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## **LEGISLATIVE ACTS AND OTHER INSTRUMENTS**

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Subject: COUNCIL DECISION on the position of the European Union relating to the Eighth Review Conference of the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction (BTWC)

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**COUNCIL DECISION (CFSP) 2015/...**

**of ...**

**on the position of the European Union  
relating to the Eighth Review Conference of the Convention  
on the Prohibition of the Development, Production and Stockpiling  
of Bacteriological (Biological) and Toxin Weapons  
and on Their Destruction (BTWC)**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 29 thereof,

Whereas:

- (1) On 12 December 2003, the European Council adopted an EU Strategy against Proliferation of Weapons of Mass Destruction which aims, *inter alia*, at reinforcing the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction ('BTWC'), continuing reflection on the verification of the BTWC, supporting the universalisation and national implementation of the BTWC, including by means of criminal legislation, and strengthening compliance with it.
- (2) On 28 April 2004, the United Nations Security Council ('UNSC') unanimously adopted Resolution 1540 (2004) describing the proliferation of weapons of mass destruction and their means of delivery as a threat to international peace and security. Implementation of the provisions of that Resolution contributes to the implementation of the BTWC.
- (3) On 26 August 1988, the UNSC adopted Resolution 620 (1988) which, *inter alia*, encourages the Secretary-General to carry out promptly investigations in response to allegations concerning the possible use of chemical, bacteriological (biological) or toxin weapons that may constitute a violation of the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare ('the 1925 Geneva Protocol'). On 20 September 2006, the General Assembly adopted the United Nations Global Counter-Terrorism Strategy, annexed to its Resolution 60/288 of 8 September 2006, in which the Member States of the United Nations ('UN') encourage the Secretary-General to update the roster of experts and laboratories, as well as the technical guidelines and procedures, available to him for the timely and efficient investigation of alleged use.

- (4) On 27 February 2006, the Council adopted Joint Action 2006/184/CFSP<sup>1</sup> in respect of the BTWC with the objectives of promoting the universality of the BTWC and supporting its implementation by States Parties in order to ensure that States Parties transpose the international obligations of the BTWC into their national legislation and administrative measures.
- (5) In parallel to Joint Action 2006/184/CFSP, the European Union adopted an Action Plan on biological and toxin weapons<sup>2</sup> in which the Member States undertook to submit confidence building measures ('CBMs') returns to the UN in April every year and lists of relevant experts and laboratories to the UN Secretary-General in order to facilitate any investigation of alleged use of chemical or biological weapons.
- (6) On 20 March 2006, the Council adopted Common Position 2006/242/CFSP<sup>3</sup> relating to the Sixth Review Conference of the BTWC.

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<sup>1</sup> Council Joint Action 2006/184/CFSP of 27 February 2006 in support of the Biological and Toxin Weapons Convention, in the framework of the EU Strategy against the Proliferation of Weapons of Mass Destruction (OJ L 65, 7.3.2006, p. 51).

<sup>2</sup> OJ C 57, 9.3.2006, p. 1.

<sup>3</sup> Council Common Position 2006/242/CFSP of 20 March 2006 relating to the 2006 Review Conference of the Biological and Toxin Weapons Convention (BTWC) (OJ L 88, 25.3.2006, p. 65).

- (7) On 10 November 2008, the Council adopted Joint Action 2008/858/CFSP<sup>1</sup> in respect of the BTWC with the objectives of promoting the universality of the BTWC, providing support for the implementation of the BTWC by the States Parties, promoting the submission of CBMs declarations by the States Parties, and providing support for the BTWC Intersessional Process.
- (8) On 18 July 2011, the Council adopted Decision 2011/429/CFSP<sup>2</sup> relating to the position of the Union for the Seventh Review Conference of the BTWC.
- (9) The Seventh Review Conference of the BTWC decided to renew the mandate of the Implementation Support Unit ('ISU') for another five-year term (2012-2016) and decided to expand its tasks to include implementing the decision to establish and administer the database for assistance requests and offers and facilitating the associated exchange of information among States Parties, as well as supporting, as appropriate, the implementation by States Parties of the decisions and recommendations of the Seventh Review Conference.

