

## Verifying the Ottawa Convention

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The 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction (the Ottawa Convention) is the result of a highly successful partnership between governments and civil society. Impetus for the treaty came initially from those seeking to alleviate the suffering and devastation wrought by these weapons on civilian populations around the world. As states increasingly came to question the military utility of landmines they too became convinced of the benefits of such a treaty. The convention is a novel blend of international humanitarian law and arms control and disarmament. It avoids many of the standard arms control monitoring and verification processes, structures and institutions, and has a clear humanitarian focus. Its verification provisions are modest, but a system has evolved over the treaty's relatively short life which incorporates, with state party approval, significant monitoring of compliance by civil society organisations. This chapter charts the development of this unique system, describes how it is being implemented and considers some challenges that may affect its future viability.

The Ottawa Convention was opened for signature on 3 December 1997 in Ottawa, Canada, and entered into force a mere 15 months later, on 1 March 1999. The text is relatively short. Article 1 contains the key prohibitions: states parties must not use anti-personnel mines (APMs) or assist, encourage or induce others to do so and must not develop, produce, acquire, stockpile, retain or transfer APMs. However an authorised 'inventory' of APMs may be retained for training and development in mine detection, clearance or destruction technologies.<sup>1</sup> States parties are required to destroy all APMs held in national stockpiles within four years<sup>2</sup> and those in mined areas within 10 years.<sup>3</sup> They are also obliged to identify and mark off mined areas as soon as possible.<sup>4</sup> By enforcing a total ban on APMs, the Article 1

provisions significantly strengthen existing customary international law<sup>5</sup> and treaty law<sup>6</sup> controlling this weapon.

As of 29 October 2001 there were 122 states parties and 20 signatories to the convention. As it has now entered into force, other states may now only join by accession.<sup>7</sup> Notable holders-out from the regime include China, which is both a large-scale producer and a stockpiler of APMS; landmine users, including India, Pakistan, Russia and Sri Lanka; Finland, the only European Union (EU) non-state party; and the US and Cuba, the only non-states parties in the Americas. Meetings of states parties are held annually until the first of the five-yearly Review Conferences is held in 2003.

### **The Ottawa Convention's verification provisions**

The procedures and mechanisms in the treaty for clarifying compliance represent the balance arrived at by the treaty negotiators in amalgamating two disparate approaches—humanitarian norms and arms control—into one legal instrument. The result is a fusion of arms control verification procedures with the co-operative features of humanitarian treaty compliance determination. The treaty provisions focus on confidence-building, encouraging compliance through mutual transparency and co-operation. In fact, the term ‘verification’ does not even appear in the text.

At the heart of the treaty’s verification system is self-reporting by states parties. Article 7 on ‘Transparency measures’ requires states parties to submit reports detailing their compliance under nine categories:

- national implementation measures (legal and administrative);
- the numbers and types of stockpiled mines;
- the location of mined areas;
- the numbers and types of mines retained for training purposes;
- the status of conversion and decommissioning programmes for production facilities;
- the methods, location and status of mine destruction programmes;
- the numbers and types of mines destroyed;
- the technical characteristics of mines formerly produced; and
- measures to warn the public about mined areas.

States have subsequently agreed to additional voluntary reporting on measures to provide assistance to mine victims.<sup>8</sup>

Article 7 reports are submitted to the United Nations Secretary-General (UNSG), the depositary for the convention. States parties must submit an initial, baseline report as soon as possible and not later than 180 days after the treaty enters into force for them. These reports must be updated annually, covering the previous calendar year, and be submitted by 30 April. The convention requires the UNSG to transmit these reports to all states parties.

While there are no procedures in the treaty for determining the veracity of 'Article 7 reports', there are mechanisms for verifying suspected cases of non-compliance with the prohibitions. These mechanisms are detailed in Article 8 on 'Facilitation and clarification of compliance', the longest and most detailed provision in the treaty. The negotiating states' preference for determination of non-compliance to be conducted co-operatively is enshrined in the text.<sup>9</sup>

If a state party is suspected of violating any treaty prohibition, the convention allows for any other state party ('requesting' state) to submit a 'Request for Clarification' to the suspected state ('requested' state), through the UNSG. The requested state party is required to respond within 28 days. If a response is not received, or is deemed unsatisfactory by the requesting state, it may submit the matter to the next Meeting of States Parties (MSP). Alternatively, the requesting state may request the UNSG to canvass states parties' support for the convening of an urgent Special Meeting of States Parties to consider the matter. If at least one-third of all parties convey their approval to the UNSG within 14 days, such a meeting will be held within a further 14 days. Pending a meeting to consider the matter, any of the states parties concerned may request the UNSG to exercise his or her 'good offices'.<sup>10</sup>

