

The Seventh Review Conference of the Biological Weapons Convention

Georgi Avramchev¹ Former Ambassador Republic of Macedonia and Colonel Vaso Taleski Assistant Professor Head of Centre for Preventive Medicine Republic of Macedonia "Overall, we have done pretty well. In some areas, we could have done better" - Ambassador Paul van den IJssel, President, Biological Weapons Convention (BWC) Seventh Review Conference

2011 was a year of particular importance to the BWC. It was an opportunity to shape the direction that the treaty would take in coming years and ensure that it would remain at the forefront of efforts to prevent the use of disease as a weapon. Hopes for the future were high. Annual meetings had been constructive and the atmosphere positive. There was momentum. There had been an exhaustive, open-ended preparatory process which provided multiple opportunities to explore technical issues, flag concerns, find compromises, and build the foundations for success. States parties gathered in Geneva in December 2011 to reflect on what they had achieved, and looked forward to what they wished to accomplish in the next five years.

Recent Work of the BWC

In 2011, the BWC held its Seventh Review Conference. These meetings, which take place every five years, "review the operation of the Convention, with a view to assuring that the purposes of the preamble and the provisions of the Convention... are being realized [and to]... take into account any new scientific and technological developments relevant to the Convention."² BWC review conferences do not happen in isolation; they are part of a more frequent work program. Since 1991, states parties have met annually. From 1992 to 1994, states parties focused on scientific and technical aspects of efforts to verify compliance with the treaty.

From 1995 to 2001, states parties worked to build a new international legal framework (which was ultimately abandoned after the BWC's Fifth Review Conference was suspended in 2001).

The Seventh Review Conference marked the end of a second cycle (2007 to 2010) of annual meetings to strengthen how the international obligations of the BWC are translated into effective national action.³ Each year, states parties gathered to explore one or two specific topics.

The work was built on a pair of meetings: one in the middle of the year at the expert level to gather relevant information, and another at the end of the year at the states parties-level to identify shared approaches and opportunities for further action. In 2007, the BWC looked at national legislative and regulatory frameworks as well as regional cooperation. In 2008, we looked at biosafety and biosecurity and the oversight of science, education, and outreach for scientists. In 2009, states parties focused on building the capacity to deal with disease regardless of cause. In 2010, the focus was on responding to allegations on the use of biological weapons.⁴

For each of these topics, states parties succeeded in identifying a range of common understandings.⁵ These were not new agreements negotiated between states, but rather areas of similarity in existing national approaches. Additionally, the states parties formed islands of agreements in broader areas in which national views differed. These agreements serve as a firm foundation for building bridges across areas of disagreement in the future. Overall, the meetings benefitted immensely from the active contributions made by a broad range of stakeholders from both the public and private sectors.⁶ These meetings have helped build a vibrant and robust community dedicated to ensuring that biology is not used to cause deliberate harm.

BWC Seventh Review Conference

There were exhaustive preparations for the Seventh Review Conference. In April 2011, the preparatory committee saw important decisions being made on how states parties should work.⁷ A series of informal meetings around the world helped states parties focus on what they needed to address. There were workshops in Wilton Park, UK; Beijing, China; Montreux, Switzerland; Berlin, Germany; Manila, Philippines; The Hague, Netherlands; Belgrade, Serbia; Lima, Peru; and Geneva, Switzerland^{.8} Participants in these meetings explored a broad range of topics and set solid foundations for the review conference. In parallel, states parties carried out their own preparations. By the end of November 2011, over twenty working papers detailing national views, priorities, and positions were already available on the BWC's website.⁹ The president of the 2011 Review Conference, Ambassador Paul van den IJssel from the Netherlands, held a series of informal consultations to explore where there might be common understandings in specific areas.¹⁰ These meetings addressed how states parties might review relevant advances in science and technology; how they might improve their working relationships through a more structured approach of cooperation and assistance; as well as what they might work on over the coming years.

Seven issues were raised repeatedly and formed the basis for preparations of the review conference:

• A new work program for the BWC – on what and how should states parties take their efforts forward?

• Annual exchanges of information – how best to improve transparency and thereby increase confidence in compliance?

• Relevant advances in science and technology – how often and through what mechanisms should states parties look at such developments?

• Universalization – how to increase treaty membership, which at 165 members lags behind other important security treaties?

• Cooperation and assistance – how to improve the way states parties work together and with their international partners to build capacity and promote the peaceful uses of biological science and technology?

• Compliance and verification – what, if anything, can be done to ensure that states parties are complying with their obligations and properly implementing the treaty?

• Levels of institutional support – what levels of human, financial, and logistical support will states parties require to make all this work?¹¹

The president of the conference believed these were the "areas where there seems to be a general understanding that something will need to be done if the review conference is to be considered a success."¹² How much progress was actually made?

