

VERTIC library copy

do not remove

**Monitoring the Landmine Convention:
Ratification and National
Implementation Legislation**



Joe McGrath and David Robertson

VERTIC

research report

No 5

Monitoring the Landmine Convention: Ratification and National Implementation Legislation

Baird House
15-17 St. Cross Street
London EC1N 8UW
United Kingdom

tel: +44 (0)171 440 6960 fax: (0)171 242 3266
email: vertic@vertic.org
<http://www.fhit.org/vertic>

VERTIC

Joe McGrath and David Robertson

**Research Report No. 5:
Monitoring the Landmine
Convention: Ratification and
National Implementation
Legislation**

Joe McGrath and David Robertson

September 1999

ISBN: 1-899548-14-9

Thanks to the following for
commenting on the manuscript or
assisting in editing: Trevor Findlay,
Angela Woodward and Oliver Meier

VERTIC is grateful to Landmine
Monitor for funding this report.

**Verification Research, Training
and Information Centre
(VERTIC)**

Baird House
15/17 St Cross Street
London EC1N 8UW
UNITED KINGDOM

Tel. +44 (0) 20 7440 6960
Fax. +44 (0) 20 7242 3266
Email: vertic@vertic.org
Web: www.fhit.org/vertic

VERTIC is an independent, non-
profit making, non-governmental
organisation. Its mission is to
promote effective and efficient
verification as a means of ensuring
confidence in the implementation of
treaties or other agreements that
have international or national
security implications.

Current funders:
Ford Foundation
John Merck Fund
Joseph Rowntree Charitable Trust
Ploughshares Fund
Rockefeller Family Philanthropic
Offices
The John D. and Catherine T.
MacArthur Foundation
W. Alton Jones Foundation

Contents

Preface	1
Executive Summary	5
Glossary	7
1. Introduction	9
2. Consent to be bound: Application to the Ottawa Convention.....	11
<i>Ratification</i>	12
<i>Accession</i>	13
<i>Acceptance and Approval</i>	13
<i>Declarations and Reservations</i>	14
<i>Declarations submitted by Signatories or Parties to the Ottawa Convention</i>	16
<i>'Understandings' submitted by Australia, Canada and the United Kingdom</i>	16
<i>Consequences of an impermissible reservation</i>	19
3. National Implementation	21
<i>Relationship between international obligations of states and national law</i>	21
<i>National legal measures required to implement a treaty</i>	22
<i>National implementation measures required by the Ottawa Convention</i>	24
4. Case studies in national implementation	26
<i>Austria</i>	26
<i>Australia</i>	27
<i>Bulgaria</i>	28
<i>Cambodia</i>	29
<i>Canada</i>	30
<i>Italy</i>	32
<i>Japan</i>	33
<i>New Zealand</i>	34
<i>Norway</i>	35
<i>Spain</i>	36
<i>United Kingdom</i>	36
5. Conclusion	39
Appendix:	
Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and On Their Destruction	41
About the Authors	55
About VERTIC	57
VERTIC Publications	61



Preface

The Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and On their Destruction, which was opened for signature and signed by 122 nations in Ottawa, Canada, in December 1997, is unprecedented in international disarmament and humanitarian law. Already unique because of the speed with which it was negotiated and the extent of non-governmental involvement in the negotiations (so-called 'track two' diplomacy), it entered into force faster than any previous multilateral disarmament agreement in modern times. Entry-into-force was ensured by the fortieth ratification by a signatory state, that of Burkina Faso, on 16 September 1998, in time for the first anniversary of the treaty being agreed in Oslo, Norway, in September 1997. The treaty entered into force on 1 March 1999.

Yet another unprecedented development has been the establishment of a civil society-based reporting network, Landmine Monitor, to unofficially monitor state compliance with the treaty. While non-governmental organisations (NGOs) and research institutes have individually and informally monitored compliance with treaties in the past, this is the first attempt to create a systematic, global, non-governmental monitoring network. Although Landmine Monitor has no official status under the treaty, it is being taken seriously by states, since the treaty itself provides for no official verification organisation to be established. Unlike other recently concluded treaties, like the Chemical Weapons Convention (CWC) and the Comprehensive Nuclear-Test-Ban Treaty (CTBT), the Ottawa Convention (as the Landmine Ban Treaty is popularly known) contains no standing verification mechanism. This is due partly to the fact that it is a hybrid agreement combining aspects of disarmament treaties (which today usually mandate stringent verification) and humanitarian law (which traditionally does not mandate verification). The absence of verification in the Ottawa Convention is also attributable to the lack of agreement among the negotiating states on what verification was required or feasible.

The treaty does however contain compliance provisions requiring annual reports by states parties on their compliance. Such provisions also outline the means by which compliance questions may be resolved. The UN Secretary-General (represented by the Department of Disarmament Affairs in the UN Secretariat in New York) is charged with collecting and collating the annual reports of states parties and publishing them. In addition, the treaty provides for annual meetings of states parties during the first five years of the

treaty's life to assess its effectiveness. Finally, the treaty permits states parties to request the dispatch of fact-finding missions in cases where non-compliance is suspected.

Landmine Monitor was established in Oslo in June 1998 by non-governmental organisations involved in the International Campaign to Ban Landmines (ICBL) which, along with its leader, Jody Williams, received the 1997 Nobel Peace Prize for its promotion of a landmine ban. In co-operation with the ICBL, Landmine Monitor is managed by a Core Group of organisations comprising Handicap International, Human Rights Watch, the Kenyan Coalition Against Landmines, Mine Action Canada and Norwegian People's Aid.

At a conference in Dublin, Ireland, in September 1998, the Landmine Monitor, drawing on the experience of an expanded group of NGOs, established an ambitious work plan for the preparation of its first annual report on the implementation of the Ottawa Convention. It would include reports on all aspects of compliance by all countries (whether signatories, parties or neither) and thematic reports on general issues. The report was due for completion by May 1999 for presentation to the First Conference of States Parties, to be held in Maputo, Mozambique. Funding was provided by the governments of Austria, Belgium, Canada, Ireland, Norway, Netherlands and the United Kingdom and by the International Development Research Centre in Ottawa, the Open Society Institute Landmine Project and Jody Williams.

In seeking to supplement the treaty's provisions with a comprehensive annual review of compliance, Landmine Monitor took on an enormous task. It was reliant on scores of non-governmental organisations in the field, especially in mine-affected countries. The global data from such outposts had to be centrally collected, stored electronically and analysed. The annual report had to be drafted on the basis of the data, edited and published—all by May 1999. Happily the deadline was met and *Landmine Monitor Report 1999: Toward a Mine-Free World*, over 1,000 pages long, was presented to an impressed assembly of states parties and observers in Maputo on 3 May 1999.

This *VERTIC Research Report* is a longer version of a paper entitled 'Landmines in International Law: Ratification and National Implementation', which was commissioned by Landmine Monitor for inclusion in *Landmine Monitor Report 1999*. VERTIC's contribution appeared in that volume as an appendix. VERTIC is pleased to have been involved, especially as this was its first major foray into the landmine issue.

VERTIC is grateful to international lawyers David Robertson and Joe McGrath for researching and writing this report at short notice and in difficult circumstances (VERTIC was moving offices at the time). Our thanks also go to Richard Cornes, School of Public Policy at University College London and Professor Christine Chinkin of the Law Faculty of the London School of Economics for assisting us in locating and recruiting such enterprising and effective researchers. VERTIC is also grateful to the many diplomatic missions which were willing to provide information on their national ratification and implementation legislation. Particularly helpful were the embassies of Austria, Bulgaria, Croatia, Denmark, Germany, Ireland, Norway, Macedonia, Mali and Slovenia and the high commissions of Australia, Bahamas, Canada, Fiji, Namibia, New Zealand and South Africa. VERTIC's report also drew on the work of various non-governmental organisations participating in Landmine Monitor, especially those in Bosnia and Herzegovina, Burkina Faso, Canada, Cambodia and Djibouti. VERTIC is grateful to Landmine Monitor for partly funding the research that produced this report and for its assistance in many other ways. Steve Goose, Mary Wareham and Liz Bernstein deserve our special thanks. Finally, VERTIC is grateful to Angela Woodward for her international legal expertise in helping to hone the legal argumentation in this paper.

Trevor Findlay
Editor

Executive Summary

- The Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on their Destruction (the Ottawa Convention) creates various obligations for parties. The most significant of these are the non-use of anti-personnel landmines, the destruction of existing stocks, the destruction of deployed stocks and the provision of assistance to victims. In addition, parties are required to establish criminal sanctions to domestically enforce the prohibitions of the Convention.
- The Ottawa Convention expressly provides that parties may not make reservations, but does allow them to make declarations. A reservation to a treaty is a statement by a party purporting to modify the legal effect of the treaty. Declarations of interpretation are a statement by a party detailing its understanding of provisions of the treaty.
- Australia, Canada and the United Kingdom have made interpretative declarations with regard to the Ottawa Convention stating that, in their view, if their armed forces cooperate in exercises or military operations with the armed forces of non-parties which engage in prohibited activities they will not be violating the Convention. Australia has declared additional 'understandings' relating to some of the terms used in the Convention.
- Such declarations may be reservations if they modify the legal effect of the Convention. The consequences depend on the responses of other parties.
- A number of states have enacted national implementation legislation embodying the Ottawa Convention into domestic law. Given that the imposition of criminal sanctions is required by the Convention, it is necessary for all states parties to enact such law. Australian and New Zealand legislation permits their armed forces to legally exercise or conduct military operations with non-states parties to the Convention.

- The regulatory models adopted so far by states parties are similar. Their common characteristics include the way in which criminal sanctions are used to enforce the regulatory provisions.
- Although a party may not have engaged in treaty-relevant activity in the past, and is unlikely to do so in future, it should nonetheless criminalise the activities of its nationals engaged in prohibited activities in other countries. Both the United Kingdom and Italy have extended their criminal sanctions to such extra-territorial activities of their nationals.
- Italy has also extended both the prohibition and criminal sanctions to the intellectual property rights associated with the development and manufacture of landmines.

Glossary

AP	anti-personnel
CCW	Convention on Conventional Weapons
CMAC	Cambodian Mines Action Centre
CWC	Chemical Weapons Convention
CTBT	Comprehensive Nuclear-Test-Ban Treaty
ICJ	International Court of Justice
ICBL	International Campaign to Ban Landmines
NATO	North Atlantic Treaty Organization
NGO	non-governmental organisation
UK	United Kingdom of Great Britain and Northern Ireland
UN	United Nations
US/USA	United States of America
USCBL	United States Campaign to Ban Landmines
VERTIC	Verification Research, Training and Information Centre

1. Introduction

On 3 December 1997 in Ottawa the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on their Destruction was opened for signature. The treaty is popularly known as the Ottawa Convention or Landmine Ban Treaty. (See Appendix for the treaty text.) The Convention entered into force on 1 March 1999. Article 1 of the Convention sets out the general obligations of the Convention as follows:

1. Each State Party undertakes never under any circumstances:
 - a) to use antipersonnel mines;
 - b) to develop, produce, otherwise acquire, stockpile, retain or transfer to anyone, directly or indirectly, anti-personnel mines;
 - c) to assist, encourage or induce, anyone to engage in any activity prohibited to a State Party under this Convention.
2. Each State Party undertakes to destroy or ensure the destruction of all anti-personnel mines in accordance with the provisions of this Convention.

The few exceptions to the general obligations are set out in Article 3, which provides that a minimum number of landmines¹ may be retained or transferred for development of, or training in, mine detection, clearance or destruction. Transfer of mines for the purpose of destruction is also permitted.

Unlike earlier agreements dealing with mines, such as the 1980 Convention on Conventional Weapons (CCW), which limited but did not ban their use, the Ottawa Convention imposes much more extensive obligations on its states parties. The most significant of these are the destruction of existing stocks, the destruction of deployed stocks and the provision of assistance to victims. In addition, parties are required to establish criminal sanctions to enforce the provisions of the Convention.

This research report deals with the ratification and national implementation legislation adopted by states parties to the Ottawa Convention. The report has three parts. Chapter 2 examines the legal process by which a country becomes bound by international obligations under a treaty. It also examines the nature and implications of declarations and reservations which may be made at the time of ratification. Chapter 3 addresses the question of national implementation, including an examination of what is required by international law and, more specifically, what is required by the Ottawa Convention.

¹ For ease of expression the term 'landmines' will be used throughout this paper to refer to anti-personnel landmines, the only type banned by the Ottawa Convention.

Finally, Chapter 4 examines specific instances of national legal implementation in a variety of states parties and assesses the extent to which they comply with the Convention.

