

Statement made by the International Committee of the Red Cross on Article 2 of the Convention (Standing Committee on the General Status and Operation of the Convention, 31 May 2002)

Thank you Mr. Co-Chairs,

The International Committee of the Red Cross (ICRC) has, in the past, stated its view on what it considers the correct interpretation of Article 2 of the Ottawa Convention under basic rules of treaty interpretation.. In order to further clarify discussions on this issue, the ICRC prepared a short information paper which we presented at the last intersessional meetings last January. This paper is available outside this room to all delegations in English, French and Spanish. The ICRC would welcome comments from delegations on this paper.

The ICRC continues to maintain the view that a mine with a fusing mechanism capable of being detonated by the presence, proximity or contact of a person would be prohibited by the Convention. The definition contained in Article 2(1) is clearly a functional one based on whether the mine, regardless of it being labelled "anti-personnel" or "anti-vehicle", is designed so that it could be detonated by a person.

It has been suggested that the primary purpose of a mine should be taken into account when considering Article 2. The ICRC would like to make the following clarification on this point. If a mine is designed for a certain purpose but is not functioning according to that purpose because it explodes by the presence, proximity or contact of person, in addition to exploding from contact with a vehicle, then that mine would fall under Article 2 of the Convention. It is precisely to eliminate previous ambiguities in definitions contained in other Conventions that the word "primarily" was removed from the original draft of the definition of an "anti-personnel mine" in the Ottawa Convention. It is clear that mines which serve two purposes, one of which is to explode on contact with a person, whether this purpose is intended or not, are prohibited by the Convention.

The ICRC hopes that a pragmatic approach based on best practices will allow to go beyond the legal debate and to identify practical steps which could achieve the

humanitarian purpose of the Convention. The ICRC would like to revert to this point during the next agenda item.

Thank you Mr. Co-chairs.