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EU ACTIONS AND POLICY IN REGARD TO MINE CLEARANCE

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Policy Unit

EU ACTIONS AND POLICY IN REGARD TO MINE CLEARANCE

STUDY

Abstract:

This paper provides a short account of implementation of the Ottawa convention concerning anti-personnel mines and of EU policy in this regard. It analyses obstacles to restrictions on their future use and makes proposals.

This note has been prepared for the information of Members of the European Parliament. The opinions expressed are those of the authors and do not necessarily reflect the position of the European Parliament.

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1. Aim

1.1 The aim of this study is provide a concise account of the latest situation in regard to implementation of the EU's policies concerning anti-personnel devices, with particular reference to the Ottawa Conventions and subsequent developments. Moreover, this study will provide an analysis of the barriers that face the international community in its attempts to combat, clear and restrict the future use of anti-personnel landmines (APL).

1.2 This study will explore and analyse the four main thematic provisions of the Ottawa Treaty, how these measures have been implemented thus far and the obstacles that have been faced during this implementation. Section Eight will examine the December 2004 Nairobi Convention which reviewed and updated elements of the Ottawa convention output and Section Nine provides policy recommendations on where the EU can take its efforts regarding APLs and the Ottawa Conventions, in the context of not being a signatory itself.

2. Context

2.1 The EU has been at the forefront of efforts to combat further proliferation of landmines and to clear mined areas, making a large financial commitment to a large number of projects with these objectives.¹ The EU is the largest single contributor to the UN Voluntary Trust Fund for Assistance in Mine Clearance and has provided, through the Joint Research Centre, technological advice and support to research projects, member governments and other organisations engaged in anti-mine activities.² Between 1992-98 the EU spent EUR180million to mine-action globally. This money was spent on de-mining, research and development concerning landline clearance technology and victim assistance. The EU's contribution increased markedly in the period 1997-2003 with overall levels of funding running at EUR842million, a considerable proportion of the US\$2billion allocated to landmine control and clearance globally in the same period.³ The EU's 2002-4 landmines strategy supported the clearance of mines and related problems in 33 countries and was allocated a budget of EUR125.7million.⁴ The 2005-7 strategy, published in October 2004, focuses more heavily on the assistance that can be provided to victims of anti-personnel mines and provides a stated aim of reducing the number of APL victims to zero in the medium to long term.⁵ To try and meet these broad aims the strategy pledges EUR60million from **APL Budget Line 19 02 04** for 2005-7 (within the context of an annually reviewed budget) and an additional EUR140million from other complimentary EC instruments.⁶ In practical terms the strategy proposes to use its financial instruments as a means by which to prime political dialogue.⁷ The strategy presents a clear programme for localising solutions to the APL problem – it emphasises building up local clearance capabilities, enhanced use of the nine EC funded Landmine Impact Surveys, mainstreaming mine action into wider programmes of assistance (particularly through European Commission country delegations)

¹ The EU has financed or co-financed a variety of projects in a wide range of different countries, including: Armenia, Azerbaijan, Afghanistan, Mozambique, Sri Lanka, Democratic Republic of Congo, Bosnia-Herzegovina, Kyrgyzstan, Somalia, Sudan, and the Ukraine. Similarly the Council of Ministers has been involved in the issue of anti-personnel mines since 1995 in terms of Joint Actions and Resolutions. *Commission Continues to Fight Landmines*, IP/04/388, 25 Mar 2004, Brussels.

² *The EU and the Anti-Personnel Landmines Challenge, 'Actions to Date'*, http://europa.eu.int/comm/external_relations/mine/intro/index.htm accessed 1 Dec 2004.

³ *The EU and the Anti-Personnel Landmines Challenge*, see Footnote 2, p.2.

⁴ *The EU Multi-Annual Strategy 2002-2004*, europa.eu.int/comm/external_relations/mine/intro/02_04en.pdf Accessed 6 December 2004.

⁵ *The EU and the Anti-Personnel Landmines Challenge* http://www.europa.eu.int/comm/external_relations/mine/intro/#multi0507 accessed 8 December 2004.

