
**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**

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Item 9 of the provisional agenda

Article 5 extension requests and the extension request process

**Request for an extension of the deadline for completing the
destruction of anti-personnel mines in accordance with
Article 5 of the Convention
Executive summary**

Submitted by Cyprus

1. The Republic of Cyprus signed the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction (Ottawa Convention) on 3 December 1997. On 20 December 2002, the House of Representatives of the Republic of Cyprus ratified the Convention and the instrument of ratification was deposited with the Secretary-General of the United Nations (UN) on 17 January 2003. The Convention entered into force for Cyprus on 1 July 2003.

2. In information submissions made in accordance with Article 7 of the Convention, the Republic of Cyprus has reported areas that contain anti-personnel mines which are under the effective control of the Government of the Republic of Cyprus, as well as areas not under the effective control of the Government of the Republic of Cyprus. In accordance with Article 5, paragraph 1 of the Convention, Cyprus is obliged “to destroy or ensure the destruction of all anti-personnel mines in mined areas under its jurisdiction or control as soon as possible but not later than (1 July 2013)”. From the outset, Cyprus expressed its commitment to destroy all anti-personnel mines in mined areas under its effective control within ten years of the entry into force of the Convention for Cyprus – namely by 1 July 2013. Cyprus is proud that it will indeed have complied with its Article 5 obligations in areas under its effective control by this deadline.

3. However, also at the time of the ratification of the Convention, the Republic of Cyprus had made it clear that it would not be able to implement Article 5 in its entirety, given that there were mined areas in its territory which had been out of its effective control due to the continuous Turkish military occupation of areas in the northern part of Cyprus. This situation remains to this day. In turn, the Republic of Cyprus considers that it will not be able to destroy, or ensure the destruction of, all anti-personnel mines in those mined areas under its jurisdiction, which are now under occupation by a third State (Turkey), by 1 July 2013.

4. It is reminded that on 20 July 1974 Turkey invaded Cyprus, seizing 36.2 per cent of its territory. The Turkish invasion and continuous military occupation of the northern part of Cyprus is in violation of international codes of conduct established under Treaties to which it is a signatory, as well as of the Charter of the United Nations and the fundamental principles of International Law. Ever since, the Government of the Republic of Cyprus has not been able to exercise *de facto* control in those areas of the territory of the Republic which are to this day under Turkey's military occupation. Indeed, Protocol No.10 on Cyprus of the European Union Treaty of Accession of 2003, recognized that it was necessary to make special provisions so as not to hold the Republic responsible for application of the *acquis* "in those areas of the Republic of Cyprus in which the Government of the Republic does not exercise effective control" (see Preamble paragraph 3 and Article 1.1).

5. The United Nations Force in Cyprus (UNFICYP) applied a "buffer zone" between the ceasefire line of the Turkish Forces and the ceasefire line of the National Guard of the Republic of Cyprus, to monitor the ceasefire. The buffer zone covers approximately 2.6 per cent of the Island's territory. The jurisdiction of the Government of the Republic of Cyprus in the buffer zone is both *de jure* and *de facto* exercisable. However, military jurisdiction has been temporarily suspended therein, in order to facilitate the implementation of UNFICYP's mandate (originally set out in Security Council Resolution 186 (1964) of the United Nations, repeatedly reiterated, and which includes, *inter alia*, the prevention of a recurrence of fighting).

6. The Government of the Republic of Cyprus is the only recognized State and government in Cyprus under International Law. In reaction to the unilateral declaration of independence in 1983 by the then leader of the Turkish Cypriot community, the Security Council of the United Nations adopted Resolution 541 (1983) which "Calls upon all States not to recognize any Cypriot State other than the Republic of Cyprus ...," while subsequent Resolution 550 (1984) "Condemns all secessionist actions ... declares them illegal and calls for their immediate withdrawal".

7. Turkey's military aggression against Cyprus has continued unabated for almost four decades in spite of United Nations resolutions calling for the withdrawal of foreign troops from Cyprus.

