

Geneva, 20 November – 8 December 2006

Item 10 of the provisional agenda

**Review of the operation of the Convention
as provided for in its Article XII**

ENHANCEMENT OF THE CONFIDENCE-BUILDING MEASURE (CBM) PROCESS

Submitted by France on behalf of the European Union¹

I. The disappointing performance of the confidence-building measures

1. The Confidence-Building Measures (CBMs), relating to Articles V and X of the Convention, were put in place at the Second Review Conference in 1986 and developed further at the Third Review Conference in 1991, with the aim of enhancing transparency and improving the implementation of the Convention. As the study annexed to the present document indicates (English and French only), CBM performance has not matched up to initial expectations:

- (i) The States making CBM declarations often complete the forms in an unsatisfactory manner (responses that are inconsistent, incomplete, etc.) such that it is difficult to extract clear information from them.
- (ii) Overall, too few States Parties make such declarations (between 33 and 45 declarations each year for 155 States Parties to the Convention; 90 States have never submitted a declaration). The goal of transparency pursued by the CBMs has therefore not been satisfactorily attained.
- (iii) In the light of these facts, the EU proposes certain corrective steps to improve the usefulness of the CBMs. Some could be agreed on at the Review Conference, some could be examined in an expert meeting after the Review Conference as part of the next work programme.

¹ This is one of a series of complementary papers submitted by the EU Member States for the consideration of States Parties. The Acceding Countries Bulgaria and Romania, the Candidate Countries Turkey, Croatia and the Former Yugoslav Republic of Macedonia, the Countries of the Stabilisation and Association Process and potential candidates Albania, Bosnia and Herzegovina, Serbia, as well as Ukraine and Republic of Moldova align themselves with this paper.

II. EU proposals for the Sixth Review Conference

2. In order to make progress toward universality, the EU supports two categories of measures to improve the CBM process that could be discussed at the Review Conference: technical improvements and political incentives.

Technical improvements

3. An expanded role could be assigned to multiple-choice questionnaires (MCQs), in order to facilitate the task of official departments responsible for submitting the CBMs. Indeed, administrative difficulties probably explain the lack of CBM declarations in many cases.

4. A computerised CBM form (with or without MCQs) would make it possible to standardise declarations and would make the task of official agencies easier while avoiding any limitation of the scope of the responses: all the questions would be retained and the responses would be integrated into electronic data fields.

5. Electronic CBMs would also allow faster and easier circulation of declarations to the United Nations Department for Disarmament Affairs (DDA). They would however require a secure system for electronic transmission.

6. Finally, States Parties in a position to do so could support other States Parties that request assistance in returning their CBMs. Requests for and offers of assistance could be channelled through the BTWC Secretariat.

Political incentives

7. Reminders sent out by the DDA to all States Parties to submit CBMs: in addition to the reminder by depositary States, the BTWC Secretariat could easily send out to all States Parties reminders of the CBM schedule. States Parties could be invited to designate a point of contact to which these reminders should be sent. If necessary, further reminders could be sent out after the deadline of 15 April.

8. An additional annual reminder by the United Nations Secretary-General (UNSG): the UNSG could send out a communication in January every year to all States Parties to remind them of the CBM timetable and encourage them to send in the declarations to the DDA before 15 April of the coming year.

9. The EU considers these changes could easily be made at the Sixth Review Conference.

III. Further EU proposals to enhance the CBM process

10. The CBMs currently comprise two parts: a preliminary declaration intended to clarify the content of the CBM return, and the specific forms A-G.

The preliminary declaration

11. As this stands, it serves to increase confusion. It needs to be clarified: the “*nothing to declare*” / “*nothing new to declare*” declaration is unsatisfactory since the responses of the States Parties are not always clear. If the State Party ticks “*nothing new to declare*”:

- (i) and completes the related form: it could be assumed that this information is from the previous year.
- (ii) and does not complete the related form: it could be assumed that the information from the previous year is still valid.

There therefore appear to be at least two different modes of response for one and the same situation.

12. If on the other hand the State Party ticks “*nothing to declare*”:

- (i) logic would dictate that the State Party is indicating nothing, which is what some do;
- (ii) but when the relevant form is completed, the interpretation is ambiguous: does the State consider the information to be insignificant?

There are therefore once again two modes of response for one and the same situation.

13. Certain States indicate in addition for the same section that they have “*nothing*”, and also “*nothing new*” to declare, which seems paradoxical.

