

THE ANTI-PERSONNEL MINES BILL, 2000

EXPLANATORY NOTE

(These notes form no part of the Bill but are intended only to indicate its general purport)

The purpose of this Bill is to give effect to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction which was signed by Trinidad and Tobago on 4th December, 1997.

Clause 1 of the Bill contains the short title.

Clause 2 would define certain words used in the Bill.

Clause 3 would make the Convention to have the force of law in Trinidad and Tobago.

Clause 4 prohibits certain activities with regard to anti-personnel mines.

Clause 5 would make the application of the prohibition within and outside Trinidad and Tobago. Conduct outside Trinidad and Tobago imposes prohibition only on nationals.

Clause 6 sets out conduct that would not be a contravention of the clause 4 which prohibits certain activities.

Clause 7 would provide for the destruction of anti-personnel mines.

Clause 8 would provide for search and destruction of anti-personnel mines. This Clause would provide for the search of public places by authority given by the Permanent Secretary of the Ministry of National Security and for the search of any place by warrant issued by the Magistrate.

Clause 9 would empower the destruction of anti-personnel mines discovered in the course of the search and make the occupier of premises from where the mines were removed liable on summary conviction to a fine or imprisonment.

Clause 10 would provide for fact-finding missions to enter Trinidad and Tobago only with the authority given by the President who is obliged to consult the Minister of National Security in this matter. The authorisation would enable the mission to carry out its duties under the Convention.

Clause 11 would create certain offences so that the fact-finding mission could carry out its function effectively.

Clause 12 would confer privileges and immunities to the members of the fact-finding missions.

Clause 13 would provide for the reimbursement of the expenses incurred by the fact-finding mission by the Government.

Clause 14 would empower the Permanent Secretary of the Ministry of National Security to seek information from any person if the Permanent Secretary has reasonable cause to believe such information would be needed in connection with the Convention. The Permanent Secretary would also be empowered to require persons to keep records. This Clause would also create certain offences.

Clause 15 would create offences for contravening the provisions of the Act.

Clause 16 would empower the Comptroller of Customs and Excise to order proceedings under clause 4 if prohibited objects are moved into or out of any country or territory or there is an attempt to do so.

Clause 17 would set out the defences that are available for a person charged for certain offences under the Bill.

Clause 18 would enable the President to amend the Schedule which sets out the Convention when Trinidad and Tobago becomes a party to any amendment to the Convention.

Clause 19 would make the Act bind the State.

A BILL

An Act to give effect to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti- Personnel Mines and on Their Destruction in Trinidad and Tobago

Enactment **Enacted** by the Parliament of Trinidad and Tobago as follows:-

Short title 1. This Act may be cited as the Anti-Personnel Mines Act, 2000.

PART I Preliminary

Interpretation 2. In this Act –

“anti-personnel mine” has the meaning assigned in Article 2 of the Convention;

“a prohibited object” means an anti-personnel mine or any component of an anti-personnel mine;

“fact-finding mission” means a fact-finding mission under Article 8 of the Ottawa Convention;

“premises” includes land (including buildings) movable structures, vehicles and aircraft;

“Ottawa Convention” means the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction which was signed by Trinidad and Tobago on 4th December, 1997 set out in the Schedule to this Act;

“Minister” means the Minister to whom responsibility for the subject of national security is assigned;

“Permanent Secretary” means the Permanent Secretary to the Ministry responsible for national security;

“transfer” has the meaning assigned to it in Article 2 of the Convention.

Convention
to have the
force of law

3. From the commencement of this Act the Ottawa Convention set out in the Schedule to this Act shall have the force of law in Trinidad and Tobago.

PART II

Offences relating to Anti-Personnel Mines

Prohibition with
regard to anti-
personnel mines

4.(1) Subject to section 6, no person shall –

- (a) use an anti-personnel mine;
- (b) develop or produce an anti-personnel mine;
- (c) participate in the acquisition of a prohibited object;
- (d) have a prohibited object in his possession; or
- (e) participate in the transfer of a prohibited object.

(2) No person shall assist, encourage or induce any other person to engage in any conduct mentioned in subsection (1).

Application of
prohibition to
places outside
Trinidad and
Tobago

5.(1) Section 4 applies to conduct in Trinidad and Tobago or elsewhere.

(2) Conduct outside Trinidad and Tobago and assistance, encouragement and inducements outside Trinidad and Tobago impose prohibitions only on nationals of Trinidad and Tobago.

Conduct that is
Permitted

6.(1) In proceedings for an offence under section 4 it is a defence for the accused to prove that his conduct was prevented from being a contravention of that section by the provisions of this section.