⁶ *The European Roadmap towards a Zero Victim Target: The EC Mine Action Strategy & Multi-annual Indicative Programming 2005-2007*, October 2004, p.9. See also the annexes to the Strategy Report, pp.28-32.

⁷ *The European Roadmap towards a Zero Victim Target: The EC Mine Action Strategy & Multi-annual Indicative Programming 2005-2007*, see footnote 6, p.12.

and enhancing the co-ordination of donor assistance. This fits in and advances the priorities and public pronouncements of the recent Nairobi Conference to refocus efforts on the social and economic rehabilitation of landmine victims.

2.2 The global effects anti-personnel landmines extends beyond the bare costs of removal and immediate medical treatment for victims. The estimated cost to remove one landmine is, on average, from EUR300 to EUR1,000 and the cost for surgical care and fitting of an artificial limb is EUR3,000 or more per amputee depending on country location.¹ Longer-term effects of landmines are felt by populations and wider environments, often hindering post-conflict reconstruction and adding to reconstruction bills. Studies concerning the social costs of landmines in Afghanistan, Bosnia-Herzegovina, Cambodia, and Mozambique revealed that between 25-87% of households had their daily activities disrupted by the presence of APLs. APLs pose a distinct threat to international security through the affect of these weapons on refugees and returnees in post-conflict reconstruction areas, delaying the emergence of normal political, social and economic conditions to an area. Repatriation is often difficult because the routes of return and settlement areas are frequently mined making normal habitation virtually impossible and keeping the number of displaced persons at an artificially high level. In the case of Bosnia and Herzegovina this promoted further instability in the region and thus presents a core challenge to the security of the EU.

2.3 In a comprehensive report published by the UN High Commissioner for Refugees (UNHCR) asserted that as of January 1, 1997, some 22.7 million people were 'at risk' from becoming (or in being) refugees. This figure was composed of 13.2million refugees, 4.9million internally displaced persons (IDPs), 3.3million returnees, and 1.3million others.² Of these 22million people, more than half were located in the most heavily mined countries (Afghanistan, Angola, Bosnia, Cambodia, Croatia, Eritrea, Iraq, Mozambique, Somalia, and Sudan). By 2003 the number of people globally that the UNHCR considered to be 'at risk' had been reduced to little over 18million persons.³ A contributory factor in this being the considerable international attempts made to alleviate the factors that 'cause' displacements and hinder returns; one of which is clearing APLs, which emphasises the importance of the EU's role in this activity.

2.4 Remaining APLs have the effect of:

- posing huge ancillary social costs;
- creating large numbers of IDPs;
- impeding economic recovery, prolonging the need for international assistance;
- preventing the delivery of government services;
- serving as physical obstacles to unity and reconstruction;
- creating conditions for the spread of disease, as well as inflicting injuries, ending lives; and
- encouraging continued militarization of post-conflict societies.

2.5 International efforts to combat APLs have centred around the 1997 Treaty of Ottawa that came into force on 1 March 1999. The Treaty prohibits the use, production, trade and stockpiling of antipersonnel mines, and requires clearance of mined areas within ten years. The EU has repeatedly stated that it fully supports the implementation and universalization of

¹ Joint Research Centre, European Commission, *International Workshop and Study on the State of Knowledge for the localisation and identification of anti-personnel mines*, Office for Official Publications of the European Communities, Luxembourg, 1995, p.10; Richard Garwin, Jo Husbands, *Progress in Humanitarian Demining: Technical and Policy Challenges*, Prepared for the Xth Armaidi Conference, Paris, 20-22 Nov 1997.

² United Nations High Commissioner for Refugees, *The State of The World's Refugees, 1997-98. A Humanitarian Agenda*, New York, 1997, p268.

³ United Nations High Commissioner for Refugees, *Global Report 2003*, New York, 2003, p.19.

this Treaty has pledged itself to take positive steps to ensure this, in addition to the already very large financial contribution it has made.¹ The four key themes of the Treaty are examined below.

¹ *Statement by His Excellency Ambassador Markku Reimaa, Representative of Finland on behalf of the European Union, New York, 11 Oct 1999, 54th Session of the General Assembly.*
http://www.un.int/france/documents_anglais/991011_ag_eu_pleniere.htm Accessed 24 Nov 2004.

