

# **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**

1 December 2022

English only

---

Geneva, 28 November to 16 December 2022

Item 10(b) of the agenda

Review of the operation of the Convention as provided for in its Article XII  
Articles I-XV

## **Proposals for the Final Document of the Ninth Review Conference of the Biological and Toxin Weapons Convention (BTWC): Article by Article**

**Submitted by the Republic of Azerbaijan on behalf of the Group of the Non-Aligned Movement and Other States to the BWC**

Taking into account the position of the Non-Aligned Movement at the Summit, held in Baku, the Republic of Azerbaijan, in October 2019, and in consideration of the impacts and lessons from COVID-19 pandemic, the NAM countries propose the following language to be inserted in the final document of the Conference:

### **I. Article I**

**Each State Party to this Convention undertakes never in any circumstances to develop, produce, stockpile or otherwise acquire or retain: (1) 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; (2) Weapons, equipment or means of delivery designed to use such agents or toxins for hostile purposes or in armed conflict.**

1. The Conference strongly supports the provisions of Article I of the Convention.
2. The Conference strongly reaffirms that the use by the States Parties, in any way and under any circumstances, of microbial or other biological agents or toxins, that is not consistent with prophylactic, protective or other peaceful purposes, is effectively a violation of Article I of the Convention.
3. The Conference reaffirms that the Convention unequivocally covers all microbial or other biological agents or toxins, naturally or artificially created or altered, as well as their components, whatever their origin or method of production, of types and in quantities that have no justification for prophylactic, protective or other peaceful purposes.
4. The Conference reaffirms other understandings under this Article, reflected in the Final Declarations of earlier Review Conferences.
5. The Conference reaffirms the undertaking given by the States Parties in previous review conferences that all developments and advances in science and technology relevant to the Convention apply to Article I.



## II. Article III

**Each State Party to this Convention undertakes not to transfer to any recipient whatsoever, directly or indirectly, and not in any way to assist, encourage, or induce any State, group of States or international organizations to manufacture or otherwise acquire any of the agents, toxins, weapons, equipment or means of delivery specified in article I of this Convention.**

6. The Conference reaffirms that any export control measures adopted by States Parties at a national level should be in full conformity with Convention obligations and create an environment conducive to the full, effective and non-discriminatory implementation of all Convention provisions, and should not in any way adversely affect the rights and obligations of States Parties under the Convention.

7. The Conference reaffirms that non-proliferation efforts through maintaining export controls are best addressed through multilaterally, non-discriminatory negotiated guidelines to preserve the integrity and the delicate balance that exists in the Convention.

8. The Conference recognizes that the Convention has established a system with equal rights and obligations based on the principle of equal treatment of all States Parties. Therefore, national implementation measures should not create undue restrictions among States Parties which would hinder the full, effective and non-discriminatory implementation of Article X.

9. The Conference reiterates that States Parties should not use the provisions of this Article to impose restrictions and/or limitations on transfers for purposes consistent with the objectives and provisions of the Convention of scientific knowledge, technology, equipments and materials under Article X.

## III. Article IV

**Each State Party to this Convention shall, in accordance with its constitutional processes, take any necessary measures to prohibit and prevent the development, production, stockpiling, acquisition, or retention of the agents, toxins, weapons, equipment and means of delivery specified in article I of the Convention, within the territory of such State, under its jurisdiction or under its control anywhere.**

10. Compliance with the Convention is a concept different from national implementation. In an international legal instrument such as the BWC, the assurance of compliance with the Convention's provisions has to be undertaken collectively through appropriate multilateral verification arrangements. In the past, useful work has been done in this regard under the BWC in the Ad-hoc Group and NAM continues to attach high importance to preserving and eventually resuming that work.

11. The Conference stresses that national implementation under Article IV of the Convention requires commitments towards the implementation of all provisions of the Convention. In this regard, the full, effective and non-discriminatory implementation of Article X is of high importance.

