

**AD HOC GROUP OF THE STATES PARTIES  
TO THE CONVENTION ON THE PROHIBITION  
OF THE DEVELOPMENT, PRODUCTION AND  
STOCKPILING OF BACTERIOLOGICAL  
(BIOLOGICAL) AND TOXIN WEAPONS  
AND ON THEIR DESTRUCTION**

BWC/AD HOC GROUP/40  
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Tenth session  
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PROCEDURAL REPORT OF THE AD HOC GROUP OF THE  
STATES PARTIES TO THE CONVENTION ON THE PROHIBITION  
OF THE DEVELOPMENT, PRODUCTION AND STOCKPILING OF  
BACTERIOLOGICAL (BIOLOGICAL) AND TOXIN WEAPONS  
AND ON THEIR DESTRUCTION

1. The Ad Hoc Group of States Parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction held its tenth session at the Palais des Nations, Geneva from 9-13 March 1998, in accordance with the decision taken at its ninth session. The Group held 10 meetings during that period under the chairmanship of Ambassador Tibor Tóth of Hungary. Ambassador John Campbell of Australia and Ambassador Javier Illanes of Chile served as Vice-Chairmen of the Group. Mr. Oguniola Ogunbanwo, the Senior Coordinator of the Disarmament Fellowship and Training Programme, Department of Disarmament Affairs, served as Secretary of the Group.

2. At the tenth session of the Ad Hoc Group, the following States Parties to the Convention participated in the work of the Group: Argentina, Australia, Austria, Belgium, Brazil, Bulgaria, Canada, Chile, China, Colombia, Croatia, Cuba, Czech Republic, Democratic People's Republic of Korea, Denmark, Finland, France, Germany, Greece, Hungary, India, Indonesia, Iran (Islamic Republic of), Ireland, Italy, Japan, Kenya, Malaysia, Mauritius, Mexico, Netherlands, New Zealand, Norway, Pakistan, Poland, Portugal, Republic of Korea, Romania, Russian Federation, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, and Viet Nam. The following signatory States to the Convention also participated in the work of the Group: Egypt, Morocco and Myanmar.

3. At the 1st meeting, the Ad Hoc Group decided to continue its consideration of Agenda Item 9 entitled "Strengthening of the Convention in Accordance with the Mandate as it is contained in the Final Report of the Special Conference of the States Parties to the Biological Weapons Convention".

4. At its tenth session, the Chairman of the Ad Hoc Group was assisted by Friends of the Chair in his consultations and negotiations on particular issues as follows:

Measures to Promote Compliance

- Mr. Richard Tauwhare (United Kingdom of Great Britain and Northern Ireland)

Investigations Annex

- Mr. Peter Goosen (South Africa)

Measures Related to Article X

- Mr. Carlos S. Duarte (Brazil)

5. Out of the 10 meetings the Ad Hoc Group held in accordance with the programme of work, 4 meetings were devoted to issues related to "Measures to Promote Compliance", 2 meetings were devoted to "Measures Related to Article X" and 4 meetings were devoted to "Investigations Annex". In accordance with the understanding reached at the ninth session, other issues in front of the Ad Hoc Group were not addressed during the session due to the limited time available. The Friends of the Chair were assisted by Mr. Vladimir Bogomolov, Political Affairs Officer of the Department of Disarmament Affairs and Ms. Iris Hunger, Professional Assistant.

6. The results of discussions on the issues addressed during the session are attached to this report. (Annex I) In addition to the statement of the Chairman that the position of delegations is not prejudiced by this paper, individual brackets have been introduced to cover specific preliminary concerns of delegations and it is recognized that further and detailed consideration of all elements will be required at future sessions.

7. In addition to the documents presented at its previous sessions, the Ad Hoc Group had before it 10 working papers covering those elements of the mandate under discussion and which are listed in Annex III.

8. The Ad Hoc Group considered and adopted the Programme of Work for the eleventh session to be held from 22 June to 10 July 1998. (Annex II)

9. At its 10th meeting on 13 March 1998, the Ad Hoc Group considered and adopted its draft procedural report (BWC/AD HOC GROUP/L.15).

ANNEX I

### Outcome of discussions on Measures to Promote Compliance

*Replace paragraphs 18 and 19 (including related headings) of Article III, section F, subsection I of BWC AD HOC GROUP/39, p. 41, by the following:*

#### (C) Voluntary Visits

[18. Each State Party may [request] [volunteer for] [invite] [the Organisation] to undertake visits to facilities on its territory or in any other place under its jurisdiction or control in order to fulfil one or more of the following objectives

[(a) To help compile individual facility and national declarations [and/or to clarify a specific ambiguity that may be contained in it;]

[(b) To further the cooperation and assistance provisions of this Protocol,]

[(c) To resolve a specific concern related to declarations, including any ambiguity,]

[(d) To resolve a specific concern, as provided for in paragraph 8 (d) of section E of this Article, on Consultation, Clarification and Cooperation.]

19 The Director-General shall [in consultation with the Executive Council] decide on the [implementation] [initiation] of [requests for] such visits in accordance with the [procedures set out in Annex B] [relevant criteria and guidelines approved by the [Executive Council] [Conference of the States Parties]] [taking into account, [*inter alia*, the resource implications] [the availability of resources within the [Technical] Secretariat and the nature and purposes of the visit]]

20 The detailed arrangements for, and contents of, a Voluntary Visit shall be agreed beforehand between the Director-General and the State Party concerned

21 The Director-General shall [, in accordance with Annex B,] issue a [standard] mandate for each visit [which shall be completed in cooperation with the State Party to be visited]

[22 The visits shall be conducted in the least intrusive manner [and shall not affect or interrupt [in any way] the activities taking place in the facility] ]]

#### [(D) Voluntary Confidence-Building Visits

23 For the purpose of confidence-building, the number, intensity, duration, timing and mode of voluntary visits to particular facilities shall be arranged and agreed between States Parties in accordance with Annex G, section VI.]

## **Outcome of discussions on Measures to Promote Compliance**

*Replace paragraphs 1 to 4 (including related headings) of Article III, section F, subsection II of BWC/AD HOC GROUP/39, p. 44 to 46, by the following:*

### **[II. [MEASURES TO STRENGTHEN THE IMPLEMENTATION OF ARTICLE III]**

[1. States Parties, in order to ensure compliance with Article III of the BTWC, shall only transfer dual-use microbial and other biological agents, toxins and equipment for purposes not prohibited by the Convention, in accordance with the following guidelines.

2. In pursuance of paragraph 1, and recognizing that most of the agents, toxins, equipment and technologies are of a dual-use nature and with the objective of preventing dual-use items from being utilized for purposes prohibited by BTWC, the guidelines shall be as follows:

(a) Any request made by a State Party for the procurement of a specific agent/toxin reagent shall be accompanied by information on purpose, quantity required, site or facility for proposed use, quantity to be produced at the site or facility, place where intended to be stored and end-use certificate;<sup>1</sup>

(b) Any request for transfer or procurement of equipment envisaged to be declared under CBMs, for use by a State participating in the compliance regime in a BL4 facility, including details of its proposed application and the site/facility for intended use, shall be intimated to [the BTWC Organization];

(c) Any transfer of technology related to means of delivery, aerosol dispersion of toxins and pathogens, stabilization of agents/toxins to environmental stress shall be intimated to [the BTWC Organization];

(d) Transfer of agents, equipment and material shall not be allowed to non-States Parties of the compliance regime under the Convention without prior approval of [the BTWC Organization].]

[3. (a) To ensure compliance with Article III of the BTWC, [no] [each] State Party shall [only] authorize transfers to any recipient whatsoever, of microbial or other biological agents, or toxins whatever their origin or method of production, or equipment which [is capable of using such agents or toxins for hostile purposes] [can be used in contravention of

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1. The format on Transfers developed by the Friend of the Chair on CBMs on "Data on Transfers and Transfer Requests and on Production" in pages 208-209 of BWC/AD HOC GROUP/39 would need to be modified in this context. Paragraph 2 above may be considered for Annex.

