of Foreign Affairs and the National Planning Department.

*Article 19*

EFFECTIVE DATE

This Legislation shall become effective as of the date of enactment, and shall revoke any contrary provisions as well as those contained in Decree 2113, dated October 8<sup>th</sup>, 2001.



## Chapter 6.

# Croatia

### Background

During the four years of conflict in Croatia mines were used liberally. They were predominately laid to protect defensive positions on the confrontation lines, but were also placed in areas of strategic or economic importance, such as railway lines, utility sub-stations and pipelines. As a result of four years of fighting there is also considerable unexploded ordnance contamination in the areas in which there has been conflict. Many minefields are not marked and where marking does exist, it is not always consistent and accurate.

Mine clearance in the Republic of Croatia started during the war (1991 – 1996).<sup>1</sup> During this period it was performed by the Croatian Army, Ministry of Interior Forces and Civil Defence. At the same time UN forces deployed in Croatia were performing some demining activities but only as a support to UN mandates in Croatia.

The United Nations Mine Action Centre (UNMAC) was established in Croatia in February 1996. At a similar time (March 1996) the Croatian Government recognised the problem and passed a Law on Mine Clearance and established a State-owned mine clearance agency.

In April 1996 Croatia claimed a moratorium on the use, production, import, export and stockpiling of anti-personnel mines. In December 1997 Croatia signed the Ottawa Convention (The Convention) and ratified it in April 1998. Within Croatia, the Croatian Mine Action Centre (CROMAC) is responsible for implementing the majority of Croatia's obligations under the Convention. The Ministry of Foreign Affairs has the overall responsibility for ensuring compliance with the Convention and reporting while the Ministry of Defence has the responsibility for landmine stockpile destruction.

In 1996-1997, the UNMAC established a network in Croatia, collected mine-related data for the Mine Information System, developed project proposals for UN agencies, (UNHCR and the UN Transitional Authority in Eastern Slavonia, Baranja and Western Sirmium (UNTAES)), worked with various Croatian counterparts on mine action issues and lobbied the Government of Croatia to establish a national mine action centre. In February 1998, a decree was passed to establish the Croatian Mine Action Centre with

the responsibility for managing all mine action operations in Croatia. From the very beginning UNMAC and CROMAC worked together to develop a functioning operational body. On 1 January 1999, in recognition of the existence of a functioning CROMAC, the UNMAC changed its name to the UN Mine Action Assistance Programme (UNMAAP) and continued to work with CROMAC to help them build their capacity.

The UN programme was owned by the UN Mine Action Service in the Department for Peacekeeping Operations (UNMAS), which was DHA at the time of establishment in 1996 and since March 1998 it has been executed by the UN Office for Project Services (UNOPS). Four amendments to the Memorandum of Understanding were concluded in February, March, May and June 1999 between UNMAS and UNOPS in order to increase the budget, to expand project activities and to extend the duration of the project. In 1999, a Memorandum of Understanding was signed between the Croatian Government and the UN DPKO outlining the intention of the UN to transfer responsibility for the project to the United Nations Development Programme during the course of 2000. On 1 July 2000 UNMAAP was officially transferred to UNDP, and a Project Document signed between the Croatian Government and UNDP. UNOPS was kept as the executing agency for this UNDP project, which was scheduled to terminate on 31 December 2001. Currently, UNDP supervises CROMAC's implementation of the Canadian-funded mine action projects.

In May 1999, the Western European Union Demining Assistance Mission (WEUDAM) signed the Memorandum of Understanding with the Croatian Government and sent six of their mine action specialists to work together with CROMAC staff. WEUDAM closed down their mission in December 2001.

Since the adoption of the Law on Demining and the establishment of the state-owned mine clearance organisation, a number of commercial companies have been established and are performing mine clearance in Croatia. Only one non-governmental organisation (Norwegian People's Aid) has been engaged in mine action in Croatia and that is since September 2001.

## Mine action legislation

### *Law on Mine Clearance*

The main legislation on mine action in Croatia is the Law on Mine Clearance (the Law). This law was adopted by the Parliament of Croatia on 1 March 1996 and took effect on 5 March 1996 when it was published in the Official Gazette<sup>2</sup>. (*The English version of the Law is attached as Annex 1.*)

The Law is divided into eight chapters.

1. The first chapter, "Basic Provisions"<sup>3</sup> defines mine clearance as the activities of significance for the safety of Croatia and protection of human health and environment.
2. The second chapter, "Implementation of Mine Clearance"<sup>4</sup> defines that mine clearance is implemented in accordance with the Mine Action Plan that is approved by the Government at the suggestion of the Ministry of Interior (MoI) and the Ministry of Reconstruction and Development (MRD). The chapter defines the content of the Mine Action Plan ("the Plan") and states that the funds for mine clearance will be

secured from the State Budget and other sources. The Government reports to the Parliament on the operational results and the financial resources used. Article 5 obliges MRD to assure that the Plan is implemented in compliance with reconstruction and development priorities and Article 6 obliges MoI to directly implement the Plan, i.e. to provide the necessary equipment, to give training to the staff conducting demining and to perform quality assurance. Article 7 of the Law defines that mine clearance may be done by a company established or designated by the Government. The Government and the company will sign an agreement on mine clearance of the areas prioritised by the Plan.

3. The third chapter of the Law, “Deminers”<sup>5</sup>, defines a deminer and his/her rights and obligations. It is important to note that according to this Law<sup>6</sup> only a Croatian citizen may perform mine clearance in Croatia. The Ministry of Interior trains and authorises deminers to perform mine clearance. Article 13 defines the working hours for deminers (maximum five hours per day) and the minimum rest hours between two working days (12). In the case of injury or death during demining, Article 18 defines that the Law on Croatian War Veterans is applied.

4. Chapter Four, “Inspection”<sup>7</sup>, defines inspection activities and obliges MoI to conduct these activities. MoI reports to the Government on its quality assurance findings. By these provisions MoI was performing administrative inspection over the performance of the mine clearance organisations. However, they were not performing the quality control/assurance over the land that was cleared.

5. The fifth chapter of the Law, “Special Provisions”<sup>8</sup>, explicitly stipulates that the trained MoI and Ministry of Defence staff may not do demining, unless in special circumstances, with the Government’s approval and for not longer than three months. Under special circumstances (Article 25) the Minister of Interior may approve a foreign citizen to perform demining in Croatia.

6. The sixth chapter, “Producing of Rules and Regulations”<sup>9</sup>, defines that the Minister of Interior issues special regulations such as:

- rules and regulations on mine clearance;
- criteria for establishing deminers’ health condition;
- training curriculum for deminers; and
- requirements to be met by MoI inspectors

7. Chapter Seven, “Penalties”<sup>10</sup>, defines the penalties for breaching the provisions from the Law.

8. Chapter Eight, “Final Provisions”<sup>11</sup>, gives final provisions and declares the Law effective as of the date of being published in the Official Gazette.

### ***Mine clearance organisation AKD Mungos***

Based on the Law, the Government established a State-owned mine clearance company AKD Mungos in June 1996. The company produces mine clearance projects and performed mine clearance activities in accordance with the priorities set in the Plan.

### ***The Croatian Mine Action Centre***

Since the mine suspected area was initially fairly large (more than 13,000 km<sup>2</sup>)<sup>12</sup> it was obviously necessary to engage much larger capacities, both in terms of human resources

and equipment. Furthermore, there was no proper quality assurance performed in the cleared areas. Land previously demined by the Croatian Army, Ministry of Interior Special Forces and Civil Defence was never quality assured. Mine clearance certificates were not being issued for the land that was cleared in the period from 1996 to 1998. Mechanical mine clearance and other new technologies were not applied. There were a number of inadequacies in respect with the international standards. Coordination between the mine-contaminated counties, public companies, mine clearance organisations, UNMAC, respective ministries and NGOs was very poor.

In order to address these problems and to achieve better results in coordination, planning, data recording, mine clearance and QA, the Government established the Croatian Mine Action Centre<sup>13</sup> (CROMAC) in 1998 as the umbrella mine action organisation in Croatia. CROMAC is a public institution established in accordance with the Croatian Law on Institutions<sup>14</sup>. It has got its head office and three regional offices, all located in mine contaminated areas. At the moment CROMAC is in the process of the decentralisation of its authorities.

The Decision on Establishment defines CROMAC's activities as:

1. collecting the information on mine contamination and maintaining the database;
2. maintaining the database on cleared areas;
3. suggesting additional priorities to the Government (after the Plan has been adopted);
4. raising mine awareness among the population;
5. marking;
6. research and development of mine clearance technologies;
7. coordination of the activities performed by international organisations engaged in mine action in Croatia; and
8. other activities related to mine clearance and defined by the Law, or at the request of the Government.

CROMAC is managed by its Council, which at the beginning consisted of six members appointed by the Government. The Government also appoints the Head of CROMAC.

On 5 March 1998, with the Amendments to the Decision on the Establishment of CROMAC,<sup>15</sup> the number of Council members was increased from six to eight.

On 8 June 2000, with the Amendments to the Decision on the Establishment of CROMAC<sup>16</sup>, the number of Council members was increased from eight to ten and one of them is the President of the Council. The President of the Council is appointed by the Government and the members are appointed by the following ministries: Ministry of Interior, Ministry of Defence, Ministry of Foreign Affairs, Ministry of Finance, Ministry for Public Works, Reconstruction and Construction, Ministry of Environment, Ministry of Agriculture and Forestry, Ministry of Science and Technology and Ministry of Economy.

### *The First Amendments to the Law on Mine Clearance*

Following the establishment of CROMAC, the First Amendments to the Law on Demining ("The First Amendments") were adopted by Parliament on 5 June 1998 and took effect on 19 June 1998, i.e. on the date of being published in the Official Gazette<sup>17</sup>.

The First Amendments give CROMAC the responsibility to produce the Mine Action Plan (“the Plan”)<sup>18</sup> subject to received opinions from the Ministries of Defence, Interior and Development and Reconstruction. CROMAC forwards the Plan to the Government for approval.

The Plan<sup>19</sup> contains the information on contaminated areas and deadlines for their mine clearance. The Plan defines the mine clearance priorities. CROMAC is obliged to implement the Plan and MoI performs administrative inspection over CROMAC’s implementation.

Article 3 of the First Amendments describes the tender process for mine clearance projects. Exceptionally, the project may be given to a state-owned mine clearance company without a tender process but with justified reasons. The same article defines the documents that must be produced for every mine clearance project.

Article 4 of the First Amendments authorises CROMAC to sign the agreements on the performance of mine clearance.

Article 5. of the First Amendments is particularly important. The Article 7 of the original Law, defining that only an authorised commercial company may engage in demining, is replaced with the Article 5 that reads: “Mine clearance may be performed by any legal entity (legally registered organisation) authorised for the performance of mine clearance activities. The authorisation is issued by MoI.” Consequently, NGOs are now enabled to perform mine clearance in Croatia. Furthermore, this Article also enables foreign legal entities (organisations) to perform demining in Croatia, in compliance with the Law.

The adoption of the First Amendments resulted in great dissatisfaction among deminers<sup>20</sup>, since it deprived them of the rights they had under Article 18 of the original Law.

The First Amendments authorise CROMAC to perform QA, issue mine clearance certificates and do the hand-over of the cleared land.<sup>21</sup> MoI issues licences to the QA officers of CROMAC.

The First Amendments give operational responsibilities to CROMAC in comparison with the Law from 1996 by which MoI was the key institution of the mine action in Croatia.

### ***The Second Amendments to the Law on Mine Clearance***

In 2000, deminers in Croatia established their Union and collectively requested that their rights were increased. Among other issues, they insisted that the provision giving them the same rights as those of the war veterans be returned under the Law.

The Parliament adopted the Second Amendments to the Law on Demining at their session on 28 June 2000.<sup>22</sup> These amendments refer mostly to the rights of the deminers and the obligations of mine clearance organisations as employees.

Articles 1, 2, 6,7 and 8 define the obligations of mine clearance organisations in respect of the insurance for the deminers they employ and the rights the deminers have in case of injuries or death at work.

Article 4 of the Second Amendments reads that if a foreign mine clearance organisation

performs mine clearance in Croatia with foreign funds, it has a right to employ foreign citizens.

### *Rules and Regulations on Mine Clearance*

In accordance with the Article 27 of the Law on Demining, the Ministry of Interior produced and issued Rules and Regulations.<sup>23</sup>

The Rules and Regulations is a document that regulates in detail the methods of the implementation of mine clearance in Croatia. It consists of eight chapters:

1. Basic Provisions<sup>24</sup> — Article 1 defines who can perform mine clearance in Croatia and Article 2 gives the key terminology used in the Rules and Regulations.
2. Tender Documentation<sup>25</sup> — Articles 3 and 4 define the content of the documentation that CROMAC must produce for every mine clearance project.
3. Mine Clearance Execution Plan<sup>26</sup> — defines the obligations of the mine clearance organisation that is bidding for a mine clearance project.
4. Mine Clearance — defines the method of the site organisation<sup>27</sup>, marking<sup>28</sup>, survey<sup>29</sup>, disposal of mines and UXO found<sup>30</sup> and safety measures to be taken during mine survey/clearance.<sup>31</sup>
5. Quality Assurance / Control<sup>32</sup> — defines the methods of quality assurance performed by CROMAC QA officers, his/her obligations, the obligations of the mine clearance organisation performing mine clearance of the project and the obligations of CROMAC in respect of issuing a mine clearance certificate.
6. Inspection<sup>33</sup> — the Ministry of Interior carries out inspection of the activities of CROMAC and the mine clearance organisation, in order to make sure that all activities are performed in compliance with the Rules and Regulations.
7. Penalties<sup>34</sup> — this chapter defines detailed penalties for various types of breaches of these Rules and Regulations.
8. Final Provisions<sup>35</sup> — determine that the Rules and Regulations are effective as of the date they are published in the Official Gazette.

The content and description of a personal deminer's logbook is given at the end of the Rules and Regulations.

The Law on Demining, its First and Second Amendments and the Rules and Regulations are the key mine action legislation documents in Croatia.

### *Other documents*

#### **Ministry of Interior documents**

Apart from the above mentioned acts and documents there are a few others that define supplementary activities and that are produced and issued by the Ministry of Interior in compliance with the Law.<sup>36</sup>

**1. Rules and Regulation on Auxiliary Mine Clearance Activities<sup>37</sup>** — The document defines auxiliary mine clearance activities (Article 1) and the conditions to be met in order to obtain authorisation to carry out auxiliary mine clearance activities (Article 2 and 3). The definition of auxiliary mine clearance activities has been amended twice in the meantime: on 24 July 2000<sup>38</sup> and 10 September 2001.<sup>39</sup>

**2. Rules and Regulations on Establishing the Medical Fitness of Deminers<sup>40</sup>** — The Ministry of Interior produced these rules in accordance with Article 20 of the



Law (*Annex 1*). They define the methods and procedures that are implemented in establishing whether a deminer is medically capable of performing mine clearance activities. All the tests that deminers must take are listed in the annex to these rules and regulations.

**3. Rules and Regulations on Training and Exams for Deminers and Auxiliary Workers<sup>41</sup>** — In compliance with Article 27 of the Law, the Ministry of Interior produces and issues these rules. They define that the Police Academy is responsible for implementing the training and for creating the curriculum. The Minister of Interior appoints the examination committee. The rules then describe the content of the programme, its duration, examination details and application methods.

### **CROMAC documents**

In compliance with Article 5 of the Law, the Head of CROMAC issues instructions that define the implementation of specific mine action related activities.

**Instruction on the Implementation of Public Tender Procedure<sup>42</sup>** — The document defines the tender rules and conditions and procedures taken by CROMAC with the purpose of choosing the best bidder for implementing a mine clearance project. The document describes the work of the Committee for the Tender Implementation, the tender procedure, lists documentation that must be submitted, deadlines, gives the content of the tender minutes, describes the procedures of opening the offers, the examination of the offers, the signing of the agreement and the procedure for lodging a complaint.

**The National Mine Action Programme in the Republic of Croatia<sup>43</sup>** — created by CROMAC and adopted by the Parliament in February 2001. The Programme tries to elaborate the following issues:

1. The organisational, legal and social framework for the implementation of the national programme;
2. Assessment of existing capacity and capacity needed for the implementation of the national programme;
3. Basic programme activities essential for mine action in Croatia in the next ten years;
4. Dynamics of the above mentioned activities;
5. Financial plan; and
6. Measures to be taken for the successful implementation of the programme.

With the Programme, CROMAC has undertaken to solve the mine problem in Croatia by the year 2010.

### **Legislation and documents on the Ottawa Convention**

As mentioned before, Croatia signed the Ottawa Convention in December 1997 and the Parliament ratified it on 28 April 1998. On 4 May 1998, the President of Croatia passed the Law on the Ratification of the Ottawa Convention. The Law consists of four Articles. Article 1 explicitly ratifies the Ottawa Convention. Article 2 gives the entire text of the Ottawa Convention, both in English and Croatian. Article 3 reads that the Ministry of Defence is responsible for the implementation of the Law on the Ratification of the Ottawa Convention. Article 4 defines that the Law is effective as of the date of publishing in the Official Gazette, which was 15 May 1998.

Following the Law on the Ratification of the Ottawa Convention, on 28 May 2001 the Ministry of Defence took a formal decision to destroy all anti-personnel mines from stockpiles, apart from a certain quantity (7,000 pcs) that will be kept for training purposes.<sup>44</sup>(Decision Classification No.: 023-03/01-02/01 Decision Registration No: 512-01-01-6)

National legislation to comply with Article 9 of the Ottawa Convention is in draft form, entitled the Law on the Prohibition of the Use, Stockpiling, Production and Transfer of Antipersonnel Mines on Their Destruction. The draft is currently undergoing legislative procedure and is expected to be forwarded to the Parliament for adoption in Spring 2003.<sup>45</sup>

## Mine action structure

### *Coordination*

Three subsystems have to be considered in the organisation and implementation of mine action in Croatia:

- mine action management subsystem;
- mine action capacity subsystem; and
- users subsystem.

The **Mine action management subsystem** coordinates and directs all available personnel and resources towards the first goal (the prevention of mine victims) - and the final objective (the mine clearance of Croatia).

The Croatian Parliament approves the Annual Report on the Implementation of Mine Action and the financial resources spent on mine action, in accordance with the Law on Mine Clearance.

The Croatian government is the main architect of the policy to solve the mine problem, and as such coordinates the benefits, priorities, dynamics, financing and instruments of mine action independently and through its ministries.

The Croatian government approves the annual mine clearance plan, which is an operational part of mine action for the current year. The government recommends the budget for mine action and tries to implement the mine clearance plan.

Each ministry of the Croatian government presents its priorities, suggestions, needs and possibilities and in this way helps the operational governmental body, CROMAC, to define the focus of its activities.

The **Mine Action Capacity Subsystem** includes the overall capacity within institutional mechanisms that may assist in achieving the goal of mine action, such as:

- a. The Ministry of Defence in the implementation of the Ottawa Convention, the Ministry of Interior (creation of relevant decrees and sub-decrees, administrative inspection of the mine clearance process), NGOs (supervision of obligations undertaken by the Ottawa Convention, mine awareness, mine victims assistance and mine clearance activities);
- b. Ministry of Education and Sport (mine awareness programme for school children), Croatian Red Cross (mine awareness programme for the population of mine suspected areas) and similar;

- c. CROMAC, authorised local mine clearance organisations, international mine clearance organisations, (in survey, marking, mine clearance); and
- d. Resources of the health care system in Croatia, Mine Victims Association, donors' programmes (mine victim assistance).

The mine action subsystem in Croatia has not yet been exploited to the full extent but it is constantly being developed.

All available mechanisms in the country have not been exploited for mine awareness (tourist offices, hunting, fishing and hiking associations, the Church and similar). The engineering forces of the Croatian Army have not been fully utilised in mine clearance. The workforce of the authorised mine clearance organisations is not sufficient, with insufficient mechanical mine clearance methods.

**The Users Subsystem** of mine suspected areas includes county and municipal authorities, public institutions and public, private or other enterprises, and citizens in the broad sense.

The Management system is forced to split up mine clearance projects due to a lack of financial resources and to meet a large number of beneficiaries' interests. Professionally, this is not an optimal or rational solution.

The coordination of beneficiaries' needs and priorities is still not sufficient.

To enhance the coordination during the year 2000, CROMAC and county authorities established Regional Coordination Mine Action Bodies (RCMAB) in each mine contaminated county. RCMAB consist of all mine action players in the respective county. At RCMAB regular meetings CROMAC provides general survey data from the database, planned and on-going technical survey, mine clearance, minefield marking, quality assurance activities and other relevant information such as nationally coordinated mine awareness and victim assistance initiatives via its regional offices to the RCMAB. RCMAB representatives feed CROMAC with information on local mine situations, on mine clearance priorities and communities' demands.

### ***Priority setting for mine clearance***

Based on the types and function of mine suspected areas, the mine clearance priorities in Croatia are divided as follows:

1. Houseyards, subject to the reconstruction programme;
2. Infrastructure (water and gas pipelines, powerlines, roads);
3. Premises of economical importance (areas with factories, agricultural areas);
4. Nature parks;
5. Areas under protection (natural and cultural heritage);
6. Meadows and pastures; and
7. Forests and other types of areas.

Since the mine clearance of the houses and houseyards subject to reconstruction is almost completed, the mine clearance projects are expanded to the areas of economic importance, such as agricultural areas.

The initial priorities are set by the municipalities and towns in mine contaminated counties (14 of 21 in total) and by public companies (i.e. Croatian Electricity, Croatian Waters, Croatian Railways). They set priorities in accordance with their development plans and return requirements and, together with CROMAC's regional offices, they

create County Mine Action Plans. Based on the County Mine Action Plans and general survey, mine suspected areas are marked.

Furthermore, based on the County Mine Action Plans and annual priorities, an annual mine action plan is created. It generally breaks down a mine action project according to:

- dynamics and deadlines of survey and mine clearance during a calendar year;
- type of the area (houseyards, infrastructures, agricultural area and similar);
- the source of finance (State Budget, World Bank loan, public companies' funds, donations);
- special purposes of mine clearance (state border, military premises);
- mine suspected area reduction projects;
- marking projects;
- mine awareness projects; and
- financial indicators for every individual item.

When the annual Mine Action Plan is adjusted with the counties, it is approved by the Council of CROMAC. Then it is sent for opinion to the Ministry of Development, Ministry of Interior and Ministry of Defence. After having obtained their positive opinion, CROMAC forwards the Plan to the Government for approval. When the Government approves the Plan it becomes the key planning document for the following calendar year. After the end of every calendar year the Government reports to Parliament on the implementation of the Plan and the financial resources used for its implementation.

At the moment CROMAC is in the process of developing a decision support system (DSS), which will improve the prioritisation of mine action in Croatia. DSS will use a multi-criteria analysis for valorising the level of the mine threat in a specific area through defined criteria, determining the priorities in survey, marking and mine clearance with an adequate valorisation of socio-economical, political, safety, environmental and other parameters, involving the socio-political community and other subjects.

### ***Mine action institutions and organisations***

The following institutions and organisations are at the moment actively engaged in mine action in Croatia:

- CROMAC, as the national mine action implementer;
- Commercial mine clearance organisations (local and international) performing mine clearance activities: local companies must obtain authorisation from the Ministry of Interior. to perform mine clearance activities;
- Non-governmental organisations - at the moment the only NGO that does mine clearance in Croatia is Norwegian People's Aid;
- UNDP, which cooperates with CROMAC in implementing the internationally funded projects;
- Croatian Red Cross, – which implements mine awareness activities on national level; and
- Mine Victims Association, which implements mine victims assistance projects.

### ***Current mine clearance capacities in Croatia***

A total of 23 commercial mine clearance organisations currently work in Croatia. They

employ approximately 440 deminers and 120 auxiliary workers. Their equipment capacities are as follows: 350 metal detectors, 4 large mine clearance machines, 6 medium size mine clearance machines, 8 small mine clearance machines, 9 vegetation cutting machines, 50 mine detection dogs.

### ***Role and responsibility for mine survey, mapping and clearance***

According to the First Amendments to the Law on Mine Clearance<sup>46</sup>, mine clearance may be performed only by the legal entities (registered organisations) authorised to perform mine clearance activities. This authorisation is issued by the Ministry of Interior. The same article stipulates that the Croatian government may establish a state owned organisation for mine clearance. Further on, the same article regulates that foreign organisations may also perform mine clearance, but in compliance with the Law.

