

acceptable because there is some concern that the creation of broad-based triggering mechanisms will open the door to abuse in the form of frivolous and nuisance allegations.

36. Such concerns, however, are not borne out by experience in the field of international human rights law. In addition, there are a number of screening systems that can be put in place to filter out frivolous and nuisance complaints. Finally, and this may be the crux of the matter, if the international humanitarian and human rights law record tells us anything it is that states are unenthusiastic about filing complaints against other states (except where it serves some specific domestic or foreign policy interest), and that therefore a states-based complaints mechanism is unlikely to prove effective.

37. If it is decided that a broad-based triggering mechanism is inappropriate for the first phase of the CCW verification regime, two alternative (though less effective) triggering mechanisms might be considered. Implementing either of these alternatives as part of an initial CCW verification regime does not rule out the possibility that, as confidence in the regime develops, a broad-based complaints system might evolve over time.

C. A "States Plus" Mechanism

38. The first alternative to a broad-based mechanism is a "states plus" system. Under this type of arrangement, states parties and a limited number of other actors would have standing to lodge a complaint. These alternative actors might include specific NGOs, the authority charged with monitoring compliance with the CCW Convention and/or the UN Secretary General. Such a system would reduce the scope for frivolous or nuisance complaints, but still allow non-state actors to have some input into the compliance monitoring process. This approach might be considered a compromise between a completely open system and one in which only states parties would have standing to make an allegation of non-compliance.

39. There are two variations of states-plus mechanism: comprehensive and modest. The former would grant States parties and a wide range of other actors standing to make allegations of non-compliance. The latter would reserve that right to States parties and the international community as embodied in the UN General Assembly.⁴ A modest states-plus mechanism might also permit

⁴There is precedent for allowing the UN General Assembly to call for an investigation into alleged grave breaches of international humanitarian law, specifically the 1925 Geneva Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare. This Protocol, as is generally known, contains no specific provisions for verifying compliance. In the early 1980s, however, as the result of a number of alleged violations, the UN General Assembly adopted a resolution authorising the Secretary-General to assemble a team of qualified experts to conduct an investigation.