



ОЗХО

Конференция государств-участников

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ЗАПИСКА ГЕНЕРАЛЬНОГО ДИРЕКТОРА

ДОКЛАД О НАЦИОНАЛЬНЫХ МЕРАХ ПО ОСУЩЕСТВЛЕНИЮ

Добавление

В приложениях к настоящему добавлению содержатся обновленные данные для приложений 1 и 2 к докладу Генерального директора о национальных мерах по осуществлению (документ C-8/DG.5 от 18 сентября 2003 года), которые отражают дополнительную информацию, полученную Техническим секретариатом по состоянию на 22 октября 2003 года, для рассмотрения Конференцией государств-участников на ее восьмой сессии.

Приложения (только на английском языке):

Приложение 1: Status of Submissions Related to National Implementation Measures As at 22 October 2003 (Положение дел с представлением информации, касающейся национальных мер по осуществлению, по состоянию на 22 октября 2003 года)

Приложение 2: Survey of the Contents of Submissions under Article VII, Paragraph 5, of the Convention As at 22 October 2003 (Обзор содержания информации, представленной согласно пункту 5 статьи VII Конвенции по состоянию на 22 октября 2003 года)



Annex 1

STATUS OF SUBMISSIONS RELATED TO NATIONAL IMPLEMENTATION MEASURES AS AT 22 OCTOBER 2003¹

	State Party	NA estab-lished ²	Article VII(5) submis-sion received ³	Response to LQ1 received	Response LQ2 received	Legislation covers all areas key to enforcement ⁴	Text of measures has been provided ⁵	Article XI(2e) review carried out ⁶	Nomination to the Network of Legal Experts ⁷	Contents of communication received from the State Party, reporting the status of its efforts to establish an NA and/or enact national implementing legislation	Nature of any request for assistance, and any response from the TS
1.	Albania	X	X	X	X	X	X		X		
2.	Belarus	X	X	X	X	X	X	yes	X		

¹ Key to abbreviations:

CSP = OPCW Conference of the States Parties

CWC = Chemical Weapons Convention

NA = National Authority

LQ1 = Legislation Questionnaire on Survey of National Measures to Regulate Scheduled Chemicals (annexed to S/194/2000)

LQ2 = Legislation Questionnaire on Penal Enforcement of the Convention (annexed to S/308/2002 and S/317/2002)

TAV = Technical Assistance Visit

TS = OPCW Technical Secretariat

² Notification of establishment of National Authority received pursuant to Article VII, paragraph 4, of the CWC

³ Submission of information on legislative and administrative measures received pursuant to Article VII, paragraph 5, of the CWC

⁴ The information included in this column is either drawn from the responses of States Parties to the second legal questionnaire or derived from a reading of the text of national implementing legislation submitted by States Parties under Article VII, paragraph 5, of the CWC. For details, see Annex 2 to this Note.

⁵ In subparagraph 7.83(c) of its Report (RC-1/5), the First Review Conference “**called upon** States Parties to provide the OPCW with the full text of their national implementing legislation, including updates, or, in the case of States Parties with a monist legal system, with information on the specific measures they have taken to implement the Convention”. States Parties with a monist system will also have to submit such materials as administrative regulations requiring the reporting of declarable information to the NA, or regulating transfers of scheduled chemicals, or requiring the submission of an end-user certificate before exporting Schedule 3 chemicals to a State not Party.

⁶ As reported in the responses to the first legislation questionnaire (S/194/2000, dated 8 June 2000).

⁷ Pursuant to the Note by the Secretariat “Legal Technical Assistance: Network of Legal Experts” (S/363/2003, dated 28 May 2003).

