

**Intervention of the International Committee of the Red Cross
Standing Committee on the General Status and Operation of the
Convention
16 May 2003**

Article 2

Despite the significant progress made in implementation of most aspects of the Convention it is unfortunate that after 4 years of discussion States have been unable to achieve a clear understanding of the implications of the article 2 definition of an antipersonnel mine as regards the issue of sensitive fuses - which can cause mines intended for vehicles to function as antipersonnel mines. There is also considerable ambiguity concerning which anti-handling devices are permitted and which are not. The ICRC continues to insist, based on the negotiating history, the object and purpose of the Convention and the basic rules of treaty interpretation, that any mine which is likely to be detonated by the presence, proximity or contact of a person is an antipersonnel mine prohibited by this Convention. Specifically, this means that tripwires breakwires, tilt-rods, low-pressure fuses and similar fuses are prohibited for State Parties.

The implication of any other interpretation is that killing or maiming a person through detonation of a device containing a relatively small amount of explosives is prohibited whereas doing the same through the use of a more lethal device containing far more explosives is permitted. This would be an absurd situation that would do no credit to the credibility of the Convention.

We would also like to comment on the use of the word "design" in the article 2 definition of an antipersonnel mine. For the ICRC, the word "design" does not mean "intent" and it does not mean the "label" which is attached to the mine. If a mine is easily detonated by the presence, proximity or contact of a person this **is** the result of its design. We urge States to resume efforts to clarify this issue before or at the 2004 Review Conference. Such efforts, in our view were suspended while efforts to pursue a "best practices" approach in this treaty context were pursued. As I will indicate in discussions under the next agenda point, a process to reach an understanding on best practices in the context of this Convention appears no longer to be possible.