

This is one of a series of complementary papers submitted by the EU Member States for the consideration of States Parties. [A reference to the outcome of third country alignment procedure will be added.]

EU Paper on The Intersessional Programme of Work: Its utility and contribution to fulfilling the object and purpose of the BTWC between 2003-2005 and a case for further intersessional work after 2006

1. The Fifth Review Conference of the BTWC agreed to continue the process of strengthening the Convention through a programme of work between 2003 and 2005. The purpose of the intersessional programme of work was 'to discuss, and promote common understanding and effective action on' identified topics as follows:

- i) the adoption of necessary national measures to implement the prohibitions set forth in the Convention, including the enactment of penal legislation;
- ii) national mechanisms to establish and maintain the security and oversight of pathogenic microorganisms and toxins;
- iii) enhancing international capabilities for responding to, investigating and mitigating the effects of cases of alleged use of biological or toxin weapons or suspicious outbreaks of disease;
- iv) strengthening and broadening national and international institutional efforts and existing mechanisms for the surveillance, detection, diagnosis and combating of infectious diseases affecting humans, animals and plants;
- v) the content, promulgation, and adoption of codes of conduct for scientists.

2. These topics covered most of the substantive Articles of the Convention, including the scope and purpose of the Convention, non-proliferation issues, national implementation mechanisms, investigation of use, responding to alleged use, and disease surveillance, detection, diagnosis, and mitigation, i.e. Articles I, III, IV, V, VI, VII, and X.

3. At the Sixth Review Conference States Parties are required to consider any recommendations from the intersessional programme of work and decide on further action. The Member States of the EU, other States Parties and various civil society and non-governmental organisations have already indicated that they would support the agreement to a further intersessional programme of work at the Sixth Review Conference.

4. This working paper sets out the EU view on the utility and impact of the intersessional programme of work between 2003 and 2005 and how it has contributed to the effective implementation and strengthening of the Convention, which continues to be essential. It forms the basis for our judgment that a further work programme is necessary.

Context of the intersessional programme of work

5. The BTWC is a landmark agreement - the first disarmament treaty for a weapon of mass destruction. The view of the EU is that the Convention is as valid now as it has always been in addressing all the threats posed by biological and toxin weapons. States Parties would have sent a message that they deemed the Convention of limited value in the current era, if no meetings had taken place between 2002 and 2006, particularly since in 2002 concerns about bioweapons and bioterrorism had reached new levels. The intersessional programme of work helped States Parties focus their efforts after the collapse of the BTWC Protocol negotiations. It maintained a body of international experts from States Parties working to enhance implementation of the BTWC. It also helped develop a renewed sense of ownership of the Convention, and more importantly, national responsibility among States Parties for actual implementation of obligations and compliance with the Convention. It assisted in the development of different approaches to strengthening the BTWC and its actual implementation.

6. The aim of the intersessional programme of work was to identify how States Parties might address known areas of weakness through action at various levels. Action at the national level, by each individual State Party, was a key component of the programme of work. Action beyond States Parties and outreach to intergovernmental organisations, such as the World Health Organization, and to civil society, were also important.

Impact of the intersessional programme of work

7. From the perspective of the EU Member States, the work programme assisted implementation in a number of ways, including requiring each State Party to think about and review its implementation of the obligations under the Convention. In preparing for the meetings, EU Member States considered, among others, the following questions:

- Could implementation mechanisms be improved?
- Were gaps in actual implementation identifiable?
- Which government departments, agencies, and non-governmental entities had responsibility for implementing the Convention nationally?
- Was best practice identifiable?
- Was best practice being shared and disseminated among the States Parties?
- Could the EU Member States learn from the approaches of other States Parties?
- Was assistance required in some areas to actually implement the Convention's obligations?
- Could the EU Member States offer assistance in certain areas to other States Parties to ensure implementation of the Convention was more effective?

8. The work programme had both preparatory and follow-on implications. For example, in 2003 the EU undertook a survey of national implementation mechanisms. The survey not only reported on measures taken by EU Member States, but also illustrated the scope of measures actually required to implement the Convention (BWC/MSP/2003/MX/WP.62). By providing this information to States Parties at the 2003 Meeting of Experts the survey helped to answer the request for sharing of information on actual national implementation issued at the First Review Conference in 1980. Sharing such information provided all States Parties with improved understanding of national practices, contributed to enhanced transparency, and increased opportunities to address issues of national implementation and deal with problems. The advantages and disadvantages of different approaches were explored in detail and offers of assistance were made to States Parties. Over the period 2003 through to 2005 preparatory work for the intersessional work programme has resulted in an increase in the amount and quality of

information shared between States Parties. This result is unprecedented in the BTWC context.

9. The outcome of the meeting of experts and States Parties also encouraged, indeed often required, follow-up action. For example, the EU Joint Action on Universality and Implementation Assistance for the Convention (circulated at the Preparatory Committee) is an example of work that was influenced by the outcomes of the intersessional programme of work and the recognition that some States Parties (and future States Parties) would require assistance to fulfil their obligations under the Convention.

