

Draft Recommendations for A Code of Conduct for Biodefense Programs

**Federation of American Scientists (FAS) Working Group on BW
Stockholm International Peace Research Institute (SIPRI)
The Verification Research, Training and Information Centre (VERTIC)
International Network of Engineers and Scientists for Global Responsibility (INES)
Acronym Institute for Disarmament Diplomacy
Sunshine Project
Pax Christi International
Physicians for Social Responsibility
20/20 Vision**

November 2002

Biodefense is vital for protection against biological warfare and for deterrence. However, biodefense programs that blur the distinction between offensive and defensive activities could provoke the very danger they are intended to combat. The goal of the Biological and Toxin Weapons Convention—to eliminate biological and toxin weapons and exclude the possibility of their use--would be nullified if “protective purposes” in Article I were to be misconstrued as permitting threat assessment involving the conduct of almost any potentially offensive activity short of large-scale stockpiling. Thus, there is an urgent need to ensure that, in conducting their biodefense programs, States Parties reject this interpretation as inconsistent with the letter and the spirit of the Convention.

To initiate a debate among States Parties and non-governmental organizations on this imperative, a group of NGOs has taken a first step by drafting recommendations for a Code of Conduct that could be useful in judging the good faith of States Parties to the Convention in the conduct of their biodefense programs. Observation of such a Code would contribute to confidence in the effectiveness of the Convention.

The following understandings are recommended for inclusion in a Code of Conduct:

a) The development, production, stockpiling, acquisition or retention of *all* microbial or other biological agents or toxins of types and in quantities that have no justification for prophylactic, protective or other peaceful purposes are prohibited by the Biological and Toxin Weapons Convention. This prohibition covers biological agents and toxins that are capable of causing temporary or permanent damage, harm or death to humans, animals, plants, materials of any kind or the environment. Work with *any* agents of these kinds is permissible only for protective or other peaceful purposes, and should be conducted only within the restrictions specified in the following points.

b) The Biological and Toxin Weapons Convention contains no exemption for law enforcement, riot control or similar purposes. The development, production, stockpiling, acquisition or retention of microbial or other biological agents or toxins¹ for these purposes, which are hostile, not peaceful, is therefore not permissible.

c) The design, construction or possession, for *any* purpose, of delivery mechanisms designed to use biological agents or toxins for hostile purposes or in armed conflict is prohibited by the Biological and Toxin Weapons Convention.ⁱⁱ There is no exemption for protective purposes. The Convention's stated goal is to preclude the use of biological weapons under any circumstance; therefore it is not permissible, even for defensive purposes, to construct delivery mechanisms designed for (ie, having a design that is appropriate for) hostile use, whether or not hostile use is intended at the time of construction.

d) Secrecy in biodefense programsⁱⁱⁱ raises suspicions and could promote a race for offensive capabilities under cover of defense. Whereas the *results* of defense activities may need to be kept confidential, secrecy concerning the *types or locations* of defense activities undermines the Convention and should be disavowed.

e) Construction of novel (ie, not previously-existing) biological agents (including single-gene changes) for threat assessment is incompatible with the spirit and intent of the Convention, and should be disavowed.

f) Weaponization^{iv} of active biological agents (defined in Note i) for defensive purposes also violates the spirit of the Convention and should be disavowed. Aerosolization or other dissemination of active biological agents should be performed only in fully-contained bench-scale environments and only for purposes of detection, prophylaxis or medical treatment.

Notes

ⁱ **“Biological Agents”** is used here to denote both microbial and other biological agents and toxins that could be used to cause harm;

“toxins” include all physiologically-active compounds, whatever their origin or method of production, including substances found in living organisms, their analogs and synthetic substances that act through the same mechanisms as naturally-occurring substances.

ⁱⁱ cf. Col. David Huxsoll, Commander, US Army Medical Research Institute for Infectious Diseases, in May, 1989 testimony before the Senate Committee on Governmental Affairs at a hearing on Global Spread of Chemical and Biological Weapons: “To create a weapon...the issues of stability, dissemination and weapons delivery systems would have to be addressed. These activities are clearly prohibited by the Biological Weapons Convention.”

ⁱⁱⁱ **“Biodefense Program”** and similar terms mean, both here and in other contexts including the BWC Confidence Building Measures, *all government and private activities* related to defense against biological weapons, *regardless of the names of the programs or the agencies that conduct the activities.*

^{iv} **“Weaponization”** is defined as preparing and treating a biological agent to enhance its effectiveness as a weapon, and/or inserting a biological agent into any type of delivery system suitable for hostile use.