

## ARTICLE V: CONFIDENCE-BUILDING MEASURES

by Filippa Lentzos

### Consideration of Article V: Confidence-Building Measures at the Sixth Review Conference

1. Article V of the Convention states that:

*The States Parties to this Convention undertake 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. Consultation and cooperation pursuant to this article may also be undertaken through appropriate international procedures within the framework of the United Nations and in accordance with its Charter.*

2. At the Sixth Review Conference of the BTWC held from 20 November to 8 December 2006, the *Final Declaration*<sup>192</sup> in respect of Confidence Building Measures stated in the section on Article V that:

*23. The Conference emphasises the importance of the exchange of information among States Parties through the confidence-building measures (CBMs) agreed at the Second and Third Review Conferences. The Conference welcomes the exchange of information carried out under these measures, and notes that this has contributed to enhancing transparency and building confidence.*

*24. The Conference notes that only a limited number of States Parties make an annual CBM submission. The Conference recognises the urgent need to increase the number of States Parties participating in CBMs. In this regard, the Conference also recognises the technical difficulties experienced by some States Parties in completing full and timely declarations. In order to update the mechanism of transmission of information, the Conference has agreed on several measures. [See Part III: Decisions and Recommendations]*

*25. The Conference reaffirms that the data submitted in the framework of the annual exchange of information should be provided to the United Nations Department for Disarmament Affairs and promptly forwarded by it to all States Parties according to existing modalities. The information supplied by a State Party must not be further circulated or made available without the express permission of that State Party.*

3. In addition, the Sixth Review Conference included the following in *Part III: Decisions and Recommendations*:

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<sup>192</sup> United Nations, The 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, Geneva, 20 November - 8 December 2006, *Final Document*, BWC/CONF.VI/6, Geneva 2006. Available at <http://www.opbw.org>

### Confidence-building Measures

8. The Conference notes that the review of Article V of the Convention has shown the need for enhancing participation of States Parties in the confidence-building measures (CBM) process. The Conference therefore decides that:

- (i) The Implementation Support Unit (ISU) within the United Nations Department for Disarmament Affairs, with the assistance of interested States Parties, shall develop an electronic format of the existing CBM forms.
- (ii) Once completed, the electronic forms shall, with the consent of the State Party submitting them, be posted on a secure Internet site and made available for the use of States Parties, to be developed under the auspices of the ISU. The information thus supplied by a State Party must not be circulated further without the express permission of that State Party.
- (iii) States Parties are invited to submit forms using the electronic format. States Parties that wish to submit completed paper forms instead of electronic forms may do so. The ISU shall insert the submitted hard copy data in the secure Internet site with the consent of the State Party providing this data in order to make it electronically available to all States Parties.
- (iv) The ISU shall centralize requests and offers of assistance regarding the submission of CBMs.
- (v) The ISU shall regularly inform States Parties about CBM returns and provide statistics on the level of participation at the annual meetings of States Parties.
- (vi) States Parties shall designate a national point of contact in charge of preparing the submission of CBMs, the contact details of which shall be sent to the ISU.
- (vii) The ISU shall circulate to points of contact a notice informing States Parties of the deadline for submitting information under the information exchange procedure (15 April) at least three months prior to this deadline.

9. Furthermore, the Conference reviewed the implementation of the CBMs during its session and agrees that the issue merits further and comprehensive attention at the Seventh Review Conference.

as well as including in the section on the Implementation Support Unit, the assignment to the ISU of the following tasks relating to Confidence-Building measures:

#### *B. Confidence Building Measures:*

- (i) Receiving and distributing confidence-building measures (CBMs) to/from States Parties;
- (ii) Sending information notices to States Parties regarding their annual submissions;
- (iii) Compiling and distributing data on CBMs and informing on participation at each Meeting of States Parties;
- (iv) Developing and maintaining a secure website on CBMs to be accessible only to States Parties;

(v) *Serving as an information exchange point for assistance related to preparation of CBMs;*

(vi) *Facilitating activities to promote participation in the CBM process, as agreed by the States Parties.*

4. It is thus evident that the Sixth Review Conference agreed that topic of CBMs *merits further and comprehensive attention* at the Seventh Review Conference in 2011. This recognizes that although the existing CBMs were agreed at the Second Review Conference in 1986 and extended at the Third Review Conference in 1991, they have not been subsequently amended or extended.

### **Developments since the Sixth Review Conference**

#### **Implementation Support Unit Annual Reports**

5. Since the Sixth Review Conference, the Implementation Support Unit has provided information on the submission of CBMs as part of their annual report to the States Parties. Thus, in 2007 the ISU reported<sup>193</sup> that:

*14. In accordance with the decision of the Sixth Review Conference, responsibility for processing the CBMs was transferred to the ISU from the Weapons of Mass Destruction Branch of the Office for Disarmament Affairs in New York. The ISU prepared electronic (Adobe PDF format) versions of the CBM forms and made them available on its website. Sixty-one states (38% of States Parties) submitted information in 2007, the highest number to participate since the CBMs were introduced in 1987. Of these, 17 submitted their CBM on or before the deadline of 15 April 2007. Annex II (English only) lists the submissions and includes a breakdown of submission by each of the CBM forms, along with charts and other information.*

*15. The Head of the ISU wrote to all States Parties on 27 June 2007 to inform them that the restricted area of the ISU website was operational, and that CBM submissions would be published there on 16 July 2007, unless a State Party requested otherwise. The letter also informed States Parties that CBMs would no longer be produced and distributed in hard copy. Four States Parties initially requested that their CBM not be published on the website; one of these subsequently withdrew its request. The submissions of 58 States Parties are therefore currently available in the restricted area.*

6. The following year, in November 2008, the Implementation Support Unit reported<sup>194</sup> on CBMs that:

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<sup>193</sup> United Nations, 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, Geneva, 10 - 14 December 2007, *Report of the Implementation Support Unit*, BWC/MSP/2007/3, 4 December 2007. Available at <http://www.opbw.org>

