



## **ANTI-PERSONNEL MINE BAN CONVENTION**

### **2012 Intersessional Meetings**

#### **Mined areas discovered after the expiry of a State Party's Article 5 deadline**

##### **Australian Statement**

Statement delivered by Mr Philip Kimpton, First Secretary, Australian Permanent Mission to the United Nations, Geneva

22 May 2012

Madame Co-Chair

The 11MSP rightly noted that the Convention is silent on how to address situations where States Parties discover previously unknown mined areas, after the expiry of their clearance deadline in Article 5

We welcome Co-Chairs' suggestions on how to respond to these situations. Their paper and proposed decisions set out a rational response that is indeed firmly anchored in the object and purpose of the Convention.

In our view, the Co-Chairs' proposal sets out a political commitment to address these circumstances – a commitment that would be endorsed by all States Parties. It provides a strong framework in which to address the exceptional circumstances where mines are discovered after expiry of a State Party's clearance deadline. The proposed process mirrors closely the procedure that applies under Article 5 and would already be familiar to all States Parties.

We think that this kind of decision is both desirable and necessary for the Convention. Unfortunately there is no simple way to fill the silence of the Convention on this issue. Where the Article 5 deadline has expired for a State Party, that State Party cannot recommence it by simply submitting a request for an extension under Article 5(3), especially if the request for an extension comes years after the deadline expired.

Overall, we need to recognize the humanitarian objectives encapsulated in Article 5 and the deadline system for clearance. We consider that a procedure should be put in place that facilitates and encourages States Parties, which identify previously unknown mined areas, to survey and clear those areas as soon as possible.

The absence of a decision by the MSP on this point leaves an undesirable gap in the framework and the tools available to the Convention's community to monitor and consider progress by a State Party. Plus we want to ensure, as far as possible, that clearance of mined areas remains primarily a concern of implementation under the Convention, rather than a matter of compliance.

We very much support the elements of transparency in the Co-Chairs' paper, including in paragraphs 1 and 6 of the draft decisions.

Madame Co-Chair

While Australia is open to a range of means of dealing with this gap in the Convention, we want to ensure that the policy objectives are met – and one of those goals is to ensure that the risks posed to civilians by emplaced anti-personnel mines are mitigated as soon as feasible.

If the MSP were simply to state that Article 5 applied in these circumstances, *mutatis mutandis*, there is a risk that the deadline built into Article 5 would lose its teeth. In this circumstance, a failure to locate mines in the first ten years would not be of great concern because a State Party could simply seek another ten years (or possibly longer) at some undefined point in the future.

Newly discovered mined areas after the expiry of a States clearance deadline should be seen as exceptional. Exceptional in the sense that the discovery would come after a decade or more of rigorous survey and clearance of known and suspected mined areas. We presume that any discovery of mined areas after expiry of the clearance deadline would not be large – but rather, for example, be a discovery of mines in remote areas, on borders or emplaced as nuisance mines. The discovery should be able to be dealt with quickly.

In our view, the MSP should therefore establish a separate process to that under Article 5 in recognition of the different parameters and context of the discovery, and in order to ensure that the legal obligations in Article 5 are not undermined.

Thank you.