

## LANDMINE MONITOR FACT SHEET

## PROGRESS IN FULFILLING ARTICLE 5 OBLIGATIONS

While mine action programs in several States Parties have made significant strides towards fulfillment of Article 5 obligation, in too many others progress has been unacceptable. In the Nairobi Action Plan agreed in 2004 at the Review Conference, States Parties undertook to ensure that “few, if any” States Parties would be required to seek an extension to their Article 5 deadlines. However, several States Parties have already indicated that they will request extensions, and others are not on course to meet their Article 5 deadlines.

**Table 1. States Parties with Article 5 Deadlines in 2009-2010<sup>1</sup>**

**States Parties of particular concern**

Reported completion of Article 5 obligations	Existence of mined areas uncertain	Could meet 10-year deadline	Unlikely to meet 10 year deadline
Costa Rica	Namibia	Albania	Argentina (Malvinas)
FYR Macedonia	Philippines	Denmark	Boşnia and Herzegovina
Guatemala		Djibouti	Cambodia
Honduras		Ecuador	Chad
Suriname		France (Djibouti)	Croatia
		Jordan	Mozambique
		Malawi	Niger
		Nicaragua	Peru
		Rwanda	Senegal
		Swaziland	Tajikistan
		Tunisia	Thailand
		Uganda	UK (Falkland Islands)
			Venezuela
			Yemen
			Zimbabwe

Four States Parties with 2009 deadlines, **France**, **Niger**, the **United Kingdom** and **Venezuela**, have failed to initiate formal clearance operations, which may be considered a failure to respect the treaty’s requirement to clear mined areas “as soon as possible.”

**France**, with a 1 March 2009 deadline, is responsible for a mined area that surrounds the La Doudah ammunition depot on French territory in Djibouti. In April 2007 France stated that all preparations were being made so that clearance could be achieved as soon as possible and, in any case, before its deadline of. However, initiation of clearance operations has been significantly delayed, without justification. In the eight years that France has been a State Party, not one mine has been cleared from La Doudah.

**Niger**, with an Article 5 deadline of 1 September 2009, has made little progress since presenting a draft mine action plan for 2004-2006 during the February 2004 Standing Committee meetings. Niger did not attend the Standing Committee meetings in 2005, 2006 or 2007 to provide an update on its mine clearance efforts or request assistance from other States Parties.

The **United Kingdom**, with a 1 March 2009 deadline, has mined areas on the Falkland Islands over which it exercises control. Its claim of jurisdiction is disputed by Argentina. In June 2006 the UK stated that it was committed to fulfilling its treaty commitment. By mid-2007, however, the UK had still not initiated formal clearance operations, nor even developed a clear timetable and operational plan. Explaining the long delay since becoming a State Party in 1999, the UK stated that “this is a complex bilateral negotiation conducted against the background of a sovereignty dispute. This is a very complicated and intricate process.” However, there is no technical reason why the UK could not have begun demining earlier.

**Venezuela**, with a 1 October 2009 deadline, has publicly acknowledged that existing minefields still serve a defensive purpose (which could constitute violation of Article 1 of the treaty as well as likely non-compliance with its Article 5 clearance deadline). At the April 2007 Standing Com-

<sup>1</sup> The “mined areas uncertain” column includes States Parties where the existence and extent of mined areas is still unclear, requiring further survey in accordance with Article 5, paragraph 2. Argentina claims jurisdiction over the Falklands Islands/Malvinas and declared in Article 7 that it is mine-affected.

mittee meetings Venezuela stated it had not made progress because it did not yet have a replacement for the antipersonnel mines used to guard naval bases. In July 2007 Venezuela's Ministry of Foreign Affairs confirmed that an Article 5 extension request was being prepared.

### Progress by other mine-affected States Parties

**Bosnia and Herzegovina** (deadline 1 March 2009) acknowledged at the April 2007 Standing Committee meetings that it "will not be in a position to completely fulfill obligations stated under Article 5" and had started preparing an extension request. Its 2005-2009 mine action strategy aims only to reduce the mine/UXO risk and its associated socioeconomic impact "to an acceptable level."

In view of the extent of its mine contamination, **Cambodia's** medium-term vision is to be mine-impact free by 2012. In April 2006 the Secretary-General of the Cambodia Mine Action and Victim Assistance Authority publicly affirmed that Cambodia will not meet the deadline and that "an extension will be required." He said the government would make clear the duration of the extension required at the time of the request and would explain in detail the reasons for it.

**Chad** (deadline 1 November 2009) declared in April 2007 that although clearance of less than 10 square kilometers of the original estimate of 1,081 square kilometers "might appear derisory, it actually corresponded to area reduction of around 57 percent of the total," namely 616.5 square kilometers of low, medium and high impact areas. Nevertheless, limited survey information, slow progress in clearance and lack of funding indicate that Chad will not meet its Article 5 deadline.

