



ICRC

ADVISORY SERVICE

ON INTERNATIONAL HUMANITARIAN LAW

1997 Convention on the Prohibition of Anti-Personnel Mines and on their Destruction

The Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on their Destruction ("the Ottawa treaty") is part of the international response to the widespread suffering caused by anti-personnel mines. The Convention is based on customary rules of international humanitarian law applicable to all States. These rules prohibit the use of weapons which by their very nature do not discriminate between civilians and combatants or which cause unnecessary suffering or superfluous injury. The Convention was opened for signature in Ottawa on 3 December 1997 and entered into force on 1 March 1999.

Why a ban on anti-personnel mines?

Anti-personnel mines cannot distinguish between soldiers and civilians and usually kill or severely mutilate their victims. Relatively cheap, small and easy to use, they have proliferated by the tens of millions, inflicting untold suffering and wreaking social and economic havoc in dozens of countries throughout the world. Because they are far easier to lay than to remove, it is difficult or impossible in most conflicts to use these weapons in accordance with the rules of international humanitarian law.

What are the basic obligations contained in the Ottawa treaty?

States adhering to this treaty must *never under any circumstances use, develop, produce, stockpile or transfer anti-personnel mines* or help anyone else to do so. They must also *destroy existing anti-personnel mines*, whether in stockpiles or in the ground, within a fixed time period. A small number of these mines may be retained for the sole purpose of developing mine-clearance and destruction techniques and training people in the use of these techniques.

Which mines are affected by this treaty?

Anti-personnel mines are *designed to be placed on or near the ground and to be "detonated by the presence, proximity or contact of a person"*. It was the understanding of the negotiators that "improvised" devices produced by adapting other munitions to function as anti-personnel mines were also banned by the treaty. The Ottawa treaty prohibits anti-personnel mines only. It does not affect (a) anti-tank or anti-vehicle mines (regulated by the 1980 UN Convention on Certain Conventional Weapons and the general rules of international humanitarian law); (b) "anti-handling devices" attached to an anti-vehicle mine to prevent its removal or (c) "command-detonated" munitions which can only be triggered manually by a combatant and cannot be detonated simply by "the presence, proximity or contact of a person".

When and how will existing anti-personnel mines be destroyed?

Stockpiled anti-personnel mines must be destroyed within four years after the Convention's entry into force for a particular State. As for mines in the ground, whether in minefields or elsewhere, they must be destroyed within 10 years after

the entry into force. Pending such destruction, every effort must be made to identify mined areas and to have them marked, monitored and protected by fencing or other means to ensure the exclusion of civilians. If a State cannot complete the destruction of emplaced mines within 10 years it may request a meeting of the States Parties to extend the deadline and to assist it in fulfilling this obligation.

How will the treaty help mine victims?

The treaty is a comprehensive response to the landmine crisis. Not only are States Parties prohibited from using anti-personnel mines, but those able to do so agree to provide assistance for mine clearance, mine-awareness programmes and the care and rehabilitation of mine victims. Mine-affected States have a right to seek and receive such assistance directly from other Parties to the treaty and through the United Nations, regional or national organizations, components of the International Red Cross and Red Crescent Movement or non-governmental organizations. These cooperative aspects of the Convention should play as great a role as the ban it imposes in providing an effective international response to the suffering caused by these weapons.

How will compliance with the treaty be monitored?

The Ottawa treaty includes a variety of measures designed to promote confidence that its provisions are being respected and to deal with suspected violations. States are required to report annually to the UN Secretary-General on all stock piled anti-personnel mines, mined areas, mines retained for training purposes, destruction of mines and measures taken to prevent civilians from entering mined areas. To facilitate mine clearance, States must also provide detailed technical information about mines they have produced in the past.

If there are concerns about a State's compliance with the treaty, clarification may be sought through the UN Secretary-General and if necessary a meeting of States Parties may be held. This meeting can decide to send an obligatory fact-finding mission of up to 14 days to the relevant territory of the State concerned. On the basis of the mission's report, the meeting of States Parties may propose corrective actions or legal measures in accordance with the UN Charter.

What must a country do to implement the Ottawa treaty?

States wishing to adhere to the Ottawa treaty must express their consent to be bound by submitting a ratification (or similar) instrument to the UN Secretary-General, the treaty's depositary. States that signed the treaty prior to its entry into force but that are not yet party to it must refrain from taking any action which would undermine its purpose. With its entry into force, the treaty was closed for signature but States may adhere to it directly, without signing it, by sending an instrument of accession to the depositary. The Convention becomes binding upon a State six months after it has deposited its ratification or accession (or similar) instrument with the UN Secretary-General.

The treaty also requires governments to take national legal and administrative measures, including the imposition of penal sanctions, to ensure respect for its provisions within their territory and by persons under their jurisdiction or control. This may involve the adoption of criminal legislation. It may also require issuing administrative instructions to the armed forces and introducing changes in military planning.

Can a State ban anti-personnel mines and adhere to Protocol II to the 1980 UN Convention on Certain Conventional Weapons?

Earlier rules concerning the use of anti-personnel mines are contained in Protocol II to the 1980 UN Convention on Certain Conventional Weapons (CCW). The Protocol, which was amended on 3 May 1996, regulates the use of all types of mines and similar devices, including mines intended to destroy tanks and other vehicles. In addition to regulating weapons that are not covered by the Ottawa treaty, the Protocol enables a State to invoke its provisions, such as that requiring a party which uses mines to remove them at the end of the hostilities. Such provisions can be invoked in any conflict with another State party to the amended Protocol regardless of whether or not that State has adhered to the Ottawa treaty. States that become party to the Ottawa treaty are therefore encouraged to adhere also to Protocol II as amended.

Ratification packets for both the Ottawa treaty and the 1980 Convention on Conventional Weapons are available from the ICRC.

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