Meeting of the States Parties to 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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Meeting of the States Parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction

2015 Meeting
Geneva, 14-18 December 2015

Meeting of Experts
Geneva, 10-14 August 2015
Item 8 of the provisional agenda
Biennial item: how to strengthen implementation of Article VII, including consideration of detailed procedures and mechanisms for the provision of assistance and cooperation by States Parties

Summary

The Seventh Review Conference decided that in 2014 and 2015 States Parties will consider how to strengthen implementation of Article VII, including consideration of detailed procedures and mechanisms for the provision of assistance and cooperation by States Parties. At the request of the Chairman, the Implementation Support Unit has compiled extracts of additional agreements from the final documents of past review conferences and common understandings from the reports of previous Meetings of States Parties that might be relevant to strengthening implementation of Article VII. This document updates the similar document which was submitted to the 2014 Meeting of Experts (BWC/MSP/2014/MX/INF.2, dated 2 June 2014).

Introduction

1. Article VII of the Convention determines that “Each State Party to this Convention undertakes to provide or support assistance, in accordance with the United Nations Charter, to any Party to the Convention which so requests, if the Security Council decides that such Party has been exposed to danger as a result of violation of the Convention”. This background information paper details the relevant additional agreements and common understandings identified by States Parties. It updates the background paper submitted to
the 2014 Meeting of Experts (BWC/MSP/2014/MX/INF.2, dated 2 June 2014) by including common understandings reached at the 2014 Meeting of States Parties.

2. There are additional agreements and common understandings that address the implementation of Article VII, building relevant capacity, roles, and the relationship between health and security issues.

3. The additional agreements were reached at successive review conferences and are quoted from the relevant final documents:
   (a) Final document of the First Review Conference (BWC/CONF.I/10);
   (b) Final document of the Second Review Conference (BWC/CONF.II/13);
   (c) Final document of the Third Review Conference (BWC/CONF.III/23);
   (d) Final document of the Fourth Review Conference (BWC/CONF.IV/9);
   (e) Final document of the Fifth Review Conference (BWC/CONF.V/17);
   (f) Final document of the Sixth Review Conference (BWC/CONF.VI/6);
   (g) Final document of the Seventh Review Conference (BWC/CONF.VII/7).

4. The common understandings were reached at the Meetings of States Parties and are quoted from the relevant Reports:
   (a) Report of the 2004 Meeting of States Parties (BWC/MSP/2004/3);
   (b) Report of the 2010 Meeting of States Parties (BWC/MSP/2010/6);
   (c) Report of the 2014 Meeting of States Parties (BWC/MSP/2014/5).

5. The source of each additional agreement is shown by a reference key in square brackets, in the form [C.A.P], where C is the number of the Review Conference (I, II, III, IV, VI, VII), A is the article of the Convention (I-XV), and P is the paragraph number. For example [VI.VII.35] refers to paragraph 35 of the Article VII section of the final declaration of the Sixth Review Conference. Common understandings are referenced individually.

Additional agreements

Implementation of Article VII

6. At the Third, Fourth, Sixth and Seventh Review Conferences, States Parties “took note of desires expressed that, should a request for assistance be made, it be promptly considered and an appropriate response provided. In this context, pending consideration of a decision by the Security Council, timely emergency assistance could be provided by States Parties if requested”. [VII.VII.33, VI.VII.33, IV.VII.3, III.VII.3]

7. The Sixth and Seventh Review Conferences noted “the willingness of States Parties, where appropriate, to provide or support assistance to any State Party which so requests, when that State Party has been exposed to danger or damage as a result of the use of bacteriological (biological) agents and toxins as weapons by anyone other than a State Party.” [VII.VII.35, VI.VII.38]

8. At the Seventh Review Conference, States Parties underlined “the importance of the coordination of the provision of appropriate assistance, including expertise, information, protection, detection, decontamination, prophylactic and medical and other equipment that
could be required to assist the States Parties in the event that a State Party is exposed to danger as a result of a violation of the Convention”. [VII.VII.37]

**Roles**

9. The Third and Fourth Review Conferences considered that “in the event that this article might be invoked, the United Nations, with the help of appropriate intergovernmental organizations such as the World Health Organization (WHO), could play a coordinating role”. [IV.VII.5, III.VII.4] The Sixth and Seventh Review Conferences considered that States Parties could also assist, as could other appropriate intergovernmental organizations, such as the World Organisation for Animal Health (OIE), the Food and Agriculture Organization of the United Nations (FAO), and the International Plant Protection Convention (IPPC). [VII.VII.36, VI.VII.34]