**Croatia** warned in May 2006 that the chances of meeting its 1 March 2009 deadline were "very, very slim." Since 1998 the Croatia Mine Action Center (CROMAC) has released some 613 square kilometers to local communities, as a result of mine clearance and general or technical survey. At the start of 2007 Croatia estimated that further general survey would lower the estimate of remaining contaminated land to about 1,000 square kilometers. In April 2007, Croatia informed States Parties that it had the capacity to clear about 40 square kilometers per year (although it has never achieved this amount).

**Ecuador**, despite an Article 5 deadline of 1 October 2009, has a mine action plan that schedules clearance to end in 2010. However, Ecuador has stated that it "would make all the necessary efforts to conclude operations in 2009..." It claimed that two elements were fundamental to its compliance with the Article 5 deadline: appropriate mechanical equipment and international financial support. An EC-funded project was said to enable Ecuador to "achieve the objective of declaring its national territory free from antipersonnel mines in 2010."

In **Jordan** clearance of remaining minefields on its northern border with Syria, expected to take two years, had not started as of April 2007, thus casting doubt on its ability to meet the 1 May 2009 deadline. Previously, Jordan stated that it "not only seeks to become the first Arab country to be declared free of mines by 2009 but also aspires to become a regional hub for mine action in years to come."

In **Mozambique**, with a 1 March 2009 deadline, the UNDP Chief Technical Advisor stated that, "Given all the scenarios surrounding the mine clearance progress so far and the task ahead, it is quite evident that the Government of Mozambique will request an extension on its deadline ... possibly until end-2010." In March 2007 Mozambique began making preparations for requesting an extension; if granted, this request was expected to be integrated into the 2007-2010 National Mine Action Plan. A meeting was held in Maputo on 24-25 October 2007 to discuss Mozambique's future mine action strategy. Although the extent of remaining contamination remained under discussion, the government indicated that it might need until the end of 2012 to complete clearance operations.

In **Nicaragua** (1 May 2009 deadline) the Ministry of Defense has reaffirmed its desire to complete clearance operations. But Nicaragua sought \$5 million from international donors for demining in 2007 and 2008, without which it stated that demining would be extended into 2009 or 2010.

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In **Peru** (1 March 2009 deadline) a 2006 monitoring mission for the EC-funded joint Ecuador-Peru demining project in the Condor mountains praised the good cooperation but noted management problems, especially in Peru, which had limited project implementation.

**Senegal**, despite protracted delays in setting up a demining program, stated in April 2007 its determination “to respect its undertakings set out in Article 5 of the Convention and to ensure the destruction of antipersonnel mines under its jurisdiction or control within the prescribed deadlines, i.e. March 2009, to the extent possible.” A June 2007 agreement with UNDP should help Senegal ultimately to meet its obligations.

**Tajikistan** (1 April 2010 deadline) declared in its Article 7 report of March 2006, echoing previous statements, that the period of four years until 1 April 2010 “is not enough for the completion of the foreseen scale of work.” In 2007, TMAC stated “there is no possibility of all landmines being cleared by 2010.” At the Seventh Meeting of States Parties, Tajikistan warned that “progress on this issue depends primarily on funding.” TMAC has estimated it needs approximately \$12 million over the next five years. “That could manage the mines problem almost completely if funds arrive in good time.”

**Thailand** (1 May 2009 deadline), after seven years of demining, had cleared and reduced 20 square kilometers, less than one percent of the suspected hazard area identified in 2001, and only four percent of the 500 square kilometers believed by the Thailand Mine Action Center (TMAC) to be contaminated. At the April 2007 Standing Committee meetings Thailand stated that “despite our very best efforts, an extension request for mine clearance may be inevitable.” It added, “this extension request will by no means set back our commitment and efforts to clear mines within our territory as soon as is realistically possible.” TMAC expects Thailand will submit a request for extension of its Article 5 deadline by March 2008.

**Uganda**, with a 1 August 2009 deadline, has been slow to initiate a mine action program. Clearance did not start until 2006 but momentum increased considerably during the year and in April 2007, “It is anticipated that by 2009 Uganda shall have adequate capacity to carry out technical surveys, explosive disposal ordnance and clearance capacity to enable the Uganda Mine Action Centre to destroy all anti-personnel mines in the identified mined areas under Uganda’s jurisdiction.” The center’s director added that the mine action plan is dependent on “the successful outcome of the peace negotiations and the eventual end of conflict. The prospective end-date of fulfilling obligations in Article 5 is dependent on this factor.”

**Yemen** (1 March 2009 deadline) has claimed that because some mines are located deep below shifting sand they cannot be removed with existing technology. Its mine action strategy is to ensure “all communities classified as high and medium impact, and 27 percent of the most critical low-impacted areas (147 square kilometers) are cleared by the end of March 2009.” In its most recent Article 7 report, Yemen said it plans to permanently mark 16 of the remaining minefields, a strategy that falls short of the full requirements of the treaty.