Article I of the Convention], [unless that State Party has] [if it is] determined that these will be used solely for prophylactic, protective or other peaceful purposes.

- (b) (i) Each State Party shall report to [the Organization] on the national laws and regulations it has adopted to implement Article III of the BTWC not later than [...] days after the entry into force of this Protocol for that State Party and whenever an amendment thereto is made.
- (ii) Each State Party shall report to [the Organization] on its administrative and other national measures to implement Article III of the BTWC not later than [...] days after the entry into force of this Protocol for that State Party and whenever an amendment thereto is made.
- [(iii) Such reports shall contain detailed information. If available, the information contained in these reports may be subject to examination during a visit under the Article I investigation procedures of this Protocol ]

[(c) No transfer of microbial or other biological agents or toxins, whatever their origin or method of production, or equipment which is capable of using such agents or toxins for [hostile purposes] [for purposes which would contravene Article I of the Convention], shall be allowed to non-States Parties of the Convention and the Protocol.]<sup>2</sup>

[(d) Each State Party, in implementing these measures, shall ensure that they do not impede the peaceful economic and technological development of States.]]

[4. [Proposed] Transfer guidelines

(a) The provisions of the Convention shall not be used to impose restrictions and/or limitations on the transfer of scientific knowledge, technology, equipment and materials for purposes not prohibited under the Convention.

(b) In order to promote transparency in the biological trade, the States Parties may agree on arrangements for exchanging the end-user certificate related to biological exports in a manner that will entail no restrictions or impediments on access to biological materials, equipment or technological information by all States Parties. This would replace all existing ad hoc regulations in the biological trade at the time of entry into force of the Protocol for States Parties.

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2 Further consideration should be given to possible humanitarian implications of such a prohibition

(c) An end-user certificate may be required from the recipients stating, in relation to the transferred biological agents or toxins and equipment (to be identified as relevant by the Ad Hoc Group), the following:

- (i) That they will only be used for purposes not prohibited under this Convention for the States not party to the Convention;
- (ii) That they will not be retransferred without receiving the authorization from the supplier(s);
- (iii) Their types and quantities;
- (iv) Their end-use(s); and
- (v) The name and address(es) of the end-user(s).

(d) States Parties shall resolve suspicions arising from such transfers through the process of consultation and clarification in accordance with Article V of the Convention.]]

### **Outcome of discussions on Measures to Promote Compliance**

*Replace paragraphs 1 to 19 (including related headings) of Article III, section F, subsection III of BWC/AD HOC GROUP/39, p. 47 to 52, by the following:*

### **III. INVESTIGATIONS<sup>1</sup>**

#### **(A) INITIATION AND TYPES OF INVESTIGATIONS**

- [1. The provisions of this section shall only be available to address non-compliance concerns that occur after the entry into force of this Protocol.]
2. Each State Party shall have the right to request an investigation for the sole purpose of determining the facts relating to a specific concern about possible non-compliance with the Convention by any other State Party.
3. Each State Party shall be under the obligation to keep all requests within the scope of the Convention and refrain from unfounded requests.
4. The requesting State Party shall specify in each request which one of the following types of investigation it is seeking:
  - (1) [Field] investigations [of the alleged use of biological weapons] [, to be conducted in geographic areas where the release of, or exposure of humans, animals or plants to microbial or other biological agents and/or toxins has given rise to a concern about non-compliance with Article I of the Convention by a State Party].
  - (2) [Facility] investigations [of any other alleged breach of obligations under the provisions of the Convention] [, to be conducted inside the perimeter of a particular facility(ies) for which there is a concern that it is involved in activities prohibited by Article I of the Convention].
  - [(3) Investigations where there is a concern that a transfer has taken place in violation of Article III of the Convention.]

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<sup>1</sup> There is no agreement on terminology of investigations. One possible term is "Investigation to Address a Non-Compliance Concern". Another possible term is "Challenge Inspection (under Article VI)".

5. All natural outbreaks of disease do not pose a compliance concern to the Convention [and therefore shall not be cause for an investigation of a non-compliance concern] [as set out in Annex ...].<sup>2 3</sup>

[5 *bis* Accidents which are a result of activities not prohibited under the Convention do not pose a compliance concern to the Convention and therefore shall not be cause for an investigation of a non-compliance concern as set out in Annex ... ]

6 An investigation may be requested to be conducted on the territory of a State Party, or in any other place under its jurisdiction or control, regardless of the form of ownership of the facility or the geographic area subject to the investigation, in accordance with the provisions of this Protocol and its Annexes

[7 A [field] investigation [of alleged use of biological weapons] may also be requested to be conducted on the territory of a non-State Party, or in any other place under its jurisdiction or control, if there are concerns that a State Party [which shall be identified in the request] is the cause of the non-compliance concern. Consultations shall be undertaken with the non-State Party concerned in order to secure its agreement that the provisions and rights with regard to access and conduct of investigations foreseen for States Parties under the Protocol, or any other investigation arrangements which are deemed mutually acceptable by the non-State Party and the [Director-General] [Executive Council], may be applied, as appropriate, to an investigation on its territory or at any other place under its jurisdiction or control ]

[8 In the case of a non-compliance concern involving a State which is a party to the Convention but not to the Protocol, States Parties, where appropriate, shall use the relevant provisions of the Convention to seek to resolve the concern. In cases where an investigation is initiated under the Convention, the provisions and rights with regard to access and conduct of investigations foreseen under the Protocol may be applied, as agreed and appropriate ]

[9 In cases of concerns with respect to biological or toxin weapons involving a State not party to the Convention, [the Organization] shall closely cooperate with the [Security Council and the] Secretary-General of the United Nations. If so requested, [the Organization] shall put its resources at the disposal of the [Security Council and the] Secretary-General ]

10 Requests for investigations shall be submitted in writing by the requesting State Party to [the United Nations Security Council, in accordance with Article VI of the Biological Weapons Convention] [[the Executive Council and at the same time to] the Director-General

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2 Specific language on this issue for inclusion in the Annex will be formulated drawing on, without prejudice to other possible proposals, BWC/AD HOC GROUP/WP 262, submitted by the Group of NAM and other countries (attached), which was not addressed at the ninth Ad Hoc Group session

3 A view was expressed that the appropriate placement of this text required further consideration

for immediate processing] [and circulation to the Executive Council] in accordance with procedures as set out in this Protocol and its Annexes.

(C) CONSULTATION, CLARIFICATION, AND COOPERATION<sup>4</sup>

11. States Parties [shall] [may] [first] make [every effort] [full] [use [where possible and as appropriate] of opportunities] for bilateral and multilateral clarification and consultation [through the Organization] [in accordance with Article V of the BTWC] [[and established procedures under the Protocol] to resolve a concern about non-compliance with the Convention [[prior to] [or] [in parallel to] a request]].

12. Other States Parties may undertake to assist, on a voluntary basis and to the extent they may be capable and/or are requested, by the States Parties concerned [or by the BTWC Organization] in clarifying or resolving matters related to a concern about non-compliance, which has been raised as a matter for consultation, clarification and cooperation. [[International organizations such as WHO, FAO and IOE] may play a role in such consultation and clarification procedures.]

(D) INFORMATION TO BE SUBMITTED WITH A REQUEST FOR AN INVESTIGATION TO ADDRESS A CONCERN OF NON-COMPLIANCE WITH THE CONVENTION

13. A State Party requesting an investigation shall provide [, to the extent possible,] [all] relevant [available] [necessary] information [and evidence] indicating a non-compliance concern [as specified in paragraphs ... of this section] [including location, how the concern arose, the type of non-compliant activity, the specific event or activities which gave rise to the concern, the date and place of any such event or activities]. All such information shall be as precise as possible.

[14. Other States Parties may provide information relevant to the request. Any such submission shall not delay the consideration of the request by the Executive Council described in paragraph ... .]

