

AD HOC GROUP 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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on Article VI of the Rolling Text

ARTICLE VI.

SCIENTIFIC AND TECHNOLOGICAL EXCHANGE FOR
PEACEFUL PURPOSES AND TECHNICAL COOPERATION

[SCOPE] [GENERAL PROVISIONS]

[The objective of this Protocol, to be pursued in accordance with its relevant provisions, is to strengthen the BTWC, and to ensure compliance with all the provisions of the Convention, through appropriate measures, including measures for [effective verification of compliance,] [effective implementation of the Convention] and to provide a forum for consultation and cooperation, in matters to promote the peaceful uses, scientific and technological exchanges and transfers relating to the Convention, among the States Parties to the Protocol].]

[Each State Party to the Protocol undertakes:]

1. [The States Parties to the Protocol undertake] to facilitate [subject to the protection of commercial proprietary information and national security information],[taking into consideration international law relating to the protection of commercial and proprietary information] and have the right to participate in, the fullest possible exchange of equipment, materials and scientific and technological information for the use of biological agents and toxins for peaceful purposes and

¹The question of whether there should be a section on scope in this Article and the location of this section with its current language need further consideration. Determination will have to be made as to whether to use the expression "States Parties to the Protocol" or "States Parties to the Convention", in light of the legal implications involved, wherever these expressions appear throughout this section.

The point was made that the protection of commercial proprietary information and national security information might be dealt with in separate Articles of general applicability, in which case reference to those issues in various individual Articles could be reconsidered.

for the further development and application of scientific discoveries in the field of bacteriology (biology) for prevention of disease, or for other peaceful purposes. To that end, the States Parties shall cooperate, as appropriate, on a global, regional, or bilateral basis, directly or through the institutional mechanisms provided for under this Protocol, in order to [comply] [enhance compliance] with the provisions of Article X of the BTWC.

2. [The States Parties to the Protocol undertake] to fulfil all their obligations under [Article X of the Convention and its] the Protocol in a manner designed to avoid hampering the economic and technological development of States Parties to the Protocol, in particular of developing countries which are States Parties, and to foster international cooperation in the field of peaceful bacteriological (biological) activities, including the exchange of bacteriological (biological) agents and toxins for peaceful purposes in accordance with the provisions of the Convention.
3. [The economic and social development of all States Parties include the requirement for multilaterally negotiated, universal, comprehensive and non-discriminatory sensitive technology transfer agreements.]

MEASURES TO PROMOTE SCIENTIFIC AND TECHNOLOGICAL EXCHANGES

[Each State Party to the Protocol undertakes to:]

4. [The States Parties to the Protocol undertake to] implement specific measures in order to ensure that:
 - (a) the provisions of Article X of the BTWC on the peaceful [use of transfers] [exchange] of materials, equipment and technology for peaceful purposes are [more] [fully and] effectively implemented;
 - (b) transfers of materials, equipment and technology of concern [shall] [should] [only] take place in full compliance with [all] the provisions of [Article III and] [Article X] of the BTWC [and subject to the protection of commercial and proprietary information and of national security information] [taking into consideration the international law relating to the protection of commercial and proprietary

information].

5. [States Parties undertake to report periodically, through the institutional mechanisms provided for under this Protocol, on the specific measures they have taken to comply with the provisions of Article X of the Convention, with the aim of increasing and widening such exchanges and transfers [of bacteriological (biological)-related materials, equipment and technologies for peaceful purposes], for the benefit of all States Parties to the Protocol, and in particular the developing countries which are States Parties.]
6. [The States Parties to the Protocol] [undertake] [are encouraged to], in addition to their mandatory obligations under the Protocol on the declaration of information relevant to the Convention, [to participate in a wider exchange of information] [to report, subject to the protection of commercial and proprietary information] on all aspects concerning the peaceful use of the biosciences, biotechnology and genetic engineering.
7. [The States Parties to this Protocol] [are encouraged to] [undertake], [subject to the protection of commercial proprietary rights and national security information], to promote the publication, exchange and dissemination of information concerning current research programmes in the biosciences, and on research centres, and other scientific and technological developments and activities of relevance to the BTWC.
8. [The States Parties to the Protocol] [are encouraged to] [undertake] to cooperate, individually or together with other States and international organizations, to the further development of programmes and measures in the field of bacteriology (biology) for purposes of public health and the prevention or control of disease, and other peaceful purposes.[The States Parties shall, to the extent possible, coordinate national, regional and multilateral activities and programmes in the relevant fields using existing mechanisms and structures and including, where appropriate, the institutional mechanisms provided for under this Protocol].