The Next Intersessional Process

Hopes Prior to the Review Conference

The most recent intersessional meetings of the BWC were largely considered useful. There were, however, a growing number of voices suggesting that it was time for a change.¹³ Some suggested that the format of recent meetings was too restrictive, confining discussions to pre-identified topics and an artificial pace. Others suggested that the recent process provides too few opportunities to take collective action, as opposed to having discussions or identifying common understandings. States parties also heard that while there was work left to be done on the topics covered between 2003 and 2010, "set piece" international meetings might yield less additional value than alternative approaches. For example, it was suggested that the BWC should embrace working groups; this, it was argued, would enable additional work between meetings of the BWC and allow more flexibility to pick up and set down issues as progress becomes possible. There were proposals to set up working groups on national implementation; cooperation and assistance (or an Article X cooperation mechanism); advances in science and technology; universalization; and compliance and confidence building. Prior to the review conference, there seemed to be an emerging consensus that such topics would need to be dealt with more regularly.¹⁴

Review Conference Outcome

States parties agreed to another intersessional work program. The core of the new program is similar to past efforts (two meetings—one at the expert level, the other at the states parties-level, destined to address an annual topic), but states parties added three standing agenda items (SAIs) to be addressed every year. The SAIs cover developments in science and technology, assistance and cooperation, and national implementation. Each SAI includes a range of specific issues (details of which will be dealt with in the thematic sections below). The amount of time devoted to formal work under the BWC did not increase despite a greater number of topics to be addressed.¹⁵ There was also no agreement that the new process should be able to make decisions—which had been proposed in the lead up to the review conference. It is also unclear how the new arrangements will facilitate work between formal meetings. The outcome from 2012 will set precedents that will be difficult to change later, and will likely determine whether the new process is any more flexible than the last or can lead to practical action outside of Geneva.

Improving the Confidence-Building Measures (CBMs)

Hopes Prior to the Review Conference

States parties and nongovernmental organizations held informal consultations on improving annual exchanges of information for several years. Some progress had been made in identifying changes that could be made during the review conference itself and a working paper was tabled with specific suggestions.¹⁶ There also seemed to be strong support for a more ambitious attempt to reexamine from the ground up how to enhance transparency under the BWC, as well as build confidence in compliance.¹⁷ Prior to the review conference, there were

still questions to be answered. Should states parties try to increase participation before revising the mechanism or revise the mechanism to try to improve participation? Should states parties scrap what exists and start again or try to amend what is already in place? Should states parties try to improve the CBMs at the review conference or agree to a process afterwards?

Review Conference Outcome

There were three relevant outcomes from the review conference. States parties adopted a revised, simplified set of forms; made the issue of forms the topic for annual work in 2012 and 2013; and extorted the Implementation Support Unit (ISU) to continue to examine ways to improve electronic submission mechanisms. The review conference did not strengthen requirements for national infrastructure, such as nominated contact points (who gather pertinent information, process and submit it, and interact with other states parties).

The forms and modalities used for exchanges of information were revised but changes were minimal. A form detailing meetings and conferences was deleted as this information is now freely available online; and part of another form, dealing with normal disease information, was removed as such details are now regularly reported to international health organizations. The overview form was also redesigned to remove ambiguities in how states were using it. The remaining changes were to simply update references; for example, to reflect revised editions of international guidance documents. Very few of the changes proposed prior to the review conference were adopted.

States parties will be working on CBMs in 2012 and 2013. However, it is interesting to note that the aim of this work is not to enhance transparency, build confidence in compliance, or to review the efficacy of the current arrangements; rather, the work will focus on "how to enable fuller participation in the CBMs."¹⁸ Hopefully streamlining the forms will help, but given the minor alterations made, the impact may be minimal. Given the stated position of many states that these measures are voluntary, there are clearly political issues that will still need to be addressed.

Advances in Science and Technology

Hopes Prior to the Review Conference

In the past, the only formal review of developments in science and technology took place at the five yearly review conferences. Yet given the high rate of development in the life sciences, there have been calls to hold reviews more frequently. There have also been proposals for more structured procedures in order to keep abreast of scientific and technological advances. Many feel it is important to find a better way to consider their implications for the BWC.¹⁹ Discussions suggested that such advances can impact both the scope of the BWC (through the potential for new types of weapons, for example), and its implementation, such as through novel detection and diagnostic capacity or better prophylaxis and treatment options.²⁰ Advances in science and technology might also influence discussions on verifying the BWC. Preparatory meetings regularly heard the need for a three-step approach based on the following: (1) There were numerous calls to work more closely with those that actually do the science, as they are best placed to know what is currently possible; (2) there was recognition that national technical experts are uniquely skilled to be able to assess the implications of the advances identified by the scientific community; and (3) states parties themselves would need to consider the work of both

the scientists and the national technical exports in order to be able to shape their collective action.

