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

5 August 2019

English Only

2019 Meeting
Geneva, 3-6 December 2019

Meeting of Experts on
Review of developments in the field
of science and technology related to the Convention
Geneva, 31 July and 2 August 2019
Items 4, 5 and 6 of the Agenda

Review of science and technology developments relevant to the Convention, including for the enhanced implementation of all articles of the Convention as well as the identification of potential benefits and risks of new science and technology developments relevant to the Convention, with a particular attention to positive implications

Biological risk assessment and management

Development of a voluntary model code of conduct for biological scientists and all relevant personnel, and biosecurity education, by drawing on the work already done on this issue in the context of the Convention, adaptable to national requirements

Cooperation and assistance, with a particular focus on strengthening cooperation and assistance under Article X

Submitted by the Bolivarian Republic of Venezuela on behalf of the Non-Aligned Movement and other States Parties to the Biological and Toxin Weapons Convention

I. Introduction

1. NAM and other States Parties to the BWC welcome that during the 2017 Meeting of States Parties to the Biological Weapons Convention (BWC) reached consensus on an intersessional programme from 2018 to 2020.

2. The purpose of the ISP is to discuss, and promote common understanding and effective action on those issues identified for inclusion in the intersessional programme. The work in the intersessional period will be guided by the aim of strengthening the implementation of all articles of the Convention in order to better respond to current challenges.

3. The Group of NAM and other States Parties to the BWC highlights that the Inter-sessional Period (ISP) is important in the absence of detailed treaty provisions for implementation. We believe that the ISP should aim at achieving progress in the implementation of all articles of the Convention in a balance, comprehensive and consensus based approach.

II. Agenda Item 5: Review of the report by the Implementation Support Unit (ISU) on the operation of the assistance and cooperation database established by the Seventh Review Conference and renewed by the Eighth Review Conference and consideration of its further operationalization, including measures to further strengthen the operation of the database, including in the light of BWC/MSP/2017/4

4. NAM and other States Parties to the BWC welcome the Eighth Review Conference's decision to renew a database system to facilitate requests for and offer of exchange of assistance and cooperation among States Parties, and it is highly expected that this database and its modality of work shall contribute to increased cooperation among States Parties.

5. NAM and other States Parties believe that the full, effective and non-discriminatory implementation of Article X is essential for the realization of the objective and purpose of the Convention and that there is a legal obligation under Article X to promote the fullest possible exchange of equipment, materials and scientific and technological information for the use of biological agents and toxins for peaceful purposes and not to hamper the economic and technological development of States Parties.

6. While taking note of the report of the ISU on the slight increase of submissions from States Parties to the database, NAM reiterates that the database was established to facilitate requests for and offers of exchange of assistance and cooperation among States Parties. In this regard, NAM encourages all States Parties to use this system and underlines that it shall not justify in any way delaying the full and effective implementation of Article X by States Parties. In this regard, NAM and other States Parties express its serious concern that despite undertakings made by States Parties in various Review Conferences for international cooperation, out of 48 requests for assistance, as noted in the background information BWC/MSP/2018/4/Amend.1 submitted by ISU to 2018 MSP, only two requests were met.

7. While welcoming the continued co-operation between developing countries, the NAM and other States Parties to the BWC believe that the developed countries bear special responsibility to promote international cooperation in the framework of Convention for the benefit of developing countries and refrain from imposing and/or maintaining any restrictions and/or limitations that are contrary to the Convention.

III. Agenda Item 6: Identification of challenges and obstacles to developing international cooperation, assistance and exchange in the biological sciences and technology, including equipment and material, for peaceful purposes to their full potential, and possible ways and means of overcoming these

8. The Group of NAM and other States Parties to the BWC attaches great importance to the issue of international cooperation as the first priority of the Group. We continue to believe that there is need for an effective mechanism to ensure the full, effective and non-discriminatory implementation of Article X. In this regard, the Group submitted at the Eighth Review Conference a Working Paper on the Institutional Mechanism for International Cooperation and Compliance for the full, effective and non-discriminatory implementation of Article X, contained in documents BWC/CONF.VIII/WP.23, BWC/MSP/2018/MX.1/ WP.5 and recently in document BWC/MSP/2019/MX.1/WP.3.

9. The enhancement of international cooperation for the use of biological agents for peaceful purposes is an essential part of compliance with the Convention and is crucial for the realization of the purpose and objective of the Convention.

