



6 December 2011

**Civil society preparations for the Seventh BWC Review Conference
("BWPP Online Discussions")**

How do countering bioterrorism and the BWC relate to each other?

Summary of the BWPP online discussion on "How do countering bioterrorism and the BWC relate to each other?" (Gary A. Ackerman, David P. Fidler, Jeremy Littlewood, Animesh Roul), available at <http://www.bwpp.org/revcon-bioterrorism.html>.

Introduction

Although the BWC process has included bioterrorism as an issue, aspects of bioterrorism and the BWC limit the role that the BWC can play in preventing, protecting against, and responding to bioterrorism. However, the BWC still has a constructive part to play as a component of the development and implementation of mutually supportive international strategies addressing bioterrorism. The Seventh BWC Review Conference can take specific steps to advance this constructive role.

Problems with the BWC as a venue for addressing bioterrorism

Despite concern from several major nations and acknowledgment of bioterrorism's importance by the BWC states parties since 2003, the intersessional work programme between 2007 and 2010 did not address bioterrorism in depth. Perhaps explaining this ambivalence is the tendency of analysis on the BWC and bioterrorism to end up in policy cul-de-sacs that question the BWC as an instrument for addressing bioterrorism. Little consensus among states and academic experts exists about the seriousness of the threat of bioterrorism, which creates problems for analyzing the BWC in this context. If the threat is as serious as some claim, then relying on the slow-moving BWC – an instrument not designed to address terrorism of any kind – is not advisable. If the threat is not as serious (as others believe), then highlighting bioterrorism in the BWC at the Seventh Review Conference does not make sense when the Conference has many serious problems it has to address with the BWC's functioning.

However, bioterrorism is not static as a threat. Emerging biotechnologies and their commercialization will facilitate research, development, and production of biological agents through means that involve smaller technical footprints and lower costs. This trajectory will make detecting violations of the BWC more difficult and potentially enable proliferation of weaponization capabilities to terrorist organizations.

Acknowledging that the bioterrorist threat might increase in the future does not, however, resolve controversies about the role of the BWC in this policy arena. Long-standing concerns about state party compliance with the BWC – especially Articles III and IV – raise questions about the prudence of using the BWC as a central instrument against bioterrorism. If compliance with the BWC is generally good and bioterrorism is still a serious threat, then the BWC is not an effective instrument against bioterrorism. If compliance with the BWC is not good (as many believe) and bioterrorism is a pressing problem, then relying on a treaty that states parties do not implement effectively seems misguided as a policy direction.

Calibrating the BWC's role in bioterrorism policy

These problems highlight that the BWC – created to prevent biological weapon proliferation among states – cannot be the linchpin of global bioterrorism policy. The BWC's structure and purpose are ill-designed for addressing bioterrorism, which is why it has not, and will not become, a venue for cutting-edge policy and legal actions against bioterrorism. Serious policy action against this problem will continue to occur in diplomatic venues with more flexibility and experience addressing terrorist threats, including UN Security Council Resolutions 1540 and 1673, INTERPOL initiatives, and the WHO's International Health Regulations (2005).

Within this larger context, the BWC can play a constructive role as one element in an international strategy of layered defenses against bioterrorism. Politically, the Seventh Review Conference cannot ignore bioterrorism as an issue, but, pragmatically, the BWC states parties should recognize the BWC's limited supporting role and adopt calibrated measures to strengthen how the BWC process contributes to countering the threat of bioterrorism.

Recommendations for the Seventh BWC Review Conference

The BWC states parties at the Seventh Review Conference can achieve these objectives through the following strategies:

1. *Improve state party implementation of the BWC*: The best thing the Seventh Review Conference can do to combat bioterrorism is to strengthen the BWC's contributions to non-proliferation of biological weapons by states. This objective is the normative purpose of the Review Conference, with or without bioterrorism as a topic. Effective BWC implementation does not require different mechanisms or approaches to address “state” or “non-state” interest in biological weapons. Improving state party implementation of the BWC, including strengthening cooperation under Articles IV, VI, VII, and X, can produce outcomes that synergistically enhance protection against bioterrorism. However, given the problems confronting the BWC process as a venue for addressing bioterrorism, the bioterrorist threat cannot be the key strategic reason to strengthen state party implementation of the BWC.
2. *Setting standards for national implementation under Article IV*: More specifically, the BWC states parties can contribute to strengthening BWC implementation by establishing standards to guide national implementation of Article IV of the BWC that include the necessary measures recommended to prevent terrorist development and use of biological weapons. The standards could identify best practices for national implementation, drawing on efforts

undertaken in the past few years that have explored and promoted such practices. The standards could also outline what constitutes core steps that every BWC state party should take to implement necessary measures against bioterrorism. The Seventh Review Conference should link standard setting with procedures on reporting back on national, regional, and multilateral activities to support these standards in order to create an ongoing process between 2012 and 2016.

3. *Coordinate BWC efforts on bioterrorism with other multilateral initiatives:* The Seventh Review Conference can enhance how the BWC process supports other bioterrorism initiatives launched by states and intergovernmental organizations. BWC states parties need to make sure that BWC-led efforts on bioterrorism (e.g., improving compliance with Article IV) complement, rather than duplicate or complicate, other multilateral activities against bioterrorism. First, BWC states parties at the Seventh Review Conference could catalogue what the BWC process has done to date with respect to bioterrorism and assess the effectiveness of these efforts, including the level and quality of coordination with other bioterrorism initiatives. Second, BWC states parties can agree to report periodically to the UN Secretary-General on BWC-based efforts to address bioterrorism, their concerns about the bioterrorist threat, and their requests for UN or other multilateral consideration or action on bioterrorism problems. These reports could evaluate BWC interactions with other efforts on bioterrorism. BWC states parties could agree to adopt reports at review conferences and at the half-way point between conferences. For the report issued between review conferences, BWC states parties could establish a BWC Bioterrorism Commission of representatives from governments and non-governmental organizations to develop the report for the Secretary-General. This approach identifies bioterrorism as relevant to the BWC's purpose but keeps the BWC's role in perspective. The reports could serve as a mechanism for keeping tabs on interactions among the many efforts focusing on bioterrorism and make BWC deliberations on bioterrorism more timely and relevant for these other efforts.
4. *Leverage the BWC process to promote biosecurity education in the life sciences:* Most experts maintain that, for the foreseeable future, we should be less concerned with terrorists becoming scientists than scientists becoming terrorists. The BWC process can reinforce the need for biosecurity education in the life sciences and contribute to development and dissemination of a strategy or framework for this purpose. States parties can reaffirm the importance of implementing such education at the national level, and facilitate the multilateral synchronization of resources and best practices in this area.
5. *Responses to a bioterrorist attack:* Although predicting what a future bioterrorist attack might involve is difficult, the need for effective national and international responses to such an event will be critical in order to address the immediate damage from the attack and to prevent overreaction by countries that could exacerbate the adverse political and economic consequences. The Seventh Review Conference can facilitate the development of response mechanisms before a crisis happens by strengthening implementation of Articles VI (investigations), VII (assistance), and X (international cooperation) of the BWC. In particular, designing the framework for a BWC investigation procedure would advance a key purpose of the BWC that would support effective investigations of and responses to bioterrorist events that might occur, especially in BWC states parties with weak capabilities to investigate and respond to such events in their territories.

By recognizing the BWC's limited, supporting role in global efforts against bioterrorism, BWC states parties can make the Seventh Review Conference an opportunity to contribute to prevention of, protection against, and responses to bioterrorism by strengthening BWC implementation and integrating and coordinating these efforts with other multilateral strategies designed to counter the threat of bioterrorism.