

Eighteenth 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

4 July 2016

Original: English

Geneva, 30 August 2016

Item 10 of the provisional agenda

Improvised explosive devices (IED)

Report on improvised explosive devices (IEDs)

Submitted by the Coordinators¹

A. Introduction

1. The Group of Experts of the High Contracting Parties to Amended Protocol II (APII) met in Geneva on 7 and 8 April 2016 and continued discussions on improvised explosive devices (IEDs) in the framework of the Convention on Certain Conventional Weapons (CCW) corresponding to its mandate as contained in paragraph 29 of CCW/AP.II/CONF.17/6. The Coordinators informed the High Contracting Parties on 2 March 2016 regarding preparations for the Group's meeting, which focused on five sub-topics.²

B. Conduct of the meeting (Geneva, 7-8 April 2016)

1. General discussion

Measures to prevent the diversion of IEDs

2. There is ongoing concern regarding the ease of use and increasing sophistication of the use of IEDs by groups such as terrorist organizations. Some participants underlined the problem of IEDs in territories controlled by these actors, as well as the threat these devices pose to civil population of occupied and liberated territories. In liberated territories, IEDs

¹ Colonel Nicolas Coussière of France and Mr. Igor Moldovan of the Republic of Moldova.

² The topics were: (1) the compilation of existing guidelines and best practices aiming at addressing the diversion of illicit use of materials that can be used for IEDs; (2) information exchange on national measures and best practices on: (i) supporting measures to prevent the diversion of explosives for use in IED; and (ii) enhancing information sharing on detection and counter measures techniques; (3) Discussion on the possibility of a database, portal or platform to improve information sharing on the diversion of illicit use of materials that can be used for IED; (4) consideration of the questionnaire on national counter-IED frameworks and a first assessment of the responses received; (5) the way ahead on IED in the CCW framework and beyond, and preparation for the 2016 CCW Fifth Review Conference.



are left behind in buildings and paths used by the antiterrorist operation forces, but also in places of possible gathering of people. There were difficulties in ascertaining the actual size of the territory covered by explosive devices.

3. Participants shared national and regional measures that have been adopted to prevent the diversion of IEDs, with a focus on the measures relating to the provision and use of explosive precursors, and chemical substances that could be used for the illicit manufacture of explosives. Concerns were expressed on the use of IEDs by non-State actors, as legitimate commercial or military purpose-exclusive materials are transformed into IEDs by them. These measures aim to monitor the movement of explosive precursor chemicals and the trafficking of the chemicals for the manufacture of IEDs. Also, these measures aim to limit their availability to the general public, although it has been noted that artificial fertilizers and some chemicals used in daily life are being used as strong explosive materials. In some cases, they are reinforced by explosive ammunition and small metal pieces. Some participants suggested the tightening of border controls in enforcement of limitations and access to these materials. Furthermore, it has been reported that easy access to explosive remnants and unattended ammunition has helped non-State actors to produce and use IEDs extensively.

IEDs, victim assistance and their humanitarian impact

4. Many participants underlined the indiscriminate and lethal use of IEDs. There was general concern regarding civilian casualties resulting from the use of IEDs, as well as their use in populated areas. There was also concern about other humanitarian issues arising from the use of IEDs, such as population displacement. Participants noted that the humanitarian threat posed by IEDs has been recognized by the UN General Assembly Resolution 70/46. Furthermore, it was noted that the use of IEDs constitutes an impediment to the distribution of humanitarian assistance and the provision of development aid.

5. Another issue arising from the use of IEDs was the increasingly unclear division between post-conflict and conflict contexts in many current hostilities. While, for a participant, mine action actors should limit their involvement where hostilities have ceased, another participant pointed out that waiting for a traditional post-conflict status does not meet the reality of contemporary armed conflict, especially for actors seeking to meet humanitarian imperatives. This is especially the case in complex crises with rapid displacement and a range of urgent protection needs.

