



Fourth Meeting of States on Strengthening Compliance with International Humanitarian Law (IHL)

Geneva, 23-24 April 2015

Chairs' Conclusions

Context

In Resolution 1, the 31st International Conference of the Red Cross and the Red Crescent held in 2011 stressed that greater compliance with international humanitarian law (IHL) is an indispensable prerequisite for improving the situation of victims of armed conflict.

The Conference invited the International Committee of the Red Cross (ICRC) to pursue further research, consultation and discussion in cooperation with States and other relevant actors, to identify and propose possible means to enhance and ensure the effectiveness of mechanisms of compliance with IHL. It also expressed its appreciation to the Government of Switzerland for its availability to facilitate a process to explore ways and means to strengthen the application of IHL and to reinforce dialogue on IHL issues among States, in cooperation with the ICRC. The Conference requested that a Report, proposing a range of options and the ICRC's recommendations, be submitted to the 32nd International Conference, for its consideration and appropriate action.

Since the 31st International Conference, Switzerland and the ICRC have undertaken a joint initiative to facilitate implementation of the relevant provisions of Resolution 1. The initiative was effectively launched on 13 July 2012, when a first Meeting of States was convened in Geneva. The Meeting confirmed that there was general concern about lack of compliance with IHL, as well as broad agreement on the need for a regular dialogue among States on general questions related to the application of IHL and, in particular, on improving respect for this body of law.

Following the first Meeting of States, Switzerland and the ICRC continued discussions and consultations with a broad range of States in order to identify the main substantive issues of relevance to moving the process forward. The discussions and consultations were focused on a review of existing IHL compliance mechanisms, the reasons why they did not work, and whether some could be resuscitated. Lessons that could be learned from other bodies of law for the purpose of envisaging an effective IHL compliance system were also examined. There were likewise discussions on the functions that such a system would need to have, regardless of what its eventual institutional structure might be. An important topic of discussion was the format that a regular dialogue on IHL compliance among States should have, given that the lack of an appropriate forum was underlined frequently.

On 17 and 18 June 2013, a Second Meeting of States on Strengthening Compliance with IHL was held. The participants acknowledged that IHL has only a limited number of

mechanisms to ensure compliance with its norms. Furthermore, most delegations agreed that the initiative should not focus on reforming the existing mechanisms, with the possible exception of the International Humanitarian Fact-Finding Commission (IHFFC).

An important part of the Second Meeting was devoted to examining whether inspiration can be found in procedures created in other compliance systems. Among the various functions discussed, the following received the broadest support:

- A periodic reporting system on national compliance with IHL;
- Regular thematic discussions on IHL issues, including on policy-related concerns common to States;
- A fact-finding mechanism.

It was furthermore felt that a regular Meeting of States should be established as a forum for dialogue on IHL which could also serve as an institutional anchor for other elements of an IHL compliance system.

With a view to devising the features of the above-mentioned possible IHL compliance system, and in preparation for the Third Meeting of States of 30 June and 1 July 2014, Switzerland and the ICRC scheduled two further Preparatory Discussions, the first of which took place on 16 and 17 December 2013. At this round of discussion, the primary focus was reporting on national compliance with IHL and thematic discussions on IHL issues. It also served to examine, in overview form, the features and tasks of a regular Meeting of States. The aim of the second Preparatory Discussion of 3 and 4 April 2014 was, in turn, to enable an in-depth review of various aspects of the Meeting of States and a first preliminary discussion on a possible fact-finding function. It also served to revisit select outstanding questions related to reporting on national compliance with IHL and to thematic discussions, carried over from the December 2013 meeting.

The goal of the Third Meeting of States on Strengthening Compliance with IHL was to overview the main topics examined at both rounds of Preparatory Discussions, with a view to further clarifying and refining States' positions regarding these topics, including the possible identification of points on which views are converging, as well as those that will require further discussions going forward. On the understanding that the consultation process has no decision-making capacity, discussions at the Third Meeting of States indicated that most States are of the view that a regular Meeting of States should be established. It should be the central component of a future IHL compliance system and should serve to, *inter alia*, consider national IHL compliance reports in a non-contextual manner, and be the venue of thematic discussions on IHL issues. While no convergence of views emerged in relation to a possible fact-finding function, many States believed it should be part of a future IHL compliance system.

