

Notes for ICRC intervention under the item "The practical implementation of Article 2"

Standing Committee on the General Status and Operation of the Convention 29 May 2009

The ICRC would like to take this opportunity to recall our views with regard to Article 2 and to urge States Parties which consider mines that function as AP mines not to be AP mines, because they have been labelled differently, to continue to engage on this issue and to continue to review and eliminate such systems as so many States Parties have already done.

The ICRC considers any mine that is likely to be detonated by the presence, proximity or contact of a person to be an anti-personnel mine prohibited by this Convention. In practice, this means that mines equipped with sensitive fuses -such as break wires, tripwires, tilt-rods and low-pressure fuses - which cannot not designed in a way that prevents detonation by an individual, are prohibited.

This view is firmly based on the negotiating history of the Convention, its object and purpose, and the basic rules of treaty interpretation. Most States Parties that have spoken on this issue share the ICRC's interpretation in this regard. The positions of the States Parties that have expressed their views are presented in the updated table (*"Anti-vehicle" mines with sensitive fuses – Positions and relevant practice of States Parties on Article 2 of the Ottawa Convention*), which is available outside the room. We would welcome any additions, updates or clarifications to this table by States Parties. We welcome the updated position already provided to us by the delegation of Germany which will appear in the next edition of this table at the Second Preparatory Committee in September.

As is well known, the ICRC would like to see States Parties develop a common approach to the implementation of Article 2. However, we recognize that there is a continuing divergence among States Parties on this matter.

Nevertheless, we believe it would be important for the Second Review Conference, as a minimum, to note the fact that States have continued to exchange views on the practical implementation of Article 2 over the past five years (as called for in Action # 55 of the Nairobi Action Plan), to note that State practice in this field continues to evolve and to urge States Parties to keep this matter under review.

We also take this opportunity to remind States Parties of the expert work that has been undertaken on sensitive fuses in the framework of the Convention on Certain Conventional Weapons (CCW), led by Germany and others. In this framework military and technical experts identified specific types of fuses that cannot be designed not to be excessively sensitive and discouraged their use. The ICRC circulated the results of the CCW work at the June Intersessional Meetings in 2008 in the form of document CCW/GGE/XV/WG.2/1/Rev.1. We consider this document to be directly relevant to Article 2 of this Convention and would urge States to review their stocks of mines in light of its recommendations and to continue the practice of eliminating such fusing systems. This evolution of practice has been one of the concrete results of work on this issue in this forum and in the CCW framework in recent years.

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