

Eighth Review Conference 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

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English only

Preparatory Committee
Geneva, 26-27 April and 8-12 August 2016
Item 7 of the agenda
Comprehensive consideration of all provisions of the Convention

Implementation of Article VII

Submitted by South Africa

Introduction

1. In 2014, South Africa submitted a paper containing proposals and comments on the implementation of Article VII. The paper was further refined in 2015 to incorporate comments made by States Parties. This paper contains the latest refinements and comments.

Discussion

2. Article VII of the BTWC requires States Parties to "provide or support assistance, in accordance with the United Nations Charter, to any Party to the Convention which so requests, if the Security Council decides that such Party has been exposed to danger as a result of violation of the Convention".

3. Objective. The primary objective of Article VII is to provide assistance to a State Party that has been exposed as a result of a violation of the Convention. Therefore, the sole purpose of the assistance provided in terms of this Article should be humanitarian in nature.

4. The following can be deduced from the requirements of Article VII:

(a) The Article requires that the request for assistance be forwarded to the United Nations Security Council (UNSC) and the provision for assistance would be dependent on a decision by the Security Council;


(b) The Article does not elaborate on whether that decision would be based on an investigation or the credibility of the information provided to the UNSC in the request for assistance; and

(c) Any issues related to an investigation would not be covered under this Article. Whilst it is accepted that an investigation should follow the provision of assistance, the investigation would not be invoked by this Article, but by Article VI.

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Application for assistance

5. Principle. Due to the humanitarian objective of this Article the provision of assistance should not be subject to an investigation of alleged use. Time would be of essence in the provision of assistance and since it would already be subjected to United Nations Security Council (UNSC) approval, there is no need for an investigation to confirm the need for assistance. While it is accepted that an investigation of alleged use should follow the provision of assistance, that should not hamper the humanitarian objective of this Article. Furthermore, an investigation of alleged use may take so long that the provision of assistance will be too late when finally approved.

6. Guidelines. As the Article requires that the request be forwarded to the UNSC, the information provided to the UNSC with the request for assistance would play a crucial role in helping the UNSC to come to a speedy decision. The quicker the decision is made, the faster the provision of assistance. The requesting process followed to apply for assistance as well as the information provided to support the application is the prerogative of the State Party requiring the assistance. The following information could be useful for such an application:

- (a) Name of the State Party;
- (b) National Point of Contact of State Party;
- (c) Date and place of first reported case. If there was a related event, a description of the event. To the extent possible, the date and time when the alleged event(s) took place and/or became apparent to the requesting State Party and, if possible, the duration of the alleged event(s);
- (d) Severity of the event. Number of cases and the number of fatalities, if any;
- (e) Symptoms and signs – diagnosis if possible. Information on the initial treatment and the preliminary results of the treatment of the disease;
- (f) A description of the area involved;
- (g) All available epidemiological information;
- (h) Actions taken to manage the outbreak;
- (i) International organisations already involved in providing assistance;
- (j) States already involved in providing assistance;
- (k) Indications of why the outbreak is considered to be the result of a biological attack;
- (l) Characteristics of the agent involved, if available;
- (m) Types and scope of assistance required;
- (n) Indication of any investigations conducted or being conducted;
- (o) Contact details for coordination of assistance if different from National Point of Contact; and
- (p) Licensing requirements for health care personnel and measures to address such requirements.

Command and control

7. Principle. The State Party remains primarily responsible for the health care of its population hence it should be in overall control of all response activities.

8. Guideline on Levels of Response. The level of response would depend on the nature of the disease, the geographical area where the outbreak occurred, the status of the public health system of the State and the potential of international effects. Generally, it can be accepted that the health systems (human, veterinary and plant) of the State will always be the first line of response. Responses from neighbouring States, regional and international actors will be determined by the factors listed above. International organisations, particularly the World Health Organisation (WHO) and World Organisation for Animal Health (OIE) will become involved at an early stage due to their presence and their involvement with States. In most cases, assistance in accordance with Article VII will be additional to and following the assistance provided by international organisations. The State may at any time request an international organisation (WHO, OIE) or other State to assume command on its behalf.

9. Licensing of Medical Personnel. The requesting State Party should provide temporary licenses to health care personnel upon arrival if required.

Laboratory samples

10. Guideline. The existing procedures for sample handling should be utilised during Article VII assistance. The State Party remains the owner of all samples collected during the provision of assistance.

Action

11. The application is to be submitted by the requesting state to the UNSG for forwarding to the UNSC. It can also be submitted to the Depositary states via the ISU.

Conclusion

12. It is suggested that States Parties consider a set of guidelines to aid a State Party when submitting an application for assistance to the UNSC.

13. The guidelines above could be useful in this regard. The guidelines could be updated as and when required to keep them relevant.