3. The Ottawa Treaty: Implementation and Obstacles to Implementation.

3.1 The Ottawa Treaty was the culmination of international political pressure to fill a perceived void in the efforts to combat APLs. Prior to the Ottawa Treaty the 1980 Convention on Certain Conventional Weapons (CCW) was the only international law provision controlling the use of APLs. A review of the CCW, which was viewed by many to be inadequate for the task of controlling mines, was carried out in 1995/96 but the review conference did not make any significant changes to this set of conventions.¹ The review did, however, produce the political campaign known as the ‘Ottawa process’ with the aim of establishing a total ban of APL devices.

3.2 This process led to the adoption of the Mine Ban Treaty in December 1997, when 122 governments signed the treaty in Ottawa, Canada. In September 1998 the fortieth State Party signed the Treaty and allowed it to come into force on 1 March 1999. The treaty sets out a series of obligations for signatory states. They agree to:

- Never use anti-personnel mines, nor to ‘develop, produce, otherwise acquire, stockpile, retain or transfer’ them.
- Destroy mines in their stockpiles within four years of the treaty becoming binding.
- Clear mines in their territory, or support efforts to clear mines in mined countries, within 10 years.
- In mine-affected countries, conduct mine risk education and ensure that mine survivors are cared for, rehabilitated and reintegrated into their communities.

3.3 Since 1997 144 State Parties have signed the Conventions (a further eight having signed but not ratified the Treaty as yet).² According to Article 7 of the Convention, parties to the agreement must report to the UN Secretary General ‘as soon as practical, and in any event not later than 180 days after the entry into force of this convention for that State Party’ on steps taken to implement the treaty. Thereafter, States who are party to the agreement are required to report annually to the Secretary General on implementation with an annual due date of 30 April.

3.4 It has been noticeable that there has been a widespread absence of timely reporting under Article 7 as well as inconsistent standards of reporting.³ Moreover, signatories to the convention have largely avoided commenting on foreign stocks, anti-vehicle mines with anti-handling devices or sensitive fuses which are banned by the Treaty and the use of APLs retained for ‘training and development’.⁴ These are areas in which the EU can support efforts, as one of the largest financial donors to anti-landmine programmes, to improve transparency of reporting from signatory states and particularly from within EU member governments (see **Section 9.5.1**)

¹ David Long, ‘The European Union and the Ottawa Process to Ban Landmines’, *Journal of European Public Policy*, Vol.9, No.3, June 2002, pp.429-446, p.431; M de Lrrinaga & C Sjolander, ‘(Re)presenting landmines from protector to enemy: the discursive framing of a new militarisation’, in M Cameron, R Lawson & B Towlin (Eds), *To Walk Without Fear: The Global Movement to Ban Landmines*, Oxford University Press, Toronto, 1998, pp.364-391.

² Ethiopia being the most recent government to ratify the Treaty (29 November 2004.)

³ Kjell Knudsen, International Campaign to Ban Landmines, accessed 8 December 2004.

⁴ Work to improve reporting and monitoring has been done by the International Campaign to Ban Landmines with the establishment of the ‘Landmine Monitor’ Report, the most recent edition of which was published on 18 November 2004.

4. The First Aim of the Ottawa Treaty – Clearing Mined Areas

4.1 Article 5(1) of the Ottawa Treaty states that each State Party commits itself to clearing areas in its jurisdiction or control that are affected by APLs, within 10 years of the Conventions coming into force. Article 5(2) extends this principle by stating that each States Party shall identify areas within its jurisdiction or control that is affected by anti-personnel mines and shall at the least demarcate and restrict access to these areas with the aim of clearing these areas of APLs.

4.2 There has been considerable international success in meeting this first aim: 1,110sq kilometres of land were cleared between 1999-2003 which had the affect of destroying four million APLs, one million anti-vehicle mines and an unspecified, but large number of unexploded ordnance. This has brought a great deal of unusable land back into general use, promoting stability and post-conflict reconstruction efforts.

