
Fifth Session
Geneva, 16-27 June 2003
Item 10 of the agenda

Compliance in the CCW context

Presented by Greece on behalf of the European Union

1. For the EU the CCW regime is of great importance in regulating conventional weapons which could cause indiscriminate effects and unnecessary suffering to the civilian population. The High Contracting Parties (HCPs) decided on 13 December 2002 that the Chairman-designate shall undertake intersessional consultations on possible options to promote compliance.
2. Valuable proposals concerning compliance were presented during 2001 by South Africa, the United States and the European Union.
 - The United States proposal is based on an annex to Amended Protocol II. It suggests a second level of compliance including inquiry into facts.
 - The South African proposal is based on existing provisions regarding consultations and compliance in Amended Protocol II but also foresees procedures to resolve problems either bilaterally, through the UNSG or other appropriate ways. It is intended to cover the CCW regime as a whole.
 - The EU proposal is based on a possible “two tier” mechanism, the first of which could comprise consultation and dialogue and the second the establishment of facts. This proposal is also intended to cover the whole of the CCW regime.
3. The EU wishes to further contribute to discussions regarding compliance. It favours a simple, yet effective compliance regime for the whole of the CCW. The EU thinks that progress can be made on the basis of our previous proposal - on how a second level of a future compliance mechanism could be established - combined with elements of the South African Proposal.
4. The introduction of a new compliance mechanism must not unduly burden High Contracting Parties and it must find synergy with existing meeting and reporting procedures.
5. For the EU there is merit in establishing an approach whereby a Committee of Experts (Consultative Committee) can be used to establish matters of fact. A number

of questions need to be addressed to set up such a mechanism. Detailed description of the meeting and reporting procedures, as well as other details, could be proposed once State Parties have been able to agree on broader questions of a compliance regime for the whole of the CCW. These could include, but would not necessarily be limited to, the following:

5.1. What should be the mandate/competence of such a Consultative Committee? Should its powers for example be limited to inquire into facts in cases where a question of compliance has been raised?

5.2. What should be the structure of such a Committee?

How many members should it consist of? How would they be selected? How can equitable geographical representation be achieved?

5.3. What steps should be necessary before convening a Consultative Committee?

Should questions of compliance be first considered through bilateral consultations between States? Should there be an opportunity for a State where a question of compliance has arisen to make a submission to the Depositary? Should the Depositary be able to determine whether further action is necessary? Should such questions, initially or at a later stage be considered by a Meeting of High Contracting Parties (MHCP)? Would agreement of a State where an issue of compliance has arisen be required before an MHCP could consider the issue or before a Consultative Committee could investigate?

5.4 . To whom should the findings of a Consultative Committee be communicated?

Only to the State(s) concerned or to all HCPs? If findings were communicated to all HCPs, should a Meeting of High Contracting Parties be able to recommend appropriate measures? If so, is it appropriate to consider in advance the type of measures that a Meeting of High Contracting Parties might be able to recommend?

6. The EU hopes that the abovementioned considerations and questions could contribute to the deepening of our thinking concerning the important issue of compliance. It stands ready to work closely with the Chairman and with all interested delegations in order to examine possible options to promote compliance with the Convention and its Protocols. In order to give additional impetus to this process, the EU would request that a working document containing proposals on compliance be drawn up under the authority of the Chairman, after full consultation of HCPs, which could serve as the basis for future discussions at the November meeting.