8. Therefore, under Article 5.3 of the Convention, the Republic of Cyprus herewith submits a request to the Meeting of the States Parties to be held on 3-7 December 2012 in Geneva, for a three year extension of the deadline, i.e. until 1 July 2016, for completing the destruction of all anti-personnel mines known or suspected to be emplaced in all mined areas under its jurisdiction or control.

9. A State has sovereignty and jurisdiction over all its territory, and it retains such sovereignty and jurisdiction and correlative State responsibility when part, or even all, of its territory is occupied by a third State (as in the case of Turkey's invasion and occupation of northern Cyprus since July 1974).¹

¹ The third State, by virtue of its effective overall control, also becomes internationally responsible for its acts and omissions in the occupied territory, even though this is outside its national territory. This principle was firmly established in *Loizidou v. Turkey (Preliminary Objections)* A.310 (1995), paragraph 62, by the European Court of Human Rights. The principle has repeatedly been reiterated by later judgments, with the Grand Chamber in *Ilascu and Others v. Moldova and Russia* 40 EHRR 1030, holding that there was not only responsibility of the Power in *de facto* control, but continuing responsibility of the State whose legitimate Government can no longer in fact exercise its authority in the foreign-occupied part of its territory. The latter State's responsibility must be examined in the light of its positive obligations towards persons within its territory. The Grand Chamber confirmed

10. These fundamental principles of International Law were also reflected in the drafting of the Ottawa Convention, which, when imposing obligations on States Parties, repeatedly did so in relation to their "jurisdiction or control". The outcome is that, apart from any applicable Customary International Law obligations, both the State which has sovereignty and jurisdiction and also the State which has seized or assumed control are rendered obliged and liable wherever the Convention imposes duties or liabilities on contracting Parties in respect of areas or territory under their "jurisdiction or control".

The preparation and status of work conducted under the Republic of Cyprus' National Demining Programmes

11. Cyprus, having suffered the atrocities of war and still suffering a situation of foreign military occupation of more than a third of its territory up until today, attaches particularly high importance to disarmament in general, and has always been a keen advocate of a mine-free world. As far back as 1983 and still under serious military threat from Turkey, Cyprus took the bold step of clearing ten minefields near the UN buffer zone, while in 2002 it cleared a further two. The Government of Cyprus, sharing the sensitivities expressed worldwide regarding disarmament and the destruction of mines, became a State Party to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects of 1980 (CCW) and its Protocol II on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices. The Republic also ratified Protocol V of 2008 on Explosive Remnants of War. Prior to that, the Republic of Cyprus signed the Ottawa Convention in 1997 and ratified it on 17 January 2003, becoming a State Party on 1 July 2003.

12. To ensure the Republic's compliance with the Convention, the Ministry of Foreign Affairs, the Ministry of Defence and the Ministry of Justice and Public Order became formally responsible for its implementation through an Inter-ministerial National Committee, established in May 2003, to serve as the national mines authority for Cyprus. In addition, the Republic proceeded promptly to develop a National Plan for implementation of the Convention. As its own contribution to efforts for achieving a safer world, the Government, committed to achieving complete demining of the areas of the Island which are under its effective control, began a process of demining in line with Cyprus's National Plan. The task of destroying the stock-piled and laid-down mines was assigned to the Engineers Corps Command of the National Guard. The Plan included an annual timetable for the clearance of the 20 minefields in Republic-controlled areas. In view of the impossibility of the Republic taking effective action to implement demining in the Turkish-occupied area, no plan for clearance of areas controlled by Turkish Armed Forces has been made public.

13. The technical aspects of the implementation of the Ottawa Convention are the responsibility of the Ministry of Defence of the Republic of Cyprus. As already indicated, in order to realize this difficult task of implementation, the Republic of Cyprus assigned qualified personnel and the necessary equipment from the National Guard's Engineers Corps Command. The National Guard General Staff also established a special unit called

the principles set out in *Ilascu and Others in Al-Skeini and Others v. The United Kingdom*, No.55721/07, §§131-2 and 138-9, 7 July 2011, and re-iterated them as recently as 14 December 2011 in *Minas Sargsyan v. Azerbaijan* No.40167/06. A similar approach was taken by the Human Rights Committee under the UN International Covenant on Civil and Political Rights and by the International Court of Justice in its 9 July 2004 Advisory Opinion on *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* 129 ILR 37 at 98.

the Cyprus Mine Action Centre (CYMAC) on 25 August 2003. This was staffed with qualified personnel, and CYMAC has in practice been assigned responsibility for implementing all Cyprus's obligations arising from the Ottawa Convention and also those under Protocol II of the CCW.