According to the Decision on Establishment of CROMAC,<sup>47</sup> CROMAC is responsible for the performance of the activities of survey, mapping and marking. In November 2001, CROMAC and NPA signed the agreement that enables NPA to perform survey and mine clearance activities in its area of responsibility.

### ***Roles and responsibilities for mine awareness***

According to the Decision on Establishment of CROMAC<sup>48</sup> and The National Mine Action Programme, CROMAC is responsible for the coordination of mine awareness activities. Mine awareness in Croatia started with the UNICEF and Ministry of Education pilot project in 1995, which in 1996 was developed into a national programme that was supposed to be implemented in schools. During 1996, mine awareness even became a part of the curriculum in elementary schools. However, due to poor management of the programme, it was never actually implemented.

At the same time ICRC and CRC developed a mine awareness programme aimed at the wider community. Until May 2002, ICRC provided technical assistance and funds for the implementation of the programme and CRC was implementing the programme through its network. At the end of May 2002, ICRC ended its mandate for mine awareness and handed the programme fully over to the CRC. In October 2001, the Croatian Parliament adopted the Law on the Croatian Red Cross,<sup>49</sup> by which it gave CRC a mandate to implement mine awareness activities in Croatia.

More precisely, Article 9, Paragraph 13 of the Law on the Croatian Red Cross obliges CRC to implement continuous mine awareness among the Croatian population, especially among children. This means that the funds for mine awareness will be coming from the State Budget, since CRC's activities are mostly funded from the State Budget. CRC incorporated its new mine awareness mandate into the Statute of CRC. The Statute was adopted by CRC Assembly on 26 April 2002 and published in the Official Gazette NO 68 on 12 June 2002.

Norwegian People's Aid also implements mine awareness activities in the area of its responsibilities, closely linking them with its mine clearance and survey operations.

Croatian media (national and local television and radio stations) have assumed a significant role in raising mine awareness in Croatia. Considering Croatia is a country with a very developed media, it will be necessary to enhance the involvement of the media in raising mine awareness.

### *Roles and responsibilities for victims assistance*

Based on the National Mine Action Programme, CROMAC undertook certain obligations in assisting mine victims in their rehabilitation. Mine victims in Croatia are all, in general, covered within the health insurance system. In respect of medical assistance mine victims get satisfactory care, especially as far as primary medical care is concerned. However, since that is not sufficient for high quality rehabilitation, CROMAC is raising extra funds from donors for various projects dealing with socio-economic rehabilitation. CROMAC also implements some of those projects.

In 1999, CROMAC initiated the establishment of the Mine Victims Association within the Croatian Union of the Associations for Disabled. In 2001, the Mine Victims Association seceded from the Union and now acts as a separate organisation. In cooperation with CROMAC and other organisations, it organises data collection on mine victims, makes needs assessments and implements socio-economic projects. It has not been given any legal responsibilities in respect of mine victims.

### **Concluding remarks**

The Croatian national mine action system has often been described as one of the best in the world. Even though Croatia has considerable needs for international financial assistance, in comparison with some other mine-contaminated countries it was able to launch its mine action system from a relatively strong position in terms of available funds and organised administration and health structures.

However, some inadequacies when it comes to the Law have been noted in practice.

- not all mine clearance capacity in Croatia has been used (Croatian Army, Ministry of Interior);
- it is still necessary that a deminer is of Croatian nationality (except when the mine clearance is done with foreign funds: so it could be necessary to adjust certain provisions of the Law to European legislation);
- at present deminers have the same rights as war veterans: the new law should define the rights that specifically refer to deminers and auxiliary workers;
- the Law currently deals too much with the technical details of mine clearance: this should be treated with sub-decree documents (such as Rules and Regulations), rather than with the Law since it is much easier, quicker and practical to amend them, when and if necessary, than the Law itself;
- quality assurance/control activities should be redefined to be more in compliance with the International Standards and, again, these should be dealt with through a sub-decree document;
- in a wider sense, some other laws do not always stimulate solution of Croatia's mine problems: for instance, Value Added Tax is charged at 22 per cent for mine clearance works — which are being paid from the State Budget.

The Ministry of Interior is in the final stages of drafting a new Law on Mine Clearance. Hopefully, the new Law will surmount some of these hurdles to an even more efficient mine action system in Croatia.

## Notes

1. June 1996 — official end of the war, even though the last major fighting activities occurred in August 1995.
2. Annex 1: Law on Mine Clearance (in English and in Croatian), published on 5 March 1996; *Official Gazette* No. 19.
3. See Articles 1 and 2 of the Annex 1.
4. See Articles 3 to 8 of the Annex 1.
5. See Articles 9 to 18 of the Annex 1.
6. See Article 10 of the Annex 1.
7. See Articles 19 to 22 of the Annex 1.
8. See Articles 23 to 26 of the Annex 1.
9. See Article 27 of the Annex 1.
10. See Articles 28 to 30 of the Annex 1.
11. See Articles 31 and 32 of the Annex 1.
12. Based on UNMAC's estimates at the time.
13. Decision on the Establishment of CROMAC, *Official Gazette*, No. 24, 24 February 1998, p. 434.
14. Law on Institutions (in Croatian) — adopted by the Parliament on 5 August 1993; printed in the *Official Gazette* No. 76, 16 August 1993.
15. Amendments to the Decision on the Establishment of CROMAC, *Official Gazette* No. 32, 10 March 1998.
16. Amendments to the Decision on the Establishment of CROMAC, *Official Gazette* No 58, 13 June 2000.
17. Amendments to the Law on Demining, *Official Gazette* No. 86, 19 June 1998.
18. Article 1 of the Amendments to the Decision on the Establishment of CROMAC.
19. Article 2 of the Amendments to the Decision on the Establishment of CROMAC.
20. See Article 18 of the Law on Mine Clearance and Article 11 of the First Amendments to the Law Mine Clearance.
21. See Articles 22 of the Law on Mine Clearance and 13 of the First Amendments.
22. Second Amendments to the Law on Mine Clearance, published in the *Official Gazette* No. 64, 5 July 2000.
23. Rules and Regulations on Mine Clearance issued by Minister of Interior, published in *Official Gazette* No. 79, 4 August 2000.
24. See Articles 1 and 2 of the Rules and Regulations on Mine Clearance.
25. See Articles 3 and 4 of the Rules and Regulations on Mine Clearance.
26. See Articles 5 to 9 of the Rules and Regulations on Mine Clearance.
27. See Articles 10 to 26 of the Rules and Regulations on Mine Clearance.
28. See Articles 27 to 37 of the Rules and Regulations on Mine Clearance.
29. See Articles 38 to 45 of the Rules and Regulations on Mine Clearance.
30. See Articles 46 to 56 of the Rules and Regulations on Mine Clearance.
31. See Articles 57 to 66 of the Rules and Regulations on Mine Clearance.
32. See Articles 67 to 79 of the Rules and Regulations on Mine Clearance.
33. See Articles 80 and 81 of the Rules and Regulations on Mine Clearance.
34. See Articles 82 to 86 of the Rules and Regulations on Mine Clearance.
35. See Articles 87 and 88 of the Rules and Regulations on Mine Clearance.
36. See Article 27 of the Annex 1.
37. Rules and Regulations on Auxiliary Mine Clearance Activities, *Official Gazette* No. 56, 26 May 1999.
38. Amendments to Rules and Regulations on Auxiliary Mine Clearance Activities, *Official Gazette* No. 79, 24 July 2000.
39. Amendments to Rules and Regulations on Auxiliary Mine Clearance Activities, *Official Gazette* No. 81, 10 September 2001.
40. Rules and Regulations on Establishing Medical Fitness of Deminers; *Official Gazette* No 26, 3 April 1996.
41. Rules and Regulations of Training and Exams for Deminers and Auxiliary Workers, *Official Gazette* No 41, 6 April 2000.
42. Instruction on the Implementation of the Public Tender Procedure, *Official Gazette* No. 90, 7 September 1999.
43. National Mine Action Program in the Republic of Croatia.
44. Information obtained from the Ministry of Defence.

45. Information obtained from the Ministry of Defence.
46. See Article 5 of the Amendments to the Decision on the Establishment of CROMAC and Article 7 of the Annex 1.
47. Article 3 of the Decision on the Establishment of CROMAC (described above in this study).
48. Article 3 of the Decision on the Establishment of CROMAC (described above in this study).
49. Law on Croatian Red Cross, *Official Gazette* No. 92, 24 October 2001.



## Annex 1.

# Law on Mine Clearance

On the basis of Article 89 of the Constitution of the Republic of Croatia, I am taking a  
DECISION ON PROCLAMATION OF THE ACT ON CLEARING OF MINES.

I am proclaiming the Act on Clearing of Mines, which was passed by the House of Representatives of the Parliament of the Republic of Croatia at the session on March 1, 1996.

Nr. 01.96.-497/1

Zagreb, March 5, 1996

President  
of the Republic of Croatia  
Dr. Franjo Tudman

## ACT ON CLEARING OF MINES

### I. BASIC PROVISIONS

#### *Article 1*

This Act regulates clearing of mines in areas of the Republic of Croatia, establishes bodies authorized for carrying out clearing of mines, rights and obligations of employees in an authorized corporation, who carry out clearing and surveillance over the implementation of this Act.

#### *Article 2*

Clearing of mines in this Act is a work of great importance for the safety of the Republic of Croatia and for the protection of environment and people's health.

### II. IMPLEMENTATION OF CLEARANCE OF MINES

#### *Article 3*

Clearing of mines in areas of the Republic of Croatia is carried out on the basis of Plan of Clearing of mines which is passed by the Government of the Republic of Croatia, on the proposal by the Ministry of the Interior and the Ministry of Development and Reconstruction.

#### *Article 4*

Plan in Article 3 of this Act contains:

1. data on the areas in the Republic of Croatia in which there are mines and explosive devices,
2. review of available and estimation of needed personnel for clearing of mines,
3. data on material and technical means and equipment needed for the clearing of mines,
4. estimation of the needed funds for the implementation of the Plan and the amount of compensation to a corporation authorized for clearing of mines,
5. list of areas which should be cleared of mines with the determined terms of clearing.

Funds for implementation of the Plan for clearing of mines (in further text: the Plan) are provided in the budget and from other sources.

The Government of the Republic of Croatia submits to the Parliament of the Republic of Croatia an annual report on the implementation of the Plan and on the funds spent.

#### *Article 5*

The Ministry of Development and Reconstruction takes care of the implementation of the Plan in accordance with the established priorities and needs of reconstruction in places destroyed during the war.

In the carrying out the works from paragraph 1 of this Article, Ministry of Development and Reconstruction cooperates directly with Ministry of the Interior, especially during fulfilling the task of clearing of mines in areas of the Republic of Croatia.

Ministry of Development and Reconstruction, with the aim of fulfilling the tasks established in this Act, cooperates with foreign institutions with the aim of gaining foreign investments in humanitarian clearing of mines in areas of the Republic of Croatia.

#### *Article 6*

Ministry of the Interior directly implements the Plan.

In the implementation of the Plan Ministry of the Interior:

1. provides for adequate material and technical means and equipment for clearing of mines;
2. carries out training and qualifying for employees in clearing of mines;
3. secures holding on to established deadlines of clearing of mines,
4. carries out direct control over the works of clearing of mines,
5. provides expertise to a corporation from Article 7 of this Act,
6. suggests to the Government of the Republic of Croatia undertaking of adequate steps and measures as well as making adequate technical and implementation provisions.

#### *Article 7*

Clearing of mines in areas in the Republic of Croatia is done by a corporation founded or appointed by the Government of the Republic of Croatia (in further text: authorized corporate body).

The Government of the Republic of Croatia and the authorized corporate body, for works of clearing of mines in an area defined in the Plan, make a special contract.

Contract in paragraph 2 of this Article will determine the manner of payment for works in clearing of mines done, cooperation and other issues of rights and liabilities, including terms of finishing of ordered works.

Authorized corporate body will keep books on received payments and other income and expenditure.

*Article 8*

Authorized corporate body has to provide business premises arranged in accordance with the regulations on special environmental and technical conditions for placing of mines and explosive devices and means, and protection against fire, stealing and other accidents or abuses.

The Government of the Republic of Croatia gives its consent for the provisions of the Regulations on interior order and systematization of work posts of the employees working on clearing of mines with the obligatory education and job description for each work post within an authorized corporate body.

**III. PYROTECHNIST***Article 9*

Clearing of mines within a corporate body can be done by persons authorized for works of clearing of mines (in further text: pyrotechnists).

Authorization from paragraph I of this Article is given by Ministry of the Interior.

*Article 10*

Application for the authorization, in Article 9 of this Act, is submitted to Ministry of the Interior.

Together with the application in paragraph 1 of this Article, an applicant has to submit evidence that he:

- is a Croatian national,
- is 18 or more years old,
- has regulated conscription,
- has at least secondary education,
- has not been convicted for a criminal act against the Republic of Croatia, for a criminal act against life and limb or against property as well as for other criminal acts containing elements of violence, self-interest and mean stimulus,
- is mentally, physically and medically able, which is proven with a certificate of an authorized medical institution,
- has passed the examination of vocational ability before a Commission of Ministry of the Interior.

Against the decision of denial of application by Ministry of the Interior, one can submit an appeal to the Commission of the Ministry which is appointed by the minister of the Interior.

*Article 11*

Ministry of the Interior will deprive a pyrotechnist of the authorization for clearing of mines if it is established that the pyrotechnist:

- does not fulfill the conditions established in this Act for issuing the authorization for carrying out clearing of mines,
- if the authorization was issued on the basis of false data, or
- if the pyrotechnist has been carrying out clearing of mines against the rules of the profession established with special regulations.

Ministry of the Interior will deny a pyrotechnist authorization for carrying out clearing of mines if he becomes permanently unable for pyrotechnic work or loses business ability.

The decision on denying the authorities for the reasons stated in paragraph I of this Article a permanently bans pyrotechnist's working in clearing of mines.

No appeal can be submitted against the decision from paragraph I of this Article.

*Article 12*

An authorized corporate body and a pyrotechnist as well as a health service worker, who provides for the work of the pyrotechnist, make a temporary service contract, not longer than three years.

Temporary service contract is made in accordance with the provisions of the Labour Act.

*Article 13*

Pyrotechnist, working on clearing of mines, can constantly work not longer than five hours during daily working time.

Constant clearing of mines is the time in which a pyrotechnist did not have a break longer than half an hour.

*Article 14*

Before the beginning of working time, a pyrotechnist has to have a constant daily rest not shorter than 12 hours.

During working on clearing of mines, a pyrotechnist has to have with him his personal control book and fill into it the time of doing working tasks and the time of resting, and is obliged to submit it to a person authorized for the control over carrying out of clearing of mines.

*Article 15*

Exercising the right to receive salary and other rights from labour relations or regarding the labour relations, working time in Article 13 paragraph 1 of this Act is considered to be a full working time.

Pyrotechnist's time spent on working in clearing of mines is acknowledged as length of service for retirement as a double length of service.

Funds for repayment obligations in paragraph 2 of this Article are provided for in the budget in the amount of the pension which would be realized according to the provisions on pension and disability insurance.

*Article 16*

Management of an authorized corporate body makes a decision by which the amount of monthly payment is determined for pyrotechnists, working on clearing of mines, and of health service workers, providing for the work of pyrotechnists.

*Article 17*

An authorized corporate body is obliged to make a collective life insurance with an insurance company for the employees working in clearing of mines.

*Article 18*

Pyrotechnist or a member of his family, in case of an accident or fatality at work while clearing mines, has the rights established for Croatian soldiers who took part in the Patriotic War on the basis of the Act on the Rights of Croatian Soldiers in the Patriotic War, except the rights established with the Chapters IX and X of that Act.

#### **IV. SURVEILLANCE**

*Article 19*

Surveillance over clearing of mines of areas in the Republic of Croatia is carried out by authorized persons of Ministry of the Interior (in further text: inspectors).

Inspectors have a direct insight in general and individual acts of an authorized corporate body, they establish the lawfulness of business dealing, check the manner of usage of stipulated protection and safety measures, control business records, business facilities, machines, devices and technical equipment, as well as the usage of the approved funds, check the way of storing mines and explosive devices and the way of destroying, as well as of discovering such devices, they check pyrotechnists' level of competence for working on clearing of mines, they control holding on to the deadlines established in the Plan, and carry out other measures and steps with which they have an insight in business dealing of an authorized corporate body.

#### *Article 20*

In carrying out the surveillance, inspector can, with a decision, until the decision on violation comes into effect, deny a pyrotechnist the right to work on clearing of mines if he establishes that:

- serious cases of negligence in respecting law and other regulations occurred in doing pyrotechnical works,
- pyrotechnist does not have the stipulated authority or that the authority is not in effect any more.

In a case from paragraph 1 of this Article, inspectors will immediately dismiss the pyrotechnist from his duty.

Against the decision from paragraph 1 of this Article, one can declare an appeal to Ministry of the Interior within three days since the date of notice on the decision.

Ministry of the Interior is obliged to make a decision within eight days since the date of receiving the appeal.

#### *Article 21*

Inspectors will order the removing of inadequacies, that is to say irregularities within a certain period of time, especially if:

- clearing of mines is not being done in accordance with the rules of the profession established by special regulations,
- regulations of job safety, environmental protection and health care are not adequately implemented,
- material means and devices are not used for the purposes they were intended to be used,
- pyrotechnists are not holding on to the provisions of this Act on time of working on clearing of mines.

Inspectors will ban an authorized corporate body:

- to employ or dismiss from service pyrotechnists if it establishes that there is the demand or the lack of demand for pyrotechnists against the Plan or the Regulations from Article 8 paragraph 2 of this Act,
- to let the pyrotechnic work to be carried out by a person who was employed against the provisions of this Act or by a person who is not authorized for working on clearing of mines,
- to use technical means and devices which do not fulfill the requirements of the protection of people and property, environmental protection and health care.
- in the cases from paragraph 1, inspectors can, with a decision, temporarily ban working on clearing of mines in a certain area or determine the deadline of removing inadequacies or irregularities established during surveillance.
- against inspectors' decision, one can declare an appeal to Ministry of the Interior within three days since the date of notice on the decision.

Ministry of the Interior is obliged to make a decision within eight days since the date of receiving the appeal.

*Article 22*

Ministry of the Interior submits reports to the Government of the Republic of Croatia on the findings of surveillance.

## V. SPECIAL PROVISIONS

*Article 23*

Public officials of the Ministry of the Interior and of the Ministry of Defense employed as pyrotechnists cannot perform mine clearing nor can be employed by authorized legal person.

Authorized legal person must not employ public officials from paragraph 1 of the present Article whose labor relations in the Ministry of the Interior or in the Ministry of Defense ceased to exist:

- by the force of law,
- on the bases of decision of disciplinary court,
- on the bases of decision about the cessation of labour relations due to the breach of work discipline,
- on personal request in order to avoid decisions from subparagraphs 2 or 3 of this paragraph.

*Article 24*

Exceptionally to Article 23, paragraph 1 of the present Law, public official can, on the bases of the decision of the Government of the Republic of *Croatia*, temporarily perform mine clearing, at longest up to three months, at authorized legal person, if it is necessary because of:

- mine clearing of inaccessible areas or areas where there are unknown, or exceptionally dangerous mines and explosives for which clearing specific expert knowledge and technical equipment are needed,
- other justified reasons caused by environment protection or human health.

In the case from paragraph I of this Article public officials sign a temporary service contract with legal person.

*Article 25*

In the cases described in Article 24, paragraph 1, subparagraph I of this Law, Minister of the Interior can authorize mine clearing to a foreign national.

*Article 26*

Natural and legal persons having legal, economic or security interest in the mine clearing of a building or space they use or intend to use, can ask the Ministry of the Interior to mine clear the building or space, beyond the dates defined in the Plan.

A separate contract about mine clearing is signed in the sense of paragraph I of this Article.

The Minister of the Interior will determine the costs of mine clearing in the sense of paragraph I of this Article.

## VI. AUTHORIZATION FOR ISSUING REGULATIONS

*Article 27*

The Minister of the Interior will issue special regulations on:

- mode of mine clearing,
- standards and mode of establishing mental, physical health conditions for pyrotechnists,
- training, program and mode of taking exam for pyrotechnist,

In case of a violation according to item I, paragraph I of this Article, the Misdemeanor Court will issue a ban for conducting the work of a pyrotechnist in the duration of 10 years.

#### *Article 29*

A fine of not less than 5,000 and not more than 8,000 kuna will be imposed on:

1. a pyrotechnist who hasn't had his continuous daily rest before commencing work (Article 14, para. 1),
2. a civil servant of the Ministry of the Interior or the Ministry of Defense who performs mine clearing for an authorized legal entity (Article 23, para. 1).

For violations in items I and 2 of paragraph 1 of this Article, the responsible authorized legal entity will be fined with not less than 10,000 and not more than 15,000 kuna.

#### *Article 30*

An authorized legal entity will be fined not less than 50,000 and not more than 75,000 for employing a civil servant of the Ministry of the Interior or the Ministry of Defense (Article 23).

The responsible person of the authorized legal entity will also be fined not less than 20,000 and not more than 30,000 kuna for a violation according to paragraph I of this Article.

## **VII. FINAL PROVISIONS**

#### *Article 31*

The Minister of the Interior will issue regulations according to Article 27 of this Law within 60 days of the day this Law is enforced.





## Chapter 7.

# Kosovo

### Mine action legislation

National legislation pertaining to mine action, approved by parliamentary procedures, does not exist in Kosovo. The province of Kosovo is a United Nations-administered territory and, as such, has a limited legal framework within which to operate. UN Security Council Resolution 1244 authorized member States and relevant international organisations to establish an international security presence with responsibilities including the deterrence of hostilities, demilitarisation of the Kosovo Liberation Army (KLA), and the establishment of a secure environment for the return of refugees and in which the international civil presence may operate. The province is administered by the United Nations Interim Administration Mission (UNMIK), which will continue to govern the province until such a time as the final status of Kosovo is settled.

In October 2001, (limited) national democratic oversight re-emerged through the holding of province-wide elections to the 120-seat Kosovo Provisional Assembly. This first step in re-establishing an accountable elected government allows for an Office of the President, an Office of the Prime Minister and the creation of nine ministries overseeing issues of an internal nature. Issues pertaining to foreign affairs, the police and the “army structures” (in the form of the Kosovo Protection Corps, an unarmed but uniformed body of 3,000 ex-KLA fighters) will remain under the direct administration of UNMIK.

Two documents outlining the structure of mine action do exist, both drawn up in preparation for the withdrawal of the United Nations Mine Action Coordination Centre (MACC). These two documents are entitled *Unexploded Ordnance in Kosovo — Roles and Responsibilities of Local Government Departments and Supporting Organisations* and *Mine/UXO Victim Assistance in Kosovo — Roles and Responsibilities of Local Government Departments and Supporting Organisation*. They are signed by the heads of the respective departments in UNMIK, the ICRC Head of Mission and the UNICEF Representative.

Until the future status of Kosovo is settled it is likely these two documents will be the basis on which mine action is planned and regulated. However, since neither are legislative documents, but rather more along the lines of “Memoranda of Understanding”, each has a degree of flexibility to respond to changing circumstances.

In effect, the two documents disestablish the roles and responsibilities of the now-closed MACC, dividing and allocating activities among five departments with assistance from two international bodies — UNICEF and the ICRC.

Department names have changed since the documents were prepared:

- the Department of Civil Security and Disaster Preparedness is now renamed the Directorate of Civil Protection (DCP);
- the Transitional Administrative Department of Public Services is now the Ministry of Public Services (MPS);
- the Transitional Administrative Department of Education, Science and Technology is now the Ministry of Education, Science and Technology (MEST);
- the Transitional Administrative Department of Health, Environment and Spatial Planning is now the Ministry of Health, Environment and Spatial Planning (MHESP); and
- the Transitional Administrative Department of Labour and Social Welfare is now the Ministry of Labour and Social Welfare (MLSW).

## Mine action structure

### *The United Nations Mine Action Coordination Centre*

The MACC was established in Pristina on 17 June 1999, and handed over responsibility for mine action to the DCP and Kosovo local government bodies on 15 December 2002. The MACC was under the responsibility of the United Nations Interim Administrative Mission in Kosovo, and was established on behalf of the United Nations Mine Action Service (UNMAS) supported by UNOPS (United Nations Office for Project Services). The MACC was tasked to serve as the focal point and coordination mechanism for all mine action activities in Kosovo. This included the initial phases of humanitarian relief efforts, longer-term mine action support for the reconstruction and economic development of Kosovo, resource mobilisation, and national capacity building.

