NATIONAL MEASURES TO IMPLEMENT THE BIOLOGICAL WEAPONS
CONVENTION

Prepared by Argentina

I.- Background

A - International context

1. Throughout the years, the Republic of Argentina has demonstrated strong dedication to
the fight against the proliferation of weapons of mass destruction and terrorism, participating
very actively in the multilateral field, in the United Nations as well as in the Organization of
American States, the Biological Weapons Convention, the Australia Group and others.
Argentina has signed twelve international agreements linked to these topics and is a party to nine
of them at this date.

2. On September 13, 1972 the Republic of Argentina became a signatory to the
Convention on the Prohibition of the Development, Production and Stockpiling of
Bacteriological (Biological) and Toxin Weapons and on Their Destruction (BWC) which was
ratified on February 7, 1979 by the National Congress that later passed the Law 21988.
According to the National Constitution, Article 75, No. 22, treaties and accords have superior
authority over the national laws in the Republic of Argentina.

3. Argentina supported the task of the BWC Ad Hoc Group (AHG) in order to contribute
to the activities started by the Third Review Conference of the BWC and to examine and
reinforce the verification mechanisms. The Republic of Argentina is fully committed, alongside
the governments of Brazil and Chile, not to develop, produce, acquire in any way, stockpile or
hold, transfer directly or indirectly, and not to use, chemical or biological weapons (the Mendoza
Declaration).

4. In the context of the negotiations that emerged in Geneva in 1998, Argentina signed a
Joint Declaration on Strengthening of the BWC. The signatory countries as well as the Republic
of Argentina were: Brazil, Chile, Colombia, Mexico and Peru. In this Joint Declaration, based on the Mendoza Declaration and on the Political Declaration of MERCOSUR, Bolivia and Chile as an Area of Peace (July 29 1998 in Ushuaia), it was determined that the signatory countries would give their full support in the pertinent forums to the improvement of the international instruments and mechanisms on the non proliferation of weapons of mass destruction.

5. With this philosophy, Argentina participated in the 1998 High Level Meeting, which took place in New York, with the aim of promoting the conclusion of a text, universally legally binding, on verification measures for the BWC. With this objective in mind, Argentina supported the work carried out on the composite text, presented by Ambassador Tibor Toth, Ambassador of Hungary, which showed the effort of the international community to achieve a verification protocol for the Biological Weapons Convention.

6. Argentina has also supported the outcomes of the Fifth Review Conference of the BWC - 2002 - with the purpose of actively engaging in the international process of annual States Parties meetings, between 2003 and 2006, to discuss and promote common understanding and effective action on topics that will strengthen the effectiveness of the Convention (BWC).

B - The Republic of Argentina and its Cooperation in the Fight Against Terrorism.

7. In mid-1995, the Republic of Argentina began to explore the possibilities to increase international cooperation to confront terrorism.

8. A first round of talks was held in Buenos Aires in August of 1995. Paraguay, Uruguay and Brazil (MERCOSUR), and the governments of Chile, Mexico and the United States participated in the meetings with delegations of the highest political and technical level. At the end of the meeting it was clear that it was necessary to create new political and operative authorities to confront and defeat terrorism in the hemisphere.

9. The following year, within the framework of the Organization of American States (OAS), the First Inter-American Conference on Terrorism took place in Lima (Peru). Furthermore, this assembly was the first formal meeting of the Inter-American system to treat the question of terrorism as a regional problem. This political decision put the American continent at the forefront of the regional blocs resolved to face, in an organised manner, this new type of threat. The Argentinean government made clear its priorities and strategic projects in the fight against terrorism in the hemisphere. The conclusion of the Lima Meeting was a clear record that the hemispheric commitment is maturing.

10. In November of 1998, in the city of Mar de Plata (Argentina), in the framework of the OAS, the Second Specialized Conference in the Fight Against Terrorism took place. The conclusions of this meeting were captured in the very well-known document, the Commitment of Mar de Plata, which included an adjunct document with the definitions of the policies that needed to be developed in the new Inter-American Body.

