

Strengthening the Biological Weapons Convention

Review Conference Paper No 24

Improving the BTWC Confidence-Building Measures Regime

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IMPROVING THE BTWC CONFIDENCE-BUILDING MEASURES REGIME

by Filippa Lentzos[†]

Introduction

1. Review Conference Paper No. 21¹ on *Preparing for the BTWC Seventh Review Conference in 2011* noted that there are a wide range of issues worthy of consideration at the Seventh Review Conference in 2011. These include:

- a. Recent advances in science and technology of relevance to the Convention.
- b. The Confidence-Building Measures mechanism and whether additional new CBMs should be adopted.
- c. The strengthening of the Implementation Support Unit.
- d. The holding of Annual Meetings of States Parties with authority to make decisions.
- e. The development of an accountability framework.
- f. An Action Plan for national implementation of Article IV.
- g. A mechanism or a CBM for the implementation of Article X.
- h. A mechanism to strengthen the effectiveness and improve the implementation of the Convention.

2. This Review Conference Paper addresses the second item in the above list:

- a. The Confidence-Building Measures mechanism and whether additional new CBMs should be adopted.

The Confidence-Building Measures Regime

3. At the **Second Review Conference** in 1986, the States Parties to the Biological and Toxin Weapons Convention (BTWC) agreed in their Final Declaration² in consideration of Article V of the Convention that *in order to prevent or reduce the occurrence of ambiguities, doubts and suspicions, and in order to improve international co-operation* the States Parties would exchange information in a number of specified areas:

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¹ Graham S. Pearson & Nicholas A. Sims, *Preparing for The BTWC Seventh Review Conference in 2011*, University of Bradford, Department of Peace Studies, Review Conference Paper No. 21, May 2010. Available at <http://www.brad.ac.uk/acad/sbtwc>

² United Nations, *Second Review Conference of the Parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction*, 8th - 26th September 1986, Final Declaration, BWC/CONF.II/13/II, Geneva, 1986. Available at <http://www.unog.ch/bwc> and at <http://www.opbw.org>

The Conference, mindful of the provisions of Article V and Article X, and determined to strengthen the authority of the Convention and to enhance confidence in the implementation of its provisions, agrees that the States Parties are to implement, on the basis on mutual co-operation, the following measures, in order to prevent or reduce the occurrence of ambiguities, doubts and suspicions, and in order to improve international co-operation in the field of peaceful bacteriological (biological) activities:

- 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.*
- 2. Exchange of information on all outbreaks of infectious disease and similar occurrences caused by toxins that seem to deviate from the normal pattern as regards type, development, place, or time of occurrence. If possible, the information provided would include, as soon as it is available, data on the type of disease, approximate area affected, and number of cases.*
- 3. Encouragement of publication of results of biological research directly related to the Convention, in scientific journals generally available to States Parties, as well as promotion of use for permitted purposes of knowledge gained in this research.*
- 4. Active promotion of contacts between scientists engaged in biological research directly related to the Convention, including exchanges for joint research on a mutual agreed basis.*

4. Furthermore, the States Parties agreed that the detailed modalities for this exchange of data should be worked out by an ad-hoc meeting of scientific and technical experts from the States Parties who would meet for a three-week period the following year, 1987, to finalise the arrangements:

The Conference decides to hold an ad hoc meeting of scientific and technical experts from States Parties to finalise the modalities for the exchange of information and data by working out, inter alia, appropriate forms to be used by States Parties for the exchange of information agreed to in this Final Declaration, thus enabling States Parties to follow a standardised procedure. The group shall meet in Geneva for the period 31 March-15 April 1987 and shall communicate the results of the work to the States Parties immediately thereafter.

The Final Declaration made it clear that once this meeting had been held the States Parties should report the agreed data to the United Nations Department of Disarmament Affairs:

Pending on the results of this meeting, the Conference urges States parties to promptly apply these measures and report the data agreed upon to the United Nations Department for Disarmament Affairs.

