

Federation of American Scientists Working Group on BW Verification

Working Paper On BWC Protocol Article VII

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Article X of the Biological Weapons Convention (BWC) is intended to provide collateral benefits, different from and supplementary to the arms control provisions of the Convention. These benefits are meant to serve as an additional incentive for States to become parties to the Convention; strengthening them will provide a strong incentive to join both the Protocol and the Convention and an important contribution to peaceful international cooperation and human welfare.

Article X benefits are of two kinds: 1) Cooperation: contributing to the further development and application of bioscience and technology for the prevention of disease and other peaceful purposes, and 2) Exchange: ensuring the fullest possible exchange of biological equipment, materials and information among States Parties. Measures to implement the fullest possible exchange must be considered in conjunction with Article III of the BWC. We will propose Protocol measures for reconciling these two BWC provisions in a future working paper.

In this paper we focus on Protocol provisions for cooperation for the prevention of disease and other peaceful purposes, including criteria for cooperative activities, institutional arrangements and declaration requirements.

Measures to implement cooperation among States Parties include various forms of assistance in complying with the Protocol, to be carried out through the Technical Secretariat. The major goals of cooperative activities, however, are spelled out in paragraphs B6 and 7 (pp 104-106) of Article VII in the Rolling Text of 30 July 1999. In essence, these paragraphs constitute (together with paragraph B5 on the fullest possible exchange) the heart of Article VII. They list various general means by which the States Parties could promote biological research, development, manufacturing, training, biodefense, and other peaceful collaborative activities, particularly those aimed at surveillance, detection, diagnosis, treatment, containment and prevention of infectious disease outbreaks and toxin poisoning events.

To ensure that cooperation for these purposes is implemented, the Protocol should prescribe criteria for cooperative activities that are not carried out through the Technical Secretariat.

Criteria for Cooperative Activities Not Carried Out Through the Technical Secretariat

These cooperative activities should:

1. Be aimed at beneficial goals other than the control of biological weapons or implementation of the Protocol, namely, at the goals set out in paragraphs B6 and 7 of Article VII. For example, "prevention of disease" should not be construed as limited to diseases caused by potential BW agents. Benefits beyond arms control provide an additional incentive for joining and adhering to the Protocol.
2. Include some element of special preference for States Parties to the Protocol and the Convention, in order to serve as incentives for adherence to both these treaties, in addition to providing other benefits that may be global. The term "cooperative activities" implies the involvement of more than one State Party.
3. Not duplicate or substantially overlap activities already conducted under other auspices or required in fulfillment of other obligations or to implement other treaties.
4. Be conducted and financed outside the Technical Secretariat, in order to make it clear that the goals of the activities are different from the arms control goals of the Protocol, to avoid politicization of cooperative activities, and to protect the neutrality of any international organizations that may be involved.

Role of the Technical Secretariat in Respect to Cooperative Activities

The critical functions of the Technical Secretariat in respect to cooperative activities are:

1. To list specific cooperative activities that could be financed and conducted by States Parties outside the auspices of the Technical Secretariat as means of implementing obligations for cooperation under Article VII of the Protocol and Article X of the Convention; and to designate certain of these activities for priority action by the States Parties. In drawing up the list and designating priority activities, the Technical Secretariat should consult the Cooperation Committee and relevant international organizations should take into consideration the goals of cooperative activities specified in Article VII B6 and 7, the criteria listed below, the safeguarding of intellectual property and confidential information, the activities declared by the States Parties in implementation of Article VII, the capabilities of States Parties and international organizations and the existence of any related activities, in order to derive the greatest possible synergy and benefit for all States Parties.
2. To assist States Parties, when requested, in:
 - The preparation of annual declarations,
 - The drafting of Protocol-implementing legislation and regulations and establishment of the National Authority,

