Canada
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ARTICLE 8 AND THE FACILITATION AND CLARIFICATION OF COMPLIANCE

PART I:
INTRODUCTION

1. At the 29-30 May 2000 meeting of the Standing Committee on the General Status and Operation of the Convention, Canada presented a paper about the Article 8 framework for facilitating compliance with Convention obligations. While it was accepted that the provisions of Article 8 are sufficiently clear as a legal text, it was seen as important that efforts be made to discuss considerations related to any possible operationalization of the Article. In addition, it was thought to be important that States Parties give consideration to the broader means available to them to clarify matters related to questions of compliance.

2. States Parties retain the right and responsibility to interpret Article 8 and to make decisions or take actions they wish related to the clarification of matters of compliance. As a result of expert work, consultations and Standing Committee deliberations that have been undertaken since 29-30 May 2000, a number of points have been developed that States Parties may wish to consider as guidance in exercising this right, recognizing that this guidance in no way restricts the rights of States Parties in taking future decisions. Decision-making authority regarding the implementation of the Convention's formal compliance clarification mechanisms already rests with States Parties, in accordance with Article 8 and other relevant Articles of the Convention.

3. While a great deal of work has been undertaken over the past year on Article 8 and the facilitation and clarification of compliance, the fact that a range of ideas exists on some matters suggests that further work would be useful. Therefore, in addition to articulating work undertaken to provide guidance to States Parties, this paper provides suggestions for possible future work, as set out in Part III of this paper.

PART II:
GENERAL GUIDANCE FOR CONSIDERATION BY STATES PARTIES

Article 8 in the broader spectrum of clarifying compliance:

4. Under Article 8.1, States Parties have agreed to consult and cooperate with each other regarding the implementation of the Convention, and to work together in a "spirit of cooperation" to facilitate compliance. This spirit of cooperation reflects the unique and constructive relationships that existed in the realization of the Convention and which continue to exist in its implementation. On matters related to compliance, this spirit of cooperation should extend beyond the formal legal text of the Convention. Exhibiting a spirit of cooperation when questions of compliance arise means taking advantage of the vast array of opportunities for States Parties to work together to facilitate answers to these questions.

5. In this context, States Parties may wish to consider that Article 8 mechanisms are nested in a broader spectrum of actions that can be taken by States Parties. Several informal and formal means are available to clarify questions of compliance, and there

is a necessity and responsibility for States Parties – in a spirit of cooperation – to make use of these means.

6. As one mechanism to facilitate and clarify matters pertaining to compliance, States Parties may – at some future time – wish to consider creating a role for the Coordinating Committee. For example, the Coordinating Committee, as a representative body appointed by the Meetings of the States Parties, may be well placed to play a role of facilitator or "honest broker" between States Parties who have questions regarding implementation by others of the obligations of the Convention but not wishing to activate its formal compliance procedures. In this regard the Coordinating Committee's role would be in the context of Article 8.1. Furthermore, the Coordinating Committee could also act as a preparatory committee to enable the efficient planning of a Special Meeting of the States Parties, if so requested.

Information to help facilitate the clarification of compliance:

7. Ensuring a high rate of compliance with Article 7 obligations is critical to facilitating compliance with other Convention obligations, given that Article 7 reports provide important baseline information and underline the principle of "transparency" as a means of building mutual confidence. In this context States Parties should diligently comply with the provisions of Article 7 and encourage other States Parties to do the same. In this regard, the ongoing work by the Co-Chairs of the Standing Committee on the General Status and Operation of the Convention to encourage compliance with Article 7 obligations is of great use.

8. In raising concerns about compliance, States Parties may wish to consider making use of a wide variety of information sources. States Parties should ensure that Requests for Clarification are based on reliably-attested information (i.e., information that can be corroborated by at least one other independent source), and point to a clear and serious violation of Convention obligations.

Financial and process issues related to Meetings of the States Parties:

9. Should a Request for Clarification be submitted, the seriousness of such a matter would suggest that States Parties would need sufficient time to review the Request before its discussion at a Meeting of the States Parties. The United Nations Secretary General therefore, in accordance with Article 8.3, should endeavour to transmit Requests for Clarification to all States Parties immediately after receipt of Requests, and ensure that Requests for Clarification – with the exception of appropriate accompanying information – are translated into the languages of the Convention.

10. In addition, given the short amount of time between the acceptance of a proposal to hold a Special Meeting of the States Parties and the convening of such a meeting, States Parties should ensure that matters pertaining to the financing of such meetings are dealt with well in advance. To this end, States Parties may wish to consider requesting that the UN Secretary General prepare provisional cost estimates as the basis for the proceeding with requesting provisional assessments from States Parties should a Special Meeting of the States Parties be authorized. For the purposes of facilitating participation and planning for a Special Meeting, States Parties may wish to consider that such a meeting should be held in United Nations facilities.

11. Should a Special Meeting of the States Parties be authorized, States Parties at such a meeting may wish to consider accepting the nomination of the President of the most recent Meeting of the States Parties to serve in that capacity at the Special Meeting. In addition, States Parties at a Special Meeting may wish to consider accepting the nominations of the current co-chairs to serve as Vice-Presidents of a Special Meeting. However, States Parties at a Special Meeting may wish to make adaptations to this suggested practice should the President of the most recent Meeting of the States Parties or any of the current co-chairs be either a Requesting Party or a Requested Party.

12. Should a Special Meeting of the States Parties be authorized, States Parties at such a meeting may wish to consider accepting the rules of procedure used at the most recent Meeting of the States Parties as a basis for the rules of procedure for the Special Meeting. It should be recognized, however, that modifications would be required to adapt these rules for use during a Special Meeting.

