Background note for the second round of informal consultation on “Mines other than anti-personnel mines” (MOTAPM) pursuant to the decision of the 2017 Meeting of the CCW High Contracting Parties

14 September 2018

The Fifth Review Conference of the Convention on Certain Conventional Weapons (CCW) affirmed the obligation of parties to a conflict to take “feasible precautions” in the use of anti-vehicle mines (AVMs) to avoid incidental loss of life, civilian injury or damage to civilian object. Further to this commitment, the Conference decided to retain “mines other than anti-personnel mines” (MOTAPM) on the agenda of the 2017 Meeting of High Contracting Parties. Following informal meetings on MOTAPM organized by UNODA, the Geneva International Centre for Humanitarian Demining (GICHD) and UNMAS in 2015 and 2017, the 2017 Meeting of High Contracting Parties mandated the Chairperson-elect of the 2018 meeting to hold an informal, open consultation on “how best to address the continuing differences of views” and to report to the High Contracting Parties in 2018.

Pursuant to this mandate, the Chairperson-designate of the 2018 Meeting of High Contracting Parties, convened a first informal meeting on the sidelines of the 2018 CCW meetings of the Groups of Experts on 14 June 2018. High Contracting Parties were requested to reflect on the following questions:

• How is the humanitarian and developmental impact of MOTAPM understood by HCP?
• Can specific technical measures mitigate some of the humanitarian concerns regarding the use of MOTAPM? Which types of technologies are currently available? Are there challenges in acquiring and/or applying these technologies?
• Are there other (non-technical) remedial measures that could be utilized to mitigate the civilian/humanitarian impact of use of MOTAPM?
• Can military utility be retained while improving protection of civilians from the effects of MOTAPM?
• How can relevant data collection and analysis inform the efforts of States in taking all feasible precautions to avoid incidental loss of civilian life, injury to civilians and damage to civilian objects? Is more data and analysis needed? Are there challenges to collection and analysis of this information? What are main challenges related to reporting MOTAPM incidents?
• What are the most pressing challenges related to clearance of MOTAPM?
High Contracting Parties were present at the informal consultations where 22 speakers took the floor, including the ICRC. To set the scene for interventions by States, GICHD presented on the state-of-play with regards to the humanitarian and developmental impact of AVMs outlining a joint GICHD-SIPRI research project that records AVM incidents globally. The development and humanitarian impact of AVM contamination in Afghanistan was highlighted as an especially concerning case study and illustrated both the immediate and the long-term effects of AVM incidents. GICHD also noted the difficulties in recording improvised AVM incidents indicating such devices had not been included in its research. In the context of discussions following the presentation, the phenomena of improvised AVMs was highlighted and questions around distinction between improvised AVMs and the broader category of “improvised explosive devices” were raised.

Although MOTAPM has been a standalone matter of concern in the framework of the CCW since 1996, recent discussions have stalled insofar as High Contracting Parties have not reached consensus on how to take forward the issue in a concrete manner, either in Amended Protocol II or through a new, dedicated protocol. In this context, during informal discussions, a number of High Contracting Parties supported the resumption of expert discussions on MOTAPM either in the Meeting of High Contracting Parties or in the framework of the Group of Experts on Amended Protocol II. Some States called explicitly for a dedicated agenda item on this issue for the Meeting of High Contracting Parties. Other delegations refrained from taking an explicit position on future work in the CCW framework, while remaining open to informal discussions on this issue. Some delegations expressed the view that full implementation of Amended Protocol II and compliance with international humanitarian law would suffice to address the potential humanitarian harm of MOTAPM. Others were flexible with regards to forum for discussions on MOTAPM. One State cautioned that there is no consensus on this issue in the CCW and inclusion of a formal agenda item is not a viable way forward.

Several High Contracting Parties underlined the need to balance the military utility of MOTAPM as a defensive, tactical weapon, with measures to mitigate potential civilian harm. In this regard, several States noted the legitimate and important role of MOTAPM in respective national defense doctrines. Several delegations also offered examples of national experiences regarding MOTAPM, including circumstances in which they are used and mitigation measures undertaken, such as marking and detectability systems. One State emphasized that use of MOTAPM should be restricted to the specific role of reducing the mobility of heavy military vehicles and logistical movements. Another High Contracting Party stated that the potential humanitarian threat posed by MOTAPM is not higher than other types of munitions.

Discussion was also held on mitigation measures to address the humanitarian impact of MOTAPM, including risk education campaigns, improvements in detectability, marking of mine fields and the provision of assistance in mine action. The impact of MOTAPM on socio-economic development, the provision of humanitarian assistance and safety and security was also noted. Some challenges related to clearance of MOTAPM were identified, including lack of information on locations and quantities.

The Chair concluded the discussions by noting the ongoing divergence of views on how to address MOTAPM in the CCW framework, while also underscoring the common understanding amongst States of the need to balance military and humanitarian considerations noting that no State has contested their legitimacy.

In light of above mentioned considerations the second round of informal consultations will be organized on 2 October in Geneva. It will aim to discuss further two issues:

- How best to address the continuing differences of views on MOTAPM within CCW framework?
- When the Report of the Chairperson–elect on the issue should be discussed at the meeting of the HCP?

The discussion of the first issue should focus on options outlined in para 4 of this Background note.

The Chairperson-designate suggest that the Report on “how best to address the continuing differences of views on MOTAPM within CCW should be discussed as a separate agenda item of the 2018 meeting of the CCW HCP.

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