Compliance by States Parties with all their obligations under the Convention

United States of America

I. Introduction

The United States signed the Biological and Toxin Weapons Convention (BWC) on April 10, 1972 and ratified the Convention on March 26, 1975. As demonstrated by our Confidence-Building Measures report, annual Compliance Report to Congress, Article X reports, and numerous other forms of transparency, the United States is in full compliance with all its obligations under the BWC. The United States does not develop, produce, stockpile, or otherwise acquire or retain biological or toxin weapons.

The United States is committed to reducing the risks of acquisition or use of biological agents as weapons by either states or non-state actors and to minimizing the consequences of such events should they occur. The Biden Administration’s 2021 Interim National Security Strategic Guidance states that “we will revitalize and expand global health and health security initiatives for all nations to reduce the risk of future biological catastrophes, whether naturally occurring, accidental, or deliberate.” The 2018 National Biodefense Strategy includes as a key goal to “reinforce the obligations in the Convention on the Prohibition of the Development, Production, and Stockpiling of Bacteriological and Toxin Weapons and on their Destruction (BWC) (1975) and United Nations (U.N.) Security Council Resolution 1540, as well as other standards and norms against nation-state or non-state development, acquisition, or use of biological weapons, related materials, or means of delivery.” The United States is now completing an interagency review of our national biodefense policies and efforts to address emerging domestic and global biological risks.

The elements of U.S. compliance set forth below are intended to highlight key domestic measures and are not an exhaustive list of all national-level compliance tools. Further, many measures are mutually reinforcing, fulfill more than one purpose, and touch on more than one BWC article. For example, import and export licensing procedures help guard against misuse of the life sciences and contribute to fulfillment of Article III and IV obligations, but they also promote the fullest possible exchange of equipment, materials, and knowledge for peaceful purposes, in accordance with Article X, by enhancing the confidence of exporters that their transfers will be used for peaceful purposes.

Compliance is a state to be maintained, rather than a single act. Accordingly, effective implementation of the BWC is an ongoing responsibility, rather than a task met by passing a law or issuing a regulation. A State Party must continue to invest adequate resources to implement and enforce laws, regulations, and other measures once adopted. The United States takes a robust and multi-faceted approach to implementing its obligations under the BWC. Implementing legislation and regulations form an important part of the national architecture, but such measures are complemented by an array of mutually reinforcing tools, including policy and other guidance documents, outreach and education, investment, and assistance to achieve the aims of the Convention. Laws and regulations that prohibit and
punish violations are necessary, but so are the guidance, policies, and awareness-raising initiatives that prevent violations or other risky behaviors.

Moreover, changes in technology, industry, and the nature of the biological weapons threat require States Parties to regularly review laws, regulations, policies, and guidance to ensure they remain relevant and effective. Although the United States considers its approach comprehensive, we continue to look for ways to better address the biological weapons threat and improve national implementation of the BWC. Advisory committees, federal and non-governmental studies, mandated review cycles, and other resources and processes are critical components of this process.

Following is an article-by-article analysis of the United States’ compliance with its obligations under the BWC. Where appropriate, each article below contains one section outlining the fundamental aspects of U.S. compliance, with a principal focus on relevant domestic laws, regulations, and policy documents, and another addressing how the United States implements its obligations under that article, with concrete examples of how the United States executes and enforces compliance at the national level.

II. Article I

Compliance

The United States fully complies with its Article I obligations requiring BWC States Parties, “never in any circumstances to develop, produce, stockpile or otherwise acquire or retain: microbial or other biological agents, or toxins whatever their origin or method of production, of types and in quantities that have no justification for prophylactic, protective or other peaceful purposes; and weapons, equipment or means of delivery designed to use such agents or toxins for hostile purposes or in armed conflict.”

