

MINE BAN TREATY
STANDING COMMITTEE MEETINGS, MAY 2002
STATEMENT BY BRAZIL ON THE DIALOGUE RELATED TO THE
FACILITATION AND CLARIFICATION OF COMPLIANCE (ARTICLE 8)

1. The 3rd MSP's President's Action Programme recommended Canada to continue to work with interested delegations on means to facilitate the clarification of concerns about compliance and matters related to Article 8. At the last meeting of the Standing Committee on the Status and Operation of the Convention, a decision was taken to promote an open-ended discussion, following a Brazilian proposal for the establishment of an open-ended Working Group to debate the matter.

2. With a view to facilitating the achievement of the humanitarian objectives of the Convention, according to the mandate of the Intersessional Programme of Work, States-Parties established a sufficient number of informal mechanisms. There are already a formal framework and formal mechanisms to consider and act upon cases of alleged non-compliance with the prohibitions established under Article 1 of the Convention, that is, use, production, transfer, stockpiling and retention to anyone, assistance to any prohibited activity. Thus, Brazil is of the view that there is no need to establish informal mechanisms with the same aim. In other other, the establishment of such an additional informal mechanism, when there is already a formal framework and procedures to deal with non-compliance, would find no justification. Besides, at the present time, while the Intersessional Programme is being assessed, we do not consider that discussions on the establishment of additional mechanisms would substantively contribute to our work.

3. In the past, some delegations suggested that the Coordinating Committee of the Intersessional Programme itself should address matters related to clarification of compliance. In line with previous remarks by the Brazilian delegation on the nature of the Intersessional Programme, Brazil does not believe this bureau-like informal mechanism has the mandate to deal with clarification and facilitation of compliance.

4. Article 8 contains a set of outstanding procedures for facilitation and clarification of compliance: consultation and cooperation, request for clarification through the UN Secretary-General, good offices by the UN Secretary-General and the convening of a meeting of States-Parties, which shall consider the matter, including authorizing a fact-finding mission. Article 10 of the Treaty also contains provisions on the Settlement of Disputes. Of course, allegations of non-compliance will always be something very difficult politically to deal with, but States-Parties are expected not to tolerate violations. Unwillingness to act and appeasement only jeopardize the multilateral norm.

5. States Parties must be sure that alleged violations are important and recurrent, and that allegations are based on trustworthy, non-sensationalist, impartial and verifiable sources. Having in mind the spirit of cooperation that has characterized the Ottawa Process since its beginning, one should exhaust all of the possibilities offered by the consultation and cooperation procedures embodied in Article 8 Para. 1, before deciding to move on to the next, more intrusive procedures contained in Article 8.

6. The transparency regime established under Article 7 might be used to clarify matters related to compliance with the prohibitions established under Article 1 and with the obligations

addressed in the relevant Articles of the Convention. Article 7 reports contain valuable information that could serve as a basis for better identifying how States Parties could cooperate to facilitate compliance. All information received by the UN under Article 7 is available at the UN web site. The Committee on the Status and Operation of the Convention has been discussing ways to assist States-Parties in providing the information required under Article 7, facilitating timely reporting and ensuring a high reporting rate. Article 7 Contact Group has been doing a valuable work in this respect. The Committee on the Status and Operation of the Convention also provides a forum for delegations to express their views on each Article of the Convention. In the past, some delegations considered that, in the framework of the Intersessional Programme of Work, States-Parties could discuss the financial, logistic, administrative and procedural issues related to operationalizing some of the procedures referred to in Article 8. We see no sense of urgency in this discussion.

7. States Parties should also bear in mind that the issue of compliance cannot be examined separately from consideration of how best to facilitate national efforts to implement the Convention. As we all know, national efforts to implement international treaties are often costly and involve a detailed assessment of many different technical, financial and organizational aspects. Many States Parties may still be carrying out that assessment and may be in serious need of international cooperation and assistance in order to effectively implement the Treaty's provisions. For that reason, effective implementation of Article 6 of the Treaty may be, at the present stage, more of a priority and more relevant to the issue of compliance than Article 8 itself.

8. Given the gravity and magnitude of the humanitarian crisis created by anti-personnel landmines, Brazil believes that, in the near future, States Parties should focus on those objectives that are fundamental: the attainment of our common humanitarian goals and of the Mine Ban Treaty's universality.

9. Brazil commends the work carried out by the Canadian delegation in the facilitation of the discussions on matters related to Article 8 and the contributions of different delegations. After two years of discussions, it is time to reflect on the way ahead. In case there is an overwhelming sense to proceed, discussions should continue to take place in an open-ended format. The involvement of all States Parties would only enrich the dialogue on the matter.

10. Brazil is grateful to the non-paper just presented by the Canadian delegation. As duly underlined by Canada, this non-paper reflects in part the discussions that took place under the Canadian facilitation. Brazil agrees with most of the comments therein. We do not agree with all comments, in their integrity.