The core responsibilities of the MACC during this period included:

- maintaining management and oversight of all humanitarian mine/UXO clearance activities (including prioritisation and tasking and quality assurance);
- mine awareness education activities (in conjunction with UNICEF);
- mine victim assistance (in conjunction with the World Health Organisation (WHO) and ICRC); and
- information management in relation to each of the above.

According to the MACC, in 2001, *“the programme has successfully completed its objectives and the problems associated with landmines, cluster munitions and other items of unexploded ordnance in Kosovo have been virtually eliminated”*. The MACC report went on to state that *“whilst it may take years to completely eradicate all items of explosive ordnance from Kosovo, as indeed it will in most other countries in Europe, the situation is such that the level of contamination no longer impedes social and economic development within the province”*.

### *The DCP EOD teams and related structures*

The responsibilities for mine action activities have now been passed to Kosovo local government bodies. On 15 December 2001, the Directorate of Civil Protection (DCP)

assumed responsibility as the new focal point for all matters pertaining to explosive ordnance disposal (EOD) in Kosovo. Following the elections of October 2001, nine local government ministries were to be created, to be directly run by the elected legislature. However the DCP is not among these local institutions and will remain under UNMIK direct management until such time as the future status of Kosovo is settled.

The DCP manages the Kosovo Protection Corps (KPC) — the body into which most of the disarmed KLA was placed following its disbanding in 2000. The KPC was in essence created as a means of keeping a large number of militant young men both employed and motivated: it is tasked with disaster response services, humanitarian assistance and demining as well as community development activities.

The EOD response capacity consists of a total of seven teams, each consisting of 11 EOD/clearance personnel, two medics and a driver. Thus, a minimum of 77 staff will be trained in EOD/clearance activities. Tasking and quality assurance (QA) is undertaken from within the operations department, with two public information staff responsible for overseeing mine awareness initiatives.

Coordination is not specified in the document *Mine /UXO Victim Assistance in Kosovo — Roles and Responsibilities of Local Government Departments and Supporting Organisations*. While much stress is placed on terms such as “liaison” and “cooperate” no specific agency is mandated through this document to undertake a central coordination of activity. As such, it is not clear where responsibility lies between the Ministry of Health, Environment and Spatial Planning, (MHESP) the Ministry of Labour and Social Welfare (MLSW) and the DCP in ensuring that the activities set out in the document happen in practice.

Within the document entitled *Unexploded Ordnance in Kosovo – Roles and Responsibilities of Local Government Departments and Supporting Organisations* coordination is outlined in paragraph 12 as specifically lying with the DCP: “As the focal point for EOD matters, the [DCP] is to ensure that all information regarding the residual threat from mines and UXO is appropriate and consistent.... The [DCP] will therefore require appropriate mechanisms to ensure the effective coordination of public information relating to the residual mine/UXO threat.” However, the document does not specify in detail how this will be undertaken.

### ***Mine action priority setting***

Priority setting is not specifically mentioned in either document. However, within the UXO document, reference to information collection and validation implicitly recognises the lead role of the DCP in this regard.

### ***Mine action operators***

As indicated, the above agencies are tasked with specific activities. DCP, through its management of the KPC, has a central role. UNICEF is specifically tasked with assisting MEST with mine awareness information, Handicap International with training and mentoring KPC teams, the local NGO ARKA with training KPC teams in MAST activities, and HABITAT in support of the Kosovo Cadastral Agency. In addition, KFOR is seen as having “a key role to play in the future and are an integral part of the process to develop an EOD capability within the Kosovo Protection Corps”. There is no mention of using other agencies in clearance activities, however it is implicit that this

is now a task which can be effectively undertaken by the KPC with minimal external assistance.

### ***Roles and responsibilities for mine action***

Roles and responsibilities are clearly outlined within the two documents — dividing activities and responsibilities of the MACC between MHESP, MLSW, MEST, MPS and the DCP.

### ***Mine and UXO survey mapping and clearance***

Most survey information and prioritization activity has already taken place. Information relating to the mine/UXO threat including clearance reports, casualty figures and new dangerous area reports will be collected, collated and verified by the DCP. Once confirmed, these will be passed to the Kosovo Cadastral Agency for entry to the IMSMA system. This issue is covered in paragraph nine of the UXO document.

Regarding UXO the division of responsibility is as follows:

- DCP: The overall focal point with responsibility for EOD disposal through the KPC and public information.
- MPS: Information management through the Kosovo Cadastral Agency and the Information System for Mine Action (IMSMA).
- MEST: Public information within the school curricula (as part of the life skills component) to commence in September 2002.
- MHESP: Collection of information regarding mine/UXO victims through the Institute of Public Health (IPH).
- MLSW: Keeping records of information received from the IPH and if appropriate advise on possible assistance available.

### ***Mine awareness***

This issue is dealt with under “Public Information” within the Unexploded Ordnance document. The document recognizes the residual threat posed by landmines and UXO and therefore the need for an *“ongoing public information campaign to warn people of the long term nature of the problem, and to inform them of what action to take if they encounter any suspicious or dangerous objects”*.

Paragraph 10 details the roles and responsibilities of MEST, focusing on the role of mine awareness in the curriculum. However, it is not clear whether this refers to the development of mine awareness as a key and compulsory area of the curriculum (an idea now dropped) or to the insertion of minimal aspects of mine awareness within such sections of the curricula as life skills, planned for introduction in September 2002.

Paragraph 11 of the same document outlines the role of UNICEF in support of mine awareness. This focuses on the role of UNICEF in funding mine awareness and community liaison training and providing support to the DCP Public Information officers in developing their confidence and capacity in this aspect of their work.

Victim assistance and compensation This is covered in some detail within the document *Mine /UXO Victim Assistance in Kosovo — Roles and Responsibilities of Local Government Departments and Supporting Organisations*.

- MHESP: Collection of information regarding mine/ UXO victims through the Institute of Public Health (IPH);
- MLSW: Keeping records of information received from the IPH and, if appropriate, advise on possible assistance available;
- DCP: Investigation of mines/UXO victims and incidents in cooperation with the Kosovo Police Service.

Assistance as defined in this document focuses on information collection – the only documented role of the Ministry of Health being to ensure appropriate and accurate data collection, with no mention being made of the medical or rehabilitation and physiotherapy needs of survivors. Financial assistance (currently €40 per month) is the responsibility of the MLSW and this role is clarified in paragraph 7, under the War Invalids support fund. The role of the DCP again focuses on the statistical and information sharing role.

### Stockpile destruction

This is not covered by the documents under discussion. As a matter of policy, KFOR destroys systematically any stockpiles of mines and ammunition it uncovers.

### Emerging issues

In essence it is too soon to tell if the new structure will function well, and whether the needs of Kosovo can be met through the mechanisms described. Concerns have been expressed that mine action activities are divided among more than the optimum number of agencies, making effective coordination unnecessarily complicated. It remains to be seen, however, whether this issue is just a symptom of the change in responsibilities, or a product of the new structure.

Other issues pertinent to ensuring the smooth functioning of the Kosovo mine action programme include :

- **Funding:** Already funding appears to be a cause for concern. The messages that all known minefields and dangerous areas will shortly be cleared has been misunderstood to be that all minefields and dangerous areas are already cleared. Already the budget for public information/mine awareness is very limited. It is not clear how mine action will be funded in coming years, particularly as funding increasingly starts being raised from within Kosovo itself rather than from external sources, and competing demands are made on those funds.
- **The integrated nature of mine action** — stressed in the recent evaluation of the Kosovo mine action programme and an ongoing issue throughout the life of the MACC — is not reflected in the documents referred to, or in the structure of the DPC as it currently stands. Indeed, the division of the documentation for the post-MACC structure into two separate reports is an indication that the lessons learned during the past two-and-a-half years of the programme are still to be internalised, as does the fact that the training of EOD teams in community liaison skills is yet to be timetabled.
- Tangible **victim assistance** seems to be overlooked. Responsibilities outlined here would appear to focus on the internal agendas of the various players, rather than on the basis of the needs of the victims/survivors themselves.
- **Accessibility.** There is some concern as to whether KPC teams will be allowed entry to minority areas. KPC teams are all of Albanian ethnicity.



## Chapter 8.

# Kyrgyzstan

### Background

The landmine and unexploded ordnance contamination in Kyrgyzstan is of recent origin, one of a range of measures taken by Uzbekistan to put down an insurgency that started in 1999, arguing that the insurgents were crossing into its territory from neighbouring Tajikistan and Kyrgyzstan. There are also unconfirmed reports that the border with China was mined during the Soviet era and that these mines have not yet been cleared. There may be other areas affected by landmines and/or unexploded ordnance.

### Mine action legislation

There is no mine action legislation in Kyrgyzstan but on 7 June 2001, the Government issued a decree on landmines,<sup>1</sup> which allocated responsibility for a variety of mine action tasks to different government ministries. An unofficial translation of this decree is attached to this case study as Annex 1. Specifically, it provides that:

- The Ministry of Defence is responsible for survey, marking and mine clearance, and is asked to use discretion in its dealings with Uzbekistan;
- The Ministry of Interior and the General Procurator's Office is to provide monthly report on the effects of explosions;
- The Ministry of Environment and Emergencies is responsible for conducting mine awareness for the affected civilian population, and for developing a methodology for calculating the amount of damage to the victims;
- The Batken regional administration is responsible for monitoring the movement and displacement of population and cattle around the minefields; and
- The Ministry of Foreign Affairs is responsible for informing Uzbekistan through the Kyrgyz Embassy in Taskhent on measures taken to protect the population of Kyrgyzstan, and to ask compensation to be paid to the Kyrgyz victims, and for the provision of minefield maps and the removal of fencing on the edge of the minefields.

The respective departments of the Prime Minister's Office are responsible for ensuring the implementation of the decree.

### **Mine action structure**

In accordance with the governmental decree, there is no formal coordination structure, and there does not seem to be a need to institute one on the basis of the existing contamination.

### **Note**

1. Decree No. 268.



## Annex 1.

# Decree No. 268

### Regulation

Concerns measures on prevention damaging life, health and property of the citizens of the Kyrgyz Republic as the result of death of population and damage of their property on mines at the bordering areas of Kyrgyz Republic with Uzbekistan.

In order to provide security for population, preserve health, save lives of the citizens of Kyrgyz Republic and also prevent further moral-psychological and material damage connected with explosions on mined territories mined by Armed Forces of Uzbekistan. Government of Kyrgyz Republic states

1. To the Ministry of Defense of Kyrgyz Republic
  - Organize and take measures on finding and marking frontier areas of Kyrgyz and demining on national territory with Uzbekistan.
  - Take necessary measures to provide security for people involved into the process of demining and preserve their health and save their lives.
  - Prevent conflict situations with representatives of state authorities and population of Uzbekistan while achieving aims on demining.
  - Every period of ten days present reports to the Prime Minister's Office of the Kyrgyz republic concerning the measures taken.
  - Establish an operations group headed by one of Prime Minister's deputies for organization of work and providing security for soldiers involved into demining.
  - Establish that forces and means of other ministries, administrative departments and local state administrations involved into demining are included in the submission of Ministry of Defense of Kyrgyz republic.
2. To the Ministry of Internal Affairs of Kyrgyz Republic, Ministry of Environment and Emergencies of the Kyrgyz Republic, State Agency on registration of rights on real estate under Government of Kyrgyz Republic, and Batken oblast state administration, help and cooperate with the Ministry of Defense of Kyrgyz Republic in organization and taking measures on demining during the period of conducting this work.
3. To the Ministry of Internal Affairs of Kyrgyz Republic, General Prosecutor's Office, inform the Prime Minister's Office of Kyrgyz Republic each month on the way of conducting enquiry measures in regard to the facts of the blowing-up of the population and its property on mines in border areas of Kyrgyz Republic territory with Uzbekistan.
4. To the Ministry of Environment and Emergencies of Kyrgyz Republic
  - In a month's term, work out methods of damage evaluation happened in the result of blowing up of the population and its property on mines in the border areas of

Kyrgyz Republic territory with Uzbekistan and bring them for the approval of the Government of Kyrgyz Republic along with a proposal of members of the committee on evaluation and determination of damage scale.

- Along with local state administrations organize informative and awareness work with population living near mined areas in order to prevent accidents.
- Regularly present information of damages to Kyrgyz citizens with confirmation materials to Ministry of Internal Affairs of Kyrgyz Republic.

5. To Batken oblast state administration along with local structural divisions of Ministry of Internal Affairs of Kyrgyz Republic, Ministry of Environment and Emergencies of Kyrgyz republic, organize control and observations of people's and domestic animals' movements near mined territories.

6. To the Ministry of Foreign Affairs of Kyrgyz Republic

- Through diplomatic channels inform Uzbekistan about taken by Government of Kyrgyz Republic measures on providing security for population, preserving health, saving lives of the citizens of southern region of Kyrgyz Republic.
- Continue demining works on mines installed by Armed Forces of Uzbekistan in frontier areas of Kyrgyz Republic territory with Uzbekistan and continue work on compensation for moral and material damage made by Uzbekistan to citizens of Kyrgyz Republic. Lead Embassy of Kyrgyz Republic in Uzbekistan to the solution of given problems.
- Seek to receive documentation, concerning to mined territories in frontier areas of Kyrgyz Republic territory of Uzbekistan.
- Operatively present information given by Uzbekistan on this problem to the appropriate authorities of Kyrgyz Republic

7. Control over the implementation of this Regulation is laid upon appropriate departments of the Prime Minister's Office of Kyrgyz Republic.

## Chapter 9.

# Laos

### Background

The bulk of the UXO contamination in Laos dates from the Vietnam War of the 1960s and 1970s, during which Laos was fought over and heavily bombed. The current government came to power in December 1975. United Nations-supported UXO Action was instigated in 1995,<sup>1</sup> and implemented through the establishment of a National Unexploded Ordnance Clearance and Awareness Programme (UXO LAO) in early 1996.

### Mine action legislation

National legislation covering and coordinating all aspects of mine action within the Lao People's Democratic Republic (Laos) is not in place as a single instrument of law. The topic is addressed under the legal status of a Prime Ministerial Decree,<sup>2</sup> which provides the authority to implement the product of a United Nations and Government of Laos PDR Trust Fund agreement signed in August 1995. The Trust Fund is designed to initiate a UXO clearance and awareness programme of action. Copies of the decree and the UN/Government of Laos Trust Fund document are attached, respectively, as Annexes 1 and 2 to this case study.

The development of a full national strategy for expanding and institutionalising "UXO Action" is progressively being considered within Laos, but is constrained by a lack of visibility of the UXO issue within other government and UN country office priorities, and a consequential lack of funding and understanding.

### Mine action structure

The Ministry of Labour and Social Welfare is designated as the ministry responsible for coordination, overall management and monitoring of UXO clearance programmes. A National Steering Committee is responsible for providing top level strategic direction and management support.

### *National Steering Committee/Prime Minister's Decree*

The National Steering Committee (NSC) is authorised by the Prime Minister's Decree No. 75, dated 5 June 2000, (superseding Prime Minister's Decree No. 49 of 13 February 1996). It designates four individual members by name and appointment to the committee, as well as the Project Manager of UXO LAO and representatives from the provinces where UXO LAO operates. In addition, under the terms of the establishment of the UN-administered Special Trust Fund for Unexploded Ordnance Clearance and Awareness Programmes, representatives of UNDP and UNICEF are included on the NSC, (although reference to this requirement was omitted in the revised decree of 2000).

Following screening by the NSC, UXO-related project proposals are approved by the government in accordance with its normal procedures of the Foreign Assistance Management Committee at the Committee for Planning and Cooperation.

The NSC comprises:

- the Minister of Labour and Social Welfare (Chair);
- the Director of the Department for International Organisations, from the Ministry of Foreign Affairs (Vice-Chair);
- the Ministry of Defence;
- the Ministry of Interior;
- the Project Manager of UXO LAO;
- the representatives from the nine Provinces where UXO LAO is working (normally a Vice Governor);
- the UNDP Resident Representative; and
- the UNICEF Representative.

Below the Committee is the UXO LAO Programme with the national status of a project, under the control of the Ministry of Labour and Social Welfare. Within the scope of UXO Action, UXO LAO has responsibilities for survey, clearance and awareness. The national objectives of UXO LAO are stated as reducing the amount of UXO casualties and clearing land for agriculture and other development purposes.

In practice, this means that all workplans, supporting budgets, establishment tables, any international staff, or agreements with NGOs or partner organisations have to be approved by the NSC. The NSC has its own supporting office within the Ministry of Labour and Social Welfare, which has taken on a responsibility for oversight of personnel management and key project activities. Rules and Procedures of the Steering Committee and UXO LAO (ratified in 1997) were in part made invalid by the introduction of Prime Minister's Decree No. 75, and amendments have not yet been approved.

The NSC delegates responsibility for operating standards to the National Project Director, who also has financial responsibility for the project. The full NSC meets normally twice a year, one to set workplans and budgets, and one mid-year to gauge progress. Interim meetings of Vientiane-based members are held on an "*as needed basis*" to approve ongoing project work.

Under UXO LAO, survey, clearance and awareness programmes are implemented against workplans that are prepared through consultation with provincial authorities (to ensure correct prioritisation). Day-to-day provincial operations are coordinated by a UXO LAO-employed "provincial coordinator".

In the nine provinces where UXO LAO operates, UXO LAO provincial coordinators also have a responsibility for investigating and reporting any UXO accidents among the population.

UXO LAO maintains a national database of survey information of contamination, clearance reports, awareness outreach in terms of village visits from UXO LAO community awareness teams, and UXO accidents.

In terms of community awareness (it is still known under this title in Laos, not Mine Risk Education), UXO LAO sends teams to villages to provide safety messages. Additionally, UXO LAO liaises with other organisations to provide safety messages and coordination, where possible, to widen the outreach of community awareness programmes. UNICEF has a key role in supporting this coordination process. The main national partner organisations in awareness and safety campaigns include: the Ministry of Education, the Ministry of Information and Culture (radio and TV), Lao Women's Union, Lao Youth Union, National Puppet and Drama Troops.

### *The Laos Trust Fund for Clearance of Unexploded Ordnance*

The purpose of the Trust Fund is to provide special resources for a coherent programme of UXO clearance, community awareness, surveys and other related initiatives. It is an effective means of mobilising and delivering donor assistance to reduce the destructive impact caused by the remnants of war still littering large parts of the country. In so doing, the Trust Fund ensures a flexible framework for donor coordination while promoting strong government leadership of the overall programme.

In practice the Trust Fund is used only to support UXO LAO activities, although legally the fund can be used for wider purposes as follows:

- surveys of UXO-infected areas and needs assessments;
- seed money to start activities when other funds are slow in coming, or to bridge gaps in funding;
- community-oriented projects clearing inhabited or cultivated/cultivable land, combined with community awareness campaigns;
- clearance of land needed for development projects such as construction of roads, schools, hospitals, irrigation schemes, etc.;
- community awareness programmes in areas where ordnance clearance is not yet taking place;
- technical assistance to strengthen the Lao government's overall coordination of the UXO clearance programme, both at central and provincial levels, to assist the government in formulating a policy framework for the programme;
- practical research and training into innovative alternatives of UXO clearance techniques appropriate to the UXO problem in Laos;
- assistance to provincial and district health services to strengthen the capacity to deal with accident victims, especially with regards to emergency treatment of trauma injuries, or rehabilitation;
- food security or income-generation assistance in areas where widespread UXO contamination causes food shortages and malnutrition;
- exploring the potential for establishing Lao commercial capability for UXO clearance in connection with development projects; and
- Other activities so determined at a later date, which will enable the programme to achieve its operational goals.

Projects funded by the Trust Fund may be executed by the government itself, the

provincial governments, NGOs, UN agencies, bilateral donor agencies or private enterprise.

### *Other actors*

Outside of UXO LAO, civilian commercial companies and the Lao Army undertake clearance and survey activities. Their standards of operating, records of clearance or work prioritisation is outside the visibility and authority of the NSC. Work undertaken is for commercial private enterprise (such as gem mines, tourism,) or in connection with development/aid projects (such as road construction, power generation, community development). A gap in national coordination exists in this area.

### *Victim assistance*

Responsibility for victim support is currently outside the scope of the NSC and UXO LAO, and as such is not coordinated under UXO Action. Victim support of disabled persons is seen as a more general activity, and is under the responsibility of the Ministry of Health and the Social Welfare side of the Ministry of Labour and Social Welfare. Both areas of government activity are underdeveloped and under-funded. International NGOs are working to enhance these activities and linkages.

### *Stockpile destruction*

Laos is not a party to the Anti-Personnel Mine Ban Convention and does not have a landmine stockpile destruction policy.

### *Trade in UXO*

In the poorest regions of the country, particularly those areas bordering Vietnam, a trade in scrap metal from UXO and in explosives recovered from UXO is active. Legislation to prevent this is discussed but not applied in any uniform manner. Accidents occur each week from activities involving opening UXO, with approximately 50 per cent of all reported casualties caused by tampering (around 60 annually in recent years).

### *Changes over the last two years*

UXO LAO has participated in and been fully briefed on the production of International Mine Action Standards (IMAS) and, in a parallel process, has developed its own operating procedures and enhanced awareness of the scope for national legislation.

Changes in the NSC structure in 2000 led to a situation where many routine programme management systems had to be refined and explained, to enable them to be fitted within ministry controls. In reality the NSC, as a strategically forward-looking body, has not been working effectively (although it has improved in terms of capacity) during this period. In consequence, matters of internal UXO programme/project status, personnel and equipment controls, took priority of NSC effort to the detriment of preparing national strategies and legislation addressing wider UXO issues. It is understood that national supporting studies to improve this situation are taking place.

### *Scope for enhancement/national legislation*

Much scope exists to improve the situation of UXO Action within Laos, and a lack of legislation is more a result of a lack of knowledge, capacity and competing priorities of government, rather than any deliberate blockage.

The NSC remains the forum for progress, but will require support and resources to staff the activity within the higher levels of government. Draft outline national strategies for legislation and expansion of UXO LAO activities have been prepared, but await the progress of the NSC to take them forward. Inter-ministerial cooperation with particular focus on work planning, standards and funding would be beneficial. Geographical expansion of activities to all contaminated areas should happen in the future (covering survey clearance, awareness, accident reporting/investigation, and victim support).

The preparation of National Mine Action Standards, using the IMAS as a basis, remains an activity that requires much more development.

## Notes

1. Thus, within Laos the threat is more one from unexploded ordnance (UXO) than landmines, and in that environment the term “UXO action” is more commonly used, although it is interchangeable with the term mine action within the context of this document.
2. Decree No. 75.

## Annex 1.

# Prime Minister's Decree No. 75

**The PRIME MINISTER'S DECREE**  
**The assignment of the Government's Permanent Committees in Trust Fund**  
**for the UXO Clearance in Lao PDR**

- based on the Law of the Government of the Lao People's Democratic Republic.
- based on the proposition of the Minister of the Ministry of Labour and Social Welfare No.1028/MLSW, dated 16/05/2000.

Whereas, the Prime Minister decreed:

### *Article 1*

The assignees of the Government's Permanent Committees for the UXO Clearance Trust Fund in Lao PDR as mentioned below:

1. Mr Somphamh Phengkhammy, Minister of Ministry of Labour and Social Welfare is the President.
2. Mrs Khannika Phommachanh, Directress of Foreign Department, Ministry of Foreign Affairs is the Vice-President.
3. Major General Sawai Xayasena, Ministry of Defence is the Committee.
4. Lt. Colonel Budta Suthasad, Ministry of Interior is the Committee.
5. The Project Manager of UXO LAO is the Committee.
6. The Chief of Direction Committee in the provinces concerned, are the Committees.

### *Article 2*

The obligations, responsibilities, rights and duties of the Permanent Committees:

1. To cooperate with other departments as mentioned in the document of the Trust Fund for clearing UXO in Lao.
2. To study and constructing a National Planning propose to the Government relate to an implementation of the Trust Fund for the UXO Clearance and the Development in cleared zone.
3. To search for funds for supporting the Trust Fund.
4. To manage any expenses of the Trust Fund or other funds that will be related to the UXO Clearance.
5. To study and propose surveys to collect a statistic of the UXO (uncleared), cleared zone, numbers and statistic of the sufferance from the UXO in Lao.
6. To provide and exchange an information, advertise to the severity in the past of the UXO in Lao to the Domestic and International sources.
7. To study, decide and permit to the Project's Operations and deminer teams in provinces based on technical warranty and make a financial arrangement into their



proper activities.

