

**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**

BWC/MSP/2004/MX/INF.3  
1 July 2004

ENGLISH ONLY

---

Second Meeting  
Geneva, 6 – 10 December 2004

Meeting of Experts  
Geneva, 19 – 30 July 2004  
Item 6 of the provisional agenda  
Consideration of enhancing international capabilities  
for responding to, investigating and mitigating the effects  
of cases of alleged use of biological or toxin weapons or  
suspicious outbreaks of disease

**Mechanisms Available to States Parties to Investigate the Alleged Use  
of Biological or Toxin Weapons and to Provide Assistance in such cases**

Background paper prepared by the Secretariat

## CONTENTS

|  | Paragraphs |
|--|------------|
| SECTION A: INTRODUCTION .....  | 1-4        |
| SECTION B: TEXTS FROM THE CONVENTION RELATING TO THE<br>INVESTIGATION OF THE ALLEGED USE OF BIOLOGICAL OR TOXIN<br>WEAPONS AND TO PROVIDE ASSISTANCE IN SUCH CASES .....   | 5-20       |
| Article VI of the Convention .....   | 6-14       |
| Article VII of the Convention.....   | 15-20      |
| SECTION C: ARTICLE VI AND ARTICLE VII OF THE CONVENTION .....  | 21-23      |
| Invoking Article VI of the Convention.....   | 22         |
| Invoking Article VII of the Convention .....   | 23         |
| SECTION D: APPROPRIATE INTERNATIONAL PROCEDURES, WITHIN THE<br>FRAMEWORK OF THE UNITED NATIONS AND IN ACCORDANCE WITH ITS<br>CHARTER, TO INVESTIGATE THE ALLEGED USE OF BIOLOGICAL OR<br>TOXIN WEAPONS AND TO PROVIDE ASSISTANCE IN SUCH CASES ..... | 24-62      |
| Investigations by the Secretary-General of the United Nations into the Alleged Use<br>of Biological or Toxin Weapons .....   | 30-62      |
| <br>ANNEXES  |            |
| Annex I: A Summary of BWC Mechanisms to Investigate the Alleged Use of Biological or<br>Toxin Weapons and to Provide Assistance in such Cases  |            |
| Annex II: A Summary of Appropriate International Procedures, within the Framework of the<br>United Nations and in Accordance With its Charter, to Investigate the Alleged Use of<br>Biological or Toxin Weapons                                      |            |

## **SECTION A: INTRODUCTION**

1. Mechanisms to investigate the alleged use of biological and toxin weapons and to provide assistance in such cases can be characterised as:

- i. Appropriate procedures detailed in the text of the Convention or in clarifications and additional understandings represented by the Final Declarations of subsequent Review Conferences; or
- ii. Appropriate international procedures, within the framework of the United Nations and in accordance with its Charter, which could result directly from activities in accordance with the objectives of, and application of, the provisions of the Convention.

2. In accordance with this characterisation, this background paper has been divided into four sections. The first two deal with issues relating to the text of the Convention and its subsequent Review Conferences: the first concentrating on the texts of mechanisms agreed upon by States Parties; and the second dealing with the practical application of these mechanisms. The third section examines appropriate international procedures and their precedents within the framework of the United Nations.

3. It is noted that discussions of Government Experts on identifying and examining potential verification measures from a scientific and technical standpoint (VEREX) and negotiations to develop a Protocol to strengthen the effectiveness and to improve the implementation of the Convention took place in Geneva, from March 1992 to August 2001. The Protocol was to include a mechanism for investigating the alleged use of biological or toxin weapons, and assistance in such cases. As consensus was not reached on a Protocol, the negotiations and the mechanisms that were being developed are not included in this paper.

4. This background paper contains a series of annexes, intended to act as a quick reference guide for the understandings reached in discussions under the auspices of the Convention (Annex I), the precedented international procedures within the framework of the United Nations (Annex II).