<sup>194</sup> United Nations, 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, Geneva, 1 - 5 December 2008, *2008 Report of the Implementation Support Unit*, BWC/MSP/2008/3, 28 November 2008. Available at <http://www.opbw.org>

18. *In accordance with the decision of the Sixth Review Conference, the ISU is responsible for compiling and distributing CBMs. The ISU maintains electronic (Adobe PDF format) versions of the CBM forms in all official languages and has made them available on its website. The Unit, with the assistance of interested States Parties, continues to develop the electronic format of the existing CBM forms, and is currently reviewing possibilities for developing an online collaborative tool for completing CBMs over the Internet.*

19. *As of 1 November 2008, 60 states (37 per cent of States Parties) had submitted CBMs to cover the calendar year 2007, down slightly from the total of 65 last year. Of these, 27 submitted their CBM on or before the deadline of 15 April 2008. Four States Parties submitted CBMs for the first time: Azerbaijan, Bahrain, Indonesia and Kazakhstan. Thirteen States Parties which submitted CBMs in 2007 have not yet done so in 2008. Annex II (English only) lists the submissions and includes a breakdown of submission by each of the CBM forms, along with charts and other information.*

7. Then, a year later, in November 2009, the Implementation Support Unit reported<sup>195</sup> on CBMs that:

18. *In accordance with the decision of the Sixth Review Conference, the ISU is responsible for compiling and distributing CBMs. The ISU maintains electronic (Adobe PDF format) versions of the CBM forms in all official languages and has made them available on its website. The Unit, with the assistance of interested States Parties, continues to develop the electronic format of the existing CBM forms, and is currently reviewing possibilities for developing an online collaborative tool for completing CBMs over the Internet.*

19. *As of 1 November 2009, 62 states (38 per cent of States Parties) had submitted CBMs to cover the calendar year 2008, the same number as submitted for the previous year. Of these, 36 submitted their CBM on or before the deadline of 15 April 2009. One State Party, Gambia, submitted a CBM for the first time. Nine States Parties which submitted CBMs in 2008 have not yet done so in 2009. Annex III (English only) lists the submissions and includes a breakdown of submission by each of the CBM forms, along with charts and other information.*

8. And, in November 2010, the Implementation Support Unit reported<sup>196</sup> on CBMs that:

19. *In accordance with the decision of the Sixth Review Conference, the ISU is responsible for compiling and distributing CBMs. The ISU maintains electronic (Adobe PDF format) versions of the CBM forms in all official languages and has made them available on its website. The Unit, with the assistance of interested States Parties, continues to develop the electronic format of the existing CBM forms, and is*

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<sup>195</sup> United Nations, 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, Geneva, 7 - 11 December 2009, *2009 Report of the Implementation Support Unit*, BWC/MSP/2009/2, 10 November 2009. Available at <http://www.opbw.org>

<sup>196</sup> United Nations, 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, Geneva, 6 - 10 December 2010, *2010 Report of the Implementation Support Unit*, BWC/MSP/2010/2, 23 November 2010. Available at <http://www.opbw.org>

*currently reviewing possibilities for developing an online collaborative tool for completing CBMs over the Internet.*

*20. As of 15 November 2010, 70 states (42.9 per cent of States Parties) had submitted CBMs to cover the calendar year 2009. Of these, 45 submitted their CBM on or before the deadline of 15 April 2010. Six States Parties submitted CBMs for the first time: Albania, Kenya, Philippines, the former Yugoslav Republic of Macedonia, the United Arab Emirates, and Yemen. Five States Parties which submitted CBMs in 2009 have not yet done so in 2010. Annex III (English only) lists the submissions and includes a breakdown of submission by each of the CBM forms, along with charts and other information.*

9. These Implementation Support Unit reports have shown an increase in the number of States Parties that have submitted their annual CBMs from 65 in 2007 to 72 in 2010 (two more than the number reported in November 2010). As of 22 June 2011, 53 have been submitted in 2011. The number of States Parties who make their CBM submissions available to all on the ISU website has also increased from 10 in 2007 to 15 in 2010 and 15 thus far in 2011.

### **Reviewing the Confidence-Building Measure Regime**

10. Since the Third Review Conference in 1991 when the present CBM regime was agreed, there have been a number of proposals to enhance the CBM regime made by States Parties and also by NGOs and others. These proposals have usefully been summarised<sup>197</sup> in a July 2009 compendium and are also detailed in Appendix B of an August 2010 report.<sup>198</sup>

11. In 2001, a proposal<sup>199</sup> was made by South Africa for consideration at the Fifth Review Conference that the modalities for CBM A should be extended to include facilities for working with Group 4 animal pathogens and that a new CBM H should be added for declaration of plant inoculant and biocontrol agent production facilities. However, this was not taken further as there was no *Final Declaration* with an Article by Article review of the Convention at that Review Conference. A further proposal was made in 2004 in a paper<sup>200</sup> submitted by France to the Meeting of Experts in 2004, which proposed laboratory networks as a confidence-building measure in addressing allegations of the use of CBRN terrorist agents. Then at the Sixth Review Conference in 2006, a number of papers were submitted.

