

**Meeting 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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English only

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Standing agenda item: Strengthening national implementation

Strengthening Implementation of Article III of the BTWC

Submitted by India and the United States of America

Introduction

1. Article III of the Convention states:

'Each state party to this Convention undertakes not to transfer to any recipient whatsoever, directly or indirectly, and not in any way to assist, encourage, or induce any State, group of states or international organizations to manufacture or otherwise acquire any of the agents, toxins, weapons, equipment or means of delivery specified in Article I of this Convention.'

2. The Seventh Review Conference:

'-reaffirmed that Article III is sufficiently comprehensive to cover any recipient whatsoever at the international, national or subnational levels;

-called for appropriate measures, including effective national export controls, by all States Parties to implement this Article, in order to ensure that direct and indirect transfers relevant to the Convention, to any recipient whatsoever, are authorized only when the intended use is for purposes not prohibited under the Convention;

- reiterated that States Parties should not use the provisions of this Article to impose restrictions and/or limitations on transfers for purposes consistent with the objectives and provisions of the Convention of scientific knowledge, technology, equipment and materials under Article X.'

3. The Eighth Review Conference should adopt further specific decisions and recommendations on measures to promote and strengthen the implementation of Article III. Some suggested measures are elaborated in this Working Paper for consideration and approval at the next Review Conference.

4. **National Legislation:** Each State Party should establish, amend or review, as necessary and in accordance with its constitutional procedures, appropriate legislation, regulatory or administrative provisions to regulate transfers relevant to Article III of the



Convention. Upon request, States Parties in a position to do so may provide assistance to other States Parties on drafting legislation, or on establishment of administrative authorities or regulations, training of personnel, supply of equipment or advice relevant to the implementation of Article III.

5. **National Export Controls:** States Parties should agree that such national measures should include the following essential elements:

(a) National legislation and related administrative, regulatory provisions or rules that allow for effective implementation of Article III, including penalties, both civil and criminal, for violations;

(b) A list of items requiring authorization prior to export; such a list should include materials and technologies¹ to prevent transfers, both direct and indirect, and both tangible and intangible, that would be in contravention of the Convention; this list should be reviewed and updated regularly. National measures should also include ‘catch all’ controls on unlisted items;

(c) A national licensing system containing relevant factors for evaluating export applications and making a licensing decision that include possible dual-use applications of the item; relevant information on the recipient, recipient state, and all other parties to the transaction; stated end use and end-use assurances; and risks of misuse, diversion or re-transfer without authorization, among others;

(d) Export control guidelines should be comprehensive and include criteria for transfers to limit the risks of proliferation of biological weapons by States or non-State actors, including the risks of such items falling into the hands of terrorist groups or individuals; regular outreach to all stakeholders including industry and academia;

(e) All export control authorizations or otherwise remain the national decision of State Parties.

The above elements could be refined during future meetings of the BWC.

6. **Cooperative activities:** States Parties, in a position to do so and upon request, may provide assistance to other States Parties in establishing or improving their national export systems through training, sharing of best practices, and supply of relevant equipment and/or financial support. States Parties are encouraged to undertake cooperation in this field bilaterally, regionally or through multilateral arrangements, as appropriate and on the basis of the consent of the States Parties concerned. A voluntary fund may also be established to provide assistance to State Parties in this regard, which may be coordinated through the ISU. States Parties, may, if they deem it appropriate, consult and exchange further information amongst themselves to enhance clarity and confidence that implementation of Article III would ensure that the cooperation envisaged under Article X is taken forward in mutual confidence and that the Convention as a whole is implemented in a balanced manner.

7. **Future Steps:** This Working Paper is intended to encourage discussion amongst States Parties on strengthening implementation of Article III by elaborating the measures listed above so that relevant decisions could be taken at the Eighth Review Conference.

¹ Such as the list set out by the United Nations in S/2006/853.