

First Meeting
Geneva, 10 – 14 November 2003
Item 5 of the agenda

Working Paper Submitted by Japan

Japan's BWC Implementing Law

As described in Japan's Working Paper BWC/MSP.2003/MX/WP.10, submitted to the BWC Meeting of Experts in August, 2003, Japan adopted a law to implement the BWC (BWC Implementing Law) in 1982.

The following information on Japan's BWC Implementing Law is attached.

- BWC Implementing Law (13 Articles);
- Cabinet Order to Implement the BWC Implementing Law (2 Articles) ;
- History of the adoption of and amendments to the BWC Implementing Law

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Annex

Law on Implementing the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction and the Other Conventions

Enforced on June 8, 1982
Revised on December 16, 2001

(Purpose)

1. With a view to ensuring a appropriate and competent implementation of the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction (hereinafter referred "Biological Weapons Convention"), and the International Convention for the Suppression of Terrorist Bombings, this Law aims to prohibit the production, retention, transfer and acquisition of biological and toxin weapons and to take measures to restrict acts of discharging biological agents and toxins.

(Definitions)

2. "Biological Agents" as referred in this Law mean the microorganisms which are capable of causing diseases or bringing death to the bodies of humans, animals or plants when reproducing in these bodies, or capable of producing toxins.

2-2. "Toxins" as referred in this Law mean the agents produced by living organisms which are capable of causing diseases or bringing death to the bodies of humans, animals or plants when being placed in these bodies, including materials synthesized artificially in such a manner that structural formula is the same as that of any toxin.

2-3. "Biological Weapons" as referred in this Law mean the weapons being used as means of exercising armed forces, which are filled with biological agents or living organisms carrying or mediating such agents.

2-4. "Toxin Weapons" as referred in this Law mean the weapons being used as means of exercising armed forces, which are filled with toxins.

(Basic Principle of Development of Biological Agent or Toxin)

3. Legitimate purposes for which developing, producing, retaining, stockpiling and acquiring biological agents or toxins ("Developments" as referred in Article 5 "Report Collection") are allowed shall be limited only to prophylactic, protective or other peaceful purposes.

3-2. Minister for Foreign Affairs and competent Ministers in the government shall be authorized to take appropriate measures so as to make the contents of the Biological Weapons Convention and this Law widely known.

(Prohibitions)

4. No person shall produce biological or toxin weapons

4-2. No person shall retain, transfer or acquire biological or toxin weapons.

(Report Collection)

5. Competent Ministers in the government shall be authorized to order persons engaged in handling biological agents or toxins to make necessary reports regarding their activities to the extent necessary for preventing the Developments of biological agents and toxins for any purpose whatsoever other than prophylactic, protective or other peaceful purposes.

5-2. Matters required under the preceding Paragraph shall be stipulated by Cabinet Order.

(Request for Cooperation by Minister for Foreign Affairs)

6. Minister for Foreign Affairs may request the heads of relevant administrative agencies to provide necessary materials, information or necessary cooperation in other forms, whenever the Minister deems it necessary for the implementation of the Biological Weapons Convention.

(Competent Ministers)

7. The competent Ministers under this Law shall be stipulated by Cabinet Order.

(Exclusion of Application to Government, etc.)

8. The provision of Article 5 ("Report Collection") shall not apply to the Government and local public entities.

(Penalties)

9. Persons who use biological or toxin weapons and discharge biological agents or toxins filled in the said biological or toxin weapons shall be liable to either imprisonment with labor for an indefinite period or for minimum two years, or maximum fine of ten million yen.

9-2. Persons who endanger human life, body or property by discharging unlawfully biological agents or toxins shall be liable to either imprisonment with labor for maximum ten years or maximum fine of five million yen.

9-3. Other charges and punishments shall be imposed on persons who attempted the crimes under the preceding two Paragraphs.

10. Persons who violate the provision of Article 4, Paragraph 1 shall be liable to either imprisonment with labor for a limit term of minimum one year or maximum fine of five million yen.

10-2. Persons who violate the provision of Article 4, Paragraph 2 shall be liable to either imprisonment with labor for minimum ten years or maximum fine of three million yen.

10-3. Other charges and punishments shall be imposed on persons who attempted the crimes under Paragraph 1 hereof.

11. Crimes committed under the Article 9 shall be subject to Article 4-2 of the Criminal Code (in 1907; Law No. 45).

12. Persons who fail to make reports or make false reports under Article 5, Paragraph 1 shall be liable to either imprisonment with labor for maximum one year or maximum fine of half a million yen.

13. In cases where either representatives of corporation, or agents, staff or employees of corporation commit crimes under Article 9 or violations under Article 10 or Article 12 relating to the businesses of such corporation or persons, charges and punishments shall be imposed on those who have committed such crimes or violations and moreover, the corporation or persons shall also be liable to a fine stipulated in each Article hereof.

