

KEY MESSAGES

- Mine action programmes typically transition from a post-conflict setting, through reconstruction, to a development phase and eventually to shut down, residual capacity or realignment towards other issues.
- This transition may not be linear and different phases may be apparent in different areas of a country at the same time.
- National authorities are encouraged to take 'ownership' of the landmine/explosive remnants of war (ERW) problem, to pass legislation and create national authorities able to address the problem.
- Issues such as accreditation of operators, liability, and obligations under international treaties need to be taken into consideration.

LIFE CYCLE OF MINE ACTION PROGRAMMES

Stages in the life cycle

Mine action programmes go through a life cycle much like any other project or programme: they start up, they develop, they reach maturity, they decline towards some limited residual capacity, and they shut down or are pointed in a new direction to pursue new challenges.

The different circumstances found in different countries, often as they emerge from extended periods of conflict, mean that the look of individual mine action programmes can vary greatly. In some of the earliest programmes initial activity was conducted almost entirely under the direction of supranational United Nations agencies. In other more recent cases national entities have taken a leading role from the earliest stages.

The prevailing security situation and extent of physical destruction of infrastructure influence the need for reconstruction and the freedom to carry out work. Programmes in countries that have suffered less contamination may run through their life cycles within a few years. Others may still be active after several decades.

Changing context for mine action

Most mine, cluster munition and other ERW contamination stems from periods of conflict. In many cases, and increasingly over the past few decades, these have been internal conflicts creating what have been termed ‘complex emergencies’. These are situations where the legitimacy of the state is challenged, or has collapsed, in large swaths of the country; where peace can prevail for long periods in some parts of the country while conflict persists, or is intermittent, in others; where civilians and their livelihoods are often targeted by the warring factions.

Warring parties frequently ask the international community to provide assistance in the form of peace-keeping or broader peace-building missions. Where such efforts appear to be successful – or where major countries deem their national interests are at stake – the peace-keeping phase may lead to a major reconstruction effort, financed by donor countries and multilateral financial institutions (such as the World Bank and regional development banks).

Although in many cases ‘traditional’ development work (eg new investments in infrastructure, social services, and private sector development) does not stop entirely, the government and major donors may focus initially on peace-keeping/building and subsequently on the reconstruction programme. As the restoration of key infrastructure (roads, railways, ports, electrical utilities, water systems and so on) and basic public services (education, health, policing, etc.) progresses, attention increasingly shifts to more traditional development programmes.

Up to four major stages can be defined in a country’s transition:

1. Conflict
2. Immediate post-conflict stabilisation (including peace-keeping/building)
3. Reconstruction
4. Traditional development with assistance from international donors and financial institutions.

This depiction of the transition from conflict to development is a stylised one. In some cases a dormant conflict resumes, halting transition to the reconstruction and development phases. Especially unfortunate countries may suffer from simmering conflict for prolonged periods, perhaps becoming a forgotten emergency, receiving little attention from the international community. In such cases the transition from conflict to development is uncertain and prone to reversals, and may proceed at different rates in different parts of the country. Moreover the start and end points of the different phases may not be clear cut, with the various phases overlapping.

The general dynamics of such transitions, as well as the implications of such dynamics, are important for those planning and managing mine action programmes, rather than the details of an individual country's transition. In particular:

- The country's social, political, and economic environment will evolve over time, in some aspects, quite rapidly.
- The size and relative importance of the different types of international assistance programmes – humanitarian, peace-building/immediate post-conflict, reconstruction, and development – will evolve over time and, because of this.
- The international actors present in the country, their primary objectives, and their relative power to influence local affairs, will change over time.

Implications for mine action

The principal outputs of mine action (safe land and facilities; information; people aware of the dangers posed by landmines, cluster munitions and other ERW; numbers of stockpiles destroyed) are not ends in themselves. Each mine action output is a means to an end. Mine action is (or should be) at the service of the citizens of a mine-afflicted country. At any given time, the majority of its resources should be deployed in support of the most strategically important efforts underway in the country at that time.

