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)

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 the 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 the discussion on the verification of the BTWC, supporting universalisation and national implementation of the BTWC, including through the means of criminal legislation, and strengthening compliance with it.

(2) On 28 April 2004, the United Nations Security Council 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. On 27 April 2006, the UN Security Council unanimously adopted Resolution 1673 (2006) in order to intensify the efforts to promote the full implementation of Resolution 1540 (2004). Implementation of the provisions of these Resolutions contributes to the implementation of the BTWC.

(3) On 26 August 1988, the UN Security Council adopted Resolution 620 (1988) which, inter alia, encourages the Secretary-General to carry out promptly investigations in response to allegations concerning the use of chemical and bacteriological (biological) or toxin weapons that constitute a violation of the 1925 Geneva Protocol. On 8 September 2006, the General Assembly adopted the United Nations Global Counter-Terrorism Strategy, annexed to Resolution 60/288, under which Member States encourage the Secretary-General to update the roster of experts and laboratories, as well as the technical guidelines and procedures, available to the Secretary-General for the timely and efficient investigation of allegations.

(4) The Sixth Review Conference of the States Parties to the BTWC decided that the Seventh Review Conference is to be held in Geneva not later than 2011 and should review the operation of the BTWC, taking into account, inter alia, new scientific and technological developments relevant to the BTWC, as well as progress made by the States Parties to the BTWC (hereinafter the 'States Parties') in the implementation of the obligations under the BTWC and in the implementation of the decisions and recommendations agreed upon at the Sixth Review Conference.

(5) On 27 February 2006, the Council adopted Joint Action 2006/184/CFSP [1] and on 10 November 2008, the Council adopted Joint Action 2008/858/CFSP [2]. Both joint actions promote universality of the BTWC and support its implementation by the States Parties. Moreover, Joint Action 2008/858/CFSP promotes the submission of confidence building measures (CBM) declarations by the States Parties, and provides support for the BTWC intersessional process.

(6) In parallel to Joint Action 2006/184/CFSP, the European Union agreed an EU Action Plan on biological and toxin weapons, complementary to the EU Joint Action in support of the BTWC [3] in respect of the BTWC in which Member States undertook to submit CBM declarations to the UN in April every year and lists of relevant experts and laboratories to the UN Secretary-General to facilitate any investigation of alleged use of (chemical) biological and toxin weapons.

(7) In the light of the forthcoming BTWC Seventh Review Conference from 5 to 22 December 2011, it is appropriate to update the position of the European Union,

HAS ADOPTED THIS DECISION:

Article 1

The objectives of the Union at 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 convention and on their destruction (BTWC) shall be to review the operations of the BTWC and explore options to strengthen it further.

To attain these objectives, the Union shall put forward concrete proposals to the Seventh Review Conference due to take place from 5 to 22 December 2011.

[1] OJ L 65, 7.3.2006, p. 51.
[2] OJ L 302, 13.11.2008, p. 29.
[3] OJ C 57, 9.3.2006, p. 1.

Article 2

At the Seventh Review Conference, the Union shall work, in particular, to ensure that the States Parties to the BTWC (hereinafter the 'States Parties') address the following priorities:

(a) building confidence in compliance with the BTWC;

(b) supporting its national implementation; and

(c) promoting its universality.

Article 3

For the purposes of the objectives laid down in Article 1 and the priorities laid down in Article 2, the Union shall:

(a) contribute to a full review of the operation of the BTWC at the Seventh Review Conference, including the implementation of undertakings made by the States Parties under the BTWC;

(b) support a further substantive intersessional process during the period between the Seventh and Eighth Review Conferences and identify specific areas and enhanced arrangements for further progress under this process;

(c) support the Eighth Review Conference, to be held no later than 2016;

(d) build consensus for the successful outcome of the Seventh Review Conference, on the basis of the framework established by the previous conferences, and promote, inter alia, the following key issues:

(i) working towards identifying and strengthening effective mechanisms to build confidence in compliance within the BTWC;

(ii) States Parties should be able to demonstrate compliance by means of information exchange and enhanced transparency about their capabilities and actions for implementation and intentions towards compliance. This can be achieved by means of declarations, consultations and on-site activities, representing increasing levels of transparency and scrutiny, but also by information exchange and review during the intersessional process. While recognising that there is currently no consensus on verification, which remains a central element of a complete and effective disarmament and non proliferation regime, the Union is willing to work towards identifying options that could achieve similar goals;

