

**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**

CCW/GGE/X/4
4 March 2005

Original: ENGLISH

Tenth Session

Geneva, 7-11 March 2005

Item 10 of the Provisional Agenda

**Third Review Conference 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**

Food-for-Thought Paper

Presented by the Chairperson-designate

I. INTRODUCTION

1. This background paper is intended to provide basic information on the Third Review Conference of the States Parties to the CCW, which is scheduled to take place not later than 2006. It is divided into two sections: the first, on the legal framework, and the second, pertaining to some organizational aspects of setting up a Review Conference in the context of the CCW.

2. The first section attempts to highlight the provisions of the various legal documents that have been adopted thus far by the States Parties to the CCW, as well as by the Member States of the United Nations, regarding the establishment of the Review Conference and are examined both from a general point of view and from a more specific perspective on the Third Review Conference. These references include provisions taken from the CCW itself, the Final Declaration of the 2001 Second Review Conference, UNGA Resolution 59/107, and the Report of the 2004 Meeting of the States Parties to the CCW.

3. The second section addresses some main procedural aspects of the establishment of the Review Conference, primarily, the time, the venue, the structure of the preparatory process, its commencement and duration, the presidency of the Review Conference, as well as the universalization of the Convention and its Protocols.

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II. LEGAL FRAMEWORK

4. 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

“Article 8 - Review and amendments

1 (a) At any time after the entry into force of this Convention any High Contracting Party may propose amendments to this Convention or any annexed Protocol by which it is bound. Any proposal for an amendment shall be communicated to the Depositary, who shall notify it to all the High Contracting Parties and shall seek their views on whether a conference should be convened to consider the proposal. If a majority, that shall not be less than eighteen of the High Contracting Parties so agree, he shall promptly convene a conference to which all High Contracting Parties shall be invited. States not parties to this Convention shall be invited to the conference as observers.

(b) Such a conference may agree upon amendments which shall be adopted and shall enter into force in the same manner as this Convention and the annexed Protocols, provided that amendments to this Convention may be adopted only by the High Contracting Parties and that amendments to a specific annexed Protocol may be adopted only by the High Contracting Parties which are bound by that Protocol.

2 (a) At any time after the entry into force of this Convention any High Contracting Party may propose additional protocols relating to other categories of conventional weapons not covered by the existing annexed Protocols. Any such proposal for an additional protocol shall be communicated to the Depositary, who shall notify it to all the High Contracting Parties in accordance with subparagraph 1 (a) of this Article. If a majority, that shall not be less than eighteen of the High Contracting Parties so agree, the Depositary shall promptly convene a conference to which all States shall be invited.

(b) Such a conference may agree, with the full participation of all States represented at the conference, upon additional protocols which shall be adopted in the same manner as this Convention, shall be annexed thereto and shall enter into force as provided in paragraphs 3 and 4 of Article 5 of this Convention.

3 (a) If, after a period of ten years following the entry into force of this Convention, no conference has been convened in accordance with subparagraph 1 (a) or 2 (a) of this Article, any High Contracting Party may request the Depositary to convene a conference to which all High Contracting Parties shall be invited to review the scope and operation of this Convention and the Protocols annexed thereto and to consider any proposal for amendments of this Convention or of the existing Protocols. States not parties to this Convention shall be invited as observers to the conference. The conference may agree upon amendments which shall be adopted and enter into force in accordance with subparagraph 1 (b) above.

(b) At such conference consideration may also be given to any proposal for additional protocols relating to other categories of conventional weapons not covered by the existing annexed Protocols.

All States represented at the conference may participate fully in such consideration. Any additional protocols shall be adopted in the same manner as this Convention, shall be annexed thereto and shall enter into force as provided in paragraphs 3 and 4 of Article 5 of this Convention.

