

**GROUP OF GOVERNMENTAL EXPERTS OF
THE STATES 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**

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Working Group on Mines Other Than Anti-Personnel Mines

**Proposals and ideas on MOTAPM in the Group of Governmental Experts (GGE) with the
purpose to provide a basis for further work**

Prepared by the Coordinator

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INTRODUCTION

1. The present paper is submitted under the personal responsibility of the Coordinator on Mines Other Than Anti-Personnel Mines. It is based on proposals and ideas on MOTAPM put forward since the establishment of the Group of Governmental Experts (GGE). Its main purpose is to facilitate the discussion on the issues contained therein, to provide a basis for further work of the Group of Governmental Experts and to prepare ground for the States Parties to deal with them accordingly.
2. The present paper does not aim at taking any position on any of the issues contained therein, nor does it preclude anything. All the issues are treated equally in their own merits.
3. The order in which the issues have been clustered and presented is not based upon any priority or degree of importance. It is a compilation of proposals and ideas aimed at providing a framework for the States Parties to prepare their positions and contributions for the Eighth Session of the Group.
4. Addressing the humanitarian impact of MOTAPM may require a flexible approach. For this reason, the issues raised therein are often interlinked and should be addressed accordingly, notwithstanding under which cluster they are discussed.

PREVENTIVE TECHNICAL MEASURES

I. Detectability

Background:

5. Non-detectability of MOTAPM gives little military advantage but has a considerable impact on local population and humanitarian aid workers. Even in marked and monitored areas non-detectable MOTAPM seriously hinder humanitarian mine clearance operations making them more expensive and time-consuming. Thus, the humanitarian consequences of the conflict are prolonged and continue to seriously impede the post-conflict reconstruction of the affected areas long after the end of hostilities.

Possible recommendation:

6. To prohibit the use of MOTAPM, which are not detectable by commonly available technical mine detection equipment and do not provide a response signal equivalent to a signal from 8 grammes or more of iron in a single coherent mass.

7. To prohibit the use of MOTAPM, which are not detectable by technical mine detection methods and equipments other than the one specified in paragraph 6 above.

8. To prohibit all MOTAPM¹.

Additional questions:

9. What shall be the scope of the prohibition?

10. Are there categories of MOTAPM that may be excluded from a general prohibition of the non-detectable MOTAPM and under what conditions? For example, could long-lived border areas MOTAPM be excluded and under what conditions (should be duly marked, fenced and monitored; reporting requirements;)?

11. Would the prohibition cover non-detectable MOTAPM or their use? Would mines already in the ground or in stocks be affected by the prohibition?

12. Is “commonly available mine-detection equipment” a sufficient standard for the purposes of the possible recommendation? Could other detectability methods and technologies become “commonly available” ? What are these methods and technologies?

13. Is the suggested minimum standard for detectability of MOTAPM (namely “8 grammes or more of iron in a single coherent mass”) sufficient? Could other quantities or other standards be adopted?

¹ This proposal represents an alternative comprehensive approach to deal with MOTAPM.

14. Would there be a need for a transitional period? What is the timeframe for the States Parties to adapt to the detectability standard?

II. Limitation of the Active Life of MOTAPM

Background:

15. Remotely delivered MOTAPM are militarily advantageous for rapid emplacement on a fluid battlefield. Once they have served their military purpose, however, they remain on/in the ground and represent an unacceptable risk for civilians and a long-term impediment to post-conflict humanitarian assistance, peacekeeping, reconstruction and development.

16. Long-lived MOTAPM (other than remotely delivered MOTAPM) laid outside marked or fenced areas present the same long-term substantial risk to civilians as the remotely delivered MOTAPM. Such mines include MOTAPM deployed by hand or mechanically as well as scatterable mines delivered by land-based systems from less than 500 metres.

Possible recommendation:

17. To limit the lifespan of all MOTAPM by incorporating a self-destructing (SD) mechanism, or a mechanism for self-neutralisation (SN), with a self-deactivation (SDA) backup.