(iii) effective implementation and full compliance with all obligations under the BTWC by all States Parties; supporting and strengthening, where necessary, national implementation measures, including criminal legislation, and control over pathogenic micro-organisms and toxins in the framework of the BTWC, inter alia, by increasing the capacity of the Implementation Support Unit of the UN Office for Disarmament Affairs (ISU) to support national implementation and taking it up as an intersessional topic. Further action could be considered and decisions taken on ways and means to enhance national implementation. The Union will encourage discussions on possible options in this regard, especially in the area of national legislation, coordination among national stakeholders and regional and sub-regional cooperation; and implementation of appropriate biosafety and biosecurity management standards for life science institutions;

(iv) universal adherence of all States to the BTWC, including calling on all States not party to the BTWC to adhere to it without further delay and to commit legally to the disarmament and non-proliferation of biological and toxin weapons; and, pending adherence of those States to the BTWC, encouraging them to participate as observers in the meetings of the States Parties and to implement, on a voluntary basis, the provisions of the BTWC. Working towards the ban on biological and toxin weapons being declared a universally binding Rule of International Law, including through universalisation of the BTWC; and therefore recommending the adoption of an action plan on universalisation, coordinated by the ISU, and evaluated during dedicated sessions during the intersessional process;

(v) efforts to enhance transparency and build confidence in compliance include the confidence building measures (CBM) mechanism. The Union is willing to work on the enhancement of this mechanism by identifying measures to increase the participation, quality and comprehensiveness of the CBM mechanism;

(vi) enhancing transparency about cooperation and assistance related to Article X of the BTWC and taking into account the 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 the 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, and on promoting capacity building in the fields of disease surveillance, detection, diagnosis, and containment of infectious diseases;

(vii) strengthening the UN Secretary-General's mechanism for investigation of alleged use of biological and toxin weapons. Further action could be considered and decisions taken 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 and toxin weapons, including improving national capabilities for disease surveillance, detection and diagnosis and public health systems. Work done separately on strengthening the UN Secretary-General's mechanism for investigation of alleged use of biological and toxin weapons can further help indirectly strengthen Articles VI and VII of the BTWC;

(viii) supporting a process of more frequent assessments of relevant scientific and technological developments, which may have implications for the BTWC, such as the increasing convergence of chemistry and biology and in the rapidly developing fields of synthetic biology and nanotechnology;

(ix) compliance with the obligations under UN Security Council Resolutions 1540 (2004) and 1673 (2006), in particular to eliminate the risk of biological and toxin weapons being acquired or used for terrorist purposes, including possible terrorist access to materials, equipment, and knowledge that could be used in the development and production of biological and toxin weapons;

(x) the G8 Global Partnership programmes targeted at support for disarmament, control and security of sensitive materials, facilities, and expertise;

(xi) consideration of, and decisions on further action on the basis of the work undertaken pursuant to the intersessional process during the period from 2007 to 2010 and the efforts to discuss, and promote common understanding and effective action on the adoption of necessary national measures to implement the prohibition set out in the BTWC.

Article 4

In order to strengthen compliance with the BTWC, the Union shall promote:

(a) measures related to CBM declarations:

(i) examining annual CBM declarations as the regular national declaration tool on implementation and compliance and developing them further with this objective in mind;

(ii) increasing the quality of CBM declarations by:

— reducing to the largest extent possible the complexity of CBM forms and removing potential ambiguities. The detailed and concrete proposals for the modification of the CBM are based on the reports of the Geneva Forum Workshop,

— supporting the compilation of the information provided in the CBM forms. To that end, the Union would support the ISU playing a greater role in supporting the national points of contact and the national authorities responsible for ensuring compliance. This support could include elements such as setting up a reference library, a 'helpdesk'-function, providing the CBM forms in several languages, introducing an electronic format, and giving regional seminars for national points of contact,

— introducing incentives for CBM submission, such as integrating details about Article X of the BTWC related information into the CBM mechanism (using the current form D or creating a new form);

(iii) increasing relevance and comprehensiveness of CBM forms by:

— referring to all relevant Articles of the BTWC, taking into careful account the need to achieve an appropriate balance between providing useful information and the effort required to obtain it. This is to avoid increasing complexity and workload, which could potentially deter participation,

— modifying the CBM via a possible two-step approach, the modifications that would need further examination being left to a new intersessional process;

(b) measures related to the UN Secretary-General's mechanism for investigation of alleged use of biological and toxin weapons; reaffirming the need for the States Parties to ensure the effectiveness of the provisions of that mechanism and to take practical steps to this end, such as providing support for training programmes, and developing an analytical laboratory system.