4.3 Sixty five State Parties engaged in some form of mine clearance in 2003 and 2004 including humanitarian mine clearance operations in Armenia, Chile, Senegal and Tajikistan.¹ In 2003 it is estimated that more 149sq. kilometres of land was cleared resulting in the destruction of 174,167 APLs, 9,330 anti-vehicle mines and 2.6 million items of unexploded ordnance. Only 6 of the 144 State Parties to the Ottawa Treaty have completed clearance of their mine affected areas since 1999, with a clear Treaty-based commitment for most State Parties of completing this work by 2009.² Significant obstacles to completing this work have been identified in 13 States who, during 2003 and 2004, made no attempts to clear their APL affected areas or to engage in mine risk education, placing a large question mark over whether these governments will be able to fulfil their Treaty obligations (see **Sections 9.1.1 and 9.5.1**).³

4.4 The estimated total international financial contribution to action against landmines have totalled US2.07bn (1992-2003).⁴ 65% of that total contribution (around US1.35bn) was contributed after the Ottawa Treaty came into force on 1 March 1999.⁵ Furthermore, the contributions figure in 2003 of US339million is 43% or US102million greater than it was in 2001 demonstrating a growing international realisation and commitment to Ottawa Treaty responsibilities. However, six major international mine-action donors, including four EU member governments, reduced their financial contribution to mine action programmes in 2003-2004.⁶ The European Community's contribution increased from EUR87 (1999-2002) to EUR125,754 (2002-2004) showing a clear European commitment to the landmine clearance efforts and to principles of humanitarian foreign policy interventions.⁷

4.5 The geographical allocation of aid and investment in mine clearance work is increasingly proving to be an obstacle to the effective and speedy clearance of APLs. In 2003, and arguably as a result of US/Coalition military operations, Afghanistan and Iraq jointly benefited from 38% of the global mine action investment. This seems to have been to the direct detriment of mine-affected countries that had previously enjoyed healthy levels of mine

¹ *Commission Continues to Fight Landmines*, DG1A, IP/04/388, Brussels, 25 Mar 2004.

² The six State Parties that have completed this work are Bulgaria (October 1999), Moldova (August 2000), Costa Rica (December 2002), Czech Republic (April 2003), Djibouti (January 2004) and Honduras (June 2004). Signatories have ten years from the date the treaty was ratified by them to complete this work.

³ For an interesting analysis of the primacy of state responsibility in relation to the Ottawa conventions please see: Kerry Brinkert, 'The Convention Banning Anti-Personnel Mines: Applying the Lessons of Ottawa's Past In Order to Meet the Challenges of Ottawa's Future', *Third World Quarterly*, Vol.24, No.5, 2004, pp.781-793, p.785.

⁴ *The EU and the Anti-Personnel Landmine Challenge*, see footnote 3.

⁵ *Landmine Monitor Report 2004, Special Five Year Review*, Human Rights Watch, Aug 2004.

⁶ Japan, Austria, Italy, Australia, France and the Netherlands all reduced their contributions to be mine action programmes during 2003/4. The reasons behind these decisions have not been publicly announced. Also see Figure 5 for global anti-APL spending trends.

⁷ *The EU Multi-Annual Strategy 2002-2004*, see footnote 4.

action investment. Countries that have notably experienced large reductions in mine clearance investment include Vietnam, Cambodia, Bosnia and Herzegovina, Eritrea, Somaliland, Laos, and Ethiopia which may have the unfortunate result of delaying the stabilisation of these areas.

5. The Second Aim of the Ottawa Treaty – Assisting Victims

5.1 Article 6(3) of the Treaty provides an obligation on signatories to provide care and social and economic rehabilitation assistance to victims of APLs, not necessarily directly but through the multitude of NGOs that operate to alleviate this situation. Article 6(e) reinforces this obligation by stating that there is a general duty on State Parties to assist the victims of anti-personnel mines.

