

**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 provisional agenda

**Consideration of the factual reports of the Meetings of Experts
reflecting their deliberations, including possible outcomes**

**Institutional Strengthening of the Biological
Weapons Convention**

Submitted by Cuba

I. Introduction

1. Cuba underlines the importance of strengthening the Biological Weapons Convention (BWC). The mechanisms established to guarantee compliance in the BWC have proven ineffective. The isolated proposals and initiatives or those that have arisen outside the BWC fail in the objective of strengthening the Convention in all its aspects or they miscarry in achieving the compromise of all its States Parties. The comprehensive strengthening of the Convention must be achieved through a multilateral, non-discriminatory and legally binding instrument, which implements and develops all the articles of the BWC in a balanced and comprehensive manner, which includes verification measures.

**II. Analysis of the effectiveness of the mechanisms established in
the BWC and other initiatives adopted outside the
Convention.**

A. Article V of the BWC

2. So far, the mechanism for a formal consultation, under Article V, has been ineffective. This mechanism has been invoked only once, in 1997, when Cuba denounced the Government of the United States of America for using Thrips Palmi to damage its crops and requested the investigation of the fact.

3. On that occasion, the Government of Cuba provided extensive information that incriminated the Government of the United States of America. Cuba called for total transparency in the process and for the establishment of a commission to investigate the matter. Nevertheless, the representatives of the Government of the United States of America opposed the establishment of a commission to investigate the issue in a transparent manner, therefore obstructing the achievement of definitive conclusions on the concerns expressed by Cuba.

4. In the absence of definitive conclusions, paragraph 9 of the Final Report presented by Mr. Ian Soutar, Chairman of the Consultative Meeting, indicated the need to establish, as

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soon as possible, a Protocol that effectively strengthens the BWC. To date, the Government of the United States of America continues to block the consensus for the negotiation and adoption of a legally binding instrument on the matter.

B. Article VI of the BWC

5. Article VI delegates the inherent responsibility of the States Parties to the Convention to act in case of a violation of the Instrument to the UN Security Council. However, the right to veto of the UN Security Council permanent members and the non-transparent and non-participatory working methods of the body; make this mechanism unreliable, ineffective and partial. Moreover, it could even be used to protect transgressors from the provisions of the BWC. Therefore, the provisions of this article and its implementation do very little in pursuit of the strengthening of the Convention.

6. Additionally, the UN Security Council is not mandated by the United Nations Charter to verify compliance with arms control agreements nor to take action against States Parties who violate those agreements. Only if the UN Security Council determines that the situation created by the infraction is a threat to international peace and security, can it take action; in full compliance with the legal precepts established in the United Nations Charter.

7. The link of this article with the 1540 Committee is also an extensive interpretation. The mandate, scope and application of the 1540 Committee differ from that of the BWC.

C. Confidence Building Measures

8. The Republic of Cuba submits its national forms under the Confidence Building Measures (CBM), within the established deadline. However, with the moral of being a country that submits these forms, we highlight that CBM have a limited impact in the strengthening of the Convention.

9. Given the voluntary nature of CBM, it up to the State Party to decide whether it submits its annual forms or not and, if positive, to determine the rigor and depth of its reports. The lack of homogeneity in the reports and the low number of annual declarations of the States Parties (including null declarations) reflect the reduced scope of this kind of measures.

D. Codes of conduct

10. In this case, there is no homogeneity either. Each State has the prerogative to adopt a code of conduct, which would probably be subject to the same rigor with which it manages its biotechnological development. Additionally, many States will continue without adopting any Code of conduct, in the absence of the necessary international pressure. This proposal does not substantively strengthen the BWC nor does it solve the problem posed by the threat of the use of biological weapons, on its own.

E. Export control

11. Export control is a mechanism to prevent proliferation. The currently existing regimes on the subject were established outside the framework of the BWC and its restrictions, and they fundamentally based on ideological and political differences, which is why they have affected many States Parties for years. Taking into account these differences, there is no real and close opportunity to reach consensus on the establishment, implementation and coordination of an exports control regime within the Convention.

F. Assistance and quick response in case of alleged use

12. There have been many proposals under this topic. Among them there are: the Mechanism of the UN Secretary-General, the Global Health Security Agenda, the Database under Article VII and the guidelines for a request for assistance.

13. The first two proposals reduce the possibility of agreeing detailed procedures related to assistance within the BWC, so, instead of strengthening the Convention, they weaken it. The last two, consider assistance as a casuistic response to a violation of the Convention, instead of a permanent and continuous obligation of the States Parties and they impose conditions to the delivery of assistance through mandatory guidelines or any other modality that obstruct the success and effectiveness of these actions.

14. The respective mandates of the BWC and other international bodies and organizations must be respected. This means that the experiences of relevant multilateral organizations that deal with human and animal health can be used on issues that are relevant to the BWC, without undermining the Convention or interfering with its mandate.

III. Proposal for the strengthening of the BWC

15. All of the above demonstrates that the only effective method for strengthening the Convention is the immediate resumption of multilateral negotiations for a legally binding instrument, which implements and develops all articles of the BWC, in a balanced and comprehensive manner, including the need to establish a verification mechanism and an institutional mechanism to strengthen Article X. The “Rolling text”, which was blocked solely by the Government of the United States of America in 2001, could constitute a good zero draft.

16. The BWC constitutes a whole and, although it is possible to consider certain aspects separately, it is essential to address all issues in an interconnected, balanced and comprehensive manner. Any isolated initiative should not distract the attention of the States Parties from strengthening the Convention in all its aspects.

17. The next Review Conference is the only forum mandated for substantive and procedural decisions, hence, it provides an excellent opportunity to review the functioning of the BWC, assess its compliance and resume negotiations of a legally binding comprehensive instrument on the balanced and non-discriminatory application of all the provisions of the Convention.
