

Fourth Meeting

Geneva, 10-14 December 2007

Item 6 of the agenda

**Consideration of ways and means to enhance national
implementation, including enforcement of national
legislation, strengthening of national institutions and
coordination among national law enforcement institutions**

**ASSISTANCE ACTIVITIES FOR IMPLEMENTING
BTWC LEGISLATION IN PERU**

Prepared by the Portugal on behalf of the European Union and Peru

Introduction

1. Under the EU Joint Action in support of BTWC (2006/184/CFSP) the European Union offers to assist States Parties in transposing the obligations of the Convention into appropriate national legislation and administrative measures by means of a technical assistance visit (TAV).
2. In spring 2007 Peru and the European Union agreed on conducting a technical assistance visit to Lima to discuss with Peruvian experts the BTWC obligations and to assist in drafting implementation legislation.

Details

3. In preparing the visit, EU experts started to identify existing Peruvian legislation from open sources (Peruvian government websites, 1540 database, ISU website, VERTIC website, etc.) and to review laws and regulations to identify major gaps and clarify assistance requirements. A similar process took place in Peru by a working group of experts. EU experts submitted the results of their review process as a legislative commentary to Peru. Peru provided additional information on existing national laws and regulations that allowed refining of the initial status.
4. The working group of experts installed by the Peruvian government under the umbrella of CONAPAQ, the Peruvian CWC National Authority, considered and drafted elements of a national law implementing BTWC obligations. The first draft was provided by Peru to the EU experts prior to the visit to prepare for a TAV drafting session. This drafting session was the key

element of the TAV agenda agreed by the Peruvian Foreign Office and the EU. The further elements were a seminar on BTWC implementation requirements and a series of high-level bilateral meetings with key ministries.

5. On 27-29 August 2007 four EU experts visited Peru. The work started with a half day National Workshop with approximately 50 representatives from a variety of Peruvian government departments as well as some scientific non-governmental agencies presenting and discussing in detail the objectives and obligations of the BTWC. The workshop aimed at raising awareness in a broader community of government representatives and stakeholders outside government with regard to the BTWC as well as to EU Joint Action assistance activities with Peru.

6. The workshop was followed by a one and a half day session with the CONAPAQ working group of experts to run through the Peruvian draft implementation law paragraph by paragraph. The so-called drafting sessions focussed on clarifying key concepts underlying the BTWC, in particular the relationship between prohibitions and regulation of peaceful uses of biology and biotechnology. A number of areas needing further development in the legislative text were identified, including how and where to reflect the prohibitions into the national law. Other areas covered were: ensuring that the scope of the legislation would include also animal and plant health issues; ways of reflecting the General Purpose Criterion; the need to adequately cover export controls and domestic transfer controls; the need to avoid limiting certain provisions by counter-terrorism objectives; and the role and composition of control lists. The work focused on identifying the two key areas of the future Peruvian legislation: prevention and prohibition, rather than actually developing draft texts. This work is presently being taken forward by the Peruvian working group.

7. On the last day bilateral visits of the EU expert team, accompanied by the Portuguese Ambassador as representative of the EU Presidency, confirmed the results of the visit and the continued engagement and support on ministerial level. On the part of Peru, the talks were held at the level of Minister (Justice), Vice Minister (Industry), Director-General for Foreign Affairs (Defence) and Chief Cabinet Advisor (Health). It was confirmed that all ministries are engaged with the process and committed to achieving results.

8. In the wrap up of the TAV, follow-up measures were agreed: continuation of work of the Peruvian working group, involvement of the private sector in discussing the draft legislation, and further expert exchanges through the EUJA Information and Communication Management System (ICMS)¹. Peru keeps the EU experts continuously informed through the ICMS on the progress made by the Peruvian working group in drafting legislation. Presently a revised draft

¹ ICMS is an internet based tool, which has public (www.euja-btwc.eu) and private working area. The private working area of the ICMS is restricted to authorised users only (EU experts as well as experts from countries that are receiving assistance from the EU JA) and password-protected; access within this private area is limited on a project basis (such as visit to Peru) to only those experts involved in the particular project; this serves two purposes: (1) To prepare legislative assistance efforts, including visits, in terms of information sharing (including sharing key documents), the substantial analysis of existing legislation and any evolving drafts, and logistics of the planned visits. (2) To maintain contact between the EU experts and the experts from the country receiving assistance through the EU JA mechanism in a process of a post-visit review of and commentary on new drafts, and other follow-up including the sharing of documents and other information on new developments. The private working area enables discussions between the experts across the Internet. in the process of a post-visit review of Peruvian legislative draft.

text on the basis of the outcome of discussions at the TAV is available. A follow-up TAV is under consideration by Peru for spring 2008 to continue the cooperation on legislative drafting issues, raising awareness for the enactment of the legislation by the Peruvian Congress, discussions with the private sector and sharing of practical implementation experience.

Conclusion

9. The objectives of the TAV included: provision of on-site assistance towards Peru's BWC implementation, in particular work on draft legislation; making available relevant experience and information from countries of the EU; and gathering political support to the internal processes of preparing for full BWC implementation in Peru. These objectives have been met. Peru and the European Union are looking forward to complete successfully this project, hoping that the precedence set by this activity may encourage other States Parties to implement BTWC obligations in national law with the assistance on a bilateral basis.