14. Clearance of anti-personnel mines from National Guard minefields in areas controlled by the Republic and located outside the buffer zone began in 2003. All areas under the control of the Government of the Republic of Cyprus, in which anti-personnel mines are known or suspected to have been laid, have been identified and subsequently perimeter-marked, monitored by troops and protected by fencing and other means to ensure the effective exclusion of civilians, until all mines contained therein have been destroyed. The marking has been at least to the standards prescribed in Article 5.2 of the Ottawa Convention. To ensure transparency regarding implementation, Cyprus has regularly provided annual reports under Article 7.2 of the Convention to the Secretary-General of the United Nations, setting out the updated information required by Article 7.

15. It should be noted that, in accordance with the time schedule set out in Cyprus' National Plan, in the period from the beginning of the destruction process until today, 2,945 anti-personnel mines, from 17 minefields that were laid down by the National Guard, have been effectively removed and destroyed by CYMAC. The Republic of Cyprus will be completing its National Plan to destroy all anti-personnel landmines under its effective control by 1 July 2013.

16. In 2002 the Government of the Republic of Cyprus called upon UNFICYP to assist in the removal of all minefields and other remnants of war in the buffer zone. UNFICYP invited the United Nations Mine Action Service (UNMAS) to act as its advisor on the clearance project. An agreement was signed in 2004 by the Republic of Cyprus and UNFICYP on demining inside the buffer zone. The National Guard prepared a demining plan, which was sponsored by the European Commission through the United Nations Development Programme (UNDP). All 13 National Guard minefields were cleared between November 2004 and July 2005 with the destruction of 2185 mines, including both anti-personnel and anti-tank ones. In August 2005 the Turkish Forces were persuaded that they should engage in the demining programme. The UNMAS demining programme in the buffer zone was concluded in January 2011 with the clearance of a total 81 minefields, the removal of 27,174 anti-personnel and anti-tank mines and the return of approximately 11 km² to civilian use, mostly agricultural. However, there is one minefield in the buffer zone laid by Turkey's occupation forces in the area south of Varosha which remains still. It must be noted that, in the occupied areas, there are 20 minefields in total laid by the Turkish Forces known not yet to be cleared of anti-personnel mines. Parts of some of those minefields, which the Turkish Forces have not yet surrendered to the United Nations for clearance under the demining project, fall in the buffer zone in the area west of Nicosia.

17. The role of the UNMAS has been to clear all known minefields, booby traps, and suspected mine areas in the UNFICYP-controlled buffer zone. This included planning, coordinating, monitoring and evaluating all operations to ensure safety, time efficiency and cost effectiveness. The UNDP Partnership for the Future (UNDP-PFF) through the United Nations Office for Project Services (UNOPS) was responsible for the operational aspects of the project.

18. The Demining Program in the Buffer Zone was approximately 80 per cent funded by the European Commission. The Republic of Cyprus, the United Kingdom of Great Britain and Northern Ireland and Hungary through their diplomatic representations in Nicosia and the Government of Canada and Slovenia through the International Trust Fund for Demining also contributed to the same project.

The financial and technical means available to the Republic of Cyprus to fulfil its obligations during the extension period

19. The successful implementation of the anti-personnel mines destruction programme under the Republic's National Plan clearly shows that the Republic of Cyprus has suitable expertise and competence to take any further required action, should arrangements in connection with the situation in Cyprus be made providing for or permitting further measures. In such event, the Government of the Republic stands ready to elaborate details and budgetary provisions for a new National Plan, securing the funding and facilities necessary.