10. NAM and other States Parties to the BWC strongly believe that due to the high importance of Article X as one of the main pillars of the BWC, deliberations on the status of Article X should regularly be on the agenda of intersessional meetings. They emphasize

that a State Party to the Convention should have the right to seek to redress and settle disputes with regard to the implementation of Article X through institutionalized measures if it is denied receiving equipment and materials for peaceful application of biology and biotechnology by another State Party.

11. The Group emphasizes the importance of overcoming sustained challenges and obstacles to international cooperation, assistance and exchange in the biological sciences and technology. In this regard, one of the main challenges for full, effective and non-discriminatory implementation of Article X is the existence of unjustified restrictions and /or limitations, including politically motivated ones imposed against States Parties inconsistent with the provisions of the Convention.

12. To this end, the challenges, obstacles and specific measures should be identified to ensure that national implementation of the Convention are taken in full conformity with the obligation under Article X.

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

14. It is crucial to note 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 and/or limitations among States Parties that would hinder the full, effective and non-discriminatory implementation of Article X.

15. There should be no hindrance to peaceful activities, such as vaccine development, which are important for developing countries for meeting their public health needs. There is need for equitable benefits from international cooperation in this area, keeping in mind the need for ensuring appropriate and affordable support for developing countries. We also are of the view that the developing countries need to meet their needs for cost-effective, affordable and quality assured medicines and vaccines including through provisions such as compulsory licensing or price controls.

Presentation of the NAM Working Paper BWC/MSP/2019/MX.1/WP.3 on the Institutional Mechanism for International Cooperation and Compliance under Article X

16. There is an urgent need for the removal of any such restrictions and/ or limitations. States Parties should work together to develop procedures, in particular adopting an Action Plan for full, effective, and non-discriminatory implementation of Article X which include procedures for the settlement of disputes arising from concerns about the implementation of Article X.

17. NAM and other States Parties to the BWC in their **Working Paper BWC/MSP/2019/ MX.1/WP.3** identifies inter alia the following specific tasks for the **Action Plan**:

(a) Identify and address the needs in terms of equipment, materials and scientific and technological information regarding the use of bacteriological agents and toxins for peaceful purposes;

(b) Identify and overcome the obstacles hampering the full, effective and non-discriminatory implementation of Article X of the Convention, including by addressing the denial cases of States Parties;

(c) Mobilize the necessary resources, including financial resources, in order to facilitate in line with the obligations under Article X of the Convention, the widest possible exchange of equipment, material and scientific and technological information regarding the use of biological and toxin for peaceful purposes, in particular from developed to developing States Parties;

(d) Facilitate the development of human resources in developing States Parties in the implementation of the Convention, taking into account the special situation faced by them;

(e) Coordinate cooperation with other relevant international and regional organizations for financial and technological support of activities for the use of biological agents and toxins for peaceful purposes.

18. NAM and other States Parties to the BWC therefore reiterate their firm position on the need for an effective mechanism to ensure the full, effective and non-discriminatory implementation of Article X that was outlined in their Working Paper submitted to the Eighth Review Conference, at the 2017 MSP, at the 2018 MXs and MSP and during this meeting.

Article X Compliance Mechanism

19. It is imperative that the tasks identified above, with the aim of reaching effective actions, would enable States Parties to agree on an effective institutional mechanism which would facilitate in full, effective and non- discriminatory implementation of Article X obligations.

20. In the context of the mechanism, the Group reaffirms the urgent need of an undertaking by all State Parties including inter alia:

(a) To never under any circumstances impose or maintain unilateral, bilateral or collective restrictions and/or limitations on trade of drugs, medicines, vaccines, diagnostics, biological agents, equipment and /or materials for peaceful purposes in particular for treatment of patients in developing countries.

(b) To establish a procedure to settle disputes if a State Party is restricted and/or denied by another State Party or a group of States Parties on drugs, medicines, vaccines, diagnostics and related equipment and materials for peaceful purposes as inconsistent with in Article X of the Convention, including considering the establishment of a standing body.

(c) To strengthen the operationalization of a cooperation database, which was established by the 7th Review Conference to ensure that specific, timely and concrete offers of cooperation under Article X are provided by States Parties in the database and to consider the ways to improve reporting on this issue, taking into account the current lack of effectiveness of the referred database.

(d) To provide necessary cooperation and assistance in the form of finances, equipment, reagents and training to developing countries to strengthen capabilities for detecting and responding to infectious diseases.

(e) To collect and disseminate information on S&T developments, including new research in areas relevant to the Convention and exchanging information about databases and networks relevant to the Convention.