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<sup>197</sup> Filippa Lentzos and R. Alexander Hamilton, *Compendium of Proposals to Improve the CBM Mechanism*, July 2009, BIOS Centre, London School of Economics. Available at [http://www2.lse.ac.uk/BIOS/research/biosecurity/projects/Biological\\_Weapons\\_Convention.aspx](http://www2.lse.ac.uk/BIOS/research/biosecurity/projects/Biological_Weapons_Convention.aspx)

<sup>198</sup> Filippa Lentzos and R. Alexander Hamilton, *Preparing for a comprehensive review of the CBM mechanism at the Seventh BWC Review Conference*, August 2010. Available at [http://www2.lse.ac.uk/BIOS/research/biosecurity/projects/Biological\\_Weapons\\_Convention.aspx](http://www2.lse.ac.uk/BIOS/research/biosecurity/projects/Biological_Weapons_Convention.aspx)

<sup>199</sup> South Africa, The Fifth 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, *Strengthening Confidence-Building Measures – Working paper by South Africa*, BWC/CONF.V/COW/WP.1, 16 November 2001. Available at <http://www.unog.ch/bwc> and at <http://www.opbw.org>

<sup>200</sup> France, Meeting of Experts 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, *Confidence-building Measures in Addressing Allegations of Use of CBRN Terrorist Agents: Laboratory Networks*, BWC/MSP/2004/MX/WP.55, 28 July 2004. Available at <http://www.unog.ch/bwc> and at <http://www.opbw.org>

Canada at the Preparatory Committee<sup>201</sup> and at the Review Conference itself<sup>202</sup> proposed an Accountability Framework, which in regard to Confidence-Building Measures made suggestions to foster increased transparency and help demonstrate compliance with the Convention. France, on behalf of the EU, submitted proposals<sup>203</sup> to enhance the CBM process which were in two categories: technical improvements and political incentives. A group of Latin American states (Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, Guatemala, Mexico, Peru and Uruguay) submitted proposals<sup>204</sup> to improve the CBMs and reduce areas of ambiguity through greater transparency. Switzerland, in conjunction with the JACKSNNZ group of States Parties, submitted a proposal<sup>205</sup> for several possible improvements of the CBMs. Switzerland in a second paper<sup>206</sup> submitted a proposal for the modification of the format of the CBM forms. South Africa proposed<sup>207</sup> a number of issues that should be determined so as to ensure that CBMs strengthen the Convention. The outcome of the consideration of CBMs at the Sixth Review Conference, as noted in paragraphs 2 and 3 above, focussed on the need to increase the number of States Parties participating in the confidence-building measures and agreed what actions should be taken by the Implementation Support Unit.

12. Subsequent to the Sixth Review Conference, Switzerland has submitted further working papers on the CBM process. The first two were at the Meeting of Experts<sup>208</sup> and at the

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<sup>201</sup> Canada, Preparatory Committee of the 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, *Towards the Sixth BTWC Review Conference: An Accountability Framework*, BWC/CONF.VI/PC/INF.1, 10 April 2006. Available at <http://www.unog.ch/bwc> and at <http://www.opbw.org>

<sup>202</sup> Canada, The 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, *Accountability Framework*, BWC/CONF.VI/WP.1, 20 October 2006. Available at <http://www.unog.ch/bwc> and at <http://www.opbw.org>

<sup>203</sup> France on behalf of the EU, The 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, *Enhancement of the Confidence-Building Measure (CBM) Process*, BWC/CONF.VI/WP.4, 20 October 2006. Available at <http://www.unog.ch/bwc> and at <http://www.opbw.org>

<sup>204</sup> Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, Guatemala, Mexico, Peru and Uruguay, The 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, *Confidence-Building Measures*, BWC/CONF.VI/WP.12, 20 October 2006. Available at <http://www.unog.ch/bwc> and at <http://www.opbw.org>

<sup>205</sup> Switzerland, The 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, *Actions to Improve Confidence-Building Measures*, BWC/CONF.VI/WP.14, 15 November 2006. Available at <http://www.unog.ch/bwc> and at <http://www.opbw.org>

<sup>206</sup> Switzerland, The 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, *Proposal for the Modification of the Format of Confidence-Building Measures Forms*, BWC/CONF.VI/WP.37, 8 December 2006. Available at <http://www.unog.ch/bwc> and at <http://www.opbw.org>

<sup>207</sup> South Africa, The 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, *Confidence-Building Measures*, BWC/CONF.VI/WP.21, 20 November 2006. Available at <http://www.unog.ch/bwc> and at <http://www.opbw.org>

<sup>208</sup> Switzerland, Meeting of Experts 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, *National Data Collection Processes for CBM Submissions*, BWC/MSP/2007/MX/WP.10, 15 August 2007. Available at <http://www.unog.ch/bwc> and at <http://www.opbw.org>

Meeting of States Parties<sup>209</sup> respectively in 2007 and described a Swiss Government study carried out by experts at the LSE and at VERTIC on national data collection processes for CBMs based on a survey of 10 States Parties that have consistently submitted returns since 1986. Two further papers were submitted in 2008 at the Meeting of Experts<sup>210</sup> and at the Meeting of States Parties<sup>211</sup> respectively. The papers described another Swiss study on CBMs, again carried out by experts at the LSE, which considered the kind of information that builds confidence. The two studies were part of efforts to prepare well in advance for the consideration of CBMs at the Seventh Review Conference, as it was recognised that at the Sixth Review Conference in 2006 it had been very difficult to agree on solutions regarding CBMs in an already packed agenda.

13. Various proposals regarding the CBM process have also been made by NGOs and others at various meetings, such as the Pugwash workshops held in Geneva prior to the annual Meeting of States Parties. These proposals by groups such as BIOS, London School of Economics; the Canadian Centre for Treaty Compliance, Carleton University; the Research Group for Biological Arms Control, University of Hamburg; and VERTIC are usefully summarised in the July 2009 compendium<sup>212</sup> already mentioned.

