
**Fourteenth Annual Conference
of the High Contracting Parties to
Amended Protocol II 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**

29 November 2012

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Geneva, 14 November 2012

Summary record of the 2nd meeting

Held at the Palais des Nations, Geneva, on Wednesday, 14 November 2012, at 3 p.m.

President: Ms. Ciobanu.....(Romania)

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Any corrections to the records of the meetings of this Conference will be consolidated in a single corrigendum, to be issued shortly after the end of the Conference.

The meeting was called to order at 3.50 p.m.

Review of the operation and status of the Protocol

Consideration of matters arising from reports by High Contracting Parties according to article 13 (4) of the Amended Protocol

Consideration of the development of technologies to protect civilians against indiscriminate effects of mines

Report of the Coordinator on issues covered by agenda items 9, 10 and 11 (CCW/AP.II/CONF.14/3)

1. **Mr. Domingo** (Philippines), speaking in his capacity as the Coordinator on the operation and status of the Protocol and presenting the report (CCW/AP.II/CONF.14/3), which contained the outcome of the meeting of the group of experts held on 23 and 24 April 2012, said that since 1999 the number of States parties had steadily increased and, with the accession of Montenegro in December 2011, now stood at 98. Consultations had been held with the States that were party to the original Protocol II, but not the amended Protocol. Some had said that they would make the transition to the amended Protocol, while two had expressed strong opposition to the termination of the original instrument. The Group had agreed that the High Contracting Parties to the amended Protocol, in accordance with the mandate of the Thirteenth Annual Conference, should continue their contacts with the Parties to the original Protocol II that had not yet become party to amended Protocol II, and underscored that any action with respect to the termination of the original Protocol should be taken with the consent of the parties to that Protocol.

2. Several States had provided information on national measures taken for the implementation of amended Protocol II and had indicated their readiness to provide assistance to States in need of assistance. Forty-one of the 98 States parties had submitted annual reports at the time of the meeting of the Group of Experts, increasing later to 51, for a 52 per cent reporting rate, compared with a 56.7 per cent rate the preceding year and the record 69.4 per cent rate recorded in 2005. States were encouraged to submit their reports, and the United Nations Mine Action Service had expressed its readiness to provide assistance and cooperation for their preparation. A total of 65 States had used Form B, "Mine clearance and rehabilitation programmes", in 2012; for the most part they were countries that had provided assistance to other States for those activities. Not all States had submitted information fully complying with the guide to reporting. There had been no discussion of technologies to protect civilians against indiscriminate effects of mines. He drew the attention of the High Contracting Parties to the Group's recommendations set out in paragraph 22 of the report.

3. **Mr. Benítez Verson** (Observer for Cuba) said that Cuba was not in a position to become a State party to amended Protocol II. It had binding legal ties with over 100 States under the original Protocol II. The proposal to terminate the original Protocol was both dangerous and unacceptable. Each State had the sovereign right to freely choose which international legal instruments it would accede to, and no State or group of States could impose obligations on another. Cuba respected the decision of other States to become party to amended Protocol II, but it was not for those States to decide the termination of original Protocol II. Under the Vienna Convention on the Law of Treaties, a treaty could only be terminated with the consent of all parties to that treaty, even if they numbered less than those originally required to bring the treaty into effect. He objected not only on political and security grounds, but also from a legal standpoint, as the original Protocol II was still fully in force. The termination of original Protocol II would be a grave error, as it would eliminate existing legal relations which would not otherwise be covered.

4. **Mr. Cappelin** (Sweden) said that his Government supported the recommendations put forward in both reports. Universalization of amended Protocol II should remain a matter of priority, and all States parties should aspire to its promotion. He noted that United Nations General Assembly resolution 64/67 on the Convention, which had emphasized the importance of universalization, had been adopted without a vote.
5. **Mr. Meier** (United States of America) said that the continued review of the status of amended Protocol II and its universalization remained a priority. Any action regarding the original Protocol must be taken with the consent of all the parties to that instrument. All States were encouraged to accede to the amended Protocol so that the issue of the original Protocol's status could be resolved. States parties were further urged to comply with their national reporting obligations.
6. **Mr. Kaneko** (Japan) said that universalization was of great importance, especially in Asia, and Japan had engaged in bilateral and regional efforts to promote the Convention. Japan fully supported the recommendations made in the report.
7. **The President** said that she took it that the High Contracting Parties were ready to approve the recommendations contained in paragraph 22 of the report.
8. *It was so decided.*

*Report of the Coordinator on improvised explosive devices (CCW/AP.II/CONF.14/),
(version dated 15 August 2012)*

