

UPDATE ON CONSULTATIONS ON MATTERS CONCERNING THE IMPLEMENTATION OF ARTICLE 5

NON-PAPER PRESENTED BY THE PRESIDENT-DESIGNATE OF THE SEVENTH MEETING OF THE STATES PARTIES

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Background

States Parties agreed at the First Review Conference in 2004 that “successfully meeting (Article 5 mine clearance) deadlines will be the most significant challenge to be addressed in the coming five years and will require intensive efforts by mine-affected States Parties and those in a position to assist them.” And in the *Nairobi Action Plan*, States Parties agreed 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.”

Discussion of Article 5 implementation has continued since 2004. In particular, an informal discussion took place at the meeting of the Standing Committee on Mine Clearance (SCMC) on the basis of a paper put forward by the Co-Chairs and Co-Rapporteurs in March 2006.

Since that discussion, the President-Designate, in cooperation with SCMC Co-Chairs and Co-Rapporteurs, has undertaken further consultations on the paper and mine destruction deadlines more broadly. These consultations have focused on the steps States Parties need to take to ensure that an efficient and workable process for consideration of Article 5 extension requests is in place before the first deadline of March 2009. A summary of the views expressed follows.

It is the President-Designate’s hope that States Parties will find this summary useful to their preparations for the open-ended consultation on this issue on 17 July. The purpose of that consultation will be to refine further States Parties’ views on the needs and shape of an efficient procedure for consideration of Article 5 extension requests.

I. Clarity in understanding what implementation of Article 5 means

- A majority felt that Article 5 articulates the relevant obligations clearly.
- While *completion* in the context of Article 5 may be sufficiently clear, some see a degree of ambiguity in terms of how *completion* has been reported
 - o it was noted that some reports of Article 5 completion covered explosive remnants of war beyond the scope of the purposes of the Mine Ban Convention
 - o and in some cases ambiguous terminology, including the use of terms not contained in the Convention, was used to describe *completion*.
- It was noted that clarity might be obtained through a standardised declaration of Article 5 completion and advice on use of Article 7 reporting to communicate clearly *completion*.

II. Clarity in implementing Article 5

- States Parties recognise that clarity in implementing Article 5 obligations is vital.

- States Parties acknowledged the formal means (eg. Article 7 report) and informal means (eg. SCMC) provide clarity on progress and challenges to fulfilling Article 5 obligations
 - o but while 35 of the 45 relevant States Parties provided updates in May, it is still unclear if some are on track to meeting expectations in Article 5 implementation.
- Many mine-affected and donor states consulted felt it was vital that States Parties provide clarity on their implementation of Article 5 in part by tabling national demining plans.

III. Commitments from those in a position to do so to assist

- States Parties recorded the need for donor support in the *Zagreb Progress Report*: “States Parties in a position to do so should act with greater urgency to fulfil their obligations under Article 6 of the Convention, taking into account the importance of providing necessary support until implementation of Article 5 obligations has been completed.”
- Many States Parties in the process of fulfilling Article 5 obligations indicated a need for assistance, particularly if they are to meet these obligations within a 10-year period.
- Donors stated that effective cooperation requires clarity from mine-affected states on the challenges associated with fulfilling Article 5 obligations and a clear plan, consistent with Convention obligations, to overcome such challenges.

IV. A process to assist States Parties with the extension process

General comments

- States Parties have indicated that the procedure for requesting, assessing and voting on extensions as outlined in Article 5 required elaboration to ensure an effective process.
- States Parties fulfilling Article 5 obligations and others emphasised that discussion of an extension process should not detract from implementation of Article 5
 - o indeed, the process should assist States Parties to plan for and fulfil their obligations.
- It was highlighted frequently that the GICHD Implementation Support Unit should be available to provide advice and support to States Parties on preparation of extension requests
 - o it was recognised that there may be a need for an increase in support to the ISU Trust Fund to meet the expected demand for such services.

Elements and format of extension requests

- Many suggested that States Parties should adopt a common format for extension requests and that this should be agreed in a timely manner.
- In this regard, it was noted that Article 5(4) provides clear indication of the elements that each extension request shall contain.
- It was noted that elaboration of Article 5(4)(d), in particular “other relevant information” could assist States Parties. Such an elaboration could include information on:

- a plan for Article 5 mine destruction activities to be undertaken during the extension, including references to assistance needed to fulfil planned objectives
- information, of the type one would expect after 10 years of work, on the location of areas containing anti-personnel mines and quantities and types of emplaced mines
- detailed information, of the type one would expect after 10 years of work, on meaningful progress achieved in 10 years since entry into force.

Fulfilling the obligation to assess extension requests – expert advice

- The overwhelming majority of states consulted recognised the value of and need to draw upon expertise to assist States Parties to assess and vote on extension requests
 - but there were differing views on how to appoint a group of experts; states need to consider means of organising expert input such as ad hoc consultation or by formal or informal listing.
- States saw need for a broad range of expertise (eg. demining, legal and diplomatic understanding), cross-regional representation and balance between experts from States Parties in the process of implementing Article 5 and other States Parties
 - some want and some accept the inclusion of non-State experts; others do not. Views differ on whether continuity or rotation of experts is needed.
- States saw the role of experts as providing advice on extension requests to enable States Parties to fulfil their responsibilities to assess and vote on such requests.
- It has been suggested by some that a group of experts work on a pro-bono basis with any cost covered by funds channelled through the ISU Trust Fund.

Fulfilling the obligation to assess extension requests – timelines

- States Parties recognised that they may “submit a request to a Meeting of the States Parties (MSPs) or a Review Conference for an extension,” (Article 5(3) refers)
 - but it was acknowledged that an extension request should be submission before an MSP or RevCon to enable States Parties to assess it as required under Article 5(5).
- Many states suggested existing committees of the treaty (eg. SCMC) could act as a channel through which extension requests could be fed initially
 - the relevant committee could coordinate expert input as part of preparations for the assessment and vote on the extension request by States Parties.

V. The timing and sequencing of further work

- A variety of views have been expressed regarding the timing and sequencing of work to be undertaken to develop a process to assist States Parties with the extension process.