2. Consent to be bound: Application to the Ottawa Convention

Under international law, 'the consent of a state to be bound by a treaty may be expressed by signature, exchange of instruments..., ratification, acceptance, approval or accession, or by any other means if so agreed'.² The Ottawa Convention sets out the means by which states wishing to become parties may express their consent to be bound. Article 16 provides that:

1. This Convention is subject to ratification, acceptance or approval of the signatories.
2. It shall be open for accession by any State which has not signed the Convention.

By virtue of Article 16(1) the act of signing does not constitute an expression of a state's consent to be bound by the terms of the Convention; it simply qualifies a state to proceed to ratification, acceptance or approval. Nor does the act of signature create a binding obligation to proceed to ratification.³ It is possible, therefore, that not all signatories to the Ottawa Convention will ratify, accept or approve it.

However, the act of signing a treaty nevertheless carries with it some consequences for the status, rights and, arguably, the obligations of a signatory state.⁴ Signing, it may be argued, creates an obligation of good faith to refrain from acts which would defeat the

² Lord Gore-Booth and D. Pakenham (eds), *Satow's Guide to Diplomatic Practice*, Longman, London, 1979, p. 270.

³ M. Whiteman, *Digest of International Law*, US Department of State, Washington DC, 1970, vol. 14, p. 50. See, however, references to Lauterpacht and Fitzmaurice in I. Brownlie, *Principles of Public International Law* (5th ed.), Oxford University Press, Oxford, 1998, p. 611.

⁴ That the act of signing is a first step to participation in a convention, which establishes a provisional status in favour of a state, with certain resulting rights for that state, was expressly recognised by a majority of the International Court of Justice in its *Advisory Opinion on Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide* (1951) ICJ, The Hague, p. 28.

object and purpose of a treaty.⁵ This obligation continues until a party has ratified or made clear its intention not to become a party.⁶

Ratification

Ratification 'constitutes a solemn act on the part of a sovereign or by the president of a republic whereby he[/she] declares that a treaty, convention or other international instrument has been submitted to him[/her] and that after examining it he[/she] has given his[/her] approval thereto, and undertaken its complete and faithful observance'.⁷ The term is, on occasion, extended to include the approval of the legislature if that is constitutionally necessary prior to the head of state signifying consent.

Article 12 of the Ottawa Convention provides that instruments of ratification are to be deposited with the depositary, the Secretary-General of the United Nations.⁸ Only following the deposit of that instrument can the Convention enter into force in respect of that state.⁹ It does so either on the entry into force of the Convention as a whole (Article 17(1)) or, if the Convention itself has already entered into force, on the first day of the sixth month after the date of the deposit by the state concerned (Article 17(2)). According to Article 18, the Convention may be provisionally applied by a state following its deposit of an instrument of ratification and pending the entry into force of the Convention.

⁵ Cf Article 18, Vienna Convention on the Law of Treaties 1969. See also Brownlie, p. 611. Debate continues among international scholars as to whether the obligation contained in Article 18 of the *Vienna Convention on the Law of Treaties 1969* constitutes a codification or a progressive development of customary international law principles. The arguments for and against each position are canvassed in J.S. Charme, 'The Interim Obligation of Article 18 of the *Vienna Convention on the Law of Treaties*: Making Sense of an Enigma', *George Washington Journal of International Law and Economics*, no. 25, vol. 71, 1991. Charme argues that Article 18 does constitute a codification, so that it can be said that the obligation in Article 18 also exists as a matter of customary international law. For the contrary view see Sir I. Sinclair, *The Vienna Convention on the Law of Treaties* (2nd ed.), Manchester University Press, Manchester, 1984, p. 43.

⁶ This obligation is quite different to that which signatories to the Ottawa Convention may elect to adopt under Article 18 of the Convention, namely to apply it provisionally between their ratification and the Convention's entry into force.

⁷ Gore-Booth and Pakenham, pp. 270-1.

⁸ The term 'ratification' is sometimes confused with the process by which a treaty formally enters into force following a state's ratification, generally by the exchange or deposit of an instrument of ratification. Gore-Booth and Pakenham p. 273. See also Whitman, p. 62.

⁹ This much is implicit in the fact that entry into force is determined by reference to the date of the deposit of a state's instrument of ratification; cf also Article 16, *Vienna Convention on the Law of Treaties 1969*.

As of 9 August 1999, 135 states had signed the treaty, while 84 had ratified, acceded or approved.¹⁰

Accession

Accession contemplates a state becoming party to a treaty or convention to which it is not a signatory.¹¹ The Ottawa Convention expressly contemplates this possibility in Article 16(2). The Convention makes clear that a state may accede to it either before or after entry into force of the Convention itself.¹² Since the Convention has now entered into force, the former option is no longer possible.

As in the case of ratification, the Ottawa Convention requires that an instrument of accession be deposited with the depositary. It is on the deposit of this instrument that the acceding state formally establishes, internationally, its consent to be bound by the terms of the Convention.¹³

The entry into force of the Ottawa Convention for a state party following that state's accession is determined in the same way as its entry into force following a state's ratification—either on entry into force of the Convention as a whole or, if the Convention itself has already entered into force, on the first day of the sixth month after the date of the deposit by the state.¹⁴

Acceptance and approval

Acceptance and approval have emerged in comparatively recent practice as alternative means of facilitating a state's participation in a treaty.¹⁵ Acceptance is the process whereby a state's consent to be bound by a treaty may, by virtue of its constitutional arrangements, be expressed by executive action alone, rather than by the more formal process of ratification and which may, as noted above, require the approval of the state's

¹⁰ Current information on signatures, accessions and ratifications may be found at www.icbl.org and www.minesactioncanada.com

¹¹ Gore-Booth and Pakenham, p. 276. See also Whiteman, pp. 93-4.

¹² By implication from the terms of Article 17.

¹³ Cf Article 16 of the *Vienna Convention on the Law of Treaties 1969*

¹⁴ Article 17, Ottawa Convention.

¹⁵ The International Law Commission has described 'acceptance' as an 'innovation which is more one of terminology than of method'. See the references to the comments of the International Law Commission on acceptance and approval generally in Whiteman, p. 109. See also Gore-Booth and Pakenham, p. 282.

legislature.¹⁶ Approval refers to a state's acceptance of the terms of a treaty in accordance with its municipal legal processes. It is distinguished from acceptance which indicates the formal act of accepting the terms of the treaty by the state.¹⁷

Depending on their context, acceptance and approval may reflect the expression of consent to be bound by a treaty in ways akin either to ratification or accession—that is, either following signature, or without signature. Under Article 16(1) of the Ottawa Convention, acceptance and approval are used analogously to ratification. That is, only signatory states may express their consent to be bound by acceptance or approval.

As in the case of ratification, the Ottawa Convention requires that instruments of acceptance or approval be deposited with the depositary. On the deposit of the relevant instrument the accepting or approving state formally establishes, internationally, its consent to be bound by the terms of the Convention.¹⁸

The entry into force of the Ottawa Convention following a state's acceptance or approval is determined in the same way as its entry into force following a state's ratification.¹⁹

Declarations and Reservations

Article 19 of the Ottawa Convention expressly prohibits reservations. The Convention thereby abrogates the general liberty under international law to formulate a reservation when signing, ratifying, accepting, approving or acceding to a treaty.²⁰ A convenient point of reference for the definition of a reservation is the *Vienna Convention on the Law of Treaties 1969*, which defines a reservation as:²¹

...a unilateral statement, however phrased or named, made by a State, when signing, ratifying, accepting, approving or acceding to a treaty, whereby it purports to exclude or modify the legal effect of certain provisions of a treaty in their application to that State...

¹⁶ Gore-Booth and Pakenham, p. 283.

¹⁷ Gore-Booth and Pakenham, p. 283.

¹⁸ Cf Article 16, *Vienna Convention on the Law of Treaties 1969*

¹⁹ Article 17, Ottawa Convention.

²⁰ This general liberty to make reservations is reflected in Article 19 of the *Vienna Convention on the Law of Treaties 1969*. See also the decision of the International Court of Justice in its *Advisory Opinion on Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide*.

²¹ Article 2(1)(d), *Vienna Convention on the Law of Treaties 1969*.

On occasion, however, without wishing to modify or exclude the legal effect of a treaty to which it is becoming a party, a state will seek to pronounce its interpretation of part of the treaty. In making such a statement the state simply 'indicates its perception of its obligations under the treaty'.²² Such statements are sometimes described as 'interpretative declarations'.

However, difficulties can arise if a state attempts to use a declaration to modify or exclude the legal application of part of a treaty to itself. If it has this effect, the statement will be a reservation. The nomenclature attached to the statement by the state does not determine whether it constitutes a reservation or declaration. The UN Secretariat, which carries out the obligations of the UN Secretary-General when he or she is the depositary of a treaty (as in the case of the Ottawa Convention), looks to substance rather than form when faced with statements, declarations or reservations, the status of which is ambiguous.²³

What legal effect does a statement have on the operation of a treaty? Does it effectively exclude or modify provisions of the treaty?²⁴ If a state gives its interpretation of a particular treaty term, but accepts that its view may or may not be accepted were the matter to be the subject of judicial or arbitral proceedings, there would be no basis for considering the declaration to be an attempt to modify or vary the treaty.²⁵ However, this is not the case when a state's interpretation attempts to rule out the possibility of a subsequent inconsistent interpretation, or where a state makes its acceptance of a treaty subject to, or conditional on, acquiescence in its interpretation. By asserting that its interpretation overrides any contrary interpretation, the state purports to exclude or modify the terms of the treaty.²⁶ Such a statement would therefore constitute a reservation.

In determining whether a declaration constitutes a reservation, the first question is whether the declaration, on an objective view of its wording, purports only to interpret the terms of the treaty rather than limit or modify them.²⁷ The second question is whether the state has purported to make its acceptance of the treaty subject to

²² D. M. McRae, 'The Legal Effect of Interpretative Declarations', *British Yearbook of International Law*, Oxford University Press, Oxford, 1978, vol. 49, p. 155.

²³ UN Juridical Year Book (1975). See also Sir R. Jennings QC and Sir A. Watts QC (eds) *Oppenheim's International Law* (9th ed.), vols. 1 & 2, p. 241.

²⁴ D.W. Bowett, 'Reservations to Non-Restricted Multilateral Treaties', *British Yearbook of International Law*, Oxford University Press, Oxford, vol. 48, 1976, p. 68.

²⁵ McRae, p. 160.

²⁶ McRae, p. 172.

²⁷ McRae, pp. 161-2.

acquiescence by other states parties in its interpretation. This will involve an examination both of the words used and of the subjective intention of the state concerned.²⁸

Declarations submitted by Signatories or Parties to the Ottawa Convention

On signing, or expressing their consent to be bound by, the Ottawa Convention, a number of states have submitted declarations. As at 26 August 1999, eleven declarations had been made.²⁹ Six simply indicated that the state intended to apply the terms of the Ottawa Convention provisionally pending its entry into force, as contemplated by Article 18. These countries were Austria, Mauritius, New Zealand, South Africa, Sweden and Switzerland. Their declarations rendered the Convention binding on these countries prior to its entry into force on 1 March 1999. Another of the declarations, by Greece, simply confirmed its intention to implement the Convention.³⁰ Lithuania's declaration on signature, on 26 February 1999, stated that Lithuania subscribed to the principles and purposes of the Convention and undertook to ratify 'as soon as the relevant conditions relating to the implementation of provisions of the Convention are fulfilled'. It is not clear what these conditions are.

The remaining three declarations, submitted by Australia, Canada and the United Kingdom, were described by these states as expressing their 'understanding' in respect of particular provisions of the Ottawa Convention. This raises the question of whether they constitute reservations, that is, whether they 'exclude or modify the legal effect of certain provisions' of the Ottawa Convention.

'Understandings' submitted by Australia, Canada and the United Kingdom

The declarations of the UK and Canada, which are similar in content, with one important difference which will be discussed below, read as follows:

²⁸ McRae, p. 162.

²⁹ For current information on declarations see UN Treaties web site, <http://www.un.org/Depts/Treaty>

³⁰ 'Greece fully subscribes to the principles enshrined within the [said Convention] and declares that ratification of this Convention will take place as soon as conditions relating to the implementation of its relevant provisions are fulfilled'.

It is the understanding of the Government of the United Kingdom that the mere participation in the planning or execution of operations, exercises or other military activity by the United Kingdom's Armed Forces, or individual United Kingdom nationals, conducted in combination with the armed forces of States not party to the [said Convention], which engage in activity prohibited under that Convention, is not, by itself, assistance, encouragement or inducement for the purposes of Article 1, paragraph (c) of the Convention.

