

**Sixteenth 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**

27 August 2014

Original: English

Geneva, 12 November 2014

Item 8 of the provisional agenda

**Review of the operation and status of the Protocol**

**Operation and status of the Protocol, matters arising from reports by High Contracting Parties according to paragraph 4 of Article 13 of Amended Protocol II, as well as development of technologies to protect civilians against indiscriminate effects of mines**

**Submitted by the Coordinator<sup>1</sup>**

**I. Introduction**

1. The Group of Experts of the High Contracting Parties to Amended Protocol II met in Geneva on 1 and 2 April 2014 and continued discussions on the operation and status of Amended Protocol II, matters arising from the national reports, and the development of technologies to protect civilians against indiscriminate effects of mines, based on the mandate as contained in the final document of the Fifteenth Annual Conference of the High Contracting Parties to Amended Protocol II (CCW/AP.II/CONF.15/8, paragraph 17).

2. This year the Group focused on the following topics: to review the operation and status of the Protocol and consider matters arising from the national annual reports, as well as the development of technologies to protect civilians against indiscriminate effects of mines; to strengthen the universalization of the Protocol based on the Accelerated Plan of Action on Universalization of the Convention and its annexed Protocols; to continue to engage with the High Contracting Parties to the original Protocol II that have not yet become parties to Amended Protocol II, to encourage them to accede to it; to consider the "Guide to reporting" in light of developments and progress achieved in the field of mine action since the adoption of the Protocol; and to analyze the implementation by the High

<sup>1</sup> In accordance with the decision of the Fifteenth Annual Conference, as contained in Paragraph 23 of its final document (CCW/AP.II/CONF.15/8), the discussion on the operation and status of the Protocol, matters arising from reports by High Contracting Parties according to Article 13 (4) of Amended Protocol II, as well as the development of technologies to protect civilians against indiscriminate effects of mines, was under the overall responsibility of the Coordinator, Mr. David Pusztai of Hungary.



Contracting Parties of their obligation to submit national annual reports and study their content, focusing on the information submitted in Form D: "Legislation related to the Protocol".

## **II. Organization and work of the 2014 Group of Experts meeting**

3. The Group of Experts built on the previous year's discussions. The experts were encouraged to convey their views on efforts at strengthening the implementation of the Protocol and of promoting its universality. They also focused on the importance of submitting national annual reports. The development of technologies to protect civilians against indiscriminate effects of mines and other relevant matters were also considered by the Group.

### **A. Implementation of the Protocol by the High Contracting Parties**

4. A presentation by Ukraine highlighted its efforts to continue to improve its national policies by developing counter-mining and humanitarian demining activities to comply with its international obligations and to provide safety to the local inhabitants and demining experts. Other practical contributions include its continuation of completing the destruction of anti-personnel mines and its continued support for the United Nations international peacekeeping operations. International cooperation with other States in the region included joint humanitarian demining among engineer battalions, and providing assistance in demining. New munitions for the armed forces are produced within strict compliance with Amended Protocol II, and existing anti-personnel mines that do not comply with the requirements prescribed in the technical annex of the Protocol are withdrawn from service. The demining centre of the armed forces of Ukraine also carried out training.

5. Some High Contracting Parties reminded the Group on recent events relating to the protection of civilians from the effects of landmines in compliance with Amended Protocol II. The Group called on the High Contracting Parties to ensure that steps must be taken to meet the technical and legal requirements of Amended Protocol II, and that they take all necessary precautions to protect civilians from the effects of these weapons. The Group reminded the High Contracting Parties of their obligations under Amended Protocol II to protect civilians from the effects of any emplaced landmines, including in situations of armed conflict.

6. China highlighted its national implementation of the Protocol, i.e. destruction of outmoded munitions stockpiles in conformity with Amended Protocol II standards; training of key military personnel; victim assistance to Jordan and Sri Lanka. China also informed of its plans to continue providing assistance to those States in need, notably to Afghanistan Cambodia and Lao People's Democratic Republic during 2014.