11. That meeting was convened on the initiative of the Argentinean government, which favoured the creation of an Inter-American body or institution to combat and defeat terrorism in the hemisphere. This is the historical origin of the Inter-American Committee against Terrorism (CICTE).
12. The Commitment of Mar de Plata is the first hemispheric document in which the political decision of the American continent favoured the creation of a continental tool to fight terrorism. Its details clearly show the dynamics of the debate of this process in which the members of the OAS took the decision to create a regional tool to face terrorism, as early as two years before the terrorist attacks of September 11 in the United States, when the problem then jumped to the top of the global political and security agenda.

13. The CICTE was created by the General Assembly of the Organization of American States in the City of Guatemala in July 1999. The decision to establish it was the result of a rich debate and of search for consensus in which the representatives of all the governments of the American continent participated. Above all, this debate showed the determination of the members of the hemispheric community to create new cooperative tools to face one of the most ferocious threats of our times: trans-national terrorism.

14. In October 1999 the CICTE had its first meeting in the city of Miami. Throughout the meeting and through the speeches of the OAS member states, the Argentinean leadership was recognised in the creation of the new body. In December 2001, the OAS revitalised the CICTE, giving it a structure by augmenting its institutional hierarchy.

Preventive Actions:

15. Based on these commitments, the Republic of Argentina, in preventive matters, has established in the Police National Effort (ENP) within the Secretary of Interior Security through Ordinance 159 of 2003. The ENP is constituted by the Federal Argentinean Police, the National Gendarmerie, the Naval and Aeronautics Prefecture and the Provincial Police of the 23 districts of the national territory.

16. The ENP is coordinated by the Secretary of Interior Security whose functions are:

   16.i To assist the Ministry of Justice, Security and Human Rights, in all that concerns the security of the interior in order to preserve freedom, life and the heritage of the people, their rights and guarantees in the frame of the full validity of the institutions of the democratic system;

   16.ii To attend to the coordination of the Federal System of Emergencies (SIFEM) created by Ordinance 1250 of October 28 1999.

17. The SIFEM is directed to avoid or reduce the loss of human lives, material damage and social and economic interference caused by phenomena of natural or artificial origins, executing the actions of its competencies to solve extraordinary situations or emergencies that occur in the national territory. Furthermore, it also intervenes in the application of Law 22.352 and of Decree-Law 15.385 (Law 12.913) in all that is related to the preservation of the secured areas and frontier, and to exercise the authority of the National Commission of the security zones.

18. It is necessary to point out also that the Republic of Argentina has incorporated into its national legislation what was set out by the UN Security Council Resolution 1373 of 2001 through Decree 1235 of October 5, 2001, that requires all the bodies of the executive branch, national organs, provinces, municipalities and the Autonomous Government of the City of
Buenos Aires, to adopt in all their respective jurisdictions the necessary measures to implement what is set out in Resolution 1373.

19. The Argentinean Ministry of Foreign Affairs, International Trade and Culture issued, as a consequence, the following Resolutions: 2973, 3165, 3291, 3397 and 3711, which specify the bills, funds and financial resources that the UN Security Council (Resolution 1267 of 1999) has designated as accounts subject to freezing.

20. A Special Representative's Office for Matters of Terrorism and Other Related Crimes, was created with the aim of carrying out the coordination of politics, actions and relevant measures to fulfil Decree 1235.

21. In June 2002, what is now known as the 3+1 meeting, with the addition of the United States to the group, took place as a complement to the diverse actions that had taken place in the triple-border zone (Argentina, Paraguay and Brazil) to activate even more the cooperation of the governments involved in the fight against terrorism and related matters. The subjects discussed were those of detection methods for terrorist funding, drug and arms traffic, border control and intelligence matters. These activities are continuously being developed in order to maintain a follow up mechanism for acts that occur in the border areas.

