

**Seminar organized by the University of Bradford,
Speaking Notes of Mr. François Rivasseau, Ambassador,
Permanent Representative of France to the Conference on Disarmament**

Geneva, April 26th 2006

Introduction:

The Sixth Review Conference of the Biological and Toxin Weapons Convention (BTWC) will take place in Geneva in November 2006. This paper presents some of our ideas and proposals to take the best profit of this meeting and reinforce the BTWC regime.

On a general point of view, we hope that the Review Conference will adopt a substance-orientated approach and allow the development of a meaningful agreement on a future intersessional mechanism. The latter would both make an assessment of the actions which have been completed and consider new topics.

Given the lack of an agreement on the adoption of a verification mechanism, one of our concerns, and indeed one of the topic that could be addressed during the intersessional process (2006-2009), should be the improvement of transparency through a reinforcement of the confidence building measures (CBM) mechanism. Building upon an assessment of the exchange of information since 2000, this paper therefore offers some suggestions to enhance this process.

I. The next steps to be taken during the intersessional process 2006-2009.

***I-1: What should be the main objectives of the 2006 review conference ?
And how should we try to measure the success ?***

I – 1 – a) The objectives should be dictated by the assessment of the various threats and risks which the international community is facing today.
They can be characterised as follows :

- threats emanating from a State actor : we are still facing disarmament processes which are not satisfactorily completed, with problems of universality and with new proliferation risks. These three kind of dangers remain highly preoccupating.
- threats created by non-State actors : this is a somewhat new challenge for the regime. Its importance has greatly grown in the past years. Indeed, the only cases of use, or better said attempts of use, have come from non-State actors. We have to deal here both with attacks targeting civil population, with a view of killing as many people as possible in order to create an atmosphere of terror ; but we have also to take into account the eventually of non-State actors trying to acquire some “terror” capabilities.
- With the Montreux call in 2002, we are also aware, thanks to the ICRC, that scientific and technical progresses carry in themselves a certain risk of creating new and uncharted dangers : accidental spread-out of certain agents or pathogens, opening of new avenues for the development of new and unforeseen potentially dangerous technologies.

I – 1 – b) The measure of success should be made on the basis of a substance orientated approach and not of merely procedural results :

- we should therefore not necessarily seek new brilliant procedural tricks but rather build up on the existing articulation between meetings of experts and annual meetings of states parties. These yearly meetings could be made more dynamic if they were used also to serve more general objectives such as universalisation of the BW convention. For this reason also, we are not convinced of the need at this stage of any new board or secretariat or mechanism : making best use of the DDA and of our triennial planification is all that is needed.
- Most important are the core functions that the intersessional mechanism is supposed to fulfil :
 - reinforce the international security through modest but pragmatic measures seeking to close preventively the loopholes of the regime rather than to counter cases of non compliance. The mechanism is flexible enough to face a great variety of cases and is based upon a preventive, cooperative and voluntary approach. These characters explains the success, modest but real, of this new process. We should preserve it.
 - It is a key factor of legitimacy. On the basis of a difficult compromise in 2002, we are trying to restore confidence and it is important in this regard to anchor the regime in regular and acceptable practices.
 - It is finally an important mechanism for avoiding isolation of State Parties scientists and military who work on questions linked to biological defence. Such an isolation could carry dangerous consequences for the credibility of the regime in the middle term.

I – 1 – c) In this context, the best measure of the success of the Review Conference should not necessarily be only a consensus based outcome. I shall argue that the main key to success could likely be the development of a meaningful agreement on the future intersessional mechanism.

Any weakening of this mechanism would indeed mean that the international community intends to give less relevancy to the question of preventing proliferation and ensuring disarmament in the BW field. This in a context where all the data and information coming to us from the field confirms the as relevant as ever character of the BW convention.

In this context, we could hardly think of a more harmful measure for the credibility and effectiveness of a regime than the one which should consist in stopping efforts in this framework. It is not only the concrete effectiveness and the closing of loopholes in the regime that we have to ensure, it is also the legitimacy and the authority of the Convention itself that we have to protect. We have to avoid contributing to develop a “culture of cynicism” in the BW field and we cannot lower the guard.

I - 2 : What ambitions for the next steps ?

