

Proposals for changing the S&T Reviews

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In preparation for the forthcoming Seventh Review Conference of the Biological and Toxin Weapons Convention (BWC), the Harvard Sussex Program has produced a series of papers considering developments in science and technology of relevance to the Convention. This paper presents, in chronological order, an illustrative list of past State Party and regional group statements issued at BWC meetings regarding the science and technology reviewing process, including those in which change is proposed.

UK (1979)

In a working paper submitted on background information to the First Preparatory Committee, the UK proposes that a “small but open-ended group of experts” should be asked to conduct the S&T review and “provide a background paper for the Review Conference.” It was proposed that the general scope of the paper be set at an informal meeting of delegations. At this meeting “a Chairman and a Scientific Secretary” would be elected and “asked to prepare on the basis of the experts’ recommendations the first draft of the technological review.” The Scientific Secretary would send this draft to States Parties for comment which “would be incorporated into the draft review [and] considered at a second meeting of the group... The final technological report would be presented to the Review Conference.”¹

Argentina (1980)

Summary records from the First Review Conference record Ambassador Dumont of Argentina as saying: “Rapid scientific and technological progress gave reason to believe that at any moment agents or processes not coming within the framework of the Convention might be developed; hence it was essential to set up a

Statements by States Parties and civil society about the process of reviewing science and technology predate the first review conference.

The frequency of such statements has increased since the collapse of the Protocol negotiations in 2001.

There is a wide geographical spread of statements that covers both global north and global south.

periodical evaluation system.”²

German Democratic Republic, Hungary, and the USSR (1986)

In an addendum to the Committee of the Whole Report for the Second Review Conference, the German Democratic Republic, Hungary, and the USSR proposed “that a consultative meeting at expert level, open to all States Parties, should be convened... with the aim of working out and agreeing on decisions and recommendations concerning... [the] establishment of a group of scientific experts to study latest biological developments of relevance to compliance with the Convention.”³

Netherlands (1991)

At the Third Review Conference in 1991, Ambassador Wagenmakers speaking on behalf of the European Union stated that “Rapid scientific and technological developments in the fields of microbiology, genetic engineering and biotechnology warranted a constant state of alertness. Furthermore, the effective implementation of the decisions taken by the

² Summary records of the Eighth Meeting, 10th March 1980, BWC/CONF.I/SR.8, p8

³ Addendum Report of the Committee of the Whole, 29th September 1986, BWC/CONF.II/9/Add.1

¹ Working paper, United Kingdom, 10th July 1979, BWC/CONF.I/PC/3

current and previous Review Conferences would seem to justify more frequent attention than once every five years. The Community had thus hoped that the Conference would agree on a modest inter-conference mechanism, in the form of a small, non-bureaucratic, low-cost body to bridge the five-year period.”⁴

UK (2001)

In its submission to the background paper on new scientific and technological developments relevant to the Convention, the UK concluded “Given the accelerating pace in science and technology, the UK wonders whether it is prudent to maintain a five year gap between such assessments under the BTWC. The UK suggests that the upcoming Review Conference consider establishing a mechanism for States Parties to work together on a more frequent basis to conduct such scientific and technical reviews and to consider any implications at the necessary level of expertise.”⁵

Canada (2001)

In presenting the Canadian objectives for the Fifth Review Conference, Ambassador Westdal stated that a key objective “is open-ended inter-sessional institutions to oversee the work of implementation...” Efforts regarding national implementation “would benefit from a regular forum that would provide at least an annual opportunity for States Parties to convene, with oversight supplemented by scientific and legal expert study groups, as appropriate...”⁶

Japan (2001)

In a working paper to the Committee of the Whole for the Fifth Review Conference, under Article I Japan considers the idea of establishing a Science Advisory Board as being “worth in-depth study.”⁷

EU (2001)

In a Working Paper to the Committee of the Whole of the Fifth Review Conference, the EU proposed the following language for Article I: “The Conference calls upon States Parties to establish a Scientific Advisory Panel (SAP) for an annual update of scientific and technological

developments relevant to the Convention to report to States Parties.”⁸

Sweden (2005)

In an intervention to the Meeting of Experts in 2005, the Swedish delegation is recorded as stating that “An international scientific advisory panel could serve as a capacity building mechanism.”⁹

Canada (2006)

