

# **Verification To What Purpose?**

## **Changed Expectations From Biological Weapon Disarmament**

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Roundtable convened by the Belgian Ministries of Defence and Foreign  
Affairs and the EU Institute for Security Studies

Brussels, 7 June 2010

# Core goals of strategy discussion

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- **7<sup>th</sup> Review Conference of the BTWC (2011)**
  - Determination of work programme for the next intersessional period (2012–16)
  - Organise annual meetings exploring verification strategies involving all stakeholders
  - View of decision on verification options at 8<sup>th</sup> Review Conference (2016) based on intersessional discussion outcomes
- **Devise a strategy for testing verification ideas in cooperation with stakeholders during next intersessional period**
  - 1987 INF-treaty: 400 trial inspections by USA and USSR before conclusion of negotiations and finalisation of procedures
- **There will be many political & technical hurdles, but right now the core questions must be:**
  - How do we think out of the box? (compliance vs. security)
  - What is the box we want to think out of?
  - What does it take to make a proposal work? (resolve contradiction in goals)

# A treaty's lament

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## ■ **Strong norm**

- Today, no state admits to BW programme & holdings
- Quasi universality: 163 States Parties + role in customary international law
- States Parties committed to BTWC:
  - Assessment of the state of the norm + updating at RevCons
  - Annual activities since 3<sup>rd</sup> RevCon (1991)

## ■ **Intrinsically weak**

- No formal verification & compliance mechanisms
  - No international institution for implementation oversight and enforcement
  - Implementation Support Unit (ISU) supportive of annual processes, but no functional substitute for international organisation
  - Inability to incorporate verification tools into BTWC
    - CBMs, VEREX (1992–93), Ad Hoc Group (1995–2001)
- Slow process to deal with new challenges (scientific & technological developments; new actors)
- Ongoing frustration over unmet expectations in areas of security or development

# Areas for enhancing verification

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- **Biodefence programmes**
  - Problem of civilian (homeland) vs. military biodefence
    - Government agencies and private contractors are active in both areas
  - Problem of threat-based analysis
    - Source of discovery; source of uncertainty about purpose
  - Currently: 1<sup>st</sup>-party audits in several countries → universalise via CBM
  - Future: 3<sup>rd</sup>-party audits (international organisation or int. expert team)
- **Technology transfers**
  - Consideration that we have entered the post-proliferation phase
  - Certification processes?
  - ISO model
- **Allegations of BW use and unusual outbreaks of disease**
  - WHO/FAO/OIE investigations of all outbreaks
  - Special expert teams to intervene in case of report of suspicious nature of an outbreak?
    - International organisation or use of UN Secretary-General's mechanism
- **Industry activities**
  - To be discussed further

# Shifting expectations from verification

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- **The BTWC is unverifiable**
  - Standard mantra, but why?
  - E.g., UK proposals of 1968-69: rejected in BTWC, but now part of the broader regime against BW
- **Cold war understandings of disarmament and verification & related procedures**
  - Difficulties in dealing with dual-use characteristics of technologies
  - No verification substitutes (e.g., visible & countable delivery systems)
  - Unease with roles of multiple stakeholders in the process
    - State is often more protective of stakeholder interests than the stakeholders
- **Shift away from focus on weapon as a problem (disarmament) to focus on possessor of enabling technologies (non-proliferation)**
  - Rogue state discourse (no trust) + emphasis on regime change
  - Addressing terrorism challenges
- **Shift away from parity in military arsenals (*adequacy*) to utility of weapons and hence capability to address challenges & threats (*effectiveness*)**

# Adequacy vs. effectiveness – 1

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- **Draft protocol as negotiated by the Ad Hoc Group**
  - Focus on compliance monitoring (was not a 'verification' protocol)
  - Enhanced transparency of relevant areas of dual-use civilian and military activities
  - New technologies & processes in research and industry made proposed reporting thresholds and action triggers irrelevant
  - Did not address new security challenges (e.g., terrorism, rogue state behaviour, etc.)
  - Therefore, did and could not produce greater confidence in treaty adherence
  
- **Relative relevancy of BW in security considerations has shifted**
  - BW disarmament was possible in the 1970s because of marginal benefits of BW over nuclear and other weapons
  - Today: arms reductions and disarmament in many areas
    - CW banned; prospect of nuclear reductions / disarmament
  - In terrorism context, even minute amount of BW becomes highly relevant
    - E.g., anthrax letters

# Adequacy vs. effectiveness – 2

- **Core question now being asked: How will security be guaranteed?**
  - How can a rogue state / terrorist be deterred?
  - What are my defences & protection? How adequate are they? How confident can I be in their adequacy?
    - **Biodefence & threat analysis produces circular logic:** must be kept secret not to reveal weaknesses, but how can I be sure that a potential adversary is not exploiting dual-use technologies for offensive purposes, if it also keeps that programme secret?
  - How does one know that a country's industry and research is not involved in BW-related activities?
  - How much risk to lose confidential information, etc., is one prepared to run with regards to one's own biodefence and civilian activities in order to get relevant data from other states?
  
- **US decision in 2001**
  - Focus on cause-based challenges; no scope for enhanced transparency
    - Termination AHG negotiations; new foci in intersessional activities
  - Better to compromise 'certainty' than 'security'
  - Consequently: rejection of equality & partnership at heart of any multilateral verification regime

# Does industry have a stake in BTWC?

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- **Legal obligations & responsibilities**
  - Article IV of the BTWC = domestication of international law
- **Financial implications & other cost factors**
  - Oversight and verification cost money and other resources
  - Industry can optimise verification routines
- **Prevention of incidents**
- **Reputation**
  - E.g., chemical sector and CW programmes
  - Pharmaceutical industry has been implicated in past BW programmes
  - Bio-sector: experience of bad publicity in handling GMOs & agricultural application
- **Sectorial interdependence**
- **Confidence in business partners, legitimacy of purpose of transactions**



# Issue of research activities

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- Research not included in BTWC
- Resistance to transparency-enhancing activities remains high, also regarding research in industry sector
- *Option:* creation of an international forum under 'BTWC auspices' for scientists and professionals to exchange experiences, e.g., on best practices, safety standards, etc.

# Issues to overcome *viz.* industry

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- BTWC: separation of norm and verification during treaty negotiations
  - Categorical statement of compliance with the norm; no interest in costly transparency & compliance tools => no stakeholdership
- Highly dynamic sector with many small & geographically mobile companies
- Business culture associated with venture capitalism
- Transnational dimension of activities
- Past involvement in building verification (AHG)
  - PhRMA position
  - Need to overcome trauma of the Pfizer 'voluntary' visit as part of the trilateral process (1994)
  - European industry: more flexible, but harder to convince?

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