

# Making Random Non-Challenge Visits Friendly

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Random non-challenge visits have many advantages as part of a compliance regime to strengthen the BWC (see, for example, [The Necessity for Non-Challenge Visits](#)). They would, for example, provide transparency by serving as a spot-check to demonstrate that States Parties are accurately declaring their dual-use capabilities. With this goal in mind, the spirit of random nonchallenge visits would be friendly. The following factors would help to reassure declared facilities that this will be the case.

## 1. Volunteering for Random Nonchallenge Visits

Declared facilities that volunteered in advance for a non-challenge visit would sidestep any possible stigma they might view as attaching to an involuntary visit. Declaration forms could have an optional checkbox for volunteering so that a facility could go on record as a volunteer. Whether or when it would actually be visited in the following year would be determined as described below.

## 2. Selecting Declared Facilities for Random Visits

To focus the visits, different weights could be assigned to the various declaration triggers and combinations of triggers; facilities with minimal dual-use capabilities would have the lowest probability of receiving a visit. The weights of "volunteer" facilities would be increased by a *small* amount. To ensure equitable distribution of visits, the numbers that each State Party and declared facility could receive in one year should be limited, and appropriate geographical distribution should be arranged.

If there were, for example, 100 non-challenge visits per year and 2500 declared facilities (see [Estimate of the Number of Declared Facilities](#)), the average probability of a visit would be small: just under 4%. The actual probability of a visit to a particular facility would depend on its weight and on the weights of the other declared facilities. The likely probabilities would be great enough to have deterrent value but not so great as to burden any facility unduly (see [Triggers for Declarations and Inspections/Visits](#), in which Table 1 contains illustrative probability calculations).

## 3. Mandate for Random Nonchallenge Visits

The mandate should be limited to confirming the accuracy of declarations. Managed access procedures should always be applicable.

## 4. Strengthening Confidentiality Rules

The risk to confidential information could be decreased by:

- a) strengthening the protocol's provisions for preventing misuse of confidential information;
- b) providing a framework for ongoing industry participation and input in the protocol's confidentiality regime;
- c) developing an agreement among declarable private enterprises to cooperate to prevent misuse of confidential information; and d) encouraging the inclusion in national implementing legislation of measures (similar to that in the pending US implementing legislation for the CWC) to facilitate civil claims against the government for loss of property without compensation, should this occur by reason of actions by employees of the BW organization. (See [Working Paper on the Protection of Confidential Information in the Proposed Protocol to the BWC.](#))

## **5. Restricting Sampling and Analysis**

In order to deter deliberate or careless mis-declaration, visit mandates should permit onsite sampling and analysis, but only on a relatively rare basis, for the purpose of confirming that an onsite organism is of the general type claimed and is not an undeclared potential BW agent. Technical procedures for sampling and analysis that would prevent the theft of valuable organisms and would not disclose CPI should be required. Such procedures are available (See *Confidentiality Can Be Protected during Sampling and Analysis in a BWC Compliance Regime*; also, [Issues Relating to On-Site Sampling and Analysis](#)).

As long as in-process operations are not disturbed, most legitimate facilities, if they should find themselves in this situation, would probably not object. However, in accord with the principles of managed access, the host would have the right to refuse sampling but would then be under the obligation to make every reasonable effort to provide reassurance by alternate means.

## **6. Rules for Resolving Serious Questions that Might Arise**

In case evidence should arise during a nonchallenge visit suggesting serious inaccuracies in the visited facility's declaration, rapid means of resolving the question without adverse publicity would be desirable, provided that the facility is protected from unwarranted intrusion. A mechanism for accomplishing this is proposed ([Rapid Resolution of Questions that Might Arise During Nonchallenge Visits](#)).

Limited-mandate random nonchallenge visits to validate declarations and deter falsification are an important element in an effective BWC compliance regime. They can be conducted in a friendly manner, utilizing a variety of safeguards to protect visited facilities from possible negative impacts.