

Good afternoon Excellencies, ladies and gentlemen, it is a real pleasure to be here with all of you today. This is the first time I travel to South Africa and it is nice to see here many colleagues and friends.

My name is Sophie Delfolie and I work for the Implementation Support Unit of the AP Mine Ban Convention, or, the ISU for short. One of the tasks of the ISU is to support States Parties in providing information on Article 5 which in the Convention defines the mine clearance obligations and assisting them with the fulfillments of this obligation.

My presentation today will be on Article 5. I will tell you what Article 5 says and what it doesn't say and give you an overview of the extension request and the completion processes.

### Slide 1

To begin with I would like to go back to the text of Convention and highlight the States Parties obligations under Article 5.

Under Article 5, States Parties must do the following, they must:

- **“make every effort to identify all areas under its jurisdiction or control in which anti-personnel mines are know 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.”**

## Slide 2

While the text of the convention is clear, States Parties recognized there were ambiguities in what exactly a State Party's responsibility was under Article 5. With this in mind States Parties during the Sixth Meeting of the States Parties developed some understandings on what Article 5 says and what it does not say. These understandings were recorded in the Zagreb Progress Report:

- The Convention does not imply an endless search for the last mine.
- 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.
- 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.**

### Slide 3

As with other Articles in the Convention, Article 5 does not stand alone but is supported by other Articles of the Convention.

- **Article 1, paragraph 1 prohibits the use of anti-personnel mines.**

Utility or perceived utility is realised when they are placed under, on or near the ground. Emplaced mines could be, or could be perceived as, mines which are being used, which is an action prohibited by the Convention.

- **Article 1, paragraph 2, states that "each State Party undertakes to destroy or ensure the destruction of all anti-personnel mines in accordance with the provisions of this Convention."**

This reinforces the fact that when States joined the Convention they agreed to destroy or ensure the destruction of anti-personnel mines that are both stockpiled (art.4) and emplaced (Art.5).

- Article 19 makes it clear that all aspects of the Convention – including Article 5 – apply at all times and to the full extent described by the Articles of the Convention.
- **Article 7, paragraph 1, subparagraph (c) states that each State Party is to report, "to the extent possible, the location of all mined areas that contain, or are suspected to contain anti-personnel mines under its jurisdiction or control."**

This implies that each individual State Party must declare whether the provisions of Article 5 are relevant to that State.

- Article 2, paragraph 5, defines mined areas and this provides some clear guidance on what it means to have fulfilled Article 5 obligations.

#### **Slide 4**

So, who is responsible for declaring if a State Party has an obligation under Article 5.1.

It is not the ICBL? it is not the UN? And it is not the Meeting of the States Parties? It is the State Party itself that self declares a responsibility under Article 5.

**However, 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.**

#### **Slide 5**

There are 41 States Parties that currently have declared having an obligation under Article 5 of the Convention.

#### **Slide 6**

So, how does a country know it has fulfilled its obligations under Article 5 of the Convention?

If a State Party, for example the Republic of Mineland indicated in its initial Article 7 transparency report that there are 4 minefields in their country, then the Republic of Mineland has fulfilled its commitment when these 4 minefields are addressed and are now areas that are no longer dangerous due to the presence or suspected presence of mines.

Like with the responsibility for declaring if a State Party has an obligation under Article 5, the responsibility for declaring that the obligations under Article 5 have been fulfilled lie with the State Party.

#### **Slide 7**

At the moment a total of 11 countries have declared completion.

## **Slide 8**

Now, what are we working towards? At the Seventh Meeting of the States Parties the States Parties adopted a voluntary declaration of completion. This declaration is a short document which offers to States Parties a uniform way to report completion.

The declaration of completion uses language derived from the Convention for presenting the achievement of the State Party.

It also indicates that Article 5 should be implemented with a certain degree of pragmatism.

Indeed, the declaration of completion is realistic in indicating that after all efforts have been made to implement Article 5 and after a State Party declares completion, there is the possibility that unknown minefields may be discovered. Finally the declaration points out how a State Party would respond in such a situation which is basically following the path indicated by the Convention, reporting on mined areas, ensuring that they are marked and finally destroy the anti-personnel that are emplaced in them.

I would also like to note that in submitting their declaration of completion, many States Parties have also included additional information which gives an overview of their program, and how they can now with confidence declare completion.

