

Statement of Austria  
18 September 2003

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

We have heard a number of statements on how the definition of AP-mines has been implemented by States Parties. Essentially, there are two seemingly irreconcilable 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 for many years.

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 or without 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 each respective States Party. In our view, both approaches are compatible with this principle.

Furthermore, there is a shared conviction among all of us that the humanitarian problems caused by such 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 sharing information in the framework of our Convention with the aim of developing common understandings on these matters where this is possible would be desirable. The Convention's 1<sup>st</sup> Review Conference provides an obvious opportunity to take stock of what we have achieved. In our opinion it would be disappointing if all we will have to show for this particular issue would be a constant restating of the same positions.

We continue to believe that progress on this issue is possible. The development of *best practices* would be a suitable way to address the humanitarian problems of such mines. It is our opinion that we should aim for a pragmatic solution for this issue. We should not forget that what this debate boils down to is only the question under which legal framework the humanitarian problems caused by such mines should be addressed. What really matters, is that the problems are dealt with comprehensively.