

# Working Group on the Strengthening of 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

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## Fifth Session

Geneva, 2-13 December 2024

### Agenda item 6

Identifying, examining and developing specific and effective measures, including possible legally-binding measures, and making recommendations to strengthen and institutionalize the Convention in all its aspects within the mandate of the Working Group

## Updated concept paper on an International Agency for Biological Security (IABS)\*

Submitted by Kazakhstan

### I. Background

1. In September 2020, in the midst of the COVID-19 pandemic, the President of Kazakhstan Kassym-Jomart Tokayev proposed to establish an International Agency for Biological Safety (IABS). The COVID-19 pandemic created a political momentum to address biological safety and security as an emerging global challenge, strengthen the Biological and Toxin Weapons Convention (BTWC), and create a mechanism to 1) promote peaceful uses of biotechnologies and 2) enforce the prohibition of toxin and biological weapons in accordance with the BTWC.
2. The initiative of an IABS aims to promote implementation of, and compliance with, the BTWC in a complex and challenging landscape in the area of biological development, including growth in high-risk biological research, and technological convergence. The issues of compliance and verification as well as capacity building and national implementation remain in the centre of attention of States Parties to the Convention which remains the only one of the three major multilateral non-proliferation and disarmament instruments on weapons of mass destruction lacking an implementation mechanism.
3. In May 2021, a Concept Note on an IABS was distributed by Kazakhstan among States Parties of the BTWC, inviting states, international organizations and NGOs to a discussion of the Agency's anticipated mandate, objectives and functions. The issue of an IABS was discussed at the BTWC Meetings of Experts on institutional strengthening, which met regularly in 2021, as well as during preparatory and plenary meetings of the Convention's Ninth Review Conference held in December 2022, during which Kazakhstan tabled a Working Paper (BWC/CONF.IX/WP.3) proposing the establishment of an IABS.
4. In parallel, in April 2022, Kazakhstan and the Geneva Centre for Security Policy (GCSP) convened a scientific conference with participation of representatives of all BTWC regional groups and prominent experts. An outreach event for G7 Global Partnership experts was organized in October 2022. In March 2023, the Summit of the Non-Aligned Movement Contact Group in Response to COVID-19 approved a Chair's summary, which *inter alia* stated that "*the participating delegations took note with interest the initiative on creation of*

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\* The present document is being issued without formal editing.



an *International Agency on Biological Safety*". The Organisation of Islamic Cooperation (OIC) Ministerial meeting in its resolution (March 2023) welcomed Kazakhstan's initiative and supported "*efforts in multilateral fora to enable an effective and substantial exchange of views with the involvement of experts from the OIC Member States and develop recommendations on practical implementation of the initiative*". In December 2023, Kazakhstan and the OIC Standing Committee on Scientific and Technological Cooperation jointly organized an international workshop on the theme "Bridging the Gap: Enhancing Biosecurity Regimes for a Secure Future", aimed to discuss ways to implement an IABS.

5. Finally, the UN GA First Committee adopted without a vote on 4 November 2024 Resolution [A/C.1/79/L.73] that "[e]ncourages the Working Group on the strengthening of the Convention to further consider the measures aimed at strengthening and institutionalizing the Convention in all its aspects, in particular on how to proceed on organizational matters within the Working Group, including the possibility of an international agency for biological security and other institutional arrangements".

6. The discussions held in 2023 and 2024 during the four sessions of the Working Group on Strengthening of the BTWC convened by the Ninth Review Conference of the BTWC offered an opportunity to address many aspects of its mandate on "Identifying, examining and developing specific and effective measures, including possible legally binding measures, and making recommendations to strengthen and institutionalize the Convention in all its aspects". In particular, many delegations agreed that the BTWC suffered from an institutional deficit and supported a process of institutionalization that could include the establishment of an IABS on the basis of Kazakhstan's updated concept paper (BWC/WG/3/WP.1) and elements for a draft statute (BWC/WG/3/WP.2). Apart from generic discussions on organizational, institutional and financial arrangements, several other items on the agenda included proposals for mechanisms or institutions to deal with key aspects of the Convention: (a) verification and compliance, (b) assistance, response, and preparedness; (c) international cooperation and assistance; (d) scientific and technological developments; and (e) confidence-building measures and transparency.

7. Kazakhstan is grateful to States Parties, international organizations and independent experts for their feedback and support. In particular, the discussions within the Working Group were useful in comparing a potential IABS with the current work and functions of existing institutions dealing with other treaties such as the International Atomic Energy Agency (IAEA), the Comprehensive Test Ban Treaty Organisation (CTBTO), the Organisation for the Prohibition of Chemical Weapons (OPCW) as well as the United Nations Secretary-General Mechanism for Investigation of Alleged Use of Chemical and Biological Weapons (UNSGM).