Meetings of states parties may then authorise<sup>11</sup> and mandate an on-site fact-finding mission in the requested state to collect additional information for use in determining compliance. A fact-finding team would consist of up to nine experts drawn from the lists that the treaty requires the United Nations (UN) to maintain.<sup>12</sup> Nationals of the requesting state are prohibited from serving on such a fact-finding mission. The team is expected to arrive in the requested state at the earliest opportunity after the mandatory 72 hours' notice. Requested states are obliged to grant access to all areas and installations where relevant facts could be expected to be

collated. However, a state may restrict the operation of a mission in its territory to protect sensitive information, equipment or areas; to protect the constitutional rights of its citizens; or to maintain the physical protection and safety of mission members.<sup>13</sup> The mission's findings are reported, through the UNSG, to a meeting of states parties where suggested action to redress the non-compliance, along with offers of co-operative assistance, may be made to the requested state. The requested state is required to report on all measures it takes in response.<sup>14</sup>

There is no further recourse under the treaty for determining non-compliance. Unlike many other multilateral arms control treaties, the treaty does not prescribe final recourse to the UN Security Council or UNSG for serious, flagrant cases of non-compliance. While a case could still be brought as a 'threat to international peace and security' under the UN Charter, it is highly unlikely that it would be successfully invoked in relation to the use of landmines (as compared with the use of weapons of mass destruction, for instance). Whether this potential lacuna will have an affect on the decision-making processes of the treaty's ultimate verification body, the MSP, is yet to be seen.

## **Implementation of the verification system**

### *The official system*

The official verification system detailed in the treaty is modest.<sup>15</sup> Unlike other arms control treaties, it does not create, or mandate an existing body to act as, a secretariat. Instead, institutional responsibility for receiving and disseminating states' declarations on their compliance and for instituting the mechanisms for clarifying and determining compliance is vested in the UNSG. In practice, responsibility for implementing these procedures is devolved to the UN Department for Disarmament Affairs (UNDDA) and the UN Mine Action Service (UNMAS).<sup>16</sup>

The UNDDA's mandate is to advise the UNSG and member states on disarmament matters, develop and strengthen disarmament norms and agreements, and promote transparency and confidence-building in all aspects of disarmament. The Monitoring, Database and Information branch of the UNDDA, which is also tasked with collating and disseminating voluntary reporting on conventional armaments,<sup>17</sup> assists the UNSG in carrying out his functions relating to transparency and clarification of compliance under the Ottawa Convention.

The UNDDA makes available template report forms,<sup>18</sup> receives completed reports and disseminates them, both in summary form at meetings of states and on a database on the UN website.<sup>19</sup> It also plays a facilitating role in any compliance determinations that might arise under the treaty by maintaining the list of experts<sup>20</sup> that may be used for setting up fact-finding missions and providing organisational and logistical support for any special meeting of states parties that may be required to determine a non-compliance allegation. The UNDDA is also responsible for organising the annual MSPs and the five-yearly Review Conferences.

The UN incurs expenses in undertaking these treaty functions, including paying for personnel and technical resources for the establishment and maintenance of the database and the maintenance of the lists of experts. The transparency report database was created in-house and is managed by one UN staff member on a part-time basis.<sup>21</sup> While states parties are obliged to cover the UN's costs in undertaking these treaty functions,<sup>22</sup> this provision has to date not been implemented. This means that, in effect, all UN member states are contributing towards the UN's involvement in implementing the compliance monitoring aspects of the Ottawa Convention. States parties have been meeting their obligation to pay for their annual meetings: such budgetary assessments are determined months in advance. However, if a special meeting is ever convened to consider an allegation of non-compliance, states parties will be required to provide their funding contributions at short notice.<sup>23</sup>

UNMAS is the focal point in the UN system for the formulation of UN mine action policy and co-ordination of mine action activities. While it provides mine action support for all UN member states, some of its work is indirectly related to the verification provisions of this treaty. For example, its Assessment Missions in mine-affected states,<sup>24</sup> which determine the extent of mine infestation and identify pertinent issues affecting the development of mine action initiatives, often ascertain new information for those states' Article 7 reports.

