

**Eighth Review Conference of the States Parties
to the Convention on the Prohibition of the
Development, Production and Stockpiling
of Bacteriological (Biological) and
Toxin Weapons and on Their Destruction**

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General exchange of views**

**Strengthening confidence-building and consultative
mechanisms under the Biological Weapons Convention**

Submitted by the United States of America


Introduction

1. The Biological and Toxin Weapons Convention (BWC) codifies the global norm against the misuse of biological materials as weapons, and commits States Parties to ensure that such materials are only used for the benefit of humankind. The United States of America attaches great importance to compliance with the BWC by all States Parties. Maintaining and promoting confidence that States Parties are abiding by their commitments is essential to ensuring the stability and integrity of the treaty regime. Because it is very difficult to verify compliance with the BWC, it is even more important to take practical steps to enhance transparency, build confidence in compliance, reduce doubts or concerns about States Parties' actions or intentions, and to constructively address questions when they arise.
2. BWC States Parties have long recognized the need for such steps. The Second BWC Review Conference established a system of annual confidence-building measures (CBMs) and a multilateral consultative process as tools that could be used to address questions or concerns. Both mechanisms were further refined by the Third Review Conference. The Sixth Review Conference endorsed a move to an electronic CBM system and the publication of CBMs on a password-protected website. The Seventh Review Conference made the first substantive changes to the CBM forms in two decades, including streamlining some reporting requirements to encourage participation. Other refinements have been adopted by individual States Parties and have gradually spread; for example, more than one-third of all States Parties submitting CBMs now make their returns accessible to the general public. Despite this progress, the United States of America believes States Parties should consider further steps to strengthen both the confidence-building and consultative mechanisms.
3. Further steps to strengthen CBMs could provide for both easier access to, and analysis of, relevant information, as well as expanding participation. As the United States

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of America noted in a 2012 working paper, “not only should States Parties consider how to increase submission of CBM reports, but also how to make the data they contain more readily accessible and how to encourage States Parties to make constructive use of them. Without these steps, submission of CBMs – even on a universal basis – will be a hollow, ceremonial accomplishment, and do little to achieve the goals for which the CBMs were created.”

4. Expanding participation in the CBMs reporting could be enhanced, for example, by developing more “user-friendly” electronic tools for annual submissions of CBM reports. To facilitate use of the consultative provisions of the Convention, a broader range of options and tools for consultation and cooperation under Article V could be developed to provide a framework to more effectively address both broad implementation challenges that affect many States Parties and specific questions and concerns in a cooperative manner.

5. With these goals in mind, the United States of America has identified a number of specific measures that could be considered and agreed by the Eighth Review Conference, or further developed during the next intersessional process. The United States of America welcomes comments and suggestions on this initial list of ideas.

Confidence-Building Measures

6. CBMs were established in 1986 as a politically binding commitment “to strengthen the authority of the Convention and to enhance confidence in the implementation of its provisions.”¹ Submission of annual CBMs is an effective way for States Parties to demonstrate their implementation of the BWC and enhances confidence among States Parties that others are fulfilling their treaty obligations. The CBMs are also one of the BWC’s few available tools to exchange information and facilitate discussions among States Parties. For these reasons, among others, we welcome the increased participation in the CBMs, and encourage all States Parties to fulfill their commitments by submitting yearly CBM reports.

7. Additionally, States Parties can do better to enhance the quantity and quality of information currently provided in the CBMs. At the Eighth Review Conference, the United States of America seeks to enhance not only participation in BWC CBMs, but their utility and actual use by States Parties. With these objectives in mind, the United States of America suggests States Parties explore proposals that would:

(a) Establish a CBM assistance network, coordinated by the Implementation Support Unit (ISU), to provide expert advice and assistance for States Parties upon request, and urge States Parties in a position to do so to offer and to coordinate assistance, training, translations, and workshops in support of tasks such as compiling and submitting CBMs;

(b) Provide for the further development and ongoing operation and maintenance of the CBM electronic platform, following through on the decision of the Sixth Review Conference. Completing the transition to a fully electronic CBM system would simplify both reporting and analysis, and make the data more useful; and

(c) Further technical refinement on the type and range of information requested in select CBM forms with a view to generating more useful information. For example:

(i) Revising CBM Form A (Part 2 (i)), which calls for information on national biodefense research programs, to clarify that the request for information includes both military and civilian programs. At present, roughly one-third of the States

¹ BWC/CONF.II/13/II (Second Review Conference Final Declaration)

Parties declaring national biodefense research programs report civilian biodefense research. For the remaining two-thirds of States Parties, it is not clear whether they have construed the request for information to apply only to military programmes, or whether they do not have biodefense research programs conducted by civilians aimed at protecting the civilian population.

(ii) Expanding CBM Form E on national implementation measures to provide more information, for example by adding a request for short descriptions of implementation measures. The current requests consist of a handful of yes/no questions with boxes to be checked, and do not provide sufficient information to make informed judgements regarding the status of BWC implementation by States Parties. Such national implementation measures are fundamental steps to upholding and strengthening the norm against the misuse of biological materials, and critical to guarding against the acquisition and use of biological weapons by both State and non-State actors.

Consultation and Cooperation

8. Article V of the BWC provides that “States Parties to this Convention undertake to consult one another and to cooperate in solving any problems which may arise in relation to the objective of, or in the application of the provisions of, the Convention...” and that such consultation and cooperation “may also be undertaken through appropriate international procedures within the framework of the United Nations and in accordance with its Charter.” Subsequent Review Conferences have elaborated understandings and procedures regarding how these obligations should be fulfilled that were designed to provide more detail than is provided in the Article, while preserving its flexibility to States Parties in seeking clarification. While this flexibility should be maintained, a wider array of tools to facilitate bilateral and multilateral consultation could empower States Parties to engage more proactively in consultation and cooperation. Importantly, Article V of the Convention can and should be used not only for concerns about compliance, but also more broadly to resolve questions, clarify concerns, and/or address shared challenges. To facilitate and encourage more widespread use of Article V to address “any problems which may arise...,” it can be strengthened in a number of ways, including:

(a) Developing more detailed options for bilateral consultations, including some basic procedures, with timelines, that could be invoked when a concern is raised. The 1986/1991 Review Conference documents set out specific procedures for multilateral consultative meetings, and also envisaged bilateral engagements. Options for bilateral consultations could be adapted from the relevant provisions in Article IX of the Chemical Weapons Convention (CWC); similar provisions are also found in the Comprehensive Nuclear-Test-Ban Treaty (CTBT). This would then provide a range of tools for States Parties seeking clarification, from an informal request for information, to a more formal procedure that, properly framed, would require a response by a certain period of time.

(b) Developing separate, lower-key procedures for States Parties’ use to ask questions about another State Party’s CBM submission bilaterally or perhaps through the ISU. Because CBMs occasionally contain information that is unclear, inconsistent, or conflicts with other information, such questions should not be a rare occurrence, and seeking clarification of such issues should not carry any implication of suspicion of wrongdoing.

(c) Developing illustrative options or non-binding guidelines for suggested procedures to address concerns. This could increase the interest and willingness of States Parties to engage in such consultative procedures, and could be a useful intersessional activity.

(d) Establishing an understanding that, where bilateral or multilateral consultations are unsuccessful, a State Party could request the United Nations Secretary-General to use his/her “good offices” to seek clarification, and calling on all States Parties to cooperate with any such effort. Such an understanding would explicitly serve as an “appeal” function, effectively escalating concern to a higher level if initial consultations are unsuccessful.