18. To limit the lifespan of the remotely delivered MOTAPM by incorporating a self-destructing mechanism, or a mechanism for self-neutralisation, with a self-deactivation backup.

19. To limit the lifespan of all MOTAPM laid outside marked, fenced and monitored areas by incorporating a self-destructing mechanism, or a mechanism for self-neutralisation, with a self-deactivation backup.

20. Other possible recommendations².

Additional questions:

21. What would be the scope of the prohibition? Would it cover all MOTAPM, or all MOTAPM outside fenced and marked areas, or only the remotely delivered MOTAPM?

22. Which categories of MOTAPM may be excluded from the lifespan limitation requirement (for example, long-lived border MOTAPM if duly marked, fenced and monitored)?

23. Would the limitation of the operational time affect the stockpiled MOTAPM?

24. What shall be the operational time limit? (“*within 30 days*” for SD and SN, and “*120 days after emplacement*” for SDA)

25. What reliability requirements are to be applied for SD, SN and SDA? (Is the requirement that “*no more than 1 in 1000 will function as a mine 120 days after emplacement*” an achievable reliability rate under all conditions?) Methods of assessing the reliability rate.

² See, for instance, paragraph 8 above.

26. Would there be a need for a transitional period?

III. Sensitive Fuses

Background:

27. MOTAPM are a legitimate defence weapon. However, some MOTAPM equipped with too sensitive fuse mechanisms can also be actuated accidentally by the presence, proximity or contact of a person.

28. There seems not to be a suitable technological solution for refitting MOTAPM equipped with some types of sensitive fuses in such a way as to remain militarily effective without posing a humanitarian threat to civilians. The humanitarian clearance is complicated additionally as dogs cannot be used to assist in clearing such mines.

Possible recommendation(s):

29. To prohibit the use of MOTAPM fitted with sensitive fuses that can be activated accidentally by the presence, proximity or contact of a person.

30. To determine basic categories of fuses and to determine and adopt Best Practices on suitable technical parameters for single fuse mechanisms, which will increase the discriminative capacity of MOTAPM and will prevent them from being actuated by the presence, proximity or contact of a person.

31. Other possible recommendations³.

Additional questions:

32. Would it be desirable to assess the sensitivity of a fuse and to develop some unified methodology for assessing the sensitivity of fuses?

33. What common technical parameters (Best Practices) for fuses could be considered? Would multiple fuses be a suitable option to be recommended for addressing the humanitarian concerns associated with sensitive fuses?

34. What steps the States Parties could undertake with respect to fuses and sensors which cannot be recommended as a method for detonation, such as break wires, trip wires and tilt rods?

35. How to address the impact of the environmental factors, such as weather or climate, on the sensitiveness of the fuses?

36. Should considerations and proposals of technical measures take into account military operational, procurement as well as life cycle factors?

37. Would there be a need for a transitional period?

³ See, for instance, paragraphs 8 and 17 above.

IV. Anti-Handling Devices

Background:

38. For several countries MOTAPM equipped with anti-handling devices (AHD) have a military function. However, some anti-handling devices are designed in such a way that civilians can easily activate them unintentionally. MOTAPM equipped with anti-handling devices also make humanitarian clearance much more expensive and time consuming.

Possible recommendation(s):

39. To prohibit MOTAPM fitted with AHD.

40. To consider and adopt possible technical and other options for increasing the discriminative effect of the AHD thus preventing them from being accidentally activated by the presence, proximity or contact of a person.

41. To limit the active life of all MOTAPM fitted with AHD by incorporating a self-destructing (SD) mechanism, or a mechanism for self-neutralisation (SN), with a self-deactivation (SDA) backup.