## **SECTION B: TEXTS FROM THE CONVENTION RELATING TO THE INVESTIGATION OF THE ALLEGED USE OF BIOLOGICAL OR TOXIN WEAPONS AND TO PROVIDE ASSISTANCE IN SUCH CASES**

5. The Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction (referred to hereafter as the Convention) contains two articles, Article VI, and Article VII, which relate to mechanisms to investigate the alleged use of biological and toxin weapons and to provide assistance in such cases. This Background Document deals with mechanisms in place and does not examine Article V of the Convention or instances such as the allegations by the Democratic Peoples Republic of Korea and China in 1952 that United Nations forces had used biological weapons (S/2684), or the compliance concerns raised by Cuba in 1997 in relation to the United States of America (BWC/CONS/1).

## ARTICLE VI OF THE CONVENTION

6. Article VI states:

“(1) Any State Party to this convention which finds that any other State Party is acting in breach of obligations deriving from the provisions of the Convention may lodge a complaint with the Security Council of the United Nations. Such a complaint should include all possible evidence confirming its validity, as well as a request for its consideration by the Security Council.”

“(2) Each State Party to this Convention undertakes to cooperate in carrying out any investigation which the Security Council may initiate, in accordance with the provisions of the Charter of the United Nations, on the basis of the complaint received by the Council. The Security Council shall inform the States Parties to the Convention of the results of the investigation. “

7. The text of the Convention has been subsequently complemented with additional understandings and clarifications made at successive Review Conferences and recorded in the associated Final Declarations.

8. In relation to Article VI, the Final Declaration of the First Review Conference (BWC/CONF.I/10) and the Final Declaration of the Second Review Conference (BWC/CONF.II/13/II) noted that these provisions had not been invoked.

9. Noting that these provisions had not been invoked, and reaffirming the importance of the article, the Final Declaration of the Third Review Conference (BWC/CONF.III/23/II) contained agreements further elucidating the process for conducting activities under Article VI of the Convention:

“The Conference invites the Security Council to consider immediately any complaint lodged under Article VI and to initiate any measures it considers necessary for the investigation of the complaint. The Conference reaffirms the undertakings of each State Party to cooperate in carrying out any investigations which the Security Council may initiate.”

10. It continued:

“The Conference recalls, in this context, United Nations Security Council Resolution 620 of 1988, which encourages the United Nations Secretary-General to carry out prompt investigations, in response to allegations brought to his attention by any Member State concerning the possible use of chemical and bacteriological (biological) or toxin weapons.”

11. It concluded:

“The Conference invites the Security Council to inform each State Party of the results of any investigation initiated under Article VI and to consider promptly any appropriate further action which may be necessary.”

12. As well as reaffirming, and confirming the conclusions of, the Convention and the subsequent Review Conferences, the Final Declaration of the Fourth Review Conference (BWC/CONF.IV/9/II) noted a number of developments within the framework of the United Nations which related to this article:

“The Conference recalls, in this context, United Nations Security Council Resolution 620 (1988), which at the time encouraged the United Nations Secretary-General to carry out prompt investigations, in response to allegations brought to its attention by any Member State concerning the possible use of chemical and bacteriological (biological) and toxin weapons that could entail a violation of the 1925 Geneva Protocol or any other applicable rule of international treaty or customary law. The Conference also recalls the technical guidelines and procedures contained in Annex I of the United Nations document A/44/561 to guide the United Nations Secretary-General on the timely and efficient investigation of reports of the possible use of such weapons.”

13. The Fourth Review Conference also established the relationship between this article and these developments within the framework of the United Nations:

“The States Parties reaffirm their agreement to consult, at the request of any State Party, regarding allegations of use or threat of use of bacteriological (biological) or toxin weapons and to cooperate fully with the United Nations Secretary-General in carrying out such investigations. The Conference stresses that in the case of alleged use the United Nations is called upon to take appropriate measures expeditiously, which could include a request to the Security Council to consider action in accordance with the Charter.”

14. It continued:

“The Conference notes that the procedure outlined in this Article is without prejudice to the prerogative of the State Parties to the Convention to consider jointly the cases of alleged non-compliance with the provisions of the Convention and to make appropriate decisions in accordance with the Charter of the United Nations and applicable rules of international law.”

## **ARTICLE VII OF THE CONVENTION**

15. Article VII states:

“Each State Party to this Convention undertakes to provide or support assistance, in accordance with the United Nations Charter, to any Party to the Convention which so requests, if the Security Council decides that such Party has been exposed to danger as a result of violation of the Convention.”

