

The general status of the implementation of Article 5

Co-Chairs of the Standing Committee on Mine Clearance, Mine Risk Education and Mine Action Technologies (Jordan and Slovenia)

10 May 2006

Last year our predecessors – Algeria and Sweden – made clear what should be obvious – that there are three main obligations contained in Article 5. They are that States Parties must:

- “make every effort to identify all areas under (their) jurisdiction or control in which antipersonnel mines are known or suspected to be emplaced;”
- “ensure as soon as possible that all antipersonnel mines in mined areas under (their) jurisdiction or control 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;” and,
- undertake “to destroy or ensure the destruction of all anti-personnel mines in mined areas under (their) jurisdiction or control, as soon as possible but not later than ten years after the entry into force of (the) Convention for (a particular) State Party.”

In the *Zagreb Progress Report*, it was noted that “clearance of all mined areas in accordance with Article 5 is part of the Convention’s overall comprehensive approach to ending the suffering and casualties caused by anti-personnel mines – for all people, for all time.” The *Zagreb Progress Report* continued by noting that “anti-personnel mines, and the clearance of them, have and / or could have a humanitarian impact, an impact on development, an impact on the disarmament goal of the Convention and an impact on solidifying peace and building confidence. The totality of the impacts caused by anti-personnel mines should be addressed in the context of the Convention.”

According to information provided by the States Parties, the obligations of Article 5 are or have been relevant for 51 States Parties. Six of these 51 States Parties (Bulgaria, Costa Rica, Djibouti, Guatemala, Honduras and Suriname) have indicated that they have fulfilled their Article 5 obligations. Hence, there are 45 States Parties that have indicated that they still are in the process of implementing this Article. A list of these States Parties, and their timelines for completing clearance in accordance with Article 5, is attached to our statement. You will note that 23 of these States Parties have a deadline that occurs on 1 January 2010 or sooner.

The *Nairobi Action Plan* emphasized that successfully meeting the deadlines for clearing mined areas according to Article 5 of the Convention “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.” To address this challenge, in the *Nairobi Action Plan*, we decided to “intensify and accelerate efforts to ensure the most effective and most expeditious possible fulfilment of Article 5 (1) mine clearance obligations in the period 2005-2009” and 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.” In addition, the States Parties that have reported mined areas under their jurisdiction or control, where they have not yet done so, committed to do their utmost to urgently identify all areas containing anti-personnel mines, urgently develop and implement national plans, and make their problems, plans, progress and priorities for assistance known.

As well, the States Parties resolved to “monitor and actively promote the achievement of mine clearance goals and the identification of assistance needs.”

Last year the Co-Chairs noted that there is a sense of urgency about this matter. It’s now one year later thus we should have an even greater sense of urgency. Twenty-three (23) States Parties have had approximately seven years to prepare and conduct work under a national demining programme, make or acquire the financial and technical means available to clear mined areas, and identify ways to address any circumstances which may impede their ability to conduct clearance. Seven years is a long time and hence there should be a certain expectation that progress will have been made. In addition, by the time of the Second Review Conference in 2009 when the first deadlines occur, there will be even greater expectations of progress. We need to know now if we are on track to meeting these expectations.

Our aim in 2006 is to ensure that we have clarity now in knowing that those States Parties that reasonably could be expected to comply with their clearance obligations within the 10-year period set by the Convention are on track to meeting expectations and clarity that those States Parties that cannot reasonably be expected to comply in a 10-year period (a) have acquired all necessary information and hence prepared a national demining programme; (b) have 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) are on track to achieving by 2009 a status of work conducted under a national demining programme that one could reasonably expect after a 10-year period. Our aim in 2006 is also to ensure that we have clarity in knowing how and when to proceed with the extension procedures for those State Parties that will not comply within a 10-years period.

To ensure that we have such clarity in time for the Seventh Meeting of the States Parties, we have put seven straight-forward questions to the States Parties that are in the process of fulfilling Article 5 obligations. These questions are attached to the written version of our statement. In addition, in February we invited approximately 35 of the relevant States Parties to bilateral meetings to explain the importance of addressing these questions. Approximately 30 of these States Parties accepted our invitation. As well, to ensure that those in a position to assist fulfill their obligations, we have put forward some basic questions to them.

With respect to cooperation and meeting Article 5 expectations, we should also recall some key understandings that we have made related to focusing our assistance efforts on the task at hand. For instance, the *Zagreb Progress Report* recorded that “each actor which has professed its support for the Convention and which is assisting States Parties in developing a national plan to implement Article 5 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.” In addition, we have repeatedly stated – including in the Final Report of the First Review Conference – that “assistance and cooperation for mine action will flow primarily to those that have forsworn the use of anti-personnel mines forever through adherence to, implementation of, and compliance with the Convention.”

The Intersessional Work Programme is a unique mechanism because it is informal and does not in itself produce outcomes. As such, it is part of process – a process that is intended to produce concrete results by clear points in time. Therefore, our hope is that both States Parties in the process of fulfilling Article 5 obligations and those actors in position to assist them will make good use of this part of the process this week to ensure the progress is made on the road to meeting expectations.

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Questions for States Parties in the process of fulfilling Article 5 obligations

1. What is your State's plan to destroy or ensure the destruction of all anti-personnel mines in mined areas under your State's jurisdiction or control as soon as possible?
2. What progress has been made in the implementation of your State's national demining programme since the last time that an update was provided to the Standing Committee?
3. What work remains in order for your State to be in compliance with its obligation to have destroyed or ensured the destruction of all anti-personnel mines in mined areas under your State's jurisdiction or control?
4. What, if any, circumstances may impede the ability of your State to destroy or ensure the destruction of all anti-personnel mines in mined areas under your State's jurisdiction or control within ten years after entry into force of the Convention for your State? What is the prospective end-date for your State to have fully implemented Article 5?
5. What financial and technical means has your State dedicated to ensuring the fulfillment of your State's Article 5 obligations?
6. If mine action in your country is still conducted or partially managed by foreign organizations and / or international organizations, what are the steps that your State has taken to develop its national capacity?¹
7. What, if any, are your priorities for external assistance to support your State's fulfillment of its Article 5 obligations?

Questions for States Parties in a position to assist in implementing Article 5

1. What has your State done, since the First Review Conference, to promptly assist States Parties with clearly demonstrated needs for external support for mine clearance and mine risk education?
2. Since the First Review Conference, how has your State used the following means to provide support in the fulfillment of Article 5 obligations?
 - a. Dedicated funds to assist in the implementation of the Convention?
 - b. The integration of support to mine action into humanitarian programmes?
 - c. The integration of support to mine action into development programmes?
 - d. The integration of support to mine action into peace-building programmes?
 - e. The integration of support to mine action into peace support programmes?
3. What are your plans between now and the Second Review Conference to ensure the continuity and sustainability of resource commitments?

¹ See *Achieving the aims of the Nairobi Action Plan: The Zagreb Progress Report*, paragraph 55(vi).