

**MEETING OF THE HIGH CONTRACTING
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**

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Item 9 of the Provisional Agenda

Compliance mechanism applicable to the Convention

**OBSERVATIONS ON IMPLEMENTING THE CCW'S
DECISION ON A COMPLIANCE MECHANISM**

Submitted by the International Committee of the Red Cross (ICRC)

1. The Decision on a Compliance Mechanism adopted at the Third CCW Review Conference in 2006 envisions a Meeting of States Parties to examine issues related to the fulfilment of the CCW's obligations. In the view of the International Committee of the Red Cross (ICRC), such a meeting would be an important opportunity to examine the operation and implementation of the Convention at the national level.

2. During the preparatory process for the Review Conference, the ICRC highlighted a number of issues related to national implementation which States Parties might wish to consider examining in an upcoming compliance meeting. These include the actions taken by CCW States Parties to implement the Convention and its Protocols as well as the extent to which States have in place mechanisms to review the legality of new weapons. These subjects were also highlighted in Final Declaration of the Review Conference where States Parties declared their commitment to fully implement the Convention and its Protocols as well as, their determination to urge States, which do not already do so, to conduct reviews on the legality of new weapons.¹ Specific issues in these areas which may be considered by a compliance meeting are outlined below.

I. Implementation Measures

3. This area of work would include the measures and activities taken by States Parties to implement the CCW and its Protocols and ensure compliance with their provisions. This could include a discussion and evaluation of what States Parties have done in a number of areas. To facilitate this, States Parties may wish to include the following items in the reporting format being considered pursuant to Decision on Compliance:

¹ Paragraph 2 and paragraph 17 in the Solemn Declaration of the Final Declaration of the Third Review Conference..

- (i) the extent to which the CCW and its Protocols are part of military manuals and the training curriculum of its armed forces;
- (ii) any programs, courses or documentation to disseminate the CCW to non-military audiences;
- (iii) the status and content of national legislation to prevent and suppress violations of amended Protocol II;
- (iv) the regulations and policies (other than national legislation) adopted to implement the CCW's obligations and ensure compliance with its Protocols;
- (v) experiences in seeking or providing technical assistance and cooperation.

II. Reviewing the Legality of New Weapons

4. Additional Protocol I (1977) to the 1949 Geneva Conventions requires each State Party to determine whether the use of any new weapon, means or method of warfare that it studies, develops, acquires or adopts would be prohibited by international law. States Parties have recognized the important role such mechanisms play in the implementation of international humanitarian law by including this issue in the IHL questionnaire discussed in the Group of Governmental Experts. The States Parties could build upon the GGE's work and consider the inclusion of an item on "Reviewing the Legality of New Weapons" for consideration at the next compliance meeting. The consideration of this item could include, *inter alia*, the following:

- (i) presentation by States Parties which conduct reviews of their weapons review mechanisms;
 - (ii) ways to compile information on the current practice in this area;
 - (iii) ways to promote the establishment or improvement of national procedures to review the legality of new weapons under international law, in particular through rigorous and multidisciplinary reviews.
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