

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

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Improvised Explosive Devices (IEDs)

Information exchange on improvised explosive devices

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Background

1. Since 2009, High Contracting Parties to Amended Protocol II (APII) of the CCW have been considering the issue of improvised explosive devices (IEDs). The CCW APII meeting on 14 November 2012 in Geneva adopted the recommendations of the Coordinators' report for future work on IEDs for the Group of Experts meeting in Geneva from 8 to 9 April 2013. The key aspects of the Coordinators' report on IEDs focused on: best practices and guidelines; information exchange on IED incidents, their prevention, and humanitarian effects; international humanitarian rules and domestic implementation; and victim assistance.

Purpose

2. Building upon the objectives of the Coordinators' recommendations, the purpose of this non-paper is to focus on ways that the CCW can facilitate the exchange of information on IEDs between High Contracting Parties; and to develop and improve best practices for minimizing the spread of IEDs and their components.

Humanitarian impact of Improvised Explosive Devices (IEDs)

3. IEDs have caused injury and death to both military personnel and civilians in many parts of the world for decades. Since World War II, IEDs have been used in armed conflicts in Vietnam, Iraq, Afghanistan, Somalia and most recently in Mali. IEDs are also

¹ This non-paper was circulated to delegations on 13 March 2013 to help inform the discussion in the Group of Experts (Geneva, 8-9 April 2013) on developing best practices aimed at helping to address the diversion or illicit use of materials that can be used for IEDs, with a focus on ways High Contracting Parties can improve information sharing on international transfers and use of such materials and preventing their diversion for use in IEDs.



increasingly being used by non-state actors (NSAs) as a weapon of choice, as they provide an asymmetric option to pursue or prolong conflicts with a more powerful and technological advanced military opponent. In 2011, the Explosive Violence Monitoring Project reported that “64% of all recorded incidents of explosive violence by non state actors involved IED use”.² The design of an IED enables both controlled (command wire, remote control) or unattended (pressure actuation, trip wire, electronic sensor) actuation. So an adversary force may avoid a direct confrontation with more powerful military forces. With this style of warfare comes an increased risk to civilian populations. Civilians are often the unintended victims of IEDs. In 2012, the United Nations Assistance Mission in Afghanistan reported that civilian deaths due to IEDs in Afghanistan constituted 32 percent of the total number of civilian casualties in 2011. NSAs often directly target civilians using IEDs to terrorise or demoralise a population – for political as well as military ends.

Relevance of APII to minimising the impact of Improvised Explosive Devices (IEDs)

4. The CCW bans or restricts the use of specific types of weapons that are considered to cause unnecessary suffering to combatants or those that affect civilians indiscriminately. APII of the CCW expressly includes IEDs as a type of device subject to certain prohibitions and restrictions. APII defines ‘Other devices’ as “manually-emplaced munitions and devices including improvised explosive devices designed to kill, injure or damage and which are actuated manually, by remote control or automatically after a lapse of time”.

5. Article 3 of APII covers ‘General restrictions on the use of mines, booby traps and other devices’. In particular, the provisions in Article 3(8) cover the use of ‘indiscriminate’ weapons, which may include the use of IEDs: “The indiscriminate use of weapons to which this Article applies is prohibited. Indiscriminate use is any placement of such weapons”, that are not directed against a “military objective”; which employs a “method or means of delivery which cannot be directed at a specific military objective”; and which “may be expected to cause incidental loss of civilian life”. While many IEDs will be directed against military objectives, not all IEDs will be inherently discriminate. They are frequently employed in a manner that has indiscriminate effects, which is evident by the number of civilians killed and injured by IEDs.

Information Exchange to improve the understanding of the movement of Improvised Explosive Devices components to enhance efforts to prevent diversion

6. A key way in which CCW High Contracting Parties can more effectively combat the indiscriminate use of IEDs and their components is through enhanced information exchanges between High Contracting Parties on IEDs and their components. This would help identify the legitimate trade in certain components in order to avoid the diversion of these components for use in IEDs. Importantly, the intent would not be to impede the legitimate trade in goods nor impose additional regulations on such trade, which would be beyond the scope of the CCW. In addition, States would also need to consider commercial confidentiality.