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<sup>1</sup> Council Joint Action 2008/858/CFSP of 10 November 2008 in support of the Biological and Toxin Weapons Convention (BTWC), in the framework of the implementation of the EU Strategy against the Proliferation of Weapons of Mass Destruction (OJ L 302, 13.11.2008, p. 29).

<sup>2</sup> Council Decision 2011/429/CFSP of 18 July 2011 relating to the position of the European Union for the Seventh Review Conference 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 (BTWC) (OJ L 188, 19.7.2011, p. 42).

- (10) The Seventh Review Conference decided that the Eighth Review Conference will be held in Geneva not later than 2016 and should review the operation of the BTWC, taking into account, *inter alia*:
- (i) new scientific and technological developments relevant to the BTWC;
  - (ii) progress made by States Parties on the implementation of the obligations under the BTWC;
  - (iii) progress towards implementing the decisions and recommendations agreed upon at the Seventh Review Conference.
- (11) On 23 July 2012, the Council adopted Decision 2012/421/CFSP<sup>1</sup> in respect of the BTWC with the objectives of promoting the universality of the BTWC, providing support for the implementation of the BTWC by the States Parties, promoting the submission of CBMs declarations by the States Parties, and providing support for the BTWC Intersessional Process.
- (12) In light of the forthcoming BTWC Review Conference taking place from November to December 2016, it is appropriate to update the Union position,

HAS ADOPTED THIS DECISION

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<sup>1</sup> Council Decision 2012/421/CFSP of 23 July 2012 in support of the Biological and Toxin Weapons Convention (BTWC), in the framework of the EU Strategy against Proliferation of Weapons of Mass Destruction (OJ L 196, 24.7.2012, p. 61).

### *Article 1*

In the run up to and during the Eighth Review Conference of the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons Convention and on Their Destruction ('BTWC'), the Union shall work, in particular, to ensure that the States Parties address the following priorities:

- (a) building and sustaining confidence in compliance, by a range of specific measures described in this Decision;
- (b) supporting national implementation, including by engaging more with non-governmental stakeholders;
- (c) supporting the UN Secretary-General's Mechanism for investigation of alleged use of biological weapons and agents through further development of its operational capabilities as a means of strengthening Articles VI and VIII of the BTWC; and,
- (d) promoting the universality of the BTWC.

The Union's objective is to review the operation of the BTWC and the 2012-2015 Intersessional Process, promote concrete actions and explore options to further strengthen the BTWC. In this regard, the Union shall put forward concrete proposals to the Eighth Review Conference in 2016 with a view to their adoption by that Conference.

## *Article 2*

For the purposes of the objectives laid down in Article 1, the Union shall:

- (a) contribute to a full review of the operation of the BTWC at the Eighth Review Conference, including the implementation of undertakings of the States Parties under the BTWC, and the conduct of and outcomes from the 2012-2015 intersessional programme;
- (b) support a new substantive work programme that addresses the limitations of previous intersessional programmes during the period between the Eighth and Ninth Review Conferences through the adoption of enhanced arrangements for further progress under that work programme, with a view to strengthening the effectiveness of the BTWC;
- (c) support a Ninth Review Conference of the BTWC, to be held no later than 2021;



- (d) build consensus for a successful outcome of the Eighth Review Conference, on the basis of the framework established by previous Conferences, and promote *inter alia* the following key issues:
- (i) while recognising that there is no consensus regarding verification at this stage, that remains a central element of a complete and effective disarmament and non-proliferation regime, the Union is working towards identifying options that may contribute in a new intersessional programme and thereafter to an increase in confidence in compliance and to the effective implementation of the object and purpose of the BTWC; States Parties should be able to demonstrate compliance, *inter alia*, by means of interactive information exchanges (such as mandatory or voluntary declarations) and enhanced transparency about their capabilities, activities and actions, including voluntary and other onsite measures as agreed; proposals made during the 2012-2015 intersessional programme and the outcomes of the programme provide a basis for that work;

