

Document 5A

Applying all available methods to achieve the full, efficient and expedient implementation of Article 5

A discussion paper prepared by the Coordinator of the Resource Utilization Contact Group (Norway)

30 May 2008

Background:

More than a decade of efforts to implement Article 5 of the Convention has demonstrated complex challenges associated with identifying the exact locations of mined areas. For many States Parties reporting mined areas under their jurisdiction or control, imprecise identification and significant overestimation of the size of mined areas has led to inappropriate allocations of time and resources.

Large areas have been targeted for manual or mechanical mine clearance even though they did not or do not contain mines or other explosive hazards. This point was first recorded by the States Parties in the September 2006 Geneva Progress Report where it was noted that “important advances in the understanding of identifying mined areas...suggest that the challenges faced by many States Parties may be less than previously thought and that efforts to fulfill Convention obligations can proceed in a more efficient manner.”

At the November 2007 Eighth Meeting of the States Parties (8MSP), a discussion was held on practical ways to overcoming challenges in implementing Article 5, including challenges associated with the imprecise and grossly overestimated identification of mined areas. This discussion advanced the points raised in the Geneva Progress Report by highlighting, in the final report of the 8MSP, “the value of States Parties making use of the full range of emerging practical methods to more rapidly release, with a high level of confidence, areas suspected of containing anti-personnel mines.”

The wealth of information contained in Article 5 extension requests submitted in early 2008 further indicates challenges associated with the imprecise and grossly overestimated identification of mined areas:

- Some States Parties have not made use of the full range of actions available to release suspected hazardous areas and are developing plans for Article 5 implementation that assume that technical surveys and manual or mechanical clearance methods are the only ones that will be used.
- Some States Parties only recently have applied the full range of actions available to release suspected hazardous areas, resulting in several instances in a dramatic increase in the amount of area released.
- In some States Parties, a full range of actions available to release suspected hazardous areas has been going on for several years but in the absence of a national standard or policy.

Applying all available methods to achieve full, efficient and expedient implementation

The experience of many States Parties demonstrates that a substantial proportion of what has been reported as “mined areas” are areas that did not or do not contain anti-personnel mines or other explosive hazards and did not or do not require clearance. Three main actions can be undertaken to release land that has been identified and reported as “mined areas” as defined by the Convention.

1. Land can be released through non-technical means, such as systematic community liaison, field based data gathering and improved procedures for updating and maintenance of high quality databases. Such methods can cancel out, or reclassify, an area previously recorded as a mined area to produce confidence that the area does not present a risk from mines or other explosive

hazards

2. Land can be released through technical survey, that is, through a detailed topographical and technical investigation of an area to more precisely identify a smaller area requiring clearance thus enabling the release of the balance of the area investigated.
3. Land can be released through clearance, that is, physically and systematically processing an area manually or with machines to a specified depth in accordance with existing best practices to ensure the removal and / or destruction of all mines and other explosive hazards.

Regardless of whether a particular area requires non-technical means, technical survey or clearance, national policy or standards consistent with existing best practices, should be applied.

Well developed international standards concerning clearance and technical survey have existed for some time. Recently however efforts have been made to enhance international standards that apply to the release of land through non-technical means. The guiding principles used for such enhanced international standards and hence the principles that should be taken into account in the development of national policies and standards are the following:

1. A formal, well documented and recorded process for identifying mined areas

A credible investigation of the presence of mines that features (a) a thorough and well described methodology ensuring objective assessments, (b) input provided by a sufficient number of credible informants whose names and contact details are recorded, and, (c) quantified survey information is a necessary precondition for being able to release land without the deployment of technical means.

2. Well defined and objective criteria for the reclassification of land

If land is to be reclassified from a “mined area” to an area not deemed dangerous due to the presence or suspected presence of mines, the criteria used needs to be clear and universally understood. Reclassification can be based on qualitative (e.g., measures of confidence in survey information) and quantitative measures.

3. A high degree of community involvement and acceptance of decision making

Local participation should be fully incorporated into the main stages of the process of releasing land in order to render the entire process more accountable, manageable and ultimately cost-effective. Community involvement should include vulnerable groups living in or near suspect areas. A high level of local contributions to major decisions will ensure that land is used appropriately after it has been released.

4. A formal process of handover of land prior to the release of land

The involvement of the local communities in the process leading to the release of land should be reinforced by a formal process of handing over land. It should include a detailed description of the survey methodology and the risk assessment. It should be signed by the future users of the land, local community authorities, representatives from the organisation that carried out the assessment and the national authorities.

5. An ongoing monitoring mechanism after the handover has taken place

Post-release monitoring must be properly planned and agreed between the different parties to help measure the impact land release has on local life and to clarify issues related to liability in case of accidents.

6. A formal national policy addressing liability issues

National policies and standards on the release of land should detail the shift of liability from the mine action operator to the national, sub-national or local government or other entity with mine action operators obliged to follow national policies and standards in order to be exempt from liability.

7. A common set of terminology to be used when describing the process.

Many States Parties use different terminology to describe broadly the same processes. The further development of the UN's International Mine Action Standards (IMAS) may help provide a more advanced global set of terminology. If terms are used which could be interpreted in different ways these terms either should be clearly defined or not used at all.

Recommendations:

- The States Parties should acknowledge that three main actions can be undertaken to release land that has been identified and reported as “mined area”: through non-technical means, technical survey, and clearance.
- In order to ensure the expedient, efficient and safe release of mined areas reported by States Parties, States Parties in the process of implementing Article 5 should develop national plans that employ, as required, the full range of methods available to release land.
- States Parties preparing requests for extensions of deadlines for fulfilling Article 5.1 obligations should incorporate into their extension requests an indication of how each method of land release will be applied in the fulfillment of obligations during the requested extension period.
- States Parties providing assistance to mine action activities should ensure that the support provided facilitates the application of the full range of actions for releasing “mined areas”.
- Just as many States have established national policies and standards on clearance and technical survey based upon existing best international practices, so too should they with respect to non-technical land release.
- In developing national policies or standards on land release through non-technical means, States Parties should take into account the principles indicated above.
- The States Parties should acknowledge that land release through non-technical means, when undertaken in accordance with high quality national policies and standards that incorporate key principles highlighted in this paper, is not a short-cut to implementing Article 5.1 but rather is a means to more expediently release, with confidence, areas at one time deemed to be “mined areas”.
- The States Parties should consider renaming “the Standing Committee on Mine Clearance, Mine Risk Education and Mine Action Technologies” to “the Standing Committee on the Release of Mined Areas and on Related Activities” or “the Standing Committee on the Destruction of Anti-Personnel Mines in Mined Areas and on Related Matters” to incorporate language from the Convention in the title of the Standing Committee and to remove a sole emphasis on “mine clearance” in fulfilling Article 5 obligations.