

## DISCUSSION PAPER 1

Presented by Mr. Reto Wollenmann<sup>i</sup> of Switzerland,  
Friend of the President on Improvised Explosive Devices

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### IMPROVISED EXPLOSIVE DEVICES (IEDs)

#### Food-for-Thought Paper

#### 1. Background

##### *a. Mandate by States Parties and APII President*

The 10th Annual Meeting of the High Contracting Parties to CCW Amended Protocol II decided to address the issue of improvised explosive devices (CCW/AP.II/Conf.10/2<sup>ii</sup>). The work of the Group of Experts shall be considered by the Eleventh Annual Conference on 11 November 2009.

In a letter of 6 February 2009, Ambassador Jānis Mažeiks, Permanent Representative of Latvia to United Nations Office in Geneva, President-designate of the 11th annual Conference of High Contracting parties to CCW Amended Protocol II, appointed me as a friend of the President to conduct informal consultations on Improvised Explosive Devices (IEDs).

##### *b. What is an IED? (Definition)*

Given the improvised nature of IEDs, a great number of types and varieties of IEDs have been manufactured used in the past and will to be developed and used in the future in different regional and strategic settings. Accordingly, it is possible that States Parties have different understandings of an “IED”.

An IED is an explosive device placed or fabricated in an improvised manner and incorporating destructive, lethal, noxious, pyrotechnic, or incendiary chemicals. An IED is designed to destroy, incapacitate, harass, or distract. It may incorporate military stores or be devised wholly from non-military components.

IEDs can be divided into three generic groups in terms of their method of activation: time, victim and remote.

The term “other devices” in APII’s definition covers devices which are actuated 1) manually, 2) by remote control or 3) automatically after a lapse of time. As described above, a number of IEDs are victim-activated. However, victim-activated types also fall under APII as “mines” or “booby traps”.<sup>iii</sup>

The Friend of the President would suggest to work with a sufficiently broad definition in order to cover all three groups of activation: time, victim and remote.

**c. IEDs – a multifaceted challenge**

IEDs cause significant numbers of casualties among civilians and military personnel in a number of countries around the world. Some experts estimate that among all weapons covered by the CCW, IEDs are resulting in the greatest number of non-combatant death and injuries. One NGO survey found evidence for IED victims in 38 different countries. In addition to direct casualties, IEDs can damage social and economic infrastructure.<sup>iv</sup>

Protection against IEDs is difficult and expensive, because the users can swiftly adapt their designs to measures taken and circumvent the features designed to protect. A number of States are running counter-IED-programmes, mostly to protect their military forces and operations.

IEDs are difficult to prevent, since different materials, designs and deployment strategies can be used. If available, IEDs are produced using high quality explosives from commercial or military sources. In many areas of the world military explosives fall into the hand of non-state actors as a result of a) unsecured stockpiles b) abandoned ammunition or c) unexploded ordnance. As an alternative to high quality explosives, IEDs may be constructed using compounds of commercially available goods like diesel and fertilizer as a substitute for high quality explosive. Different electronic consumer products (cell phones, remote control units, infra-red or magnetic triggers) can be used to trigger devices. Prevention of IEDs is also challenging because an IED is usually the end product of a complex chain of (illegal) acts: leadership, planning, financing, material procurement, bomb making, target selection, recruiting, attack execution.

**d. Relevance for the CCW**

Most IED type used around the world are covered by APII, be it as other devices, mines or booby traps. Moreover, the CCW seems to be an appropriate forum to assess the issue since it brings together military and IHL-expertise.

IEDs are often used in populated areas where they have indiscriminate effects and result in significant humanitarian harm. It seems therefore appropriate that CCW States Parties would have a closer look at the IED challenge in the framework of an expert debate.

**e. Risks of dealing with IEDs in CCW**

IEDs are most commonly used by non-state armed actors while the CCW is a convention between States Parties who ratify and implement legally binding protocols.