Article 5

In addition to the objectives laid down in Article 1 and the priorities laid down in Article 2, 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 another five years;

(b) the following activities being included in the mandate of the ISU:

(i) establishing a communication and information platform on policy, scientific and other activities relevant to the BTWC (setting up a 'reference library'/electronic database for building awareness with States Parties, academia and industry);

(ii) liaising and sharing information with other relevant international organisations;

(iii) further strengthening the national implementation of the BTWC by facilitating the exchange of information and advice on national implementation;

(iv) further supporting the CBM system by participating to a review process of the CBM declarations. Based on information supplied by means of revised CBMs, the ISU could be mandated to compile Article X of the BTWC related information into an online database;

(v) developing a system to review scientific and technological developments and their impact on the BTWC;

(vi) developing an action plan on universalisation;

(c) an adequate expansion of the current ISU staff in order to enable the ISU to carry out the activities referred to in point (b).

Article 6

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

(a) support the following topics for a new intersessional process either as intersessional topics or through dedicated working groups:

(i) national implementation;

(ii) universalisation;

(iii) further post-RevCon work on CBM;

(iv) assistance and cooperation under Articles VII and X of the BTWC, including identification of requirements for assistance in the development and adoption of appropriate regulatory frameworks (focusing on biosafety and biosecurity in the first instance);

(v) developments in science and technology;

(b) support a process of more frequent assessments of relevant scientific and technological developments. The ISU could play a role via its renewed mandate. In addition to a detailed discussion in the intersessional process, States Parties could decide on alternative ways to discuss science and technology issues (i.e. to create a new working group, to have a science and technology item included on the agenda of Meetings of States Parties, to have a dedicated experts meeting for science and technology, to set up an advisory panel or to set up an open-ended science and technology forum);

(c) support the development of national regulatory frameworks, in particular on biosafety and biosecurity. The adoption of appropriate management standards for biosafety and biosecurity for laboratories and industry, although they are not in any way a substitute for a compliance regime, can help States Parties in the long term with the implementation of the obligations set out in the BTWC. They could also prove to be a useful tool, along with other measures, to contribute to a future enhanced compliance regime. Discussion on this development, i.e. with the relevant industry, could be part of a new intersessional process;

(d) support the reinforcement of the decisional character of the intersessional process by exploring a range of options such as making the final report of the States Parties' Meetings binding, agreeing on road maps, considering the possibility of working groups on specific issues, action plans or recommendations.

Article 7

In order to support universality, the Union shall:

(a) support the adoption of an action plan on universalisation, managed by the ISU, setting out concrete steps and activities. The action plan might include activities such as outreach events, joint demarches, the translation of relevant documents, incentives such as information exchange on assistance offers, and assistance visits to complete the first CBM submissions. This action plan would be evaluated and, if necessary, modified at each States Parties' Meeting;

(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 8

The Union shall support the review of the implementation of Article X of the BTWC at the Seventh Review Conference. This review shall aim at:

(a) exploring how to integrate information related to assistance in the CBM, by revising Form D or creating a new form, in order to allow States Parties to exchange information about activities concerning cooperation and assistance;

(b) mandating the ISU to compile Article X of the BTWC related information into an online database, which could be on the restricted area of the website.

Article 9

Action taken by the Union for the purposes referred to in Articles 1 to 8, shall comprise:

(a) on the basis of the position set out in Articles 1 to 8, proposals by the Union of specific, practical and feasible arrangements for the effective enhancement of the implementation of the BTWC for consideration by the States Parties at the Seventh Review Conference;

(b) *démarches* by the High Representative of the Union for Foreign Affairs and Security Policy or the Union delegations;

(c) statements delivered by the High Representative of the Union for Foreign Affairs and Security Policy or the Union Delegation to the UN in the run up to and during the Seventh Review Conference.

Article 10

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

Done at Brussels, 18 July 2011.

For the Council

The President

C. ASHTON