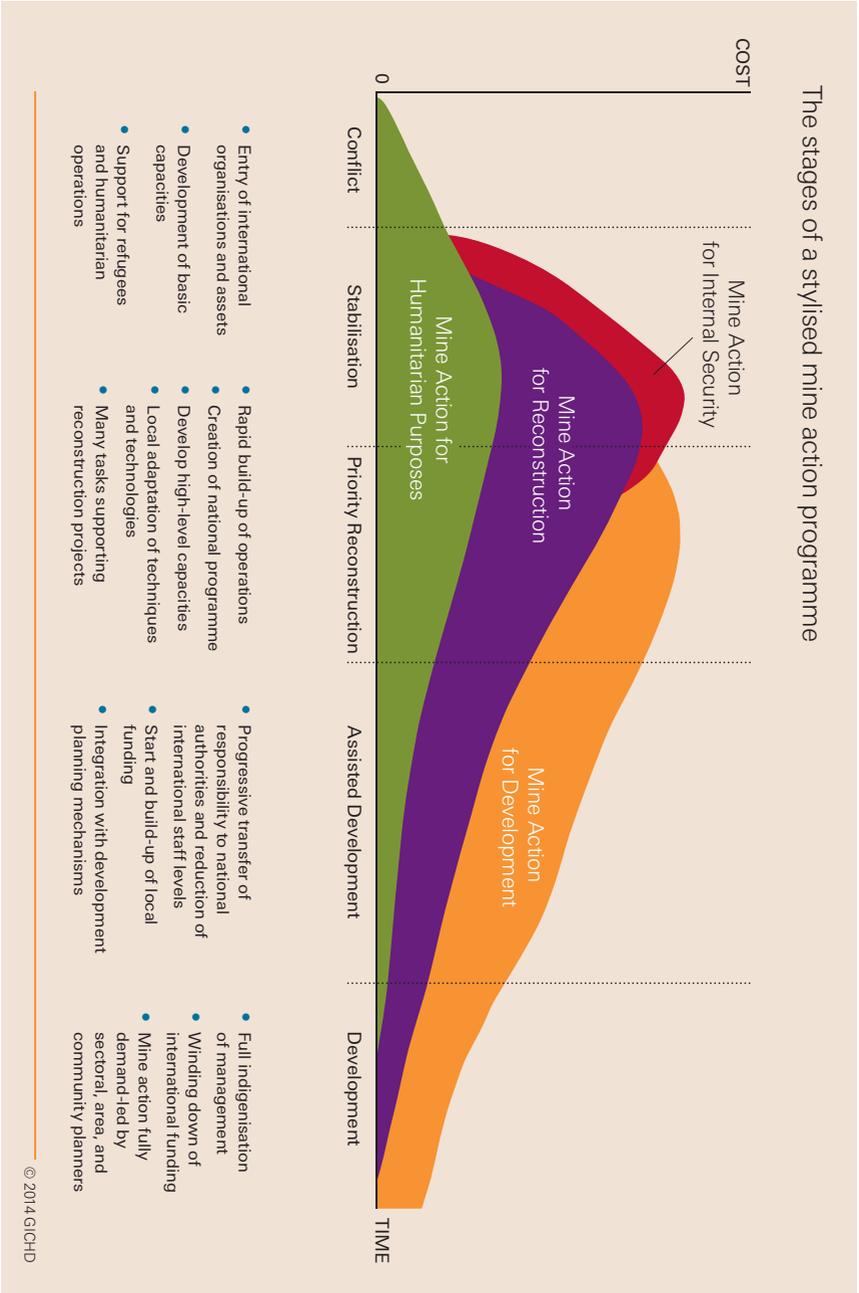
Mine action priorities in a post-conflict environment – and the programme's allocation of resources – should also change as the emphasis shifts from humanitarian assistance through stabilisation and reconstruction to development. Typically these are incremental shifts over time rather than abrupt changes, so there may be periods when the mine action programme is working in support of, say, three types of programmes: humanitarian, reconstruction and development.

When broken down in this manner, the pattern of mine action expenditures over time might appear as depicted in Figure 1.

Two other types of change also influence the performance of a country's mine action programme. First, the programme's capacities will grow with new assets, training, the introduction of better organisational management systems and experience. Some of the likely developments over time for a mine action programme are listed at the bottom of Figure 1.

FIGURE 1

THE EVOLUTION OF A MINE ACTION PROGRAMME



Second, mine action planners and managers will acquire additional information over time, allowing them (in theory at least) to make more informed decisions and better projections concerning future developments that are likely to affect the programme.

Some of the data categories that are important to a mine action programme are those concerning:

- Hazards (location, distribution, numbers and types of devices, what community assets hazards are blocking, etc.).
- Livelihoods – how individuals, households, and communities survive and prosper (this requires socio-economic data disaggregated by sex and age).
- National governance – how governments are formed and replaced and how the machinery of government functions.
- International aid and government financing – the key actors and their principal objectives at national, regional and community levels.

In general terms, planners should expect three broad trends:

1. Increasing levels of national ownership of the mine action programme – the national government may assume responsibility for the mine action centre (MAC), for instance. This implies an increase in the responsibility (and associated capacity) of the national government relative to the group of donors in setting priorities for the country's progress.
2. Increasing input from sectoral agencies (government departments, state-owned organisations etc.) as planners in the various sectors (agriculture, transportation, utilities, environment, etc.) begin to grapple with the problems created by contamination for their sector development plans.
3. Increasing input from different levels of government as provincial and local government capacities are rebuilt following the conflict and they gradually assume their responsibilities mandated by the constitution and legislation.

