

**ICBL Intervention on Transparency and Exchange of Information:
Interpretation and Implementation of Articles 1, 2, and 3
Delivered by Steve Goose, Human Rights Watch, Head of Delegation
7th Meeting of States Parties to the Mine Ban Treaty
Geneva, 21 September 2006**

Madame President, thank you for the opportunity to take the floor again under this agenda item. But we would like to express our dismay that so many important issues get lumped together under this “Transparency and Exchange of Information” agenda item that it is not really possible to do justice to all of them in short interventions. The format used in intersessional meetings of the Standing Committee on General Status and Operation of the Convention provides better opportunities for States and others to make their views known on the various issues, and States Parties should consider some adjustment in this agenda item for these annual meetings.

Having already commented on Article 7, I will use this intervention to address our concerns regarding interpretation and implementation of Articles 1, 2 and 3. With respect to Article 1, we are concerned about the varying interpretations of what acts are and are not permitted under the treaty’s ban on assisting with prohibited acts. For Article 2, we are concerned about the varying interpretations of what mines are banned, and in particular, whether antivehicle mines with sensitive fuzes and sensitive antihandling devices that function as antipersonnel mines are banned. For Article 3, we are concerned about differing views on the acceptable number of mines that may be retained for training or development purposes, inadequate reporting on the intended purposes and actual uses of retained mines (including inadequate justification by many of those keeping the biggest numbers of mines), and the apparent retention of significant numbers of mines that are not in fact being used for training, development, or any other purpose.

For a number of years, States Parties have been discussing the Article 1 prohibition on assistance, especially in the context of joint military operations with an armed force that may use antipersonnel mines. While states did not reach a formal understanding on this matter at the First Review Conference as urged by the ICBL, an understanding has nevertheless begun to emerge, as more and more states make their views known. A total of 42 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. Recent additions to this list include Albania, Chad, Cyprus, Estonia, FYR Macedonia, Moldova, Slovenia and Yemen.

Several states, such as Moldova and Yemen, gave detailed positions, indicating that States Parties should not participate in planning for use of antipersonnel mines, agree to rules of engagement permitting use of antipersonnel mines, derive direct military benefit from others’ use of antipersonnel mines, train others to use antipersonnel mines, request others to use antipersonnel mines, or provide security or transportation for antipersonnel mines.

There have been fruitful discussions on sometimes controversial issues related to Article 2 (Definitions) as well. The ICBL, ICRC, and more than two dozen States Parties that have spoken on the topic have agreed that the Mine Ban Treaty prohibits any munition—regardless of its label or design intent—that will detonate from the unintentional act of a person. Any munition that functions as an antipersonnel mine is banned. Even if you call it an antivehicle mine, it is banned. If you call it an improvised explosive device, it is banned. If you call it an explosive booby-trap, it is banned.

In particular, there appears to be agreement, with some notable exceptions, that any mine that relies on a tripwire, breakwire, tilt rod or sensitive pressure fuze should be considered an antipersonnel mine. Among those recently expressing or confirming that view are Albania, Croatia, Estonia, Germany, Guatemala, Kenya, FYR Macedonia, Moldova, Slovenia, and Yemen.

However, a few states appear to disagree. Denmark, France, Japan and the United Kingdom have made a determination that the Mine Ban Treaty does not apply to antivehicle mines at all, regardless of their employment with sensitive fuzes or antihandling devices. The Czech Republic has stated that it does not consider the use of tripwires with an antivehicle mine to be a violation of the treaty, and it continues to stockpile antivehicle mines with tilt rods. Slovenia has said that mines with sensitive fuzes are prohibited, but has not yet destroyed its TMRP-6 mines with tilt rods. Sweden also stocks antivehicle mines with tilt rods. The ICBL would welcome clarification or elaboration on the policies and practices of any of these states.

The ICBL believes that too many States Parties are retaining too many antipersonnel mines under the Article 3 exception for research and training purposes. Sixty-nine States Parties are holding on to a combined total of over 227,000 mines. Too few states have clearly articulated why they are retaining mines, for what specific purposes. As of July, only 11 States Parties had used the new Form D on retained mines agreed to by States Parties at the 6th annual meeting, a form designed to encourage better reporting on the intended purposes and actual uses of retained mines.

It is unclear how most States Parties have determined “the minimum number absolutely necessary” to retain, as required by the treaty. There should be a detailed process for making that calculation, and the minimum number should be re-evaluated on a regular basis. In that regard, it was very welcome news from FYR Macedonia and Moldova that they are destroying all of the mines previously identified as retained for training. It is also worth recalling that Chile announced in May that after a review, it had decided to reduce its minimum number from 5,866 to 4,274 in 2006. Since 1999, at least 24 States Parties have decided to reduce their number of retained mines from the levels they originally proposed.

For many States Parties, the number of retained mines they declare has not changed from year to year, indicating none are being consumed (destroyed) for research or training purposes. At least 51 States Parties did not report consuming any retained mines in 2005.

At least 15 States Parties that retain over 1,000 mines have not reported consuming any for two or more consecutive years. Only a few states have indicated that the purposes for which they utilize the mines do not require the consumption of the mines. The ICBL believes that states that retain antipersonnel mines and apparently do not use any of them for the permitted purposes are abusing the exception in Article 3. Much greater transparency is needed, and much greater attention to this matter by all States Parties.

Thank you.