

**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 China, Cuba, India, Indonesia,
the Islamic Republic of Iran, Mexico and Pakistan**

The following text is to be placed under Article III, (F)

Settlement of disputes arising as a result of denial of transfers

12. If a State Party is denied a transfer or transfers for reasons which it considers are inconsistent with the provisions of the Convention and Article VII of the Protocol, it shall have the right to seek the measures contained in subparagraphs (a) to (k).

(a) A requesting State Party may initiate consultation and clarification procedures in order to establish that the transfer in question is not intended for purposes prohibited under the Convention. A requesting State Party may seek clarifications bilaterally from the requested State Party or it may submit its request in writing to the Director-General to seek clarification on its behalf. In the case of a request for consultations and clarifications through the Director-General, upon receipt of such a request, the Director-General shall submit a written request to the requested State Party.

(b) If a request for consultations and clarifications is made pursuant to subparagraph (a) above, the requested State Party shall provide its reply within 15 days of the date of its receipt of the request. If the requested State Party fails to respond to the request for providing a clarification either directly or through the Director-General, the requesting State Party may proceed to bring the case to the attention of the Executive Council which shall consider ways and means of resolving the situation through the process of consultations and clarifications within 60 days.

(c) In cases where consultations have been initiated but fail to resolve the situation within 60 days after the date of receipt of the request, the requesting State Party may bring the issue to the attention of the Executive Council.

(d) The requesting State Party or the requested State Party may indicate the means of good offices, conciliation or mediation including by the Director-General as procedures deemed appropriate for resolving the situation. These procedures may be undertaken if the requesting and requested States Parties so agree. They may be commenced or terminated at any time.

(e) If good offices, conciliation or mediation fail to resolve the situation within 30 days, the requesting State Party may bring the issue to the attention of the Executive Council.

(f) If neither the consultations, nor good offices, conciliation and mediation resolved the situation, the requesting State Party may opt for a panel for dispute settlement to be established. The Director-General shall, within 10 days from the date of request, establish the panel and appoint the panelists. The Director-General shall consult the requesting and requested States Parties regarding the composition of the panel. The panel shall be composed of three panelists unless the parties to the dispute agree to a panel composed of five panelists.

(g) The panelists shall be duly qualified and competent, composed of well-qualified governmental and/or non-governmental individuals. Panelists shall be selected with a view to ensuring their independence, sufficiently diverse background and experience.

(h) Citizens of States Parties which are parties to the dispute shall not serve on a panel concerned with that dispute, unless the parties to the dispute agree otherwise. To assist in the selection of panelists, the Director-General shall maintain a list of governmental and non-governmental individuals possessing necessary qualifications from which panelists may be drawn as appropriate.

(i) Panelists shall serve in their individual capacities and not as representatives of States Parties, nor as representatives of any organizations. States Parties shall therefore not give them instructions or seek to influence them.

(j) The panel shall make an objective assessment of the matter before it, based on the facts of the case and the applicability of and their conformity with the relevant provisions of the Convention and the Protocol. The panel shall consult, regularly with the States Parties to the dispute and shall provide 60 days to the parties to the dispute to prepare their submissions. The panel proceedings shall be confidential. The panel shall decide on its rulings and recommendations by a majority of the panelists. The panel shall submit its findings in a written report to the Director-General and the Executive Council not later than six months from the date of its establishment. The opinions expressed in the panel report by individual panelists shall be anonymous.

(k) The States Parties to the dispute shall abide by the rulings or recommendations of the panel. In case of failure to abide by the rulings or recommendations of the panel, the situation shall be redressed and compliance ensured in accordance with the provisions of Article V of this Protocol.
