

**Notes for ICRC intervention to the  
Standing Committee on Mine Clearance  
under the agenda item**

**"Enhancing understanding of the implementation of Article 5"**

**Wednesday 10 May 2006**

The ICRC believes that the next three years, leading up to the first deadlines for clearance of mined areas, are a critical phase in the life of the Convention. The success of the Convention is likely to be judged primarily on the basis of the results achieved on article 5 implementation in the next few years and on the pattern which is established for addressing any extension requests which may arise in advance of clearance deadlines in 2009 and beyond. For this reason we very much welcome the discussion paper prepared by Chile, Jordan, Norway and Slovenia as Co-Chairs and Co-Rapporteurs of this Standing Committee which presents elements of a coherent process for promoting implementation of article 5 and for dealing with possible extension requests.

The Nairobi Action Plan commits States Parties with mined areas on their territory and those in a position to assist them:

- to achieve the maximum possible progress in clearance of mined areas through implementation of national mine action plans, and
- to ensure that few, if any, States Parties make requests for deadline extensions in 2009 and beyond.

It is clear that fulfilment of these commitments will require the mobilisation of more human, technical and financial resources in the coming years than is now available. The upcoming deadlines should be used to increase attention at every level of government to States' commitments and to the promises which political leaders have made in adhering to this Convention.

The discussion paper highlights, we believe, several essential realities which need to be squarely addressed by States Parties:

- First, there needs to be a common understanding of what it means to complete the obligations of Article 5. As several States have already made declarations which differ in content we believe that agreement should be sought at the September Meeting of States Parties on a common formula which uses the language of article 5 and confirms the clearance of all "mined areas" under a State Party's "jurisdiction or control". Agreement on such a formula should not be difficult as the language of article 5 is clear. It is also important to note that the Zagreb Progress Report has already clarified, in its paragraph 63, that terms like "mine-free", "impact-free" and "mine-safe" do not appear in the Convention and are not synonymous with its clearance obligations under article 5.

- Secondly, decisions about any extension requests for deadlines falling in 2009 will need to be made in advance of these deadlines. In practical terms this means at the Ninth Meeting of State Parties in 2008.
- Thirdly, there is a need for adequate time before the Ninth Meeting of State Parties for a request to be analysed and additional information sought. Plans for the fulfilment of clearance obligations within the timeframe of the requested extension will need to be made, presented and examined. In our view, this means in practical terms that a request requiring decision at the 2008 MSP will need to be submitted at the 2007 MSP or soon thereafter. It would therefore be useful for the September MSP to clearly request State Parties which may need to request an extension to do so by a specific number of months before the Meeting of States Parties which is to decide on the request.
- And finally, a constructive and transparent process for making decisions about any possible extension requests needs to be elaborated well in advance. This means that issues which can be clarified at the upcoming MSP should be and that any remaining matters should be clarified at the 2007 MSP at the latest.

The ICRC considers that a process for decision-making needs to be well informed and to facilitate interaction between the State making the request, other State Parties and relevant experts and clearance organisations. Such interaction should be fully consistent with the cooperative and collegial spirit in which this Convention has always operated. It must identify the obstacles which have prevented fulfilment of clearance obligations within the ten year period and identify plans and resources for completion of article 5 obligations within the extension period requested.

Clearly such a process of interaction cannot occur during a one-week Meeting of States Parties. For this reason we welcome the proposal in the discussion paper that the GICHD be given the mandate, and presumably the resources, to assist States in the preparation of any formal requests for extension under article 5.

We also see a need for the identification of experts who will have the capacity and mandate to review an extension request, assemble and analyse relevant information and advise States Parties in an independent and impartial manner.

We recognise that the development of a coherent process for implementing article 5 obligations may be considered sensitive by some. However we urge States Parties to consider this matter in light of the Convention's long-standing tradition of cooperation and partnership. This is a cooperative effort aimed at preventing people from being mutilated and killed by a particularly horrific and indiscriminate weapon. A *pro forma* or unclear process for submitting and deciding upon requests would be a disservice to the Convention and to the victims of anti-personnel mines. The establishment of a successful process to facilitate the fulfilment of the promise of article 5 is not about politics or national sovereignty or military matters. It is about saving human lives and limbs in some of the poorest communities on earth and completely eliminating an illegal weapon. We encourage all delegations to devote the time and attention necessary to make rapid progress in addressing the issues raised in the discussion paper.

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