Mine action in emergency contexts

Mine action activities are often undertaken in emergency contexts in countries or areas where the security situation is changing or uncertain. In these circumstances activities are usually undertaken by the United Nations (UN) (particularly UNMAS) – in the context of a United Nations Peace-keeping Mission.

Programmes are normally authorized by a UN Security Council resolution. They most often support the role of the overall peace-keeping mission, such as clearing mines or ERW to allow border patrols, monitoring and facilitating elections or weapons collection activities, enabling refugee movement, delivering relief supplies and so on. Recent examples include Cyprus, Darfur, Lebanon, Libya and South Sudan. The funding for such programmes usually comes from member states assessed contributions to the UN¹, but on occasion may be supplemented by voluntary contributions.

Increasing attention is now being given to the role of mine action in support of efforts to achieve or maintain peace within and between countries. A study by the Peace Research Institute of Oslo (PRIO), published in 2006, concluded that: 'Mine action can play an important role in peace-building. Emerging mine action initiatives may help foster confidence between parties in conflict, as it has in recent years in Sri Lanka and Sudan... Engagement in mine action may also support reconciliation at various levels, as illustrated by the relationships between former fighters in Afghanistan's Mine Action for Peace programme. Ultimately, mine action breeds general support for the peace process through its direct impact on people's daily lives – eliminating risks, reopening transport routes or freeing up scarce resources, such as land and water sources. Carefully designed, implemented and coordinated mine action interventions provide a flexible and robust tool for peace-building.'²

A number of specific areas in which mine action can support peace-building include:

- reducing unemployment (particularly among groups who might resort to violence in the absence of alternative livelihoods);
- coordination and information management;
- building social capital at local community level; and
- confidence-building at regional level.

Reducing unemployment

Unemployment is often very high at the end of a prolonged armed conflict. Mine action has comparative advantages over many other sectors in providing employment through its ability to recruit, train, procure, deploy and partner quickly, delivering an early peace dividend. In Afghanistan, for example, the mine action programme was, for a time, the largest civilian non-governmental employer in the country.

This puts money in the hands of ordinary people who need it to survive. Such (relative) economic security can encourage grass-roots support for a peace process. It can also provide a much needed source of income for women and men who have become heads of household or providers as a consequence of the conflict or of a landmine/cluster munition/ERW accident.

Coordination and Information Management

Mine action has an impressive ability to develop standardised coordination and information management models. This is essential for the timely delivery of services in post-conflict environments. In Kosovo, data diplomacy undertaken by the United Nations to populate the spatial planning tool in the Information Management System for Mine Action (IMSMA) database was a spur to other sectoral areas to exploit the potential of Geographic Information Systems (GIS).

The high levels of support to develop local and national capacities for coordinating and managing mine action are relevant far beyond the sector. In particular, the experience and expertise gained in assessment and planning, through senior and middle management training, can be readily transferred to other sectors.

Building social capital at local community level

Mine risk education, especially through community liaison work, helps to identify local concerns and priorities and communicate them to higher authorities. It can also help to mobilise men and women in their communities to take greater responsibility for managing the mine, cluster munition and ERW threat.

This support for building social capital at community level can help sustain risk education initiatives long after specialist teams have left, and bring corresponding benefits to community mobilisation in the difficult tasks of building trust and cooperation in the post-conflict period.

Confidence building at the regional level

Confidence building can also take place at the regional level. South Eastern Europe, having seen some of the most brutal fighting on the continent since World War II, pioneered moves towards the regional coordination of mine action. The South Eastern Europe Mine Action Coordination Council (SEEMACC) is a regional cooperation body for mine action programmes in the Balkans. The Council consists of the Directors of the mine action centres of Albania, Bosnia and Herzegovina, Croatia, and Serbia.

Mine action in support of reconstruction and development

As a humanitarian emergency ends and the security situation improves in a mine-affected country, mine action priorities adjust to support priority reconstruction and development programmes. The priority reconstruction programme following a conflict is typically planned by the World Bank, the relevant regional development bank and major donors, to last for three to five years. At the programme end the country's major infrastructure should have been rebuilt with the support, where necessary, of mine action organisations, especially through survey and clearance operations.

In addition to reconstruction of key infrastructure and restoration of basic public services, an important objective of a large post-conflict reconstruction programme is to restore the recipient government's capacity to plan and manage the ongoing development effort. Given that government management capacities may have been severely reduced during a prolonged conflict, it often has only modest input into the plans for the priority reconstruction programme, including mine action priorities. However, during this period, a progressive transfer of responsibility to national authorities takes place, including for setting survey/clearance priorities, and there is often a corresponding reduction in international mine action advisory staff positions.

