ICBL Statement on the implementation of Article 5 obligations

Standing Committee on Mine Clearance, Mine Risk Education and Mine Action Technologies

Geneva, 10 May 2006

Co-chairs, distinguished delegates,

I am pleased to take the floor today on behalf of the ICBL as one of thematic editors for mine action of the Landmine Monitor. We would like first to offer our congratulations to the Co-chairs for their work both prior to and during these Standing Committee meetings. We will provide a formal response to your discussion paper later, but suffice to say that we welcome it warmly – it comes not a moment too soon.

We would like to address many of our remarks to all the States Parties, not only those that have taken the floor this morning. Among States Parties that have deadlines for completion of the obligations laid down in Article 5 in 2009 or 2010, we have heard from Albania, the Former Yugoslav Republic of Macedonia, Jordan, and Swaziland that they are confident of being able to complete clearance of antipersonnel mines in mined areas under their jurisdiction or control in time. We strongly applaud their efforts and their determination.

We also believe that Nicaragua will be in a position to meet its Article 5 deadline, and, as we have heard, Uganda expects to be in compliance aside from any ongoing hostilities in the north. For many other States Parties, however, although they may reiterate their determination to try to meet the deadline, the picture is far less certain. There are clear doubts, for example, about the ability of Bosnia and Herzegovina, Chad, Croatia, Ecuador, Mozambique, Peru, Tajikistan, Thailand, Yemen, and Zimbabwe. Denmark and the UK did declare an intention to meet their respective 2009 deadlines.

The States Parties will recall their solemn undertaking in Nairobi only 18 months ago 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." Few, if any! What a mountain we have to climb if those words are not to sound hollow in less than three years time.

For we believe that any State Party that wilfully or negligently fails to complete its Article 5 obligations in time or to make sufficient progress by the relevant deadline is not just an individual failure, it is also a collective failure of all the States Parties. We also have concerns about some of the States Parties that are reported to have fulfilled their Article 5 obligations. For that reason we will be presenting to the upcoming meeting of States Parties in September factsheets on compliance with Article 5 for all States that we believe had mined areas under their jurisdiction or control containing anti-personnel mines, when or since they became party to the Convention.

So let us then lay down ten benchmarks that we will be using to assess compliance with the obligations laid down in Article 5, supported by good practice in mine action programmes.

First, has the State Party initiated a demining programme? This issue has two aspects. There are States Parties that we believe have obligations under Article 5 but which have not yet accepted the existence of those obligations. Then there are States Parties that have accepted that they have obligations under Article 5 but have chosen not to begin demining. The obligations under Article 5 make it clear that destruction of anti-personnel mines in mined areas must be completed "as soon as possible". It does not take a genius to deduce that if you must finish as soon as possible, you must start as soon as possible.

It is indeed astonishing that more than seven years after becoming party to the Convention, a number – happily a small number – of States have not yet cleared a single anti-personnel mine from mined areas under their jurisdiction or control. Not one. Even though more than 2,500 days have elapsed. What lethargy. What message does that send out to other States about compliance with international law?

Second, has the State Party made every effort to identify mined areas under its jurisdiction or control that contain anti-personnel mines? The Convention, rightly, makes this an obligation of result, leaving it up to the State Party to use the appropriate methodologies: data gathering, general and technical survey, and others. This includes the need to investigate all suspected areas and former battlefields – it is not just new mines that kill and maim.

Third, areas confirmed to contain anti-personnel mines must be marked and appropriate measures taken to exclude civilians. Although some States Parties have made serious and genuine attempts to do so, overall the rate of compliance with this obligation has been frankly disappointing. And let us reiterate, this is only an *interim* measure towards full compliance with Article 5 – marking, even "permanent" marking, is not sufficient to meet the requirements of the Article.

Fourth, anti-personnel mines (and preferably all explosive ordnance) must be cleared to humanitarian standards and destroyed in each and every one of the areas confirmed to contain anti-personnel mines. If clearance and destruction has not been completed by the time the deadline falls, has sufficient progress been made? Has clearance been directed effectively such that casualty rates have fallen dramatically? Has it been commensurate with the resources dedicated to demining? And has there been a clear increase in productivity during the lifetime of the programme?

Fifth, has the State Party returned areas safely and quickly to local communities? Again, this question has two aspects. Have cleared areas been handed over effectively to communities such that they have confidence and the necessary tools to use the land

immediately? This is the role, for example, of community liaison or task impact assessment methodologies.

And have areas with little or no risk been identified quickly and efficiently so that clearance assets can be dedicated to those high-impact areas that do contain landmines? Innovative ways to reclaim land are being pioneered by NGOs such as HALO Trust and the Mines Advisory Group in Cambodia and other countries to enable the focus of programmes to be on areas truly inflicting misery on local societies and economies. We have to get down the often colossal estimates of affected land to realistic and reasonable levels. In Kosovo, for example, of the 360 square kilometres of initially suspected land, only 45 square kilometres – not even 15 per cent – has actually had to be cleared.

Sixth, has the government established the necessary framework for the mine action programme? This has both institutional and legal components. Roles and responsibilities need to clarified and allocated to ensure effective coordination and management of the programme. A programme in which bickering and "dis-synergy" are prevalent is not a well-managed programme.

Seven, has the government assumed national ownership of the programme? This is much more than the departure of international advisors through an "exit" strategy. It is about the commitment from the State Party of its own political, human and financial resources. The Convention and the International Mine Action Standards place the primary responsibility for addressing mine contamination and other explosive remnants of war (ERW) firmly on the shoulders of the affected State. They can and should do more themselves.

Eight, has the government adopted a strategic plan that addresses the needs arising from all mines and ERW? Efforts have certainly improved in this area in recent years, but there are still too many States which have strategic plans that are neither strategic nor even a plan.

Nine, how are demining priorities set and tasks allocated? Is the process effective, transparent and fair? Are priorities explicit, relevant and well known? Are local communities needs assessed on their own merits or are there other factors at play in reaching these decisions? Village demining is a clear response to hopelessness in awaiting formal demining.

Ten, for those States Parties that have little choice to request an extension to the deadline under Article 5 in the coming years, is the request made in a professional manner? Is it coherent? Has the process of drawing up the request been inclusive? Does it identify clearly the way ahead, for the full period of the extension sought? Are there specific benchmarks and performance milestones to enable oversight of the extended period? If not, they should be attached by States Parties if the decision is made to grant an extension.

For those States Parties that have made honest and professional efforts to meet their deadlines, the extension request procedure should be a wonderful opportunity to mobilise resources and sustain momentum. For others, it should be a serious wake-up call. Judgement day is coming. And we're all on trial.

Thank you very much for your attention.