22. The Republic of Argentina is committed to strengthen and to continue expanding the national legislation that refers to the non-proliferation of weapons of mass destruction. This implies, fundamentally, different aspects among which we find: a more precise plan of terrorist practices and acts, a larger exchange of information and knowledge with the cooperation of security police and intelligence bodies in order to be able to prevent such acts, the harshest sanctions, and the creation of an instrument to find ways to harmonize the different national legislation against terrorism and the use of non-conventional weapons, so that the penal provisions will be more uniform at the national and international levels.

II. – National Measures in Effect in the Republic of Argentina

Definitions:

23. As is stated in Article 1 of the Biological Weapons Convention where reference is made to the commitments made by each State Party:

24. Each State Party to this Convention undertakes never in any circumstances to develop, produce, stockpile or otherwise acquire or retain:

   24.i. Microbial or other biological agents, or toxins whatever their origin or method of production, of types and in quantities that have no justification for prophylactic, protective or other peaceful purposes;

   24.ii. Weapons, equipment or means of delivery designed to use such agents or toxins for hostile purposes or in armed conflict.
25. Argentina applies the following definitions:

25.i. Toxin: chemical substance produced or derived from plants, animals or microorganisms (for example bacteria, viruses, fungi, ricketsiae, protozoa), or from recombinants or from synthesized molecules, whichever its origin or production method. They lack any ability to infect or replicate.

25.ii. Biological Agents: those that being natural or modified, can cause illness, incapacitate or cause the death of human beings animals and plants. They have the ability to replicate and cause infections.

26. The biological agents and toxins will have to be controlled when they are: either in the live cultivation of the pathogen (isolated); or in a preparation of a toxin that has been isolated or extracted from any source; or of material, including live material that has been deliberately inoculated or contaminated with the toxin.

27. The genetic elements (genomes, chromosomes, plasmids, etc) that contain genetic sequences associated with the pathogenicity of the biological agents or with the toxicity of the toxins, should also be controlled.

Legislation in force:

Penal Code:

Title VII on crimes against public security

- Chapter IV Article 200: sanctions with imprisonment from 3 to 10 years any person who poisons or alters in any dangerous way, drinking water or any nutritive goods destined for public use or collective use of people. If death is caused by this crime, the sentence will be from 10 to 25 years of imprisonment.

Title VII on crimes against public safety

- Chapter IV Article 202: sentences from 3 to 15 years of imprisonment for anyone who voluntarily spreads a dangerous and infectious disease.

Title I on crimes against people

- Chapter I Article 80: sentences to life imprisonment anyone who kills another with malice, poison or in any other insidious way.

Decree 395, 1975 on the National Law of Weapons and Explosive

- Section 3: classifies poisoned projectiles as war materials.

Law 24051, 1992 and its modification Law 25612

- Chapter III Article 52: establishes that anyone who contaminates or alters the water, soil, the atmosphere or puts at risk the quality of life of the population, bio-diversity and eco-
system, will be imprisoned from 3 to 10 years. If death of an individual is caused by this crime, the sentencing will be from 10 to 25 years of imprisonment.

**Law 154 of the Autonomous City of Buenos Aires**

- Regulates the creation, manipulation, stockpiling, recollection, transport, and treatment of all pathogenic residues.

**Resolution 650, 2002 (Public Health)**

- Approves the Guide of Sample Taking, Conservation and Transport for Toxicological Analyses, incorporating it into the National Program of Medical Standards.

**Resolution 145, 2003 (Public Health)**

- Approves the Technical Regulations for the Transport of Infectious Substances and Samples for Diagnoses, incorporating it into the regulations currently in force.

**Resolution 19, 1998 (Public Health)**

- Approves the Regulations on the Notification of Labour Accidents of Health Personnel in Risk of Infection by Sanguine Pathogens.

**Law 22990 (Public Health)**

- Prohibits the commercialisation and profit from production, preparation, stockpiling, conservation, distribution, supply, transport, import and export of human blood with all its components and derivatives.

