Tabletop Exercise (TTX) on the Implementation of Article VII of the Biological and Toxin Weapons Convention (BTWC)

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Introduction

Being one of the more obscure provisions in the Biological and Toxin Weapons Convention (BTWC), Article VII only attracted state party attention over the past ten years or so. In follow-up to the decision of the 7th Review Conference (2011), parties to the convention looked for the first time more closely at the provision during the August 2014 Meeting of Experts (MX). As it happened, the gathering coincided with the expanding Ebola crisis in West Africa. The epidemic gave urgency to the concrete implementation of Article VII. The daily images of victims and fully protected medical staff broadcast around the world left lasting impressions of how a biological attack from another state or terrorist entity might affect societies anywhere.

Operationalising Article VII has proven more complex than anticipated. The provision comprises several clauses that fit ill together upon closer inspection and hence obscure its originally intended goals. In addition, it contains no instructions about how a state party should trigger it or the global community respond after its invocation.

Article VII reads as follows:

Each State Party to this Convention undertakes to provide or support assistance, in accordance with the United Nations Charter, to any Party to the Convention which so requests, if the Security Council decides that such Party has been exposed to danger as a result of violation of the Convention.

Today, ‘assistance’ is widely accepted to mean a humanitarian response and not, for instance, military intervention. However, if assistance was indeed intended to be humanitarian, then the questions arises why the article points to the UN Charter or requires UN Security Council (UNSC) action. Moreover, the text does not actually refer to a biological attack, but to the much broader concept of exposure to danger as a result of a treaty violation. While deliberate use of a contagion would definitely constitute a serious breach, dangers to a state party may arise from infringements of other provisions too.

The negotiation history of Article VII reveals the origins of the different clauses and how the text evolved between its initial introduction by the United Kingdom in 1968 and the adoption of the final treaty text in 1971. However, it reveals little about the negotiators’ intent regarding activation of the article in case of necessity.¹

Moreover, since then new elements have entered the debate on how to operationalise Article VII. During the 1980-89 Iran-Iraq war the UN General Assembly and the UNSC created an international mechanism to investigate use of chemical and biological weapons (CBW) under the responsibility of the UN Secretary-General (UNSG). With the confirmed repeated use of chemical weapons by government forces and international terrorist entities in the Syrian civil war since 2013, the idea of investigation moved beyond establishing the fact of CBW use to identification of the perpetrator and attributing (individual) criminal responsibility for violating international law. While this UNSG investigative mechanism falls outside the BTWC, states parties over the years have tried to link it more closely to the convention. Hence, triggering Article VII might now lead to an expectation by several states parties that the violation be independently confirmed prior to any assistance action.

The 8th Review Conference (2016) ended in failure. The only provision that received significant new language was Article VII, which in the final report now comprises 15 paragraphs that list objectives, challenges and possible ways forward. In the current intersessional period (2018-20) a two-day MX entitled ‘Assistance, Response and Preparedness’ is held every year and will hopefully yield new insights and decision proposals for consideration during the 9th Review Conference in 2021.

The tabletop exercise (TTX) on Article VII at the UN Regional Centre for Peace and Disarmament (UNREC), Lomé, Togo on 29 and 30 May 2019 was the second one run by the Fondation pour la recherche stratégique (FRS). It was held in partnership with the BTWC Implementation Support Unit (ISU). The Lomé TTX brought together experts from the Francophone countries in West Africa: Benin, Burkina Faso, Côte d’Ivoire, Guinea, Mali, Mauritania, Niger, Senegal, and Togo.

Like with the first TTX in November 2016, the exercise in Lomé sought to achieve a better understanding of the elements required to trigger Article VII and the consequences such action may have on the organisation of international assistance. Moreover, the second TTX also aimed to achieve a deeper appreciation of the unique contribution of the BTWC in addition to the expected assistance efforts by international organisations, relief associations and individual countries. The TTX put into sharper relief certain questions BTWC states parties will have to address even before the first item of assistance is shipped to the disaster area. Discussions in Lomé especially highlighted the relationship between normal assistance in case of a health emergency and the types of assistance that might specifically be delivered under the BTWC.

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Goals and framework

The primary goal of the exercise was to stimulate reflection on the decision-making processes both within a State party to the BTWC and by the international community that might trigger Article VII of the BTWC. Such reflection would cover (but not be limited to):

- Determination of the conditions that could trigger Article VII;
- Determination of the steps one or more State Parties would have to undertake to trigger Article VII;
- Consideration of the circumstances under which the international community may be willing to consider requests under Article VII.

Specific questions that had to be considered included (but were not limited to):

- What steps or measures need to be identified / implemented ahead of an outbreak?
  - On the national level?
  - On the international level?
- What areas should such preparatory steps or measures cover?
  - To receive or facilitate receipt of international assistance?
  - To foresee and prepare for the impact of an outbreak on a country’s social fabric (e.g., economy and trade, travel, schools, public events, fear, education and outreach concerning the crisis, etc.)?
- What steps or measures would the community of states parties need to undertake to operationalise Article VII?
  - Are there any preconditions to launching such a request?
  - Is there a need for independent confirmation that an outbreak is deliberate before Article VII can be triggered? If so, who will make the determination?
  - What type of information should the request contain?
  - With whom should the request be filed?
    - Should mechanism provided in other parts of the BTWC be utilised?
    - Can a state party file a direct request with the UNSG or UNSC, and if so, what is the specific contribution or impact of Article VII to the subsequent chain of developments?

The proposed scenario covered only the time frame between the detection of an outbreak and the moment when the international community would be called upon - with explicit
reference to Article VII of the BTWC - to offer assistance to the country suffering a major outbreak. It does not deal with how the resources for such assistance would be mobilised or the ways in which the assistance might be provided.

The proposed scenario was not intended to be gamed. Also, the exercise was not meant to evaluate the performance of existing response mechanisms. Its purpose is to focus on critical decision moments prior to the deployment of assistance under BTWC Article VII. In particular it seeks to stimulate thought on the conditions under which a state party might consider triggering Article VII in view of the many other available mechanisms to organise international assistance after disasters, including the ones that would be activated after major disease outbreaks.

- The World Health Organisation (WHO) would be a key actor in any scenario of a major disease outbreak. It undertook a major reform of its emergency capacities based on reviews of its response to the Ebola epidemic in West Africa.
- Other United Nations actors that might become involved depending on the nature of the outbreak are the Food and Agricultural Organisation (FAO), the Office for the Coordination of Humanitarian Affairs (OCHA), the UN Children’s Fund (UNICEF), the World Food Programme (WFP), as well as other international actors, such as World Organisation for Animal Health (OIE).
- Different regional or sub-regional organisations are likely to be involved too: the African Union (AU), Africa CDC - Centres for Disease Control and Prevention and its Regional Collaborating Centres, Economic Community of West African States (ECOWAS), UN Regional Centre for Peace and Disarmament in Africa (UNREC).
- States Parties to the BTWC, as well as other international organisations, may decide to provide different types of assistance on a bilateral basis or in support of international relief efforts (e.g. funding of operations) on purely humanitarian imperatives and without awaiting decisions under BTWC Article VII.
- Several non-governmental humanitarian organisations (e.g. Médecins sans frontières - MSF) as well as the International Committee of the Red Cross (ICRC) may become involved in addressing the consequences of a major disease outbreak because of their rapid response capacity or their ongoing local development assistance activities. Each one of them may have capacities to receive, distribute or deploy international assistance to the stricken areas.
- Equally important in considering possible action under BTWC Article VII would be the likely organisational and procedural implications of the sequence of international organisations becoming involved in the response.
Experience and expertise for dealing with major disasters and epidemics exists on the global, regional and national levels and in different types of humanitarian and health organisations. The BTWC, however, is a security treaty that seeks to eliminate the biological weapon (BW) threat. Article VII addresses assistance in the context of threats to states parties following a violation of the BTWC. Consequently, triggering Article VII may imply deliberate use of a BW rather than just an unusual disease outbreak. As Article VII has never been invoked, implications of its triggering are unknown.