UNMAS' direct role in treaty implementation has expanded over time. It has recently appointed a Treaty Implementation Officer<sup>25</sup> to enhance its co-ordination of treaty implementation work. UNMAS is increasingly involved in researching items for states parties' consideration with regard to treaty implementation, such as drafting international standards for mine action operations,<sup>26</sup> and maintaining

a website with information on sources of mine action support and assistance in the UN system, in the non-governmental community and among international organisations.<sup>27</sup> UNMAS also identifies issues for mine action policy development in the UN system and provides briefings on treaty implementation issues to meetings of states, and regional meetings of mine-affected countries and their partner agencies. UNMAS receives limited funding from UN assessed contributions for its work during UN peacekeeping operations and relies on voluntary contributions from donor states for the majority of its projects, including those in support of the treaty.

The functions carried out by these UN offices derive from the UNSG's role as the depositary for the treaty. The extent of these functions is, however, clearly delimited: the UN is not a *de facto* treaty secretariat. Many treaty implementation and compliance adjudication functions are vested in the states parties themselves. This degree of initiative required of states parties in formulating and implementing procedures for the maintenance of the treaty is thus considerable.

While states parties have developed treaty implementation procedures, specific institutions and fora have evolved, and been granted mandates, to assist state parties with their implementation. The Geneva International Centre for Humanitarian Demining (GICHD), which may in some respects now be seen as the treaty's *de facto* secretariat, is an independent foundation established by the Swiss government in 1998, with continuing support from 18 other governments,<sup>28</sup> to provide research and operational support to states in implementing the convention. It has key roles such as are usually undertaken by a secretariat—providing logistical and administrative support for preparatory meetings; and facilitating liaison between, and disseminating information on, treaty implementing committees.

The First MSP accepted an offer from the GICHD to provide administrative and logistical resources in support of an Intersessional Work Programme (IWP) to be held between MSPs. The GICHD co-ordinates and hosts the meetings and acts as an information resource, disseminating reports of the Intersessional Standing Committee (ISC) meetings and associated information on its website.<sup>29</sup>

The Intersessional Work Programme is carried out at two annual ISC sessions.<sup>30</sup> These meetings are attended by states parties, signatory states, observer states, and international and non-governmental organisations (NGOs).<sup>31</sup> The ISC has the following subcommittees:

- Victim Assistance and Socio-Economic Reintegration;
- Mine Clearance, Related Technologies and Mine Awareness;
- Stockpile Destruction; and
- General Status and Operation of the Convention.<sup>32</sup>

Each subcommittee assesses implementation and makes recommendations for the review of mine action practice in its focus area. Without a treaty mandate to make determinations of compliance, these meetings can only encourage states to demonstrate compliance when allegations are made. Reports of the ISC meetings, compiled by the co-chairs,<sup>33</sup> reflect consensus.

These reports are presented for the consideration of states parties at their annual meetings via a Coordinating Committee (CC). This body was established by the Second MSP to improve the carrying out of the Intersessional Work Programme. The CC, which initially comprised only the co-chairs of the ISC meetings but now includes the co-rapporteurs and selected international and non-governmental organisations,<sup>34</sup> meets in the margins of the ISC and Meetings of States Parties. Members of the Coordinating Committee have had a heavier workload than their counterparts in treaty regimes which are administered by full-time secretariats, as they are obliged to undertake administrative and report writing tasks usually undertaken by permanent staff. As new representatives have been appointed to the CC at each MSP, institutional memory within the CC has been lost, with adverse affects on its effectiveness.

The Third MSP in Managua, Nicaragua, in 2001 authorised the GICHD to establish a small Implementation Support Unit (ISU) which will support the work of the ISC, the CC and the MSP presidents. The unit is mandated to provide secretarial and administrative support to the ISC and the CC, including appropriate liaison, communication and follow-up. While the UK initially voiced its concern<sup>35</sup> that this might institutionalise the treaty's implementation in a way that the treaty negotiators had sought to avoid, the UK and other states that held the same opinion privately supported its adoption at the Third MSP. The ISU is to be funded by voluntary contributions from donor states, many of which pledged at least initial financial support at the Third MSP.<sup>36</sup>

Another organisation which receives support from states in undertaking traditional secretariat functions for the convention, but without a formal treaty mandate,

is the International Committee of the Red Cross (ICRC), based in Geneva, Switzerland. Its Advisory Service on International Humanitarian Law, in its Legal Division, provides states with technical advice and assistance in establishing the required national measures to implement the treaty effectively.<sup>37</sup> It has issued a guide which details legislative and other measures necessary to comply with the treaty and includes sample legislation passed by states parties.<sup>38</sup> It also collates and publicly disseminates national legislation submitted voluntarily by states parties, and has hosted meetings to consider treaty interpretation issues that may affect future determinations of compliance with the treaty.<sup>39</sup> While the ICRC promotes adherence to, and respect for, international humanitarian law, it does not make statements on states parties' compliance with the treaty.