9. **Ms. Payne** (Australia) explained that, in the absence of Mr. Kimpton (Australia) and Mr. Wollenmann (Switzerland), who had served as Coordinator and Friend of the Coordinator on improvised explosive devices (IEDs), she and Mr. Masmеjean (Switzerland) would present their report (CCW/AP.II/CONF.14/2). Excellent presentations on practical means of countering IEDs had been given during the meeting of the group of experts in April 2012. It was an unfortunate reality that IEDs remained a significant ongoing threat, both for military forces and for civilians. During the exchange of views on IED-relevant guidelines, best practices and other recommendations, updates had been received from a number of global and regional organizations on their efforts to combat IEDs, for example by ensuring better physical security of explosives and other components, by clearing and destroying unexploded ordnance and by strengthening supply chain security and identification of dangerous movements of IED precursors. Some delegations had requested additional international cooperation and assistance in order to deal with IED threats, build national capacities, clear explosive remnants of war and improve domestic and international collaboration. States were encouraged to provide that cooperation and assistance where possible. Most delegations had recognized that IEDs could be a legitimate weapon of war if used in conformity with the rules of international humanitarian law. The most significant concern was the irresponsible and illegal use of IEDs by insurgents, whether in times of armed conflict or not. There was a limit to what the rules of international humanitarian law and the Convention could accomplish. However, the full implementation of amended Protocol II, coupled with rigorous compliance, would be one element in helping to combat IEDs.
10. **Mr. Masmеjean** (Switzerland), speaking for the Friend of the Coordinator on improvised explosive devices, said that discussions during the meeting of the group of experts had inter alia addressed the question of whether the plan of action on victim assistance under Protocol V should play a greater role in efforts to assist victims of IEDs and whether that would improve the assistance provided. Time constraints had prevented the group from delving into those issues in any depth, and further discussion had been recommended.

11. **Ms. Payne** (Australia) drew attention to the recommendations submitted for the consideration of the High Contracting Parties set forth in paragraph 27 of the report, suggesting minor changes. In recommendation (a), the words in brackets “annexed to this report” should be deleted, as the compilation of draft guidelines, best practices and other recommendations addressing the diversion or illicit use of materials which could be used for IEDs, previously contained in the annex, had been moved to a separate document. In recommendation (c), the word “initially” should be removed. In recommendation (e), the words “consider the ways and means to enhance” should be replaced with the words “continue to discuss promoting”, to help make the basis of the mandate more focused.

12. **Mr. Duhr** (Germany) said that Germany supported the recommendations made in the report. Only if the international community stood together would it be possible to prevent the suffering caused to military personnel and civilians by IEDs. Halting the production and sale of the materials used to manufacture IEDs, especially those available on normal markets, was a huge challenge, and any success was likely to be limited. Applying international humanitarian law to the use of IEDs was also problematic since most users were non-State actors operating outside the framework of international law. The exchange of information among the High Contracting Parties was crucial, and the distribution and updating of existing guidelines should be continued in order to expand the body of information available to all. While paying due attention to protecting confidentiality, all States should participate at the expert level in the exchange of information on technologies. The involvement of experts from international agencies and organizations such as the United Nations Mine Action Service and the North Atlantic Treaty Organization could play a key role in that process.

13. **Mr. Miano** (Philippines) said that non-State actors and terrorist groups were increasingly using IEDs in his country for terrorism, extortion or political or personal vendettas, and that 29 IED-related incidents had been reported between January and October 2012.

14. Some materials used for IEDs such as fertilizers and cell phones were readily available, but the most common problem was the availability of Government unexploded ordnance. IEDs were effective tools against Government forces. Military personnel had often fallen victim to them owing to a lack of knowledge about their hazards and poor reporting and documentation on previous incidents.

15. The Government had taken steps to share more information with foreign counterparts and agencies, provide relevant training to the police and Armed Forces, establish various centres to supervise IED management and launch public awareness campaigns. Further efforts were needed to control sales of IED components, devote more resources to bomb detection and forensic capacity, enhance border security and collaborate with stakeholders to stigmatize and draw attention to IED usage.

16. **Mr. Meier** (United States of America) said that IEDs posed a challenge and enduring threat worldwide owing to their capacity to paralyse entire civilian communities and magnify the hardships of war. IEDs differed from landmines and other such devices, as they tended to be used within complex and secretive networks of non-State armed groups, including insurgent and terrorist factions.

17. International humanitarian law contained sufficient rules regulating IEDs, but it was of greater importance to share practices and open channels of communication between different States, with the full commitment of each Government. The Convention alone could not solve the problem of IEDs, but it could have a significant and lasting impact by engaging States to act and ensuring the synergy of their efforts.

18. **Ms. Marcaillou** (United Nations Mine Action Service) said that over the previous year, IEDs had been mentioned in several reports of the Secretary-General of the United

Nations. No simple solutions existed to such a multifaceted issue, but it was essential to promote information exchange, ensure cooperation between stakeholders and strengthen international norms.