The extent of information provided under these obligations will need further elaboration.

9. [Taking full account of existing agreements and competences of the relevant international organizations and bearing in mind the need to avoid duplicating existing activities mechanisms and programmes] the States Parties to the Protocol shall promote and implement cooperative measures, directly or through the institutional mechanisms provided for under this Protocol, *inter alia*, in the following fields:

- [(a) encouraging [the dissemination of results] [cooperation] in the fields of biological research, [frontier science] and high technology in areas directly relevant to the objectives of the BTWC;
- (b) promoting the establishment and assisting the activities of [national centres and] research institutes for the examination of biological agents and toxins, and disseminating knowledge about examination and identification techniques, laboratory safety and other research projects in the biosciences;
- (c) supporting the establishment, operation and updating of biological data bases, in the collection and dissemination of information relevant to the BTWC;
- (d) promoting cooperation among States Parties in [surveillance] diagnosis, prevention and control of outbreaks of diseases, including exploring means to improve international cooperation on the development and production of vaccines;
- [(e) assisting in the establishment of and participating in the functioning of an international system for the global monitoring of emerging diseases in humans, animals and plants;]
- (f) promoting transfer of technology for peaceful use of genetic engineering and other scientific and technical developments [in the field of frontier science] and high technology relevant to the Convention;
- [(g) promoting programmes for the development of human resources in the biological field, including training expert personnel in bio-defence activities;]

- [(h) making available on request, subject to relevant IPR protection and protection of national security information, and under fair and equitable commercial terms, instruments, equipment and technologies in the field of bio-defence activities;
- [(i) promoting collaborative research and development projects and joint ventures in bio defence activities, particularly related to recombinant vaccine development and diagnostics systems.]]
10. [[The States Parties to the Protocol undertake,] immediately after the entry into force of the Protocol, to consider ways and means to strengthen the States Parties' biological defence capabilities, including by the elaboration of guiding principles and possible scope of measures for States Parties to cooperate in useful exchanges intended to provide a sufficient degree of transparency and contribute to the effective functioning of the compliance regime established by this Protocol.]
11. [The States Parties to the Protocol undertake] to provide or support assistance, through appropriate measures, including a voluntary fund, to any State Party to this Protocol which has been exposed to [danger] [the use or threat of use of biological and toxin weapons] as a result of a violation of the BTWC or of the provisions of this Protocol. [Pending consideration of a decision by] [a politically representative body] [the BTWCO] [the Security Council in conformity with Article VII of the Convention], timely emergency assistance could be provided by States Parties if requested, including
- assistance provided through the above-mentioned voluntary fund and in coordination with competent international organizations such as the WHO.
12. [The States Parties to the Protocol] [shall endeavour] [are encouraged] to conclude bilateral, regional and multilateral agreements on a [mutually advantageous], equal and non-discriminatory basis, for their participation in the development and application of biotechnology and the development and application of scientific discoveries in the field of bacteriology (biology) for the prevention of diseases.

13. [The States Parties shall [promote cooperation with other States Parties to the Protocol] [cooperate] [with the developing countries] for the establishment [and the development of the activities] of research institutes to carry out common projects for development of bacteriology (biology), biotechnology and vaccine production.]
14. [The States Parties to the Protocol shall cooperate to ensure that, based on equal rights and obligations, and a mutuality of interests, appropriate measures designed to promote transparency and compliance with the objectives of the BTWC, also provide incentives and benefits for all States Parties to the Protocol.]

MEASURES TO AVOID HAMPERING THE ECONOMIC AND TECHNOLOGICAL DEVELOPMENT OF STATES PARTIES

15. [The States Parties to the Protocol shall not use the provisions [of the Convention or] of this Protocol to impose restrictions and/or limitations on transfers consistent with the objectives and provisions of the Convention on scientific knowledge, technology, equipment and materials.]

