

**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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Working paper submitted by Sweden

**PROPOSED LANGUAGE FOR ARTICLE III, SECTION F -
VISITS AND INVESTIGATIONS**

It is proposed to insert the following headings and paragraphs into section F (Visits and Investigations). Most of the language is either taken from the section on Procedures for visits or from Annex B. It is also proposed that those paragraphs under the heading "Procedures for visits" which after these proposed changes will be duplicated are deleted.

On pages 46-47 insert headings as follows (no changes are being proposed to paragraphs 2-7):

Purpose

Paragraphs 2-3.

Selection of facilities

Paragraphs 4-5.

Mandate

Paragraph 6.

Notification

Paragraph 7.

Insert the following headings and new language after paragraph 7, page 47 (corresponding paragraph from the section on procedures or from the Annex is indicated within parenthesis):

Designation of visiting team

8 (24). The Director-General shall, in accordance with Annex B, designate the Visit Team, limiting its number of inspectors to the minimum necessary to carry out the visit, and, in any case, no more than [4] [6] [from [the BTWC Organization]].

9 (2 annex). The Director-General shall identify members for appointment to the Visit Team according to the specific nature of the facility and the submitted declaration. Members of the Visit Team shall be drawn from the permanent staff of the Technical [Secretariat] [Body]. No national [or resident] of ~~the requesting State Party or~~ the State Party to be visited shall be a member of the Visit Team.

Duration

10 (38, 5 annex). The duration of the visit shall be no more than [2] days unless extended by agreement between [of] the Visit Team and the visited facility. **This time excludes the time for inspection of approved equipment, the initial briefing and the time to prepare the initial Visit Plan.**

Equipment

11 (25). ~~For [Random] Visits,~~ The Visit Team shall only bring approved equipment, according to Annex/Appendix ... on to the facility. ~~[Approved equipment shall be brought on to the facility only with the agreement of the Visited State Party.]~~

12 (26). Equipment, additional to the approved equipment according to Annex/Appendix ..., shall only be brought on to the facility with the agreement of the Visited State Party.

Activities to be conducted

13 (27). Upon arrival at the facility to be visited, and before the commencement of the visit, the Visit Team shall be briefed by the facility representatives and the representatives of the Visited State Party on the facility and the activities carried out there, according to Annex B.

14 (7 annex). The briefing shall not exceed 3 hours and shall include the scope and a general description of activities of the facility, details of the physical layout and other relevant characteristics of the site, including a map or sketch showing all structures and significant geographic features. It shall include information concerning the safety regulations in force, including rules of observation and quarantine. It may also include an indication of areas the visited State Party considers sensitive.

15 (8 annex). The briefing shall also include information on any relevant changes in activities or equipment at the facility since the submission of the most recent declaration.

16 (28). After the briefing the Visit Team, ~~the facility representatives and the representatives of the Visited State Party~~ shall prepare an initial Visit Plan in accordance with Annex B. **The Visit Plan shall be agreed by the facility representatives and the representatives of the Visited State Party.**

17 (9 annex). The Visit Plan shall specify the activities to be carried out by the team, including the specific areas of the facility. The Visit Plan may be changed during the course of the visit.

18 (30). Representatives of the Visited State Party and of the facility shall accompany the Visit Team throughout the duration of the visit to the facility. **The Visited State Party shall cooperate with the Visit Team in the achievement of the objectives of the mandate.**¹

19 (33). The principal on-site measures shall be interviewing, visual observation, identification of key equipment and auditing as appropriate.

20 (15 annex). The Visit Team shall have the right to interview any relevant personnel in the presence of the representatives of the visited State Party, with the purpose of establishing relevant facts. These representatives of the visited State Party may include a legal adviser and a senior member of the facility staff. The team shall only request information and data which are necessary for the fulfilment of the visit mandate, focusing on questions related to the obligations of this Protocol.

21 (17 annex). The Visit Team shall have the right to observe visually any part of the visited facility relevant to its mandate.

22 (19 annex). The Visit Team shall have the right to identify equipment at the visited facility.

23 (20 annex). The Visit Team may also note the size and quantity of equipment at the facility, or the absence of any equipment, and compare this with information provided in the facility declarations.

24 (21 annex). The Visit Team shall have the right to examine documentation and records they deem relevant to the conduct of their mission.

