Excellency,

In our capacity as Coordinator and Co-Coordinator of the informal Group of Experts on Improvised Explosive Devices (IEDs) under Amended Protocol II (APII) to the Convention on Certain Conventional Weapons (CCW), we are writing to you in the context of the preparations for the upcoming meeting of the Group (Geneva, 9 – 10 April 2015).

In our letter dated January 29, 2015, we informed you of our intention to start the discussion on the preparations for the 2016 CCW Review Conference, and to take some time to reflect together on the way ahead regarding the issue of IEDs in the framework of the CCW or in a broader context.

Therefore, you will find attached a “Food-for-thought paper” to help you prepare for this exchange of views.

We strongly encourage all delegations to prepare questions, comments and proposals on options, possible outcomes or follow-up work that could be envisaged in this area, and to take an active participation in this work.

Should you require further information, please do not hesitate to contact either ourselves or the ISU at any time.

Yours sincerely,

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2016 CCW Review Conference and the way ahead on IEDs

Food-for-thought Paper

Context

The use of improvised explosive devices (IEDs) is an increasing threat. The number of victims has come to an unprecedented level: over 27,000 worldwide in the year 2013. Meanwhile, the impact on the stability and robustness of affected States is also a matter of concern. Indeed, because of its very specific nature, the use of IEDs is a direct threat to the credibility of public authorities. Thus, IEDs have both an increasing humanitarian and security impact.

It is a matter of concern for all States, regardless of regional policy issues, and all States have a common interest in properly addressing this threat.

It is also a real challenge to our disarmament community. Indeed, all our instruments, treaties and conventions, were designed to address the use of industrially manufactured weapons by regular armed forces. But what we are facing now – which probably constitutes a long-term trend because it has structural causes¹ – is the increasing use of homemade weapons by armed groups that do not wear uniforms. One initial reaction was to recall that IHL applies to all combatants. But is it really sufficient?

Work undertaken

CCW Amended Protocol II is the only existing instrument within the International Humanitarian Law that explicitly mentions IEDs. The Group of Experts under APII therefore was an appropriate forum to further explore this problem. The work done since 2009 has provided delegations with an in-depth understanding of its different aspects, including those related to the humanitarian, legal, technical and operational matters.

However, this work has been limited by two factors: the sensitivity of part of the information -as it relates to terrorism-, and the limited scope of application of APII (i.e. situations of international armed conflicts). In addition, the cross-cutting nature of the issue makes the work even more difficult. Indeed, any provision aiming at establishing requirements upstream, for example to limit armed groups’ access to components for the manufacture of IEDs, would involve broader interrogations in terms of industrial, commercial and customs-related issues.

These are real difficulties, but they should not be used as an excuse for inaction.

Thus, the presentations delivered by the experts have demonstrated that, beyond the work done in the framework of the CCW, several initiatives were developed: in the UN framework (such as the work done by the UN Security Council’s 1267 Committee or the efforts undertaken by UNMAS to establish a UN C-IED policy), by international organisations (for instance the “Global Shield” program of the World Customs Organization - WCO, actions taken by Interpol, etc.) or at the regional level (e.g. the EU).

These initiatives have also underscored all the different levels in which work could be undertaken in order: a) to reduce the availability of a number of materials for the manufacture of IEDs² (e.g. chemical precursors, civilian or military explosives, key elements such as detonators), b) to enhance C-IED practices and the level of international cooperation, and c) to enhance IED-related undertakings in the field of Mine Action³.

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¹ Demography & urbanization, globalization of trade and travelling, but also availability of information through the Internet.
² Or, at least, to improve their traceability.
³ Because of the high failure rate of a number of IEDs, these are of a particular concern with regard to post conflict Mine Action.
Matters for discussion

1. On the work in the framework of the CCW

One question arises: How to take stock of the work done by the Group of Experts since 2009 in order to raise the awareness of the international community on this matter?

As Coordinators, we would like to suggest several ideas to provide the High Contracting Parties with food-for-thought with a view to prepare for the 2016 CCW Review Conference.

a) The 2016 Review Conference will first have to make a decision on the future work to be undertaken in the framework of the CCW. One could for instance consider the possibility to give the Group of Experts a mandate to work on a consensus document which would summarize the lessons learned and include a collection of best practices.

b) The High Contracting Parties could also try to work on a declaration or a joint statement on IEDs, to be agreed by consensus during the Review Conference, through which they would:
   - acknowledge the importance of the issue because of both its humanitarian and security impacts;
   - recall the rules established under APII and their relevance; call for its universalisation;
   - recall the work done since 2009;
   - commit to do their utmost at national level;
   - given the limitations of the CCW, draw the attention on the importance to promptly address this emerging threat at the appropriate international level; and
   - if possible, suggest options for further work.

c) Subsequently, the declaration (or joint statement) would be sent to the UN Secretary-General through a letter from the High Contracting Parties to underscore the scourge of IEDs and their impact, and to urge the Secretary-General to open the way for further efforts on how the international community could address this problem comprehensively.

2. More globally, on the response of the international community to the IED threat

Another question arises: above and beyond the general exchange of information that was made possible through the CCW annual experts’ meetings, what else could be undertaken, in concrete terms?

It is our view as Coordinators that there might be added value for the High Contracting Parties to also discuss this question in preparation for the 2016 Review Conference to have an overall view.

Indeed, when considering options that could be suggested, and without prejudice to the work that could be further undertaken in the framework of the CCW, several ideas could be considered:

- A resolution at the General Assembly could create a GGE to make recommendations on how to coordinate the different efforts already undertaken and how to address globally the issue of IEDs at the appropriate international level.

- A resolution by the UN Security Council could also be considered.

- The creation of a “Coordination Committee on IEDs” (either under the General Assembly or under the Security Council) could be examined; It would be given the mandate to coordinate and strengthen the different efforts undertaken (under the UN, but also by other international organizations such as WCO, Interpol, etc.).

- Another option would be to give such a coordination mandate to an existing Committee or to a UN department, office or service attached to the Secretariat.
Furthermore, with regards to the possible outcomes to pursue, given the very broad and cross-cutting nature of the issue, any common legally binding instrument may seem unachievable. We, therefore, have to think “out of the box”. Several ideas could be considered:

- A **Programme of Action**, such as the one that exists for Small Arms and Light Weapons;
- A **Code of Conduct**, voluntary in nature;
- **Guidelines**, to be established either as a **UN document** (similarly to the existing International Ammunition Technical Guidelines) or as a **CCW document** (some sort of politically-binding instrument or non-legally binding protocol?);
- A **stand-alone Document**, such as the Montreux Document on private military and security companies, which would recall existing obligations and establish recommendations.

Each of these various options has its advantages and drawbacks. From this perspective, a possibility to engage **UNIDIR** to undergo a study on the usefulness and relevance of all those different options, or to propose other options, could be considered.

Also the **UN Secretary-General’s Advisory Board on Disarmament Matters** could consider the question of IEDs.

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*All these ideas are provided for the consideration of delegations, in order to stimulate their reflection. They do not preclude any other idea, nor they reflect any national position, and we, as coordinators, strongly encourage the delegations to take active participation in the debate during the meeting of experts.*