[The States Parties shall only establish among themselves guidelines to regulate the free flow of equipment, materials and scientific and technological information in the biological field as provided under Part of this Protocol.]

[The States Parties shall only maintain among themselves restrictions of the free flow of equipment, materials, and scientific and technological information in the biological field that are consistent with the BTWC and subject to [the relevant] [all] [specific] provisions of this Protocol.]

16. [The States Parties to this Protocol shall continuously review, in the light of the implementation of the objectives of the BTWC and the provisions of this Protocol, the measures that they take to prevent the spread of bacteriological (biological) agents and toxins, and equipment for purposes contrary to the Convention, with the aim of removing any restrictions incompatible with the obligations undertaken under the Convention.]

17. [The States Parties to this Protocol undertake not to impose or maintain any discriminatory measure, [incompatible with the obligations undertaken under the Convention,] which would restrict or impede trade and the development and promotion of scientific and technological knowledge, in particular in the fields of biological research, including microbiological, biotechnology, genetic engineering, and their industrial, agricultural, medical, pharmaceutical, public health applications, and other peaceful uses.]

18. [The States Parties to this Convention shall:
 - (a) have the right, individually or collectively, to conduct research with, to develop, produce, acquire, retain, transfer and use biological agents and toxins for peaceful purposes;
 - (b) undertake to facilitate, and have the right to participate in the fullest possible exchange of equipment, materials and scientific and technological information for the use of bacteriological (biological) agents and toxins for peaceful purposes;
 - (c) not maintain among themselves any restrictions, including those in any international agreements, which would restrict or impede trade and development and promotion of scientific and technological knowledge in the field of biology, genetic engineering, microbiology and other related areas for peaceful purposes;
 - (d) not use this convention as grounds for applying any measures other than those provided or permitted, under this Convention nor use any other international agreement for pursuing an objective inconsistent with this Convention;
 - (e) undertake to review their existing national trade regulations in the field of biology, genetic engineering, microbiology and other related areas for peaceful purposes in order to render them consistent with the object and purpose of this Convention.]

19. [The States Parties shall report periodically through the institutional mechanisms, provided for in this Protocol, on specific measures they have taken in order to comply with the provisions of Article X of the Convention. These reports shall be examined by those institutional mechanisms with the aim of making recommendations to States Parties for the effective implementation of Article X of the Convention.]

[INSTITUTIONAL MECHANISMS AND] INTERNATIONAL COOPERATION

- [20. The BTWC Organization shall develop a framework for activities aimed at providing assistance to the States Parties [to the Protocol], and in particular to the developing countries being States Parties [to the Protocol]. Taking full account of existing agreements and competences of the relevant international organizations, and bearing in mind the need to avoid duplicating existing activities and mechanisms, [the following should, *inter alia*, be considered by the States Parties directly or through a future institutional mechanism] [the BTWCO shall ensure, through its own institutional framework [or directly by States Parties,] provision of the following]:

- (a) assistance to States Parties, if requested, for the preparation of declarations required [under this Protocol] [as part of the compliance regime];
- (b) assistance to States Parties, if requested, in drawing up internal legislation necessary [under this Protocol] [to the compliance regime];
- (c) [promotion and financing of the establishment of vaccine production facilities, particularly in developing countries [which are States Parties to the Protocol]];
- (d) [inclusion of a cooperative dimension in (non-challenge/other on-site measures) visits to States Parties, with a view to:]

Reference to the "BTWC Organization" does not prejudice its eventual existence, structure or functions.

Given that the question of a possible cooperative role for

- i. exchanging information and providing expert advice, assistance and appropriate recommendations on biological practices;
 - ii. sharing information concerning cooperative programmes in biosafety, identification of agents, diagnostics and the development of innovative vaccines, aimed at being low-cost products, safe and usable under difficult conditions;
- [(e) establish an international information exchange network using modern communication media which facilitates the possibility of continuous participation by national experts of the States Parties in the Organization's activities;]
- (f) convening national or regional seminars with a view to optimizing cooperation and developing a long-term programme of exchanges on scientific developments, [including the bio-defence activities for peaceful purposes,] internships [and other (non-challenge) visits];
- (g) creating [a framework for donor countries], [including a [voluntary fund]] [to support an international system for the global monitoring of emerging diseases in humans, animals and plants, and] additional assistance for training of expert personnel and for the financing of scientific and technical cooperation and assistance projects.
21. [The BTWCO shall establish a cooperative relationship, maintain working ties and when necessary negotiate agreements and develop joint programmes with relevant organizations, including [OPCW] WHO, FAO, IOE, UNIDO, ICGEB, UNEP and other agencies engaged in the implementation of Agenda 21 and the Convention on Biological Diversity (CDB) in order to:]
- (a) [derive the greatest possible synergy in such fields

