

**ICBL Intervention on Transparency and Exchange of Information:
Articles 1 and 2
Sixth Meeting of States Parties to the Mine Ban Treaty
Zagreb, Croatia
1 December 2005
Delivered by Stephen Goose, Human Rights Watch, Head of Delegation**

Mr. Ambassador, I thank you and the States Parties for their indulgence in allowing me to take the floor again under this agenda item. I limited my earlier remarks to the Article 7 discussion, but it will come as no surprise to most States Parties that the ICBL also feels it necessary to speak on Articles 1 and 2. The ICBL continues to believe that it is essential to the credibility of the Mine Ban Treaty that States Parties have consistent interpretations and practice with respect to these most basic provisions. States Parties should continue to have discussions on these matters, aimed at common understandings.

Since the conclusion of the negotiations in 1997, the ICBL has emphasized that, according to the treaty's definitions, any mine equipped with a fuze or antihandling device that causes the mine to explode from an unintentional or innocent act of a person is considered to be an antipersonnel mine and therefore prohibited. It appears that most States Parties this view that any mine, despite its label or design intent, capable of being detonated by the unintentional act of a person is an antipersonnel mine and is prohibited. Among the States Parties that have publicly expressed this understanding of what was agreed upon during the treaty negotiations in Oslo are Australia, Austria, Bolivia, Brazil, Canada, Colombia, Kenya, Ireland, Mexico, Mozambique, Netherlands, New Zealand, Norway, Peru, Slovakia, South Africa, Switzerland and Zambia. At the June 2005 intersessional meetings, Argentina also appeared to endorse this interpretation. In addition, Germany recently confirmed to the ICBL that this is its position as well. We welcome Slovenia's intervention moments ago that it too shares this view.

However, a small number of States Parties have a different view, and a situation is developing wherein some States Parties have chosen to keep for future use and even export certain types of mines that other States Parties have determined are antipersonnel mines and destroyed. This includes mines with tripwires, tilt rods, and overly sensitive antihandling devices.

There appears to be broad agreement that a mine that relies on a tripwire as its sole firing mechanism should be considered an antipersonnel mine. However, the Czech Republic has stated that it does not consider the use of tripwires with an antivehicle mine to be a violation of the Mine Ban Treaty, and a Czech company has offered for sale mines with a tripwire fuze.

A number of States Parties have removed tilt rod fuzes from their inventories, including Canada, France, Hungary, Mali and the United Kingdom. However, in 2004 and 2005 (up to and including this week) the Croatian company Agencija Alan continued to offer TMRP-6 mines with tilt rod fuzes for sale on its web site. Croatia has also acknowledged

that it stockpiles this type of mine. Other States Parties that have acknowledged possession of mines with tilt rods include the Czech Republic, Slovenia and Sweden.

It should not be acceptable that States Parties cannot agree on what mines are prohibited by the treaty. The degree to which, and the manner in which, States Parties agree or disagree on what mines and practices are acceptable is likely to have a significant effect on how the Mine Ban Treaty is implemented and universalized.

On a related matter, it is worth reiterating a remark I made the other day that seemed to surprise a number of States Parties: Improvised Explosive Devices (IEDs) that are victim-activated are prohibited by the Mine Ban Treaty. The treaty does not only apply to factory-produced mines. This was discussed and agreed to explicitly during the negotiations, with the Australian delegation taking the lead.

Turning to Article 1, there has been a lack of clarity, and some divergent State practice, regarding what types of acts are permitted or prohibited within the context of the prohibition on assistance in Article 1. After discussion over many years, a general understanding appears to have emerged regarding how Article 1 applies to joint military operations, with 36 States Parties having declared that they will not participate in planning and implementation of activities related to the use of antipersonnel mines in joint military operations with a state not party to the treaty who may use antipersonnel mines. However, some States Parties have declared that only “direct” or “active” participation in joint operations in which antipersonnel mines are used is prohibited, with a variety of understandings of what constitutes “direct” or “active.” The end result in any event is the acceptance by some States Parties of the notion of waging war cooperatively with an armed force using antipersonnel mines, which is surely contrary to a treaty aimed at rejecting any use of the weapon by anyone at any time.

I would like to close Mr. Chairman by raising another issue related to assistance, and that is investment by States Parties in companies that produce antipersonnel mines. There is already some precedent of States Parties divesting from mine producers in order to comply with the Mine Ban Treaty obligation not to assist in any way with an act prohibited by the treaty. Norway, for example, divested from the company making antipersonnel mines in Singapore. This issue is gaining attention, and has been publicly discussed recently in Belgium and Sweden among other countries. It is gaining visibility in part because the United States (which has not produced antipersonnel mines since 1997) is poised to make a decision later this month to resume production of a mine system that would be prohibited by the Mine Ban Treaty. It is likely that several States Parties are invested in the major US companies that would be involved in the production. This is an important topic that should go on the agenda of the Standing Committee on General Status and Operation of the Convention.

Thank you.