

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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Item 6 of the provisional agenda

Issues of substance and process for the period before the next Review Conference, with a view to reaching consensus on an intersessional process

Intersessional Programme

Submitted by Cuba

I. Overview

1. Since 2001, when a State Party unjustifiably interrupted several years of negotiations of a legally binding protocol to the Convention that were about to conclude, the international community aspires to adopt a protocol to strengthen the Biological Weapons Convention in a comprehensive and balanced manner, including through a verification mechanism. This is the only truly effective and sustainable way to strengthen the Convention and ensure its strict implementation in a balanced and comprehensive manner.
2. Cuba together with all NAM and other States Parties in the Convention has always promoted a legally binding instrument as mentioned above, taking into account diverse political, legal, security and economic interests of developing countries. Thus, in November 2016, during the 8th Review Conference, the NAM advocated to reinitiate the discussions on the legally binding instrument, including a verification mechanism, to be part of the work of an Open-ended Working Group to all States Parties of BWC.
3. The NAM also advocated for the establishment of a Cooperation Committee or Working Group, which would work, among other issues, in recommendations related to a dispute settlement mechanism referred to transfer denials, in the context of Article X, taking into account the importance of promoting international cooperation, without unilateral and discriminatory restrictions or limitations, for the benefit of the economic and technological development of States Parties, in particular developing States, in order to meet the current challenges.
4. There were other relevant proposals presented during the Review Conference by other States Parties like a proposal for a Multilateral export control mechanism that would also have been an important step forward in eliminating all restrictions on the free exchange of equipment, materials and scientific information for the use of biological agents and toxins for peaceful purposes. Initiatives such as the proposal for a Model Code of Conduct for scientists; the Biomedical Units to provide assistance and investigation, the establishment of a working group on science and technology, among other several proposals, would have added value on the current intersessional period.



5. However, due to the lack of agreement related to the manner in which operates the current decision making process in the framework of the Convention, the minimalist option was the outcome of the Conference. In this sense, it was decided to only hold annual Meetings of States Parties.

6. In addition, the 8th Review Conference decided that the Meeting of States Parties in December 2017 “will seek to make progress on issues of substance and process for the period before the next Review Conference, with a view to reaching consensus on an intersessional process”.

II. Future vision

7. Currently, 179 States are Party to the Convention, as a proof of the commitment towards the legal obligations established under this essential Convention.

8. Under the legal framework of BWC, States Parties should continue negotiations on a legally binding instrument or at least initiate discussions on this matter of common interest. There is also a priority to reinforce international cooperation to facilitate the full, comprehensive, effective and non-discriminatory implementation of Article X.

9. States Parties unequivocally share a common interest to strengthen the effectiveness of the Convention and improve its implementation in a comprehensive manner. Rapidly evolving developments in science and technology, proliferation, natural outbreaks, together with the threat of use of biological agents or toxins, pose major challenges to the Convention and underline the urgency of this task.

10. Unfortunately, it seems that still there is an opposition to begin negotiations on a legally binding protocol. Nevertheless, the international community should identify its common priorities and in the case of NAM countries, their priorities remains as expressed during the 8th Review Conference of BWC in 2016.

11. Under the agenda item 6 (entitled: “Issues of substance and process for the period before the next Review Conference, with a view to reaching consensus on an intersessional process”), probably there will be diverse positions regarding the work of BWC from 2018 to 2020.

12. Taking into account the purpose of the intersessional programme has been to discuss and promote common understanding and effective action the next Meeting of States Parties in December 2017, should at least better structure its discussions on the proposals presented at the 8th Review Conference with regard to the intersessional programme, although formal decisions do not result adopted.

13. In the case of NAM, it will be of high importance to promote its proposals and thus, from 2018 to 2020 there could be meetings to find common understandings with regard to the characteristics of the following two open ended working groups:

(a) Working Group on International Cooperation in the context of Article X.

(b) Working Group on a legally binding instrument to strengthen the Convention, including through verification measures.

14. The proposals of the two open-ended working groups could take into account some other proposals presented during the 8th Review Conference related to the intersessional programme. (See Annex).