The tabletop exercise sought to identify and characterise possible consequences of invoking Article VII during the initial decision-making processes.
Summary of findings and recommendations

1. Compared to the 2016 TTX, participants in Lomé had a high level of expertise in the management of disasters and health crises. Discussions, as a result, were more technical. The organisers briefed participants in detail on the outcomes of the 2016 TTX, including the uncertainties about the procedures and outcomes of triggering Article VII, as well as the multiple possible decision-making paths (see Appendix 2). Whereas the main aim of the first TTX had been to uncover issues relating to activating Article VII, the Lomé exercise sought to navigate the known uncertainties and ambiguities in the face of a mounting health crisis.

2. As in 2016, the TTX limited itself to the process of triggering Article VII. As such it covered the phase between the detection of an unusual disease outbreak up to the point when the UNSC might have to decide that a BTWC state party ‘has been exposed to danger as a result of violation of the Convention’. The mobilisation and organisation of the delivery of assistance following such a decision were not part of the scenario. In addition, participants also considered measures to have ideally in place before an outbreak to mitigate its consequences should it occur.

Decision-making: procedures and time frames

3. While it is possible to consider elaborate procedures to trigger Article VII based on different contingencies, time frames for decision-making will necessarily be short in view of the unfolding health crisis. Furthermore, data that may inform such decisions will be incomplete, uncertain or ambiguous. While national decision-makers may desire a fuller picture or even independent confirmation of whether the unusual disease outbreak is deliberate or not, time pressures may preclude extensive information collection or multilateral consultations in support of best-possible decision-making. Barring immediately available incontrovertible indications of BW use, the initial response to an outbreak will most likely involve national or international health agencies. Evidence of deliberate use may emerge only gradually days or weeks after the start of the outbreak.

4. Whereas the 2016 TTX pointed to several possible decision-making courses, some of which did not involve the BTWC, the exercise in Lomé looked at possible roles for BTWC Articles V and VI and the UN Secretary-General’s Mechanism (UNSGM) and other investigative mechanisms. Participants considered these options in view of other existing tools, including bilateral, regional and international cooperation and roles to be played by relevant international organisations and non-governmental organisations (NGOs).
5. Given their professional backgrounds it was perhaps unsurprising that participants held utilitarian views about possible contributions of Articles V and VI, the basic position being that if they facilitate an emergency response, then they could have a supportive role. They weighed possible hierarchy or priority of one provision relative to another. Nevertheless, their most important consideration remained whether those provisions supported effectiveness and speed of the emergency response.

6. Participants tended to view bilateral agreements as effective and different from what might be delivered under Article VII. They wondered how these might be coordinated with the BTWC. They noted the absence of any entity in the BTWC context that can enter into legal contracts, which complicates preparations and coordination should Article VII ever be invoked. They suggested and considered the option of a database with available assistance offers.3

7. BTWC Article VII was also discussed in the light of effectiveness and speed of the emergency response. Participants expressed concern that possible mechanisms under the BTWC could be time-consuming whereas epidemics may spread fast. The question was raised whether an immediate request for assistance on a bilateral or regional level, or via multilateral mechanisms was not preferable. Concern was voiced about what Article VII might add to those tools, especially since its triggering implies deliberate dissemination of the contagion. Its invocation might elevate the political dimension of the crisis. In this context, they raised two questions:
   i. Can procedures be developed to address an assistance request to other BTWC states parties and guide their response to such requests?
   ii. Can the assistance request be decoupled from the implied allegation of deliberate release?

**Preparedness**

8. Preparedness ahead of an outbreak was another topic of discussion. National crisis coordination centres should review their procedures and adapt their contingency planning to include the possibility of a deliberately caused disease outbreak. Legal frameworks may have to be modified to take such contingencies into account. Cross-border coordination of such crises should equally be reviewed in view of possible deliberate origin of an outbreak.

9. Other elements discussed included: determination of who has the responsibility to request assistance; designation of the authorities within ministries and agencies that

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should be involved in coordination; identification of a reference laboratory (national, regional or international?) and determination whether that laboratory can or has the obligation to make the results of its analyses public; the conditions under which patients and samples can be transported, including across the territory of other states. Existing arrangements may have to be adapted to include the possibility of deliberate dissemination of a pathogen. The question was raised which roles the national focal point for the International Health Regulations/WHO might play in the whole setup.

10. Additional steps mentioned included: electronic platforms to exchange sanitary data among the countries concerned; the establishment of coordination centres; and harmonisation of the training of key personnel, operational procedures, and equipment.

11. An important aspect of preparedness was information dissemination. One dimension concerned the provision of authoritative information to one’s own population to counter mis- and disinformation, avoidance of panic or distrust of assistance providers being major concerns. A second dimension was to operate information channels to and from other countries to assist governmental decision-making. Formal independent confirmation of whether an outbreak was deliberate or not was viewed to be of lesser relevance to the assistance decision than adequate information on the nature of the outbreak. The requesting state may supply scientific or other proof in support of its assistance request. The final dimension was about official communications to international audiences, including neighbouring and regional countries to inform them of decisions concerning national preventive measures (e.g. sanitary measures, including possible quarantines, movement restrictions, coordination of closing of borders) and assistance, and BTWC states parties to promote the benefits of such assistance under Article VII.

**On the need to determine whether an outbreak was deliberate**

12. There was discussion about the need to confirm whether an outbreak was natural or deliberate. The fact that any investigative mechanism, the UNSGM in particular, stood outside of the BTWC attracted the attention of participants. On the one hand, some argued for clarification of roles and better coordination between the UNSGM, the UNSC and the BTWC. On the other hand, the opinion was also voiced that there was no need for an investigation before requesting or providing assistance. A presumption of deliberate intent or a body of evidence strongly suggesting the intentional nature of the epidemic ought to suffice. Information about the nature of the outbreak could be obtained from the WHO, neighbouring countries and humanitarian NGOs.

13. Notwithstanding, participants looked into the question about the types of information and nature of data a state party should supply in support of its assistance request.
They let their considerations be guided by the working paper submitted by South Africa to the Meeting of Experts on Assistance, Response and Preparedness.4

14. In the TTX, Pannotia triggered Article VII by submitting a formal request for assistance to the UNSC via its Mission to the UN in New York. Evidence in support of its request included the results from the reference laboratory in Laurussia and the separate index cases. In addition, Pannotia declared its openness to receive an investigative team by the UNSG in case of lingering doubts about the deliberate origin of the outbreak among UNSC members. It also stressed that it submitted the request to the UNSC so that the UNSC can reinforce the norm against the non-use of BW, which is the principal goal of the BTWC.

Recommendations for the South African Working Paper

15. The breakout groups received the South African working paper to guide their deliberations. In the fourth stage they were requested to advise their government on concrete proposals for the 2019 Meeting of Experts, including possible recommendations to supplement or modify the elements in the South African working paper:

i. Add information on the security situation in the zone affected by the outbreak.

ii. Expand possible assistance from just humanitarian to support of investigations, including national investigations, and assistance in support of such national investigations. (The recommendation did not specifically mention the UNSGM and during the TTX other options for investigation were considered, as mentioned above.)

iii. Indicate possible options for logistical assistance in support of the field teams.

iv. Specify the need to coordinate with states already providing assistance.

v. Specify in subparagraph 11(g) the need for information whether the disease is endemic to the region and whether (separate) index cases have been discovered.

vi. Modify subparagraphs 11 (i) and (j) to include the nature of assistance already being provided.

vii. If possible, modify subparagraph 11(n) to enable sharing of the results of such investigations.

viii. Need to include clear guidelines for a state party requesting assistance.

ix. Organise a TTX to test the chain of proposals put forward in paragraph 11.

