Domestic Legislation for the BTWC Implementation in the Russian Federation

Prepared by the Russian Federation

1. The Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction (the Convention) was signed by the Soviet Union on 10 April 1972 and ratified on 11 February 1975.

2. In accordance with Article I of the Convention, each State Party "undertakes never in any circumstance to develop, produce, stockpile or otherwise acquire or retain:

3. 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;

4. Weapons, equipment or means of delivery designed to use such agents or toxins for hostile purposes or in armed conflict".

5. Pursuant to Article IV of the Convention, each State Party "shall, in accordance with its constitutional processes, take any necessary measures to prohibit and prevent the development, production, stockpiling, acquisition or retention of the agents, toxins, weapons, equipment and means of delivery specified in article I of the Convention, within the territory of such State, under its jurisdiction or under its control anywhere".

6. Having confirmed the succession of the Russian Federation with regard to the obligations of the USSR under the Convention, the Decree of the President of the Russian Federation No. 390 of 11 April 1992 on Ensuring Fulfillment of International Obligations in the Field of Biological Weapons stated that no activities that are in conflict with the Convention are permitted inside the Russian territory and charged the Committee on the Convention Problems of Chemical and Biological Weapons under the President of the Russian Federation, a specially designated federal executive body, with responsibility to monitor compliance with the requirements of the Convention. In accordance with the Decree of the President of the Russian Federation No. 651 of 25 May 1999 and the Resolution of the Government of the Russian Federation No. 906 of 6 August 1999, the functions of the above body, including the enforcement of international treaties in the field of prohibition of biological weapons, were devolved to the newly established...
Russian Munitions Agency. Both the federal executive bodies and the executive bodies of constituent entities of the Russian Federation are involved in the governmental regulation of activities related to the use of agents of infection of human beings, animals and plants in the context of the international obligations of the Russian Federation to comply with the Convention on the Prohibition of Biological and Toxin Weapons. The key participants are:

- Ministry of Foreign Affairs,
- Ministry of Health,
- Ministry of Agriculture,
- Ministry of Industry, Science and Technologies,
- Ministry of Economic Development and Trade,
- State Customs Committee,
- Ministry of Defence,
- Federal Security Service,
- Ministry of the Interior and
- Ministry of Emergencies of the Russian Federation.

7. The compliance regime of the Convention on the Prohibition of Biological and Toxin Weapons is based, first and foremost, on the fulfillment of obligations under the Convention by each State Party in accordance with the principles of international law, constitutional processes and domestic legislation on the implementation of the Convention which is currently in effect. The compliance of a State Party with the provisions of Article IV of the Convention testifies to the degree of responsibility of the State as regards the fulfillment of its international obligations under the Convention.

8. Up to date, a relatively small number of States Parties have submitted annual notifications on their activities to implement the Convention to the UN, as decided in 1991 at the third Review Conference of the Parties to the Convention in the context of confidence-building measures. Russia has complied with this decision in a consistent way and deems it necessary to address the question of its strict compliance by all States Parties in the future.

9. In 2003, the meetings of experts and States Parties will have to discuss questions related to domestic legislation for the implementation of the goals and provisions of the Convention, as well as control measures to ensure safe handling of pathogenic organisms and toxins. Convinced of the importance of questions to be discussed, Russia deems it necessary to inform the States Parties, in the context of the 2003 agenda of meetings, of the national measures taken by Russia in recent years to strengthen the Convention and address problems of non-proliferation of weapons of mass destruction, which include, inter alia, the biological weapons.

10. In 2000, the Federal Law No. 143-ФЗ on Withdrawal of Reservations to the 1925 Geneva Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Similar Gases, and of Bacteriological Means was promulgated. In accordance with Article 356 of the Criminal Code of the Russian Federation, the use of weapons of mass destruction (WMD), including biological and toxin weapons prohibited by an international treaty to which the Russian Federation is a party, is punishable by imprisonment for the term of ten to twenty years.

11. Fulfilling its international obligations under the Convention, Russia adopted a number of laws and standard-setting legal acts not permitting physical persons and legal entities to engage in the territory of Russia in activities prohibited by the Convention. Violations of Articles I, II
and III of the Convention are criminalized. Under the Criminal Code of the Russian Federation (RF CC), the development, production, stockpiling, acquisition or sale of chemical, biological, toxin and other type of WMD, prohibited by the international treaty of the Russian Federation, are punishable by imprisonment for the term of 5 to 10 years (Article 355, RF CC). Such acts are treated in the Criminal Code of the Russian Federation as offences against peace and security of the mankind.

