

**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**

BWC/AD HOC GROUP/WP.305  
14 September 1998

Original: ENGLISH

Twelfth session  
Geneva, 14 September - 9 October 1998

**Working paper submitted by the Friend of the Chair for Compliance Measures**

*This paper proposes the rationalisation of the current text on Consultation, Clarification and Co-operation. It is offered by the Friend of the Chair on a personal basis, without prejudice to the positions of delegations.*

**E. CONSULTATION, CLARIFICATION AND COOPERATION<sup>1</sup>**

~~[1. Each State Party shall also have the right to request visits in accordance with ....]~~

~~[[2-1. States Parties shall, without prejudice to their rights and obligations under Article V of the Convention, consult and cooperate, directly among themselves, or through [the Organization] or other appropriate international procedures, including within the framework of the United Nations and in accordance with its Charter, on any matter which may be raised relating to the object and purpose, or the implementation of the provisions of this Protocol [and/or the Convention].] and~~

~~3. [Without prejudice to the right of any State Party to request an investigation,] States Parties [should] [shall] [-, whenever possible,] [-, as a rule,] first make every effort to clarify and resolve among themselves or with or through [the Organization], any matter which may cause concern about possible non-compliance with the obligations of this Protocol or the Convention or gives rise to a concern about [a related matter which may be considered ambiguous] [the implementation of the provisions of this Protocol]. **For these purposes, States Parties [may, without prejudice to their right to request] [shall, prior to the submission of any request for] an investigation [or a visit] in accordance with Section F of this Article, follow, inter alia, one or more of the following procedures:**~~

~~(a) arrange by mutual consent for investigations, visits or any other procedures among themselves~~

~~(b) submit a written request for clarification directly to another State Party. 4.A The requested State Party that receives a request pursuant to paragraph 3 directly from another State Party shall provide the clarification to the requesting State Party as soon as possible, but in any case not later than [10 days] after receipt of the request. The requesting and requested States Parties may keep the [[Executive] [Consultative] Council] [politically representative body] and Director-General informed of the request and the response;~~

~~(c) submit a written request for clarification concerning another State Party to the Director-General. The Director-General shall immediately forward the request to the State Party concerned. The requested State Party shall provide the clarification to the Director-General as soon as possible, but in any case not later than 10 days after receipt of the request. The Director-General shall immediately forward the clarification to the requesting State Party. The Director-General shall keep the [Executive]~~

<sup>1</sup>. A view was expressed that this section E could be considered for inclusion in section F, subsection III on Investigations, part C.

**[Consultative] Council informed of the request and the response<sup>2</sup>**

[5. ——— Nothing in this Protocol shall affect the right of any two or more States Parties to arrange by mutual consent for investigations, visits or any other procedures among themselves to clarify and resolve any matter which may cause concern about possible non-compliance with the obligations of this Protocol or the Convention or gives rise to a concern about [a related matter which may be considered ambiguous] [the implementation of the provisions of this Protocol]. [Such arrangements shall not affect the rights and obligations of any State Party under other provisions of this Protocol.]]

[6. ——— Any State Party shall have the right to request the [Director-General] [the Organization] to [assist in seeking] [seek] clarification from any State Party of any [ambiguity, uncertainty, anomaly or omission] [technical matter] relating to its declaration obligations under this Protocol [, or on any other related matter which may be considered ambiguous].]

[7. ——— The [Technical] Secretariat [shall] [may] [have the right to seek clarification from] [consult with] any State Party of [matters of a purely technical nature] [any [ambiguity, uncertainty, anomaly or omission] [technical matter]] relating to its declaration obligations under this Protocol [, or on any other related matter which may be considered ambiguous].]<sup>2</sup>

8. ——— A State Party shall have the right to request in writing **(d) submit a written request for clarification concerning another State Party, together with information upon which the request is made, to** [the [Executive] [Consultative] Council] to obtain clarification from another State Party on any situation which may be considered ambiguous or which gives rise to a concern about its possible non-compliance with the obligations of the Convention [or Protocol]. [The requesting State Party shall provide [the [Executive] [Consultative] Council] with information upon which its request is made.] In such cases, the following shall apply:  
The [[Executive] [Consultative] Council] [Organization] **which** shall forward the request for clarification to the requested State Party through the Director-General no later than 24 hours after its receipt. **(b)** The requested A State Party shall provide the **clarification response** [to the [Executive] [Consultative] Council] [through the Organization] as soon as possible, but in any case no later than [[48] [96] hours] [10 days] after receipt of the request. **(e)** [The [Executive] [Consultative] Council] shall take note of the **clarification response** and forward it to the requesting State Party no later than 24 hours after its receipt.

