Geneva, 21–23 November 2018
Item 16 of the provisional agenda
Other matters

Mines other than Anti-personnel Mines

Submitted by the Chairperson-elect

I. Introduction

1. 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 objects. 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 the United Nations Office for Disarmament Affairs, the Geneva International Centre for Humanitarian Demining (GICHD) and the United Nations Mine Action Service (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 2018.1

2. Pursuant to this mandate, the Chairperson-elect of the 2018 Meeting of High Contracting Parties, H.E. Jānis Kārkliņš, Ambassador of Latvia to the United Nations Office and other international organizations in Geneva, convened two informal consultations, on 14 June and 2 October 2018 respectively. Both consultations featured open, interactive exchanges among delegations with a view to elaborating points of consensus and continued divergence. Prior to each informal consultation, the Chairperson-elect circulated a background note.2

3. Over 40 High Contracting Parties participated in the consultations. Participating delegations were actively engaged on the question of how best to address MOTAPM within the CCW framework bearing in mind the ongoing differences of views on both substance and process.

1 CCW/MSP/2017/8, paragraph 36.
II. First informal consultation (14 June 2018)

4. As outlined in the Chair-elect’s background note, dated 7 May 2018, High Contracting Parties were requested to reflect on the following questions:

   • How is the humanitarian and developmental impact of MOTAPM understood by High Contracting Parties?
   
   • 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?

5. The Geneva Center for Humanitarian Demining (GICHD) presented the state-of-play with regards to the humanitarian and developmental impact of AVMs and referred to a joint GICHD-Stockholm International Peace Research Institute (SIPRI) research project that records AVM incidents globally. The phenomena of improvised AVMs were highlighted and questions around the distinction between improvised AVMs and the broader category of “improvised explosive devices” were raised.

6. Several High Contracting Parties underlined the need to balance the military utility of MOTAPM as a defensive, tactical weapon, with measures to mitigate civilian harm. In this regard, several High Contracting Parties noted the legitimate and important role of MOTAPM in respective national armed forces. Several High Contracting Parties also offered examples of national experience, including circumstances in which MOTAPM are used and mitigation measures — such as marking and detectability systems — are also in place.

7. The High Contracting Parties also discussed 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.

8. Regarding the possible format of future MOTAPM discussions, some High Contracting Parties supported in the framework of the Group of Experts on the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices as amended on 3 May 1996 (Amended Protocol II). Some High Contracting Parties called instead for a dedicated agenda item in the agenda of the Meetings of the High Contracting Parties to the Convention. Other High Contracting Parties refrained from taking an explicit position on future work but indicated their readiness to participate in discussions.

9. Some High Contracting Parties expressed the view that full implementation of Amended Protocol II and compliance with international humanitarian law (IHL) would suffice to address the humanitarian impact of MOTAPM and that no dedicated discussions are thus needed.

III. Second informal consultation (2 October 2018)

10. Prior to the meeting, the Chairperson-elect circulated a background note dated 14 September 2018, which suggested the following questions for the consideration of the High Contracting Parties:
   
   • How best to address the continuing differences of views on MOTAPM within the CCW framework?
   
   • When the Report of the Chairperson-elect on the issue should be discussed at the Meeting of the HCP?

11. One High Contracting Party expressed concern over the use of victim-operated MOTAPM. One High Contracting Party emphasized the importance of striking a balance between the humanitarian, national security and military aspects of MOTAPM, a view also supported by other High Contracting Parties. Some High Contracting Parties reiterated that MOTAPM are a legitimate weapon that can be used in compliance with IHL. At the same time, delegations also recognized the possibility of non-compliance and the consequent humanitarian challenges.

12. Regarding future discussions on MOTAPM in the CCW framework, some High Contracting Parties supported a stand-alone agenda item at the Meeting of the High Contracting Parties. Some High Contracting Parties noted the value of discussions within expert groups in an informal mode. Support was also expressed for an informal consultation process under auspices of the Chairperson-elect. Other High Contracting parties were of the view that the topic was sufficiently covered by the Amended Protocol II and there wasn’t need for a separate agenda item. Some High Contracting parties suggested discussing this topic under the agenda item “Other matters” or “Status of implementation and compliance with the Convention and its Protocols” at the Meeting of the High Contracting Parties to the CCW. It was stressed that the continuation of discussions on MOTAPM in the annual Meetings of High Contracting Parties would ensure the largest possible participation of delegations. Other High Contracting Parties did not support the creation of a separate process, such as an expert group on MOTAPM, in light of the financial implications and the possible duplication of efforts. There were High Contracting Parties that indicated no specific preference.

13. One High Contracting Party noted that if MOTAPM was addressed under Amended Protocol II, it would be important to clarify the goal of those discussions at the outset. As an initial next step, High Contracting Parties could share voluntarily their written policies and practices related to their implementation of obligations under Amended Protocol II related to MOTAPM. It was further suggested that High Contracting Parties to Amended Protocol II share any additional policies or practices on the procurement and use of MOTAPM with a view to first building trust and encouraging transparency. This exercise would be done with a view to identifying specific areas where substantive progress could be made.

IV. Chair’s conclusions and recommendations

14. Informal consultations revealed that no High Contracting Party objected the continuation of discussions on MOTAPM in the CCW framework. Divergence of views persisted on the modalities and format of such discussions. Therefore, the Chairperson-elect of the 2019 meeting should continue an informal, open consultation on “how best to address the continuing differences of views on MOTAPM” and to report on the outcome of these consultations to the High Contracting Parties during the 2019 meeting.