

**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

**Mines Other Than Anti-personnel Mines /MOTAPM/**

**Draft Proposal by the Coordinator**

**I**

1. At its 2003 Meeting the CCW States Parties decided *inter alia* that the Working Group on Mines Other Than Anti-personnel Mines should consider “... *the possibility to conclude a negotiating mandate for a new instrument and other appropriate measures.*”

2. In discharging the above mentioned part of the mandate of the GGE for 2003 and after consultations with a number of States Parties, the Coordinator on MOTAPM is submitting for consideration by the Group the following proposal for a mandate of the GGE for 2004:

*“The Working Group on Mines Other Than Anti-personnel Mines recommends to the States Parties that it would continue its work in the year 2004 with the following mandate:*

*(1) To negotiate appropriate measures to reduce the humanitarian risks posed by the irresponsible use of mines other than anti-personnel mines with the view of reaching an agreement on a new CCW instrument and other measures. These negotiations would also have to establish the scope of this instrument consistent with Article I of the Convention as amended at the Second Review Conference of the States Parties to the CCW.*

*(2) In the context of the activities described above, the GGE shall continue to explore questions involving all the aspects of MOTAPM, taking into account:*

- *the necessity to strike the right balance between humanitarian concerns and military utility of these mines;*
- *existing restrictions on such mines in the CCW Amended Protocol II;*
- *the results of the discussions in the GGE on the technical and other measures aimed at minimizing the humanitarian risks posed by such*

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\* / Re-issued for technical reasons.

*mines, the modalities for their effective implementation, the questions involving the use of MOTAPM by non-state actors etc.;*

- *any other relevant question.*

*(3) Meetings of military experts shall also be conducted to provide advice in support of these activities.”*

3. The above draft proposal is circulated to the CCW States Parties under the personal responsibility of the Coordinator. The draft proposal is still not a mutually agreed position, tolerable to all of the States Parties.

4. The above draft proposal reflects the assessment of the Coordinator that in order to be effective the future activities of the Working group on MOTAPM should be based on an open, dynamic and flexible approach, which combines the accuracy of the negotiating work with the freedom of the continuing exploratory action on some sensitive issues. The proposed draft mandate does not prejudge in any way the possible outcome of the group's activities. It is based on the results of the work performed by the GGE since its establishment and reflects the views on the necessity to undertake urgent legal action aimed at reducing the risk posed by the irresponsible use of MOTAPM.

## II

5. In the course of the bilateral consultations undertaken by the Coordinator, some other proposals on the way the GGE might wish to continue its work in 2004 have also emerged. There are pros and cons with respect to each of these options and none of them seem to enjoy the support of all the State Parties. For the sake of transparency, however, the Coordinator considers it appropriate to keep the States Parties informed on the existence of such options and is submitting them for further consideration and as additional food for reflection.

6. One such option, for instance, strongly advocated by a large number (but not all) of the States Parties favouring a more ambitious approach is as follows:

*“The Working Group on Mines Other Than Anti-personnel Mines recommends to the States Parties that it would continue its work in the year 2004 with the following mandate:*

*(1) To negotiate a Protocol on measures which would reduce the humanitarian risks posed by the irresponsible use of mines other than anti-personnel mines. These negotiations would also have to establish the scope of this Protocol in accordance with Article I of the Convention as amended at the 2<sup>nd</sup> Review Conference of the States Parties to the CCW.*

*(2) In the context of the activities described above, meetings of military experts shall be conducted to provide advice in support of these activities.”*

7. Another option which is based on the same flexible concept suggested by the Coordinator in paragraph 2 (combination of a negotiating and exploratory approach), but is much more restrictive in its substance and seems not to reflect adequately the views of a number of like-minded states stands as follows:

*“The Working Group on Mines Other Than Anti-personnel Mines recommends to the States Parties that it would continue its work in the year 2004 with the following mandate:*

*(1) To negotiate appropriate measures to reduce the humanitarian risks posed by the irresponsible use of mines other than anti-personnel mines. In these negotiations questions regarding the transfer and the use of MOTAPM by non-state actors, sensitive fuses, clearance, international cooperation and assistance need to be considered.*

*(2) Separate from the negotiations under (1), to continue to explore the possibility of adopting feasible preventive measures, concerning detectability, self-destruction, self-deactivation and self-neutralization of MOTAPM*

*(3) In the context of the activities described above, the GGE will take into account the right balance between humanitarian concerns and military utility of MOTAPM and existing restrictions on such mines in the CCW Amended Protocol II.*

*(4) Meetings of military experts can be conducted to provide advice in support of these activities.”*

8. A firm view was also expressed that the GGE should continue to work on the basis of its 2003 mandate (exploratory approach) without switching to a negotiating mode as some of the issues are still too sensitive for some States Parties. Such an option, which many consider, however, as blocking the dynamic process in which the States Parties have engaged since the 2<sup>nd</sup> CCW Review Conference, would read as follows:

*“The Group of Governmental Experts recommends to the States Parties that in the year 2004:*

*(1) The GGE shall continue to explore questions involving all the aspects of MOTAPM, taking into account:*

- *the necessity of additional discussions on the humanitarian aspects of the MTAPM problem;*
- *the necessity to strike the right balance between humanitarian concerns and military utility of these mines;*
- *existing restrictions on such mines in the CCW Amended Protocol II;*
- *the results of the discussions in the GGE on the technical and other measures aimed at minimizing the humanitarian risks posed by such mines, the modalities for their effective implementation, the questions involving the use of MOTAPM by non-state actors etc.;*
- *possible approaches to unified methodologies of determining compliance with the technical specifications for self-destruction and self-deactivation features of remotely delivered mines;*
- *any other relevant question.*

*(2) Meetings of military experts shall also be conducted to provide advice in support of these activities.”*

9. Finally, a view also exists that neither of the above mentioned options meets adequately the humanitarian concerns caused by MOTAPM and that the States Parties should try to agree upon a total ban of the MOTAPM. This view, however, seems not to be a feasible option for most of the States Parties.

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