19. The United Nations Mine Action Service was becoming the main United Nations' expert agency in various areas related to IEDs. In terms of victim assistance, it was heading up a review of the 2003 document on victim assistance entitled "Mine action and effective coordination: the United Nations policy" and would assist in the drafting of the Organization's 2013 policy on victim assistance. The Service had garnered considerable experience and acquired unique skill in various relevant areas, including: design and uses of IEDs; countering and prevention of IEDs; training of United Nations personnel, military and police and civil society partners in affected countries; promotion of risk awareness and development of risk awareness materials; training and sharing of expertise in Somalia; and drafting of a new IED policy for United Nations staff and assets, in collaboration with the Department of Safety and Security.

20. Lastly, it was very important to deny insurgents and criminals access to key source materials of military explosives and to guarantee the quick clearance of ordnance whenever feasible. The Service was therefore helping to improve the security and management of ammunition stockpiles. It would continue to apply and to train personnel in accordance with the International Ammunition Technical Guidelines.

21. **Mr. Schmid** (Switzerland) expressed his appreciation to the Coordinator for her excellent report. His delegation supported its recommendations.

22. **Mr. Endoni** (Observer for Nigeria) said that his country was a signatory to the Convention and all its protocols and was preparing to accede to them. Incidents involving unexploded ordnance had been rampant in Nigeria in the previous few years. The recommendation to exchange information and best practices was particularly encouraging.

23. **Mr. Khan** (Pakistan) noted that the report referred to a compilation of guidelines, best practices and other recommendations addressing the diversion or illicit use of materials which could be used for improvised explosive devices. Only regional organizations or States should be cited in the compilation, but other entities, including a suppliers' cartel, had been included as well. It was regrettable that the report's recommendations contained no mention of technology exchange. His delegation would not submit a formal objection, but would raise the two issues again at subsequent meetings.

24. With regard to the health policies for victim assistance mentioned in recommendation (e), his country had limited resources and would not engage in any programmes above and beyond those implemented under its national health policy.

25. **Mr. Nkeera** (Observer for Uganda) said that IEDs were of major concern to the African Union troops in Somalia. A number of incidents had already occurred, but little information had been exchanged to prevent their recurrence. Many of the devices had been detonated remotely using cell phones and similar methods. Developed countries should share any technologies which might be beneficial in preventing the use of IEDs.

26. **The President** said she took it that the Conference was ready to approve, as amended, the recommendations contained in paragraph 27 of the report on IEDs.

27. *It was so decided.*

28. **The President** said that at that time, 98 States had notified the Depository of their consent to be bound by amended Protocol II, including Montenegro, the only new State party to accede to the Protocol since the previous Annual Conference. The current figure seemed modest in view of the instrument's importance. Efforts should be made to promote universalization and strengthen implementation of the Accelerated Plan of Action on

Universalization of the Convention and its annexed Protocols, adopted at the Fourth Review Conference of the High Contracting Parties.

29. That year, 52 countries had submitted national annual reports, which were available on the Convention's website but not as official documents of the Annual Conference. Although national reporting was an obligation under amended Protocol II, 20 States parties had never submitted reports, and one third of the High Contracting Parties had failed to do so in the previous five years.

The meeting was suspended at 5.10 p.m. and resumed at 5.50 p.m.

Consideration and adoption of the final document (CCW/AP.II/CONF.14/4/Rev.1; CCW/AP.II/CONF.14/CRP.1; non-paper containing amendments to the preceding document, circulated in the meeting room in English only; and CCW/AP.II/CONF.14/CRP.1/Rev.1 and 2)

Paragraphs 1–4

30. *Paragraphs 1 to 4 were adopted.*

Paragraphs 5–20

31. **Mr. Nugroho** (Secretary-General of the Conference), drawing attention to the non-paper containing amendments to the final document (CCW/AP.II/CONF.14/CRP.1), said that "Germany" should be inserted in paragraph 18, after "France".

32. **Ms. Mehta** (India) requested a postponement of the decision on paragraphs 5 to 20, pending agreement on forthcoming amendments, which were still being drafted.

Paragraphs 21–32

33. **Mr. Mallikourtis** (Greece) endorsed a proposal made by the delegation of France earlier in the week, at a meeting of the Conference of the High Contracting Parties to Protocol V (CCW/P.V/CONF/2012/SR.4), to do away with the summary records of the Conference. The summary records were superfluous and of little practical use.

34. **Mr. Catalina** (Spain) agreed. In a time of economic crisis such as the current one, there was a need to take any and all measures to reduce costs. If the Conference decided to forego the records on a temporary basis, he could also agree with that decision.

