

## **Intervention of the International Committee of the Red Cross**

### **Fifth Meeting of States Parties**

**Bangkok**

**17 September 2003**

### **General Status and Operation of the Convention**

#### **Article 3**

In permitting the retention of anti-personnel mines for the purposes of development of and training in mine detection, mine clearance or mine destruction techniques, Article 3 creates an exception to the Convention's absolute prohibition on the use, retention and transfer of anti-personnel mines. It is a basic rule of treaty construction that exceptions must be interpreted restrictively, and this is especially so in the case of exceptions to the absolute prohibition of an inhumane weapon. Therefore, the qualification, in Article 3, that the amount of mines retained "shall not exceed the minimum number absolutely necessary for" training and development purposes, must be interpreted conservatively.

Strictly limiting the number of anti-personnel mines kept for training purposes is essential if the goal of eliminating anti-personnel mines is to be achieved. The credibility of this Convention rests upon a State's commitment to remove this weapon from its arsenals. Retaining vast quantities would undermine the Convention's objective of the total elimination of anti-personnel mines.

In terms of State practice, 54 States have indicated that they will retain no antipersonnel mines. For those other States that choose to retain anti-personnel mines, the ICRC echoes the call of the ICBL for such States to report in their annual Article 7 transparency reports, the intended purposes for mines retained and the actual uses of these mines. Though reporting on such matters is not expressly required by Article 7, we believe, as has just been stated by a number of delegations, that this would constitute an important confidence-building measure.

In its report to the Third Meeting of the States Parties in Managua, the Standing Committee on the General Status and Operation of the Convention recommended that "anti-personnel mines retained for training and development purposes in accordance with Articles 3 should be kept to the minimum number absolutely necessary and be numbered in the hundreds or thousands, and not in the tens of thousands." This understanding, which met with general agreement in Managua, should be formally adopted by the First Review Conference next year. Having followed discussions on this article since 1997, the ICRC believes that there is a firm basis for recording an agreement on this issue.