5. At the **Third Review Conference** in 1991³ the States Parties reviewed the confidence-building measures and urged all States Parties to participate in future years:

The Conference notes the importance of the confidence-building measures agreed upon at the Second Review Conference, as well as the modalities elaborated by the Ad Hoc Meeting of the Scientific and Technical Experts from States parties to the Convention held in 1987. The Conference recognizes the exchange of information that took place on this agreed basis between 1987 and 1991. The Conference urges all States parties to submit information to future rounds of information exchange.

6. In addition, the States Parties agreed that they should reaffirm the measures agreed at the Second Review Conference with certain improvements:

With a view to promoting increased participation and strengthening further the exchange of information, the Conference agrees to reaffirm those measures established at the Second Review Conference with the following improvements: to add a declaration on "Nothing to declare" or "Nothing new to declare"; to amend and extend the exchange of data on research centres and laboratories; to amend the exchange of information on outbreaks of infectious diseases and similar occurrences caused by toxins; to amend the measure for the active promotion of contacts; and to add three new confidence-building measures entitled "Declaration of legislation, regulations and other measures"; "Declaration of past activities in offensive and/or defensive biological research development programmes"; and "Declaration of vaccine production facilities".

Accordingly, the Conference, mindful of the provisions of Article V and Article X, and determined to strengthen the authority of the Convention and to enhance confidence in the implementation of its provisions, agrees that the States parties are to implement, on the basis of mutual cooperation, the following measures set out in the annex to this Final Declaration, in order to prevent or reduce the occurrence of ambiguities, doubts and suspicions, and in order to improve international cooperation in the field of peaceful bacteriological (biological) activities:

1. Declaration form on "Nothing to declare" or "Nothing new to declare"
2. Confidence-building measure "A":
 - Part 1: Exchange of data on research centres and laboratories;
 - Part 2: Exchange of information on national biological defence research and development programmes.
3. Confidence-building measure "B":

³ United Nations, *The Third 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, 9 - 27 September 1991, BWC/CONF.III/23, Geneva 1991. Available at <http://www.unog.ch/bwc> and at <http://www.opbw.org>

- *Exchange of information on outbreaks of infectious diseases and similar occurrences caused by toxins.*

4. *Confidence-building measure "C":*

- *Encouragement of publication of results and promotion of use of knowledge.*

5. *Confidence-building measure "D":*

- *Active promotion of contacts.*

6. *Confidence-building measure "E":*

- *Declaration of legislation, regulations and other measures.*

7. *Confidence-building measure "F":*

- *Declaration of past activities in offensive and/or defensive biological research and development programmes.*

8. *Confidence-building measure "G":*

- *Declaration of vaccine production facilities.*

7. It was also agreed that the States Parties should submit this data annually and not later than 15 April:

The Conference also agrees that the exchange of information and data, using the revised forms, be sent to the United Nations Department for Disarmament Affairs no later than 15 April on an annual basis and should cover the previous calendar year.

8. A further paragraph said that *The States parties agree to review inter alia the requirement for, and the operation of, these additional arrangements at the Fourth Review Conference.*

9. At the **Fourth Review Conference** in 1996⁴ the States Parties recorded in their final declaration that:

4. In accordance with the decision of the Third Review Conference, the Conference reviewed the effectiveness of the confidence-building measures as agreed in the Final Declaration of the Third Review Conference. The Conference notes the continued importance of the confidence-building measures agreed upon at the Second and Third Review Conferences, as well as the modalities elaborated by the Ad Hoc Meeting of Scientific and Technical Experts from States Parties to the Convention, held in 1987.

