

STATEMENT BY BRAZIL ON ISSUES CONCERNING ARTICLE 1 (GENERAL OBLIGATIONS) OF THE MINE BAN CONVENTION

States Parties to the Mine Ban Convention should always bear themselves in accordance with the spirit and the letter of the Treaty. A very “loose” interpretation of some of the Convention’s main provisions may undermine the Treaty’s purpose and equitable character. That would be clearly deleterious to our major goals, such as the Treaty’s universalization.

Article 1 Paragraph 1(c) states that a State Party may “never under any circumstances” “assist, encourage or induce, in any way, anyone to engage in any activity prohibited to a State Party.” Brazil agrees that the Standing Committee on the General Status and Operation of the Convention should further address the implications of the obligation set forth by subparagraph (c) with regard to two issues in particular: joint operations involving non-States Parties, and stockpiling and transiting of foreign-owned landmines.

Joint Operations:

The legality of joint military operations that involve both States Parties and non-States Parties that use anti-personnel mines has been questioned on the basis of Article 1 Paragraph 1(c). Though Brazil is not part of a military alliance and belongs to a region that has known no significant armed conflicts for more than a century, we acknowledge the importance of the issue.

Brazil is of the view that Article 1 of the Convention clearly bans joint operations with non-States Parties that may involve the use of anti-personnel mines. Even if the States Parties involved in such operations do not participate directly and actively in the laying of anti-personnel mines, the operations should be considered illegal if the use of landmines by a non-State Party is of direct military benefit to those States Parties. In the absence of such a broad interpretation of the term “assist”, Article 1 would contain a serious and unfortunate loophole.

All States Parties should commit strictly to observe the provisions of Article 1, which would include giving the term “assist” as broad an interpretation as possible. States Parties should consider using the transparency regime established by the Convention to clarify matters regarding the observance by States Parties of Article 1 Paragraph 1 (c).

Stockpiling and transit of foreign-owned mines:

Brazil is of the view that the indefinite retention by a State Party of foreign-owned anti-personnel mines on territory under its national control and jurisdiction is incompatible with the spirit and letter of the Convention. Under a literal interpretation of Article 4, States Parties would not be obligated to destroy foreign-owned mines held on their national territory, given that Article 4 states that States Parties are obliged only to destroy mines they “own or possess”, or that are under their “jurisdiction and control”. Article 1, however, does set forth a broad obligation to never “stockpile, retain or transfer to anyone, directly or indirectly, anti-personnel mines”. Brazil is of the view that the latter obligation applies to foreign-owned landmines.

Brazil has no foreign anti-personnel mines on its territory and will, never, under any circumstances, allow any transiting of anti-personnel mines on its national territory for purposes that are banned by the Convention. We call upon other States Parties to undertake a similar pledge.