(2) It is not a contravention of section 4 for a person to participate in the transfer of a prohibited object if -

- (a) he does so with the intention that it will be used only for purposes permitted by subsection (7); and
- (b) the transfer in question is authorised by the Permanent Secretary for the purposes of this subsection.

(3) It is not a contravention of section 4 for a person -

- (a) to participate in the transfer of a prohibited object for the purpose only of enabling it to be destroyed; or
- (b) to have such an object in his possession for the purpose only (with or without such a transfer) of securing its destruction.

(4) It is not a contravention of section 4 for a person to have a prohibited object in his possession if -

- (a) he has it in his possession with the intention that it will be used only for purposes permitted by subsection (7); and
- (b) it is an object which the Permanent Secretary has authorised him for the purposes of this subsection to have in his possession.

(5) It is not a contravention of section 4 for a person to participate in the acquisition of a prohibited object if -

- (a) the acquisition that has been made, agreed or arranged is an acquisition by means of a transfer which is permitted by virtue of subsection (2) or (3); and
- (b) he participates in that acquisition –
 - (i) with the intention that the object will be used only for purposes permitted by subsection (7); or
 - (ii) for the purpose (with or without a further transfer) of enabling the object to be destroyed.

(6) It is not a contravention of section 4 for a person at any time to assist, encourage or induce any conduct if, at that time, he has reasonable cause to believe -

- (a) that the conduct in question is conduct which is or will be prevented by the provisions of this section from being a contravention of section 4; or

- (b) that it would be so prevented if it were not otherwise prevented from being such a contravention.

(7) The purposes permitted by this subsection are –

- (a) the development of techniques of mine detection, mine clearance or mine destruction;
- (b) training in techniques of mine detection, mine clearance or mine destruction; and
- (c) the purposes of any proceedings under this Act or of any criminal investigation or other criminal proceedings in which the anti-personnel mine in question is or may be evidence.

(8) No person shall be authorised by the Permanent Secretary for the purposes of subsection (2) or (4) to transfer, or to have in his possession, any anti-personnel mine of any description in numbers in excess of what is necessary for the purposes permitted by subsection (7).

Destruction of anti-personnel mines

7.(1) A person who is in possession of any anti-personnel mines shall within ten days of the commencement of this Act furnish the Permanent Secretary with a list of anti-personnel mines in his possession setting out the purpose for which they are kept.

(2) The Permanent Secretary shall determine the quantity to be destroyed on such day, at such place and time and under the supervision of such person as may be determined by the Permanent Secretary.

(3) A person who destroys anti-personnel mines in pursuance of subsection (1) shall, within five days of such destruction, furnish the Permanent Secretary with a written breakdown of the quantity of each type of anti-personnel mines destroyed.

(4) A person who contravenes the provisions of subsection (1) commits an offence and on summary conviction be liable to a fine of fifty thousand dollars and to imprisonment for seven years.

Search and
destruction of
prohibited
objects

8.(1) If the Permanent Secretary has grounds to suspect that an object is a prohibited object, and it does not appear to him that the only persons in possession of that object are persons whose possession of the object is prevented from being a contravention of section 4 by the provisions of section 6, the Permanent Secretary may serve a notice –

- (a) to any person who appears to the Permanent Secretary to have the object; and
- (b) to any person not falling within paragraph (a) who appears to the Permanent Secretary to have an interest which the Permanent Secretary believes will be materially affected by the service of the notice,

to have the object destroyed or show cause why they should not be destroyed within seven days of such notice.

(2) If any person who is served with the notice fails to destroy the object or fails to show cause commits an offence and a conviction is liable to a fine of fifty thousand dollars and to imprisonment for seven years.

(3) If the Permanent Secretary has cause to believe –

- (a) that a prohibited object is on premises to which public has access or which are occupied by a person who consents to action being taken under this section;
- (b) that the case is not one where the only persons in possession of that object are persons whose possession of the object is prevented from being a contravention of section 4 by virtue of section 6,

the Permanent Secretary may authorise a fit and proper person to enter the premises and to search them.

(4) If (whatever the nature of the premises concerned) a Magistrate is satisfied, on information on oath, that there is reasonable cause to believe that there are grounds for issuing a warrant under this subsection in relation to any premises, he may issue a warrant in writing authorising a fit and proper person acting under the authority of the Permanent Secretary to enter the premises, if necessary by force, at any time within one month from the time of the issue of the warrant and to search them.

(5) A person who acts under an authorisation or warrant under subsection (3) or (4) may take with him such other persons and such equipment as appear to him necessary.

