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# 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

20 November 2023

English only

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## Third Session

Geneva, 4-8 December 2023

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**

## Possible elements of a Draft Statute of the International Agency for Biological Safety

Submitted by Kazakhstan

### I. Preamble

The States Parties to this Statute,

*Determined* to act with a view to achieving effective progress towards general and complete disarmament under strict and effective international control, including the prohibition and elimination of all types of weapons of mass destruction,

*Desiring* to contribute to the realization of the purposes and principles of the Charter of the United Nations,

*Recalling* that the General Assembly of the United Nations has repeatedly condemned all actions contrary to the principles and objectives of the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, signed at Geneva on 17 June 1925 (the Geneva Protocol of 1925),

*Recognizing* that this Statute reaffirms principles and objectives of and obligations assumed under the Geneva Protocol of 1925, and the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction signed at London, Moscow and Washington on 10 April 1972,

*Determined* for the sake of all mankind, to exclude completely the possibility of the use of bacteriological (biological) agents and toxins as weapons, through the implementation of the provisions of the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction (hereafter referred to as the BWC or the Convention),

Have agreed as follows:



## **Article I - Activities not prohibited under this Convention**

1. Each State Party has the right, subject to the provisions of the BWC, to develop, produce, otherwise acquire, retain, transfer and use bacteriological (biological) agents and toxins for purposes not prohibited under the BWC.
2. Each State Party shall adopt the necessary measures to ensure that bacteriological (biological) agents and toxins are only developed, produced, otherwise acquired, retained, transferred, or used within its territory or in any other place under its jurisdiction or control for purposes not prohibited under the BWC.

## **Article II - Verification**

1. A Verification Annex shall be adopted by the Conference of the States Parties.
2. In conducting verification activities, the Technical Secretariat shall avoid undue intrusion into the State Party's activities for purposes not prohibited under the BWC and, in particular, abide by the provisions set forth in the Annex on the Protection of Confidential Information (hereinafter referred to as "Confidentiality Annex") to be adopted.
3. The provisions of this Article shall be implemented in a manner which avoids hampering the economic or technological development of States Parties, and international cooperation for purposes not prohibited under the BWC including the international exchange of scientific and technical information.

## **Article III - National implementation measures**

1. Each State Party shall, in accordance with its constitutional processes, adopt the necessary measures to implement its obligations under the BWC.
2. Each State Party shall cooperate with other States Parties and afford the appropriate form of legal assistance to facilitate the implementation of the obligations under paragraph 1.
3. Each State Party, during the implementation of its obligations under the BWC, shall assign the highest priority to ensuring the safety of people and to protecting the environment, and shall cooperate as appropriate with other States Parties in this regard.
4. In order to fulfil its obligations under the BWC, each State Party shall designate or establish a National Authority to serve as the national focal point for effective liaison with the Agency and other States Parties. Each State Party shall notify the Agency of its National Authority at the time that this Statute enters into force for it.
5. Each State Party shall inform the Agency of the legislative and administrative measures taken to implement the BWC.
6. Each State Party shall treat as confidential and afford special handling to information and data that it receives in confidence from the Agency in connection with the implementation of the BWC.
7. Each State Party undertakes to cooperate with the Agency in the exercise of all its functions and in particular to provide assistance to the Technical Secretariat.

## **Article IV - The agency**

1. The States Parties to this Statute hereby establish the International Agency for Biological Safety to achieve the object and purpose of the BWC and to ensure the implementation of its provisions, and to provide a forum for consultation and cooperation among States Parties.
2. The seat of the Headquarters of the Agency shall be Geneva, Switzerland.