[15. States Parties which provide information pursuant to paragraphs 13 and 14 shall also provide relevant information about the source of such information, [confirming [proving] [and demonstrating] its [reliability] [and impartiality,] [its non-discriminatory nature] [that it is well-founded] [and open to multilateral scrutiny]].]

16. Requests for [field] investigations [into alleged use of biological weapons] shall at least include ~~enough of the following [precise] information: to support a prima facie case of a non-~~

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<sup>4</sup> The inclusion of this section is without prejudice to any final decision on whether such procedures shall be mandatory and/or whether they shall take place prior to the initiation of an investigation

~~compliance concern] [to the extent possible] [the following [precise] information:] [the [precise] information specified in Annex D.]~~<sup>5 6</sup>

*NB: The proposed changes would render this chapeau consistent with paragraph 18. The requirement for information to be precise is already specified in paragraph 16. Discussion on whether information should be provided "to the extent possible" might also best be focussed in paragraph 16, where the same issue is raised.*

~~—~~ (a) Name of the State Party in whose territory or under whose jurisdiction or control the alleged [event which has given rise to a concern about non-compliance] [use] has taken place; }

(b) A description of the [event] [use], including all available information on:

(i) The [use] [release] of microbial or other biological agent(s) or toxin(s) for other than peaceful purposes;

(ii) The use of weapons, equipment or means of delivery;

(c) The circumstances under which the [event] [use] took place;

(d) An indication of whether it was a single [event] [use] or a series of [events] [uses];

(e) An indication of the suspected cause and/or perpetrator of the [event] [use];

*NB: The above proposed new paragraphs (b) to (e) reproduce, in this new location, former paragraph (h); this would be consistent with the order followed in paragraph 18.*

~~(b)~~ (f) As precisely as possible, the [Approximate] date, [and] time [and duration] of the alleged [event] [use];

~~(c)~~ (g) The location, geographic coordinates and the characteristics of the area(s) involved {, whether the area is on the territory of the requesting State Party, and if not, the

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<sup>5</sup> A view was expressed that information supporting a request will be lacking many precise details regarding the essential elements described above. This should not be allowed to prevent an allegation receiving serious consideration. It may be that one single item of evidence will be sufficient to be decisive. The burden of proof must not be placed unreasonably on to the complainant State. Further consideration needs to be given to whether or how these requirements might be modified in respect of a request for an investigation on the territory of another State Party or a non-State Party.

<sup>6</sup> Subparagraphs (a) to (p) of this paragraph have been reproduced in Annex D

name of the State who controls that territory as well as whether that State is a State Party to the Protocol and/or the Convention};

~~(d) [Aided by epidemiological data,] a description of the circumstances under which the [event] [use] took place, a description of the [event] [use] itself as well as an indication of whether it was a single [event] [use] or a series of [events] [uses]. An indication of the suspected cause and/or perpetrator of the [event] [use];~~

*NB: The contents of this paragraph, except for the issue of epidemiological data, might be moved to become new (b) to (e). The issue of whether to include epidemiological data is addressed below.*

~~{(e) (h) All available epidemiological data, including details of the victims (humans, animals or plants), the [effects on them,] [symptoms,] and the number affected: Symptoms and signs of the disease [or similar occurrence caused by toxins] [or other physical evidence] [, the treatment and the results of the treatment; of the victims] shall be described;}~~

~~(f) Information [to the extent possible] on~~

~~(i) The [use] [release] of microbial or other biological agent(s) or toxin(s) for other than peaceful purposes;~~

~~(ii) The use of weapons, equipment or means of delivery;~~

*NB: It is proposed to move the contents of this paragraph to (b) above.*

~~{(g) (i) Any epidemiological data substantiating an allegation why the event shall not be considered to be a natural outbreak of disease [including data on natural disease profiles and occurrences in the area affected, as well as demographic data],}~~

~~{(h) Information to demonstrate that the non-compliance concern is not a natural outbreak of disease;}~~

~~{(i) (j) Information from and/or the outcome or results of [any] prior consultations/clarifications relevant to the request }~~

The following other types of information ~~could also be important~~ **should also be submitted as appropriate and to the extent possible:**

~~{(k) (k) Reports of any internal investigation including results of any laboratory investigations;~~

~~{(k) The victims (humans, animals or plants), the effects on them and the number affected Symptoms and signs of the disease [or similar occurrence caused by toxins] [or other~~

~~physical evidence~~] ~~[, the treatment and the results of the treatment of the victims]~~ shall be described;

*NB: It is proposed to move the contents of this paragraph to (h) above.*

(l) [Any] affidavits of eye witness accounts, photographs, samples or other physical evidence;

(m) Data on natural disease profiles and occurrences in the area affected, as well as demographic data,

(n) A description of the control measures and their result in the affected area, if available;

(o) Other corroborative information,

{(p) Requests for specific assistance, if applicable }

17 Requests for [facility] investigations [of any other alleged breach of obligations under the provisions of the Convention as indicated in section B] shall at least include [the following information ] ~~{the information specified in Annex D}~~ <sup>7</sup>

*NB: Since there was no agreement to move the sub-paragraphs below to Annex D, it may be most practical to work on the section on the assumption that it will remain in the Protocol. If it should later be decided to move it, or parts of it, appropriate cross-references could be inserted.*

~~{~~ (a) {Name of the State Party in whose territory or under whose jurisdiction or control the non-compliant activity has allegedly taken place, } ~~{The State Party to be investigated;}}~~

(b) **The specific event(s) or activity(ies) which gave rise to a non-compliance concern, including all available information** ~~[, to the extent possible,]~~ on the ~~[research,]~~ development, production, stockpiling, acquisition or retention ~~[indicating specifically]~~ ~~[which prohibited activity took place]~~ ~~[the specific event, or series of events, which gave rise to a non-compliance concern]~~ of

(i) 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,

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7 Subparagraphs (a) to (j) of this paragraph have been reproduced in Annex D

(ii) Weapons, equipment or means of delivery designed to use such agents or toxins for hostile purposes or in armed conflict;

(c) The location ~~and area~~ of any alleged non-compliant activity. This shall include as much detail as possible including a description, the location, boundaries and geographic coordinates, specified to the nearest second, if possible;

(d) The approximate period during which the non-compliant activity or event is alleged to have taken place;

{(e) Information from and/or the outcome or results of [any] prior consultations/clarifications [or prior [field investigation] [or prior investigation of the alleged use of biological weapons] relevant to the request; }

[(f) Information to demonstrate that the non-compliance concern is not a natural outbreak of disease.]

The following other types of information ~~could also be important~~ **should also be submitted as appropriate and to the extent possible:**

(g) Whether any facility concerned has been declared under the Protocol; and any information included in or absent from the declaration return relevant to the allegations;

(h) If not, any information to suggest that the facility concerned should have been declared under the Protocol;

(i) Details of the ownership and/or operation of the facility concerned;

(j) Any additional relevant information, e.g. on extent and nature of the alleged non-compliant activity.}

#### [(E) FOLLOW-UP AFTER SUBMISSION OF AN INVESTIGATION REQUEST<sup>8</sup>

18. The Executive Council shall begin its consideration of an investigation request immediately upon its receipt.

19. The Director-General, after receiving an investigation request, shall acknowledge receipt of it to the requesting State Party within two hours and shall communicate the request to the State Party sought to be investigated within six hours and to all other States Parties within 24 hours.

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<sup>8</sup> This section was not discussed during the tenth session of the Ad Hoc Group. Paragraphs 18 to 21 reproduce the text of BWC/AD HOC GROUP/WP.268.

20 The Director-General shall also immediately ascertain that the investigation request meets the requirements set out above and, if necessary, shall assist the requesting State Party in filing the investigation request accordingly and shall communicate any revised request to the Executive Council and to all other States Parties within 24 hours.

21. When the investigation request fulfils the requirements, the Director-General shall begin preparations for the investigation without delay.]