3.	Bosnia and Herzegovina	X	X	X	X		X			<p>Note verbale dated 12 June 2003: "...the relevant authorities of Bosnia and Herzegovina have decided to accelerate the work on national implementing legislation while ensuring its comprehensiveness, high quality and compatibility with the CWC. In that context we would appreciate if the [TS] could sponsor the organization, at the OPCW headquarters in The Hague, a working session with participation of the experts/maximum three persons from Bosnia and Herzegovina...."</p> <p>Note verbale dated 9 September 2003: "...the comprehensive law on implementation of the [CWC] is currently in a drafting procedure. As soon as the final draft is completed and translated in English language, State Coordination Body for the Implementation of the CWC will send it to the [TS]."</p>	Request for assistance in drafting legislation; a TAV is under discussion for 2004
4.	Burundi	X			X				X	<p>Response to LQ2: There is no legislation enforcing any aspect of the CWC.</p> <p>Note verbale dated 5 September 2003: The NA is drafting legislation to be integrated into the Burundi Penal Code. The draft must first be approved by the Minister of Foreign Affairs before being submitted for in-depth consideration by an <i>ad-hoc</i> interministerial committee. It must then be analysed by the Council of Ministers after having been passed by the National Commission for Legislation. Parliament (National Assembly and Senate) adopts the draft before promulgation by the President of the Republic of Burundi. The NA will regularly inform the TS on the progress achieved in this matter and will ask for assistance from the OPCW Office of the Legal Adviser, if needed.</p>	
5.	Cameroon	X			X				X	<p>Note verbale dated 13 August 2003: Cameroon has not yet adopted penal legislation concerning chemical weapons. It would be appreciated if the OPCW or other interested parties could provide assistance in drafting legislation to that effect.</p>	Request for assistance from TS or other interested parties
6.	Croatia	X	X				X		X		

7.	Cyprus	X	X		X	X					A training course for the NA, which includes a segment on legislation, has been scheduled for 18 to 20 November 2003.
8.	El Salvador	X							X		
9.	Georgia	X	X	X	X		X (trans- lation)		X	Letter dated 8 August 2003 requesting a technical-assistance visit in order, <i>inter alia</i> , to address issues related to national implementing legislation	Request for a technical-assistance visit in order, <i>inter alia</i> , to address issues related to national implementing legislation
10.	Iran (Islamic Republic of)	X	X	X	X			yes	X	Note verbale dated 19 August 2003: "... Rule 77 of the Iranian Constitution and Article 9 of the Civil Code stipulate that each and every treaty and commitment of the Iranian Government approved by the Parliament is regarded as law and thus, should be abided by all citizens. It is noteworthy that the Iranian legal system is based on Monism and violations of the [CWC] will be prosecuted and punished as a criminal offence under the laws currently in force in the Islamic Republic of Iran... To better implement Article VII of the Convention on 'National Implementation Measures including its obligation under 1(a), (b), (c), 2 and 3, a draft comprehensive complementary new law to cover shortfalls of present civil penal national code in relation to proper implementing of the Convention has been sent to the Council of Ministers for consideration and approval before its final review and adoption by the Parliament ... since the draft law might be modified before the Parliament approval, the full text of the said law will be handed over to the Secretariat in due time."	

11.	Kuwait	X		X	X				X	Response to LQ2: There is legislation in force covering Article I and II(1) prohibitions. No other aspect is covered.	At the request of the State Party, the TS has commented on draft implementing legislation.
12.	[Kyrgyzstan] ⁸								X		
13.	Malawi	X	X		X	X			X	Response to LQ2: Comprehensive legislation is in force.	
14.	Malaysia	X	X		X				X	Note verbale dated 29 July 2003: "...the draft implementing legislation is currently being finalised by the Malaysian Government. It is expected that the bill will be tabled at the March 2004 Session of the Malaysian Parliament. With respect to administrative measures we wish to inform the Technical Secretariat that the Government of Malaysia had, on 4 th September 2000, amended the Customs (Prohibition of Imports) Order 1998 which is a subsidiary legislation under the Customs Act 1967. This amendment prohibits the importation into Malaysia of certain toxic chemicals and their precursors covered under the [CWC], except under an Import Licence granted by the Director-General of Customs These chemicals include Schedules 1, 2 and 3 chemicals as well as the un-scheduled Docs/PSFs under the Convention."	Request for a training course for the NA. The course, which included a workshop on legislation, was held from 2 to 7 September 2003.
15.	Morocco	X	X	X	X			no	X	Note verbale dated 20 January 2003: Penal legislation is at an advanced stage of preparation. As soon as it has been adopted, the national authorities will be able to fill out the legislation questionnaire. Note verbale dated 4 October 2003 submitted draft legislation for comment by the TS	Request for comments on draft legislation
16.	Nigeria	X							X	Annex to letter dated 22 August 2003: "There is need to pass an enabling Act in order to give the [NA] the necessary force of law. A sub-committee of the Technical Advisory Committee...has already finished work on the draft legislation, which hopefully would be considered by Council shortly."	