### **Proposals to improve the CBM regime**

14. Since the Sixth Review Conference in 2006, there have been a number of events that have focussed particularly on how to improve the CBM regime. In December 2007, the Geneva Forum in association with the Government of Switzerland held a meeting to address “*Building Confidence in the BWC: The Way Forward*” during the Meeting of States Parties. The subsequent year saw two events during the December 2008 Meeting of States Parties: the first again by the Geneva Forum and the Government of Switzerland on “Preparing the ground for the CBM content debate” and the second by UNIDIR and the Government of France on “*Universalization of CBMs in the BWC.*” The European Union, during the December 2009 Meeting of States Parties, had an event launching the “*Guide to Participating in the CBMs of the BWC*” and followed this up with a one day workshop during the August 2010 Meeting of Experts. Its aim was to contribute to the promotion of openness and transparency of the BWC by encouraging States to submit their annual CBMs. At that same Meeting of Experts, the Geneva Forum, in conjunction with the Governments of Switzerland, Norway and Germany, held an event on “*Opportunities to Enhance the BWC Confidence Building Measures.*”

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<sup>209</sup> Switzerland, 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, *National Data Collection Processes for CBM Submissions*, BWC/MSP/2007/WP.11, 7 January 2008. Available at <http://www.unog.ch/bwc> and at <http://www.opbw.org>

<sup>210</sup> Switzerland, Meeting of Experts 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, *National Data Collection Processes for CBM Submissions*, BWC/MSP/2008/MX/WP.5, 30 July 2008. Available at <http://www.unog.ch/bwc> and at <http://www.opbw.org>

<sup>211</sup> Switzerland, 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, *Preparing the Ground for the CBM Content Debate: What Information Builds Confidence?*, BWC/MSP/2008/WP.6, 9 December 2008. Available at <http://www.unog.ch/bwc> and at <http://www.opbw.org>

<sup>212</sup> Filippa Lentzos and R. Alexander Hamilton, *Compendium of Proposals to Improve the CBM Mechanism*, July 2009, BIOS Centre, London School of Economics. Available at [http://www2.lse.ac.uk/BIOS/research/biosecurity/projects/Biological\\_Weapons\\_Convention.aspx](http://www2.lse.ac.uk/BIOS/research/biosecurity/projects/Biological_Weapons_Convention.aspx)

15. These recent events were one of the outcomes of an informal roundtable discussion during the December 2008 Meeting of States Parties between a small number of like-minded States and civil society actors about strategies for continued work on CBMs in the lead-up to the Seventh Review Conference in 2011. One of the key areas identified at the roundtable where further work would be particularly useful was the development of a dialogue on how best to revise the current forms, which should obtain as many perspectives as possible. It was felt that this should be a multilateral endeavour and that it would be helpful to convene a meeting of experts outside of the BTWC intersessional process specifically for this purpose. To this end, the Geneva Forum in collaboration with the BIOS Centre of the London School of Economics, together with the Governments of Switzerland, Norway and Germany, hosted a series of three workshops to examine options and proposals to revise the CBM mechanism. The first of these was held in Jongny-sur-Vevey, Switzerland on 22-23 August 2009, the second in Geneva on 12 December 2009, and the third in Berlin on 26-27 April 2010. The event at the 2010 Meeting of Experts launched the report from these three workshops.

16. The workshops brought together a range of experts from governments, intergovernmental organisations, civil society and academia to address key questions on: (1) the objectives of the CBM mechanism and the extent to which these have been achieved in practice; (2) the CBMs in relation to other compliance assessment mechanisms; (3) the format and content of the existing CBM forms, and (4) the effectiveness of the CBM collation and submission process. Throughout these workshops, the aim was to find solutions with the potential to increase both the quantity and the quality of CBM declarations.

17. All involved agreed that CBMs are an important element in the implementation of the Convention. Consequently, rather than proposing an overhaul of the CBM mechanism, the workshops identified proposals aimed at fine-tuning the mechanism so that it would more effectively capture the information desired by States Parties to build confidence in the implementation of the Convention by other States Parties. Attention was paid throughout to the pragmatic questions: What information builds confidence? And, how can CBMs be improved to better communicate this information?

18. Following the workshops, a Bradford Review Conference Paper No. 24<sup>213</sup> in October 2010 outlined a set of proposals for the Seventh Review Conference to adopt to improve the CBM regime. Internationally, discussion of proposed changes to the CBMs continued in an e-mail platform to which more than 70 experts from a wide range of States Parties, including from civil society, subscribed. The results of the workshops and the ongoing discussion were presented in the margins of the 2010 Meeting of Experts and Meeting of States Parties in Geneva. There have also been discussions at the meetings held in Beijing<sup>214</sup> in November 2010 and in Montreux<sup>215</sup> in April 2011 looking ahead to the Seventh Review Conference. As a result of all this consideration of the CBM mechanism it is becoming evident that there is broad agreement that the improvement of the CBM process should take part in two stages:

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<sup>213</sup> Filippa Lentzos, *Improving the BTWC Confidence-Building Measures Regime*, Bradford Review Conference Paper No. 24, October 2010. Available at <http://www.brad.ac.uk/acad/sbtwc/briefing/RCPapers.htm>

<sup>214</sup> Graham S. Pearson, *Preparing for the BWC Seventh Review Conference in 2011*, Special HSP Report from Beijing, December 2010. Available at <http://www.sussex.ac.uk/Units/spru/hsp/Reports%20from%20Geneva.html>

<sup>215</sup> Graham S. Pearson, *Developing Practical Proposals for the BWC Seventh Review Conference in 2011*, Special HSP Report from Montreux, May 2011. Available at <http://www.sussex.ac.uk/Units/spru/hsp/Reports%20from%20Geneva.html>



- a. First, a number of changes to the existing CBMs should be agreed at the Seventh Review Conference itself in order to increase the number of annual submissions and improve their quality.
- b. Second, consideration should be given to how the CBM mechanism might be further developed. Such consideration could usefully be achieved through a standing working group on CBMs that meets during the next intersessional period and reports to the annual Meeting of States Parties.

Such a standing working group on CBMs should consider whether the current CBMs provide the necessary level of transparency today and whether additional types of information or alternative means in the future would provide additional transparency and build confidence.