The consultation process was concluded at the Fourth Meeting of States held on 23 and 24 April 2015 in Geneva. It aimed at enabling an overview of the main elements of a possible new IHL compliance system that emerged in the previous Meetings. It also allowed the participants to discuss specific issues that required further examination, so as to enable the facilitators to better gauge States' views for the purpose of preparing their Concluding Report to the 32nd International Conference. The very high level of participation in the Fourth Meeting of States (128 delegations) attested to the growing awareness and interest of States in the issue of strengthening compliance with IHL and the importance they attach to it.¹

The present Chairs' Conclusions are the sole responsibility of the facilitators and do not intend to reflect the agreed views of States. While a summary text cannot include the

¹ See the annexed list of delegations that participated in the Fourth Meeting of States on Strengthening Compliance with IHL on 23-24 April 2015.

individual views of each participant on all the issues discussed, it aims to provide a faithful overview of the opinions expressed at the Fourth Meeting of States.

Guiding Principles of the Process

As facilitators, Switzerland and the ICRC are fully committed to ensuring that their joint initiative in follow-up of Resolution 1 is conducted in a transparent, inclusive, and open manner. In addition, the Swiss-ICRC initiative is premised on several key principles that were enunciated and agreed on in the discussions and consultations held within the process.

It was emphasized that the following principles should serve as the overall framework within which the search for possible solutions to the challenges of improving compliance with IHL should be pursued:

- The need for an IHL compliance system to be effective;
- The importance of avoiding politicization;
- The State-driven and consensus-based character of the process and the need for the consultations to be based on applicable principles of international law;
- The avoidance of unnecessary duplication with other compliance systems;
- The requirement to take resource considerations into account;
- The need to find appropriate ways to ensure that all types of armed conflicts, as defined in the Geneva Conventions of 1949 and their Additional Protocols (for the latter as may be applicable), and the parties to them are included;
- The need for the process to ensure universality, impartiality, and non-selectivity;
- The need for the process to be based on dialogue and cooperation;
- The voluntary, i.e. non-legally binding nature of the consultation process, as well as of its eventual outcome.

By way of reminder, the last principle listed is the result of agreement among States that a future IHL compliance system will not entail amendments to the 1949 Geneva Conventions, or the adoption of a new treaty to that end, as this approach did not generate support among States in the discussions.

General Comments at the Fourth Meeting of States

In the General Comments section of the Meeting, most delegations reiterated their concern about the lack of respect for IHL, as well as the lack of effective compliance mechanisms. The consultation process facilitated by Switzerland and the ICRC was welcomed as a significant contribution to the common goal of improving protection for victims of armed conflicts. The facilitators' efforts to conduct the consultations and discussions among States in a transparent, open, and inclusive manner were appreciated.

It was recalled that it was not within the mandate provided in Resolution 1 of the 31st International Conference for any decision to be taken with regard to the possible establishment of a new IHL compliance system in the consultation process itself. The goal of the process was to enable the ICRC to submit, in conjunction with Switzerland, a Concluding Report including options and recommendations to the 32nd International Conference, that will take place in December 2015, for its consideration and appropriate action. The facilitators' Concluding Report may thus serve to inform a relevant decision by the International Conference, but does not prejudge its outcome.

Most States considered that the Background Document prepared for the Fourth Meeting provided a good basis for discussion and noted, with satisfaction, that significant progress

had been made since the 31st International Conference, in terms of the emergence of converging views on the need for a new IHL compliance system and its main elements. These are: a regular Meeting of States as a forum for dialogue and cooperation on IHL issues among States, to which two compliance functions would be attached: national reporting on compliance with IHL, and the holding of thematic discussions on IHL issues, in a non-individualized, non-politicized and non-contextual manner. The points on which views continued to differ, mainly relating to the modalities of these elements, were largely considered not to be of a nature to prevent States from taking appropriate action at the 32nd International Conference. One State specifically proposed that an alternative option may also be envisaged, which is to strengthen the confidential engagement of States with the ICRC on their domestic implementation of IHL. On this basis, the ICRC would make individual recommendations to the State concerned and as a result of the overall engagement with States identify topics, as may be appropriate, for a thematic discussion at the International Conference.

The importance of the guiding principles of the process was repeatedly highlighted by the participants in the Fourth Meeting of States, including in a joint statement to this effect made by several States on that occasion. It was stressed that these principles should also underpin any outcome of the consultation process that may be agreed to by the International Conference.

It was reiterated that the scope of a future IHL compliance system should be limited to IHL and to situations in which this body of international law applies, excluding circumstances which do not meet the definition of armed conflicts as provided for in the 1949 Geneva Conventions and their Additional Protocols (for the latter, as may be applicable). With one exception, there was general agreement that, in keeping with the guiding principles of the process, the IHL compliance system should contribute to improving respect for IHL in all types of armed conflicts. In this context, some States stressed that ways should be found, going forward, for the Meeting of States to examine the issue of non-compliance with IHL by non-State parties to armed conflicts.

A few States reiterated that they were unable to take part in the discussion on the possible elements of a new IHL compliance system before a decision on the ways and means of its establishment (see below) has been reached, or that a further examination of existing IHL mechanisms is needed before they could concur with the view that there is a need for a new IHL compliance framework.

