

ANTI-PERSONNEL MINES (PROHIBITION) ACT 2008

Arrangement of sections

PART I—PRELIMINARY

1. Short title
2. Purpose
3. Interpretation
4. Act binds the Republic
5. Territorial application

PART II—PROHIBITIONS AND OFFENCES

6. Prohibited conduct
7. Offences and penalties
8. Permitted conduct

PART III—DESTRUCTION OF ANTI—PERSONNEL MINES

9. Delivery or notification of anti-personnel mines
10. Destruction of anti-personnel mines
11. Marking, monitoring and protection
12. Permission to retain or transfer

PART IV—FACT—FINDING MISSIONS

13. Purpose of this Part
14. Fact-finding missions
15. General powers of fact-finding missions in relation to premises
16. Member of a fact-finding mission must produce identity card on request
17. Announcement before entering premises under a warrant
18. Occupier entitled to be present during search
19. Monitoring warrants
20. Equipment for fact-finding missions
21. Offences and penalties

PART V—INFORMATION—GATHERING POWERS

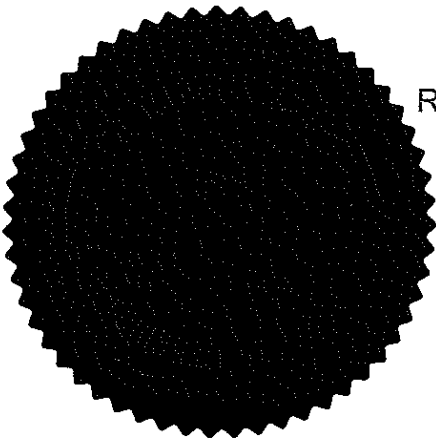
22. Obtaining information and documents
23. Failure to comply and providing false information

PART VI—REGULATIONS

24. Regulations

SCHEDULE

Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti—Personnel Mines and on their Destruction



REPUBLIC OF KIRIBATI
(No. 11 of 2008)

I assent

Anelo Tong
Beretitenti
23 December, 2008

**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 KIRIBATI**

Commencement:
2008

MADE by the Maneaba ni Maungatabu and assented to by the Beretitenti

PART I—PRELIMINARY

1. Short title

This Act may be cited as the *Anti-Personnel Mines (Prohibition) Act 2008*.

2. Purpose

- (1) The purpose of this Act is to implement the obligations of Kiribati under the Convention.
- (2) Every person exercising a power or discretion conferred under this Act must have regard to the obligations of Kiribati under the Convention, and the exercise of the power or discretion or the performance of any duty or function authorised by this Act must not be inconsistent with such obligations.

3. Interpretation

- (1) In this Act—

'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;

'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. However a mine designed to be

detonated by the presence, proximity or contact of a vehicle as opposed to a person, and that is equipped with an anti-handling device, is not taken to be an anti-personnel mine as a result of being so equipped;

'Convention' means the *Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction*, done at Oslo on 18 September 1997, a copy of the English text of which is set out in the Schedule to this Act, as amended from time to time in accordance with Article 13 of the Convention;

'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;

'mined area' means an area which is dangerous due to the presence or suspected presence of mines;

'Minister' means the Minister responsible for foreign affairs;

'occupier' includes a person present at the premises who is in apparent control of the premises;

'premises' means any area, building, installation or means of transport in Kiribati where facts relevant to a compliance issue could be expected to be collected;

'Privileges and Immunities Convention' means the *Convention on the Privileges and Immunities of the United Nations* adopted by the General Assembly of the United Nations on 13 February 1946;

'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.

- (2) Terms and expressions used and not defined in this Act, unless the context otherwise requires, have the same meaning as in the Convention.

4. Act binds the Republic

This Act binds the Republic.

5. Territorial application

Proceedings may be brought for an offence under this Act where the act or omission constituting the offence is committed—

- (a) in Kiribati; or
- (b) outside Kiribati, where the act or omission is committed by a citizen of Kiribati or a body corporate incorporated under the laws of Kiribati.