19. A draft working paper<sup>216</sup> prepared by Norway, Switzerland and Germany detailing the proposed changes to the existing CBMs was circulated during the Preparatory Committee meeting in April 2011.

20. It is evident that many proposals have been put forward by the various papers and events since the Sixth Review Conference. This chapter draws on these proposals and the outcome of these workshops<sup>217</sup> to outline a set of proposals for the Seventh Review Conference to adopt to improve the CBM regime. As these would be *decisions* of the Seventh Review Conference, they would fall naturally into *Part III: Decisions and Recommendations* of the *Final Document*.

### **Issues for the Seventh Review Conference**

21. It is recommended that the Seventh Review Conference should adopt the following amendments to the existing CBM regime.

#### ***CBM Form A***

22. Form A, part 1. Exchange of data on research centres and laboratories. Declarations under this form should cover *all* facilities that fulfill the requirements set out for maximum containment (BSL4) for handling human and/or animal pathogens classified as Risk Group 4 microorganisms. To ensure that *all* BSL4 centres and facilities are included, the form should be amended to clarify that **all** such facilities are to be declared – and that the form is *not* limited to research activities. The Form A, part 1 should accordingly be modified so as to read as follows with modifications shown in bold:

*CONFIDENCE-BUILDING MEASURE A:*

*Part 1: Exchange of data on ~~research~~ centres and laboratories*

*At the Third Review Conference it was agreed that States Parties continue to*

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<sup>216</sup> Norway, Switzerland, Germany, *Review and update of the Confidence Building Measures*, Geneva, 15 April 2011. Available at the Think Zone for the Seventh Review Conference at [unog.ch/bwc](http://unog.ch/bwc)

<sup>217</sup> Filippa Lentzos and R. Alexander Hamilton, *Preparing for a comprehensive review of the CBM mechanism at the Seventh BWC Review Conference*, August 2010.

implement the following:

*“Exchange of data, including name, location, scope and general description of activities, on **all** centres and laboratories that meet very high national or international safety standards established for handling, for permitted purposes, biological materials that pose a high individual and community risk or specialize in permitted biological activities directly related to the Convention.”*

#### *Modalities*

*The Third Review Conference agreed that data should be provided by States Parties on each facility, within their territory or under their jurisdiction or control anywhere, which **fulfill the requirements for maximum containment (BSL4) for handling human and/or animal pathogens classified as Risk Group 4 microorganisms.***

23. In addition, footnote 4 to Form A, part 1 should be revised to refer to the *latest* version of the WHO Laboratory Biosafety Manual and should also include a reference standard for veterinary facilities, e.g. the relevant chapter from the OIE Terrestrial Manual. The footnote should be amended to read as follows with amendments shown in bold:

*4 In accordance with the **latest version of the WHO Laboratory Biosafety Manual, or the latest version of the OIE Manual of Diagnostic Tests and Vaccines for Terrestrial Animals.***

24. Form A, part 1. It is ambiguous what is required to be declared in response to item 6 on this form, which states;

6. *If no maximum containment unit, indicate highest level of protection*

It is therefore proposed that item 6 on Form A, part 1 should be deleted. In its place, the Modalities to Form A, part 1 should be extended by the addition of a sentence along the following lines:

***Should the State Party not possess a BSL 4 facility, then Form A, part 1 (ii), should be completed.***

25. Form A, part 1 (ii) would comprise a new form along the following lines:

#### *Form A, part 1(ii)*

##### *Exchange of data on centres and laboratories.*

*Provide information on the highest biosafety level implemented in facilities within the country that handle biological agents and toxins.*

*Does the State have biosafety level 2 (BSL 2) facilities?      Yes/No*

*Does the State have biosafety level 3 (BSL 3) facilities?      Yes/No*

*Are these facilities administered by government, industry or academia?*

*Government/Industry/Academia*

26. Form A, part 2. Exchange of information on national biological defence research and development programmes. The Second Review Conference agreed in the *Final Declaration* that the information to be exchanged here would include:

1. *Exchange of data, including name, location, scope and general description of activities, on **research centres and laboratories that meet very high national or international safety standards established for handling, for permitted purposes, biological materials that pose a high individual and community risk or specialise in permitted biological activities directly related to the Convention.*** [Emphasis added].

27. The modalities agreed at the subsequent ad hoc meeting on 31 March to 15 April 1987<sup>218</sup> agreed that data should be provided *on each research centre or laboratory, within the territory of a State Party, under its jurisdiction or under its control anywhere, ...*

*(b) which has containment unit(s) and specializes in research or development for prophylactic or protective purposes against possible hostile use of microbial and/or other biological agents or toxins.*

28. It was at the Third Review Conference in 1991 that the States Parties in agreeing to *reaffirm those measures established at the Second Review Conference with the following improvements ... to amend and extend the exchange of data on research centres and laboratories* introduced a part 2 to Confidence-building measure “A” which referred for the first time to “*national biological defence research and development programmes.*” Such an amendment was understandable back in 1991 when the focus was primarily on the possible misuse by States Parties with little if any attention being given to possible use by non-State actors or terrorists.

29. With the benefit of hindsight and considering the concerns today about the possible misuse of biological agents and toxins, it is evident that States Parties should return to the Second Review Conference language requiring declaration of *centres and laboratories that ... specialise in permitted biological activities directly related to the Convention* as it is evident that today the requirement should be to declare *any* facilities, whether in government, industry or academia, that are engaged in activities to counter deliberate outbreaks of disease or uses of toxins in humans, animals or plants. The word *research* should be omitted to make it clear that all such facilities are to be declared. This could be achieved by the Seventh Review Conference in its *Final Declaration* recognizing that the information submitted in response to Form A part 2 should be regarding *any* facilities engaged in *activities to counter deliberate* outbreaks of disease or uses of toxins.

