

LANDMINE ACTION

**Standing Committee on General Status and Operation of the Ottawa Convention,
31 May 2002**

Implementation of Article 9

Since the entry into force of the Ottawa Convention, Landmine Monitor (co-ordinated in Europe by Landmine Action) has been reporting on the declining manufacture and sale of anti-personnel mines.

Landmine Action takes the view that, although publicly available information on production shows that fewer manufacturers are now trading in these weapons worldwide, there are unscrupulous companies that will continue to do so unless effective measures are taken to stamp out this trade. We have therefore, since 1999, been actively monitoring the international sales activities of a number of companies.

We were particularly disturbed to find evidence of a company based in the UK actively promoting a tripwire-initiated anti-personnel mine. We therefore carried out, in recent months in conjunction with the BBC, an investigation into this company. We are making available all the information we have gathered to the UK authorities that are now investigating this matter. We will not therefore make any further specific comment on this case, which would be inappropriate now that one individual has been arrested, but wish to make the following general points on Article 9.

1. National implementation measures

Article 9 requires every State Party to take (quote) ‘all appropriate legal, administrative and other measures, including the imposition of penal sanctions, to prevent and suppress any activity prohibited to a State Party under this Convention undertaken by persons or on territory under its jurisdiction or control’.

To prevent and suppress the manufacture and sale of anti-personnel mines, it is essential that States Parties take ALL necessary measures. This, in our view, requires the introduction of unambiguous national legislation that creates specific criminal offences, with severe penalties, for activities prohibited under the Ottawa Treaty. To be effective, such legislation should clearly define prohibited objects, ie anti-personnel mines and their components, and the range of prohibited activities for individuals and companies, including development or production, possession, sale or attempted sale or any transfer of anti-personnel mines. Assisting or encouraging or persuading another person or company to engage in prohibited conduct should also be a criminal offence, as it is in the UK

2. Extra-territorial measures

Arms sales frequently involve deals brokered outside national borders, and indeed in the

recent case which Landmine Action investigated it is alleged that illegal activity took place outside the UK. For this reason, we recommend provisions in national legislation that extends the prohibitions to citizens of states parties wherever they may be worldwide. Again, the UK's legislation includes such a measure.

3. Definitional matters

States Parties are aware of the different variants of anti-personnel mine, for example those activated by tripwire. However, a number of manufacturers have renamed their mines or rewritten promotional material to avoid openly stating that their munitions are indeed anti-personnel mines. National legislation must be clear on what comprises an anti-personnel mine, to ensure that manufacturers do not seek to evade the law in this way.

4. All appropriate administrative and other measures

Clear responsibility for enforcing national legislation is required, since there will often be different authorities involved in policing the mine ban. We recommend identifying a single national agency responsible for leading enforcement of the prohibitions, backed by clear legal powers of investigation.

But other measures are necessary too. It is not enough to have legislation if all relevant parties, including the manufacturers themselves, are unaware of what exactly is prohibited. States Parties should be proactive in disseminating information to manufacturers and potential purchasers of security or military equipment, and should be equally proactive in checking that laws are being obeyed. For example, the activities of arms manufacturers at international arms fairs should be scrutinised by the host authorities. This should not only be done in advance or left to private organisers.

Officials involved in arms control procedures should be trained to identify potentially illegal landmine production facilities, stocks or shipments.

5. Conclusion

To conclude, we believe that it is still possible for too many individuals or companies to continue to attempt to trade in anti-personnel mines. We therefore welcome the fast and thorough response of the UK government in the present case, and we commend much of the content of the UK's implementing legislation.

We urge all other States Parties and signatories to refer to the ICRC's implementation pack which contains examples of the measures we have described, and Landmine Action is happy to provide further advice to those that are preparing legislation, based on our experience.

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