Importance of information exchange and international cooperation

6. Experts underlined the importance of information sharing and international cooperation, and how these might result in a significant contribution. Mutual learning and international cooperation on elements such as information sharing, an exchange of knowledge and expertise, component controls, capacity building and public awareness are essential to further progress. However, some participants noted the importance of confidentiality of some information, and insisted that information sharing on detection and counter-measures should be done on a voluntary basis.

2. Compilation of existing guidelines and best practices

7. On the issue of the compilation of existing guidelines and best practices aiming at addressing the diversion of illicit use of materials that can be used for IEDs, one proposal from the Coordinator was to make the compilation that currently existed on the CCW website to be more user-friendly, by making available the referenced documents on-line via a hyperlink or in the form of a brief outline of the content of each document. The Coordinators encouraged the High Contracting Parties to contribute to the compilation, as it

was a living document that needed to be constantly updated to continue to be relevant in efforts to help mitigate the problem of IED.

3. Information exchange on national measures and best practices on supporting measures to prevent the diversion of explosives for use in IEDs; enhancing information sharing on detection and counter measures techniques

8. The Group heard three presentations on both the national measures and best practices on supporting measures to prevent the diversion of explosives for use in IEDs and in enhancing information sharing on detection and counter measure techniques by:

- Mr. Raúl Sánchez Nino, Coordinator for disarmament and non-proliferation, Directorate of Political Multilateral Affairs, Ministry of Foreign Affairs, Colombia
- Brigadier Muhammad Faheem Akram, Director, Counter-IED Organization (CIEDO), Pakistan
- Brigadier General Gerry P. Amante, Commander, Munitions Control Centre, Armed Forces, The Philippines

9. The representative of Colombia shared its experience and the current measures undertaken, taking into account the conflict situation that had been ongoing for decades. Safeguarding the community and the State, the ability to identify all security and safety-related problems affecting the community, as well as moving forward and making progress, have all been considered as the government's primary responsibilities. The expert noted the difficulties from the indiscriminate use of IEDs as set out in the Protocol by illegal armed groups. Colombia particularly focused its presentation on its peace process with illegal armed groups. An agreement on clearing the territory in respect of IEDs and other devices has been reached, and assistance has been requested to the Norwegian government and the Geneva International Centre for Humanitarian Demining (GICHD) to conduct a pilot project and clear the contaminated areas. Much progress has been made and a number of lessons have been learnt resulting from the cooperation between the government and the illegal group.

10. The representative of Pakistan outlined the increasing number of IED attacks from 2005 to 2011³. It has developed a national counter-IED responses and divided its strategy in two branches: an offensive approach, and a defensive one. The offensive approach focused on attacking the terrorist network and the exploitation facilities where IEDs were being developed; while the defensive approach focused on operational and training assets. Efforts were being made for capacity building to raise the level of knowledge and expertise of government troops. As a result, there has been a clear reduction of IED attacks, and authorities have captured and destroyed over 20 IED-making factories. However, Pakistan has outlined the sophistication and the evolving nature of IEDs: the latest trend consisted in manufacturing IEDs that resembled rocks or stones, thus rendering their detection difficult.

11. The representative of the Philippines reported that it has established an inter-agency task force on counter-IED, composed mainly of units from the armed forces and the national police. The aim was to intensify intelligence efforts and police operations to attack the network, prevent the deployment of IEDs, and engage stakeholders, particularly the industry that work on the prevention of the production and use of IEDs. Furthermore, a Strategic Trade Management Act (2015) has been enacted, which assists in the monitoring

³ Between 2005 and 2011 there has been a marked increase of injuries and deaths caused by IED attacks.

and control in the trade of strategic goods and services that may be used for the manufacture of IEDs.

4. Discussions on the possibility of an IED database, portal or platform to improve information sharing

12. Some delegations expressed their support towards the idea of a database, portal or platform to improve information sharing. They stated that this concept would be an effective mechanism in allowing the sharing of confidential information to enable global cooperation, and States have expressed their interest in continuing to study this type of initiative.