14. The consistency between the preliminary declaration and the items entered on the forms varies considerably from State to State:

- (i) A good many States fill in a very limited number of fields, justifying this by stating that they have nothing to declare.
- (ii) However, some fill in a very limited number of fields without justifying this by adding the statement (nothing/nothing new to declare).

15. All in all, the “*nothing to declare*” / “*nothing new to declare*” declaration does not, contrary to the purpose assigned to it in 1991, simplify the reading of the CBMs but rather adds to the confusion. Certain specific modifications to the preliminary declaration would make the CBMs easier to understand.

Proposals for clarification of the preliminary declaration

16. A reshaping of the preliminary declaration form along the lines set out below would make it possible to eliminate the ambiguities arising from the declaration as it is currently constituted:

Does your country have anything to declare this year on Measure A, part I ?

(a) Yes, it has something to declare in this form for the first time (please complete form);

(b) Yes, it has previously declared something in this form, and needs to update or modify details (please complete form);

(c) Yes, but this information has already been declared since [year] and has not changed; (no need to complete form)

(d) No - it has nothing at all to declare on this form².

These four questions could then be repeated for each of the forms A to G (including all the parts to forms A and B).

The questions on the forms A to G

17. The quality of the responses to the questions on the forms varies considerably from State to State and from one section to another. New “implementation procedures” could therefore supplement or clarify those agreed at the Third Review Conference:

- (i) CBM “A”: the Third Review Conference requested the provision of data on research centres and laboratories that meet very high national or international safety standards, “for example those designated biosafety level 4 or P4 or equivalent standards”. There is a need to ensure that this formula is unequivocal by making it clear that it is necessary to include level 4 laboratories, while not limiting States that want to include other laboratories which meet very high safety standards.
- (ii) CBM “C”: Rather than the manner of interpretation of this measure, it is the measure itself that could include the following clarifications in order to make a clear distinction between “publications” and “policy regarding publication”:

“Encouragement of publications of results and promotion of use of knowledge

4.1 Publications of research centres and laboratories covering the area of the confidence-building measures.

4.2 Policy regarding the publication of results of biological research”

- (iii) CBM “D”: The implementing procedures could provide for two headings: past seminars on the one hand and, on the other, planned seminars: the section would in fact be more easily completed by States Parties if it were retrospective and not solely prospective.

18. These, and possibly other, modifications of the preliminary declaration adopted in the Final Declaration of 1991 and of the CBM forms could be discussed and agreed on at an

² Nothing at all to declare means: There is and there has not been in the past any activity to report that could justify the issue of data or any type of information as defined in the Final Declarations of the 1986 and 1991 Review Conferences of the States Parties to the BTWC.

intersessional meeting dedicated to CBMs, if necessary for referral to the Seventh Review Conference.

Annex

[ENGLISH and FRENCH ONLY]

**CONFIDENCE-BUILDING MEASURES: ANNUAL INFORMATION EXCHANGE BY
STATES PARTIES
(REPORTS 2000-2005)**

I. Introduction

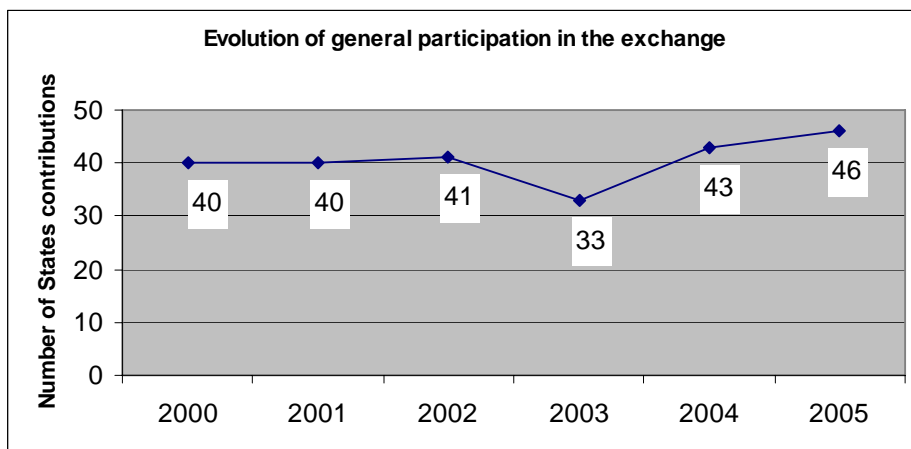
1. At the Second Review Conference of the BTWC in 1986, the States Parties agreed to implement some measures intended to strengthen compliance with the Convention and to improve transparency. These were extended at the Third Review Conference in 1991. These confidence-building measures (CBMs) consist of an annual exchange of data and information, as well as declarations of past and present activities of relevance to the Convention.