Several comments reflected on assistance in support of medical preparedness and legal assistance to set up the necessary coordination frameworks.

Conclusions

16. In summary the following recommendations and points for further consideration were voiced:

i. The BTWC should be carefully assessed with respect to options available to states parties to address a health crisis.

ii. States parties should shed greater clarity on the relationship between humanitarian assistance discussed under Article VII and the context of BW use the provision implies.

iii. Every effort should be made to avoid crisis escalation. Solutions to provide assistance should be found through consultations among states parties; accusations against other states parties are to be avoided. Participants also asked in this context whether BTWC states parties could decouple the provision of emergency assistance from the determination of deliberate use.

iv. The uncertain balance between advantages and disadvantages of triggering Article VII was an important consideration in all working group discussions (irrespective of the type of country played). This uncertainty resulted from the availability of bilateral or international assistance mechanisms outside the BTWC with proven effectiveness, on the one hand, and the implications of deliberate use inherent in Article VII, on the other hand. Procedural clarity would benefit Article VII. However, even with much greater procedural clarity participants still felt that the implied deliberate use or treaty violation in Article VII would politically always weigh heavily on decision-making.

v. Article VII may provide the framework for focussed assistance and cooperation for peaceful purposes (under BTWC Article X?) with regard to preparedness, including infrastructure to receive emergency assistance, diagnostics and (local and regional) response capacities. Considered as equally important was the provision of legal assistance to set up frameworks for response, national coordination and cross-border coordination and cooperation. Such assistance offers (and requests) could be included in a database maintained by the BTWC ISU on behalf of the states parties.

vi. After triggering Article VII, will the response efforts by international organisations be duplicated or is a different type of assistance envisaged?
Scenario of the tabletop exercise

General setting
Terrafer is a continent comprising 8 large and mid-sized countries. They are: Pannotia, Gondwana, Laurussia, Middle Earth (Terre du Milieu), Pangea (Pangée), Rodinia, and Vulcania (Vulcanie).

This scenario focuses mostly on Middle Earth and Pannotia.

Middle Earth is a landlocked country that shares borders with Gondwana in the north, Vulcania and Pangea in the west, Pannotia in the east, and Laurasia in the south. Because of regional instability in the east of Terrafer, Middle Earth is suffering from declining foreign investment. Poverty is rising and exacerbates internal ethnic and religious tensions and frictions with its neighbours.

To the east of Middle Earth lies Pannotia, a multi-cultural society. This is a relatively wealthy country, with an economy based on agriculture in the east and heavy industry in the north-west. Its economic fortunes are highly dependent on agricultural and industrial exports, but the service sector is slowly becoming the most important contributor to gross domestic product (GDP). Pannotia shares a short border with Gondwana in the northwest and long ones with Rodinia to the north, Middle Earth to the west, and Laurasia to the south.
**Geopolitics**

Terrafer is an essentially peaceful continent, except for its central-eastern part. Several decades ago, Middle Earth became independent from Pannotia, and ethnic, religious and cultural tensions contribute to border tensions and ongoing skirmishes. Following the separation, Middle Earth lost most of the heavy industry, which is now concentrated in Pannotia’s north-western border regions near Gondwana and Rodinia.

Middle Earth has ethnic and cultural ties to Rodinia but is now geographically separated from it by Pannotia. Rodinia traditionally supports Middle Earth in its conflict with Pannotia.

All states in Terrafer are party to the BTWC. Middle Earth, however, by and large ignores participation in meetings in Geneva or regional seminars. While it does not comply with many of its political obligations – it also still has to submit its initial declaration on national legislation to the 1540 Committee under the terms of UNSC Resolution 1540 (2004) – there is little to suggest that it does not comply with the general prohibitions in the BTWC.

Pannotia, in contrast, maintains an interest in the BTWC proceedings and tends to regularly attend meetings. However, preoccupied with domestic priorities, including the ongoing instability in the north-west, the recommendations trickling down from Geneva are hardly followed up.

**Conflict**

Last year a major war broke out between the two antagonists with the Middle Earthers wanting to regain control over Pannotia’s north-western industrial region. However, the war stalemated with mounting casualties among the military of both sides and Pannotian civilians.

The other Terrafer powers were able to broker a cease-fire between the warring factions after several months of conflict and sent in a multilateral force to maintain an uneasy peace. There are still occasional skirmishes and cross-border shelling.

One other consequence of the latent conflict between both states is a debilitated health infrastructure in the north-western region. The area has always been prone to seasonal disease outbreaks. Regional travel usually ensures that infection crosses porous borders with Gondwana, Rodinia and Middle Earth. However, both Middle Earth and Pannotia used to have a network of small health facilities along their shared border. The network also extended along Pannotia’s borders with Gondwana and Rodinia. The network also seconded as an early outbreak detection system. Through careful relocation of resources via monitoring centres in the respective Ministries of Health, the countries of east-central Terrafer have been mostly successful in containing epidemics in their early stages. Those states also tended to allow health workers from both regional and international organisations, as well as inter-
national non-governmental humanitarian associations, unfettered access to the region. The area’s relative remoteness from the main population centres so far also helped in containing outbreaks.

Today, the network of health facilities exists in all but name. More importantly, communication between health workers on both sides of the border is now virtually non-existent and many international organisations have pulled out or greatly reduced their staff in the border region.

**General plot outline**

At the start of the TTX participants were briefed on the general geopolitical situation on the imaginary continent of Terrafer. Participants formed three breakout groups, representing the countries of Pannotia, Middle Earth and Laurussia. Pannotia was the country where the outbreak was first recorded; Middle Earth the one on which suspicion of deliberate release of the pathogen came to rest; and Laurussia a neutral BTWC state party prepared to offer emergency assistance. Participants were asked to take on the role of an advisory committee to their respective governments and prepare options for decision-making. They had to identify and justify their preferred option and explain why they forwent alternatives considered by the group.

The exercise foresaw three distinct decision-making stages that followed briefings updating participants on the status of the epidemic and national and international responses. After each briefing, each breakout group received a specific set of questions to address.

In the fourth (and final) breakout session each group was asked to review is decision-making processes, assess what instruments (legislation, international agreements, infrastructure, etc.) should ideally be in place to address the emergency of the outbreak, and comment on and possible suggest amendments to the Working Paper by South Africa on Assistance, Response and Preparedness.

**Conduct of the tabletop exercise**

The scenario began with reports that a local hospital and two healthcare centres in the south of Pannotia had each received several patients with clinical features such as cough, sputum production, increasing chest pain, dyspnoea, hypoxia, and haemoptysis. The inquiry showed a sudden onset of chills, fever, headache, generalised body pains, weakness, and chest discomfort.

Doubts about the nature of the disease exist among the health carers. At first, they are not aware of the cases received in the other hospital and healthcare centre. They first suspect community-acquired bacterial pneumonia or viral pneumonia. However, the fulminant form of the disease and the elements of context (lack of travel, previously healthy patients, etc.)
do not seem to support this diagnosis. Soon some therefore start to suspect inhalational anthrax or pneumonic plague. However, the lack of advanced diagnostic equipment means that these hypotheses too cannot be confirmed or excluded. Moreover, nobody has any professional experience with either type of disease.

Within 72 hours the number of patients explodes to 83. Many rapidly succumb to the infection. In the same time frame, 37 cases are registered in neighbouring countries. Local resources are quickly overcome.

The hospital and healthcare centres alert the Ministry of Health that they have received an unusually high number of patients with pneumonic symptoms. They now suggest a strong possibility of pneumonic plague. Indeed, the first autopsies have revealed pulmonary complications such as localised areas of necrosis and cavitation, pleurisy with prominent effusion, and adult respiratory distress syndrome. Samples have been sent to the nearest reference laboratory in Laurussia for analysis.