3. There are hereby established as the organs of the Agency: the Conference of the States Parties, the Executive Council, and the Technical Secretariat.
4. The costs of the Agency's activities shall be paid by States Parties in accordance with the United Nations scale of assessment adjusted to take into account differences in State Parties' membership between the United Nations and this Agency.
5. A State Party of the Agency which is in arrears in the payment of its financial contribution to the Agency shall have no vote in the Agency if the amount of its arrears equals or exceeds the amount of the contribution due from it for the preceding two full years. The Conference of the States Parties may, nevertheless, permit such a State Party to vote if it is satisfied that the failure to pay is due to conditions beyond the control of the State Party.

## **Article V - The Conference of the States Parties**

1. The Conference of the States Parties (hereinafter referred to as "the Conference") shall be composed of all States Parties to the Agency. Each State Party shall have one representative in the Conference, who may be accompanied by alternates and advisers.
2. The first session of the Conference shall be convened not later than 180 days after the entry into force of this Statute.
3. The Conference shall meet in regular sessions which shall be held annually unless it decides otherwise.
4. Special sessions of the Conference shall be convened:
  - (a) When decided by the Conference;
  - (b) When requested by the Executive Council;
  - (c) When requested by any State Party and supported by one third of the State Parties.
5. Sessions of the Conference shall take place at the seat of the Agency unless the Conference decides otherwise.
6. The Conference shall adopt its rules of procedure. At the beginning of each regular session, it shall elect its Chairman and such other officers as may be required. They shall hold office until a new Chairman and other officers are elected at the next regular session.
7. A majority of the States Parties of the Agency shall constitute a quorum for the Conference.
8. Each State Party of the Agency shall have one vote in the Conference.
9. The Conference shall take decisions on questions of procedure by a simple majority of the State Parties present and voting. Decisions on matters of substance should be taken as far as possible by consensus.
10. The Conference shall be the principal organ of the Agency. It shall consider any questions, matters or issues within the scope of this Statute, including those relating to the powers and functions of the Executive Council and the Technical Secretariat. It may make recommendations and take decisions on any questions, matters or issues related to this Statute raised by a State Party or brought to its attention by the Executive Council.
11. The Conference shall oversee the implementation of the BWC, and act in order to promote its object and purpose. The Conference shall review compliance with the BWC. It shall also oversee the activities of the Executive Council and the Technical Secretariat and may issue guidelines to either of them in the exercise of their functions.
12. The Conference shall:
  - (a) Consider and adopt at its regular sessions the report, programme and budget of the Agency, submitted by the Executive Council, as well as consider other reports;

- (b) Decide on the scale of financial contributions to be paid by States Parties;
- (c) Elect the State Parties of the Executive Council;
- (d) Appoint the Director-General of the Technical Secretariat (hereinafter referred to as "the Director-General");
- (e) Approve the rules of procedure of the Executive Council submitted by the latter;
- (f) Establish such subsidiary organs as it finds necessary for the exercise of its functions;
- (g) Foster international cooperation for peaceful purposes.

## **Article VI - The Executive Council**

1. The Executive Council shall consist of 41 State Parties. Each State Party shall have the right, in accordance with the principle of rotation, to serve on the Executive Council. The State Parties of the Executive Council shall be elected by the Conference for a term of two years.
2. The Executive Council shall be composed as follows:
  - (a) Nine States Parties from Africa to be designated by States Parties located in this region;
  - (b) Nine States Parties from Asia to be designated by States Parties located in this region;
  - (c) Five States Parties from Eastern Europe to be designated by States Parties located in this region;
  - (d) Seven States Parties from Latin America and the Caribbean to be designated by States Parties located in this region;
  - (e) Ten States Parties from among Western European and other States to be designated by States Parties located in this region;
  - (f) One further State Party to be designated consecutively by States Parties located in the regions of Asia and Latin America and the Caribbean. As a basis for this designation it is understood that this State Party shall be a rotating State Party from these regions.
3. For the first election of the Executive Council 20 State Parties shall be elected for a term of one year, due regard being paid to the established numerical proportions as described in paragraph 2.
4. The Executive Council shall elaborate its rules of procedure and submit them to the Conference for approval.
5. The Executive Council shall elect its Chairman from among its States Parties.
6. The Executive Council shall meet for regular sessions. Between regular sessions it shall meet as often as may be required for the fulfilment of its powers and functions.
7. Each State Party of the Executive Council shall have one vote. The Executive Council shall take decisions on matters of substance by a two-thirds majority of all its States Parties.
8. The Executive Council shall be the executive organ of the Agency. It shall be responsible to the Conference. The Executive Council shall carry out the powers and functions entrusted to it under this Statute, as well as those functions delegated to it by the Conference. In so doing, it shall act in conformity with the recommendations, decisions and guidelines of the Conference and assure their proper and continuous implementation.
9. The Executive Council shall promote the effective implementation of, and compliance with, the BWC. It shall supervise the activities of the Technical Secretariat, cooperate with