Implementation

Pursuant to Section 403 of the Arms Control and Disarmament Act of 1961, as amended, the Executive Branch of the United States is required to annually assess and report to Congress on, among other things, U.S. adherence to obligations undertaken in arms control, nonproliferation, and disarmament agreements and related commitments.

Consistent with its deep-seated legal traditions, commitment to the rule of law, and belief in the importance of arms control agreements to enhance international security, the United States fully complies with its BWC obligations. As a reflection of the seriousness with which

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1 E.g., the National Science Advisory Board for Biosecurity established by the U.S. Government in 2006 to provide advice, guidance, and leadership regarding biosecurity oversight of dual use research to all Federal departments and agencies with an interest in life sciences research.

2 E.g., the biennial review and publication of the list of select agents and toxins and the revision of the list as necessary by the Department of Agriculture and the Department of Health and Human Services.

the United States views these obligations, it has established legal and institutional procedures to ensure U.S. compliance. Individual agencies within the Executive Branch have established policies and procedures to ensure that plans and programs under those agencies’ purview remain consistent with U.S. international obligations. For example, U.S. Department of Defense (DoD) Compliance Review Groups oversee and manage DoD compliance with arms control, nonproliferation and disarmament agreements, and related commitments. Within the Department of Homeland Security’s (DHS’s) Compliance Assurance Program Office, the Treaty Compliance Group reviews DHS-conducted and -sponsored activities involving biological agents and related surrogates or simulants for compliance with the BWC. Further, the DHS Deputy Secretary chairs a committee that reviews DHS conducted and -sponsored activities in appropriate cases, including when such activities may raise potential treaty compliance or perception concerns, and ensures that all DHS programs comply with treaty requirements. Finally, Congress performs oversight functions through committee hearings and budget allocations.

III. Article II

Compliance

The United States fully complies with its Article II obligations. The U.S. offensive biological weapons program was dismantled following President Richard M. Nixon’s 1969 statement renouncing the use of biological weapons and the issuance of National Security Decision Memorandum 35. President Nixon’s statement included the following:

...the United States of America will renounce the use of any form of deadly biological weapons that either kill or incapacitate. Our bacteriological programs in the future will be confined to research in biological defense, on techniques of immunization, and on measures of controlling and preventing the spread of disease.

In 1970, the U.S. ban on biological weapons was extended to cover toxins, regardless of their means of production. The dismantlement process was completed prior to entry into force of the Convention on March 26, 1975.

Implementation

The White House in December 1975 directed the heads of all Executive Departments and Agencies to certify that all activities of those departments and agencies which retain any biological agents and toxins were conducted only for justifiable peaceful purposes; that the total quantities of materials held were committed or reserved solely to those activities; and

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6 Office of the White House Press Secretary (Key Biscayne, FL), Statement on Toxins, February 14, 1970, in FRUS, document 189.  
that any weapons, equipment, or means of delivery designed to use biological agents or toxins for hostile purposes or in armed conflict had been destroyed or diverted to peaceful purposes. In March 1976, the certifications were forwarded to the Department of State (DOS) to be retained as part of the permanent record of U.S. compliance with the BWC.

The United States reported on past offensive and defensive biological research and development programs dating back to 1941 on Form F of its 1997 Confidence-Building Measure (CBM) submission. There have been no updates to Form F since 1997.

IV. Article III

Compliance

The United States fully complies with its Article III obligations through a comprehensive set of legislative, regulatory, and administrative measures to regulate transfers relevant to Article III. These measures include lists of materials and technologies requiring authorization to export, “catch all” controls on unlisted items, and civil and criminal penalties for violations. Further, the U.S. export licensing system evaluates the potential dual-use applications of items; relevant information on the recipient; stated end use and end-use assurances; and risks of unauthorized misuse, diversion, or retransfer. Through the Australia Group, the United States coordinates with other supplier states on the fulfillment of our Article III obligations. The guidelines provided in the legislation and regulations described below are designed to limit the risks of proliferation of biological weapons by States and non-state actors.