It is the understanding of the Government of Canada that, in the context of operations, exercises or other military activity sanctioned by the United Nations or otherwise conducted in accordance with international law, the mere participation by the Canadian Forces, or individual Canadians, in operations, exercises or other military activity conducted in combination with the armed forces of States not party to the Convention which engage in activity prohibited under the Convention would not, by itself, be considered to be assistance, encouragement or inducement in accordance with the meaning of those terms in Article 1, paragraph 1(c).

The one important difference between the UK and Canadian declarations is that Canada reserves the right to participate in such actions only when they are sanctioned by the UN or otherwise conducted in accordance with international law. By contrast, the United Kingdom reserves the right irrespective of whether the action has UN backing or is in accordance with international law. The Canadian declaration is in theory more restrictive than the UK's, although in practice both Canada and the UK would presumably always seek to justify their military actions as being in accordance with international law.

Australia's is much more complicated and the longest declaration made by any state so far:

It is the understanding of Australia that, in the context of operations, exercises or other military activity authorised by the United Nations or otherwise conducted in accordance with international law, the participation by the Australian Defence Force, or individual Australian citizens or residents, in such operations, exercises or other military activity conducted in combination with the armed forces of States not party to the Convention which engage in activity prohibited under the Convention would not, by itself, be considered to be in violation of the Convention.

It is the understanding of Australia that, in relation to Article 1(a), the term 'use' means the actual physical emplacement of anti-personnel mines and does not include receiving an indirect or incidental benefit from anti-personnel mines laid by another State or person. In Article 1(c) Australia will interpret the word 'assist' to mean the actual and direct physical participation in any activity prohibited by the Convention but does not include permissible indirect support such as the provision of security for the personnel of a State not party to the Convention engaging in such activities, 'encourage' to mean the actual request for the commission of any activity prohibited by the Convention, and 'induce' to mean the active

engagement in the offering of threats or incentives to obtain the commission of any activity prohibited by the Convention.

It is the understanding of Australia that in relation to Article 2(1), the definition of 'anti-personnel mines' does not include command detonated munitions.

In relation to Articles 4, 5(1) and (2), and 7(1)(b) and (c), it is the understanding of Australia that the phrase 'jurisdiction or control' is intended to mean within the sovereign territory of a State Party or over which it exercises legal responsibility by virtue of a United Nations mandate or arrangement with another State and the ownership or physical possession of anti-personnel mines, but does not include the temporary occupation of, or presence on, foreign territory where anti-personnel mines have been laid by other States or persons.

Australia's declaration therefore deals not only with the question of joint military exercises or operations with non-state parties but with the definition of terms used in the treaty.

It could be argued that the involvement of the armed forces of a state party in joint operations in which anti-personnel landmines are used by a non-state party's armed forces constitutes 'use' by the state party because its armed forces will receive the military benefits of such use (whether they intend to receive such benefit or not). Furthermore, it could be argued that participating in such joint operations constitutes 'assistance, encouragement and/or inducement' to engage in prohibited activities, since the joint operation will knowingly rely on such use. It might therefore be argued that the declarations made by the UK and Canada, in seeking to exclude the application of their obligations under the Ottawa Convention in these circumstances, constitute reservations prohibited by the Convention. Australia's declaration explicitly seeks to deal with such objections, but in doing so can itself be interpreted as a reservation.

The counter-argument in regard to the UK and Canadian declarations is that they have simply endeavoured to set out their perception of their obligations under the Convention, while recognising that their interpretations may not, if the issue were the subject of judicial or arbitral consideration, be upheld. Australia, however, is much more blatant in laying down its own interpretations of particular terms in the treaty. This arguably brings its declaration much closer to a reservation than either the UK or Canadian ones.

Consequences of an impermissible reservation

If it is considered that the UK, Canadian and Australian declarations constitute reservations to the Ottawa Convention, what are the implications? While reservations are prohibited by the Convention, the consequences of an impermissible reservation are not entirely clear.³¹ The consequences depend on the responses of other states parties. If the reservations were considered to constitute an integral part of the consent given by the three states to the Convention, it is possible that others may decline to enter into treaty relations with them. Alternatively, states may simply object to the declarations on the basis that they are prohibited by the Convention and thus are rendered ineffective.

An equally important consideration may arise if the declarations are considered to be interpretative. If at some time the Ottawa Convention comes to be interpreted by a judicial tribunal, such as the International Court of Justice (ICJ), the interpretation made by states parties and the responses of other parties to such interpretations (particularly if an interpretation has been accepted) may be used as evidence of the intended meaning of the provision in question.³²

In practical terms, these issues may not arise until Canada, the UK or Australia undertakes an action considered contrary to an obligation of the Ottawa Convention. In the UK or Canadian cases, such a situation may arise if and when they participate in a NATO exercise or joint military action in which the armed forces of the Czech Republic, Poland, Turkey and/or the United States (current NATO non-parties) deploy antipersonnel mines. A situation in which only one element of a joint NATO force was permitted to use antipersonnel mines (to the benefit of the force as a whole), might be considered little more than an operational inconvenience. It would not constitute a fundamental change in military planning, training and operations which the Ottawa Convention envisages for states parties. Such a situation may be considered by other states parties to be a breach of the obligations of Canada and/or the UK under the Convention. A similar situation may arise for Australia when it participates with US forces in joint military operations or exercises.

³¹ The *Vienna Convention on the Law of Treaties 1969* does not assist in the resolution of the issue, as it deals only with permissible reservations.

³² McRae, p. 169.

To clarify the situation pending the achievement of universal membership of the Ottawa Convention, it would be possible for parties to agree to allow an exception to state party obligations in relation to co-operative security arrangements. Those arguing against such an exception consider that the integrity of the landmine ban would be unduly compromised by allowing what are in effect reservations. After all, they argue, the overwhelming majority of delegations at the Oslo negotiating conference were not prepared to concede to the wishes of the strongest proponent of such an exception, the United States. An alternative is for non-states parties sympathetic to the objectives of the Convention to unilaterally abjure the use of anti-personnel landmines in operations and exercises with states parties. The US Campaign to Ban Landmines (USCBL) has recently called on the US to make such a declaration.³³

³³ See USCBL letter to president Clinton regarding prohibiting AP mine use in NATO operations. 20 August 1999; www.haguepeace.org

3. National Implementation

Once a Convention is drafted, signed and ratified and any reservations or declarations made known, the next step is implementation at the national level. This chapter will examine two aspects of national implementation: first, the general position in international law with regard to the relationship between treaties and national laws; and second, the specific requirements of the Ottawa Convention.

Relationship between international obligations of states and national law

The international law relating to the relationship between a state's treaty or customary obligations and its national (or domestic) law is well settled. A state cannot plead provisions of its own law, or an absence thereof, to answer a claim against it for an alleged breach of its obligations under international law.³⁴ There is in general an obligation on parties to a treaty to bring their internal law into conformity with their international obligations.³⁵

The process whereby a country translates its international obligations into domestic law is often described as incorporation. The legal requirements of incorporation will vary from country to country. In the UK and most other Commonwealth countries the conclusion and ratification of treaties are within the prerogative of the head of state (the Crown or its equivalent). However, under the so-called transformation doctrine, treaties only become part of domestic law if an enabling Act of Parliament has been passed. Otherwise the Crown could act without parliamentary consent simply by entering a treaty.

For other countries, treaties entered into by the executive are binding without any further act of incorporation into domestic law (such ratifications are known as 'self-executing'). Provided the correct process is adhered to, the treaty becomes national law. In practice, however, this principle is often significantly qualified. For example, in the US case, a treaty obligation may be overridden by subsequent federal legislation. Furthermore, a self-executing treaty may not be enforced internally until it has been published.³⁶ The whole

³⁴ Article 27. *Vienna Convention on the Law of Treaties* 1969. See also *Alabama Claims Arbitration* (1872), Moore, 1 *International Arbitrations*, p. 653.

³⁵ However, see Brownlie, p. 25.

³⁶ See 'Seidl-Hohenveldern', *International Constitutional Law Quarterly*, vol. 12, 1963, pp. 105-7.

subject resists generalisation and each state's practice reflects the characteristics of its constitution.

Once a state has given effect to an international treaty in domestic law, by whatever method, there remains the question of what legal effect it has. If the text of the treaty has been included into domestic legislation, perhaps as an annex, then it will have become part of the domestic law of that state and will have the same effect as any other domestic law.

Where the domestic legislation merely gives effect to the terms of the treaty (rather than including the treaty in its entirety), or where existing legislation deals with the same subject matter as the treaty (without intending to give effect to the treaty), the situation is less clear, since there may be conflict between this domestic legislation and the treaty provisions. The general rule³⁷ is that when domestic law and international law conflict, a clear and unambiguous piece of domestic legislation will prevail over international law in a domestic court. However, when the wording in the statute is not clear, or is capable of more than one meaning, the courts will look to the treaty as an aid in interpreting the meaning of the domestic law, due to the presumption that the legislature cannot have intended to legislate contrary to international law.

If a case arises where the domestic law prevails over the treaty provisions, the state will be in breach of its international obligations under the treaty. Such non-compliance will place the breach within the jurisdiction of an international tribunal where a case against a state party may be brought.

National legal measures required to implement a treaty

Before discussing the national legal requirements of the Convention further, two issues need to be considered. First, although there is a general duty to bring internal law into conformity with international obligations, in general a failure to bring about such conformity is not in itself a direct breach of international law. A breach only arises when a state fails to observe its obligations on a specific occasion.³⁸ If a state is required by virtue of its ratification of the Ottawa Convention, its constitution and its situation vis-à-vis landmines to pass implementing legislation or other administrative measures and it fails to

³⁷ *Salomon v Commissioners of Customs and Excise* [1967] 2QB 116, CA at 141 per Lord Denning ([1967] 2 Queen's Bench reports p. 141 per Lord Denning, Court of Appeal).

³⁸ See Brownlie, p. 25.

do so, there is no breach of international law. A breach will only occur when, as a result of the absence of such laws or regulations, a prohibited act is performed.

The second issue arises from the fact that states parties to the Convention have made a binding international undertaking not to perform certain acts, for example producing landmines, and to engage in certain others where required, for example clearing landmines. The question is whether a country which is not involved and has never been involved in the production, use or transfer of landmines still fulfils its obligations if it takes no action, passes no new laws or takes no new administrative measures.

This is, for example, the case with Fiji. According to the Fijian constitution, treaties are self-executing; hence once ratified, in accordance with Fijian constitutional procedures, the Ottawa Convention became binding in Fijian courts. The fact that a country's constitution operates in this way does not mean that it need not enact implementing legislation for any treaty obligations. The Ottawa Convention requires that criminal sanctions be imposed by states parties on individuals convicted of engaging in prohibited conduct. The nature and extent of these sanctions is not provided in the Convention and must therefore be supplied by national law to give effect to treaty obligations. It is arguable that as there has in the past been no prohibited activity undertaken in Fiji, there is no need for it to pass any law. This view may be challenged on several grounds.

First, one is unable to anticipate whether prohibited activity will occur in the future. In the event of such prohibited activity, whether anticipated or not, Fiji would require legislation to meet its international obligations. Further, such legislative prohibitions, unless repealed, would bind the executive itself, thus ensuring that no prohibited activity could legally be conducted by any future Fijian government.

In addition, a country's citizens may be engaged in prohibited activity in another country. While these individuals are subject to the laws of the country in which the prohibited activity is undertaken, the country where they hold citizenship is also able to criminalise their actions, notwithstanding the fact that they have been committed in another country. The nexus for the criminal sanction is the citizenship of the person breaching the prohibition, not the location of the prohibited activity.

The enacting of legislation would also assist countries whose citizens seek refuge from criminal prosecution in another country. As Brownlie notes, 'With the exception of alleged crimes under international law, in the absence of treaty, surrender of an alleged

criminal cannot be demanded as of right'.³⁹ While extradition depends on issues of internal constitutional law and the effect of treaties on municipal laws, there exists a general principle in international law of double criminality. The principle requires that the alleged act must be criminal under the laws of both the state of refuge and the requesting state. Therefore the enacting of legislation creating criminal sanctions in respect to the acts prohibited by the Ottawa Convention would assist any extradition proceedings.

A final consideration is that the enacting of legislation by all countries enhances the possibility that a ban on the use of landmines will become customary international law. In the meantime, as customary international law evolves, each piece of domestic legislation becomes part of the movement to ban landmines. The role of legislation internationally is thus one of moral suasion, perhaps prompting other nations also to ratify and implement. All countries, notwithstanding the fact they consider that they have no landmine activity, should therefore legislate.

National implementation measures required by the Ottawa Convention

The Ottawa Convention requires states parties to undertake some actions and cease engaging in others. Some of the more visible acts required by the Convention are the destruction of existing stocks of landmines, the cessation of production of landmines, the destruction of deployed stocks and the provision of assistance to victims.

