Statement on behalf of the APMBC Committee for Article 5 Implementation

The Netherlands

22 August 2019 at the Meeting of Experts of APII CCW

At the outset, let me thank Colombia and France for coordinating the issue of IEDs and their leadership on this important topic.

I would like to take the floor on behalf of the Committee on Article 5 Implementation of the Anti-Personnel Mine Ban Convention to deliver a statement on the relationship between APII and the APMBC with regard to the issue of Improvised Explosive Devices (IEDs). The Committee consists of four countries and at the moment the members are Austria, Canada and Colombia and the Netherlands (chair). The issue of IEDs is not new to the work of the APMBC but in the recent years discussions within the CCW have intensified due to the increase in use and casualties caused by such devices worldwide.

The key message I would like to deliver is that in relation to IEDs the APMBC and APII of CCW are not mutually exclusive. A certain device can fall under the scope of both Conventions with their respective obligations for States Parties or High Contracting Parties.

At the Seventeenth Meeting of the States Parties of the APMBC the Article 5 Implementation Committee presented a paper entitled “Reflections and understandings on the implementation and completion of Article 5 mine clearance obligations” explaining amongst others how to deal with a device that is improvised. It recalls that the definition of an ‘anti-personnel mine’ as laid out in Article 2.1 of the APMBC is ‘a mine designed to be exploded by the presence, proximity or contact of a person and that will incapacitate, injure or kill one or more persons’. The key here is that the mine is ‘victim-activated’. The reflections paper further states that ‘the definition contained in Article 2.1 of the Convention makes no distinction between an anti-personnel mine that has been ‘manufactured’ and one that has been ‘improvised’, since negotiators [of the Convention’s text] aimed for an effect based definition. [They had also recognized that the definition would suffice to include improvised devices that function as anti-personnel mines.] Hence, States Parties affected by the latter type of anti-personnel mines must address them as part of their overall implementation challenge under the APMBC, including in the fulfilment of Article 5 (clearance) and Article 7 (transparency /
reporting) commitments.’ This understanding has been endorsed by the Meeting of States Parties and recorded as such in final reports.

In other words, victim-activated IEDs, even if they are meant to target a vehicle, and that will incapacitate, injure or kill one or more persons, fall under the scope of the APMBC. States Parties to that Convention need to fulfil the obligations/commitments stemming from that Convention. APII seems to cover a wider range of devices, including those that are not victim-activated such as remote controlled or time-activated IEDs or anti-vehicle mines. It does in any case also cover victim-activated devices, and hence High Contracting Parties to APII also need to fulfill the obligations stemming from APII with regard to that same device. So, both Conventions are not mutually exclusive. In this context, I would like to refer to a paper written by the ICRC for the Intersessional Meetings of the APMBC last May entitled ‘Views and Recommendations on Improvised Explosive Devices falling within the scope of the Anti-Personnel Mine Ban Convention’, which provides a helpful overview of the different types of IEDs and how they relate to specifically the APMBC while also touching matters relevant to APII of the CCW.

As some devices fall under the scope of both Conventions and quite a number of states are States Party or High Contracting Party to both, it is important that obligations/commitments stemming from both instruments are not contradictory but mutually reinforcing. So far we have not witnessed acute problems on this front, but we would like to underline the importance of clear and disaggregate reporting and information management of devices that are found, so that we understand exactly what kind of device we deal with (victim-activated or not, improvised or not) in order to fulfill all obligations in an adequate manner.

Thank you for the opportunity to take the floor on this issue. We look forward to the panels discussions on the several aspects related to IEDs today.