13. One participant outlined that the use of these tools must remain on a voluntary basis, and must not put any financial burden on the High Contracting Parties. Another participant put an emphasis on the fact that the intent of such a measure would not be to impede legitimate trade of goods, nor to impose additional regulations on such trade. Two delegations put an emphasis on cybersecurity to prevent attacks on the internet from terrorist groups due to the important and sensitive nature of the information shared. Confidentiality should be further discussed. Another delegation added that no regulations, nor initiatives on IEDs could affect the rights of States to their legitimate defense under Article 51 of the UN Charter, and emphasized the principle of sovereignty.

5. Consideration of the questionnaire on national counter-IED frameworks and a first assessment of the responses received

14. The Co-Coordinator prepared an initial analysis of the responses provided by the High Contracting Parties to the questionnaire (CCW/AP.II/CONF.17/WP.1). The analysis was based on 32 responses provided by the High Contracting Parties by 6 April 2016, including two High Contracting Parties to the CCW who were not yet parties to the Amended Protocol II. Out of a total 21 questions, more than 76% had been answered by the respondents.

15. Regarding Question 1, it was noted that risk assessments on IEDs, undertaken by 62.5% of respondents, were performed on a case-by-case basis. The level of risk could rise significantly depending on certain factors or circumstances. Different authorities use various methods for assessment. When assessing individual risks, a matrix is used to represent the level of capability and intent, which may be assessed as high, low, or medium. Six countries assessed their IED threat level as low, one as medium-high, four as high, and two considered IEDs as listed in the main five threats of concern over the last three years.

16. In response to Questions 2 to 9 with regards the legal framework, as many as 17 countries explicitly mentioned their participation in the World Customs Organization (WCO) "Global Shield Programme" as part of their efforts in customs cooperation to improve border controls and limit flows that feed the chain of IED manufacturing. Furthermore, regarding the specific domestic measures to monitor, curtail or block the dissemination of information, especially through the internet, efforts to monitor the dissemination of information through the internet and social media platforms were mainly conducted by the law enforcement and counter-terrorism units. One country specifically revealed offences criminalizing the dissemination or supply of information on how to manufacture IEDs, while another country did not restrict publications on how to construct IEDs, but may conduct monitoring where there are sufficient grounds to obtain the necessary warrant. Sanctions condemning the use of IEDs may vary, ranging from contraventions to the death penalty. Some treaties have been identified as grounds for multilateral judicial cooperation, including two at the UN level, two among MERCOSUR (Mercado Común del Sur) States, and one in the European Union. Among the countries that

have responded, 29 have mentioned their cooperation with INTERPOL in counter-IED efforts.

17. Responses to Question 16 have identified more than 20 categories of bilateral or multilateral cooperation as valuable. Nineteen countries, among those who have responded to Question 17 of the questionnaire, have developed specialized centers for technical and biometric analysis, including weapons intelligence teams responsible for the analysis of IED-related information. International cooperation may be provided depending on the subject, and legal requirements must be fulfilled. Responses to Question 18 identified twenty-seven countries involved in various forms of counter-IED efforts through cooperation on a multilateral or bilateral basis to improve counter-IED efforts, for instance as doctrine capabilities or development, workshops, sharing of best practices and lessons learned, etc.

18. Twenty-six countries who have responded to Question 20 conducted and participated in counter-IED training courses, using platforms provided by regional and international organizations such as EUROPOL, NATO, WCO, or INTERPOL. However, not all counter-IED events are open for international cooperation. Some practices may be set primarily on bilateral level. Others would require the approval of the governmental bodies of involved groups, but possible requirements for partnership and cooperation may be reviewed upon request on a case-by-case basis. Responses to Question 21 revealed that subject to national regulations, the specialized units of national competent authorities maintained a permanent contact with similar units on a bilateral basis, or extensively used networks and platforms provided by regional and international specialized organizations, mainly through information sharing on IED construction or incidents involving these devices.

6. Discussions on future work

19. Throughout the session, many participants underlined the importance of information exchange, preventing the diversion of commercial explosives for the use of IEDs, international cooperation assistance on IEDs and counter-IED capacity building. Two delegations put an emphasis on the necessity to remain within the scope of APII, and insisted that the aforementioned measures go beyond the scope of APII. In one delegation's point of view, seeking to prevent the transfer of dubious goods, risk assessment methodologies, counter-IED capacity building, cooperation assistance on IEDs were all important and interesting, but should not be recommended for future work of the High Contracting Parties. Efforts related to these issues would be better addressed in other fora, and efforts should not be duplicative.

