

International Workshop on Developing Practical Proposals for the Seventh Review Conference of the Biological Weapons Convention

CO-CHAIRS' SUMMARY

From 8 to 10 April 2011, Indonesia, Norway and the BWC Implementation Support Unit (ISU) co-hosted this workshop in Montreux, Switzerland. There were 58 participants from 27 countries and nine organizations. The workshop did not agree any conclusions or recommendations, but the three co-chairs prepared the following summary of discussions.

The opening session of the workshop was addressed by Ambassador Dian Triansyah Djani (Indonesia), Ambassador Bente Angell-Hansen (Norway) and Richard Lennane (Head of the ISU). They outlined the aims of the workshop in identifying practical proposals for consideration at the Seventh Review Conference, stressed the importance of a forward-looking approach, and emphasised the need for fostering discussion and common understandings between States Parties and across regional groupings.

Identifying areas of action for a successful review conference

The workshop heard details of previous seminars on preparing for the Seventh Review Conference, including the *International Workshop on Strengthening International Efforts to Prevent the Proliferation of Biological Weapons*, held in November 2010 in Beijing, China. Work to date had identified six areas that provided fertile ground for future considerations: the intersessional process; the confidence-building measures; science and technology; the Implementation Support Unit; international cooperation and assistance; and compliance and verification. Participants also discussed other possible areas of action, with many stressing the need for more attention to and action on universalization.

It was suggested that there was broad agreement among States Parties that 'something' needed to be done to further improve the BWC in the areas identified. BWC stakeholders had identified a common goal. The workshop marked the start of a process to work out in detail what that 'something' could be. There did not need to be a single answer; efforts might focus on a range of options and examine their comparative costs and benefits. It was time, speakers suggested, to move beyond a survey of the BWC landscape and to debate concrete proposals.

The intersessional process

There was a general sense of satisfaction with the 2007-2010 intersessional meetings. Participants considered that such meetings provided a useful way to bring real world issues and timeframes into BWC settings, especially by bringing expertise together in one place and at one time. Participants felt that they had provided a useful tool for discussion and building common understandings.

Some participants argued that more needed to be done to take effective action and that accepting greater variation in national approaches would need to be included in the future. Participants also drew attention to aspects of past intersessional processes that might need to be re-examined, including: possible overlaps and repetitions between Meetings of Experts and Meeting of States Parties; opportunities to continue discussions between meetings,

especially through the use of modern information technology; and avoiding too much of a health security focus that would detract from the core security function of BWC.

There were extended discussions on the work that might be undertaken after the Seventh Review Conference. Participants detailed three broad options for the future: to continue with the present arrangements; to move to address specific articles or themes in or more structured way; or to revisit a need for a legally binding multilateral approach.

Participants noted that the intersessional meetings were an innovation after the cessation of efforts to negotiate a more comprehensive regime. Some participants felt that it was not a permanent substitute for detailed treaty provisions on implementation. Others felt that it had become a core component of the work of the BWC and should continue indefinitely.

The discussions identified a number of possible topics for future attention, including: improving the CBMs and further transparency measures; broader compliance issues and declarations; implementing and coordination measures for Article X, including building disease surveillance and response capacity; the impacts of advances in science and technology; dual-use education for life scientists; capacity to respond to the use or alleged use of biological weapons; implementation of Article V; as well as procedures to initiate Article VI.

Many participants expressed support for continuing to find ways to bring expertise into the work of the BWC. This would necessitate a process to capture expert contributions as well as sufficient time for capitals to consider these contributions and find the best way to respond. The meeting heard of the importance of ensuring that experts were actually able to attend and participate in these meetings and that the costs of such participation should be considered. Some participants were in favour of continuing to use Meeting of Experts to provide for expert contributions. Others preferred to shift into a more flexible format, such as thematic working groups. Or the approaches could be combined.