The humanitarian, social, economic and environmental implications of the proposed extension

20. Efforts undertaken by CYMAC to release land known to contain mines have had a significant positive humanitarian, socioeconomic and environmental impact. Part of the mine-free territory have been conceded both to farmers for cultivating the land and to shepherds for feeding and watering their flocks.

21. So far as concerns areas under the control of the Government of the Republic of Cyprus, there is no likely impact of contamination or spread of explosive remnants of war. Only if inhabitants of the Government-controlled areas cross the buffer zone, enter the Turkish-occupied area, and unfortunately become land-mine casualties, will there be implications (e.g. need for victim assistance).

22. So far as concerns the areas under Turkish military occupation, the risks for civilians who use the land adjacent to the mined areas are impossible to be estimated accurately – not least because the Republic has no access and has no evidence of any mine action taken there, or of risk education by the Turkish Armed Forces, or of victim assistance etc. Cypriots residing in the Turkish-occupied areas remain eligible to claim medical assistance and treatment from medical facilities of the Government of Cyprus.

Explanation of the reasons for the proposed extension

23. The extension of the deadline for destroying or ensuring destruction of anti-personnel mines in mined areas under the Republic of Cyprus' jurisdiction or control is necessary because certain parts of Cyprus' territory are occupied by the Turkish Armed Forces and these parts contain mined areas in which anti-personnel mines have been or are suspected to be emplaced. Such areas are the only areas in the Republic emplaced with anti-personnel mines. The Republic retains its jurisdiction over those areas and actual physical control of them will revert to it upon ending of Turkey's illegal occupation of part of Cyprus's territory. In the meanwhile, the Republic is unable to provide precise details concerning the areas in which anti-personnel mines are known to be emplaced or in which mines are suspected to be emplaced as it has no access to the Turkish-occupied area. As a result, any mines there located are not clearly perimeter-marked, not protectively fenced and not monitored by the Republic of Cyprus so as to ensure the effective exclusion of civilians (as stipulated by Convention Article 5.2). These omissions are due to Turkey's forcible military occupation preventing the Republic, the Sovereign Power throughout the territory of the Republic of Cyprus, from exercising effective control in the Turkish-occupied areas. Obviously, this situation maximizes the threat of those mines to the population and could cause further accidents.

Circumstances which impede the ability of the State Party to destroy all the anti-personnel mines in mined areas

24. As indicated, the only mined areas under the jurisdiction of the Republic of Cyprus are located in the areas north of the buffer zone, which are occupied by the Turkish Armed Forces, where some fall within the buffer zone as explained in paragraph 16 above. 21 minefields laid by Turkey's occupation forces are known not yet to be cleared of anti-personnel mines. These are overwhelmingly situated adjacent to the buffer zone. Precise information on their size, on their composition (if, for example, they include mines other than anti-personnel mines) and on how much land can be safely treated as arable when mines have been cleared are unknown.

25. Furthermore, before and during the invasion of 1974, the National Guard laid down 28 minefields north of Nicosia towards to Pentadaktylos mountain range, which are today located in the Turkish-occupied areas. The latter minefields included 1006 anti-personnel mines, but the Republic of Cyprus is not aware of the current condition of these minefields and whether they have been cleared by the Turkish Armed Forces or not.

26. So far as the Government of Cyprus is aware, there has been no progress in clearance of mined areas under the control of the Turkish Armed Forces. Mine clearance in the occupied part of the Republic involves the legal responsibility of Turkey as a State Party to the Ottawa Convention and to the CCW and its Protocols.

27. The Republic of Cyprus expects Turkey to take its full responsibility as a State Party in terms of the Ottawa Convention and any other relevant treaty. In particular, Turkey should set out concrete plans for clearance, for destroying or ensuring the destruction of all stock-piled anti-personnel mines it owns or possesses, or that are under its control in the areas of Cyprus under its military occupation. It is emphasized that, Turkey is obliged by Article 5.1 to destroy or ensure the destruction of all anti-personnel mines in mined areas "under its jurisdiction or control". Only such destruction will afford civilians the protection contemplated by the Convention.