To ensure that these prohibitions are enforced, states parties must take regulatory steps at the national level. Article 9 of the Convention requires each state party to 'take all appropriate legal, administrative and other measures, including the imposition of penal sanctions, to prevent and suppress any activity prohibited'. This will require, at the very least, the adoption of specific domestic legislation.

The fact that the Ottawa Convention not only prohibits certain conduct but also requires the establishment of criminal sanctions places an extra burden on states parties. For example, a state party which has never had any dealings with landmines could, in certain circumstances, find itself in breach of its international obligations. If a transaction involving landmines or components thereof was conducted on its territory, a state party would be obliged under the Convention to punish the individuals involved. If that

³⁹ Brownlie, p. 318.

country did not have relevant criminal legislation, it may find itself unable to do so. The direct incorporation of the Convention into the law of a country on ratification will not suffice, since the Convention does not provide the penal framework or the specific penalties for a breach of the prohibitions. Domestic legislation is therefore required to enforce the Convention through criminal sanctions.

In addition to new legislation, the Ottawa Convention also requires most countries to adopt administrative measures to ensure that the necessary changes in military doctrine, codes of conduct, training procedures and manuals are made. Other necessary measures include notifying companies involved in the production or transfer of landmines and the review by relevant ministries of import and export licenses.

In addition, the following treaty obligations may require states to legislate or establish administrative procedures in order to comply:

- Article 4 requires the destruction of existing stockpiles of mines and Article 5 the clearing of mined areas. States need to take appropriate administrative and regulatory measures to implement these provisions.
- Article 7 requires each state party to file a report with the Secretary-General of the United Nations six months after entry into force of the treaty, that is before the end of August 1999. This report must provide detail of national implementation measures, for example stockpiles of landmines and mined areas. States parties need to take appropriate administrative measures to authorise the collection of this information.
- Article 8 provides for the facilitation and clarification of compliance. In complying with this article, states will need to establish a process for receiving and responding to requests, as well as the appropriate measures for hosting and cooperating with fact-finding missions should these become necessary.
- Article 14 provides for meetings of States Parties to be held. States Parties will need to allocate funding in order to contribute to the costs of such meetings and to participate in them.

4. Case studies in national implementation

To date seventeen countries are known to have enacted specific legislation to implement the Ottawa Convention or parts of the Convention—Austria, Australia, Belgium, Cambodia, Canada, France, Germany, Guatemala, Ireland, Italy, Japan, New Zealand, Norway, Spain, Switzerland, the United Kingdom and Yemen. Many states may never enact specific legislation, but rely on existing administrative arrangements or ministerial decrees or directions. Bulgaria is an example. In addition, existing laws may assist in domestic implementation of the Convention, including through existing powers of government administrators, the regulatory framework and criminal sanctions enshrined in other laws. Some States may have legislation banning certain aspects of landmine activity, while not comprehensively implementing the Convention. For example, Thailand has legislation prohibiting civilians from possessing landmines, but its legislation is silent in respect to other aspects of landmine activity. However, given the particular prohibitions in the Convention, there appears to be a need for specific legislation ensuring that the prohibitions are implemented by each state party.

This section of the paper will consider the legislation or decrees adopted by a selection of states parties to illustrate the various approaches that may be taken. One common characteristic already apparent is the similarity of the regulatory models adopted, particularly the use of criminal sanctions to enforce the regulatory provisions. There are however significant differences. Cambodia has adopted a gradation of offending, reflecting the fact that persons engaged in the use of landmines may have various levels of culpability. Both the UK and Italy have extended the sanctions to extra-territorial activities of nationals. The Italians have extended both the prohibition and criminal sanctions to the intellectual property rights associated with the development and manufacture of landmines.

Austria

Austria signed the Ottawa Convention on 3 December 1997 and deposited its instrument of ratification on 29 June 1998. The Federal Law on the Prohibition of Anti-Personnel Mines entered into force on 1 January 1997. Section 2 of the Austrian act provides for the prohibition of the manufacture, acquisition, sale, procurement, import,

transit, use and possession of mines. Consistent with the Convention, the only exceptions are for mine awareness training purposes or mine clearance activities.⁴⁰

Section 4 requires the reporting of existing stocks to the Austrian government within one month of the law being enacted. The government is required to destroy the stocks within one year.

Section 5 provides for criminal sanctions for a breach of the prohibition, with offenders facing imprisonment not exceeding two years or a fine. Section 5 specifically recognises that offending may be subject to a more severe sanction under other federal laws.

Australia

Australia ratified the Ottawa Convention on 14 January 1999 and deposited its instrument at the UN the same day. The Antipersonnel Mines Convention Act 1998 implementing the Convention had been enacted by the Australian parliament on 10 December 1998.

Section 7(1) of the Australian Act creates a criminal offence for any person who places, possesses, develops, produces, stockpiles or transfers landmines. An individual on conviction is liable to a fine of \$A 60,000 (\$US 37,914) or imprisonment for 10 years, or both, while a corporate body faces fines not exceeding \$A 1 million (\$US 631,922).

An aspect of the Australian Act that requires consideration is section 7(3), which provides that:

Subsection 1 does not apply to anything done by way of the mere participation in operations, exercises or other military activities conducted in combination with an armed force that:

- (a) is an armed force of a country that is not a party to the Convention; and
- (b) engages in an activity prohibited under the Convention.

Subsection 7(3) appears to be of such wide ambit that it allows the Australian military to act with impunity if the use of landmines is conducted with a non-state party to the

⁴⁰ Section 3. Austrian act.

Convention. It echoes the declaration made by Australia on ratification. The Foreign Minister, Mr Alexander Downer MP, clarified the section as follows: ⁴¹

Clause 7(3) is not intended to be construed as a blanket decriminalisation of the activities listed in clause 7(1). There may be circumstances in which there are military operations carried out jointly with the armed forces of a country that is not a party to the convention. In the course of those operations, the armed forces of that country might engage in an activity that would be prohibited under the convention. Clause 7 (3) provides that a person to whom the act applies will not be guilty of an offence merely by reason of participation in such combined exercises. However, that subclause does not provide a defence in circumstances where such a person actually carries out one of the prohibited acts in the course of those combined operations.

A question may arise as to the extent to which an Australian national may assist a member of another military force undertaking a prohibited action, without breaching the Australian Act. A pertinent factor will be the proximity between the action of the Australian national and the prohibited action of the foreign military force. This issue is further considered with regard to the Canadian Act.

Bulgaria

The Republic of Bulgaria signed the Ottawa Convention on 3 December 1997. The Parliament of the Republic of Bulgaria ratified the Convention on 28 July 1998. Bulgaria deposited its instrument of ratification at the UN on 4 September 1998.

On 6 May 1996 a three-year moratorium on the export of landmines was introduced pursuant to Decree N 104 of the Council of Ministers. A ban on the export of landmines was confirmed by Decree N 493 of the Council of Ministers on 23 December 1997.

The General Staff of the Bulgarian Armed Forces confirms that the following administrative measures to implement the Ottawa Convention are being undertaken:⁴²

⁴¹ Foreign Minister Alexander Downer, MP, Speech to the Australian House of Representatives, Canberra, *Hansard*, 26 November 1998, pp. 624-625.

⁴² Information received by VERTIC from the General Staff of the Bulgarian Army.

1. An interim group has been established to organise and control the destruction of landmines that Bulgaria may own or control.
2. A study of the technology required for the destruction is being undertaken.
3. An Interdepartmental Commission, consisting of the Minister of Defence and the Deputy Ministers of the other Ministries, is being formed and will be approved by the Council of Ministers. The Interdepartmental Commission will be charged with developing the national programme for implementation of the Ottawa Convention.

The estimated budget for Bulgaria to implement the Ottawa Convention is \$US 2,120,000 over the next four years.⁴³

Bulgaria has not yet enacted any domestic legislation to implement the Convention, nor has it enacted criminal sanctions for violation of provisions of the Convention by its nationals.

Cambodia

Cambodia signed the Ottawa Convention on 3 December 1997. The Law on the Ban of Anti-Personnel Landmines to implement the Ottawa Convention was passed unanimously by the Cambodian National Assembly on 28 April 1999 in advance of Cambodian ratification.⁴⁴

Chapter 1 of the law prohibits all persons, both civilians and state officials, from using any anti-personnel mines in all circumstances, except for training or clearance purposes. Such a prohibition is consistent with the Convention.

Chapter 2 vests responsibility for the control of mines with the Cambodian Mines Action Centre (CMAC), created by Royal Decree No n s/r k t/0295/16 of 25 February 1995. Its duties include, inter alia, the destruction of mines, co-operation with foreign governments and helping the Cambodian government ensure that its treaty obligations are fulfilled. In comparison with the UK and Canadian legislation, which specifically provide for the entry and conduct of fact-finding missions and the manner of reporting, the Cambodian Act vests CMAC with wide powers to ensure that such obligations are

⁴³ Information received by VERTIC from the General Staff of the Bulgarian Army.

⁴⁴ Statement by HE Mr Ieng Mouly, Chairman, Governing Council of the Cambodian Mine Action Center, Advisor to the Royal Government for Demining, Head of the Delegation of the Kingdom of Cambodia at the 1st Meeting of the States Parties of the Ottawa Convention, Maputo, May 3-7, 1999, p. 4.

met. (Specific provisions are to be expected in the UK and Canadian cases given that their administrative laws might otherwise frustrate the actions of persons engaged in fact-finding activities.)

The power of CMAC is reflected in Article 10 of Chapter 4 which requires any person, ministry or institution that possesses mines to report to the Cambodian government, which in turn must report to CMAC within 90 days of the enactment of the Cambodian act. Article 11 of Chapter 4 requires CMAC to destroy all mines received from persons or institutions within one year of enactment of the Cambodian act.

The Cambodian Government has enacted severe criminal sanctions to ensure compliance with the law. These establish a gradation of offending. Possession of landmines renders a person liable on conviction to imprisonment for a term not exceeding one year or a fine not exceeding one million riels (\$US 263).⁴⁵ A person who uses mines may be sentenced to a term not exceeding five years or a fine not exceeding ten million riels (\$US 2,638).⁴⁶ If a person produces, trades, imports, or exports mines, a term of imprisonment not exceeding ten years or a fine not exceeding twenty million riels (\$US 5,277) may be imposed.⁴⁷ For recidivist offenders, further convictions will result in the sentencing being doubled.⁴⁸ The gradation of sanctions is to be commended as reflecting the various possible circumstances of breaching the treaty's prohibitions. An individual person having possession of a landmine may not have the culpability of persons engaged in a commercial enterprise.

Canada

Canada signed the Ottawa Convention on 3 December 1997 and submitted its instrument of ratification to the UN the same day, thereby becoming the first country to sign and ratify.

Bill C-22, an Act to Implement the Convention on Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction, was passed by the Parliament of Canada on 27 November 1997. The Statute entered into force on 1 March 1999. The Canadian Act, unlike the UK Act, does not provide for extra-territorial

⁴⁵ Article 6, Cambodian act.

⁴⁶ Article 7, Cambodian act.

⁴⁷ Article 8, Cambodian act.

⁴⁸ Article 8, Cambodian act.

application, but is binding on both the federal government and provincial governments.⁴⁹

The Canadian Act defines 'anti-personnel mine' as a device 'designed, altered or intended' for use as a mine. This is in contrast to the narrow definition adopted in the Ottawa Convention, which uses only the word 'designed'. The formulation and adoption of this wider definition is to be commended. A definition that is drafted widely but with particularity is likely to be more effective in ensuring the Convention is not flaunted by the creation of a landmine-type weapon that may not be covered by a narrow definition.

Section 6 of the Canadian Act provides for the prohibition of the use, development or acquisition of anti-personnel mines, except in certain circumstances as detailed in subsection 6(3). The non-controversial exceptions involve the use of landmines for purposes consistent with the Ottawa Convention:

- a) the placement, acquisition, possession or transfer of a number of anti-personnel mines, as authorised under Section 10, for the development of, and training in, mine detection, mine clearance or mine destruction techniques;
- b) the acquisition, possession or transfer of anti-personnel mines for the purpose of their destruction;
- c) the acquisition, possession or transfer of an anti-personnel mine that has been deactivated as prescribed by regulation or that has been deactivated.

Subsection 6(3)(d) reflects the declaration annexed by Canada to its instrument of ratification in sanctioning:

- (d) participation in operations, exercises or other military activities with the armed forces of a state that is not a party to the Convention that engage in an activity prohibited under subsection (1) or (2), if that participation does not amount to 'active assistance' in that prohibited activity.