visits is also being considered under compliance measures, the issue needs further consideration.
This paragraph could be moved to a section on general powers and functions of the organization.

as] [ensure that there is no duplication in such fields as]:

- i. the collection and dissemination of information on listed pathogens;
- ii. sharing information on environmental release of genetically modified organisms;
- iii. good manufacturing practices (GMP), [safe laboratory procedures] [good laboratory practice (GLP)], biological containment and other biosafety regulations and practices;
- iv. [the elaboration of [a comprehensive data resource] [adequate communication software] to facilitate access to existing databanks (e.g. BINAS - Global Bioinformatics Network, jointly developed by UNIDO and ICGB, ICGBNET - International Centre for Genetic Engineering

and Biotechnology Network, etc.) and various tools of electronic communication (NEED - Network for Exchange of Epidemiological Data).

- (b) Maintain a record of cooperative activities promoted by international organizations in areas considered relevant to the BTWC, to provide awareness and facilitate access to those activities by States Parties to the Protocol, and coordinate with those organizations its own promotional activities, avoiding duplication and rationalising the use of the resources.
- (c) Support a framework for multilateral cooperation, including exchange of information among scientists and technologists from States Parties to the Protocol, with the aim to:
 - i. utilize the scientific and technological capabilities, experience and know-how of States Parties to the Protocol;
 - ii. facilitate regulatory harmonization by allowing cross-correlation of existing national regulations and administrative procedures;

- iii. assist developing countries which are States Parties to the Protocol in strengthening their scientific and technological capabilities in the biosciences, genetic engineering and biotechnology.
22. [The BTWCO, in its analysis of information provided to it by relevant international organizations should be required to make assessment and recommendations as to how the objectives of Article X of the BTWC might be fostered by actions taken by those organizations directly or in cooperation with the BTWCO.] [The organization, based upon its consultations with other relevant international organizations, shall make recommendations as to how the objectives of Article X of the BTWC might be furthered through the activities of those organizations for the benefit of States Parties to the Protocol.]
23. [In order to perform its duties, the future Organization shall be accorded the necessary personnel and resources.]]

[SAFEGUARDS AND LIMITATIONS

24. The States Parties to the Protocol [are encouraged][shall], to the extent possible and in line with the provisions of the Convention, [to] promote transparency and openness in their research activities.
25. In adopting cooperative and transparency measures within the context of Article X, the States Parties to the Protocol should duly [take into account national security information and intellectual property rights (IPRs)] [taking into consideration the international law relating to the protection of commercial and proprietary information] as well as their commercial implications.

There were proposals to the effect of deleting this section or moving it to another part of the Protocol that might deal with BWC Article III matters. However, it was also pointed out that this section had no relevance with regard to Article III provisions of the BWC.

26. [The States Parties to the Protocol [should][shall] take all practicable measures to prevent [that] the [misuse] [application] of scientific and technological research in areas associated with the Convention [designed to produce] [may benefit or induce] [the production of] [any kind of qualitative improvement in the field of] biological and toxin weapons.]
27. The States Parties to the Protocol, aware of the vast knowledge arising from new discoveries, *inter alia*, in microbiology, genetic engineering and biotechnology, [should] [shall] take all practicable safety precautions, including the bioethical dimension in those precautions, to protect populations and the environment in relation to activities not prohibited by the Convention.
28. [The States Parties to this Protocol] [shall comply with safety and immunization measures, and with legislative and administrative measures established by other States] [undertake to comply as fully as possible with the safety regulations of the international agencies (WHO, FAO, IOE) for the security and physical protection of research centres, laboratories and facilities intended to be used for scientific and technical exchanges.]]