35. **Mr. Simon-Michel** (France), concurring that there was a need to do away with summary records in the light of the current serious financial situation, said that no one read or used them. Furthermore, the rules of procedure made provision for the use of sound recordings as a record of the proceedings.

36. **The President** read out a proposal for the text of amended paragraph 31 bis, which would address the application of rule 41, paragraph 1, of the rules of procedure.

37. **Ms. Mehta** (India) said that if her delegation was to join in the consensus on the draft final document, the following sentence should be added: "The modalities of participation at this meeting shall not constitute a precedent in this regard."

38. **Mr. MacBride** (Canada) said that he understood that the new wording of rule 41 should apply to all NGOs.

39. **The President** said that it was her understanding that the proposal did not involve changing rule 41. Rather, it was simply a matter of interpretation or clarification of the rule.

40. **Mr. Schmid** (Switzerland) did not consider the amendment proposed to paragraph 31 to be a matter of interpretation of the rules of procedure. Several proposals for

amendments had been made orally, and it was difficult to adopt them without seeing them in writing. It was still unclear how the paragraph would read.

41. **The President**, noting the late hour, pointed out that there would soon be no interpretation services available and asked whether the participants would agree to continue the meeting in one of the official languages of the United Nations, without interpretation.

42. **Mr. Simon-Michel** (France) said that the six official languages must be treated equally. It was unacceptable to conduct the meeting in a single language.

43. **The President** suggested suspending the meeting and resuming it in the morning.

The meeting was suspended at 6.20 p.m. and resumed the following morning, on 15 November 2012, at 10.20 a.m.

44. **The President** drew attention to the revised draft final document (CCW/AP.II/CONF.14/CRP.1/Rev.1), which incorporated the amendments proposed in the non-paper, with minor editorial changes. She asked whether the Conference was prepared to adopt the amendment contained in paragraph 31 bis.

45. **Mr. Schmid** (Switzerland) said that his delegation had no difficulties in adopting the draft final document, as amended. He wondered whether it might be more appropriate for paragraph 31 bis to be placed in part III, under the section entitled “Work of the Fourteenth Annual Conference”, rather than part IV, entitled “Conclusions and recommendations”. He would appreciate hearing the views of other delegations on the matter.

46. **Mr. MacBride** (Canada) asked whether paragraph 31 bis could be put under the part dealing with the work of the Conference. He also wished to add that only one view had been reflected in that paragraph, whereas a number of States had said that there was no need to review rule 41. The views of those States should also be reflected in the paragraph, preferably in part III.

47. **Mr. Meier** (United States of America), taking note with interest of the discussion on paragraph 31 bis, wondered whether a decision on the matter could be deferred until agreement was reached on it.

The meeting was suspended at 10.30 a.m. and resumed the following day, on 16 November 2012, at 3.10 p.m.

48. **The President** drew attention to the latest version of the revised draft final document (CCW/AP.II/CONF.14/CRP.1/Rev.2), in particular the new text contained in paragraphs 15 bis and 31 bis. She suggested that the Conference should take up those paragraphs before adopting the final document.

49. **Mr. MacBride** (Canada) said that while his delegation had concerns over the accuracy of some of the wording in paragraph 15 bis and questioned the wisdom of not following the precedents set at previous meetings over the years, it could accept the proposed wording. The meetings that would be held prior to the Fifteenth Annual Conference should serve as an opportunity to further strengthen the role of civil society in the Conference’s deliberations.

50. **Mr. Hoffmann** (Germany) said that Germany valued the voice of NGOs as an important contribution to the work of the Conference. High Contracting Parties sometimes took issue with the way in which NGOs presented the positions of the States in question, for instance in papers that were circulated in the conference room. In such cases, delegations could take the floor and set the record straight. The Parties should not get involved in the screening of NGOs for participation in the meetings. Rule 41 of the Conference’s rules of procedure was perfectly clear on NGO participation.

Paragraphs 5–20

51. *Paragraphs 5 to 20 were adopted.*

Paragraphs 21–32

52. **The President** said that Mr. Luis Gallegos of Ecuador had been nominated as President-designate and the representatives of Belarus, China and Finland as Vice-Presidents-designate of the Fifteenth Annual Conference.

53. *Paragraphs 21 to 32 were adopted.*

Annexes I–V

54. *Annexes I to V were adopted.*

55. *The draft final document of the Fourteenth Annual Conference of the High Contracting Parties to Amended Protocol II as a whole, as amended, was adopted.*

Closure of the Conference

56. After the customary exchange of courtesies, **the President** declared the Fourteenth Annual Conference of the High Contracting Parties to Amended Protocol II closed.

The meeting rose on 16 November 2012, at 3.25 p.m.