**Zimbabwe** (1 March 2009 deadline) has a five year strategic plan that envisages clearance of all mined areas by 2009 but the demining progress is far behind schedule, with only about 40 percent of mined areas cleared by April 2007. The Director of the Zimbabwe Mine Action Centre stated that, “Zimbabwe will not make it to the 2009 deadline... as shown by the extent of surveyed minefields and those not yet surveyed. We are in the process of preparing a request for the extension of our deadline which we will forward before February 2008. Under current funding it may take not less than 20 years to complete.”

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### Completion of Article 5 Obligations

There should be no confusion about the conditions required to fulfill Article 5 of the Mine Ban Treaty. The treaty requires every State Party to identify and clear all mined areas under its jurisdiction or control within 10 years of becoming a party to the treaty.<sup>2</sup> As stated by Article 5, this includes, at a minimum, reviewing all areas *suspected* to contain antipersonnel mines and clearing, to international standards, every area that is *confirmed* to contain antipersonnel mines. Thus, “permanent” marking does not constitute fulfillment of Article 5, although marking is an interim requirement until mined areas are cleared.

The term “impact-free” does not appear in the Mine Ban Treaty, and is open to various interpretations, such as permanent fencing instead of clearance of some mined areas, or that there is no necessity to clear mined areas in uninhabited or inaccessible areas. Article 5 of the Mine Ban Treaty allows no such exceptions. The ICBL does not support the use of the term “impact-free.”<sup>3</sup>

The treaty does not, though, require that a country must be “mine-free” to declare completion of Article 5 obligations. After investigating suspected mined areas and clearing *all* confirmed mined areas, thereby meeting the Article 5 obligation, previously unknown mine contamination may be discovered in the future. For such eventualities, a residual clearance or explosive ordnance disposal (EOD) capacity should be retained; newly discovered mined areas should be cleared promptly and reported fully in Article 7 transparency reports.

### Criteria for Reviewing Article 5 Extension Requests

A State Party’s performance in seeking to fulfill its Article 5 obligations should be among the criteria for judging extension requests. The ICBL fully supports the process established at the Seventh Meeting of States Parties and encourages States Parties to abide by these procedures, including use of the recommended template and submission of requests nine months ahead of the Meeting of States Parties where a decision will be taken.<sup>4</sup> In general, *no automatic or blanket extension requests should be granted to any State Party*. Where there is a well-founded case for an extension, the minimum possible period should be granted and progress during the extension period should be subject to the active oversight of States Parties. Where there is evidence that the requesting party did not make a sufficient effort to meet its initial deadline, this fact should be clearly stated by the other States Parties when rendering their decision.

The ICBL believes that three principal factors should be taken into account when reviewing a request for an extension:

**1. There should be evidence of a commitment by the requesting State Party to implement Article 5 “as soon as possible.”** Such evidence could include the establishment of a national mine action program (including the necessary enabling legislation); creation or contracting and deployment of an appropriate demining capacity as soon as possible after becoming a State Party; increases in demining capacity and productivity over time; national funding for the mine action program, with commitments to increase this; reporting the amount of land released relative to the original amount suspected to contain antipersonnel mines; and efforts to draw up a comprehensive inventory of mined areas containing antipersonnel mines, as required by Article 5, paragraph 2.

**2. The requesting State Party should submit a strategic plan for demining operations that justifies the period of the requested extension.** Such a plan should be realistic and accurately costed, and normally should be part of a broader strategic plan covering all aspects of mine action. It should detail precise undertakings by the requesting State Party, including a plan for the mobilization of resources from national and international sources. It should reflect national and development priorities, clearing first where the need is

<sup>2</sup> Jurisdiction covers all of a country’s “sovereign” territory, including non-metropolitan territories and other overseas dependencies, and control encompasses other land it occupies or otherwise exercises authority over, even if that occupation is contested or considered unlawful. Either jurisdiction or control engages legal responsibility; both are not required. Areas within a State Party’s jurisdiction, but not its effective control (such as areas occupied by NSAGs) are also included in this obligation, though international law makes allowance for a state’s inability to intervene in such circumstances.

<sup>3</sup> ICBL, “Views on Fulfillment of Article 5 Obligations,” May 2006, [www.icbl.org/content/download/22248/413788/file/Article5Fulfillment-May2006.doc](http://www.icbl.org/content/download/22248/413788/file/Article5Fulfillment-May2006.doc).

<sup>4</sup> See, ICBL, “Recommended criteria for judging extension requests,” Geneva, April 2007, [www.icbl.org/news/isc07docs/extreq](http://www.icbl.org/news/isc07docs/extreq).

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greatest. Any State Party that does not provide such a plan should be required to develop one and submit it to the next Meeting of the States Parties, at which time the extension request should be reconsidered.

**3. States Parties should take into account extenuating circumstances that have been impeding the full implementation of Article 5.** States that have an ongoing internal conflict, or climatic or environmental obstacles to demining, or especially large suspected mined areas should not be judged in the same light as countries that have not had such special challenges to overcome. A decision should also take into account the availability of international cooperation and assistance.