



## LANDMINE MONITOR FACT SHEET

Prepared by Human Rights Watch

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# Assisting in Any Activity Prohibited by the Mine Ban Treaty (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." 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.

The Final Report and President's Action Program agreed upon at the Fifth Meeting of States Parties in Bangkok in September 2003 states that "the meeting called upon States parties to continue to share information and views, particularly with respect to articles 1, 2, and 3, with a view to developing understandings on various matters by the First Review Conference." The co-chairs of the Standing Committee on General Status and Operation of the Convention (Mexico and the Netherlands) at the February and June 2004 intersessional meetings undertook significant consultations on reaching understandings or conclusions on issues related to Article 1, but a number of States Parties remained opposed. A proposal circulated by the Netherlands during 2004 included many of the elements listed in the table below.

The Nairobi Action Plan for 2005-2009 indicates that the States Parties will "exchange views and share their experiences in a cooperative and informal manner on the practical implementation of the various provisions of the Convention, including Articles 1, 2 and 3, to continue to promote effective and consistent application of these provisions."

### Joint Military Operations

An understanding of how Article 1 applies to joint military operations and the meaning of "assist" has begun to emerge. A total of 41 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.



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

Several States Parties have recently made their views known to Landmine Monitor:

- **Estonia** states, "Almost two years ago the Netherlands circulated a non-paper, which lists the activities that could be regarded as assistance. The suggestions listed in the non-paper were acceptable for Estonia. On 21 June 2004 the chairs of the Standing Committee on the General Status and Operation of the Convention also introduced a non-paper on this particular topic on the basis of the Netherlands non-paper, which was acceptable for Estonia as well."
- **Albania** states that "during joint military operations with State and Non-State Parties, Albania does not use and is not engaged in the use or transport of the antipersonnel mines."
- **Macedonia FYR** states that it "reserves the right to reject any rules of engagement permitting use of APM and refuse orders to use them."
- **Slovenia** states that its "Armed Forces will under no circumstances take any action that would lead to the use of antipersonnel mines or contribute to such use in joint operations with other States."
- **Yemen** states that "one cannot participate in any activity related to the use of antipersonnel mines and should reject any rules of engagement permitting use of antipersonnel mines and refuse orders to use them, and reject participation in any joint operation if their military forces derive any military benefit from use of antipersonnel mines, and should not provide security or transportation for AP mines."

Some States Parties 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.

### **Transit and Foreign Stockpiling**

A total of 30 States Parties have declared they prohibit transfer through, foreign stockpiling on, or authorizing of foreign antipersonnel mines on national territory. Several States Parties have recently made their views known to Landmine Monitor:

- **Estonia** states that "On 21 June 2004 the chairs of the Standing Committee on the General Status and Operation of the Convention also introduced a non-paper on this particular topic on the basis of the Netherlands non-paper, which was acceptable for Estonia as well."
- **Albania** states that it "prohibits transfer of antipersonnel mines in its territory and foreign stockpiling in Albania of the antipersonnel mines."
- **Macedonia FYR** is of the opinion that the treaty "prohibits the transit of foreign APM on, across, or through territory under the jurisdiction or control of a state party; and prohibits foreign stockpiling of APM on territory under the jurisdiction or control of a State Party."
- **Yemen** supports the view that the Mine Ban Treaty prohibits the transit "of antipersonnel mines across, or the foreign stockpiling of anti-personnel mines on, territory under jurisdiction or control of a State Party."

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. Germany, Japan, Qatar and the United Kingdom have stated that U.S. antipersonnel mine stocks in their countries are not under their national jurisdiction or control.

## Stated Positions on Issues Related to the Prohibition on Assistance

Will not participate in planning and implementation of activities related to AP mine use in joint operations	<b>Albania</b> , Australia, Belgium, Bosnia & Herzegovina, Brazil, Bulgaria, Canada, Croatia, Czech Rep., Denmark, <b>Estonia</b> , France, Germany, Hungary, Italy, Japan, Kenya, Luxembourg, <b>Macedonia FYR</b> , Malaysia, Mexico, Namibia, Netherlands, New Zealand, Norway, Portugal, Qatar, Senegal, <b>Slovenia</b> , South Africa, Spain, Sweden, Switzerland, Tajikistan, Tanzania, Turkey, United Kingdom, Uruguay, <b>Yemen</b> , 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, <b>Estonia</b> , Mexico, Switzerland, United Kingdom, <b>Yemen</b>
Reject rules of engagement permitting AP mine use or orders to use AP mines	Canada, <b>Estonia</b> , France, Germany, Italy, <b>Macedonia FYR</b> , Sweden, United Kingdom, <b>Yemen</b>
Will obtain written precondition for placing forces under the command of a non-State Party	Norway
Prohibit transit through, stockpiling of, or authorizing AP mines on national territory	<b>Albania</b> , Austria, Bosnia & Herzegovina, Brazil, Cameroon, Croatia, Czech Rep., Denmark, <b>Estonia</b> , France, Guinea, Hungary, Italy, <b>Macedonia FYR</b> , Malaysia, Mexico, Namibia, New Zealand, Portugal, Samoa, Senegal, Slovakia, South Africa, Spain, Sweden, Switzerland, Turkey, United Kingdom, <b>Yemen</b> , Zambia
Non-State Party AP mine 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 by Landmine Monitor in 2006.