

Transfers of Dual-Capable Items: Some Possible Compromise Provisions

FAS Working Group on BW Verification

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Transparency with regard to dual capabilities is an essential aspect of an effective compliance regime for the Biological Weapons Convention. Transfers of dual-capable items are no exception. If an item to be transferred has a potential for use in acquiring biological weapons, information about its transfer should be accessible. In addition to increasing transparency, transfer rules can also provide incentives to States for joining the Protocol.

1. Transfers to Non-Parties to the Protocol

- No transfers of specified dual-capable items to Non-Parties are permissible for any reason except urgent humanitarian need.¹
- States Parties must report to the Technical Secretariat, within [2] months, any such transfers that take place and the humanitarian need for them.

2. Transfers Among Protocol States Parties

- Supplier States Parties must require a statement of end use and location from the recipient State Party prior to transfer of specified dual-capable items.²
- States Parties must report annually, to the Technical Secretariat, aggregate data on items and quantities of specified dual-capable items imported or exported.³
- States Parties may optionally report to the Technical Secretariat any refusals of transfer to them or by them.

3. Transfer Information

- All reports of transfer information must be compiled by the Technical Secretariat and provided annually to all States Parties, on a confidential basis.

Notes

1. This provision would serve as an incentive to join the Protocol.

2. To fulfill this requirement, States Parties would need to establish domestic regulations requiring pre-notification to the government of the intention to import specified dual-use items. Such regulations would be desirable, in any event, as a means for detecting and preventing unauthorized activities with biological weapons potential (e.g., by terrorist groups).

3. With appropriate software, aggregate transfer information could be correlated to a certain degree by the Technical Secretariat with facility declarations and on-site observations, in cases where the information might help to resolve a serious issue. Database software and search engines capable of handling large quantities of data of this kind are commercially available and inexpensive. The Technical Secretariat could ask a supplier or recipient State Party to provide, at its discretion, end use and location information, in cases where that information might help to resolve a serious issue.