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LANDMINE MONITOR FACT SHEET

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Stockpiling and Transit of Foreign Antipersonnel Mines (Articles 1, 2, and 4)

Logistical support measures for Coalition antiterrorism military operations in Afghanistan and elsewhere necessitate urgent consideration of this issue by States Parties. States Parties should insure that munitions destined for use in Afghanistan or elsewhere transiting their territory do not contain antipersonnel mines.

Transit

It appears that States Parties have differing views about whether the Mine Ban Treaty's prohibition on "transfer" of antipersonnel mines also applies to "transit." The main issue is whether a non-State Party's aircraft, ships, or vehicles carrying antipersonnel mines can pass through (and presumably depart from, refuel in, restock in) a State Party on their way to a conflict in which those mines would be used. The ICBL believes that if a State Party willfully permits transit of antipersonnel mines which are destined for use in combat, that government is certainly violating the spirit of the Mine Ban Treaty, is likely violating the Article 1 ban on assistance to an act prohibited by the treaty, and possibly violating the Article 1 prohibition on transfer. The ICRC has also expressed its view that the treaty prohibits transiting of mines.

The following States Parties have stated that transit of antipersonnel mines is prohibited: Austria, Croatia, Czech Republic, Denmark, France, Guinea, Italy, New Zealand, Portugal, Slovakia, South Africa, Spain, and Switzerland.

Canada, Germany, Japan and Norway have indicated that they believe transit of antipersonnel mines is permitted.

Logistical support measures for Coalition antiterrorism military operations in Afghanistan and elsewhere necessitates urgent consideration of this issue by States Parties. For example, while the United Kingdom has expressed the view that U.S. stocks of antipersonnel mines contained in ammunition pre-positioning ships at Diego Garcia are not under U.K. jurisdiction or control, this leaves open the question of the legal

interpretation if those mines were moved ashore and loaded on aircraft operating from the base at Diego Garcia for use in Afghanistan.

States Parties should insure that munitions destined for Afghanistan or elsewhere transiting their territory do not contain antipersonnel mines. Landmine Monitor has recently discovered that in 1999 U.S. Army engineer units deployed to Albania with antipersonnel mines and their delivery systems (MOPMS and Volcano mixed mine systems) as part of Task Force Hawk to support operations in Kosovo. Most of the U.S. Army units deployed from bases in Germany. At the time of this deployment, Albania was a signatory to the Mine Ban Treaty and Germany was a State Party to the treaty.

The issue of transit is not limited to the U.S. and its military partners. Concern has been expressed that State Party Namibia may be permitting Angolan units to transit antipersonnel mines through Namibian territory as part of Angolan operations against UNITA forces. However, one Namibian official has said that the Angolan army is “prohibited from transiting weapons like mines through Namibia.”

Stockpiling

The ICBL believes that it would violate the spirit of the Mine Ban Treaty for a State Party to permit any government or entity to stockpile antipersonnel mines on its territory, and would violate the letter of the treaty if those stocks are under the jurisdiction or control of the State Party.

The United States stores antipersonnel mines in at least five nations that are States Parties to the Mine Ban Treaty: Norway (123,000), Japan (115,000), Germany (112,000), Qatar (11,000), and United Kingdom at Diego Garcia (10,000), as well as treaty signatory Greece (1,100). U.S. antipersonnel mine stockpiles have been removed from States Parties Italy and Spain.

Germany, Japan, and the United Kingdom do not consider the U.S. mine stockpiles to be under their jurisdiction or control, and thus not subject to the provisions of the Mine Ban Treaty or their national implementation measures. The United Kingdom reiterated this view in a written response to a Landmine Monitor fact sheet distributed at the May 2001 intersessional meetings: “We wish to affirm that US stocks do not fall under our national jurisdiction or control and we do not therefore have any obligations under Article 4...in respect of them. We have fully complied with our obligations in respect of stocks that were under our jurisdiction and control.”

Norway, through a bilateral agreement with the U.S., has stipulated the mines must be removed by 1 March 2003, which is the deadline for Norway to comply with its Mine Ban Treaty Article 4 obligation for destruction of antipersonnel mines under its jurisdiction or control. Norway has not publicly disclosed the status or progress of the efforts to remove the U.S. mines. Qatar has yet to comment on the issue; it has not acknowledged the presence of U.S. antipersonnel mines, nor whether the mines are considered to be under Qatar’s jurisdiction or control.

There is also concern about Russian stockpiles of antipersonnel mines. Russian forces stationed in State Party Tajikistan are likely to stockpile antipersonnel mines there, given the recent use by Russian forces on the Tajik-Afghan border. It is not known whether Russian peacekeeping forces possess antipersonnel mines in the Pridnestrovie Moldavian Republic, a breakaway region of State Party Moldova.