5.2 The general global situation regarding victims of APLs is a positive one. The number of new mine casualties, in 2003-04, has declined in most mine-affected countries. *Landmine Monitor* identified 8,065 new landmine related casualties in 2003 compared to 8,333 in 2002. These figures represent reported casualties, and do not obviously represent casualties not caught by bureaucratic reporting procedures. As a result *Landmine Monitor* asserts, through experience and anecdotal evidence, that there is somewhere in the region of 15,000 to 20,000 new landmine related casualties each year which is fewer than the 26,000 new casualties per year that it estimated in the mid-1990s.¹

5.3 The relatively large estimated annual figure of 15,000 to 20,000 new APL related casualties reflects the need for continued international efforts to be made to clear mined areas and also that there has been a focus on anti-proliferation and clearance measures to the detriment of victim support. Landmine detonations resulting in casualties occurred in 65 countries with 70-86% of those casualties being from the civilian population and 23% being children.² It should therefore be a concern that financial resources that can be directly attributable to victim assistance, have decreased from US\$29.8million in 1999 to US\$28.2million in 2003.³ In terms of a percentage figure against the global funding of all Ottawa Treaty activities this represents a reduction from 14.9% to 8.3% of the total funding available from 1999-2003.

5.4 According to *Landmine Monitor* only 35 countries received financial or other types of assistance for victims of landmines from other States in 2003.⁴ The majority of this aid was targeted as physical rehabilitation programmes and not social and economic rehabilitation programmes, a key foundation stone of rehabilitating both the victim and the local economy from the affects of landmines.⁵ With 42,500 new victims having been identified across 75 countries since 1999 and with a total of somewhere in the region of 400,000 mine survivors in 121 countries an absence of considerable international funding for social and economic rehabilitation is a large obstacle preventing full economic and labour market recovery in mine affected areas. There are no policy obstacles preventing an increase in financial and technical assistance in social and economic rehabilitation and fits well within the EU's sustainable development programmes.⁶

¹ *Landmine Monitor Report 2004, Five Year Special*, see footnote 20.

² *Statement by His Excellency Ambassador Aldo Mantovani, Deputy Permanent Representative of Italy to the United Nations on behalf of the European Union to the Plenary Meeting of the General Assembly of the United Nations on the Assistance in Mine Action, Item 22, New York, 5 Nov 2003.*

³ *Landmine Monitor Report 2004, Five Year Special*, see footnote 20.

⁴ *Landmine Monitor Report 2004, Five Year Special*, see footnote 20.

⁵ See Section 9.5.1

⁶ *The EU's Human Rights and Democratisation Policy, An Overview of Community Activities in the Field of Children and Armed Conflict*, Commission Non-Paper, April 2004, http://europa.eu.int/comm/external_relations/human_rights/child/auditpaper.htm Accessed 24 Nov 2004.

6. Third Aim of the Ottawa Treaty – Destroying stockpiles of Anti-personnel mines

6.1 Article 4 of the Treaty calls for the destruction of stockpiles of APLs: ‘Except as provided for in Article 3, each State Party undertakes to destroy or ensure the destruction of all stockpiled anti-personnel mines it owns or possesses or that are under its jurisdiction or control, as soon as possible but not later than four years after the entry into force of this convention for that State Party.’¹

6.2 It is estimated that there are 215-230million APLs stockpiled in non-signatory countries and an additional 230-250million APLs held in around 100 signatory countries.² The vast majority of these stockpiled devices in signatory States are outdated and in the process of being destroyed. A large increase in the destruction of APLs has been found in the number of states actually decreasing their stockpiles; in 2004 sixty five signatory states had destroyed their stockpiles amounting to 37million APLs.³ Of these sixty five States the twenty five member governments of the EU have either destroyed their stockpiles, are in the process of destroying their stockpiles or have declared that they do not retain anti-personnel mines.⁴ The exception to this good practice in the EU is with the storage of anti-personnel mines belonging to the United States in Germany and in the United Kingdom’s territory at Diego Garcia. The UK and German governments both maintain that the US mines are not under its jurisdiction or control, and thus not subject to Article 4 provisions. An element of the principle of universalisation is trying to spread anti-landmine norms to states not party to the Ottawa Treaty. As a result allowing the storage of anti-personnel mines in UK and German government jurisdiction arguably breaches the spirit of the Treaty.