(6) If a person enters premises under an authorisation or warrant under subsection (3) or (4) and a prohibited object is found there, he may make the object safe by the disconnection of a detonator or otherwise seize and remove it if it is reasonably practicable.

Power to destroy
prohibited object

9.(1) Prohibited objects removed from any premises in pursuance of section 8 shall be destroyed on such day at such place and such time as may be determined by the Permanent Secretary.

(2) Where prohibited objects were removed from any premises in pursuance to section 8(6) for destruction the occupier of the premises shall be liable on summary conviction to a fine of fifty thousand dollars and for imprisonment for seven years.

PART III

Fact-finding missions under the Ottawa Convention

Rights of entry etc.
for fact-finding
missions

10.(1) If it is proposed that any of the functions of a fact-finding mission should be carried out in Trinidad and Tobago, the President in consultation with the Minister of National Security may issue an authorisation under this section in respect of that mission.

(2) An authorisation under this section shall –

- (a) contain a description of the area of Trinidad and Tobago (the “specified area”) in which the fact-finding mission is to carry out function; and
- (b) state the names of the members of the mission.

(3) Such an authorisation shall have the effect of authorising the members of the fact-finding mission -

- (a) to exercise within the specified area such rights of access, entry and unobstructed inspection as are required for the purposes of the carrying out of the mission’s function under the Ottawa Convention; and
- (b) to do such other things within that area in connection with the carrying out of the mission’s functions as they are entitled to do by virtue of that Convention.

(4) Such an authorisation shall, in addition, have the effect of authorising any police officer to give such assistance as any member of the fact-finding mission may request for the purpose of facilitating the carrying out of the functions of the mission in accordance with the Ottawa Convention.

(5) Any police officer giving assistance in accordance with subsection (4) may use such reasonable force as he considers necessary for the purpose mentioned in that subsection.

(6) The occupier of –

- (a) any premises in relation to which it is proposed to exercise a right of entry in reliance on an authorisation under this section; or
- (b) any premises on which an inspection is being carried out in reliance on such an authorisation,

or a person acting on behalf of the occupier of any such premises, shall be entitled to require a copy of the authorisation to be shown to him by a member of the fact-finding mission.

(7) The validity of any authorisation purporting to be issued under this section in respect of any fact-finding mission shall not be called in question in any court of law at any time before the conclusion of the carrying out of the mission's functions in Trinidad and Tobago.

(8) Accordingly, where an authorisation purports to be issued under this section in respect of any fact-finding mission, no proceedings (of whatever nature) shall be brought at any time before the conclusion of the carrying out of the mission's function in Trinidad and Tobago if those proceedings would, if successful, have the effect of preventing, delaying or otherwise affecting the carrying out of the mission's functions.

(9) If in any proceedings any question arises whether a person at any time was, or was not, a member of any fact-finding mission, a certificate issued by or under the authority of the President stating any fact relating to that question shall be conclusive evidence of that fact.

(10) If any authorisation is issued under this section, the President may issue an amendment varying the specified area, and -

- (a) from the time when the amendments is expressed to take effect this section shall apply as if the specified area were the area as varied;
- (b) subsections (7) and (8) shall apply to the amendment as they apply to the authorisation;
- (c) the President may issue further amendments varying the specified area and in such a case paragraphs (a) and (b) shall apply.

Offences in connection with fact-finding missions

11.(1) A person is guilty of an offence if –

- (a) he refuses without reasonable excuse to comply with any request made by a member of an authorised fact-finding mission or by a police officer assisting such a mission; and
- (c) that request is one made for the purpose of facilitating the carrying out by that mission of its functions under the Ottawa Convention.

(2) A person is guilty of an offence if he wilfully obstructs any member of an authorised fact-finding mission in the carrying out of the mission's functions under the Ottawa Convention.

(3) A person guilty of an offence under this section is liable -

- (a) on summary conviction, to a fine of ten thousand dollars;
- (b) on conviction on indictment, to a fine of fifty thousand dollars.

(4) In this section “authorised fact-finding mission” means a fact-finding mission in respect of which an authorisation has been issued under section 9.

Privileges and immunities for fact-finding missions

12.(1) Members of a fact-finding mission shall enjoy –

- (a) immunity from suit and legal process in respect of things done or omitted to be done by them in the carrying out of their functions under the Ottawa Convention;

- (b) the like immunity from personal arrest or detention and the like inviolability for all papers and documents as, in accordance with the 1961 Articles, are accorded to a diplomatic agent; and
- (c) the like exemptions and privileges in respect of their personal baggage as, in accordance with Article 36 of the 1961 Articles, are accorded to a diplomatic agent.

