

**GROUP OF GOVERNMENTAL EXPERTS OF
THE STATES PARTIES TO THE CONVENTION
ON PROHIBITIONS OR RESTRICTIONS ON
THE USE OF CERTAIN CONVENTIONAL
WEAPONS WHICH MAY BE DEEMED TO BE
EXCESSIVELY INJURIOUS OR TO
HAVE INDISCRIMINATE EFFECTS**

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Working Group on Mines Other Than Anti-Personnel Mines

Core Questions on Mines Other Than Anti-Personnel Mines (MOTAPM)

Note by the Coordinator

1. In order to facilitate the debates on mines other than anti-personnel mines and in accordance with the already established practice of the GGE, it is suggested to focus the discussion on MOTAPM of the fifth session of the GGE on the topics, outlined in the present paper.

2. The discussion will be facilitated by new discussion papers and presentations. Nevertheless, several discussion papers and working documents already distributed at previous sessions of the Group are relevant to the issues proposed for discussion by the 5th session of the GGE and will continue to provide a valuable basis for the substantive debate on MOTAPM.

▪ **MOTAPM with Sensitive Fuses**

3. **Background:** As a result of our previous deliberations on the subject (based on discussion papers CCW/GGE/II/WP.5 and Add.1 and CCW/GGE/II/WP.16), there seems to be a general recognition among the States Parties of the humanitarian problem that may be posed by MOTAPM with sensitive fusing devices - such mines can be accidentally actuated by the presence, proximity or contact of a person thus having an effect similar to that of APLs. In order to minimize the risk to civilians from MOTAPM with sensitive fuze mechanisms, the CCW GGE agreed to try to develop a pragmatic approach aimed at identifying common voluntary standards (best practices) in regard to design and the use of these mines.

4. **Considerations:** The Group will continue to consider what might be the best way to address the humanitarian concerns posed by sensitive fuses. In this respect, a process was already initiated of trying to identify upon suitable technical parameters for different types of fusing mechanisms aimed at improving their discriminating capacity (numerical approach). An example of such an approach can be found in the interim synopsis of the data submitted by several States Parties (CCW/GGE/III/WP.5) which contains some preliminary conclusions on the technical parameters of seven types of fuses. While having a lot of merits, some shortcomings of this concept have also been pointed out. For instance, as emphasized on several occasions by technical experts, it is difficult to identify effective technical means for preventing fusing devices, like tilt rod, tripwire or breakwire-activated fuses, from being accidentally detonated by

a person while maintaining their military utility. The influence of age, weather and other external conditions on the reliability (especially the sensitiveness) of the fusing mechanisms of deployed MOTAPM seems also to be a problem of relevance which might require consideration by the military experts.

5. Another approach was suggested by several delegations, namely, that instead of looking for concrete technical parameters we should try to find an appropriate way to minimize the humanitarian risk posed by the sensitive fuses by addressing the issue in a more generic way (descriptive approach) – a concept, the pros and cons of which are still to be explored.

6. Against this background States Parties may want to consider which of the debated concepts - a numerical or a descriptive approach, or – probably - a combination of both concepts will better serve the humanitarian goals of the CCW. An updated version of the Matrix, containing examples of both approaches will be made available prior to the June meeting of the GGE.

▪ **Mine Clearance**

7. **Background:** MOTAPM remain a legitimate and effective defense weapon often used for specific military purposes in accordance with national security doctrines. However, as emphasized by several competent agencies (for instance in CCW/GGE/II/WP.9 by ICRC or in CCW/GGE/II/WP.14 and CCW/GGE/IV/WG.2/WP.3 by UNMAS) as well as by CCW States Parties, the irresponsible use of MOTAPM as weapons of war leads to long-term humanitarian consequences - long after armed conflicts have ended they continue to inflict civilian casualties and to hamper the delivery of humanitarian assistance and the socio-economic development of the affected areas thus impeding severely their already difficult post-conflict reconstruction. In response to the challenge posed by landmines, focus has been naturally placed on mine clearance as an important means for addressing their long-term humanitarian effects. For instance, the CCW Amended Protocol II provides the States parties with the necessary legal framework for a rapid and safe clearance of landmines, especially anti-personnel mines. However, while the universal adherence to and the strict compliance with the provisions of the AP II remain a priority task, the international community is continuing its efforts to agree upon relevant and effective measures in response to the significant and widespread humanitarian effect MOTAPM have after the end of hostilities.