2. In November 2006, the Sixth Review Conference of the BTWC will take place in Geneva and the question of strengthening the CBM mechanism will be one of the issues of interest. This report is therefore an overview of the information submitted by States Parties to the BWC from 2000 to 2005.

II. General trends

General participation in the exchange since 2000:

Year	2000	2001	2002	2003	2004	2005
Number of States contributions	40	40	41	33	43	46



These figures are approximately at the same level as during the previous decade (1990-2000) when the number of contributions varied from 31 (1990) to 53 (1996).

Between 2000 and 2005:

- 22 States Parties have submitted data every year.
- 60 have done so at least once.
- More than 90 have never participated.

In other words, only a minority of States are involved in this exchange of information.

Every year, less than a third of States Parties to the Convention submit a declaration.

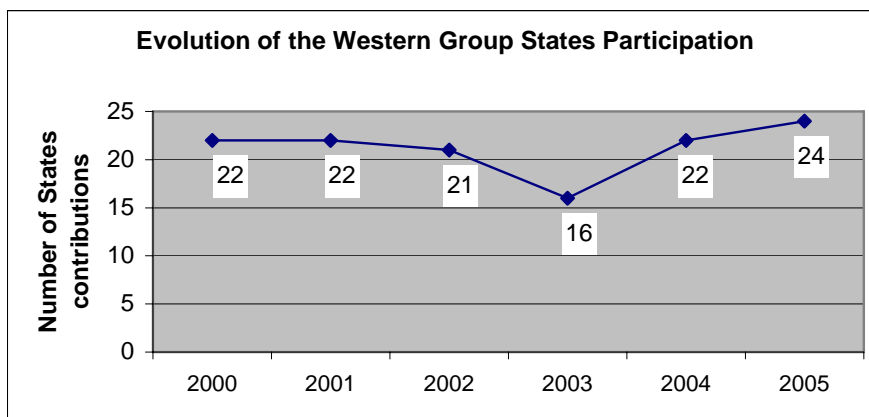
III. Trends in regional groups

Trends in the Western Group

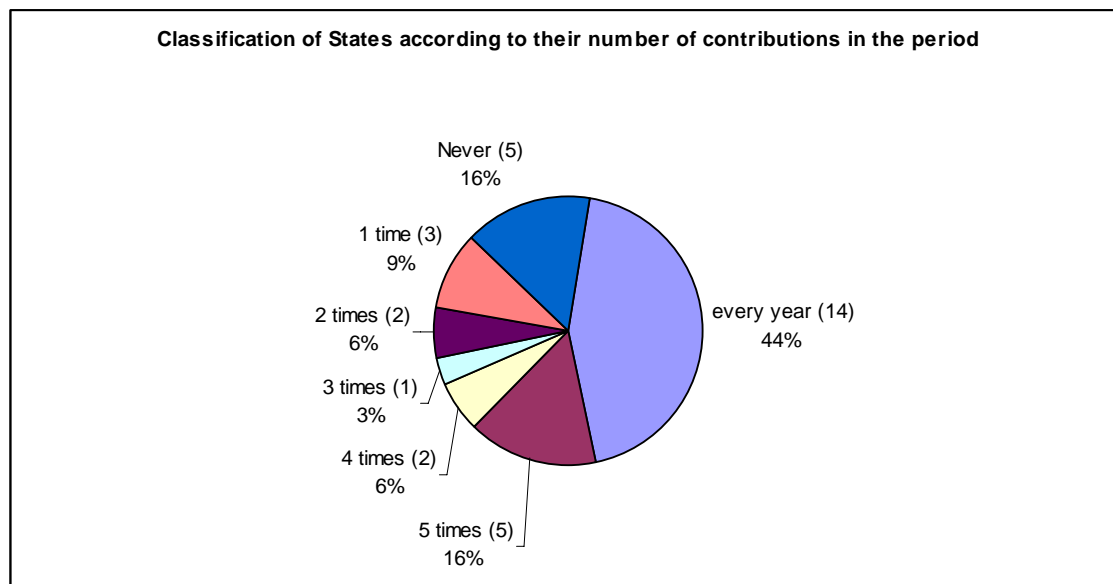
The Western group is composed of 32 States Parties to the BTWC.

