

Understanding Article 5 of the AP Mine Ban Convention



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Article 5



Each State Party undertakes 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 as soon as possible that all anti-personnel mines in mined areas are perimeter-marked, monitored and protected by fencing or other means, to ensure the effective exclusion of civilians, until all anti-personnel mines contained therein have been destroyed.”

“destroy or ensure the destruction of all anti-personnel mines in mined areas under its 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.”



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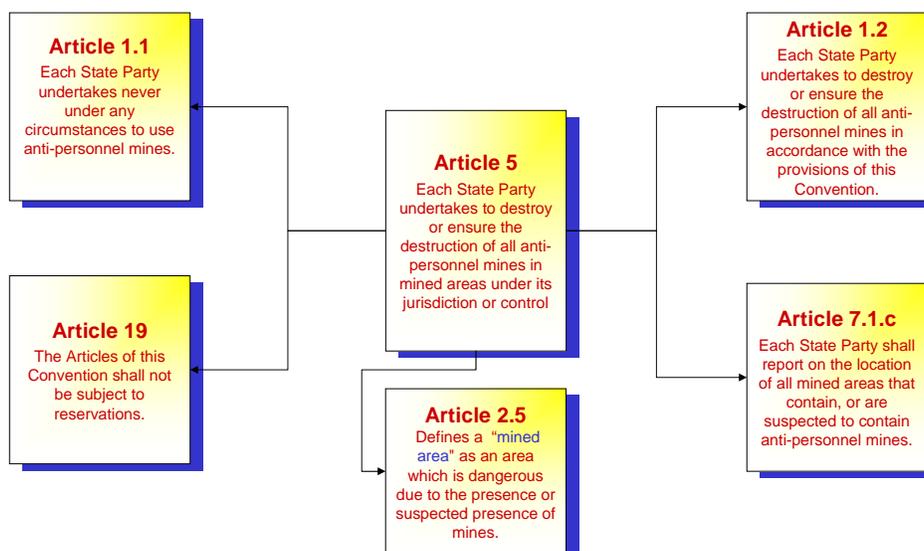
Article 5: What is it? What is it not?

Zagreb Progress Report, 2 December 2005:

- **The Convention does not contain language that would require each State Party to search every square meter of its territory to find mines.**
(The Convention does not imply an endless search for the last mine.)
- **The Convention requires, however, the destruction of all anti-personnel mines in mined areas which a State Party has made every effort to identify.**
(The Convention defines a “mined area” as an area dangerous due to the presence or suspected presence of mines. Therefore, your job is to do everything possible to identify these areas and convert them into areas that are no longer dangerous due to the presence or suspected presence of mines.)
- **It should be noted that while terms like “mine-free”, “impact-free” and “mine-safe” are sometimes used, such terms do not exist in the text of the Convention and are not synonymous with Convention obligations.**
(These terms can be useful in public communication, but they are not consistently defined, can be politically loaded, and are definitely not found within the Convention)
- **Clearance of all mined areas in accordance with Article 5 is part of the Convention’s overall comprehensive approach to ending the suffering and casualties caused by anti-personnel mines – “for all people, for all time.”**
- **The totality of the impact caused by anti-personnel mines should be addressed in the context of the Convention.**

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Article 5 & other Articles of the Convention



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Article 5: Who is responsible?

Who declares if a State Party has an obligation under Article 5.1?

- ICBL?
- United Nations?
- Meeting of the States Parties?
- Each State Party

Each State Party should do so in a manner that the community of States Parties and its own population has confidence in such a declaration.

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Article 5: Who is responsible

42 States Parties remaining with an obligation under Article 5

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| <input type="checkbox"/> Afghanistan | <input type="checkbox"/> Cyprus | <input type="checkbox"/> Senegal |
| <input type="checkbox"/> Albania | <input type="checkbox"/> DRC | <input type="checkbox"/> Serbia |
| <input type="checkbox"/> Algeria | <input type="checkbox"/> Denmark | <input type="checkbox"/> Sudan |
| <input type="checkbox"/> Angola | <input type="checkbox"/> Ecuador | <input type="checkbox"/> Tajikistan |
| <input type="checkbox"/> Argentina | <input type="checkbox"/> Eritrea | <input type="checkbox"/> Thailand |
| <input type="checkbox"/> Bhutan | <input type="checkbox"/> Ethiopia | <input type="checkbox"/> Tunisia |
| <input type="checkbox"/> Bosnia and Herzegovina | <input type="checkbox"/> Greece | <input type="checkbox"/> Turkey |
| <input type="checkbox"/> Burundi | <input type="checkbox"/> Guinea Bissau | <input type="checkbox"/> Uganda |
| <input type="checkbox"/> Cambodia | <input type="checkbox"/> Iraq | <input type="checkbox"/> United Kingdom |
| <input type="checkbox"/> Chad | <input type="checkbox"/> Jordan | <input type="checkbox"/> Venezuela |
| <input type="checkbox"/> Chile | <input type="checkbox"/> Mauritania | <input type="checkbox"/> Yemen |
| <input type="checkbox"/> Colombia | <input type="checkbox"/> Mozambique | <input type="checkbox"/> Zambia |
| <input type="checkbox"/> Congo | <input type="checkbox"/> Nicaragua | <input type="checkbox"/> Zimbabwe |
| <input type="checkbox"/> Croatia | <input type="checkbox"/> Peru | |
| | <input type="checkbox"/> Rwanda | |



Work like this is ongoing in Thailand with a view to implementing Article 5.

