

SC on General Status and Operation of the Convention:

3) Implementation of Article 2

We appreciate the opportunity to address this issue in this informal setting and to share our experiences and opinions with regard to the interpretation of Article 2.

At the time when the Convention entered into force, Austria was in the comparably easy position of already having destroyed all our stocks of AP-Mines.

In our view, the definition of APMs is straightforward. It is a mine which is designed to be exploded by the presence, proximity or contact of a person (...). In this respect, we completely agree with the argument put forward by the ICRC in its Working Paper of January 2002, that any mine – regardless of how it is labelled - is banned by the Convention “if the design is such that it would detonate by the presence, proximity or contact of a person.”

The exception from this general rule is found in the 2nd part of Art. 2 para 1 which says – as is well known – that an AV-Mine that is equipped with an AHD is not to be considered as an AP-mine, as a result of being so equipped. The definition of an AHD is found in Article 2 para 4 to be a device intended to protect a mine...and which activates when an attempt is made to *tamper with or otherwise intentionally disturb the mine*.

The words *or otherwise intentionally disturb the mine* reflect a compromise between the UK proposal to insert the words *tamper with or otherwise disturb the mine* and the Norwegian proposal to add the word *intentionally*.

Hence, in our opinion, an AV-mine equipped with an ADH that fits the abovementioned definition of an AHD is not considered to be an AP-mine.

Furthermore, the words *to tamper with or otherwise intentionally disturb the mine* mean in our opinion that the conduct of a person must be aimed at disturbing the mine. Such acts include, inter alia, removing, destroying or disrupting the mechanism of the mine. Conduct or acts that are not aimed at disturbing the mine are not covered by the word *tamper with or otherwise intentionally disturb the mine*. If a device were designed to activate through conduct not aimed at disturbing the mine, we would not consider it to be a legitimate AHD.

The action of the person must be directed at the *tampering with or otherwise intentionally disturbing the mine*. However, in our view, it is not necessary that the person is aware of the fact that it is a mine with which it is tempering with or disturbing. Hence, we consider an AHD that activates when a person that does not know that it is dealing with a mine is removing, destroying or disrupting the mine to be a legitimate device.