- The selection and training of personnel for potential posts in the Technical Secretariat,
 - The provision of information and advice to industry on Protocol issues, and
 - Other activities for Protocol implementation.
3. To establish and maintain an electronic network to facilitate contact and communications among the National Authorities of the States Parties, the Technical Secretariat and other international organizations.
4. To advise on proper biological practices including safety, containment, Good Laboratory Practice (GLP), Good Manufacturing Practice (GMP), compliance with international standards, etc., upon request by a State Party or in the context of a visit.
5. To compile and make available to States Parties:
- information on existing programs and information services for the advancement of biological science and technology, including databases, conferences, publications, training opportunities, personnel exchanges and internships;
 - information on infectious disease outbreaks and toxic poisoning events, their diagnosis, treatment and containment;
 - biodefense information.
6. To assist in administering specific programs for training, personnel exchange, conferences, etc., if so requested by States Parties and if resources permit.
7. To administer a Voluntary Fund consisting of two parts:
- one part for assistance for protection against the use or the threat of use of biological or toxin weapons, and
 - one part for assistance to States Parties in implementing the Protocol.
8. To make agreements and coordinate activities with other international organizations that may be able to provide assistance to the Technical Secretariat in carrying out its functions, or that conduct activities that may complement cooperative activities conducted by or proposed to be conducted by the States Parties.
9. To assist the Cooperation Committee in its functions.

10. To submit at Review Conferences a comprehensive report covering:

- activities that have been carried out under Article VII and their effectiveness,
- proposals solicited in advance from States Parties and international organizations for new cooperative programs to accomplish the goals set out in paragraphs B6 and 7 of Article VII, and
- recommendations for future actions and priorities.¹

Role of the Cooperation Committee

The Cooperation Committee, with the assistance of the Technical Secretariat and any ad hoc Working Groups of scientific experts it may establish, should:

1. Review the functioning of the Technical Secretariat with respect to Article VII and make recommendations for improvements, if necessary;
2. Review and make recommendations for the use of the regular budget and the Voluntary Fund for Article VII purposes;
3. Review the annual declarations of the States Parties on their implementation of Article VII, considering the appropriateness and effectiveness of the activities undertaken; and make recommendations for achieving optimal benefits;
4. Advise the Technical Secretariat in listing and prioritizing specific cooperative activities to be conducted by the States Parties outside the auspices of the Technical Secretariat;
5. Report annually, with the assistance of the Technical Secretariat, to the Conference of States Parties on the effectiveness of measures taken, and make recommendations for further strengthening the implementation of Article X of the BWC.

In order to expedite the work of the Cooperation Committee, its decisions, which are not binding, should be made by majority vote if consensus cannot be reached.

Mandatory Annual Declarations on Implementation of Article VII of the Protocol

All States Parties in a position to do so should be required to contribute substantially to at least one of the cooperative activities designated by the Technical Secretariat for priority action. A requirement of this kind is necessary to

assure the viability of important cooperative programs that would benefit all States Parties, in particular developing countries that are States Parties.

1. States Parties should declare annually their actions taken to cooperate in contributing to the further development and application of scientific discoveries in the field of bacteriology (biology) for the prevention of disease and for other peaceful purposes.

The nature of the cooperative action should be specified. Relevant actions would include the following:

- Participation in, or financial contribution to, cooperative activities financed and conducted outside the Technical Secretariat, either through other international organizations or directly by States Parties, aimed at the goals in Article VII B6 and 7 and complying with the criteria laid out above. At least one of the cooperative activities designated for priority action should be included among the activities undertaken and declared, if the capabilities of the declaring State Party so permit;
- Participation in cooperative activities carried out through the Technical Secretariat, through contributions to the Voluntary Funds, pledges of defense assistance, or donation of equipment, training, materiel, expert personnel or other forms of assistance to the Technical Secretariat.

2. States Parties should submit annual declarations relevant to the fullest possible exchange of biological equipment and materials.

Declarations relevant to exchange are related to both Article X and Article III of the BWC and will be considered in a future working paper.

These, and all declarations, should be listed together in the same section of the Protocol.² Keeping all declarations together will facilitate understanding of and compliance with declaration requirements and will emphasize that all are *declarations of compliance* and all are mandatory. Compliance with Article VII is as important as compliance with other parts of the Protocol, and experience has shown that voluntary declarations are not satisfactory.

Furthermore, listing all declarations together in Article III D I will make it clear that they are all subject to the ensuing Measures To Ensure Submission of Declarations (Article III D III) and the procedures for Followup after Submission of Declarations (Article III D II), except where a particular procedure is explicitly aimed at a specified type of declaration.

¹ Many cooperative activities could be designed on a five-year basis and revised or replaced at the time of the Review Conferences.

². All declarations concern compliance and should be listed in Protocol Article III Section D (Declarations) Subsection I (Submission of Declarations). Declarations relevant to other Articles can be cross-referenced in those Articles.