
Fourth Review Conference of the High Contracting 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 16 November 2011
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Consideration of the scope and operation of the Convention and its annexed protocols

Mines other than anti-personnel mines (MOTAPM)

**Submitted by the CCW Implementation Support Unit
at the request of the President**

I. Introduction

1. This paper sets out the background to mines other than anti-personnel mines (MOTAPM) which has been an issue of ongoing concern within the Convention on conventional weapons¹.

II. The issue of MOTAPM prior and during the Second Review Conference

2. Humanitarian concerns associated with the use of MOTAPM had already been raised during the negotiations of the Convention and the original Protocol II in the late 1970s, but this was given limited consideration in the final text of Protocol II.

3. MOTAPM were part of the negotiations on the amended Protocol II during the First CCW Review Conference in 1995-96 which successfully adopted Amended Protocol II (AP II). Even though several States Parties to the CCW held the view that AP II should also contain specific prohibitions and restrictions on the use of MOTAPM, at that time efforts were mostly focussed on addressing the huge humanitarian impact of the anti-personnel landmines. Therefore, this Protocol includes specific restrictions on the employment of anti-personnel mines and only general provisions concerning restrictions on the use of all types of mines.

4. The MOTAPM issue was raised again during the first Annual Conferences of the High Contracting Parties to Amended Protocol II. At that stage, however, it was considered

¹ According to the Landmine Monitor latest statistics in 2009 “mines, including antipersonnel mines, antivehicle mines, and mines of unspecified types were the most common, at 1,325 (44 percent of the 2009 total)” and “antivehicle mines caused 274 casualties...”.

that amending again the recently amended Protocol would be counterproductive and undermine its universalization.

5. At the Preparatory Committee for the Second Review Conference in 2000-2001, Denmark and the United States of America tabled an official proposal for a new Protocol on MOTAPM annexed to the CCW. According to the proposal, the scope of the above mentioned Protocol was “related to the use on land or transfer of mines other than anti-personnel mines [...] but does not apply to the use of anti-ship mines at sea or in inland waterways”.² Pursuant to the proposal, it would have been prohibited to use MOTAPM, which are not detectable by commonly available mine detection equipment. The draft also prohibited the use of remotely-delivered MOTAPM which do not incorporate a self-destructing mechanism, or a mechanism for self-neutralization, with a self-deactivation backup (MOTAPM with a limited operational life).

6. A Friend of the President on MOTAPM was appointed by the President-designate of the Second Review Conference and a number of informal consultations were held to consider possible negotiation of a Protocol on MOTAPM.

7. Due to persisting divergent views, the December 2001 Second Review Conference did not adopt a new Protocol on MOTAPM, but decided to create an open-ended Group of Governmental Experts (GGE) to address a number of issues. In particular, two separate Coordinators were appointed to lead the discussions on explosive remnants of war (ERW) and on MOTAPM in two separate Working Groups of the GGE. A Group of Military and Technical Experts was also established to support the work on ERW and MOTAPM.

8. The GGE had to report to annual Meetings of the States parties, which would decide on its mandate.

III. Period between the Second and the Third Review Conference

9. During the period between the Second and the Third Review Conferences various international organizations and non-governmental organizations continued to highlight the importance of agreeing on a legally binding instrument on MOTAPM. For instance, a July 2002 report by the ICRC (“Anti-vehicle mines: effects on humanitarian assistance and civilians populations”) expressed clearly the view that in addition to the provisions included in AP II, further consideration had to be addressed towards additional measures, namely “requiring that all AV mines [...] should be detectable and equipped with either self-destruct or self-neutralisation features as well as requiring that remotely delivered AV mines contain self-destruct features”.³ A number of reports emphasizing the humanitarian impact of MOTAPM were also presented by the United Nations.

10. During the first couple of years after the Second Review Conference, at the initiative of the Coordinator, the original MOTAPM proposal was opened for new ideas and a range of proposals for the development of further and more effective controls over MOTAPM were forwarded by several delegations. These included issues such as MOTAPM with sensitive fuses; MOTAPM with anti-handling devices; MOTAPM laid outside marked and fenced areas; warning to civilians; the use of MOTAPM by non-state actors; transfers; transparency and other confidence-building measures; international cooperation and assistance, etc.

² CCW/CONF.II/PC.3/1, September 2001.

³ “Anti-vehicle mines: effects on humanitarian assistance and civilians populations”, International Committee of the Red Cross (ICRC), July 2002.

11. A Coordinator's text on a new Protocol on MOTAPM incorporated all the above mentioned additional proposals and was submitted for consideration by the GGE. This text was co-sponsored by 31 States parties. Based on the discussions on the text in the Working Group on MOTAPM, a new updated version of the draft Protocol was prepared and tabled at the subsequent GGE session. Notwithstanding the legal character of the Coordinator's text, however, the States parties never agreed on a negotiating mandate on a new, legally binding tool specifically addressing the design, employment and transfer of MOTAPM, along with related post-conflict obligations.

12. Despite the efforts made by the GGE on MOTAPM between 2001 and 2006 and the existence of a well developed text for a self-standing Protocol on MOTAPM, it was not possible to eliminate several divergences, especially as regards the questions of detectability and active life.

13. As a result the Third Review Conference of the CCW was not in the position to agree on a new protocol containing legally binding obligations with respect to MOTAPM, or – at least - on a negotiating mandate for such a Protocol. Instead, the States parties decided to keep the issue of MOTAPM on the agendas of the annual Meetings of the States Parties to the CCW.

14. In view of the concern about the humanitarian impact of these weapons, several CCW States parties⁴ also undertook as a political commitment and indicated in a special declaration their intention to take necessary steps to adopt as a matter of national policy the practices which were developed in the draft Protocol on MOTAPM. These States also declared that "if circumstances change in the future, and it appears possible that consensus may be achieved on a protocol on anti-vehicle mines...they would join other governments in renewed efforts to adopt such a protocol, building on the work done on this subject over the last five years by the CCW coordinators".⁵

15. At their annual Meetings between 2007 and 2010 the States Parties reaffirmed the need to keep the question of MOTAPM under consideration under the overall responsibility of the Chairperson-designate. The text of the draft Protocol on MOTAPM, however, was not considered after 2006, and GGE discussions in recent years focused mainly on a draft protocol on cluster munitions, which overshadowed the issue of MOTAPM.

⁴ Albania, Australia, Bosnia and Herzegovina, Belgium, Bulgaria, Canada, Croatia, Denmark, El Salvador, Luxembourg, Estonia, France, Israel, Latvia, Lithuania, Netherlands, New Zealand, Norway, Republic of Korea, Romania, Serbia, Slovenia, The former Yugoslav Republic of Macedonia, United Kingdom of Great Britain and Northern Ireland and United States of America. Separate declarations were also signed by France and the United Kingdom of Great Britain and Northern Ireland, by Israel and by Germany.

⁵ Final Declaration of the Third Review Conference (CCW/CONF.III/11, Part III).