### *The unofficial verification system*

Unlike other disarmament regimes, civil society monitoring and verification is not just tolerated by states parties, but actively encouraged. It is now a major, integral part of the verification system.

The Landmine Monitor initiative of the International Campaign to Ban Landmines (ICBL) and others has produced an annual *Landmine Monitor Report* on state party compliance, signatory adherence and non-state party observance of the ban since 1999. Landmine Monitor also collects and publicises information on states that are not fulfilling their reporting obligations, including those that are late. It collates and disseminates a vast amount of verification-relevant information that would otherwise not be available.

*Landmine Monitor Report* is widely distributed among states parties and the mine action community worldwide. In addition to the published version of *Landmine Monitor* and its Executive Summary, the network publishes electronic versions on CD-ROM and has a searchable database on its website.<sup>40</sup> States readily acknowledge its authority and usefulness in their own assessments of other parties' compliance.

Landmine Monitor's global network comprises in-country and external researchers for every country, whether they are parties to the convention or not.<sup>41</sup> Papers on thematic issues related to treaty implementation are also included. Landmine Monitor commissions researchers on an annual cycle between the MSPs, at which each new report is released. The network seeks to retain the same researchers in



successive years in order to maximise the impact of the research training they provide and to maintain institutional memory.

The researchers monitor developments continuously, providing a rolling commentary for each edition of *Landmine Monitor Report*. They are organised into regional groupings, each led by a regional co-ordinator who provides day-to-day guidance on the focus and status of their research and sub-edits the reports submitted. While much of the interaction among the network is conducted electronically,<sup>42</sup> researchers attend a regional meeting early in the annual cycle where they discuss their preliminary findings, assess what further research needs to be undertaken, receive training on research methods and discuss problems encountered during their research. A further meeting of all researchers is held later in the cycle at which final research findings are presented. For researchers working alone in their home country the meetings reinforce the solidarity of the Landmine Monitor research network.

Landmine Monitor prides itself on the veracity of the information it provides. According to the organisation, facts in each state's report are documented and verified to an exacting standard by the country researcher, the regional and thematic co-ordinators<sup>43</sup> and the report editors. Reports are then cross-checked against each other so that they are consistent in terms of previous reports for each state and between states where evidence relates to more than one country—for instance, regarding the provision of assistance or the transfer of APMS. Because Landmine Monitor covers all countries of the world, reports will detect inconsistencies between the reported activities of states parties and non-states parties—an advantage it has over the Article 7 process. Allegations of violations of the treaty's prohibitions are backed up by documented evidence: where there are many, verifiable sources showing a case of non-compliance, a more forceful allegation of non-compliance is made by the network.

The initiative receives funding from governments and philanthropic organisations. The US\$1.6 million total budget for the 2001 edition of *Landmine Monitor Report* supports communication within the research network, including the regional and international research meetings, and production and distribution costs. Researchers work under contract to Landmine Monitor in return for either limited, out-of-pocket expenses or a small research grant.

Yet Landmine Monitor struggles constantly to maintain consistent levels of financial and personnel resources. It has to raise funds for each successive edition of *Landmine Monitor Report*, often after costs have been incurred. Initial expectations that the size of the *Report* would decrease once it only needed updating from year to year have not materialised, as extensive reports on new developments are included each year. The annual cost continues to rise as more in-country researchers are added to the network each year. So far funders willing to make this informal verification a priority have been secured for each edition, but this cannot be assumed in the future: the very effectiveness of its work could result in a shift in funding priorities to, for instance, increased humanitarian mine action.

Many researchers encounter threats to their personal security in researching in politically sensitive or closed societies. Landmine Monitor provides solidarity and support for the network, often with the indirect support of governments.<sup>44</sup> Increasing awareness of the initiative is leading in some cases to greater government co-operation or to less obstruction.

## Verification challenges

### *Demonstrating compliance*

The potential for non-compliance with the substantive and the procedural aspects of this treaty is high. It has set an ambitious programme which some states are having difficulty carrying out, despite their enthusiasm and support for the accord and the international assistance available. Violation of its prohibitions would be a serious breach of the treaty norm, while failure to implement national measures, including legislation, or to submit transparency reports on compliance, directly undermines the verification of, and confidence in, the convention.