## Slide 9

Now, Article 5 of the Convention also indicates that 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. While the Convention offers some guidance as to what a request should contain, the guidance is minimal.

With this in mind, in 2006, the States Parties during the 7MSP reached a number of decisions that provided a strong base for the extension request process and the President of the 8MSP submitted a paper highlighting how the process for developing, submitting, analysing and considering requests would play out under his presidency.

## Slide 10

This process is being used for the second time this year and it is implemented according to a specific calendar.

1. In summary, a State Party that needs more time to fulfil Article 5 has to submit a request for extension prior to the Meeting of States Parties / Review Conference that will consider it.
2. In the **preparation of its request**, as necessary, it is encouraged to seek assistance from the ISU. For this purpose the ISU developed some clear **advice** based on Article 5 requirements on what a request for extension should contain. This advice revolves around 3 points: States Parties preparing an extension are advised to indicate in detail what was the original challenge, what has been done about it and what remains to be done. What are the circumstances that impede fulfilment in a 10-year period. Also the ISU has advised States Parties to place an **emphasis on their work plan**.
3. The 7MSP decisions recommended that an extension request is submitted **9 months in advance of the MSP**, which means the end of March as MSPs are typically held at the end of November, beginning of December each year.

4. Once the request has been submitted it goes through an **analysis** process led by the President of the current Meeting of the states Parties and the Co-Chairs and Co-Rapporteurs of the Standing Committees. Their analysis is submitted to the States Parties.
5. Finally, the request is **formally considered** at the Meeting of the States Parties or at a Review Conference if we are in a Review Conference year.

Last year, 15 extension requests were submitted and considered at the Ninth Meeting of the States Parties end of 2008. Decisions were taken for each of these requests and they quite often recorded understandings and concerns. This year, 4 extension requests have been submitted, there are currently in the process of being analysed and they will be considered at the Cartagena Summit at the end of this year.



## **Slide 11**

I would like to conclude my presentation by sharing with you a number of lessons that have been learnt during the extension process as they can be potentially very valuable for States Parties implementing Article 5.

But before I do that, one has to note that while this process has resulted in the most comprehensive information ever provided on the state of implementation by many requesting States Parties it has also revealed some profound challenges encountered by some States Parties over the last 10 years.

These challenges are mainly linked to a lack of clarity in the data held on the implementation of Article 5. So, from these challenges, we can draw a number of lessons which

One of the first lessons that comes to mind is:

### **1. Establishing a solid baseline**

Developing an extension request is basically a process of providing clarity into a national demining program particularly providing details of what the original contamination was in a State, (number of areas confirmed and suspected, their size and location), the progress that has been made, and the plan put in place to tackle the remaining problem. The establishment of a clear baseline is what makes a program measurable. Not all States Parties have been able to do so.

### **2. The second lesson that can be drawn relates to the remaining challenge faced by States Parties**

Once States Parties have recorded progress on the basis of an established baseline, they should be in position to provide clearer information on what remains to be done, a State Party should have an understanding of how many mined areas (confirmed and suspected) remain, their size and their location. On that basis a State Party should be able to produce a detailed plan based on concrete data, annual objectives and methods and means to implement the plan.

### **3. A 3<sup>rd</sup> lesson that can be drawn is related to the use of assets that can accelerate operations.**

The States Parties have now come to understand that large areas have been targeted for manual or mechanical mine clearance even though they did or do not contain mines. In addition, to clearance land can be released through non-technical means (*systematic community liaison, field based data gathering and improved procedures for cross-referencing data*) and technical survey (*detailed topographic and technical investigation*).

States Parties have noted that the use of non technical means to release land is not a shortcut to implementing Article 5 but rather is a mean to release land faster. States Parties are encouraged to develop plans that use, as required, and in addition to clearance the full range of methods available to release land.

Finally it is important at all times when communicating about Article 5 to:

### **Use clearly defined language**

It is important that States parties when they define and categorise their land, use terminology that has been clearly defined and that this terminology is used consistently in order to avoid misunderstandings and confusion. This comment is valid for all States Parties having an obligation under Article 5.

### **Conclusion**

With these remarks my presentation is now concluded and I would like to thank you for your attention. During this conference I am here, together with Kerry Brinkert, to answer any questions you may have on the subject. And if you need additional advice I would refer you to my colleague Juan Carlos Ruan who in the ISU exclusively deals with Article 5 matters. Thank you.