General considerations on the Meeting of States as the central pillar of the future IHL compliance system

The Fourth Meeting of States reaffirmed that a future Meeting of States, as a forum for dialogue and cooperation, should:

- Serve as a dedicated venue for States to discuss issues of common concern and to perform functions related to implementation of and compliance with IHL, with a view to strengthening respect for this body of law; and
- Provide an institutional anchor for the other elements of the future IHL compliance system.

Participants largely confirmed that the overall purpose of the future IHL compliance system, and of the Meeting of States as its centerpiece, should be the promotion of knowledge of and universal respect for IHL. To this end, the compliance functions that may be created should, on the basis of dialogue and cooperation, enable States to examine practical experiences and challenges in IHL implementation, facilitate the flagging of possible capacity-building needs by the relevant State and foster international cooperation in

addressing them, and also enable the sharing of best practices. It was reaffirmed that the future Meeting of States should not have the competence to develop new law or to adopt amendments to the relevant IHL treaties and should instead focus on a better understanding and implementation of existing rules.

Most States were of the view that a reporting system on national compliance with IHL, and the function of thematic discussions on IHL issues, should be linked to the Meeting of States (see below).

In light of the rapidly changing nature of warfare and of corresponding humanitarian needs, it was underlined by several delegations that the future Meeting of States should provide for sufficient flexibility so that its functions and structure may be further adapted if this is considered appropriate and necessary by States, in keeping with the guiding principles listed above. In this context, it was suggested that the operation of the Meeting of States should be reviewed after a pilot period of four or five years, and periodically thereafter.

There was furthermore distinct agreement that the Meeting of States should be as “lean” and cost-effective as possible. Its structure should thus be limited to what is necessary for the effective fulfillment of its functions.

Reporting on national compliance with IHL

The Fourth Meeting of States confirmed that a large majority of States consider a reporting function to be an important tool for strengthening compliance with IHL. It would provide the necessary baseline of information on the state of IHL implementation in various parts of the world, allow common experiences and challenges related to IHL observance to be identified, best practices to be exchanged, and capacity-building needs that may exist (as identified by the States themselves) to be expressed and responded to. This function was said to be an essential element of any future IHL compliance system, i.e. necessary for the effective fulfillment of the purposes of the Meeting of States outlined above.

The points of a general nature outlined in the Background Document were considered, by most States, to adequately reflect the current state of the consultations.

It was confirmed that a reporting function would be focused on States’ obligations under the universally ratified 1949 Geneva Conventions and their three Additional Protocols, for States which are parties to the latter. States not party to the Protocols could report on specific provisions of the Protocols which they apply in practice if they so wish. States would furthermore be free to refer to other sources of IHL in their national reports.

A new reporting function would be voluntary, and designed in a way that effectively serves the purpose of strengthening respect for IHL. National capacity constraints in the drafting of reports, in particular of developing countries, should be taken into account. It was reiterated that a reporting function would not involve an article-by-article review of the relevant treaties and would not be cumbersome. In that context, guidelines or templates that are not overly prescriptive and that may be used by States voluntarily, possibly prepared by the ICRC, were deemed useful by many States.

Types of national reports on IHL

As regards the types of reports, the Fourth Meeting of States confirmed a large convergence of views on the usefulness of *basic reports*. In these reports, States would essentially outline how they implement IHL in their domestic legal system and armed forces. They would also permit States to identify challenges to IHL implementation, best practices, lessons learned,

and capacity-building needs, as may be applicable. Basic reports would, in effect, serve as reference documents. Most States agreed that such reports should be updated subsequently, with four to five-yearly updates suggested. A few States expressed the opinion that updates may be made when necessary, depending on relevant legislative or other changes at the domestic level.

The Fourth Meeting indicated that most States are of the view that basic reports should be complemented by more focused and shorter *subsequent reports*. As regards the specific models of subsequent reports, many States expressed a preference for what was labeled “current issues reports”. Such documents would have a primarily thematic focus that would permit States to share their experiences in the implementation of a specific group of IHL obligations in a non-cumbersome format. A separate section could allow States to highlight current developments in State practice, including challenges that have been faced and/or resolved. For such reports, a two-year timeframe was suggested. It was highlighted that the selection of the thematic focus of such reports should abide by the guiding principles. A few States were of the view that subsequent reporting should only entail updates to basic reports and information on how IHL was applied in recent practice.

Follow-up to national reports on IHL

It was widely reaffirmed that a reporting function can only be meaningful if the information gathered does not simply fall in a “black hole”. Appropriate follow-up procedures should be established with a view to allowing the reporting function to contribute to strengthening respect for IHL. Furthermore, there was agreement that any possible follow-up procedure must not include individual review of State reports, and must be strictly non-contextual and non-politicized in nature.