30. There are then several consequential changes to parts of Form A relating to this exchange as follows:

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<sup>218</sup> United Nations, Ad Hoc Meeting of Scientific and Technical Experts from States Parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, 31 March – 15 April 1987, *Report*, BWC/CONF.II/EX/2, 21 April 1987. Available at <http://www.unog.ch/bwc> and at <http://www.opbw.org>

a. Form A, part 2 requires amendment of its heading so as to read *Exchange of information on programmes to counter the deliberate release of biological agents and toxins.*

b. Form A, part 2 (i) requires amendment of its heading so as to read *Programmes to counter the deliberate release of biological agents and toxins. Declaration*

c. The first paragraph of Form A, part 2 (i) should be amended to read:

*Are there programmes to counter the deliberate release of biological agents and toxins within the territory of the State Party, under its jurisdiction or control anywhere? Activities of such a programme would include prophylaxis, studies on pathogenicity and virulence, diagnostic techniques, aerobiology, detection, treatment, toxinology, physical protection, decontamination and other related research.*

d. Form A, part 2 (ii) requires amendment of its heading so as to read *Programmes to counter the deliberate release of biological agents and toxins.*

e. Form A, part 2 (ii). Likewise, item 7 should be amended so as to read:

*7. Provide a declaration in accordance with Form A, part 2 (iii) for each facility, both governmental and non-governmental, which has a substantial proportion of its resources devoted to ~~the national biological defence research and development programme~~ **countering the deliberate release of biological agents or toxins** within the territory of the reporting State, or under its jurisdiction or control anywhere.*

31. Form A, part 2 (ii). Item 2. This should be extended to read as follows:

*State the total funding for the programme and its source. **If more than one Ministry (or Government Department) is involved, name each Ministry involved and indicate the proportion of the budget contributed by each Ministry.***

32. Form A, part 2 (ii). This form should also be extended to include a question as to what procedures and/or practices are in place within the facilities engaged in the programme to review national compliance with the Convention, i.e. a question on so-called “oversight procedures”. This could be achieved by amending item 6 to read as follows:

*6. Provide a diagram of the organizational structure of the programme and the reporting relationships (include individual facilities participating in the programme). **Also provide information on what oversight procedures are in place for both facilities and the programme as a whole.***

33. Form A, part 2 (iii). In view of the changed focus onto programmes countering the deliberate release of biological agents and toxins, Form A, part 2 (iii) would be amended in several places so as to read as follows:

National programme to counter deliberate release of biological agents and toxins

*Facilities*

Complete a form for each facility declared in accordance with paragraph 7 in Form A, part 2 (ii).

In shared facilities, provide the following information for the portion to counter the deliberate release of biological agents and toxins only.

1. What is the name of the facility?
  
2. Where is it located (include both address and geographical location)?
  
3. Floor area of laboratory areas by containment level:  
BL2 \_\_\_\_\_ (sqM)  
BL3 \_\_\_\_\_ (sqM)  
BL4 \_\_\_\_\_ (sqM)  
Total laboratory floor area  
\_\_\_\_\_ (sqM)

4. The organizational structure of each facility.
  - (I) Total number of personnel (excluding any contract staff)  
\_\_\_\_\_
  
  - (ii) Division of personnel:  
Military (if any)  
\_\_\_\_\_  
Civilian  
\_\_\_\_\_
  
  - (iii) Division of personnel by category:  
Scientists  
\_\_\_\_\_

*Engineers*

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*Technicians*

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*Administration and support staff*

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- (iv) *List the scientific disciplines **indicating the proportion of each** represented in the scientific/engineering staff.*
- (v) *Are contractor staff working in the facility? If so, provide an approximate number.*
- (vi) *What is (are) the source(s) of funding for the work conducted in the facility, including indication if activity is wholly or partly financed by **a Government Ministry? Include the names of the relevant Ministries.***
- (vii) *What are the funding levels for the following programme areas:*

*Research*

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*Development*

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*Test and evaluation*

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- (viii) *Briefly describe the publication policy of the facility **and indicate the proportion of publicly available papers and reports to those not publicly available during the previous 12 months.***
- (ix) *Provide a list of publicly-available papers and reports resulting from the work during the previous 12 months. (To include authors, titles and full references.)*

5. *Briefly describe the work to counter the deliberate release of biological agents and toxins carried out at the facility, including type(s) of micro-organisms\* and/or toxins studied, as well as ~~outdoor~~ studies of biological aerosols.*

34. Form A, part 2 (iii). Item 5 should be amended, as has been done in the revised format for this Form above, so as to delete the word “outdoor” thus making it clear that any studies of aerosols are to be declared whether conducted indoors or outside.

### **CBM Form B**

35. Form B (i). Background information on outbreaks of reportable infectious diseases. As information on the reporting of outbreaks of reportable infectious diseases is now available from the WHO and OIE, the requirement for the States Parties to the BTWC to provide such information as part of the CBM regime is no longer required, and this form should be **deleted**. This will remove the possibility of any inconsistencies between the national reports on the CBM Form and those submitted to WHO and OIE.

36. Form B (ii). Information on outbreaks of infectious diseases and similar occurrences, that seem to deviate from the normal pattern. This information should continue to be provided. This form should be amended to enable States Parties to provide links to national websites and to WHO, OIE, FAO and PROMED websites where reports are published on disease outbreaks that seem to deviate from the normal pattern and that are considered particularly important to the Convention. Such links could be included as an additional item to item 8 on this form reading:

*– list links to national websites and to WHO, OIE, FAO and PROMED websites where reports have been published on this disease outbreak that seems to deviate from the normal pattern.*

Two further items could also be added to the list on Form B (ii) to further clarify the response to the outbreak as follows:

*14. International assistance requested* *Yes/No*

*15. International assistance received* *Yes/No*

### **CBM Form C**

37. CBM C. Encouragement of publication of results and promotion of use of knowledge. As information about publications is widely available on the internet, CBM C could be discontinued. However, the provision of information about publications by those engaged in programmes to counter the deliberate releases of biological agents and toxins **should continue to be provided** in accordance with the requirement in part 4 (ix) of CBM Form A, part 2 (iii) for each facility so engaged. Such information makes an important contribution to enhancing transparency and building confidence.