12. The Conference notes that the Convention has established a system with equal rights and obligations based on the principle of equal treatment of all States Parties. Therefore, national implementation measures should not create undue restrictions among States Parties which would hinder the full, effective and non-discriminatory implementation of Article X.

13. The Conference reaffirms that national implementation of the Convention requires concrete measures by all States Parties, as well as international cooperation. These actions by States Parties should not only be limited to enacting relevant national laws aimed at complying with their commitments, but also to adopting other measures in order to strengthen national capacities, including the development of human and technological resources.

14. The Conference recognizes that there are diverse national situations for each of the States Parties but their commitments and obligations under the Convention are the same. Some States Parties, especially developing countries, may require assistance and cooperation

to strengthen their national capacities for the full implementation of all the provisions of the Convention. States Parties which are in a position to provide assistance and cooperation to other States Parties in capacity building to implement the Convention should do so, if requested.

15. The Conference recognizes that the COVID-19 Pandemic has greatly disrupted lives and livelihoods of millions of people and continues to pose unprecedented impacts and challenges to societies and economies. The Conference in this regard underscores the critical importance of proper preparedness, prevention, resilience-building, and greater national, regional and international collaboration, worldwide solidarity and actions in addressing these challenges in an effective and timely manner.<sup>1</sup>

16. The Conference recognizes that the COVID-19 Pandemic has greatly disrupted lives and livelihoods of millions of people and continues to pose unprecedented impacts and challenges to societies and economies. The Conference in this regard underscores the critical importance of proper preparedness, prevention, resilience-building, and greater national, regional and international collaboration, worldwide solidarity and actions in addressing these challenges in an effective and timely manner.<sup>2</sup>

17. The Conference emphasizes that activities related to bio-defence should not be a guise for offensive biological activities. In this regard, it is necessary for States Parties to work together for enhancing national implementation by sharing best practices and experiences, exchange of information on enforcement of national legislation, on possible ways for strengthening national institutions and coordination among national law enforcement institutions and finally building national capacity through international cooperation.

18. The Conference takes note of the different proposals put forward by States parties during the inter-sessional period on strengthening national implementation and reiterates that such proposals should not distract the attention of States Parties away from strengthening the Convention in all its aspects including the need for a verification mechanism. Therefore, it emphasizes the importance of multilateral negotiations aimed at concluding a non-discriminatory, legally binding agreement, including on verification provisions, dealing with all the Articles of the Convention in a balanced and comprehensive manner.

19. The Conference recognizes that the growing trend of various national implementation practices, in the deficiency of the verification mechanism for BTWC, have created different national levels of restrictions, barriers and/or limitations for legitimate trade and transfer of biological agents and toxins, equipments, materials and related technologies for peaceful purposes. Inequitable national implementation models intrinsically create obstacles for developing countries to manage their public health needs. Consequently, the Conference reaffirms that any national implementation measure should be in proportion to public health issues to facilitate, but not hinder the fullest possible exchange for peaceful purposes in implementing Article X.

20. To this end, the States parties must develop and strengthen the institutional and organizational architecture of the Convention to respond to or provide assistance to a State party that has been exposed to danger due to violation(s) of the Convention as well as to facilitate full, effective and non-discriminatory implementation of Article X. This includes, in particular, the development of an appropriate mechanism to ensure that laws and regulations of the States parties do not hinder international exchange and cooperation under Article X and allows for the fullest possible exchange of equipment, materials and technology for peaceful purposes among States Parties.

21. Bearing in mind the abovementioned aspects, the States Parties should undertake, inter alia, the following actions:

(a) To undertake, in accordance with their constitutional processes and taking into account national capacities, regular review of the national implementation processes, including legislative, administrative, judicial and other measures, including penal legislation,

---

<sup>1</sup> Extracted from NAM Statement at the 74<sup>th</sup> WHA (Para 2 and 3).