16. The text of the Convention has been subsequently complemented with additional understandings and clarifications made at successive Review Conferences and recorded in the associated Final Declarations.

17. In relation to Article VII, the Final Declaration of the First Review Conference (BWC/CONF.I/10) and the Final Declaration of the Second Review Conference

(BWC/CONF.II/13/II) noted that these provisions had not been invoked.

18. As well as noting that these provisions had not been invoked, and reaffirming the undertakings made by each State Party under this article, the Final Declaration of the Third Review Conference (BWC/CONF.III/23/II) contained agreements elucidating activities which could be conducted under Article VII of the Convention:

“The Conference takes note of desires expressed that, should a request for assistance be made, it be promptly considered and an appropriate response provided. In this context, pending consideration of a decision by the Security Council, timely emergency assistance could be provided by States Parties if requested.”

19. It continued:

“The Conference considers that in the event that this Article might be invoked, the United Nations, with the help of appropriate intergovernmental organizations such as the World Health Organization (WHO), could play a coordinating role.”

20. As well as reaffirming, and confirming the conclusions of, the Convention and the subsequent Review Conferences, the Final Declaration of the Fourth Review Conference (BWC/CONF.IV/9/II) noted that these provisions had not been invoked.

## **SECTION C: ARTICLE VI AND ARTICLE VII OF THE CONVENTION**

21. As the Final Declaration of the Fourth Review Conference (BWC/CONF.IV/9/II) noted, by 1996 none of these articles had been invoked. Because the Fifth Review Conference did not produce a Final Declaration, there is no documented review of the status of these articles since 1996, and none is expected prior to the Sixth Review Conference to be held in 2006. Although the continuing individual and joint actions in this regard demonstrate the commitment of States Parties to the Convention, without a Final Declaration an affirmation of their combined dedication is not on record. This section reviews whether these articles have been invoked since the Fourth Review Conference and provides a summary of any relevant events, including the mechanisms and procedures adopted.

### **INVOKING ARTICLE VI OF THE CONVENTION**

22. Article VI has not been invoked since the Fourth Review Conference.

### **INVOKING ARTICLE VII OF THE CONVENTION**

23. Article VII has not been invoked since the Fourth Review Conference.

**SECTION D: APPROPRIATE INTERNATIONAL PROCEDURES, WITHIN THE FRAMEWORK OF THE UNITED NATIONS AND IN ACCORDANCE WITH ITS CHARTER, TO INVESTIGATE THE ALLEGED USE OF BIOLOGICAL OR TOXIN WEAPONS AND TO PROVIDE ASSISTANCE IN SUCH CASES**

24. Articles VI and VII both contain reference to other international procedures. This section addresses the international procedures, within the framework of the United Nations and in accordance with its Charter, which could result directly from activities in accordance with the application of the provisions of the Convention.

25. The Final Declaration of the Second Review Conference indicated that States Parties were to "...cooperate in appropriate international procedures". One such procedure, mentioned specifically in the texts of Review Conference Final Declarations, involves the investigations to be carried out by the Secretary-General into the alleged use of biological or toxin weapons. As indicated in Section 1, these texts, in relation to Article VI, establish an association between the Convention and such investigations.

26. In relation to Article VI, the Final Declaration of the Third Review Conference notes United Nations Security Council Resolution 620 of 1988 on Iraq and the Islamic Republic of Iran:

"...which encourages the United Nations Secretary-General to carry out prompt investigations, in response to allegations brought to his attention by any Member State concerning the possible use of chemical and bacteriological (biological) or toxin weapons."

27. This implies that if Article VI were invoked, the Security Council could forward the allegation to the Secretary-General for investigation. Therefore, actions taken within the objectives of, and application of, the provisions of the Convention by States Parties, individually or collectively, under both Article V and Article VI, could initiate investigations by the Secretary-General. Consideration will be given in this section to such investigations.

28. Options for the States Parties under Article V, and the Security Council under Article VI, however, are not limited to initiating investigations under the Secretary-General. The Final Declaration of the Third Review Conference states:

"The Conference stresses that in the case of alleged use the United Nations is called upon to take appropriate measures, which could include a request to the Security Council to consider action in accordance with the Charter."

