

**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**

21 November 2014

English only

**2014 Meeting**

**Geneva, 1-5 December 2014**

Item 2 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**

**Article VII: Analysis of existing resources and gaps, and  
recommendations for future actions**

**Submitted by the United States of America**

**I. Introduction**

1. At the 2011 Review Conference, States Parties agreed to strengthen implementation of Article VII of the Biological Weapons Convention (BWC), which obligates States Parties to provide or support assistance to any party that “has been exposed to danger as a result of violation of the Convention.” States Parties to the Convention have long recognized the importance of the BWC’s international assistance provisions, and multiple common understandings relevant to strengthening implementation of Article VII have emerged.<sup>1</sup> Many of these have reflected an awareness that assistance *prior* to an event (i.e., capacity building) or at the earliest possible point after an outbreak—even before a determination is made that it may be deliberate in origin—is often critical to minimizing loss of life and economic impact. For example, States Parties have noted “the importance of ensuring that efforts undertaken are effective irrespective of whether a disease outbreak is naturally occurring or deliberately caused,”<sup>2</sup> leading many States Parties to make clear their willingness to provide or support assistance in advance of any determination of a violation. After all, most of the challenges encountered in providing assistance and most of the capacities necessary to respond to an intentional outbreak are the same as those required to respond to a natural infectious disease outbreak and other public health and animal health emergencies. Such capacity building efforts or cooperation and aid in response to a disease outbreak of unknown origin fall, strictly speaking, under the provisions of Article X, but

<sup>1</sup> BWC/MSP/2014/MX/INF.2. Previous agreements and understandings under the Convention relevant to strengthening the implementation of Article VII, including consideration of detailed procedures and mechanisms for the provision of assistance and cooperation by States Parties - Submitted by the Implementation Support Unit.

<sup>2</sup> Ibid.



they clearly further the aims of Article VII by reducing States' Parties potential vulnerability to biological attack.

2. States Parties have also supported capacity-building and international assistance in other fora. For example, each of the 170 States Parties to the BWC are also States Parties to the World Health Organization's (WHO) International Health Regulations (IHR) (2005), which obligates States Parties to build national capacities and collaborate during response to potential public health emergencies of international concern. Many States Parties to the Convention are also active participants in the Global Partnership Against the Spread of Weapons and Materials of Mass Destruction, the Global Health Security Initiative, the Global Health Security Agenda, and/or other international partnerships, which seek coordinated international action to prevent epidemics, detect biological threats early, and respond rapidly to disease outbreaks, whether naturally occurring, intentionally produced, or accidentally caused.

3. During the current intersessional process, States Parties have identified a number of challenges relating to strengthening implementation of Article VII. Specifically, States Parties have identified impediments to the provision or receipt of international assistance in response to an attack or unusual disease outbreak. The United States and others have called for States Parties to strengthen national capacities to both provide and receive assistance, including by addressing legal, regulatory, and logistical barriers to sharing and receiving public health and medical assistance. Further, recognizing that several different international organizations are likely to be involved in the assistance or coordination of response efforts, States Parties have also recognized that coordinating with relevant international organizations is a "complex task."<sup>3</sup> Other States Parties, such as South Africa, have raised important questions related to the activation of Article VII, such as the types of information that might be useful in determining whether an event is deliberate in nature and what types of assistance are required.

## II. Analysis of Article VII

4. In recognition that States Parties are called upon to cooperate internationally to provide emergency assistance under a number of agreements and undertakings; that these undertakings, while not identical, are mutually reinforcing; and that a number of international organizations will likely have prominent roles in providing assistance, the following chart summarizes the capabilities States Parties require in order to effectively activate and implement the obligations of Article VII. It also illustrates BWC States Parties' relationship to the landscape of existing mechanisms and actors, highlighting opportunities for progress under the BWC.

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*Article VII of the Biological and Toxins Weapons Convention*

*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 a violation of the Convention.*

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Steps to Operationalize Article VII	Action Required of States Parties	Supporting or Overlapping International Framework	Supporting or Overlapping Organizations	Gap/ Vulnerability
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<sup>3</sup> Ibid.

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Preparedness	Develop core capacities to plan and prepare for domestic health and security threats associated with a violation of the Convention, such as the support or provision of assistance to other States Parties	IHR4 GHSA GHSI GP OIE Terrestrial Code/PVS Pathway	Bilateral assistance  Regional organizations (e.g. ASEAN) WHO FAO OIE Interpol ICRC UNODA	Many states have underdeveloped preparedness plans and capacities; requires national commitment and both bilateral and regional coordination
Detection	Maintain both national capacity to detect a public and/or animal health emergency within the country and ability to make preliminary determinations regarding origin and/or intent	IHR GHSA OIE Terrestrial Code/PVS Pathway	WHO FAO OIE	Many states have underdeveloped national surveillance capacities; requires national commitment and bilateral and regional coordination
Reporting	Support mechanisms for reporting public and animal health emergencies and possible intentional use events	IHR OIE Terrestrial Code UNSGM	WHO OIE UNSG	There are no reporting requirements for reporting alleged use events to the UNSG
Response	Humanitarian/ Disaster/ Outbreak Response	Establish infrastructure, capacities, and procedures both to mount	UN cluster OCHA	Humanitarian disaster response is well coordinated,

<sup>4</sup> Abbreviations are spelled out at the end of this table.