**Outcome of discussions on Measures Related to Article X**

*Replace Article VII of BWC/AD HOC GROUP/39, p. 67 to 75, by the following:*

**ARTICLE VII**

**[SCIENTIFIC AND TECHNOLOGICAL EXCHANGE FOR  
PEACEFUL PURPOSES] [IMPLEMENTATION ASSISTANCE]  
AND TECHNICAL COOPERATION**

**[(A) [GENERAL PROVISIONS]**

[The objective of this Protocol, to be pursued in accordance with its relevant provisions, is to strengthen the Convention, and to ensure compliance with all the provisions of the Convention, through appropriate measures, including measures for [effective verification of compliance,] [effective implementation of the Convention] and [, in addition,] to provide a forum for consultation and cooperation, in matters to promote the peaceful uses, scientific and technological exchanges and transfers relating to the Convention, among the States Parties ]<sup>59 60</sup>

1 Each State Party undertakes to fulfil its obligations in a manner that [ensures compliance] [enhances compliance] with the provisions of [the Convention] [including] [in particular] [Article X] [Article X of the Convention]

[To that end, the States Parties shall

(a) Cooperate, as appropriate, on a global, regional or bilateral basis, directly or through the institutional mechanisms provided for under this Protocol, in order to [comply] [enhance compliance] with the provisions of Article X of the Convention,

(b) Foster international cooperation in the field of peaceful bacteriological (biological) activities, including the exchange of bacteriological (biological) agents and toxins for peaceful purposes in accordance with the provisions of the Convention,

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59 Determination will have to be made as to whether the use of the expressions "Each State Party" or "States Parties" is adequate in light of the legal implications involved, wherever these expressions appear throughout this Article

60 A number of delegations asked for this paragraph to be moved to the separate Article entitled "General Provisions"

(c) Avoid hampering the economic and technological development of States Parties, in particular of developing countries which are States Parties.]

2. [The economic and social development of all States Parties shall include the requirement for multilaterally negotiated, universal, comprehensive and non-discriminatory sensitive technology transfer agreements.]]

[1. The implementing organization shall provide a forum for consultation and cooperation in matters to promote implementation assistance and technical cooperation for peaceful purposes.

2 The implementing organization should assist States Parties, upon request, in obtaining implementation assistance, coordinating its efforts as appropriate with other States Parties.

3 Each State Party in a position to do so, should cooperate as appropriate, on a global, regional, or bilateral basis, directly or through the implementing organization, in order to foster international cooperation in the field of peaceful bacteriological (biological) [and toxin] activities, in accordance with the provisions of the Convention ]

(B) MEASURES TO PROMOTE SCIENTIFIC AND TECHNOLOGICAL EXCHANGES

[3 Each State Party undertakes to implement specific measures in order to ensure that

(a) The provisions of Article X of the Convention on the [transfer and] exchange of materials, equipment and technology for peaceful purposes are [fully and] effectively implemented,

(b) Transfers of materials, equipment and technology of concern take place [only] in [full] compliance with [all] the provisions of [Article III and] [Article X] of the Convention [and its Protocol] <sup>61</sup>

[Each State Party shall declare annually the measures taken individually or together with other States and international organizations in implementing Article X of the Convention ]]

4 Taking into account existing agreements and competences of the relevant international organizations and taking steps to avoid duplicating existing activities [not contrary to the purposes and the objectives of the Convention and its Protocol], each State Party shall [[endeavour to] promote and implement cooperative measures, directly [or through the institutional mechanisms provided for under this Protocol], *inter alia*, by]

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61 This issue is elaborated by some delegations in BWC/AD HOC GROUP/WP 232

(a) Promot[e][ing] the publication, exchange and dissemination of information concerning current research programmes in the biosciences, and on research centres, and other scientific and technological developments and activities of relevance to the Convention;

(b) Promot[e][ing] the establishment and [peaceful] [assisting the] activities of [national centres and] research institutes for the examination of biological agents and toxins, and disseminating knowledge about examination and identification techniques, laboratory safety, vaccine production and other research projects in the biosciences;

(c) [Promote] [Supporting] the establishment, operation and updating of biological data bases in the collection and dissemination of information relevant to the purposes of the Convention;

(d) Promot[e][ing] public health, as well as [surveillance,] diagnosis, prevention and control of outbreaks of diseases, including exploring means to improve international cooperation on the development and production of vaccines;

(e) Coordinat[e][ing], to the extent possible, national, regional and multilateral activities and programmes in the relevant fields for peaceful purposes using appropriate existing mechanisms and structures [and including, the institutional mechanisms provided for in this Protocol];

[(f) [Participating in a wider exchange of information] [reporting] on all aspects concerning the peaceful use of the biosciences, biotechnology and genetic engineering,<sup>62</sup> and encouraging the dissemination of results in the fields of biological research and high technology in areas directly relevant to the objectives of the Convention;

[(g) Assisting in the establishment of [and participating in the functioning of] an international system for the global monitoring of emerging diseases in humans, animals and plants;]

(h) Promoting transfer of technology for peaceful use of genetic engineering and other scientific and technical developments and high technology relevant to the Convention;

(i) Concluding bilateral, regional and multilateral agreements on a [mutually advantageous,] equal and non-discriminatory basis, for their participation in the development and application of biotechnology and in the development of scientific discoveries in the field of bacteriology (biology) for the prevention of diseases;

[(j) Promoting programmes for the development of human resources in the biological field, including training expert personnel in biodefence activities;]

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62 The extent of information to be provided under these obligations will need further elaboration

[(k) Making available on request, under fair and equitable commercial terms, instruments, equipment and technologies in the field of biodefence activities;]

[(l) Promoting collaborative research and development projects and joint ventures in biodefence activities, particularly related to recombinant vaccine development and diagnostics systems;]

[(m) Ensuring that, based on equal rights and obligations, and a mutuality of interests, appropriate measures designed to promote transparency and compliance with the objectives of the Convention, also provide incentives and benefits for all States Parties.]]

[5. Each State Party undertakes:

(a) Immediately after the entry into force of the Protocol, [to consider ways and means] to strengthen the States Parties' biological defence capabilities, including by the elaboration of guiding principles and possible scope of measures for States Parties to cooperate in useful exchanges intended to provide a sufficient degree of transparency and contribute to the effective functioning of the compliance regime established by this Protocol;]

(b) To provide or support assistance, through appropriate measures, including a voluntary fund, to any State Party which has been exposed to [danger] [the use or threat of use of biological and toxin weapons] as a result of a violation of the Convention or of the provisions of this Protocol. [Pending consideration of a decision by] [the politically representative body] [the BTWCO] [the Security Council in conformity with Article VII of the Convention], timely emergency assistance could be provided by States Parties if requested, including assistance provided through the above-mentioned voluntary fund and in coordination with competent international organizations such as the WHO.<sup>63</sup>]

[(C) MEASURES TO AVOID HAMPERING THE ECONOMIC AND TECHNOLOGICAL DEVELOPMENT OF STATES PARTIES

6. [Each State Party shall:

(a) Have the right, individually or collectively, to conduct research with, to develop, produce, acquire, retain, transfer and use biological agents and toxins for peaceful purposes,

(b) Undertake to facilitate, and have the right to participate in the fullest possible exchange of equipment, materials and scientific and technological information for the use of bacteriological (biological) agents and toxins for peaceful purposes;

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<sup>63</sup> Certain points contained in this paragraph are also being examined under Article VI (Assistance and protection against biological and toxin weapons) Careful consideration is needed to avoid overlaps

(c) Not maintain among themselves any restrictions, including those in any international agreements, which would restrict or impede trade and development and promotion of scientific and technological knowledge in the field of biology, genetic engineering, microbiology and other related areas for peaceful purposes;

(c) *bis* [Undertake not to impose or maintain any discriminatory measure, [incompatible with the obligations undertaken under the Convention,] which would restrict or impede trade and the development and promotion of scientific and technological knowledge, in particular in the fields of biological research, including microbiology, biotechnology, genetic engineering, and their industrial, agricultural, medical, pharmaceutical, public health applications, and other peaceful uses;]

(c) *ter* [Only establish among themselves guidelines to regulate the free flow of equipment, materials and scientific and technological information in the biological field as provided under part ... of this Protocol;]

(c) *quater* [Only maintain among themselves restrictions of the free flow of equipment, materials, and scientific and technological information in the biological field that are consistent with the BTWC and subject to [the relevant] [all] [specific] provisions of this Protocol;]

(d) Not use this Convention [this Protocol] as grounds for applying any measures other than those provided or permitted, under this Convention [this Protocol] nor use any other international agreement for pursuing an objective inconsistent with this Convention [this Protocol];

(d) *bis* [Not use the provisions [of the Convention or] of this Protocol to impose restrictions and/or limitations on transfers consistent with the objectives and provisions of the Convention on scientific knowledge, technology, equipment and materials;]

(e) [Undertake to review their existing national trade regulations in the field of biology, genetic engineering, microbiology and other related areas for peaceful purposes in order to render them consistent with the object and purpose of the Convention.]]