10. At the Sixth Review Conference, States Parties noted “that State Parties’ national preparedness contributes to international capabilities for response, investigation and mitigation of outbreaks of disease, including those due to alleged use of biological or toxin weapons”. [VI.VII.35]

11. The Seventh Review Conference recognised:

   (a) that States Parties bear the responsibility for providing assistance and coordinating with relevant organizations in the case of alleged use of biological or toxin weapons” [VII.VII.34]; and

   (b) “the value of further dialogue regarding appropriate means of coordination between States Parties and relevant international organizations.” [VII.VII.36]

12. States Parties also noted at the Seventh Review Conference “the need for States Parties to work nationally, and jointly, as appropriate, to improve, in accordance with their respective circumstances, national laws and regulations, their own disease surveillance and detection capacities for identifying and confirming the cause of outbreaks and cooperating, upon request, to build the capacity of other States Parties”. States Parties also noted that “the International Health Regulations (2005) are important for building capacity to prevent, protect against, control and respond to the international spread of disease; such aims are compatible with the objectives of the Convention”. [VII.VII.39]

**Health and security issues**

13. “On the provision of assistance and coordination with relevant organizations upon request by any State Party in the case of alleged use of biological or toxin weapons,” at the Seventh Review Conference States Parties:

   (a) recognized “that in this regard health and security issues are interrelated at both the national and international levels”;

   (b) highlighted “the importance of pursuing initiatives in this area through effective cooperation and sustainable partnerships”;

   (c) noted “the importance of ensuring that efforts undertaken are effective irrespective of whether a disease outbreak is naturally occurring or deliberately caused, and cover diseases and toxins that could harm humans, animals, plants or the environment”; and

   (d) recognised “that capabilities to detect, quickly and effectively respond to, and recover from, the alleged use of a biological or toxin weapon need to be in place before they are required”. [VII.VII.40]
Common understandings

Implementation of Article VII

14. At the 2010 Meeting of States Parties, it was recognized that “developing effective measures for the provision of assistance and coordination with relevant international organizations to respond to the use of a biological or toxin weapon is a complex task”, and that the following challenges existed:

(a) “the need for clear procedures for submitting requests for assistance or for responding to a case of alleged use of biological or toxin weapons;

(b) the need for additional resources in the human and animal health fields, and most acutely in the area of plant health, particularly in developing countries;

(c) the potentially complex and sensitive interface between an international public health response and international security issues; and

(d) the public health and humanitarian imperatives of a prompt and timely response.”

15. In 2010 “States Parties underlined the importance of assistance being provided promptly, upon request, to any State Party that has been exposed to a danger as a result of violation of the Convention. As national preparedness contributes to international capabilities and cooperation, States Parties recognised the importance of working to build their national capacities according to their specific needs and circumstances”.

16. In 2014, “having considered relevant agreements reached at past review conferences and common understandings identified at previous Meetings of States Parties related to Article VII, that in view of the humanitarian imperative, pending consideration of a decision by the Security Council, timely emergency assistance could be provided by States Parties, if requested,” States Parties “noted that State Parties’ national preparedness contributes to international capabilities for response, investigation and mitigation of outbreaks of disease, including those due to alleged use of biological or toxin weapons.”

17. When considering a mechanism for the provision of assistance relevant to Article VII, States Parties in 2014, recalled “the need for clear procedures for submitting requests for assistance or for responding to a case of alleged use of biological or toxin weapons.” States Parties furthermore also agreed on the value of continuing in 2015 to “explore strengthening the procedures and mechanisms for the provision of assistance, including, inter alia:

(a) Information on, and the feasibility of an inventory of, the types of assistance that States Parties could provide;

(b) A data bank containing publicly available information on means of protection against, and responses to, biological and toxin weapons;

(c) Procedures, or codes of conduct, for the provision of means of protection against, and responses to, the use of biological and toxin weapons to the requesting State Party;

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1 BWC/MSP/2010/6, paragraph 20.
2 BWC/MSP/2010/6, paragraph 22.
3 BWC/MSP/2014/5, paragraph 51.
4 BWC/MSP/2014/5, paragraph 57.
(d) A fund for assistance to affected States Parties; and
(e) Capacity-building for international regional and sub-regional organizations that have relevant mandates, such as by joint exercises, workshops and training, including by the use of e-learning modules.  

18. In 2014, States Parties also “recognised that, without preconditions to the use of Article VII, there are a number of challenges to strengthening its implementation. States Parties recognized the value of continuing to consider in 2015 these challenges and ways to address them.” Recognizing “the possibility that, following danger to a State Party resulting from activities prohibited by the Convention, national means and resources could be overwhelmed and that assistance may be required” States Parties in 2014 furthermore “noted the value of discussing in 2015 what assistance might be needed.”