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\*Including viruses and prions.

### **CBM Form D**

38. Form D. Active promotion of contacts. As Form D has always been intended to promote professional contacts in activities directly related to the Convention, this form could usefully be extended by the addition of an item under which States Parties could indicate whether they are seeking assistance in any particular area and likewise if they are in a position to provide assistance to other States Parties. This could be achieved by adding the following:

- 3. Indicate areas in which assistance would be welcomed, providing a point of contact to whom such offers might be directed.**
- 4. Indicate areas in which assistance could be provided, indicating a point of contact from whom such assistance may be requested.**
- 5. Include information on relevant educational and training activities being carried out in their countries, including points of contact for applicants wishing to apply to participate in such activities.**

This final point, 5, on relevant educational and training activities is recommended in the chapter on *Article IV: National Implementation: Education, Outreach and Codes of Conduct* in these *Key Points for the Seventh Review Conference*.

### **CBM Form E**

39. Form E. Declaration of legislation, regulations and other measures. This form should be extended by the addition of further Yes/No questions seeking information on transfers of dual-use items and technology, on end-use controls, and on oversight measures, as well as on national measures addressing biosafety, biosecurity, disease surveillance and codes of conduct for the life sciences. This could be achieved by the following additions:

<b>(d) Transfers of dual-use items and technology</b>	<b>Yes/No</b>	<b>Yes/No</b>	<b>Yes/No</b>
<b>(e) End-use controls</b>	<b>Yes/No</b>	<b>Yes/No</b>	<b>Yes/No</b>
<b>(f) Oversight of activities in the life sciences</b>	<b>Yes/No</b>	<b>Yes/No</b>	<b>Yes/No</b>
<b>(g) Biosafety</b>	<b>Yes/No</b>	<b>Yes/No</b>	<b>Yes/No</b>
<b>(h) Biosecurity</b>	<b>Yes/No</b>	<b>Yes/No</b>	<b>Yes/No</b>
<b>(i) Disease surveillance</b>	<b>Yes/No</b>	<b>Yes/No</b>	<b>Yes/No</b>
<b>(j) Codes of conduct for the life sciences</b>	<b>Yes/No</b>	<b>Yes/No</b>	<b>Yes/No</b>

40. In addition, Form E should be extended to allow the provision of the following information:

- 2. Contact details for the BTWC national authority/point of contact.**



**3. Provide weblinks to databases wherein the above legislation, regulations or other measures are available.**

**4. Provide information on the steps they have taken nationally to improve education and outreach.**

This final point, 4, on steps taken nationally to improve education and outreach is recommended in the chapter on *Article IV: National Implementation: Education, Outreach and Codes of Conduct* in these *Key Points for the Seventh Review Conference*.

### **CBM Form F**

41. Form F. Declaration of past activities in offensive and/or defensive biological research and development programmes. The information requested in the first item – the date of entry into force of the Convention for the State Party – could be deleted as it is proposed that this information should in future be provided as an additional item on Form 0 – the form on which Nothing to Declare or Nothing New to Declare is indicated (see paragraph 41 below). Form F should be extended to provide information about the facilities at which the past offensive programmes were carried out and what those facilities are engaged in today. This would provide a significant addition to building transparency and confidence, and should not present any difficulties in completion. Form F should be extended by addition of the following:

**4. Facilities at which the past offensive programme was carried out. For each facility provide the following information:**

**(a) What was the name of the facility when it was engaged in the past offensive programme?**

**(b) Where was it located (include both address and geographical location)?**

**(c) What is the name of the facility today?**

**(d) What activities are carried out at the facility today?**

### **CBM Form G**

42. CBM G. Declaration of vaccine production facilities. As this CBM was initially limited to the declaration of vaccines licensed for the protection of humans, it would be useful to extend it to also include the declaration of facilities that produce vaccines licensed by a State Party for the protection of animals. The wording on CBM G should be amended to read as follows:

*To further increase the transparency of biological research and development related to the Convention and to broaden scientific and technical knowledge as agreed in Article X, each State party will declare all facilities, both governmental and non-governmental, within its territory or under its jurisdiction or control anywhere, producing vaccines licensed by the State party for the protection of humans **and of animals**. Information shall be provided on Form G attached.*

43. Form G. This should be amended to read as follows:

*A. Declaration of production facilities for vaccines licensed for the protection of humans*

1. *Name of facility:*
2. *Location (mailing address):*
3. *General description of the types of diseases covered:*

*B. Declaration of production facilities for vaccines licensed for the protection of animals*

1. *Name of facility:*
2. *Location (mailing address):*
3. *General description of the types of diseases covered:*

**CBM Form 0**

44. This form, which already includes a requirement to enter the name of the State Party to the Convention, should be extended by including a question asking when the Convention entered into force for the State Party.

45. This form should be amended so that when a State Party is advising that it has “nothing new to declare,” the last year in which information was provided for a particular form should be shown.