Irrespective of how we consider the BW regime as strong or weak (and we have heard both views convincingly made), we all know that a verification mechanism, to which France and the EU remain committed, is not in the cards for the time being. So, let's do the best of what we have in front of us.

I – 2 – a) It seems to us that a modular approach could be the key to success. We suggest that the State parties should be offered to pick up five or six possible issues for the next intersessional period within a list of proposals which could add up to 10 or 12. It is better indeed to have a choice on a “menu à la carte” than to be forced to take the “plat du jour”.

Within this menu, an appropriate mix should be offered, with both issues which should build up upon previous achievements and brand new topics.

It is in this spirit that France has advanced some concrete proposals within the UE framework after the end of the last meeting of State parties.

I – 2 – b) These proposals could be tentatively presented as follows :

- we should first assess and take stock of the actions which have been completed in the five fields we have been able to deal with during the last three years. Audit is really needed here to measure the concrete impact on the ground of the work done : how many national legislations have been improved ? how many labs have been better protected ? how many codes of conduct have been adopted ? how successfully did we strengthen the network designed to protect us against possible BW threats ? Or, to face the cases of alleged uses ?
- we should build upon some of these achievements : some issues have emerged during the last three years as result of our dialogue :
 - increased cooperation between national judicial polices and customs to combat the proliferation of hazardous products and the illicit trade of dual use materials. Interpol experts have made some proposals in this field as a follow up of the work made on national legislations ;
 - safety and security of pathogens and toxins, including transfers and stocks : this is meant to complement the work done on biosafety and biosecurity.
 - detection of pathogenical agents and real time epidemiological control, seen as a follow up to the exercise on possible spread of diseases.
 - reconversion of scientists having worked on offensive military programs, as a follow up to the work about Codes of Conduct.
 - evaluation of measures for national transposition: National transposition is a fundamental part of the implementation of the Convention. The intersessional work done in 2003 has already addressed this issue, but the time that has elapsed since then justifies a new examination of it. Most notably in this connection it might be

possible to analyse the assistance measures for implementation provided under bilateral and multilateral frameworks.

- some new topics should also be considered :
 - confidence building measures: as explained in the second part of this paper, the focus should be about making better use of CBMs, indeed the best possible use of them, rather than expanding their scope. Don't put the cart before the horse !
 - regional and subregional cooperation for the implementation of the convention, as it appears that a number of concrete problems have regional rather than national roots.
 - raising awareness about BW threats and risks: the public should have better knowledge about the concrete challenges we face as its cooperation would be precious to the objectives of the Convention.
 - scientific progress: this topic would enable analysis of the extent of scientific progress in biotechnology and its consequences in the area covered by Article I of the Convention. To address this issue in the form of topic for intersessional work would seem to be more realistic than to set up a standing scientific committee.

We should not be over-ambitious in this process and seek a mix which would be consistent with the efforts that have already been undertaken for three years. After all, it's up to the review conference to agree about language and solutions relevant to each and any of the articles of the Convention. But as far as the intersessional review process is concerned, we have to look constructively ahead on how to answer the main challenges the BW Convention has been specifically designed to answer.

One of the issues that could be addressed during the intersessional process (2006-2009) we are calling for is the improvement of the CBM mechanism.

II Confidence-building-measures : State of play and suggestions for reforms

Given the lack of any agreement on the adoption of a verification mechanism, increasing transparency should be one of our objectives. The CBM mechanism which consists of an annual exchange of data and information, as well as declarations of past and present activities relevant to the Convention, is for the time being our main tool in this respect. Therefore, the question of its improvement should be one of the issues of concern in november.

The creation of CBMs was agreed upon at the 2nd Review Conference in 1986 and the measures were extended at the Third Review Conference in 1991. We have made a study of the information exchange between 2000 and 2005 which shows that the existing form and the