7. The States Parties shall [report periodically through the institutional mechanisms, provided for in this Protocol, on specific measures they have taken in order to comply with the provisions of Article X of the Convention [with the aim of increasing and widening such exchanges and transfers [of bacteriological (biological) -related materials, equipment and technologies for peaceful purposes], for the benefit of all States Parties, and in particular the developing countries which are States Parties]. These reports shall be examined by those institutional mechanisms with the aim of making recommendations to States Parties for the effective implementation of Article X of the Convention.]

[Each State Party shall have the right to declare any restrictions, in non-compliance with the obligations under Article X, on the transfer of biological materials, equipment and technology for peaceful purposes.]

(D) [[INSTITUTIONAL MECHANISMS AND] INTERNATIONAL COOPERATION<sup>64</sup>]  
[PROTOCOL IMPLEMENTATION ASSISTANCE]

[[8. The BTWC Organization shall develop a framework for activities aimed at providing assistance to the States Parties, and in particular to the developing countries being States Parties. Taking full account of existing agreements and competences of the relevant international organizations, and bearing in mind the need to avoid [duplication] [duplicating existing activities and mechanisms] [the following should, *inter alia*, be considered by the States Parties directly or through a future institutional mechanism] [the BTWCO shall ensure, through its own institutional framework [or directly by States Parties,] provision of the following]:

[ To facilitate the implementation of this Protocol, the Organization shall:]

(a) Assist[ance to] States Parties [to obtain advice], if requested, [for] [on] the establishment and functioning of national authorities;

(b) Assist[ance to] States Parties [to obtain advice], if requested, [for] [on] the preparation of declarations [required under the provisions of this Protocol] [in accordance with Article ... and section ... of Annex ...];

[(c) Assistance to States Parties, if requested, in drawing up internal legislation necessary under the provisions of this Protocol;

(d) [Promotion and financing of the establishment of vaccine production facilities, particularly in developing countries [which are States Parties];

(e) [If requested and in the context of visits to States Parties:]<sup>65</sup>

(i) Exchange of information and provision of expert advice, assistance and appropriate recommendations on biological practices;

(ii) Information sharing concerning cooperative programmes in biosafety, identification of agents, diagnostics and the development of innovative

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64 Reference to the "BTWC Organization" does not prejudice its eventual existence, structure or functions

65. Given that the question of a possible cooperative role for visits is also being considered under compliance measures, the issue needs further consideration.

vaccines, aimed at being low-cost products, safe and usable under difficult conditions;

[(f) Establish an international information exchange network using modern communication media which facilitates the possibility of continuous participation by national experts of the States Parties in the Organization's activities;]

(g) Convening national or regional seminars with a view to optimizing cooperation and developing a long-term programme of exchanges on scientific developments [, including the biodefence activities for peaceful purposes,] and internships;

(h) Creating [a framework for donor countries], [including a [voluntary fund]] [to support an international system for the global monitoring of emerging diseases in humans, animals and plants, and] additional assistance for training of expert personnel and for the financing of scientific and technical cooperation and assistance projects;]

[(i) Assisting States Parties in training personnel for employment in the organization, in order to promote the objective of representation on a wide geographical basis.]]

[(E) COOPERATIVE RELATIONSHIPS WITH OTHER INTERNATIONAL ORGANIZATIONS]

9. - [The BTWCO shall establish a cooperative relationship, maintain working ties and when necessary conclude agreements and arrangements pursuant to [paragraph 24 (i) and 37 (n) of Article IX] and develop joint programmes with relevant organizations, bearing in mind the need to avoid duplicating existing activities and mechanisms; [including [OPCW] WHO, FAO, IOE, UNIDO, ICGEB, UNEP and other agencies engaged in the implementation of Agenda 21 and the Convention on Biological Diversity (CDB)] in order to, *inter alia*:]<sup>66</sup>

- (a) Derive the greatest [possible synergy] [benefits] in such fields as.
  - (i) The collection and dissemination of information on listed pathogens;
  - (ii) Sharing information on environmental release of genetically modified organisms;
  - (iii) Good manufacturing practices (GMP), good laboratory practice (GLP), biological containment and other biosafety regulations and practices,

- (iv) Facilitation of remote access to databanks and various tools of electronic communication;
- (b) Maintain a record of cooperative activities promoted by international organizations in areas relevant to the Convention, to raise awareness of and facilitate access to those activities by States Parties to the Protocol, and coordinate with those organizations its own promotional activities;
- (c) Support a framework for multilateral cooperation, including exchange of information among scientists and technologists from States Parties, with the aim to, *inter alia*:
  - (i) Utilize the scientific and technological capabilities, experience and know-how of States Parties,
  - (ii) Facilitate harmonization of relevant existing national regulatory and administrative procedures;
  - (iii) Assist developing countries which are States Parties in strengthening their scientific and technological capabilities in the biosciences, genetic engineering and biotechnology ]

10. The Organization, [based upon] [after] its consultations with other relevant international organizations, shall make recommendations, as appropriate, to States Parties and to international organizations as to how the objectives of [Article X of the Convention] [this Article] might be furthered through the activities of those organizations for the benefit of States Parties

11 [The Organization shall contain a department devoted to the implementation of [Article X of the Convention] [and] [this Article].]

(F) [SAFEGUARDS AND LIMITATIONS<sup>67</sup>

12 The States Parties [are encouraged] [shall], to the extent possible and in line with the provisions of the Convention [and the Protocol], [to] promote transparency and openness in their research activities

13 [The States Parties [should] [shall] take all practical measures to prevent [that] the [misuse] [application] of scientific and technological research in areas associated with the Convention [designed to produce] [may benefit or induce] [the production of] [any kind of qualitative improvement in the field of] biological and toxin weapons ]

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<sup>67</sup> There were proposals to the effect of deleting this section or moving it to another part of the protocol that might deal with BTWC Article III matters. However, it was also pointed out that this section had no relevance with regard to Article III provisions of the Convention

14. The States Parties, aware of the vast knowledge arising from new discoveries, *inter alia*, in microbiology, genetic engineering and biotechnology, [should] [shall] take all practicable safety precautions, including the bioethical dimension in those precautions, to protect populations and the environment in relation to activities not prohibited by the Convention.

15. [The States Parties] [shall comply with safety and immunization measures, and with legislative and administrative measures [established by other States]] [undertake to comply as fully as possible with the safety regulations of relevant international organizations for the security and physical protection of research centres, laboratories and facilities intended to be used for scientific and technical exchanges].]

(G) [ . ]

16. In [fulfilling the obligations of] [implementing] this Article, each State Party shall [take into consideration international law relating to the protection of commercial and proprietary information] [protect commercial and proprietary information and national security information].