**Resolution 54, 1998 and Resolution 481, 1999**

- Establishes an authority in charge of controlling the sending of blood abroad, (serum and plasma) with the means of finding a diagnostic and enrolling in medical studies.

**Resolution 328, 1996 (Public Health)**

- Approves the regulations referred to in Viral Diagnoses, Technical Guide of Sample Taking, Conservation and Shipping of Samples.

**Law 19587 and Decree 35, 1979 on Hygiene and Security in the Work Place**

- Art 145: the establishments where infectious substances are fabricated and manipulated have to follow the prescriptions detailed by this regulation.

**Resolution 349, 1994 (Public Health)**

- Establishes the National Technical Guidelines on the handling of bio-pathological residues in health units.
Resolution 228, 1993 (Public Health)

- Establishes bio-safety guidelines for health establishments inside the National Program of the Fight Against RH and AIDS, and sets biosafety recommendations for laboratories that work with biological materials.

Regulation IRAM 80058-2 on the Transport of Biological Material.

- Establishes a contingency plan for the transport and manipulation of biological materials.

Regulation IRAM 80058-1/2003 on Biosafety, Specimen of Diagnoses and Terrestrial Transport of Biological Material.

Regulation IRAM 80059/2000 on the Classification of Microorganisms According to their Level of Security.

Resolution 3404 of the City of Mendoza

- Corresponds to the Manual of Biosafety Regulations for Health Institutions.

Regulations for laboratories set by the department of Hygiene and Security.

Regulations set by the government of the city of Buenos Aires, through the Secretary of Health, 2001 on the Applicable Procedures for Victims Exposed to Biological and Chemical Agents.

Ordinance 1585, 1996

- Establishes the National Service of Sanity and Agricultural quality (SENASA) whose role is to control of the federal traffic, imports and exports of the products or by-products derived from animal and vegetable origin, agricultural products and agrochemical fertilizers. Also proposes sanctions and penalties for violations of these measures.

Resolution 403, 1983 of the SENASA

- Prohibits the import of vegetables that have soil stuck to their roots, potted plants and bulbs and tubers marred with dirt.

Resolution 799, 1999 of the SENASA

- Establishes the National System for Sanitary Emergencies.

Law 24305 on Foot and Mouth Disease

Law 2268, 1888

- Sets down the control for the sanitary police of contagious and exotic illnesses and prohibits the import into the country of any animal that suffers from an infectious disease.
Resolution 462 of the SENASA

- Orders the destruction of residual and organic wastes of animal or vegetable origin coming from abroad.

Law 24425

- Incorporates into Argentinean legislation the Agreement for the Application of Sanitary and Phytosanitary measures of the World Trade Organisation.

Resolution 42 of the SENASA

- Prevents the introduction of Encephalitic Transferable Spongiform, prohibiting the introduction to the country of foods that contain meats, trifles, viscera and by-products of ruminant origin coming from various European countries.

Resolution 498, 2001 of the SENASA

- Establishes the plan for poultry farm improvement.

Resolution 501, 2001 of the SENASA

- Approves the Border Manual that sets sanitary guidelines for border businesses to prevent the introduction of exotic illnesses, infected animals and plagues.

Resolution 834, 2002 of the SENASA

- Approves the National Program on the control and eradication of Classical Swine Fever in the Argentinean Republic.

Resolution 882, 2002 of the SENASA

- Creates a Program of Control and Prevention of Micoplasmosis and Salmonellas.

Law 23709, October 1998 (Health)

- Approves the Statute on the International Centre for Genetic Engineering and Biotechnology and the Protocol for the second convocation of the meeting of plenipotentiaries on the creation of the ICGEB.

Decree 200, 1997

- Prohibits cloning experiments with human beings.

Resolution 412, 2002 of the SENASA

- Establishes new evaluation criteria for foods derived from genetically modified organisms.
Law 3959, 1906

- Establishes the General Regulations of the Sanitary Police for Animals.