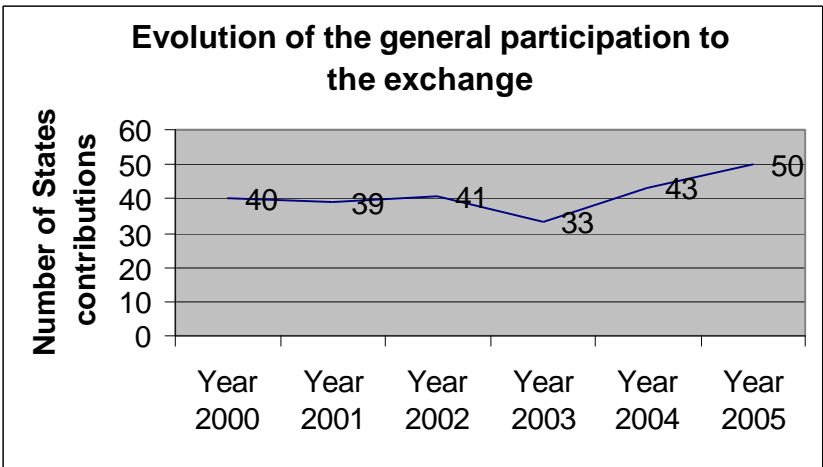
way states fill it out may be confusing to the readers. Building upon this analysis, and in the objective of making better use of the existing mechanism, we are therefore suggesting some reforms to the process.

II – 1 : Assessment of the information exchange between 2000 and 2005

II – 1 – a) General Trends:

General participation to the exchange since 2000:

Year	2000	2001	2002	2003	2004	2005
Number of contributions	40	39	41	33	43	50



These figures are approximatively at the same level as during the previous decade (1990-2000) when the number of contributions varied from 31 (1990) to 53 (1996)¹.

Between 2000 and 2005:

- 23 States Parties have submitted data every year.
- 60 have done so at least once.
- More than 90 have never participated.

In other words, only a minority of States are involved in this exchange of information.

Every year, less than a third of State Parties to the Convention submit a declaration².

II- 1- b) Trends in Regional groups

- Trends in the Western Group

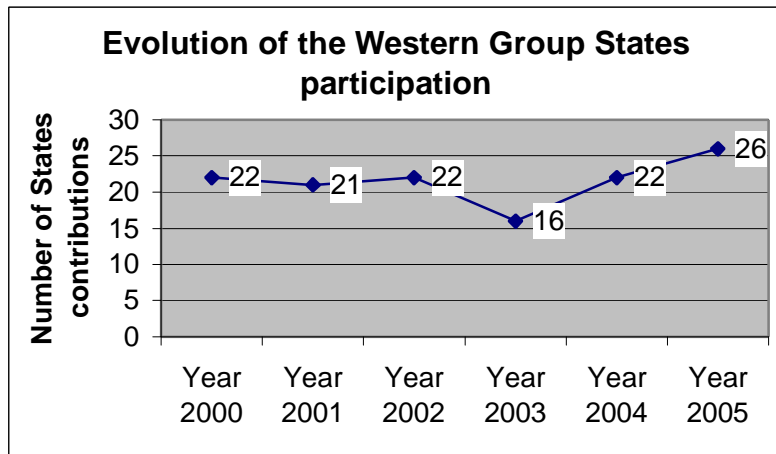
The Western group is composed of 32 States Parties to the BTWC.

¹ The figures used for this study are the ones available on April 15th 2006.

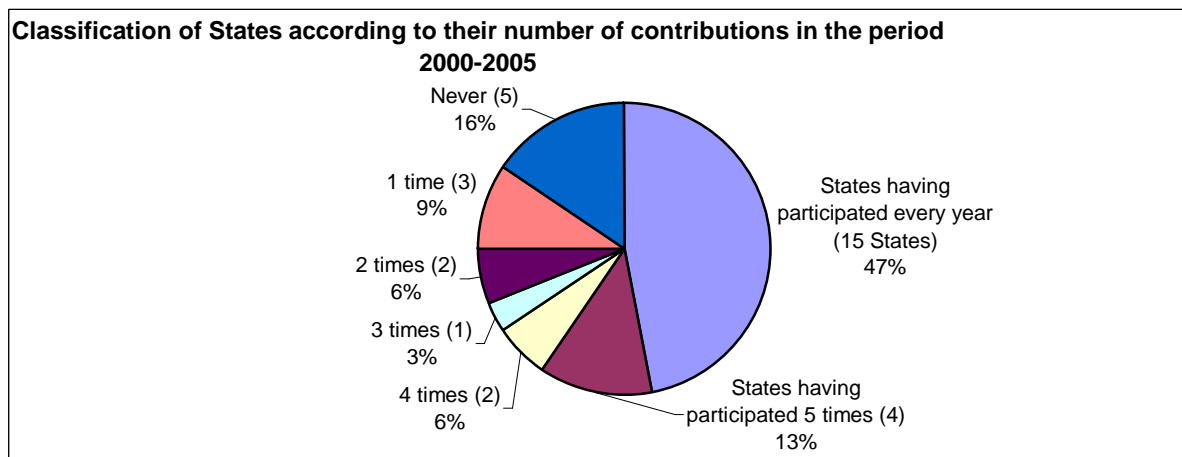
² In June 2005, there were 155 State Parties to the BWC