29. Thus, in cases of alleged use, there is a standing mandate from the Convention for the United Nations to initiate appropriate international procedures, presumably including investigation of the allegations and providing assistance in such cases. Thus, in this section consideration will also be given to precedents of such activity within the United Nations and in accordance with its Charter, both before and after the entry into force of the Convention. These mechanisms could be considered indicative of the types of international procedures which might be initiated under such circumstances.

## **INVESTIGATIONS BY THE SECRETARY-GENERAL OF THE UNITED NATIONS INTO THE ALLEGED USE OF BIOLOGICAL OR TOXIN WEAPONS**

30. The Secretary-General was tasked with investigating the alleged use of biological and toxin weapons by a Resolution by the General Assembly, entitled *Chemical and Bacteriological (Biological) Weapons* in 1982 (A/Res/37/98), a situation which was later supplemented by Security Council Resolution 620 of 1988, which related to Iraq and the Islamic Republic of Iran. These resolutions were not restricted to a specific timeframe or location. The language used is general enough that the resolutions could be applied elsewhere. To facilitate such investigations, the Secretary-General was tasked with developing guidelines and procedures for the timely and effective investigation of the alleged use of such weapons, as well as compiling and maintaining lists of national technical experts and facilities for use therein.

### A Mandate for Investigations

31. On 13 December 1982, the United Nations General Assembly adopted a resolution (A/Res/37/98) on *Chemical and Bacteriological (Biological) Weapons* requesting the Secretary-General to:

“...investigate, with the assistance of qualified experts, information that may be brought to his attention by any Member State concerning activities that may constitute a violation of the [1925 Geneva] Protocol or of the relevant rules of customary international law in order to ascertain thereby the facts of the matter, and promptly to report the results of any such investigation to all Member States and to the General Assembly”

32. The resolution also called upon:

“...Governments, national and international organizations, as well as scientific and research institutions, to co-operate fully with the Secretary-General in this work”.

33. This mandate was reiterated a number of times in General Assembly Resolutions on *Chemical and Bacteriological (Biological) Weapons* during the course of the development of guidelines and procedures for the timely and effective investigation of the alleged use of biological and toxin weapons (A/Res/38/187, A/Res/42/37, A/Res/43/74, A/Res/45/57).

34. Furthermore, the Security Council Resolution 620 of 1988:

“...Encourages the Secretary-General to carry out promptly investigations in response to allegations brought to his attention by any Member State concerning the possible use of chemical and bacteriological (biological) or toxic weapons that may constitute a violation of the 1925 Geneva Protocol or other relevant rules of customary international law, in order to ascertain the facts of the matter, and to report the results”.

### Guidelines and Procedures for the Timely and Effective Investigation of the Alleged Use of Biological or Toxin Weapons

35. The development of procedures for the Secretary-General to investigate the alleged use of biological and toxin weapons has gone through two distinct periods of activity. The first, from 1982 to 1984, tasked the Secretary-General with developing procedures for their timely and



efficient execution. The second, between 1987 and 1990, requested the Secretary-General to develop further procedures and guidelines for such investigations.

#### 1982 - 1984

36. In 1982, the General Assembly in a resolution on *Chemical and Bacteriological (Biological) Weapons* (A/Res/37/98) requested the Secretary-General, with the assistance of qualified consultative experts:

“...to devise procedures for the timely and efficient investigation of information concerning activities that may constitute a violation of the Geneva Protocol or the relevant rules of customary international law and to assemble and organise systematically documentation relating to the identification of signs and symptoms associated with the use of such agents as a means of facilitating such investigations and the medical treatment that may be required”.

37. In order to achieve these objectives, the Secretary-General was also requested:

“(a) To appoint, as necessary, groups of experts selected from the above-mentioned list to undertake urgent investigation of possible violations;”

“(b) To make the necessary arrangements for the experts to collect and examine evidence, including on-site, with the co-operation of the countries concerned, to the extent relevant to the investigation, and for such testing as may be required;”

“(c) To seek, in any such investigation, appropriate assistance and relevant information from all Governments and international organizations concerned, as well as from other appropriate sources”.

