THE OTTAWA CONVENTION ON THE PROHIBITION OF ANTI-PERSONNEL MINES

Implementing legislation: Some elements

- Individual responsibility and sanctions
- Definitions
- Destruction of stockpiles and mine-clearance
- Reporting procedures
- Inspection missions
Ensure respect of the prohibitions: For each State party

"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 9)

Prohibited activities

- Use
- Production
- Development or acquisition
- Stockpiling
- Transfer

Exceptions: retention or transfer of a for the development of and training in mine detection, mine clearance, or mine destruction techniques.
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 9)
Penal sanctions

- Assisting
- Encouraging
- Inducing

At all times: not only in times of armed conflicts

Penal sanctions

- All individuals (military and civilian) to be held accountable for violations of the Convention

At all times: not only in times of armed conflicts
Applying consistent definitions: anti-personnel mines

"... 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."

(Article 2(1))

Anti-handling devices

- The application of anti-handling devices are authorised by the Convention as long as they can never detonate unless the manipulation is intentional and does not result from innocent or involuntary contact.

- Very sensitive anti-handling devices attached to anti-tank mines which are able to be detonated due to the presence, proximity and / or contact with a person are forbidden.
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 9)

Ensure respect of the prohibitions: Jurisdiction

- Criminalization of prohibited activities
  - including assisting, encouraging others or inciting them to engage in prohibited activities

- To consider
  - retention or transfer for the development of and training in mine detection, mine clearance, or mine destruction techniques
  - application to legal persons
  - extraterritorial jurisdiction
  - proportionality of penalties
  - other penalties: confiscation of AP mines or other prohibited objects, used to commit another crime
Destruction of stockpiles

- All mine stocks to be destroyed as soon as possible (⇒ 4 years).
- Right of entry into buildings and to take mines, and to authorise the collection and the transfer of AP mines in order to destroy them.
- Determination of stocks retained for training.

Mine clearance
Reporting

- Reporting to the UN Secretary General
  - Initial report 180 days after entry into force
  - Annual report on the 30th April of each year

- Confer powers relating to the collection of information to the Minister in charge of establishing the reports, and which requires providing him or her with information on AP mines.
Fact-finding missions

- **Request for clarification**: "to clarify and seek to resolve questions relating to compliance with the Convention"
  - submitted by one or more States through the UN Secretary-General

- **Fact-finding mission**
  - Decision of Meeting of the States Parties by consensus or by a majority of States Parties present and voting
  - up to 9 experts (established list)
  - 14 days max. (7 days max. per particular site)

Fact-finding missions

- Guarantee the **privileges and immunities** to the members of the mission.
- Receive, transport and house the mission.
- To the extent possible, ensure the safety of the mission.
- Permit the mission to carry with them all necessary equipment for the collection of information on the alleged non-respect of the Convention.
Fact-finding missions

- Give to the Mission the possibility to speak with all persons capable of providing relevant information.
- Provide the Mission access to all of the areas and installations controlled by the State.
- Provide for sanctions for those who obstruct or provide false declarations to a Mission.

subject to any arrangements that the requested State Party considers necessary for:

- The protection of any constitutional obligations the requested State Party may have with regard to proprietary rights, searches and seizures, or other constitutional rights

To implement the Convention ...

- special or specific piece of legislation; or
- amendment to existing legislation; or
- combination of the above

The following may also be required

- Regulations (procedures for destruction of stockpiles, identification, mine clearance, fact-finding missions, assistance to mine victims)
- Directive/command to the armed forces
- Review of military doctrine
- Revision of training programmes
Does legislation prohibit and provide punishment for violations of the Convention?
- Use
- Acquisition
- Stockpiling
- Retention
- Transfer

Is there a prohibition for assisting, encouraging and inducing these violations?

Other appropriate legal, administrative and other measures:
- Is destruction of AP mines provided for by law, regulation or by other measure?
- How would a fact finding mission be facilitated: under what law, regulation, or other measure?
- Is there legislation, regulation or other measure to assist the Ministry or Department responsible for annual reports, for example by requiring all persons, including other government officials, to provide the necessary information?

59 States Parties report having adopted legislation to implement the Convention (of 156)

Albania  Australia  Austria  Belarus  Belgium  Belize  Bosnia and Herzegovina  Brazil  Burkina Faso  Burundi  Cambodia  Canada  Chad  Colombia  Cook Islands  Costa Rica  Croatia  Cyprus  Czech Rep.  Djibouti  El Salvador  Estonia  France  Germany  Guatemala  Honduras  Hungary  Iceland  Italy  Japan  Jordan  Latvia  Liechtenstein  Lithuania  Luxembourg  Malaysia  Mali  Malta  Mauritania  Mauritius  Monaco  New Zealand  Nicaragua  Niger  Norway  Peru  St. Vincent and the Grenadines  Senegal  Seychelles  South Africa  Spain  Sweden  Switzerland  Trinidad & Tobago  Turkey  United Kingdom  Yemen  Zambia  Zimbabwe
30 States Parties report considering existing laws to be sufficient to give effect to the Convention

Algeria  Andorra  Argentina  Bulgaria  Central African Republic  Denmark  Estonia  Greece  Guinea-Bissau  Holy See  Indonesia  Ireland  Kiribati  Lesotho  Mexico  Moldova  Macedonia  Montenegro  Netherlands  Papua New Guinea  Portugal  Romania  Samoa  Slovakia  Slovenia  Tajikistan  Tanzania  Tunisia  Ukraine  Venezuela

22 States Parties report being in the process of adopting legislation to implement the Convention

Bolivia  Brunei  Chile  D.R. Congo  Ecuador  Jamaica  Kenya  Kuwait  Madagascar  Malawi  Mozambique  Nigeria  Palau  Panama  Paraguay  Philippines  Rwanda  Saint Lucia  Suriname  Thailand  Uganda  Vanuatu
### 17 States Parties for which no progress has been reported in implementation

- Afghanistan
- Bangladesh
- Benin
- Botswana
- Cameroon
- Congo
- Côte d'Ivoire
- Gabon
- Guinea
- Namibia
- Nauru
- Sierra Leone
- Solomon Islands
- Swaziland
- Timor-Leste
- Togo
- Uruguay

### 28 States for which there is no information, or the information is unclear

- Angola
- Antigua and Barbuda
- Bahamas
- Barbados
- Bhutan
- Cape Verde
- Comoros
- Dominica
- Dominican Republic
- Equatorial Guinea
- Eritrea
- Ethiopia
- Fiji
- Gambia
- Ghana
- Grenada
- Guyana
- Haiti
- Iraq
- Liberia
- Maldives
- Niue
- Qatar
- Saint Kitts & Nevis
- San Marino
- Sao Tome & Principe
- Sudan
- Turkmenistan
Tools

- ICRC / ICBL / Gov. of Belgium, *Information Kit on the Development of National legislation to implement the Ottawa Convention* (English, French, Spanish, Russian)

- ICRC, *Model Legislation for Common Law States* (English)

- ICRC, *Table of National Implementation Measures and Checklist*

- ICRC IHL National Implementation Database

  [www.icrc.org](http://www.icrc.org)

- ICRC's Advisory Service may provide technical assistance for the development of implementing legislation

Thank you for your attention!