

## **TOWARDS THE FULL IMPLEMENTATION OF ARTICLE FIVE 7MSP PRESIDENT'S NON-PAPER**

**28 August 2006**

States Parties reaffirmed their commitment to fulfilling the mine clearance obligations under Article 5 at the first Review Conference. In particular, they committed to 'strive to ensure that few, if any, States Parties will feel compelled to request an extension in accordance with the procedure set out in Article 5, paragraphs 3-6 of the Convention' (*Nairobi Action Plan Action #27* refers).

Nevertheless, the Convention allows States Parties to seek an extension to their mine destruction deadline if they are unable to meet it (Article 5-3). There are 45 States Parties for which mine clearance deadlines fall due from 2009. And despite their best of efforts to meet their deadlines, it is possible that some will seek extensions.

States Parties need to ensure an effective process for handling these requests. The process should operate efficiently and cooperatively, in the spirit of the Convention. It must contribute to realising the full implementation of the Convention.

Decisions on extensions may need to be taken as soon as the MSP in 2008 should any State Party with a 2009 deadline request one. States Party requesting extensions will need to begin their work on requests even earlier to satisfy the obligations under Article 5. Accordingly, there is a need to clarify, and decide as appropriate, the key elements of an extensions process at the Seventh Meeting of the States Parties (7MSP). Such action will help ensure the system is operational by the MSP in 2008.

As States Parties have noted, work on an extensions process should not be seen as an alternative to fulfilling Article 5 obligations. Rather, development of a process is a pragmatic acknowledgment that some States Parties, despite their best efforts, will require an extension and States Parties must be in a position to respond to that request in a timely manner. It is in the interests of all mine-affected populations, States Parties and our Convention that efforts toward fulfilling Article 5 mine clearance obligations continue. Moreover, extensions are not an automatic right. They will only be granted on the basis of an informed decision by States Parties.

### *Extension request content and format*

The Convention lays down some clear guidelines on the content of extension requests in Article 5-4:

4. Each request shall contain:
  - a) The duration of the proposed extension;
  - b) A detailed explanation of the reasons for the proposed extension, including:
    - (i) The preparation and status of work conducted under national demining programs;
    - (ii) The financial and technical means available to the State Party for the destruction of all the anti-personnel mines; and

- (iii) Circumstances which impede the ability of the State Party to destroy all the anti-personnel mines in mined areas;
- c) The humanitarian, social, economic, and environmental implications of the extension; and
- d) Any other information relevant to the request for the proposed extension.

States Parties are strongly encouraged to illustrate how the extension period will contribute to the meeting of Article 5 obligations. To this end, States Parties are strongly encouraged to provide information on their national demining plan, including resource needs, for the extension period.

Additionally concerned States Parties agreed to provide information relating to resources they themselves have contributed to fulfil their Article 5 obligations. (*Nairobi Action Plan #22 refers*)

It is the responsibility of the requesting State Party to provide all information relevant to their request, drawing on assistance as necessary. In this regard, States Parties should seek assistance from the Implementation Support Unit (ISU) in the preparation of their requests. States Parties in a position to do so should assist states requesting an extension to fulfill their Article 5 obligations in accordance with Article 6-4 of the Convention. International and non-governmental organisations are strongly encouraged to provide assistance where they are in a position to do so.

The President's consultations revealed strong support for elaboration of a common template for extension requests to assist States Parties seeking an extension to fulfill the information requirements of Article 5-4. This would be in line with the precedent of States Parties' decision to adopt a common template to better facilitate provision of information as required by Article 7. With this in mind, the President is grateful to the delegation of Canada for its draft template, contained in Annex 1 for States Parties' consideration and discussion at the 7MSP.

#### *Submission of extension requests*

According to Article 5-3 of the Convention, States Parties 'may submit a request to a Meeting of States Parties or a Review Conference...'. In reality, this timing provides little scope for States Parties to fulfill their obligation to assess requests in accordance with Article 5-5. So States Parties should submit their request 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.

Timely submission of requests serves two aims. First, depending on the number of requests in any one year, States Parties may need to consider concurrently more than one request at a MSP or Review Conference. Timely submission of requests would ease this assessment burden by ensuring all issues were clarified before such a meeting. And it would better ensure other vital issues received due attention at the MSP or Review Conference.