Some participants stressed the importance of continuing to have Meetings of States Parties; others argued that they served a limited purpose. It was felt that there were certain topics, such as national implementation, that would continue to benefit from the managerial oversight these meetings might provide. Some participants felt that some States Parties might be uncomfortable proceeding straight to a Meeting of States Parties without having had the opportunity to consult and signal their views in advance.

The question of whether a future intersessional process should be able to take decisions was repeatedly raised. Participants stressed the importance of identifying the specific areas in which decisions might be taken. It was also suggested that some areas might not be suited to decisions by States Parties, such as codes of conduct and dual use education for life scientists. Such areas might benefit more from engagement with stakeholder communities than from the imposition of decisions.

The confidence-building measures

The workshop heard a brief summary of the history of the evolution of the confidence-building measures (CBMs) which were described as the only transparency-enhancing mechanism agreed upon by States Parties. There remains relatively low participation in the CBM process. It was suggested that this stemmed from two distinct groups of States Parties:

those that *cannot* complete a CBM, which might need to be assisted to do so; and those that *will not*, which might require different types of approaches. The meeting also heard that there was inconsistency in the quality of submissions. It was suggested that there remains a lack of means to enable participation and a lack of a mechanism to develop best practice.

There were calls for a two-track approach to improving the CBMs: the first track would be to identify ‘quick fixes’, to make the forms more user friendly and relevant, that might be agreed upon at the Review Conference itself; the second track would be a longer-term approach, perhaps as part of the next intersessional process, to explore reconfiguring the CBMs to play more significant role under the BWC. It was suggested that ultimately it might be necessary to move towards declarations for binding commitments and additional transparency building tools for supplementary activities.

The workshop also heard a number of challenges to improving the CBMs and discussed possible solutions, including: providing assistance to help meet the costs of efforts to gather the necessary data; simplifying the complexity of the forms; and providing incentives to participate. Participants discussed the lack of clarity as to whether the CBMs are intended as verification tools or for building confidence, which might be resolved by clearly focusing future efforts on enhancing transparency.

The discussion also covered the lack of collective analysis of the CBM data provided. As most of the CBMs are still published in restricted access area of the ISU website, the ISU would be the only actor able to analyse the returns. There were calls to request the ISU to make an annual presentation on general trends in reporting under the BWC, without identifying any individual States Parties. Other participants did not think central analysis of CBMs would be useful.

It was also suggested that it remains unclear as to how States Parties make use of the information submitted under the CBMs. There were calls to strengthen measures for following up on data submissions or requesting clarifications, including: supplementary meetings and information exchanges; a revision of the role of the ISU enabling it to request any missing forms; and more assistance to enable participation.

Some participants made detailed proposals for altering specific aspects of the current forms. The workshop also heard the details of the initiative undertaken by Germany, Norway, Switzerland and the Geneva Forum to catalogue changes to the CBMs that might be considered by the Seventh Review Conference. A number of more general changes were also discussed, including: expanding the CBMs to better address Article X; using them as a vehicle to gather offers and requests for assistance; and altering the format of reporting to move away from a series of static PDF files to present the data in a more interactive manner.

Science and technology

The workshop heard the importance of focusing on the benefits offered by science and technology for the BWC as well as on the possibilities for misuse. It was also stressed that the impact of advances in science and technology was not limited to the scope of the BWC but could also affect its implementation and operation. There were several calls to establish more regular and formal connections between the scientific and BWC communities, and it was noted that the flow of information and ideas should run in both directions.

There was discussion on whether the rate and spread of advances in the life sciences and technology required a more frequent review than every five years. Most participants felt that a more frequent review was needed. Some participants felt that a full review was only needed every five years but that there was value in activities between reviews. The value of interactions through the intersessional process was noted, as was the importance of addressing one or two specific aspects of science and technology at time, rather than trying to review the whole field annually.

It was suggested that due to the rate and spread of the science and technology that the BWC would need to be able to draw upon a more diverse set of expertise than it would be possible to cover in an advisory board. Participants' attention was drawn to the activities of a *de facto* science advisory network built on the work of IAP: the Global Network of Science Academies as well as international scientific unions.

