



Biological Weapons Convention

Article VII: Preparing for operationalisation

Jean Pascal Zanders

Political Affairs Officer

United Nations Office for Disarmament Affairs (UNODA), Geneva

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Realities of the BWC

- Treaty is governed by the community of States Parties
 - No formal international organisation to oversee treaty implementation
 - No legal person with contracting authority
- No capacity to prepare for contingencies in case of major treaty violations
 - No equivalent provision to Article X of the CWC
 - Was foreseen in Article 13 of the draft legally binding Protocol (2001)
 - No systematic (national) capacity building in surveillance, detection, diagnostics, treatment, etc. (as could be conceived under Article X of the BWC)
 - No prepositioned equipment and supplies or systematic (regional) training programmes
 - No independent investigative capacity
 - No international network of certified reference laboratories to analyse samples or with forensic capacities



Pathways for implementing BWC Article VII

- Development of independent capacities

- Full complement of capacities (e.g. CWC model)
- Partial capacities to address specific BWC needs , e.g.
 - Network of (certified by whom?) national laboratories to analyse samples; forensic investigations
 - Training and maintenance of teams of investigators
 - Logistical pre-planning to launch and support operations in zones of armed conflict
- *Problems:* No political will for institution building, legal issues, sustainability of required preparedness levels, credibility of investigative process, etc.

- Reliance on the United Nations

- UN Secretary-General's Mechanism to investigate allegations of BW use
- Has expertise with organisation and delivery of emergency assistance under difficult circumstances, including armed conflict
- Capacities to assess risks in areas of operation (UNDSS), negotiate access of investigators/relief workers with Member States
- Has legal authority to conclude agreements or enter into contracts
- *Problems:* Politicisation of decision-making processes in UN Security Council, reliance on national rosters of experts (who have limited expertise in working as a team), no independent network of laboratories, no equivalent OPCW capacities

- Reliance on other international organisations

- E.g. WHO, FOA, OIE, IPPC ...
- *Advantages:* advanced capacities for dealing with disease outbreaks
- *Problems:* Capacities and operational procedures not specifically designed for demands posed by deliberate disease



Preparing for operationalisation

- Developing regional and local capacities to receive emergency assistance
 - Could be undertaken as part of (national) health preparedness initiatives
 - Opportunities for cooperation under Article X of the BTWC
- Adoption of procedures / guidelines for invoking Article VII
 - How does a BWC State Party trigger Article VII?
 - To whom should an Article VII request be directed?
 - What are the responsibilities of the other States Parties after Article VII has been invoked?
- Establishment of procedures for requesting international assistance, including from international organisations
 - Is there a need for an investigation of alleged use to validate the Article VII request?
 - If not, what is the use of going through the BTWC? How does one avoid false claims?
 - Who will request assistance?
 - UNSC (mentioned in Article VII) or individual States Parties?
 - To whom?
 - Which duties do individual States Parties have with regard to emergency assistance?
 - “undertakes to provide or support assistance” = promise, not obligation
- Organisation and delivery of emergency assistance



An additional layer of considerations

Which type of crisis would be considered under Article VII?

- In principle, all deliberate outbreaks involving human, animal or plant pathogens
- However, impact of media and subjective sense of urgency

<i>The outbreak</i>	Human pathogens	Non-human pathogens
Fast spreading epidemic	Ebola crisis Mentioned in Final Document 8 th RevCon, §34	Foot-and-mouth disease Blight
Slowly developing crisis	Anthrax outbreak	Anthrax outbreak (e.g., livestock) <i>Thrips palmi?</i>



Developing regional and local capacities to receive emergency assistance

Principles

- National preparedness & capacities contribute directly to international capabilities for response, investigation & mitigation of disease outbreaks
- National preparedness *should not be imposed* as a precondition for either provision of receipt of assistance
- Encouragement to assist with building relevant capacity upon request in view of differences in development and national capacities & resources among States Parties
- Relevancy of IHR to building necessary capacities
- Building capacity to recover as quickly as possible from deliberate disease
- Article VII database to facilitate assistance