⁸ The Convention will enter into force for Kyrgyzstan on 29 October 2003.

21.	Serbia and Montenegro	X							X	Note verbale 12 August 2003: "...The existing national legislation regulates production, procurement, utilization and possession of toxic chemicals and it also applies to the matters handled by the [CWC]. However, the steps have also been taken to bring into force the laws which will deal with these matters in particular. As far as personal and territorial power of national legislation is concerned, it is compatible with the laws stipulated in the Convention. Therefore the national legislation and the agreements that have been concluded with foreign parties provide good basis for legal cooperation with other countries pertaining to the issues tackled by the Convention."	Request for assistance in drafting legislation: experts will participate in the meeting in The Hague from 4 to 7 November 2003
22.	Spain	X	X	X	X	X	X	yes	X		
23.	Sri Lanka	X	X		X				X	Email dated 22 October 2003: "... on 3 September 2003 ... approval was given [by the Cabinet] to the legal draftsman to draft necessary legislation on the [CWC] in Sri Lanka. Already the Ministry of Foreign Affairs has requested the legal draftsman to initiate the necessary work."	
24.	Tajikistan								X	E-mail message dated 11 September 2003: Tajikistan has not designated or established its NA but is currently taking the necessary measures to do so. A special commission has been set up to work on this task.	

25.	The former Yugoslav Republic of Macedonia	X								<p>Letter received 19 June 2003: "...we would appreciate if the [TS] could sponsor organising a working session (workshop) in the Republic of Macedonia. Persons involved in preparing the national implementing legislation will attend this workshop. Every form and timing of such a workshop will be acceptable for the Macedonian authorities."</p> <p>Letter dated 7 October 2003: "...the norms of the Convention are directly applicable in the territory of the Republic of Macedonia ... As a result of the NA activities, the amended 2003 Penal Code (to be adopted November 2003) will include CWC related provisions....Regarding the CWC Schedules 1, 2 and 3 as well as for Discrete Organic Chemicals (DOCs) no specific legislation is yet in place The Customs administration ... has requested from the Ministry of Economy, which is responsible for the modification of the HS Code, to amend the present HS Code ... with the ... WCO recommendation.... The NA has accepted OPCW offer for technical assistance on the enactment of CWC related legislation. The Workshop will be held in Skopje, at the beginning of 2004...."</p>	Request for assistance in drafting legislation and that the TS hold a workshop in 2004 for the NA on drafting implementing legislation
26.	Togo	X		X					X		