7. The Hashemite Kingdom of Jordan made a presentation focusing on its landmine policy, including its demining operations and international cooperation programmes. Jordan explained that it had never employed fragmentation, chemical or booby-trapped mines, nor had it ever used unmarked minefields. As party to the Anti-Personnel Landmine Ban Convention since 1998, Jordan participated in and hosted numerous international conferences related to the Anti-Personnel Landmine Ban Convention. The government launched in 1993 a large-scale national campaign to eliminate the threat of landmines, focusing on alleviating the humanitarian and economic challenges. In March 2000 His Royal Highness King Abdullah of Jordan established the National Committee for Demining and Rehabilitation, which participates in various mine action initiatives, including mine risk education and mine clearance. In this context, the armed forces has conducted internal mine awareness programmes, as well as disseminating information about the Protocol and the Convention to the public and in schools and universities. Furthermore, Jordan's

comprehensive demining programme prioritizes minefields that block national economic projects; and minefields that are located in: populated areas, tourist spots, archaeological sites, and agricultural areas. Despite the challenges faced i.e. high temperatures in the Jordan valley in the summer, locating mines in heavy vegetation and swamps, and dealing with sensitive mines due to the passage of time, the programme has cleared 306,716 anti-vehicle and anti-personnel mines, and the government has officially declared Jordan free of minefields since April 2012.

## **B. Universalization of Amended Protocol II and the status of the original Protocol II**

8. The Group focused on the efforts aimed at enhancing more accessions to Amended Protocol II in the framework of implementing the Accelerated Plan of Action on Universalization of the Convention and its Protocols. A number of States parties provided information on their initiatives to promote the universalization of the Protocol at the national and regional levels. The President-designate also encouraged States not yet party to provide information on their intentions to consent to be bound by Amended Protocol II, or on the potential difficulties and challenges preventing them from doing so at the present time.

9. The topic on the status of the original Protocol II is related to the universalization of Amended Protocol II. The discussion focused on the increasing irrelevance of the original Protocol II due to its inability to address the humanitarian concerns from the extensive use of anti-personnel landmines in the early 1990s. The Coordinator informed that the President-designate engaged with the remaining States that are party to the original Protocol II but which have not yet consented to be bound by Amended Protocol II, as well as with the States that are priority for the universalization of Amended Protocol II<sup>2</sup>.

10. Consultations on universalization were organised by the President-designate to follow up with States on their intentions on joining Amended Protocol II. The States shared that they were still continuing with their internal processes, which included consultations among the related national agencies and departments, including those States that were in the process of settling their disagreement over territorial issues with neighbouring States. These States promised to revert to the President-designate at the next round of consultations. The two States which remain strongly opposed to the concept of terminating the original Protocol II underscored that such a termination must be decided with the consent of all the States parties to Protocol II.

11. The Group noted that the current number of adherents to Amended Protocol II remains at 100 States. The latest countries to join are Kuwait and Zambia in 2013. The Group called upon the States parties to further intensify their efforts at promoting the universality of the Protocol and welcomed the efforts made by the President of the Fifteenth Annual Conference to that end.

12. The Group agreed that contacts with the High Contracting Parties to the original Protocol II that have not yet become party to Amended Protocol II should continue, either conducted by the President-designate or by the High Contracting Parties to the Convention in accordance with the mandate. It was also reiterated by some members of the Group that any action with respect to the termination of the original Protocol II should be taken with the consent of the High Contracting Parties to the Protocol.

---

<sup>2</sup> These States include: Burundi, Cuba, Djibouti, Lao People's Democratic Republic, Lesotho, Mauritius, Mexico, Mongolia, Togo, Uganda, and Uzbekistan. The priority States that are party to the Convention but have not joined Amended Protocol II are: Antigua and Barbuda, Benin, Kazakhstan, Qatar, Saudi Arabia, and United Arab Emirates.

### C. Matters arising from the national annual reports

13. National reporting is not only an obligation but also a tool and an opportunity for the High Contracting Parties to report on progress and challenges in implementing their treaty obligations. The United Nations Mine Action Service (UNMAS) reported that during the 17<sup>th</sup> International Meeting of Mine Action Programme Directors and the United Nations Advisors (Geneva, 31 March 2014), the United Nations Inter-Agency Coordinating Group on Mine Action (IACG-MA) organized a plenary session titled “Treaty Frameworks and the Benefits of Data Collection and Quality Reporting.” The CCW Implementation Support Unit was represented at the event and reminded participants about the reporting requirements under CCW Amended Protocol II, Protocol V and Compliance.

