

The status of the implementation of Article 5

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The Convention reached a significant milestone this year when, on 26 March, Bosnia and Herzegovina became the first State Party to submit a request for an extension of the deadline for completing the destruction of all emplaced anti-personnel mines.

The fact that this occurred underscores that the provisions of Article 5 permitting a State Party to request more time, are integral parts of our Convention and that there will be situations when despite its best efforts, a States Party will require an extension to its Article 5 obligation.

Indeed, anyone in Ottawa on 4 December 1997 would not be surprised that Bosnia and Herzegovina would, a little more than 10 years later, submit a request. It was the Minister of Foreign Affairs of Bosnia and Herzegovina, who at the Convention's signing ceremony, stated "we are aiming to comply with the 10 year time limit and do not want to consider an extension yet but the reality of our problem may make this the only solution."

Article 5 is unique amongst the obligations of the Convention because, while the aim remains the same for all – the destruction of all emplaced anti-personnel mines in areas under a State Party's jurisdiction or control, as soon as possible, but not later than ten years after entry into force of this Convention for that State Party – the time required to do so will be different from State to State. To date, a total of 53 States Parties have indicated that, upon entry into force, there were "area(s) dangerous due to the presence or suspected presence of anti-personnel mines"¹ in mined areas under their jurisdiction or control. And at the Eighth Meeting of the States Parties we witnessed, through the declaration of completion tabled by Swaziland, that 8 of these States Parties have now indicated that they have fulfilled their Article 5 obligations.

This means that 45 States Parties are still in the process of undertaking to "make every effort to identify all areas under (their) jurisdiction or control in which anti-personnel mines are known or suspected to be emplaced", to "ensure the effective exclusion of civilians" from these mined areas, and, to "destroy or ensure the destruction of all anti-personnel mines in mined areas."

19 of these 45 States Parties find themselves a little more than one year before their 10 year deadlines, and many have concluded that they will be unable to destroy or ensure the destruction of all anti-personnel mines in mined areas in a 10 year period. In fact, to date 14 States Parties with deadlines in 2009 have submitted requests for extensions. In addition to Bosnia and Herzegovina, these include Croatia, Denmark, Ecuador, Jordan, Mozambique, Nicaragua, Peru, Senegal, Thailand, the United Kingdom, Venezuela, Yemen and Zimbabwe. One additional State Party with a deadline – Chad – has indicated that it will require more time.

What this means is that paragraphs 3, 4 and 5 of Article 5, previously dormant, are now active. It also means that the preparation, submission and analysis of requests, a process we adopted at the Seventh Meeting of the States Parties, are no longer theoretical but rather, are real.

¹ Article 2, Paragraph 5 of the Convention

While the extension process has captured our imagination this year, we must not allow ourselves to be fixated on that at the expense of our real goal – the destruction of all anti-personnel mines in mined areas under States Parties’ jurisdiction or control. As Croatia remarked at the 7MSP, “the extension possibility is not there to serve as an excuse to mine affected States Parties for making every effort ‘to destroy or ensure the destruction of all anti-personnel mines in mined areas under their jurisdiction or control,’ but as a necessary tool” – “a vehicle for the full implementation of the Convention and not a means for getting around it.”

Certainly it is the full implementation of the Convention that we hope, and expect to see, in coming years. In that vein, there are some very encouraging signs:

- At the 8MSP France indicated that it would be able to fulfil its obligations by its deadline in 2009.
- Also at the 8MSP it was recorded that “Burundi, Greece, Serbia and Tunisia had indicated that they will be able to fulfil their obligations well in advance of their 10 year deadlines.”
- Since the 8MSP we have learned that Malawi may be in a position to declare completion and that Albania and Uganda are close to being able to do the same.
- In addition, since the 8 MSP, we understand that Niger intends to clarify matters as concerns its possible obligations under Article 5 of the Convention.
- In short, we expect to at least double the number of States Parties that have met their Article 5 obligation before the Second Review Conference.

Also at 8MSP, we highlighted the need to apply the full range of available methods to release land originally identified as mined areas. This is essential if the States Parties in the process of implementing Article 5 are to comply fully with their obligations efficiently and effectively. The experience of many States Parties in recent years demonstrates that a substantial portion of what was reported as “mined areas” are areas that did not ever contain anti-personnel mines or other explosive hazards and did not or do not require clearance. In fairness, I would also add that although we may have made some errors in those survey methods, if we did err, we erred on the side of caution – who can say just how many people we may have saved as a result of those methods. That said, experience has also shown that three main actions can be undertaken to release land that has been identified and reported as a “mined area”:

1. 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.
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 non-technical means, for instance, canceling an area previously recorded as a mined area as a result of non-technical actions undertaken to produce confidence that the area does not present a risk from mines or other explosive hazards.

At 8 MSP my Co-Chair announced that it was a priority of the Co-Chairs that States Parties acknowledge the importance of this range of methods, and, that relevant States Parties actually apply all methods as necessary. To this end the Coordinator of the Resource Utilization Contact Group and the Co-Chairs have been working together to assist in ensuring that efficient and effective non-technical land release methods, which have been and are being employed with great success, are increasingly legitimized and formally accepted by States Parties as a useful method to be included in the mine action tool box. We hope there will be an outcome on this matter at the 9MSP.

Thank you.