On August 13, 2018, the President signed the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which included the Export Control Reform Act of 2018 (ECRA) (50 U.S.C. 4801–4852). The ECRA directs the President to control the export, reexport, and transfer of commodities, software, and technology to protect the national security and to promote the foreign policy of the United States. The Export Administration Regulations (EAR) implement the ECRA and contain the Commerce Control List of items controlled under the ECRA. Violations of the ECRA, the EAR, or an order, license, or authorization issued thereunder can incur administrative penalties (including civil monetary penalties, denial of export privileges, and exclusion from practice), criminal fines, and imprisonment.

The Arms Export Control Act of 1976 (AECA) authorizes the President to “control the import and the export of defense articles and defense services” and to “designate those items which shall be considered as defense articles and defense services and to promulgate regulations for the import and export of such articles and services.” Violations of the AECA can incur civil monetary penalties and criminal penalties of fines and imprisonment and debarment. The International Traffic in Arms Regulations (ITAR) implement the AECA and contain the United States Munitions List (USML), which is the list of defense articles and defense services described by the AECA. Category XIV of the USML covers “Toxicological

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Agents, Including Chemical Agents, Biological Agents, and Associated Equipment.” Paragraph (b) of USML Category XIV describes the biological agents and biologically derived substances that are subject to the ITAR and establishes a “bright line” between those that are subject to the ITAR and those that are subject to the EAR.

The Biological Weapons Anti-Terrorism Act of 1989 (BWATA), as amended, prohibits transfers of “any biological agent, toxin, or delivery system for use as a weapon, or knowingly [assisting] a foreign state or any organization to do so.” The Intelligence Reform and Terrorism Prevention Act of 2004 prohibits the import, export, direct or indirect transfers, and receipt of the variola virus, except under the authority of the Secretary of Health and Human Services. The USA PATRIOT Act of 2001 prohibits “restricted persons” from transporting select agents in interstate or foreign commerce, possessing select agents in or affecting commerce, or receiving any select agent or toxin that has been shipped or transported in interstate or foreign commerce.

Implementation

In implementing Article III, the United States rigorously enforces the laws and regulations described above and conducts regular outreach to all stakeholders, including industry and academia. Each year, the Department of Commerce/Bureau of Industry and Security (DOC/BIS) hosts a three-day Update Conference for exporters to learn first-hand from U.S. Government officials about current issues and trends in export control policies, regulations, and practices. DOC/BIS also hosts smaller export control seminars throughout the year across the country and posts free online trainings in a variety of formats. Similarly, the Department of State’s Directorate of Defense Trade Controls conducts outreach to the regulated defense trade community through seminars, providing speakers at training events, answering questions through its Help Desk and Response Team, and has an established Company Visit Program. While these resources are generally geared toward U.S. exporters, they are also useful for academia, international firms, and foreign governments to understand U.S. requirements related to exports, re-exports, in-country transfers, brokering, and other issues.

Either the DOC or DOS reviews each license application, keeping in mind both accuracy and timeliness. Between 2016 and 2020, less than one percent of these applications was denied by DOC/BIS. Further, the average processing time per application has fallen to 23 days -- 67
days below the 90 days mandated by the EAR and Executive Order 12981. The Departments of Commerce and State also conduct targeted pre-license and post-shipment end-use verification checks. These checks serve to increase confidence and cooperation; expedite future requests; facilitate transfer of more advanced technology; prevent diversions; protect end-users from untrustworthy intermediaries; foster communication among the U.S. Government, recipient country, and industry; establish an expectation of due diligence by exporters and importers; and educate industry on laws and regulations. The number of unfavorable findings uncovered during these checks shows their necessity in order to maintain the integrity of the export control program. From 2016-2021, 10 percent of DOC end-use checks worldwide were unfavorable, meaning a violation was identified during the end-use check.