Meanwhile, the mortality rate rises and victims die fast. Patients who received antibiotics in the hours following the onset of symptoms do not seem to respond well to antibiotics. Similarly, the medication administered preventively does not seem to protect people in contact with patients. This leads some people to doubt that the source of infection is bacterial.
First breakout session: Assessing the outbreak

Decision-making

Instructions for Middle Earth, Pannotia and Laurussia
Your task is to prepare an initial situation assessment based on the information so far available on the outbreak, identifying possible future decision-making needs and policy/action options. Some of the issues you may decide to address could be:

- While assessing the information available at this stage of the outbreak, what kind of measures would your country take as a matter of routine?
- Which actors would be involved in this phase of the outbreak and what would be their roles? Who leads the response?
- What steps would be taken as a matter of routine in regard to external actors (neighbouring countries, regional organisations, WHO, others)? Within which legal/procedural frameworks would these steps be taken?
- Would you require additional information to assess the outbreak, and if so how would you go about gathering it? Which actors would be involved in additional information gathering (national, regional, international?) and what would be their role?
- Are there any measures you would be considering based on the information available so far, that go beyond a routine outbreak response? If so, which measures would that be (e.g. investigative [which mechanisms would you consider activating?]; requests for information exchanges)?

In preparing the above assessment, would you already consider using the BTWC as a possible framework for action? If so, please clarify which specific steps you would consider taking and why (e.g. consultations with other states parties under Article V; preparations for subsequent steps under Articles VI or VII). If not, please state your reasons for rejecting the option.

Please prepare an assessment of whether and how to use the BTWC framework in response to the outbreak, in the form of an inter-ministerial situation assessment to the country’s leadership.

Response by Pannotia
Pannotia addressed the outbreak as it would for any health crisis, namely by activating the national ministerial coordination committee under the authority of the Prime Minister and multi-sectorial liaison mechanisms that involve civil society and faith-based organisations.
It also stepped up disease surveillance activities and sent investigative teams to the affected areas to determine the source of the outbreak. Health personnel, including frontline persons, received directives. Their capacities and protective equipment were enhanced. Finally, a plan to communicate effectively with the public became operational to avoid panic.

In second instance, the coordination committee decided to notify the WHO through the Ministry of Health, which is the focal point under the International Health Regulations (IHR). The Ministry of Foreign Affairs informed the governments of neighbouring countries and multinational military forces in the region of the outbreak. In the meantime, the investigative teams had also contacted agencies in neighbouring countries and humanitarian NGOs to receive more information on the nature and sources of the infections and about whether they had seen similar cases, with whom the patients had been in contact, and how they were diagnosed. The coordination committee also decided to set up a cross-border meeting to exchange information and solicit assistance.

Among the concrete preventive measures taken were activation of the national health emergency plan and distribution of hygienic kits; restrictions on the movement of people and herds; limitations on gatherings of people; and reinforced controls at border crossings.

In the absence of any information that the outbreak might have been deliberate the group did not consider it appropriate to trigger BTWC Article VII.

**Response by Middle Earth**

The government of Middle Earth activated its inter-ministerial crisis coordination committee and started consulting with neighbouring countries on outbreak developments. It also notified the regional health organisation of the outbreak with a view of setting up a regional coordination mechanism. Meanwhile it also contacted the WHO, UNICEF, the ICRC and NGOs.

In second instance, it tasked the medical service of the armed forces with investigating the origins of the outbreak. The medical service would also be primary caretaker of patients should they appear in Middle Earth and have responsibility for their isolation. The Ministry of Health was placed in charge of informing the public and keeping neighbouring countries apprised of developments and decisions taken by Middle Earth. It would also liaise with the WHO, NGOs and others with a view of assistance. Finally, the coordination committee also decided on measures at the borders, for which the Ministry of the Interior in coordination with the Ministry of Health would be in charge.

Middle Earth believed there were some indications of possible intent behind the outbreak but considered triggering BTWC Article VII as too early. The coordination committee discussed the possibility of consultations under BTWC Article V and a future request under the BTWC.
Response by Laurussia

Being much farther removed from the epicentre of the outbreak, Laurussia decided to activate crisis alert level 1 with the Ministry of Health in charge. Among the measures taken were the activation of enhanced disease surveillance measures. Laurussia would share and desire to receive information on developments via local committees, on the one hand, and the WHO and other international organisations, and other countries, on the other hand.

Laurussia also indicated its willingness to assist the affected countries. In particular its reference laboratory could analyse samples to help with the identification of the pathogen.

The government did not think that BTWC Article VII was relevant in view of available information. Specifically, the origin of the epidemic was unclear.
Second breakout session: *Developing policy actions – contingencies*

**General setting**

The reference laboratory in Laurussia has confirmed the diagnosis of pneumonic plague, but its origin remains unknown. For one thing, plague is not endemic to the region. All patients display pneumonic symptoms even though the hospital and two health care centres are at considerable distance from each other. No one seems aware of any recent patient transfers or in-person exchanges between staff members of the respective hospitals.

Policy makers in the respective capitals scramble to assess the rapidly spreading epidemic and decide on emergency measures to contain it.

Secondary cases are identified among contact cases and some professional health workers are contaminated due to insufficient training (no previous experience with the disease) and the lack of adequate protective equipment. Limited stockpiles and counterfeited drugs hamper the response (prophylaxis of contact cases).

20 days later, the same pattern is observed as 227 cases of pulmonary plague are registered all over the country, with a few tens of cases being recorded in other countries. Initial forensic investigation suggests several Patients Zero, meaning that the infective agent may have been released in different locations.

Economic and political consequences are now obvious. Trade collapses and food shortages are emerging in more remote locations because the government has ordered limits on travel. Schools have been closed and public events cancelled.

**Decision-making**

Each breakout group must address its own set of issues.

*Group 1: Pannotia*

With new information becoming available an inter-ministerial task force has been set up to review all available data and to develop an option paper outlining policy and action items for top-level governmental decision-makers.

The actions and options under consideration are to address the entire spectrum of managing the situation and the required policy decisions involved. These may include:
• National public health response to save life and contain the outbreak;
• Measures to maintain law and order, law enforcement, border controls;
• Public information and communication;
• Measures to be taken with regard to other states (for example, information sharing, coordination of surveillance and response measures with neighbouring countries, activation of other cooperative measures);
• Measures to be taken with regard to regional and international organisations (notifications, information sharing, activation of response mechanisms, activation of investigation mechanisms, …)
• National and/or international investigations to confirm that the outbreak was the result of a deliberate attack, and to the extent possible to identify the individuals or organisations responsible;
• Measures to detect and prevent any further attacks, should the deliberate nature of the outbreak be confirmed.

Within this inter-ministerial task force, you have been given responsibility to review the options emanating from the BTWC. Prepare an internal memo that outlines whether, why and how the provisions of assistance under Article VII should be activated to request assistance from other BTWC states parties. Also identify key implications if such a decision were to be taken.

Group 2: Middle Earth

With new information becoming available it appears to be increasingly likely that the outbreak in the border area with Pannotia was caused by a deliberate release of airborne plague in several locations in areas under Pannotia’s control. There are speculations in the press and on social media that your country instigated these incidents. There are also indications through diplomatic channels that Pannotia is considering a range of options including activating international investigation or assistance mechanisms.

An inter-ministerial task force has been set up to review all information available and to develop an option paper outlining policy and action options for decision-makers at the top of government. This task force is looking at a range of options, which may include amongst others:

• A bilateral approach to Pannotia to clarify the situation and attempt to resolve it;
• Making use of the good offices of a regional power or involving regional mechanisms to defuse the situation;
• Requesting the UNSG to conduct an investigation into alleged BW use;
• Requesting other potential partners (e.g. other states, INTERPOL) to help with an
investigation into the allegations;
• Using regional or international mechanisms to call for assistance to help the victims of the outbreak in both Pannotia and Middle Earth;
• Using one or more of the mechanisms provided for under the BTWC to clarify the situation or organise assistance.

