

Sixth session
Geneva, 3-21 March 1997

**Working paper submitted by the Friend of the Chair
on Compliance Measures**

III. OTHER VISITS/MEASURES

[Non-Challenge Visits]

A. PURPOSE

- Mandatory NCVs at facilities would aim to deter non-compliance, and to act as a deterrent against proliferators using declared sites as a cover for non-compliant activities. A system of NCVs would help strengthen confidence in the accuracy of declarations (e.g. whether the ongoing activities are in accordance with information provided in declarations; whether any activities are taking place that should have been declared).
- Inspectors during a NCV might be able to gather information that could indicate a possible non-compliance concern. Because they would take place at short notice, NCVs might catch the proliferator off-guard. The information resulting from NCVs that could indicate a possible non-compliance concern could be followed up by other measures.

B. INITIATION

- NCVs should take place at declared sites only.
- NCVs would be initiated by the future BTWC organization at random, in an objective manner, and in accordance with agreed guidelines in order to ensure that the visits are

of a non-confrontational nature.

- A relatively small number of NCVs would be sufficient for the necessary deterrent effect.
- It would be important that NCVs are carried out at short notice.
- NCVs should be subject to a quota system to govern their distribution in order to restrict as much as possible the burden on industry. The number of visits could be distributed among regions. The ratio per regional group would depend on the total number of States Parties per regional group and on the number of declared sites per regional group.
- NCVs could be focused on key declared facilities, e.g. those involved in biodefence programmes. Within each regional group, declared sites would have to be subdivided according to their relevance to the protocol.

C. IMPLEMENTATION

- The mandate of an NCV would focus primarily on declared information. Measures and safeguards for the protection of CPI will be applicable, as appropriate.
- NCVs could also serve other objectives of the BTWC. They could convey information to States Parties about other relevant matters (e.g. health and safety) and could have a role to play in implementing Article V and technological cooperation under Article X.]

[Clarification Procedures/Visits

(A) PURPOSE

- Could help build confidence in the effectiveness of mandatory declarations as a means to build transparency, by providing a means of clarifying/confirming a declaration, through consultations and/or visits to

declared sites.

- Could clarify any ambiguity, anomaly, gap or any other issue relating to a declaration which has been submitted under the legally_binding regime.
- Could clarify whether there has been any error or omission resulting in the non_declaration of a site which might be declarable under the Protocol/regime.
- Could clarify any other issue relating to a State Party's implementation of the arrangements under the future regime, but which would not warrant an investigation into a non_compliance concern.

(B) INITIATION

- Any State Party could submit a request for clarification
- Any future BWC Organization could submit a request for clarification
- Initial clarification could be sought through correspondence/consultation with the State Party
- Requests for clarification could be screened before further action is taken
- Issues on which clarification is required should be indicated as precisely as possible
- The State Party about which the request had been made could offer a voluntary visit for clarification
- If consultation procedures were invoked and did not succeed in clarifying the points raised, a State Party/the Organization could request a clarification visit.

(C) IMPLEMENTATION

- As part of initial consultations, States Parties/the Organization could request additional information from the State Party concerned relevant to the specific site/issue.

- Clarification visits could take place as soon as possible after the request for a visit had been submitted.
- The scope of the visit could be determined by the issue(s) raised in the clarification request.
- There could be a limit on the number of clarification requests and/or visits at/on any site/State Party within a certain time period.

(D) OUTCOME

- A report on the results of the clarification procedures would be circulated to all States Parties.
- Where a visit had taken place as part of the clarification procedures, the report could include the visiting team's findings.
- On receipt of the report, the States Parties could consider whether any further action was necessary.]

[Measures to strengthen the implementation of Article III

- Guidelines to prevent dual-use agents, toxins, equipment and means of delivery from being utilized for purposes prohibited by the Convention should be developed within the future legally binding regime. (This would require: a ban on the transfer of dual-use items to any recipient determined by the future organization to have developed BW; prior approval of the future organization for the transfer of dual-use items to States not participating in a compliance regime; end-use certificates etc.; the development of lists of agents, toxins and equipment the transfer of which would trigger mandatory declarations; the development of formats for information on transfers;

Further consideration of the need for such measures is required. The importance of Article IV of the Convention for the effective implementation of Article III is noted in this context.

the development of a mechanism for monitoring and analysing declarations; and means to address non-compliance concerns in this regard through checks and investigations).

- Obligation on States Parties not to participate in any arrangement external to the compliance regime to enforce the provisions of the Convention.]