- (ii) supporting and strengthening, where necessary, national implementation measures, including administrative, judicial and criminal legislation, and control over pathogenic microorganisms and toxins in the framework of the BTWC; further action could be considered and decisions taken on ways and means to enhance national implementation: outreach to and engagement with non-governmental stakeholders on a national, regional and global level on their role in the promotion of the objectives of the BTWC and its implementation; continued support for adoption of appropriate standards on biosafety and biosecurity measures; awareness raising among relevant professionals in the private and public sectors; training and education programmes for those granted access to biological agents and toxins relevant to the BTWC; promotion of a culture of responsibility amongst relevant national professionals and the voluntary development, adoption and promulgation of codes of conduct; promoting compliance with obligations under UNSC Resolutions 1540 (2004) and 1673 (2006), where relevant to the elimination of the risk of biological or toxin weapons being acquired or used for terrorist purposes, including the risk of non-state actor access to materials, equipment, and knowledge that could be used in the development and production of biological and toxin weapons;
- (iii) universal adherence of all States to the BTWC, including by calling on all States not party to the BTWC to adhere thereto without further delay and to commit legally to disarmament with regard to, and non-proliferation of, biological and toxin weapons; and, pending adherence of such States to the BTWC, by encouraging such States to participate as observers in the meetings of the States Parties to the BTWC and to implement, on a voluntary basis, the provisions of the BTWC; and by recommending the adoption of an action plan on universalisation, coordinated by the ISU and evaluated during dedicated sessions at the intersessional meetings;

- (iv) working towards the ban on biological and toxin weapons being declared a universally binding rule of international law, including through universalisation of the BTWC;
- (v) efforts to enhance transparency and build confidence in compliance, including through necessary and achievable revisions to the current CBMs; the Union is willing to work on the enhancement of the CBMs by identifying measures to increase their direct relevance to the core objectives of transparency and the avoidance of suspicions and concerns; continue to support a voluntary peer review process as a valuable tool for increasing transparency between States Parties thereby enhancing confidence in compliance with the BTWC and strengthening national implementation through the sharing of best practices, raising stakeholder awareness of implementation requirements and increasing international cooperation in this field;
- (vi) strengthening operational capabilities of the UN Secretary-General's Mechanism for investigation of alleged use of chemical and biological weapons, including through expanding the cadre of trained experts, training, and the conduct of table-top and field exercises; work done separately can help further strengthen Article VI and indirectly Article VII of the BTWC;
- (vii) taking decisions on the provision of assistance and coordination in the context of Article VII of the BTWC with relevant organisations upon request by any State Party in the case of alleged use of biological or toxin weapons, including improving national capabilities for disease surveillance, detection and diagnosis and public health systems as the first line of defence;

- (viii) enhancing transparency about cooperation and assistance related to Article X of the BTWC and taking into account the mandates, work and the expertise of other international organisations; the Union will continue to support the concrete implementation of Article X of the BTWC through its various assistance programmes and is willing to continue elaboration of common understandings, which forms the basis for effective action with regard to cooperation for peaceful purposes in the framework of the BTWC; further action could be considered and decisions taken on the enhancement of international cooperation, assistance and exchange in biological sciences and technology for peaceful purposes, on promoting capacity building in the fields of disease surveillance, detection, diagnosis, and containment of infectious diseases; the Union will continue to support the operation of the current Cooperation and Assistance Database, and where appropriate, seek ways to enhance its utility; supporting, *inter alia*, the G7 Global Partnership programmes, relevant Union programmes and the goals of the Global Health Security Agenda targeted at support for implementation of the International Health Regulations and disarmament, control and security of sensitive materials, facilities, and expertise, as appropriate;
- (ix) supporting a process of more frequent and focused assessments of relevant scientific and technological developments, which may have implications for the BTWC; such a process could involve the incorporation of a standing science and technology advisory function in the ISU and a more substantive review process as a central element in a new intersessional work programme in order to cover relevant events and work conducted by international academies and the States Parties in a more integrated and coordinated fashion.

### *Article 3*

In order to strengthen compliance, the Union shall promote increased relevance and comprehensiveness of CBM-forms by:

- (a) examining annual CBM-forms as the regular national declaration tool on implementation and compliance and developing them further with this objective in mind;
- (b) reducing to the largest extent possible remaining complexities of CBM-forms and removing potential ambiguities;
- (c) supporting the ISU to play more of a role in support of national points of contact in compiling their CBMs through regional seminars and training for electronic submission of CBM-forms;
- (d) working to increase the participation in, and the quality and comprehensiveness of CBMs, by expanding the functionality of the electronic CBM facility and making it, as well as the CBM guide, available in all UN official languages on the BTWC website.