As government capacity increases, and it starts to play an increasingly prominent role in setting development priorities and aid coordination, national budgetary support for mine action is often initiated and starts to increase slowly. Typically, during the reconstruction phase, there is a shift in the most influential international actors involved from the UN system and international humanitarian NGOs to the World Bank, regional development banks, and major donors. Ideally, national mine action authorities try to ensure linkages with reconstruction planning mechanisms and organisations to ensure alignment between mine action and reconstruction priorities.

Existing survey/clearance priorities evolve and new priorities are added. Survey/clearance may be taking place in one part of a country for the express purpose of saving lives and limbs. At the same time, survey/clearance assets may be deployed elsewhere for broader development objectives, eg to re-open roads to build schools and clinics, and facilitate access to markets.

During this phase, an emphasis is placed on the implementation of a structured information management programme with a focus on sustainability and national capacity development. It is vital at this point for national mine action authorities and the international mine action community to consider which national body will assume responsibility for the mine action information management system.

INSTITUTIONAL DEVELOPMENT OF MINE ACTION COORDINATING STRUCTURES

Management and coordination of mine action

It is now a well-established principle that the primary responsibility for mine action lies with the government of the mine-affected State. This responsibility is normally vested in a national mine action authority (NMAA), charged with the policy, regulation and overall management of a national mine action programme, as well as resource mobilisation, particularly from the government.³ The NMAA is typically an inter-ministerial body and is ultimately responsible for all phases and facets of a mine action programme within its national boundaries, including the national mine action strategy, national mine action standards and technical instructions.⁴

The operational arm of the NMAA is the mine action centre (MAC)⁵. This body is the focal point for mine action activities on the ground. It carries out the policies of the NMAA and coordinates the day-to-day work of the various organisations and agencies conducting mine action operations. Together, the NMAA and the MAC should be the principal organs managing and coordinating mine action in a mine, cluster munition and ERW-affected country.

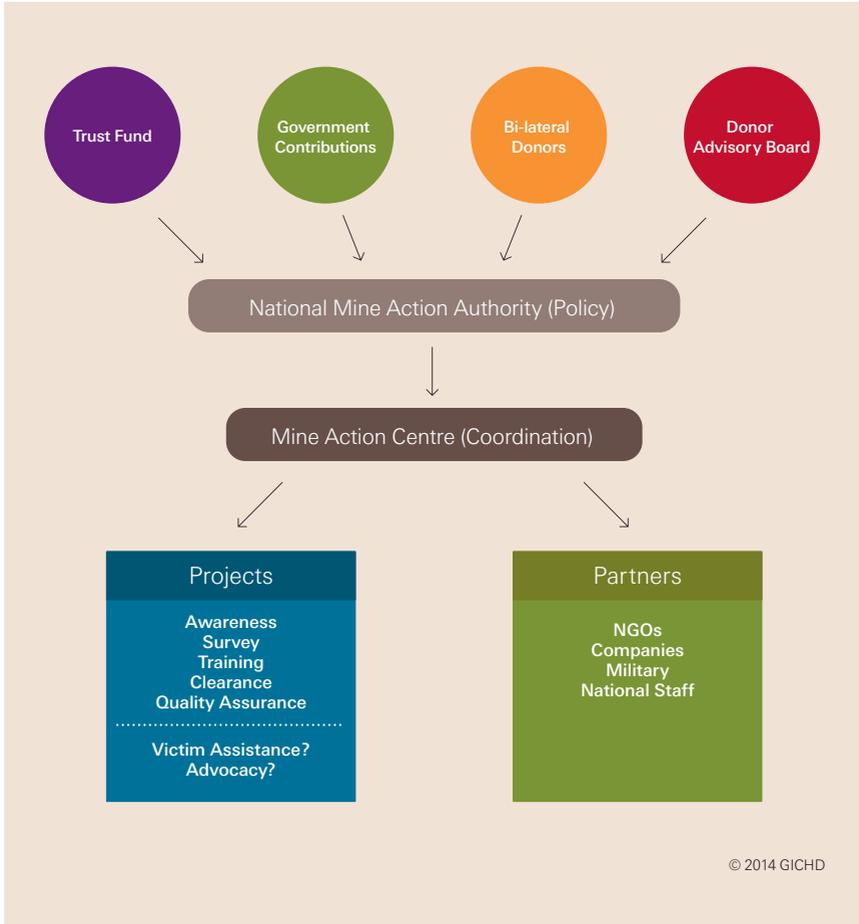
In some cases, the MAC coordinates a large number of operators and controls relatively large amounts of money, while in others it has more modest functions. In other cases, such as Angola and Cambodia, the MAC took control of its own operational demining teams. This approach proved to be less successful though, as the MAC became too focused on the work of its own teams and was not able to undertake its national coordination functions effectively. It also led to a conflict of interest, whereby the MAC, as the regulatory body, was being both 'referee' and 'player'.⁶

An example of a recommended national mine action structure is set out in Figure 2.⁷

In addition to the NMAA and the MAC, a number of other bodies may have input into the national mine action programme, most notably donors. There may also be technical committees or working groups set up under either the NMAA or the MAC, to which certain responsibilities are devolved.