20. Another delegation added that the global threat of terrorism, including issues relating to the trans-border movement of precursors for the building of IEDs, needed to be addressed. The delegation suggested to focus future work on the objectives flowing from the Convention. In fact, for this delegation, the CCW was considered as a crossroads between international humanitarian law and the monitoring and control of armaments. The latter may be done through an exchange of experiences to combat IEDs both in military and post-military circumstances; cooperation, preparing and training experts in this area; raising awareness among the civilian population; exchange of experience on creating, developing, improving means to locate and neutralize IEDs.

21. One organization was concerned that the CCW may not be the appropriate forum to deal with the complex and multidimensional issue of IEDs. Many of the elements of the responses to the IED problem reached into areas beyond international humanitarian law. There was a sense of apprehension that going too far from the APII's main objectives

would question the humanitarian character of the Protocol. There should be further focus on the promotion and the implementation of the APII rules.

22. Many participants welcomed the idea of a political declaration of the High Contracting Parties on IEDs or the adoption of a common declaration during the upcoming Fifth Review Conference. One delegation expressed its preference for a common declaration, as it might be easier to achieve due to the limited time during the Review Conference, unless groundwork has been undertaken in advance. Another delegation believed that the preparation of a political declaration or a joint statement on IEDs would be an appropriate way to draw attention on the work of CCW on this issue, and could highlight the humanitarian consequences of IEDs while recalling the existing rules of international humanitarian law.

C. Conclusion

23. There was a clear indication that IED incidents are ever increasing in various parts of the world. The continuing rise in the number of victims of IED attacks is a stark reminder that still more work must be done to respond to the problem. The Group made considerable progress in further understanding national counter-IED frameworks of the High Contracting Parties as seen in the responses to the IED questionnaire. It was stressed that the initial analysis of the questionnaire was not an exhaustive attempt by the Coordinator to analyze the responses, but rather a compilation of the main elements from the responses. More responses to the questionnaire could be expected in the near future.

D. Recommendations

24. The Eighteenth Annual Conference of the High Contracting Parties to Amended Protocol II to the Convention on Certain Conventional Weapons may wish to take the following decisions:

(a) The High Contracting Parties request the Implementation Support Unit, in consultation with the Coordinators and the High Contracting Parties, to maintain, update and keep available on the CCW website the Compilation of existing guidelines, best practices and other recommendations aiming at addressing the diversion or illicit use of materials that can be used for improvised explosive devices, on an ongoing basis as new relevant information is published; they further request the Implementation Support Unit to make the compilation more user-friendly on the CCW website;

(b) With a view to ultimately drafting guidelines based on existing best practices, recommendations and lessons learned on methods to educate civilians to the risk posed by IED, the Group of Experts will initiate voluntary information exchange on IED risk education methods, campaigns or practices;

(c) The Group of Experts shall continue to exchange information on a voluntary basis on national measures and best practices on the following topics:

- Design features of employed IEDs in various operational situations;
- Methods to search, detect and destroy/neutralize IEDs;
- Methods to protect civilians and combatants from IEDs;
- Evolution of the threat, including new types of IEDs.

(d) The Group of Experts shall continue, consistent with the scope of Amended Protocol II, discussions on information exchange database, portal or platform as a voluntary

tool to improve information sharing on the diversion and illicit use of IEDs and materials that can be used for IEDs;

(e) With respect to the questionnaire on Counter-IED and based on the responses received, the High Contracting Parties request the Implementation Support Unit, in consultation with the Coordinators and the High Contracting Parties, to:

- Continue to make available to High Contracting Parties through the restricted area on the CCW website the responses to the questionnaire;
- Continue to maintain a list of national point of contacts for Counter-IED cooperation, available on the protected area of the CCW website;

(f) With respect to other fora addressing the threat posed by IED, the Group of Experts will keep apprised of the relevant developments in their activities, with a view to ensuring unity of efforts.