12. In May 2002, amendments and supplements were introduced into the RF CC, setting forth more severe punishments for the following delicts:

- movement through the customs border of the Russian Federation of materials and equipment which can be used to produce WMD (Article 188, RF CC);
- illegal export and transfer to foreigners of raw products, materials, equipment, technologies, scientific and technical information, rendering of services which can be used in the development of WMD and in respect of which the export control is established (Article 189, RF CC).

13. Depending on the gravity of offences committed in this sphere, the RF CC sets forth punishment both in the form of penal sanctions and/or ban on engaging in certain activities, as well as in the form of deprivation of freedom.

14. The basis of meaningful work to enhance the efficiency and improve the legislation in the field of export control in the context of the purposes and requirements of Articles III and X of the Convention is formed by the Federal Law No. 183-ФЗ of the Russian Federation of 1999 on Export Control, the Decree No. 1004 by the President of the Russian Federation of August 8, 2001 on the Approval of the List of Pathogens of Human Beings, Animals, Plants, Genetically Modified Microorganisms, Toxins, Equipment and Technologies Subject to Export Control, the Regulation No. 634 of the Government of the Russian Federation of 2001 on the Adoption of Regulations on Control Over Foreign Economic Activity in Respect of Pathogens of Human Beings, Animals and Plants, Genetically Modified Microorganisms, Toxins, Equipment and Technologies, as well as the Customs Code of the Russian Federation.

15. The rules of state regulation of foreign economic activity stipulated in the above laws and standard-setting legal acts significantly differ from those that existed before. The new revision of the List includes the technologies of development and production of controlled products both in the form of technical data and in the form of technical assistance. Apart from export operations in respect of controlled goods and technologies, their transfer to foreigners in the territory of the Russian Federation is also subject to licensing. The export control has become applicable to the transfer of technologies in an intangible form: through electronic channels of communication, as well as in the process of training and lectures at international scientific conferences and other events with foreign participation.

16. Along with the strengthening of national control in the sphere of circulation of hazardous pathogens and toxins, the current Russian legislation in the field of biology is aimed at the improvement of the healthcare system and the protection of the environment. Massive destruction of flora and fauna, poisoning of atmosphere or water resources are punishable by imprisonment for a term of twelve to twenty years (Article 358, RF CC).
17. In 2000, amendments were introduced into the Federal Law No. 86-ФЗ of 1996 on State Regulation in the Field of Genetic and Engineering Activities. This legislative document regulates relations in the sphere of safe environmental management, environmental protection and ensuring ecological safety in the conduct of activities with transgenic organisms.

18. The Federal Law No. 128-ФЗ of 2001 on Licensing of Certain Types of Activities, as well as the Regulations of 2002 of the Government of the Russian Federation No. 501 on the Approval of the Regulation on Licensing of Activities Connected with the Use of Agents of Infection and No. 504 on the Approval of the Regulation on Licensing of Veterinary Activity set forth the order of licensing of activities with pathogens, genetically modified microorganisms, bacterial toxins, poisons of biological origin, their production and museum strains, infected or suspected as infected materials, as well as the control over the fulfillment of licensing requirements.

19. The violation of safety rules in the handling of microbiological or other biological agents or toxins is punishable by imprisonment for a term of up to three years (Article 248, RF CC). The violation of veterinary regulations and rules set for combating diseases and plant pests that led to grave consequences is punishable by imprisonment also for a term of up to three years (Article 249, RF CC).

20. The submitted information demonstrates the creation in the Russian Federation of a sound standard-setting legal framework defining the activities of national regulating mechanisms that fully ensure the efficient observation of the purposes and provisions of the Convention on the Prohibition of Biological and Toxin Weapons, as well as the fulfillment of other international obligations of the Russian Federation concerning the prohibition and non-proliferation of biological weapons.

21. In the process of preparing for the expert meeting of States Parties to the Convention, for the purposes of optimization of the information exchange on the issues of national legislations, we have developed a draft questionnaire for voluntary filling in by all willing States Parties. We hope it will be possible to make this questionnaire an annex to recommendations in this field in case an agreement is reached concerning their adoption.