Cabinet Order for the Enforcement of the Law on Implementing the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction

On December 1, 1995
Cabinet Order No. 396

We hereby promulgate Cabinet Order for the Enforcement of the Law on Implementing the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction.

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Cabinet Order for the Enforcement of the Law on Implementing the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction

The Cabinet hereby enacts this Cabinet Order pursuant to Article 5, Paragraph 2 and Article 7 of the Law on Implementing the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction (in 1982; Law No. 61)

(Report Collection)

1. Matters on which competent Ministers may order persons engaged in handling biological agents or toxins (hereinafter referred "Persons Handling Biological Agents, Etc.") to make reports pursuant to Article 5 (Report Collection), Paragraph 1 of the Law on Implementing the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction (hereinafter referred the "Law") shall be the kinds, the quantities and other details of their activities concerning such biological agents or toxins.

(Competent Ministers)

2. Competent Ministers in charge of taking measures to make contents of the Biological Weapons Convention and the Law widely known pursuant to Article 3 (Basic Principle of Development of Biological Agents or Toxins), Paragraph 2 of the Law shall be the Minister of Education, Culture, Sports, Science and Technology, the Minister of Health, Labor and Welfare, the Minister of Agriculture, Forestry and Fisheries and the Minister of Economy, Trade and Industry.

2-2 Competent Ministers concerning the report collection under Article 5 (Report Collection), Paragraph 1 of the Law shall be the Ministers in charge of the activities concerning biological agents or toxins conducted by Persons Handling Biological Agents, Etc. In cases where Persons Handling Biological Agents, Etc are corporations directly established under a law or with special acts for its establishment under a special law, or in cases where Persons Handling Biological Agents, Etc are corporations established under a special law and requiring approval for establishment thereof from administrative agencies, the competent Minister shall be the Minister in charge of supervising corporations, and furthermore, in cases where corporations are the ones established under Article 34 (Establishment of Public-Interest Corporations) of the Civil Code (in 1896; Law No. 89), the competent Minister shall be the Minister in charge of competent authorities supervising said corporation.

*Paragraph 1: partial amendment (June 7, 2000; Cabinet Order No. 306)

Supplementary Provision

This Cabinet Order shall be enforced upon date of promulgation.

Supplementary Provision (June 7, 2000; abstract of Cabinet Order No. 306)

(Date of Enforcement)

1. This Cabinet Order shall be enforced on and after the day (January 6, 2001) of enforcement of the Law Partially Revising the Cabinet Law (in 1999; Law No. 88)

Japan's BWC Implementing Law (History of its adoption and amendments)

Adoption of the BWC Implementing Law in June, 1982

When Japan ratified the BWC in 1982, the Japanese Diet enacted “the Law on Implementing the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction” (the BWC Implementing Law).

This Law, first of all, defines biological agents, toxins and biological and toxin weapons, then prohibits any person from producing, retaining, transferring and acquiring biological and toxin weapons under penalty (Articles 4 and 10). At the same time, it restricts the development, production, stockpiling, acquisition and retention of biological agents and toxins only for peaceful purposes (Article 3-1) and empowers the relevant ministers to order persons handling biological agents and toxins to make compulsory reports regarding their activities (Article 5 and Article 7).

Enactment of the Cabinet Order for the Enforcement of the BWC Implementing Law in December, 1995

This Cabinet Order was enacted in order to prescribe the details of the compulsory reports according to Article 5 and Article 7 of the BWC Implementing Law. It defines the ministers empowered to order to make such reports and the contents of the reports.

Amendment to the BWC Implementing Law on the conclusion of the International Convention for the Suppression of Terrorist Bombings in December, 2001

Due to the fact that the BWC does not oblige States Parties to criminalize the "use" of biological weapons, Japan's BWC Implementing Law had not penalized the use of biological weapons until 2001 (their use may well have been punished when an act involving their use constituted an offence as stipulated in the Penal Code, etc., such as murder). When Japan concluded the International Convention for the Suppression of Terrorist Bombings, an amendment was made to criminalize the use of these weapons and the discharge of biological agents and toxins (Article 9) in accordance with the obligation under the Convention. At the same time, the offences as set forth in Article 9 of the BWC Implementing Law shall be dealt with the Article 4-2 of the Penal Code, fulfilling the obligation under the Convention to establish jurisdiction over such offences even outside the Japanese territory (Article 11).

BWC Implementing Law Liaison Conference

In 1995, the Liaison Conference of the ministries concerned with the BWC Implementing Law was established under the Cabinet Secretariat, for effective implementation of the Law and smooth correspondence among the relevant ministries. It consists Ministry of Foreign Affairs, the Ministry of Health, Labor and Welfare, the Ministry of Education and Science, the Ministry of Agriculture, Forestry and Fisheries, the Ministry of Economy, Trade and Industry, the Ministry of Justice and the Defense Agency, among others.