25 (18 annex). If ~~direct visual observation~~ is **any of the principal on-site measures** are not possible because of national security, commercial proprietary or health and safety considerations, the visited State Party shall provide other means to demonstrate that the submitted declarations are in compliance with the obligations of this Protocol. These may include, for example, the use of a video camera, photographs or drawings.

1. Language taken from paragraph 31.

26 (35). The Visit Team shall have the right to ask questions about [other] parts of the facility and ~~its~~ the activities conducted therein where [these are] relevant to [improving its understanding of] the facility declaration ~~[and] or the specific issues of interest under clarification~~. The Visit Team shall also have the right to request access to other parts of the facility. Access shall be by agreement of the facility.

27 (43). In the case, that during a visit ambiguities or any other related questions are identified in the declarations, the aim shall be that these should be solved by the visited facility and the Visited State Party with adequate assistance, if necessary, by the Visit Team.

[28 (37). During the conduct of the visit, as appropriate and at the request of the facility representatives, the Visit Team may give technical assistance in such areas as the fulfilment of declaration obligations, biosafety standards, and good laboratory or manufacturing practices.]

Access

29 (32). The Visit Team shall be granted access subject to the need to protect sensitive information. [Access by the Visit Team shall be negotiated and agreed upon by the Visit Team and the Visited State Party.] The Visited State Party [shall have the right to negotiate the access requested by the Visit Team] [may apply managed access techniques, ~~as illustrated, *inter alia*, in Annex B,~~ where necessary] to protect sensitive information. The rights and obligations of the Visit Team and of the Visited State Party shall be as contained in this Protocol and the Annexes.

30 (26 annex). The visited State Party shall have the right, in accordance with the obligation to demonstrate compliance and the right, if necessary, to protect sensitive information as set out in ..., to take specific measures which may include the following:

- (a) Removal of sensitive papers from direct view;
- (b) Shrouding of sensitive displays, stores, and equipment;
- (c) Shrouding sensitive pieces of equipment, such as computer or electronic systems;
- (d) Logging off of computer systems and turning off data indicating devices;
- (e) Using random selective access techniques whereby the team is requested to select a given percentage or number of buildings of their choice to investigate; the same principle can apply to the interior and content of sensitive buildings or documents;
- (f) In exceptional cases, limiting the number of team members who have access to certain parts of a facility; and limiting the viewing angle; the reasons for such limitations

shall be stated;

(g) Limiting the time team members may spend in any area or building, while allowing the team to fulfil its mandate; and limiting the viewing angle; the reasons for such limitations shall be stated;

(h) The visited State Party may at any time during the visit identify products and processes in which it has a proprietary interest in order to help the team respect the visited State Party's right to safeguard proprietary information. It may request that if a specific piece of information is released to the team, it should be accorded the most stringent protection measures by the Organization.

31 (34). Sampling shall only be conducted if offered by the facility and deemed useful by the Visit Team. [Any] mutually agreed sampling and analysis [shall] may be performed by facility personnel, but in the presence of the Visit Team.

32 (36). The Visit Team shall collect only that information necessary to carry out its mandate.

33 (9 annex). The Visit Team shall not divide into more than two subgroups, unless otherwise agreed by the visited State Party.

Report

34 (39). At the end of the visit, the Visit Team shall prepare its draft report in accordance with Annex B. The draft report shall be considered confidential.

[35 (40). The draft report shall summarize the general activities undertaken during the visit and the factual findings of the Visit Team.]

[36 (41). The [draft] report may make recommendations if requested and in cooperation with the facility representatives, in such areas as the fulfilment of declaration obligations, biosafety standards, and good laboratory or manufacturing practices.]

37 (42). The draft report shall immediately be submitted to the Visited State Party. The Visited State Party may make written comments which shall be [annexed to] [included, as appropriate, in] the report. [The report shall then be submitted to the Director-General, who shall circulate it, including findings relevant to the issue(s) raised under the clarification and consultation procedures, to all States Parties.]

38 (45). The Visit Team shall then submit the final report, which is confidential, to the Director-General. The final report should include a summary, stating the general activities undertaken by the Visit Team and its factual findings related to the declaration obligations of

~~the Protocol or to the issue(s) raised under the clarification and consultation procedures.~~ [The Director-General] shall circulate the summary to all States Parties.

Outstanding questions regarding the declaration

39 (46). In cases where declarations remain inaccurate or incomplete, or where ambiguities remain, the Director-General shall inform the [Executive] [Consultative] [Council] [the politically representative body] which shall consider what, if any, further action is required.]]