A question arises as to the meaning of 'active assistance'. It likely signifies direct assistance in the laying or use of landmines, rather than indirect activities, such as giving support to an allied force involved in the use of landmines through, for example, the provision of supplies or resources. The issue concerns the degree of proximity between the assistance and the prohibited activity.

Sections 8-10 of the Canadian Act, reflecting the requirements of Article 4 of the Ottawa Convention, require the transfer of all mines to the government for their destruction.

⁴⁹ Section 4 of the Canadian Act is necessary given the federal structure of Canada.

Section 10, consistent with the articles of the Convention, provides for the retention of the minimum number of mines required for permitted training purposes.

The collecting of relevant information by the Canadian Government, in order to meet reporting requirements under the Ottawa Convention, is facilitated by section 11, which empowers the relevant Minister to serve notice on citizens. Any resistance to the delivery of the documents to the Minister on privacy grounds is to be determined by the judiciary applying a public interest test.⁵⁰

Sections 12 to 15 provide a framework for inspections by fact-finding missions. Section 13 authorises a member of a fact-finding mission to enter and inspect without a warrant any place that is a military or weapons installation or facility but accompanied by persons designated by the Minister. If the place to be inspected is a dwelling house, consent of the occupant is required, though a warrant may be issued authorising entry to any other place.⁵¹

Criminal sanctions to enforce the Canadian Act are provided by section 21, which creates indictable offences for the following acts or omissions:

1. Failing to provide information pursuant to section 11 of the Act.
2. Knowingly making a false statement to, or obstructing, a fact-finding mission.
3. Disclosing information obtained by the government under the Act.

On indictment, the maximum penalty available is a fine not exceeding \$C 500,000 (\$US 334,771) or imprisonment for a term not exceeding five years, or both.⁵²

Italy

Italy signed the Ottawa Convention on 3 December 1997 and ratified it on 24 April 1999. Italy enacted legislation, Law N. 374 on 29 October 1997, to implement the Ottawa Convention. Article 1 prohibits the use of mines for whatever purpose, with the exception of 10,000 for training for demining and mine destruction purposes.⁵³

⁵⁰ Section 11(4), Canadian Act.

⁵¹ Sections 14 and 15 (1), Canadian Act.

⁵² Section 21 (1), Canadian Act.

⁵³ Article 5, Italian act.

Within 120 days of the enactment of the act, persons producing or holding landmines must report to the government.⁵⁴ The Ministry of Defence is required to oversee the destruction of the landmines. Their destruction is expected to cost 10 billion Italian lira (\$US 5,400,126) in 1998 and 1999 respectively.⁵⁵

An extension of the usual prohibitions that is found in the Italian act is the banning of technological research and transfer of patent rights for manufacturing of mines or their components by Italian nationals, both in Italy and abroad.⁵⁶ The extra-territorial application is important in ensuring Italian nationals do not attempt to avoid the act by moving unlawful activity offshore. Further, Article 4 places an obligation on owners of patent rights or technologies suitable to the manufacturing of mines to report to the government within 60 days of the enactment of the law. The extension of the prohibition to intellectual property rights is commendable.

Criminal sanctions are provided in Article 7. Failing to meet reporting requirements regarding possession or production of landmines within the 120-day limit renders the offender liable to imprisonment for 3 to 6 years or a fine not exceeding 500 million Italian lira (\$US 270,026). The offenders will also be banned from all public contracts for 5 to 10 years. A person who trades in mines or the intellectual property rights relating to mines is liable on conviction to imprisonment for 3 to 12 years and a fine not exceeding 1000 million Italian lira (\$US 540,054).

Japan

Japan signed the Ottawa Convention on 3 December 1997 and ratified it on 30 September 1998. The Diet enacted implementing legislation, A Law Concerning the Prohibition of the Production of Anti-Personnel Landmines and the Regulation of their Possession, Law No. 116/1998, on 30 September 1998. The Japanese act provides a prohibition on the possession and manufacture of landmines except when:⁵⁷

1. Anti-personnel Landmines are possessed for purposes approved in the Convention.
2. The possession has no possibility of obstructing the implementation of the Convention.

⁵⁴ See Article 3, Italian act.

⁵⁵ Article 5 (2), Italian act.

⁵⁶ Article 1, Italian act.

⁵⁷ Article 7. Japanese act.

Article 11 provides for the destruction of landmines forthwith.⁵⁸ A person who possesses a landmine is required to destroy the landmine within 30 days of the enactment of the law.⁵⁹

A regulatory framework to assist fact-finding inspections is created by Article 11(4). It allows for entry into places for the inspection of books and to interview persons. A large number of criminal sanctions, reflecting the gradation of possible offending, are detailed in Article 6. A person who possesses landmines without permission is liable, on conviction, to a term of imprisonment not exceeding seven years or a fine of 3 million yen (\$US 26,880).

New Zealand

New Zealand signed the Ottawa Convention on 3 December 1997 and ratified it on 27 January 1999. The Anti-Personnel Mines Prohibition Act 1998 was passed by the New Zealand Parliament on 9 December 1998. Section 6 of the legislation provides that the Crown is bound by the Parliament's legislation and hence the government must comply with the provisions. Part 2 creates the framework for the prohibitions in respect to landmines and offences for persons who engage in landmine activity or assist, encourage or induce anyone to engage in landmine activity. The penalty for a person convicted of being involved with landmines is imprisonment for a term not exceeding 7 years or a fine not exceeding \$NZ 500,000 (\$US 256,547).

Exceptions to the prohibitions, detailed in Section 8 of the New Zealand Act, reflect the exceptions provided for by the Ottawa Convention. Military officers may possess a landmine in order to deactivate it or to conduct training in mine detection or mine clearance techniques.

The Minister responsible is required, pursuant to Section 11 of the Act, to publish the number of landmines retained for training persons. Public scrutiny of the published figures is a powerful tool of accountability in ensuring that stockpiling does not occur. Public scrutiny is an approach that other countries should consider in ensuring that stockpiling of landmines is not disguised as being merely for training purposes.

⁵⁸ Article 11, Japanese act.

⁵⁹ Article 2, Supplementary Transitional Provisions, Japanese act.

Subsection 8(d) raises an exception similar to that contained in the Canadian legislation (section 6(3)(d) Canadian Act) and once again begs a decisive answer as to what is 'active' as opposed to 'mere' assistance in the undertaking of joint military action with non-states parties which engage in a prohibited activity.

Part 5 of the New Zealand Act deals with facilitating fact-finding missions under the Convention. It allows the Minister to secure premises to allow fact-finding missions to enter where consent of the owner is not forthcoming and for New Zealand law enforcement officers to enter the premises to assist. Section 20 provides that the Minister may direct a person to provide information to the fact-finding mission and that failure to comply may result in prosecution.⁶⁰ A person is required to provide the information, notwithstanding that it may incriminate them. However, the information provided, if incriminating, cannot be used in criminal proceedings.⁶¹ Significantly, the information is made available to the Minister and the fact-finding mission to assist in verifying the Convention. Thus the individual is protected from self-incrimination, but the information is nonetheless obtained.

Norway

Norway signed the Ottawa Convention on 3 December 1997. The Norwegian Storting (Parliament) ratified the Convention on 16 June 1998. Norway deposited its instrument of ratification at the UN on 9 July 1998. The law on Implementation of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on their Destruction was sanctioned by the King on 17 July 1998.⁶²

Section 1 of the Norwegian act provides for a prohibition on the use, development, acquisition, stockpiling or transferring of anti-personnel mines. The government can decide on further regulations to fulfil the country's obligations. Section 2 provides that persons granted immunity and privileges by the Convention, such as those engaged in demining or training, will be granted immunity and privileges under Norwegian law. The government can decide on further regulations for the implementation of these immunity and privileges provisions.

⁶⁰ Section 15 of the New Zealand Act provides that a person convicted of failing to supply information may be liable for a term of imprisonment not exceeding 1 year or a fine not exceeding \$NZ 100,000 (\$US 51,309).

⁶¹ Section 25 (2), New Zealand Act.

Monitoring the Landmine Convention

A framework for the creation of fact-finding missions to areas or installations in Norway is created by Section 3. The government can establish further regulations on the implementation of such missions.

Article 5 provides for criminal sanctions for persons who breach the prohibitions, either fines or a term of imprisonment not exceeding two years. A gradation of enforcement is reflected in the provision for the punishment of inadvertent acts, the maximum penalty being a term of imprisonment not exceeding 6 months. The section provides for an exception for foreigners who are citizens of states which have not ratified the Convention, although section 7 extends the criminal sanctions to Norwegian citizens who breach the provisions outside Norway.

Spain

Spain signed the Ottawa Convention on 3 December 1997 and ratified it on 19 January 1999. The Law Banning Antipersonnel Landmines as well as those Arms with Similar Effects was enacted on 17 September 1998.⁶³ While the law reflects the articles of the Convention, there are no provisions for implementing criminal sanctions. In the annex to the Spanish act there is a statement that criminal sanctions will be provided through future by-law regulation. Without specific criminal sanctions, the Spanish act may have limited effectiveness. However as noted by Landmine Monitor, 'on the positive side, the law includes an article on humanitarian mine clearance and another on aid to landmine victims (which was not included in the first draft offered by the government)'.⁶⁴

United Kingdom

The United Kingdom signed the Ottawa Convention on 3 December 1997. The United Kingdom Parliament passed the Landmines Act 1998 on 28 July 1998 and ratified the Ottawa Convention on 31 July 1998. At the time of its ratification the UK, as discussed above, made a declaration as to interpretation, which effectively reserved the right to participate in joint military exercises and actions with states engaging in conduct prohibited by the Ottawa Convention.

⁶² The Norwegian Government website <http://odin.dep.no> has further information on the administrative and legislative measures being undertaken.

⁶³ Law 33/1998

⁶⁴ *Landmine Monitor Annual Report 1999: Toward a Mine-Free World*, Human Rights Watch, Washington DC, 1999, p. 649.

The general obligations of the Ottawa Convention are contained in Section 2 of the Act, which prohibits the use, development, production, acquisition or participation in the transfer of anti-personnel landmines as well as assistance, encouragement or inducements to others to engage in such conduct. Section 3 creates criminal offences for persons who commit the prohibited acts detailed in Section 2. The criminal sanctions apply whether the conduct takes place within or outside the UK. The only nexus required is that the person undertaking the conduct outside the UK be a British national or a body incorporated under the UK law. The extra-territorial application of the sanction is important, since otherwise illegal activities of UK nationals overseas could be conducted with impunity.

Section 23 of the Act provides that if a body corporate commits an offence with the consent or connivance of a director or manager, both the body corporate and the director or manager shall be prosecuted.⁶⁵ Given that the production of landmines would most likely be conducted by a body corporate, the prosecution of such bodies is an important tool of individual and corporate deterrence.

Section 4 provides that certain conduct permitted by the Convention in respect to landmines is not subject to the general prohibition. The conduct prescribed is the participation or transfer of landmines for the purpose of destruction and the retention or transfer of a minimum number of landmines for the development of and training in mine detection, clearance and destruction techniques.

Section 13 provides for fact-finding missions to the UK under Article 8 of the Convention by authorising entry to premises. A person who fails to comply with any request from a fact-finding mission or obstructs it will commit a criminal offence pursuant to Section 14 of the Act. Members of a fact-finding mission will enjoy privileges and immunities under Section 15.

In order to meet obligations arising under the facilitation and clarification requirement of Article 8, Section 17 of the Act requires persons, on request, to provide information relevant to implementation of the Ottawa Convention. A failure to produce the information will render the person liable to prosecution. In addition section 18 provides

⁶⁵ Sections 5 and 11 of the Interpretation Act 1978 (UK) provide that subject to the appearance of a contrary intention, the word 'person' in a statute is to be construed as including 'a body of persons corporate or unincorporated'. The inclusion of a provision stating that a body corporate may commit the offence denies the opportunity to an accused to plead that a contrary intention is evidenced by the Act.

that the authorities may obtain a search warrant to search premises to obtain evidence. Any person obstructing the search and seizure will commit a criminal offence.

The most contentious aspect of the Act is Section 5, which implements domestically the declaration made on ratification. This provides a defence, additional to those provided by Article 3 of the Ottawa Convention, for offences relating to anti-personnel landmines. Section 5 provides that:

5. (2) ...it is a defence for the accused to prove that -
- (a) the conduct was in the course of, or for the purpose of, a military operation or the planning of a military operation;⁶⁶
 - (b) the conduct was not the laying of an anti-personnel mine;
 - (c) at the time of the conduct he believed, on reasonable grounds, that the operation was or would be an operation to which this section applies; and
 - (d) he did not suspect, and had no grounds for suspecting, that the conduct related to the laying of anti-personnel mines in contravention of the Ottawa Convention.