Secondly, it gives sufficient time to identify and clarify issues relating to the request, including a requesting States Party's resource needs. In turn, a requesting State Party may use this work to revise its request before States Parties vote on it. Such work

would be undertaken in the cooperative spirit of the Convention. It would provide States Parties a better basis for making informed decisions. And it should help ensure requesting States Parties have in place clear strategies for meeting their goals during an extension period.

#### *Reviewing and assessing extension requests*

The President, upon receipt of an extension request, should inform States Parties of its lodgment and make it openly available, in keeping with the Convention practice of transparency. The President and the Co-Chairs and Co-Rapporteurs of the Standing Committees, should prepare a review of the request. They and the requesting States Party should cooperate fully to clarify issues and identify needs. In preparing reviews of requests, the President, Co-Chairs and Co-Rapporteurs should draw on expert mine clearance, legal and diplomatic advice, using the ISU to acquire necessary expertise and to otherwise provide support to the President.

The President, acting on behalf of the Co-Chairs and Co-Rapporteurs, should submit the review to States Parties well before the MSP or Review Conference preceding the requesting State's deadline. The review should indicate, *inter alia*: clarifications sought and received from the requesting State; clarifications outstanding; the nature of demining plans for the extension period; resource and assistance needs and gaps; and, any recommended action for States Parties' consideration. Concurrently, the requesting State Party should convey its extension request to the MSP or Review Conference.

In accordance with Convention Article 5-5, the MSP or Review Conference shall assess the request. States Parties need to determine whether the period of extension being sought is appropriate. In doing so, Article 5-5 states that States Parties shall take 'into consideration the factors contained in paragraph 4 [of the Convention]...'. The President's review of the request should assist States Parties in this regard.

#### *Deciding an extension request*

The States Parties, having assessed an extension request shall 'decide by a majority of votes of States Parties present and voting whether to grant the request for an extension period', in accordance with Article 5-5. This process for receiving, assessing and deciding extension requests should apply to the consideration of requests submitted in accordance with Article 5-6.

#### *Costs*

To the extent that this process for the review, assessment and deciding of extension requests imposes additional costs on the ISU, these shall be met through voluntary contributions from States Parties.

#### *Declaration of completion of Article 5 obligations*

Statements by States Parties that they have successfully completed their Article 5 obligations are a key measure of the success of article 5. It has been noted that statements made to date vary in form, content and place of submission. An increasing

variety of statements of completion could promote uncertainty concerning fulfillment of this central Convention obligation.

A State Party that has fulfilled its Article 5 mine destruction obligations is encouraged to issue a formal declaration to this effect. States Parties could elaborate a basic standard for such declarations which faithfully reflects article 5 obligations. Use of such a template could provide greater clarity and certainty to all States Parties that the objectives of Article 5, namely the destruction of all anti-personnel mines in identified mined areas under the State Party's jurisdiction or control, have been met. With these considerations in mind, The President is grateful to the delegations of Guatemala and the ICRC for their work on the proposed standard declaration contained in Annex II.

## ANNEX I

### CONVENTION ON THE PROHIBITION OF THE USE, STOCKPILING, PRODUCTION AND TRANSFER OF ANTI-PERSONNEL MINES AND ON THEIR DESTRUCTION

#### Template for assisting States Parties in requesting an extension under Article 5

STATE PARTY:

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POINT OF CONTACT:

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(Name, organization, telephone, fax, email)

#### Background:

Article 5.1 requires each State Party “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 ten years after the entry into force of this Convention for that State Party.” Related to this paragraph is the provision in Article 5.3 which states that “if a State Party believes that it will be unable to destroy or ensure the destruction of all anti-personnel mines referred to in paragraph 1 within that time period, it may submit a request to a Meeting of the States Parties or a Review Conference for an extension of the deadline for completing the destruction of such anti-personnel mines, for a period of up to 10 years.” Article 5.4 proceeds to indicate what each request shall contain. The following template has been prepared to assist States Parties in providing pertinent information in its request for an extension of its deadline.

#### Form A: The duration of the proposed extension

Article 5.4(a) states that “each request shall contain ... the duration of the proposed extension”.

<b>Date of entry into force</b>	
<b>Date ten years after entry into force</b>	
<b>Proposed end date of extension period*</b>	

\* The proposed end date should be the minimum required but must not be more than ten years after the date indicated in the second row.