V. Article IV

Compliance

The United States fully complies with its Article IV obligations through laws, regulations, and other measures designed to prohibit and prevent the development, production, stockpiling, acquisition, or retention of items specified in Article I. Mr. Christopher Park, Director, Biological Policy Staff, DOS, is the U.S. Designated National Authority for implementation of the Convention.

In addition to prohibiting transfers of biological agents, toxins, or delivery systems, the BWATA, as amended, prohibits knowingly developing, producing, stockpiling, acquiring, retaining, or possessing any biological agent, toxin, or delivery system for use as a weapon, or knowingly assisting a foreign state or any organization, including terrorist organizations, to do so. Similarly, the Intelligence Reform and Terrorism Prevention Act of 2004 prohibits the use, production, engineering, synthesis, acquisition, or possession of variola virus, except under the authority of the Secretary of Health and Human Services. The USA PATRIOT Act also prohibits possession by any individual of a “biological agent, toxin, or delivery system of a type or in a quantity that, under the circumstances, is not reasonably justified by a prophylactic, protective, bona fide research, or other peaceful purpose.” The USA PATRIOT Act further prohibits placing a biological agent or toxin for use as a weapon on a mass transportation vehicle and setting fire to a biological agent or toxin near a mass transportation facility.

A 1999 statute (Public Law 106-54) prohibits teaching or demonstrating the making or use of a weapon of mass destruction or distributing information pertaining to the manufacture or use of a weapon of mass destruction, with the intent that the teaching, demonstration, or information would be used for a federal crime of violence. The USA PATRIOT Improvement and Reauthorization Act of 2005 prohibits transportation of biological materials within U.S. jurisdiction with the intent to commit a crime. The Violent Crime Control and

Law Enforcement Act of 1994 prohibits the use of weapons of mass destruction, including threatening, attempting, or conspiring to use weapons of mass destruction.

The Antiterrorism and Effective Death Penalty Act of 1996 directed the creation of a list of biological agents with the potential to pose a severe threat to public health and safety and the creation of the Select Agent Regulations to ensure proper biosafety and biosecurity measures for those agents. The Public Health Security and Bioterrorism Preparedness and Response Act of 2002 and the Agriculture Bioterrorism Protection Act of 2002 give the Department of Health and Human Services (HHS) and the U.S. Department of Agriculture (USDA) the authority to implement the Federal Select Agent Program (FSAP). The USDA, through the Animal and Plant Health Inspection Service, regulates select agents and toxins of concern to plant health or plant products and to animal health or animal products. The HHS, through the Centers for Disease Control and Prevention (CDC), regulates select agents and toxins of concern to public health and safety.

The FSAP and associated regulations contribute to U.S. compliance with Article IV by helping to secure especially dangerous pathogens and prevent their unauthorized possession, loss, theft, misuse, diversion, or release. Entities seeking to possess or work with a select agent or toxin must register with the applicable department (HHS or USDA, depending on the agent or toxin). A security risk assessment is conducted by the Department of Justice through the Federal Bureau of Investigation prior to registration approval. The Select Agent Regulations also cover biocontainment; biosecurity; biosafety; biosafety and security training; and facility, personnel, and shipment security requirements for an entity required to register to possess, use, or transfer select agents and toxins, including specific requirements for Tier I select agents and toxins.15 The USA PATRIOT Act prohibits a “restricted person” from shipping or possessing a select agent or toxin. The Department of Transportation prescribes technical regulations for shipping hazardous materials, including select agents and toxins.