Landmine Monitor has alleged use of APMS by the militaries of seven signatory governments<sup>45</sup> and two states parties<sup>46</sup> since it began monitoring in December 1997. It has also reported alleged use of APMS by non-state actors.<sup>47</sup> While Uganda has denied that it has laid APMS, blaming instead its warring opponent, the Democratic Republic of the Congo, a non-state party, it has invited an investigation of the matter.<sup>48</sup> Angola, a signatory state, and Eritrea, a non-state party, have openly acknowledged their use of APMS to Landmine Monitor.<sup>49</sup> Angola is allegedly continuing to use mines, while Eritrea has stopped and acceded to the treaty.<sup>50</sup>

Evidence suggests that the norms against production and transfer of APMS by signatories and states parties took hold even before the treaty entered into force. Many of the world's former large-scale producers of mines have joined the treaty<sup>51</sup> and are in compliance with its prohibitions. Decommissioning of these production facilities has significantly affected the trade in APMS to states outside the regime.

Information on the numbers of mines stockpiled by signatories and states parties is not always reported either in the Article 7 transparency reports or to Landmine Monitor researchers. This may be due to inadequate record keeping by states, poor communication between government departments or bureaucratic secrecy on defence matters. Given the treaty requirement to destroy stockpiled mines within four years, decreasing numbers of stockpiled mines can be expected each year. But while citizen verification of stockpile destruction is encouraged in many states,<sup>52</sup> high level verification of stockpile numbers will remain a near impossible task for both the official and the unofficial verification systems of the treaty.

Providing information on the marking, let alone clearance, of mined territory is also difficult for states which are unable to determine the extent of mine infestation in their territory. While co-operative assistance is available under the convention in fulfilling these, and all other, treaty obligations, a low level of reporting on assistance provided and received is making it difficult to evaluate this treaty benefit.

Compliance with less readily quantifiable treaty requirements, such as the establishment of mine awareness programmes and physical rehabilitation for landmine survivors, is proving problematic in many mine-affected countries. Landmine survivors receive medical treatment, if at all, as part of general disability assistance programmes. Many states parties are experiencing difficulty in determining and collating the necessary data for reporting.

While it is a less serious treaty violation, non-compliance with the obligation to adopt national implementation measures is common. The rate at which states are doing this is slow, while the appropriateness of some legislation which is claimed to implement the treaty is questionable in certain cases. This is not peculiar to the Ottawa Convention.

Failure to submit transparency reports on compliance is the most widespread violation of the treaty to date. The rate of reporting is currently 60 percent for the initial, baseline reports and 40 percent for the annual reports. Resource and

personnel shortages and a perceived lack of clarity as to the submission procedure, combined with the competing reporting requirements of many other treaties have delayed the compilation and submission of reports. However, the rate of reporting for this treaty is admirable compared with the rates achieved under other arms control regimes.

### *Resourcing the verification system*

The official compliance reporting process was required to be implemented at short notice by the UNDDA following the treaty's entry into force.<sup>53</sup> The UNDDA created the online database with the resources it had available, and has since proved responsive in improving the layout and accessibility of the site following constructive comments from its users. Criticism regarding the delay in posting reports could be avoided if states adhered to the agreed procedure of submitting reports electronically wherever possible<sup>54</sup> and if adequate resources were provided in support of the system. While the treaty provides for the states parties to make resources available for this purpose, this article has not been implemented to date. In line with the spirit of co-operation and voluntary assistance espoused by the treaty, states are free to provide resources to the UN voluntarily for this purpose.

Increasing pressure on resources is also likely to plague the unofficial monitoring system. Landmine Monitor has had to hunt out potential donors every year. With the scale of the initiative showing no sign of abating, certainly not before the first Review Conference in 2004, its costs are unlikely to fall over the coming years. Should donor support for the initiative founder, either because of a refocusing of mine action funding priorities or perhaps even a withdrawal of political support for Landmine Monitor, states would lose the most impartial, and arguably comprehensive, source of information for monitoring compliance with the treaty.

### *Verifying compliance*

That states parties have not yet invoked the treaty's verification procedures when clear allegations of non-compliance with substantive norms have been raised in treaty organs has, on a charitable reading, as much to do with the ill-preparedness of the system as with states parties' unwillingness to openly confront non-compliance and thereby put at risk the co-operative spirit of the treaty.

States parties are reluctant to make allegations of non-compliance themselves at an ISC meeting or MSP. Yet many corroborate the allegations made by Landmine Monitor at these meetings, either on the basis of their analysis of Landmine Monitor's evidence or information from their own sources. Where allegations relate to a violation of a treaty prohibition by a state party, the other parties invariably unanimously urge immediate demonstration of compliance by the state concerned. Allegations of non-compliance by signatories lead to calls for ratification and demonstration of compliance. Non-adherence to the treaty norms by non-states parties is also noted and accession encouraged.

