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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Confidence Building Measures (CBM) submissions in terms of quantity and quality

Improving the Quality of CBM Information: A Review of Recent Proposals and Some Suggestions for Future Work

Submitted by the United States of America

Summary

CBMs should capture relevant, useful information in a clear and unambiguous way. Moderate changes to the existing CBM forms, including Forms "0", A (Part 2 (i)), Form E, and others would improve the saliency of information reported, thereby increasing the utility of CBMs as tools for generating discussion and preventing or reducing the occurrence of doubts or ambiguities. Given the limited time available in the formal Expert Meeting process, interested States Parties should consider convening open-ended, informal discussions with a view to developing a widely-supported package of proposals in time for the Ninth Review Conference.

I. Introduction

1. Achieving the underlying purpose of the BWC Confidence-Building Measures requires not only increasing the number of submissions, but improving the quality and relevance of the information provided. While the Seventh Review Conference adopted a number of minor amendments, the CBMs are nevertheless largely unchanged since the Third RevCon in 1991. Recent efforts to increase submission of CBMs – including facilitation through the eCBM tool – are important steps toward strengthening this tool.

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Concurrently, updating the CBM forms to capture more timely and relevant information would improve their utility as a vehicle for improving confidence in compliance and transparency amongst States Parties. As the United States of America has previously noted, States Parties should consider "how to make the data they [CBMs] 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."[1]

2. At the 2017 Meeting of States Parties, Parties agreed to a Meeting of Experts on "strengthening national implementation," which as a part of the 2018-2020 intersessional period, includes consideration of "CBM submissions in terms of quantity and quality". With the goal of improving the quality of CBMs in mind, this paper amalgamates select aspects of the numerous thoughtful proposals put forward by States Parties, with the hopes of generating renewed, vigorous discussion, including new proposals.

New Proposal: Make the CBM Cover Sheet ("Declaration form on Nothing to Declare or Nothing New to Declare for use in the information exchange") User-Friendly

3. The CBM Cover Sheet, or Form "0", is often the only CBM a State Party submits. For States Parties completing CBMs for the first time, it is their introduction to the process. Although it is simple to fill out, it is not at all simple to understand. At present, this form consists of the short title of each CBM form, with a set of check boxes [Figure 1 below]. The Cover Sheet lacks even basic information as to what each CBM form contains—so to use this "simple" form, a State Party's representative must first familiarize him- or herself with the entire set of CBM forms. This may well act as a disincentive to States Parties' submitting CBMs for the first time—and may also increase the chances that a submission consisting only of "form 0" may, in fact, be in error. Without making any changes at all in the information States Parties are requested to report, it would be possible to add to form 0 very brief descriptions of each form to help States Parties easily determine which forms are relevant for them and require further attention. Descriptions could be short, specific and adapted from existing CBM form language. For example, for CBM Form A (Part 2), a description could be as follows: "This form asks States Parties to complete information about those research facilities they maintain that conduct research with highly pathogenic or virulent biological agents. Such facilities are often informally called 'high-containment'. For Form E, "This form asks about national laws, regulations, or other measures you have adopted in order to implement the Convention."

[1] BWC/MSP/2012/MX/WP.4

Declaration form on Nothing to Declare or Nothing New to Declare for use in the information exchange

Measure	Nothing to declare	Nothing new to declare	Year of last declaration if nothing new to declare
A, part 1	☐	☐	☐
A, part 2 (i)	☐	☐	☐
A, part 2 (ii)	☐	☐	☐
A, part 2 (iii)	☐	☐	☐
B	☐	☐	☐
C	☐	☐	☐
E	☐	☐	☐
F	☐	☐	☐
G	☐	☐	☐

Figure 1: Snapshot of blank 2018 CBM Form "0" – a model of clarity?

CBM Form A (Part 2 (i)): "Exchanges of information on national biological defence research and development programmes"

5. Form A (Part 2 (i)) calls upon States Parties to describe the nature and extent of their respective biodefense research apparatuses. In the United States' 2016 paper, "Strengthening confidence-building and consultative mechanisms under the Biological Weapons Convention" (BWC/CONF.VIII/PC/WP.6), we proposed clarifying that "national biodefense programs" includes both civilian and military biodefense efforts. The paper notes that approximately a third of States Parties report biodefense research activities undertaken within their civilian sectors and that, 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."

6. We continue to advocate for these changes to Form A (Part 2 (i)). While comprehensive reporting on military programmes remains of vital importance, many States Parties do not maintain extensive military biodefense research apparatuses. However, many States Parties do concentrate or co-locate their biodefense research within their civilian sectors – to include their public health institutions. The ambiguity with regard to the scope of reporting intended under "national biodefense programmes" may reduce the incentive of such states to report in this form. Clarifying the scope of Form A (Part 2 (i)), thereby capturing this potentially large swath of civilian biodefense research, will support increased transparency amongst States Parties regarding biodefense, including better insight into potential dual-use activities. It will, in any case, provide greater clarity concerning what is being declared, and thus reduce any perceived need for consultations.