The challenge posed by IEDs is a multifaceted one, combining legal, humanitarian, military and technical dimensions. The discussion in APII cannot be comprehensive, but will need to focus on a few key issues.

While some IEDs cause humanitarian concerns, other IEDs can be considered to be “just another weapon or munition” and thus be unproblematic under IHL-perspective.<sup>v</sup> Also, the actual humanitarian problem is hardly ever caused by the improvised nature, but by the fact that an explosion takes place in a populated area.

## **2. Possible approaches to the problem in the APII MX**

### **a. *Military and technical approach***

- What are different IED types being used in different regional and strategic settings?
- What are current technical trends with regard to explosives and triggers?
- How can certain developments from military counter IED programmes benefit the civil population?
- What are specific challenges for IED clearance?

### **b. *Legal aspects and the relevance of CCW APII***

- What is the relevance of CCW APII for the IED problem? What is the relevance IEDs for CCW APII?
- How can the CCW deal with a challenge mainly posed by NSA? (Relevance of amended Article I of CCW)
- What are different national legal approaches to cope with the problem?
- Which issues are within the scope of IHL? Is IHL sufficient?

### **c. *Specific measures***

- What are specific best practices to cut the supply?
- What can be done in order to avoid that AXO, UXO, badly managed stockpiles, and commercially available products provide the explosives)?
- Could the CCW APII work towards a best practice guide for the improved storage, security, and transport of explosives?
- What mechanisms would help better controlling the manufacture and trafficking of explosives?
- Are there different approaches to deal with IEDs under domestic criminal law?

### **d. *The humanitarian approach***

- Which IED types pose humanitarian concerns, which types do not?
- What is the scale of the humanitarian problem and how is that linked to the military challenge? (What are types and numbers of casualties, what is the ratio military-civilian)
- Can the CCW further examine the humanitarian impact?

## **3. Preliminary Programme**

Monday 20 April

10:00 – 13:00      **Presentations by experts, International Organisations and relevant NGOs**  
**Richard Moyes, Policy & Research Director, Landmine Action**

*Assessing the IED challenge – a global approach (working title)*

**Chris Clark, Senior Liaison Officer Geneva, UNMAS**

*What is an IED – A UN perspective and emerging policy on IED's (working title)*

**Colin King, C King Associates Ltd (tbc)**

*Technical trends: The unconventional use of conventional ammunition (working title)*

**1 or 2 more experts to be announced shortly**

15:00 – 18:00 **Case studies and presentations by States Parties**

**Country A**

**Country B**

**Larry Shultz, US Defense Threat Reduction Agency (DTRA)**

Best practices for secure storage and transport of munitions

**Other States Parties on their regional experiences**

Tuesday 21 April

10:00 – 13:00 **Additional presentations and States Parties interventions from the floor**

#### **4. Outcome of the APII MX**

Primary objective of the meeting is to raise awareness of the multifaceted challenge and the scale of the problem (actors, their networks, techniques, different types used, sources, and consequences). The expert presentations should also address protection and prevention with regard to IED attacks.

The Meeting could also discuss what role APII can/should play in the international response to the issue of IEDs and how the APII could specifically address the issue. In this regard, it would be interesting to hear from States Parties if they find it useful to deepen the discussion next year. Working towards best practices to prevent and protect against IEDs are one possible way forward.

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<sup>ii</sup> High contracting parties to Amended Protocol II decided to establish an informal open ended Group of Experts. Under the overall responsibility of the President-designate of the Eleventh Annual Conference, the Group of Experts shall review the operation and status of the protocol, consider 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. The Group shall also address issue of improvised explosive devices.

<sup>iii</sup> APII covers mines, booby traps, and other devices. Accordingly, APII deals at the same time with victim-activated weapons and with explosive attacks on specific targets using manually emplaced and manually actuated devices.

<sup>iv</sup> Personal communication with Richard Moyes, Landmine Action, who will publish an IED study in the near future.

<sup>v</sup> A manually activated explosive device could be considered as a particularly discriminate, and thus absolutely legitimate weapon in an armed conflict.