Decree 690/2002


Control of Sensitive Exports and War Material

28. Ordinance 603/92 creates the National Commission for Control of Sensitive Exports and War Material. It controls the transfer of materials, teams, technologies, technical assistance and/or services of nuclear, chemical, bacteriological or of missile nature. The Commission created by this Ordinance retains the ability of granting export licenses as stated by the previous Ordinance 1097/85.

29. Ordinance 1291/93 incorporates into the Commission the ability to grant import certificates (Circular No. 10/2000) and establishes a more flexible administrative mechanism for the periodic updating of the list of products subject to the control of the Commission.

30. This new legislation coincides with the control established by other countries and adopts relevant international standards (Guide of the MTCR, Australia Group and the Group of Nuclear Supplying Countries).

31. According to the new regulation, it is obligatory to obtain prior authorization for the export of materials mentioned by the Ordinance. The applications are studied case by case, and a decision upon them is decided taking into consideration the country’s position against the proliferation of such weapons, and specific international conditions.

32. Argentina coordinates with other states its policies on exports that could contribute to the production of weapons of mass destruction, in order to consolidate an effective international system in this field.

33. The new regulations do not restrict legitimate trade, but rather incorporate, at a national level, international criteria on non-proliferation. Joint international action is essential because it would be politically and commercially unjust that other international providers adopt more permissive attitudes.

34. Argentina has been a member of the Australia Group since 1992 and fully supports the measures of export licensing as a means to show the rest of the member countries its determination to avoid the propagation of weapons of mass destruction. According to its commitments, Argentina, through the Joint Resolution of December 1993, includes, under the control of the National Commission on Export Control of Sensitive and War Material, a list of biological agents that affect human beings, a list on additional warnings, a list on pathogenic animal agents an a list of pathogenic vegetable agents as well as dual-use material list.

35. Also, the Combined Resolution 125/98 incorporates into the control of exports and imports, chemical substances, chemical equipment, biological agents, pathogens of plants,
animals, GMOs, and equipment of dual biological use included in the lists of the Australia Group.

36. Ordinance 437/2000 incorporates into Ordinance 603/92 its controls on the list of warlike material that established under the Wassenaar Agreement, of which Argentina is part. The same Ordinance adds to annex E a list of dual-use materials and dual-use technology.

**Criminal Law framework on BWC**

37. Based on the analysis carried out, we conclude, that within the types of national penal codes, can be found Article 1 of the BWC in Art. 189 bis, “He who, with the aim to attack against national security…fabricates, sells, acquires, stockpiles…toxic materials…will be imprisoned from 5 to 15 years.”

38. In the case of biological agents (viruses, bacteria or rickettsiae) it is considered a crime once the act is committed, in comparison to the crimes mentioned under Art. 189 bis which punishes potential threats.

39. The crimes mentioned under Art. 200 and 202 of the Penal Code and Art. 55 from Law 24.051 and its modifications, punish the crime once it is committed. Therefore, preventive actions are not contemplated: production, development, stockpiling and acquisition of agents with proliferating means.

**Analysis of the cited articles**

40. First category: Biological agents, which are mentioned in Art 1 of the BWC, are also mentioned in Art. 189 bis of the Penal National Code.

41. Second category: Biological agents: bacteria, viruses, rickettsiae, crimes are punishable once the act is committed.

42. If death is caused by the crime, the judge can give out the maximum penalty mentioned in Art. 80 of the Penal Code. From the above articles, we can see that all action that involves the use of bacteria, viruses, poison, the alteration of drinking water, foods, medicines, or the poisoning of the soil, the atmosphere or the environment, or the spreading of a dangerous or contagious disease, will be punishable.

