

**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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Meeting of Experts on Institutional strengthening of the Convention**Geneva, 8 August 2019**

Item 4 of the provisional agenda

**Consideration of the full range of approaches and options to further
strengthen the Convention and its functioning through possible additional
legal measures or other measures in the framework of the Convention**

**Utilizing the Convention's Tools to Strengthen its
Institutional Functions**

Submitted by the United States of America

Summary

The Biological Weapons Convention (BWC) contains important tools to address compliance concerns and strengthen the functioning of the Convention. Article V provides for consultations and cooperation to solve problems relating to the objective of the Convention and has been used for this purpose. Article VI provides the possibility of investigations into alleged breaches of the Convention by the UN Security Council. States Parties should cooperate to strengthen implementation of these provisions, including by bolstering the capabilities of the UN Secretary-General's Mechanism for investigation of alleged use of biological and chemical weapons. Another way to strengthen the BWC's institutional functions is for Parties in arrears to settle their BWC debts and for all Parties to make their financial contributions on time.



I. Introduction

1. The United States highlighted in a previous paper¹ the importance it attaches to compliance with the Biological Weapons Convention (BWC) by all States Parties. As the United States pointed out at last year's Meeting of Experts 5, in monitoring compliance with the BWC, the Convention's lack of a formal verification mechanism is not the problem that some assert. While there are significant challenges in monitoring and verifying compliance with the BWC, the United States would like to call attention to relevant existing provisions, which contain specific tools designed to address compliance concerns and strengthen the functioning of the Convention.

II. Utilization of Consultative Mechanisms and Tools Under Article V and Confidence-Building Measures for Assurance of Compliance

2. States Parties can assess compliance using information drawn from a variety of sources, but in addition, the Convention provides that States Parties undertake to "consult one another to cooperate in solving any problems which may arise in relation to the objective of, or in the application of the provisions of, the Convention." In past years, particularly at the Second and Third BWC Review Conferences, efforts have been made to elaborate and strengthen procedures related to the implementation of Article V. Furthermore, States Parties modified and expanded Confidence-Building Measures (CBMs) in 1991 and streamlined them in 2011. CBMs provide useful data points that can contribute to an assessment of a state's activities and intent, but only a subset of States Parties routinely submits reports despite their political commitment to do so.

3. The United States has submitted a number of papers^{2 3 4} highlighting additional approaches to promoting greater use of the consultative mechanisms and tools under Article V, including steps for resolving questions or clarifying concerns about the information provided in CBMs and compliance with the Convention.

4. Engaging in consultations consistent with Article V to resolve ambiguities or doubts about compliance is itself an act of implementing the Convention. Article V does not specify how States Parties should seek clarification with respect to concerns about compliance or implementation. This engagement can be done informally, and a Party can choose to consult bilaterally or multilaterally to seek clarification on matters related to CBMs or any other compliance-related issue. Additionally, States Parties can arrange by mutual consent any procedures or arrangements to resolve their concern. While such consultations can be done through discreet bilateral engagement, the United States encourages States Parties to share results of this process, as appropriate, to build confidence in compliance with the BWC.

5. The mechanism for a formal consultative meeting of the States Parties was used only once, in 1997, when Cuba called for a Formal Consultative Meeting to consider its groundless allegations against the United States (the United States was wrongly accused of purposefully attacking Cuban agriculture by releasing an insect pest over its fields). The Consultative meeting was convened, and the issues raised by Cuba were considered. Following review of subsequent information, consultations and meetings with the Vice-Chairmen, the Chair of the Formal Consultative Meeting, UK Ambassador to the CD Ian Soutar, reported in a letter to States Parties that it was not possible to reach a definitive conclusion. Despite the spurious concerns, the United States fully cooperated in the process to demonstrate its compliance with the BWC. This particular exercise of Article V, while lacking substance, allowed for meaningful engagement and demonstrated the utility of the Convention's consultation mechanism.

6. Consistent with Article V, the United States consults other Parties about compliance concerns in various forms, to include bilateral discussions, demarches, and diplomatic notes, to resolve conflicting and/or inconsistent information about another States Party's activities.

7. The United States assesses States Parties' compliance with the BWC and publicly releases its findings in the annual Report on Adherence to and Compliance with Arms

Control, Nonproliferation, and Disarmament Agreements and Commitments. To address these findings, the United States engages, as appropriate, in “compliance diplomacy” dialogues with Parties about information or activities of concern in an effort to resolve them.

8. In addition, the United States works with interested States Parties that find general consultations constructive in addressing implementation challenges. These challenges may not focus on compliance, but rather on national implementation and CBM reporting, for example. Such dialogues are a good way to exchange concerns and enhance implementation of the Convention in a cooperative manner.

III. Strengthening International Capacities for Coordination, Investigation, and Assistance for Allegations of Use

9. Under Article VI, should a State Party find another Party is acting in breach of its BWC obligations, it may lodge a complaint with the UN Security Council, which may in turn initiate an investigation. Unlike the case of Article V, in which action has been taken, no State Party has lodged a complaint with the UN Security Council under Article VI. However, this circumstance presents a good opportunity for States Parties to work to strengthen international capacities for coordination, investigation, and assistance that might be used in the event that a complaint is submitted under Article VI.

10. There are a number of international mechanisms for responding to biological incidents. The UN Secretary-General’s Mechanism (UNSGM) for investigation of alleged use of biological and chemical weapons may be the most suitable vehicle for investigating and attributing an alleged use. The UNSGM is recognized as the only existing international tool for investigation of alleged biological weapons use.

11. While the UNSGM was successfully used on multiple occasions during the Iran-Iraq war, and again in Syria in 2013, when it unambiguously confirmed use of chemical weapons, the capability needs to be further developed to investigate allegations of biological weapons use. The United States, along with other like-minded States Parties, is participating in efforts to strengthen the UNSGM under the UN Office of Disarmament Affairs. Strengthening the UN’s capability to conduct independent, timely, and efficient investigations under Article VI, including in response to a complaint lodged by a BWC State Party, would help ensure that Article VI could be implemented effectively, should such a situation arise. The United States encourages others with expertise and available resources to lend their support to this effort.

IV. BWC Finances and Future of the Implementation Support Unit (ISU)

12. To function effectively, the BWC must have a solid financial footing. In recent years, however, serious financial problems have threatened to undermine the Convention. The measures endorsed at the December 2018 Meeting of States Parties are essential, but not enough to resolve the BWC’s financial problems. The measures aim to ensure adequate cash flow but do not overcome the continuing problems of late payment and non-payment. In particular, a more lasting solution would be for those Parties in arrears to settle their BWC debts and for all Parties to make their financial contributions on time. Not only would these actions set the BWC on a more firm financial basis, but they would also facilitate other measures to strengthen the BWC, such as enhancing the ISU, as has been proposed by a number of Parties.

¹ [BWC/CONF.VIII/PC/WP.6](#) (April 2016).

² [BWC/MSP/2014/MX/WP.10](#), U.S. WP: A Response to BWC/MSP/2012/WP.11: “We Need to Talk About Compliance” (August 2014).

³ [BWC/CONF.VIII/PC/WP.6](#) (April 2016).

⁴ [BWC/MSP/2018/MX.5/WP.3](#) (August 2018).