Administrative, financial and logistical issues related to fact-finding missions:

13. Should States Parties authorize a fact-finding mission, the mission would not be able to proceed unless sufficient funds were in place to support it. This matter is especially important given that a fact-finding mission shall proceed very soon after it is authorized. Given the likelihood that States Parties would have several weeks of informal notice of the possibility of a proposal to authorize a fact-finding mission, it would be prudent during that time-period for States Parties to make voluntary, ear-marked contributions to an account that has already been established by the United Nations Department for Disarmament Affairs.

14. The costs for a fact-finding mission could be in the range of several hundreds-of-thousands of dollars. To be more prepared for the possible financial implications of a fact-finding mission, States Parties may wish to undertake further work to better define these costs based upon the following: that the mission would involve up to nine experts from various parts of the world; the need to assemble the team for preparatory work in one place prior to deployment with team members conceivably coming from a variety of locations around the world; that a mission could be sent to numerous locations around the world, each with different travel and logistics costs; and, that there would be a need to cover mission support costs.

15. States Parties may wish to consider what level of preparatory, headquarters and administrative mission support would be required and potential means to ensure that this support is in place. It should be recognized that there are benefits involved in having a focal point designated well in advance to provide necessary support.

16. States Parties should give due consideration to the equipment that would be required by a fact-finding mission – equipment related to obtaining information pertaining to clarifying the compliance matter and equipment to support the communications, administrative and logistical needs of a fact-finding team. Given the characteristics of anti-personnel mines, it is unlikely that a great deal of specialized equipment would be required. Nevertheless, States Parties may wish to undertake further work to

determine possible equipment needs and to consider how this equipment could be acquired and its cost.

Team Composition and Skill Sets

17. The composite set of skills which could be of use to a fact-finding mission team may include the ability to communicate authoritatively with senior military personnel, engineering and / or explosives knowledge, familiarity with landmine warfare, interview techniques; experience in undertaking similar missions, familiarity with various aspects of the Requested Party (e.g., geography, history, culture, politics, etc.), familiarity with the Convention and diplomatic or political skills necessary to communicate with officials from the Requested Party, leadership or management experience, and, relevant languages.

18. States Parties, while retaining the sovereign right under Article 8.9 to nominate experts of their choice, may wish to take the above noted range of skills into consideration when nominating experts. If it is of use to States Parties in identifying experts and submitting their names, States Parties may wish to make use of the attached template as guidance. Of course, States Parties retain the right to submit names using other formats or means, including through the use of a previous template developed by the United Nations Department for Disarmament Affairs. To keep the roster of experts up-to-date and relevant, each States Party may wish to regularly review its nomination of experts.

19. While under Article 8.10 the Secretary-General of the United Nations is impartial and retains the independent responsibility (after consultations with the Requested State Party) to select individuals from the roster of experts to serve as members of a fact-finding team, States Parties, when authorizing a fact-finding mission, may wish to give consideration to making suggestions to the Secretary-General on matters such as a composite skill-set that should be part of fact-finding team and / or suggest that the team include appropriate geographic representation.

Mandates for Fact-Finding Missions

20. States Parties may wish to consider that mandates for fact-finding missions should be rooted in clarifying the allegations presented to a Meeting of the States Parties. In addition, mandate language should balance the need to provide the fact-finding mission with sufficient direction to carry out this task with the fact that the mandate should not extend beyond the scope of the request for clarification presented to the Meeting of the States Parties.

PART III:
SUGGESTED AREAS FOR FURTHER WORK FOR THE STANDING COMMITTEE

21. Given that a range of views exists on some matters related to the work undertaken over the past year on Article 8 and the facilitation and clarification of compliance, the Standing Committee on the General Status and Operation of the Convention – at future meetings or in between meetings – may wish to undertake work in the following areas:

    a. The Standing Committee may wish to undertake further work with respect to mechanisms to facilitate and clarify matters related to compliance.

    b. The Standing Committee may wish to undertake further work with respect to the development of cost estimates for a Special Meeting.

    c. The Standing Committee may wish to undertake further work with respect to better understanding the costs associated with fact-finding missions. In addition, the Standing Committee may wish to undertake further work to determine possible equipment needs and how this equipment could be acquired, and to consider what level of preparatory, headquarters and administrative mission support would be required and potential means to ensure that this support is in place.

Article 8 of the Ottawa Convention
Roster of Experts

Article 8.9 of the Convention states that 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 nominated to this roster of experts could be appointed by the Secretary General to fact-finding missions authorized by States Parties under Article 8. It is likely that there may be a wide range of skills required by fact-finding teams. Therefore, to assist States Parties in identifying experts and in submitting their names, States Parties may wish to make use of this attached template as guidance. States Parties, of course, retain the sovereign right under Article 8.9 to nominate any expert of their choice, regardless of the type of skills that he or she may possess.

State Party:	Date:

Last Name	First Name	Middle Name

Nationality	Place of Birth	Date of Birth

Mother Tongue	Other Languages

Present Post and Functions:

Skills possessed which may be of use to a fact-finding mission team:

- ❑ Military engineering experience / knowledge
- ❑ Experience with / knowledge of explosives
- ❑ Familiarity with landmine warfare
- ❑ Familiarity with interview techniques
- ❑ Experience in undertaking fact-finding missions
- ❑ Familiarity with the Ottawa Convention
- ❑ Diplomatic or political experience
- ❑ Leadership and / or management experience.
- ❑ Ability to communicate authoritatively with senior military personnel
- ❑ Other skills

Description of skills and experiences which may be of use to a fact-finding mission team, including a description of experiences in various international settings:

Address	Tel: Fax: Email:

Curriculum Vitae attached?

- ❑ Yes
- ❑ No