
**Meeting of the States Parties to the Convention
on the Prohibition of the Use, Stockpiling,
Production and Transfer of Anti-Personnel
Mines and on Their Destruction**

28 November 2011

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Phnom Penh, 28 November – 2 December 2011

Item 9 of the agenda

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

**Observations on the request submitted by the Republic of
Congo under Article 5 of the Convention**

Submitted by the President of the Tenth Meeting of the States Parties

1. At the 2006 Seventh Meeting of the States Parties (7MSP), the States Parties established “a process for the preparation, submission and consideration of requests for extensions to Article 5 deadlines.” This process includes States Parties seeking extensions being encouraged “to submit their requests to the President no fewer than nine months before the Meeting of the States Parties or Review Conference at which the decision on the request would need to be taken.” The agreed process also sees that the President, the Co-Chairs and the Co-Rapporteurs are tasked with preparing an analysis of each request and that the President is responsible for submitting each analysis “to the States Parties well before the Meeting of the States Parties or Review Conference preceding the requesting State’s deadline.”
2. In a report submitted to the Ninth Meeting of the States Parties (9MSP), the President of the Eight Meeting of the States Parties (8MSP) remarked on how late requests have compounded challenges faced by the analysing group. In a report submitted to the Tenth Meeting of the States Parties (10MSP), the President of the Second Review Conference recorded that late requests “impeded the efforts of the analysing group and resulted in some analyses being completed much later than they normally should have.” Also at the 10MSP, “the Meeting recalled the importance of the timely submission of extension requests to the overall effective functioning of the Article 5 extension process and, in this context, recommended that all States Parties that wish to submit requests do so no later than 31 March of the year when the request would be considered (i.e., the year prior to the State Party’s deadline).”
3. The Convention entered into force for the Republic of Congo on 1 November 2001. In its initial transparency report submitted in 2002, the Republic of the Congo indicated that while no mined area had been detected, Congo’s border with Angola in the south west of the country was considered suspect. The Republic of the Congo further indicated that it was possible that rebels operating in the area in the 1970s had emplaced mines and that reconnaissance to be further undertaken would confirm or deny the presence of mines.

4. Since the Republic of Congo submitted its initial transparency report, no appreciable additional information has been provided to confirm or deny the presence of mines in the suspected area nor has information been provided, in accordance with Article 7, paragraph 7(f) on the status of programmes for the destruction of anti-personnel mines in accordance with Article 5.

5. In accordance with the process agreed to at the 7MSP, if Congo believed it would be unable to comply with Article 5, paragraph 1 of the Convention within a ten year period following entry into force, it should have submitted a request by 31 March 2010. By the time of the 29 November to 3 December 2010 Tenth Meeting of the States Parties (10MSP), Congo had still not informed the States Parties if the suspect area in Congo indeed contains anti-personnel mines. The 10MSP concluded with respect to this matter that “in noting that the Republic of the Congo has an Article 5 deadline on 1 November 2011 and has not yet indicated that it will be able to comply by its deadline, noted the importance of the Republic of the Congo providing clarity on this matter as soon as possible.”

6. On 1 February 2011, the 10MSP President wrote to the Permanent Representative of Congo to the United Nations in Geneva to recall that the 10MSP had “noted the importance of the Republic of the Congo providing clarity on this matter as soon as possible.” On 17 February 2011, the 10MSP President met with a representative of the Permanent Mission of Congo to reinforce the need to provide clarity on this matter and to recall the agreed process of preparing, submitting and considering requests.

7. In keeping with the decision taken at the 7MSP which sees that States Parties are encouraged, as necessary, to seek assistance from the Implementation Support Unit in the preparation of their requests, beginning in August 2009 and frequently since, the ISU made the availability of its assistance known to the Republic of the Congo.

8. At the June 2011 meeting of the Standing Committee on Mine Clearance, the Republic of the Congo reiterated that while no mined area had been detected, it was possible that rebels operating in the south west of the country in the 1970s had emplaced mines. The Republic of the Congo further reported that explosive remnants of war had a negative impact on the population and that it would soon deploy a dozen newly trained personnel to collect information in the suspected areas. In addition, the Republic of the Congo indicated that it would request an extension until 1 November 2013 in order to comply with the Convention.