In this context, most States agreed that reports should be public. Given the voluntary nature of the reporting system, it was suggested that States are free to request that their reports not be publicly available (it was not, however, specified to whom they may then be accessible). A number of States signaled that they intend to make their national reports available to the public at large, such as on a dedicated website of the Meeting of States.

As regards the follow-up procedures more specifically, a majority of States were of the view that States should be able – in a non-contextual, non-individualized and non-politicized manner – to discuss common challenges, general trends and best practices identified through the reporting function in the Meeting of States.

In their view, single follow-up documents, based on basic and subsequent national reports, should be prepared for discussion in a specific segment of the plenary sessions. Views differed as to the structure and content of these documents, and it was generally felt that related modalities could be further discussed once the Meeting of States is established. Many States were also open to the possibility of discussing non-contextual, non-individual and non-politicized recommendations that could be included in the single documents based on the national reports. States that were favorable to this follow-up model were generally of the view that the ICRC should be invited to draft the single follow-up documents, on its own or in conjunction with the Bureau of the Meeting of States (see below).

Some States questioned whether a single follow-up document should be discussed by the Meeting of States. A few expressed the view that States should be given an opportunity to make brief presentations of their reports at the Meeting of States, and that this would suffice to stimulate bilateral or group discussions among States with a view to improving compliance with IHL.

Given the lack of convergence on the precise follow-up modalities, it was suggested that States should revisit this question when deciding on how the reporting function should be structured, at the Meeting of States, once it is established.

Thematic Discussions on IHL Issues

The Fourth Meeting of States confirmed the wide convergence of views on the usefulness of thematic discussions on IHL.

Such discussions would serve to: ensure that States are better informed about current or emerging IHL issues, enable a better mutual understanding of States' legal and policy positions on current and emerging IHL issues, provide an opportunity for exchanges of views on key legal, practical and policy questions, develop a deeper understanding of IHL and of practical measures taken by States to implement it, and strengthen existing networks by bringing together IHL experts from the different States.

The Background Document prepared for the Meeting was generally thought to adequately summarize the current state of discussions in the consultation process on the function of thematic discussions.

Most States considered that a specific segment of the future Meeting of States should be devoted to thematic discussions. There was agreement that the format of thematic discussions should ensure the non-politicization, non-selectivity, voluntariness and interactivity of the discussion. In the view of most States, a background document circulated in advance of a thematic session and panel presentations of experts on the relevant topic would be useful. A very small number of States doubted the usefulness of expert inputs.

It was reaffirmed that thematic discussions should not aim at legal codification, or the creation of binding rules, but focus on a better understanding and application of IHL.

The Background Document was largely found to adequately reflect the consultations on other points related to thematic discussions, including how topics could be selected and what form an outcome document could take. There was an agreement that these issues may be decided at a later stage, once the Meeting of States is established.

According to a proposal made by one delegation, regional IHL dissemination conferences which the ICRC is already organizing in cooperation with States in various parts of the world, should serve as a useful guide on how non-politicized discussions among States on IHL can be organized.

Other issues related to functions

Fact-finding was a further function discussed in the consultation process, one which generated widely divergent views. In light of this, it was accepted at the Fourth Meeting of States that the establishment of a fact-finding function will not be further examined at this stage, but should, as stressed by many States, be revisited by the Meeting of States, once it is established, in keeping with the guiding principles.

Main features of the Meeting of States

Several features of the future Meeting of States (outlined below) were recalled in the Background Document for the Fourth Meeting and revisited in the discussion. It was noted

that not all of these issues would necessarily need to be agreed on until the 32nd International Conference and that they could be decided by States, once the Meeting of States is established.

Denomination and periodicity

Quite a few States reiterated that they have an “open mind” on the issue of the denomination of the future Meeting of States. It appeared that a majority would be in favor of a designation such as “Meeting of States on IHL” or “Meeting of States on Respect for IHL”. Some States reiterated their preference for calling it “Meeting of States Parties to the Geneva Conventions”. Proposals were also made to include the terms “consultative” or “voluntary” in the name of the Meeting of States.

As regards periodicity, a clear majority of States that expressed a view on the issue felt that the Meeting of States should take place on an annual basis. In their opinion, annual meetings are necessary if the work of the Meeting of States is to be effective and relevant, given the important challenges to IHL implementation on the ground. Yearly meetings were furthermore considered important to ensure that the agenda of the Meeting of States remains manageable, bearing in mind the converging view on the need to keep the Meetings as short as possible. Several States expressed a preference for biennial sessions or even longer intervals. It was also suggested that the Meetings of States could be “skipped” in the years in which the International Conference takes place.