Evolution of the participation in this group:

Year	2000	2001	2002	2003	2004	2005
Number of States contributions	22	21	22	16	22	26
% of States participating	68,75	65,625	68,75	50	68,75	81,25



Number of contributions by Western Group States in the period:



- The States having participated every year are the following ones : Argentina, Australia, Canada, Finland, Germany, Italy, Japan, Netherlands, Norway, New-Zealand, South Korea, Spain, Switzerland, Turkey, United States

- The States having participated 5 times are the following ones: Austria, Belgium, France, United Kingdom

- 4 times: Liechtenstein, Sweden

- 3 times: Malta

- 2 times: Ireland, San Marino

- once: Denmark, Greece, Luxembourg

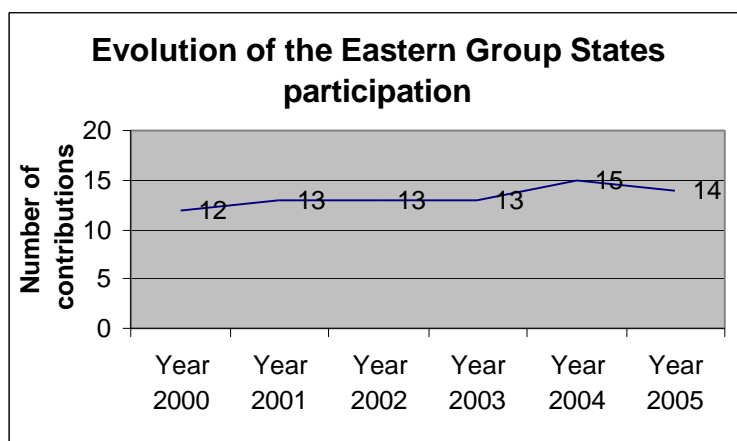
- The States having never participated are the following ones : Cyprus, Holy See, Iceland, Monaco, Portugal.

- Trends in the Eastern Group:

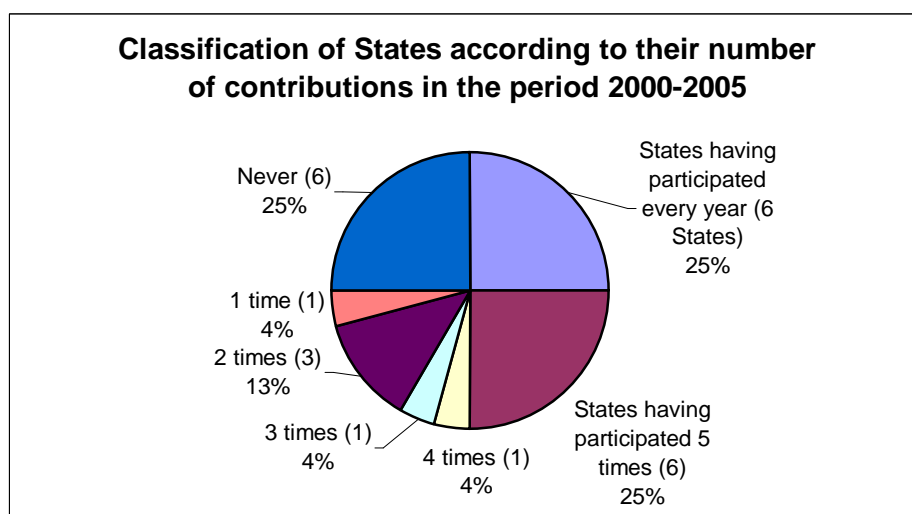
This group is composed of 24 States Parties.