Under Subsection (3), this defence is limited to international military operations which take place wholly or mainly outside the UK where there may be some deployment of anti-personnel mines by members of the armed forces of states which are not parties to the Ottawa Convention. The government's justification for this defence and the declaration itself was the need to protect British soldiers from unreasonable prosecution in the event of anti-personnel mines being deployed in a NATO exercise. However, as discussed above, the declaration and Section 5 of the Act arguably constitute a departure from the obligations of the Ottawa Convention.

⁶⁶ Military Operation is defined in Section 5(3).

5. Conclusion

To date an impressive number of states have signed and ratified the Ottawa Convention. So far, three of these have made declarations which might be considered to be reservations. Reservations are explicitly excluded by the Convention.

Very few signatories or states parties have yet enacted national implementing legislation. Such legislation is extremely important in achieving a universal ban on landmines. The view that only countries with significant landmine activity should enact national legislation to implement the Convention is short-sighted. All parties to the Convention, whether they engage in or endure landmine activity, whether within their territory or not, should enact implementing legislation.

Implementing legislation will ensure that a party does not breach the Convention should a person engage in a prohibited activity within the country in the future. A party must have legislation to enforce the prohibition on the activity or it will be in breach of the Convention. The countries that have enacted legislation have created various criminal sanctions for persons who engage in prohibited activities or for persons who fail to assist those charged with implementing and verifying the Convention. The enacting of a gradation of offending adopted by some countries reflects the laudable view that different prohibited activities require different penalties.

The implementing legislation should have extra-territorial effect to ensure that nefarious activities of a country's citizens undertaken in other countries are punished. If such a country does not have criminal sanctions, a person may engage in prohibited activity with impunity. Further, the universal criminalisation of landmine activity would assist states parties in the extradition of their citizens engaged in landmine activity in another country who seek refuge in that country or in a third country. Finally, the enacting of municipal legislation serves as a form of moral suasion, thereby contributing towards a truly global ban on anti-personnel landmine activity.

Appendix

Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and On Their Destruction

Preamble

The States Parties,

Determined to put an end to the suffering and casualties caused by anti-personnel mines, that kill or maim hundreds of people every week, mostly innocent and defenceless civilians and especially children, obstruct economic development and reconstruction, inhibit the repatriation of refugees and internally displaced persons, and have other severe consequences for years after emplacement,

Believing it necessary to do their utmost to contribute in an efficient and coordinated manner to face the challenge of removing anti-personnel mines placed throughout the world, and to assure their destruction,

Wishing to do their utmost in providing assistance for the care and rehabilitation, including the social and economic reintegration of mine victims,

Recognizing that a total ban of anti-personnel mines would also be an important confidence-building measure,

Welcoming the adoption of the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices, as amended on 3 May 1996, annexed to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects, and calling for the early ratification of this Protocol by all States which have not yet done so,

Welcoming also United Nations General Assembly Resolution 51/45 S of 10 December 1996 urging all States to pursue vigorously an effective, legally-binding international agreement to ban the use, stockpiling, production and transfer of anti-personnel landmines,

Welcoming furthermore the measures taken over the past years, both unilaterally and multilaterally, aiming at prohibiting, restricting or suspending the use, stockpiling, production and transfer of anti-personnel mines,

Stressing the role of public conscience in furthering the principles of humanity as evidenced by the call for a total ban of anti-personnel mines and recognizing the efforts to that end undertaken by the International Red Cross and Red Crescent Movement, the International Campaign to Ban Landmines and numerous other non-governmental organizations around the world,

Monitoring the Landmine Convention

Recalling the Ottawa Declaration of 5 October 1996 and the Brussels Declaration of 27 June 1997 urging the international community to negotiate an international and legally binding agreement prohibiting the use, stockpiling, production and transfer of anti-personnel mines,

Emphasizing the desirability of attracting the adherence of all States to this Convention, and determined to work strenuously towards the promotion of its universalization in all relevant fora including, inter alia, the United Nations, the Conference on Disarmament, regional organizations, and groupings, and review conferences of the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects,

Basing themselves on the principle of international humanitarian law that the right of the parties to an armed conflict to choose methods or means of warfare is not unlimited, on the principle that prohibits the employment in armed conflicts of weapons, projectiles and materials and methods of warfare of a nature to cause superfluous injury or unnecessary suffering and on the principle that a distinction must be made between civilians and combatants,

Have agreed as follows:

Article 1

General obligations

1. Each State Party undertakes never under any circumstances:
 - a) To use anti-personnel mines;
 - b) To develop, produce, otherwise acquire, stockpile, retain or transfer to anyone, directly or indirectly, anti-personnel mines;
 - c) To assist, encourage or induce, in any way, anyone to engage in any activity prohibited to a State Party under this Convention.
2. Each State Party undertakes to destroy or ensure the destruction of all anti-personnel mines in accordance with the provisions of this Convention.

Article 2

Definitions

1. "Anti-personnel mine" means a mine designed to be exploded by the presence, proximity or contact of a person and that will incapacitate, injure or kill one or more persons. Mines designed to be detonated by the presence, proximity or contact of a vehicle as opposed to a person, that are equipped with anti-handling devices, are not considered anti-personnel mines as a result of being so equipped.
2. "Mine" means a munition designed to be placed under, on or near the ground or other surface area and to be exploded by the presence, proximity or contact of a person or a vehicle.

3. "Anti-handling device" means a device intended to protect a mine and which is part of, linked to, attached to or placed under the mine and which activates when an attempt is made to tamper with or otherwise intentionally disturb the mine.
4. "Transfer" involves, in addition to the physical movement of anti-personnel mines into or from national territory, the transfer of title to and control over the mines, but does not involve the transfer of territory containing emplaced anti-personnel mines.
5. "Mined area" means an area which is dangerous due to the presence or suspected presence of mines.

Article 3

Exceptions

1. Notwithstanding the general obligations under Article 1, the retention or transfer of a number of anti-personnel mines for the development of and training in mine detection, mine clearance, or mine destruction techniques is permitted. The amount of such mines shall not exceed the minimum number absolutely necessary for the above-mentioned purposes.
2. The transfer of anti-personnel mines for the purpose of destruction is permitted.

Article 4

Destruction of stockpiled anti-personnel mines

Except as provided for in Article 3, each State Party undertakes to destroy or ensure the destruction of all stockpiled anti-personnel mines it owns or possesses, or that are under its jurisdiction or control, as soon as possible but not later than four years after the entry into force of this Convention for that State Party.

Article 5

Destruction of anti-personnel mines in mined areas

1. Each State Party undertakes to destroy or ensure the destruction of all anti-personnel mines in mined areas under its jurisdiction or control, as soon as possible but not later than ten years after the entry into force of this Convention for that State Party.
2. Each State Party shall make every effort to identify all areas under its jurisdiction or control in which anti-personnel mines are known or suspected to be emplaced and shall ensure as soon as possible that all anti-personnel mines in mined areas under its jurisdiction or control are perimeter-marked, monitored and protected by fencing or other means, to ensure the effective exclusion of civilians, until all anti-personnel mines contained therein have been destroyed. The marking shall at least be to the standards set out in the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices, as amended on 3 May 1996, annexed to the Convention on Prohibitions or Restrictions on the Use of Certain

Monitoring the Landmine Convention

Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects.

3. If a State Party believes that it will be unable to destroy or ensure the destruction of all anti-personnel mines referred to in paragraph 1 within that time period, it may submit a request to a Meeting of the States Parties or a Review Conference for an extension of the deadline for completing the destruction of such anti-personnel mines, for a period of up to ten years.
4. Each request shall contain:
 - a) The duration of the proposed extension;
 - b) A detailed explanation of the reasons for the proposed extension, including:
 - (i) The preparation and status of work conducted under national demining programs;
 - (ii) The financial and technical means available to the State Party for the destruction of all the anti-personnel mines; and
 - (iii) Circumstances which impede the ability of the State Party to destroy all the anti-personnel mines in mined areas;
 - c) The humanitarian, social, economic, and environmental implications of the extension; and
 - d) Any other information relevant to the request for the proposed extension.
5. The Meeting of the States Parties or the Review Conference shall, taking into consideration the factors contained in paragraph 4, assess the request and decide by a majority of votes of States Parties present and voting whether to grant the request for an extension period.
6. Such an extension may be renewed upon the submission of a new request in accordance with paragraphs 3, 4 and 5 of this Article. In requesting a further extension period a State Party shall submit relevant additional information on what has been undertaken in the previous extension period pursuant to this Article.

Article 6

International cooperation and assistance

1. In fulfilling its obligations under this Convention each State Party has the right to seek and receive assistance, where feasible, from other States Parties to the extent possible.
2. Each State Party undertakes to facilitate and shall have the right to participate in the fullest possible exchange of equipment, material and scientific and technological information concerning the implementation of this Convention. The States Parties shall not impose undue restrictions on the provision of mine clearance equipment and related technological information for humanitarian purposes.

3. Each State Party in a position to do so shall provide assistance for the care and rehabilitation, and social and economic reintegration, of mine victims and for mine awareness programs. Such assistance may be provided, inter alia, through the United Nations system, international, regional or national organizations or institutions, the International Committee of the Red Cross, national Red Cross and Red Crescent societies and their International Federation, non-governmental organizations, or on a bilateral basis.

4. Each State Party in a position to do so shall provide assistance for mine clearance and related activities. Such assistance may be provided, inter alia, through the United Nations system, international or regional organizations or institutions, non-governmental organizations or institutions, or on a bilateral basis, or by contributing to the United Nations Voluntary Trust Fund for Assistance in Mine Clearance, or other regional funds that deal with demining.

5. Each State Party in a position to do so shall provide assistance for the destruction of stockpiled anti-personnel mines.

6. Each State Party undertakes to provide information to the database on mine clearance established within the United Nations system, especially information concerning various means and technologies of mine clearance, and lists of experts, expert agencies or national points of contact on mine clearance.

7. States Parties may request the United Nations, regional organizations, other States Parties or other competent intergovernmental or non-governmental fora to assist its authorities in the elaboration of a national demining program to determine, inter alia:

- a) The extent and scope of the anti-personnel mine problem;
- b) The financial, technological and human resources that are required for the implementation of the program;
- c) The estimated number of years necessary to destroy all anti-personnel mines in mined areas under the jurisdiction or control of the concerned State Party;
- d) Mine awareness activities to reduce the incidence of mine-related injuries or deaths;
- e) Assistance to mine victims;
- f) The relationship between the Government of the concerned State Party and the relevant governmental, inter-governmental or non-governmental entities that will work in the implementation of the program.

8. Each State Party giving and receiving assistance under the provisions of this Article shall cooperate with a view to ensuring the full and prompt implementation of agreed assistance programs.

Monitoring the Landmine Convention

Article 7

Transparency measures

1. Each State Party shall report to the Secretary-General of the United Nations as soon as practicable, and in any event not later than 180 days after the entry into force of this Convention for that State Party on:
 - a) The national implementation measures referred to in Article 9;
 - b) The total of all stockpiled anti-personnel mines owned or possessed by it, or under its jurisdiction or control, to include a breakdown of the type, quantity and, if possible, lot numbers of each type of anti-personnel mine stockpiled;
 - c) To the extent possible, the location of all mined areas that contain, or are suspected to contain, anti-personnel mines under its jurisdiction or control, to include as much detail as possible regarding the type and quantity of each type of anti-personnel mine in each mined area and when they were emplaced;
 - d) The types, quantities and, if possible, lot numbers of all anti-personnel mines retained or transferred for the development of and training in mine detection, mine clearance or mine destruction techniques, or transferred for the purpose of destruction, as well as the institutions authorized by a State Party to retain or transfer anti-personnel mines, in accordance with Article 3;
 - e) The status of programs for the conversion or de-commissioning of anti-personnel mine production facilities;
 - f) The status of programs for the destruction of anti-personnel mines in accordance with Articles 4 and 5, including details of the methods which will be used in destruction, the location of all destruction sites and the applicable safety and environmental standards to be observed;
 - g) The types and quantities of all anti-personnel mines destroyed after the entry into force of this Convention for that State Party, to include a breakdown of the quantity of each type of anti-personnel mine destroyed, in accordance with Articles 4 and 5, respectively, along with, if possible, the lot numbers of each type of anti-personnel mine in the case of destruction in accordance with Article 4;
 - h) The technical characteristics of each type of anti-personnel mine produced, to the extent known, and those currently owned or possessed by a State Party, giving, where reasonably possible, such categories of information as may facilitate identification and clearance of anti-personnel mines; at a minimum, this information shall include the dimensions, fusing, explosive content, metallic content, colour photographs and other information which may facilitate mine clearance; and
 - i) The measures taken to provide an immediate and effective warning to the population in relation to all areas identified under paragraph 2 of Article 5.
2. The information provided in accordance with this Article shall be updated by the States Parties annually, covering the last calendar year, and reported to the Secretary-General of the United Nations not later than 30 April of each year.