8. To coordinate, control and support to all activities movement of the Project and in any sections that will use the funds from this trust and the funds that come from other sources for the operations specified above to guarantee successfully in high efficiency of this project.
9. To conclude the operation report of the Trust Fund's Project for the UXO Clearance to the high level officers in regular writing and in systematic.

*Article 3*

The Permanent Committees has an office independently. The President of the Board of Direction will appoint the obligations, responsibilities, rights and duties of this office.

*Article 4*

Providing and transferring of the Standard Technical Staffs into the UXO works in the center ad local, number and characteristics of these staffs should be agreed in-group and unity being between the local and the Ministry of Labour and Social Welfare.

*Article 5*

The name of "UXO LAO" will be transferred to "The Project of UXO Clearance in Lao PDR.

*Article 6*

The departments concerned, the assignees should be acknowledged and strictly perform as specified in this decree.

*Article 7*

The Decrees, Acts, and Regulations subject to an operation movement of the UXO Clearance announced and conflict with this decree will be cancelled.

*Article 8*

The decree shall come into force after signed in the decree.

## Annex 2.

# LAO PDR Trust Fund for Clearance of Unexploded Ordnance

### 1. Purpose of the Trust Fund

The purpose of the Trust Fund is to provide special resources for a coherent programme of unexploded ordnance (UXO) clearance, community awareness, surveys and other related initiatives. It will be an effective means of mobilizing and delivering donor assistance to reduce the destructive impact caused by the remnants of war still littering large parts of the Lao PDR. In so doing the Trust Fund will ensure a flexible framework for donor coordination while promoting strong Government leadership of the overall programme.

### 2. Nature of the problem

During the armed conflict between 1964 to 1973 the Lao PDR endured protracted and intense ground battles and some of the heaviest aerial bombing in the world history. The U.S. forces sent a total of 580,344 bombing missions, or the equivalent of one planeload of bombs every eight minutes around the clock for nine years. In the course of the bombing, well over two million tons of ordnance was dropped over the Lao PDR. The heaviest bombing took place in the northern provinces of Houaphan and Xieng Khouang, and along the course of the Ho Chi Minh Trail – the Vietnamese supply line that ran almost the full length of Laos' eastern border.

Much of the bombing consisted of anti-personnel cluster bombs that were to explode on or shortly after impact. Many of these bomblets (or bombies as they are known in the Lao PDR) failed to explode. The manufacturers estimated a failure rate of 10 per cent, but it is now generally agreed that the actual rate was 30 per cent because ordnance was often not dropped in accordance with manufacturers' 'specification'.

Extensive ground battles left a staggering amount of unexploded ordnance such as mortar shells, munitions, land mines and other contraptions of various origins. During the war, ground battles took place in the northern region (mainly Houaphan and Xieng Khouang provinces), as well as in the far south (Champasack and Attapeu provinces). For nine years opposing sides in the conflict advanced and retreated at yearly intervals across Houaphan and Xieng Khouang provinces.

More than 20 years after the end of the war, UXO dropped from the air and left over from ground battles still affects the provinces of Oudomxay, Luang Prabang, Houaphan, Xieng Khouang, Vientiane, Boulikamsay, Khammouane, Savannakhet, Saravane, Sekong, Champasack and Attapeu. The area affected represents over 50 per cent of the Lao territory.

UXO continues to main and kill at a steady rate 20 years after the war ended. When such

ordnance is struck by a farmer's hoe or otherwise disturbed it often explodes, injuring and killing people nearby. Although the majority of the UXO found is left-overs from the ground battles, ordnance dropped from the air seems to be causing the majority of injuries and deaths today. By the very nature of aerial bombing and due to the lack of data on ground battle UXO, it is now impossible to delimit the areas affected. The problem can be everywhere; in the fields, on the hill sides, inside villages, along roads, and in the center of towns.

Although the above account provides an alarming indication of the extent of the problem, accurate data on the impact of UXO in Laos are still being collected. The Mines Advisory Group (MAG), a British NGO, working jointly with the Mennonite Central Committee (MCC), are the first to launch a systematic clearance programme in the Lao PDR and are now gradually collecting data in Xieng Khouang Province where they are operating. Through a community based survey, they estimate that over 50 persons are killed or injured every year in one district alone, the Mouang Pec district. The number of victims in this one district since the war is estimated at roughly 1,100. In addition, MAG has collected data on 30 accident victims in Xieng Khouang province in the three months January – March 1995. The real figures are most probably much higher since only accidents near the provincial capital have been more fully recorded. Since communities are often isolated without communication or road links with the provincial capital, most accidents remain unreported.

One of MAG's most disturbing findings is that 44 per cent of accident victims in Xieng Khouang are children under 15 years of age. This high percentage is probably due to the fact that these victims were born long after the war ended and fail to recognize lethal ordnance for what it is. Bombies are the size of tennis balls and are evidently mistaken as playthings. The other main cause of accidents (35 per cent) is when farmers strike them when they till their fields.

The UXO problem in the Lao PDR has a double impact:

- It causes great human suffering with 55 per cent of the victims killed and the rest suffering horrible and often permanent injuries, mainly blindness and shrapnel wounds.
- It results in the denial of cultivable land for already poor and vulnerable communities. Large tracts of land can only be farmed at great risk, inhibiting efforts for food security and agricultural development. In Xieng Khouang rapid population growth following the return of people displaced by the war is forcing more people to farm ordnance-infested areas for the first time since the war. As pressure on land grows in the years to come accident rates are expected to increase. It is therefore considered as one of the root causes of poverty and food shortages in the affected provinces listed above.

### 3. Needs

The needs that must be met in order to find a sustainable solution to the problem of UXO in the Lao PDR are enormous. The above account of the nature of the problem clearly illustrates that UXO contamination is much more widespread than earlier believed and that it has a serious impact in terms of human suffering, poverty, food shortages and land denial. Action is needed now to return land to its natural usage.

Since nation-wide data is lacking on the exact extent of UXO contamination it is at a point not possible to put a figure to the amount of funds needed to clear all areas and ensure an adequate coverage of community awareness activities. MAG estimates that for Xieng Khouang alone, they would require approximately US \$10 million for a period of 5 years to accomplish a satisfactory level of clearance that would make significant areas safe for

habitation and cultivation. This is in addition to the US \$1 million already raised through the Mennonites Central Committee.

One of the first activities to be funded by the Trust Fund will be a nation-wide rapid assessment of the UXO problem which will then provide donors with an estimate of the total funding requirements and a list of priority areas for clearance. Although the task of making the Lao PDR ordnance-free is a daunting one, it must be noted that since the country is at peace, land that is cleared will stay cleared.

#### 4. Interventions to be supported by the Trust Fund

There is obviously an urgent need to address this problem in a coordinated and effective manner, focusing on the one hand on clearing land and inhabited areas from ordnance, and on the other mounting community awareness and prevention programmes to limit the number of accidents.

The following categories of interventions shall be eligible to receive support from the Trust Fund:

1. Survey of UXO – infected areas and needs assessments (with initial UNDP funding).
2. Seed money to start activities when other funds are slow in coming, or to bridge gaps in funding (with initial UNDP funding).
3. Community-oriented projects clearing inhabited or cultivated / cultivable land, combined with community awareness campaigns.
4. Clearance of land needed for development projects such as construction of roads, schools, hospitals, irrigation schemes, etc.
5. Community awareness programmes in areas where ordnance clearance is not yet taking place.
6. Technical assistance to strengthen the Lao Government's overall coordination of the UXO clearance programme, both at central and provincial levels, to assist the Government in formulating a policy framework and workplan for the programme (with initial UNDP funding).
7. Practical research and training into innovative alternatives of UXO clearance techniques appropriate to the UXO problem in the Lao PDR.
8. Assistance to provincial and district health services to strengthen the capacity to deal with accident victims, especially with regards to emergency treatment of trauma injuries, or rehabilitation.
9. Food security or income-generation assistance in areas where widespread UXO contamination causes food shortages and malnutrition.
10. Exploring the potential for establishing Lao commercial capability for UXO clearance in connection with development projects.
11. Other activities so determined at a later date, which will enable the programme to achieve its operational goals.

Although the Trust Fund is a flexible modality to channel funds to a wide range of necessary initiatives related to UXO clearance, certain special considerations must be taken into account when interventions are selected for funding:

- In view of the continued high number of victims being claimed by UXO and the development impact on rural communities, the people-centred and community-oriented bias of the Trust Fund must be maintained. The majority of the funds shall be used for community-oriented and people-centred projects to clear inhabited and cultivable land, combined with community awareness campaigns (category 3 above).
- In order to ensure sustainability and cost-effectiveness, priority shall be given to clearance projects involving training and utilization of Lao technicians and efforts to strengthen Lao capabilities for managing and implementing clearance and community awareness programmes. In particular and to the extent possible, all

projects shall endeavour to strengthen the capacity of Provincial authorities to manage and coordinate clearance efforts and ensure that UXO-related activities are properly integrated into provincial planning processes. As an exception, when clearance efforts are of a short term, small scale and/or urgent nature, proper training of Lao staff and capacity building efforts would not be practical and therefore not necessary.

- Priority should be given to clearance of land accompanied by community awareness programmes. Only in the exception mentioned in the previous point would the Trust Fund support activities not accompanied by community awareness.
- Clearance of land needed for commercial projects or private sector investments shall not be eligible for support from the Trust Fund, since the cost of such interventions should be born by the investor, unless the investor is contributing to the Trust Fund in excess of the amount of the funds needed for the clearance required for the project. In other words investors can use the Trust Fund to clear land needed to implement their projects provided they pay for the clearance and also contribute funds to the overall effort.

Projects funded by the Trust Fund may be executed by the Government itself, the Provincial Governments, NGO's, UN Agencies, bilateral donor agencies or private enterprises

## 5. Management of the Trust Fund

The overall responsibility of the UXO clearance programmes rests with the Government of the Lao PDR in close cooperation with the Resident Coordinator of the United Nations in the Lao PDR, supported by UNDP Headquarters and the United Nations Department of Humanitarian Assistance, and UNICEF (see section 7).

The UXO clearance programme shall be managed by a steering committee chaired by the Lao Government, with representatives from the ministries and provincial authorities to be designated by the Government, as well as representatives from UNDP and UNICEF. Bilateral donors and a representative of the NGO community will participate as determined by the steering committee. The Steering Committee shall be responsible for:

- Review and selection of project proposals to be funded by the Trust Fund, in accordance with the guidelines provided in this document.
- Ensuring that projects are technically reviewed in accordance with standard operating procedures and that executing agencies have the experience and technical capacities to carry out proposed activities.
- Matching donor contributions (earmarked or un-earmarked) with project proposals as appropriate.
- Ensuring overall coordination and monitoring of progress of all interventions funded by the Trust Fund, or directly by donors, to avoid duplication and guarantee optimal use of available resources.

UNDP will be responsible for the management of the UNDP Trust Fund Account, which entails:

- Administration of the UNDP Trust Fund Account.
- Active resource mobilisation; including the provision of information about the UXO situation in Laos to the international community.
- Regular monitoring and reporting to donors and the Lao Government on the use of the Trust Fund.
- Providing the secretariat to the Steering Committee (see 7).
- Administrative support to donors (for monitoring visits, reporting, information, etc).
- Continued advocacy and awareness raising targeted at policy makers and general public in the Lao PDR.

## 6. Supplementary UNICEF funding window

As a supplement to the main Trust Fund, donors can make contributions to UNICEF for interventions launched in the context of UNICEF's regular programme. All such interventions will be part of an integrated plan of activities for the UXO clearance programme initiative. This "funding window", managed by UNICEF, is specifically intended to support community awareness programmes to reduce the number of accidents caused by UXO.

The reason for this two-window approach is that UNICEF and UNDP will embark on parallel and complementary fund raising campaigns reflecting their respective mandates and specialisation. In view of the high rate of children and woman victims, UNICEF will approach its National Committees for fund raising for this important cause, as well as donors interested in community awareness interventions.

Community awareness activities will therefore be funded either from the main trust fund or through the UNICEF funding window as appropriate.

## 7. Government institutional framework and policy on UXO

The Government of the Lao PDR gives top priority to the clearance of Unexploded Ordnance, a problem which continues to affect the well-being of the Lao people and to hinder efforts to develop the country. The Government has therefore requested UNDP to assist in the establishment of this Trust Fund in order to mobilise resources for the clearance of UXO combined with community awareness and accident prevention. Through the approval of this document, the Government makes an appeal to all donors, international organisations and NGOs to contribute to the Trust Fund.

The Government has already taken a number of steps to facilitate the coordination of a nation wide UXO-clearance effort. The Ministry of Labour and Social Welfare has been designated as the ministry responsible for coordination, overall management and monitoring of UXO clearance programmes. This would include maintaining up-to-date information on clearance efforts carried out by investors and private companies in order to ensure coordination between public and private sector UXO related activities. Following screening by the Steering Committee (as described in Section 5), UXO related project proposals are approved by the Government in accordance with normal procedures involving initial technical clearance of the Ministry of Labour and Social Welfare and the final approval of the Foreign Assistance Management Committee at the Committee of Planning and Cooperation.

The responsibility of the Government vis-a-vis the Trust Fund shall be to coordinate and monitor the over-all programme. For this purpose, the Ministry of Labour and Social Welfare shall prepare a yearly workplan to serve as a guide to UXO clearance efforts and to determine which areas should be cleared as a priority. The first workplan shall be submitted to the Steering Committee within six months of the signing of this Trust Fund and following completion of a nation wide survey of the UXO problem to be one of the first activities to be supported by the Trust Fund. The workplan shall then be reviewed and cleared by the Steering Committee.

The Trust Fund shall provide assistance to the Lao Government at both central and provincial levels to strengthen the capacity for coordination and management of UXO clearance activities (category of intervention no.6 above).

## 8. Contributions

Contributions can be of two kinds:

- Un-earmarked contributions, the use of which is determined by the Steering Committee.
- Earmarked contributions, by which the donor can select a particular type of intervention, a project, an executing agency or any combination thereof, subject to the approval by the Steering Committee.

Contributions to the Trust Fund can also be made in different forms:

- Cash contributions.
- In-kind contributions, by providing personnel equipment and/or food aid, in support of the UXO clearance programme.

#### **9. Government Approval of the Trust Fund**

Formal Government approval of the Trust Fund proposal shall constitute an official request to all donors for contributions to the Trust Fund.

#### **10. The Lao PDR Trust Fund is approved by:**

On behalf of the Government of the Lao PDR

Name: Soubanh Srithirath

Title: Vice-Minister of Foreign Affairs

Date: 1 August 1995

On behalf of the United Nations Development Programme

Name: Jan Mattsson

Title: Resident Representative UNDP

Date: 1 August 1995

On behalf of the United Nations Children Fund

Name: Anne Sutherland

Title: Representative UNICEF

Date: 1 August 1995





## Chapter 10.

# Mozambique

### Background

After the Rome Peace Accord in 1992, a mine clearance programme began in Mozambique under the auspices of the United Nations Mission in Mozambique (UNOMOZ). At the end of 1993, after lengthy discussions between the United Nations and the donor community as to the long-term form of mine action in Mozambique, a mine clearance programme was launched under the auspices of the UN, known as the Accelerated Demining Programme (ADP).<sup>1</sup> It began to train and deploy some 400 deminers in the southern provinces of Mozambique and field operations were initiated in late 1994.

### Mine action legislation

On 3 May 1995, under Decree 18/95, approved by the Council of Ministers, the Mozambican government set up the National Demining Committee (CND – *Comissão Nacional de Desminagem*) to coordinate mine action in Mozambique. This institution was the first to define the policies, strategies, organization, control, and supervision of demining activities in the country. However, the need to speed up, and provide consistency and stability to the process, and to enforce the Anti-Personnel Mine Ban Convention, which Mozambique ratified in August 1998, led the government to create a new institution to manage demining, involving other government institutions, civil society and other partners in the effort to ban landmines. Thus, on 10 June 1999, the Council of Ministers approved Decree 37/99, which disbanded the CND and created a semi-governmental institute called the National Demining Institute (IND – *Instituto Nacional de Desminagem*). This decree is attached to the case study as Annex 1.

Decree 37/99 lays down the legal and institutional framework of the IND and defines its mandate. The structure of the IND differs to that of its predecessor, the CND. Article 5 of the decree establishes the competence to propose, for the approval of the Government, demining policies, strategies, priorities and plans, as well as to direct, coordinate and to have overall control of activities related to mines. Resolution 17/99, which was approved by the Council of Ministers on the same day, determines

national mine action priorities and strategy. This instrument is known as the Demining Policy and Strategy (DPS) (attached as Annex 2).

Approval for IND staffing is embedded in Ministerial Diploma 39/2000, and aims at providing the institution with the necessary human resources. The Diploma was signed by the Minister of State Administration, the Minister of Planning and Finance, and the Minister of Foreign Affairs and Cooperation. In January 2000, a Dispatch from the Prime Minister created IND regional offices in all provinces.

Draft legislation to implement the Anti-Personnel Mine Ban Convention, including penal sanctions for violations,<sup>2</sup> was submitted to the Mozambican Parliamentary Committee for Public Order and Defense in August 2000. It has not yet been adopted.

## Mine action structure

### *National mine action strategy*

The National Strategy for Mine Action in Mozambique, as set out by the government, identifies the following eight goals:<sup>3</sup>

1. To create a long-term national capacity.
2. To create mechanisms to meet the needs of communities and to create participation by civil society at national, regional, district and provincial levels.
3. To promote an integrated approach for determining the National Mine Action Policy and Plan to support socio-economic reconstruction and development.
4. To promote technology development.
5. To collect, verify, classify and disseminate mine action information.
6. To coordinate mine awareness to prevent accidents.
7. To coordinate assistance for mine victims.
8. To facilitate mine action in Mozambique with special reference to quality assurance management.

The national objective is to have a mine-free Mozambique by the year 2012.<sup>4</sup>

### *The National Demining Institute (IND)*

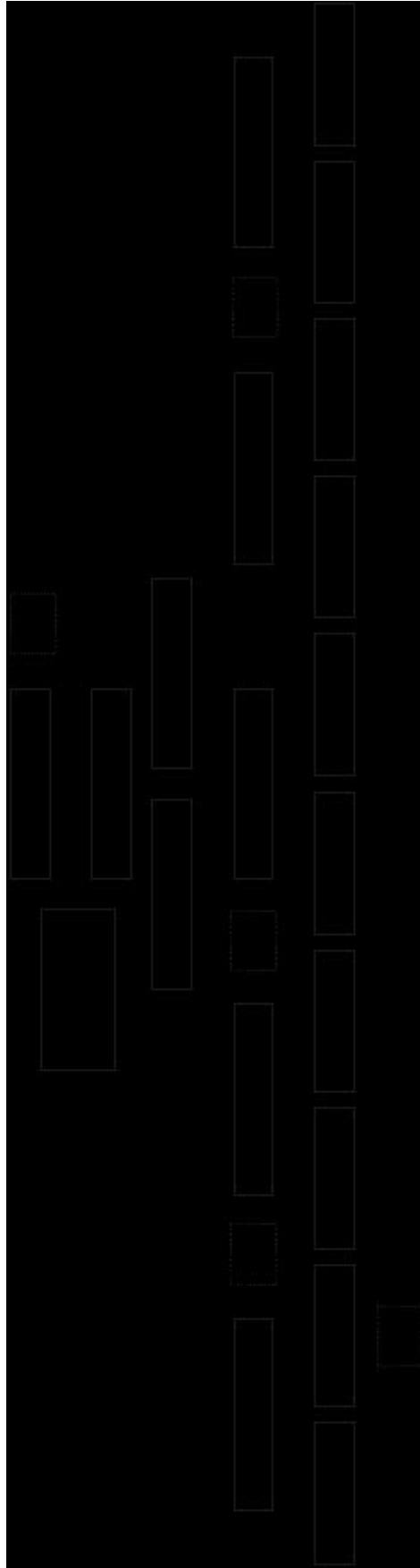
The mandate of the IND is:

*“To successfully establish and develop coordination, supervision and management mechanism, in close cooperation with all other relevant organizations and agencies, to ensure the cost-effective execution of a National Mine Action Plan.”* Furthermore, in the pursuit of its objectives: *“The IND shall have the competency to propose policies and strategies, the definition of priorities and plans of activity as well as to direct, coordinate and control activities in respect of mines in Mozambique.”*

The IND is subordinate to the Ministry of Foreign Affairs and Cooperation.

The structure of the IND includes five departments: Studies, Planning and Information; Operations; International Relations; Administration and Finance; and Human Resources. These are further subdivided into ten divisions, as set out in Figure 1 below. The IND has two regional offices: for the centre of the country (Beira) and for the north (Nampula). The IND recognizes its short to medium-term dependence on international support for technical assistance. Accordingly, the IND currently

Figure 1. Structure of the National Demining Institute



comprises a total of 50 national staff and five expatriate Technical Advisors (one Chief Technical Advisor and four Technical Assistants).

Decree 37/99 establishes three governing councils which govern the IND, namely: the Management Council; the Technical Council; and the Council of Cooperating Partners. All these Councils report to the Ministry of Foreign Affairs and Cooperation.<sup>5</sup>

### The Technical Council

The Technical Council is made up of the members of the Management Council (IND Director and Deputy Director and heads of IND departments) and of representatives from various ministries: Foreign Affairs and Cooperation, Planning and Finance, National Defence, Interior, Public Works and Housing, Agriculture and Fisheries, Coordination of Social Action, Labour and Health. According to Decree 37/99, the Technical Council is a consultative body with the responsibility of providing advice on the Institute's organisation, programming and operations. The Council of Cooperating Partners is responsible for reviewing the Institute's management, analysing operations and evaluating performance.

The Technical Council normally meets four times a year in ordinary sessions and in extraordinary sessions whenever the IND Director or its members convene meetings. For the purposes of attaining specific objectives, the Director may invite other entities to participate in Technical Council meetings .

The IND has also created coordinating mechanisms at the national, regional and provincial level. These include the following:

1. An inter-departmental Steering Committee chaired by the Director of the IND to ensure that mine action efforts are directed towards achieving the national objectives for reconstruction and socio-economic development in Mozambique. The specific objectives of this Committee are to:
  - develop criteria for the determination of the National Mine Action Priorities;
  - develop similar mechanisms at regional, provincial and district level;
  - determine mine action priorities within each Ministry/Department;
  - annually coordinate the execution of these priorities; and
  - annually revise and update these priorities.
2. A Technical Working Group to ensure good coordination of all mine action efforts and that all activities are executed within the national priorities.
3. Regional coordination offices to ensure that all mine action activities in the regions and provinces are executed within the national priorities.

### Funding

Since its creation, the IND has been promoting the idea of a National Mine Action Fund (NMAF) to the donor community in Mozambique. The concept of the NMAF is encapsulated in Chapter I, point 6 of the Council of Ministers Resolution 17/99, wherein it is defined as “*an instrument for the collection and management of the utilisation of financial resources made available to support mine action activities*”. It is regarded by the IND as the “*necessary condition to implement with greater speed and accuracy the Demining Strategy*”.<sup>6</sup>

### Mine action priority setting

National demining priorities are set out in the Demining Policy and Strategy and consist of the following:

- The resettlement of the population in areas where it has access to social infrastructure, such as educational centres, hospitals, commercial centres and other vital basic infrastructure;
- Specific objectives for areas of socio-economic interest with special reference to areas already identified as high potential agricultural land, roads and bridges, railway lines, energy and industry.

The order of priorities presented in the strategy is subject to a process of planning in which a more detailed planning of demining actions will determine the appropriate order based on the objectives to be attained. The legislation also makes it clear that the nominal definition and scheduling of demining priorities are global and sector plans of government at the national, provincial, district, municipal and community levels. This means that the scheduling and identification of priorities, at each one of these levels of government, will form part of their global and sectoral plans.

### *Mine action operators*

Bodies, agencies and institutions able to carry out mine action activities are set out in the Demining Policy and Strategy. These are: the Government of Mozambique itself; Demining and Quality Assurance Operators (NGOs and commercial companies); the Mozambican Armed Forces (FADM); “partners” (the UN and the donor community); and “civil society”.