Evolution of the participation in this group:

Year	2000	2001	2002	2003	2004	2005
Number of States	12	13	13	13	15	14
% of participating States	50	54,1666667	54,1666667	54,1666667	62,5	58,3333333



Number of contributions by Eastern Group States in the period:



- The States that submitted data every year are the following ones: Belarus, Bulgaria, Czech Republic, Lithuania, Russia, Slovakia.

- The States that participated 5 times are the following ones: Estonia, Georgia, Poland, Romania, Ukraine, Uzbekistan.

- 4 times: Hungary

- 3 times: Latvia

- 2 times: Armenia, Croatia, Slovenia

- Once: Serbia-Montenegro

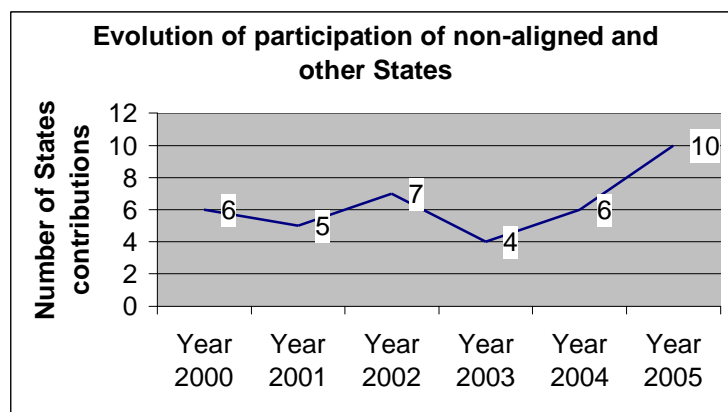
- States that never participated: Azerbaidjan, Albania, Bosnia, Moldavia, Macedonia, Tadjikistan

- Trends in the group of Non-Aligned and other States:

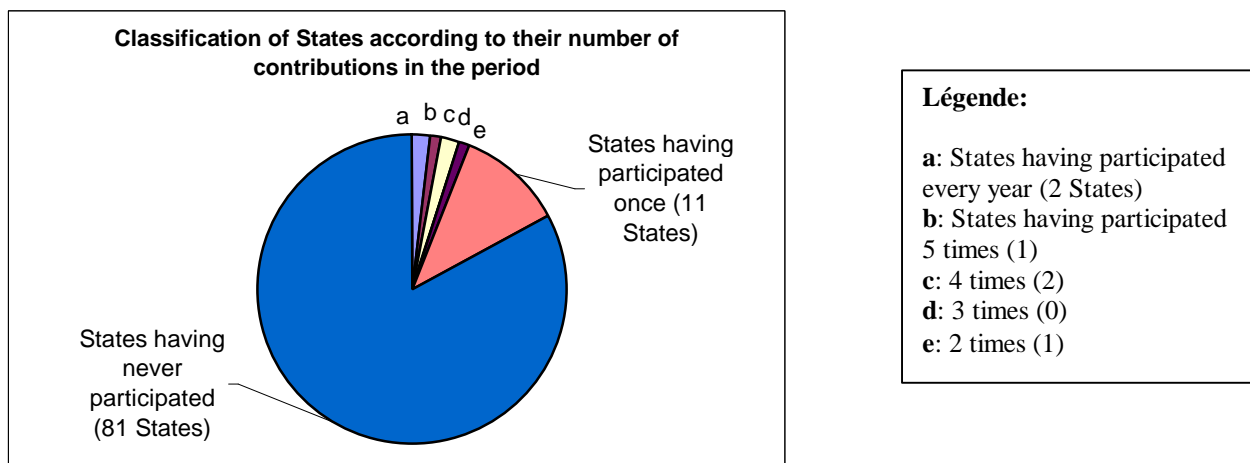
This group is composed of 98 States Parties.

Evolution of the participation in this group

Year	2000	2001	2002	2003	2004	2005
Number of States	6	5	7	4	6	10
% of participating States	6,12244898	5,10204082	7,14285714	4,08163265	6,12244898	10,2040816



Number of contributions by States in the period:



- The States that have submitted data every year are the following ones: China, Cuba
- States that have done so 5 times: South Africa
- 4 times: Brazil, Chile
- No States have participated 3 times
- 2 times: Costa Rica
- Once: Belize, Grenada, Iran, Lybia, Mauritius, Mexico, Morocco, Peru, Qatar, Tunisia, Turkmenistan
- The 81 others have never participated.

