

Anti-Personnel Mine Ban Convention - Extension Request process

Submitted by the Committee on Article 5 Implementation
(Colombia, Iraq, France (Chair), Sweden)

Background

Article 5 of the Convention, requires States Parties reporting mined areas under their jurisdiction or control to:

- make every effort to identify all areas under its jurisdiction or control in which anti-personnel mines are known or suspected to be emplaced;
- ensure the effective exclusion of civilians from these areas until all anti-personnel mines contained therein have been destroyed, and;
- destroy or ensure the destruction of all anti-personnel mines in mined areas under their jurisdiction or control, as soon as possible but no later than ten years after the entry into force of this Convention for that State Party.

Should a State Party not be in a position to meet their obligations within the period of ten years after entry into force, a State Party 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 ten years. This extension may be renewed upon the submission of a new request.

While Article 5 provides some guidance concerning the content and decision making on requests for extension, 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 extension(s) to Article 5 deadlines.”

At the 2014 Third Review Conference, the States Parties mandated the Committee on Article 5 Implementation to lead the Article 5 extension request process by, in part:

- prepare and submit to the States Parties in advance of Meetings of the States Parties or Review Conferences an analysis of each request for an Article 5 extended deadline, taking into account as relevant, the decisions on the analysis process as agreed to by the Seventh and the Twelfth Meetings of the States Parties, and;
- engage relevant States Parties, after any extension requests have been granted, on the implementation of their commitments as contained in requests and related decisions on their requests.

At the Twentieth Meeting of the States Parties (20MSP), the then Chair of the Committee on Article 5 Implementation presented a paper entitled *Reflections on the implementation of mine clearance obligations of States Parties and the Article 5 Extension Process* which highlighted some of the challenges in implementation of Article 5 of the Convention. The 20MSP took note of the paper and mandated the incoming Committee on Article 5 Implementation to:

“to assess the Article 5 extension request process and challenges, based on the previously adopted decisions by States Parties and, taking into consideration other relevant documents on this matter, determine whether there would be a common ground for strengthening the process, including the

considerations of all relevant stakeholders in an open, inclusive, and transparent manner, in particular mine affected States, and to report its conclusions and recommendations at the Twenty-first Meeting of States Parties.”

Decisions adopted by the States Parties

Since its establishment, the Article 5 extension request process has been guided by the following documents adopted by the States Parties:

1. Towards the Full Implementation of Article Five - APLC/MSP.7/2006/L.3
2. An Orientation to the Process Concerning Article 5 Extension Requests - APLC/MSP.8/2007/INF.1
3. Conclusions on working methods drawn by the States Parties mandated to analyse Article 5 Extension requests - APLC/MSP.9/2008/4 - Appendix I to Annex II
4. Article 5 Analysing Group Extension Request Checklist - APLC/MSP.9/2008/4 - Appendix II to Annex II
5. Proposed Template for Assisting States Parties in requesting an extension under Article 5 – APLC/MSP.8/2007/3*
6. Suggested outline for preparing Article 5 extension requests - APLC/CONF/2009/9– Appendix IV
7. Proposed rational response to States Parties discovering previously unknown mined areas after deadlines have passed - APLC/MSP.12/2012/7
8. Reflections on the Article 5 Extensions Process APLC/MSP.12/2012/4
9. The Oslo Action Plan APLC/CONF/2019/5/Add.1
10. Reflections on the implementation of mine clearance obligations of States Parties and the Article 5 Extension Process APLC/MSP.20/2022/WP.17

Activities of the Committee following the 20MSP decision

To date, the Committee on Article 5 Implementation carried out the following efforts leading up to the Twenty-First Meeting of the States Parties:

- The Committee on Article 5 Implementation initiated a review of the body of relevant documents and decisions to better understand the historical development of the Article 5 extension request process and identify possible areas where the process could be strengthened.
- On the margin of the 19-21 June 2023 Intersessional Meetings, the Committee invited mine-affected States Parties which are in the process of implementing Article 5 and have gone through the extension request process to seek their views on the extension request process and identify, if relevant, possible common ground for strengthening the process.