Participation

There was agreement that membership in the future Meeting of States should be open to States and be as inclusive as possible. Given the universal ratification of the Geneva Conventions of 1949, the view was largely shared that all States Parties to these instruments should also be able to participate in the voluntary Meeting of States.

As regards the participation of observers, views converged on the importance of ensuring some form of interaction with entities other than States. There was agreement on the need to devise procedures for observer participation that would be consistent with the guiding principles listed above, notably the avoidance of politicization, the need to ensure non-contextual dialogue and the State-driven character of the Meeting of States. It was, furthermore, emphasized that resource constraints should be taken into account. Note was taken of the fact that some States consider a discussion on observer participation to be premature, and therefore did not express their views on the specific questions raised in the Background Document prepared for the Fourth Meeting.

Views differed as to whether the question of observer participation should be addressed in the resolution to be adopted by the 32nd International Conference. Most delegations underlined that it must not preclude future arrangements for observer participation.

Three categories of possible observers at the Meeting of States were discussed: the components of the International Red Cross and Red Crescent Movement (other than the ICRC, whose participation is uncontested), international and regional organizations and entities, and civil society actors.

As regards the components of the *International Red Cross and Red Crescent Movement*, many States were favorable to the idea of granting the International Federation of Red Cross and Red Crescent Societies permanent observer status. Given the high number of National Red Cross and Red Crescent Societies and the need to keep the Meeting of States as lean as possible, it was proposed, inter alia, that the Movement could suggest modalities to enable National Societies to be observers without doubling the number of participants, or

that such participation could be channeled through the International Federation. It was reiterated that States would remain free to include a representative of their National Society in their delegation.

It was furthermore confirmed that most States are favorable to having relevant *international and regional organizations and other entities* take part as observers. Most States felt that an agreement on this question, including on the modalities of their participation, could be reached once the Meeting of States is established. A few delegations pointed out that no consensus has been arrived at on this specific issue.

As regards *civil society* actors, there was unequivocal acknowledgment that their possible participation as observers in the future Meeting of States, and the relevant modalities, should be compatible with the guiding principles of the process, in particular non-politicization (i.e., that their participation does not lead to “naming and shaming”), and the State-driven character of the Meeting of States.

Most States that expressed an opinion on this issue broadly favored interaction with civil society actors in the framework of the future Meeting of States. It was underlined by many States that this question should be decided once the Meeting of States is established. The procedures for their invitation as well as the modalities for their participation as outlined in the Background Document were considered a useful basis for discussion. In particular, it was considered that a specific slot of the Meeting of States could be set aside for interaction with civil society actors. Some States reiterated concerns with regard to civil society participation and one delegation suggested that their involvement in the mechanism should be limited to the domestic level, such as in the drafting of the national compliance report.

Plenary sessions, Bureau and Chair

There was wide agreement that the possible institutional structure of the Meeting of States should be lean and that States should strive to establish light structures. There was also broad agreement that the precise modalities of the plenary sessions, the Chair and the Bureau should be adopted once the Meeting of States is established; a few States were of the view that a detailed discussion in this regard was premature.

It was generally accepted that plenary sessions should form the core body of the future IHL compliance system. Aside from the compliance functions that would be performed in specific segments of the plenary sessions, as outlined above, most States were of the view that a number of procedural tasks² should be performed in plenary. A few States opined that the Meeting of States, as currently contemplated, will not require subsidiary bodies.

It was confirmed that most States prefer the plenary sessions to take place in public - as a general rule - for purposes of transparency and effectiveness but that, exceptionally, some segments could be declared closed if the topic of discussion warrants it. Alternatively, it was suggested by one delegation that the general rule should be reversed, that plenary sessions should be held behind closed doors, but could be opened upon request, or that only some segments should be public (such as the opening and closing sessions). It was felt that the precise formula should be agreed on once the Meeting of States is established.

² The following procedural tasks were mentioned in the Background Document:

- Adoption of the Rules of Procedure;
- Adoption of the budget of the Meeting of States;
- Election of officers, such as the Chair, the Vice-Chairs and members of the Bureau;
- Establishment of organs, such as the Secretariat;
- Review and oversight of the work of organs, such as the Secretariat;
- The performance of other tasks of a procedural nature as may be necessary and agreed.

There was broad agreement that a Chair³ and a Bureau⁴ should be selected in plenary and entrusted with certain tasks, in order for the Meeting of States to be successfully prepared and conducted. However, it was also felt that more discussions are necessary in order to find appropriate modalities for the governance structure.

As regards the composition of the Bureau, considering that the Chair would likely also be a member *ex officio*, the importance of ensuring equitable geographic representation was underlined unanimously (i.e. equitable representation of all geographic regions in the Bureau; role of the Chair to rotate among the regions). Certain other criteria that could be taken into account when selecting the members of the Bureau and Chair, including a candidate's commitment to strengthening compliance with IHL, and his or her expertise in IHL, did not meet with similar approval.