6.3 The two largest obstacles to implementation of the Article 4 provisions is the presence of significant military actors who are not signatories to the Ottawa Treaty and who retain a large number of anti-personnel devices outside of the legal framework of the Conventions. The second significant obstacle is the retention and use of anti-personnel devices for training and development, with many States Parties exercising the Article 3 exception to retain some anti-personnel devices for these purposes. Of these States Parties aiming to exercise this exception many intend to retain 1,000 to 5,000 devices.⁵

6.4 The Ottawa Treaty provides, under Article 7 reporting, for transparency over the number of devices retained and the purpose to which they are to be used. Thus far, many States Parties have not provided complete transparency on this issue, nor provided rationale, on the basis of exceptionalism, reasons to retain anti-personnel devices. There is no suggestion in any of the available sources that the Article 3 exception is being used for banned trade or proliferation activities but is a questionable practice in the light of an agreement that anti-personnel devices are an unnecessary technology in modern warfare.

¹ *Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction*, 1997, Ottawa, p.5.

² For example it is estimated that China has stockpiled 110million landmines, Russia 60million, USA 11million, Pakistan 6million, India 4million. International Campaign to Ban Landmines, http://www.icbl.org/lm/factsheets/pdf/stockpile_feb_2003.pdf

³ International Campaign to Ban Landmines, *Anti-Personnel Mine Stockpile Destruction Briefing (Article 4)*, http://www.icbl.org/lm/factsheets/pdf/stockpile_feb_2003.pdf

⁴ *Landmine Monitor Fact Sheet*, Prepared by Human Rights Watch For the Seventh Meeting of the Intersessional Standing Committee on Stockpile Destruction, Geneva, Switzerland, 6 February 2003

⁵ Several countries aim to keep considerably more. Croatia 17,500; Brazil 17,000; Ecuador 16,000; Japan 13,582; Australia 10,000; Italy 8,000; and Slovenia 7,000, although these figures are subject to fluctuation. http://www.icbl.org/lm/factsheets/pdf/stockpile_feb_2003.pdf

7. Fourth Aim of the Ottawa Treaty – Universalising the Convention.

7.1 There are two aspects to universalisation of the convention. The first is to persuade the final 42 states not currently party to the convention to sign and ratify the Treaty.¹ The second is to ensure that there is compliance by the signatories to the Treaty.

7.2 A positive trend towards universalisation has been the reduction in the number of states where clear evidence can be found of them using antipersonnel mines from fifteen in the 1998/99 reporting period to four (Georgia, Myanmar (Burma), Nepal and Russia) in the 2003/04 reporting period.² A similar improvement has been found in the number of states destroying their stockpiles of APLs; in 2004 sixty five signatory states had destroyed their stockpiles amounting to 37million APLs. A significant barrier to universalisation of the Conventions has been the attitude of China, Russia, the United States and many of the governments of the Middle East who refuse to sign or ratify the Treaty. Indeed, in February 2004 the United States abandoned its long held ambition to eventually ratify the Treaty. Positive developments can be found in the UN's belief that the illicit trade in APLs has all but come to an end – with only officially sanctioned trade now occurring and of the 50 countries acknowledged to have produced APLs all but 15 have halted manufacture.

7.3 As of 1 February 2004, the UN had received initial Article 7 transparency measures reports from 116 States Parties. The overall compliance rate of States Parties submitting initial transparency measures reports is 88%, up from 75 percent reported in 2002 and 63 percent reported in 2001. Sixteen States Parties are late in submitting their initial (1999) transparency measures report as required by Article 7 and thereby showing a gross breach in their obligations to the Treaty.³

7.4 Initial transparency measures reports were due from nine States Parties in 2004.⁴ Of particular interest to the EU are those from Greece (submitted 7 July 2004), Turkey (yet to be submitted), Belarus (submitted 1 July 2004), Serbia & Montenegro (yet to be submitted). As of 1 February 2004, the rate of compliance for annual reports due on 30 April 2003 for calendar year 2002 was 65 percent. A total of 81 reports were submitted to the UN out of the 124 States Parties obligated to submit annual updates. The 43 States Parties not submitting an annual update in 2003 can be found in Annex, Figure 2 and include Portugal. Moreover, several states not party to the Convention submitted voluntary Article 7 reports, including Lithuania in 2002 when it was a signatory, as well as Latvia and Poland in 2003. At the May 2003 Standing Committee meeting, Ambassador Jean Lint of Belgium (President of the Fourth Meeting of States Parties) suggested that all non-States Parties that voted in favour the UN General Assembly Resolution 57/74, which calls for universalization and implementation of the Mine Ban Treaty, should be encouraged to submit voluntary transparency reports, there is no cost to the EU in supporting his call.⁵

¹ For a list of these states please see Annex, Figure 1.