46. The revised Form 0, on the assumption that the recommendations made above to add Form A part 1 (ii) and discontinue Form B (i) and Form C are agreed, would have the following format:

1. *Declaration form on Nothing to Declare or Nothing New to Declare for use in the information exchange*

<i>Measure</i>	<i>Nothing to declare</i>	<i>Nothing new to declare</i>	<i>Year when last completed</i>
<i>A, part I</i>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<i>A, part I (ii)</i>	<input type="text"/>	<input type="text"/>	<input type="text"/>

<i>A, part 2 (ii)</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>A, part 2 (iii)</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>B (ii)</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>D</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>E</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>F</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>G</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

*(Please mark the appropriate box(es) for each measure, with a tick and in the third box by inserting the last year in which information was submitted for this CBM.)*

*Date:* \_\_\_\_\_

*State Party to the Convention:* \_\_\_\_\_

***Date of entry into force of the Convention for the State Party:***  
\_\_\_\_\_

### **Points for the *Final Document***

47. It is probable at the Seventh Review Conference, if it follows the precedent of the Sixth Review Conference, that language on CBMs will be agreed both in regard to Article V in the Article by Article *Final Declaration* and also in a *Decisions and Recommendations* section of the *Final Document*. Points for both of these are set out here. It also needs to be recalled that the CBMs **are** politically-binding and are the measures that the Second Review Conference, repeated by the Third, agreed *that the States parties are to implement, on the basis of mutual cooperation*.

#### **Article V in the Article by Article *Final Declaration***

48. It is recommended that the Seventh Review Conference should adopt more concrete language for the CBMs in Article V than that in the *Final Declaration* of the Sixth Review Conference. It should make the following points:

- a. To note the comprehensive attention given to the Confidence-Building Measure regime at the Seventh Review Conference and to welcome the amendments agreed to the Confidence-Building Measures [See *Part III: Decisions and Recommendations*].
- b. To emphasise the importance of the exchange of information among States Parties through the politically binding confidence-building measures (CBMs) agreed at the Second and Third Review Conferences and amended at the Seventh Review Conference.
- c. To welcome the exchange of information carried out under these measures, and to note that this has contributed to enhancing transparency and building confidence.
- d. To note that only a limited number of States Parties make an annual CBM submission and to recognise the urgent need to increase the number of States Parties participating in CBMs.
- e. To reaffirm that the data submitted in the framework of the annual exchange of information should be provided to the United Nations Office for Disarmament Affairs and promptly forwarded by it to all States Parties according to existing modalities.
- f. To agree that a working group reporting to the annual Meeting of States Parties throughout the intersessional process should be established to examine further how the effectiveness of, and the participation in, the CBM regime might be enhanced.

***Decisions and Recommendations section of the Final Document***

49. The assumption is made that the Seventh Review Conference will follow the precedent of the Sixth Review Conference and have a section entitled *Confidence-Building Measures* in the *Decisions and Recommendations* section of the *Final Document*. This should make the following points:

Confidence-Building Measures

- a. To note that the review of Article V of the Convention has shown the need to enhance the effectiveness of the Confidence-Building Measures (CBM) process and to increase participation therein.
- b. To decide that the Confidence-Building Measures shall be amended as detailed in Annex A. [Annex A would provide a detailed listing of the amendments indicated in paragraphs 22 to 46 above].
- c. To decide further that a Working Group on Confidence-Building Measures shall be established to enhance the effectiveness of the Confidence-Building Measures (CBM) process and to increase participation therein. The Working Group shall consider whether additional types of information or alternative means would increase transparency and build confidence. The Working Group shall report throughout the intersessional process to the annual Meeting of States Parties which shall decide on any further amendments to the CBM process.

d. To decide that the ISU shall give professional support to the implementation of these decisions by providing necessary services as required by States Parties individually and collectively

(i) for the effective operation of the CBMs already agreed, and their associated modalities, including but not limited to the following tasks decided by the Sixth Review Conference and now reaffirmed:

1. The Implementation Support Unit (ISU) within the United Nations Office for Disarmament Affairs, with the assistance of interested States Parties, shall develop an electronic format of the existing CBM forms.

2. Once completed, the electronic forms shall, with the consent of the State Party submitting them, be posted on a secure Internet site and made available for the use of States Parties, to be developed under the auspices of the ISU.

3. States Parties are invited to submit forms using the electronic format. States Parties that wish to submit completed paper forms instead of electronic forms may do so. The ISU shall insert the submitted hard copy data in the secure Internet site with the consent of the State Party providing this data in order to make it electronically available to all States Parties.

4. The ISU shall centralize requests and offers of assistance regarding the submission of CBMs.

5. The ISU shall regularly inform States Parties about CBM returns and provide statistics on the level of participation at the annual meetings of States Parties.

6. States Parties shall designate a national point of contact in charge of preparing the submission of CBMs, the contact details of which shall be sent to the ISU.

7. The ISU shall circulate to points of contact a notice informing States Parties of the deadline for submitting information under the information exchange procedure (15 April) at least three months prior to this deadline.

(ii) for the new Working Group on CBMs which is to be established by decision [49c] above, including action on any decisions arising out of its recommendations to the annual Meeting of States Parties throughout the intersessional process;

(iii) for consequential changes and any other aspects of the CBM regime as they arise over the intersessional period, under the supervision of the troika consisting of the President of the Seventh Review Conference assisted by the Chairman of the Committee of the Whole and the Chairman of the Drafting Committee.

e. To agree that the CBM regime merits further attention at the Eighth Review Conference.

50. In addition, the *Decisions and Recommendations* section on the *Implementation Support Unit* should also include the assignment of tasks to the Implementation Support Unit relating to the CBMs which should make the following points:

B. Confidence Building Measures:

- (i) Receiving and distributing confidence-building measures (CBMs) to/from States Parties;
- (ii) Sending information notices to States Parties regarding their annual submissions;
- (iii) Supporting the Working Group in its activities to enhance the effectiveness of the Confidence-Building Measures (CBM) regime and to increase participation therein;
- (iv) Compiling, analyzing and distributing data on CBMs and informing on participation at each Meeting of States Parties;
- (v) To the extent possible, and with the assistance of States Parties able to do so, making the CBM data available in more than one of the UN languages;
- (vi) Developing and maintaining a secure website on CBMs to be accessible only to States Parties;
- (vii) Serving as an information exchange point for assistance related to preparation of CBMs;
- (viii) Facilitating activities to promote participation in the CBM regime, as agreed by the States Parties.