In the Canadian discussion paper submitted to the Preparatory Committee in 2006, it was suggested that the “2006 Review Conference should mandate annual meetings that could combine the consideration of set topics with the possibility to discuss matters of contemporary concern for the Convention. For example, a portion of such meetings, or “accountability sessions”, could be dedicated to such themes as National Implementation, Cooperation and Assistance, CBMs and Science and Technology. These recurrent themes could be considered during a portion of all annual meetings and be complemented as required by consideration of other themes such as universalization.”¹⁰

Ukraine (2006)

In their opening statement to the Preparatory Committee to the Sixth Review Conference, Ambassador Bersheda stated that “The establishment of the Scientific Advisory Body could be explored also as a useful mechanism for analyzing global developments in connection with the BTWC.”¹¹

Argentina, Bolivia, Brazil, Colombia, Costa Rica, Chile, Ecuador, El Salvador, Guatemala, Mexico, Peru And Uruguay (2006)

In a working paper titled ‘Follow-up Mechanism’ submitted to the Sixth Review Conference, a collective of Latin American States posited that “In order to remedy this situation, we invite the Review Conference to establish a flexible ad hoc follow-up mechanism for the period between the

8 Proposals - Working paper submitted by the European Union BWC/CONF.V/COW/WP.23, 27th November 2001

9 Report of the Meeting of Experts, 5th August 2005 BWC/MSP/2005/MX/3, p43

10 Towards The Sixth BTWC Review Conference: An Accountability Framework Discussion paper prepared by Canada, BWC/CONF.VI/PC/INF.1, 10th April 2006

11 Statement Ukraine, 26th April 2006. For a text of the statement go to http://www.opbw.org/rev_cons/6rc/docs/stat/PC_ukraine_E.pdf

4 Summary Record of the 8th Meeting, 27th September 1991 BWC/CONF.III/SR.8

5 United Kingdom of Great Britain and Northern Ireland BWC/CONF.V/4/Add.1, 26 October 2001, p6

6 Statement, Canada 19th November 2001, p4

7 Working Paper by Japan BWC/CONF.V/COW/WP.14, 26th November 2001

Sixth and Seventh Review Conferences of the Biological Weapons Convention. This mechanism would.... (ii) Analyse, in meetings of governmental experts, developments in the fields of biotechnology, genetic engineering, microbiology and other related areas that may have an impact on the work of the Biological Weapons Convention.”¹²

EU (2006)

In a statement by Ambassador Lyra on behalf of the EU it was suggested that “Scientific and technological developments will continue to be relevant to the BTWC. We will need to remain cognizant of advances and their potential for misuse across a wide range of disciplines. Not least, given the rapid pace of progress, the EU would like to see more frequent reassessments of the implications of scientific and technological developments. In this context, efforts must also be made to include other stakeholders in addition to the States Parties, such as the scientific and business communities.”¹³

NAM (2006)

In a working paper on a possible new intersessional process, the Non Aligned Movement and Other States Parties (NAM) expressed support for “holding of four annual meetings of the governmental experts and of States Parties... to consider the following issues... Advances in life sciences and biotechnology and their relevance to the implementation of the Convention, in particular Article I.”¹⁴

China (2006)

The Committee of the Whole document for the Sixth Review Conference records China as proposing that one of the topics for the 2007-2010 intersessional process should be, “responding to the new developments of science and technologies related to the Convention.”¹⁵

India (2006)

The Committee of the Whole document for the

12 Follow-up Mechanism. Submitted by Argentina, Bolivia, Brazil, Colombia, Costa Rica, Chile, Ecuador, El Salvador, Guatemala, Mexico, Peru And Uruguay, 20th October 2006, BWC/CONF.VI/WP.11

13 Statement by H.E. Markus Lyra Under-Secretary of State Finland, on behalf of the European Union, 20th November 2006

14 Intersessional ad hoc mechanism to be established between the sixth and seventh review conferences submitted by the States Parties of the Non-Aligned Movement and other States. 28th November 2006 BWC/CONF.VI/WP.32

15 Report of the Committee of the Whole, BWC/CONF.IV/3, 6th December 2006 p56

Sixth Review Conference notes India as suggesting that one of the topics for the 2007-2010 intersessional meetings should be “recent advances in life sciences and bio-technology and their relevance to the Convention, in particular Article I.”¹⁶

Russian Federation (2008)

