
**Twelfth Annual Conference
of the High Contracting Parties to
Amended Protocol II 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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Operation and status of the Protocol; 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

Report submitted by the Coordinator*

I. Introduction

1. The Eleventh Annual Conference of the High Contracting Parties to Amended Protocol II to the Convention on Certain Conventional Weapons decided to establish an informal open-ended Group of Experts. Under the overall responsibility of the President-designate of the Twelfth Annual Conference of the High Contracting Parties to Amended Protocol II, the Group was mandated, inter alia, to review the operation and status of the Protocol and to consider matters arising from the national annual reports submitted in accordance with article 13, paragraph 4, of amended Protocol II, as well as the development of technologies to protect civilians against indiscriminate effects of mines.

2. The open-ended Group of Experts met on 19 and 20 April 2010 at the Palais des Nations in Geneva. To better structure the debate, prior to the session, the Coordinator drew up and circulated a letter on the organization of work and the various topics. The States parties were invited to send their comments and views concerning ways of giving impetus to amended Protocol II and of promoting its universality, the submission of national reports, the development of technologies to protect civilians against indiscriminate effects of mines and any other relevant matters that could be considered by the Group of Experts.

* Mr. Abderrazzak Laassel of Morocco was named by the Eleventh Annual Conference of the High Contracting Parties to Amended Protocol II to the Convention on Certain Conventional Weapons as Coordinator on the operation and status of the Protocol; on matters arising from reports by High Contracting Parties according to paragraph 4 of article 13 of amended Protocol II; as well as on development of technologies to protect civilians against indiscriminate effects of mines.

II. Universalization of amended Protocol II

3. The universalization of amended Protocol II was discussed by the Group of Experts. It was noted that the number of States parties to the Protocol had doubled since 1999 and had reached 92 by the Tenth Annual Conference.

4. The States parties called upon those States that had not already done so to consider expressing their consent as soon as possible to be bound by amended Protocol II. The States parties were called upon to intensify their efforts to promote the universality of the Protocol. Furthermore, the Group of Experts welcomed the efforts made by the President of the Eleventh Annual Conference of the High Contracting Parties to Amended Protocol II to that end.

III. Termination of the original Protocol II

5. It was observed that the reason some States did not become parties to the Convention and its Protocols was not political or legal, but rather because they did not have a good grasp of the Convention's structure. It was thus suggested to the States parties to terminate the original Protocol II, which was not effective and had not prevented the serious humanitarian crisis associated with the use of landmines.

6. Within that framework, the Coordinator circulated discussion paper No. 2, addressing the legal possibility and feasibility of terminating the original Protocol II. The document presented the various options available under international law for the termination or denunciation of the original Protocol II to the Convention on Certain Conventional Weapons.

7. The original Protocol II, whose flaws were already evident in the early 1990s owing to its inability to prevent catastrophic humanitarian crises resulting from the massive use of anti-personnel mines, was a source of confusion for States, particularly those that were not party to the Convention. The Convention's structure was complex, with the amendment to article 1 and the five annexed Protocols, one of which had been amended. Indeed, three High Contracting Parties to the original Protocol II which had not yet acceded to amended Protocol II had ratified the original after the entry into force of the amended instrument.

8. The document presented two options for the termination of legal instruments, either by acceptance of termination by all the States parties, or through the application of the provisions of the framework law for the Convention, i.e., article 59, paragraph 1, of the Vienna Convention on the Law of Treaties, which provided for the termination of a treaty upon conclusion of a later treaty.

9. The Coordinator contacted the 12 States parties to the original Protocol II that had not yet declared their intention to accede to amended Protocol II so as to encourage them to carry out that formality and thus facilitate the collective denunciation of the original Protocol II. Eleven States contacted by the Coordinator reported that their respective authorities were in the process of considering accession to amended Protocol II. One State party considered that the standards established by amended Protocol II did not go as far as those contained in the Anti-Personnel Mine Ban Convention.