CBM Form E, "Declaration of legislature, regulations, and other measures"

7. The United States also proposes a modest modification to CBM Form E reporting by requesting short descriptions of States Parties implementation measures. Like "Form 0", the current Form E consists of simple check-boxes, with no opportunity for States Parties to provide supporting or clarifying information. Adding such information would enable States Parties to better understand the nature and extent of one another's implementation; such information could also serve as illustrative examples or guidance for States Parties seeking to develop their own implementing legislation, regulation, or other measures. Short descriptions within each category of Form E could therefore provide the dual benefit of reinforcing transparency and confidence in compliance and serving as a potential resource for States Parties in their national implementation. As the United States noted in 2016, "[s]uch 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"; strengthening existing tools for national implementation therefore remains of paramount importance. [2] The United States currently provides such descriptions, on a voluntary basis, immediately following the official Form E.

8. In its 2016 paper, "Strengthening confidence-building measures in regard to dual use materials" (BWC/CONF.VIII/PC/WP.35), Germany proposed expanding Form E to address the potential dual-use risk of exporting "genetically modified organisms and synthesised genetic sequences" (Figure 2 below). With this proposal, Germany noted its desire to update the CBMs to better reflect information on "additional risks originating from developments in the field of genetic engineering of microorganisms and the resulting availability of synthetic DNA." As stated above, the United States of America recommends that any expansion of Form E also include a short description of the nature of associated legislation or regulation.

Form E

Declaration of legislation, regulations and other measures Relating to	*Legislation*	*Regulations*	*Other measures*	*Amended since last year*
(a) Development, production stockpiling, acquisition or retention of microbial or other biological agents, or toxins, weapons, equipment and means of delivery specified in Article I	Yes/No	Yes/No	Yes/No	
(b) Exports of micro-organisms and toxins	Yes/No	Yes/No	Yes/No	
(c) Imports of micro-organisms3 and toxins	Yes/No	Yes/No	Yes/No	
(d) Biosafety and biosecurity	Yes/No	Yes/No	Yes/No	

[2] BWC/CONF.VIII/PC/WP.6

Declaration of legislation, regulations and other measures Relating to	*Legislation*	*Regulations*	*Other measures*	*Amended since last year*
(e) Exports of genetic elements or genetically modified organisms that contain nucleic acid sequences associated with the pathogenicity of any of the microorganisms addressed under (b) or coding for any of the toxins addressed under (b), or for their sub-units	Yes/No	Yes/No	Yes/No	

Figure 2: Germany's proposed modification to CBM Form E

CBM Form G, "Declaration of vaccine production facilities"

9. The Netherlands, Switzerland and the United Kingdom of Great Britain and Northern Ireland's 2017 paper notes a potential ambiguity associated with existing Form G reporting. [3] In addition, the Russian Federation's proposal to supplement "Form G's information on human vaccine production facilities with similar data on animal vaccine production facilities," which was included in its 2016 paper "Proposal to enhance the format of confidence-building measures under the Biological Weapons Convention" is also of potential interest. [4] The United States appreciates Russia's willingness to engage in important discussions to strengthen the CBMs.

Addition to Form G: Declaration of vaccine production facilities

Add part II as follows:

State Party will declare all facilities, both governmental and non-governmental, within its territory or under its jurisdiction or control anywhere, producing vaccines licensed by the State party for the protection of animals.

Declaration of vaccine production facilities for the protection of animals:

(a) Name of facility.

(b) Location (mailing address).

(c) General description of the types of diseases covered.

Figure 3: Russia's proposed modification to CBM Form G

II. Conclusion and Recommendations

10. CBMs remain an important political commitment for all States Parties. As the pace of development in science and technology continues to be rapid, States Parties have an important responsibility to ensure that the tools available to bolster the Convention and maintain its relevance are concurrently strengthened. Steps can be taken throughout the intersessional period to support substantive work on CBMs:

[3] BWC/MSP/2017/WP.6

[4] BWC/CONF.VIII/WP.9

- The ISU should develop an annotated version of Form 0, providing brief explanations of what each form entails, for consideration by States Parties at the 2018 MSP.
- Interested States Parties should be encouraged to organize informal meetings to discuss the proposals of this paper, and any new proposals put forward by States parties, with a view to developing recommendations that would command broad support.
- To achieve such support, and taking into consideration the lack of agreement on more sweeping proposals for CBM reform, States Parties should focus primarily on refinements to the existing CBMs, to clarify reporting requirements or add detail, rather than new CBMs or major expansions, and should be mindful of avoiding significant increases in reporting burden.
- All such work should be conducted transparently, open to all interested SPs, and in consultation with the MX 3 Chair.
- Throughout the remaining intersessional period, States Parties should continue to encourage development and debuting of the CBM e-tool by the ISU, and welcome its use, on a voluntary basis, by States Parties.