
**Seventh Review Conference 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**

11 October 2011

Original: English

Geneva, 5–22 December 2011
Item 10 of the provisional agenda
**Review of the operation of the Convention
as provided for in its Article XII**

**Article VII: options for implementation and proposal for
intersessional work**

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

I. Introduction

1. Under Article VII of the Convention States Parties undertake to ‘*provide or support assistance*’ in the event that a State Party has been ‘*exposed to danger*’ as a result of a violation of the Convention. Neither the original Convention negotiations from 1968 to 1971, nor any subsequent Review Conference Final Declaration offer any clarification as to the meaning of the term ‘*exposed to danger*’. The negotiating record makes clear, however, that ‘*assistance*’ means essentially that medical or relief assistance would be provided on request. The Sixth Review Conference Final Declaration made several statements that are relevant to this topic – relevant examples for discussion here are listed in the Annex – and these also provide a basis for further consideration and action. The 2010 intersessional meeting addressed provision and coordination with relevant organisations in case of alleged use, but did not take the issue any further forward in terms of working out how Article VII might be made to work in practice. The Seventh Review Conference therefore provides a possibility to look afresh at this issue with a view to reaching agreement on what needs or might need to be done. The UK would strongly support such a move. This note sets out some of the issues that could be addressed at the Review Conference and beyond in future work on this topic.

II. Article VII

2. The major limitation in the text of Article VII is that the States Parties undertake to provide or support assistance to any State Party that so requests, *only* if the Security Council decides that such a Party has been exposed to danger as a result of a violation of the Convention. As noted above there are no definitions or common understandings on the term ‘*exposed to danger*’; and there is a chance that assistance could be delayed whilst the Council decides the merits of the case. We could not always count on, or guarantee a speedy response, especially when the evidence might be inconclusive as to whether an

event should be attributed to natural or deliberate causes. Although the negotiators of the BTWC envisaged actions taken by states, it is clear that attacks by terrorists would fall within the scope of Article VII, especially given the difficulties of determining the source of any suspicious disease outbreak. Indeed States Parties have expressed willingness to provide or support assistance if biological agents or toxins are used as weapons by anyone other than a State Party (Sixth Review Conference Final Declaration, paragraph 38).

3. A first task at the Review Conference or subsequently might therefore be to consider circumstances which would meet the criterion of 'exposed to danger'. The CWC's equivalent Article (X) paragraph 8 offers some ideas that could be accepted as a common understanding of the States Parties; for instance,

"Exposed to danger" means circumstances involving the use or threat of use of biological or toxin weapons when:

(a) Biological or toxin weapons have been used by any State(s) or other entity against a State Party;

(b) A State Party is threatened by actions or activities of any State or other entity that are prohibited for States Parties by Article I.'

III. Practical aspects

4. In discussing the practical aspects of implementing Article VII, we need to consider carefully the extent to which the WHO, and other intergovernmental organisations, are best placed as the primary responders, and the extent to which further assistance is required to enhance their capabilities rather than duplicate efforts in a purely BTWC context. The WHO's global alert and response activities and the Global Outbreak Alert and Response Network (GOARN) are already aimed at the detection, verification and containment of epidemics. In the event of an intentional release of a biological agent these activities would be vital to effective international containment efforts. We also need to consider current comparable activities by OIE and FAO. Furthermore, given the possible elapse of time before it is confirmed whether an outbreak has deliberate or natural causes, the overriding priority should be a speedy and effective response to verify and deal with the public or veterinary health or agricultural consequences of the outbreak, which must not be delayed by any doubts as to causation. Actions could well be taken by WHO, OIE or FAO while the UNSC is still considering the issue – or might even be being implemented on the ground before the issue has been referred to the UNSC since the priority would be to deal with the effects whatever the cause. We must not create a system that would interfere with such actions or prevent their implementation a point clearly recognised in the Sixth Review Conference Final Declaration, paragraph 33.

IV. Links to Article X

5. One of the key capabilities in the WHO's GOARN is capacity building; in this context improved surveillance, detection, diagnosis and mitigation of infectious disease provide a major defence against the hostile use or threat of use of biological agents and toxins. Therefore efforts relevant to Article X which seek to improve further national and regional capabilities – including those under the Global Partnership, as well as other initiatives - can help strengthen Article VII too. It therefore makes sense to consider both Articles jointly in a future intersessional work programme that addresses cooperation issues. The UK would support this as an integral element in a future work programme.

V. CWC Article X: a possible model?

6. It is clear that the ISU as currently constituted cannot act as a conduit for emergency assistance – it simply does not have the staff or facilities to manage and distribute protective equipment, decontaminants and medical counter measures in a manner comparable to the role envisaged for the Technical Secretariat in the CWC's Article X (7). However, the ISU could conceivably administer a voluntary fund for assistance similar to the one created by the CWC's Article X. The ISU could perhaps also maintain a register of States Parties able and willing to offer assistance and the type of assistance they can supply.

7. We might also consider adapting another of the CWC Article X provisions.¹ This means drawing on paragraph 6 to the effect that we might note that, notwithstanding Article VII, States Parties could be encouraged to conclude individual agreements with other States Parties concerning the emergency procurement of assistance.

8. However, if using CWC provisions as a model, we would need to take account of a particular difference – that here is no natural occurrence of CW effects (in the way there are natural disease outbreaks difficult to distinguish from a BW attack). For this reason CWC provisions do not have to take into account existing international organisations and networks dealing with the effects of chemical weapons.

VI. Role of outside expertise: academia, industry, international non-governmental organisations and other bodies

9. As in the earlier intersessional meetings, there is considerable value in having participation by representatives from intergovernmental or international non-governmental organisations, industry, academia and NGOs. Individual Task Leaders would decide on invitations in light of the subjects under discussion and where external contributions and expertise would be valuable. However, some delegations might be unwilling to accept such participation in all meetings. The norm might therefore be that meetings are open, unless otherwise decided according to the topic under discussion in the agenda.

VII. Conclusions

10. Apart from the possibility that the Seventh Review Conference might reach some interpretative understandings itself on Article VII of the sort discussed above in paragraph 3, it seems clear that the complex issues surrounding giving practical effect to Article VII will require a more detailed consideration in a new intersessional work programme. It is clearly a priority to explore the role the current and planned activities of the WHO, OIE and FAO might play in addressing the requirements for Article VII assistance. We need, therefore to explore the practical means to streamline assistance, taking into account current IGO activities and networks and examining how best to engage with these to enhance capabilities and achieve the optimum practical response. This could be undertaken in a new intersessional work programme in conjunction with consideration of Article X issues.

¹ This was the route taken by the 2001 draft BTWC Protocol.

Annex

Statements on Article VII in the Sixth Review Conference Final Declaration²

“33. The Conference takes 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.

34. The Conference considers 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 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).

35. The Conference notes that States 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.

36. The Conference takes note of the proposal that States Parties may need to discuss the detailed procedure for assistance in order to ensure that timely emergency assistance would be provided by States Parties, if requested, in the event of use of biological or toxin weapons.

37. The Conference reaffirms the undertaking of States Parties to provide or support assistance to any State Party which so requests, if the Security Council decides that such State Party has been exposed to danger as a result of a violation of the Convention.

38. The Conference takes note of 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.”

² BWC/CONF.VI/6, Part II