8. **Considerations:** Taking into account the existing legal framework on mine clearance as well as the significant experience from demining operations throughout the world, States Parties may want to discuss what additional standards pertaining to the MOTAPM would be appropriate to consider for facilitating their post-conflict humanitarian clearance and thus limiting their long term humanitarian impact. As already suggested by States Parties and by the humanitarian agencies, several technical preventive measures may be relevant to address adequately this issue, namely detectability of MOTAPM as well as a requirement that MOTAPM are equipped with self-destruction or self-neutralization mechanism with a self-deactivation back-up feature. Consideration of the mine clearance techniques may be necessary for better addressing the question of the adequacy of the proposed technical measures.

9. States Parties may also want to address any other aspects of the mine clearance challenge, like availability of relevant information and others which may facilitate rapid and safe clearance of MOTAPM.

10. In order to assist delegates to develop a better understanding of the practical aspects of the issue a demonstration of mine clearance and demining techniques will be organized on Tuesday afternoon (24 June 2003), on the grounds of the Palais des Nations.

▪ **The Use of MOTAPM by Non-State Actors (NSA)**

11. **Background:** Currently most of the major armed conflicts are intra-state conflicts. Typical for them is the active involvement of different rebel fractions (Non-State Actors) operating outside of governmental control as well as the fact that often NSA have the same and even better weapons than governmental armed forces. Consequently, a full implementation of multilateral legally binding standards in the field of conventional weapons can hardly be achieved if Non-State Actors fail to respect them. However, even being outside the effective governmental control NSA nevertheless remain accountable for their actions and may be bound by international legal standards as well as subject to domestic law. In the case of the CCW a good example would be AP II as well as the amended Art.1 of the Convention by which the scope of the CCW was expanded to non-international armed conflicts.

12. **Considerations:** The GGE has already engaged in a discussion on the complex and important issue of the involvement into hostilities of non-state armed groups. In particular, at the second session of the Group several States Parties expressed concerns about the humanitarian impact of the increased resort to and the irresponsible use of MOTAPM by Non-State Actors. A number of important questions of how to address this problem were raised in the Indian discussion paper (CCW/GGE/IV/WG.2/WP.2) as well as by delegations and deserve further consideration. A key issue will be how a legal instrument would limit the proliferation of the humanitarian risk caused by the use of MOTAPM by NSA and would there be a place also for other interim measures, such as Best Practices or Code of Conduct to restrict the transfer to and the use by NSA of MOTAPM? States Parties may want to consider what possible measures (among those listed in the Indian paper as well as what other measures) aimed at ensuring respect for the international humanitarian norms by Non-State Actors may be relevant. The humanitarian concerns of the use by NSA of Improvised Explosive Devices also require further consideration.

▪ **International Assistance and Co-operation (A&C)**

13. **Background:** At the CCW Second Review Conference the States Parties solemnly declared “[t]heir commitment to reinforce international co-operation and assistance, including the transfer of technology as appropriate, with the view of facilitating the implementation of the Convention and its annexed Protocols”. Furthermore, last year several delegations suggested that we should consider whether the provisions of the CCW Amended Protocol II are sufficient in respect of the new technical and other requirements for MOTAPM and their use or whether it will be relevant to try, where appropriate, to reinforce the existing APII language on international co-operation and assistance.

14. **Considerations:** Enhancement of the MOTAPM reliability (including new technical specifications for self-destruction, self-neutralization, self-deactivation and detectability, as well as for improvement of fusing mechanisms) may create difficulties of financial or technological character for some states, and especially for developing countries. States Parties may want, therefore, to discuss whether additional measures need to be taken to reinforce the provisions on A&C contained in the Amended Protocol II. Based on the experience of the implementation of the APII and of other legally-binding instruments in the field of disarmament and arms control, it is worth considering what measures can be envisaged for assisting the states which have difficulties in meeting adequately the new humanitarian norms. How to ensure, on a non-discriminatory basis and at different levels - bilateral, regional and multilateral – reinforced assistance and co-operation not only in terms of access to and transfer of equipment, materials and relevant technologies and technical information, but also in other relevant spheres, such as, for instance, the process of destruction of older and unsuitable stockpiles of MOTAPM.

15. A discussion paper will be made available to facilitate the consideration of the subject.

▪ **Military Expert Group on MOTAPM**

16. A meeting of the Military Expert Group will take place on 27 June 2003. A separate list of questions to be discussed by the military experts will be made available prior to the 5th session of the GGE.