PART II—PROHIBITIONS AND OFFENCES

6. Prohibited conduct

- (1) Subject to section 8, no person shall—
 - (a) use;
 - (b) develop or produce;
 - (c) acquire;
 - (d) possess, retain or stockpile;
 - (e) transfer to anyone, either directly or indirectly, an anti-personnel mine.
- (2) Subject to section 8, no person shall in any way assist, encourage or induce anyone to engage in conduct referred to in subsection (1).

7. Offences and penalties

- (1) Any person who contravenes section 6 commits an offence and is liable upon conviction to—
 - (a) in the case of an individual, imprisonment for a term not exceeding 10 years or to a fine not exceeding \$50,000, or both;
 - (b) in the case of a body corporate, a fine not exceeding \$500,000.
- (2) Where a body corporate has contravened section 6, and such contravention is proved to have been committed with the consent and connivance of, or to be attributable to any negligence on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in such capacity, that person is also guilty of that offence and may be proceeded against and punished in accordance with subsection (1)(a).
- (3) A court which convicts a person under paragraph (a) or (b) of subsection (1) may order that an anti-personnel mine or component part used or otherwise involved in the commission of the offence be forfeited to the Republic.

8. Permitted conduct

Section 6 does not apply to—

- (a) the placement, possession, retention or transfer of an anti-personnel mine in accordance with a permission in force under section 12;
- (b) the possession, retention or transfer of an anti-personnel mine by a police officer, an officer of the court, a customs officer, or any other person appointed by the Minister by notice in writing, in the course of that person's duties for the purpose of—
 - (i) the conduct of criminal proceedings;

- (ii) rendering an anti-personnel mine harmless;
- (iii) retaining an anti-personnel mine for future destruction; or
- (iv) delivering an anti-personnel mine to a police officer for destruction.

PART III—DESTRUCTION OF ANTI-PERSONNEL MINES

9. Delivery or notification of anti-personnel mines

Any person who knowingly possesses an anti-personnel mine otherwise than in accordance with section 8, must, without delay—

- (a) deliver it to a police officer for destruction; or
- (b) notify a police officer to enable arrangements to be made for its collection and destruction.

10. Destruction of anti-personnel mines

Subject to section 12, the Minister shall ensure the destruction of—

- (a) any stockpiled anti-personnel mine owned or possessed by Kiribati or under its jurisdiction or control;
- (b) any anti-personnel mine in mined areas under the jurisdiction or control of Kiribati; and
- (c) any anti-personnel mine notified or delivered for destruction under section 9.

11. Marking, monitoring and protection

Where an area is identified as a mined area or is suspected to be a mined area, the Minister shall, as soon as possible, ensure that such area is perimeter-marked and protected by fencing or otherwise employ such means as are necessary to notify civilians of the presence of anti-personnel mines until all anti-personnel mines contained therein are destroyed.

12. Permission to retain or transfer

The Minister may, in writing, grant permission for a specified number of anti-personnel mines to be placed, possessed, retained, or transferred, for the development of, or training in, mine detection, mine clearance or mine destruction techniques, but the number of such mines shall not exceed the minimum number absolutely necessary for these purposes.

PART IV—FACT-FINDING MISSIONS

13. Purpose of this Part

The purpose of this Part is to facilitate fact-finding missions to Kiribati under Article 8 of the Convention.

14. Fact-finding missions

- (1) Members of a fact-finding mission may enter Kiribati to collect information relevant to an alleged compliance issue.
- (2) Every member of a fact-finding mission shall enjoy all of the privileges and immunities accorded to experts on missions for the United Nations under Article VI of the Privileges and Immunities Convention.
- (3) For the purpose of facilitating a fact-finding mission, the Minister shall—
 - (a) issue to every member of the mission an identity card—
 - (i) identifying the member by name, containing a recent photograph of the member, and indicating the member's status and authority to conduct a fact-finding mission to Kiribati; and
 - (ii) stating that the member enjoys the privileges and immunities under Article VI of the Privileges and Immunities Convention;
 - (b) take the necessary measures to receive, transport and accommodate the mission;
 - (c) be responsible for ensuring the security of the mission to the maximum extent possible during their presence;
 - (d) make all efforts to ensure that opportunity is given to the mission to speak with all relevant persons who may be able to provide information relevant to the alleged compliance issue; and
 - (e) grant the mission access to all areas and installations under the control of the Republic where facts relevant to the alleged compliance issue could be expected to be collected.
- (4) The Minister may designate a person to accompany any member of a fact-finding mission in order to facilitate the carrying out of the functions of the mission.