Violations of procedural requirements, such as failure to enact legislation and non-reporting, are being dealt with pragmatically by both states parties and the NGO community. States parties' efforts in this regard include the Article 7 Contact Group,<sup>55</sup> which co-ordinates démarches to states which are late in reporting, offering them assistance, and Canada's promotion of timely reporting by states parties which are members of the Organisation of American States.<sup>56</sup> NGO initiatives to increase the rate and quality of reporting include the lobbying efforts by Landmine Monitor researchers and VERTIC's *Guide to Reporting under Article 7 of the Ottawa Convention*.<sup>57</sup>

Yet the treaty mechanisms for clarifying compliance remain unused. States parties claim that the mechanisms require fine-tuning before they will be capable of being used as envisaged in the treaty.<sup>58</sup> Issues that require further consideration include the range of skills that might be required for fact-finding mission members;<sup>59</sup> how to recruit experts with appropriate skill from states parties; and the logistical and financial preparedness of missions for rapid deployment.<sup>60</sup> Canada has been leading efforts to achieve consensus on how to prepare these procedures.<sup>61</sup>

Aside from using the treaty mechanisms, states are, of course, free to use diplomatic démarches to clarify compliance in line with the treaty's spirit of co-operation. There are benefits and risks in seeking to resolve non-compliance allegations in private. While accused states may respond better when they have not been publicly chastened and have an opportunity to resolve issues out of the public spotlight, the wider community needs to be assured that compliance has been achieved. Given the recent challenge to the clarification system posed by the Ugandan case, states parties must act urgently to restore full confidence in the treaty's verifiability.

## Conclusion

The Ottawa Convention has, in only three years, successfully established and enshrined strong norms prohibiting the use, production, stockpiling and transfer of anti-personnel landmines and for the provision of assistance to landmine survivors. The partnership between states parties and civil society that led to the creation of the treaty has been sustained through to the beginnings of its implementation. The treaty provisions for a system of compliance monitoring based on transparency reporting have been implemented. This system's capabilities for detecting non-compliance have been substantially enhanced by incorporating the comprehensive data supplied by civil society monitoring initiatives. Yet, now that this system has raised credible allegations of non-compliance, states parties must turn their attention to readying the range of treaty procedures available for determining compliance and have the courage to use them in the knowledge that this will ultimately strengthen and create even more confidence in the treaty. States parties must also ensure continued financial and political support for the civil society and international organisations which are undertaking the necessary monitoring and implementation functions for this treaty that permanent, full-time treaty secretariats traditionally perform.

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## Endnotes

<sup>1</sup> Ottawa Convention, 1997, Article 3. Treaty negotiators intended that anti-personnel mines (APM) retained under this exception should be the 'minimum number absolutely necessary and should be calculated in hundreds or thousands, and not in tens of thousands' (see APLC/MSP.3/2001/L7, 21 September 2001).

<sup>2</sup> Ottawa Convention, 1997, Article 4.

<sup>3</sup> Ottawa Convention, 1997, Article 5(1).

<sup>4</sup> Ottawa Convention, 1997, Article 5(2).

<sup>5</sup> Customary international law develops when a general practice of states becomes accepted as law and is considered to apply to all states. Customary international law prohibits the use of weapons that cause superfluous injury or unnecessary suffering or that are inherently indiscriminate, such as APMS.

<sup>6</sup> The failure to conclude a total ban on APMS in Amended Protocol II of the 1980 Convention on Certain Conventional Weapons at its Review Conference in 1996 was a substantial catalyst for the Ottawa Process.

<sup>7</sup> Ottawa Convention, Articles 15 and 16.

<sup>8</sup> The use of Form J, 'Other relevant matters', was agreed at the Second Meeting of States Parties, Geneva, Switzerland, 11–15 September 2000. See APLC/MSP.2/2000/1, 18 September 2001. States parties are encouraged to use this form 'to report voluntarily on other relevant matters, including matters pertaining to compliance and implementation not covered by the formal reporting requirements contained in Article 7 . . . to report on activities undertaken with respect to Article 6, and in particular to report on assistance provided for the care and rehabilitation, and social and economic reintegration, of mine victims'.

<sup>9</sup> Ottawa Convention, 1997, Article 8(1).

<sup>10</sup> This involves assisting parties to establish direct communication links and to commence negotiations to resolve their dispute.

<sup>11</sup> By majority decision of states parties present and voting at such a meeting (Article 8(8)).