FIGURE 2

MINE ACTION STRUCTURE



International actors assisting the development of national capacities

A range of actors or organizations can provide assistance to mine and ERW-affected countries. In 2013 the United Nations supports mine action in 30 countries and three territories. Sometimes UN services may be limited to one aspect of mine action — such as mine-risk education or victim assistance. In other places, the UN may be involved in every aspect of mine action, from clearing landmines to destroying stockpiles.

The extent of the United Nations' involvement depends on the scope of the problem, the assistance requested by national governments, and on any special circumstances. UNMAS has created MACs in a number of countries emerging from armed conflict, typically where there is a UN peace-keeping mission in operation. Similarly, UNDP provides support to national and local capacity building, including the establishment of national authorities and MACs.

The 'Strategy of the United Nations on Mine Action 2013 – 2018' presents the common objectives and commitment of the United Nations system to mine action; one of its objectives is the strengthening of national capacities in mine action. The strategy enhances the existing policy for UN support to mine action: Mine Action and Effective Coordination: The United Nations Inter-Agency Policy. The policy outlines the respective roles and responsibilities of the many UN agencies and bodies engaged in mine action.

Regional organisations, notably the Organization of American States (OAS), have focused on a regional approach to demining and the coordination of mine action activities. In addition, a number of States, including the United States, have also provided bilateral assistance to set up national MACs, typically referred to as 'national demining offices'.

As part of its support to national capacity-building the GICHD has provided training and technical assistance to many mine-affected nations in the areas of legislation, planning and management of mine action programmes, as well as in techniques for demining and mine risk education. It also plays a major role in assisting States to develop national mine action standards (NMAAS).

Need for national legislation

States use various legal instruments to create an NMAA and/or a MAC and to regulate mine action activities. These include laws passed by parliament, decrees and orders or similar legal instruments issued by the cabinet or office of the chief executive (prime minister or president) or by a government ministry. Mine, cluster munition and other ERW-affected countries are strongly encouraged to adopt national legislation to coordinate and regulate mine action.

National legislation refers to a public law passed by the country's legislative body (eg parliament or congress) and approved by the country's head of state. National legislation is preferred because it is normally the product of an extensive collaborative process between the executive, the national parliament and, in some cases, external agencies. It provides an opportunity for a thorough consideration of mine action issues, the activities to be undertaken, and the implications of the

proposed law. It also allows for inclusion of provisions on the responsibility of the executive to submit periodic reports on progress in the mine action programme to the legislature. This makes it easier for the legislature to hold the government to account.

Mine action legislation typically includes certain specific elements. These include provisions on:

- the establishment of the NMAA;
- the establishment of the MAC (and of any subordinate regional/provincial office);
- the implementation of mine action activities; and
- accreditation and monitoring of mine action operators.

National legislation provides the framework, authority and legitimacy for the main elements of the institutional architecture of a mine action programme. It does not normally concern itself with the fine detail of how mine action activities are carried out, although a small number of countries choose to bring elements such as Standard Operating Procedures (SOPs) within the remit of national legislation.

Doing so can bring a high level of enforceability and uniformity within mine action operations (clearance in particular), but it creates inertia and resistance to change in the system. Changes requiring high level legislative agreement are rarely updated – the process of drafting and agreement, and the associated burden on civil service and government time, make it unattractive and difficult to incorporate changes to formal documentation.

Basic principles of quality management, especially continual improvement, require an appropriate degree of flexibility and responsiveness, to allow processes, procedures and systems to adapt and adjust to changing circumstances and in light of new knowledge and experience.

Legislative action has an important role to play in establishing policies and basic standards for mine action, as well as in encouraging appropriate learning and development to support the effectiveness and efficiency of the mine action programme. The balance between centralised control and delegation of authority is an important one; it merits careful attention and thoughtful action.

Mine action legislation also relates to the obligations States have under the Anti-Personnel Mine Ban Convention (APMBC) and the Convention on Cluster Munitions (CCM). In addition to ensuring that prohibited activities are considered

illegal in a domestic context, legislation to give effect to these treaties can involve requirements to furnish information necessary to ensure compliance, for example on mined areas, the clearance of them, and on the possession of stockpiles.