(c) Such a conference may consider whether provision should be made for the convening of a further conference at the request of any High Contracting Party if, after a similar period to that referred to in subparagraph 3 (a) of this Article, no conference has been convened in accordance with subparagraph 1 (a) or 2 (a) of this Article.”

5 Final Declaration of the 2001 Second Review Conference of the States Parties to the CCW (Final Document CCW/CONF.II/2, Part II), “Review of Article 8 of the Convention”:

“The Conference decides, consistent with Article 8 paragraph 3 (c) to convene a further Conference five years following the entry into force of the amendments adopted at the Second Review Conference, but in any case not later than 2006, with preparatory meetings starting as early as 2005, if necessary.”

6 UN General Assembly Resolution 59/107 entitled “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”, Operative Paragraph 8:

“Recalls the decision of the Second Review Conference of the States Parties to convene a further Conference not later than 2006, with preparatory meetings starting as early as 2005, if necessary, and requests the Meeting of the States Parties on 18 and 19 November 2004 to consider this issue.”

7 Report of The Meeting of The States Parties (document CCW/MSP/2004/2, dated 13 December 2004), Paragraph 28:

“The Meeting of the States Parties decided that the Chairperson-designate shall undertake consultations during the intersessional period on the preparation of the Third Review Conference of the States Parties to the Convention and shall report to the next Meeting of the States Parties”.

III. ORGANIZATIONAL ISSUES

5. Since all the issues of a substantive character (review of the scope and operation of CCW) or a procedural nature (Rules of Procedure, structure of the Conference etc.) should normally be dealt with by the body assigned to undertake the preparatory work of the Conference (GGE or Preparatory Committee), the purpose of the present consultations should be to seek the preliminary views of the CCW States Parties on the following organizational points:

- (a) Time of the Review Conference: Bearing in mind that the Meeting of the States Parties to the CCW will be held on 24 and 25 November 2005 it would be expected that the fall of 2006 may be an appropriate time for holding the Review Conference. This will also allow sufficient time for its preparation. The final decision will be taken later this year and will rest on a number of factors, including the holding of disarmament-related and other fora at that same period of time, as well as the availability of conference rooms and office space at the Palais des Nations (if the Conference is to take place in Geneva).
 - (b) Venue of the Review Conference: In the absence of other suggestions the Review Conference could take place in Geneva - a city closely associated with the CCW process for many years now.
 - (c) Structure of the preparatory process: The views expressed so far are in favour of the establishment of a separate preparatory process (a PrepCom) instead of making use of the existing mechanism (the GGE) as the issues dealt with in the two respective fora differ both from a procedural and a substantive perspective. If such an approach is agreed upon by the CCW States Parties, the sessions of the PrepCom should be well synchronized with the possible meetings of the GGE in 2006.
 - (d) Commencement, timing and duration of the PrepCom: A suggestion was made that the first session of the PrepCom could already take place in 2005, back-to-back with the 2005 Meeting of the States Parties. However, a view that the preparatory process should commence in 2006 was also expressed. As for the duration of the Preparatory process, the 2005 Meeting of the States Parties should determine the number and the duration of the sessions of the PrepCom, based on the result of these on-going consultations and taking into account the workload of the GGE in 2006.
 - (e) Presidency of the Review Conference: It is expected that the President-designate of the Review Conference should also preside over the preparatory process. Against this background, the regional groups are invited to begin consultations on the personality of the future President-designate.
 - (f) Universalization of the CCW and its Protocols: Maximum effort should be exerted at the CCW Review Conference and its preparatory process with the view of promoting the universalization of the Convention and all its protocols. Against this background, different measures may be envisaged, such as the adoption of an Appeal by the 2005 Meeting of the States Parties (similar to the Appeal adopted every year by the Annual Conferences of the States Parties to CCW Amended Protocol II), or the holding of regional conferences/seminars on the Convention and its protocols or on issues that are subject to the discussion in the CCW GGE.
 - (g) Any other issue relevant to this Agenda item.
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