<sup>12</sup> The UN Secretary-General is required to prepare and update a list of the names and nationalities of and other relevant data on qualified experts who may be called on to serve in a fact-finding mission (Article 8 (9)). All states parties are regularly requested to submit this information to the UN Department of Disarmament Affairs (UNDDA), although this is not a legal obligation.

<sup>13</sup> Ottawa Convention, 1997, Article 8(14).

<sup>14</sup> The treaty text does not specify to whom the requested state should submit this report. It can be implied from the other reporting provisions in the treaty that it should be transmitted to states parties through the UNSG.

<sup>15</sup> See Trevor Findlay, 'Verification of the Ottawa Convention: workable hybrid or fatal compromise', *Disarmament Forum*, vol. 4, 1999.

<sup>16</sup> There are around two UNDDA staff and 16 UNMAS staff involved in treaty implementation.

<sup>17</sup> UN General Assembly Resolution 46/36 L, 6 December 1991, established the UN Register of Conventional Arms containing information on imports and exports of specified conventional weapon types, as well as any background information on military holdings, procurement through national production and other relevant policies that states wish to submit. While the information is submitted voluntarily (unlike under the Ottawa Convention), there are recommended reporting forms for states' use.

<sup>18</sup> Austria developed Article 7 template report forms A to I, corresponding to the nine specified reporting categories under that article. The First Meeting of States Parties, in Maputo, Mozambique, 3–7 May 1999, adopted these standard forms for the reporting process. See APLC/MSP.1/1999/I, May 1999.

<sup>19</sup> See [domino.un.org](http://domino.un.org).

<sup>20</sup> States are encouraged, but not legally obliged, to submit names of experts for this list.

<sup>21</sup> As annual reports are due by 30 April, the workload is heaviest at that time of year.

<sup>22</sup> Ottawa Convention, 1997, Article 14.

<sup>23</sup> A voluntary trust fund has been established by UNDDA to collect funds for any Special Meeting of States Parties that may be convened.

<sup>24</sup> Assessment Missions have so far been conducted in: Azerbaijan, Burundi, Ethiopia, Somalia and Yemen (1998); Ecuador, Jordan, Lebanon, Namibia, Peru and Zimbabwe (1999); and Belarus, Egypt, Nicaragua, Sierra Leone and Zambia (2000). See UNMAS website at [www.un.org](http://www.un.org).

<sup>25</sup> This position was created on a temporary basis in January 2000; a permanent appointment was made in September 2001.

<sup>26</sup> UNMAS contracted this work to the Geneva International Centre for Humanitarian Demining (GICHD). The current draft set of International Mine Action Standards is available at [www.gichd.org](http://www.gichd.org).

<sup>27</sup> See [www.mineaction.org](http://www.mineaction.org). Financial and in-kind contributions for this website were provided by Canada, Germany and the UK.

<sup>28</sup> See [www.gichd.ch](http://www.gichd.ch). Support includes funding and personnel on secondment, typically from ministries of defence.

<sup>29</sup> This information includes meeting agendas, participant lists and reference documents. See [www.gichd.ch](http://www.gichd.ch).

<sup>30</sup> These are effectively preparatory committees for the annual MSPs.

<sup>31</sup> Representatives of the UNDDA, UNMAS, the ICBL, the ICRC and VERTIC regularly participate in ISC meetings. The GICHD administers a trust fund established by donor states to enable representatives of developing and mine-affected states that do not have diplomatic representation in Geneva to attend.

<sup>32</sup> The First MSP agreed on five working groups, originally named Standing Committees of Experts, for the first intersessional period. Each group met separately, on two occasions during the period. The Second MSP reduced the number of these groups to four, removed the word 'experts' from their title, and requested them to meet consecutively over a week on two occasions during the IWP period. The Third MSP changed the issue areas of the groups to the four mentioned.

<sup>33</sup> Each committee has two co-chairs and two co-rapporteurs, each pair consisting of a representative of mine-affected and non-mine-affected states parties. At the end of each intersessional period (that is, at each MSP) the co-chairs stand down, the co-rapporteurs become co-chairs, and new co-rapporteurs are appointed.

<sup>34</sup> The ICBL and the ICRC have recently been permitted to attend these meetings.

<sup>35</sup> Oral statement by the UK, ISC meeting on the General Status and Operation of the Convention, 11 May 2001.

<sup>36</sup> Including Austria, Australia, Canada, Netherlands, Norway and South Africa.

<sup>37</sup> The ICRC provides similar assistance to states with regard to the 1949 Geneva Conventions; the 1977 Geneva Protocols; the 1954 Hague Convention on the Protection of Cultural Property during Armed Conflict; the 1980 Convention on Certain Conventional Weapons and its Protocols; and the 1998 Rome Statute of the International Criminal Court.