The Government of Mozambique is required by law to, inter alia, create a legal framework for demining; to define priorities and elaborate plans of action; to mobilise and allocate resources; to launch open tenders and award contracts for demining work, conduct assessments, and to audit and supervise demining activities.<sup>7</sup>

NGOs are involved primarily in community mine clearance and “fire brigade” work. Commercial companies have largely focused on smaller, focused clearance of infrastructure and commercial or agricultural investments. The Mozambican Armed Forces are involved in demining and stockpile destruction. Currently, the FADM has three teams of approximately 70 deminers each in the north, centre south of the country. Mine clearance has concentrated on high economic impact locations, such as power lines and railroad infrastructure. It is expected that in the future, when the mine threat has been considerably reduced, the FADM will provide a long-term national mobile clearance capacity of the “fire brigade” type.

### *Roles and responsibilities for mine action*

#### *Mine survey, mapping and clearance*

Decree 37/99, Article 5 (h) and (r), establishes that the IND has the power to maintain a database and system of current information on mines and mine action, and to prepare and sell thematic maps. In 2001, the IND received the results of the Landmines Impact Survey (LIS) produced by the Canadian International Demining Centre, funded by Canada. The results of the LIS were entered into the IND database under the IMSMA system. The results revealed that some 1.5 million persons in the entire national territory are affected in a total of 1,374 suspected mined areas, 791 villages and 125 districts.

#### *Mine awareness*

Article 5(k), Decree 37/99, establishes that the IND has the power (but not the duty)

to coordinate activities to make the public aware of the danger of mines and other explosive devices. Resolution 17/99 establishes that under the Demining Strategy, the IND has the objective of *“preventing mine accidents through the establishment and conduct of civic education programs about mine awareness, with special focus on vulnerable communities.”*

### **Victim assistance**

The Government of Mozambique defines victims or survivors of landmines as *“anyone who may have been physically wounded or psychologically affected by the detonation of landmines or UXO. A victim or survivor is also referred to anyone who may be psychologically affected by the fear of a potential injury.”* Assistance to victims or survivors of landmines is defined as *“a set of all measures of support, relief and comfort destined to victims or survivors of landmines for the purpose of reducing immediately and in the long-term medical and psychological implications resulting from its trauma. It also includes rehabilitation and reintegration.”*<sup>8</sup>

### **Stockpile destruction**

In Mozambique there is no national legislation per se requiring the destruction of stockpiles. Under its general and specific objectives, the national demining strategy only goes so far as stating that *“it must be avoided that landmines are again planted in the country”* and that *“the necessary mechanisms to this effect and for its supervision must be created”*. However, the fact that Mozambique is a party to the Anti-Personnel Mine Ban Convention, commits it to adhere to Article 4 which requires that States Party must have their stockpiles destroyed not later than four years after the relevant entry into force of the treaty. Since Mozambique became a party to the Convention on 1 March 1999, it has until 1 March 2003 to destroy all its stockpiles.

The first stockpile destruction under the Anti-Personnel Mine Ban Convention took place in September 2001 in the south of the country, and subsequent destructions are planned in other regions. A total of 37,500 mines remain to be destroyed and the FADM has already submitted to the IND a detailed workplan and budget for their destruction.

## Notes

1. The ADP, which has been operating since 1995 as a UNDP project, became a nationally executed programme in 1997, and is currently undergoing a transition process to become a national non-governmental organisation. This process began in March 2001 and is expected to be completed by the end of March 2004.
2. See ICBL (2001:108, footnote 1).
3. Resolution 17/99, of June 10, 1999, Chapter III, Point 1, *Boletim da República*, I Série, No. 23, 2º Suplemento.
4. The Five-Year National Mine Action Plan – 2002-2006, IND, Maputo, November 19, 2001.
5. Article 2 – Subordination.
6. At the moment, the NMAF does not exist and the concept so far has only been presented by the IND to the various donors on different occasions.
7. Resolution 17/99, of June 10, 1999, Chapter III, Point 3, Line d), *Boletim da República*, I Série, No. 23, 2º Suplemento.
8. Resolution 17/99, of June 10, 1999, Chapter I, Point 3, *Boletim da República*, I Série, No. 23, 2º Suplemento.

## Annex 1.

# Decree 37/99

Republic of Mozambique  
Council Ministers  
Decree No. 37/99 of 10 June<sup>1</sup>

The National Demining Commission, created by Decree No. 18/95 of 3 May was the first instrument created by the Government for the definition of policy, strategies, organisation, management, control and supervision of mine action in Mozambique. The beneficial effects resulting from the removal of mines and the necessity of giving greater rapidity, consistency and stability in the conduct of the process of demining as well as the need to implement the international conventions to which Mozambique is a party, namely the Ottawa Convention on the banning of anti-personnel mines, provide the basis for the establishment of a new institution for the management of mine clearance and new forms of involving government institutions, civil society and partners in co- operation in the effort to eradicate land mines.

Pursuant to the provisions of Article 153.1 (e) of the Constitution of the Republic, the Council Ministers decrees:

**Article 1.** The National Demining Commission created by Decree No. 18/95 of 3 May is extinguished.

**Article 2.** The National Demining Institute, also known by the abbreviation IND, is established and shall be governed by the charter annexed to and incorporated as part of this Decree.

**Article 3.** IND is a public institution, with legal personality and technical, administrative and financial autonomy.

**Article 4.** The National Demining Institute is subordinate to the Ministry of Foreign Affairs and Cooperation.

**Article 5.** IND has its headquarters in Maputo and may, upon approval by the Minister of Foreign Affairs and Co-operation, establish or close, as may be justified, delegations or other forms of representation in any part of Mozambique.

**Article 6.** IND has the competence to propose, for the approval of Government, demining policies, strategies, priorities and plans as well as to direct, coordinate and to have overall control of activity in respect of mines.

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1. Unofficial translation.



Article 7. The personnel and assets of the National Demining Commission, now extinct, are integrated into IND.

Approved by the Council Ministers.

Let it be published.

The Prime Minister, Pascoal Manuel Mocumbi

## The Charter of the National Demining Institute

### CHAPTER 1

#### NATURE, SUBORDINATION, REPRESENTATION AND DUTIES

##### **Article 1. Nature**

1. The National Demining Institute, also known by the abbreviation IND, is a legal person, governed by public law, with technical, administrative and financial autonomy.
2. IND is governed by this charter, internal regulations and other legislation which is the applicable to entities with legal personality governed by public law.

##### **Article 2. Subordination**

The National Demining Institute is subordinate to the Ministry of Foreign Affairs and Cooperation.

##### **Article 3. Scope and Jurisdiction**

1. IND shall carry out its activities throughout the national territory of Mozambique.
2. IND shall have its headquarters in Maputo and may, upon approval of the Minister of Foreign Affairs and Cooperation and whenever the exercise of its activity so justifies, establish or close within the national territory, delegations, agencies or any other form of Representation.
3. As part of its duties, IND may be a member of national, foreign or international organisations.

##### **Article 4. Objectives**

The IND shall have the competency to propose policies and strategies, the definition of priorities and plans of activity as well as to direct, coordinate and control activities in respect of mines in Mozambique.

##### **Article 5. Powers**

The powers of IND include:

- a) to propose governmental policies and strategies any area of demining;
- b) to propose short, medium and long-term demining plans, taking into account the programs of government;
- c) to direct the execution of Government approved demining plans;
- d) to facilitate, coordinate, direct and control the execution of demining activity;
- e) to define and approved standards in respect of demining;
- f) to mobilise national and international solidarity and manage the support given;
- g) to ensure the participation of civil society in the tasks of demining;
- h) to maintain a data bank and a system of current information on mines and the activities being taken against them;
- i) to accompany and supervise all demining activity at the national level;
- j) to ensure the quality of demining activity;
- k) to coordinate activities to make the public away are of the danger of mines and

- other explosive devices;
- i) to organise tenders for demining;
- m) to provide entities with their own funds technical assistance in the selection of demining technicians;
- n) to promote the creation and developments of the national demining capacity;
- o) to license demining technicians;
- p) to promote training in mine clearance;
- q) to facilitate the importation and sale of demining equipment and materials;
- r) to prepare and sell thematic maps;
- s) to coordinate and co-operate with the defence and security forces to eradicate explosive devices;
- t) to facilitate assistance to victims of mines.

## **CHAPTER II ORGANISATION**

### ***Article 6. Organisational Bodies***

The IND has the following organisational bodies: the Directorate, the Management Council and Technical Council.

### ***Article 7. Organisational Structure***

The IND has the following organisational structure:

- a) Department of Research, Planning and Information;
- b) Department of Operations;
- c) Department of International Relations;
- d) Department of Administration and Finance;
- e) Department of Human Resources;
- f) Delegations.

## **SECTION I. DIRECTORATE**

### ***Article 8. Composition***

The Directorate is composed of a Director and a Deputy Director.

### ***Article 9. Appointment and Substitution***

1. The Director and the Deputy Director are appointed by the Minister of Foreign Affairs and Cooperation.
2. The Deputy Director shall substitute the Director when the Director is absent or incapacitated.

### ***Article 10. Power and Authority of the Director***

The Director has, in general, the following powers and authority:

- a) to ensure observance of the general demining priorities;
- b) to submit to the Minister of Foreign Affairs and Cooperation proposals for the definition of policies, strategies and standards to govern national demining activities;
- c) to submit for the approval of the Minister of Foreign Affairs and Cooperation and present reports on their fulfilment;
- d) to authorise operations and services included as part of the duties of the Institute and to determine, in consultation with the Management Council, the terms and conditions thereof, in accordance with the applicable legal standards and regulations;
- e) to authorise expenditure by IND;
- f) to establish the internal organisation of the Institute and to prepare, in consultation with the Management Council, such regulations and directives as deemed

- appropriate;
- g) to authorise, in consultation with the Management Council, the licensing of demining technicians;
  - h) to represent the Institute, actively and passively, both in court and outside, and to litigate, settle or withdraw judicial actions or to enter into binding arbitration;
  - i) to employ, discipline, promote, remove, dismiss or retire the personnel in the service of the Institute;
  - j) to exercise such other powers and authorities which are attributed to the director by law and to decide any other matters which are not attributed to other bodies within the IND.

#### ***Article 11. Specific Powers and Authorities of the Director***

The Director shall of the following specific powers:

- a) to convene the Management Council and the Technical Council;
- b) to preside at the meetings and oversee the tasks of the Management Council and the Technical Council;
- c) to implement the recommendations approved by the Management and Technical Councils and to supervise the implementation of such recommendations;
- d) to establish, in consultation with the Management Council, other organisational entities in addition to those defined in Article 7 whenever the quantity or specialisation of the activity requires;
- e) to oversee and supervise all the services carried out by the Institute.

## **SECTION II. MANAGEMENT COUNCIL**

#### ***Article 12. Composition and Competence***

1. In addition to the Director and the Deputy Director, the persons responsible for the following department which make up the organizational structure of the Institute shall be members of the Management Council:

- a) Research, Planning and Information;
- b) Operations;
- c) International Relations;
- d) Administration and Finance;
- e) Human Resources.

2. The Management Council has the following specific powers:

- a) to determine the general orientation of the management and execution of the activities of IND in order to carry out the principal objectives and duties of IND;
- b) to approve the acquisition of moveable and immovable assets and rights and make investments when considered appropriate for the Institute;
- c) to decide on the opening and closure of delegations.

#### ***Article 13. Meetings***

1. The Management Council shall meet ordinarily once a month and extraordinarily whenever the Director considers it necessary, or if one of its members requests such a meeting. The presence of a majority of the members of the Council is required for a quorum for a meeting.

2. The Director may, as necessary, invite other staff members of IND to attend the meetings of the Management Council.

3. The notice of the meeting shall be given in writing, 72 hours before the scheduled meeting and shall include the meeting agenda.

4. The Director shall appoint a secretary to prepare the minutes of the meeting.

### SECTION III. TECHNICAL COUNCIL

#### *Article 14. Nature*

1. The Technical Council is a consultative body and has the responsibility of providing advice on IND's programming and organisation and analysing the operations of IND as requested by the Minister of Foreign Affairs and Cooperation or by the Director.
2. The Technical Council shall give its opinion on the report of IND's activities and the programme for the following year.

#### **Article 15. Composition**

The Technical Council is composed of members of the Management Council and of representatives of the Ministries of Foreign Affairs and Cooperation, Planning and Finance, National Defence, Interior, Public Works and Housing, Agriculture and Fishing, Coordination of Social Affairs, Labour and Health.

#### **Article 16. Proceedings**

1. The Technical Council shall meet ordinarily four times a year and extraordinarily whenever the Director of IND convenes a meeting or the members of the Technical Council request the convening of a meeting.
2. The Director may, for special matters, invite other entities to participate in the meetings of the Technical Council.

### SECTION IV. PARTNERS IN COOPERATION

#### **Article 17. Meetings with Partners in Cooperation**

The Minister of Foreign Affairs and Cooperation shall meet with the partners in cooperation for the following purposes:

- a) to review the organisation and programming of IND's activities;
- b) to analyse IND's operations and evaluate its performance;
- c) to review matters that are considered important for the conduct of actions in respect of landmines in Mozambique and have been submitted for its consideration by the Minister of Foreign Affairs and Cooperation,
- d) to exchange information concerning landmine activities.

#### **Article 18. Participants**

1. The members of the Technical Council, Management Council, representatives of the United Nations donors, civil society and demining technicians shall participate in the meeting with partners in cooperation.
2. When considered necessary and as may be relevant, the Minister of Foreign Affairs and Cooperation may invite representatives of other sectors.

#### **Article 19. Periodicity**

The partners in co-operation meeting shall be held ordinarily twice a year and extraordinarily whenever convened by the Minister of Foreign Affairs and Cooperation.

### SECTION V. PRINCIPAL DUTIES OF THE ORGANISATIONAL UNITS OF IND

#### **Article 20. Department of Research, Planning and Information**

The Department of Research, Planning and Information shall:

- a) plan and accompany the implementation of IND activities;
- b) research, draft, monitor and evaluate the implementation of programmes and projects;
- c) collect, process, analyse and distribute information on landmines and other explosive

- devices;
- d) maintain a database on landmines and other explosive devices;
- e) prepare documentation for tenders;
- f) prepare, promote and monitor, in coordination with other departments and entities, the implementation of mine clearance training programmes;
- g) prepare, in cooperation with the other departments and with other entities, the IND's periodic reports.

#### **Article 2.1 Department of Operations**

The Department of Operations shall:

- a) plan, coordinate and monitor the investigation of landmines and other explosive devices;
- b) carry out, coordinate and monitor the quality control operations and the inspection of mine clearance activities;
- c) provide technical support in the preparation of tender documentation;
- d) investigate accidents involving landmines and other explosive devices;
- e) regulate, coordinate and monitor programmes for the prevention of accidents involving landmines and other explosive devices;
- f) maintain a data bank of accidents involving landmines and other explosive devices;
- g) exchange technical information regarding landmines and other explosive devices with all other relevant entities.

#### **Article 22. Department of International Relations**

The Department of International Relations shall:

- a) mobilise and coordinate external support;
- b) monitor cooperation programmes;
- c) establish links with partners in cooperation;
- d) accompany regional and international conferences and organisation.

#### **Article 23. Department of Administration and Finance**

The Department of Administration and Finance shall have the following duties:

- a) financial planning;
- b) accounting;
- c) asset management;
- d) provision of support services (protocol, translation, and interpretation, processing of documents, correspondence, transport and logistics).

#### **Article 24. Department of Human Resources**

The Department of Human Resources shall:

- a) plan, coordinate, control and manage human resources in IND;
- b) maintain the staff levels current at IND by ensuring the implementation of personnel selection, employment and promotion standards;
- c) propose and implement the professional training programme for IND staff and employees;
- d) carry out orientations in respect of the application of labour legislation at the central level and in the subsidiary entities.

#### **Article 25. Delegations**

Delegations of IND shall:

- a) coordinate and monitor demining and landmine accident prevention activities within the area of their jurisdiction;
- b) establish links between IND, provincial governments and other entities within the scope of the exercise of IND's objectives;
- c) establish links with the departments of IND to provide them with data.

### CHAPTER III. AUTHORITY OF THE INSTITUTE

#### **Article 26. Authority**

The Institute is bound by:

- a) the signature of the Director;
- b) the signature of the Deputy-Director or the head of a department within the limits of the powers conferred by the Director.

### CHAPTER IV. ASSET AND FINANCIAL MANAGEMENT

#### **Article 27. Patrimony**

The patrimony of the Institute shall be composed of all of goods, rights and other values donated by the State, public and private entities, agencies of cooperation as well as those acquired in the exercise of its duties.

#### **Article 28. Receipts**

The receipts of the Institute are composed of:

- a) donations, subsidies, share participations or any gifts given by any foreign or national, private or public entities;
- b) remuneration from the supply of services;
- c) the contributions from the State for the Institute's operations and to carry out the duties described in Article 5;
- d) the remuneration from assets allocated to the Institute and from the activities of the Institute;
- e) the fines and fees that the Institute is allowed to collect. The use of the funds received from fines and fees shall be determined by a joint order of the Minister of Foreign Affairs and Cooperation and the Minister of Planning and Finance.

#### **Article 29. Expenditure**

The Institute shall have the following expenditure:

- a) the costs of the operations and the implementation of the duties and competence of the Institute;
- b) the costs of acquisition, maintenance and conservation of the goods, equipment or services that the Institute must use.

#### **Article 30. Management Standards**

The financial and asset management of the Institute, including the organisation of its accounts shall be governed by the standards applicable to public entities.

#### **Article 31. Budget, Reports and Accounts**

1. The annual budget of the Institute is approved by the Minister of Foreign Affairs and Cooperation and the Minister of Planning and Finance.
2. The annual report and accounts shall be submitted by March 31 of the year following the year concerned to the Administrative Tribunal for its approval.

### CHAPTER V. FINAL PROVISIONS

#### **Article 32. Internal Regulations and Staff**

1. The Director of IND shall, in accordance with the law, within sixty days, submit the internal regulations and the list of staff for approval.
2. The Institute may also employ, under a contract for services, foreign and national individuals and technicians of recognised merit and specialisation outside of IND staff to carry out research or specialised tasks. The remuneration shall be fixed by mutual

agreement between the parties.

**Article 33. Status of Personnel**

1. The personnel of the Institute referred to in article 32.1 is governed by relevant provisions of this Charter and Internal Regulations and otherwise by the rules applicable to State employees.
2. Those cases referred to in article 32.2 are excluded from the provisions of the preceding clause and are instead governed by their individual employment contracts.

**Article 34. Staff Mobility**

Employees of the State and of subordinated agencies, as well as employees of public companies may be called to carry out duties in the institute subject to the regime of commission of service with the guaranteed right to return to their original work post and the rights acquired in respect thereof.

## Annex 2.

# The Demining Policy and Strategy

### **Resolution 17/99 of 10 June 1999**

The Program of the Government attributes a particular importance to social reintegration, rehabilitation and socio-economic development thus presupposing the removal of all objects which, especially in the rural areas, represent a hindrance to these objectives. Among these, the eradication of landmines, especially anti-personnel mines and other explosive ordinance, are of importance.

The Demining Policy and Strategy constitutes therefore the greatest fundament for the pursuit of these objectives.

Along these lines, and according to line e) No. 1 of Article 153 of the Constitution of the Republic, the Council of Ministers determines that: It is Unique. The Demining Policy and Strategy in annex is approved and forms an integral part of the present Resolution.

Approved by the Council of Ministers.

Let it be published.

The Prime Minister, Pascoal Manuel Mocumbi.

### **The Demining Policy and Strategy**

#### **Introduction**

Mozambique suffered wars which resulted in the planting of explosive ordinance, including mines. The mines, in particular landmines, not only represent a danger for human and animal lives, but also a hindering factor in the free circulation of people and goods and for national reconstruction.

The Government of the Republic of Mozambique created, in the context of Decree 18/95, of May 3<sup>rd</sup>, 1995, a National Demining Committee, with the objective not only to manage the demining process, but also to regulate its organization and execution.

The demining policy and strategy signify the concentration of inter-sectoral efforts, centrally coordinated by the directing body of this process as well as the facilitation of assistance to the victims of landmines.

The Government of Mozambique, conscious of its responsibility of implementing principles and norms that lead to fighting the suffering caused by landmines in the country and consequently, to the safety of persons and goods, with the final objective of socio-economic development in the country, has adopted the norms of the Ottawa Convention concerning



the banning and use of anti-personnel mines.

In this framework, and according to the terms indicated below, the Demining Policy and Strategy is defined which encompasses definitions, general and specific objectives, the demining strategy and management body of the demining policy and strategy.

## **CHAPTER I**

### **Definitions**

For the purposes of the demining policy and strategy the following are understood to be definitions:

#### *1. Mine Action:*

This is a set of all activities which have the objective of solving the problems faced by civilians, resulting from the planting of landmines. These activities have the objective of creating an environment in which the populations can live in safety and in which the economic and social activities can develop without hindrances imposed by the implantation of landmines and in which the needs of the victims are attended to. The main components of mine action are the activities of prevention against mine accidents, demining and mine victim assistance.

#### *2. Victim or survivor of mines:*

Anyone who has been physically wounded or psychologically affected by the detonation of landmines or unexploded devices.

Victim or survivor also refers to anyone who is psychologically affected by the fear of a potential wound.

#### *3. Assistance to victims or survivors of mines:*

This is the set of all measures of support alleviation and comfort provided to victims or survivors of mines for the purposes of immediate or long-term reduction of medical and psychological implications resulting from their trauma. It also includes their rehabilitation and reintegration.

#### *4. Demining policy:*

The demining policy is the set of principles which guide demining activity in the country. It establishes the required order of conduct in demining activities and equally constitutes the basis for the preparation of all the remaining normative documents for the demining activity.

#### *5. Demining Strategy:*

This is the set of priority actions to implement which will have the final impact of removing or destructing implanted mines in the national territory or region.

#### *6. National Demining Fund:*

This is an instrument of collection and management of the use of financial resources available for the support of the demining activity.

#### *7. Proximity demining:*

This is the demining action centred essentially on the creation of the safety conditions in the rural communities, aimed at facilitating the free exercise of their daily activities and promotion of small-scale socio-economic activities but which have an immediate impact

in their lives, such as the rehabilitation of the school, health and commercial network, water points and other goods and services and resettlement areas or population agglomerates. It has an eminently social character.

#### 8. *Economic demining:*

This is the demining action centred essentially in the creation of the safety conditions, aiming at facilitating the rehabilitation processes and socio-economic development. It can be distinguished from proximity demining by the high volume of resources involved, level of impact and their eminently economic character.

## CHAPTER II

### General and specific objectives of the demining policy

The demining policy aims at providing the country with the capacity of human, technological and material and financial means which will be required in the short, medium and long-term to prevent the loss of human lives and elimination of the latent threat of mines implanted in the national territory and region.

#### 1. The general objectives are:

- a) To guaranty the leadership of the Government in demining activity;
- b) To create a national capacity in demining;
- c) To guaranty that the plans and procedures are consistent with the priorities and national, provincial district and community objectives and that they reflect a level of needs in the country at different levels;
- d) To establish a legal framework for the treatment and conduct of demining action;
- e) To avoid that landmines are implanted again in the country, thus creating the necessary supervisory mechanisms.

#### 2. Specific objectives are:

- a) To avoid the loss of human lives;
- b) To contribute to the free circulation of persons and goods;
- c) To contribute to the reconstruction and development of the country;
- d) To guaranty the design of a technical structure, plans and guidelines for the development of effective patterns for the conduct of demining and updating them whenever necessary;
- e) To contribute to the consolidation of peace and development in the internal, regional and world context;
- f) To mobilize national and international public opinion for their involvement in the fight against the mines threat.

## CHAPTER III

### Demining strategy

#### 1. Objective of the demining strategy

The demining strategy has the following objectives:

- a) Creation of a national demining capacity, through the institutional capacity adequate to the Government for the global conduct of the process, the creation of national capacities to execute demining actions and the creation of mechanisms which can guaranty the financial support of demining actions in the country;
- b) Promotion of proximity demining, through the incentive of initiatives managed at the community, district and provincial level as well as the active and direct participation of civil society in determining priority actions;

- c) Promotion of economic demining through the integration of the demining component in the rehabilitation and socio-economic development projects in the country;
- d) Promotion of demining technologies through the incentive of technological research, technological testing and their introduction in demining actions in the country;
- e) Collection, treatment and use of information about mines through the establishment of a data gathering system, treatment, management and dissemination of the available information;
- f) Prevention of mine accidents, through the establishment and conduct of civic education programs about the danger of mines with greater incidence on vulnerable communities;
- g) Promotion of regional and international cooperation through the active involvement of the country in regional and international efforts aimed at eradicating the landmines threat;
- h) Facilitation of assistance to victims of mines through the provision of the necessary information and channelling of available support to the sectors directly involved in the provision of direct assistance to the victims.