Building relevant capacity

19. In 2004 States Parties further “agreed on the value of [...] continuing to develop their own national capacities for response, investigation and mitigation, in cooperation with the relevant international and regional organisations, and, if in a position to do so, assisting and encouraging, with the necessary agreement, other States Parties to do the same”.  

20. In 2010, States Parties noted “that there are differences among States Parties in terms of their level of development, national capabilities and resources, and that these differences affect national and international capacity to respond effectively to an alleged use of a biological or toxin weapon”. Taking into account their commitments under Articles VII and X, in 2010 States Parties “emphasized the value of assisting other States Parties, including by:

(a) enhancing relevant capabilities, including through promoting and facilitating the generation, transfer, and acquisition upon agreed terms, of new knowledge and technologies, consistent with national law and international agreements, as well as of materials and equipment;
(b) strengthening human resources; identifying opportunities for collaborative research and sharing advances in science and technology;
(c) sharing appropriate and effective practices for biorisk standards in laboratories handling biological agents and toxins”.

21. In 2010 States Parties recognized “the need to work, in accordance with their respective circumstances, national laws and regulations, to improve their own capacities in this area, and cooperating, upon request, to build the capacity of other States Parties. This could include the development of:

(a) diagnostic capacity for relevant diseases;
(b) tools for sampling, epidemiological intelligence and investigation;
(c) diagnostic and detection techniques, tools and equipment;
(d) adequate technical expertise;

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5 BWC/MSP/2014/5, paragraph 58.
6 BWC/MSP/2014/5, paragraph 52.
7 BWC/MSP/2014/5, paragraph 53.
8 BWC/MSP/2004/3, paragraph 21.
9 BWC/MSP/2010/6, paragraph 21.
(e) international, regional and national laboratory networks;
(f) relevant standards, standard operating procedures and best practices;
(g) effective information-sharing; and
(h) cooperation, especially with developing countries, on research and development of vaccines and diagnostic reagents, and between international reference laboratories and research institutions”.

22. In 2014, States Parties “noted the value, at the national level, of:

(a) Considering what might be done to deal with a threat or actual use of biological or toxin weapons, determining the sorts of assistance that might be required from other States Parties and international organizations and identifying who could provide it, as well as identifying any challenges to its provision;

(b) Ensuring effective national capabilities, including through the use, as appropriate, of gap analyses and national plans;

(c) Strong detection capabilities, including for disease surveillance, primed health communities, cost-effective rapid diagnostic tests, and accurate disease mapping, as well as appropriate countermeasures and recovery and decontamination options;

(d) Appropriate command, control and coordination of cross-governmental planning and response as well as multi-agency assets during the life cycle of response efforts; and

(e) Regular training activities to strengthen national capacities.”

23. In 2014, States Parties furthermore noted the value of “collaborating to build relevant national capacity, including:

(a) Facilitating, and having the right to participate in the fullest possible exchange of equipment, material and scientific and technological information to protect against, and respond to, the use of biological and toxin weapons;

(b) Avoiding duplicating existing efforts and capacity and taking into account the differences in national laws, regulations, and constitutional procedures;

(c) Sharing experiences, expertise, technology and resources to build capacity to protect against biological and toxin weapons and for purposes not prohibited under the Convention;

(d) Working with relevant international organizations to build relevant national capacity; and

(e) That national preparedness contributes to international capabilities for response, investigation and mitigation of outbreaks of disease, including those due to alleged use of biological or toxin weapons. States Parties noted that there are differences among States Parties in terms of their level of development, national capabilities and resources, and that these differences affect national and international capacity to respond effectively to an alleged use of a biological or toxin weapon. States Parties encouraged States Parties, in a position to do so, to assist other States Parties, upon request, to build relevant capacity.”

10 BWC/MSP/2010/6, paragraph 23.
11 BWC/MSP/2014/5, paragraph 54.
12 BWC/MSP/2014/5, paragraph 55.
Roles

24. In 2004, States Parties “recognized that:

(a) infectious disease outbreaks can be contained and suppressed through early-detection, immediate response and co-operation and support at the national and international level;

(b) strengthening and broadening national and international surveillance, detection, diagnosis and combating of infectious disease may support the object and purpose of the Convention;

(c) the primary responsibility for surveillance, detection, diagnosis and combating of infectious diseases rests with States Parties, while the World Health Organization, the Food and Agriculture Organization and the World Organization for Animal Health have global responsibilities, within their mandates, in this regard. The respective structures, planning and activities of States Parties and the World Health Organization, the Food and Agriculture Organization and the World Organization for Animal Health should be co-ordinated with and complement one another;

(d) scientific and technological developments have the potential to significantly improve disease surveillance and response”.