Annex

Open-ended Working Groups: Characteristics and relation to future intersessional programme

- (a) Working Group on International Cooperation in the context of Article X.
 - (b) Working Group on a legally binding instrument to strengthen the Convention, including through verification measures.
1. The Working Groups will meet annually, back to back, for 5 days.
 2. The Working Groups' meetings should be held at least 3 months prior to the annual Meeting of States Parties.
 3. Each Working Group will have a Chair and two vice-chairs, to rotate annually among the regional groups. The annual Meeting of States Parties will have a Chair and two vice-chairs, to rotate annually among the regional groups.
 4. Each Working Group will prepare for the consideration of the annual Meeting of States Parties, a factual report reflecting its deliberations, including possible recommendations. In the absence of consensus on any recommendations, the report will reflect the different positions.
 5. The following topics shall be Standing Agenda Items to be addressed at annual Meetings of States Parties in the future intersessional programme:
 - Report of the Working Group on International Cooperation in the context of Article X.
 - Report of the Working Group on a legally binding instrument to strengthen the Convention, including through verification measures.
 6. The following other items could be discussed during the annual Meeting of States Parties:
 - Developments in the field of Science and Technology related to the Convention.
 - National implementation.
 - Non-proliferation export control regime under the framework of the Convention
 - Detailed procedure and mechanism for a timely, effective and adequate response under Article VII.
 - Mobile biomedical units to deliver protection against biological weapons, investigate their alleged use, and to suppress epidemics of various etiology.
 - Development of a model code of conduct for biological scientists under the Convention.
 7. The Review Conference will consider the work and outcome of these meetings and decide on any further action.
 8. Special Conferences might be convened by a majority of States Parties during the intersessional period to consider and decide on urgent substantive matters.
 9. The Meeting of States Parties could adopt decisions on budgetary, administrative and organizational matters related to the intersessional period which do not imply modifications of the decisions adopted by the Review Conference.

a) Institutional Mechanism for International Cooperation in the context of Article X: Open-Ended Working Group on International Cooperation.

1. The Conference decides to establish an Open-Ended Working Group on International Cooperation to facilitate the full, comprehensive, effective and non-discriminatory implementation of Article X.

2. The Working Group shall have the mandate to:

(a) Review the reports by States Parties on their implementation of Article X, and reports by the ISU on the operation of the database system to facilitate assistance requests and offers;

(b) Identify challenges and obstacles to developing international cooperation, assistance and exchange in the biological sciences and technology, including equipment and material, for peaceful purposes to their full potential, and possible means of overcoming these;

(c) Recommend specific measures for the full and comprehensive implementation of all provisions of Article X, including facilitation of cooperation and assistance in terms of equipment, materials and scientific and technological information for peaceful purposes, and identification of critical gaps and needs in these areas;

(d) Recommend a format and procedure under the Convention to settle disputes arising from concerns related to the implementation of Article X, including transfer denials that a State Party might consider inconsistent with Article X provisions.

(e) Recommend measures to strengthen the operation of the database system established by the 7th Review Conference, to ensure that specific, timely and concrete offers of cooperation and assistance under Article X are provided by States Parties in the database and measures to improve reporting on this issue, taking into account the States Parties concerns over the mismatch of the proposed offers and requests, in particular for developing countries States Parties to the Convention.

(f) Recommend ways and means to target and mobilize resources, including financial resources, to address gaps and needs for assistance and cooperation, in particular from developed to developing States Parties, and from international and regional organizations and other relevant stakeholders;

(g) Recommend actions on education, training, exchange programmes and other means of developing human resources in the biological sciences and technology relevant to the implementation of the Convention, particularly in developing countries;

(h) Recommend actions to promote capacity-building, through international cooperation, in biosafety and biosecurity and in the areas of preparedness, response, crisis management and mitigation of outbreaks of infectious diseases and analogous events;

(j) Recommend actions to strengthen an efficient coordination of cooperation with other relevant international and regional organizations, and other relevant stakeholders.

3. The Working Group on International Cooperation shall be open to participation of all States Parties. Signatories, and Observer states to the Convention can participate as Observers. The Working Group could also invite to its sessions relevant international and regional organizations, and other relevant stakeholders.

4. The Working Group on International Cooperation shall meet annually for two and a half days.

b) Open-Ended Working Group on a legally binding instrument to strengthen the Convention, including through verification measures.

1. Determined to strengthen the effectiveness and improve the implementation of the Convention in all its aspects, the Conference decides to establish an Open-Ended Working Group, to consider appropriate measures, including verification measures, to be included in a legally binding instrument.
 2. This Group will have the mandate to consider and prepare recommendations on the following issues:
 - (a) The incorporation of existing CBMs, as appropriate, into a legally binding instrument.
 - (b) Measures to promote compliance with the Convention, including, as appropriate, verification measures. Such measures should apply to relevant facilities and activities, being reliable, cost effective, non discriminatory, and non intrusive as possible and should not lead to abuse.
 - (c) Specific measures design to ensure effective and full implementation of article X which also avoid any restriction incompatible with the obligations undertaking under the Convention, noting that the provisions of the Convention should not be used to imposed restrictions and/or limitations, and on the transfer for purposes consistent with the objectives and the provisions of the Convention of scientific knowledge, technology, equipment, and materials.
 3. In undertaking its task, the Working Group will take into account all previous proposals presented by States Parties and all other relevant material, including the work of the Ad Hoc Group established by the 1994 BWC Special Conference.
 4. The Group shall meet annually for two and a half days.
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