17. [States Parties shall [report periodically through the institutional mechanisms, provided for in this Protocol], on specific measures they have take. [individually or together with other States and international organizations] in order to comply with the provisions of Article X of the Convention [with the aim of increasing and widening such exchanges and transfers [of bacteriological (biological) -related materials, equipment and technologies for peaceful purposes], for the benefit of all States Parties, and in particular the developing countries which are States Parties]. These reports shall be examined [by those institutional mechanisms] with the aim of making recommendations to States Parties for the effective implementation of Article X of the Convention.]<sup>68</sup>

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68 Final location of this paragraph is still to be decided

**Outcome of discussions on Investigations Annex**

*Replace paragraphs 1 to 31 (including relevant headings) of Annex D, section II of BWC AD HOC GROUP/39, p. 160 to 167, by the following:*

II [FIELD] INVESTIGATIONS [OF ALLEGED USE OF BW]

(A) INVESTIGATION REQUEST

Information to be submitted with a request for a [Field investigation] [Investigation of alleged use of BW]<sup>1</sup>

1 Requests for [Field Investigations] [Investigations of alleged use of BW] shall include [enough of the following [precise] information to support a prima facie case of a non-compliance concern] [to the extent possible] [the following [precise] information]

[(a) Name of the State Party in whose territory or under whose jurisdiction or control the alleged [event] [use] has taken place,]

(b) [Approximate] date [and] time [and duration] of the alleged [event],

(c) The location, geographic coordinates and the characteristics of the area(s) involved, [whether the area is on the territory of the requesting State Party, and if not, the name of the State who controls that territory as well as whether that State is a State Party to the Protocol and/or the Convention],

(d) [Aided by epidemiological data,] a description of the circumstances under which the [event] [use] took place, a description of the [event] [use] itself as well as an indication of whether it was a single [event] [use] or a series of [events] [uses] An indication of the suspected cause and/or perpetrator of the [event] [use],

[(e) The victims (human, animals or plants), the effects on them and the number affected Symptoms and signs of the disease [or similar occurrence caused by toxins] [or other physical evidence] [, the treatment and the results of the treatment of the victims] shall be described,]

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<sup>1</sup> Article III. section F, subsection III, paragraph 19 (a) to (p) duplicated

(f) Information [to the extent possible] on:

- (i) The [use] [release] of microbial or other biological agent(s) or toxin(s) for other than peaceful purposes;
- (ii) The use of weapons, equipment or means of delivery;

[(g) Any epidemiological data substantiating an allegation why the event shall not be considered to be a natural outbreak of disease [including data on natural disease profiles and occurrences in the area affected, as well as demographic data];]

[(h) Information to demonstrate that the non-compliance concern is not a natural outbreak of disease;]

[(i) Information from and/or the outcome for results of [any] prior consultations/clarifications relevant to the request.]

2 The following other types of information could also be important:

(j) Reports of any internal investigation including results of any laboratory investigations,

[(k) The victims (human, animals or plants), the effects on them and the number affected, Symptoms and signs of the disease [or similar occurrence caused by toxins] [or other physical evidence] [, the treatment and the results of the treatment of the victims] shall be described;]

(l) [Any] affidavits of eye witness accounts, photographs, samples or other physical evidence;

(m) Data on natural disease profiles and occurrences in the area affected, as well as demographic data;

(n) A description of the control measures and their result in the affected area, if available;

(o) Other corroborative information;

[(p) Requests for specific assistance, if applicable.]

3 The Director-General shall immediately acknowledge receipt to the requesting State Party of its request for an investigation and inform [the Executive Council].

(B) PRE-INVESTIGATION ACTIVITIES

Notification of investigation

4. The Director-General shall, not less than [12] [36] [48] hours prior to the arrival of the investigation team at the point of entry, notify the State Party on whose territory the investigation has been requested. The Director-General shall also notify other States Parties if access to their territories might be required during the investigation.

5. The notification made by the Director-General under the provisions of paragraph 4 shall include, *inter alia*:

- (a) Name of the State Party to be investigated;
- (b) Name of the State Party on whose territory the investigation will take place if not the same as the State Party to be investigated;
- (c) Name of the requesting State Party or State Parties if not the same as the name of the State Party to be investigated;
- (d) The nature of the alleged event to be investigated as determined from the investigation request;
- (e) The point of entry where the investigation team will arrive as well as the means of arrival;
- (f) The date and estimated time of arrival of the investigation team at the point of entry;
- (g) If using a non-scheduled aircraft, the standing diplomatic clearance number or the appropriate information required by the State Party to be investigated to facilitate the arrival and handling of the non-scheduled aircraft;
- (h) Location and characteristics of the area(s) where the incident(s) of non-compliance is alleged to have taken place;
- (i) A description of any effects on humans, animals or plants;
- (j) A list of approved equipment which the Director-General requests the investigated State Party to make available to the investigation team for use during the investigation;

(k) A list of laboratory facilities and other support which the Director-General requests, if applicable, the investigated State Party to make available to the investigation team for use during the investigation;

[(l) The investigation mandate;]

[(m) The names of the leader and the other members of the investigation team.]

6 The State Party to be investigated shall acknowledge receipt of the notification of an investigation not later than [1] [2] [48] [...] hour[s] after receipt of such a notification.

#### Investigation mandate

7. The investigation mandate issued, in accordance with ..., shall contain at least the following:

[(a) The decision of the [Executive Council], on making of an investigation;]

(b) The name of the State Party or States Parties to be investigated;

(c) The nature of the alleged event to be investigated as determined from the investigation request [and approved by the [Executive Council]], including any effects on humans, animals or plants;

(d) The area where the investigation will be conducted designated on a map by geographic co-ordinates specified to the nearest second;

(e) The planned types of activity of the investigation team;

[(f) Specified investigation objectives to be accomplished by the investigation team;]

(g) Operational instructions and any other identifiable tasks;

(h) Any transit or basing points to be used by the investigation team, as appropriate,

(i) The names of the leader and of the other members of the investigation team;

[(j) The name of the proposed observer, if any;]

(k) The list of approved equipment to be used during the investigation;

(l) The estimated time necessary to conduct the investigation on the territory or any other place under the jurisdiction or control of the State Party or States Parties to be investigated.

Duration of an investigation

8. The estimated period of the investigation shall be indicated in the investigation mandate and updated by the investigation team in full consultation with the State Party to be investigated after the pre-investigation briefing. The investigation shall not exceed [30] days [84 hours] unless an extension is authorised by the [Executive Council] and agreed to by the investigated State Party. The period of investigation means the period from the [start] of the point of entry procedures until the departure of the investigation team from the point of exit.

(C) ACTIVITIES UPON ARRIVAL OF THE INVESTIGATION TEAM

Pre-investigation briefing

9 The investigation team shall be briefed by representatives of the investigated State Party with the aid of maps and other documentation as appropriate. The briefing shall include, *inter alia*, relevant natural terrain features, safety aspects, prevailing disease profiles in the area to be investigated, possible routes and means of transport to the area, logistical arrangements for the investigation, details of equipment and/or laboratory facilities provided on request of the Director-General and any other relevant information.

10 The investigated State Party may indicate to the investigation team areas which it considers particularly sensitive [and] [or] not related to the [purpose of] the investigation [The investigation team may require the reasons for the indication from the investigated State Party]. The investigated State Party shall have the right to regulate or [deny] access to these areas in accordance with the procedures set out in Article III and this Annex.

11. The investigated State Party may provide additional information that became available after the request was made or that does not appear on the investigation mandate.

Investigation plan

12 After the briefing the investigation team shall prepare an initial investigation plan to serve, *inter alia*, as a basis for logistic and safety arrangements. This plan shall contain the activities to be carried out by the team, logistic requirements of the team and provisional timings of the activities and requirements. The investigation team shall, as appropriate, modify the investigation plan taking into account any comments by the investigated State Party. This plan shall be made available to the investigated State Party prior to the commencement of the investigation.

Time frames for pre-investigation activities

13. The following time frames for specific pre-investigation activities shall apply:

- (a) Inspection of equipment - not more than [4] hours,
- (b) Pre-investigation briefing - not more than 3 hours;
- (c) Investigation plan - not more than 2 hours.