Evolution of participation in this group:

Year	2000	2001	2002	2003	2004	2005
Number of States contributions	22	22	21	16	22	24
% of States participating	69%	69%	66%	50%	69%	75%



Number of contributions by Western group States in the period:



- The States having participated every year are as follows: Argentina, Australia, Canada, Finland, Germany, Italy, Netherlands, Norway, New-Zeland, South Korea, Switzerland, Turkey, United Kingdom, United States

- The States having participated 5 times are as follows: Austria, Belgium, France, Japan, Spain

- 4 times: Liechtenstein, Sweden

- 3 times: Malta

- 2 times: Ireland, San Marino

- once: Denmark, Greece, Luxembourg

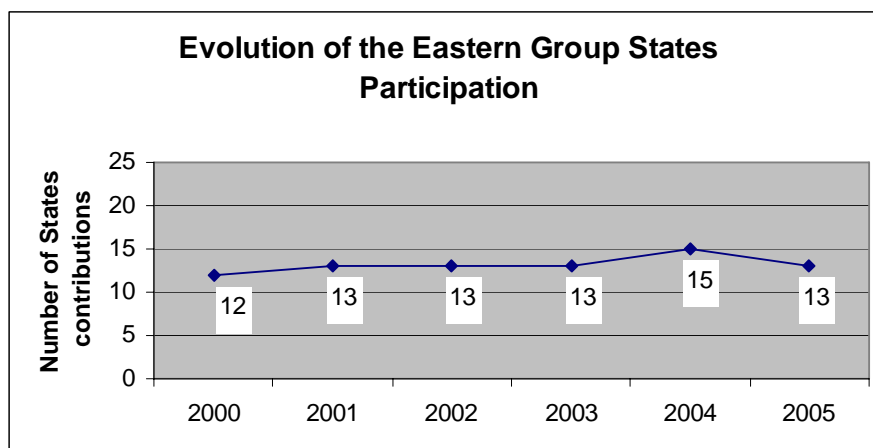
- The States having never participated are as follows: Cyprus, Holy See, Iceland, Monaco, Portugal.

Trends in the Eastern Group

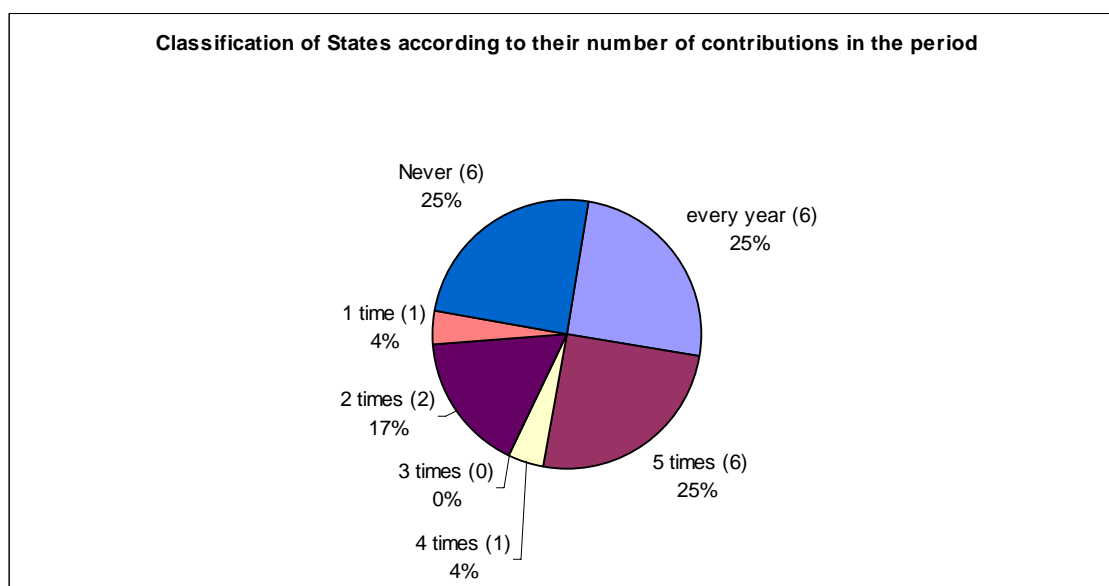
This group is composed of 24 States Parties.