Only a limited number of delegations expressed their views on the size of the Bureau and the length of terms of its members, including the Chair. It was underlined that continuity and efficiency are important, while simultaneously ensuring that as many States as possible are involved in these functions over time. It was said that these considerations should underlie future decisions on these matters.

There was agreement that States should decide on the precise tasks, size, election, composition and length of terms of the Bureau and the Chair once the Meeting of States is established, and its needs in terms of governance structure are better known.

Secretariat and expert support

It was reaffirmed that most States are of the view that a Secretariat should be entrusted with certain administrative, logistical and organizational tasks⁵ to support the organization of the Meeting of States and assist the Chair and Bureau.

Views differed as to whether the resolution of the 32nd International Conference should address the Secretariat. While some delegations considered it important that the Secretariat be established at the same time as the Meeting of States, the majority of States were of the view that its establishment and the relevant modalities could be decided once the framework of the Meeting of States, and its needs in terms of administrative and logistical support, are

³ The following tasks of the Chair were mentioned in the Background Document:

- Coordinate the substantive preparation of the Meeting of States (including drawing up of the draft agenda in consultation with the Bureau);
- Coordinate the overall work of the Meeting of States;
- Ensure the orderly conduct of the Meeting of States;
- Serve as the contact point on all relevant issues between two Meetings of States.

⁴ The following tasks of the Bureau were mentioned in the Background Document:

- Consider the draft agenda drawn-up by the Chair;
- Assist the Chair in the discharge of his/her duties during plenary sessions, as well as between two Meetings of States;
- Coordinate the work of the Meeting of States, including related to documents that may be submitted to the Meeting of States.

⁵ The following secretarial tasks were identified:

- Conference services/conference secretariat;
- General secretarial tasks;
- Providing support to the Bureau and the Chair;
- Liaising with intergovernmental organizations and other relevant actors;
- Liaising with States participating in the Meeting of States;
- Drafting of non-legal documents;
- Website management;
- Administering the funds of the Meeting of States;
- Maintaining public relations.

sufficiently known. Some States doubted that the Meeting of States will require a permanent Secretariat.

There was broad agreement that a possible Secretariat should start as small as possible, with a view to adapting its size after an initial pilot phase if necessary.

Three possible options on establishing the Secretariat had been examined on previous occasions. These included the possibility of establishing a new stand-alone entity under the national law of the State in which it would be located; to attribute the Secretariat functions to a State or to rotate it among States on the Bureau; or to link the Secretariat to the ICRC.

Many States expressed a preference for exploring whether and how the Secretariat could be linked to the ICRC, on the understanding that the organization's principles, mandate and standard working modalities must not be jeopardized.

As mentioned above, the functions of national reporting on compliance with IHL and thematic discussions on IHL issues may require the support of experts. Relevant tasks possibly include: the drafting of the single follow-up documents to national IHL reports, the drafting of background documents for thematic discussions on IHL issues, and the drafting of outcome documents of the proceedings in plenary related to these two functions. Expert support may also be required in the preparation of a template or guidelines for national reporting on compliance with IHL. Many States considered that the Meeting of States should invite the ICRC to perform some or all of these tasks, either on its own, or in conjunction with the Bureau. A few States were not in favor of inviting the ICRC to perform such tasks or questioned the need for expert support, expressing the concern that this might not be in conformity with the organization's principles.

Resourcing

The Background Document prepared for the Fourth Meeting of States outlined a number of issues that were considered relevant to better informing States about possible resourcing needs of the future Meeting of States. These included possible measures to ensure that best use is made of available resources and possible funding models.

Most States welcomed the effort made by the facilitators to outline possible cost factors, as well as various questions that may be relevant for devising appropriate funding models going forward. It was also acknowledged that a more in-depth examination of these subjects will be necessary, once the structure and functions of the Meeting of States have been determined. There was agreement that the need to take resource constraints into account, which is one of the guiding principles, must at all times be respected, including in the design of the funding modalities. It was furthermore recalled that difficulties developing countries may face with regard to additional funding requirements should be taken into account.

With regard to the measures that may be adopted to ensure that best use is made of available resources,⁶ most States considered the elements outlined in the Background Document a valid basis for discussion at a future stage. In particular, given that costs incurred by translation and interpretation requirements are usually very significant, some States expressed a preference for limiting the number of working languages of the future

⁶ The measures outlined in the Background Document included, *inter alia*:

- Reasonable use of interpretation and translation services;
- Definition of "essential" and "additional" functions of the Secretariat and prioritizing funds for the former;
- Web-based or other electronic solutions for reporting and distribution of documents.