These specific pre-investigation activities shall not exceed [9] hours.

(D) CONDUCT OF INVESTIGATION

Situation report

14. The investigation team shall, not later than 24 hours after its arrival on the territory of the State Party to be investigated, send a situation report to the Director-General. It shall send further investigation progress reports as necessary.

[15. The situation report shall indicate any urgent need for technical, medical, veterinary or agronomic assistance and any other relevant information. The progress reports shall indicate any further need for assistance that might be identified during the course of the investigation.]

Implementation by the investigation team of specific on-site activities

Interviewing

Interviewing of eyewitnesses

16. The investigation team shall have the right to interview persons, with their consent, who witnessed or provide information on a specific incident or series of incidents, that could be relevant to the investigation. The interview shall take place in the presence, and if possible and appropriate with the assistance, of representatives of the State Party on whose territory the investigation is conducted.

17. The investigation team may seek information relevant to the investigation which is necessary to fulfil their investigation mandate. If required, interpretation shall be provided by the investigation team, or where requested, by the State Party.

Interviewing of humans who may have been exposed to BTW or owners of plants or animals which may have been exposed to BTW

18. The investigation team shall have the right to interview humans who may have been exposed, with their consent, in order to establish how the exposure affected them. In the case of animals or plants which may have been exposed, the investigation team shall have the right to interview the persons responsible for the animals or plants, with their consent, in order to establish how the exposure affected them. Interviews shall be conducted in the presence, and if possible and appropriate with the assistance, of representatives of the investigated State Party.

19. The investigation team may seek [only] information relevant to the investigation which is necessary to fulfil their investigation mandate. If required, interpretation shall be provided by the investigation team, or where requested, by the State Party.

Interviewing of other individuals

20. The investigation team shall have the right to interview other individuals, such as national/local government officials, personnel of any relevant medical, veterinary, pharmaceutical, agricultural institutions or facilities, with their agreement [and the agreement of the investigated State Party], in the presence, and if possible and appropriate with the assistance, of a representative of the State Party in order to obtain information relevant to the investigation.

21. The investigation team shall only request information [and data relevant to the incident under investigation] which is necessary for the conduct of the investigation. If required, interpretation shall be provided by the investigation team, or where requested, by the State Party.

[22. The investigated State Party shall have the right to object to questions posed to personnel if it deems that those questions are not relevant to the investigation or impinge on sensitive national security or commercial proprietary data. If the investigation team leader nonetheless continues to believe that these questions are relevant and should be answered, he may submit them in writing to the investigated State Party for reply, together with an explanation of their relevance to the investigation. The investigation team may note in its report any refusal by the investigated State Party to permit interviews or to allow questions to be answered and any explanations provided by the State Party in this regard.]

[23. Interviews shall be conducted in such a way as to avoid unduly hindering the work of the personnel interviewed. The investigation team shall [if possible] give advance notice of interview requests [not less than 48 hours before conducting it].]

## Outcome of discussions on Investigations Annex

### APPENDIX ...

#### LIST OF APPROVED INVESTIGATION/VISIT EQUIPMENT

	Description	Notes
	<b>Sampling and identification equipment<sup>1</sup></b>	
1	Sample tubes and microbiological transport media	
2	Containers for samples	
3	Preserving media (i.e. formalin, alcohol, silica gel)	
4	Forceps (various sizes)	
5	Post mortem instruments: Scissors, scalpels, bone forceps	Other post mortem instruments to be added.
6	Syringes and needles for blood samples	
7	Thermometers and probes	
8	Incinerator and disinfectant tanks/sprays	
9	Biohazard bench, glove box	
10	Gas burners and gas	
11	Microscopes, stains and slides	
12	Culture media: Diploid cell culture media	Other types of culture media may be added.
13	Autoclave/pressure cooker	
14	Incubator and anaerobic equipment	
15	Freezer: -70°C best/dry ice	
16	Refrigerator	

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<sup>1</sup> The list of sampling equipment will depend on whether analyses will be done on-site or off-site

17	Portable PH metre/millivolt metre with ion-specific electrodes	
18	Glucose analyser	
19	Dissolve oxygen metre	
20	Pruning shears	
21	Spades and plastic bags for ground samples	
22	Soil augers	
23	Water sampling equipment including filter disks	
24	Portable water pump	
25	Liquid nitrogen in cylinders	
26	Seals (fibre optic and packages)	
27	Seals (frangible, fractural, adhesive)	
28	Vacuum sealing equipment	
29	Plastic bags for vacuum packing of samples	
30	Tags/tie on/markers (permanent)	
31	Centrifuge	
32	Portable spectroscopic analyser	
33	Portable flow cytometers	
34	Thermal cyclers	
35	Pipettes	
36	Freeze drying equipment (lyophilizers)	
37	Water baths	
38	Hand held test kits	
39	Diagnostic kits: ELISA based detection systems	Other types of diagnostic kits to be added.

40	Sampling equipment for: Air samples Surface samples Fluid samples other than water	Pieces of equipment to be identified in detail.
41	Mobile blood gas analyser	
42	Blood cell counters - Coulter counters	
	<b>Protective equipment</b>	
1	Protective clothing	
2	Boots (disposable)	
3	Protective gloves with liners	
4	Protective masks (military type)	
5	Spare canisters (military)	
6	Spare canisters (industrial)	
7	Surgical gloves	
8	Safety goggles	
9	Leather work gloves	
10	Industrial safety helmet	
11	Hearing protection	
12	Cotton coveralls	
13	Disposable coveralls	
14	UV protective glasses	
15	Water bottle	
16	Flashlight explosion proof	
17	First aid kits (personal)	
18	Self-contained breathing apparatus (SCBA)	
19	Respirator (industrial)	
20	Equipment bags	

21	Mask fit test kit	
22	Cooling vest	
23	Cold weather gear	
24	Safety lantern	
25	Safety shoes	
26	Flammability/explosive/air quality/monitor	
27	Mosquito nets	
28	Insect repellent	
29	Water filter kit	
	<b>Medical equipment</b>	
1	General first aid kit containing necessary antibiotics, vaccines and other medicine	
2	Patient monitoring equipment - EKG, pulse oximeter	
3	General medical examination equipment such as sphygmomanometer, ophthalmoscope/otoscope, patella hammer	Other pieces of equipment to be added
	<b>Administrative equipment</b>	
1	Portable photo-copying machine	
2	Portable document scanner	
3	Portable document shredder	
4	Waterproof pens	
5	Tape measure (3 m, 30 m, 100 m)	
6	Callipers and steel ruler	
7	Maps	Geographic maps necessary for a specific field investigation procured for that investigation

8	Graph paper, pencils and labels	
9	Calculator	
10	Computer (notebook) with printer/plotter and modem	
11	Satellite link telephones	
12	Portable fax machines	
13	Exterior extension cords	
14	Secure voice telephone	
15	Short-range radios	
16	Electric plug-socket adaptors	
17	Portable over-head projector	
18	Image transmission equipment	This aspect needs further discussion.
	<b>Other technical equipment</b>	
1	Maintenance tool kit	
2	Equipment transport containers	
3	Global positioning system (GPS)	
4	Weighing equipment	
5	Polaroid-type camera with flash, zoom, macro lens systems and films	
6	35 mm camera with flash, zoom, macro lens systems and films	
7	Digital video camera - portable video player with tapes	
8	Audio (tape) recorder with tapes	
9	Binoculars	
10	Data scope	
11	Night-vision scope	

12	Magnifying glass	
13	Rechargeable batteries (Ni-Cd) and battery chargers	
14	Shoulder bag	
15	Tool belt	
16	Compass	
17	Thermochromic tape packages	
18	Electrical power generators	
19	Barometer, anemometer, hygrometer with recording attachments	For use in establishing background conditions which might influence survival of microorganisms
20	Wet bulb globe thermometer	
21	[Chemical agent monitor]	
	<b>Non-destructive evaluation equipment</b>	
1	Portable X-ray equipment	
2	Ultrasonic pulse echo	

**Outcome of discussions on Investigations Annex**

**Informal working paper by the Friend of the Chair on Annex D  
addressed to the Friend of the Chair on Compliance Measures**

1. As agreed in the Friend of the Chair on Annex D meeting of 13 March 1998, the following text which had appeared in Annex D on "Managed Access" is forwarded to the Friend of the Chair on Compliance Measures for consideration when dealing with the text on this issue which appears in Article III, section F, subsection III (G).