- Analysis

These figures allow us to reach two main conclusions:

- The level of participation in each group is quite constant:

In the Western Group, it is usually between 60 and 70 %, except for the year 2005 when this figure reached 81%. It will be interesting to determine whether this positive trend will be confirmed.

In the Eastern Group, it is usually between 50 and 60 %

In the Non aligned and other States group, it is usually below 10%, except for the year 2005 (10,2%).

On a general point of view, a light increase in the number of contributions can be noticed these last two years, but it remains below the highest point reached in 1996 (53).

- There are significant differences in the different groups level of participation.

The participation level is especially low in the Non aligned and other States Group. In this group, many States have given information only once. About 10 % of them (11 States) have done so since 2000. Many have also participated once (or twice) in the 80's/90's: 27 have done so among the 82 States that have never submitted data since 2000. Therefore, over 40 % of these States have participated to the exchange at least once in the history.

They may consider that participating once is enough if they have nothing new to say.

II – 1 – c) Trends among “particularly important” States:

An NGO³ distinguished 27 countries considered as “particularly important”. According to its authors, they meet at least one of the criteria as follows:

- BWC depositary countries (Russia, United Kingdom, United States)
- Countries which had BW programmes in the past (Canada, France, Germany, Iraq, Japan, Russia, South Africa, United Kingdom, United States)
- Countries with a highly-developed biotechnological capacity (in addition to the states mentioned in the lists above, this includes: Australia, Brazil, China, Cuba, Egypt, India, Israel, Italy, Kenya, Mexico, Nigeria, Sweden, Singapore)
- Countries which have been accused of BWC non-compliance (in addition to the states mentioned in the lists above, this includes: Iran, Lybia, North Korea, Sudan, Syria)

Argentina, Indonesia, Malaysia, Pakistan and Turkey could be added to this list as militarily significant States.

We can note that not all these States are Parties to the Convention.

Since 2000, among these 32 States:

- 11 States submitted CBMs every year: Argentina, Australia, Canada, China, Cuba, Germany, Italy, Japan, Turkey, Russia, United States.
- 3 States did so 5 times: France (2003 is missing), South Africa (2001), United Kingdom (2001)
- 2 States did so 4 times: Sweden and Brazil
- No States did so 2 or 3 times
- 3 States did so once: Iran (2002); Lybia (2005), Mexico (2004)

³ The Sunshine Project published in september 2005 a summary and analysis of data submitted under the Bioweapons Convention's confidence building measures between 1987 and 2003.

- 13 States never participated: Egypt (non State Party; Treaty signed but not ratified), India (participated once in 97), Indonesia, Iraq (participated in the 90's), Israel (non State Party), Kenya, Malaysia, Nigeria, North Korea, Pakistan, Singapore, Sudan (State Party since 2003), Syria (non State Party; Treaty signed but not ratified).

In this “group”, we can therefore distinguish two categories of States:

- 16 which always -or almost always- participate
- 16 which never -or almost never- participate

II – 1 - d) Qualitative analysis

After having studied the number of contributions (quantitative analysis), we can now adopt an analytic point of view.

This allows us to make different observations:

First, some remarks have to be done on the following notions: “nothing to declare” and “nothing new to declare”:

The form is divided into 11 different kinds of measures and questions that States have to answer. A simple pro forma gives States the opportunity to tick boxes called “nothing to declare” and “nothing new to declare” for each CBM.

The existence of this introductory Declaration Form is beneficial as a way to buy time, but States seem to have different understandings of these expressions. Indeed, most States do not submit any information for the measures for which they have ticked one of these boxes, but it is not the case for all of them.

When States submit data while indicating “nothing new to declare”, this generally means that they are giving the same information as previous years.

When States submit data while indicating “nothing to declare”, the situation is more ambiguous. This probably means that these answers are insignificant and/or do not pose any problems regarding compliance with the Convention.

But these are only assumptions and one cannot be sure regarding the States’ understanding of these notions. There is no clear definition of these notions. A clarification would be useful.

