



## ARTICLE VII OF THE BTWC

**Initiating a request for assistance in case of an exposition to a biological danger as a result of a violation of the Convention**

*Lessons Learned from the 2016 Tabletop Exercise (TTX)*

# Context

Recent challenges for the international community and lessons learned

*Public health* : Outbreaks of emerging or re-emerging infectious diseases

*Security / non-proliferation* : First use of CW since the entry into force of the CWC

Complexities of international coordination and inter-organisational collaboration in challenging situations

Organising international assistance to respond to a complex and multifactoral (natural) biological crisis

Organising investigations of alleged CW use

Demands on the OPCW

Operating under conditions of war / conflict



**How would the international community respond in case of a deliberate biological event ?**

# Article VII TTX

TTX

No autonomous implementation organisation

No developed and tested mechanism / procedures to carry out the obligation under Article VII in case of a request

No agreements with other international organisations with relevant expertise



## **2016 Tabletop exercise on the implementation of Article VII of the BTWC**

To stimulate reflection on the decision-making processes both within a BTWC State Party and by the international institutions,

To identify issues that require further study and clarification.

# Article VII TTX

## Organisation

- 8 – 9 November 2016, Geneva (8<sup>th</sup> Review Conference),
- Co-organized by the Fondation pour la Recherche Stratégique (FRS) and United Nations Institute for Disarmament Research (UNIDIR), with financial support from France and by the UK Foreign and Commonwealth Office,
- **26 national representatives and experts from civil society organisations, from 14 States.**



# Goals

*Reflection on the domestic and international decision-making process*

Specific questions

- ❑ Determination of the conditions that could trigger Article VII;
- ❑ Determination of the steps one or more State Parties are likely to undertake to trigger Article VII; and
- ❑ Assessment of the circumstances under which the international community might be willing to consider responding to requests under Article VII.

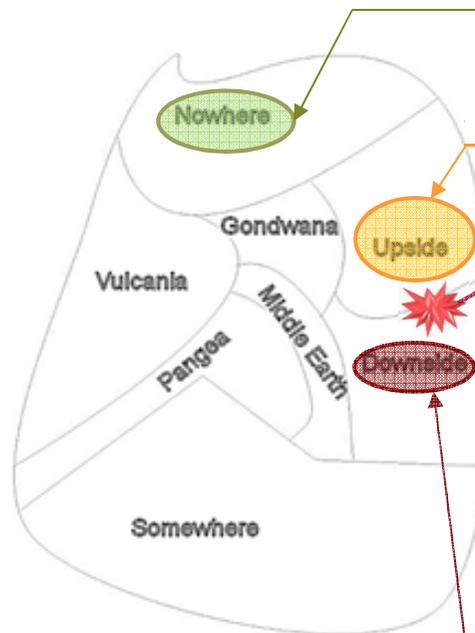
- ❑ What steps or measures need to be identified and implemented ahead of an outbreak?
- ❑ What areas should such preparatory steps or measures cover?
- ❑ What steps or measures would the community of States Parties need to undertake to operationalise Article VII?

# TTX scenario

General setting

Three groups,  
Three breakout  
sessions

Earthland



Neutral BTWC State party prepared to offer emergency assistance

First detection of the outbreak

- *Border tensions and occasional skirmishes in the aftermath of a major war the previous year Weakened public health system in the border region*
- *Lack of communication between health workers across the border*
- *IOs have pulled out or reduced their staff*

Suspicion of deliberate release

Pneumonic plague outbreak (three clusters, genetically modified strain, enhanced antibiotic resistance, no known resurgence for decades)

# Assessing the outbreak

An unusual public health situation, a deliberate release not yet suspected

*Instructions to all groups* : prepare an initial situation assessment based on the information so far available, identifying possible future decision-making requirements and policy/action options. Include an assessment of whether and how to use the BTWC framework in this context.

- Outbreak viewed as a public health crisis at this stage,
- Emphasis on national responsibility for risk assessment, response & assistance (ministries of Health, WHO),
- Use of existing mechanisms, promotion of collaborative approaches,
- Reluctance to invoke Article VII at this stage.

