

## ICBL Statement on Clearing Mined Areas

### Sixth Meeting of States Parties

30 November 2005

Mr. President. I am speaking today on behalf of the ICBL and the Mine Action Working Group, of which DanChurch Aid is co-chair. Let me begin by thanking you for this opportunity to speak on the critical issue of Article 5 implementation and for laying out good grounds for this discussion in your opening statement. I would like to call your attention to the remarks already made earlier this week by Steve Goose, which this statement builds upon.

Article 5 places a clear obligation on States Parties “to destroy or ensure the destruction of all antipersonnel mines in mined areas under its jurisdiction or control, as soon as possible but not later than ten years” after becoming a State Party. Because of emerging divergent practices and the manner in which some States Parties have been referring to their Article 5 duties in national plans, the ICBL believes that there is a need to clarify what it means to have fulfilled one of the Convention’s core obligations.

The treaty states that “each State Party shall make every effort to identify all areas under its jurisdiction or control in which antipersonnel mines are known or suspected to be emplaced.” We believe this obliges *all* mine-affected States Parties to research, physically identify, document, and report on the location of all mined areas under their jurisdiction or control. Not all mine-affected states have done so. There are nine States Parties that the ICBL believes may be affected by antipersonnel mines but which have not declared any mined areas or Article 5 obligations. The ICBL believes there should be a process for clarifying whether a state has Article 5 obligations when there is uncertainty.

The treaty states that if antipersonnel mines in known or suspected areas are not immediately destroyed, each State Party must ensure “as soon as possible” that they are “perimeter-marked, monitored and protected by fencing or other means, to ensure the effective exclusion of civilians until all antipersonnel mines contained therein have been destroyed.” When marking, monitoring, and fencing do occur, they must only be seen as an *interim* measure, and not as a substitute for the obligation to destroy the mines in those delineated areas within the 10-year deadline.

There is nothing in the Convention that supports the use of the terms “mine-safe” or “impact-free” as a basis for a statement of completion of Article 5 obligations. Indeed, these terms imply knowledge of the continued presence of areas that contain antipersonnel mines and therefore

indicate that Article 5 obligations have not been fully met. The use of either of these terms should therefore not be used in declaring a State Party's full implementation of its Article 5 duties.

Once a State Party has determined that it has destroyed *all* emplaced antipersonnel mines in *all* known or suspected mined areas, the ICBL believes that there should be an agreed process for declaring that Article 5 obligations have been fulfilled. The current manner by which States Parties have communicated this information has led to some ambiguity about their Article 5 status.

In the ICBL's view, the discovery of residual antipersonnel mines after such a declaration 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 would follow the precedent established by States Parties with respect to Article 4, as reflected in Action #15 of the Nairobi Action Plan.

Mr. President, let me take this opportunity to emphasize that while it is critical that donor States Parties meet their obligation under Article 6 for international assistance, the primary responsibility for meeting the requirements under Article 5 belongs to the mine-affected State Party, which must contribute the appropriate resources and demonstrate it has the political will and the capacity to finish the task.

Finally, the treaty allows a State Party to request an extension if it believes it will not be able to meet its 10-year deadline. The requesting party must provide detailed information on the reasons for and implications of such an extension. In this regard, the ICBL welcomes Norway's non-paper offering to elaborate ideas on how to facilitate the implementation of Article 5" because we believe it will be critical in the coming year to clarify the extension request process. The ICBL strongly recommends that a review process be established that allows sufficient time for States Parties to assess requests and make an informed decision. We also recommend that States Parties do not grant blanket unconditional 10-year extensions, but rather give the shortest appropriate extension periods. In conclusion, the ICBL believes that the precise contents of the extension requests and criteria for extension decisions should be elaborated in the upcoming intersessional period, and ICBL will support this effort by putting forward its own recommendations.

Mr. President, given the urgency of the matter, the ICBL believes that mine-affected States Parties, donor countries, and civil society should give their full attention to Article 5 implementation in the coming years, and the ICBL wishes to play a constructive role in this process.

Thank you Mr. President.