<sup>38</sup> 'Information kit on the development of national legislation to implement the convention on the prohibition of anti-personnel mines', ICRC, Geneva, Switzerland, May 2001.

<sup>39</sup> The Technical Expert Meeting on Anti-Vehicle Mines with Sensitive Fuses or with Sensitive Anti-Handling Devices, hosted by the ICRC in Geneva, Switzerland, on 13–14 March 2001 allowed states and interested international, non-governmental and regional organisations to exchange views on the interpretation of the definition of APMS in Article 2 of the 1997 Ottawa Convention.

<sup>40</sup> [www.lm-online.org](http://www.lm-online.org). The full text is also available at [www.icbl.org](http://www.icbl.org).

<sup>41</sup> Reports are also included for territories that are not recognised as states by the UN, including Abkhazia, Chechnya, East Timor, Falkland Islands/Malvinas, Golan Heights, Iraqi Kurdistan, Kosovo, Nagorno-Karabakh, Palestine, Somaliland, Taiwan and Western Sahara.

<sup>42</sup> Each regional research group has a closed email listserve where participants discuss their research.

<sup>43</sup> Regional and thematic co-ordinators, who are usually employees of, or contracted to, a member organisation.



tion of the ICBL core group, ensure that reports are internally and comparatively consistent. Thematic co-ordinators ensure that reports include information on specific treaty issues—ban policy, victim assistance, mine action and mine awareness.

<sup>44</sup> For example, Canada has offered to monitor researchers' safety from its nearest diplomatic mission.

<sup>45</sup> Angola, Burundi, Ethiopia, Guinea-Bissau, Rwanda, Senegal and Sudan. Qualifications include 'likely', 'suspected' or 'unconfirmed'.

<sup>46</sup> Uganda and Zimbabwe.

<sup>47</sup> In Afghanistan, Colombia, Philippines, Senegal and Sudan.

<sup>48</sup> Oral statement of representative of Uganda, Third Meeting of States Parties, Managua, Nicaragua, 18 September 2001.

<sup>49</sup> *Landmine Monitor Report 2001*, Human Rights Watch for Landmine Monitor, Washington, DC, 2001, p. 185 (Angola) and p. 248 (Eritrea).

<sup>50</sup> Eritrea admitted to Landmine Monitor researchers in 2001 that government troops laid mines during the border conflict with Ethiopia from May 1998 to June 2000. It ceased laying mines when the war ended and has supplied maps of areas it mined to relevant demining organisations. Eritrea acceded to the treaty on 25 August 2001.

<sup>51</sup> Belgium, Bosnia and Herzegovina, Bulgaria, Czech Republic, France, Hungary, Italy and the UK.

<sup>52</sup> Many states hold stockpile destruction ceremonies, to which ICBL representatives and landmine survivors are invited.

<sup>53</sup> Initial reports were due for parties no later than 180 days after the treaty entered into force for them.

<sup>54</sup> It is recognised that this may prove difficult for some states parties, although many are submitting hard copy versions of reports that were completed electronically.

<sup>55</sup> This is an informal, open-ended group of states parties that meets on the margins of ISC meetings and MSPs. Members often take responsibility for contacting states parties which are late in reporting and with which they share a common language or historical association, or which are in the same region.

<sup>56</sup> Canada has held meetings with fellow members of the Organisation of American States to promote the treaty and provide information on treaty requirements, obligations and benefits, including assistance.

<sup>57</sup> VERTIC presented this document at the Third MSP in Managua, Nicaragua, 18–21 September 2001. Parties endorsed the guide as a 'useful tool' for states in meeting their reporting obligations. See APLC/MSP.3/2001/L7, 21 September 2001. See also [www.vertic.org](http://www.vertic.org).

<sup>58</sup> ISC meetings on the General Status and Operation of the Convention consistently report on action taken in implementing Article 8 and on the need for further discussions on the issue.

<sup>59</sup> Negotiation, language and team-building skills are as important as familiarity with ordnance or military experience.

<sup>60</sup> There are logistical and financial issues that can be determined in advance to ensure rapid deployment when required. It may also be appropriate to have a draft set of mission mandates drawn up to cover the types of non-compliance activities that may be investigated.

<sup>61</sup> These efforts include Canada's working paper, 'Article 8 and the Facilitation and Clarification of Compliance', presented at the ISC meeting on the General Status and Operation of the Convention, Geneva, Switzerland, 11 May 2001. See [www.gichd.ch](http://www.gichd.ch).