(f) To ensure access to such databases and networks and training of personnel without any unjustified limitation are of utmost importance to the Group.

Institutional Mechanism for International Co-operation and Compliance with Article X

21. Nothing in the Convention shall prejudice the rights of States Parties to, individually or collectively, conduct research with, develop, produce, acquire, retain, transfer and use microbial and other biological agents and toxins for peaceful purposes. Each State Party shall:

(a) Not establish, maintain or take either individually or collectively any discriminatory measures, including those in any international agreements contrary to the obligations undertaken in the Convention, which would hamper the economic and technological development of States Parties to the Convention or international co-operation

in the field of peaceful bacteriological (biological) activities in accordance with the provisions of the Convention, including research in biology, microbiology, biotechnology and genetic engineering, and their industrial, agricultural, medical and pharmaceutical applications; and other related areas for peaceful purposes;

(b) Undertake to review periodically, and amend or adopt as necessary, national regulations governing international exchanges and transfers of microbial and other biological agents and toxins, and equipment, materials and scientific and technological information for the use of such agents and toxins in order to ensure their consistency with the objectives and relevant provisions of the Convention.

The Co-operation Committee

22. The Co-operation Committee (hereinafter referred to as "The Committee") established by the Review Conference of States Parties, shall be a forum for consultation aimed at promoting the effective, full and non-discriminatory implementation of Article X provisions of the Convention among the States Parties. To this end, the Committee shall consult on, monitor and review activities of international cooperation and assistance and the fullest possible exchanges of equipment, materials and scientific and technological information for the use of microbial and other biological agents, and toxins for peaceful purposes.

23. The Committee shall also work on the operationalization of offers and supplies proposed and/or requested by States Parties to serve as a channel to monitor this activity, taking into account the States Parties concerns over the mismatch of the proposed offers and requests, in particular for developing countries States Parties to the BWC.

24. The Committee could serve as institutional monitoring mechanism for Article X full, effective and non-discriminatory implementation. It could serve as forum for furtherance of confidence building and trust among States Parties. It would facilitate the conclusion of bilateral, regional and multilateral agreements, providing on a mutually advantageous, equal and non-discriminatory basis, the vehicle for coordination of national and regional programs that would promote the regular peaceful exchanges through transparency between developed and developing States Parties.

25. NAM underlines the importance of dialogue and consultation aimed at full implementation of Article X. There is need for evolving in the Committee mutually agreed procedures for addressing concerns related to risks associated with prohibited activities under the convention, in which, regulatory mechanisms could be agreed and undertaken by harmonizing both promotional and regulatory aspects for full, effective and non-discriminatory implementation of Article X which are vital to sustaining a successful Convention. In this regard, NAM stresses the need for establishing an effective mechanism among States Parties to address concerns and resolve disputes that may arise as to the full implementation of Article X on the basis of procedures to be agreed by States Parties at the Review Conference.

IV. Agenda Item 7: Development of guidelines and procedures for mobilizing resources, including financial resources on a voluntary basis to address gaps and needs

26. The Group recognizes the fundamental importance of enhancing international cooperation and assistance. States Parties should work together to mobilize resources to address needs for assistance and cooperation, in particular from developed to developing States Parties, and from international and regional organizations.

27. In light of rapid developments in the life sciences, there is a need to strengthen cooperation among States Parties in order to bridge the ever increasing gaps in the fields of biotechnology, genetic engineering, microbiology and other related areas between developed and developing countries. The submission of clear, specific, and timely national reports on implementation of Article X as agreed at the Seventh Review Conference and

also for effective utilization of the electronic database for international cooperation in the context of Article X of the Convention is essential.

V. Agenda Item 8: Facilitation of education, training, exchange and twinning programmes and other means of developing human resources in biological sciences and technology related to implementation of the Convention, particularly in developing countries

28. NAM and other States Parties to the BWC believe that exchanges in education and training are of fundamental importance for the development of human resources in the field of biological sciences. It is only through international cooperation in education and training that we will be able to bridge the gap between the capabilities of developing and developed countries. In this regard, NAM has already expressed its views in previous meetings on promotion of international cooperation in this field, which could contribute to full and effective implementation of Article X.

