

SC on General Status and Operation of the Convention:

4) Address the humanitarian problems of mines that may pose similar risks to the civilian population as AP-mines.

We have heard very interesting statements on how the definition of AP-mines has been implemented by States Parties. Essentially, there are two approaches. One is focused more on the purpose for which the mine is designed and the other on the way in which the mine functions. The debate over the consequences of these two approaches is not a new one and has attracted considerable attention from some States Parties in the past.

The differences that exist in the two approaches are of a legal nature. Essentially, it is the question whether or not some mines that may pose similar risks to the civilian population as AP-mines – that means AV-mines equipped with sensitive fuses or sensitive AHD - are within the scope of the Mine-Ban-Treaty. A *function-oriented interpretation* answers this question positively and a *purpose of design-oriented interpretation* comes to a negative answer.

Implementation and interpretation in good faith of the articles of the Convention is the responsibility of the respective States Parties. In our view, both approaches are compatible with this principle.

Furthermore, whether States Parties apply one or the other interpretation, there is a shared conviction among us that the humanitarian problems caused by mines that may cause similar problems for the civilian population as AP-mines need to be addressed. One way of doing this is to deal with AV-mines comprehensively in the Certain Conventional Weapons Convention (CCWC) in form of a new protocol. Austria supports this approach.

Similarly, and while these efforts are under way, we think that the development of *best practices* would be a suitable way to address the humanitarian problems of such mines. In this respect, we would again like to invite States Parties to consider adopting the *best practices* for AV-mines with sensitive fuses like these that were identified in the report of the Expert Meeting hosted by the ICRC in March 2001.

In concluding, it is our opinion that it is time to try to arrive at a pragmatic solution for this issue. We should not forget that what this debate boils down to is the question under which legal framework the humanitarian problems caused by such mines should be addressed. What matters, is that the problems are dealt with.