- Committee members met with a representative of the International Campaign to Ban Landmines to learn about the ICBL's views on the Article 5 extension request process.
- Based on the input received, the Committee prepared a food-for-thought paper including background information on the extension process and initial observations. The food-for-thought paper was circulated to all stakeholders in advance of consultations that were held on 19 September 2023 for further discussion on the extension request process and development of conclusions and recommendations to be presented to the Twenty-First Meeting of the States Parties (21MSP).
- The consultations held on 19 September 2023 were attended by approximately 28 States Parties and 6 organizations. At the meeting, the Committee recalled the mandate given to the Committee in relation to the extension request process and requested the Implementation Support Unit to provide basic background information on Article 5 and the Article 5 extension request process. The Committee shared its initial thoughts based on a review of the relevant documentation and the feedback received, including:
 - The extension request process was established to support States Parties with their implementation efforts, and it has continuously evolved to better support these efforts.
 - The Committee has not heard from mine-affected States Parties that the process needs to be altered but rather that there is a lack of financing to support their implementation efforts;
 - Each mine-affected State Party faces unique circumstances in meeting their Article 5 deadlines and the extension request process should be assessed taking national context into consideration;
 - There is an appreciation for the support provided by the Committee and the Implementation Support Unit throughout the extension request process;
 - There is a request for improving the dialogue with input experts throughout the extension review process, and;
 - The extension request process and mine-affected States requesting extensions could benefit from an increased dialogue between the Committee on Article 5 and the Committee on the Enhancement of Cooperation and Assistance.
- The Committee invited all stakeholders to a second round of consultations to take place on 7 November 2023, with the view of continuing discussions and to contribution to the development of conclusion and recommendations to be presented to the 21MSP.

Observations

Following the Committee's review of the relevant documents and other material related to the Article 5 extension request process as well as consultations with States and other stakeholders, the Committee has the following observations:

1. Since entry into force, the majority of States Parties implementing Article 5 have requested one or more extensions of their respective Article 5 deadlines due to a variety of reported circumstances, including:
 - a. lack of sufficient national and/or international resources

- b. difficult terrain
 - c. previously unknown / new contamination
 - d. lack of access to contaminated areas
 - e. security
 - f. magnitude of contamination
2. The extension request process established by the Seventh Meeting of the States Parties in 2006 and the subsequent development of working methods drawn by the States Parties mandated to analyse Article 5 Extension Requests in 2008 has:
- a. Provided a clear and predictable calendar in terms of the submission, analysis, and consideration of requests;
 - b. Ensured that support is available to States Parties in the development of their request for extension;
 - c. Ensured that the process is carried out in the cooperative and transparent spirit of the Convention;
 - d. Ensured that those tasked with analysing requests are able to seek expert input, in cooperation with the requesting state, in order to support their cooperative dialogue with the requesting State Party, and;
 - e. Ensured that analysis of requests provided support to States Parties in taking decisions on requests.
3. Since the establishment of the process, less than a handful of States Parties have failed to adhere to the timelines established by the extension request process and have engaged in meaningful cooperative dialogue with those mandated to analyse requests for extension. Furthermore, the extension request process has evolved in many ways, including the mandate to analyse extension requests having been entrusted to the Committee on Article 5 Implementation (previously the mandate of all 17 States Parties on the Coordinating Committee) by the Third Review Conference and streamlining of the working methods as a result of the reflections in 2012.
4. Since its establishment, the process has been regularly reflected on and has evolved to address emerging needs and to better support States Parties requesting extensions. States Parties have made use of the extension request process to communicate detailed information on their Article 5 implementation efforts including their national implementation context, the circumstances preventing implementation, progress made, the remaining challenge, plans for implementation and requirements for assistance. States Parties have also made use of the extension request process to strengthen the cooperative dialogue between national and international partners leading to more effective and efficient implementation.
5. Many of the challenges identified since the establishment of the process were addressed by the observations and recommendations made in the document entitled *Reflections on the Article 5 Extension Process* presented by the States Parties mandated to analyse extension requests in 2012. The considerations and recommendations highlighted in this document remain valid today, including:
- a. The importance of the analysis process being State Party-driven and consistent with the Convention's spirit of cooperation;
 - b. The importance of each request being treated in a uniform manner;

