

First Meeting
Geneva, 10 – 14 November 2003

Meeting of Experts
Geneva, 18 – 29 August 2003
Items 5 and 6 of the provisional agenda

BRAZILIAN VIEWS ON THE WAY FORWARD

Prepared by Brazil

1. There is a clear international consensus on the need to eliminate biological weapons. The new, “ad hoc” and step-by-step method that was adopted at the Fifth Review Conference set back the clock of negotiations to strengthen the Biological and Toxin Weapons Convention (BTWC) by at least seven years.
2. It is all the more important, therefore, that this and subsequent Meetings of Experts take advantage of the “ad hoc” approach to focus work as much as possible. Participants should, furthermore, avoid potential misunderstandings and conceptual loopholes that may later bog down the political side of current negotiations, which should be effectively completed by the 2006 target date.
3. In this spirit, participants should be very clear as to the nature of the document this Meeting will be submitting to Member States. Recommendations that ignore the overall objectives of the Convention by taking too narrow an approach may create pitfalls that will lurk in the shadows until the moment political negotiators step on them to their chagrin.
4. Conceptual clarity, therefore, is of the essence.
5. The meeting’s “deliverables” should fully take into account that countries signed the BTWC as an integrated group of fifteen articles covering the concerns and objectives of State Parties. These include, *inter alia*, the issues of disarmament, non-proliferation, and biodefense, as well as the need to ensure access to biotechnology for peaceful uses, scientific and technological cooperation, and humanitarian assistance. This paper will now address the two issues of this meeting:

- A. the adoption of necessary national measures to implement the prohibitions set forth in the Convention, including the enactment of penal legislation; and
- B. national mechanisms to establish and maintain the security and oversight of pathogenic microorganisms and toxins.

National measures to implement the prohibitions set forth in the Convention, including the enactment of penal legislation

6. There should be a clear commitment by every State Party to adopt national legislation to implement the prohibitions of the BTWC. This commitment should include adapting or enhancing existing domestic legislation.

7. Therefore, the meeting should focus on the following areas:

A. Common domestic challenges facing countries that have implementing legislation for the BTWC in place or that are able to use other pieces of legislation to achieve the Convention's objectives concerning prohibition, including penal legislation. Such challenges include, first and foremost,

- i. taking any necessary measures to prohibit and prevent the development, production, stockpiling, acquisition, or retention of the agents, toxins, weapons, equipment and means of delivery specified in article I of the Convention, within the territory of such State, under its jurisdiction or under its control anywhere, and, therefore,
- ii. establishing or enhancing legislation on bio-security (facilities, production, possession, acquisition, stockpiling), and establishing a list of pathogenic microorganisms and toxins and critical equipment.

B. Common international challenges that State Parties should act upon, such as:

- i. a common understanding on a mechanism to ensure and oversee the implementation of national measures;
- ii. a common understanding on means to collect and disseminate relevant national information;
- iii. a common understanding on measures to promote international cooperation (Article X) and to ensure bona fide access by Member State nationals and institutions to science and technology;
- iv. a common understanding on mechanisms for selecting and disseminating information concerning dissemination of pathogenic microorganisms and toxins, and of critical equipment, including means of delivery;
- v. common understanding on how to resolve ambiguities and to cooperate internationally in cases of suspicious unlawful activities.

National mechanisms to establish and maintain the security and oversight of pathogenic microorganisms and toxins

8. Concerning this point, the meeting should focus on the practical issues involved, which must include, first and foremost, the ability of Member States to establish mechanisms that are not only mutually compatible, but that are functionally equivalent, to ensure the commitments of Member States under and the Convention are uniformly implemented.

9. Therefore, of necessity, discussions should lead to a common understanding on a conceptual model that covers common needs identified by State Parties. Such a conceptual model should be based on the core needs and missions of CBW National Authorities, or functional equivalents clearly identified and legally empowered, which would ensure the following tasks are accomplished:

- A. Defining a list of pathogenic microorganisms and toxins and critical equipment subject to control and a flexible mechanism to update it domestically and disseminate it internationally (much in the way computer virus vaccines are updated);
- B. Monitoring the enforcement of legislation by the appropriate national law-enforcement bodies on bio-security of facilities (production, possession, acquisition, stockpiling), and of transport of listed pathogenic microorganisms and toxins and critical equipment;
- C. Establishing and maintaining import/export controls established under national legislation and regulations, including licensing on international transfers;
- D. Monitoring potentially dangerous activities involving listed pathogenic microorganisms or toxins and critical equipment (including research, development, production, stockpiling, and transfers);
- E. Interacting with domestic law enforcement authorities and with National Authorities of other State Parties;
- F. Conducting assessments, on a continuing basis, on the effectiveness of the relevant domestic legislation for use in recommendations to its respective national government.

10. At the international level, discussions on mechanisms should include the need to establish a common mechanism to oversee the implementation of national measures, and to assist in resolving ambiguities and to promote international collaboration in cases of suspicious unlawful activities.

11. In this connection, although the BTWC contains no verification mechanisms, certain international organisms, such as the World Health Organization and the International Committee of the Red Cross, should not be used to investigate the use of biological weapons.

12. It stands to reason that Brazil supports the strengthening of the above-mentioned organizations, but it considers that this must be done according to their respective core mandates, lest their effectiveness and legitimacy in achieving their fundamental missions are compromised.