Secondly, one can note a great variety regarding the quality of the forms:

If a majority of States fills out the form in a substantive manner, that is not the case for all of them:

- A small number of States answer a minority of answers without justifying it by indicating “nothing to declare” or “nothing new to declare”.
- A greater number of them indicate “nothing to declare” for a lot of CBMs and therefore generally deliver little information. It is difficult to determine whether they have effectively “nothing to declare” or whether it is an issue of willingness.
- Some others indicate “nothing new to declare” for a lot of CBMs. In theory, this means that the information has been delivered in a previous report, but it is difficult and time-consuming to check.
- Some others tick both kinds of boxes, which raises the same issues. Some even only tick boxes in the Introduction Declaration Form without submitting further information.

II – 2: Suggestions for a reform of the CBM mechanism

II – 2 – a) Proposals for improved comprehension of CBMs

The quality of the declarations submitted is very fluctuating and it would be clearly possible to make a more fruitful of the existing form. Rather than expanding the scope of measures, making better use of them should be our main focus for the time being. This may necessitate a reshaping of the Introductory Declaration form.

By analyzing the way existing declaration forms on CBM's are filled, one can indeed note, as we underscored above, a confusion concerning the use of the boxes "nothing to declare" and "nothing new to declare" contained in the Introductory Form.

The logic would be that when a State ticks one of these boxes for one measure, it should not answer the related questions (since nothing is declared). This is the way most States do it, but not all of them. Therefore, a clarification of the implications of ticking these boxes would be useful.

Secondly, many States indicate "nothing to declare" for many measures and thus give little information. This may be interpreted in different ways: does it mean that there is absolutely nothing to declare? Does it mean that nothing prohibited by the BTWC is being done? Does it mean that the question remains unanswered ? A clear definition of the notion could help to clarify this situation.

Finally, some States indicate "nothing new to declare" for many measures. It means - at least in theory- that the information has been delivered in a previous report. But it is difficult and time-consuming to check. Asking States to specify in which year they have delivered this information would also be useful.

These remarks lead us to propose a reshaping of the Introductory Form which would clearly define the meaning of the two notions and the implication of their use (see Annex).

II – 2 – b: Proposals for the universal application of CBMs

The participation to the exchange is limited. Every year, in the 90's as well as since 2000, less than one third of States Parties submit data. Efforts should therefore aim at increasing this level of participation.

In this respect, the EU agreed on an action plan in which the EU member states all undertook to submit CBM information to the United Nations and would like to set an example for other state parties to follow.

In order to make progress toward universality, **two categories of measure** might be envisaged: **technical improvements** and **political incentives**.

- Technical improvements

- **An expanded role could be assigned to Multiple Choice Questionnaires (MCQ)**, in order to facilitate the task of official departments responsible for

submitting the CBMs. Indeed, **administrative difficulties** probably explain the lack of CBM declarations in many cases.

- Without going as far as MCQs, the definition of a **computerised CBM form** would make it possible to **standardise declarations** and would make the task of official agencies easier **while avoiding any limitation of the scope of the responses**: all the questions would be retained and **the responses would be integrated into electronic data fields**.

Electronic CBMs would also allow **faster and easier circulation** of declarations to the DDA. **They would however require a secure system for electronic transmission.**

- Political incentives

- **An annual reminder by UNSG to all States Parties of the need to make CBM declarations**

The United Nations Secretary-General **could send out a communication every year to all States Parties to remind them of the CBM timetable and encourage them to send in the declarations to the DDA before 15 April of the coming year.**

ANNEX

Proposed Introductory Declaration Form

Does your country have anything to declare this year on Measure A, part I ?

- (a) Yes, it has something to declare in this form for the first time (please complete form);
- (b) Yes, it has previously declared something in this form, and needs to update or modify details (please complete form);
- (c) Yes, but this information is already being declared since XXXX and has not changed; (please complete form)
- (d) No - it has nothing at all to declare on this form⁴.

Measure A, part 2 (i):

- a
- b
- c
- d

A, part 2 (ii):

- a
- b
- c
- d

A, part 2 (iii)

- a
- b
- c
- d

B (i)

- a
- b
- c
- d

B (ii)

- a
- b
- c
- d

C

- a
 - b
 - c
 - d
- etc

⁴ Nothing at all to declare means : There is and there has not been in the past any activity to report that could justify the issue of data or any type of information as defined in the Final Declarations of the 1986 and 1991 Review Conferences of the States parties to the BTWC