10. Meetings of experts and meetings of States Parties added breadth to implementation of the Convention through participation of more delegations than compared to other non-Review Conference meetings of States Parties. The intersessional programme of work also had an impact on the sense of ‘ownership’ and ‘responsibility’ for the Convention. The number of intergovernmental organisations and non-governmental organisations involved in various aspects of the intersessional programme of work also increased. Indeed, implementation shifted from being perceived as only a concern for a few individuals in governments of States Parties to being an issue involving individuals, departments, and organisations across States Parties, including intergovernmental organisations (IGOs), non-governmental organisations (NGOs), and civil society. To provide two examples: in 2005 preparation for discussions on codes of conduct was facilitated greatly by professional organisations which were able to initiate debates related to biological weapons among the scientific community. This type of awareness-raising activity has a positive impact on maintaining the norm against biological and toxin weapons. In 2004, in considering effective responses to disease outbreaks – whether or not natural occurrences or deliberately induced – States Parties recognised that timely and accurate information on disease outbreaks is important. Thus, disease reporting procedures at the national, regional, and international levels contribute to the object and purpose of the Convention.

11. Further, the meetings of experts and of States Parties added depth to implementation of the Convention by:

- providing States Parties with an incentive, and a timeframe, to act in ways conducive to strengthening the Convention in specific areas;
- introducing specificity into many of the debates about effective implementation;
- permitting engagement with experts of different types, political and technical, in other States Parties;
- helping to establish and strengthen contacts between individuals, States Parties, and experts, including both political and technical;
- facilitating the sharing of expertise and good practice;
- raising awareness of the Convention and its objectives and requirements across the wider domestic and international communities.

12. The intersessional programme of work also helped clarify certain issues. For example, the discussion of the concept and meaning of biosecurity in 2003, and the identification of the types of measures required for biosecurity resulted in the recognition of the value of such measures. Preventing unauthorised access to pathogens and sensitive materials and equipment had been recognised by States Parties as important in 1991 at the Third Review Conference (BWC/CONF.III/23). The meetings in 2003 provided some substance to that recognition, and helped translate a commitment into more positive action.

13. Stewardship of the Convention has also been enhanced. One of the main lessons from implementation of the Convention over 30 years is that the Convention needs constant attention

nationally and by States Parties collectively. It is not a Treaty signed and implemented 30 years ago. States Parties have individual (national) and collective (regional, multilateral, international) responsibilities under the Convention and the programme of work assisted in not only clarifying what such responsibilities are, but also how obligations can be implemented.

14. The programme of work also kept the bigger picture in focus. The Convention is only one of a number of elements that seek or help to prevent biological or toxin weapons from ever being used in war or for hostile purposes. Discussion on each of the five areas of work demonstrated the connections between these elements. For example:

- the object and purpose of the Convention, the 1925 Geneva Protocol and the United Nations Secretary-General's investigation mechanism for alleged or suspected use of chemical, biological, and toxin weapons;
- implementation of the BTWC and the CWC with regard to toxins;
- non-proliferation at the State level under Article III and its application to 'any recipient whatsoever' which includes non-State actors, thus establishing that effective implementation of the Convention contributes to fulfilment of United Nations Security Council Resolution 1540 (2004);
- activities under co-operative threat reduction programmes assist in ensuring compliance within States Parties;
- discussions in the G8 on issues such as non-proliferation, terrorism, and food security all have connections to the Convention;
- the role of the World Health Organization (WHO), World Organisation for Animal Health (OIE), and Food and Agriculture Organization (FAO), whose activities on disease surveillance, detection and diagnosis and on responses to disease outbreaks can make a contribution to the object and purpose of the Convention.

15. The intersessional programme of work also opened up new fora for action. Some of these were regional initiatives with international reach, such as the EU Joint Action previously mentioned, promoting universality and national implementation assistance. Others were regional, such as the workshops convened by Australia and Indonesia in 2004 and 2005. Others still were non-governmental, such as the work of the InterAcademy Panel on codes of conduct for scientists.

Conclusion

16. Taken together, the above examples not only underline the need for national action and fulfilment of national responsibilities but also demonstrate to States Parties the need for approaches across a range of areas. The range goes well beyond the 'national only' approach and also well beyond the 'multinational' agenda as traditionally understood. The intersessional programme of work not only helped to focus States Parties on specific issues but also facilitated new thinking. It allowed progress to be made in a non-controversial manner and provided the opportunity to discuss, consider and share ideas at practical levels beyond the 'BTWC officials' usually associated with the Convention and its implementation.

17. The tangible and intangible results of the intersessional programme of work between 2003 and 2005 extend beyond the simple reports agreed at the conclusion of each of the three Meetings of States Parties. Those reports are important, not least in identifying areas of agreement and measures that have value for effective implementation of the Convention, but they are not the totality of the achievements. The programme of work has had other important achievements. For example, the offers of assistance and technical advice on national

implementation mechanisms have continued and activity in the area of codes of conduct for scientists is also continuing in various fora in a number of States Parties.

