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Established in 1998, Landmine Monitor is an initiative of the International Campaign to Ban Landmines, 1997 Nobel Peace Prize Co-Laureate

LANDMINE MONITOR FACT SHEET

Prepared by Human Rights Watch

Joint Operations, Foreign Stockpiling, and Transit (Article 1)

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Article 1 of the 1997 Mine Ban Treaty 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." During the first five years of treaty implementation there has been a lack of clarity, however, regarding what types of acts are permitted or prohibited within the context of the prohibition on assistance. Many States Parties have recognized the need to address this issue and to share views on policy and practice.

Joint Military Operations

Over the past five years, an understanding of how Article 1 applies to joint military operations and the meaning of "assist" has begun to emerge. A total of 36 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 who may use antipersonnel mines. Kenya, Spain, Tanzania, Turkey, and Zambia provided new statements affirming this understanding during 2004.

Some States Parties (see following chart below) have declared that only "active" or "direct" participation in joint operations in which antipersonnel mines are used is prohibited; each country's understanding of what constitutes "active" or "direct" assistance varies. Australia has formally declared that it is permissible to provide "indirect support such as the provision of security for the personnel of a State not party to the Convention engaging in such [prohibited] activities," presumably including the laying of antipersonnel mines.

The issue of assistance is not a theoretical one. ICBL has raised questions about possible prohibited assistance by at least six States Parties since 1999. *Landmine Monitor Report 2004* raised serious concerns regarding Rwanda's possible assistance to rebels in the Democratic Republic of Congo using antipersonnel mines, and Sudan's possible assistance to militia accused of using mines. Rwanda and Sudan have denied engaging in any activities that contravene the Mine Ban Treaty.

Transit

A total of 26 States Parties have declared they prohibit transfer through, foreign stockpiling on, or authorizing foreign antipersonnel mines on national territory. Turkey and Zambia were added to the list of those supporting a ban on transit in 2004. Sweden announced that its analysis of the Convention's purposes and aims concluded that transit of antipersonnel mines through national territory (land, sea, air) is prohibited.

It appears that a small number of States Parties have differing views about whether the treaty's prohibition on "transfer" of antipersonnel mines also applies to "transit." Canada, Germany, Japan and Norway believe that the treaty does not prohibit the transit of antipersonnel mines, at least in certain circumstances. Landmine Monitor has not documented any specific cases of transit occurring, or of transit being denied.

Foreign Stockpiling

With respect to foreign stockpiling of antipersonnel mines, US antipersonnel mines have been removed from Italy (announced in May 2000), Norway (November 2002), and Spain (November 1999). However, Germany, Japan, Qatar, and the United Kingdom state that US antipersonnel mine stocks are not under their national jurisdiction or control. Tajikistan is the only State Party to declare in a transparency measures report the number of antipersonnel mines stockpiled by a non-State Party on its territory. Russian forces hold 18,200 antipersonnel mines in Tajikistan.

Stated Positions on Joint Military Operations, Foreign Stockpiling, and Transit

Will not participate in planning and implementation of activities related to AP mine use in joint operations	Australia, Belgium, Bosnia & Herzegovina, Brazil, Bulgaria, Canada, Croatia, Czech Rep., Denmark, France, Germany, Hungary, Italy, Japan, Kenya , Luxembourg, Malaysia, Mexico, Namibia, Netherlands, New Zealand, Norway, Portugal, Qatar, Senegal, South Africa, Spain , Sweden, Switzerland, Tajikistan, Tanzania , Turkey , United Kingdom, Uruguay, Zambia , Zimbabwe
Interpret participation as 'active' or 'direct'	Australia, Czech Rep., New Zealand, Sweden, United Kingdom, Zambia , Zimbabwe
Reject operations if its military forces derive direct military benefit from AP mine use	Brazil, Mexico, Switzerland, United Kingdom
Reject rules of engagement permitting AP mine use or orders to use AP mines	Canada, France, Germany, Italy, Sweden, United Kingdom
Will obtain written precondition for placing forces under the command of a non-State Party	Norway
Prohibit transfer through, stockpiling of, or authorizing AP mines on national territory	Austria, Bosnia & Herzegovina, Brazil, Cameroon, Croatia, Czech Rep., Denmark, France, Guinea, Hungary, Italy, Malaysia, Mexico, Namibia, New Zealand, Portugal, Samoa, Senegal, Slovakia, South Africa, Spain, Sweden, Switzerland, Turkey , United Kingdom, Zambia
Non-State Party AP mines stockpiles declared	Tajikistan
Non-State Party AP mine stocks removed	Italy, Norway, Spain
Non-State Party AP mine stocks declared not to be under national jurisdiction or control	Germany, Japan, Qatar, United Kingdom

Bolded country names indicate new information received in 2004.

Landmine Monitor received clarifications, new policy statements, or information about steps taken nationally from the following States Parties on joint operations, foreign stockpiling, and transit issues in 2004: Australia, Bulgaria, Croatia, Italy, Kenya, Spain, Sweden, Tanzania, Turkey, and Zambia. Tanzania is one State Party that has voluntarily included this information in its annual transparency measures report.