38. In due course, the Secretary-General assembled a Group of Consultant Experts to advise him on the development of these procedures. This Group held two sessions, in May and September 1983. On 19 October 1983, the Secretary-General reported his progress to the General Assembly (A/38/435). This report included an annex entitled the *Report by the Group of Consultant Experts*, which included:

- Notice of the failure to complete the tasks outlined in General Assembly Resolution A/Res/37/98;
- Organization of its work and a summary of proceedings;
- Procedures devised by the Group of Consultant Experts;
- Recommendations for the assembling and systematic organization of documentation; and
- A series of detailed technical appendices

39. On 20 December 1983, the United Nations General Assembly adopted a further resolution on *Chemical and Bacteriological (Biological) Weapons* (A/Res/38/187). This resolution noted the report by the Secretary-General on progress made in this work and tasked him, with the assistance of his consultative experts, to complete the work in 1984.

40. On 2 October 1984, the Secretary-General released a further report on Chemical and Bacteriological (Biological) Weapons (A/39/488), in which was included:

- A reference to the mandate for the Secretary-General to conduct investigations into the alleged use of biological and toxin weapons (A/Res/37/98);
- A reference to the General Assembly Resolution continuing the construction of procedures for the timely and efficient investigation of alleged use of biological and toxin weapons (A/Res/38/187); and

41. The Report of the Group of Consultant Experts, which included:

- Notice of the completion of the tasks outlined in General Assembly Resolution A/Res/37/98;
- Organization of its work and a summary of proceedings;
- Procedures devised by the Group of Consultant Experts;
- Recommendations for the assembling and systematic organization of documentation;
- Recommendations for administrative support for implementing and updating the procedures; and
- A series of detailed technical appendices.

#### 1987 - 1990

42. In 1987, the General Assembly adopted a further resolution on *Chemical and Bacteriological (Biological) Weapons* (A/Res/42/37) requesting the Secretary-General to conduct investigations in the alleged use of biological and toxin weapons in response to reports brought to his attention by Member States, as well as:

“...with the assistance of qualified experts provided by interested Member States, to develop further technical guidelines and procedures available to him for the timely and efficient investigation of such reports of the possible use of chemical and bacteriological (biological) or toxin weapons”.

43. To this end, the Secretary-General was requested:

“(a) To appoint experts to undertake investigation of the reported activities;”

“(b) Where appropriate, to make the necessary arrangements for experts to collect and examine evidence and to undertake such testing as may be required;”

“(c) To seek, in any such investigation, assistance as appropriate from Member States and the relevant international organizations”

44. The Secretary-General appointed a group of experts to facilitate this work. They met once between 15 and 19 August 1988. The Secretary-General reported his progress to the General Assembly on 26 October 1988 (A/43/690). This report included a letter from the Group of Qualified Experts to the Secretary-General, explaining that the Group needed more time to complete its work.

45. The Secretary-General recommended that more time be allotted for the successful completion of the work of the Group of Qualified Experts. This proposal was adopted by the General Assembly on 7 December 1987 (A/Res/43/74) and the work of the Group of Qualified Experts was extended for a year.

46. The Group of Qualified Experts held two sessions in Geneva from 6 to 17 February and 31 July to 11 August 1989. The Secretary-General released a report on *Chemical and Bacteriological (Biological) Weapons* on 4 October 1989 (A/44/561). This incorporated a review of the mandate for the process, a summary of its proceedings, and the Report of the Qualified Experts which incorporated all of the procedures and guidelines developed during both periods of activity. The report of the Secretary-General on *Chemical and Bacteriological (Biological) Weapons* was endorsed by the General Assembly on 4 December 1990 (A/Res/45/57).

#### Report of the Group of Qualified Experts

47. The report noted:

“...the primary subject of debate among all parties concerned was how to ensure the timely acquisition of information relating to the alleged use of chemical or bacteriological (biological) or toxin weapons.”

48. This debate was distilled into two questions:

- How to define conditions in such a way as to make an investigation at a site of an alleged incident an obligatory consequence of those conditions? and
- How to achieve the strongest possible commitment by Member States to receive an investigation pursuant to relevant resolutions, in strict observance of their sovereign rights?

49. In response to these queries, the Group endorsed two concepts:

“...first, an investigation should be carried out at the site of an alleged use of chemical or bacteriological (biological) or toxin weapons whenever evaluation of the information provided by the Member State indicates an investigation is warranted, and, second, if asked, any Member State should permit such an investigation on its territory.