RATIONALE FOR A NEW WORK PROGRAMME 2007-2010

18. The EU strongly believes that continued work on strengthening the Convention and enhancing its implementation is required beyond 2006. The Convention has to be implemented by its States Parties nationally and collectively. There is a balance of responsibilities inherent in this and maintaining the balance is important if the Convention is to continue to contribute to our individual and collective security.

19. A further programme of work will allow for other important areas of the Convention to be addressed. It will continue to identify how States Parties can rectify areas of weakness through action at various levels, permit continued outreach to intergovernmental and non-governmental organisations to raise awareness of the Convention, and assist in the identification of specific, practical, and feasible measures to enhance implementation of the Convention. The benefits derived from the last programme of work can be taken forward in the next one, and maintain a body of experts focused on implementation of the Convention to address current threats and problems.

Modalities and possible topics for a new work programme 2007 - 2010

20. Given the positive benefits of the previous work programme, many of the modalities should continue to serve well. But State Parties might consider some small incremental changes to optimise the work, keeping within the overall pattern of activity already established. For example, where there is consensus, the Meetings of States Parties could make decisions without referral to the Seventh Review Conference. Certain issues could be discussed and reviewed on an annual basis, for example reporting on national implementation mechanisms, national enforcement of legislative and administrative arrangements, biosecurity, scientific and technological developments relevant to the Convention, awareness-raising and educational activities, peaceful uses of biological sciences, and progress towards universal adherence to the Convention. More intensive work on specific issues will also be required. Possible topics for a future work programme are identified below:

i - Improvements to the Confidence-Building Measures (linked to Article V)

Discussion on this topic could focus on taking stock of the various measures defined in the CBM framework and lead on to recommendations aimed at ensuring that there is no duplication between them, and to encourage the implementation of common standards to help improve the submission process and the response rate. An overall evaluation of the CBMs could also be presented.

ii - Safety and security of pathogens and toxins (linked to Article IV)

The issues in this area are linked directly with the provisions of the BTWC and make possible several mutually complementary approaches: through the interfacing of legislation and standards for biosecurity and biosafety and BTWC for example, or through a discussion of the factors to consider when drawing up controls over pathogens and toxins that may possibly be used for bioterrorism. The aim would be to take forward the debate started in the meetings in 2003.

iii - Detection of pathogenic agents and response to epidemics in real time (linked to Articles VI and X)

This topic could usefully supplement the work done in 2004 and would make it possible to take stock of the latest technological developments on the detection of, and responses to, epidemics. In the context of major topical issues of epidemiological relevance, the links between the capacities of the international health and agriculture fora and the concerns of the BTWC could also be made clear. In particular the consequences of the new roles and responsibilities of States Parties to the revised International Health Regulations, which will enter into force in 2007, could be discussed from a BTWC perspective.

iv - Raising of the awareness of the biological risk in national populations (linked to Article X)

This topic would cover the strategies implemented at national level to prepare the population for biological risks and to encourage the adoption of appropriate health-related behaviour. More generally, educational measures in the area of biological disarmament and non-proliferation could be examined.

v - Judicial, police and customs cooperation on the prevention of proliferation of high-risk products and illicit trade in dual-use equipment (linked to Articles III, IV and X)

Such an expert meeting could offer an opportunity for in-depth exchanges on the actions conducted nationally, with regional partners, within the framework of intergovernmental organisations such as Interpol, and other international and regional mechanisms to prevent proliferation and on ways of enhancing their effectiveness. It would notably provide an opportunity to take stock of the measures implemented under Security Council Resolution 1540 with regard to biological weapons. It would also constitute a logical extension of the topic “reinforcement of national legislation” by considering the implementation of legislation on pathogens and toxins.

vi – Redirection of scientists previously involved in military programmes (linked to Article X)

Such a topic would need to encompass all the relevant actors within States Parties. The discussion could notably be aimed at presenting examples of successful and relevant programmes of this kind and at examining appropriate ways and means (institutions, bilateral and multilateral cooperation frameworks) for action in this area (such as the G8 Global Partnership etc.).

vii – Regional and sub-regional cooperation on BTWC implementation (linked to Article IV)

The regional and sub-regional organisations of all five continents could be invited in this connection to express their views on the actions they have undertaken to facilitate BTWC implementation. Exchanges of views might cover the areas likely to be the focus of future effort and how to ensure complementarity to relevant work undertaken in other fora. The EU could give feedback on its experience of the implementation of its Joint Action in support of the BTWC.

viii - Action in the event of suspected use of biological or toxin weapons (linked to Articles V, VI and VII)

Consideration could be given to all the aspects that would be involved, procedures that would need to be followed, including States Parties consulting each other and other organisations, emergency assistance etc. No specific forum has, so far, been dedicated solely to bioterrorism, which makes it a work topic of many different organisations. Bioterrorism is indirectly linked to several Treaty Articles; an expert meeting about this topic could take stock of all actions undertaken in this field and complement Resolution 1540 related work.

21. The EU supports a focus on practical and feasible measures which will strengthen the Convention and enhance the effectiveness of its implementation between 2007 and 2010. The EU is ready to discuss with other States Parties how this might be achieved and how a further intersessional programme of work might be developed.