# Developing policy actions - contingencies

Suspicion about the outbreak, but lack of confirmation: deliberate release?

*Instructions* : as an inter-ministerial taskforce, review all data and develop an option paper outlining policy and action items for top governmental decision makers.

- *Upside*: Review options emanating from the BTWC,
- *Downside*: Review options emanating from the BTWC, including with regards to the conduct of an investigations of the alleged BW releases and the possibility of submitting a request for assistance in support of the victims,
- *Nowhere*: Investigate practical options and requirements emanating from a possible request for assistance by Upside.

# Developing policy actions - contingencies

Suspicion about the outbreak, but lack of confirmation: deliberate release?

## *Upside:*

- ❑ Launch a domestic investigation.
- ❑ Invoke Article V to try and hold consultations with neighbouring countries.
- ❑ Invoke Article VII only once diplomatic discussions and the mechanism of Article V have been exhausted,

## *Downside:*

- ❑ Request other Earthland powers to cooperate and facilitate information exchanges.
- ❑ Request an independent investigation to the UNSG.

## *Nowhere:*

- ❑ Would agree to provide assistance, but through other channels than Article VII.
- ❑ Security of health and aid professionals is a key issue.

# Developing policy actions - contingencies

Suspicion about the outbreak, but lack of confirmation: deliberate release?

- ❑ Investigation of the allegations (national / UNSGM),
- ❑ Reluctance to activate Article VII without confirmation of the deliberate nature,
- ❑ Consequences of the delay between the event and the confirmation on the implementation of Article VII,
- ❑ Lack of procedures for triggering Article VII,
- ❑ Activation of Article VII seen as an implicit accusation, with a risk of politicisation and of escalating the situation,
- ❑ Favour providing assistance and facilitating investigation on a multilateral basis.

# Critical decision-making

Request for  
assistance

Content of the  
letter

*Instructions to all groups* : the inter-ministerial taskforce has to focus on issues related to requesting assistance under Article VII, considering both procedural and substantive aspects,

- To whom?
- What would be expected of the recipient?
- What mechanism under the Convention?
- What consequences for the State Party that has sent the request?
  
- Information about the outbreak,
- Types of assistance,
- Statement this would not duplicate public health actions coordinated by WHO, etc.

# Findings and recommendations

## Summary

- Invocation of Article VII may generate many political and legal uncertainties in the absence of clear procedures,
- Initial measures by SP to a disease outbreak are likely to be driven by public health concerns,
- Invoking Article VII should not shift the focus away from the public health emergency and hinder the response,
- While a continuum may exist at technical and procedural level between humanitarian assistance and assistance delivered under Article VII, such a continuum may not be present on a political level,
- It was unclear at what stage of the evolving health emergency Article VII could be invoked
- SP may require an independent confirmation of a violation (evidence and level of proof required?),

# Findings and recommendations

## Summary

- While current debates tend to focus on humanitarian assistance, other types of assistance could be considered,
- Invoking Article complicate the ongoing assistance process,
- Need to explore how Article VII could function in case of a slow-moving outbreak or if the outbreak affects animals or plants,
- Desirability of developing a format for an assistance request under Article VII,
- Need to clarify the relationship between an assistance action under Article VII and other humanitarian assistance actions under other frameworks / legal instruments,
- Organising such a TTX at regional level could yield valuable inputs (specific challenges).

THANK YOU  
FOR YOUR ATTENTION  
[e.nexon@frstrategie.org](mailto:e.nexon@frstrategie.org)

FONDATION  
pour la RECHERCHE  
STRATÉGIQUE



**Tabletop Exercise (TTX)  
on the Implementation of Article VII  
of the Biological and Toxin Weapons Convention (BTWC)**

8-9 November 2016, Palais des Nations, Geneva

## Report

Prepared by

Jean Pascal Zanders, Elieande Nexon and Ralf Trapp

Exercise organised by the *Fondation pour la Recherche Stratégique* (FRS)  
in cooperation with the *United Nations Institute for Disarmament Research* (UNIDIR),  
with funding from France and a grant from the UK Foreign and Commonwealth Office.

6 December 2017, Palais des Nations, Geneva