



The BTWC “New Process” & “Review Process” Making the Connections

Informal Brainstorming Seminar

27 September 2005

SUMMARY REPORT

The purpose of this meeting was to build upon discussions held in joint workshops organised by the Geneva Forum and BWPP in September 2003 and September 2004 and to look ahead to the December 2005 Meeting of States Party to the Biological and Toxin Weapons Convention (BTWC) and to the 6th Review Conference of the BTWC, scheduled to take place in 2006.

The meeting was divided into two working sessions and was attended by 31 individuals comprising representatives of governments, international organisations and NGOs. The meeting was convened under the Chatham House Rule, which states that “participants are free to use the information received, but neither the identity nor the affiliation of the speaker(s), nor that of any other participant, may be revealed.” This summary report has been drafted in respect of this rule.

The Chairperson opened the meeting by stressing the need for creative thinking with respect to the implementation of new ideas in preparation for the 6th Review Conference, and for reflection on lessons learned from the new intersessional process. In particular, the Chairperson drew attention to the question of how the issues dealt with during the new process could be brought to bear on the review process.

1. **Bringing the *New Process* to bear on the *Review Process***

The first invited speaker reflected upon initial doubts and scepticism, held by governments and civil society alike, concerning the utility of the new process before continuing to outline the achievements and lessons that have been learned through this process. A sustained high level of political attention, the mitigation of ill-feeling from the failure of the verification protocol, and a focus on specific issues were counted amongst the successes. The new process was also instrumental in drawing attention to the “shocking state” of national implementation of BTWC provisions and pathogen security, and in highlighting the varying approaches taken between countries and regions and the gaps and inconsistencies that remain.

A distinction was drawn between the biological weapons regime as a whole and the BTWC, the argument being that the new process has helped to integrate and strengthen the regime. The speaker also considered the issue of how to reflect the work of the new process in the forthcoming Review Conference, presenting several options as to how this could be achieved – conducting an article by article review, dedicating a special session of the Review Conference to this question, or adding an extra week to the Preparatory Committee for review.

The speaker proposed that the Review Conference should launch additional work programmes that should stand alone, contribute to further international efforts and verification, and incorporate “interim decision-points” that would give States Parties a sense of control over the process.

A resounding theme in the subsequent discussions was the concern that the issues raised during the new process should not be allowed to languish, and that progress should be built upon. It was emphasized that a reflection of the outcomes of the new process is within the mandate of the 6th Review Conference. It was emphasised that States should act quickly to draft and implement national legislation on their BTWC commitments since it takes a long time for such provisions to become effective, as can be observed from the operation of the Chemical Weapons regime.

The potential role that could be undertaken by the WHO in investigating suspicious outbreaks of disease and the overlap and potential conflicts of interest between the WHO and the BTWC was a main talking point. The majority of opinion held that WHO involvement in relation to response activities is within the mandate of the WHO, although the practicalities remain to be resolved, and that in regards to the investigation of potential breaches of the provisions of the BTWC, a clear line needs to be drawn between public health and security interests.

The current bird flu scare has increased public awareness of the devastating potential of hard-to-control diseases, raising the question as to how this heightened interest could be better harnessed to strengthen the BW regime.

Several participants, in particular governmental representatives, also expressed support for increased technical assistance and a more permanent institutional arrangement to support the BTWC. This included, for example, the development of a verification system based on regional arrangements (including adequate cooperation and assistance measures); the elaboration of a BTWC implementation action plan along the lines of the Mine Ban Treaty; and the development of a reporting mechanism for BTWC implementation, such as that of the UN Programme of Action on small arms, along with a reporting assistance mechanism.

There was strong support for the activities of the current BTWC Secretariat and there were a number of calls for a more permanent and stable footing for the office of the Secretariat. It was mentioned that there is a budget for the Secretariat until 2006, and that a further decision would be needed to extend this.

2. Active Transparency and the Clarification of “Intent” – A role for CBMs?

The second invited speaker focused on exploring the role that Confidence-building Measures (CBMs) could play in improving transparency and clarifying ‘intent’ when it comes to biodefence research. It was stressed that whilst the threat has evolved to include bio-terrorism, focus should be sustained upon both state and non-state biological and toxin weapons activities.

MORE WORK NEEDED!!!!!!!!!!!!!!!!!!!!!!

The presenter discussed and articulated concern over the complexities surrounding the issue of ‘intent’ and the imperative for clearly distinguishing between offensive and defensive research. In the Convention, intent is defined by Article I and the Preamble, which also defines what activities are prohibited under the Convention. The dividing line between defensive and offensive research is blurred thus affecting the research that is deemed to be subject to the provisions of the BWTC. Furthermore, there is the potential for a ‘slippery slope’ whereby clearly defensive research activities become more applicable in an offensive manner. Moreover, the texts of the Convention itself in the various official UN languages may add to the

confusion owing to how certain words are translated, i.e. the English phrase 'protective purposes' is translated as 'defensive purposes' in the Russian text.

A possible solution to clarifying what research is and is not covered by the prohibitions of the BTWC is the development of lists of sensitive research (those which would have particular value for offensive activities). It was emphasized, therefore, that there should be transparency throughout biodefence activities and that CBMs could help to achieve this. It was also remarked that the CBMs could be further improved by clarifying what is defined under 'biodefence research and development programmes' in addition to further developing the biodefence CBM and considering making its return mandatory and publicly accessible. New CBMs could be created pertaining to reporting national rapid response capacities, national lists of dangerous pathogens including geographic location, and biosafety and biosecurity measures. Other issues considered by the speaker were the advantages of developing national oversight mechanisms for biodefence programmes and of developing codes of conduct for biodefence personnel.

The speaker also raised the possibility of creating an 'international ombudsman', possibly connected to the BTWC as a national focal point, for the oversight of the life sciences, regulating scientists' activities and addressing moral problems in science.

In the discussion that followed, participants were particularly engaged in debating the concept of an international scientific Ombudsman. Questions were directed in the main as to how such a mechanism could be developed, the extent of its mandate and powers, and how to ensure cooperation with governments, perhaps having the "International Council for the Life Sciences" acting as a kind of Ombudsman.. Suggestions were put forward exploring whether the scientific community is the best vehicle for an Ombudsman and whether there should be a web of national focus points linked to the Ombudsman. It was also pointed out that an Ombudsman would need to be able to provide credible protection to whistle-blowers.

The second issue extensively examined was that of CBM improvement as an aid to increasing transparency. It was generally agreed that the current low rate of CBM returns is of concern, although there was considerable variation of opinion amongst discussants over how to ensure CBM returns and how to improve their content. Some of the participants felt that making CBMs mandatory would lose the "confidence" part of the exercise, turning CBMs into more of a declaration that could have verification consequences. It was additionally noted that many of the States looking for a verification mechanism for the BTWC themselves do not return CBMs, which was then responded to with the explanation that many States do not want to see a system of "creeping surveillance" developing as a weak substitute for a proper system of verification. Furthermore, there was discussion over the translation of CBMs and whether it would be acceptable to translate them into English only, noting that translating this year's CBMs into all UN official languages would have cost \$1m. Finally, it was suggested that a point of contact within Ministries be appointed to answer queries regarding CBMs.