50. It was noted, however, that these concepts (and also the procedures and guidelines) were only recommendations, as adherence to them rested with the Secretary-General and the affected Member States.

#### **Guidelines and Procedures**

51. The Group of Qualified Experts made the following general recommendations:

- “The Secretary-General, in considering a report for and in conducting an investigation, should take into account the procedures and modalities described below. Furthermore, he should have at his disposal the services of expert consultants whose functions are defined below.”
- “In considering the information provided by a Member State concerning the possible use of CBT weapons, the Secretary-General should determine (if necessary, in

- conjunction with expert consultants) how to conduct further investigation.”
- “The Secretary-General should, if necessary, carry out consultations with any Member State on questions relating to the possible use of CBT weapons and on questions related to the implementation of the objectives of resolution 42/37 C.”
- “All Member States and relevant international organizations should provide assistance to the Secretary-General, at his request, necessary to facilitate preparation for and conduct of any investigation.”
- “All Member States, if required by the Secretary-General, should grant rapid access to the team of qualified experts sent on his behalf to the site of the alleged violation of the 1925 Geneva Protocol and other relevant rules of customary international law. Member States should be called upon not to refuse a request of the Secretary-General to conduct such an investigation.”
- “Any investigation at the site of an alleged violation should be carried out rapidly and in the least intrusive manner possible. The view of the team of qualified experts should be taken into account in that respect with regard to the accomplishment of the task of the investigation.”

52. The report contained detailed procedures and guidelines for:

- Submission of a report of alleged use;
- Assessment by the Secretary-General;
- Decisions of the Secretary-General, including the initiation of an investigation onsite;
- The involvement of Member States;
- The involvement of expert consultants;
- The involvement of qualified experts;
- The involvement of analytical laboratories;
- The activities of the Secretary-General, including the standing preparatory measures for investigations and for launching an investigation;
- Technical procedures for the investigation, including on-site or near-site investigation and Laboratory analysis;
- Drafting and content of the report; and
- Review of procedures.

53. The Group also recommended that the Secretary-General should, with the assistance of his appointed expert consultants, periodically review and revise, as necessary, the guidelines and procedures and their appendices, bearing in mind modifications proposed by Member States, and submit them to the General Assembly upon its request.

54. The technical appendices incorporated into the report included:

- Types of information to be provided, as available by a Member State to the Secretary-General in reporting the possible use of chemical or bacteriological (biological) or toxin weapons;
- Information to be provided by Member States, either in proposing expert consultations or in designating qualified experts;
- Equipment for investigations;
- List of areas of expertise for qualified experts;
- List of laboratory specialisations;

- Information to be provided by Member States in designating analytical laboratories;
- Sampling procedures for physical samples;
- Sampling procedures for biomedical samples; and
- Model interview questionnaire

Lists of Qualified Experts and Laboratories for use in Investigations of the Alleged Use of Biological or Toxin Weapons

55. In 1982, the General Assembly passed a resolution on *Chemical and Bacteriological (Biological) Weapons* (A/Res/37/98) which requested the Secretary-General:

“...to compile, as a matter of priority, and maintain lists of qualified experts whose services could be made available at short notice to undertake such investigations, and of laboratories with the capability to undertake testing for the presence of agents the use of which is prohibited”.

56. In accordance with this resolution the Secretary-General issued notes verbales, dated 24 February 1983, and 21 March 1988, requesting from Member States the appropriate lists of qualified national experts and facilities. A number of replies were received in response. The Report of the Secretary-General on Chemical and Bacteriological (Biological) Weapons (A/38/435), dated 19 October 1983, contains lists of experts and facilities from 25 States: Australia, Austria, Belgium, Brazil, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Canada, Denmark, Ecuador, Egypt, France, Germany (Federal Republic of), Greece, Hungary, Italy, Kuwait, Netherlands, New Zealand, Norway, Spain, Sweden, Thailand, the United Kingdom, and the United States of America.

57. The Report of the Secretary-General on Chemical and Bacteriological (Biological) Weapons (A/39/488), dated 2 October 1984, contains lists of experts and facilities from three States: Canada, Portugal, and Spain.