(Note: Black text = review conference documents; Red text = national suggestions)

Actions

- Based on assessment of national capacities, BWC States Parties can more clearly identify assistance needs
- Capacity building at national and international levels = most immediate imperative to enhance capacities to promptly & effectively detect and respond to BW use / threat of use
- National & joint efforts to improve disease surveillance & detection & capacities to confirm outbreak causes, as well as abilities to build capacities for other States Parties
- Training courses (UNSG mechanism; deployment with UN teams)
- Global public health capacity building & training
- Development & funding of national/regional resilience strategies & capacities (may be in collaboration with regional organisations)
- Database via ISU website: matching requests & offers for Article VII assistance
- Establishment of a voluntary fund for Article VII



Adoption of procedures / guidelines for invoking Article VII

Principles

- Only relevant if outbreak is deliberate
- Working Paper (8thRevCon) outlining elements for the application of assistance (RSA)
 - Request to UNSC
 - Recognises that there is no determination of whether an investigation should precede UNSC decision
 - Recognises option for States Parties to request assistance from international organisations or other States Parties without invoking Article VII
 - Offers template for information to be included in request to UNSC.

Actions





Establishment procedures for requesting international assistance, including from international organisations

Principles

- Possible coordination role for UN in providing & delivering assistance
- Roles under respective mandates for WHO, OIE, FAO, IPPC
- UN and international organisations could play important role in coordinating, mobilising & delivering support and assistance
- Emergency assistance can be provided by States Parties pending decision by the UNSC
- No duplication in BWC context of programmes and activities by other organisations, initiatives or arrangements
- No comprehensive Protocol; no dedicated international organisation
- Review of whether existing modalities of international response allow for timely and adequate support and assistance to the affected countries and peoples including first responders and health care workers; the preventive, preparedness, response and recovery activities at the national, regional and international level

Actions

- Challenges for developing effective measures
- Challenges on level of coordination for providing appropriate assistance
- Need for information of types of assistance that might be available
- Support for UNSG Mechanism





Organisation and delivery of emergency assistance

Principles

- Nature of assistance: detection equipment, including biosensors, alarm equipment, protective equipment, decontamination equipment and decontaminants, prophylactic; diagnostic and therapeutic medical measures and materials and associated equipment and exchange of information and technology regarding assistance
- Assistance strictly humanitarian

Actions

- 2mn doses of smallpox vaccine made available via WHO (GER)
- Offer of biomedical units to deliver protection against biological weapons, investigate their alleged use, and to suppress epidemics of various aetiology (RUS)





Conclusions

- Debate on Article VII is still in early conceptual stage
 - Formulation of broad principles
 - Emphasis on the humanitarian dimension
 - Need for clarification of terminology in Article VII, as intent was different during negotiation of BWC
 - Review of status implementation of Article VII (BWC/CONF.VIII/INF.3) contains primarily national activities whose goals were reinterpreted in function of Article VII
- Major gaps
 - No common idea of how a state might decide to invoke Article VII or how such a state should proceed
 - Major gap analysis is required to understand the demands of implementing Article VII in all its stages
 - Relationship States Parties – UNSC requires clarification, including its political and organisational dimensions
 - Is prior determination of deliberate disease a prerequisite for invoking Article VII and UNSC action?
 - In particular, it is necessary to clarify the additional benefits to States Parties for invoking Article VII over existing mechanisms
 - There are clear disadvantages



Contact

Jean Pascal Zanders

Political Affairs Officer

UN Office for Disarmament Affairs (Geneva Branch)

Room C.1-1, Palais des Nations, CH-1211 Geneva 10

Tel: +41 (0)22 917 4460

Mob: +41 (0)76 691 0585

Fax: +41 (0) 22 917 04 83

jzanders@unog.ch