Two detailed practical proposals were made for frameworks to address advances in science and technology. One participant suggested an annual process where a Meeting of States Parties would select scientific topic(s) for review the following year. An independent scientific body, such as the IAP, would then be tasked with preparing a review of this topic. The scientists involved in preparing that review would then discuss it with national technical experts from States Parties at a scientific advisory meeting. The scientific advisory meeting would then consider the implications of these topics and prepare a report for States Parties. The Meeting of States Parties would then consider this report, decide on any required action, and select topic(s) for the following year.

A second proposal was to create a standing review panel. Such a panel could have around 24 members appointed by States Parties for a five-year period. The panel could report on relevant scientific and technological developments. It could identify technologies and techniques with the greatest potential for malign use as well as examine how advances in science and technology might enable efforts to deal with disease. The panel might also work on dual-use issues such as education for life scientists and codes of conduct. It could also facilitate the development of relevant communication strategies. The membership of the panel would need to respect geographic representation, include members from both private and public sectors, and with backgrounds in human, animal and plant diseases. The panel could meet annually and report to Meetings of States Parties, which would forward any issues that required follow-up action to the next review conference.

The Implementation Support Unit

A range of different options for institutional support for the BWC were discussed, including a comprehensive intergovernmental organization, an international secretariat, and an implementation support unit. Participants were reminded that the type, size and capacity of institutional support required would be dependent upon the future work of the BWC. There were many calls to renew the mandate of the Implementation Support Unit

The workshop discussed the current role and activities of the ISU. It was suggested that many of the activities currently undertaken by the Unit, such as supporting meetings of the BWC, national implementation, participation in CBMs in expanding treaty membership as well as outreach and liaison activities, would continue in the future and that ISU engagement in these areas was still needed. There was also discussion of the practical and logistical arrangements

currently in place and the relationship of the ISU with the UN Office for Disarmament Affairs.

Discussions also included suggestions for new areas and ways in which the Unit may need to work. Some participants felt that the current mandate was broad enough to cover any activities that the Unit was likely to need to pursue, including work on the implementation of Article X. The possibility of using the ISU as a clearing house for assistance was also discussed. There were several calls to retain flexibility in what the Unit is tasked to do, transparency on its activities, and neutrality in how it works with States Parties.

Participants heard that the primary constraint on the work of the Unit was its human resources. The Unit currently had to turn down between a third or half of activities in which it could be engaged as there is not enough staff to service them. The importance of the Unit having sufficient administrative support was also highlighted.

Voluntary contributions were also discussed. To date, such funds have only been used in pursuit of the existing mandate of the Unit but questions were posed as to possible future conflicts of interest and the need to ensure that all States Parties can benefit from the work of the Unit. Participants heard that such voluntary contributions had allowed the Unit to expand the geographic scope of its work. There was a proposal for the Unit to provide budget details within its annual report.

International cooperation and assistance

Participants stressed the overall importance of assistance and cooperation for the BWC, with some characterizing the Convention as an instrument for international cooperation in security and development. Some participants raised problems of political denials of transfers and what to do about them.

Participants drew attention to the importance of sustainability and avoiding duplication when working together to build capacity. There was also recognition that there has been a shift in perceptions of assistance and cooperation in recent years and that with the diffusion of life science capacity around the world that international approaches to these issues had also changed. There was a general sense that there were practical opportunities for improving how States Parties worked together to cooperate and build capacity.

The meeting also heard that balancing regulatory and promotional aspects of the BWC is not a zero sum game and that they support each other in a mutually beneficial cycle of increasing trust, capacity, security and development. Participants suggested that there were ways to improve the implementation of Article X that strengthen the overall effectiveness of the Convention, and ways to improve the security aspects of the Convention that strengthen cooperation, assistance and transfer of technology. Many participants strongly supported a proposal for a mechanism to improve the implementation of Article X, but would like more details of what such a mechanism would involve. There were also calls to establish a working group to examine modalities for the full implementation of Article X and to further efforts for cooperation and assistance.