3. The Secretary-General of the United Nations shall transmit all such reports received to the States Parties.

Article 8

Facilitation and clarification of compliance

1. The States Parties agree to consult and cooperate with each other regarding the implementation of the provisions of this Convention, and to work together in a spirit of cooperation to facilitate compliance by States Parties with their obligations under this Convention.
2. If one or more States Parties wish to clarify and seek to resolve questions relating to compliance with the provisions of this Convention by another State Party, it may submit, through the Secretary-General of the United Nations, a Request for Clarification of that matter to that State Party. Such a request shall be accompanied by all appropriate information. Each State Party shall refrain from unfounded Requests for Clarification, care being taken to avoid abuse. A State Party that receives a Request for Clarification shall provide, through the Secretary-General of the United Nations, within 28 days to the requesting State Party all information which would assist in clarifying this matter.
3. If the requesting State Party does not receive a response through the Secretary-General of the United Nations within that time period, or deems the response to the Request for Clarification to be unsatisfactory, it may submit the matter through the Secretary-General of the United Nations to the next Meeting of the States Parties. The Secretary-General of the United Nations shall transmit the submission, accompanied by all appropriate information pertaining to the Request for Clarification, to all States Parties. All such information shall be presented to the requested State Party which shall have the right to respond.
4. Pending the convening of any meeting of the States Parties, any of the States Parties concerned may request the Secretary-General of the United Nations to exercise his or her good offices to facilitate the clarification requested.
5. The requesting State Party may propose through the Secretary-General of the United Nations the convening of a Special Meeting of the States Parties to consider the matter. The Secretary-General of the United Nations shall thereupon communicate this proposal and all information submitted by the States Parties concerned, to all States Parties with a request that they indicate whether they favour a Special Meeting of the States Parties, for the purpose of considering the matter. In the event that within 14 days from the date of such communication, at least one-third of the States Parties favours such a Special Meeting, the Secretary-General of the United Nations shall convene this Special Meeting of the States Parties within a further 14 days. A quorum for this Meeting shall consist of a majority of States Parties.
6. The Meeting of the States Parties or the Special Meeting of the States Parties, as the case may be, shall first determine whether to consider the matter further, taking into account all information submitted by the States Parties concerned. The Meeting of the States Parties or the Special Meeting of the States Parties shall make every effort to reach a decision by consensus. If despite all efforts to that end no agreement has been reached, it shall take this decision by a majority of States Parties present and voting.

Monitoring the Landmine Convention

7. All States Parties shall cooperate fully with the Meeting of the States Parties or the Special Meeting of the States Parties in the fulfilment of its review of the matter, including any fact-finding missions that are authorized in accordance with paragraph 8.

8. If further clarification is required, the Meeting of the States Parties or the Special Meeting of the States Parties shall authorize a fact-finding mission and decide on its mandate by a majority of States Parties present and voting. At any time the requested State Party may invite a fact-finding mission to its territory. Such a mission shall take place without a decision by a Meeting of the States Parties or a Special Meeting of the States Parties to authorize such a mission. The mission, consisting of up to 9 experts, designated and approved in accordance with paragraphs 9 and 10, may collect additional information on the spot or in other places directly related to the alleged compliance issue under the jurisdiction or control of the requested State Party.

9. The Secretary-General of the United Nations shall prepare and update a list of the names, nationalities and other relevant data of qualified experts provided by States Parties and communicate it to all States Parties. Any expert included on this list shall be regarded as designated for all fact-finding missions unless a State Party declares its non-acceptance in writing. In the event of non-acceptance, the expert shall not participate in fact-finding missions on the territory or any other place under the jurisdiction or control of the objecting State Party, if the non-acceptance was declared prior to the appointment of the expert to such missions.

10. Upon receiving a request from the Meeting of the States Parties or a Special Meeting of the States Parties, the Secretary-General of the United Nations shall, after consultations with the requested State Party, appoint the members of the mission, including its leader. Nationals of States Parties requesting the fact-finding mission or directly affected by it shall not be appointed to the mission. The members of the fact-finding mission shall enjoy privileges and immunities under Article VI of the Convention on the Privileges and Immunities of the United Nations, adopted on 13 February 1946.

11. Upon at least 72 hours notice, the members of the fact-finding mission shall arrive in the territory of the requested State Party at the earliest opportunity. The requested State Party shall take the necessary administrative measures to receive, transport and accommodate the mission, and shall be responsible for ensuring the security of the mission to the maximum extent possible while they are on territory under its control.

12. Without prejudice to the sovereignty of the requested State Party, the fact-finding mission may bring into the territory of the requested State Party the necessary equipment which shall be used exclusively for gathering information on the alleged compliance issue. Prior to its arrival, the mission will advise the requested State Party of the equipment that it intends to utilize in the course of its fact-finding mission.

13. The requested State Party shall make all efforts to ensure that the fact-finding mission is given the opportunity to speak with all relevant persons who may be able to provide information related to the alleged compliance issue.

14. The requested State Party shall grant access for the fact-finding mission to all areas and installations under its control where facts relevant to the compliance issue could be expected to be collected. This shall be subject to any arrangements that the requested State Party considers necessary for:

- a) The protection of sensitive equipment, information and areas;
- b) The protection of any constitutional obligations the requested State Party may have with regard to proprietary rights, searches and seizures, or other constitutional rights; or
- c) The physical protection and safety of the members of the fact-finding mission.

In the event that the requested State Party makes such arrangements, it shall make every reasonable effort to demonstrate through alternative means its compliance with this Convention.

15. The fact-finding mission may remain in the territory of the State Party concerned for no more than 14 days, and at any particular site no more than 7 days, unless otherwise agreed.

16. All information provided in confidence and not related to the subject matter of the fact-finding mission shall be treated on a confidential basis.

17. The fact-finding mission shall report, through the Secretary-General of the United Nations, to the Meeting of the States Parties or the Special Meeting of the States Parties the results of its findings.

18. The Meeting of the States Parties or the Special Meeting of the States Parties shall consider all relevant information, including the report submitted by the fact-finding mission, and may request the requested State Party to take measures to address the compliance issue within a specified period of time. The requested State Party shall report on all measures taken in response to this request.

19. The Meeting of the States Parties or the Special Meeting of the States Parties may suggest to the States Parties concerned ways and means to further clarify or resolve the matter under consideration, including the initiation of appropriate procedures in conformity with international law. In circumstances where the issue at hand is determined to be due to circumstances beyond the control of the requested State Party, the Meeting of the States Parties or the Special Meeting of the States Parties may recommend appropriate measures, including the use of cooperative measures referred to in Article 6.

20. The Meeting of the States Parties or the Special Meeting of the States Parties shall make every effort to reach its decisions referred to in paragraphs 18 and 19 by consensus, otherwise by a two-thirds majority of States Parties present and voting.

Article 9

National implementation measures

Each State Party shall take all appropriate legal, administrative and other measures, including the imposition of penal sanctions, to prevent and suppress any activity prohibited to a State Party under this Convention undertaken by persons or on territory under its jurisdiction or control.

Article 10

Settlement of disputes

1. The States Parties shall consult and cooperate with each other to settle any dispute that may arise with regard to the application or the interpretation of this Convention. Each State Party may bring any such dispute before the Meeting of the States Parties.
2. The Meeting of the States Parties may contribute to the settlement of the dispute by whatever means it deems appropriate, including offering its good offices, calling upon the States parties to a dispute to start the settlement procedure of their choice and recommending a time-limit for any agreed procedure.
3. This Article is without prejudice to the provisions of this Convention on facilitation and clarification of compliance.

Article 11

Meetings of the States Parties

1. The States Parties shall meet regularly in order to consider any matter with regard to the application or implementation of this Convention, including:
 - a) The operation and status of this Convention;
 - b) Matters arising from the reports submitted under the provisions of this Convention;
 - c) International cooperation and assistance in accordance with Article 6;
 - d) The development of technologies to clear anti-personnel mines;
 - e) Submissions of States Parties under Article 8; and
 - f) Decisions relating to submissions of States Parties as provided for in Article 5.
2. The First Meeting of the States Parties shall be convened by the Secretary-General of the United Nations within one year after the entry into force of this Convention. The subsequent meetings shall be convened by the Secretary-General of the United Nations annually until the first Review Conference.
3. Under the conditions set out in Article 8, the Secretary-General of the United Nations shall convene a Special Meeting of the States Parties.
4. States not parties to this Convention, as well as the United Nations, other relevant international organizations or institutions, regional organizations, the International Committee of the Red Cross and relevant non-governmental organizations may be invited to attend these meetings as observers in accordance with the agreed Rules of Procedure.

Article 12

Review Conferences

1. A Review Conference shall be convened by the Secretary-General of the United Nations five years after the entry into force of this Convention. Further Review Conferences shall be convened by the Secretary-General of the United Nations if so requested by one or more States Parties, provided that the interval between Review Conferences shall in no case be less than five years. All States Parties to this Convention shall be invited to each Review Conference.
2. The purpose of the Review Conference shall be:
 - a) To review the operation and status of this Convention;
 - b) To consider the need for and the interval between further Meetings of the States Parties referred to in paragraph 2 of Article 11;
 - c) To take decisions on submissions of States Parties as provided for in Article 5; and
 - d) To adopt, if necessary, in its final report conclusions related to the implementation of this Convention.
3. States not parties to this Convention, as well as the United Nations, other relevant international organizations or institutions, regional organizations, the International Committee of the Red Cross and relevant non-governmental organizations may be invited to attend each Review Conference as observers in accordance with the agreed Rules of Procedure.

Article 13

Amendments

1. At any time after the entry into force of this Convention any State Party may propose amendments to this Convention. Any proposal for an amendment shall be communicated to the Depositary, who shall circulate it to all States Parties and shall seek their views on whether an Amendment Conference should be convened to consider the proposal. If a majority of the States Parties notify the Depositary no later than 30 days after its circulation that they support further consideration of the proposal, the Depositary shall convene an Amendment Conference to which all States Parties shall be invited.
2. States not parties to this Convention, as well as the United Nations, other relevant international organizations or institutions, regional organizations, the International Committee of the Red Cross and relevant non-governmental organizations may be invited to attend each Amendment Conference as observers in accordance with the agreed Rules of Procedure.
3. The Amendment Conference shall be held immediately following a Meeting of the States Parties or a Review Conference unless a majority of the States Parties request that it be held earlier.

Monitoring the Landmine Convention

4. Any amendment to this Convention shall be adopted by a majority of two-thirds of the States Parties present and voting at the Amendment Conference. The Depositary shall communicate any amendment so adopted to the States Parties.

5. An amendment to this Convention shall enter into force for all States Parties to this Convention which have accepted it, upon the deposit with the Depositary of instruments of acceptance by a majority of States Parties. Thereafter it shall enter into force for any remaining State Party on the date of deposit of its instrument of acceptance.

Article 14

Costs

1. The costs of the Meetings of the States Parties, the Special Meetings of the States Parties, the Review Conferences and the Amendment Conferences shall be borne by the States Parties and States not parties to this Convention participating therein, in accordance with the United Nations scale of assessment adjusted appropriately.

2. The costs incurred by the Secretary-General of the United Nations under Articles 7 and 8 and the costs of any fact-finding mission shall be borne by the States Parties in accordance with the United Nations scale of assessment adjusted appropriately.

Article 15

Signature

This Convention, done at Oslo, Norway, on 18 September 1997, shall be open for signature at Ottawa, Canada, by all States from 3 December 1997 until 4 December 1997, and at the United Nations Headquarters in New York from 5 December 1997 until its entry into force.

Article 16

Ratification, acceptance, approval or accession

1. This Convention is subject to ratification, acceptance or approval of the Signatories.

2. It shall be open for accession by any State which has not signed the Convention.

3. The instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary.

Article 17

Entry into force

1. This Convention shall enter into force on the first day of the sixth month after the month in which the 40th instrument of ratification, acceptance, approval or accession has been deposited.
2. For any State which deposits its instrument of ratification, acceptance, approval or accession after the date of the deposit of the 40th instrument of ratification, acceptance, approval or accession, this Convention shall enter into force on the first day of the sixth month after the date on which that State has deposited its instrument of ratification, acceptance, approval or accession.

Article 18

Provisional application

Any State may at the time of its ratification, acceptance, approval or accession, declare that it will apply provisionally paragraph 1 of Article 1 of this Convention pending its entry into force.

Article 19

Reservations

The Articles of this Convention shall not be subject to reservations.