They also went on to note that:

⁴ United Nations, *The Fourth 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, 25 November-6 December 1996, BWC/CONF.IV/9, Geneva, 1996. Available at <http://www.unog.ch/bwc> and at <http://www.opbw.org>

The Conference welcomes the exchange of information carried out under the confidence-building measures, and notes that this has contributed to enhancing transparency and building confidence. The Conference recognizes that participation in the confidence-building measures since the last Review Conference has not been universal, and that not all responses have been prompt or complete. In this regard, the Conference also recognizes the technical difficulties experienced by some States Parties with respect to preparing CBM responses. In this regard, the Conference urges all States Parties to complete full and timely declarations in the future. The Conference notes that the Ad Hoc Group of States Parties established by the Special Conference in 1994 is, as part of its continuing work, considering the incorporation of existing and further enhanced confidence-building and transparency measures, as appropriate, in a regime to strengthen the Convention.

10. At the **Fifth Review Conference** in 2001 – 2002⁵ there was no Final Declaration in the usual sense and nothing was noted in regard to confidence-building measures.

11. At the **Sixth Review Conference** in 2006, the Final Declaration⁶ in its section on Article V focussed on the need to increase the number of States Parties participating in the confidence-building measures by agreeing 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.

12. The measures agreed by the Sixth Review Conference are set out in *Part III: Decisions and Recommendations* of the *Final Document*. The decisions taken are as follows:

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:

⁵ United Nations, *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*, Geneva, 19 November – 7 December 2001 and 11 – 22 November 2002, BWC/CONF.V/17, Geneva, 2002. Available at <http://www.unog.ch/bwc> and at <http://www.opbw.org>

⁶ United Nations, *Sixth Review Conference of the 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.unog.ch/bwc> and at <http://www.opbw.org>

- (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.*

13. In addition, it was agreed that:

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.

14. The aim of this Review Conference Paper is to provide a comprehensive set of proposed revisions to the CBM regime for consideration at the Seventh Review Conference.

Reviewing the Confidence-Building Measure Regime

15. Since the Third Review Conference in 1991 when the present CBM regime was agreed, there have been a number of proposals made by States Parties and also by NGOs and others. These proposals have been usefully summarised⁷ in a July 2009 compendium and are also detailed in Appendix B of an August 2010 report.⁸

⁷ 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://www.lse.ac.uk/collections/BIOS/biosecurity/projects/Biological_Weapons_Convention.htm

⁸ 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://www.lse.ac.uk/collections/BIOS/biosecurity/projects/Biological_Weapons_Convention.htm

16. In 2001, a proposal⁹ 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 paper¹⁰ 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. Canada at the Preparatory Committee¹¹ and at the Review Conference itself¹² 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 proposals¹³ 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 proposals¹⁴ to improve the CBMs and reduce areas of ambiguity through greater transparency. Switzerland, in conjunction with the JACKSNNZ group of States Parties, submitted a proposal¹⁵ for several possible

⁹ 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>

¹⁰ 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>

¹¹ 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>

¹² 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>

¹³ 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>

¹⁴ 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>

¹⁵ 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>

improvements of the CBMs. Switzerland in a second paper¹⁶ submitted a proposal for the modification of the format of the CBM forms. South Africa proposed¹⁷ 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 11 and 12 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.

17. Subsequent to the Sixth Review Conference, Switzerland has submitted further working papers on the CBM process. The first two were at the Meeting of Experts¹⁸ and at the Meeting of States Parties¹⁹ 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 Experts²⁰ and at the Meeting of States Parties²¹ 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.

18. 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

¹⁶ 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>

¹⁷ 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>

¹⁸ 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>

¹⁹ 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>

²⁰ 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>

²¹ 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>

Group for Biological Arms Control, University of Hamburg; and VERTIC are usefully summarised in the July 2009 compendium²² already mentioned.

19. Since the Sixth Review Conference in 2006, there have been a number of events that have focussed 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.”

20. This recent event was 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.

21. 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.

22. 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

²² 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://www.lse.ac.uk/collections/BIOS/biosecurity/projects/Biological_Weapons_Convention.htm

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?

23. It is evident that many proposals have been put forward by the various papers and events since the Sixth Review Conference. This Review Conference Paper draws on these proposals and the outcome of these workshops²³ to outline a set of proposals for the Seventh Review Conference to adopt to improve the CBM regime. The next section considers each of the existing CBMs in turn with proposed changes to the existing text shown in **bold**.