15. General powers of fact-finding missions in relation to premises

- (1) For the purpose of collecting information relevant to the fact-finding mission, a member of the mission may, subject to subsection (2)—
 - (a) enter any premises; and
 - (b) exercise therein the powers set out in subsection (3).

- (2) A member of a fact-finding mission is not authorised to enter premises under subsection (1) unless—
 - (a) the occupier of the premises has consented to the entry; or
 - (b) the entry is made under a warrant issued under section 19.
- (3) A member of a fact-finding mission, having entered premises under this section, shall have the power to—
 - (a) search the premises and anything on the premises;
 - (b) inspect, examine, take measurements of, or conduct tests (including taking samples) concerning anything on the premises that relates to an anti-personnel mine;
 - (c) take photographs or make video or audio recordings or sketches of the premises or anything on the premises;
 - (d) inspect any book, record or document on the premises;
 - (e) take extracts from or make copies of any such book, record or document;
 - (f) take any equipment and materials onto premises as required to exercise powers in relation to the premises;
 - (g) require the occupier or any persons present on the premises to answer any questions put by the member or produce any book, record or document requested by the member.

16. Member of a fact-finding mission must produce identity card on request

Subject to section 17, a member of a fact-finding mission is not entitled to exercise any powers under this Part in relation to premises if—

- (a) the occupier of the premises has required the member to produce his or her identity card for inspection by the occupier; and
- (b) the member fails to comply with the requirement.

17. Announcement before entering premises under a warrant

- (1) A member of a fact-finding mission must, before entering premises under a warrant issued under section 19—
 - (a) announce that he or she is authorised to enter the premises;
 - (b) identify himself or herself by producing his or her identity card to the occupier;
 - (c) make available to the occupier or another person who apparently represents the occupier who is present on the premises, a copy of the warrant; and
 - (d) give any person at the premises an opportunity to allow entry to the premises.

- (2) A member of a fact-finding mission is not required to comply with subsection (1) if he or she believes on reasonable grounds that immediate entry to the premises is required—
 - (a) to ensure the safety of a person; or
 - (b) to prevent serious damage to the environment; or
 - (c) to ensure that the effective execution of the warrant is not frustrated.

18. Occupier entitled to be present during search

- (1) If a warrant in relation to premises is being executed and the occupier of the premises or another person who apparently represents the occupier is present at the premises, the person is entitled to observe the search being conducted.
- (2) The right to observe the search being conducted ceases if the person impedes the search.
- (3) This section does not prevent two or more areas of the premises being searched at the same time.

19. Monitoring warrants

- (1) A member of a fact-finding mission may apply to a magistrate for a warrant to enter premises under this section.
- (2) Subject to subsection (3), the magistrate may issue the warrant if the magistrate is satisfied, on information given on oath, that it is reasonably necessary that one or more members of the mission should have access to the premises for purposes relevant to the mission.
- (3) The magistrate must not issue the warrant unless the member of a fact-finding mission or some other person has given to the magistrate, either orally or by affidavit, such further information (if any) as the magistrate requires concerning the grounds on which the issue of the warrant is being sought.
- (4) The warrant must—
 - (a) authorise one or more members of a fact-finding mission (whether or not named in the warrant), with such assistance and by such force as is necessary and reasonable—
 - (i) to enter the premises; and
 - (ii) to exercise the powers set out in section 15(3) in relation to the premises;
 - (b) state whether the entry is authorised to be made at any time of the day or night or during specified hours of the day or night; and
 - (c) specify the day (not more than six months after the issue of the warrant) on which the warrant ceases to have effect; and
 - (d) state the purpose for which the warrant is issued.

