



ICBL Statement
to the Standing Committee on General Status and Operation of the Convention
on Article 1, Article 2, and Compliance
Geneva, 29 May 2009

Thank you for the floor, Co-Chair.

When the treaty first entered into force, there was a lack of clarity by States Parties regarding certain aspects of both Article 1 and Article 2. Indeed, various States Parties expressed sometimes contradictory views on those articles. For Article 1, this mainly applied to views on what types of acts are permitted or prohibited within the context of the prohibition on assistance, particularly with respect to joint military operations with states not party to the treaty. For Article 2, this mainly applied to views on whether mines labeled as antivehicle mines, but which have sensitive fuzes causing them to function as antipersonnel mines, are prohibited by the treaty.

Recognizing the lack of clarity and the need to address it, States Parties have regularly held discussions on these matters, as called for in every annual Meeting of States Parties Progress Report. The purpose of the discussions has been to establish a prevailing view among States Parties, and consistent state practice in implementing the provisions. In the Nairobi Action Plan, States Parties committed (and I quote) “to promote effective and consistent application” (end quote) of the provisions.

Any legally-binding international agreement will be seen as weak and flawed if States Parties have diametrically opposed interpretations and contrary practices regarding fundamental provisions. The prohibition on assistance is part of the Article 1 general obligations, establishing that it is as fundamental to the Mine Ban Treaty as the prohibitions on use, production, stockpiling, and transfer. For Article 2, the issue is perhaps the most fundamental of all—States Parties are not clear on what mines they have banned and what mines they have not.

These are not theoretical issues without the potential for significant humanitarian impact. Landmine Monitor has in the past cited several likely cases of States Parties assisting with the use of antipersonnel mines by other armed forces. Several States Parties continue to stockpile for future use landmines with tripwires and tilt rods that will function as antipersonnel mines.

Turning now more specifically to Article 1, and its absolute prohibition on assistance: Article 1 obligates State Parties to “never under any circumstances...assist, encourage or induce, in any way, anyone to engage in any activity prohibited to a State Party under this Convention.”

In interpreting and implementing this prohibition, states should—in keeping with the object and purpose of the treaty—start from the position that their goal is to stigmatize and discourage in every way possible any use of antipersonnel mines by any actor. No action should be contemplated that explicitly or implicitly accepts or facilitates in any way use of antipersonnel mines by those not party to the treaty.

As the Review Conference approaches, States Parties should recall that, through their exchange of information on this issue over the years, a prevailing view has emerged. More than 40 States Parties have declared that they will not participate in planning and implementation of activities related to the use of antipersonnel mines in joint operations with a state not party to the Mine Ban Treaty which may use antipersonnel mines. More specifically, many States Parties have agreed that States Parties may NOT:

- participate in the planning for use of antipersonnel mines;
- agree to rules of engagement that permit use of the weapon;
- accept orders to use, request others to use, or train others to use the weapon;
- knowingly derive military benefit from the use of the weapon by others; or
- provide security, storage or transportation for antipersonnel mines.

Moreover, nearly all States Parties expressing views have also agreed that transit of antipersonnel mines through, or foreign stockpiling of antipersonnel mines on, the national territory of a State Party is prohibited.

The ICBL agrees with the vast majority of States Parties that have participated in these decade-long discussions: all of these acts are prohibited by the Mine Ban Treaty. There have been a limited number of dissenting voices.

The Review Conference documents should take note of these discussions, and the prevailing views that have been expressed. This will respond to the Nairobi Action Plan's entreaty to promote effective and consistent application of Article 1. States Parties could also formulate a "conclusion" on this issue, as provided for in Article 12 of the Mine Ban Treaty.

I will now stop in the hopes of hearing more States Parties' views on this issue, but will have additional comments on Articles 2 and facilitating compliance.

Thank you.