Review Conference Outcome

The review conference did adopt a new standing agenda item on developments in science and technology. Each year, states take on two issues: annual topics and a series of recurring issues. The annual topics include: in 2012, advances in enabling technologies (such as highthroughout systems for sequencing, synthesizing, and analyzing DNA); in 2013, advances in technologies for surveillance, detection, diagnosis, and mitigation of infectious diseases, and similar occurrences caused by toxins in humans, animals, and plants; in 2014, advances in the understanding of pathogenicity, virulence, toxicology, immunology, and related issues; and in 2015, advances in production, dispersal, and delivery technologies of biological agents and toxins.

The recurring issues include: new science and technology developments that have potential for uses contrary to the BWC; developments that have potential benefits for the BWC; possible measures for strengthening national biological risk management; measures to encourage responsible conduct by scientists, academia, and industry; education and awareness raising about the risks and benefits of life sciences and biotechnology; developments relevant to the activities of multilateral organizations; as well as any other science and technology developments of relevance to the BWC.

The review conference did not make a clear decision on the appointment of a facilitator for this issue. It did not determine how these issues would be worked on while the BWC was not in session. It also did not provide any additional avenues to engage scientists, or resources to facilitate their contributions to these discussions or participations in BWC meetings. It provided neither carrots nor sticks for taking this work forward. The review conference failed to formally strengthen ties between the efforts of states parties and those that actually undertake the science, those that appreciate the current state of play, or those that influence the development of future technology. The review conference also saw states parties choosing not to adopt a three-step approach structured to recognize the particular skill sets of the stakeholders involved, but to retain the ad hoc approach that had been used in the past.

Universalization

Hopes Prior to the Review Conference

The Sixth Review Conference in 2006 approved a range of measures to promote

membership of the BWC. It saw states parties agree to undertake certain tasks. It mandated the chairs of annual meetings the responsibility for coordinating their actions, and instructed the ISU to support these efforts.²¹ These measures did yield some results. Ten states joined the BWC over the course of five years. Throughout preparations for the Seventh Review Conference, there were many voices asserting that more remains to be done: 12 states have signed but not ratified the treaty and a further 19 have yet to accede.²² Discussions saw states parties stress the importance of expanding treaty membership, an issue repeatedly addressed by the president.²³ It was hoped that the review conference would see an agreement to expand the current arrangements; to further improve the coordination of our individual outreach efforts; and to

develop roles and responsibilities. Equally, there needed to be careful thought as to what resources would be required to take the BWC messages out to those that need to hear it and to support efforts by states to join the BWC.

Review Conference Outcome

States parties reiterated the same decisions they took at the Sixth Review conference and provided no additional resources.

Cooperation and Assistance

Hopes Prior to the Review Conference

The last few years have seen dramatic developments in the distribution of biotechnology capacity as well as efforts to improve cooperation and assistance. Many developing states now have a significant biotechnology sector, while many developed states do not. As a result, efforts to improve cooperation and promote assistance cannot fall along traditional North versus South or East versus West lines. There is a growing awareness that efforts to promote cooperation and assistance benefit everyone. For example, there is broad support to build capacity around the globe to detect, diagnose, mitigate against, and respond to human, animal, and plant disease events, regardless of cause. Some have suggested that current arrangements under the BWC do not provide enough focus to facilitate efforts to work together more closely. There have been calls to do more, including putting in place arrangements to streamline the provision of assistance; avoiding missed opportunities for cooperation among states parties; creating a clearing-house mechanism to match offers to provide assistance; and thinking about how best to continue to work on improving cooperation and assistance throughout the next intersessional process.²⁴

Review Conference Outcome

The SAI on assistance and cooperation provides a firm foundation for efforts on these issues during the next intersessional program. States parties have undertaken to compile, distribute, and review national reports on the implementation of cooperation and assistance efforts; identify and attempt to overcome challenges and obstacles to developing international cooperation, assistance, and exchange in the biological sciences and technology; work to develop a range of specific measures for the full and comprehensive implementation obligations on the peaceful use of science and technology; develop ways and means to target and mobilize resources, including financial ones, to address gaps and needs for assistance and cooperation; promote education, training, exchange, twinning programs, and other means of developing human resources in the biological sciences and technology; build capacity in biosafety and biosecurity for detecting, reporting, and responding to outbreaks of infectious disease or biological weapons attacks; as well as coordinate cooperation with other relevant international and regional organizations, and other relevant stakeholders.