Within this inter-ministerial task force, you have been given responsibility to review the options emanating from the BTWC, including with regard to the conduct of an investigation of the alleged BW releases as well as the possibility of submitting a request for assistance in support of the victims of the outbreak. Prepare an internal memo that outlines these options and identifies key implications if your country were to use any of these mechanisms.

**Group 3: Laurussia**

With new information becoming available it appears to be increasingly likely that the outbreak in the border area between Pannotia and Middle Earth was caused by a deliberate release of plague in several locations in areas under Pannotia’s control. There is speculation in the press and on social media that Middle Earth may have instigated these incidents, but no independent investigations have been conducted. There also are indications through diplomatic channels that Pannotia is considering a range of options including activating international investigation or assistance mechanisms.

An inter-ministerial task force has been set up to review all information available and to develop an option paper outlining policy and action options for decision-makers at the top of government. The task force is looking inter alia at such issues as:

• What assistance could be made available should there be a formal request from Pannotia (or Middle Earth), or a call from the UNSC?
• What would be the modalities for the dispatch of such assistance?
• Which partners (other states, regional organisations, international organisations, etc.) the assistance would have to be coordinated with (and which frameworks / procedures / arrangements could be used to that end)?
• Which administrative and logistical issues would have to be clarified in the planning and implementation of such assistance?
• Which priority measures should be taken in expectation of an imminent request for assistance?

Within this inter-ministerial task force, you have been given responsibility to look into the policy and practical options and requirements emanating from a request by Pannotia for
assistance under BTWC Article VII, should such a request be made. Please prepare a set of recommendations and explanations to this end.

Response by Pannotia
At this stage, Pannotia reinforced the measures decided upon earlier. Movements of people and herds became stricter and border controls tighter. In the latter case, temperatures of people moving in or out of the country were taken and suspected cases isolated. The government also requested the assistance of multinational forces with these tasks. Large gatherings of people were prohibited. Sports and cultural events were cancelled and schools closed.

The spokesperson of the crisis committee started regular press briefings and began using all communications means available, including television, radio, printed press and social media. The new measures taken were announced and explained and people were informed of basic precautions to prevent infection. The government also announced an emergency phone number to report suspect cases.

The WHO was kept abreast of developments and information exchanges with neighbouring countries were intensified. The government announced that it was considering closing the border in cooperation with the neighbours, as well as additional measures to limit movements and isolate suspected cases.

Given the indications that the outbreak might not be natural, the crisis group also paid greater attention to determining the source of the outbreak. Given Pannotia’s limited national investigative resources, it called on international assistance, notably from INTERPOL. It also requested information from neighbouring countries on actors that might be able to launch a biological attack.

The crisis committee determined that definitive proof of the intentional nature behind the outbreak was still lacking and that therefore triggering BTWC Article VII was still premature. Nevertheless, in view of the evidence that the disease agent was non-endemic in the region, the multiple index cases in different locations and the general context of conflict in the area, the government was advised to call for a consultative meeting under BTWC Article V. It believed that this step was less accusatory, could yield additional information and evidence of what was happening, and already help to mobilise international assistance to stem the epidemic. The committee also believed that this mobilisation might deter fresh biological attacks.

Response by Middle Earth
In view of the accusations that Middle Earth might be responsible for the outbreaks, the context for action had changed. The government believed that its country was also a victim of the epidemic and considered the possibility that terrorists might be responsible. Protesting
its innocence, it decided to intensify information exchanges with Pannotia and solicited the assistance of a Terrafer regional organisation.

The crisis committee also considered requesting the UNSG for an investigation into alleged use, but hesitated in the face of many uncertainties and its potential political implications. It therefore recommended to submit a request to INTERPOL and to send samples to a reference laboratory. In addition, it called for international assistance, notably from the WHO, the ICRC and NGOs, to help stem the epidemic. Other calls for help concerned protective equipment and border control.

At this stage, the committee saw value in using tools available under the BTWC. It thought that consultations under Article V may be useful to clarify the situation in the area of the outbreaks and obtain more information for more sources. Article VI was not considered in detail because the UNSC could make decisions based on the UN Charter with important political consequences for the region. Moreover, one of the permanent members could issue a veto. Hesitation existed about triggering Article VII. On the one hand, Pannotia suffered many more victims than Middle Earth. On the other hand, more evidence was thought to be needed to issue the request. An investigation in support of the request would cost too much time, it feared. Notwithstanding, the committee believed that one of the benefits of operationalising Article VII would be the elevation of the crisis to a high political level that might entail a more complete international response.

Response by Laurussia

For Laurussia, intensification of different types of assistance under bilateral agreements with the countries concerned was the prime focus at this stage.

It also considered the various types requests that might be submitted to the UNSC without and with invoking Article VII. From Laurussia’s perspective, the differences in types of assistance it may provide were non-existent. However, it saw a greater role for international organisations-WHO, ICRC, NGOs-on the level of coordination in the former case, and greater direct involvement of states and UN bodies following an Article VII request.
Third breakout session: Critical decision-making

**General setting**
DNA sequencing shows that the same strain is involved in all clusters and that it may have been genetically modified to induce resistance against antibiotics. That the outbreak is deliberate is now virtually certain. However, the perpetrator—whether a state or non-state actor—remains unknown. The method of dissemination has not been established.

**Tasks**

*Group 1: Pannotia*
Your intelligence services suspect that armed groups associated with and supported by Middle Earth’s military forces are responsible. As one of the steps to be taken, the country’s leadership has decided to activate BTWC Article VII.

Please prepare an official request for assistance under BTWC Article VII. Also, explain your choices in terms of the content of the request, identify to whom you will send the request and clarify the procedure to be used for its submission.

*Group 2: Middle Earth*
Pannotia has formally requested States Parties of the BTWC to make available assistance under Article VII of the BTWC, referring to a deliberate release of a BW agent in its territory.

Please prepare a draft official response to the request by Pannotia and recommend to the country’s leadership which other official communications and statements would be required on the matter.

*Group 3: Laurussia*
Pannotia has formally requested States Parties of the BTWC to make available assistance under Article VII of the BTWC, referring to a deliberate release of a BW agent in its territory.

Please prepare a draft official response to the request by Pannotia and recommend to your country’s leadership which other official communications and statements would be required on the matter.

*Response by Pannotia*
The crisis committee recommended that the Ministry of Foreign Affairs instruct the Permanent Representative to the UN in New York to deliver a letter to the President of the UNSC
requesting emergency assistance under BTWC Article VII. The letter specified that Pannotia had been exposed to a danger as a consequence of a violation of the BTWC.

The request was to be supported with the following elements:

- Proof of the deliberate nature of the outbreak based on the analyses by Laurussia. The results indicated genetic manipulation of the pathogen in view of its resistance to antibiotics.
- The multiple index cases at different locations were suggestive of a coordinated attack.

During the UNSC debate, the Permanent Representative may also add the following elements to the request:

- The intelligence in Pannotia’s possession had been confirmed by the intelligence services of friendly countries and INTERPOL.
- Should the UNSC still harbour doubts about the allegations, a request should be submitted to activate the UNSG’s investigative mechanism.
- By accepting Pannotia’s request, the UNSC would reinforce the norm against the use of BW, which is the BTWC’s principal objective.

**Response by Middle Earth**

Middle Earth took note of Pannotia’s request under Article VII and decided on maximal humanitarian assistance and coordination with its neighbour. The government also considered that the request would benefit Middle Earth as it was equally the victim of the outbreak.

The crisis committee furthermore recommended harmonisation of procedures between both countries, particularly concerning movements in the border area, and enhanced coordination among medical experts from both countries.

In terms of public communication, the crisis committee recommended

- A communique addressing the accusations of biological weapon use.
- A separate communique concerning the request to the UNSC.
- A statement on the finding by INTERPOL to clarify the situation.
- An expression of its solidarity with Pannotia.

