

Toward completion: Fulfilling our obligations under Article 5

Non-Paper presented by Norway 29 November 2005

Introduction:

The Convention passed three important tests in its first five years of operations: (a) The vast majority of the world's States agreed to be bound by the Convention, including the majority of the now former producers of anti-personnel mines and the majority of mine-affected States; (b) The States Parties complied fully with the Convention's prohibitions as contained in Article 1; and, (c) There was a 100 percent compliance rate with respect to our obligations, as contained in Article 4, to destroy stockpiled anti-personnel mines.

The major test for the Convention during the period 2005-2009, as noted in the Nairobi Action Plan, will be to ensure success in the application of mine clearance obligations as contained in Article 5. That is, we must do what is necessary to act in accordance with Action #27 of the Nairobi Action Plan, to "strive to ensure that few, if any, States Parties will feel compelled to request an extension in accordance with the procedure set out in Article 5, paragraphs 3-6 of the Convention."

Article 5:

In accordance with Article 5, each State Party must:

- make "every effort to identify all areas under its jurisdiction or control in which anti-personnel mines are known or suspected to be emplaced."
- "as soon as possible" ensure that these mined areas "are perimeter marked, monitored and protected by fencing or other means, to ensure the effective exclusion of civilians, until all anti-personnel mines contained therein have been destroyed."
- "destroy or ensure the destruction of all anti-personnel mines in mined areas under its jurisdiction or control as soon as possible but not later than 10 years after the entry into force of this Convention for that State Party."

These obligations are, on the one hand, clear and unequivocal. On the other hand, fulfillment of these obligations is indeed possible, as demonstrated by the experiences of the five States Parties that have reported completion of their Article 5 obligations.

Success in implementing Article 5:

Success or failure in the application of Article 5 will be marked in two ways:

- First, the application of Article 5 will be successful if those States Parties that reasonably could be expected to comply with their clearance obligations within the 10-year period set by the Convention indeed do so.
- Second, the application of Article 5 will be successful if those States Parties that cannot reasonably be expected to comply in a 10-year period (a) as soon as possible after entry-

into-force had acquired all necessary information and hence prepared a national demining programme; (b) had made available from national sources financial and technical means to implement Article 5 and made best efforts to acquire any necessary external assistance; and, (c) had achieved a status of work conducted under a national demining programme that one could reasonably expect after a 10-year period.

Toward completion:

To ensure success as described above, ultimate responsibility rests with those States Parties which have reported anti-personnel mines in mined areas under their jurisdiction or control. However, in line with the Convention's spirit of cooperation, there is much that the entire Convention community can do to assist:

- All States Parties in a position to do so must take seriously the commitment we made in Action #23 of the Nairobi Action Plan to “act upon (our) obligations under Article 6 (3) and 6 (4) to promptly assist States Parties with clearly demonstrated needs for external support for mine clearance and mine risk education, responding to the priorities for assistance as articulated by the mine-affected States Parties themselves and ensuring the continuity and sustainability of resource commitments.”
- As suggested in the draft Zagreb Progress Report, each actor that has professed its support for the Convention and which is assisting States Parties in fulfilling Article 5 obligations – and this includes actors such as relevant UN organisations, the Organisation of American States, the GICHD and the ICBL through their national campaigns and member organisations – “should ensure that advice and assistance provided is consistent with and does not contradict or fall short of the obligations that States Parties have accepted under Article 5 of the Convention.”
- Assistance could be provided to the States Parties that are in the process of fulfilling Article 5 obligations in: (a) Demystifying what it means to have completely fulfilled Article 5 obligations; (b) Assisting these States Parties, if necessary, in developing requests for extensions in accordance with the criteria in Article 5, paragraph 4, which would meet the States Parties' obvious high expectations of these requests; and (c) Supporting the development of plans for ensuring *completion* – as defined by Article 5 – “as soon as possible.”

Next steps:

Norway is prepared to further elaborate ideas on how to facilitate the implementation of Article 5. In this regard, Norway volunteers to develop and present such ideas in time for the May 2006 meeting of the Standing Committee on Mine Clearance, Mine Risk Education and Mine Action Technologies.