58. The Report of the Secretary-General on Chemical and Bacteriological (Biological) Weapons (A/43/690), dated 26 October 1988, contains lists of experts and facilities from 20 States: Austria, Belgium, Brazil, Brunei Darussalam, Canada, Central African Republic, Denmark, Finland, France Germany (Federal Republic of), Iraq, Netherlands, New Zealand, Norway, Philippines, Spain, Sweden, Union of Soviet Socialist Republics, United States of Tanzania, and the United States of America.

59. The Report of the Secretary-General on Chemical and Bacteriological (Biological) Weapons, dated 4 October 1989, and its subsequent addenda on 26 October 1989, 5 December 1989, and 17 April 1990 (A/44/561, Add.1, Add.2, Add.3) contains lists of experts and facilities from 7 States: Bulgaria, Czechoslovakia, Iran (Islamic Republic of), Iraq, Israel, Italy, and the Union of Soviet Socialist Republics.

60. The Secretary-General has not reported subsequent lists of qualified national experts and facilities that could be utilised in the case of an investigation into the alleged use of biological and toxin weapons since 1990.

61. It should be noted that activities of the United Nations Special Commission (UNSCOM) and the United Nations Monitoring, Verification and Inspection Commission (UNMOVIC) have

not been included in this background paper because they were not mandated to investigate allegations of use of biological or toxin weapons. Further information on these bodies can be found on their respective websites at <http://www.un.org/Depts/unscom/> and <http://www.unmovic.org/>.

Precedents of Investigations by the Secretary-General into the Alleged Use of Biological or Toxin Weapons

62. The investigative process detailed above has been initiated to investigate the alleged use of chemical weapons but has not, to date, been initiated for the investigation of the alleged use of biological or toxin weapons.

Annex I

**A SUMMARY OF BWC MECHANISMS TO INVESTIGATE THE ALLEGED USE OF BIOLOGICAL OR TOXIN WEAPONS AND TO PROVIDE ASSISTANCE IN SUCH CASES.**

|                    | <b>Article VI</b>   | <b>Article VII</b>   |
|--------------------|---|--|
| Convention Text    | <p>(1) Any State Party to this Convention which finds that any other State Party is acting in breach of obligations deriving from the provisions of the Convention may lodge a complaint with the Security Council of the United Nations. Such a complaint should include all possible evidence confirming its validity, as well as a request for its consideration by the Security Council.</p> <p>(2) Each State Party to this Convention undertakes to cooperate in carrying out any investigation which the Security Council may initiate, in accordance with the provisions of the Charter of the United Nations,</p>  | <p>Each State Party to this Convention undertakes to provide or support assistance, in accordance with the United Nations Charter, to any Party to the Convention which so requests, if the Security Council decides that such Party has been exposed to danger as a result of violation of the Convention</p>   |
| Procedure in Place | <ul style="list-style-type: none"> <li>-Any State Party can lodge a complaint relating to a breach in Convention obligations with the Security-Council.</li> <li>-Such a complaint should include all possible evidence confirming its validity and a request for its consideration by the Security Council.</li> <li>-The Security Council has been invited to consider immediately any complaint lodged under this article.</li> <li>-The Security Council has been invited to take any measures it considers necessary to investigate complaints lodged under this article.</li> <li>-The Security Council has encouraged the United Nations Secretary-General to investigate allegations of the use of weapons in contravention to the Convention.</li> <li>-States Parties have agreed to cooperate with any investigation undertaken by the Security Council or the United Nations Secretary-General.</li> <li>-The Security Council has been requested to inform States Parties as to the results of any investigation.</li> <li>-The Security Council has been invited to consider promptly any further action which may be necessary.</li> <li>-This procedure does not prejudice the prerogative of States Parties to consider jointly cases of alleged non-compliance and to make appropriate decisions there on.</li> </ul> | <ul style="list-style-type: none"> <li>-Should a request for assistance be made, it should be promptly considered and an appropriate response provided.</li> <li>-Timely emergency assistance can be provided by States Parties if requested.</li> <li>-Each State Party to the Convention has undertaken to provide support assistance to any other State Party upon request, if the Security Council decides that such party has suffered from a violation of the Convention.</li> <li>-It was agreed that should this article be invoked the United Nations, with the help of appropriate intergovernmental organizations, could play a coordinating role.</li> </ul> |