Maintaining a national biosafety and biosecurity system that protects scientists, healthcare workers, and the public from exposure to harmful pathogens is a critical part of the United States’ efforts to conduct state-of-the-art life sciences research and to make new lifesaving treatments, vaccines, and diagnostics widely available. Federal, State, and municipal guidelines, policies, and regulations shape biorisk management systems at individual research institutions to provide a layered, redundant approach to minimize potential risks from work with hazardous biological materials. All research centers are required to comply with relevant laws and regulations, which depend on the nature of the laboratory’s research activities and hazardous agents under study. This framework includes regulations and programs designed to respond to the threat of bioterrorism and other crimes involving biological agents and toxins. More information on regulations and guidelines can be found in the Federal Experts Security Advisory Panel report, which also includes transportation, export, and disposal of hazardous and/or infectious materials; response to biological

15 Tier I select agents and toxins are those “biological agents and toxins [that] present the greatest risk of deliberate misuse with significant potential for mass casualties or devastating effect to the economy, critical infrastructure, or public confidence, and pose a severe threat to public health and safety” (www.selectagents.gov/faq-general).
incidents; and security risk assessments for individuals working with select agents and toxins.16

The U.S. Government maintains national policy that prescribes processes and procedures for the U.S. Government and U.S. Government-funded research, including classified life sciences research. Agencies that fund, direct, or execute classified life sciences research are required to implement processes to ensure activities comply with applicable law, standards, regulations, policies, and international legal obligations.

The U.S. Government has issued several policies for oversight of life sciences dual-use research of concern (DURC) to “preserve the benefits of life sciences research while minimizing the risk of misuse of the knowledge, information, products, or technologies provided by such research.” The 2012 “United States Government Policy for Oversight of Life Sciences Dual Use Research of Concern”17 requires U.S. federal departments and agencies that fund life sciences research to identify and manage the risks associated with certain types of DURC, while the 2014 “United States Government Policy for Institutional Oversight of Life Sciences Dual Use Research of Concern”18 complements the 2012 policy by establishing institutional review processes and oversight requirements for institutions receiving federal funding for life sciences research. In 2017, the United States issued “Recommended Policy Guidance for Departmental Development of Review Mechanism for Potential Pandemic Pathogen Care and Oversight.”19 Together, these policies support U.S. compliance with Article IV by engaging life sciences research institutions and federal funding agencies in shared responsibility to ensure biosafety and biosecurity and address the risk that knowledge, information, products, or technologies generated by life sciences research could be misused for harm.

The U.S. Government advocates and conducts regular reviews of advances in science and technology to ensure its policies are sufficient to address potential risks. In October 2014, the U.S. Government announced a pause in new funding for certain gain-of-function (GOF) research studies on influenza, Middle East Respiratory Syndrome, or Severe Acute Respiratory Syndrome viruses until completion of a public deliberative process to evaluate the risks and benefits of GOF research with potential pandemic pathogens that resulted in the adoption of new U.S. Government policy.20 As part of the process, the National Science Advisory Board for Biosecurity (NSABB) was charged to advise the U.S. Government on

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risk and benefit assessments for GOF research and provide recommendations. NSABB recommendations were provided to the U.S. Government in May 2016 and the U.S. Government released our new policy in 2017.

Implementation

Awareness-raising initiatives are designed to maximize compliance with laws, regulations, and national policies. Examples include online FSAP resources for training and compliance assistance and guidance, resources on implementation of the 2014 policy on institutional oversight of dual-use research of concern, and additional guidance such as Biosafety in Microbiological and Biomedical Laboratories (BMBL), and National Institutes of Health (NIH) Guidelines for Research Involving Recombinant or Synthetic Nucleic Acid Molecules. Currently, the NSABB is further evaluating U.S. policies for oversight of DURC and GOF.