**Response by Laurussia**

Laurussia took note of the Pannotia’s request under BTWC Article VII.

It reiterated the assistance already provided on a bilateral basis and clarified the nature and modalities of such assistance. It also declared that the bilateral assistance would continue in the context of the BTWC following the Pannotia’s request.

In anticipation of the decision by the UNSC, the crisis committee recommended that the government establish a focal point for the coordination structure the UNSC will set up and
look into ways the country might assist as an international hub for receiving and distributing aid to the affected regions.
Fourth breakout session: Evaluation

Instructions for Middle Earth, Pannotia and Laurussia

Your task is to critically analyse the decision-making process in your country and to prepare an assessment of how the process could be improved. Two questions need to be answered:

- Which types of preparation do you feel should ideally be in place before a crisis such as the one described in the scenario arises?
- Which elements would you recommend adding to the South African proposal to trigger BTWC Article VII; which ones should be modified or are unnecessary in your opinion?

Some of the issues you may wish to consider include:

- Which bilateral or (sub)regional agreements, arrangements and mechanisms should be in place to facilitate information gathering and sharing; investigations; transportation of patients, samples, etc across borders; and other international responses? If any agreements, arrangements or mechanisms already exist, should they be reviewed, amended or renegotiated?
- Are there infrastructural requirements that you feel should be in place to respond to a (deliberate) health crisis?
- In the exercise, did you feel that your country was adequately prepared to address the crisis? Which elements did you consider adequate; which ones were insufficient or lacking?
- From the perspective of BTWC Article VII, what types of information would you need to respond to a request for emergency assistance? Considering that you are facing a rapidly developing health crisis, how certain would you have to be about this information before you respond to the request?
- Should the BTWC state party triggering Article VII support its request with evidence? If yes, what evidence would you require? Would you require independent confirmation of this evidence before responding? If so, by whom?
- Under which conditions would you be willing to provide such assistance?

In preparing the above assessment, would you already consider using the BTWC as a possible framework for action? How do you see the relationship between Article VII of the BTWC with other emergency assistance frameworks and mechanisms? If so, please clarify
which specific steps you would consider taking and why (e.g., consultations with other states parties under Article V; preparations for subsequent steps under Articles VI or VII). If not, please state your reasons for rejecting the option. Please suggest amendments to the South African proposal.

Please prepare a note with draft instructions for your country’s delegation in Geneva in time for the BTWC Meeting of Experts to be held from 29 July until 8 August 2019.

Response by Pannotia
[Suggestions for the Working Paper by South Africa have been integrated in the chapter ‘Summary of findings and recommendations’ above.]

On the international level
In terms of prevention and preparedness, Pannotia recommended to have regional and sub-regional agreements and mechanisms in place ahead of an outbreak to facilitate the collection and sharing of information; investigations; transportation of victims, samples, goods, equipment, etc. across borders; and other forms of international assistance. Any existing agreements and mechanisms should be adapted to include the possibility of a deliberate outbreak.

On the national level
Pannotia became acutely aware of the lack of its national preparedness for unusual – whether natural or deliberate – disease outbreaks. Hence, to face the possibility of a future disease outbreak following a deliberate release of a pathogen, the crisis coordination committee should prepare emergency health plans, which should include capacities for disease surveillance, investigation of the outbreak, and response. The plans should foresee in regular simulation exercises to test the effectiveness of the response and its coordination, including information exchanges.

On the use of BTWC Article VII
To be able to benefit from Article VII and considering the speed with which the epidemic might spread, a minimum of required information supporting the presumption of deliberate release of a pathogen or a body of evidence proving the intentional nature of the epidemic should suffice. Important indicators might include the non-endemic nature of the pathogen, multiple index cases and unusual resistance to standard medication.

Pannotia would respond favourably to a request for emergency assistance if a state party to the BTWC were to accompany such a request with supporting information or a body of evidence. Such assistance would be provided within the limitations of its own capacities for humanitarian reasons and supplied in the framework of existing cooperation agreements.
Should an independent investigation yield additional information about the nature of the outbreak, Pannotia might revise its position.

**Response by Middle Earth**

[Suggestions for the Working Paper by South Africa have been integrated in the chapter ‘Summary of findings and recommendations’ above.]

*On the national level*

Middle Earth concluded that it was unprepared for the type of outbreak it had to confront. Its health infrastructure was unable to manage the crisis. It lacked preparedness. It had no plan or strategy to respond to a health crisis following the intentional release of a pathogen. For information it depended entirely on foreign sources, neighbouring countries in particular, and international organisations.

*On the use of BTWC Article VII*

To respond to an assistance request under Article VII, Middle Earth would require epidemiological information, details on needs (expertise, medication, etc.), and arrangements to facilitate the transfer of the assistance across borders.

It would also require substantiation of the allegation of deliberate use of a pathogen. Such information may come from a national investigation. Independent confirmation is not necessary requirement for the provision of humanitarian aid, but would still be useful.

Certain types of assistance would be contingent on the security situation in the area of the outbreak. The safety of personnel and equipment would have to be guaranteed. Furthermore, there would have to be coordination with other countries or under the auspices of international organisations to avoid duplication of assistance efforts.

**Response by Laurussia**

[Suggestions for the Working Paper by South Africa have been integrated in the chapter ‘Summary of findings and recommendations’ above.]

*On the national level*

Laurussia assessed that on the national level it was well prepared to offer assistance to a major disease outbreak in Terrafer. Its internal coordination mechanism performed well and the bilateral agreements facilitated the transfer of assistance. Its reference laboratory contributed significantly to the determination that the outbreak was deliberate.
On the international level

Regionally the framework for providing assistance needs to be improved in different ways. First, more agreements, both bilateral and (sub-)regional, are required for effective assistance; existing ones required review and upgrading in view of the experiences. Coordination centres as well as electronic platforms for information exchanges among countries of Terrafer need to be established. Furthermore, joint training of the different types of assistance providers from different countries would enhance collaboration in the field and on different coordination levels. Similarly, procedures could be harmonised while standardisation of equipment would facilitate field operations and international coordination.

According to Laurussia, the availability of mobile infrastructure that can be deployed quickly to affected regions would enhance response capacities and speed considerably. Availability of human, financial and material resources will remain significant problem.

On the use of BTWC Article VII

Laurussia assessed that information is necessary. However, absolute certainty as to whether the outbreak is the result of the deliberate release of an infectious agent is not necessary. If intelligence and other reports indicate that humanitarian assistance is warranted, then the humanitarian intervention should proceed.

However, to effectuate BTWC Article VII an official declaration by the UNSC that the convention had been violated is required. It is important that the requesting state party provide sufficient (scientific) evidence to allow the UNSC to make its determination.

In the context of Article VII, Laurussia would be willing to provide assistance if the evidence put forward by the requesting state party is deemed credible, if information provided can be cross-referenced, and sufficient internal resources are available.
Discussion and observations

The scenario presented in Lomé resembled that of the November 2016 exercise. Two important factors were different, however. First, participants received detailed written and oral briefings on the outcomes of the previous TTX and second, all invited experts from Francophone BTWC states parties in West Africa were crisis managers, responders or professionally active in a laboratory and familiar with biosecurity. Many had been involved in one way or another in the 2013-16 Ebola crisis in West Africa. In addition, participants received a copy of the working paper by South Africa laying out a procedure proposal for a BTWC state party wanting to request assistance under Article VII (see Appendix 3).

The briefing on outcomes of the previous TTX and the South African working paper affected the conduct of the exercise in Lomé in several ways.

First, the invited experts from West Africa all have hands-on experience with (health) crises on a national or sub-regional level. The briefing and working paper focussed their attention on the broader, international context of crisis response and management and on the possible policy implications of their personal experiences. For several participants, the workshop represented their first introduction to the BTWC and the convention’s link to their own work.