9. During the meetings of the Standing Committee in June 2011, the Co-Chairs of the Standing Committee on Mine Clearance, met with a representative of the Republic of the Congo in order to recall the importance of ensuring that activities are carried out to confirm the non-existence of mines in the suspected areas or, alternatively, of submitting an extension request for consideration at the 11MSP. The Co-Chairs encouraged the Republic of the Congo to take advantage of the technical support offered by the ISU. The Co-Chairs subsequently reiterated the urgency of the matter with officials of the Republic of the Congo in Brazzaville and the willingness of the ISU to deploying a technical expert to visit the area of concern with a view to assisting Congo in assessing the situation and, if necessary, in preparing an extension request. Congo replied that it did not have funds to cover its own costs (e.g., internal travel) associated with such a mission. As a mission had not taken place as of 27 October, the Co-Chairs proposed that a shorter mission, possibly to Brazzaville only, to assist the authorities in preparing an extension request.

10. The deadline for Congo to have complied with its obligations under Article 5, paragraph 1 of the Convention occurred on 1 November 2011. As the Republic of the Congo had self-declared that it had obligations to fulfill and as the Republic of Congo has

not reported completion of implementation, it has been non-compliant since 1 November 2011.

11. On 24 November 2011, the Republic of the Congo submitted an extension request to the President. The President responded to acknowledge receipt of the request and to note that he regretted that the late submission of the request made it impossible for an analysis of it to be prepared.

Observations

12. The Republic of the Congo has had ten years to take steps, as it noted was required, to confirm or deny the presence of anti-personnel mines in the south west of the country, and, to destroy or ensure the destruction of all anti-personnel mines in mined areas under its jurisdiction or control. It has not taken such required steps.

13. The request submitted by the Republic of the Congo provides no appreciable new information regarding the status of the suspicion of anti-personnel mines in the south west of the country. The request indicates that the Republic of the Congo requests an extension of 2 years until 1 November 2013, implying that if a second extension was needed, it would need to be submitted by 31 March 2012.

14. As noted, in accordance with the process agreed to by the States Parties, if the Republic of the Congo believed it would be unable to complete implementation of Article 5, paragraph 1 within a ten year period, it should have submitted a request by 31 March 2010. Notwithstanding that a request should have been submitted, analysed and considered in 2010, if the Republic of the Congo had submitted a request early in 2011 it could have been analysed with the analysis made available to all States Parties well before the 11MSP.

15. To date 26 States Parties have generally acted in a manner consistent with process agreed to by the States Parties at the 7MSP. Many of these States Parties spent several months preparing requests and subsequently engaged in cooperative dialogue with the Article 5 analysing group. In addition, "some requesting States Parties", as noted by the report submitted to the 9MSP by the President of the 8MSP, "(have) seized on the opportunity presented through an extension request to reinvigorate interest in a national demining plan, in large part by demonstrating national ownership and that implementation is possible in a relatively short period of time."

16. That fact that the Republic of Congo is non-compliant and has not made use of the process we collectively agreed to at the 7MSP is a serious matter. The States Parties should work collectively in a spirit of cooperation to correct this situation and to prevent it from occurring again. At the 9MSP, the States Parties warmly welcomed a proposal aimed at giving due attention to cases of non-compliance with Article 4 and at preventing future instances of non-compliance. Many similar measures could apply to Article 5:

(a) Non-compliant States Parties should act in a committed and transparent way, immediately communicating, preferably in the form of a note verbale addressed to all States Parties, the reasons, which should be extraordinary, for failing to comply. If relevant, they should submit as soon as possible a request for an extension, adhering to the process agreed to at the 7MSP.

(b) In order to prevent or address compliance issues, the Co-Chairs of the Standing Committee on Mine Clearance should hold informal consultations with concerned States Parties. Consultations as a preventative measure should be undertaken well in advance of deadlines.

(c) States Parties in the process of implementing Article 5 should report as required annually on the location of all mined areas that contain, or are suspected to

contain, anti-personnel mines under their jurisdiction or control, progressively improving the information that is provided. Furthermore, they should report as required on the status of programmes for the destruction of anti-personnel mines in accordance with Article 5, providing as much detail as possible.