42. Other possible recommendations⁴.

Additional questions:

43. Do AHD, Anti-disturbance device and Anti-movement device pose similar humanitarian hazard?

44. What can be done to minimize the threat to civilians posed by MOTAPM with AHD? Are there technological possibilities to increase the discrimination capacity of AHD without compromising their military utility thus minimizing the risk they pose to civilians? Would limiting the operational time of MOTAPM equipped with AHD a feasible and suitable solution?

45. Would there be a need for a transitional period?

⁴ See, for instance, paragraph 8 above.

OTHER OPERATIONAL ALTERNATIVES

V. MOTAPM Laid Outside Marked And Fenced Areas

Background:

46. MOTAPM laid outside marked or fenced areas (in particular, mines deployed by hand or mechanically; scatterable mines, delivered by land-based systems from less than 500 metres; as well as remotely delivered MOTAPM which are not equipped with operational time limitation devices) cause a long-term substantial risk to post-conflict civilians, peacekeeping and humanitarian operations. Under the influence of climatic and other conditions even duly recorded MOTAPM may migrate and change significantly their actual location. Unmarked and unrecorded long-lived MOTAPM also cause significantly larger areas to be cleared than actually required, which in turn increases considerably the resources needed.

Possible recommendation(s):

47. Hand emplaced and mechanically laid MOTAPM should be placed in perimeters marked areas monitored by military personnel and protected by fencing or other means with appropriate warning to ensure the effective exclusion of civilians from the area.

48. The lifespan of all other MOTAPM laid outside marked, fenced and monitored areas shall be limited by incorporating a self-destructing mechanism, or a mechanism for self-neutralisation, with a self-deactivation backup.

49. To establish a central database for archiving any available information on MOTAPM.

50. Other possible recommendations⁵.

Additional questions:

51. Are there military advantages of the use of MOTAPM outside marked, fenced and monitored area that overshadow the scope of the long term humanitarian hazard caused by them?

52. What can be done to improve the methods of location and subsequent marking and fencing and monitoring of areas of emplacement of remotely delivered and of scatterable MOTAPM?

53. Would it be necessary to develop a special regime for long-lived border minefields and under what conditions (a State Party to be requested to declare minefields, their location, the number and the type of emplaced mines, others)?

⁵ See, for instance, paragraph 8 above.

OTHER RELATED ISSUES

VI. Warning to Civilians

Background:

54. As of the moment MOTAPM are used and until the mined areas are completely cleared, an efficient system of warning to civilians has to be set up in order to ensure, to the maximum extent possible, the safety of all non-combatants.

Possible recommendation:

55. To adopt appropriate provisions for the establishment of an efficient system of warning to civilians on the presence and the eventual location of MOTAPM.

Additional questions:

56. What can be done to improve the efficiency of the existing system of warning?

VII. Use of MOTAPM by Non-State Actors and Other Issues Relating to the Irresponsible Use of MOTAPM

Background:

57. The multitude of the internal armed conflicts in the course of the last decade lead to an increased use and proliferation of MOTAPM thus multiplying their humanitarian impact/risks. Such an evolving trend indicates the potential humanitarian risk and concerns associated with the use of MOTAPM by non-state actors (NSA) and the need for urgent action. The decision to extend the scope of application of the CCW to armed conflicts not of an international character provides a suitable framework for further addressing the humanitarian concerns posed by the irresponsible use of MOTAPM.

Possible recommendation(s):

58. Any recommendation on MOTAPM shall apply to situations resulting from armed conflicts referred to in CCW Art.1, paragraphs 1-6, as amended on 21 December 2001.

59. To prohibit the transfer of any MOTAPM to any recipient other than a State or a State agency authorized to receive such transfers.

60. To consider and adopt additional measures aimed at restricting the access of individuals and NSA to MOTAPM, such as (i) establishment of an adequate system for marking and tracing of MOTAPM; (ii) enhanced export control measures; (iii) measures for increased stockpiles and transport security; (iv) measures aimed at strengthening respective national legal systems through the penalization of the unauthorized manufacturing, trafficking, possession and use of MOTAPM by NSA, including through an appropriate prosecution or extradition regime, such as that found in AP II, Art.14; enhanced cooperation among the States Parties on sharing information on the trafficking of and the use of MOTAPM by NSA, and so on.

