The BTWC: Who Complies with What?

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Research paper

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Main findings

• **Compliance remains an abstract concept**
  • Binary judgement of compliance versus noncompliance remains difficult
  • Even if rule is unequivocal,
    • General circumstances of application may change
    • Specificity of a particular case may require judicial interpretation

• **Lack of verification tools and institutional setup**
  • No means for States Parties to have facts established independently
  • Since First Review Conference, States Parties have adopted two approaches:
    • Demonstration of compliance by individual States Parties
    • Strengthening of verification capacities
  • However, circumstances in which BTWC had to function sometimes changed dramatically, making measures under consideration impractical even before they could be implemented

• **Future of debate**
  • Will remain unproductive if states maintain absolutes on compliance or security
  • **Compliance expectations** need to be understood before concrete proposals to fulfil them can be devised
    • Compliance expectations need to be managed in an environment of continuously changing parameters for judging compliance (e.g., adequacy & sufficiency vs. 100% certainty)
    • Need to devise frameworks within which governments are willing to consider and accept BTWC improvements, bearing previous point in mind
Focus of current ideas & proposals

- Demonstration
  - Self-reporting
  - Verification
- Non-compliance
  - Restoration
  - Allegation

Compliance

Judgement
Example of differing expectations

- **MX 2015: USA offers background information on inadvertent distribution of live anthrax spores to laboratories in USA and abroad**
  - Elaboration of measures taken
    - To establish where failures in procedures and oversight occurred
    - To establish responsibilities of individuals and agencies, if possible
    - To prevent recurrence of events
  - Wish to be transparent to international community in order to demonstrate that
    - Events were an accidental confluence of several factors
    - National authorities were taking all necessary steps to rectify the situation
  - Essentially demonstration of compliance with **BTWC Article IV**

- **However,**
  - One BTWC State Party asked questions
    - Why live anthrax bacteria production?
    - How much anthrax is being produced?
    - How many facilities where such production activities take place?
    - Why was agent shipped overseas as part of military exercises?
    - Etc.
  - Essentially interrogation of compliance with **BTWC Article I** (and III)

- **Just one illustration of how compliance expectations need to be managed**
THE TRENCH

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