IV. Implementation of amended Protocol II

10. Several States parties provided information on the steps taken at national level to implement the provisions of amended Protocol II.

11. It was recalled, in particular, that at the Third Review Conference of the High Contracting Parties to the Convention over 26 States had made declarations on unilateral measures they intended to undertake at the national level with regard to mines other than anti-personnel mines. Those States were invited to advise the Group or the Annual Conference of the steps taken to follow up on their declarations.

12. The Coordinator circulated discussion paper No. 3 on the national annual reports of the High Contracting Parties to amended Protocol II, in which he reminded States parties of their obligation to submit annual reports on the measures they had taken for the implementation of amended Protocol II, in application of article 13, paragraph 4, and article 11, paragraph 2, of the amended Protocol, pertaining to the content and scope of reports. The paper also mentioned that the reports must be submitted by the States parties to the Implementation Support Unit for the Convention on Certain Conventional Weapons at least eight weeks prior to the Annual Conference.

13. The Coordinator proposed the idea of aligning the dates of submission of reports with those for similar instruments, such as Protocol V on explosive remnants of war. It was suggested to bring forward the date of submission of national reports.

14. Views were also expressed that the Group should consider the issue of anti-vehicle mines with sensitive fuses.

V. Matters arising from the national annual reports

15. It was noted that most of the High Contracting Parties to amended Protocol II had met their reporting obligations, although there had been a decrease in the percentage of compliance in recent years. The Coordinator circulated a letter inviting the High Contracting Parties to the Protocol to submit their annual reports by 16 September.

16. A view was expressed that those States parties to amended Protocol II that had difficulties at the national level in collecting the necessary data and information and in preparing and submitting the national annual reports should be able to benefit from the knowledge and experience of other States parties, the members of the United Nations Mine Action Service or NGOs active in that field, through the establishment of an international cooperation mechanism.

17. The United Nations Mine Action Service described to the Group of Experts the kinds of assistance it could provide to States parties for the drafting of their national reports.

18. The States parties who so desired were invited to make use of the services of the United Nations Mine Action Service to request assistance in drawing up their national reports.

VI. Development of technologies to protect civilians against indiscriminate effects of mines

19. No discussion was conducted on the development of technologies to protect civilians against indiscriminate effects of mines.

VII. Recommendations

20. The Twelfth Annual Conference of the High Contracting Parties to Amended Protocol II to the Convention on Certain Conventional Weapons may wish to take the following decisions:

(a) The Group of Experts shall continue to review the operation and status of the Protocol and consider matters arising from the national annual reports, as well as the development of technologies to protect civilians against indiscriminate effects of mines;

(b) The plan of action to promote the universality of the Convention on Certain Conventional Weapons and its annexed Protocols is the relevant mechanism to enhance the interest of States that are not party to those instruments. Against this background, the Conference shall encourage the States parties and the secretariat of the Convention to intensify their efforts to implement the plan of action, in particular through the organization of more national and regional seminars aimed at promoting and explaining the Convention and its Protocols;

(c) The High Contracting Parties to the Convention on Certain Conventional Weapons shall continue their contacts with the High Contracting Parties to the original Protocol II that have not yet become parties to amended Protocol II, to encourage them to accede to it and thus to facilitate the termination of the original Protocol II;

(d) The Group of Experts shall analyse the implementation by the States parties of their obligation to submit national annual reports and shall study their content, focusing each year on the information submitted under one of the reporting forms, beginning with Form A, "Dissemination of information on the Protocol to armed forces and to the civilian population".

21. The Twelfth Annual Conference of the High Contracting Parties to Amended Protocol II to the Convention on Certain Conventional Weapons may also wish to take action on the proposal to synchronize the submission of national annual reports under article 13, paragraph 4, of amended Protocol II, with the submission of national reports under Protocol V to the Convention on Certain Conventional Weapons. The submission date for both reports could be set at 31 March every year to allow for their consideration by the Group of Experts.