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ADVISORY SERVICE

ON INTERNATIONAL HUMANITARIAN LAW

1997 Anti-personnel Mine Ban Convention

The Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction (the Anti-Personnel Mine Ban Convention or APMBC) 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 inflict untold suffering and wreak social and economic havoc in dozens of countries throughout the world. Earlier efforts to reduce the impact of anti-personnel mines on civilians were considered by many States and organisations not to adequately address the humanitarian problem posed by these weapons.

What are the basic obligations contained in the Convention?

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 Convention 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. All anti-personnel mines in the ground 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 does the treaty help mine victims?

The Convention provides that 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 provisions complement States' obligations towards their own citizens, including disabled persons,

the families of dead victims and mine-affected communities.

How is compliance with the treaty monitored?

The Convention 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 national implementation measures adopted, all stockpiled 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 Parties must also provide detailed technical information about mines they have produced in the past. States can also provide voluntary information on other efforts to implement the Convention, such as victim assistance.

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. To date, these provisions have not been invoked and States Parties have addressed concerns through a cooperative approach.

What must a country do to implement the Convention?

With the Convention's entry into force, States wishing to adhere to it must submit an instrument of accession to the UN Secretary-General, the treaty's depositary. With The Convention becomes binding upon a State six months after it has deposited its accession instrument with the depositary.

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 doctrine.

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

A State is able to adhere to both of these instruments, although the stricter provisions of the Anti-Personnel Mine Ban Convention will apply to its States Parties. 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, including mines intended to destroy tanks and other vehicles. It also regulates booby traps, command-detonated munitions and improvised explosive devices. In addition to regulating weapons that are not covered by the Anti-Personnel Mine Ban Convention, the Protocol enables a State to require 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 Anti-Personnel Mine Ban Convention. States are therefore encouraged to adhere to both the Anti-Personnel Mine Ban Convention and to Protocol II as amended.

Ratification packets for both the Anti-Personnel Mine Ban Convention and the 1980 Convention on Conventional Weapons are available from the ICRC.

Review and implementation machinery

States Parties shall meet regularly (currently annually) to address any matter relating to application or implementation of the Convention. In addition to these formal meetings, the States Parties usually hold in intersessional meetings once per year aimed at enhancing the operation of the Convention. The Implementation Support Unit also works throughout the year to assist the States Parties in the implementation and universalization of the Convention, among other tasks.

Furthermore, a regular Review Conference was stipulated in the Convention. On 23 to 27 June 2014, the Third Review Conference will be held in Maputo.

The ICRC, among other relevant international institutions, may be invited as an observer to all these review and implementation mechanisms.

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