### *Article 4*

In addition to the objectives laid down in Article 1, the Union shall support the strengthening of the role of the ISU. In particular, the Union shall support:

- (a) the prolongation of the ISU's mandate for a further five years;

- (b) the inclusion of further activities in the mandate of the ISU to support the implementation of a revised and strengthened intersessional work programme, as proposed in Article 5 below;
- (c) the development of a more effective system to review scientific and technological developments and their impact on the BTWC by establishing *inter alia* a standing science and technology advisory and liaison function in the ISU;
- (d) the adoption of an action plan on universalisation to be coordinated by the ISU;
- (e) a role for the ISU in supporting States Parties' national points of contact in compiling and submitting CBM-forms as noted in Article 3;
- (f) an adequate expansion of the current ISU staff to meet the new objectives and carry out the activities referred to in this Article.

#### *Article 5*

In order to support the review and strengthening of the intersessional programme, the Union shall in particular:

- (a) support the following topics for a new intersessional programme, either as intersessional topics or through dedicated working groups, or both:
  - (i) national implementation and compliance;
  - (ii) further work on CBMs following the Eighth Review Conference;

- (iii) assistance and cooperation under Article VII of the BTWC;
  - (iv) developments in science and technology;
  - (v) review of the Consultative Committee procedure;
  - (vi) universalisation as proposed in Article 6;
- (b) support the development of national regulatory frameworks on bio-safety and bio-security; although appropriate standards for bio-safety and bio-security for laboratories are not in any way a substitute for a compliance regime, the adoption and promotion of such standards can help individual States Parties in the long term with the implementation of their obligations under the BTWC; they could also be a useful tool, along with other measures, to help demonstrate compliance; discussion on this subject, including with relevant laboratories, biosafety-associations and industry, could be part of a new intersessional work programme;
- (c) support voluntary peer review exercises involving States Parties in the context of the BTWC; the objective of a peer review exercise is to improve national implementation and to provide reassurance on compliance by means of information exchanges and enhanced transparency regarding, for instance, capabilities, activities and actions for implementation and intentions towards compliance;
- (d) support the reinforcement of the decisional power of the Intersessional Process by exploring a range of options such as clearly defined decision-making powers for specific areas of work.

### *Article 6*

In order to support the universality of the BTWC, the Union shall:

- (a) support the adoption of an action plan on universalisation, coordinated by the ISU, with concrete steps and activities; the action plan might include activities such as outreach events, joint demarches, translation of relevant documents, incentives such as information exchange on assistance offers; this action plan would be evaluated and, if necessary, modified at each Meeting of States Parties;
- (b) support the organisation of dedicated sessions or working group meetings on universalisation during the Intersessional Process in order to coordinate outreach activities between various actors and plan regional initiatives.

### *Article 7*

The Union shall support efforts to strengthen the UN Secretary-General's Mechanism for investigation of alleged use of chemical and biological weapons, in particular, by ensuring the effectiveness of the provisions of the Mechanism and taking practical steps to this end, such as providing support for training programmes, including the hosting of exercises, and developing an analytical laboratory system.

### *Article 8*

The Union shall support efforts to strengthen Article VII of the BTWC at the Eighth Review Conference, taking into account efforts elsewhere in building international capacities for responding to outbreaks of infectious disease.



*Article 9*

Action taken by the Union for the purposes referred to in this Decision shall comprise:

- (a) the submission by the Union and its Member States, on the basis of the position set out in this Decision, of proposals for specific, practical and feasible arrangements for the effective enhancement of the implementation of the BTWC, for consideration by States Parties to the BTWC at the Eighth Review Conference;
- (b) where appropriate, demarches by the High Representative or Union Delegations;
- (c) statements delivered by the High Representative or the Union Delegation to the United Nations in the run up to and during the Eighth Review Conference.

*Article 10*

The Decision shall enter into force on the date of its adoption.

Done at ...,

*For the Council*  
*The President*

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