

General Statement on Extension Requests, 25 November 2008

The ICBL has said since 2006 that the credibility of Article 5 will rest in large part on how well the extension request process is handled, especially in this precedent-setting first year of requests. We have noted that a process where requests would get a simple and easy approval would be severely damaging to the overall integrity of the article. A so-called “rubber-stamping” exercise would remove the motivation of a firm time constraint; it would enable states to easily abuse the extension provision by taking as much time as they wanted, not as much as they needed, to demine their territory; and it could give States Parties the possibility to circumvent their mine clearance obligations altogether. In other words, it would render the 10-year deadline essentially meaningless. A serious and thorough review of each request, on the other hand, would reinforce the idea that extensions are only meant for the exceptional few cases, and that the states will be held to their duty to demine “as soon as possible.”

Overall, we have found the process established over the past year to have good potential, but to have fallen short in some critical areas.

Looking at the positive side,

- We heard yesterday that the process of writing the requests and revising them with input from the Analyzing Group turned out in many cases to be a very good planning exercise and in some cases led to markedly improved requests, including two shortened timeframes.
- We know that several – though far from all – of the members of the analyzing group spent a good deal of time studying the requests and worked hard to make it a constructive and thoughtful process, led by the tireless efforts of His Royal Highness Prince Mired.
- The analyses by and large reflected this detailed study of the requests in a manner befitting the seriousness of the process, pointing out strengths and shortfalls of the request as well as matters that still need the states’ attention. The analyses also send a positive message to states that might have to request an extension in the future, showing that their requests will be thoroughly scrutinized and must be carefully prepared and justified.
- The analyses in some cases encourage the requesting state to take steps to finish in a shorter period – sometimes “much” shorter – than requested.
- The analyses call on states to report back regularly on the benchmarks they set out for themselves during their extension period or identify them if they were not clear or present. If States Parties pay close attention to these reports, they will be able to know if states are on track to completing their obligations according to the plans in their requests.
- The inclusion of some of these findings as well as comments by other States Parties in the final report will lay down for the record what further clarifications, calculations, and even revised timetables the States Parties still expect from the requesting States Parties and is therefore an essential part of a meaningful process.

On the other hand

- The fact that there were 15 requests is bad news in itself – this is hardly the “few if any” suggested in Nairobi.

- We have always said that the requests should be for the shortest feasible time period, but some states presented rather unambitious requests which are not in keeping with the humanitarian imperative of the MBT or with respect for the disarmament goals of the treaty
- In a few cases, the group did not take as a firm stand as we thought they should have, perhaps because of the consensus-based approach Canada made reference to yesterday. For example, we have always said there should be no blank checks given to States Parties. But that is what was effectively given to the two requesting states that have not, and do not plan to, begin demining operations before their 10-year deadline ends. The ICBL believes that any state that does not even attempt to meet its deadline by beginning mine clearance before the 10 years are up does not merit the approval of the MSP.
- In terms of the workings of the analyzing group, we understood that some States Parties tried to politicize the process, creating regional alliances and undermining the cooperative workings of the group. This approach, plus a set of mostly closed-door discussions, stand in sharp contrast with the Mine Ban Treaty's spirit of cooperation and transparency.

We have prepared critiques of all of the extension requests which we have put on your desks and outside. While we have questions and observations on all of them, we will restrict our specific oral comments and questions to those we have the most concerns about. But we would like to make a few general comments at the outset.

In terms of the reasons for the requests, states frequently cited funding, environmental conditions and difficulty of terrain as a reason for lack of progress in their demining programs. Certainly these problems have caused unforeseen delays and need to be taken into account. Certainly as well States Parties need to consider the relationship between implementation of Article 5 with other States Parties' duty to provide international cooperation and assistance under Article 6. However, evidence suggests that lack of sufficient political will and poor management of demining operations are equally to blame in some countries. The ICBL believes that in at least six cases (Denmark, Ecuador, Nicaragua, Peru, the United Kingdom, and Venezuela), a greater effort by the States Parties would likely have resulted in the state being able to comply with its 2009 deadline.

Several States Parties have still to generate a realistic estimate of their residual contamination, notably Bosnia and Herzegovina, Chad, Croatia, Thailand, and Zimbabwe. Excessive and inaccurate estimates impede effective planning and priority setting of demining operations.

Several States Parties have made unrealistic plans or have funding aims that are either unsupported by firm commitments or unlikely to be achieved. This concerns Bosnia and Herzegovina, Nicaragua, Thailand, and Zimbabwe in particular. This may mean that targets will not be met and may even require states to seek a further, unexpected extension period.

Certain areas may be implicitly excluded from clearance plans. The treaty is clear that all mined areas under a State Party's jurisdiction or control must be cleared. This concerns Chad, Croatia, Denmark, and Yemen. In the case of Jordan, more detail is needed about the status of discussions to resolve border demarcation along the border with Syria.

In a few cases – Ecuador, Peru and Senegal – we have been calling for the states to reformulate their request with a view to shortening the projected time needed for completion. We will continue to press these states and others to take the shortest possible amount of time to implement their Article 5 obligations – not just because it is a treaty obligation, but because lives and livelihoods are at stake.

Finally, in two cases—United Kingdom and Venezuela—the ICBL has called for the extension request to be turned down unless the requests are revised to include a formal commitment to start demining operations before the expiry of the original Article 5. We will comment on these requests further, but we feel that consideration of these special situations deserve the greatest attention at this MSP because of the precedent they risk setting if accepted as is.

We will end here on our general comments, except to say that we hope that a much larger group of States Parties than those taking part in the analyzing group have come to this MSP prepared to engage on the requests, to ask probing questions, to point out important shortcomings in the requests, and finally to take a decision on each request that puts the interests of the convention and mine-affected communities above all else. You are all determining the future of Article 5 with your debate over the next couple days and your decisions on Friday. We look forward to a lively discussion.

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