Second, the November 2016 exercise had revealed an unclear decision-making process regarding the activation of Article VII. Too many routes were possible, as the chart in Appendix 2 illustrates. Participants in Lomé were able to assess and select various options in line with their practical experience.

Third, in the November 2016 exercise participants hesitated to invoke Article VII not only because of the uncertainty of the procedure, but also because of the uncertainty of the consequences of each decision choice. This led to the three countries in the scenario to move in three different directions. The victim state triggered Article VII. However, it was initially wary of doing so because of the potential political implications. When it later decided to invoke the provision, it did so only after it had received confirmation that (1) the disease was non-endemic and (2) the pathogen had been genetically modified. The alleged perpetrator called for an investigation by the UNSG to confirm the nature of the outbreak and exonerate itself. The outside country was willing to provide assistance, but not under Article VII. Assistance under Article VII was contingent on proof of a deliberate attack.

Participants in Lomé had both knowledge of the various decision-options and their respective dilemmas. Moreover, they were also aware that the dilemmas may differ depending on the type of country they played in the scenario. The South African working paper offered a possible structure for decision-making and outlined sets of criteria for invoking Article VII.
Finally, participants were also asked in the last stage to assess what preparations should ideally be in place on the national and (sub-)regional level to prevent or mitigate the consequences of a major disease outbreak. They had to present their arguments in the form of a draft briefing paper that the diplomats of their respective hypothetical countries would present to the 2019 BTWC Meeting of Experts.

The following elements stood out:

- Throughout the TTX it was clear that for participants the focus was on characterising and stemming the epidemic and victim assistance. As the outbreak could not be limited to a single country, international cooperation was absolutely necessary from the outset.

- Participants appreciated that the BTWC and its Article VII could provide a framework for assistance. However, as became clear during the exercise, in the first two stages they activated standard international response mechanisms involving the WHO, other international organisations and humanitarian NGOs. For the assistance operations, they also tended to rely on multinational military forces already present in the region.

- When indications about possible malicious intent behind the outbreak multiplied, participants began to consider the various options under the BTWC, namely Article V on multilateral consultations, Article VI on taking a treaty breach directly to the UNSC, and Article VII on requesting emergence assistance in case of a violation of the convention.

  Nobody developed an argument to use Article VI.

  People gave some consideration to Article V. Given that Article VII implies a deliberate act and hence a major violation of the BTWC, they had concerns that its triggering might increase hostilities in an already volatile situation, which in turn would complicate operations to contain and end the outbreak. Article V offered opportunities to (1) bring the crisis into the context of the disarmament treaty and especially its norm against the use of biological weapons, (2) inform all states parties of the evolving situations and possible courses of action, (3) obtain and evaluate information about the possible deliberate intent behind the epidemic, and (4) offer the presumed perpetrator state the opportunity to present its views on the situation and outline the measures it would be willing to take in combatting the epidemic. In case of an unsatisfactory outcome, then Article VII could be a tool of next resort.

  However, while noting the potential value of Article V, several participants also questioned whether the process might not consume too much time—weeks or months—before arriving at any form of conclusions, during which the epidemic might
continue to expand. Response time frames remained a critical factor throughout the TTX.

- In a general sense participants discerned utility for Article VII. The most concrete expression of relevancy was the observation by one breakout group that an affirmative decision by the UNSC following the submission of a request would reinforce the norm on the non-use of BW. A second breakout group reasoned that triggering the article would elevate the outbreak to a higher political level, which in turn might prompt states to respond more massively to the assistance request. However, nobody cited practical benefits.

- They raised certain concerns about the article’s impact on ongoing efforts to contain the epidemic and assistance operations.
  - They expected that Article VII would only be triggered long after the start of the outbreak. During the TTX, the BTWC and Article VII only acquired relevancy after the indications of possible malicious intent began to accumulate. Concrete action they only considered when the early indications turned into strong suspicions and some evidence—first, the determination that there were multiple index cases; second, evidence form the reference laboratory in a third country pointing to possible genetic manipulation—strongly suggested a deliberate act. However, even at that point, participants remained concerned about how the international response following the invocation of Article VII might interfere with ongoing operations. They had questions about whether the step would establish new layers of (international) decision-making or coordination that would interfere with or slow down the health emergency response.
  - They did not see which other organisations might become involved in the response besides the ones whose help had been requested from the outset.
  - Throughout the exercise participants felt resource constraints to adequately tackle the epidemic. International cooperation and assistance with neighbours and on a (sub-)regional level already featured prominently in the early response activities. However, even though they welcomed additional resources, their uncertainty about what types of international assistance might become available under Article VII added to their hesitation.
  - Some participants raised the possibility that invocation of Article VII might lead to criminal investigations and pressures to attribute responsibility for the biological attack, both of which might be detrimental to health crises operations, humanitarian interventions and cross-border cooperation.
  - When the breakout groups actively considered triggering Article VII, a major element became the level of proof required to (1) support the emergency assistance request, and (2) whether or not to provide assistance to the requesting state. It was interesting
to note that nobody deemed that absolute proof of deliberate intent was required. Their standards were much lower, ranging from major suspicions based on multiple indicators to more solid evidence, including from scientific reports, offered by national investigations or investigations undertaken by third parties (whether another country, international organisations or humanitarian NGOs). The focus remained primarily on the speedy and effective provision of emergency assistance.

- In line with this attitude nobody demanded a UNSG investigation into alleged BW use as a precondition to trigger Article VII or provide emergency assistance on a bilateral basis. The country most affected by the outbreak simply declared its willingness to receive an investigative team. While preparing the Article VII application it also considered the argument that in case of any doubts about the allegation of a biological attack, any UNSC member could seek confirmation via the UNSG mechanism.

- Important for the third country was an official declaration by the UNSC that the BTWC had been violated to mobilise resources in addition to those already being provided on a bilateral basis in the context of Article VII.

- A separate consideration affecting positions on Article VII was the risk of conflict escalation. Participants expressed concern about the implication that a request for assistance automatically entails a major accusation of a BTWC violation. This in turn raises the culpability question regarding another state party. Its identity might affect considerations by UNSC members and hence voting behaviour even though the UNSC is only required to determine whether the BTWC has been violated or not.

- Discussions on the potential implications of triggering Article VII led to the question whether it might be possible for the BTWC states parties to decouple the culpability issue from the assistance request. However, it was also pointed out that any Article VII request would happen in the context of a disarmament treaty. In other words, treaty violation and its corollary of a culpable party could never be removed from consideration. A different thought was whether a step could be inserted between the intent to trigger Article VII and the UNSC decision, for example, consultations under Article V during which states parties could consider the technical and scientific dimensions of the outbreak and recommend courses of actions. Under this option, the states parties could not only address the allegation on a lower level of political consequence but also decide to collectively transmit the assistance request to the UNSC with specific recommendations on the types of required assistance. Such collective action would simultaneously reduce the potential saliency of the culpability question, at least until health emergency has been brought under control or to an end.

- Information communication and data exchanges played a major role in the TTX. On one level, the countries suffering the outbreak engaged in a deliberate process to provide regular and authoritative information to their respective populations via
different media about the development of the health crisis and measures they could take to prevent exposure. Furthermore, they explained why certain restrictive measures were taken. These steps were intended to counter mis- and disinformation that might contribute to panic or exacerbate the epidemic. On a second level, communication with neighbouring countries was seen as extremely important. First, it helped with intelligence gathering about the nature and size of the epidemic. Second, it enabled officials to clarify certain national countermeasures, such as border protection and closure, to remove any ambiguity about their purpose. Third, they formed the foundation for coordinated action between teams from different countries, including the evacuation of victims and samples from the affected areas. In the final evaluation session, all breakout groups noted the requirement for greater capacities in information and data sharing and the need to adopt or modify laws and regulations to facilitate such exchanges.

