

Ninth 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

8 November 2022

English only

Geneva, 28 November to 16 December 2022

Item 12 of the provisional agenda

Follow-up to the recommendations and decisions of the Eighth Review Conference and the question of future review of the Convention

Implementation of Article VII

Submitted by South Africa

I. Introduction

1. South Africa submitted a working paper containing proposal on the implementation of Article VII in 2014, 2015, the Eighth Review Conference, 2018 and at the Preparatory Committee meeting for the Ninth Review Conference with an objective of operationalizing this Article.
2. The paper proposes a set of voluntary guidelines to assist a State Party when submitting a request or application for assistance. The paper was continuously refined throughout the years to incorporate comments made by States Parties.
3. South Africa is submitting the paper to include proposed language for adoption at the Ninth Review Conference.

II. Discussion

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

A. Objective

5. The primary objective of Article VII is to provide or support assistance to a State Party that has been exposed as to danger as a result of a violation of the Convention. Therefore, the purpose of the assistance provided in terms of this Article should be humanitarian in nature.
6. The importance of the humanitarian objective of this Article was further emphasised in the final declaration of the Eighth Review Conference which states that: “*The Conference considers that, should a request for assistance be made, it should be promptly considered and an appropriate response provided. In this context, in view of the humanitarian imperative, the Conference encourages States Parties in a position to do so to provide timely emergency assistance, if requested pending consideration of a decision by the Security Council.*”



B. State Party Options

7. A State Party should have three options to obtain assistance when it has been subjected to alleged use of biological weapons, and States Parties should be able to utilise as many of these options as they deem necessary. The State Party may:

- Obtain assistance on a bilateral basis from other States Parties, a group of States or International Organisations (WHO, WOAAH, FAO) without invoking Article VII of the Convention;
- Request assistance from other States Parties without invoking Article VII of the Convention. States Parties that are in a position to do so may provide assistance without UNSC approval, as per the Eighth Review Conference final declaration; and
- Request assistance in accordance with Article VII of the Convention.

III. Application for assistance

8. It is accepted that the request for assistance “should be promptly considered and an appropriate response provided”, even pending the outcome of an investigation of alleged use, so as not to 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.

Voluntary Guidelines

9. Information accompanying the request for assistance would be useful to States Parties in their preparation to provide assistance, although such information should not be a prerequisite for the provision of such assistance. It is the prerogative of the requesting State Party to decide whether or not to use the guidelines and provide additional information with the request for assistance. However, South Africa believes that the provision of additional information may assist with the consideration and understanding of the request.

10. In the case when assistance is requested from the UNSC, the information provided to the UNSC with the request for assistance will play a crucial role in helping the UNSC to make a prompt 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.

IV. Command and control

A. Principle

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

B. Guideline on Levels of Response

12. The level of response will 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 would always be the first line of response. Responses from neighbouring states, and regional and international actors would be determined by the factors listed above.

13. International organisations, particularly the World Health Organisation (WHO) and World Organisation for Animal Health (WOAH) would become involved at an early stage

due to their presence and their involvement with States. In most cases, assistance in accordance with Article VII would be additional to and following the assistance provided by international organisations. The State may at any time request an international organisation (WHO, WOA) or other State to assume command on its behalf.

C. Licensing of Medical Personnel

14. The requesting State Party should provide temporary licenses to health care personnel upon arrival if required.

V. Laboratory samples

Guideline

15. 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.

VI. Conclusion

16. It is proposed that a set of voluntary guidelines be developed and maintained at the ISU to aid a State Party, if required for the application for, and implementation of assistance in case of alleged use of biological weapons against it.

17. The voluntary guidelines could be useful in this regard. The guidelines could be updated as and when required to maintain relevance.

18. It is proposed that States Parties adopt the following language in the Ninth Review Conference Final Document:

“The Conference notes that establishing voluntary guidelines for requesting assistance could facilitate prompt response and the provision of timely humanitarian and other necessary emergency assistance by States Parties, if requested in the event of use of biological weapons, including any request for assistance pursuant to Article VII. To that end, the Conference therefore decides to adopt the voluntary guidelines in Annex 1, which a State Party could use as a template to submit a request for/as part of the process of invoking Article VII. The Conference recognizes a State Party may choose to request that the UNSC consider whether that Party has been exposed to danger as a result of a violation of the Convention and that other Parties provide it with assistance without using these guidelines. The Conference acknowledges that although the use of these guidelines is not mandatory, the template can be valuable to States Parties in identifying what information might be helpful in determining how best to provide assistance.”

Annex

Voluntary Guidelines for Requesting Assistance Under Article VII

The following information could be useful when submitting a request for assistance:

- (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 the provision of assistance.
 - (j) States already involved in the provision of 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.
 - (p) Licensing requirements for health care personnel and measures to address such requirements.
 - (q) Immigration processes for personnel and equipment for the provision of assistance.
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