

Formal Consultative Meeting 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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Item 6 of the agenda

Respective outstanding questions by the Russian Federation to the United States and to Ukraine concerning the fulfilment of their respective obligations under the Convention in the context of the operation of biological laboratories in Ukraine

Questions for the United States regarding compliance with obligations under Article IV of the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction (BWC) in the context of activities of biological laboratories in Ukrainian territory

Submitted by the Russian Federation

1. The legal grounds for conducting projects financed by the USA in the territory of Ukraine is the 2005 Agreement between the U.S. Department of Defense and the Ministry of Health of Ukraine "On Cooperation in Preventing the Spread of Pathogens, Technologies and Knowledge that Can Be Used in the Development of Biological Weapons." We would like to elaborate on some of the provisions of this agreement.
2. According to Article III the US Department of Defense can support the Ministry of Health of Ukraine in joint biological research, determination of threats from biological agents and development of response to them with regard to dangerous pathogens, located in the territory of Ukraine".
3. Article IV of the Agreement prescribes storage of pathogens only in those laboratories, which are supported by the US military department and the list of which will be approved in writing as central laboratories. The Department of Defense is committed to providing molecular diagnostics, communications, and transportation equipment for pathogens.
4. At the same time the requirements of Article IV also prescribe to send strains of dangerous pathogens to the laboratories located in the territory of the United States, if Ukraine receives a corresponding request. If the criterion of such requests will be such properties of microorganisms, as increased virulence, pathogenicity, antibiotic resistance, the wording in Article IV will create legal prerequisites for violation of the requirements of Article I of the Convention in terms of accumulation of dangerous pathogens with highly damaging properties in volumes that do not meet the preventive, peaceful or other protective purposes.
5. Article V stipulates that representatives of the U.S. military department or its contractors may participate in all activities related to the implementation of the agreement,



even if they go beyond the scope of the 1993 basic treaty between Ukraine and the United States regarding assistance to Ukraine in eliminating strategic nuclear weapons and preventing the proliferation of weapons of mass destruction.

6. According to Article VII, the results of work under the Agreement, as well as information on its implementation may have a limited and closed nature. At the same time, in accordance with Clause B of Article VII, when the US Department of Defense establishes such a restrictive label, the information must be withdrawn from public sources by the Government of Ukraine and free access to it is terminated. The requirement to minimize the number of specialists with access to this information is emphasized separately.

7. We believe that such non-transparency and deliberate classification of the research, which is potentially prohibited under the international agreements on non-proliferation of biological weapons, creates conditions for unhindered violation of the obligations under the BTWC.

8. The aforementioned agreements of August 29, 2005 and November 25, 1993 served as the basis for implementation of the Plan for Providing Technical Assistance to Certain Recipients of the Ministry of Defense of Ukraine, registered on August 8, 2018. This document was the basis for direct interaction in the biological sphere between the U.S. and Ukrainian defense agencies. It provides funding from the Defense Threat Reduction Agency (DTRA) for 30 facilities of the Ministry of Defense of Ukraine, located in 14 localities.

9. In accordance with the 1993 Agreement, the United States, their personnel, contractors and contractor personnel are exempt from the obligation to pay any taxes or similar charges levied in Ukraine in connection with activities under the said Agreement.

10. Thus, despite the fact that the underlying 2005 Agreement is between the U.S. Military Department and the Ukrainian Ministry of Health, the evidence we have cited confirms that the real beneficiary and ultimate recipient of funds is the laboratories of the Ukrainian Ministry of Defense.

11. According to the Technical Assistance Plan, it is the U.S. Department of Defense, in cooperation with Ukrainian public authorities, that is tasked with setting objectives for projects in Ukraine and determining lists of necessary equipment.

12. For its part, the Ministry of Defense of Ukraine is obliged to ensure timely access of representatives of the U.S. military department and its contractors to laboratories on Ukrainian territory in order to carry out work under the projects, as well as to provide access to these facilities for foreign scientists.

13. Extensive authority has been delegated to the U.S. DOD contractors. These include such well-known American companies as “Black & Veatch Special Projects Corp”, “Metabiota”, and “CH2M Hill”. Their activities in Ukraine also raise a number of questions in the context of BTWC requirements.