Annex II

**A SUMMARY OF APPROPRIATE INTERNATIONAL PROCEDURES, WITHIN THE  
FRAMEWORK OF THE UNITED NATIONS AND IN ACCORDANCE WITH ITS  
CHARTER, TO INVESTIGATE THE ALLEGED USE OF BIOLOGICAL OR TOXIN  
WEAPONS.**

INVESTIGATIONS BY THE SECRETARY-GENERAL

An investigation by the Secretary-General (mandated by General Assembly resolutions A/Res/37/98, A/Res/38/187, A/Res/42/37, A/Res/43/74, A/Res/45/57 and endorsed by Security Council Resolution 690 of 1998) could incorporate:

- (i) A report of the alleged use, accompanied by the relevant supporting information in the format provided in Appendix I, of the Report of the Group of Qualified Experts Established in Pursuance of General Assembly Resolution 42/37 C (A/44/561/Annex I);
- (ii) An assessment of this report by the Secretary-General, including consideration of the degree of sufficiency, conclusiveness, and credibility of the information provided;
- (iii) A request from the Secretary-General, if necessary, to the State reporting the alleged use for additional information or clarification which should be provided within 36 hours or the inclusion of any additional information provided by any other Member State;
- (iv) A decision by the Secretary-General as to whether to continue independently or with the advice of expert consultants, who could be proposed by any Member State in accordance with Appendix II of the Report of the Group of Qualified Experts Established in Pursuance of General Assembly Resolution 42/37 C (A/44/561/Annex I);
- (v) A decision by the Secretary-General as to whether to conduct an on-site investigation, in line with the guidelines detailed in of the Report of the Group of Qualified Experts Established in Pursuance of General Assembly Resolution 42/37 C (A/44/561/Annex I), within 24 hours of the final submission of the report;
- (vi) Efforts by the Secretary-General to secure access and safe conduct for the inspectors to the site of the inspection, including all rights, privileges and immunities granted to experts on a mission for the United Nations, the waiving of customs inspections for the inspectors and their equipment, unrestrained access to their equipment, appropriate medical assistance and services, free movement for the collection, removal and transport of samples (where possible duplicate samples should be provided to the host State);
- (vii) A report from the Secretary-General informing Member States of the reasons why an on-site inspection has not taken place, if such a decision is reached;
- (viii) A decision by the Secretary-General as to whether additional information could be gathered from neighbouring States, should it not prove possible to obtain access to the State in which the use is alleged to have taken place;



- (ix) A requirement for the State on whose territory the inspection is taking place to provide the inspectors with all the necessary information necessary to their work programme, interpretation and translation services, a secure work area (laboratory installation, etc.), suitable transport and access to any victims of the alleged attack;
  - (x) Inspectors made available by Member States for selection by the Secretary-General;
  - (xi) A request from the Secretary-General to Member States for the necessary equipment in line with Appendix III of the Report of the Group of Qualified Experts Established in Pursuance of General Assembly Resolution 42/37 C (A/44/561/Annex I);
  - (xii) The dispatch of inspectors, who have been briefed not to reveal any information pertaining to the investigation prior to the publication of the final report, to the site of the investigation within 48 hours of the decision to initiate an inspection, noting they may be accompanied by observers from the State on whose territory the inspection is taking place (on condition that the observer does not delay or disrupt the inspectors' functioning);
  - (xiii) The use of laboratories made available by Member States and as selected by the Secretary-General, the staff of which has been briefed not to reveal any information pertaining to the investigation until the publication of its final report, and which conduct analysis in line with the Report of the Group of Qualified Experts Established in Pursuance of General Assembly Resolution 42/37 C (A/44/561/Annex I);
  - (xiv) A report, as soon as possible, from the inspectors to the Secretary-General indicating the numbers and types of victims of an attack, to facilitate an appropriate provision of aid; and
  - (xv) A final report from the inspectors to the Secretary-General, in which inspectors which may set out their personal views in addition to conclusions proposed jointly and includes: details of the inspectors involved in all stages of the investigation, all the relevant data gathered during the investigation and, a detailed description of the investigation.
-