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	a response to the emergency and to provide and receive assistance				but is resource-intensive and must be supported by national capacities; states must develop regulatory capacity to provide and receive assistance during emergencies, including medical counter-measures and public health, medical, and veterinary personnel
Attribution/ Investigation	Maintain national law enforcement mechanisms to conduct investigations; sustain ability and willingness to accept international investigation, if necessary	UNSGM	UNODA- WHO/OIE memorandum ; Interpol	There are no up-to-date standard operation procedures to improve mechanisms for investigations; need for complimentary / joint investigations by public health epidemiologists and law enforcement	
Governance	Support development of international capacity to manage response and investigation			Currently unclear how an Article VII response would be coordinated and managed; proposals have	

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included ISU,  
UNSG, or  
creation of a  
new entity  
under the  
BWC

Note the following abbreviations: Food and Agriculture Organization of the United Nations (FAO); International Health Regulations (IHR); Global Health Security Agenda (GHSA); Global Health Security Initiative (GHSI); Global Partnership for the Prevention of Weapons of Mass Destruction (GP); International Committee of the Red Cross (ICRC); Biological and Toxins Weapons Convention Implementation Support Unit (ISU); Medical Countermeasures (MCM); United Nations Office for the Coordination of Humanitarian Affairs (OCHA); World Organization for Animal Health (OIE); Performance of Veterinary Services Pathway (PVS Pathway); Terrestrial Animal Health Code (Terrestrial Code); United Nations Office of Disarmament (UNODA); United Nations Secretary General (UNSG); United Nations Secretary General's Mechanisms for Investigating Allegations of Chemical or Biological Weapons Use (UNSGM); World Health Organization (WHO).

### III. Recommendations for Strengthening Article VII

5. Based on the gaps and vulnerabilities highlighted in the above chart, States Parties should consider acting to strengthen implementation of Article VII in the following ways:

(a) **Preparedness:** States Parties should make national commitments to strengthen domestic preparedness, build capacities, and develop plans that may be necessary in case of a violation of the Convention. States Parties may wish to coordinate with regional organizations or work bilaterally with other States Parties for technical assistance in building required capacities.

(b) **Detection:** States Parties should make national commitments to strengthening public health surveillance capacities and may look to regional organizations, WHO, FAO, OIE, and other international partners for assistance in capacity development.

(c) **Reporting:** States Parties should work together to develop clear guidelines and forms for reporting. Reporting mechanisms should be consistent with other relevant international frameworks, such as the IHR and OIE Terrestrial Code. To this end, the United States supports South Africa's proposal to develop a set of guidelines to aid a State Party when submitting an application for assistance.

(d) **Response:** States Parties should work across sectors within their governments to identify and address legal, regulatory, and logistical barriers to providing or receiving international assistance, specifically including medical countermeasures and medical, public health, and veterinary personnel; and to develop capacities for rapid and effective response on both domestic and international levels.

(e) **Attribution/Investigation:** In addition to integrating national public health and law enforcement capacities for the purpose of attribution, States Parties should also work to strengthen implementation of Article VII by reinforcing the capacity of the Secretary General's mechanism to conduct investigations of alleged use, including by supporting the development of standard operating procedures. The United States strongly agrees with India's view that investigations of alleged use procedures may run in parallel to

international assistance but that carrying out such procedures should not be seen as a precondition for assistance.

(f) **Governance:** As it may not be immediately clear whether a disease outbreak is naturally occurring or the result of a violation of the Convention, it is important that the entities that govern the response to a natural outbreak are well-suited to accommodate elevated assistance under Article VII. Given that the Third and Fourth Review Conferences considered that, in the event Article VII is invoked, the United Nations could play a coordinating role<sup>5</sup>, and in light of the unanimous support in the United Nations General Assembly for the establishment of the United Nations Mission for Ebola Emergency response (UNMEER) to coordinate assistance to countries affected by the ongoing Ebola Virus Disease (EVD) outbreak, the United States proposes that Parties agree that, in the event that Article VII assistance is required, it may be appropriate to request that the United Nations be responsible for coordinating activity between international organizations, nongovernmental organizations, and States Parties, at the level of the Secretary-General, and with support from the Implementation Support Unit (ISU) and the United Nations Office of Disarmament (UNODA) .

#### IV. Conclusion

6. States Parties should work together to identify gaps, facilitate coordination with international organizations, and address vulnerabilities to ensure that they are best positioned as a community to aid each other and their populations in the event Article VII is invoked. This requires States Parties taking national actions to strengthen domestic capacities, and also necessitates agreement on a governance structure to support coordinated international assistance under Article VII. The historic levels of support for United Nations resolutions supporting international assistance for West Africa to halt the spread of EVD makes us optimistic that States Parties will identify the need for the United Nations Secretary General to take a coordinating role for any potential violation of the BWC.

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<sup>5</sup> BWC/MSP/2014/MX/INF.2.