



THE UNIVERSALITY OF THE CONVENTION ON CERTAIN CONVENTIONAL WEAPONS (CCW) AND ITS PROTOCOLS IN SOUTH, SOUTHEAST ASIA AND THE SOUTH PACIFIC

UNODA/EU common initiative for action

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(Background paper)

I. Introduction

1. The Convention on Certain Conventional Weapons¹ and its annexed Protocols (hereinafter referred to as “the Convention” or “CCW”) seek to minimize the effects of armed conflict on both the civilian population as well as combatants against the effects of armed conflicts. This humanitarian goal is achieved through the imposition of prohibitions or restrictions on the use of certain types of conventional weapons.

II. The Convention

2. The Convention is one of the principal instruments of international humanitarian law (IHL). It builds upon fundamental IHL rules regulating the conduct of hostilities, such as the rule of distinction; the prohibition against indiscriminate attacks; and the prohibition on the use of weapons that cause unnecessary suffering or superfluous injury. Many of the Convention's rules also reflect customary international humanitarian law.

3. The Convention is a dynamic and evolving legal instrument which has proven a capacity to address the humanitarian challenges posed by various advancements in weapons technology. Thanks to its unique structure², the CCW remains flexible in reacting to emerging humanitarian challenges.

4. Together with the Anti-Personnel Mine Ban Convention³ and the Convention on the Rights of Persons with Disabilities, the CCW – in particular its Amended Protocol II⁴ and Protocol V⁵ - provides the legal framework of mine action.

¹ The 1980 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 (CCW)

² The framework Convention contains general provisions on the CCW operation. Substantive prohibitions and restrictions on certain types of weapons are contained in the Protocols annexed to the Convention. New protocols can be negotiated and added to the Convention by States Parties.

³ Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction

⁴ Protocol II on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices, as amended on 3 May 1996.

⁵ Protocol V on Explosive Remnant of War.

III. Focus on CCW universality

5. As at 25 November 2008, there are 108 States Parties to the Convention. Importantly, this includes all major military powers. Nevertheless, despite the progress towards universal adherence, a number of UN Member States have not yet ratified or otherwise acceded to the Convention. Of particular concern is that about one-third of the States which are not yet parties to the Convention are mine- and ERW⁶-affected States. Several of them are or have been recently involved in active international or domestic armed conflicts with all their related humanitarian and developmental consequences.

6. Based on a thorough review of the participation in the Convention, the Third Review Conference⁷ decided that CCW universalization will be a priority goal for the next five years and, therefore, approved the Plan of Action for CCW universalization⁸, including enhancing knowledge of the Convention through the organization of regional and sub-regional seminars.

7. It is against this background that UNODA and EU launched their common initiative in support of the Convention on Certain Conventional Weapons.

IV. A seminar to enhance universalization, implementation and participation in South and Southeast Asia and the Pacific islands

8. The following States from South and Southeast Asia and the Pacific invited to participate in the seminar are not yet parties to the CCW: Bhutan, Brunei Darussalam, Democratic People's Republic of Korea, Fiji, Indonesia, Kiribati, Malaysia, Marshall Islands, Micronesia, Myanmar, Nepal, Niue, Palau, Papua New Guinea, Samoa, Singapore, Solomon Islands, Thailand, Timor-Leste, Tonga, Tuvalu, Vanuatu, and Viet Nam. One of them – Viet Nam – has signed the Convention but have not yet ratified it. The following High Contracting Parties to the Convention from the region are also invited to participate in the seminar: Australia and China.

9. The main goal of the seminar is to support the universalization of the CCW by promoting accession to the Convention by the States not yet parties to CCW from the region. It will provide a forum for governments to learn more about the Convention, recent developments and the issues of ongoing work.

10. The seminar will also aim at the following objectives:

- (i) To explain the Convention and its protocols and to outline the benefits and challenges of adherence and implementation.
- (ii) To provide information and clarify the aims and functioning of the various mechanisms and tools which have been adopted to assist the implementation of the CCW.
- (iii) To stimulate adoption of national legislation to prevent and suppress violations; and consideration of mechanisms to review the legality of new weapons.

⁶ Explosive remnants of war.

⁷ Geneva, 7 to 17 November 2006.

⁸ Plan of Action to Promote Universality of 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 (CCW/CONF.III/9, Part II, Annex III).

- (iv) To establish a network of national points of contact for CCW follow-up in the countries from the region, as well as the relevant regional organizations and structures.
- (v) To identify potential beneficiaries for the CCW Sponsorship programme.
- (vi) To identify the next steps for participants on possible accession to CCW and its annexed protocols.
- (vii) To elucidate the mine- and ERW- status of the participating States. This is particularly relevant in light of the on-going process of establishment of Protocol V implementation mechanism.

11. A variety of experts will be invited to give make presentations to the seminar. The seminar will be an interactive event. All government officials attending should come prepared to share information on national policy and practice and will be expected to actively participate.

V. Achieving the Convention's aims in South and Southeast Asia and the Pacific islands

12. The States from South and Southeast Asia and the Pacific islands are important for the future of the CCW. States in the region are affected by mines and ERW and their experience and expertise is addressing mines and ERW is crucial especially for the effective implementation of Amended Protocol II and Protocol V and the efficiency of their respective follow-up mechanisms. Improved membership from the area will bring practical and real-life perspective on these and others issues to the CCW discussions.

13. The Convention is relevant for all States regardless of size, type or history. Many States possess valuable expertise in disarmament, arms control and humanitarian action to contribute in a creative way to the implementation of the Convention, including by identifying ways to overcome existing and emerging implementation challenges. Supporting the universalization of the CCW is also a support for the important humanitarian principles enshrined therein. Hence, universalization efforts with respect to this Convention shall be carried out in a vigorous manner with all States.

13. Maintaining a high level of awareness and involvement of relevant government officials – as well as the general public – is also an important factor for ensuring ongoing compliance with the Convention's humanitarian goals and obligations. Several participating States have their Permanent Missions in Geneva, but they are often short of staff in view of the heavy agenda and workload Geneva has to offer. It would make sense if, periodically, States in the region were briefed on the status of the Convention and otherwise made aware of present day challenges in its implementation.

15. The CCW universality regional seminar for the South and Southeast Asia and the Pacific islands should be considered as a starting point in the pursuit of the Convention's humanitarian goals on an ongoing basis and, in particular, in undertaking efforts to improve the CCW membership among the States from the region. The seminar is not an end in itself but rather an important element of a sustainable process.