## **2. Demining priorities**

The demining priorities are:

- a) Areas of population resettlement, social infrastructures such as educational, hospital and commercial centres and areas surrounding or inside population agglomerates, including the destruction of explosive ordinance in such locations;
- b) Objects and areas of socio-economic interest with special emphasis to areas already identified as having a high agro-pecuary potential, roads and bridges, railways, industry and energy.

The indicated order of priorities represents only a macro-indicator for the planning process and this order may be altered in the act of planning in detail the demining actions, based on the concrete objectives desired to be attained.

The basis for the nominal and phased definition of demining priorities are the global and sectoral plans of the government at the national, provincial, district, municipal and community level.

## *3. Government*

### **3.1 The role of the Government**

The Government is the centre of coordination and decision of all demining activities, covering areas such as:

- a) The creation of a legal and institutional framework for demining;
- b) Definition of priority and plans for action;
- c) Mobilization and allocation of funds;
- d) Placing public tenders and attribution of contracts for services in the area of demining and conducting assessments and auditing and supervision on demining activities;
- e) Monitoring the conduct of the entire demining process and conducting research on the evolution of policies, strategies, technologies and international conventions on mine action.

The Government is further responsible for:

- a) Creating a more participatory and facilitating environment in the demining activity according to the simplification of administrative mechanisms and a fiscal policy which is adequate for this area of activity;
- b) Making the demining activity more responsible and safe by raising the technical

- quality of its execution;
- c) Provide the demining action with instruments that will attribute civil and criminal responsibility to those involved in demining actions for harmful acts or omissions to third parties;
- d) Involve public and private institutions, civil society and academic and research institutions, including universities to contribute in their areas of specialty to the implementation of the demining policy and strategy, maintaining to this effect, a close and permanent link with them;
- e) Define the institutional framework for assisting landmine victims.

### 3.2 The Mozambican Armed Forces (FADM)

The Government of Mozambique in recognition of the strategic role which the FADM play in the conduct of demining operations and in the context of the national strategy to create a real and effective national capacity in demining, will engage in all efforts to create the techno-material and training conditions which may allow an effective, active and planned development of the FADM in the demining effort.

#### 4. *The Partners*

The international community, namely the United Nations and international donors.

- a) The international community is another privileged partner in the execution of the demining activity providing resources based on the plans and priorities defined by the Government;
- b) The international community action, the decision about the allocation of the resources and the establishment of the mechanisms for the management and control of their utilization, should result from an action previously agreed with the Government;
- c) The international community action should equally be based on the respect for the policies and norms established by the Government for the area of demining.

### 4.2 Demining and Quality Assurance Operators

4.2.1. The attribution of tenders for demining and quality assurance work in the country should be made, as a rule, based on public tenders.

4.2.2. The exercise of the demining activity is reserved to entities be they national or foreign, associated or not, that can prove before the Government of Mozambique, their technical-professional competence and that have its accreditation, are committed to abide by the legislation in general as well as the cultural traditions of the communities and their belongings.

4.2.3. The demining activity is subject to quality assurance, under the leadership of the Government, with results accredited by both the Government and the donors, communities and other interested parties about the quality of the organization, the execution of their work and their results. The recommendations resulting from the carrying out of the quality assurance and the indicated corrective measures should be of compulsory observation by the operators and constitute a legal base to attribute civil and criminal responsibility to the demining operators. It therefore means that an independent quality assurance is an integral part of the demining operations and their respective costs must be included in the funding.

4.2.4. The activity of the independent quality assurance operator is incompatible with the activity of the demining operator. This measure aims at avoiding conflicts of interest.

### 4.3 Civil Society

It is up to civil society, organized in diverse forms, to contribute and support Government efforts aimed at the eradication of mines and other explosive ordinance in the country and the harmful effects derived from them. The local communities can, in particular, play an active role in civic education of the populations about the danger of mines, collecting and disseminating information about mines and other un-detonated explosive ordinance, as well as assistance to the victims of mines.

## **5. Financing of demining activities**

5.1. Demining requires the mobilization of human, technical-material and financial resources necessary for its execution. It is therefore necessary that the country develops supplementary efforts to make the provision of such resources available. Therefore it considers:

- a) The creation of the appropriate conditions aimed at the provision of the necessary resources for the implementation of the present demining policy and strategy;
- b) The mobilization of the national and international community to contribute voluntarily to demining in the country;
- c) To create a mechanism to collect and manage funds for demining;

5.2. Financing for the demining activities should originate from:

- a) The State budget;
- b) National solidarity;
- c) International solidarity;
- d) Other sources.

5.3. The management of the funds will be through an instrument specifically created by the Government and according to procedures to be established with the participation of the remaining actors in the process and aims at:

- a) Maximizing the usefulness of the resources available for the demining activity and for which norms and patterns will be established;
- b) Ensuring greater transparency to the demining activity;
- c) Encourage a greater involvement of the donor community and Mozambican society in the financing of demining.

5.4. The existence of this instrument does not exclude the existence of other forms of channelling and management of funds for demining, particularly those funds which result from specific multilateral or bilateral cooperation agreements between these partners and the Government.

## **CHAPTER IV**

### **Management body for the demining policy and strategy**

1. The Government will create a national body which will direct the implementation of this policy and strategy and which will facilitate the assistance to mine victims.

2. The management body for the demining policy and strategy will coordinate with other relevant Government sectors, the multidisciplinary and multisectoral assistance to the victims or survivors of landmines. This coordination will include actions at the regional, international level and will also with appropriate institutions of the United Nations system.



## Chapter 11.

# Nicaragua

### Mine action legislation

#### *Decree creating the National Demining Commission*

National Assembly Decree 2007, which was signed into law by President Arnoldo Alemán in October 1998, not only supported the ratification of the Anti-Personnel Mine Ban Convention, it also mapped out the entire mine action process. Two months later, the President signed the decree creating the National Demining Commission (*Comisión Nacional de Desminado* – CND).

In accordance with the decree, the Commission is established in Article 1 in order to “*contribute to promoting actions in support of the Nicaragua Demining Program, under the responsibility of the Minister of Defence through the Nicaraguan Army*”. The Commission is presided over by the Ministry of Defence<sup>1</sup> and involves a variety of governmental institutions, notably the Deputy Ministers of Defence, Foreign Affairs, Government, Education, Health, Agriculture and Forestry, Transport and Infrastructure, External Cooperation, the Director of Nicaraguan Institute for Municipality Promotion, the former Nicaraguan Institute of Social Welfare, a delegate from the Army and a delegate from the National Police.

A number of institutions are also invited, including the Defence and Governing Commission of the Legislative Assembly, the OAS, the Nicaraguan Red Cross, the Nicaraguan Centre for Strategic Studies and the Joint Disable Commission for Peace and the Reconstruction of the Department of Madriz. In accordance with the Decree, consultants, members of civil society and international experts are accepted as advisers.

The Commission is free to ask support, information and collaboration from different governmental agencies and create links with NGOs involved in demining.

The main tasks of the Commission are to:

- promote demining as a priority and provide the logistical support for demining operations according to the national demining programme;
- regulate preventive social programmes, rehabilitative care and social

reintegration for mine victims, promoting development policies beneficial to the victims wellbeing;

- track financial support and follow-up of funding administration;
- maintain and continuously update a database;
- draft progress reports and keep the international community informed;
- recommend the elaboration of projects and welcome input;
- promote socio-economic development policies for the wellbeing of mine victims;
- promote dissemination, information and preventive education programmes; and
- receive relevant information from the Ministry of Defence related to the implementation of the demining programme.

Even though this decree is signed into law, it can be revoked or modified by the President of the State, without the need for approval from the Legislative Assembly.

### ***Law 321 on the implementation of the Anti-Personnel Mine Ban Treaty***

On 7 December 1999, Nicaragua promulgated Law 321 on the prohibition of the production, trade, import, export, transit, use and stockpiling of antipersonnel mines. It requires that the existing mines stockpiled by the armed forces must be destroyed in conformity with the schedule determined by relevant authorities. The law punishes violations of its provisions in conformity with national legislation, adopting the legal term: “exposition of people to danger”.

### ***Legislation protecting the victims***

There is no specific legislation protecting mine victims. Decree 491 provides protection to soldiers from the army and from the resistance and Decree 975 governs pension rights for war wounded. However, neither of these laws could be applied to victims during peacetime.

One of the most important laws affording assistance to mine victims is Law 202 promulgated in 1995. The Law 202 (1995) on Rehabilitation and Equal Opportunities for Disabled People is essential to meet the victims’ needs. The National Council was created to address the situation as a policy implementation body related to this problem, though, since its creation, this Council has been inoperative due to the absence of human and financial resources necessary to undertake concrete actions. On the other hand, this law does not address issues such as indemnities, annuities, physical and psychological medical care to victims and their reinsertion to work.

In an attempt to fill this gap, the CND Secretariat in coordination with the Nicaraguan Institute for Social Welfare (INSS), is studying the possibility of providing allocations to mine victims, including the army deminers, as war victims. To achieve this, it would be necessary to reform the law and/or enact a presidential decree

## **Mine action structure**

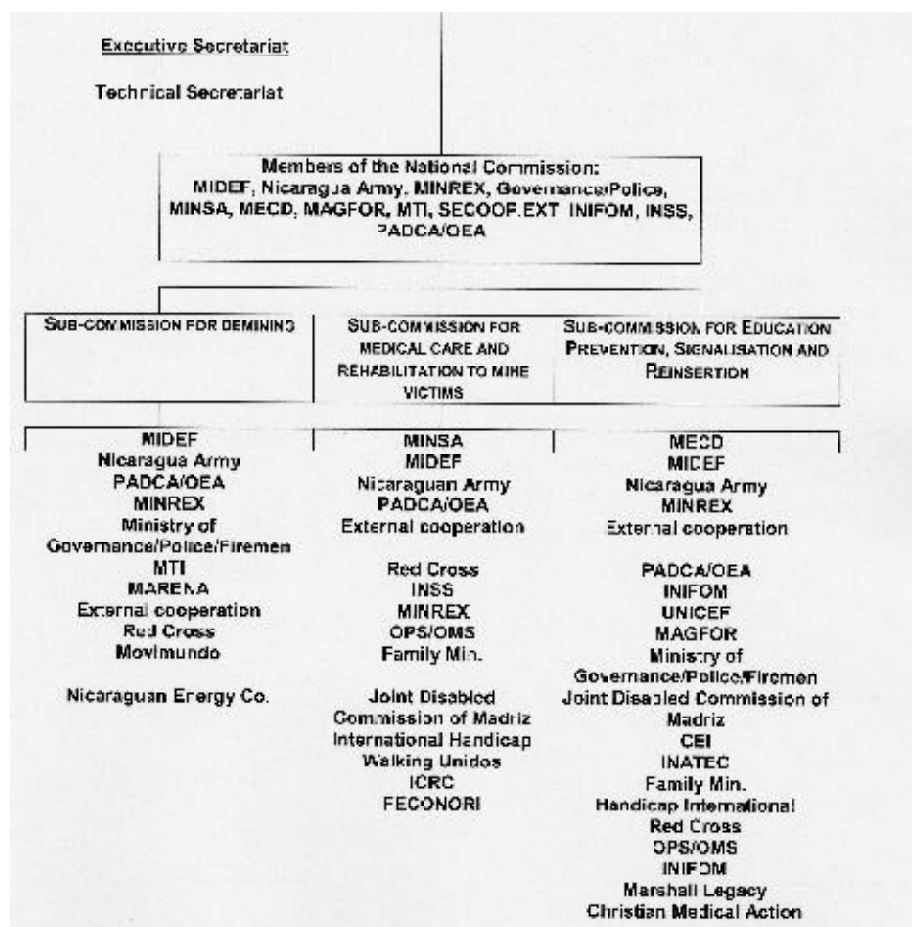
### ***National Demining Commission***

The National Demining Commission (CND) is presided over by the Ministry of Defence, José Adán Guerra and the General Secretariat is under the responsibility of



the Deputy-Minister, María Auxiliadora Cuadra. A variety of governmental institutions are involved in the Commission and even though the Organization of American States (OAS), in conformity with the decree appears as a guest member, in fact it is an active participant of the Commission through its demining programme PADCA for Central America, whereas the Commission of Defence and the Government of the Legislative Assembly, which are also mentioned in the decree as guest members, have never participated in the meetings of the National Commission.

Figure 1. The National Demining Commission



A number of non-governmental institutions, such as the Red Cross, the Nicaraguan Centre for Strategic Studies, International Handicap and the Joint Disabled Commission for Peace Building and Reconciliation of Madriz, can also participate in the Commission as consultants but they fully participate in the three Sub-Commissions, which are described below.

The operation of the Commission is sponsored by the UN Children's Fund (UNICEF), the International Committee of the Red Cross (ICRC) and the UN Development Programme (UNDP).

To provide support to the Commission's work and to highlight its humanitarian character, in 2000 the CND created respectively three Sub-Commissions: for Demining; Medical and Rehabilitation Care to Mine Victims; and Education, Prevention, Signalisation and Socio-economic Reinsertion — each integrated through different

institutions in accordance with their relevant skills. This has added much-needed flexibility to the structure.

However, since its creation, the Sub-Commissions have not worked regularly for a variety of reasons, including the high turnover of senior staff in the various State institutions. In addition, participation in the Sub-Commissions only meant another task with no funds assigned for it.

By decree, the representatives in the Commission and in the Sub-Commissions are the Deputy-Ministers and Directors of the Government institutions, however in most cases they have delegated technical personnel with a high level of turnover and without authority to take decisions, thereby creating a dysfunction in the structure.

Yet, since the arrival of the new government on January 2000, there has been a major involvement of the Deputy-Ministers in the Commissions and Sub-Commissions, which have been reorganized with the participation of the new governmental authorities (Deputy-Ministers of Health and Education). Both the Government and the Commission are elaborating a year work plan and appropriate policies. In addition, in a clear demonstration of the Nicaraguan government's political will at the highest level to eradicate the mine threat, the First Lady of the Republic was appointed President of the Commission.

### ***The Sub-Commissions***

#### **National Demining Sub-Commission**

This Sub-Commission, coordinated by the Nicaraguan Army is in charge of the implementation, organization and operations of the Humanitarian Demining National Plan, which has been carried out since 1996 with the support of the international cooperation conducted by OAS. It comprises the Ministry of Defence, PADCA/OAS, the External Cooperation Secretariat, the Ministry of Foreign Affairs, Ministry of Environment and Natural Resources, Ministry of Transport and Infrastructure, the Nicaraguan Energy Company, the Ministry of Governance/Police/Firemen, the Nicaraguan Red Cross and the Italian NGO, Movimondo. The different members of the Sub-Commission participate directly in the Army demining operations in accordance with their relevant skills.

This Sub-Commission has been the most effective operationally, but the task of demining has defined the military slant of the Commission. Thus, there have been concerns that this has led to a tendency to prioritise clearance of infrastructure (bridges, electric pylons, etc.) as opposition to other areas with a high concentration of civilians.

#### **Sub-Commission for Medical Care and Mine Victims Rehabilitation**

This Sub-Commission develops projects addressed to mine victim assistance and it is coordinated by the Ministry of Health (MIMSA). It is also conformed by the Ministry of Defence, Ministry of the Family, the Army, PADCA/OEA, the External Cooperation Secretariat, OPS/OMS, the Nicaraguan Welfare Institute, the Nicaraguan Red Cross, the International Committee of the Red Cross, the Joint Commission of Disabled for Peace Making and the Reconciliation of the department of Madriz as well as Handicap International, Walking Unidos, FENOCORI.

MIMSA provides assistance to civil and military victims through the National Protheses and Orthoses Centre (CENAPRORTO). The Centre specialises in the

treatment of victims of any kind of accident including amputations as a result of mine accidents and coordinates with OAS PADCA to ensure that mine victims who need prostheses receive them. It is also in possession of a structure for diagnosis and therapy. There are also periodical cooperation agreements with the Red Cross.

In the area of victim assistance, a number of problems are evident. The cost of the assistance is very high, notably the cost of prostheses and orthoses which have to be renovated every three years. In the meantime, while a demining programme is ongoing, these costs are afforded by donations. However, the Nicaraguan structures are unable to assume these costs once the international assistance is over. For example, FENAPRORTO only operates with financial assistance from the donors.

The current priority provided to mine victims through the humanitarian demining programme can not be sustained over the long term. It discriminates against other disabled people in the country and ultimately, when the demining process is over, they risk remaining unprotected when international funding is no longer available.

### **Sub-Commission for Education, Prevention, Signalization and Reinsertion**

The Sub-Commission for Education Prevention, Signalization and Reinsertion is coordinated by the Ministry of Education with the participation of the Ministry of Defence, the Army, the PADCA/OAS, the Ministry of Agriculture and Forestry, the Ministry of Foreign Affairs, Governance, Police and Firemen, the Secretariat of External Cooperation, the Ministry of the Family, the National Technological Institute (INATEC), the Nicaraguan Institute of Municipal Development (INIFOM), the Nicaraguan Centre of Strategic Studies (CEEN), the Joint Commission of Disabled from Madriz, Handicap International, the Nicaraguan Red Cross, OPS/OMS, Marshall Legacy and Christian Medical Action.

Within the National Demining Commission the issue of prevention is an important one. Nevertheless, it has so far proved impossible to ensure operational coordination among the different institutions and organisations involved. The Ministry of Education, which is nominally in charge of the Sub-Commission, did not assume its orientation and coordination role. As a result, there were a number of challenges in the field of the information and awareness, generating often inappropriate and sometimes contradictory messages.

To remedy the problem, the “Only One Voice” workshop was organised in 2001. This workshop was supported by the OAS and UNICEF and focused on the elaboration of educational materials, including the creation of a general orientation guide and basic guideline for messages addressed to accident prevention. A Certification Committee was also set up, composed of nine bodies in charge of the supervision of all the material created by the different institutions. This initiative permitted the unification of different criteria concerning education and prevention work, as well as the implementation of minimum standards for didactic material and its diffusion.

The weakest subject still remains the approach to the victim reintegration. In general, plans, policies and specific programmes for the reintegration of victims into the socio-economic life of the country do not exist. The National Council for the Prevention, Rehabilitation and Equal Opportunities for Disabled People, coordinated by the Ministry of Health, should be in charge of this issue. This Council was created in August 1998 to implement the dispositions of the Law 202.

Some specific actions have been developed to undertake this task, due to the endeavours deployed by the Ministry of Defence through its Executive Secretariat. In

2001, an agreement was signed between the OAS and the National Technological Institute (INATEC) to develop a pilot experience with the aim of providing training to victims. The First Lady of the Republic inaugurated in Boaco the first course of training for women and men. The courses of computing, mechanics, tailoring, electricity and carpentry are scheduled for four or six months. The OAS provides US\$100 dollars a month for each victim as a means to ensure attendance. The majority are heads of household.

There is a plan to develop initiatives in the rural zones, through an agreement with the Ministry of Agriculture to include mine victims in the Programme “Pound by Pound”, where food and seeds are distributed in exchange of production and work. Finally, under the terms of an agreement of contribution between the National Commission and the Post Office of Nicaragua, a US\$20,000 seed fund of post stamps was created to provide complete assistance to victims. This seed fund will increase with the sales of post stamps emitted on the occasion of the Third Meeting of States Parties to the Anti-Personnel Mine Ban Treaty.

## Concluding remarks

In brief, mine action is developing as an isolated programme, without attaining any influence on policies and the national conscience. This is due principally to the fact that little attention is paid to the mine risk problem in Nicaragua, taking into account that it is a country where the number of accidental deaths by other causes is higher than the deaths caused by mines and also because of the high productivity of mined lands mainly cultivated by poor peasants.

A number of civil society organizations are interested in participating in the CND by involving the public in the debate about mines. To ensure more effective participation, in 2001 they formed the Nicaraguan Coalition for Mine Action, made up of 16 organisations (*Coalición Nicaragüense de Acción contra Minas*).<sup>1</sup>

In November 2001, a workshop-seminar was undertaken with the support of UNDP and a wide participation of governmental and civil societies organizations involved in mine action. The “Strategies of action against antipersonnel mines in Nicaragua during the period 2001–2005” were analysed during the seminar. Among the conclusions, it was recommended to:

- define an articulated strategy, provide the Commission of appropriate mechanisms to strengthen its performance, and guarantee a renovated space of action, which permits a strong and effective participation in the process of definition of priorities and decision-making. It is also imperative to provide the Commission with its own resources to ensure its autonomy and efficiency in the supervision of the commitments and institutional mandates as well as to optimise the use of the IMSMA as an essential tool to formulate demining policies.
- set up a national education and prevention policy in order to attain the national conscience on the problem.
- to provide medical assistance and rehabilitation to victims as an integral part of the public health system and other governmental institutions.
- that the National Council for Prevention and Rehabilitation demands the commitment to a 2 per cent ratio of disabled people to the total working population hired in a given institution.
- to strengthen the participation of civil society in mine action.

## Note

1. CIEETS, CISAS, Association of Nicaraguan Christian Churches, National Council of Evangelic Churches, SERVISIMA, CEI, CEEN, Christian Medical Action, Human Rights and Autonomic Centre of the Atlantic Coast, Council of Elder People of the Atlantic Coast, Association for the Development of Sustainable Local Initiatives, FENOCORI, The Joint Association of Disabled of Madriz, Association of Surgeon Volunteers.



## Chapter 11.

# Rwanda

### Background

Rwanda's mine and unexploded ordnance (UXO) contamination dates back to the beginning of the 1990s, and results from the civil war and a subsequent insurgency. Clearance of the estimated 100,000 to 250,000 mines and items of UXO began in 1995 and continues through the Rwandan army. There is no civilian mine action component currently.

### Mine action legislation

There is no legislation in respect of mine action in Rwanda, although the country may adopt legislation to give effect to its obligations under the Anti-Personnel Mine Ban Convention, to which it became a party on 1 December 2000. A presidential order of 24 December 1998 confirms the incorporation of the ban treaty into domestic law, but implementation legislation is not yet in place. This would provide an obvious opportunity to include broader mine action legislative provisions.

### Mine action structure

In July 1995, with the help of the United States, the Rwandan Minister of Defence decided to set up the National Demining Office (NDO) as a special section of the Rwandan army. The objectives of the NDO were the following:

- within the Rwandan army, training and equipping the demining company that would be responsible for mine clearance operations;
- initiating and heading a mine awareness campaign;
- collecting and centralising information about landmines; and
- establishing coordination between the government and NGOs with a view to securing their assistance.

The staff of the NDO numbers 125 military personnel and five civilians (administration, a mechanic and secretarial assistance). There is no insurance for

deminers injured in the course of their work and, allegedly, no invalidity pension provided by the army.

Following encouragement from other States, there are plans to establish a Permanent Commission for Landmines in Rwanda to serve as a single point of contact for external actors.



## Chapter 12.

# Tajikistan

### Mine action legislation

There is no mine action legislation in Tajikistan and, as yet, no mine action centre. Tajikistan is recorded as a State Party to the Anti-Personnel Mine Ban Convention, but has subsequently claimed that it did not intend to ratify the agreement.<sup>1</sup> Accordingly, it has not adopted domestic implementing legislation to give effect to its obligations under the treaty.

### Mine action structure

The United Nations Development Programme has reported that it has been working closely with Tajikistan to establish a “mine action cell” and to “*develop a framework for a comprehensive programme that will include setting up information management systems and supporting mine awareness activities as priority tasks*”.<sup>2</sup>

### Notes

1. *Mine Awareness and Advocacy Mission to Central Asia, A Report for UNICEF*, GICHD, Geneva, 12 September 2001, p. 22.
2. “Mine Action For Resettlement and Reintegration. Post-Crisis Recovery and the Obstacle of Landmines”, accessed at: [www.undp.org/erd/archives/brochures/mine\\_action/reintegration.htm](http://www.undp.org/erd/archives/brochures/mine_action/reintegration.htm) on 2 July 2002.