In his opening statement to the Meeting of States Parties in 2008, Ambassador Loshchinin stated “For us it is clear that the States Parties are advised to avoid addressing issues of science and technology relevant to the BWC on an ad hoc basis... We are of the view that the time has come to tackle this complex and important task on a sound permanent footing”. Ambassador Loshchinin went on to say “Given the growing significance of the BWC in the light of the rapid development of dual use science and technology we deem it advisable towards practically considering the feasibility of setting up a permanent mechanism for monitoring and examination of scientific information relevant to the BWC. The findings of such reviews will be reported to the States Parties at their meetings in Geneva.”¹⁷

Germany (2010)

In the Meeting of States Parties in 2010, Ambassador Hoffmann of Germany stated that “from our point of view scientific and technical developments require a broader platform. Much more is needed than discussing these complex issues at the upcoming Review Conference. Germany therefore suggests to consider new science and technological developments to be one of the substantive agenda items in the future intersessional process.”¹⁸

The JACKSNNZ (2010)

In their statement to the Meeting of States Parties, the collective of non-nuclear, non-EU states that form the JACKSNNZ (Japan, Australia, Canada, Republic of Korea, Switzerland, Norway and New Zealand) stated, “The JACKSNNZ states recognise that biological science is advancing rapidly, and that the bio-industry and academia have an important role in the implementation of

16 Report of the Committee of the Whole, BWC/CONF.IV/3, 6th December 2006, p57

17 Statement by Ambassador Loshchinin to MSP 1st December 2008

18 Statement by Ambassador Hellmut Hoffmann to the Meeting of States Parties, 6th-10th December 2010

the BTWC. Recognising the useful work that has already been done, we would welcome strengthened interaction with civil society... Accordingly, the JACKSNNZ would welcome a collective assessment and discussion by the BTWC community of science and technology developments of relevance to the Convention.”¹⁹

The US (2010)

In the Meeting of States Parties in 2010, the U.S. Special Representative for BWC Issues, Ambassador Laura Kennedy stated that “a number of States Parties have called for the development of a mechanism to ensure that we remain abreast of and respond appropriately to developments in science and technology. This is a reasonable goal. But it seems to us important that we first consider what needs such a mechanism would fulfil, and then design a mechanism that successfully addresses those needs.”²⁰

Recommendations: moving forward

Article XII of the Biological Weapons Convention instructs States Parties to hold, five years after entry into force, a conference to review the operation of the Convention to assure that the purposes of the preamble and the provisions of the Convention are being realised. This review, negotiators decided, should also “take into account any new scientific and technological developments relevant to the Convention.”

Especially in the last few years, concerns have been raised as to the adequacy of the current reviewing process. Such concerns are not new per se as the illustrative list of statements from States Parties above indicates, calls to do ‘something’ about how S&T of relevance to the BWC is reviewed have a long history stretching back to at least 1979. Nor are the concerns specific to a particular region: the list above shows the wide geographical spread of statements calling for change. Indeed either through specific national statement or through association with a group statement, the majority of States Parties to the BWC have at some stage since the 1979 referred to the need to change the process by which the review of BWC-relevant science and technology is performed.

Many of the concerns expressed by States Parties

¹⁹ Statement by Ambassador Marius Grinius, Canada on behalf of the JACKSNNZ, 6th December 2010

²⁰ Statement by Ambassador Laura Kennedy 6th December 2010 (see <http://geneva.usmission.gov/2010/12/06/1206-bwc/>)

coalesce around two issues: frequency of reviews and the need for a new reviewing body. Such concerns can also be found in the work of civil society. Non-governmental organisations, scientific societies and individual academics have, since 1980, offered a number of considered thoughts about how a science and technology review process might be conducted, including offering assistance to States Parties in the performance of those reviews.

Whilst there is thus historical depth and geographical breadth to calls for ‘something’ to be done about S&T reviews, many of the statements that have been made post-2001 are of a general nature intended to encourage ‘something’ sometime in the future. If there is to be movement from ‘encouraging statements’ to ‘concrete proposals’ for improving the process then there is a need to develop, and seek consensus on, detailed proposals.

In their deliberations, those States Parties that wish to take this issue forward should give careful consideration as to why it is important for science and technology to be reviewed and what sort of product would be most useful so as to achieve their desired goals. These two seemingly simple questions will assist in defining the end-goal and so assist in navigating through the many potential options, and configurations thereof, for more effective and appropriate reviewing of science and technology of relevance for the Biological Weapons Convention.

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For more information about the project visit <http://hsp.sussex.ac.uk/sandtreviews/>

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