- c. The importance of States Parties using available tools, including the suggested outline and checklist to develop and analyse requests and to seek support from the Implementation Support Unit in the development of their requests;
 - d. The importance of ensuring that the commitments of States Parties in their requests and decisions serve as a means for the States Parties to measure progress in the implementation of Article 5 by these States Parties;
 - e. The importance of expert input on demining and other techniques to release suspected hazardous areas and on legal matters (ICRC). In particular the importance of expert input from the leading humanitarian demining operators active in requesting States Parties;
 - f. The importance of States requesting only the period of time necessary to gather and assess data and then submitting a second request containing plans based on a clearer understanding of the extent of the challenge;
 - g. The importance of States providing in their extension requests detailed and clear plans for a two-to-five-year period and that decisions on requests for extension calling for mid-term assessments of requesting States Parties efforts to implement Article 5 and revised work plans submitted three to five years after request have been granted;
 - h. The importance of requests being submitted in a timely manner, and;
 - i. The importance of the Committee finalizing its work in a timely manner.
6. While not without its challenges, States Parties have continued to adhere to the process established by the States Parties and participate in an open dialogue with the Committee and stakeholders. In this regard, extension requests form an important part of the cooperative mechanisms of the Convention in support of States Parties' implementation efforts.
7. The contribution from the experts continues to be highly valuable and has regularly been sought to support the Committee's efforts in analysing requests. The Article 5 extension request process recalls that in the process of developing the analysis, the Committee , "in close consultation with the requesting state, should, where appropriate, draw on expert mine clearance, legal and diplomatic advice, using the Implementation Support Unit to provide support." In this regard, it was noted that engagement from experts occurs at several levels:
 - a. in the drafting of the request in capitals, well before submission;
 - b. following submission of the extension request by States Parties;
 - c. on a continuous bilateral basis with the Committee;
 - d. during Intersessional Meetings, following the informal presentation of the request by States Parties, and;
 - e. in written form and in person at the request of the Committee.
8. While the quantity of upcoming requests has been highlighted by some as a potential challenge, the tools available to the Committee on Article 5 Implementation, the different national contexts of the States which may need to submit requests for extension under Article 5 and, experience in addressing a high quantity of requests in the past indicates that the number of requests is not a sufficient measurement of the anticipated workload. This is primarily due to the fact that requesting States Parties face different national circumstances (e.g. magnitude of contamination, security considerations etc..).
9. Finally, from the engagement on the margins of the 19 – 21 June 2023 Intersessional Meetings with mine affected States Parties, several States indicated that they have adhered to the process and noted

with appreciation the support and engagement from the Committee and the Implementation Support Unit. The participating mine affected States Parties further indicated that they have not identified a challenge with the Article 5 extension request process or a need to change the current process as established by the States Parties. Nonetheless, participating States Parties indicated that their main challenge in adhering to initial and extended deadlines is associated with the lack of resources to implement their work plans.

Challenges

10. While there is only one extension request process that can be used by States Parties requesting extensions, there are many different situations faced by mine-affected States. Over the years, adjustments and improvements have been made to the process. Nonetheless, the extension request process is not without challenges. Some of the main challenges are as follows:

- a. Incomplete extension requests: In some cases the requests submitted, due to several circumstances, are missing essential elements including detailed work plans for implementation of Article 5 commitments including mine risk education. This often delays the extension request process as the Committee is required to reach out to the State Party and request additional information before engaging with the request.

It is also evident that this is often the case with States Parties that do not employ the tools available or seek advice and support from the Committee, Implementation Support Unit, and partners in the drafting of their request for extension.

