

**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 Experts

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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**

**Making Article VII effective: some core assumptions and key
questions**

**Submitted by the United Kingdom of Great Britain and Northern
Ireland**

Summary

In this working paper we set out some key assumptions and questions that are central to any discussion on making Article VII effective. There are several central topics in particular that the MSP should reflect in its report in December: the proposed South African guidelines for States Parties requesting Article VII assistance, up-dated and expanded, should be adopted now as an interim measure. And, looking to the period beyond the Eighth Review Conference, we should be placing Article VII as a central element for further discussions in order to address the questions we outline below in paragraph 6.

Introduction

1. The 2014 Meeting of States Parties recognised the value of continuing to consider in 2015 the challenges to strengthening implementation of Article VII and ways to address them.¹ In particular, States Parties highlighted the value of discussing, inter alia:

- What assistance might be needed by a State Party as a result of prohibited activities?

¹ BWC/MSP/2014/5 pages 11-12.



- What information might be provided in submitting requests for such assistance?
 - The strengthening of procedures and mechanisms for provision of assistance, including by considering an inventory of types of assistance, a database of protective and responsive measures and procedures for their provision, an assistance fund and capacity building for relevant international, regional and sub-regional organisations, such as by joint exercises, workshops and training, including by the use of e-learning modules.
2. The value of taking into consideration lessons identified from combating infectious diseases, such as Ebola, was also recognised and is discussed in more detail in our Working Paper submitted to this meeting, entitled Making Article VII effective: relevant lessons and follow-up action from the Ebola Virus Disease Outbreak in West Africa.

Command, control, communication and coordination

3. An unprecedented international (and national) response was required to contain the recent outbreak of Ebola Virus Disease (EVD). Had such an outbreak been the result of a deliberate release of a biological agent, the response measures to contain and mitigate the effects and the requirements for future defences and responses may not have looked very much different. It is essential for any future comparable outbreaks to prepare for a rapid response with clear lines of command, control, communication and coordination. In the Ebola crisis it was necessary to establish the UN Mission for Ebola Emergency Response (UNMEER), whose task was to address the immediate needs related to the unprecedented fight against EVD.² One of its key operational principles was the need to ensure a singular UN system-wide approach in responding to EVD. This has implications for how we think about operationalising Article VII in a purely BTWC context.

Balancing competing imperatives: forensic investigation and assistance

4. However, we must also consider some potential differences in a scenario of deliberate release of a biological agent, where the medical, veterinary, phytosanitary and humanitarian response may have to operate in a potentially hostile environment and/or alongside a subsequent national or international investigation of the incident with a need to collect and preserve forensic evidence. There is some relevant experience here from OPCW exercises held under Article X of the CWC as well as at national level.

Core assumptions

5. In light of this experience it seems to the UK that there are several key assumptions that we need to affirm and consider in the BTWC context:

(a) The response to the West African EDV outbreak required in the end a massive national and international effort with the UN obliged to take a leading coordinating role - UNMEER; we think that a response to an outbreak that was the result of a deliberate release and on a comparable scale would very likely require the same level of reaction that we have seen in West Africa.

(b) Since it may not be evident initially (or indeed for some considerable time afterwards) that an outbreak was the result of a deliberate release, it is very likely that the

² <https://ebolaresponse.un.org/un-mission-ebola-emergency-response-unmeer>

response will be driven in the first instance by humanitarian considerations and by factors other than a need to invoke Article VII. It is highly unlikely that any event of this sort could be addressed solely within the context of the BTWC.

(c) In view of the efforts going into the lessons learned process for WHO post EDV, it seems clear that there is no need to create a duplicate capability purely for Article VII. Requests for assistance under Article VII would in all probability be redirected to UN Member States and the relevant international governmental and non-governmental organisations that are organised, resourced, equipped and trained to deal with outbreaks of infectious disease.

Key questions

6. The following questions need to be considered in any discussion on operationalisation of Article VII:

(a) If a BTWC State Party wished to seek assistance under Article VII, how would it do so? The South African Working Paper³ submitted in 2014 contained helpful suggested guidelines for requesting assistance; what reasons would there be for not adopting these as one key step that we could take now to operationalise Article VII? What additional elements could be added to these guidelines – for example, expanding paragraph 9 (h) and (i) to include details on the nature of the assistance already provided? Would such a format be best submitted to the ISU instead of the UNSG (or should it be done in parallel) for onward transmission to all States Parties and relevant international organisations and NGOs?

(b) What additional resources would the ISU require to enable it to perform an effective clearing-house role for Article VII assistance requests? What is a realistic role for the ISU?

(c) How would assistance efforts be coordinated with an on-going or subsequently launched investigation into an allegation of use under Article VI of the Convention, under the UNSGM or by domestic law enforcement agencies? How would the humanitarian and investigative efforts be harmonised?

(d) In future, which agency or entity should take the leading role – would we need something like UNMEER, or should the lead rest with the most relevant international organisation – WHO, OIE or FAO? What machinery could be put in place ahead of time to take into account all the likely requirements? What is the role and nature of partnerships (cross-disciplinary and at state and IGO/NGO level) in this context?

Conclusion and the next Review Conference

7. These assumptions and questions could be considered at this year's Meeting of Experts during the sessions on Article VII with a view to agreeing common understandings now, which could inform decisions at the Review Conference and post 2016 work on Article VII issues. It is clear to the UK that further detailed deliberation on Article VII should be a central topic with sufficient time allocated to it in a future revised intersessional work programme.

³ BWC/MSP/2014/MX/WP.9 Article VII – Procedures - Submitted by South Africa.