Evolution of participation in this group:

Year	2000	2001	2002	2003	2004	2005
Number of States contributions	12	13	13	13	15	13
% of States participating	50%	54%	54%	54%	63%	54%



Number of contributions by Eastern group States in the period:



- The States that submitted data every year are as follows: Belarus, Bulgaria, Czech Republic, Lithuania, Russia, Slovakia.

- The States that participated 5 times are as follows: Estonia, Georgia, Poland, Romania, Ukraine, Uzbekistan.

- 4 times: Hungary

- No State participated 3 times

- 2 times: Armenia, Croatia, Latvia, Slovenia

- Once: Serbia and Montenegro

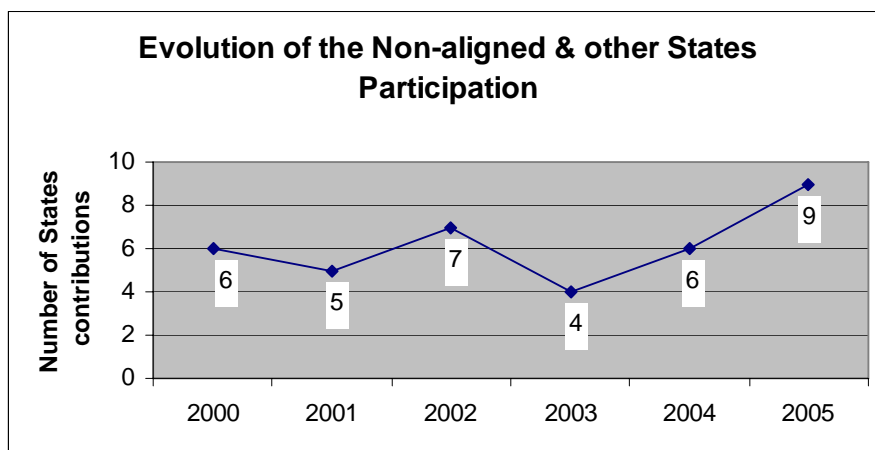
- States that never participated: Azerbaijan, Albania, Bosnia, Moldova, FYROM, Tajikistan

Trends in the group of non-aligned and other States:

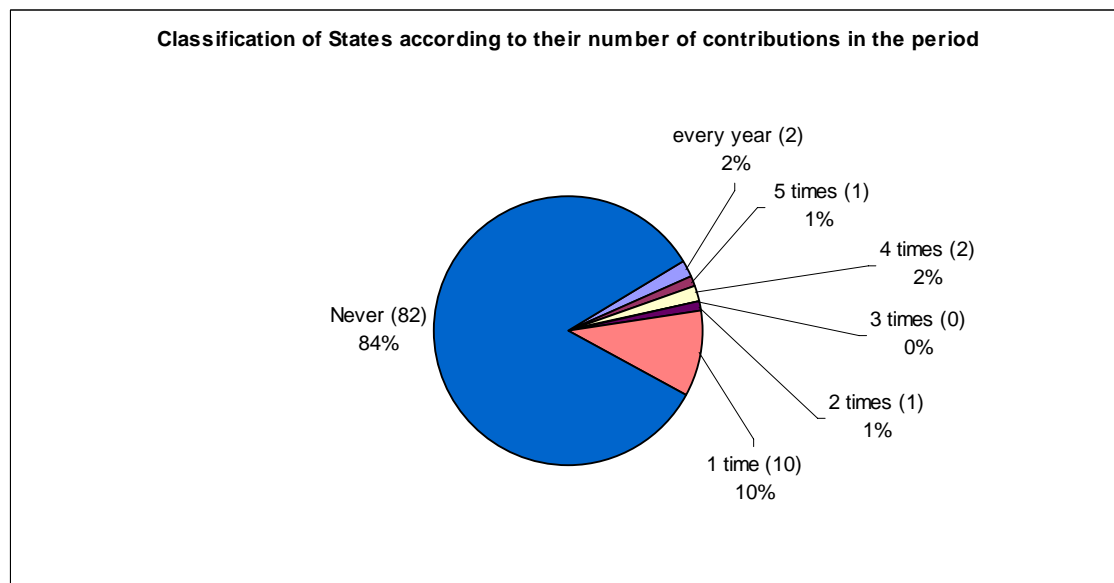
This group is composed of 98 States Parties.

