

**SIXTH REVIEW CONFERENCE 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**

BWC/CONF.VI/WP.27*
24 November 2006

Original: ENGLISH

Geneva, 20 November – 8 December 2006

Item 10 of the agenda

**Review of the operation of the Convention
as provided for in its Article XII**

**CONFRONTING NONCOMPLIANCE WITH THE BIOLOGICAL
WEAPONS CONVENTION**

Submitted by the United States of America

1. During the 2003-2005 Work Program, the overarching theme was that States Parties to the Biological Weapons Convention (BWC) needed to focus on implementing a variety of national measures and “effective actions” at home. Given our constructive discussions during the Work Program, it is essential that States Parties now continue to focus on national implementation of the Convention’s provisions. It is through this commitment that States can succeed in reducing the threat from biological weapons.

2. In today’s global environment, that threat comes from both non-state actors, and from states not in compliance with the BWC. The evolution of the field of biotechnology presents a wide array of technologies, whose dual-use nature can pose, in the wrong hands, a direct threat to States Parties. Given the 155 States now party to the BWC, States Parties not in compliance with their Convention obligations pose fundamental challenges to the overall treaty regime, and must be taken seriously.

Noncompliance: a Threat to International Security

3. The United States continues to be committed to the Biological Weapons Convention. Unfortunately, some States Parties continue to disregard their obligations under the treaty, presenting a challenge for all States Parties. When states disregard those obligations, other States Parties begin to lose confidence in the agreement. And when certain States Parties willfully choose to violate the Convention, the overwhelming majority of States Parties grow concerned about the basic intent behind such actions, threatening our collective security.

4. Each State Party to the BWC has the responsibility to watch for, and speak out against, suspected violations of the Convention. It is through this collective approach to security that the

* Reissued for technical reasons.

international community has the best chance to detect noncompliance, and then confront noncompliance when it occurs.

5. The United States Government, for its part, is required by law to provide an annual report to the U.S. Congress entitled *Adherence to and Compliance with Arms Control, Nonproliferation, and Disarmament Agreements and Commitments*. This report describes U.S. Government findings regarding questions of noncompliance by other nations, and alerts U.S. Government officials and the public to both existing problems and potential compliance concerns. This report, the most recent version of which was published in August 2005, provides detailed evidence and reasoning behind those concerns.

6. Assessing noncompliance is not a simple process. For the BWC, this process first involves gathering information from a wide variety of sources, including both national means and methods and publicly available resources. U.S. officials weigh the available information regarding the actions, activities, and perceived intent of a state against that state's obligations and commitments.

7. However, there are three countries that are worth particular mention due to the threat they pose to the international community, their support for terrorism, and their records of noncompliance across a number of international treaties. The United States believes that the regime in Iran probably has an offensive biological weapons program in violation of the BWC. Similarly, the United States also believes North Korea has a biological warfare capability and may have developed, produced, and weaponized for use biological weapons, also in violation of the BWC. Finally, the United States remains seriously concerned that Syria – a signatory but not a party to the BWC – has conducted research and development for an offensive BW program.

8. In the post-September 11, 2001 world, BWC States Parties must remain vigilant because non-state actors are actively seeking weapons of mass destruction, including biological weapons, either from states or through their own technical capabilities. Article IV specifically calls upon each State Party to prevent the development of biological weapons within its territory, under its jurisdiction, or under its control, which includes non-state actors. As States Party to the Convention, our ability to combat the BW threat is seriously undermined if states do not take their BWC obligations seriously. Given these, and other, concerns, it is essential that not just the United States, but the entire international community, speak out against noncompliance with the BWC. With support from all States Parties, the States Parties can work together to enhance compliance with the Convention.

Tools for Addressing Compliance Concerns

9. In recent years, the United States has utilized a variety of tools in working with other States Parties to resolve compliance concerns consistent with the provisions of the Convention. In particular, the United States welcomed the 2003 statement by Libya re-affirming its commitment to the Biological Weapons Convention. More generally, there are many approaches now available that have been used effectively to address questions of compliance, and to build capacity for addressing future concerns:

- (i) Direct Discussions: The simplest way to address the noncompliance of States Parties is through direct engagement with those states. Article V of the Biological Weapons

Convention is explicit, noting that States Parties commit to “consult one another and 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.”

