Triggering BTWC Article VII
Outcomes from the 3rd tabletop exercise

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Tabletop exercises (TTX)

• Three TTX completed
  • FRS + UNIDIR, Geneva, 8-9 November 2016 (8th RevCon)
  • FRS + BTWC ISU/UNODA, UNREC, Lomé, 29-30 May 2019
  • FRS + BTWC ISU/UNODA, Geneva, 8-9 August 2019

• Financed by the Ministry of Foreign Affairs, France

• Focus of TTX is on the decision to trigger Article VII
  • Period between detection of outbreak and decision by UN Security Council
  • The TTX do not look into the organisation of assistance
Goals of previous TTX

• Geneva exercise (November 2016)
  • Discovery of significant issues
    • Which steps need to be identified and implemented before an outbreak?
    • How should/could Article VII be triggered?
    • Which steps are needed to operationalise Article VII?
  • Participants: 26 national representatives and experts from civil society organisations, from 14 countries

• Lomé exercise (May 2019)
  • Adaptation of the 2016 scenario
    • Participants presented with outcomes of 2016 TTX (no discovery)
    • Discussion of regional/local preparations ahead of an incident
  • Targeted the francophone countries in West Africa
  • Participants: 30 outbreak response experts, diplomats and government officials, international and regional organisations, civil society experts
Goals of the 3rd TTX (August 2019)

• Adaptation of the November 2016 and May 2019 scenarios
  • Focus on a zoonotic (anthrax bacteria) rather than a human pathogen
  • Insertion of a consultative round (Article V simulation)
  • The decision whether or not to trigger Article VII was left to participants

• 52 participants:
  • Diplomats and national representatives (60% of total)
  • Representatives from international organisations
    • FAO, Interpol, OIE, UNOCHA and WHO
  • Academia and civil society organisations
A zoonotic pathogen

• Seeking confirmation that Article VII also covers a deliberate release of a pathogen against
  • Most discussions seem to cover large-scale, fast-spreading pandemics with large numbers of human fatalities
  • Anthrax bacteria against cattle:
    • Relatively slow moving
    • Relatively few (unintentional) human fatalities (tens to lower hundreds over several years)

• Nobody disagreed with the premise
Article V simulation

• **Lessons from the previous workshops**
  • At no stage in the Article VII process as it presently stands is there a stage where BTWC States Parties can consult with each other
  • After triggering Article VII
    • States Parties lose control over the process
    • Injection of a high degree of unpredictability
      • Conflict escalation
      • Uncertainty about UNSC decision
    • Seems to limit options for further action
      • Conflict resolution
      • Opportunities for cooperation in addressing the emergency

• **Consultations among BTWC States Parties may create fresh options**
  • However, according to the BTWC procedure, an Article V consultative process takes several months between convening and adoption final report
Article V: Issues and solution for the scenario

• **Issues:**
  - ‘The States Parties to this Convention undertake to consult one another and to co-operate in solving any problems which may arise in relation to the objective of, or in the application of the provisions of, the Convention. Consultation and co-operation pursuant to this Article may also be undertaken through appropriate international procedures within the framework of the United Nations and in accordance with its Charter.’
  - 3rd RevCon: lengthy process to convene the meeting (up to 60 days) + time for formal report
  - Seems designed for the global level

• **Solution**
  - 3rd RevCon: ‘A formal consultative meeting could be preceded by bilateral or other consultations by agreement among those States parties involved in the problems which had arisen’
Size and scope of incident

- No participant claimed that Article VII is not applicable to zoonotic diseases or small-scale outbreaks
  - This underscores the relevancy of the provision in cases of armed conflict or terrorism
- Concrete and coordinated action in support of an Article VII request may depend on the scale of the outbreak
  - Presently no agreed definition or sets of criteria have been elaborated or agreed
  - Relevant international organisations may have certain thresholds before intervening
    - E.g. standard for WHO laid out in the International Health Regulations
- Less clear is whether states parties would consider requests for emergency assistance for other types of events contrary to the BTWC obligations
Other issues

• **Impact of information scarcity**
  - Uncertainty about the scope of the outbreak acted as a deterrent to trigger Article VII
  - Absolute need to have formal communication channels among states affected by the outbreak
    - National contact points
    - Formal procedures to communicate results from sampling and analyses
    - Need to have the mechanisms in place ahead of a crisis

• **Evidential support and confirmation of findings**
  - What is required?
  - Who will collect the samples and analyse them?
Recommendations for South African Working Paper

- Draft guidelines offered a useful template for considering the invocation of Article VII
- TTX revealed some practical problems
  - Better alignment with rather than duplicate existing emergency assistance processes by IOs
  - Should aim to clarify or complement the existing processes
- Recommendation to rearrange document and split it into 3 parts
  - Offer general guidelines for States Parties concerning Article VII
  - Focus on the types of information the UNSC might need for its decision-making
  - Detail necessary information to request or provide emergency assistance
- Paragraph 6 of the working paper
  - Seems to reflects a specific interpretation of Article VII (alleged BW use)
  - May therefore prove problematic