25. The States Parties consequently agreed on the value of:

(a) supporting the existing networks of relevant international organisations for the surveillance, detection, diagnosis and combating of infectious diseases and acting to strengthen the World Health Organization, the Food and Agriculture Organization and the World Organization for Animal Health programmes, within their mandates, for the continued development and strengthening of, and research into, rapid, effective and reliable activities for the surveillance, detection, diagnosis and combating of infectious diseases, including in cases of emergencies of international concern;

(b) improving, wherever possible, national and regional disease surveillance capabilities, and, if in a position to do so, assisting and encouraging, with the necessary agreement, other States Parties to do the same;

(c) working to improve communication on disease surveillance, including with the World Health Organization, the Food and Agriculture Organization and the World Organization for Animal Health, and among States Parties.”

26. On the role to be played by the Convention in the provision of assistance and coordination with relevant organizations, affirming the consultation procedures agreed at previous Review Conferences, in 2010 States Parties also noted that “the Convention is an appropriate and capable instrument for:

(a) bilateral, regional or multilateral consultations for the provision of prompt and timely assistance, prior to an allegation of use being presented to the Security Council;

(b) developing clearer and more detailed procedures for submitting requests for assistance, and for promptly providing assistance following an allegation of use; and

(c) developing a comprehensive range of information on sources of assistance, and/or a mechanism to request assistance”.

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27. The 2010 Meeting of States Parties “noted the role played by relevant international organisations, in close cooperation and coordination with the States Parties under the provisions of the Convention, in the provision of assistance and coordination, including, inter alia, the United Nations, the World Health Organization, the Food and Agriculture Organization, the World Organization for Animal Health, the World Customs Organization, and the International Criminal Police Organization. States Parties noted the value of encouraging these organizations to work together more closely, strictly within their respective mandates, to address specific relevant aspects of the threats posed by the use of biological and toxin weapons, and to assist States Parties to build their national capacities”.

28. In 2014, recognizing that an event relevant to Article VII is “more than an animal, plant or public health emergency, and in recognition that there is no institutional mechanism under the Convention to undertake relevant activities”, States Parties noted the value of:

(a) That in the event that this Article might be invoked, the United Nations could play a coordinating role in providing assistance, with the help of States Parties, as well as the appropriate intergovernmental organizations, in accordance with their respective mandates, such as the World Health Organization (WHO), the World Organisation for Animal Health (OIE), the Food and Agriculture Organization of the United Nations (FAO), and the International Plant Protection Convention (IPPC). States Parties noted the value of further dialogue regarding appropriate means of coordination between States Parties and relevant international organizations; and

(b) Ensuring effective coordination and cooperation with and between relevant international organizations, in accordance with their mandates and upon request by a State Party.”

Health and security issues

29. The 2004 Meeting of States Parties “recognized that:

(a) capabilities for responding to, investigating and mitigating the effects of cases of alleged use of biological or toxin weapons or suspicious outbreaks of disease promote the object and purpose of the Convention;

(b) States Parties’ national preparedness and arrangements substantially contribute to international capabilities for responding to, investigating and mitigating the effects of cases of alleged use of biological or toxin weapons or suspicious outbreaks of disease;

(c) the Secretary-General’s investigation mechanism, set out in A/44/561 and endorsed by the General Assembly in its resolution A/Res/45/57, represents an international institutional mechanism for investigating cases of alleged use of biological or toxin weapons”.

30. In 2010, States Parties noted that, “given the importance of investigating, and mitigating the potential impact of, an alleged use of biological or toxin weapons, States Parties noted the value of, in accordance with national laws and regulations: a coordinated
government approach in emergency management; addressing the full range of possible implications; establishing clear channels of communication and command; accessing expert advice; training and exercises; adopting a communication strategy; as well as enabling coordination across sectors through the provision of sufficient financing”.  

31. States Parties also noted in 2010 that “an effective response requires efficient coordination among relevant actors, in particular ensuring a coordinated response from the law enforcement and health sectors. States Parties agreed on the value of working, in accordance with their national laws and regulations, to improve effective cooperation between these sectors, including by fostering mutual awareness, understanding, and improved information exchange, and by undertaking joint training activities”.  

32. In 2014, States Parties “reiterated the value of continuing discussions on strengthening Article VII, and taking into consideration lessons learned from combatting infectious disease, such as Ebola.”

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19 BWC/MSP/2010/6, paragraph 24.  
20 BWC/MSP/2010/6, paragraph 25.  
21 BWC/MSP/2014/5, paragraph 59.