- (ii) Compliance Diplomacy: The United States continues to consult with other states to help them build capacity for the type of work needed to assess and confront noncompliance effectively, not just in the BWC context, but in other treaty regimes as well. In 2004, the United States launched an initiative focused on what states can do, nationally, to assess the compliance of other States Parties with arms control, nonproliferation, and disarmament agreements and commitments. Since that time, the United States has held useful and productive discussions with officials from over seventy countries from throughout the world.
- (iii) Attribution Response: Concerning the process of identifying noncompliance with the Convention, one of the most difficult issues States Parties have faced is determining how to detect illicit offensive biological weapons activities, and attribute biological weapons and their use to the perpetrator. Obtaining this information through investigations of alleged use can be effective in determining whether a particular disease outbreak may have resulted from a violation of the Convention. Over the past several months, the United States has been focused on the attribution question, developing specific guidelines on how to respond to a given incident and what lines of communication are most effective. The United States has also been compiling information, including specific databases, on available and developing technologies that aid in targeting the biological weapons production cycle, from intent, to development, to production, to use.

10. The attribution process remains complicated, yet a variety of multilateral mechanisms – in addition to Article VI of the BWC - exist that can be utilized to investigate allegations of BW use and collect important data for identifying whether a biological weapon has been used, and if so, what State or organization is responsible. Several options are available for deploying such an investigation:

- (i) United Nations Resolution 42/37C, which empowers any member state to bring allegations of BW use to the UN Secretary-General and request that the Secretary-General initiate an investigation using personnel drawn from a UN-maintained list of experts.
- (ii) The World Health Organization, which can coordinate an investigation, drawing from its Global Outbreak Alert and Response Network (GOARN). WHO investigates, responds to, and works to contain disease outbreaks as part of its overall mandate. The International Health Regulations (2005), which enter into force in June 2007, do not explicitly refer to BW use but they require States Parties to notify WHO of “an unexpected or unusual public health event within its territory, irrespective of origin or source” that could constitute a public health event of international concern. World Health Assembly Resolution 54:14 (2001) entitled “WHO Strategy for Global Health Security: Epidemic Alert and Response” also provides impetus for WHO action.

- (iii) **Regional Organizations:** States may also work within or in concert with regional entities. For instance, the North Atlantic Treaty Organization (NATO) has a multilateral CBRN defense battalion that can provide response teams, laboratory assets, and logistical support to lead or support missions investigating allegations of BW use.

National Efforts to Enhance Compliance

11. The United States has a systematic way of assessing noncompliance, and is developing a detailed approach to questions of BW use and attribution. The United States seeks to continue to work with international partners on many of these issues. However, there are a number of actions that individual States Parties can take, on a national basis, to increase our collective security and enhance compliance with the Biological Weapons Convention:

- (i) Call upon all BWC parties and signatories that have not done so to terminate their offensive biological weapons programs immediately and comply fully with their Treaty obligations.
- (ii) Develop, on a national basis, more rigorous methodologies for assessing and detecting noncompliance with the BWC, using whatever national means and methods are available. The United States continues to work with partner countries in building such capacities.
- (iii) Submit Confidence Building Measures (CBMs) to demonstrate their commitment to the Convention. The implementation of the CBM process was intended to demonstrate transparency among parties to the Convention. Yet despite CBMs being in existence since the Second Review Conference in 1986, more than 40% of all current States Parties have never completed even a single submission.
- (iv) Work with the World Health Organization, the Food and Agricultural Organization, and the Organization Internationale de Epizooties to strengthen collective health and agricultural systems. The challenge from biological weapons is unique, in that actions taken in other multilateral fora, particularly in the public health and agricultural sectors, have the ability to indirectly raise the level of international security. By continuing such efforts, States Parties can collectively improve the effectiveness of an international response to the use of biological weapons, and can deter would-be violators from employing such weapons.

12. The United States continues to devote much time and energy to assessing noncompliance with the Biological Weapons Convention accurately and effectively, and to raising questions and concerns where appropriate. The United States encourages each State Party to do what it can, on a national basis, to examine the challenges from noncompliance, and to speak out against any such illicit activities. This is an era in which the benefits of biotechnology are expanding exponentially, but the potential threat from that same technology is developing at an equal rate. In this age, it is no longer enough to simply talk about the problems of noncompliance; one must remain steadfast in the efforts to assess and respond to these challenges wherever and whenever they occur.