28. The Government of Cyprus considers Turkey has a special responsibility not only under the Convention but also under Customary International Law for the clearance of mined areas under her control, because the Turkish Armed Forces' occupation and aggressive seizure of control precludes the Government of the Republic of Cyprus from exercising effective control in the occupied areas of Cyprus and thus from executing Cyprus's own responsibility as the Sovereign Power with jurisdiction and consequential obligations under the Convention and under Customary International Law to the civilian population.

Duration of the proposed extension

29. Since it is not physically in control of the minefields or mines of the Turkish Armed Forces in the area under their occupation, the Republic of Cyprus cannot, with any degree of accuracy, commit to deadlines for destruction of mines there. At the present time, it is not possible, by reason of Turkey's force majeure, for the Republic even to estimate how long a period will elapse before the Republic will be afforded the necessary full access, facilities and safeguards to enable it to perform its own independent obligations to destroy all anti-personnel mines under its jurisdiction and to take the requisite measures protecting civilians dictated by International Humanitarian Law.

30. Certainly, the Republic cannot undertake to perform obligations required of Turkey in consequence of Turkey's independent and separate responsibility as a State Party under

the Convention, which obliges her to destroy all anti-personnel mines and to take other steps specified in the Convention, particularly by Article 5.2.

31. Moreover, since the extent of contamination in areas controlled by the Turkish Armed Forces is not known, the Republic of Cyprus is unable to indicate a specific time-frame which will be required to render such areas free of anti-personnel mines. According to the best estimate of the Republic's Ministry of Defence, completion of the task of destruction of anti-personnel mines and rendering the areas safe from explosive remnants will take a considerable amount of time after the Republic is afforded the necessary access to take the requisite action. Such access will only be afforded after a settlement of the Cyprus problem, a much-desired outcome.

32. In the circumstances, the Republic of Cyprus proposes that it be granted an extension period of three (3) years, i.e. until 1 July 2016. Within such period, should its request be granted, the Republic of Cyprus would again evaluate the situation, and, as a State Party, form a fresh opinion as to whether matters have evolved so that the Republic is, or may in future be, able to destroy or ensure the destruction of all anti-personnel mines and to arrive at a specific assessment of the time required for their destruction. If, however, the present impossibility continues, with Turkish Armed Forces still preventing the Republic from exercising its competences to take action to destroy the prohibited weapons in the Turkish-occupied area, the Government of the Republic of Cyprus retains its right to invoke Article 5.6 to make a new request, supported by relevant additional information on what has been undertaken in the previous extension period, and will submit that any earlier extension should be renewed. In such an unfortunate case, the Republic of Cyprus will again inform the State Parties of the obstacles which might prevent it from exercising its protective powers in favour of the civilian population and from taking measures to ensure avoidance of the hazards listed in preambular paragraph 1 of the Convention (namely, suffering and casualties, obstruction of reconstruction and inhibition of repatriation of internally displaced persons).

33. Moreover, it is significant that the prohibition incorporated in the Convention reflects *erga omnes* obligations imposed by Customary International Law. The cardinal principles of humanitarian law (including the prohibition of use of weapons such as anti-personnel mines or those with indiscriminate effects) must be observed because they constitute "intransgressible principles of international customary law" according to the Advisory Opinion of the International Court of Justice on Legality of the Threat or Use of Nuclear Weapons, ICJ Reports 1996, at p.257. All States Parties other than the Republic of Cyprus must surely be equally concerned that fundamental rules of humanitarian law applicable in armed conflict (which rules must be observed by all States - whether or not they have ratified the Conventions that contain them - which create obligations towards the international community as a whole, and which entail a legal interest of all States to protect relevant rights and obligations) are not being observed by Turkey, which is still "using" anti-personnel mines in so far as these are emplaced in minefields controlled by her occupation forces in the Republic of Cyprus. This violation of *erga omnes* rules of Customary International Law is quite apart from (i.e. in addition to) provisions of the Ottawa Convention not being observed by Turkey.