The U.S. Government also hosts workshops and other public events related to FSAP and the DURC policies. Investigation and prosecution of violations of BWC-related criminal statutes demonstrate U.S. implementation of its Article IV obligations. The Federal Bureau of Investigation (FBI) investigates allegations of activities prohibited by BWC-related criminal statutes, and the Department of Justice prosecutes violations of those statutes. Below are examples of recent prosecutions that demonstrate investigatory capabilities and successful enforcement of the criminal statutes.

a. In June 2018, Danielle Dana Layman was sentenced to 37 months after pleading guilty in February of the same year for the manufacturing and possession of ricin, in violation of Title 18, United States Code, Section 175. The FBI executed a search warrant on Layman’s Oklahoma residence; the investigation and laboratory analysis revealed she was manufacturing ricin in her kitchen.

b. In August 2018, Abel Keith Fulton was sentenced to 46 months after pleading guilty to possession of ricin, in violation of Title 18, United States Code, Section 175. He was also ordered to pay over 30,000 USD in restitution for the removal and decontamination of his residence. Fulton possessed ricin at his Texas home between August to September 2016. The FBI investigation was in coordination with the United States Postal Inspection Service.

c. In September 2018, Betty Jean Miller was sentenced to five years of probation and a fine of 10,000 USD after pleading guilty to producing, storing, and attempting to use ricin in violation of Title 18, United States Code, Section 175b. Extensive mental health treatment was also part of her sentence. She committed the crime while living in a Vermont senior assisted-living facility. The FBI, in coordination with local and state authorities, conducted an investigation.

21 eFSAP Resource Center | Federal Select Agent Program (selectagents.gov).
health, hazard material response, and law enforcement agencies, found that Miller made ricin in her kitchen and subsequently tested it on other residents.

d. In January 2019, Debbie Siers-Hill was sentenced to 35 months after pleading guilty to the unregistered possession of ricin in violation of Title 18, United States Code, Section 175. The charge stemmed from a search of a Virginia storage unit held by Siers-Hill where the FBI, in coordination with local law enforcement, found a syringe containing ricin along with several firearms.

The FBI also documented some of its capabilities for the international community in the International Edition of the 2016 Criminal and Epidemiological Investigations Handbook.  

VI. Article V

Compliance

The United States fully complies with its Article V obligations and believes that maintaining and promoting confidence that States Parties are complying with their obligations is essential to ensuring the stability and integrity of the Convention. This Article is a useful tool for fulfilling States Parties’ mutual responsibilities of building a shared confidence in compliance with the BWC. Rather than stigmatizing the entities or activities about which questions are raised, regular cooperative bilateral and multilateral consultations can improve communications among States Parties and increase transparency.

Consistent with this approach, the United States participated actively in the Article V Formal Consultative Meeting requested by Russia to address its unfounded claims of U.S. (and Ukrainian) non-compliance with the Convention, which took place August 26 and September 5-7 and 9, 2022. At that time, the United States and Ukraine provided abundant evidence of the peaceful and valuable nature of their cooperation, as well as evidence indicating that the allegations, and the activation of the formal consultative process, were politically motivated rather than a genuine effort to resolve doubts or ambiguities.

In the interest of promoting transparency and confidence about its compliance, the United States submitted a working paper to the 2019 BWC Meetings of Experts on its National Biodefense Strategy. At the 2020 Meeting of States Parties, the United States submitted a working paper describing the work of its Biological Threat Reduction Program. At the 2022 BWC Preparatory Committee meeting, the United States held a side event for all BWC Parties on “International Cooperation and Assistance for Ukrainian Public and Animal

Health,” describing in detail the work of the Department of Defense’s Biological Threat Reduction Program in Ukraine, the subject of many of Russia’s false allegations.28

Implementation

The United States supports a broad range of efforts to strengthen implementation and enhance transparency and assurance of compliance with the BWC.

First, the United States submits annual confidence-building measures (CBMs) as agreed by the Second Review Conference in 1986 to “prevent or reduce the occurrence of ambiguities, doubts, and suspicions” and makes them publicly available through the ISU website. Where errors are identified, the United States has adopted a practice of submitting corrections, which are available along with the original submissions, to ensure a complete and accurate record. The United States considers annual CBM participation an effective way for States Parties to demonstrate their implementation of the BWC and to enhance confidence among States Parties that others are fulfilling their obligations. Submission of annual CBM returns is a politically binding commitment and, accordingly, the United States has submitted a CBM every year since 1987.