Additional questions:

61. Is the term “Non-State Actors” accurate?

62. Do the existing standards for marking MOTAPM need further improvement?

63. Would it be advisable to develop standards and requirements for the States Parties to develop border controls and step up law enforcement efforts to detect, deter, prevent and combat the illicit trafficking and brokering in MOTAPM?

64. What can be done to improve the awareness of and compliance with the principles and the rules of the international humanitarian law, including the CCW?

65. What kind of international cooperation may be needed for the purposes of addressing the issues related to the irresponsible use of MOTAPM?

VIII. Transfers

Background:

66. The effective implementation of the recommendations aimed at addressing the humanitarian concerns posed by MOTAPM would depend considerably on the capacity of the States Parties to prevent the illicit trafficking of MOTAPM and to regulate the transfer of MOTAPM, which are not prohibited under international humanitarian law.

Possible recommendation(s):

67. To prohibit the transfer of MOTAPM the use of which is prohibited, except for the purpose of their destruction.

68. To prohibit the transfer of MOTAPM to any recipient other than a State or State agency authorised to receive such transfers.

69. To prohibit the transfer of MOTAPM the use of which is restricted.

Additional questions:

70. Would it be advisable to introduce a moratorium on the transfer of MOTAPM as an interim measure?

IX. Transparency and Other Confidence-Building Measures

Background:

71. In the absence of a compliance mechanism under the CCW, accountability and other transparency and confidence-building measures may be important to promote the effective implementation of any agreed provisions.

Possible recommendation:

72. To set up a system of accountability on the implementation of the adopted restrictions and regulations.

Additional questions:

73. What would be the most appropriate form and other modalities of reporting?

74. What would be included in the initial report and the following reports - steps taken to meet the technical requirements for MOTAPM, legislation, measures taken on technical cooperation and assistance, other relevant matters?

75. Would it be advisable to set up a Register on the transfers of MOTAPM?

X. International Cooperation and Assistance

Background:

76. The effective implementation of the recommendations aimed at addressing the humanitarian concerns posed by MOTAPM may require enhanced international assistance and cooperation on a broad range of issues:

Possible recommendation:

77. To adopt and set up an enhanced system of cooperation and assistance at local, regional and international level aimed at assisting the States Parties in the fulfilment of their obligations in respect to MOTAPM.

Additional questions:

78. In order to facilitate the implementation of necessary modifications to improve the reliability of and minimise the humanitarian risks of existing and future MOTAPM, would it be advisable and feasible to develop provisions on technical and financial assistance, including the exchange of experience, technology and information on the following issues: retrofitting of existing MOTAPM; technical information on MOTAPM; development of new effective means of detecting mines for use in humanitarian mine clearance operations; development of unified international methodologies of assessing the reliability of MOTAPM, the sensitiveness of their fuses and other related technical parameters; measures for enhanced marking and fencing of remotely delivered MOTAPM and minefields; national security interests; legal and intellectual property considerations, etc.

79. Would it be advisable to develop provisions on cooperation and assistance in the destruction of stockpiles of MOTAPM that do not meet and cannot be modified to meet the humanitarian and military norms on MOTAPM?

80. Would it be advisable to develop provisions on cooperation and technical, material and human assistance for the rapid and effective clearance, removal or destruction of MOTAPM?

81. Would it be advisable to develop provisions on the timely provision of geographic and technical information on MOTAPM to relevant humanitarian missions and to the database on mine action maintained within the UN system?

82. Would it be advisable to develop provisions on cooperation and assistance on the provision of risk education for civilian populations?

83. Would it be advisable to develop provisions on cooperation and assistance for the care and rehabilitation and the social and economic reintegration of victims of MOTAPM.

ANY OTHER ISSUE