**Please attach the national demining plan for the period of the extension sought, including details on how the progress estimated in Table D.1 is expected to be achieved. This should include details on the institutions / agencies responsible for preparing, endorsing and implementing the national demining plan, the assets that will be deployed, the costs of these assets and annual measures of progress.**

**Form B: A detailed explanation of the reasons for the proposed extension**

**i. The preparation and status of work conducted under national demining programmes**

Article 5.4(b)(i) states that each request shall contain a detailed explanation for the proposed extension, including the preparation and status of work conducted under national demining programmes.

*Table B1:*

*Preparation of work conducted under national demining programmes*

*Identification of areas under the State Party's jurisdiction or control in which anti-personnel mines were/are known to be emplaced*

Name of area under the State Party's jurisdiction or control in which anti-personnel mines were/are known to be emplaced <sup>1</sup>	Means used to identify and record this area as an area in which anti-personnel mines were known to be emplaced <sup>2</sup>	Date area identified as an area in which anti-personnel mines were known to be emplaced	Location of area <sup>3</sup>	Total area under the State Party's jurisdiction or control in which anti-personnel mines were / are known to be emplaced <sup>4</sup>
				Total:

<sup>1</sup> A new row should be added for each area under the State Party's jurisdiction or control in which anti-personnel mines were / are known to be emplaced.

<sup>2</sup> Means may include, for example, general surveys, Landmine Impact Surveys, technical surveys, the use of existing maps, etc.

<sup>3</sup> Geographic coordinates, if known, should be indicated.

<sup>4</sup> This could be presented, for example, in square metres, hectares, etc.







Table B5:

*National Planning structure*

Type of Planning Structure	Date of Establishment	Ministry Responsible	Number of staff	Responsibility for prioritisation of mine action tasking (Y/N)

**ii. The financial and technical means available to the State Party for the destruction of all the anti-personnel mines**

Article 5.4(b)(ii) states that each request shall contain a detailed explanation for the proposed extension, including the financial and technical means available to the State Party for the destruction of all the anti-personnel mines (in mined areas under its jurisdiction or control).

*Table B6.1:*

*Financial means made available since entry into force to conduct work under national demining programmes<sup>1</sup>*

Year: <sup>16</sup>										
Financial resources made available by the State Party										
Financial resources made available by actors other than the State Party										
Totals:										

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<sup>16</sup> A column should be included for each year beginning with the year when the Convention entered into force for the State Party until the present year.

Table B6.2:

Financial resources required and/or available to conduct work under national demining programmes during the period covered by the extension request<sup>2</sup>.

Year: <sup>17</sup>										
Financial resources committed by the State Party										
Financial resources committed by actors other than the State Party										
Totals:										

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<sup>17</sup> A column should be included for each year beginning with the first year when extension would be in effect until the last year when the extension would be in effect.

Table B6.3

National mine clearance expertise available to the State Party for the destruction of all anti-personnel mines since entry into force

Name of mine clearance organisation	Type of mine clearance organisation <sup>18</sup>	Numbers of organisations	Numbers of demining teams	Status of teams (Operational, non-operational)	Supplementary information
		Total:	Total:		

Table B6.4

National mine clearance expertise available to conduct work during the period covered by the extension request

Name of mine clearance organisation	Type of mine clearance organisation <sup>19</sup>	Numbers of organisations	Numbers of demining teams	Status of teams (Operational, non-operational)	Supplementary information
		Total:	Total:		

Table B6.5

National explosive ordnance disposal expertise available to conduct work since entry into force.

Name of organisation	Type of organisation <sup>20</sup>	Numbers of organisations	Numbers of EOD teams	Status of teams (Operational, non-operational)	Supplementary information

<sup>18</sup> E.g. civilian, military, non-for profit, commercial, etc.

<sup>19</sup> E.g. civilian, military, non-for profit, commercial, etc.

<sup>20</sup> E.g. civilian, military, non-for profit, commercial, etc.

Table B6.6

National explosive ordnance disposal expertise available to conduct work during the period covered by the extension request

Name of organisation	Type of organisation <sup>21</sup>	Numbers of organisations	Numbers of EOD teams	Status of teams (Operational, non-operational)	Supplementary information
		Total:	Total:		

Table B6.7:

International personnel with explosive ordnance disposal expertise engaged to conduct work under national demining programmes during the period covered by the extension request

Name of organisation	Type of organisation <sup>22</sup>	Numbers of organisations	Numbers of EOD teams	Status of teams (Operational, non-operational)	Supplementary information
		Total:	Total:		

<sup>21</sup> E.g. civilian, military, non-for profit, commercial, etc.