Article 20

Duration and withdrawal

1. This Convention shall be of unlimited duration.
2. Each State Party shall, in exercising its national sovereignty, have the right to withdraw from this Convention. It shall give notice of such withdrawal to all other States Parties, to the Depositary and to the United Nations Security Council. Such instrument of withdrawal shall include a full explanation of the reasons motivating this withdrawal.
3. Such withdrawal shall only take effect six months after the receipt of the instrument of withdrawal by the Depositary. If, however, on the expiry of that six-month period, the withdrawing State Party is engaged in an armed conflict, the withdrawal shall not take effect before the end of the armed conflict.
4. The withdrawal of a State Party from this Convention shall not in any way affect the duty of States to continue fulfilling the obligations assumed under any relevant rules of international law.

Monitoring the Landmine Convention

Article 21

Depositary

The Secretary-General of the United Nations is hereby designated as the Depositary of this Convention.

Article 22

Authentic texts

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

About the Authors

Joe McGrath holds an LLM in Public International Law from the London School of Economics, an LLM from the University of Western Australia, Perth, Australia and BA/LLB degrees from the Australian National University, Canberra, Australia. He was admitted as a Barrister and Solicitor of the Supreme Court of Western Australia and as a Barrister and Solicitor of the High Court of Australia in 1991. He worked as an Associate for Justice Lee of the Federal Court of Australia in 1992, and from 1993 to 1999 as a Barrister and Solicitor with the Commonwealth Director of Public Prosecutions, Australia.

David Robertson holds an LLM in Public International Law from the London School of Economics and BA/LLB(Hons) degrees from the University of Auckland, New Zealand. He was a Research Consultant to the South Pacific Forum Fisheries Agency, on multilateral trade agreements, in 1995 and to the South Pacific Forum Secretariat, on fisheries law, in 1998. Following his admission to the bar as a Barrister and Solicitor of the High Court of New Zealand in 1996 he spent two years in commercial practice in Auckland. He is currently working as legal counsel for the Ministry of Foreign Affairs, Bahrain.

About VERTIC

VERTIC, the Verification Research, Training and Information Centre, was established in 1986 as the Verification Technology Information Centre. It is an independent, non-profit, non-governmental organisation. Its mission is to promote effective and efficient verification as a means of ensuring confidence in the implementation of treaties or other agreements which have international or national security implications. Along with verification, VERTIC also concerns itself with the negotiation, monitoring and implementation of such agreements and the establishment of confidence-building measures to bolster them.

VERTIC aims to achieve its mission by means of:

- research
- training
- dissemination of information, and
- interaction with the political, diplomatic, technical and scientific and non-governmental communities.

VERTIC's 'clients' are policy-makers, the media, legislators, academics, students and others needing reliable information on and analysis of verification and monitoring issues.

What are VERTIC's research priorities?

While maintaining a watching brief on all aspects of verification and related issues, VERTIC specialises in the following three broad areas.

Peace and Security, including verification and monitoring of international and intra-national peace accords by means of peacekeeping operations and their strengthening through civilian confidence-building measures.

VERTIC's current projects in this area include verification of the decommissioning of weapons in Northern Ireland and the Kosovo Verification Mission.

Arms Control and Disarmament, including the verification of international conventions on nuclear non-proliferation, nuclear disarmament, nuclear testing, chemical and biological weapons and conventional weapons.

VERTIC's current projects in this area are on:

- the implementation and verification of the Comprehensive Test Ban Treaty (CTBT)
- verification of the transition to a nuclear weapon-free world ('Getting to Zero')
- verification of the Landmine Ban Treaty (Ottawa Convention).

The Environment.

VERTIC's current project in this area is on the implementation and verification of the Climate Change Convention and its Kyoto Protocol.

How does VERTIC operate?

VERTIC is based in central London, governed by a Board of Directors and advised by an International Verification Consultants Network.

VERTIC is mostly funded by philanthropic trusts and foundations, currently the Ford Foundation, the John Merck Fund, the Ploughshares Fund, the Rockefeller Family Philanthropic Offices, the Joseph Rowntree Charitable Trust, the John D. and Catherine T. MacArthur Foundation and the W. Alton Jones Foundation. VERTIC also accepts commissions from governments and other organisations.

What are VERTIC's activities?

VERTIC holds its own seminars, workshops and conferences and participates in those organised by other organisations worldwide.

VERTIC's staff publish widely in the general and specialist press, academic journals and books.

VERTIC has its own publications: a newsletter, *Trust & Verify*; a *Verification Yearbook*; a *Verification Organisations Directory*; and *VERTIC Research Reports* and *Briefing Papers*.

VERTIC is often the first port of call for media representatives seeking information on and analysis of verification issues.

VERTIC also has an intern programme.

VERTIC cooperates closely with United Nations bodies, other international organisations, universities, research centres, governments and non-governmental organisations. It has consultative (roster) status with the UN's Economic and Social Council (ECOSOC).

What are VERTIC's publications?

Trust and Verify

Published six times a year, providing analysis and news of verification developments and information on VERTIC's activities. Annual subscriptions for a paper copy are £20 (individual) or £25 (organisation). *Trust & Verify* can also be received free of charge via email on request. Each issue may be found at VERTIC's website shortly after publication.

Verification Yearbook

Beginning with 1991, each edition surveys the preceding year's developments in verification and related areas; identifies problems still in need of solution; and draws attention to under-explored possibilities. The 1997 *Yearbook* and copies of most previous editions are available from VERTIC. VERTIC is currently planning a Year 2000 *Yearbook*.

VERTIC Research Reports and Briefing Papers

These are published on an *ad hoc* basis and cover a range of verification issues.

Verification Organisations Directory

VERTIC annually publishes a directory of all organisations involved in verifying or monitoring arms control and disarmament agreements or which conduct research into verification and monitoring. International, regional, national and non-governmental organisations will be included. The inaugural 1999 edition is now available.

VERTIC Personnel

Dr Trevor Findlay, *Executive Director*

Dr Oliver Meier, *Arms Control & Disarmament Researcher*

Clare Tenner, *Environment Researcher*

Angela Woodward, *Administrator*

VERTIC's Board of Directors

Dr Owen Greene (Chair)

General Sir Hugh Beach GBE KCB DL

Lee Chadwick MA

John Edmonds CMG CVO

Susan Willett BA(Hons), MPhil

VERTIC's International Verification Consultants Network

Mr Richard Butler, AO, Council on Foreign Relations, New York, United States (*arms control and disarmament verification*)

Dr Roger Clark, Lecturer in Geophysics, Department of Earth Sciences, University of Leeds, United Kingdom (*seismic verification*)

Dr Jozef Goldblat, Vice-President, Geneva International Peace Research Institute (GIPRI), Geneva, Switzerland (*arms control and disarmament agreements*)

Dr Bhupendra Jasani, King's College, London, United Kingdom (*remote monitoring*)

Dr Patricia Lewis, former Executive Director of VERTIC, currently Director, UN Institute for Disarmament Research (UNIDIR), Geneva, Switzerland (*arms control and disarmament verification*)

Mr Peter Marshall OBE, Blacknest, United Kingdom (*seismic verification*)

Dr Robert Matthews, Aeronautical and Maritime Research Laboratory, Melbourne, Australia (*chemical disarmament*)

Dr Colin McInnes, Department of International Relations, University of Wales, Aberystwyth, United Kingdom (*Northern Ireland decommissioning*)

Dr Graeme Pearson, former Director of the Chemical Defence Establishment, Porton Down, currently Honorary Visiting Professor in International Security, Department of Peace Studies, Bradford University, United Kingdom (*chemical and biological disarmament*)

Dr Arian Pregenzer, Director, Cooperative Monitoring Center, Sandia National Laboratories, Albuquerque, New Mexico, United States (*co-operative monitoring*)

VERTIC Publications

Verification Organisations Directory

£12

VERTIC Research Reports

£10 each

- Patricia M. Lewis, **Laying the Foundations for Getting to Zero: Verifying the Transition to Low Levels of Nuclear Weapons**, *Research Report* no. 1
- Tom Milne and Henrietta Wilson, **Verifying the Transition for Low Levels of Nuclear Weapons to Zero**, *Research Report* no. 2
- George Paloczi-Horvath, **Virtual Nuclear Capabilities and Deterrence in a World Without Nuclear Weapons**, *Research Report* no. 3
- Suzanna van Moyland, **Sustaining a Verification Regime in a Nuclear Weapon-Free World**, *Research Report* no. 4
- Joseph McGrath and David Robertson, **Monitoring the Landmine Convention: Ratification and National Implementation Legislation**, *Research Report* no. 5

VERTIC Briefing Papers

£2

- Clare Tenner, **Meeting of the Subsidiary Bodies to the Convention on Climate Change, Bonn, June 1999**, *Briefing Paper*, 99/1, May 1999

VERTIC Yearbooks

1991-1996: reduced price of £20 each or the 4 in-print volumes for £50

- R. Guthrie (ed.), *Verification 1997: The VERTIC Yearbook* (£30)
- J.B. Poole & R. Guthrie (eds), *Verification 1996: Arms Control, Peacekeeping and the Environment*
- J.B. Poole & R. Guthrie (eds), *Verification 1993: Peacekeeping, Arms Control, and the Environment*
- J.B. Poole & R. Guthrie (eds), *Verification Report 1992: Yearbook on Arms Control and Environmental Agreements*
- J. B. Poole (ed.), *Verification Report 1991: Yearbook on Arms Control and Environmental Agreements*

Trust & Verify

Annual subscriptions for a paper copy are £20 (individual) or £25 (organisation). *Trust & Verify* can also be received via email on request. It can also be found on VERTIC's website.

*The following publications have been discontinued and only limited copies are available.
Please email info@vertic.org for information*

Verification Matters

- Dr P. M. Lewis, **Verification as Security**, July 1995 (£5)
- Reynold Chung, **The Road to a New CFE Treaty**, *Briefing Paper* 97/3, September 1997 (£2)
- Suzanna van Moyland, **The International Atomic Energy Agency's Additional Protocol**, *Briefing Paper* 97/2, July 1997
- Suzanna van Moyland, **The IAEA's Programme '93+2'**, *Verification Matters* no. 10, January 1997
- Ruth Weinberg, **Hydroacoustic Monitoring of the World's Oceans**, *Test Ban Verification Matters* no. 8, January 1995
- Kim Tay, **Entry Into Force**, *Test Ban Verification Matters* no. 6, September 1994
- **The Verification of a Global Comprehensive Test Ban Treaty**: Briefing Paper for the Partial Test Ban Amendment Conference, 7-18 January 1991, *Verification Matters* no 3., Jan. 1991
- **Scientific and Technical Aspects of the Verification of a Comprehensive Test Ban Treaty**, *Verification Matters* no. 1, January 1990

Implementation Matters

£2 each or £20 for the set

- John Lanchbery, **Briefing paper for the subsidiary bodies to the Convention on Climate Change**, June 1998, *Implementation Matters* 98/1, June 1998
- John Lanchbery, **Briefing paper for COP-3 Kyoto, December 1997: practical considerations for a protocol**, *Implementation Matters*, 97/6, November 1997
- John Lanchbery, **Briefing paper for the eighth session of the AGBM: some practical considerations for a protocol**, *Implementation Matters* 97/5, October 1997
- John Lanchbery, **Briefing paper for the seventh session of the AGBM: some practical considerations**, *Implementation Matters* 97/4, July 1997
- John Lanchbery, **Briefing paper for the fifth session of AG 13, 28 to 30 July 1997: a possible text for a multilateral Consultative Process**, *Implementation Matters* 97/3, July 1997
- John Lanchbery, **Briefing paper for the UN GA Special Session June 1997: some practical considerations for the Convention on Climate Change**, *Implementation Matters* 97/2, May 1997
- John Lanchbery, **Negotiating a protocol (or another legal instrument) : some practical considerations**, *A Briefing Paper for AGMB 5*, *Implementation Matters* 96/3, November 1996
- John Lanchbery, **Whither a protocol (or another legal instrument): How to make one work**, *Implementation Matters Briefing Paper* 96/1, June 1996
- John Lanchbery, **Protocols to the Climate Convention: Prospects, Problems and Proposals. A Briefing Document for the eleventh meeting of the INC on the Climate Convention**, New York 6-17 February 1995, *Implementation Matters* no. 4, January 1995
- John Lanchbery, **Note on Elaboration of Article 13 of the Climate Convention: A Briefing Paper for the INC Delegates and Secretariat**, *Implementation Matters* no. 3, August 1994
- John Lanchbery, **Verifying the Climate Change Convention: A briefing document for sixth meeting of the Intergovernmental Negotiating Committee Meeting on Climate Change**, Geneva, 7-10 December, December 1992

For a complete list of VERTIC publications see VERTIC's website: www.fhrit.org/vertic