## Chapter 13.

# Thailand

### National mine action legislation in Thailand

#### *Background*

Thailand is dealing with mine and unexploded ordnance (UXO) contamination along its four borders as a result of conflicts in neighbouring countries and to lesser extent as a result of domestic Communist insurgency in the 1970s. A Landmine Impact Survey completed in June 2001 found mines and UXO in 27 of Thailand's 76 provinces, contaminating a maximum area of 2,557 square kilometres and affecting up to half a million people. However, much the most serious contamination is along the border with Cambodia, accounting for 70 per cent of the most affected communities, 70 per cent of fatal accidents in the two years before the survey, and three-quarters of land identified by the survey as contaminated. Fatal accidents also occurred along the border with Myanmar, while a lesser problem exists on the borders with Laos and Malaysia.

#### *Legislation*

Thailand signed the Anti-Personnel Mine Ban Convention in December 1997 and on 27 November 1998 became the first South-east Asian country to ratify it. A prime minister's order (151/2541) issued on 17 August 1998 established a National Mine Action Committee, chaired by the prime minister, to set mine action policy and oversee implementation of Thailand's obligations under the Anti-Personnel Mine Ban Convention. It included representatives of the three armed services and all ministries and departments handling issues related to landmines.

The prime minister's order also provided for setting up the Thailand Mine Action Centre to act as the national demining agency. It placed TMAC under the control of the Armed Forces' Supreme Command with the following duties:

- plan, direct, coordinate and support destruction of landmines in accordance with Thailand's obligations under the Anti-Personnel Mine Ban Convention;
- act as the coordinating centre on mine action for all government agencies;
- direct and supervise humanitarian demining;

- coordinate with the public and private sectors in Thailand and abroad to mobilise funds, technology and human resources for humanitarian mine action;
- train deminers for humanitarian mine action;
- conduct mine risk education activities;
- provide assistance to mine victims;
- compile and develop a database to facilitate humanitarian mine action;
- coordinate and carry out research to develop equipment and techniques for mine action;
- compile national standards and procedures for mine action.

Thailand has not yet enacted any legislation dealing with landmines. It argues that laws passed prior to the Anti-Personnel Mine Ban Convention already cover Thailand's obligations under it and ban possession of landmines by civilians.<sup>1</sup> As a result, every change of government necessitates the issuance of a decree by the incoming administration to reaffirm TMAC's status and mandate.

Three new laws are in the process of being drafted:<sup>2</sup>

- i) Office of the Prime Minister Regulations governing implementation of the Ottawa Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines.
- ii) Act on implementing the Convention on the Prohibition of the Use, Stockpiling Production and Transfer of Anti-personnel mines.
- iii) Office of the Prime Minister Regulations Governing Receipt and Use of Aid Funds or Goods Provided for Mine Action.

The first law will provide a permanent legal framework for mine action, avoiding the need for issuing a new decree after every change of government. The second will govern implementation of the Anti-Personnel Mine Ban Convention. The third provides for creation of a permanent committee to oversee expenditure of financial aid.<sup>3</sup> However, it has proved difficult to establish details of the content of the laws or how far the process of drafting has advanced. The government is not known to have any immediate plan for presenting the draft laws to parliament.

## Mine action structure

NMAC met in January 1999 and appointed the first director of TMAC. A series of subcommittees were set up to take decisions on technical details needed to make TMAC operational. NMAC, however, is not a standing body and dissolved, together with the subcommittees at the end of the Chuan Leekpai government. The government of Thaksin Shinawatra did not reconvene NMAC until December 2002, 11 months after its election. At that time it created a new committee to oversee humanitarian mine action, chaired by the deputy prime minister and defence minister.

To provide more continuity of direction and to facilitate decision making, TMAC has proposed the creation of five subcommittees under NMAC covering operations, foreign relations, mine awareness, mine victim assistance and monitoring and evaluation. TMAC expects the subcommittees to meet every two month, whether meeting individually or, more probably, in groups. It hopes the new structure will, among other benefits, streamline and accelerate decision-making on expenditure. The proposal awaits approval from NMAC.<sup>4</sup>

At the time Thailand ratified the Anti-Personnel Mine Ban Convention it held stockpiles of 342,695 mines. TMAC reports that by the end of 2002 the armed forces had destroyed 286,245 of these, including more than 48,600 landmines blown up in an explosion in an army arsenal in north east Thailand in October 2001. The armed forces planned to keep some 4,970 landmines for training and research and TMAC expected destruction of the remaining 51,480 to be completed before the end of May.<sup>5</sup>

TMAC, with US financial support, set up an operational headquarters, three 99-man Humanitarian Mine Action Units and three training centres (for humanitarian demining, mine risk education and dogs. Two HMAUs operate along the Thai-Cambodian border, one of them a marine unit under the command of the Navy. The third HMAU is assigned to areas close to the border with Laos. Although the Myanmar border is the area producing the second highest number of casualties, continuing conflict and insecurity mean TMAC does not yet attempt mine clearance there. Mine contamination along the Malaysian border is so limited and so remote it ranks as the lowest priority.

TMAC initially drew up a 2000-2004 master plan but after Norwegian People's Aid completed a Landmine Impact survey in May 2001 it prepared a revised master plan for 2002-06. The priority is to assist civilian needs, including access to schools, agricultural land and water sources. Clearance of historic sites that may have tourist potential is also a priority. Demining tasks are selected by the HMAUs in consultation with local authorities and subject to approval by TMAC headquarters. Local NGO's monitor the transfer of cleared land but no independent professional quality assurance is undertaken. Total amount of land cleared by TMAC between the start of operations in July 2000 and the end of 2002 was 451,326 square metres.

TMAC initially planned to set up eight HMAUs but reduced the number to five because of a shortage of funds and four appears to be all that is practicable for the foreseeable future. For the past three years the armed forces have provided TMAC with a budget of 40 million baht (\$930 million in 2002), well short of the 72 million baht requested for the financial year ending in September 2003. Financial constraints impact severely on mine clearance, database management and all other areas of mine action.

In 2003, with the approval of the armed forces' Supreme Command, TMAC created a fourth HMAU to operate on the Lao and Malaysian borders, setting up a headquarters manned by 14 staff and sending 42 personnel for training. TMAC expected the unit to become operational in May. As of March 2003 TMAC remained uncertain whether the unit would be able to start work as the Ministry of Defence had not provided any of the funds requested to pay for staff or operations.

TMAC had planned a fifth HMAU drawing on personnel of the paramilitary Border Patrol Police. The BPP, however, do not fall under the command of the armed forces' Supreme Command and this idea has been dropped.<sup>6</sup>

The government and the US were discussing the formation of a Quick Reaction Demining Force to be available for rapid deployments overseas of up to six-months duration. The proposal envisages 40 people divided into four teams with a supervisor for each team supplied by RONCO. When not overseas, the teams will be available for mine clearance tasks in Thailand. All salary, operating and equipment costs were to be met by the US.<sup>7</sup>

TMAC does not employ civilian deminers but has endorsed the principle of civilian engagement in mine and UXO clearance. However, only one NGO, the General

Chatichai Choonhavan Foundation, has become involved in mine clearance, and the scope of its action is severely constrained by lack of funds. TMAC provided training for 20 GCCF personnel in 2001 and they assisted the clean-up of land surrounding the military arsenal destroyed by an accidental explosion in October 2001. In December 2002 they started work clearing Sadok Khok Thom, a historic site near the Thai-Cambodian border, financed by the Japan Alliance for Humanitarian Demining Support. TMAC will train a further 35 civilians for this project, also financed by JAHDS.

TMAC is seeking Thai government funding amounting to 25 million baht for a project to train 12 civilians from each of eight provinces along the Thai-Cambodian border. The project has been approved by NMAC but as of March TMAC had not received any funds to proceed with the project.

TMAC has an IMSMA database at its headquarters, based on the results of NPA's Landmine Impact Survey, but its long term value is in doubt. Donor support channeled through UNDP covered the costs of three staff members engaged in updating information and maintaining or upgrading the system. Since donor support ended at the end of 2002, the Thai armed forces have declined to maintain salaries which are significantly higher than government salaries and key personnel have either left or are in danger of leaving.

Mine risk education is undertaken by TMAC's HMAUs and by NGOs, including notably Handicap International, the Asia Disaster Preparedness Centre, COERR and the General Chatichai Choonhavan Foundation. The MRE activities of the HMAUs are reportedly military-style briefings delivered to villagers. NGOs understand the shortcomings of that approach but their involvement in MRE has been sporadic and mostly confined to specific projects of limited duration as a result of limited availability of donor funding.

TMAC coordinates some victim assistance, providing transfers to hospitals. It operates mobile prosthetic services and organises some vocational training for victims. Other actors in victim assistance include Handicap International, which operates three prosthetics producing prostheses in three refugee camps along the border with Myanmar. The Prosthetics Foundation of Thailand also undertakes mobile prosthetics services. However, Thailand has no mechanism for systematic reporting of mine injuries, depending for information on reporting by provincial hospitals and clinics, NGO's and press reports.

## Notes

1. These are: Act on the Export Control of Armaments and Materials (1952), Act on Firearms, ammunition, explosive articles and fireworks (1947) and Decree on the Export Control of Armaments and Materials (1992).
2. The titles of the draft legislation are unofficial.
3. Information provided by Maj.-Gen. Gitti Suksomstarn, Director General of TMAC, 13 March 2003.
4. *Ibid.*
5. *Ibid.*
6. *Ibid.*
7. *Ibid.*

## Annex 1.

# National Demining Committee

*(Unofficial translation)*

## Order of the Prime Minister

No. 195/2545

**Subject: Appointment of the committee to take action on demining for humanitarian purposes**

In order that Thailand can comply with the Ottawa Convention banning the stockpiling, production and transfer of anti-personnel mines according to international standards, by virtue of Article 11(6) and (9) of the Public Administration Act, B.E. 2534, the Committee is appointed to take action on humanitarian demining with the membership, authority and duties as follows:

### 1. Membership

- |      |  |                     |
|------|--|---------------------|
| 1.1  | Deputy Prime Minister assigned by the Prime Minister                                       | Chairman            |
| 1.2  | Minister of Defence  | Deputy Chairman (1) |
| 1.3  | Armed Forces' Supreme Commander  | Deputy Chairman (2) |
| 1.4  | Secretary-General of the Prime Minister's office or his representative                     | Member              |
| 1.5  | Permanent Secretary, Ministry of Defence or his representative                             | Member              |
| 1.6  | Permanent Secretary, Ministry of Finance or his representative                             | Member              |
| 1.7  | Permanent Secretary, Ministry of Foreign Affairs   | Member              |
| 1.8  | Permanent Secretary, Ministry of Agriculture and Cooperatives or his representative        | Member              |
| 1.9  | Permanent Secretary, Ministry of Interior or his representative                            | Member              |
| 1.10 | Permanent Secretary, Ministry of Labour and Social Welfare or his representative           |                     |
| 1.11 | Permanent Secretary, Ministry of Science, Technology and Environment or his representative | Member              |
| 1.12 | Permanent Secretary, Ministry of Education or his representative                           | Member              |
| 1.13 | Permanent Secretary, Ministry of Public Health or his representative                       | Member              |

1.14	Commander-in-Chief, Royal Thai Army or his representative	Member
1.15	Commander-in-Chief, Royal Thai Navy or his representative	Member
1.16	Commander-in-Chief, Royal Thai Air Force or his representative	Member
1.17	The Commander of Royal Thai Police or his representative	Member
1.18	The Attorney-General or his representative	Member
1.19	Director of The Bureau of the Budget or his representative	Member
1.20	Secretary-General, Office of the National Security Council or his representative	Member
1.21	Secretary-General, the National Economic and Social Development Board or his representative	Member
1.22	Director-General, the Public Relations Department or his representative	Member
1.23	Director-General, Department of Technical and Economic Cooperation or his representative	Member
24.24	Director, Directorate of Joint Operations, Supreme Command	Member and Secretary
1.25	Director-General, Thailand Mine Action Centre	Member and Asst. Secretary
1.26	Director-General, Department of International Organizations, Ministry of Foreign Affairs	Member and Asst Secretary
1.27	Director-General, Department of Local Administration	

## 2. Authority and duties

- 2.1 Consider, set policy and objectives of humanitarian demining.
  - 2.2 Plan, direct, coordinate and supervise mine action in accordance with commitments under the Ottawa Convention and with government's policy.
  - 2.3 Make recommendations to government agencies, the private sector and other institutions to facilitate compliance with commitments under the Ottawa Convention.
  - 2.4 Approve all actions of the Thai Mine Action Centre and improve operational efficiency.
  - 2.5 Appoint a sub-committee or working group members and invite qualified personnel as deemed necessary and to coordinate with official departments or other authorities to obtain relevant data for the consideration of the Committee.
  - 2.6 Regularly and continuously report operational results to the Prime Minister.
3. "Thailand Mine Action Centre" is the operational core overseeing all activities related to humanitarian demining under the authority of Supreme Command Headquarters with responsibilities as follows:
- 3.1 To apply laws on the prohibition of anti-personnel mines.
  - 3.2 To find and destroy anti-personnel mines.
  - 3.3 To educate the public on anti-personnel mines, assist mine victims and improve conditions for communities affected by anti-personnel mines.
  - 3.4 To co-ordinate and cooperate with other organizations, domestic and international.
  - 3.5 To perform other duties assigned by the National Mine Action Committee.



4. All government agencies are required to coordinate with the National Mine Action Committee, sub-committees and the Thailand Mine Action Centre and to take any action they request within the scope of their authority.

This order is effective forthwith.

Ordered on 28 June 2002  
(Signed)  
(Pol.Lt.Col. Thaksin Chinnawat)  
The Prime Minister



## Chapter 13.

# Yemen

### Background

Yemen signed the Anti-Personnel Mine Ban Convention on 4 December 1997, ratified it on 1 September 1998 and the treaty entered into force on 1 March 1999. (*See Annex 1.*) A draft national legislation pertaining to the implementation of the Anti-Personnel Mine Ban Convention and regulating criminal offences involving the use of anti-personnel mines has been discussed at a meeting of the inter-ministerial National Mine Action Committee (NMAC). The draft was reformulated by a legal committee and is under discussion at the Ministry of Legal Affairs to be submitted to the Cabinet for approval. (*See Annex 2.*)

### Mine action legislation

There is, as yet, no national mine action legislation, but there are ministerial resolutions and decrees that outline the structure of mine action. (*See Annex 3.*) On 17 June 1998, the Prime Minister passed Resolution No. 46 to establish a National Mine Action Committee as an implementing body and laying down its constitution and bodies.

The Prime Ministerial Resolution No. 46 has authorised a Cabinet Minister to lead the work of the committee and further regulate its modes of operation and agenda. The Minister has subsequently made a detailed bylaw regulating the work structures and tasks of subordinate organizational structures, a technical executive unit and secretariat (the Organizational Bylaw for National Mine Action Committee, attached as Annex 4).

### Mine action structure

The government of Yemen developed since 1999 a National Mine Action capacity capable of planning and managing all mine action activities under UNDP's guidance. As part of the 25-year strategy plan for mine action, the government approved a five-year strategic plan (2001-2005) including a programme in mine risk education, mine

marking, mine clearance and victim assistance, based on the findings of the Landmine Impact Survey (LIS). (*The Five-Year Plan is attached as Annex 5*).

## Coordination of mine action

Both the Prime Minister Resolution No. 46 (Establishment and Formation of the National Mine Action Committee and specifying its tasks) and the Minister of State for Cabinet Affairs decree entitled “Bylaw Regulating National Mine Action Committee” identifying roles and responsibilities stress that the National Mine Action Committee is the overall policy and decision-making body concerning all mine action activities in Yemen. Within Resolution No. 46 it is stated that Minister of State for Cabinet Affairs is the Chair while the other Committee members are representatives from different concerned ministries i.e. Information, Social Affairs, Interior, Education, Planning, and other government bodies such as Labour and Administration at the Prime Minister’s Office, the Environment Protection Council and an NGO, the Yemen Mine Awareness Association.

The Prime Minister revised Resolution No. 46 and passed Resolution No. 282 of 2002 entitled “Re-establishment and reformulation of the National Mine Action Committee and specifying its tasks” in which four other ministries were added, in addition to the Deputy Director of the Prime Minister’s Office and the Director of the Technical Executive Unit. In this revised resolution responsibilities and mechanisms are detailed and clarified to ensure effective coordination (*see Annex 6*).

To coordinate the work between different donors, NGOs and staff at the National Mine Action Programme and especially the appointed coordinators from some ministries, three different advisory groups were formed: Mine Risk Education, Mine Victim/Survivors Assistance and a coordinating advisory group. Special working groups have been formed within Victim/Survivors Assistance and Mine Risk Education advisory groups to meet and draw up plans for future mutual work.

## Roles and responsibilities for mine action

These are clearly specified in detail in the documents titled “Bylaw regulating mine action”, dividing activities and responsibilities of the Mine Action Programme between the National Mine Action Committee, the National Mine Action Executive Center (NMAEC) and the Regional Mine Action Branch (RMAB). The division of responsibilities is outlined as follows:

**NMAC:** The overall policy and decision-making body, formulating policy, allocating resources and approving the national mine action plans.

**NMAEC** is responsible for overall planning, management and coordination of mine action activities (as well as implementing mine risk education and victim assistance).

**RMAB** in Aden is responsible for executing mine action plans and deploys survey and clearance resources (as well as implementing MRE and victim assistance).

**UNDP** through UNOPS helps the government of Yemen to develop national capacity to accomplish both strategic and operational planning. In addition, it helps to establish clearance priorities and manage funds.

### *Roles and responsibilities for victim assistance and compensation*

The victim assistance department (VA) at NMAC operates in line with the overall plan on victim assistance and focuses on victims in highly impacted communities. VA provides emergency and medical assistance to mine/UXO casualties in any part of Yemen when accidents are reported. Mine/UXO victims are located, registered and taken to a medical facility for professional medical assistance. Assistance provision is based on the needs of victims and includes corrective surgery, provision of medical therapy, prosthetic devices and wheelchairs.

Act 61 on the Care and Rehabilitation of the Disabled was issued in December 1999.<sup>1</sup> On 23 January 2002 Presidential Law No. 2 establishing a care and rehabilitation fund came into effect. The fund will cover the costs of immediate medical care and hospital and support activities of disabled societies.

### *Roles and responsibilities for mine risk education*

NMAC's mine risk department plans MRE activities and implements them in specified mine affected areas based on Landmine Impact Survey results.

**RMAB's** Mine Risk Education Department has mobile teams which visit areas before survey and clearance, and work jointly with a local NGO (Yemen Mine Awareness Association - YMAA) to disseminate mine risk education in affected communities. YMAA, in coordination with RMAC produce MRE material, including a quarterly newsletter, and target school children in mine affected areas using the child-to-child approach.

**YMAA** women members hold separate sessions on mine risk education for women through home visits. In rural areas, women and children are the most vulnerable groups to mine/UXO accidents. They herd the sheep, collect water and wood and do the farming.

### *Priority setting*

Priority setting is mentioned in the Five-Year Mine Action Strategy Plan for Yemen (2001-2005). Within this document the priorities are based on National Mine Action Vision results and the Landmine Impact Survey. These include mined areas that block access to infrastructure (such as roads, public use facilities, or water resources), and mined areas that impede development (such as water projects, airport development and oil extraction). Another priority is to ensure that mine survivors have equal access to educational and economic opportunity.

The Landmine Impact Survey was conducted to facilitate the prioritizing of human, material and financial resources supporting humanitarian mine action programme in the Republic of Yemen. The LIS identified 592 mine impacted communities and 1,078 contaminated areas. Technical survey teams (Level two) were established and deployed prior to clearance units beginning work in high impacted communities. After prioritizing mined areas, an operational plan is prepared, gathering information and the actual boundaries of the minefield are determined. The area is marked and mapped. The map and report of the minefield is handed over to a clearance unit for subsequent demining.

### *Agencies able to undertake activities*

Until 2001, Save the Children Sweden (Radda Barnen) assisted YMAA in capacity building and provided support to MRE in affected areas. Radda Barnen, in collaboration with the Ministry of Social Affairs, still supports a community-based rehabilitation programme which specifically focuses on children with disabilities in the areas with high risk for mine/UXO. Radda Barnen works closely with the Ministry of Education on inclusive education — making schools more welcoming to children with disability, which includes encompass mine victims/survivors.

ICRC has assisted the Ministry of Health in Sanaa to adopt ICRC technologies for production of artificial limbs.

Handicap International Belgium set up two physical rehabilitation centres — in Taiz and Aden — in cooperation with the Ministry of Insurance and Social Affairs and the Ministry of Public Health. HIB trains Yemeni physiotherapists and orthopaedic technicians as well as manufacturing prosthesis equipment and physiotherapy treatment.<sup>2</sup>

### *Roles and responsibilities for stockpile destruction*

Yemen, in full compliance with its Anti-Personnel Mine Ban Convention obligations, completed destruction of its stockpile of anti-personnel mines on 27 April 2002. Yemen elected to retain 4,000 anti-personnel mines for training and research purposes as permitted in Article 3 of the Convention.

## **National mine action structures**

The National Mine Action Committee was established in 1998 to manage all mine action activities. Through the the Organizational Bylaw of the National Mine Committee (*Annex 5*) it sets the responsibilities of the National and Regional Mine Action Centres.

The core responsibilities of the National Mine Action Centre are to:

- maintain oversight of all humanitarian mine action activities;
- be responsible for implementing policy as established by the National Mine Action Committee;
- undertake mine risk education (in collaboration with Yemen Mine Awareness Association);
- undertake mine victim assistance (in collaboration with the Ministries of Health and Social Affairs, Radda Barnen, ICRC and Handicap International Belgium);
- build the capacities of national and regional mine action centres' staff;
- maximise the utility of the comprehensive socio-economic impact data provided by the landmine impact survey; and
- provide information management to each of the above.

## **Notes**

1. For details see the Landmine Monitor Report 1999, pp. 869-870.
2. *ICBL Portfolio of Landmine Victim Assistance Programmes 2001*, p. 124.

## Annex 1.

# Law No. 7 of 1998

Pertaining to the agreement to ban the use, stockpile, production and transfer of antipersonnel mine and their destruction

In the name of the people

The President of the Republic

After studying the constitution and agreement of the parliament, we pass the law with the following context.

### *Article 1*

The agreement to ban use, stockpile, production and transfer of anti-personnel mines and their destruction was approved and signed at the Ottawa Conference during 2-4 December 1997

### *Article 2*

This law is effective since the date of issue and is published in the official gazette

Issued at Presidential Office, Sana'a  
8 June 1998  
President of the Republic of Yemen  
Ali Abdulla Saleh

## Annex 2.

# Draft Law No. ( - - - - ) 2002

### Concerning Banning Production, Stockpile Possession, Use, Transfer and Trade of Mines

After the preamble

#### Section One: Name and Definition

##### Article 1

This law is called “Law of banning production, possession, use, transfer and trade in anti-personnel mines and their destruction”.

##### Article 2

For the purposes of enforcement of this law the following terms and expressions have definitions in front of each of them unless the text gives a different meaning:

**Anti Personnel Mine:** A mine designed to be laid beneath the surface of the ground or under another superficial spot or on or close to any of them to explode as a result of the presence of a person or a vehicle at or close to it or tampered with by anyone.

**Detonation device:** A device prepared to protect the mine and is part of it or linked or put under it to explode whenever a mine is tampered with or its system is faulty in any means.

**Transfer:** Transfer of anti personnel mines to and from the Republic or through its soil which includes transfer of its property and supervision.

**Mined Area:** A dangerous area because of presence of mines or suspected to have mines.

**Person:** Ordinary or important person.

**National Committee:** National Mine Action Committee

**Convention:** Ottawa Convention

#### Section Two: Banning Production, Possession Use, Transfer and Trade of Anti-personnel Mines

##### Article 3

It is prohibited that any person designs, produces, possesses, stockpile, gives, import, export, transfer or use anti-personnel mines within the Republic.



*Article 4*

It is prohibited for any person to produce or possess or trade or transfer mines for the purpose of planting them within the soil of Republic of Yemen or the soil of the state parties in the convention.

*Article 5*

It is prohibited to trade with anti-personnel mines or assist in transferring them through lands of the Republic to any State Party in the Convention.