National mine action authority

The NMAA is the principal entity responsible for overseeing mine action in an affected country. One of the purposes of mine action legislation is to create the NMAA and outline its functions. Legislation relating to a NMAA should include clear provisions in the following areas:

1. The establishment of the NMAA: the legislation should state clearly that an NMAA is to be created and that it shall meet regularly. The law should also indicate which government ministry or department or member of the executive is to oversee the work of the NMAA.
2. Membership: legislation should identify the ministries and/or officials who are to be members of the NMAA. Such bodies typically include officials from the government ministries or departments associated with mine action activities (eg Ministries of Agriculture, Defence, Education, Foreign Affairs, Health, Interior, and Social Services). The NMAA could also include representatives of international organisations and other bodies or organisations involved in mine action. These entities are sometimes invited to participate as observers in the NMAA's work. The law should also identify which ministry or department is to chair its meetings and which is to act as the secretariat for the NMAA, if the mine action centre does not perform this function.
3. Responsibilities: legislation should specify that the NMAA is the body charged with overall responsibility for mine action within the country. In this regard it is responsible for the broad strategic and policy decisions related to mine action. In particular, the law should indicate that the NMAA is responsible for:
 - the overall implementation of mine action legislation;
 - adopting a national policy, strategy, priorities and annual workplan to reduce the impact of mines and ERW (ie a national mine action plan);
 - approving National Mine Action Standards (NMAS);
 - reporting to parliament, the public, donors, the United Nations and other relevant fora on mine action progress;
 - overseeing the work of the mine action centre; and
 - fundraising from national resources and the donor community.

Mine action centre

The mine action centre (MAC) is the operational body that executes the policies of the NMAA and is the focal point for coordinating day-to-day mine action activities on the ground. In contexts where the mine and ERW problem is severe the centre is likely to have a wide range of responsibilities and duties.

Principal points governing the creation of a MAC that may be considered in developing national mine action legislation include:

1. The establishment of a national MAC and any subordinate regional/provincial offices. Similar to the NMAA, the MAC should be clearly established by the legislation and identified as the body coordinating mine action within the country.
2. Funding. The law should indicate the source of the MAC's funding. Its activities, including the salaries of its staff, are typically drawn from the national budget of the affected State. This helps ensure that the MAC has a reliable source of funding and can plan its activities accordingly. In addition to national sources, funds may also be obtained from international donors, as well as private and other sources.
3. Responsibilities. As the body overseeing mine action at the operational level, the MAC is charged with a range of responsibilities.

Legislation typically gives the MAC the authority to perform the following tasks:

- coordinate mine action within the country;
- manage and disseminate mine action information;
- prepare and implement a national mine action strategy and plan as well as annual work plans;
- set criteria for mine action priorities;
- accredit mine action operators and monitor mine action activities;
- draft national mine action standards;
- task mine action activities according to the national workplan;
- ensure the quality of mine action activities; and
- act as the secretariat for the NMAA.

It is often useful to grant the MAC the authority to adopt subsidiary or administrative directives or regulations related to the above tasks.

In addition to these responsibilities, many administrative and procedural issues, such as employee regulations and the requirements for the accreditation of mine action operators also need to be developed. Such measures are not normally included in mine action legislation but are left to internal orders and regulations. Legislation may give the MAC authority to develop such regulations when necessary and to submit them to the NMAA for approval.

Delegation of authority to the appropriate level plays an important part in maintaining the flexibility necessary for the programme to respond to changes in circumstances, conditions and understanding of the task.

Depending on the operational structure, the MAC may not necessarily be the body that coordinates advocacy, victim assistance or stockpile destruction.

Implementation of mine action legislation

Mine action legislation should identify the components of mine action that will take place within the country. As the principal coordinating body for mine action, oversight of most activities will be the responsibility of the MAC. It may undertake some operations itself but more typically coordinates interventions from government ministries, international organisations, NGOs and commercial operators.

Specific activities required in a particular country depend on the nature of its mine and ERW problem. Mine action legislation should be designed to address the specific needs in the national context. The following operations are common to situations where the mine and ERW problem is severe and are normally referred to in mine action legislation:

- Survey, mapping and marking of mine, cluster munition and ERW-contaminated areas. One of the primary activities overseen by the MAC is the identification, recording and marking of areas believed to be dangerous due to the presence of mines and ERW. Surveys are the starting point for other mine action activities, such as mine, cluster munition and ERW clearance, mine risk education and coordination of the activities of external agencies or local operators. Including these activities in mine action legislation provides a legal basis for granting surveyors and other personnel access to contaminated territory, government officials and information to allow them to carry out their functions.
- Land release. Following the application of non-technical and technical survey processes, hazardous areas are identified, recorded and marked before being prioritised for clearance. Mine action legislation helps clearance personnel

gain access to contaminated areas and to information to facilitate their work. Land release is a decision-making process relying on availability of information, and also on confidence amongst decision-makers that the decisions they take will not be used against them in the future. National legislation can play an important role in clarifying questions of responsibility and liability.