<sup>2</sup> Extracted from NAM Statement at the 74<sup>th</sup> WHA (Para 2 and 3).

in order to enhance the effectiveness of the Convention and to ensure that they are in full conformity with the obligations undertaken under Article X;

(b) To provide, upon request, where in a position to do so, assistance to other States Parties in enacting or updating national legislation, in accordance with the constitutional processes aimed at enhancing the implementation of the Convention;

(c) To undertake regular review of the relevant national regulations governing international exchanges and transfers to avoid hampering the economic or technological development of States Parties to the Convention or international cooperation in the field of peaceful bacteriological (biological) activities, including the international exchange of bacteriological (biological) agents and toxins and equipment for processing, use or production of bacteriological (biological) agents and toxins for peaceful purposes in accordance with the provisions of the Convention;

(d) To identify obstacles and challenges related to the national implementation that hampers the fullest possible exchange of equipment, material and technology for peaceful purposes;

(e) To identify specific measures to address the cases of denials arising from restrictions and/or limitations posed which hinders the full, effective and non-discriminatory implementation of the Convention;

(f) To take appropriate national actions to raise awareness of the BWC among all the relevant stakeholders including, where appropriate, depending upon respective parliamentary systems, policy makers and public in general;

(g) To promote international cooperation at all levels, particularly regional and sub-regional.

## IV. Article V

**The States Parties to this Convention undertake to consult one another and to cooperate in solving any problems which may arise in relation to the objective of, or in the application of the provisions of, the Convention. Consultation and Cooperation pursuant to this article may also be undertaken through appropriate international procedures within the framework of the United Nations and in accordance with its Charter.**

22. NAM and Other States Parties underscore that the purpose of CBMs under the BWC as agreed by States Parties at the Second Review Conference and reconfirmed at subsequent Review Conferences is to prevent or reduce the occurrence of ambiguities, doubts and suspicions and in order to improve international cooperation in the field of peaceful biological activities.

23. CBMs are a tool of transparency and building trust and confidence among States Parties in the implementation of the Convention. They cannot be a tool to assess compliance for which the only method is a legally binding mechanism with verification provisions. It is, therefore, imperative that the issue of CBMs is not overemphasized in a manner that complicates the whole CBMs process.

24. Proposals on peer review compliance assessment were raised and evaluated in the Seventh Review Conference of the BWC and there was no consensus on them. There are serious difficulties with such concepts in the framework of the BWC including inter alia that they may create a false sense of assurance regarding the national implementation of obligations arising from the Convention.

25. The Conference recalls that further amendments to the CBMs forms were agreed to at the Seventh Review Conference in a constructive spirit shown by all States Parties with the aim inter alia to increase the number of States Parties which submit CBMs returns.

26. The Conference recognizes the urgent need to increase the number of States Parties participating in CBMs and calls upon all States Parties to participate annually.

27. The Conference reiterates the importance of multilateral negotiations aimed at concluding a non-discriminatory, legally binding agreement, including on verification provisions, dealing with all the Articles of the Convention in a balanced and comprehensive manner.

## V. Article VII

**Each State Party to this Convention undertakes 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.**

28. The Conference notes with satisfaction that these provisions have not been invoked (Final Document 7<sup>th</sup> Review Conference). However, the international community should be prepared to face such situation well in advance and to dispatch emergency assistance in case of use of bacteriological (biological) or toxin weapons, and also to provide humanitarian assistance in case of the threat of use of such weapons, to the requesting State Party.

29. The Conference reaffirms its support for the recommendation of the 7th Review Conference on Article VII. In this regard, it also reaffirms that timely assistance under Article VII is a legal obligation of States Parties. While noting that States Parties' national preparedness contributes to international capabilities for response, investigation and mitigation of outbreaks of disease, the Conference reaffirms that this should not be imposed as precondition for either provision or receipt of assistance.

30. The Conference recognizes that the lack of a comprehensive Protocol to strengthen implementation of all aspects of the Convention has created a gap in the provision of prompt and effective assistance under Article VII to States Parties to the BWC.