27.	Trinidad and Tobago								X	Email 15 August 2003: "the draft implementing legislation to give effect to the Convention is being studied by the relevant stakeholders in Trinidad and Tobago. On 19 August 2003, a meeting is being held at the Ministry of Foreign Affairs involving producers of DOC and other chemicals with a view to making declarations pursuant to Article VI of the Convention. The Ministry of Foreign Affairs performs an interim role in matters pertaining to the Convention pending the establishment of the National Authority. The latter requires the passage of implementing legislation. In this regard, the Ministry should be grateful if the International Cooperation Division would assist in the vetting of the said draft legislation. This could take the form of a visit to Trinidad and Tobago or any other manner prescribed by the OPCW."	Request that the TS comment on draft legislation
28.	Uganda	X	X	X	X				X	Response to LQ2: Legislation in force penalises violations of Article 1 and of obligations related to Schedule 3. Note verbale dated 30 May 2003: Assistance is sought to enable the NA to "effectively carry out its functions of spearheading the implementation of the CWC."	Request for funding to strengthen the NA
29.	United Arab Emirates	X			X					Note verbale 30 July 2003: "...the national authorities of the U.A.E. have drafted a national law for the regulation and control of the use of the Chemical Materials and Chemical Weapons, which has been submitted to the Ministerial Technical Committee for discussion. The national authorities of the U.A.E. will inform you as soon as the above mentioned draft [has been] adopted as law."	
30.	United Kingdom	X	X	X	X	X	X	yes	X		
31.	Uruguay	X	X	X	X				X		At the request of the State Party, the TS has commented on draft implementing legislation.
32.	Uzbekistan	X	X		X		X		X		

33.	Venezuela			X	X			no	X	<p>Note verbale dated 22 July 2003: The Secretariat's request for information was forwarded to the capital for response.</p> <p>Note verbale dated 15 September 2003, attaching a draft decree to establish the NA and a statement that , as foreseen in Art. 3 of the decree, the NA will draft the CWC implementing legislation once it is established.</p>	
34.	Viet Nam	X	X						X	<p>Notes verbales dated 19 August 2003: (1) "CWC enforcement has been incorporated into the amendment version [of the Criminal Code in 1999] ... The importation for scheduled chemicals is controlled by Government Decree and Ministry of Industry circular [for Schedules 1 and 2 chemicals] ... Currently [the NA] is on the way to draft a specific regulation for controlling activities in connection to scheduled chemicals ... it is proposed to support Viet Nam in organising national training courses on CWC implementation and accepting its assigned expert to participate in Legal Adviser Network."</p> <p>(2) "...it is proposed to organise two programs supported by OPCW including General Training Program and in depth Technical Meeting ... sometime during November 2003."</p>	Request for training and technical assistance from the TS
TOTALS: 154 States Parties		126	94	76	100	51	62	39-Y, 10-N	60		

Annex 2

SURVEY OF THE CONTENTS OF SUBMISSIONS UNDER ARTICLE VII, PARAGRAPH 5, OF THE CONVENTION⁹ AS AT 22 OCTOBER 2003

	State Party	Article I Prohibitions	Article I Penalties	Extra-territorial application	Article II(1) Penalties	Schedule 1 Penalties	Schedule 2 Penalties	Schedule 3 Penalties	Schedule 3 EUC	Penalty for Failure to Declare	Obstacles to Article VII(2)	Source ¹⁰
1.	Belgium	yes	criminal	yes	no	no	admin	admin	policy	no	no	LQ2 + VII,5
2.	Bosnia and Herzegovina	no	no	no	no	criminal	no	no	no	no	no	VII,5
3.	Sao Tome and Principe											

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⁹ As reported by States Parties in their responses to the second legislation questionnaire, on penal enforcement of the Convention (annexed to S/308/2002 and S/317/2002), or as derived from a reading of the text of legislation they have submitted. Some of the submissions made under Article VII, paragraph 5, summarise the legislation or offer information about it, while others contain the full text, either in the original language or in translation, of their legislation or of the measures they have taken to implement the Convention. Not all States Parties have responded to the questionnaire or made submissions. **States Parties that find that their legislative situation is not accurately portrayed in this table are requested to contact the Office of the Legal Adviser, in order to facilitate the clarification and updating of their files and the subsequent correction of this table.**

¹⁰ Key to abbreviations: LQ2 = the second legislation questionnaire; VII(5) = submissions under Article VII, paragraph 5, of the Convention.