- b. Analysis of the request: The timeline for analysis of requests is limited with the process beginning on 31 March and required to be finalized by mid-September. This time frame can limit the cooperative dialogue between the Committee and the requesting State Party. This situation can be further exacerbated by the late submission of requests as well as the late submission of additional information from requesting States Parties.
- c. In a small number of cases, there has been a lack of adherence to the decision of States Parties on extension requests.

11. Discussions concerning Article 5 implementation, have indicated that a lack of resources has been a key challenge to the implementation of work plans presented within extension requests. Nonetheless, the issue of resources is not directly associated with the Article 5 extension request process. However, while outside of the extension request process, there is room for requesting States Parties to enhance the information provided on the necessary technical/financial resources required to ensure that the work plan presented can be implemented.

Conclusion

12. The Article 5 Extension Request Process is not an end in itself but has been established as a means to support States Parties with the implementation of Article 5. The process, while not perfect, needs to remain flexible to address a number of different circumstances which impede the ability of the State Party to destroy all the anti-personnel mines in mined areas. Continued consideration for the national context faced by States Parties is of paramount importance.

13. The process forms part of the ongoing cooperative dialogue between States Parties to meet their desire of “ending the suffering and casualties caused by anti-personnel mines”. Many of the challenges with the Article 5 extension request process can be addressed by continued adherence by requesting States Parties and States Parties mandated to analyse requests to the recommendations highlighted in the 2012 paper on *Reflections on the Article 5 Extensions Process*.
14. It is important that the process remains state driven and ensures that any alterations to the process are in line with the cooperative spirit of the Convention and serves to further support mine affected States Parties in their implementation of their Article 5 obligations. Any alteration to the process should avoid the process taking on an adversarial approach and avoid exerting undue pressure on States Parties.
15. It is important to avoid the addition of an additional layer to the process as it stands. As the working methods for analysis of requests provides States Parties mandated to analyse requests for extension with the opportunity to reach out to experts, at their discretion, emphasis should be placed on strengthening the implementation of the adopted working methods instead of creating additional layers to an already exhaustive process.
16. The Article 5 extension request process and the working methods adopted for the analysis of requests in 2008 provide the flexibility necessary for the Committee to implement its mandate of analysis of requests for extension, including continuing to ensure engagement of experts and the cooperative dialogue between States Parties envisioned by the process.
17. While, in some cases, challenges associated with cooperation and assistance and with overall implementation of Article 5 exist, many of these challenges and their solutions extend beyond the Article 5 extension request process. Despite this, there may be areas in which the Article 5 extension request process can further support meeting some of these challenges, in particular through ensuring that the extension request process continues to enhance the cooperative dialogue between stakeholders and support efforts to ensure that States Parties requesting extensions will be better positioned to articulate in detail their requirements for assistance and mobilize resources to achieve their deadline as soon as possible.

Recommendations

Recommendation 1: Implementing previous recommendations and decisions regarding requests submitted for extension of Article 5 deadline. To support States Parties requesting extensions to ensure that their requests for extension contain all the relevant information concerning the implementation of Article 5, including a detailed budget and requirements for technical/financial assistance, the Committee on Article 5 Implementation recommends that efforts should continue to be made by the Committee on Article 5 Implementation and the Implementation Support Unit to ensure that States Parties submitting requests for extension of their Article 5 deadline continue to be sensitized to the recommendations and decisions of the States Parties including the 14 recommendations of the *Reflections on the Article 5 Extensions Process* and the following actions of the Oslo Action Plan which concern requests for extension and the development of work plans:

- **Action #23:** States Parties submitting requests for extensions will ensure that these requests contain detailed, costed and multi-year work plans for the extension period and are developed through an inclusive process, in line with the decisions of the Seventh Meeting of the States

Parties and the recommendations endorsed by the Twelfth Meeting of the States Parties in the paper «Reflections on the Article 5 Extensions Process».