(2) The immunities, privileges and exemptions accorded to members of fact-finding missions by virtue of subsection (1)(b) and (c) shall be enjoyed by them at any time when they are in Trinidad and Tobago -

- (a) for the purpose of carrying out in Trinidad and Tobago any of the functions of the mission; or
- (b) while in transit to or from a country or territory in connection with the carrying out, in that country or territory, of any of the functions of the mission.

(3) If any of the immunities, privileges or exemptions accorded to a member of a fact-finding mission under this section is waived in any particular case by the Secretary General of the United Nations, this section shall have effect in that case as if it did not confer that immunity, privilege or exemption on that member of the mission.

(4) If in any proceedings a question arises whether a person is or is not entitled to any immunity, privilege or exemption by virtue of this section, a certificate issued by or under the authority of the Secretary of State stating any fact relating to that question shall be conclusive evidence of that fact.

(5) In this section “the 1961 Articles” means the Articles which are set out in First Schedule to the Privileges and Immunities (Diplomatic, Consular and International Organisations) Act (Articles of Vienna Convention on Diplomatic Relations of 1961 have force of law in the Trinidad and Tobago).

Chap.17:01

Reimbursement of expenditure

13. The Minister of Finance in consultation with the Prime Minister may reimburse any person in respect of expenditure incurred in connection with the carrying out of the functions of a fact-finding mission.

PART IV
Miscellaneous

Information and
records for Ottawa
Convention
purposes

14.(1) The Permanent Secretary may, by notice served on any person, require him to give, in such form and within such reasonable period as is specified in the notice, such information as the Permanent Secretary has reasonable cause to believe is or will be needed in connection with anything to be done for the purposes of the Ottawa Convention and is described in the notice.

(2) The Permanent Secretary may, by notice served on any person, require him to keep such records as -

- (a) the Permanent Secretary has reasonable cause to believe will facilitate the giving of information which that person may at any time be required to give under subsection (1); and
- (b) are specified in the notice.

(3) A person who without reasonable excuse fails to comply with a notice served on him under subsection (1) or (2) is guilty of an offence and liable -

- (a) on summary conviction, to a fine of five thousand dollars; and
- (b) on conviction on indictment, to a fine of fifty thousand dollars.

(4) A person on whom a notice is served under subsection (1) and who knowingly makes a false or misleading statement in response to it is guilty of an offence and liable -

- (a) on summary conviction, to a fine of ten thousand dollars; and
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

Offences

15.(1) Any person who contravenes the provisions of this Act or who assists, encourages or induces, in any way, any other person to engage in any activity prohibited under section 4 commits an offence and on conviction is liable to a fine of fifty thousand dollars and to imprisonment for seven years.

(2) Proceedings for an offence under this Act shall not be instituted except by or with the consent of the Director of Public Prosecutions.

(3) Nothing in subsection (2) shall prevent the arrest, or the issue of a warrant for the arrest, of any person in respect of any offence under this Act, or the remanding in custody or on bail of any person charged with any such offence.

Customs and Excise proceedings

16. Subject to section 15(2) proceedings for an offence under section 4 may be instituted by Order of the Comptroller of Customs and Excise if it appears to him that the offence has involved –

- (a) the movement of a prohibited object into or out of any country or territory; or
- (b) any proposal or attempt to move a prohibited object into or out of any country or territory.

Defences

17.(1) In proceedings for an offence under section 4(1)(a), (c), (d) or (e) relating to an object it is a defence for the accused to prove that, at the time of the conduct in question, he neither knew nor suspected, nor had reason to suspect, that it was a prohibited object.

(2) In proceedings for an offence under section 2(2) it is a defence for the accused to prove that at the time when he assisted, encouraged or induced the conduct in question, he neither knew or suspected, that the conduct related, or might relate, to a prohibited object.

(3) In any proceedings for an offence under section 9(2) it shall be a defence for the accused to prove that he did not know that any object found in his premises was a prohibited object.

President may amend the Schedule

18. The President may by Order amend the Schedule when Trinidad and Tobago becomes a party to any amendments made to the Convention.

Act to bind the State

19. This Act shall bind the State.

SCHEDULE

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,

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 principles 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 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 deadlines 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.

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 of 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.

7. All States Parties shall cooperate fully with the Meeting of the States Parties or the Special Meeting of the States Parties in the fulfillment 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 of 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 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.
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 Meeting 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.

Article 21

Depositary

The Secretary-General of the United National 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.

Passed in the House of Representatives this day of , 2000.

Clerk of the House.

I confirm the above.

Speaker.

Passed in the Senate this day of , 2000.

Clerk of the Senate.

I confirm the above.

President of the Senate.