

Triggering BTWC Article VII

Outcomes from the 3rd tabletop exercise

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Tabletop exercises (TTX)

- **Three TTX completed**
 - FRS + UNIDIR, Geneva, 8-9 November 2016 (8th RevCon)
 - FRS + BTWC ISU/UNODA, UNREC, Lomé, 29-30 May 2019
 - FRS + BTWC ISU/UNODA, Geneva, 8-9 August 2019
- Financed by the Ministry of Foreign Affairs, France
- **Focus of TTX is on the decision to trigger Article VII**
 - Period between detection of outbreak and decision by UN Security Council
 - The TTX do not look into the organisation of assistance

Goals of previous TTX

- Geneva exercise (November 2016)
 - Discovery of significant issues
 - Which steps need to be identified and implemented before an outbreak?
 - How should/could Article VII be triggered?
 - Which steps are needed to operationalise Article VII?
 - *Participants*: 26 national representatives and experts from civil society organisations, from 14 countries
- Lomé exercise (May 2019)
 - Adaptation of the 2016 scenario
 - Participants presented with outcomes of 2016 TTX (*no discovery*)
 - Discussion of regional/local preparations ahead of an incident
 - Targeted the francophone countries in West Africa
 - *Participants*: 30 outbreak response experts, diplomats and government officials, international and regional organisations, civil society experts

Goals of the 3rd TTX (August 2019)

- Adaptation of the November 2016 and May 2019 scenarios
 - Focus on a zoonotic (anthrax bacteria) rather than a human pathogen
 - Insertion of a consultative round (Article V simulation)
 - The decision whether or not to trigger Article VII was left to participants
- 52 participants:
 - Diplomats and national representatives (60% of total)
 - Representatives from international organisations
 - FAO, Interpol, OIE, UNOCHA and WHO
 - Academia and civil society organisations

A zoonotic pathogen

- Seeking confirmation that Article VII also covers a deliberate release of a pathogen against
 - Most discussions seem to cover large-scale, fast-spreading pandemics with large numbers of human fatalities
 - Anthrax bacteria against cattle:
 - Relatively slow moving
 - Relatively few (unintentional) human fatalities (tens to lower hundreds over several years)
- Nobody disagreed with the premise

Article V simulation

- **Lessons from the previous workshops**
 - At no stage in the Article VII process as it presently stands is there a stage where BTWC States Parties can consult with each other
 - After triggering Article VII
 - States Parties lose control over the process
 - Injection of a high degree of unpredictability
 - Conflict escalation
 - Uncertainty about UNSC decision
 - Seems to limit options for further action
 - Conflict resolution
 - Opportunities for cooperation in addressing the emergency
- **Consultations among BTWC States Parties may create fresh options**
 - However, according to the BTWC procedure, an Article V consultative process takes several months between convening and adoption final report

Article V: Issues and solution for the scenario

- **Issues:**

- 'The States Parties to this Convention undertake to consult one another and to co-operate in solving any problems which may arise in relation to the objective of, or in the application of the provisions of, the Convention. Consultation and co-operation pursuant to this Article may also be undertaken through appropriate international procedures within the framework of the United Nations and in accordance with its Charter.'
- 3rd RevCon: lengthy process to convene the meeting (up to 60 days) + time for formal report
- Seems designed for the global level

- **Solution**

- 3rd RevCon: 'A formal consultative meeting could be preceded by bilateral or other consultations by agreement among those States parties involved in the problems which had arisen'

Size and scope of incident

- No participant claimed that Article VII is not applicable to zoonotic diseases or small-scale outbreaks
 - This underscores the relevancy of the provision in cases of armed conflict or terrorism
- Concrete and coordinated action in support of an Article VII request may depend on the scale of the outbreak
 - Presently no agreed definition or sets of criteria have been elaborated or agreed
 - Relevant international organisations may have certain thresholds before intervening
 - E.g. standard for WHO laid out in the International Health Regulations
- Less clear is whether states parties would consider requests for emergency assistance for other types of events contrary to the BTWC obligations

Other issues

- **Impact of information scarcity**
 - Uncertainty about the scope of the outbreak acted as a deterrent to trigger Article VII
 - Absolute need to have formal communication channels among states affected by the outbreak
 - National contact points
 - Formal procedures to communicate results from sampling and analyses
 - Need to have the mechanisms in place ahead of a crisis
- **Evidential support and confirmation of findings**
 - What is required?
 - Who will collect the samples and analyse them?

Recommendations for South African Working Paper

- Draft guidelines offered a useful template for considering the invocation of Article VII
- TTX revealed some practical problems
 - Better alignment with rather than duplicate existing emergency assistance processes by IOs
 - Should aim to clarify or complement the existing processes
- Recommendation to rearrange document and split it into 3 parts
 - Offer general guidelines for States Parties concerning Article VII
 - Focus on the types of information the UNSC might need for its decision-making
 - Detail necessary information to request or provide emergency assistance
- Paragraph 6 of the working paper
 - Seems to reflect a specific interpretation of Article VII (alleged BW use)
 - May therefore prove problematic

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