Second, the United States supports efforts to enhance transparency of biological defense programs using CBMs and other tools and takes efforts to be responsive to others’ concerns. In addition to the recent Article V Formal Consultative Meeting, in 1997 the United States participated in the same kind of meeting in response to Cuba’s questions regarding U.S. compliance. These consultations can provide a constructive framework to address both broad implementation challenges that affect many States Parties and specific questions and concerns in a cooperative manner.

Finally, affirming the value the United States places on voluntary initiatives that demonstrate transparency and build confidence in compliance, as reported at the 8th RevCon, in 2015-16 the United States partnered with Canada, Chile, Ghana, and Mexico on a BWC Implementation Review project.29 The purpose of the exercise was to strengthen national implementation and promote transparency among the participating countries. The four States Parties exchanged reports on measures to implement the Convention and held meetings of experts in each of our capitals to discuss the implementation measures described in the reports.30 During this exercise, we closely examined and documented implementation of the BWC in our respective countries, including in the areas of legal prohibitions, export controls, biosafety and biosecurity, and oversight of life sciences dual-use research. Through the exercise, we sought to improve U.S. implementation of the BWC; to increase transparency regarding U.S. implementation among the partner States; to reassure other BWC States Parties of U.S. compliance with the BWC’s implementation obligations; and to contribute to the development of a model of cooperation among States Parties that provides for exchanging

information about and experience with implementing the BWC, thereby strengthening their implementation of the Convention and enhancing transparency and assurances of compliance. The United States has also participated in voluntary transparency exercises held in France, Georgia, Germany, Morocco, and, most recently, Kyrgyzstan.

VII. Article VI

Compliance

The United States fully complies with its Article VI obligations. The United States has not lodged a complaint with the United Nations (UN) Security Council (UNSC) but has taken steps to demonstrate its intent to support and cooperate with an investigation by the UN Secretary General’s Mechanism (UNSGM) on U.S. territory.

Implementation

One example of implementation of Article VI obligations is the strong U.S. commitment to facilitating investigations of alleged use of biological weapons. At the Third Review Conference, BWC States Parties decided “to cooperate fully with the United Nations Secretary General in carrying out such [alleged use] investigations.” In support of this statement and in recognition that the only realistic tool for an investigation of alleged biological weapons use is the UNSGM, the United States committed to cooperating with an investigation in a letter to the UN Secretary General dated April 4, 1991. In the letter, the United States pledged “to cooperate fully with you in your investigation of such reports [of possible use of chemical, biological, and toxin weapons in violation of international law], consistent with safety and domestic legal constraints. Such cooperation would include receiving a team of qualified experts on U.S. territory should you have occasion to request such an investigation.”

Since the Eighth Review Conference, the United States has also actively contributed to strengthening the capabilities of the UNSGM, in cooperation with the UN Office for Disarmament Affairs (UNODA) by participating in workshops and meetings focused on developing and implementing an action plan, funding research and laboratory exercises to develop more sophisticated methods for sample analysis, and holding in 2022 a table-top exercise to explore potential challenges in sample transfer.

VIII. Article VII

Compliance

The United States is prepared to comply with Article VII should it be invoked. Specifically, the United States has capabilities to provide and to support international assistance, including technical, public health, and medical assistance, to a requesting State Party deemed to have been exposed to danger as a result of violation of the Convention.

Additionally, the United States complies with Article VII by supporting efforts to strengthen the UNSGM to investigate allegations of biological weapons use. The UNSGM has
significance for Article VII, in addition to the relevance to Article VI discussed above. For
instance, if a State Party believes it has been exposed to danger as a result of violation of the
Convention but lacks the technical capabilities or capacities to obtain or compile the evidence
needed to present its case to the UNSC, then the UNSGM could assist this effort.