- Ultimately, the country most affected by the outbreak submitted its request directly to the UNSC. This was in line with the process suggested in the working paper by South Africa. In the TTX, the purely national decision took the other countries by surprise as there had been no prior consultation on a regional level (which was remarkable considering the emphasis on information sharing) or the BTWC context. The resulting confusion led to different responses by the other two countries. The second country suffering the outbreak envisaged adjusting some of its responses in the assumption that it would also benefit from the UNSC decision (despite allegations that it is responsible for the outbreak). The third country refused to respond to the request until the UNSC issued a clear determination that the BTWC had been violated. In the meantime it would continue to assist the countries affected by the outbreak. In other words, considering an Article VII request would likely arrive relatively late after the emergence of the health crisis, a UNSC decision either way would not affect the provision of assistance already underway, whereas an affirmative decision does not clarify (at least under the present state of understanding Article VII) what, if any additional assistance is actually required.
Appendix 1 – Agenda

Centre Régional des Nations Unies pour la paix et le désarmement en Afrique (UNREC), Avenue de la Chance, Lomé, Togo.

29 mai
08:30 - 09:30 Accueil et enregistrement des participants
09:30 - 10:00 Séance d’ouverture
   10:00 - 10:30 Pause-café (photo de groupe)
10:30 - 11:30 Introduction à la CIAB; Introduction à l’article VII
11:30 - 12:30 Introduction à la TTX
12:30 - 13:00 Instructions pour la phase 1 du TTX
   13:00 - 14:00 Déjeuner
14:00 - 16:00 Séance de discussion en groupes
   16:00 - 16:30 Pause-café
16:30 - 17:30 Discussion en plénière

Barbecue offert par le Directeur de l’UNREC

30 mai
09:00 - 09:30 Instructions pour la phase 2 du TTX
09:30 - 10:30 Séance de discussion en groupes
10:30 - 11:15 Discussion en plénière
   11:15 - 11:45 Pause-café
11:45 - 12:15 Instructions pour la phase 3 du TTX
12:15 - 13:00 Séance de discussion en groupes
   13:00 - 14:00 Déjeuner
14:00 - 14:45 Discussion en plénière
14:45 - 15:15 Instructions pour la phase 4 (considérations relatives à la préparation)
15:15 - 16:00 Séance de discussion en groupes
   16:00 - 16:30 Pause-café
16:30 - 17:00 Discussion en plénière
17:00 - 17:30 Synthèse des discussions et conclusion
Appendix 2 – Possible decision flows
Appendix 3 – Working paper by South Africa

Meeting 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

2018 Meeting
Geneva, 4-7 December 2018
Meeting of Experts on Assistance, Response and Preparedness

Geneva, 14-15 August 2018
Item 5 of the provisional agenda
A set of guidelines and formats to assist a State Party, if required, when submitting an application for assistance in the framework of Article VII

Implementation of Article VII

Submitted by South Africa

I. Introduction

1. In 2014, 2015 and at the Eighth Review Conference, South Africa submitted papers containing proposals on the implementation of Article VII. The paper has continuously been refined to incorporate comments made by State Parties.

2. South Africa is re-submitting the refined proposals in this paper as a number of States Parties have indicated their support for the proposals. South Africa is willing to engage further with States Parties on the proposals contained herein.

II. Discussion

3. Article VII of the BTWC requires States Parties to “provide or support assistance, in accordance with the United Nations Charter, to any State Party to the Convention which so requests, if the Security Council decides that such a Party has been exposed to danger as a result of violation of the Convention”.

Objective

4. The primary objective of Article VII is to provide assistance to a State Party that has been exposed as a result of a violation of the Convention. Therefore, the sole purpose of the assistance provided in terms of this Article should be humanitarian in nature.

5. The following can be deduced from the requirements of Article VII:
• The Article requires that the request for assistance be forwarded to the United Nations Security Council (UNSC) and the provision for assistance would be dependent on a decision by the Security Council.

• The Article does not elaborate on whether that decision would be based on an investigation or the credibility of the information provided to the UNSC in the request for assistance.

• Any issues related to an investigation would not be covered under this Article. Whilst it is accepted that an investigation should follow the provision for assistance, the investigation would not be invoked by this Article, but by Article VI.

State Party Options

6. A State Party should have three options to obtain assistance when it has been subjected to the alleged use of biological weapons, and should be able to utilise as many of these options as it deems necessary. The State Party may:

• Obtain assistance on a bilateral basis from other States Parties, States or International Organisations (WHO, OIE, FAO) without invoking Article VII of the Convention;

• Request assistance from other States Parties without invoking Article VII of the Convention. States Parties that are in a position to do so may provide assistance without UNSC approval. In this regard, an agreement by States Parties at the Review Conference would be required; and

• Request assistance from the UNSC in accordance with Article VII of the Convention. If the request is approved by the UNSC, States Parties would be obliged to provide assistance.

III. Application for assistance

7. While it is accepted that an investigation of alleged use should follow the provision of assistance, that should not hamper the humanitarian objective of this Article. Furthermore, an investigation of alleged use may take so long that the provision of assistance will be too late when finally approved.

Guidelines

8. Information accompanying the request for assistance would be useful to States Parties in their preparation to provide assistance, although such information should not be a prerequisite for the provision of such assistance.

9. In the case when assistance is requested from the UNSC, the information provided with the request for assistance will play a crucial role in helping the UNSC to make a prompt decision. The quicker the decision is made, the faster the provision of assistance. The requesting process followed to apply for assistance as well as the information provided to support the application is the prerogative of the State Party requiring the assistance.

10. The following information could be useful to the UNSC in making a decision:

(a) Name of the State Party.

(b) National Point of Contact of the State Party.
(c) Date and place of first reported case. If there was a related event, a description of the event. To the extent possible, the date and time, when the alleged event(s) took place and/or became apparent to the requesting State Party and, if possible, the duration of the alleged event(s).

(d) Severity of the event. Number of cases and the number of fatalities, if any.

(e) Symptoms and signs – diagnosis if possible. Information on the initial treatment and the preliminary results of the treatment of the disease.

(f) A description of the area involved.

(g) All available epidemiological information.

(h) Actions taken to manage the outbreak.

(i) International organisations already involved in the provision of assistance.

(j) States already involved in the provision of assistance.

(k) Indications of why the outbreak is considered to be the result of a biological attack.

(l) Characteristics of the agent involved, if available.

(m) Types and scope of assistance required.

(n) Indication of any investigations conducted or being conducted.

(o) Contact details for coordination of assistance if different from National Point of Contact.

(p) Licensing requirements for health care personnel and measures to address such requirements.

(q) Immigration processes for personnel and equipment for the provision of assistance.

IV. Command and control

Principle

11. The State Party remains primarily responsible for the health care of its population, hence it should be in overall control of all response activities.

Guideline on Levels of Response

12. The level of response will depend on the nature of the disease, the geographical area where the outbreak occurred, the status of the public health system of the State and the potential of international effects. Generally, it can be accepted that the health systems (human, veterinary and plant) of the State would always be the first line of response. Responses from neighbouring states, and regional and international actors would be determined by the factors listed above.

13. International organisations, particularly the World Health Organisation (WHO) and World Organisation for Animal Health (OIE) would become involved at an early stage due to their presence and their involvement with States. In most cases, assistance in accordance with Article VII would be additional to and following the assistance provided by
international organisations. The State may at any time request an international organisation (WHO, OIE) or other States to assume command on its behalf.

**License of Medical Personnel**

14. The requesting State Party should provide temporary licenses to health care personnel upon arrival if required.

**V. Laboratory samples**

**Guideline**

15. The existing procedures for sample handling should be utilised during Article VII assistance. The State Party remains the owner of all samples collected during the provision of assistance.

**VI. Conclusion**

16. It is proposed that a set of guidelines be developed and maintained at the ISU to aid a State Party, if required for the application for, and implementation of assistance in case of alleged use of biological weapons against it.

17. The guidelines above could be useful in this regard. The guidelines could be updated as and when required to maintain relevance.