**Ongoing Projects to Develop National Measures**

43. Commission of Penal Legislation: this bill refers to the crimes that can be considered of terrorist nature, and to those foreseen by Article 210 bis of the Penal Code that could be carried out in the territory of the Argentinean Republic or in areas under its jurisdiction. Crimes considered to be of a terrorist nature are those carried out with explosive, flammable substances, arms or means to cause death or serious harm to the body, and health of a number of people when the aim of the attack is the terrorisation of the population or certain group of people, or to produce reprisals of social or religious character, or to obtain some measure or concession on the part of any member from the public power.
44. This bill will modify Article 211 (according to Laws 15276, 20509 and 20642, effective for Law 23077) and it will set out the following: he who, wanting to cause public fear or raise tumults or disorder, were to take action in causing alarm or would use other means to cause fear, will be sentenced from two to six years of imprisonment. If he uses explosives, aggressive chemicals, biological or bacteriological in nature, and if the crime does not constitute one against public safety, he will be sentenced from seven to fifteen years of imprisonment.


46. Bill: Biotechnology and Agricultural Biosafety.

47. Project of incorporation of new clauses to the National Penal Code to prohibit weapons of mass destruction, and into the Trade Code, to make a severe crime of smuggling and transferring of prohibited biological agents.

III. Development Activities

48. Annual National Report on Confidence-Building Measures: Every year, Argentina presents its national confidence-building measures to the UN Secretariat as decided at the Third BWC Review Conference.

49. Documents Presented to the Ad Hoc Group: As a national contribution to the technical work of the Ad Hoc Group of the Biological Weapons Convention, Argentina presented two documents of a technical nature:

49.i. A methodology for the evaluation of the feasibility of the use of biological agents (BWC/AD HOC GROUP/WP.216),


50. Courses and Seminars on Non-Proliferation and Chemical, Biological and Nuclear Terrorism:

50.i. Organized by the State Secretariat of Intelligence of the State (SIDE) and held in Buenos Aires:


50.iii. Seminar: " The importance of the phenomenon of proliferation of weapons of mass destruction as object of analysis for the Intelligence Service", 3 - 5 December 1996


50.v. Courses: “Weapons of Mass Destruction and Non-Proliferation” for the capacititating of Mexican governmental officials, 4 - 15 September, 2000
50.vi. Seminar: "Current scenarios and potentials derived from the illicit circulation of small weapons in Latin America and of weapons of massive destruction: their potential danger", 18 – 20 April 2001


50.viii. Training Defence Courses QBN (Chemical, Biological, Nuclear). Run by the officials, sub-officials and voluntary soldiers of the 601 Battalion of Engineers.

50.ix. Framework agreement for the contribution to the preservation of the environment and defence QBN. For the training and organization of a section of engineers for the defence QBN, carried out within Argentinean Military in June 1996.


50.xii. Training course for sub-altern military personnel in Puerto Belgrano, School of Machinery, Electronics, Electricity and Control of Breakdowns of the Armed Argentina. Run every year.


50.xiv. Course on Chemical, Biological and Nuclear Information. For officials from the professional corps of sanitation in the Armed Forces. Carried out in the Naval Hospital, Pedro Mallo, in 2000.

51. Other Courses carried out in the area of non-proliferation.

51.i. Seminar: Peaceful Uses of Nuclear Energy and Non-proliferation. Sponsored by the governments of Argentina, Brazil and United States, 18 – 21 April 1994.


52. Technical experts' participation in external courses and/or activities related to protection and/or prevention.

52.i. Argentina, as member of the Australia Group, participates annually in the meetings.

52.iii. World Congress of Chemical and Biological Terrorism (Croatia). Organized by the Ministry of Defence of Croatia and the North American Institution of Applied Science and Analysis Inc. (ASA), 22 – 27 April 2000

52.iv. Course on Global Chemical and Biological Terrorism, Switzerland, 2002

52.v. Symposium on terrorism and computer security. Organized by ARGENTINEAN AFCEA, Carried out in Buenos Aires in the Faculty of Sciences and Security of the University Institute of the Federal Police Argentina, 14 – 16 May 2003.

52.vi. Course and workshop on Biosecurity. Organized by the National Institute of Human Viral Illnesses by Dr. J. I. Maiztegui, September 2000, October 2002, in Pargamino, Province of Buenos Aires