2. This working paper should again be circulated for the use of delegations when the consideration of Article III, section F, subsection III (G) is taken up.

(A) MANAGED ACCESS TEXT FROM ANNEX D: [FIELD] INVESTIGATIONS [OF ALLEGED USE OF BW]

Managed access

19. The investigated State Party shall have the right, in accordance with the obligation to demonstrate compliance, to protect sensitive installations and to prevent disclosure of sensitive information and data not related to the investigation mandate or to activities prohibited by the Convention, as set out in paragraphs ... to ... of Article III, section F, subsection III, of the Protocol, to take specific measures which may include but are not limited to the following

(a) Managing access to [areas identified according to paragraph 10 above] [as well as buildings and other structures] that contain particularly sensitive equipment or information not related to the investigation mandate or activities prohibited by the Convention;

(b) Limiting the time investigation team members may spend in any area [or building,] while allowing the team to fulfil its mandate;

(c) Limiting the number of investigation team members entering the areas, buildings or structures;

(d) Notifying the investigation team of the products and processes in which it has a proprietary or national security interest and its right to safeguard such information. It may request that if a specific piece of information is released to the team, it should be accorded the most stringent protection measures with the Organization.

[20. When a restricted-access site is declared each such site shall be no larger than four square kilometers and shall have clearly defined and accessible boundaries ]

[21. The investigation team shall have the right to take steps necessary to conduct its investigation up to the boundary of a restricted-access site.]

[22. The investigation team shall have the right to observe visually all open places within the restricted-access site from the boundary of the site.]

23. The investigation team shall make every reasonable effort to fulfil the investigation mandate [outside the declared restricted-access site. If at any time the investigation team demonstrates credibly to the investigated State Party that the necessary activities authorized in the investigation mandate could not be carried out from the outside and access to the restricted-access site is necessary to fulfil the mandate, some members of the investigation team shall be granted access to accomplish specific tasks within the site. The investigated State Party shall have the right to shroud or otherwise protect sensitive equipment, objects and materials not related to the purpose of the investigation. The number of investigators shall be kept to the minimum necessary to complete the tasks related to the investigation. The modalities for such access shall be subject to negotiation between the investigation team and the investigated State Party.]

(B) MANAGED ACCESS TEXT FROM ANNEX D: [FACILITY] INVESTIGATIONS  
[OF ANY OTHER ALLEGED BREACH OF OBLIGATIONS UNDER THE  
PROVISIONS OF THE CONVENTION]

32. The investigated State Party shall have the right, in accordance with the obligation to demonstrate compliance and the right if necessary to protect sensitive information, as set out in paragraphs ... to ... of Article III, section F, subsection III, to take specific measures which may include but are not limited to the following:

- (a) Removal of sensitive papers from direct view;
- (b) Shrouding of sensitive displays, stores, and equipment;
- (c) Shrouding sensitive pieces of equipment, such as computer or electronic systems;
- (d) Logging off of computer systems and turning off data indicating devices;
- (e) Using random selective access techniques whereby the team is requested to select a given percentage or number of buildings of their choice to investigate; the same principle can apply to the interior and content of sensitive buildings or documents;
- (f) In exceptional cases, limiting the number of team members who have access to certain parts of the site; and limiting the viewing angle;

(g) Limiting the time investigation team members may spend in any area or building, while allowing the team to fulfil its mandate;

(h) The investigated State Party may at any time during the investigation notify products and processes in which it has a proprietary interest in order to help the team respect the investigated State Party's right to safeguard proprietary information. It may request that if a specific piece of information is released to the team, it should be accorded the most stringent protection measures with the Organization.

ANNEX II

INDICATIVE PROGRAMME OF WORK FOR THE ELEVENTH SESSION<sup>1</sup>  
(22 June - 10 July 1998)

First week: 22-26 June 1998

	22 June	23 June	24 June	25 June	26 June
AM	AHG/ ART.X	INV ANN	INF CONS	INF CONS	CM
PM	CM	ART.X	CM/ART.X	INV ANN	CONF

Second week: 29 June - 3 July 1998

	29 June	30 June	1 July	2 July	3 July
AM	CM	INV ANN	LEG/DEF	DEF	NAT/DEF
PM	INV ANN	CM/DEF	ORG/DEF	DEF	CM

Third week: 6-10 July 1998

	6 July	7 July	8 July	9 July	10 July
AM	ART.X	CONF	DEF	NAT	CM
PM	DEF	LEG	ART.X	ORG	AHG/ INV ANN

- AHG - Ad Hoc Group meetings  
 INF CONS - Informal consultations  
 CM - Measures to Promote Compliance (FOC)  
 INV ANN - Investigations Annex (FOC)  
 DEF - Definitions of Terms and Objective Criteria (FOC)  
 ART.X - Measures Related to Article X (FOC)  
 LEG - Legal Issues (FOC)  
 ORG - Organization/Implementational Arrangements  
 CONF - Confidentiality (FOC)  
 NAT - National Implementation and Assistance (FOC)

<sup>1</sup> This indicative allocation of issues could be adjusted in the light of the evolution of negotiations with a view to the acknowledged need for more conceptual discussion on certain issues.

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ANNEX III

LIST OF DOCUMENTS SUBMITTED AT THE TENTH SESSION

<u>Document symbol</u>	<u>Title</u>
BWC/AD HOC GROUP/WP.237/ Rev.1	Working paper submitted by the Friend of the Chair on Investigations Annex - Appendix ...: List of approved investigation/visit equipment
BWC/AD HOC GROUP/WP.266	Working paper submitted by the Friend of the Chair on Compliance Measures - (D) Information to be submitted with a request for an investigation to address a concern of non- compliance with the Convention
BWC/AD HOC GROUP/WP.267	Working paper submitted by the Friend of the Chair on Compliance Measures - III. Investigations
BWC/AD HOC GROUP/WP.268	Working paper submitted by the United Kingdom of Great Britain and Northern Ireland - Proposed language on follow-up after submission of an investigation request
BWC/AD HOC GROUP/WP.269	Working paper submitted by the Friend of the Chair on Investigations Annex - Proposed language changes: Annex D - Field investigations
BWC/AD HOC GROUP/WP.270	Working paper submitted by South Africa - Proposed language changes: Article III - Investigations
BWC/AD HOC GROUP/WP.271	Working paper submitted by South Africa - Proposed language changes: Annex D - Field investigations
BWC/AD HOC GROUP/WP.272	Working paper submitted by the United Kingdom of Great Britain and Northern Ireland on behalf of the European Union

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BWC/AD HOC GROUP/WP.273

Working paper submitted by  
Brazil - Proposed new language  
for the sections on Request and  
Voluntary Visits

BWC/AD HOC GROUP/WP.274

Working paper submitted by  
Austria -  
C. Voluntary Visits:  
Suggestions for limitation

BWC/AD HOC GROUP/L.15

Draft procedural report of the  
Ad Hoc Group of the States  
Parties to the Convention on the  
Prohibition of the Development,  
Production and Stockpiling of  
Bacteriological (Biological)  
and Toxin Weapons and on Their  
Destruction

BWC/AD HOC GROUP/40

Procedural report of the Ad Hoc  
Group of the States Parties to  
the Convention on the  
Prohibition of the Development,  
Production and Stockpiling of  
Bacteriological (Biological)  
and Toxin Weapons and on Their  
Destruction

BWC/AD HOC GROUP/INF.14  
and Corr.1

List of Participants

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