In addition, the review conference established a database system to facilitate requests and offers to provide assistance and cooperation among states parties. The database, maintained by the ISU, will house information provided by states parties on any requirements, needs, or offers of assistance. States parties will then use the database to match offers with requests for assistance. Once a match is made, the information will be passed back to the ISU which will update the database accordingly.

The review conference also established a voluntarily-funded sponsorship program to support and increase the participation of developing states parties in the work of the BWC.

Compliance and Verification

Hopes Prior to the Review Conference

There is currently no verification regime for the BWC. Much of the 1990s was spent trying to develop one, but those efforts failed. There is no international consensus now or for the foreseeable future that such a mechanism is technically possible.²⁵ Some states, however, still want to pursue a verification regime as soon as possible.²⁶ Others see it as a longer term goal.²⁷

This is the issue with the great divergence of national views—how does the BWC approach this topic in a practical, depoliticized way that produces tangible security benefits for all of the international community? It is likely necessary to move slowly and carefully, making sure that all states parties are comfortable with each step before trying to obtain something more elaborate. There does seem to be a broad recognition that we must focus on measures that can command consensus and build confidence in compliance. Through their recent work program, states parties have found innovative ways to share information and enhance transparency. There is still a need to translate this transparency into confidence and compliance.

Review Conference Outcome

This issue was not explicitly covered in the outcome of the Seventh Review Conference, and was not included in the next work program.

Institutional Support

Hopes Prior to the Review Conference

The institutional support states parties require after this review conference will largely depend on what they agree to do. Preparatory meetings heard that the more ambitious the intersessional work program, the more active the universalization efforts, and the more comprehensive efforts to improve the CBMs, the more support that will be required. States parties heard from the ISU that additional resources are required to continue to operate at their current level.²⁸ The ISU has established its utility and demonstrated that there are core tasks that benefit from having such support. There were calls, including from the major funders, to supplement the unit's size, resources, and stature.²⁹

Review Conference Outcome

Despite a considerable amount of demand being placed on this unit (the addition of the three SAIs on top of the annual topic, instructions to manage a new assistance database and sponsorship program, and instructions to support all the decisions and recommendations

undertaken), no additional resources were provided. No additional staff was added and the unit's

mandate was left largely untouched.

Conclusion

The decisions and recommendations adopted by the review conference were disappointing. Out of the seven areas the president set as a bar for success, there was too little progress in three (universalization, compliance and verification, and institutional support). In a further three areas minimal progress was made (advances in science and technology, improving the CBMs, and the next intersessional process). Solid progress was made in only one area (cooperation and assistance). Progress in none of these areas matched the hopes and expectations prior to the review conference.

Analysis of the final declaration—the political statement states parties use to declare their investment in the process and the value of the treaty—reveals that there were only four areas in which new agreements were reached:

• *On the operation of the BWC* – a decision was made that review conferences be held at least every five years. Additionally, convergence between biology and chemistry and its implications to the BWC and the Chemical Weapons Convention (CWC) was singled out for special attention.

• *On assistance and cooperation* – states parties were urged to provide assistance to support the CBM process, encouraged to provide assistance to build capacity in other states to respond more effectively to the use of a biological weapon, and urged to provide assistance to countries to help them join the BWC.

• On global health security – the heath security concept and a potential role for the BWC were included for the first time. There was an explicit reference to the International Health Regulations (IHR) strengthening links between the BWC and the World Health Organization. References to building health capacity relevant to biological weapons issues were strengthened and a second link added to the IHR. For the first time, there was also recognition of the humanitarian imperative for emergency assistance following the use of a biological weapon.

• *On education and raising awareness* – the range of activities which states parties recognized as valuable for reaching out to their domestic scientific communities was expanded.

In other areas, agreements reached at previous review conferences have been revised:

• *On the commitments of states parties* – the active commitment for states parties to take national measures to detect and monitor disease events was watered down.

• *On biosafety and biosecurity* – the reference highlighting the necessity of taking safety measures for transfers of relevant material was dropped, potentially weakening ties between the BWC and biosafety efforts.

• *On education and raising awareness* – commitments by states parties to undertake certain activities with the domestic scientific communities were diminished.

The president's own threshold for success does seem to have been met, and the final declaration seems not to have been a vehicle for substantial consolidation. Though some progress was made, many observers may conclude that the BWC Seventh Review Conference was largely a missed opportunity.

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Endnotes

¹ Georgi Avramchev was the Macedonian ambassador to the United Nations Office in Geneva from February 2005 to July 2009. He was also the chair of the 2008 Meetings of the Biological Weapons Convention. The views expressed in this article are the author's own and do not necessarily represent the views of the government of Macedonia or the Biological Weapons Convention.

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