7. The conflicts in Iraq and Afghanistan specifically, but all conflicts more broadly, have highlighted the need to understand the design, development and use of IEDs by those

² *Monitoring Explosive Violence 2011*, (Explosive Violence Monitoring Project) p.24

who need to clear them from a battle space. To mitigate the threat posed by indiscriminately deployed IEDs, military and security forces have commenced the development of best practice guidelines that include: a common framework and understanding; a common lexicon; and a process for effective information sharing.

8. The utility of information sharing has been demonstrated by the World Customs Organisation's (WCO) Programme Global Shield, which is funded by the United States Department of State. Global Shield is a long-term WCO program monitoring the legitimate movement of 14 explosive precursor chemicals, in order to identify illicit cross-border diversion and trafficking of the chemicals for the manufacture of IEDs. As of May 2012 there were 70 states participating in Global Shield. Global Shield's objectives are broadly to:

- monitor and track legitimate sea cargo shipments of explosives precursors to identify the patterns, diversity, and extent of licit international trade;
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- identify and seize illicit sea cargo shipments of explosives precursors and initiate investigations and appropriate enforcement activities;³
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- develop and share real-time information and intelligence as appropriate; and
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- facilitate the legitimate trade in explosives precursors through risk-based targeting.
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9. While noting that Global Shield is focused primarily on regulating the legitimate trade in precursor chemicals that may be used in IEDs and the interdiction of the illicit use of these chemicals for the production of IEDs, it does provide the CCW with a model for the voluntarily exchange of information between States on IEDs.

10. Systems developed to support Global Shield have proven to be effective in facilitating the voluntary exchange of information between Global Shield participants on potentially illicit shipments. For example, in February 2011, a participating state issued a warning message to all users regarding an overland shipment of aluminium powder that was still en route to its final destination. In the warning message, the country identified a possible transit route (involving at least six other states and listed key indicators that identified the shipment as potentially illicit.

11. Using a common information sharing and communication platform, Global Shield participants were able to:

- request and clarify further details regarding the shipment;
- track the transport of the shipment by vehicle; and
- share information on the couriers, their declared shipments, and the dates of entry/exit through transit states.

12. Although in this case no seizures were conducted, the incident demonstrates the capability of Global Shield to provide a practical method for information sharing between

³ Since its inception in November 2012, Global Shield has resulted in 51 aggregate seizures for a total of 140.67 metric tons of chemicals seized, 42 enforcement actions, and 1,071 warning messages (Australian Customs and Border Protection Service).

States. Global Shield provides a feedback mechanism for all member States on lessons learned and opens channels for future information sharing to be used in tracking suspicious and illicit shipments of precursor chemicals.

13. Using Global Shield's information sharing model, the CCW could also focus on strengthening transparency and confidence building measures through similar information sharing arrangements among a broad group of States Parties.

14. Information exchange could also assist the Group of Experts to develop best practices to address the diversion or illicit use of components that can be used in the production of IEDs. By building upon extant guidelines and best practices as outlined in the Compilation document of 5 April 2012,⁴ these could be adapted to focus on specific IEDs matters.

15. The use of IEDs is growing across the globe. Current open source information records that outside of the immediate conflicts in Iraq and Afghanistan, the average monthly IED incidents numbers are in excess of 750 events across the past two years. The current and future humanitarian impact of this growing use of IEDs is of concern and it is possible for States Parties to the CCW to begin to address this issue through simple cooperation measures which would enable the threat of IEDs to be identified and mitigated where possible.

Summary

16. The purpose of this paper has been to promote discussion on information sharing on IEDs and their components within the CCW and how to develop and improve best practice to minimize the spread of IEDs. Rather than propose a particular solution to this issue the aim has been to identify those areas that the Group of Experts would be willing to work on within the CCW to minimise the effects of IEDs in the future.

⁴ The compilation is available on the CCW Implementation Support Unit website at: <http://www.unog.ch/ccw>.