Proposals to enhance the Confidence-Building Measure Regime

CBM Form A

24. 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 centres and laboratories

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

25. 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

²³ Filippa Lentzos and R. Alexander Hamilton, *Preparing for a comprehensive review of the CBM mechanism at the Seventh BWC Review Conference*, August 2010.

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.***

26. 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.

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

Form A, part 1(ii)

Exchange of data on research 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

28. 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].

29. The modalities agreed at the subsequent ad hoc meeting on 31 March to 15 April 1987²⁴ 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.

30. 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.

31. 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 ***research 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. 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.

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

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,

²⁴ 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>

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.*

33. 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.***

34. 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.***

35. 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:

Form A, part 2 (iii)

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

Technicians

Administration and support staff

(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

Development

Test and evaluation

(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.*

36. 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

37. 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

*Including viruses and prions.

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.

38. 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

39. 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.

CBM Form D

40. Form D. Active promotion of contacts. This form should 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.

CBM Form E

41. 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:

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

42. 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.

CBM Form F

43. 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

44. CBM G. Declaration of vaccine production facilities. This CBM should be extended to 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.*

45. 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

46. 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.

47. This form should be amended so that when a States 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.

48. The revised Form 0 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 1</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>A, part 2 (i)</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<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 (i)</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>B (ii)</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>C</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:

Proposals to Improve the CBM Process

49. A number of proposals have been made over the years as to how the CBM process might be improved through taking steps to improve the usability of the CBM forms, to modernise the reporting process and to make administrative improvements. These proposals are summarised in the *Compendium of Proposals to Improve the CBM Mechanism* that is annexed as Annex B to the August 2010 report.²⁵ It is considered that these various improvements are matters that the Implementation Support Unit should consider on a continuing basis and implement as they see fit in order to facilitate the process by which States Parties contribute to the agreed CBMs. This could be achieved by slightly amending the decision regarding CBMs at the Seventh Review Conference so as to read as follows – new additions are shown in bold:

*8. The Conference notes that the review of Article V of the Convention has **also** 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 on a continuing basis consider and implement changes as appropriate to improve the CBM process through steps to improve the usability of the CBM forms, to modernise the reporting process and to make administrative improvements.***
- (vi) 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.*
- (vii) 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.*

²⁵ 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://www.lse.ac.uk/collections/BIOS/biosecurity/projects/Biological_Weapons_Convention.htm

(viii) 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.

50. The same compendium²⁶ also includes proposals that are more relevant to the States Parties themselves, such as steps to improve the national data collection process and to promote cooperation between States Parties in relation to the CBMs. A reference to such steps could be included within the decision regarding CBMs at the Seventh Review Conference as proposed in the previous paragraph by slightly amending sub paragraph (iv) so that it reads:

*(iv) The ISU shall centralize requests and offers of assistance regarding the submission of CBMs, **national data collection processes and cooperation between States Parties in relation to the CBM***

Conclusions

51. The Confidence-Building Measures regime was agreed at the Second Review Conference in 1986 and extended at the Third Review Conference in 1991. At the Seventh Review Conference in 2011 it will be twenty years since the Confidence-Building Measures regime was given comprehensive attention. There have been immense developments in the life sciences during that time and the international security situation is now very different from that of 1991. The need to prepare for a comprehensive review of the CBM regime at the Seventh Review Conference has been recognised by the States Parties and by others in academia and civil society. It is also recognised that proposals to improve the CBM regime have to be submitted by States Parties **prior** to the Seventh Review Conference, as it is too late at the Review Conference itself to consider new proposals.

52. This Review Conference Paper sets out a comprehensive set of proposed revisions to the CBM regime which it is recommended that individual States Parties or groups of States Parties should embody in their proposals to enhance the CBM regime.

²⁶ 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://www.lse.ac.uk/collections/BIOS/biosecurity/projects/Biological_Weapons_Convention.htm