**Section Three: Exemptions***Article 6*

Exemption to the rules included in Article (3) of this law, are state Institutions which, after being granted permission from the National Committee, may:

- Keep the present stockpile of anti-personnel mine until its destruction
- Transfer anti-personnel mines in order to destroy them
- Possess or transfer a number of anti-personnel mines for the purpose of introducing innovations in the detection technologies for demining or destruction, or for training on these technologies. The number of mines kept for these purposes with any authority should not exceed 5,000 mines.

State authorities may delegate the execution of any of these operations to identified individuals on condition that they are permitted to do this by the National Committee.

*Article 7*

The National Committee must identify mined areas or areas suspected to be planted with anti- personnel mines. Therefore the Committee should undertake the necessary measures to destroy these mines according to the approved mechanism for coordination with related State institutions

**Section Four: Investigation Board***Article 8*

- a. Visits to the lands in the Republic by the Investigation Board, as specified in article (8) of the Ottawa Convention, includes all areas and present institutions within the Republic where it is possible to gather information pertaining to the violation of the Convention and which was cause of the visit.
- b. The head and members of the Investigation Board appointed by the UN under-secretary after consulting the government within an appropriate period.

*Article 9*

These visits are subject to government procedures, while the government will make all possible efforts to prove by other means its respect to the Convention rules.

*Article 10*

The investigation board may, in compliance with article (6) of this law and without affecting national dominion of the Republic and according to the Ottawa Convention, visit any location (armament factory, military institutions, or any other institution claimed to make or produce or stockpile anti-personnel mines or their components). If they have convincing reasons to believe that it contains information or tools pertaining to the subject of the convention.

*Article 11*

During the visit of the investigation board, the responsible authority should appoint a team of attendants to accompany the board. The head of this team supervises the execution of the tasks assigned to this board.

*Article 12*

Rules of articles (8) to (11) of this law are enforced according to the rules of the criminal procedural law, especially those related to inspection rules.

*Article 13*

- a. In order to execute the set tasks, members of the investigation board benefit from all immunities and privileges stated in Article 6 of the UN agreement on immunity and privileges endorsed on 13 February 1946.
- b. The investigation board has the right to import all the requirements to implement their tasks provided that these are exported after the completion of the task. These requirements are exempted from customs duties.

*Article 14*

The Responsible authority undertakes the preparation of the report stated in article (7) of the Ottawa Convention.

*Article 15*

This law benefits of Judicial control of crimes stated in the rules of this law and its executive bylaws except Judicial authority commissioners mentioned in the criminal procedural law, customs commissioners when enforcing customs and military officers law within their responsibilities indicated in the executive by-law of this law.

**Section Five: Penalties***Article 16*

- a. Anyone who violates rules of articles 5,4,3 of this law is punished with imprisonment or hard labour for a period that does not exceed ... and pays a fine of not more than ...
- b. Anyone who commits any of the mentioned crimes in this law gets punishment of the complete crime penalty.

**Section Six: General Rules***Article 17*

Any person who possesses or produces anti-personnel mines should submit them to the concerned authorities or guide them to the locations in order to be destroyed within a month of the enforcement of this law.

*Article 18*

Every person must report of antipersonnel mines kept with any one or located in a mined area.

*Article 19*

Executive bylaws pertaining to this law should be issued in a presidential decree based on a proposal from the responsible authorities.

*Article 20*

Any rule that contradicts with the rules of this law is cancelled.

*Article 21*

This law is effective since date of issue and is published in the official gazette.

## Annex 3.

## Prime Minister Resolution No. 46 of 1998

### “The establishment and formation of the National Mine Action Committee and Specification of its tasks.”

Prime Minister of the Cabinet Council

After the studying the constitution of the Republic of Yemen and the Republican Resolution of Law No. (20) 1991, pertaining to Cabinet council and Republican Resolution No. (72) 1998 to form the government and name its members and after the approval of the Ministers' Cabinet.

#### Resolution

##### *Article (1)*

A committee called “ the National Demining Committee” is established and formed of the following members:

1) State Minister of Cabinet Affairs council	Chair
2) Deputy Chief of staff member	
3) Director of Military of Engineering Department	Member
4) Undersecretary Ministry of Public Health	Member
5) Undersecretary Ministry of Welfare and Social Security	Member
6) Undersecretary Ministry of Interior	Member
7) Undersecretary Ministry of Education	Member
8) Director of Labour and administration at the Prime Minister office	Member
9) Representative from the Ministry of Planning	Member
10) Representative from Yemen Mine Awareness Association	Member

##### *Article (2):*

The committee is responsible for the following tasks:

- 1) To demine and eliminate landmines and provide assistance to mine victims
- 2) To set necessary policies and strategies for demining operations
- 3) To approve plans and budgets necessary for the execution
- 4) To supervise enforcement of policies and monitor their execution and issue the necessary and guidelines and instructions
- 5) To approve training programmes to upgrade the qualification and skills of the staff in the demining programme.
- 6) To coordinate and manage local and international donations to support the demining programme.
- 7) To set a data base inventory of mine affected areas and fields, types of planted mines, victims and financial losses all over the country

- 8) To receive aids , equipment appropriate for the programme
- 9) To set mine/ UXO awareness education plans

The committee may appoint experienced and specialized persons in areas within its tasks

*Article (3) :*

A Technical unit is formed to execute the national demining committee plans. The members and tasks will be identified by a decree issued by the chair of the committee

*Article (4):*

The National committee may establish branches of the committee in mine affected areas in accordance to needs. These branch committees are formed as follows:-

- |  |        |
|--|--------|
| 1) Deputy governor                                       | Chair  |
| 2) Commander of the area                                 | Member |
| 3) Director of the governorate Security                  | Member |
| 4) Director of the Military Engineering Unit in the area | Member |
| 5) Director of Public Health Office                      | Member |
| 6) Director of Social Welfare and Insurance office       | Member |
| 7) Director of Information Office                        | Member |
| 8) Director of Education Office                          | Member |

*Article (5) :*

The Chairman of the Committee issue organizational bylaw to regulate the work of the committee.

*Article (6) :*

This decree is effective from the date of issue and published in the official gazette.

Issued by Ministers' Council  
17 June 1998  
Dr. Abdul Karim Al-Iryani  
Prime Minister

## Annex 4.

# Organizational Bylaw of the National Mine Action Committee

Minister of State for Cabinet Affairs:

After studying The Prime Minister resolution No.(46) 1998 concerning establishment of the National Mine Action committee.

### Decree

*Article ( 1 ) :*

This bylaw is called the organizational bylaw of the National Mine Action Committee

*Article (2)*

The Committee aims to clear and eliminate landmines and assist mine victims.

*Article (3)*

The organizational structure shall consist of:

1. Chair of the National Committee.
2. Members of the National Committee.
3. Technical Executive Unit.
4. Branch Committees.
5. Supporting organizations.
6. Secretariat of the chairmen of the National Committee.

*Article (4):*

Chairman of the National Committee tasks:

- Responsible for the following tasks:
- To supervise the implementation of the mine action policy
- To supervise demining operations
- To coordinate the NGOs and donor nations support
- To modify the organizational structure of the committee
- To appoint employees in the National and branch executive units
- To represent the Committee with others
- To assign any tasks to the member of the Nation Committee and branch Committees.

*Article (5):*

Tasks of the committee members:

- To attend the committee meeting regularly
- To report to their ministers about the National Committee work
- To report about tasks assigned to them
- To do any other tasks assigned by the chair of the National Committee

*Article (6):*

The Executive Unit is formed of :

- Director of the Unit
  - Deputy-Director of the Unit
  - Secretariat of the Director of the Unit
- 1) Planning, Training and Operations Department with the following section consist of :
    - Planning section
    - Training section
    - Data and Survey section
    - Operations and Communication section
  - 2) Mine Awareness Department
    - Information section
    - Printing and publication section
  - 3) Logistic and Financial Affairs Department
    - Logistic and warehouse section
    - Financial Affairs section
    - Administrative Affairs section
    - Maintenance and Transportation section
  - 4) Social Affairs section
  - 5) Medical affairs section
  - 6) Social affairs section
  - 7) Educational affairs section

*Article (7):*

- 1) Tasks of the Director of the Executive Unit
  - To supervise the implementation of mine action policy
  - To execute demining policies acknowledged by the National Mine Action Committee.
  - To supervise the work of the specialized departments in the national technical executive unit, branch units and national training centre.
  - To prepare and submit the draft annual budget to be acknowledged by the National Committee
  - To prepare and submit detailed draft Action Plans and programmes to be acknowledged by the National Committee and supervise their implementation.
  - To supervise the implementation of all programmes and projects supported by donor nations and organisations.
  - To coordinate all governmental and non-governmental efforts.
  - Chair a weekly meeting for specialized departments in the executive unit.
  - To submit regular report to the chair of the committee about implemented activities.
  - To attend National Committee meetings.
  - To do any other tasks assigned by the chair of the National Committee.
- B) Tasks of the Deputy Director of the Executive Unit:
  - To fulfil the tasks of director when absent.
  - Does any other tasks assigned to him by the Director of the Executive Unit.

- C) Tasks of the Secretariat of the Executive Director Unit:
- Prepare correspondence of the director.
  - Maintain and manage the filing.
  - Print and photocopy correspondence documents issued and received by the Unit.
  - Any other tasks assigned by the director.
- D) Tasks of the Planning, Training and Operations Department
- To prepare general training policies at National Level.
  - To ensure and examine effectiveness and safety of the humanitarian Mine Action programme.
  - To develop, implement curriculum of quality assurance and a national training criteria.
  - To supervise training pertaining to mine action programmes
  - To report about support to mines issues.
  - Planning demining operations implemented by Executive Unit.
  - To keep minefield records.
  - To report all issues related to communication including sites and condition of communication equipment used to support demining operations.
  - To estimate and coordinate frequency allocation requirements of national demining operations communication nationally.
  - To install, operate and maintain communication system employed in demining operations.
  - To collect and record information concerning condition of mine/UXO fields, demining operations at national level.
  - To log in information concerning mine fields into the information database system.
  - To follow-up the new technologies and equipment used in demining.
  - To submit regular reports about the Department's activities.
  - To do any other activities assigned by the Director of the Executive Unit.
- D 1) Tasks of Planning sections:
- To prepare a broad planning guidelines to mine action plan.
  - To ensure and examine the effectiveness and safety of the humanitarian mine action programme.
  - To prepare and publish planning guidelines to be implemented by Executive Units.
  - To submit recommendations about resource allocations and priorities in mine action .
- D 2) Training section tasks:
- To prepare national level training policy.
  - To develop and implement quality assurance standards and criteria for national training.
  - To supervise guidance programmes for all training pertinent to mine action.
- D 3) Tasks of the data and survey section
- To record all information concerning status of mine fields and demined areas and unexploded ordinance throughout the Republic of Yemen.
  - To interface worldwide with other mine action organizations, donors and NGOs to stay informed of the latest technologies and equipment used for demining.
- D 4) Operations and Communications Section
- To prepare maps of mine fields.
  - To set executive plans according to demining priorities.

- To maintain all mine fields records.
- To be responsible for all matters including locations and status of all communication equipment used in support of demining.
- To determine and coordinate frequency location requirements at national level.
- To plan installation, operation and maintenance of communication systems employed in demining operations.

E) Mine Awareness Department tasks:

- To develop a mine awareness action plan and follow implementation.
- To set an estimated budget to implement Mine Awareness Plan.
- To conceptualise , develop and produce mine awareness products.
- To coordinate with related facilities production of mine awareness materials.
- To monitor and track the mine awareness programmes and assess effectiveness.
- To coordinate mine awareness programme with national media.
- To coordinate internal and external support efforts.
- To submit regular reports about the Department;s activities.
- To do any other tasks assigned by the Director of the Executive Unit.

E1) Information Section Tasks:

- To set a national mine awareness plan and supervise its implementation .
- To develop and execute multi-media mine awareness campaigns.
- To involve NGOs and donor states in mine action programmes.
- To develop and produce mine awareness products.
- To produce information in coordination with relevant institutions.
- To follow up and monitor programme effectiveness.

E 2) Printing and publication section:

- To print and publish programmes and information concerning mine awareness.
- Prepare a periodical newsletter depicting activities of the mine action programme and distribute it to the related sides.

F) Finance and Logistics Department :

- To supervise all logistics issues, including receiving, warehousing and distributing devices, equipment, and supplies of the mine action programme.
- To supervise the inventory database of committees and executive units' replenishment requirements.
- Book-keeping of the mine action programme at national level.
- To manage and spend budgets given by the Yemeni Government, NGOs and donor states.
- To supervise requirements and supplies of the branch committees and executive units.
- To collect reports about resources .
- To follow up the status of supplies, stores and equipment of branch committees and executive units and replenish requirements.
- To apply and coordinate needed material for stockpile destruction.
- Respond to office and equipment needs of the National Mine Action Committee, branch committees and executive units.
- To adhere to a preventive maintenance schedule for all national committee vehicles and be responsible for the repair and maintenance of all vehicles.
- To secure all logistical supplies.
- To prepare the estimated budget for all components of the Technical Executive Unit.
- To maintain an inventory of all possessions.
- Submit financial statements of the unit.



- To advise the Director of the unit of the logistics status weekly.
- To perform any other tasks required by the Director of the Technical Executive Unit.

F 1) Tasks of the logistics and warehouses section

- To prepare a general plan for logistic and supplies and track implementation..
- To supervise all supply and logistics activities.
- Responsible for database inventory associated with supplies and identify replenishment requirements.
- Responsible for database inventory of all equipment and distribution documents.
- To follow the related provision of spare parts for vehicles and equipment.
- Responsible for warehousing of all equipment and explosives in a safe well-ventilated stores.
- Responsible for storage of all supplies associated with the programme.
- Responsible for keeping record and distribution of petrol and all its products.

F 2) Tasks of the Finance Section:

- Bookkeeping and monitoring the technical executive units accounts
- To receive the budget, process and disburse it according to the set budget lines
- Open bank account for the technical executive unit
- Submit a draft financial bylaw
- To submit regular reports associated with the financial status of the programme
- Follow-up and cash all the financial benefits of the unit employees
- To process, manage and disburse money provided by the Republic of Yemen, NGO's and donor nations.

F 3) Tasks of the administrative section:

- To maintain files and records of the mine action programme employees
- To prepare and keep records associated with the employee movements.
- To follow up employees' benefits
- To monitor administrative punctuality
- To follow life insurance for deminers while performing their tasks and to secure treatment of victims locally and abroad

F 4) Tasks of the secretariat:

- To perform all secretariat tasks involving typing, photocopying keeping records and filing etc.
- To maintain files and records of National Mine Action Committee correspondence
- To receive incoming letters and distribute issued letters and record them in a special register

F 5) Tasks of maintenance and Transportation section

- To set preventive maintenance plan for all kinds of maintenance
- To receive and maintain inventory of all vehicles, equipment and cars
- To be responsible for scheduling of vehicle support in coordination with the concerned bodies.
- To follow up repair and maintenance of all vehicles belonging to the National Mine Action Committee
- To submit report about daily status of human and technical resources
- To submit a regular proposal about fuel requirements

G) Tasks of the social services department:

- To draw an action plan for activities to be implemented by the department
- To coordinate with bodies working in service provision

- To assist mine/UXO victims and their families
- To receive reports about mine/ UXO explosions and report immediately to the unit director and operation section director
- to collect information about mine injuries provided by branch committees and executive unit and log it to the computer
- Provision of first aid for mine/ UXO victims
- Submit regular reports about the department activities
- To do any other tasks assigned by the director of the technical executive unit

G 1) Tasks of the Medical Affairs Section :

- To coordinate with the Ministry of Health and military medical services
- To prepare an appropriate plan to the operation of units and the branches
- To provide first aid to the employees and other injured in mine/ UXO accidents
- To supervise training of health staff working in the programme and coordinate with the trainer in the unit
- To coordinate efforts in the medical field internally and externally
- To receive and store medicines and medical supplies of the programme
- To prepare a record of mine/UXO injuries and submit reports about them
- To forward monthly reports about the health status of employees and mine/ UXO survivors

G 2) Tasks of Social Affairs Section:

- To liaise with Ministry of Social Affair and related bodies
- To coordinate local and external efforts in this field
- To assist mine/UXO victims and other families according to the enforced laws
- To set priorities for giving aids and needs donated internally and externally

G 3) Tasks of the Educational Affairs Section:

- To coordinate with Ministries of Education, Labour and Vocational training
- To follow up inclusion of mine/ UXO victims in schools and different institutes
- To coordinate with the mine awareness department regarding mine awareness plan implementation in schools and institutes.
- To coordinate efforts internally and externally prepare and develop information concerning mines and UXO.

*Article (8):*

Support Organizations:

Donors/ Support bodies consist of representatives of states and supportive organizations for the mine action programme and are directly linked with the chair of the committee and responsible :

- To submit project proposal for support and implementation plans
- To participate in implementing approved projects supported by them
- To take part in regular meeting to follow mine action programme activities
- To provide advice to improve the programme activities

*Article (9):*

Tasks of the Chair of the Committee Secretariat:

- To be responsible for all secretarial work including correspondence preparation, printing, photocopying, recording and distribution of issues related to the committee chair
- To follow up execution of instructions issued by the chair of the committee
- To arrange meetings for the chair of the committee and write the minutes
- To prepare the meeting documents of the chair of the committee

- To maintain files and records
- Any other tasks assigned by the chair of the committee

*Article (10):*

This decree is implemented from the date of issue

Passed by State Minister of Cabinet Affairs , Chair of Mine Action Committee office.

Date 1998

Dr. Muttaher Abdulla Al-Saeedi  
Minister of State for Cabinets Affairs  
Chair of the Mine Action Committee

## Annex 5.

# Five-Year Strategic Mine Action Plan for Yemen

**1) Scope:** This document addresses Mine Action in Yemen from the beginning of 2001 through the end of 2005. Follow-on plans will continue until the Vision (stated below) becomes reality

**2) Vision:** Yemen free from the negative humanitarian and economic effects of landmines

- At the community level, to ensure that mine accidents are eliminated or reduced to a negligible rate
- At the national level, to ensure that economic activity and development projects are not prevented by the presence of landmines or UXO
- At the national and community level, to provide physical, psychological, and social support to survivors of landmine accidents.

**3) Priorities:** According to the National Mine Action Vision and Level One Impact Survey Yemen National Mine Action priorities are:-

- To negate the risk of death or injury to people living in mine-affected communities
- At the community level, all mined areas that block access to a critical area (such as water, or pasture land) for which the community has no viable alternative will be cleared
- To negate the effect of landmines on livelihood of those living in mine-affected communities.
- At the community level, all mined areas, which block access to infrastructure such as roads, public use facilities, or water resources will be cleared or breached with clearly marked lanes.
- To negate the impact of landmines on national development plans
- At the national level, mined areas that impede development (such as water projects, airport/sea port development, and oil extraction) will be cleared or breached.
- To ensure survivors of landmine accidents have equal access to educational and economic opportunity

#### 4) Programme Design:

**Current Situation:** The Government of Yemen is developing a national mine action capacity capable of planning, coordinating and managing all aspects of mine action activities in the country. The National Mine Action Committee (NMAC), Chaired by a Minister of State (Member of the Cabinet), is responsible for policy formulation, resource allocation and National Mine Action Strategy. The Yemen Executive Mine Action Center (YEMAC) is responsible for co-operation of mine action activities, a Regional Executive Mine Action Branch (Aden REMAB), executes national mine action plans. The Yemen Mine Action Programme currently has 813 personnel for planning, training logistic, mine survey, mine clearance, mine awareness and victim assistance.

**2001:** To capitalize on the Level One Impact Survey ( for which field work was completed in July of 2000, and data analysis completed in December of 2000), 2001 emphasized Technical Survey and area reduction focused on those communities which the level One Impact Survey determined to be most at risk/ most effected by landmine contamination. Two additional Mine Action Units( of 64 persons each ) completed training in 2001 . A Mine Detection Dog capability demonstration was accomplished in September 2001. Mine Awareness and Victim Assistance focused on the most mine-affected communities. Victim Assistance includes classification by type injury and follow-on medical care at an appropriate national facility.

**2002:** Expansion of the Programme will continue in 2002. The Seventh Mine Action Unit, including Mine Awareness and Victim Assistance sections, will be trained, equipped, and deployed. The first four Mine Detection Dog Teams (of four dogs each) will become operational. A sustainable Information System ( IMSMA) will be functional by mid-2002, and an improved Quality Management system will ensure compliance with International Standards. A National Landmine Survivor Support and Referral Structure will be in place to address the physical, psychological and social needs of survivors.

**2003:** In 2003, four additional Mine Detection Dog teams will be trained, equipped and fielded. By the end of 2003 the programme will be mature with Seven Mine Action Unit, Seven Survey Teams, and eight Mine Detection Dog teams operating under the supervision of the NMAC, the YEMAC, and the RMAB.

**2004:** An organizational assessment will be accomplished, and capacity development for all aspects of Mine Action will continue .

**2005:** By 2005 a sustainable National Mine Action management processes and organizational structure will be fully functional. Replacement of equipment and renovation of facilities will be accomplished as required. The NMAC will develop and approve a Five Year Strategic Mine Action Plan for 2006 through 2010.

## Annex 6.

# Prime Minister Resolution No. 282 of 2002

### “Reestablishment and Formulation of National Mine Action Committee and specification of its tasks”

Prime Minister of the Cabinet Council After studying the constitution of Republic of Yemen and Presidential Resolution No. (2) 1991 pertaining to Cabinet Council and the Republican Resolution No. (72) 1998 to form the government and its members and after the Cabinet

#### “Resolution”

##### Article (1):

1) Mohsen Al-Yousife – Minister of State for Cabinet	Chair
2) Deputy Director of the Prime Minister Office	Member
3) Deputy Chief of Staff	Member
4) Director of Military Engineering Department	Member
5) Undersecretary of Ministry of Public Health & Population	Member
6) Undersecretary of Ministry of Welfare and Socialcurity	Member
7) Undersecretary of Minister of Interior	ember
8) Undersecretary of Ministry of Education	Member
9) Undersecretary of, Ministry of Information	Member
10) Director of Labourand Administration at the Prime Minister office	Member
11) Undersecretary Ministry of Agriculture	Member
12) Undersecretary of Ministry of Public Works and Urban Development	Member
13) Undersecretary of Ministry of Local Administration and Local Development Sector	Member
14) Deputy Minister of Planning and Development	Member
15) Deputy Minister of Tourism and Environment	Member
16) Representative of Yemen Mine Awareness Association	
17) Director of the Technical Executive Unit	

##### Article (2):

a) The Committee practices the following tasks and responsibilities:

- 1) Guidance and supervision of Mine Action Operations, elimination of Landmines and Victim Assistance
- 2) Approval of policies and strategies set by the specialized advisory committee for demining, clearance and alleviation of impact and supervision of implementation and issue the necessary guidelines and instructions.

- 3) Approval of plans and annual budgets to execute tasks and activities of the mine action programme
- 4) Approval of the training programmes to upgrade staff qualification and skills necessary to handle the mine action programme components
- 5) Coordination of international and donations to support the mine action programme, supervision of budget lines and distribution of all aid and equipment given by donor nations
- 6) Establishment of a data base inventory of mine affected areas, field, types of planted mines, victims and financial losses all over the country.
- 7) Approval of mechanisms of receiving and distribution of material installations and equipment for the programme
- 8) Setting information and Mine/uxo Risk Education Plan
- 9) Any other tasks to facilitate the work or assigned by the Prime Minister

b) The Committee may appoint experienced and specialised persons in mine action programme

*Article (3):*

The committee executes its tasks through the specialised formed advisory committees and its tasks is specified by a decree of the chair after approval of the committee

*Article (4):*

A technical executive unit is formed to implement the National Committee plans under the supervision of the committee chair . Technical executive units branches may be established in the mine affected areas.

*Article (5):*

The chair of the committee should submit a monthly report to the prime minister about the work and achievements of the committee

*Article (6):*

The committee holds quarterly regular meetings and may hold exceptional meetings when called by the Prime Ministry or the Chair of the Committee

*Article (7):*

The Prime Minister issue financial instructions and rules related to expenditure according to the followed system

*Article (8) :*

The Chair of the Committee issues executive decrees and orders for the rules of this resolution.

*Article (9):*

This resolution is effective from the date of issue and published in the official gazette.

Issued by Minister's Council  
11 March 2002  
Prime Minister Abdulqader Bajamal





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