14. “Black & Veatch Special Projects Corp” has been working on behalf of the Pentagon since 2008 as part of projects to study potential biological weapons agents. These include the UP-1 project to study rickettsiae and tick-borne encephalitis virus in arthropods in northwestern Ukraine.

15. For the purpose of global control of the biological situation, during the UP-2 project the company implemented a system of remote monitoring of tularemia and anthrax incidence at Ukrainian bioobjects.

16. The presented materials testify to the company's participation in the UP-8 project aimed at studying the spread of the Crimean-Congo hemorrhagic fever virus and hantaviruses in Ukraine, as evidenced by the document signed by L.Lippenkot, the project manager.

17. It should be noted that the activities of “Black & Veatch” raised many questions even among the Ukrainian security services. Thus, back in 2015, the Kherson Department of the Security Service of Ukraine stated in its memo: “...We should mention the projects of the US Department of Defense Program (through the “Black & Veatch Special Projects Corp.”) aimed at establishing control over the functioning of Ukrainian microbiological laboratories

for researching pathogens of particularly dangerous infectious diseases, which can be used to create new types of biological weapons...".

18. Specialists of Kherson department of SSU also note that under conditions of broad rights and powers guaranteed by the new program the foreign side will study its own test systems, which will create potential threats to epidemiological and epizootic security both in individual regions and the country as a whole.

19. The memo concludes: "...subordination of the projects of the DTRA Program in Ukraine and the new Biological Engagement Program to the US Department of Defense - the military department of a foreign country - creates prerequisites for penetration into the regional microbiological laboratories of foreign specialists and their familiarization with domestic strategic developments. It also does not exclude the possibility of using the data obtained for accusing our country of involvement in the development of biological weapons on its territory...".

20. The document recommends to establish a special regime of monitoring of the company's activities by special services in order to ensure the stability of the biological protection of Ukraine.

21. "Metabiota" and "CH2M Hill" are also among the key contractors of the US military department in Ukraine. They are tasked with overseeing the programs, construction of bio-facilities and supplying equipment.

22. Previously, "Metabiota" was engaged by the Pentagon in modeling the epidemiological situation in the former Soviet Union. The participation of company representatives (M. Gutierri, D. Mustra) in the audit of UP and TAP projects in Ukraine is documented, which is confirmed by the schedule of control activities.

23. The submitted information confirms the direct participation of the contracting organizations of the American military department in the planning and implementation of projects in Ukraine that have signs of violations of the BTWC requirements. These documents testify to the failure of the US administration to take measures to prevent research and development aimed at the creation of biological weapons.

24. The information about the emergency destruction of documentary evidence of the implementation of threat reduction and biological activities programs in Ukraine deserves special attention of the BTWC member states. The seriousness of the situation was confirmed by remarks made by Under Secretary of State for Political Affairs, Victoria Nuland during a hearing of the Senate Foreign Affairs Committee on March 8 this year.

25. In particular, she reported the presence in Ukraine of bio-laboratories where biosecurity research had been conducted and expressed concern that these bio-laboratories and the materials they contain could be taken over by the Russian Armed Forces. Such reactions by U.S. officials may indicate that undercover research programs that do not correlate with BTWC obligations are being conducted in Ukraine.

26. The documents cited confirm the involvement of US government agencies, contracting organizations and officials in financing, organizing and supporting research and development in Ukraine, which were carried out in violation of the BTWC. This evidences the failure of the U.S. to take the necessary measures to prohibit and prevent the development, production and stockpiling of biological weapons within the framework of Article 4 of the Convention.

27. In view of the materials provided, we would like to receive separate explanations from the U.S. side on the following questions:

- What explains the necessity of centralization of collections and transfer of strains of dangerous pathogens isolated in the territory of Ukraine to the USA, as it is provided by Article IV of the said Agreement?
- What is the reason for making the results of works obtained within the framework of the threat reduction program implementation in Ukraine restricted and confidential, and does this requirement, regulated by the 2005 Agreement on Cooperation in the Field of Prevention of Spread of Pathogens,

Technologies and Knowledge That May Be Used for Development of Biological Weapons, allow ensuring the transparency regime in the context of the US and Ukrainian implementation of the BTWC requirements?