8. Regarding the name of an IABS, as it has been noted, **biological safety** is defined by the WHO as "*Containment principles, technologies and practices that are implemented to prevent unintentional exposure to biological agents or their inadvertent release*" while the WHO defines **biosecurity** as "*Policies, principles, technologies and practices implemented for the protection and control of and accountability for biological material, technology and information or the equipment, methods, skills and data related to their handling. Biosecurity aims to prevent intentional or accidental unauthorized access to, and loss, theft, misuse, diversion or release or even weaponization of such commodities*".<sup>1</sup> The role of an IABS could encompass both because both are mentioned in the BTWC.<sup>2</sup> However, during the active negotiations in the margins of the UNGA First Committee, there was a clear preference among states for the concept of "security," which is reflected in the UNGA Resolution on Strengthening and Institutionalizing BTWC [A/C.1/79/L.73] adopted by consensus. Hence, the title of the Agency could be: "International Agency for Biological Security". Regarding possible overlap with the competences of other organizations such as the WHO on biosafety, it is worth recalling that the WHO also has a Department of Health Security Preparedness,

<sup>1</sup> World Health Organization, *Laboratory Biosecurity Guidance*, 2024, p. xiii.

<sup>2</sup> Implementation Support Unit, "Biosafety and Biosecurity", Background Document presented to the BTWC Meeting of Experts on 28 June 2008 (BWC/MSP/2008/MX/INF.1).

issues a Laboratory Biosecurity Guidance, and can deploy a Biosafety and Biosecurity Inspection Team.

9. Based on views and suggestions expressed and working papers tabled during the sessions of the Working Group relating to possible mechanisms and institutions to promote compliance with and implementation of BTWC provisions, Kazakhstan wishes to offer the following recommendations in order to integrate such mechanisms and institutions within the framework of an IABS which could be established as a possible evolutive system to be adapted to successive agreements among States Parties:

**(a) Verification and Compliance:** although in 2001 negotiations on a BTWC verification mechanism did not yield consensus, a majority of States Parties expressed a strong preference for the resumption of talks on verification. There is much to learn from the OPCW approach to verification measures, although the original OPCW verification models cannot necessarily be cut and pasted to address BTWC issues. Political will is crucial in overcoming differences and finding compromise solutions. Considering the complexity of designing a verification regime for the BTWC that would include legally binding verification measures, particularly due to the large number of facilities handling bioagents in the world and their dual-use nature as well as the rapid evolution of life sciences and biotechnology, it is expected that negotiations on such a regime will take time. However, in the meantime, there could be an agreement in principle to entrust an IABS with the goal of implementing such a verification regime just like the States Parties to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) did by making it an obligation for non-nuclear States Parties to conclude safeguards agreements with the pre-existing IAEA to ensure compliance with that treaty. The modalities of the verification regime and the respective roles of the States Parties and the Agency would be included in the verification mechanism and the Statute of the IABS would be revised accordingly after adoption of that agreement among States Parties;

**(b) Assistance, response, and preparedness – Role of the UN Security Council:** Article VII of the BTWC contains a mechanism for providing assistance to States Parties that claim to have been exposed to a violation of the Convention, but the provision of such assistance may be delayed until the United Nations Security Council (UNSC) takes a decision on that case. Some States Parties voiced concern over the idea of an IABS's accountability to the UNSC, since they believe that an IABS should be grounded on the BTWC and needs to be under the control and oversight of its States Parties. It could be agreed that, pending a decision of the UNSC, if seized by a State Party on the basis of Article VII, emergency assistance could be provided through an IABS that would manage the suggested data base of offers of international cooperation and assistance from States Parties. Additionally, on the basis of Article VI of the BTWC, any State Party will retain the right to lodge a complaint to the UNSC in case it finds that another State Party acts in breach of its obligations under the BTWC. But here again, with an IABS, the complaining State Party would be in a position to request assistance and cooperation from other States Parties without having to wait for a decision of the UNSC. On a separate point, the IABS would, just like the OPCW and the IAEA, send an annual report on its activities to the UN General Assembly and, when appropriate (e.g., when issues related to international peace and security are mentioned), to the UNSC;

**(c) International Cooperation and Assistance:** many delegations advocated the establishment of an International Assistance and Cooperation (ICA) mechanism to promote implementation of Article X of the BTWC, particularly to facilitate exchanges of equipment and good practices, technical assistance, training programmes, joint exercises, including a dedicated ICA Voluntary Trust Fund financed by voluntary contributions from States Parties and a database of offers and requests. An IABS could host such a mechanism, database, and fund and operate them in coordination with other relevant stakeholders and States Parties or regional organizations. Indeed, capacity building is an important part of the BTWC and a wider biosecurity regime. A growing gap between developed and developing nations in terms of expertise, resources and capacity to respond to crises was a bitter reality during the COVID pandemic. In this regard, an IABS could facilitate coordination of, and initiate capacity-building programmes designed especially for developing nations. An IABS can also provide a platform for outreach with the stakeholder community and promote collaboration between Member States, international organizations and industry. Capacity-building programmes

would specifically facilitate national implementation, improve preparedness, provide assistance and protection against biological weapons, and promote international cooperation in the field of peaceful biological activities, aimed at enhancing economic and technological development. Finally, within the framework of an IABS, States Parties could, on the basis of Article V of the BTWC, “*consult one another and to co-operate in solving any problems which may arise in relation to the objective of, or in the application of the provisions of, the Convention*”;