14. The President-designate encouraged States parties which have not yet done so to meet their legal obligations in submitting their national annual reports. The High Contracting Parties to Amended Protocol II strived to meet their reporting obligations. Of the 100 High Contracting Parties, as many as 55 national annual reports were received by the Secretariat by the time this report was issued. The number of submissions usually increases closer to the date of the annual conference. The Implementation Support Unit as well as other United Nations agencies, including UNMAS, would be ready to assist and cooperate with States parties that need assistance in collecting the necessary information in the preparation of their national annual reports.

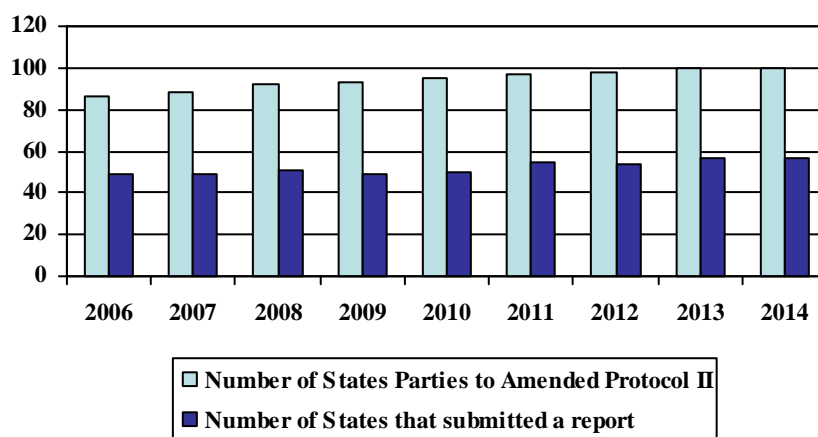
### D. Analysis of the national annual report: Form D “Legislation related to the Protocol”

15. The purpose of analysing one reporting form each year is to improve the quality of reporting and of the information contained in the forms submitted. Evaluating the submissions of the national annual reports against the existing “Guide to Reporting”, which is available on the CCW website, would be useful to understand how States respond to their reporting obligations. Analysing the information provided in the national annual reports would determine whether States were providing useful information in accordance with the Guide. This year the Group is mandated to analyze Form D: “Legislation related to the Protocol”.

16. States parties should update their legislation in accordance with their commitments to the Protocol. In accordance with the mandate the Implementation Support Unit has examined National Annual Reports submitted from 2006 to 2014. Indeed, in 2006, 49 States parties submitted reports; in 2007, 49 States parties; in 2008, 51 States parties; in 2009, 49 States parties; in 2010, 50 States parties; in 2011, 55 States parties; in 2012, 54 States parties; in 2013, 57 States parties, and in 2014, 57 States parties have so far submitted reports (see Chart 1)

Chart 1

#### CCW Amended Protocol II National Annual Reports 2006–2014



17. The Convention on Certain Conventional Weapons has 117 High Contracting Parties, of which 100 countries consented to be bound by Amended Protocol II. Of the 100 High Contracting Parties, on the one hand 30 States have never submitted reports since 2006, and on the other hand 30 States have submitted reports continuously every year since becoming party. Moreover, 68 High Contracting Parties have submitted at least one report since 2006. Among the High Contracting Parties which have submitted National Annual Reports, four have submitted only once since 2006 while others have submitted more regularly.

18. The Guide to Reporting on Form D stipulates that the High Contracting Parties have to report on legislation related to the Protocol. The Guide suggests that it would be useful if the High Contracting Parties also make reference to other norms with regard to mines or similar weapons in order to inform other High Contracting Parties of prohibitions or restrictions going beyond this Protocol; e.g.: National (domestic) norms for the use of weapons; National (domestic) norms with regard to transfer issues; Specific norms to implementing this protocol (e.g. penal sanctions); Accession to the Anti-Personnel Mine Ban Convention (Ottawa Convention); and the date of the entry into force of the respective norms. Forty-eight per cent of the High Contracting Parties which responded to form D did so in a correct manner.