(d) ——— If the requesting State Party deems the clarification to be inadequate, it shall have the right to request [the [Executive] [Consultative] Council] to obtain further clarification from the requested State Party, providing reasons that the clarification is deemed to be inadequate. The requested State Party may offer a possible [voluntary] visit by [the Organization] [to the site as a means of resolving the concern]. [The requesting State Party may request [the Organization] to conduct a visit to the site as a means of resolving the concern [, with the explicit consent of the requested State Party].]

9. [The [Executive] [Consultative] Council] shall inform without delay all other States Parties about any such request for clarification and the basis for this request pursuant to paragraph 8 as well as the response provided by the requested State Party.

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<sup>2</sup>. A view was expressed that issues dealt with in this paragraph should be dealt with in Article IX relating to Organization issues, in the section on the functions of the [Technical] Secretariat [Technical Body].

(e) other appropriate international procedures, including within the framework of the United Nations and in accordance with its Charter.

~~10.2.~~ For the purposes of obtaining further clarification requested under paragraph 8 ~~(d)~~,

**1 (d)**, {the [Executive] [Consultative] Council} may call on the Director-General to [consult the Scientific Advisory Board and] establish [on the basis of equitable geographical distribution [if possible]] a group of experts from the [Technical] [Secretariat] **[Body]** [, or if appropriate staff are not available in the [Technical] [Secretariat] **[Body]** from the list of [ad hoc] [part time] experts nominated for designation by States Parties in accordance with procedures as set out in Annex ... and approved in advance<sup>3</sup>], **to examine all available information and data relevant to the situation causing concern. The group of experts shall submit a factual report to {the [Executive] [Consultative] Council} on its findings.**

~~11.3.~~ If {the requesting} {a} State Party considers the clarification obtained pursuant to paragraphs ~~{5, 6 {, 7} or 8}~~ **1** to be unsatisfactory ~~[-, without prejudice to its right to request an investigation], or if it has not received the clarification within the times specified in paragraph 1,~~ it shall have the right to request:

(a) **{the [Executive] [Consultative] Council} to obtain further clarification from the requested State Party, providing reasons that- why the clarification is deemed to be inadequate, and/or;**

(b) in writing a special {session} ~~{meeting}~~ of {the [Executive] [Consultative] Council} in which States Parties involved that are not members of {the [Executive] [Consultative] Council} shall be entitled to take part. In such a special {session} ~~{meeting}~~, {the [Executive] [Consultative] Council} shall consider the matter and may recommend ~~{to all States Parties involved}~~ any measure it deems appropriate to resolve the situation [in accordance with Articles ...].

~~12. If the doubt or concern of a State Party about possible non-compliance has not been resolved within {21} {60} days after the submission of the request for clarification to {the [Executive] [Consultative] Council}, or it believes its doubts warrant urgent consideration, notwithstanding its right to request an investigation, it may~~

(c) **in writing** a special session of the Conference of States Parties in accordance with Article IX, paragraph 13 (c). At such a special session, the Conference shall consider the matter and may recommend any measure it deems appropriate to resolve the situation **[in accordance with Articles ...]**.

~~13. 4.~~ A State Party **from which a clarification is sought** shall also have the right to **pursue, inter alia, one or more of the following procedures:**

(a) **to request {the [Executive] [Consultative] Council} to examine any situation which may have been considered ambiguous, or has given rise to a concern about its possible non-compliance with either this Protocol or the Convention. {The [Executive] [Consultative] Council} shall consider the request and provide assistance as appropriate.}}**

(b) **to request [the BTWC Organization] to conduct a Voluntary Consultation Visit in order to resolve the matter in accordance with the procedures set out in Annex....**

**5. Other States Parties, [the BTWC Organization] or relevant international organizations such as the WHO, FAO or OIE, may undertake to assist, on a voluntary basis and to the extent that they may be capable and/or are requested by the States Parties concerned ~~{or by the BTWC Organization}~~, in clarifying or resolving matters related to a concern about non-compliance which has been raised as a matter for consultation, clarification and co-operation.**

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<sup>3</sup>. A view was expressed that this approval should be given by an appropriate body, e.g. the Executive Council.