Evolution of participation in this group:

Year	2000	2001	2002	2003	2004	2005
Number of States contributions	6	5	7	4	6	9
% of States participating	6%	5%	7%	4%	6%	9%



Number of contributions by States in the period:



- The States that have submitted data every year are as follows: China, Cuba
- States that have done so 5 times: South Africa
- 4 times: Brazil, Chile
- No States have participated 3 times

- 2 times: Costa Rica
- Once: Belize, Grenada, Iran, Libya, Mauritius, Mexico, Peru, Qatar, Tunisia, Turkmenistan
- The 82 others have never participated.

Analysis

3. These figures allow us to reach two main conclusions:

(1) The level of participation in each group is quite constant:

- In the Western Group, it is usually between 60 and 70 %
- In the Eastern Group, it is usually between 50 and 60 %
- In the non-aligned and other States group, it never goes beyond 10 %
- From a general point of view, a slight increase in the number of contributions can be observed over the past two years, but it remains below the highest point reached in 1996 (53).

(2) There are significant differences in the different groups' level of participation.

The participation level is especially low in the non-aligned and other States group. In this group, many States have given information only once. About 10 % of them (10 States) have done so since 2000. But many participated once (or twice) in the 80s/90s. That includes 27 (about a third) of the 82 States that have not submitted any data since 2000. Therefore, over 40 % of these States have participated in the exchange at least once in the past. They may consider that participating once is enough if they have nothing more to say.

IV. Qualitative analysis

4. After having studied the number of contributions (quantitative analysis), we can now adopt an analytic point of view. This allows us to make different observations. Firstly, some remarks have to be made on the following concepts: "nothing to declare" and "nothing new to declare":

- (i) The form is divided into 11 different kinds of measures and questions that States have to answer. A simple pro forma gives States the opportunity to tick boxes labelled "nothing to declare" and "nothing new to declare" for each CBM. The existence of this introductory Declaration Form is beneficial as a way to buy time, but States seem to have different understandings of these expressions. Indeed, most States do not submit any information on the measures in respect of which they have ticked one of these boxes, but it is not the case for all of them.
- (ii) When States submit data while indicating "nothing new to declare", this generally means that they are giving the same information as previous years.

- (iii) When States submit data while indicating “nothing to declare”, the situation is more ambiguous. This probably means that these answers are insignificant and/or do not pose any problems regarding compliance with the Convention.

But these are only assumptions and one cannot be sure regarding the States’ understanding of these concepts. There is no clear definition of these notions. A clarification would be useful.

5. Secondly, one can note a great variety regarding the quality of the forms. Although a majority of States fill out the form in a substantive manner, this is not the case for all of them:

- (i) A small number of States answer a minority of answers without justifying it by indicating “nothing to declare” or “nothing new to declare”.
- (ii) A greater number of them indicate “nothing to declare” for a lot of CBMs and therefore generally deliver little information. It is difficult to determine whether they have effectively “nothing to declare” or whether it is an issue of willingness.
- (iii) Some others indicate “nothing new to declare” for a lot of CBMs. In theory, this means that the information has been delivered in a previous report, but it is difficult and time-consuming to check.
- (iv) Some others tick both kinds of boxes, which raises the same issues. Some even only tick boxes in the Introduction Declaration Form without submitting further information.

V. Conclusions

6. Participation in the exchange is limited. Every year, in the 90s as well as since 2000, less than one-third of States Parties submitted data. Efforts should therefore aim at increasing this level of participation and we can note that the strengthening of the mechanism at the September 1991 Third Review Conference allowed a slight improvement of the participation level which rose from 41 in 1991 to 53 in 1996.

If participation is not general for any regional groups, the nonaligned and other States group appears to be the one where it is lowest.

7. The quality of the declarations submitted also fluctuates greatly. This is another issue that could be tackled.

8. The meaning of the two concepts “nothing to declare” and “nothing new to declare” is moreover unclear and a redefinition would be useful. The repeated use of the box “nothing new to declare” is particularly confusing. It means - at least in theory - that the information has been delivered in a previous report. Therefore, in order to facilitate the research of information, it would be useful to ask States to specify when the data was submitted, which has not been the case to date.