Meeting of States to two (English and French) or four (the four languages usually used within the International Conference).

As regards possible funding models,⁷ it was reiterated that financial contributions would be voluntary given the non-legally binding nature of the future Meeting of States. It was furthermore reaffirmed that the need to ensure sufficient funding, predictability (i.e. that the budget can be reliably planned), and a fair distribution of costs among States are important criteria to be taken into account when devising the funding models. The instruments that were particularly highlighted include the establishment of a trust fund, as well as a periodic pledging procedure.

Provided that the voluntary nature of financial contributions is clearly recognized, some States expressed an interest in exploring how the Meeting of States could use the adjusted UN scale of assessment to give only indicative recommendations to States of their share. Other States found this proposal not to be appropriate.

Relationship with the International Conference of the Red Cross and Red Crescent

The Fourth Meeting of States reaffirmed the importance of paying special attention to establishing an appropriate relationship between the International Conference of the Red Cross and Red Crescent and the future Meeting of States. There was a converging view that the following criteria would be relevant in that regard:

- The distinct and autonomous character of the Meeting of States and the International Conference;
- The importance of finding synergies between the Meeting of States and the International Conference;
- The importance of establishing a mutually reinforcing relationship;
- The need to respect the Fundamental Principles binding the Movement.

As regards the specific links into which these criteria could be translated, it was stressed that such a decision would need to be taken by the Meeting of States itself, once it is established. It was thus felt premature to examine the proposed links in detail.

Ways and means of establishing the Meeting of States

As already noted, a future IHL compliance system will be voluntary, i.e. not established by means of a legally binding instrument, given that amendments to the 1949 Geneva Conventions or the adoption of a new treaty to that end have not generated State support in the discussions. The question of how a Meeting of States may be established was thus discussed on several occasions within the consultation process, including at the Fourth Meeting of States.

Two broad positions initially emerged on this topic. According to the first, a voluntary Meeting could be established by means of a resolution of the 32nd International Conference, as the Conference has the sufficient legal and political authority to take such a step. A resolution would be an adequate and sufficient expression of the sovereign will of States, as well as of the desire of the other members of the International Conference, to establish such a forum.

⁷ The following considerations related to funding models were outlined in the Background Document:

- Work plan and budget of the Secretariat;
- Indicative recommendations based on the UN scale of assessment;
- Pledging procedure;
- Disclosure of voluntary contributions.

According to the second option, the International Conference does not have the authority to establish a voluntary Meeting of States. As a result, it could, by way of a resolution, only invite Switzerland to convene a diplomatic conference for the purpose of establishing the future Meeting of States.

Bearing in mind that the main divergence of views centers on whether a resolution of the International Conference can provide an adequate basis for establishing the Meeting of States, a hybrid solution, combining the advantages of both options, has also been suggested. According to this proposal, the relevant resolution could aim to capture those elements of the future IHL compliance system that are acceptable to States and defer the formal establishment of the system to the first Meeting of States itself. On this basis, Switzerland, possibly in its capacity as the depositary of the Geneva Conventions, could convene the first Meeting of States, whose first task would be to constitute the new forum, as well as its institutional structure, and decide on the modalities of the functions that it will have, taking into account the recommendations of the 32nd International Conference. This “hybrid solution” was believed by a majority of States to be a reasonable compromise.

While no consensus was reached with regard to this issue, views appeared to converge on a number of basic points related to the content of the relevant resolution of the 32nd International Conference. Acknowledging that States had different expectations concerning its possible level of detail, it was generally agreed that the text should appropriately reflect the elements of convergence that have been identified in the past nine consultation meetings.

Most States also appeared to agree that the resolution should strive to preserve the results of the consultation process. In this context, it was suggested that the ICRC’s Concluding Report prepared in conjunction with Switzerland could serve as a sort of reference document for future discussions on the issues that will not be ripe for agreement at the 32nd International Conference in December 2015, without prejudging their outcome. A very few States had a different view.

Finally, it was suggested by many States that the first Meeting of States should take place as soon as possible in the year following the 32nd International Conference. A few States preferred not to determine a specific deadline.

A number of views were expressed on how the process following the 32nd International Conference could be conducted, regardless of whether the International Conference will establish the Meeting of States or not. It was acknowledged that a number of questions, as highlighted above, will require further clarification before a Meeting of States could be fully operational. According to one proposal, a Steering Committee, consisting of a group of States, could be tasked with facilitating further discussions on the issues that will remain to be examined after the 32nd International Conference. It was also said, however, that it was unclear how this group would be constituted, and on what basis. Most States that expressed a view on this matter preferred to entrust Switzerland, in cooperation with the ICRC, with facilitating further discussions among States with the aim of finalizing the establishment of a new IHL compliance system.