**Implementation**

U.S. efforts to strengthen implementation of Article VII have focused on ensuring an
efficient, effective response to an outbreak at the earliest possible point and on ensuring that
transition to formal activation of Article VII provisions is seamless and complementary to
any ongoing public health or animal health response.

Specifically, the U.S. Government maintains capabilities within multiple Departments and
Agencies, including HHS, CDC, and the U.S. Agency for International Development’s Office
of U.S. Foreign Disaster Assistance, among others, to support international assistance. The
U.S. Government also maintains relationships with private sector and non-governmental
organizations to request their assistance to supplement and otherwise amplify these
capacities, if needed.

Recognizing that key capabilities must be in place within both sending and receiving
countries in order for international assistance to be effective, the United States supports
implementation of the International Health Regulations (2005), which obligate nations to
develop capacity to respond to public health emergencies of international concern, and the
Global Health Security Agenda (GHSA), which facilitates building the capacity of nations to
respond to human and animal infectious disease events. As World Health Organization
member states negotiate possible revision of the IHR (2005), as well as a new international
instrument on pandemic prevention, preparedness and response, the United States will seek to
provide constructive, practical input to strengthen global readiness for infectious disease
threats of all types, alongside its ongoing engagement in building global preparedness and
response capacity through bilateral and multilateral means. The United States also recognizes
the integral role of international agreements, initiatives, and organizations committed to
enhancing preparedness and response efforts for humanitarian disasters and public health
emergencies, including the G7 Global Partnership Against the Spread of Weapons and
Materials of Mass Destruction.

Though the UNSGM has investigated and confirmed cases of chemical weapons use, it has
never been used to investigate an allegation of biological weapons use. The capability should
be developed and maintained so that, like domestic response capabilities, it is ready and able
to carry out its mission should the UN Secretary General decide it is needed. The United
States is actively working with UNODA and other concerned States and international
organizations to strengthen the capability and capacity of the UNSGM. The United States
has devoted particular attention to ensuring that an international network of laboratories
would be available to UNODA to analyze samples. To this end the United States has funded
exercises, in which laboratories from many countries participated, to develop and test more
sophisticated procedures for sample analysis. The United States has also sponsored
international table-top exercises to explore the practical challenges that could be faced by a
UNSGM team in a real-world scenario.
IX. Article VIII

The United States fully complies with its obligations under the 1925 Geneva Protocol. The United States signed the Protocol on June 17, 1925 and deposited its instrument of ratification on April 10, 1975. At that time, there was no ban on the possession or stockpiling of chemical weapons. The U.S. reservation to the Protocol, which applied only to “the use in war of asphyxiating, poisonous or other gases, and of all analogous liquids, materials, or devices,” was intended to deter the use by adversaries of chemical weapons against the United States or its allies.

On May 13, 1991, during the Chemical Weapons Convention negotiations, President George H.W. Bush announced that “[t]o demonstrate the United States commitment to banning chemical weapons, we are formally forswearing the use of chemical weapons for any reason, including retaliation, against any state, effective when the Convention enters into force.” This pronouncement and our obligations as a State Party to the Chemical Weapons Convention prohibit all activities that were reserved under the Protocol and such legal obligations apply, despite existence of the reservation.

X. Article IX


XI. Article X

The United States fully complies with its Article X obligations. Through Article X activities, the United States seeks to contribute to two international norms. First, participation in the “exchange of equipment, materials and scientific and technological information” should be encouraged to improve global health, biosecurity, and the nonproliferation of biological weapons, in addition to the broader benefits of such exchange. Second, international cooperation in “the further development and application of scientific discoveries…for disease prevention and other peaceful purposes” is essential to working actively toward the improved quality of life for all. A good example of the U.S. commitment to such international assistance and cooperation is that in 2014, the United States helped launch the GHSA to strengthen the world’s ability to prevent, detect, and respond to infectious disease threats, activities which help strengthen Article X. Specifics on U.S. activities under Article X can be found in the Article X paper submitted by the United States in 2020.

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