

MBC, 5MSP

Intervention on art 2

Norway

17.09.03

As the ICRC representative pointed out, article 2 definitions have been subject to extensive discussions since the Convention entered into force. Article 2 was given considerable attention by the treaty negotiators. The wording of article 2 is not accidental, and reflects that the Convention is and was meant to be, an instrument of International Humanitarian Law.

According to the Vienna Convention on the Law of Treaties a treaty is to be interpreted according to the ordinary meaning to be given to the terms of that treaty, and in the light of its objects and purpose. This is a basic principle of international law.

The purpose of the Ottawa process and the objective of the negotiations of the Mine Ban Convention in Oslo were to end the human suffering by anti/personnel mines. That is why the definition of an AP mine in the Mine Ban Convention was deliberately drafted to cover a wider scope and to be more precise than what was the case in Amended Protocol 2 to the CCW. The definition of AP mines was subject to a number of discussions leading up to the negotiating process. Some countries argued that the definition of an AP mine should be identical in the two instruments, so that an AP mine would be defined as a mine *primarily* designed to be exploded by the presence of a person etc. In Oslo, there was strong support for *not* including the term *primarily*. By omitting that term it was made clear that the definition in the Mine Ban Convention would cover a wider scope of mines, not just those primarily designed to be AP mines, but those *functioning* as anti-personnel mines.

The definition of an anti-personnel mine in the Mine Ban Convention simply lays down that any mine designed to explode by human contact is defined as an anti-personnel mine. This is the *ordinary meaning* to be given to the text, in accordance with the principles of international law mentioned above. It does not matter whether the main purpose of usage for that mine is directed towards vehicles. It does not matter whether it is called something else than anti-personnel mine. If it falls within the definition, then it is an anti-personnel mine.