Next Steps

The consultation process, based on Resolution 1 of the 31st International Conference of the Red Cross and Red Crescent, was concluded at the Fourth Meeting of States. As already mentioned, in accordance with Resolution 1, the outcome of the consultation process, including options and the facilitators’ recommendations, will be submitted in a Concluding

Report to the 32nd International Conference, scheduled for December 2015, for its consideration and appropriate action.⁸

The facilitators will aim to circulate the Concluding Report to all members of the International Conference in June 2015. The report will not have any legal or other implications for participating States. It is, however, hoped that by faithfully indicating the relevant points of convergence of States' views, as well as points of divergence, it may provide the backdrop for a possible decision on the way forward as regards the establishment of an IHL compliance system. In this context, it should be recalled that the relevant resolution will be negotiated within the framework of the International Conference.

In accordance with statutory deadlines, draft resolutions need to be circulated to the members of the International Conference 45 days prior to its start. A draft resolution relating to the issue of strengthening compliance with IHL would thus likely need to be ready by mid-October 2015. It was said by several States that it would be helpful if discussions on the possible elements of such a resolution were to start sufficiently ahead of time. The ICRC, which usually prepares resolutions on IHL for the International Conference, would thus aim to present the initial elements of a possible resolution in June 2015 so as to enable the timely start of discussion on the text and allow for the necessary consultations among States and other members of the International Conference.

Switzerland and the ICRC reiterate their availability for bilateral talks with interested States at all times. Please send any proposals, views or comments you may want to share to: dv-badih@eda.admin.ch.

It is reiterated that these Chairs' Conclusions are the sole responsibility of the Chairs and do not intend to represent the agreed views of States at the Fourth Meeting of States on Strengthening Compliance with IHL of April 2015.

⁸ Para. 8 of Resolution 1 of the 31st International Conference of the Red Cross and Red Crescent.

Annex: Participating Delegations

1. Afghanistan
2. Algeria
3. Angola
4. Argentina
5. Australia
6. Austria
7. Azerbaijan
8. Bahrain
9. Bangladesh
10. Belarus
11. Belgium
12. Bhutan
13. Bolivia
14. Botswana
15. Brazil
16. Bulgaria
17. Burundi
18. Cabo Verde
19. Cameroon
20. Canada*
21. Chile
22. China
23. Colombia
24. Costa Rica
25. Côte d'Ivoire
26. Croatia
27. Cuba
28. Cyprus
29. Czech Republic
30. Democratic People's Republic of Korea
31. Democratic Republic of Congo
32. Denmark
33. Dominican Republic
34. Ecuador
35. Egypt
36. El Salvador
37. Estonia
38. Ethiopia
39. European Union
40. Finland
41. France
42. Gambia
43. Georgia
44. Germany
45. Greece
46. Guatemala
47. Haiti
48. Holy See
49. Hungary
50. India
51. Indonesia
52. Iran (Islamic Republic of)
53. Iraq
54. Ireland
55. Israel*
56. Italy
57. Japan
58. Jordan
59. Kazakhstan
60. Kenya
61. Kyrgyzstan
62. Lao People's Democratic Republic
63. Latvia
64. Lebanon
65. Lesotho
66. Libya
67. Liechtenstein
68. Lithuania
69. Luxembourg
70. Madagascar
71. Malaysia
72. Mali
73. Malta
74. Mauritius
75. Mexico
76. Monaco
77. Morocco
78. Myanmar
79. Namibia
80. Nepal
81. Netherlands
82. New Zealand
83. Nicaragua
84. Nigeria
85. Norway
86. Pakistan
87. Panama
88. Papua New Guinea
89. Paraguay
90. Peru
91. Philippines
92. Poland
93. Portugal
94. Qatar
95. Republic of Korea
96. Republic of Moldova
97. Romania
98. Russian Federation
99. Rwanda
100. Saudi Arabia
101. Senegal
102. Serbia
103. Singapore
104. Slovak Republic
105. Slovenia
106. South Africa
107. Spain
108. Sri Lanka
109. State of Palestine*
110. Sudan
111. Sweden
112. Syrian Arab Republic
113. Tajikistan
114. Thailand
115. Timor-Leste
116. Tunisia
117. Turkey
118. Turkmenistan
119. Ukraine
120. United Arab Emirates
121. United Kingdom
122. United Republic of Tanzania
123. United States of America*
124. Uruguay
125. Venezuela
126. Viet Nam
127. Yemen
128. Zambia

* These delegations reiterated to the Chairs of the Fourth Meeting of States, in the context of this meeting, the positions expressed in their communications addressed to the Depositary of the four Geneva Conventions and circulated by the Depositary by Notifications GEN 3/14 of 21 May 2014 and GEN 4/14 of 27 June 2014.