² *Landmine Monitor Report 2004, Five Year Special*, see footnote 20.

³ These are listed in Annex, Figure 2.

⁴ For a complete list please see Annex, Figure 3.

⁵ Landmine Monitor Factsheet, prepared by Human Rights Watch, *Article 7 – Transparency*, Geneva, 9 Feb 2004.

8. Nairobi Conference

8.1 The Nairobi conference, the first review of the 1997 UN Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines, ended on 6 December 2004 with the participating countries adopting a declaration renewing their commitment to rid the world of APLs and also committing themselves to a comprehensive five-year plan aimed at expediting the clearance and destruction of landmines.

8.2 The text agreed at Nairobi states: "We renew our unwavering commitment to achieving the goal of a world free of anti-personnel mines in which there will be zero new victims... We will strengthen our efforts to clear mined areas and destroy stockpiled anti-personnel mines in accordance with our time-bound obligations. We will assist mine victims and vigorously promote the universal acceptance of the convention [against landmines]."¹

8.3 Twenty three non-signatory States also attended the Nairobi conference. These included China, Cuba, Egypt, India, Iraq, Lebanon, Somalia and Sri Lanka. This significant group of observer States points to broad support for the goals of the Mine Ban Treaty, which fits into the principle of universality, advanced by the original Treaty and adopted as an operating principle by the States Parties. A threat to the universality of the Treaty was raised with the increasing incidence of non-state actors using anti-personnel devices in conflict areas, which provides a challenge to the government signatories of the Treaty.

8.4 The main themes highlighted at the conference were a need to further clarify interpretation of the individual Treaty Articles, to further the principles of universality including attempts to persuade non-signatory States to sign and ratify the Treaty, and to increase the amount of financial support provided to victims.²

9. Policy Recommendations

There has been much good work done since the Ottawa Treaty came into force in March 1999 and the EU has been at the forefront of funding anti-mine activities and supporting the international norms established by the conventions. This section lays out the means by which the EU can support the existing conventions and help extend them to make anti-mine efforts more comprehensive.

9.1 Universality

9.1.1 The European Parliament should make strenuous efforts through its links with the 42 non-signatory states to persuade them to sign and ratify the Conventions.³ The other institutions of the EU should also lobby and pressurise non-signatory states to do so. It is particularly important that the largest non-signatory states, the United States, China, Russia and the governments of the Middle East are persuaded to sign and ratify the Treaty for symbolic and practical reasons. Whilst trade and foreign policy tools might seem a particularly attractive route for applying this pressure on non-signatory states this approach has serious attendant risks. A more prudent approach would be to focus on educating non-signatories about the benefits of anti-mine efforts and that destroying stockpiles does not have any adverse effects on their strategic positions.

¹ *First Review Conference of the States Parties to the Conventions on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and their Destruction*, APLC/CONF/2004/L.1/Rev.1, 3 Dec 2004.

² *Towards a Mine Free World – The Nairobi Declaration*, 3 Dec 2004.

http://www.reviewconference.org/pdf/draft/revised_draft_Nairobi_Declaration_5Nov04_e.pdf

³ The 42 non-signatory states are listed at Annex, Figure 1.

9.1.2 The EU should also be aware that there is increasing prevalence of non-state actors using APLs in conflict zones. These actors fall outside the legal framework in their own right but are vicariously caught by Article 4 in which governments are responsible for identifying and removing APLs in their jurisdiction or territory they control. Assistance should be provided to governments affected by non-state actors deploying anti-personnel mines in their territories to control the proliferation of mined areas, which greatly assists stabilising these countries.