31. The Conference recalls that the main objective of Article VII is to provide assistance to the affected people and to minimize and contain the risks to the health, safety and security of others, in close collaboration with the exposed State Party. However, the best way to prevent such incidents is to ensure full compliance with the prohibition on the development, stockpiling and use of such weapons, including through the establishment of a compliance and verification mechanism under the Convention.

32. The Conference stresses that assistance undertakings and support should be commensurate with effective actions that ensure timely coordination and delivery of assistance to the victim State Party in conformity with the request for assistance.

33. The Conference agrees to this end to develop a detailed procedure and mechanism for a timely, effective and adequate response. In this context, the following elements may, amongst others, be considered in the development of such a mechanism:

(a) Assistance means coordination and delivery of assistance to the requesting State Party;

(b) The request or appeal for assistance should be immediately transmitted to all States Parties and relevant international organizations for coordination and delivery of emergency and humanitarian assistance and support;

(c) Preparing an inventory of the types of assistance that the States Parties could provide including, inter alia, expertise, information, protection, detection, decontamination, prophylactic and medical and other equipment;

(d) Establishing a data bank containing freely available information concerning various means of protection against bacteriological (biological) and toxin weapons as well as such other relevant information as may be provided by States Parties;

(e) Information on the kind of assistance that States Parties could provide in response to a request for assistance;

(f) The States parties make the fullest possible efforts to provide prompt assistance providing the equipment related to the means of protection against the use of biological weapons to the requesting State Party without undue restrictions;

(g) Establishing a fund for assistance to concerned States Parties in particular to developing countries;

(h) Promoting capacity building through more active cooperation with relevant regional and sub-regional organizations that have mandates relevant to assistance and protection against biological weapons. Such cooperation could include joint exercises and training, including by the use of e-learning modules.

34. The Conference underlines that all mechanisms and measures adopted for full, effective and non-discriminatory implementation of Article X of the Convention, shall facilitate assistance and support to States Parties for rapid and timely surveillance, detection, containment, diagnosis, treatment and mitigation of diseases, in particular infectious diseases in accordance with the provisions of the Convention.

35. The Conference strongly reaffirms that national preparedness of States Parties and their prompt access to new methods and novel diagnostic technologies and equipment for detection and quick response to any possible biological attack or diseases outbreaks play an important role in providing assistance to States Parties. The rapid pace of novel bio-threats against humans, animals and plants requires rapid responses and enhanced national capacity prior to any biological attacks against the States Parties.

36. The Conference agrees that the United Nations and other international organizations could also play an important role in coordinating, and mobilizing, and delivering the required support and assistance. In this respect, upon the request of the concerned State Party, the capacities and experiences of UN and relevant international organizations should be identified and used, within their mandates.

37. The Conference agrees to mitigate the consequences of the use of biological and toxin weapons, the national capacity of States Parties in particular developing countries, should also be developed and strengthened. In this regard, the States Parties emphasizes that one of the most effective approaches to support Article VII implementation is that each State Party should facilitate, and shall have the right to participate in the fullest possible exchange of equipment, material and scientific and technological information and know-how concerning means of protection against bacteriological (biological) and toxin weapons.

38. The Conference also agrees that States Parties should also have the right to conduct research into, develop, produce, acquire, transfer or use means of protection against bacteriological (biological) and toxin weapons, for purposes not prohibited under the Convention. Towards this end, developed countries should assist developing States Parties through providing required technology and resources, as well as sharing experiences, expertise and laboratory cooperation.

39. The Conference notes that States Parties' national preparedness contributes to international capabilities for response, investigation and mitigation of outbreaks of disease, including those due to alleged use of biological or toxin weapons. The Conference notes that there are differences among States Parties in terms of their level of development, national capabilities and resources, and that these differences affect national and international capacity to respond effectively to an alleged use of a biological or toxin weapon. The Conference encourages States Parties, in a position to do so, to assist other States Parties, upon request, to build relevant capacity.