the National Authority of each State Party and facilitate consultations and cooperation among States Parties at their request.

10. The Executive Council shall:

(a) Consider and submit to the Conference the draft programme and budget of the Agency;

(b) Consider and submit to the Conference the draft report of the Agency on the implementation of the BWC, the report on the performance of its own activities and such special reports as it deems necessary or which the Conference may request;

(c) Make arrangements for the sessions of the Conference including the preparation of the draft agenda.

11. The Executive Council may request the convening of a special session of the Conference.

12. The Executive Council shall consider any issue or matter within its competence affecting the BWC and its implementation, including concerns regarding compliance, and cases of non-compliance, and, as appropriate, inform States Parties and bring the issue or matter to the attention of the Conference.

## **Article VII - The Technical Secretariat**

1. The Technical Secretariat shall assist the Conference and the Executive Council in the performance of their functions. It shall carry out functions entrusted to it under this Statute as well as those functions delegated to it by the Conference and the Executive Council.

2. The Technical Secretariat shall:

(a) Prepare and submit to the Executive Council the draft programme and budget of the Agency;

(b) Prepare and submit to the Executive Council the draft report of the Agency on the implementation of this Statute and such other reports as the Conference or the Executive Council may request;

(c) Provide administrative and technical support to the Conference, the Executive Council and subsidiary organs;

(d) Address and receive communications on behalf of the Agency to and from States Parties on matters pertaining to the implementation of the BWC;

(e) Provide technical assistance to States Parties in the implementation of the provisions of the BWC.

3. The Technical Secretariat shall comprise a Director-General, who shall be its head and chief administrative officer, and such scientific, technical and other personnel as may be required.

4. The Director-General shall be appointed by the Conference upon the recommendation of the Executive Council for a term of four years, renewable for one further term, but not thereafter.

5. The Director-General shall be responsible to the Conference and the Executive Council for the appointment of the staff and functioning of the Technical Secretariat. The paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence and integrity. Only citizens of States Parties shall serve as the Director-General and professional and clerical staff.

6. In the performance of their duties, the Director-General and members the staff shall not seek or receive instructions from any Government or from any other source external to

the Agency. They shall refrain from any action that might reflect on their positions as international officers responsible only to the Conference and the Executive Council.

### **Article VIII - Privileges and immunities**

1. The Agency shall enjoy on the territory and in any other place under the jurisdiction or control of a State Party such legal capacity and such privileges and immunities as are necessary for the exercise of its functions.
2. Delegates of States Parties, together with their alternates and advisers, representatives appointed to the Executive Council together with their alternates and advisers, the Director-General and the staff of the Agency shall enjoy such privileges and immunities as are necessary in the independent exercise of their functions in connection with the Agency.
3. The legal capacity, privileges, and immunities referred to in this Article shall be defined in agreements between the Agency and the States Parties as well as in an agreement between the Agency and the State in which the headquarters of the Agency is seated. These agreements shall be considered and approved by the Conference.

### **Article IX - Relation to other international agreements**

Nothing in this Convention shall be interpreted as in any way limiting or detracting from the obligations assumed by any State under other international agreements.