19. On national (domestic) norms for the use of weapons and national (domestic) norms with regard to transfer issues, more than 65 High Contracting Parties expressed the same objectives concerning the importance of establishing and maintaining national legislation on the prohibition of the development, production, trade, import, export, acquisition, stockpiling, transfer and retention (directly or indirectly) of landmines within national territory. Of the States that have submitted national annual reports since becoming party, all of them have national legislation on this issue.

20. Almost all countries provide information on its National (domestic) norms for the use of weapons, in most cases they are parliamentary legislation. But not all provide information about National (domestic) norms with regard to transfer issues. This is perhaps due to the fact that such legislation is not available, or that data pertaining to the transfer of weapons would need to be provided by other related agencies, such as the ministry of trade and industry for some countries, and not solely from the ministry of defence.

21. Countries embrace a national policy to enact national legislation implementing international instruments only where existing national legislation is insufficient to meet the international obligations contained in the international instruments concerned. These countries have not enacted specific legislation to implement Amended Protocol II. However, they report that there is other legislation which is relevant to the obligations contained in Amended Protocol II. For example, these countries have enacted the Anti-Personnel Mine-Ban Convention legislation, which primarily implements the Mine-Ban Convention, but it also implements the key provisions of Amended Protocol II. In particular, there are provisions that makes it an offence to place, possess, develop, produce, acquire, stockpile, move or transfer anti-personnel mines.

22. Some countries periodically review implementing legislation for international humanitarian law instruments to which they are a party in order to ensure it continues to meet implementation requirements. As many as five High Contracting Parties have reported that they are currently considering conducting a review of legislation related to Amended Protocol II.

23. On specific norms for implementing this protocol, e.g. penal sanctions, six High Contracting Parties noted in their reports that they have national legislation pertaining to penal sanctions. On the date of the entry into force of the respective norms, it takes about five years for most High Contracting Parties for their national legislation to enter into force.

However, 13 High Contracting Parties took less than five years for their national legislation to enter into force.

24. Concerning the accession of the High Contracting Parties to the Anti-Personnel Landmine Ban Convention (Ottawa Convention), of the current 162 States Parties to the Ottawa Convention, 85 States are party to CCW Amended Protocol II. There are 15 High Contracting Parties to Amended Protocol II that are not party to the Ottawa Convention. High Contracting Parties to Amended Protocol II that are parties to the Ottawa Convention normally report on such information, including the date of their accession and entry into force for that particular country.

25. Following this analysis of Form D, it is sufficiently clear that once a national legislation has been promulgated, no further information on updates or other new legislation has been reported. Therefore, the use of the Summary Sheet in this case is very practical for these countries, as no new information on Legislation would be available and the data remains the same as its previous reporting period.

### **III. Recommendations**

26. In light of the above, the Sixteenth Annual Conference of the High Contracting Parties to Amended Protocol II may wish to take the following decisions:

(a) The Group of Experts shall continue to review the operation and status of the Protocol and consider matters arising from the national annual reports, as well as the development of technologies to protect civilians against indiscriminate effects of mines.

(b) The Plan of action to promote the universality of the Convention and its Protocols is the relevant mechanism to enhance the interest of States that are not party to those instruments. The Conference encourages the States parties and the Implementation Support Unit to intensify their efforts at implementing the Plan of action, in particular through organizing national and regional seminars aimed at promoting and explaining the Convention and its Protocols.

(c) The High Contracting Parties to the Convention shall continue their contacts with the High Contracting Parties to the original Protocol II that have not yet become parties to Amended Protocol II, to encourage them to accede to it and thus to facilitate the termination of the original Protocol II. Any action with respect to the termination of the original Protocol II should be taken with the consent of the High Contracting Parties to this Protocol.

(d) The Group of Experts shall analyze the implementation by the States parties of their obligation to submit national annual reports and shall study their content, focusing on the information submitted in Form E: "Measures taken on international technical information exchange, on international cooperation on mine clearance, and on technical cooperation and assistance". The Group shall also consider the "Guide to reporting" of Form E in light of developments and progress achieved in field of mine action since the adoption of the Protocol.

---