

**ICBL Statement on Mine Clearance
Reaction to the discussion paper on implementing Article 5**

Intersessional Standing Committee Meetings – 11 May 2006

We would like to thank the co-chairs for putting forward the discussion paper on implementing Article 5. We fully support the paper, especially its emphasis on clarifying what it means to comply with Article 5 and its proposal to develop an extension request process in the earliest possible timeframe.

The ICBL has already been thinking about the issues raised in the paper and would like to put forward some ideas and suggestions on the topics of Article 5 fulfillment and the extension process. Our remarks today are taken from two ICBL papers on these subjects which are available outside the room.

The first set of questions - **What does it mean to fulfill Article 5 obligations, and how should States Parties report fulfillment of Article 5 requirements?** – is one that will be critical to address as more and more States Parties come to the end of their mine clearance programs.

To begin with, because the obligations of Article 5 are limited to antipersonnel mines “in mined areas,” as defined by the convention, there must first be a determination of *whether* the State Party has such mined areas, and if so, *where* these areas are. As paragraph 2 of Art. 5 states, States Parties “*shall make every effort to identify all areas ... in which anti-personnel mines are known or suspected to be emplaced.*”

Fulfilling Article 5 properly rests very much on doing this process well because either missing or overstating the size of mined areas can be problematic. If not enough effort is made to identify mined areas, the country may be leaving mines in the ground that should have been cleared. If the boundaries of mined areas are not carefully delineated, precious resources may be spent clearing areas that do not actually contain mines.

Once mined areas are properly identified, the State Party has an obligation to systematically destroy or ensure the destruction of all antipersonnel mines in each and every one of those areas unless there has been a subsequent reclassification of that area as not mined (through technical surveys, re-surveys, or formal cancellation of previously suspected areas by other means).

There is no *requirement* laid down in Article 5 to clear first the mined areas that most affect the civilian population, but this should be implied from the humanitarian objectives of the treaty as a whole. Of course, clearing high and medium impact areas only satisfies part of the treaty obligation, which requires clearance of *all* areas regardless of their impact. “Mine-safe” is not enough to satisfy the demands of Article 5.

The treaty *does* require States Parties to complete clearance **as soon as possible**, which means unjustified delays in beginning the required identification and destruction of AP mines in mined areas are not consistent with the treaty’s obligations.

When a State Party has determined that it has finished its obligations under Article 5, it should make a formal announcement to the other States Parties about this accomplishment. At a minimum, this should involve a statement at a Meeting of States Parties or Review Conference, but it could also include a letter to the President of the MSP or a public ceremony in the country itself, plus

information in the state's Article 7 report. This will allow, if deemed necessary, an opportunity to discuss whether successful completion has indeed been achieved.

The discovery of residual antipersonnel mines after such a determination of completion has occurred does not signify a breach of the treaty. However, the discovered mines should be reported and destroyed as quickly as possible. This obligation implies that the State Party has a residual capacity to respond quickly to all reported mines.

On the question of requests for extensions, we fully support the paper's recommendations, though we would strongly encourage a shorter timetable.

We agree that formulating a good process at an early stage is an important part of ensuring proper compliance with the treaty. The extension requests need to be taken very seriously by all States Parties, both in a State's formulation of the request, and its subsequent review by the other States Parties.

If done well, the extension request process will be useful for all parties, especially the requesting state. The process should be seen as an opportunity for mine-affected State Parties to reevaluate their mine action work (what has worked well, where there have been problems), and to strategize about a realistic completion plan, including how to mobilize the resources to finish Article 5 obligations. It should be developed in a way that allows for the maximum exchange of information and mutual support among States Parties.

We therefore support the paper's proposal for an independent group to review the requests ahead of the formal decision at a Meeting of States Parties. The review of the requests – each with its own complexities and requiring a unique response - will not only take an investment of time, but also require a certain amount of expertise on political, developmental, economic, technical and managerial issues related to mine action. Because many of the State Parties responsible for making each decision may not have the time or the expertise to devote to this task, a group of experts would be able to help State Parties achieve the important task laid out for them in Article 5(5) in the most thorough and credible manner. It is understood that these requests will be submitted informally and that the reviewers will have the opportunity to request additional information if needed.

We expect that the requests will be submitted in a transparent fashion so that civil society will also have an opportunity to comment and provide advice to States Parties. We hope the ICBL will be an integral part of the process; we would be pleased to make available our resources and expertise.

Finally, on the question of timing, we hope that a process could be agreed upon at the 7th Meeting of the States Parties, rather than at the 8th MSP as was suggested in the paper. Given that the first deadlines under Article 5 are in 2009, States Parties with 2009 deadlines that will be seeking an extension must make the official request no later than the Meeting of States Parties in 2008. In order to give the evaluating group and others enough time to properly review the requests, including time to seek additional information and clarifications, they should be given an initial (informal) request several months – even up to a year – before this date, which means as early as the 8MSP. In order to make sure that the process is clear to all parties by then, we believe it is necessary to have an agreement this year.

Thank you.