Article VII of the BTWC
Some issues for further consideration

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Lessons learned from a Tabletop Exercise (TTX) on the Implementation of BTWC Article VII

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Three states; three different directions

• **Victim state**: triggered Article VII
  - After confirmation that disease was non-endemic, **AND**
  - Disease had been genetically modified to enhance resistance to antibiotics
  - In earlier stages it was wary of the political implications of triggering Article VII

• **Alleged perpetrator**: called for an investigation by UN Secretary-General
  - Sought confirmation of the nature of the outbreak
  - Government convinced that it was not responsible: exoneration & transparency
  - Factor in decision as to whether it would provide assistance under Article VII rather than via other mechanisms

• **Outside country**: emergency assistance via other mechanisms
  - Willing to provide emergency assistance, but not under Article VII (e.g., WHO)
  - Demanded *proof* of deliberate attack before willing to offer Article VII assistance
Implications of three directions

- **Coordination of the response**
  - Each route gives lead to different bodies with different mandates
  - Raises questions about overall coordination of the response, potentially involving
    - UN Security Council and UN Secretary-General
    - International organisations (e.g. WHO)
    - Bilateral assistance
    - International non-governmental organisations
    - Donor entities (states, inter-governmental organisations, charities and foundations, ...)
    - International military units (both for logistics assistance or peace keeping), policing and law enforcement assistance, etc.
    - Local health care and logistics

- **Uncertainty about the Article VII process informed preferences in function of national assessment of situation based on then available information**
  - Nowhere has the process for triggering Article VII been spelled out
  - To whom should the request be addressed? (BTWC Depositories, UNSC, ...)

- **What is ‘sufficient’ proof?**
  - Three different demands
  - Who decides what proof is sufficient?
  - Not a question of criminal culpability, but grounds for triggering Article VII
  - Concern about the political implications of triggering Article VII (UNSC, allegation, ...)
Need for clarifying Article VII

- **Key clauses in Article VII require clarification**
  - Article VII is an actionable provision
  - Its history lies in the Cold War; today’s interpretation seems quite different from the 1970s
    - Role UN Security Council; reference to the UN Charter
    - What is meant by ‘violation of the Convention’?
    - If purpose is humanitarian, why do two States Parties (Austria, Switzerland) still have explicit reservations concerning this article?

- **So far no clarity as to how Article VII might be triggered**
  - To whom should the request be sent (Depositories; UNSC; UNSG; …)?
  - What type of information / evidence should the request contain?
  - Need for clear statement that Article VII also covers use of animal and plant pathogens

- **No clarity about decision process between outbreak and triggering Article VII**
  - Should other BTWC provisions be involved before referral to the UNSC? (Avoid politicisation)
  - How is the lead agency for coordination to be designated?
  - Should BTWC States Parties decide on a standing coordination body, to be activated in case of an Article VII request?
    - Could allow development of detailed procedures, requirements, gaming and training
    - Could allow development of agreements (MoU) by SPs with other international organisations