- Mine risk education. Teaching people how to live safely in environments contaminated by mines, cluster munitions and ERW is an important part of minimising the risk of victims of these weapons. Risk education is often neglected as an element of mine action legislation when it can provide great benefits. Legislation can provide the basis for incorporating mine risk education into school curricula, where appropriate, as well as into local and national media.
- Responsibility for mine and ERW data. The MAC is usually responsible for collating information on the location of areas affected by mines, cluster munitions and ERW, as well as mine and ERW accident information. The MAC usually controls the main database storing this information and, in coordination with mapping agencies, produces maps, charts and other information for use by mine action operators and other interested parties. Granting this responsibility in legislation provides the MAC with a legal basis to undertake these activities and helps avoid potential conflicts with other national mapping agencies.
- Stockpile destruction. States adhering to the APMBC are obliged to destroy all stocks of their anti-personnel mines within four years of becoming a party. A similar requirement to destroy stocks of cluster munitions exists within the Convention on Cluster Munitions (CCM). A number of States have included this requirement in their mine action or cluster munition legislation and assigned a role to the MAC. Inclusion in legislation provides a clear domestic legal basis for developing regulations on the possession, transport, storage and destruction of anti-personnel mines, cluster munitions and other similar weapons.
- Victim assistance. Providing medical care, rehabilitation and reintegration to those who have been injured by mines or ERW is an important part of mine action. Doing what is required to assist victims usually relates to responsibilities of ministries linked to public health, social services and disability. While lead responsibility for victim assistance normally rests in a Ministry of Health/Social Affairs and/or a State entity responsible for disability and disability rights, NMAAs and MACs also have a role to play. The UN's 2003 sectoral policy on victim assistance, while highlighting that 'mine action centres are not designed to take the lead role in victim assistance,

nor do they have the mandate, expertise or required resources,' suggests that MACs/NMAAs can contribute to assisting the victims in areas such as data collection and dissemination, advocacy, and coordination. Legislation can also be developed to address survivors' well-being and to guarantee their rights in a non-discriminatory manner, through the establishment of appropriate laws in favour of persons with disability.

Accreditation and monitoring of mine action operators

Part of the process of assuring the quality of mine action includes confirming that work is conducted by competent operators. Mine action legislation normally requires that operators be accredited prior to beginning activities in the country. This ensures that international agencies, NGOs and commercial companies are capable of planning and managing mine action activities and are competent to carry out particular mine action tasks. Requiring the accreditation of mine action operators helps ensure that mine action is conducted in accordance with accepted standards and national priorities.

Mine action legislation provides MAC authority to establish criteria for accreditation and identifies it as the body responsible for doing so. The process of accreditation typically includes the opportunity of an appeal to the NMAA in the event of an adverse decision. Accreditation generally applies to organisations involved in demining and mine risk education and, in some cases, stockpile destruction.

It does not generally make sense for a MAC to be empowered to accredit entities involved in assisting victims. As the activities involved are part of broader approaches to health care, social services and human rights, other relevant State actors normally take the lead.

Quality management is critical to the ultimate success of mine action. The MAC ensures that ongoing work and completed projects have been conducted according to national standards and in accordance with the priorities of the national mine action plan.

Additional elements to be considered

Definitions

Clear definitions are an important part of any legislation. Mine action legislation should include definitions of the mine action terms used in its provisions. These may include: mine action, land release, demining, mine risk education, victim assistance and other important terms. Definitions can be based on the IMAS and

doing so helps ensure consistency between standards and the terms of legislation. In some instances, the definitions may need to be modified to reflect the situation in the affected country.

If mine action legislation is to address the implementation of the APMBC, the CCM, or Amended Protocol II to the Convention on Certain Conventional Weapons, it is important that the legislation uses definitions contained in those instruments. This helps ensure consistency between the international treaties and the provisions of the national legislation.

Implementation of international treaty obligations

Some States that are party to the APMBC, the CCM or Amended Protocol II to the Convention on Certain Conventional Weapons (CCW) have also used the adoption of mine action legislation as a means to implement the requirements of these treaties. Among other things, the APMBC and the CCM require the marking and clearing of contaminated areas, and the destruction of stockpiles. Amended Protocol II also contains obligations for marking and clearance of mines, booby-traps and other devices. These activities often fall within the remit of the NMAA or MAC.

Other States have chosen to make the treaties the subject of separate implementing legislation. It is up to each State to decide the best method of meeting its mine action objectives and the implementation of the treaties to which it is a party.

Liability for accidents

Liability for mine and ERW accidents is a concern for many mine action operators. In recent years there have been instances where victims, or families of victims, have sought civil damages or brought criminal complaints for accidents which have happened on land previously certified as cleared, or where markings have deteriorated or been removed without authorisation.

The principal method to minimise the risk of such accidents is to ensure that mine action interventions are conducted according to the IMAS or relevant national standards. It is recommended that legislation states that duly accredited mine action personnel are not liable for accidents if they act professionally (ie in accordance with approved standards and Standing Operating Procedures (SOPs) and with due care).