9.2 Effective technologies

9.2.1 In the light of good progress having been made to universalise the Treaty and the international norm of destroying stockpiles, assisting victims and preventing further APL proliferation the EU should explore ways of further investing in new technologies to improve the ease of which APLs can be detected and removed. Such innovative systems are being developed that include: electro-magnetic detection, acoustic or seismic systems, explosive vapour detection techniques, bulk explosive detection techniques, innovative ‘prodders’ and probes and advanced microwave detection systems.¹ There is anecdotal evidence that some research teams based within the EU have struggled to find appropriate funding streams even when their innovations have been shown to dramatically improve detection rates of landmines.²

9.3 Effective distribution of aid to victims of anti-personnel mines.

9.3.1 APL detection and clearance should be seen in the context of wider responsibilities to rebuild failed or collapsing states. There is good evidence that the detection and disposal of APLs greatly assists an affected area re-accommodate its displaced persons, re-establish functioning economies and re-build links of trust amongst populations. The distribution of financial assistance and other aid to these areas is therefore particularly important. Aid to victims should focus on both the short and medium term perspectives. In the short term to ensure that adequate medical facilities are provided to ensure that no additional adverse health outcomes are experienced by the victim and that recovery is as swift as possible. In the medium term social and economic assistance should be given to both the victim and the local area to enable victims of APLs to re-enter the labour market with a fair chance of finding suitable and valuable employment. To that end the EU should work towards ending the downward trend of investment in victim assistance programmes.

9.4 Using EU financial strength to stabilise failed states or countries at risk of instability.

9.4.1 APLs have often been used in countries considered to be at risk of failure or having already collapsed. As such a key preventive measure is to intervene in those countries using financial, development or foreign policy tools. One of the touchstone issues in failing states has historically been conflict over resources. The EU has access to finance and technologies that could be supplied to countries at risk of instability that provide sustainable industries (be it extraction or processing raw materials) for those populations, thus lessening the resentment that can be built up between societal groups over access to resources.

¹ Jacqueline MacDonald, J. R. Lockwood, John McFee, Thomas Altshuler, Thomas Broach, Lawrence Carin, Russell Harmon, Carey Rappaport, Waymond Scott, Richard Weaver, *Alternatives for Landmine Detection*, RAND, 2003.

² Such technology has been re-deployed in the medical instruments sphere where appropriate levels of funding could be more easily secured. The rationale for this is said to be that investment can only be secured when the intellectual property created reaches a very wide market. There have been several large studies on this subject. For example, European Commission, Directorate General, Joint Research Centre, *Systemic Testing and Evaluation of Metal Detectors and Dual Sensor Mine Detectors*, Sep 2004; And D. Dohn, E. Banks and P. Banks, *Producing Better Evaluation of EC Funded Mine Action Projects*, 2001.

9.5 Statutory compliance and extension.

9.5.1 The principle objective for the EU in relation to the Ottawa conventions should be to exert sufficient pressure on EU member governments and Ottawa signatories to implement verifiable measures that go towards full implementation of the Treaty. Individual member governments should be encouraged to adopt national legislation to prohibit the development, production, stockpiling, sale, transfer and use of APLs to ensure that there is effective, continued ratification of Ottawa and moreover should ensure greater levels of transparency to national parliaments and their publics with regard to how they are implementing the Treaty.

9.5.2 EU Member governments should be encouraged to enforce sanctions laid down in the Treaty against those signatory states who are in breach of the convention and should promote mine risk education in those areas particularly affected by APLs. Similarly, EU member governments and the EU should prioritise their efforts concerning mine clearance in those areas most severely affected by mines but also take steps to fence off those areas with a less serious incidence of them but with eventual clearance as the express aim. The EU should seek to introduce legislation that bans European companies from carrying out activities in countries that have not ratified the Treaty that are against the spirit of the Ottawa Treaty. In addition to urging all EU Member Governments to comply with the Ottawa Treaty provisions and their resultant obligations, including stockpiling APLs for non-signatory states, the EU should press for an extension to the Treaty to include devices that are not included in the Ottawa Convention but which present a persistent threat to the health and welfare of those affected by them. These include, for example, anti-vehicle mines with sensitive fuses, tripwires or tilt-rods that can be set off by pedestrians. It would also be prudent to put pressure on signatory countries, especially EU member governments, to reveal a) what activities are allowed during joint military exercises with states that are not party to the convention and b) how many anti-personnel mines are being used for training by states that are party to the convention.