- **Action #24:** States Parties submitting requests for extensions will also ensure that the request include detailed, costed and multi-year plans for context-specific mine risk education and reduction in affected communities.

Recommendation 2: Ensuring States Parties submitted complete requests. The Committee on Article 5 Implementation recommends that States Parties make use of all the support and tools available in the development of their requests for extension and employ these tools (e.g. *suggested outline, general advice in the development of an Article 5 implementation work plan*) as good starting points, with adaptations made if necessary, according to national circumstances.

As the Convention's website is in the process of being redesigned, the Committee on Article 5 Implementation will work with the Implementation Support Unit to ensure that a web page is created on the Convention's website which contains all decisions and relevant tools for States Parties requesting extensions of their Article 5 deadlines.

Recommendation 3: Strengthening the dialogue with expert organizations and States Parties. In line with the working methods drawn by the States Parties mandated to analyse Article 5 Extension requests, expert organizations and States Parties have consistently been invited to provide input into extension requests and the Committee on Article 5 Implementation has employed input received to support their cooperative dialogue with requesting States Parties. In this regard, the Committee on Article 5 Implementation recommends that engagement with expert organizations and States Parties providing input into requests, particularly those active in affected countries, continues to take place and is strengthened, in cooperation with the requesting State Party, and in particular through in-person dialogue, where possible, throughout the extension request process including, where relevant, ahead of the receipt of the request for extension, following receipt of the request and in cases where revised requests or additional information is submitted.

Recommendation 4: Taking full advantage of the opportunity presented by requests. While outside of the scope of the Article 5 extension request process, given that a lack of national and international resources has been highlighted as a key circumstance preventing completion by the requested deadlines, the Committee on Article 5 Implementation recommends that States Parties utilize the extension request process to highlight significant achievements made, which in turn can reinvigorate interest in its national programme and establish a sound basis for national and international resource mobilization.

In this regard, States Parties submitting request for extension should include a clear and detailed budget and requirements for assistance. Likewise, States Parties should continue to consider good practices in the mobilization of resources.

Recommendation 5: Support States Parties in detailing their needs for assistance by strengthening synergies between interested committees. The importance of cooperation and assistance highlighted in the implementation of the work plans presented by States Parties in their request for extension provides a number of areas for strengthening synergies between the Committee on Article 5 Implementation and the Committee on the Enhancement of Cooperation and Assistance. The Committee on Article 5 Implementation recommends that the possibility of establishing a more formalized and recurrent dialogue between the Committee on Article 5 and the Committee on the Enhancement of Cooperation and Assistance in relation to each extension request be further explored in the lead up to the Fifth Review

Conference when States Parties will consider any necessary alterations to the Convention's machinery. In particular, the Committee on the Enhancement of Cooperation and Assistance could be potentially mandated to contribute to the dialogue with the requesting State Party and the analysis of request for extension.

Recommendation 6: Support States Parties in making their needs for assistance known. Given the importance of financial and technical support to the implementation of work plans presented in extension requests the Committee on Article 5 Implementation recommends that States Parties, seeking extension requests take advantage of the opportunities available to disseminate their implementation plans and requirements for assistance as widely as possible.

This could be done through informal and formal meetings of the Convention as well as through participation in mechanisms of the Convention such as the Individualised Approach.

Recommendation 7: Addressing the increased number of requests. In view of the increase in the number of extension requests submitted by mine affected States Parties expected in 2024 and 2025, the Committee believes that the key factor in facilitating the analysis process is to make sure that the requests are submitted on time and contain all the information necessary for an analysis. However, in the event that States Parties mandated to analyse requests for extension within the short time frame available require increased support, the Committee would recommend that States Parties, in line with the decisions adopted by the States Parties at the 7MSP in establishing the Article 5 extension request process, "provide additional, ear-marked funds to the Implementation Support Unit Trust Fund to cover costs related to supporting the Article 5 extensions process". The Committee further recommends that the Implementation Support Unit provide a project proposal to States Parties for consideration by States Parties in a position to provide support.