20. Equipment for fact-finding missions

- (1) A member of a fact-finding mission may import on written notice to the Minister the necessary equipment to be used exclusively in carrying out the mission, and may export the equipment at the end of the mission.
- (2) The import and export of equipment under subsection (1) shall be exempt from duty and tax.

21. Offences and penalties

- (1) Any person who knowingly makes a false or misleading statement in an application for a warrant under section 19 commits an offence and is liable upon conviction to imprisonment for a term not exceeding one year or a fine not exceeding \$5000 or both.
- (2) Any person who wilfully obstructs, hinders, resists or deceives any member of a fact-finding mission undertaking an inspection in Kiribati commits an offence and is liable upon conviction to imprisonment for a term not exceeding two years or a fine not exceeding \$20,000 or both.

PART V—INFORMATION—GATHERING POWERS

22. Obtaining information and documents

The Minister may, by written notice served on any person, require that person to give the Minister such information or documents as is specified in the notice if the Minister has reason to believe that the person has information or a document relevant to—

- (a) the administration or enforcement of this Act;
- (b) the obligation of Kiribati to report under Article 7 of the Convention;
or
- (c) the obligation of Kiribati to provide information under Article 8 of the Convention.

23. Failure to comply and providing false information

Any person who—

- (a) without reasonable excuse fails to comply with a notice served on him or her by the Minister; or
- (b) knowingly makes a false or misleading statement in response to a notice served on him or her,

commits an offence and is liable upon conviction to imprisonment for a term not exceeding one year or a fine of \$5000 or both.

PART VI—REGULATIONS

24. Regulations

The Beretitenti, acting in accordance with the advice of the Cabinet, may make regulations providing for such other matters as are required or permitted to be prescribed, or that are necessary or convenient to be prescribed, for carrying out or giving effect to this Act.

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 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 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.

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.
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.
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.

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.

ANTI-PERSONNEL MINES (PROHIBITION) ACT 2008

EXPLANATORY MEMORANDUM

Kiribati acceded to the *Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction* (also known as the Mine Ban Treaty) on 7 September 2000. The Convention provides a comprehensive framework for ending the suffering caused by anti-personnel mines. At its core are obligations intended to eliminate the use of such mines and bring relief to mine victims and mine-affected communities.

Article 9 of the Convention states: "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" by the treaty. By passage of this Act, Kiribati satisfies these obligations.

Part I of the Act deals with preliminary matters, such as definitions and territorial application.

In Part II, section 6 prohibits various conduct concerning anti-personnel mines, while section 7 provides for significant penalties for contraventions of the prohibitions. Section 8 contains certain exceptions to the offence provisions.

Part III deals with the requirement to disclose the existence of anti-personnel mines and to destroy those mines. Certain obligations as regards identification of mine-affected areas are the subject of section 11. Section 12 authorises the Minister to permit the possession of a limited number of anti-personnel mines for training purposes.

Part IV deals with the facilitation of fact-finding missions that may be authorised by a meeting of States Parties under Article 8 of the Convention. A fact-finding mission can be authorised to conduct an investigation where an alleged compliance issue has arisen under the Convention.

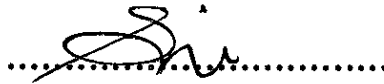
Part V deals with the powers necessary to collect information needed to ensure that the Minister can satisfy the necessary reporting obligations under the Convention.

Part VI provides for regulation-making powers.

Titabu Tabane
Attorney General
24 June 2008

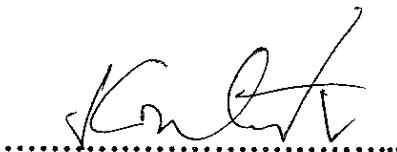
**CERTIFICATE OF THE CLERK OF THE MANEABA NI
MAUNGATABU**

This printed impression of the Bill has been carefully examined by me with the Bill which passed the Maneaba ni Maungatabu on the 9th December 2008 and is found by me to be a true and correctly printed copy of the said Bill.



Eni Tekanene
Clerk of the Maneaba ni Maungatabu

Published by exhibition at the Maneaba ni Maungatabu this^{23rd}
day of December 2008.


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for Clerk of the Maneaba ni Maungatabu