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Article 5: Who is responsible?

Who declares if a State Party has fulfilled its obligations under Article 5.1?

- ICBL?
- United Nations?
- Meeting of the States Parties?
- Each State Party

Each State Party should do so in a manner in which the community of States Parties has confidence that the State Party has fulfilled its obligations under Article 5 and that their own population has confidence that the work has been completed.

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Article 5: Who is responsible

10 States Parties have declared having fulfilled their obligations under Article 5

- Bulgaria
- Costa Rica
- Djibouti
- France
- Guatemala
- Honduras
- Macedonia, FYR of
- Malawi
- Suriname
- Swaziland



Work like this is no longer necessary in the Kingdom of Swaziland as Article 5 implementation is complete.

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What are we working towards?

7MSP: Proposed voluntary declaration of completion, adopted 22 September 2006

[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.

[State] declares that it completed this obligation on [date].

In the event that previously unknown mined areas are discovered after this date, [State] will:

- (i) report such mined areas in accordance with its obligations under Article 7 and share such information through any other informal means such as the Intersessional Work Programme, including the Standing Committee meetings;
- (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.

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Article 5: Need more time?

If a State Party believes that it will be unable to destroy or ensure the destruction of all anti-personnel mines within 10 years, it may submit an extension request for a period of up to ten years.

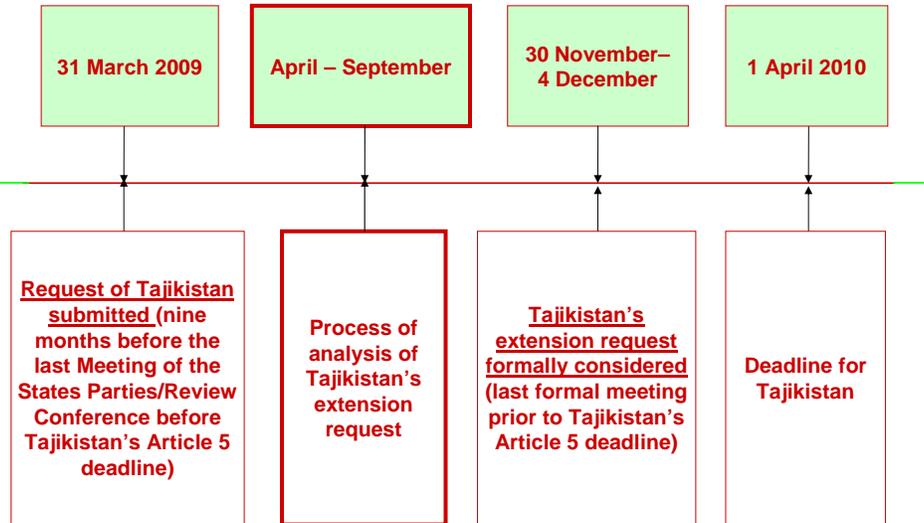
Each request should contain:

- 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.



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Tajikistan: Extensions request calendar



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Observations of the States Parties



- i. The States Parties requesting extensions have demonstrated a commitment to fulfil their obligations under Article 5.
- ii. The States Parties should demonstrate clarity regarding which areas of what size and at what locations remain to be addressed in each administrative area.
- iii. The States Parties can provide additional clarity by defining some key terms and using them consistently.
- iv. If favourable conditions exist, some States Parties requesting extensions may find themselves in a situation wherein they could proceed with implementation faster than that suggested by the amount of time requested.
- v. That in using all resources and technique available, States Parties could be in a position to proceed with the implementation much faster than suggested.
- vi. That concluding in a shorter period can offer socioeconomic benefits to the States Parties.

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Using all techniques available

Seventh Meeting of the States Parties (2006):

- “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.”

Eighth Meeting of the States Parties (2007):

- “The Meeting discussed practical ways to overcoming challenges in implementing Article 5. This discussion highlighted 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.”

Ninth Meeting of the States Parties (2008):

- “In recognising 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, the Meeting warmly welcomed the proposal submitted by Norway on the full, effective and expedient implementation of Article 5... and agreed to encourage States Parties, as appropriate, to implement the recommendations contained therein.”

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Using all techniques: recommendations

- 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.
- 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.
- 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.
- 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.
- 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..
- 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**.
- 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.
- 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”.

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Thank you!