<sup>22</sup> E.g. civilian, military, non-for profit, commercial, etc.

Table B7:

Mine clearance equipment available to support work under national demining programmes during the period covered by the extension request

Date of acquisition	Organisation responsible for inventory	Detector type held	Total Number of Detectors	Percentage Serviceable	Supplementary information	
			Total:	Total:		
Date of acquisition	Organisation responsible for inventory	Personal Protective Equipment type held	Personal Protective Equipment sets	Percentage Serviceable	Supplementary information	
			Total:	Total:		
Date of acquisition	Organisation responsible for inventory	Mechanical equipment type held	Numbers of equipment held	Percentage Serviceable	Number of operators	Supplementary information
			Total:	Total:	Total:	
Date of acquisition	Organisation responsible for inventory	Number of dog teams operational	Number of dogs teams in training	Dog age profile	Supplementary information	
		Total:	Total:			

Table B8:

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

Article 5.4(b)(iii) states that each request shall contain a detailed explanation for the proposed extension, including circumstances which may impede the ability of the State Party to destroy all the anti-personnel mines in mined areas.

*These may include: the original scope of the challenge; lack of control over areas under the State Party's jurisdiction; climatic factors; geographic factors; unusual technical challenges; degree of financial resources made available by the State Party; degree of financial resources made available by actors other than the State Party in response to appeals made by the State Party; timely establishment of national demining programmes.*

Circumstance	Comment on circumstance	Degree to which this circumstance may impede the ability of the State Party to destroy all the anti-personnel mines in mined areas

**Form C: The humanitarian, social, economic, and environmental implications of the proposed extension**

Article 5.4(c) states that each request shall contain the humanitarian, social, economic, and environmental implications of the proposed extension.

*Table C1: Humanitarian implications - victims*

*These may include: number of individuals injured or killed by anti-personnel mines.*

Year <sup>23</sup> :										
Injured										
Killed										
Total										

*Table C2: Humanitarian implications – refugees and internally displaced persons*

*These may include: the estimated number of refugees and internally displaced persons whose return is impeded by the existence of areas under the State Party’s jurisdiction or control in which anti-personnel mines are known or are suspected to be emplaced.*

Refugees	Internally Displaced Persons	Total

*Table C3: Social and economic implications*

*These may include: estimated number of people and communities currently affected; estimated economic cost associated with loss of productive land; impact on national development goals.*

Implication	Estimate	Basis for this estimate	Supplementary information

*Table C4: Environmental implications*

Implication	Supplementary information

<sup>23</sup> A column should be included for each year beginning with the year when the Convention entered into force for the State Party until the present year.

**Form D: Any other information relevant to the request for the proposed extension**

Article 5.4.(d) states that each request shall contain any other information relevant to the request for the proposed extension.

*This may include: a year by year plan of the suspected mined area which will be released through technical survey and demining; a year by year plan of the mined areas and suspected mined areas which will be perimeter-marked, monitored and protected by fencing or other means, to ensure the effective exclusion of civilian until anti-personnel mines contained therein have been destroyed; a year by year plan of the productive land to be released; estimated economic benefit associated with the release of productive land; estimated number of communities that will still be affected by areas.*

*Table D.1: Progress expected during the period covered by the proposed extension*

Year <sup>24</sup>										

*Table D.2: Projected resource requirements during the period covered by the proposed extension*

Year										
Total projected financial requirements										
Financial commitment of the State Party										
Requirements for resources from international financial institutions										
Requirements for financial resources from other external actors										

<sup>24</sup> Include a column for every year covered by the proposed extension.

## ANNEX II

### **POSSIBLE LANGUAGE FOR A ‘DECLARATION OF COMPLETION’:**

[State] declares that it has destroyed [ensured the destruction of] all anti-personnel mines in areas under its jurisdiction or control in which anti-personnel mines were known or suspected to be emplaced, in accordance with Article 5 of the Convention.

In the event that previously unknown mined areas are discovered after mine clearance deadlines have passed, [State] will:

- (i) report such mined areas in accordance with its obligations under Article 7 and take advantage of other informal means to share such information;
- (ii) ensure the effective exclusion of civilians in accordance with Article 5; and
- (iii) destroy or ensure the destruction of all anti-personnel mines in these mined areas as a matter of urgent priority, making its needs for assistance known to other States Parties, as appropriate.