

**Formal Consultative 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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Item 6 of the agenda

**Respective outstanding questions by the Russian Federation
to the United States and to Ukraine concerning the fulfilment
of their respective obligations under the Convention in the context
of the operation of biological laboratories in Ukraine**

**Questions for the United States regarding the
compliance with obligations under Article IV of the
Convention on the Prohibition of the Development,
Production and Stockpiling of Bacteriological
(Biological) and Toxin Weapons and on their
Destruction (BWC) in the context of the development
of means of delivery of biological weapons**

Submitted by the Russian Federation

1. The United States representatives have repeatedly stated, the American side takes its obligations under the BTWC seriously, and, in particular, implements a comprehensive domestic legal regime to meet its obligations under Article IV of the BTWC. They also stressed that all of their biological activities were for peaceful purposes and fully consistent with BTWC obligations.
2. The U.S. Code (Title 18, Part I, Chapter 10, Section 175) contains similar language. It also clearly states that the development and production of biological weapons is prohibited by the U.S. law. It should be taken into account that similar restrictions are imposed on the development of means of delivery and use of biological weapons.
3. The U.S. is one of the most in-demand countries in the world for registering patents for inventions. The US Patent and Trademark Office (USPTO) is a federal agency of the US Department of Commerce authorized in the field of patent law.
4. It is known that one of the conditions for obtaining a patent for an invention in the United States is to undergo an examination by the U.S. Patent and Trademark Office. The examiners of the office check each filed application against the criteria of patentability:
5. First, the prior art. Data on the invention must not be published in the public domain, be published at exhibitions, or be on sale. Second is the inventive step. A patent application must contain an inventive step, that is, the solution, device, or algorithm must not be obvious to an expert in the field with an average level of knowledge. And third, utility. The claimed invention must be practically applicable and of benefit to society.
6. Thus, according to the American legislation, a patent in the USA cannot be granted in the absence of a comprehensive description of the "actual machine" and expert evaluation.



7. Legitimate questions arise. How does an agency subordinate to the U.S. administration, which declares a strict adherence to the BTWC and conducting exclusively peaceful research in the field of biology, grants a patent for inventions directly linked to delivery and use of biological and toxin weapons, after an expert evaluation?
8. I would like to highlight a few patents issued by the U.S. Patent and Trademark Agency.
9. Please note document number US 8,967,029 B1 for an unmanned aerial vehicle for spreading infected insects in the air. According to the description, an unmanned aerial vehicle delivers a container with large numbers of mosquito vectors to a given area and releases them. When biting, the mosquitoes infect the attacked humans with disease-causing agents such as malaria. The explanation emphasizes that an infected serviceman is unable to perform their assigned tasks. The conclusion is drawn that the disease could be a more valuable military tool than the most advanced weapons and military equipment.
10. The description of the project states that with this device, enemy troops could be destroyed or incapacitated. It is pointed out that such a contamination of enemy troops militarily would have a significant effect.
11. Other patents are related to various types of munitions for delivering chemical and biological formulations. The description notes their "...low unit cost of destruction and no need for contact with enemy manpower...." This is in line with Washington's "no-contact warfare" concept. The possibility of equipping the capsules with poisonous, radioactive and narcotic substances, as well as with infectious disease agents and toxins, is shown.
12. Please note patent number US 8,794,155 B1, dated August 5, 2014, for hollow point firearm ammunition with poisonous substances or infectious agents. The goal of this invention is that a capsule containing a poison or infectious agent is inserted into the cartridge. Even if the gunshot wound would not be fatal, the person so struck must die either as a result of the action of the poison or the development of an infection. In the latter case, the infected person themselves becomes a source of infection. The device is positioned as being of interest for the armed forces in general and special operation forces in particular.
13. Of particular interest is the following invention, which also seems to belong to "peaceful research" in the field of biology. This is U.S. Patent No. 9,052,175 B1, dated June 9, 2015, for a cartridge trap with a poisonous substance.
14. It involves the manufacture of cartridges that look indistinguishable from conventional ammunition, but are in fact filled with a poisonous substance. When the striker of the weapon hits the capsule, the cartridge is destroyed and releases the poisonous substance, which affects the shooter. Poisonous ammunition is proposed to be used for sabotage operations in the location of enemy troops. It is emphasized that such ammunition is suitable for the Kalashnikov AK-47.
15. The following are just some of the patents for inventions issued by the U.S. Patent and Trademark Office. The claimed scope of the U.S. patents presented raises serious questions that require clarification.
16. These inventions meet the definitions of biological and chemical weapons prohibited by the BTWC. Article IV of the BTWC imposes obligations on the United States to prevent prohibited activities anywhere in its territory, territory under its jurisdiction or control anywhere and by anyone, including individuals and entities, to develop means of delivery of biological and chemical weapons.
17. Contrary to its international obligations, the United States has retained the ability to conduct biological weapons activities.
18. The U.S. ratification of the 1925 Geneva Protocol was accompanied by a number of reservations, one of which allows for retaliatory use of chemical and toxin weapons. The conduct of biological research by U.S. specialists on behalf of a defense agency outside the U.S. national jurisdiction may not incur any liability at all.
19. Thus, the U.S. administration with regard to research in the field of development of biological and toxin weapons implements the principle of priority of the domestic legislation

over the international one. The greatest interest from the point of view of their ethical conduct first and foremost arises from research carried out outside of national jurisdiction.

20. The Russian Federation has already asked the United States government for clarification on the merits of the issues at hand. In 2018, the Russian Foreign Ministry sent to the U.S. Department of State a memo with a request for a legal assessment of the development of the previously mentioned technical devices from the point of view of the compliance with the Conventions on the prohibition of chemical and biological weapons. The U.S. side only gave a formal response, cynically thanking the Russian side for drawing attention to the issue. The response stated that "... the development and production of biological and chemical weapons are prohibited by the national legislation, but the decision to issue a patent does not violate the obligations of the USA under the BTWC and the CWC...".

21. The above information clearly indicates a violation by the U.S. of Article IV of the BTWC. In the framework of its national legislation Washington does not take necessary measures to efficiently meet its obligations under the BTWC, including those that would allow for the restriction of all the activity of subjects under the U.S. jurisdiction violating the above Convention.

22. This raises a number of questions on which we would like to hear a reasoned position of the U.S. side:

- How does the granting of patents on inventions, the technical description of which implies their use as a means of delivery of biological and toxin weapons corresponds to U.S. obligations under Article IV of the BTWC?
 - Does the U.S. consider inventions, described in the above-mentioned patents, to be means of delivery of biological and toxin weapons?
 - How did an agency subordinate to the U.S. administration decide, after an examination, to grant a patent on such inventions?
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