

Ninth Meeting

Geneva, 24 – 28 November 2008

Item 11 of the provisional agenda

**Informal presentation of requests
submitted under Article 5 and of
the analysis of these requests**

**APPLYING ALL AVAILABLE METHODS TO ACHIEVE THE FULL,
EFFICIENT AND EXPEDIENT IMPLEMENTATION OF ARTICLE 5**

Submitted by Norway, Coordinator of the Resource Utilization Contact Group

Background

1. More than a decade of efforts to implement Article 5 of the Convention has demonstrated complex challenges associated with identifying the exact boundaries 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.
2. 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 fulfil Convention obligations can proceed in a more efficient manner.”
3. At the November 2007 Eighth Meeting of the States Parties (8MSP), a discussion was held on practical ways to overcome 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.”
4. 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:

- (i) Some States Parties have not made use of the full range of actions available to more accurately define 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.
- (ii) Some States Parties only recently have applied the full range of actions available to more accurately define suspected hazardous areas, resulting in several instances in a dramatic increase in the amount of previously suspected hazardous areas released.
- (iii) In some States Parties, the full range of actions to more accurately define suspected hazardous areas have been used for several years, notwithstanding the absence of a national standard or policy.

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

5. 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:

- (i) Land can be released through non-technical means, such as systematic community liaison, field based data gathering and improved procedures for cross-referencing data and updating databases.
- (ii) 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.
- (iii) 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 destruction of all mines and other explosive hazards.

6. Such methods can cancel out or reclassify an area previously recorded as a mined area where there is now confidence that the area does not present a risk from mines or other explosive hazards. Changes in the status of previously reported mined areas need to be recorded in relevant databases, reported to other States Parties and the released areas need to be formally handed over to the relevant communities.

7. 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, effective management of data is needed in order to maintain confidence in the decisions being taken and national institutions need to be accountable for the management of the process.

8. 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:

- (i) **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.
- (ii) **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.
- (iii) **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.
- (iv) **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.
- (v) **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 and land status in case of any subsequent landmine accidents. Should there be accidents in or mines found in released areas, such areas or portions of them may be reclassified as suspected mined areas or confirmed mined areas.
- (vi) **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.

- (vii) **A common set of terminology to be used when describing the process:** Many States Parties use different terminology to broadly describe 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

9. The States Parties acknowledge that three main actions can be undertaken to assess and, where applicable, to release land that has been previously identified and reported as part of a "mined area": through non-technical means, technical survey, and clearance.
10. In order to ensure the expedient, efficient and safe release of mined areas, States Parties in the process of implementing Article 5 are encouraged to develop national plans that employ, as required, the full range of methods, in addition to clearance, available to release land.
11. States Parties are encouraged to take all necessary steps to effectively manage information on changes in the status of previously reported mined areas and to communicate to other States Parties and relevant communities within their own countries such changes in status.
12. States Parties preparing Article 5 extension requests are encouraged to incorporate into their requests, in accordance with Article 5.4(d), an indication of how clearance and other methods of land release will be applied in the fulfilment of obligations during the requested extension period.
13. States Parties providing assistance to mine action activities should ensure that the support provided facilitates the application of the full range of actions for reassessing and releasing "mined areas".
14. Just as many States have established national policies and standards on clearance and technical survey based upon existing best international practices, they are also encouraged to observe and apply, where appropriate, such practices with respect to non-technical land release.
15. In developing national policies or standards on land reassessment and release through non-technical means, States Parties are recommended take into account the principles indicated above.
16. The States Parties acknowledge that land reassessment and 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".
-