**(d) Scientific and Technological Developments:** as most delegations noted, one of the major challenges in promoting implementation of, and compliance with, the BTWC, especially with regard to a potential verification regime, is the growing evolution of life sciences and biotechnology that includes developments such as gene editing and gain-of-function technologies, DNA recombination, use of artificial intelligence, etc. Therefore, there is an emerging consensus to establish a Science and Technology (S&T) Advisory Mechanism for the BTWC. Modalities for membership and terms of reference for such a mechanism would need to be further discussed and adopted by the States Parties, but there could be a preliminary agreement that an IABS would host such a mechanism and facilitate its operation under the oversight of the Member States;

**(e) Confidence-building Measures (CBMs) and Transparency:** the system of voluntary CBMs under the BTWC was introduced in 1987 following a decision by the Second Review Conference in 1986. Their objective is to prevent or reduce the occurrence of ambiguities, doubts and suspicions and to improve international cooperation in the field of peaceful biological activities. From 2006, after the Sixth Review Conference, CBMs have been efficiently compiled, managed, and shared with States Parties by the Implementation Support Unit (ISU) established within the Geneva Branch of the United Nations Office for Disarmament Affairs (UNODA). It could be decided that this activity is entrusted with an IABS and the relevant financial and human resources transferred from the ISU to the IABS. This would allow to integrate CBMs and transparency measures more into the future verification regime that may include both legally binding declarations and possible inspections as well as voluntary transparency measures;

**(f) Other considerations:** as raised by many delegations during the discussions of the Working Group, in addressing the organization, structure, mandate, and scope of the future Agency, due attention will need to be paid to costs (some being covered by assessed contributions, others by voluntary contributions), skillsets required, the importance of flexibility rather than rigidity in the organizational culture, the value of partnerships, and equitable geographical distribution within each mechanism or institutional arrangement in an IABS. Regarding costs, the advantages of a single structure such as an IABS integrating the above-mentioned mechanisms, would be to promote savings, rationalize management, and capitalize on existing resources. In addition, in today’s complex environment, an IABS should avoid creating duplication and ambiguity; it should complement and strengthen the existing biosafety and biosecurity architecture. In this context, in the upcoming discussions on strengthening the BTWC, 1) a mapping and an assessment of already existing relevant mechanisms, organizations and instruments should be made and 2) inter-relationships between them as well as grey areas and possible gaps should be identified. At the same time, engagement with other stakeholders would be important and partnerships, crucial. An IABS would need to work closely with OPCW, IAEA, WHO, WOH, FAO, WMO, WTO, World Animal Protection, UNODA and UN mechanisms including the UN Secretary-General’s Scientific Advisory Board and the private sector as well as the scientific community to promote coordination, information sharing, monitoring of scientific and technological developments, international cooperation and assistance, and awareness raising about the whole spectrum of biological risks, from naturally occurring diseases to intentional use of pathogens by state- or non-state actors. Considering that several key organizations that may interact with an IABS (such as the WHO, UNODA, UNIDIR, WMO, WTO) as well as the disarmament community and initiatives are based in Geneva, it would make sense to establish an IABS in this Swiss city, unless another State Party offers to host it elsewhere. Some criteria for the location of the headquarters could be proposed and agreed upon by State Parties.

## II. Next Steps

10. The combined influence of scientific, social-economic and political factors has been altogether beneficial for negotiations within the BTWC and the decision by its Ninth Review Conference in December 2022 to establish a Working Group (WG) on strengthening the Convention represented a notable step towards institutionalization of the BTWC. It is expected that the December 2024 WG meetings and Meeting of States Parties, the 2025-2026 meetings of the WG, and the 2027 Tenth Review Conference will offer further opportunities to make progress towards the necessary consensus.

11. Initial WG discussions have shown both some divergence of views on a number of conceptual and practical issues and a growing common understanding that the BTWC must be reinforced – rather sooner than later – before the accumulating challenges become too formidable to handle.

12. Exchanges of views will also continue in parallel within other forums. In particular, Kazakhstan will work with developing nations in order to explore ways on how to ensure that the establishment of an IABS is beneficial for all States Parties, regardless of geographic location and level of development. Further discussions are planned with a view to enable an effective and substantial exchange of views and develop recommendations on practical implementation of the initiative. But, eventually, any decision regarding an IABS shall be made by the BTWC States Parties.

13. Consultations on an IABS mandate and functions will continue with all stakeholders, including UN bodies and mechanisms, international organizations, experts and the scientific community. Kazakhstan is open-minded, consensus-oriented and committed to transparent discussion, constructive work, and a gradual approach to implementing its initiative that may offer an optimal solution to the challenges of biosafety and biosecurity by allowing a cost-effective, rationalized, and coordinated integration of the various mechanisms and institutions into a single organization, thus avoiding duplication, waste of resources, and silo-approaches to a global threat calling for multilateral action.

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