### **Article X - Settlement of disputes**

1. Disputes that may arise concerning the application or the interpretation of this Statute shall be settled in accordance with the relevant provisions of this Statute and in conformity with the provisions of the Charter of the United Nations.
2. When a dispute arises between two or more States Parties, or between one or more States Parties and the Agency, relating to the interpretation or application of this Statute, the parties concerned shall consult together with a view to the expeditious settlement of the dispute by negotiation, including recourse to appropriate organs of this Statute and, by mutual consent, referral to the International Court of Justice in conformity with the Statute of the Court. The States Parties involved shall keep the Executive Council informed of actions being taken.
3. The Executive Council may contribute to the settlement of a dispute by whatever means it deems appropriate, including offering its good offices, calling upon the States Parties to a dispute to start the settlement process of their choice and recommending a time-limit for any agreed procedure.
4. The Conference shall consider questions related to disputes raised by States Parties or brought to its attention by the Executive Council. The Conference shall, as it finds necessary, establish or entrust organs with tasks related to the settlement of these disputes.

### **Article XI - Amendments**

1. Any State Party may propose amendments to this Statute. The text of a proposed amendment shall be submitted to the Director-General for circulation to all States Parties. The proposed amendment shall be considered only by an Amendment Conference. Such an Amendment Conference shall be convened if one third or more of the States Parties notify the Director-General not later than 30 days after its circulation that they support further consideration of the proposal. The Amendment Conference shall be held immediately following a regular session of the Conference unless the requesting States Parties ask for an earlier meeting. In no case shall an Amendment Conference be held less than 60 days after the circulation of the proposed amendment.

2. Amendments shall enter into force for all States Parties 30 days after deposit of the instruments of ratification or acceptance by all the States Parties.

## **Article XII - Duration and withdrawal**

1. This Statute shall be of unlimited duration.
2. Each State Party shall, in exercising its national sovereignty, have the right to withdraw from this Statute if it decides that extraordinary events, related to the subject-matter of this Statute, have jeopardized the supreme interests of its country. It shall give notice of such withdrawal 90 days in advance to all other States Parties, the Executive Council. Such notice shall include a statement of the extraordinary events it regards as having jeopardized its supreme interests.
3. The withdrawal of a State Party from this Statute shall not in any way affect the duty of States to continue fulfilling the obligations assumed under any relevant rules of international law, particularly the Geneva Protocol of 1925.

## **Article XIII - Status of the Annexes**

The Annexes form an integral part of this Statute. Any reference to this Statute includes the Annexes.

## **Article XIV - Signature**

This Statute shall be open for signature for all States before its entry into force.

## **Article XV - Ratification**

This Statute shall be subject to ratification by States Signatories according to their respective constitutional processes.

## **Article XVI - Accession**

Any State which does not sign this Statute before its entry into force may accede to it at any time thereafter.

## **Article XVII - Entry into force**

1. This Statute shall enter into force 180 days after the date of the deposit of the 65th instrument of ratification, but in no case earlier than two years after its opening for signature.
2. For States whose instruments of ratification or accession are deposited subsequent to the entry into force of this Convention, it shall enter into force on the 30th day following the date of deposit of their instrument of ratification or accession.

## **Article XVIII - Reservations**

This Statute shall not be subject to reservations.

**Article XIX - Depositary**

The Secretary-General of the United Nations is hereby designated as the Depositary of this Statute and shall, inter alia:

- (a) Promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification or accession and the date of the entry into force of this Statute, and of the receipt of other notices;
- (b) Transmit duly certified copies of this Statute to the Governments of all signatory and acceding States; and
- (c) Register this Statute pursuant to Article 102 of the Charter of the United Nations.

**Article XX - Authentic texts**

This Statute, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned, being duly authorized to that effect, have signed this Statute.

Done at \_\_\_\_\_ on \_\_\_\_\_

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