VI. Agenda Item 9: Promotion of capacity building, through international cooperation, in biosafety and biosecurity and for detecting, reporting and responding to outbreaks of infectious disease or biological weapons attacks, including in the areas of preparedness, response, and crisis management and mitigation

29. The Group underlines the importance of capacity-building through international cooperation in developing capabilities for detecting, reporting, and responding to the outbreaks of infectious disease or biological weapons attacks, including the areas of emergency preparedness, response, management, and mitigation. States Parties should work to build capacity and reduce inequalities between developed and developing countries in the life sciences and related technologies. We believe that all developed countries bear a special responsibility to promote international cooperation for capacity building to the benefit of developing countries in the framework of the Convention and should remove all restrictions and limitations that are contrary to the letter and spirit of the Convention.

30. The NAM and other States Parties to the BWC also attach importance to promoting South-South cooperation in the field of capacity building. NAM has already proposed measures to facilitate capacity building in our previous meetings which are still valid and relevant.

31. While we welcome the progress made at the Eighth Review Conference in taking a step in facilitating the implementation of Article X, a lot still remains to be done. In this regard, NAM and Other States Parties reaffirm their proposal for strengthening Article X implementation as outlined in their Working Paper submitted to the Review Conference, in particular, developing an action plan for full, effective and non-discriminatory implementation of Article X is crucial.

32. We value the discussions in this inter-sessional program on some of the tasks identified above. We hope that these discussions would enable us to move forward towards an effective mechanism which would result in full, effective and non-discriminatory implementation of Article X obligations.

33. NAM and Other States Parties to the BWC while noting that there is no agreed definition of biosafety and biosecurity in the Convention, emphasize the value of international cooperation in these two areas as well as in detecting, reporting and responding to outbreaks of infectious diseases whether naturally occurring or deliberate. Disease knows no borders and all international efforts must be made to enable States to strengthen their capacities for detecting, reporting and responding to outbreaks of infectious diseases. From a humanitarian point of view, it is essential that developing countries

receive full and timely cooperation and assistance in the form of medicines, vaccines, diagnostics and related equipment and materials for peaceful purposes as enshrined in Article X.

VII. Agenda Item 10: Collaboration with international organizations and networks related to combating infectious diseases at all levels, as well as regional and sub-regional cooperation to promote implementation of all articles of the Convention

34. NAM and other States Parties to the BWC believe that relevant international and regional organizations such as WHO and OIE play an important role in disease surveillance, prevention, detection and response and there is merit in coordination of cooperation with them in accordance with their respective mandates. However, the unique role of BWC, as a Convention which deals with security related issues, needs to be recognized and further efforts should be made for full and effective implementation of Article X within the Convention itself. Any measures identified within the framework of the Convention to mitigate biological risks should be implemented in a manner to ensure that legitimate peaceful activities including international cooperation would not hampered.

35. Finally, NAM and other States Parties to the Convention reiterate their position on measure for full, effective and non-discriminatory implementation of Article X which is outlined in the Working Papers contain in documents: BWC/MSP/2013/MX/WP.17, BWC/CONF.VIII/WP.23, BWC/MSP/2017/WP.12, BWC/MSP/2018/MX.1/WP.5, BWC/MSP/2018/MX.1/WP.12, and BWC/MSP/2019/MX.1/WP.3 which includes interalia Cooperation amongst States Parties to promote capacity building in the life sciences and to facilitate the exchange of equipment, materials and scientific and technological information regarding the peaceful use of biological agents and toxins; and need of an undertaking by all State Parties that they never in any circumstances impose or maintain unilateral, bilateral or collective restrictions and/or limitations on trade of drugs, medicines, vaccines, diagnostics, biological agents, equipment or materials for peaceful purposes in particular for treatment of patients in developing countries. The Group also stresses the need for establishing procedures to settle disputes if a State Party is restricted and/or denied by another State Party or a group of States Parties on drugs, medicines, vaccines, diagnostics and related equipment and materials for peaceful purposes as enshrined in the Article X of the Convention, including by considering a standing body.

36. We further reaffirm that Article X of the Convention is a main pillar of this international legal instrument and its full, effective and non -discriminatory implementation, including bearing in mind the humanitarian needs of the developing countries to treat patients in any circumstances, and would further strengthen the Convention.

37. In this connection, the States Parties should agree on addressing the following measures:

(a) to review national laws and regulations to ensure that they are in full conformity with the obligations undertaken under Article X,

(b) to identify specific measures to ensure national implementation of the Convention are taken in full conformity Article X of the Convention,

(c) to identify obstacles and challenges related to the national implementation that hamper the fullest possible exchange of equipment, material and technology for peaceful purposes,

(d) 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.