Participants considered the close linkages between Article VII on the provision of assistance following the use of a biological weapon, and Article X on international cooperation and development. Participants discussed opportunities for international cooperation and

assistance and highlighted the importance of: building capacity to respond to the alleged use of biological weapons; building capacity to detect, mitigate and respond to disease outbreaks; improving national health systems; enhancing biosafety and biosecurity; participation in BWC meetings; strengthening national implementation; and increasing South-South cooperation.

There were also proposals for improved information sharing on international cooperation and assistance, including: using the CBMs to gather details of requests for, and capacity to provide assistance; performing some basis analysis on data gathered; using the ISU as clearing house for assistance; creating and maintaining, or gaining accesses to database(s) of offers of assistance and relevant capacity housed in international organizations; adding details of international assistance and cooperation opportunities to the BWC website; closer collaborations between the ISU and national contact points; and external needs assessments to facilitate requests for assistance.

Compliance and verification

The workshop heard of the need to identify how States Parties can demonstrate to others their compliance with the BWC, as well as the need to identify ways to build confidence that others are complying. There were calls to develop the existing procedures and practices in this regard. Several participants stressed the importance of efforts in this area being forward-looking, given significant changes in the broader security environment over the last couple of decades. For example, advances in microbial forensics might offer new capacity to investigate the alleged use of a biological weapon. Participants noted the opportunity to set a new independent path that was not hostage to past disputes. There were also calls for a strategic thinking space to give States Parties the opportunity to explore options for future work in this area.

Discussions covered past efforts to ensure compliance with the obligations of the BWC. It was noted that in the early days of the work of the Ad Hoc Group there had been long and inconclusive discussions as to whether it was possible to verify compliance with the BWC. Several participants noted that the efforts of the Ad Hoc Group were not to develop a verification protocol but to develop a protocol to strengthen the Convention. Others noted that it the protocol nevertheless ended up containing many of the tools of verification.

Some participants cautioned that to start to re-examine verification would lead to the same divisive debate of the past and that future efforts might be better directed towards assessing and monitoring compliance. To this end, it was proposed that the first practical step that States Parties might take would be to determine what compliance with the Convention would look like. It was suggested that a common understanding of what a state would have to do to be in compliance with the BWC would then enable the development of tools to assess such compliance. Several participants felt that ultimately efforts to assess compliance would necessitate legally-binding commitments. There were calls to establish a working group to examine compliance issues.

Several participants laid out approaches that focused on developing toolboxes containing multiple elements that would collectively enable assessments of compliance, including: developing the existing compliance reporting mechanism used at review conferences; developing better capacities to investigate allegations of use; exploring means for making declarations; improved transparency measures; strengthened consultation procedures under

Article V; and better means for exchanging information on suspicious disease events and allegations of use.

Some participants felt that the only way to create a regime to strengthen the Convention was to develop a legally binding mechanism that addresses all provisions of the BWC. They expressed the opinion that a piecemeal approach was not feasible. Several other participants argued for working on individual components, testing them in operation, and then ultimately recombining them in a balanced manner, possibly into a legally-binding framework.

Conclusions – preparing for a successful Review Conference

States Parties were advised to prepare for success not failure. Participants discussed the need to establish markers for success in advance of the Review Conference. It was suggested that the Review Conference should not settle for the lowest common denominator but that States Parties should work to identify areas where action could be taken and that will make a real difference to international peace and security.

The workshop heard guidance on how to achieve a successful outcome, including the importance of:

- Starting early – it was necessary to engage actors that could influence discussions and outcomes;
- Listening intently – to understand the positions and perspectives that drive these actors;
- Building interpersonal chemistry amongst negotiators – conferences flounder most commonly not because of difference between national positions but because of mismanaged relationships;
- Working with all stakeholders – States Parties, through their missions and in capitals, as well as the wider community, NGOs, industry and scientists;
- Building bridges between groups of like minded countries and coalitions – to encourage stakeholders to move into a shared space.