Other possible options are to treat mine action under national law in similar ways to other dangerous activities conducted by organisations for the public benefit

(eg law enforcement agencies or fire services). Alternatively, legislation can limit liability or transfer responsibility to the government once land has been surveyed and marked according to SOPs, or has been certified as safe following clearance.

Irrespective of national legislative provisions, mine action operators are encouraged to retain liability insurance (wherever it is available) to protect against claims or lawsuits that may arise.

RESIDUAL CAPACITIES AND COMPLETION

The aim of all mine action programmes is to address the problems created by the real and perceived presence of mines, cluster munitions and ERW until they have no remaining impact on the population, and until obligations under international treaties have been satisfied.

It is anticipated that there will come a time when either there is no remaining problem, or when it has diminished to such an extent that there is no need for a programme with a large and complex institutional architecture. A number of responses may be appropriate.

Residual capacities

However rigorous, comprehensive and effective a mine action programme has been it is difficult to say, with absolute certainty, that every hazardous object has been dealt with in an affected country. This is particularly the case with ERW that may be present in remote areas or buried deep underground. Even when large scale clearance operations come to an end it is usually appropriate to retain some capacity to respond if and when hazardous objects are discovered.

Responsibility for doing so is normally left with military, police or civil defence units, although in some cases commercial contractors may be involved. The time-scale for maintaining a residual capacity can be lengthy – France and Belgium maintain capacities that are kept busy dealing with ERW from both the First and Second World Wars.

Changes in legislation may be necessary to reflect transfer of responsibility from an NMAA and MAC to elements of other Ministries or departments. The need to retain, update, secure and make available information about historical and on-going contamination remains of the utmost importance. Responsibility for handling information may be split between national archives or other similar repositories (for historical information), and residual capacity operational units (for new information).

Re-alignment

Organisations and structures developed within a mine action programme gain experience and learn lessons during the conduct of major operations. States may not wish to lose the expertise contained within elements such as the MAC. In some cases rather than wind them down a decision is taken to hand new responsibilities to the existing organisation.

Broader trends found within the global mine action sector (such as the focus on cluster munitions, stockpile destruction, small arms/light weapons and wider questions of armed violence) may be reflected within mine action programmes. Even when the landmine problem may be coming to an end, other issues may be gaining in profile and prominence.

Realignment of mine action programme elements can be an effective and efficient development. Once again, there may be a need for modification of some legislation to provide the necessary authority and legitimacy to engage in new and different activities.

Completion

In some cases, where conflict has been of limited duration and has resulted in limited contamination, it may be that a programme comes to a clear and natural end. Shut down of activities, institutions and the elements of the institutional architecture takes place with legislation either removed from the statute books, or allowed to lie unused.

Complete shutdown of a programme is likely to be carried out in conjunction with the maintenance of at least a small residual capacity, able to deal with the rare occasions when a hazardous item does come to light.



Mine clearance site visit (Democratic Republic of the Congo)

ENDNOTES

- 1 United Nations Committee on Contributions defines the assessed contributions as 'expenses of the Organization that shall be borne by the Members as apportioned by the General Assembly.' (Online). Available from: <http://www.un.org/en/ga/contributions/assessments.shtml>
- 2 Harpviken, K. B. and Roberts, R. (eds.) (2004) *Preparing the Ground for Peace: Mine Action in Support of Peacebuilding* (Online). Peace Research Institute of Oslo (PRIO) Available from: [http://file.prio.no/Publication_files/Prio/Harpviken%20and%20Roberts%20\(eds,%202004\)%20Preparing%20the%20Ground%20for%20Peace%20\(PRIO%20Report%202\).pdf](http://file.prio.no/Publication_files/Prio/Harpviken%20and%20Roberts%20(eds,%202004)%20Preparing%20the%20Ground%20for%20Peace%20(PRIO%20Report%202).pdf)
- 3 IMAS, 04.10, Definition 3.194. The National Mine Action Authority is defined as 'the government department(s), organisation(s) or institution(s) in each mine-affected country charged with the regulation, management and coordination of mine action.'
- 4 In certain situations and at certain times it may be necessary and appropriate for the UN, or some other recognised international body, to assume some or all of the responsibilities, and fulfil some or all the functions, of a national mine action authority. This occurred, for example, after a number of UN peace-keeping missions, including in Kosovo during the emergency and transition phases of mine action that followed the peace agreement between the North Atlantic Treaty Organisation (NATO) and the Federal Republic of Yugoslavia in June 1999.
- 5 In some countries, the word 'coordination' has been added to the title of the mine action centre to better reflect its activities. In Kosovo, for example, the UN coordinating body was called the Mine Action Coordination Centre (MACC).
- 6 Mansfield, I. (2002) Building National Mine Action Capacity: It Is No Myth, *The Journal of ERW and Mine Action*, 15.1.
- 7 Ibid