

# THE BIOLOGICAL AND TOXIN WEAPONS CONVENTION

## Lecture No. 7

# 1. Outline

- The BW Proliferation Regime
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- The 1925 Geneva Protocol
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- The Biological and Toxin Weapons Convention (BTWC)
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- The current situation
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# 2. The BW Prohibition Regime

- The 1925 Geneva Protocol
  - Bans the use of BW (Biological Weapons)
- The BTWC
  - Adds further bans e.g. on development of BW
- The Chemical Weapons Convention
  - Also covers toxins
- The ‘Web of Prevention’
  - Adds other related laws and regulations

# 3. The 1925 Geneva Protocol

- Negotiated following use of CW in WWI
  - Polish delegation argued BW just as dangerous and easy to obtain so ban should be extended to BW
- Almost universal adherence and removal of reservations now reinforces ban on use
  - Protocol builds on earlier agreements, but by present standards is a very simple international agreement

# 4. The BTWC

- The Convention
  - Negotiated in the late 1960s/early 1970s
  - Now moving towards universal adherence
- Structure of the Convention
  - Preamble sets out aims of negotiators
  - 15 Articles set out legal agreement
- Five-Year Review Conferences
  - Allow for evolution of the Convention

# 5. BTWC Obligations (i)

- Article I
  - “Each State Party to this Convention undertakes never in any circumstances to develop, produce, stockpile, or otherwise acquire or retain:
    - 1. Microbial or other biological agents, or toxins whatever their origin or method of production, of types and in quantities that have no justification for prophylactic, protective or other peaceful purposes;”

# 6. BTWC Obligations (ii)

- Article II
  - To destroy any biological or toxin weapons or divert them to peaceful purposes within 9 months
- Article III
  - Not to transfer biological or toxin weapons to any recipient, and not to assist, encourage or induce anyone to acquire them
- Article IV
  - To take any necessary measures to give domestic legal effect, within each state party, to its international obligations under the Convention

# 7. BTWC Obligations (iii)

- Article V
  - To consult and cooperate in solving any problems that may arise including the use of international procedures within the framework of the United Nations
- Article VI
  - To cooperate with the UN Security Council in any investigation it may initiate if it receives a complaint from one state party that another state party is in breach of its obligations



# 8. BTWC Obligations (iv)

- Article IX
  - To continue negotiations in good faith in order to reach agreement on a chemical weapons disarmament treaty
- Article X
  - To pursue international cooperation in the peaceful uses of microbiology for the prevention of disease and other peaceful purposes; and to implement the BTWC in such a way as to avoid hampering the economic and technological development of states parties or international cooperation

# 9. Understanding the BTWC

- The BTWC can be considered to consist of several 'regimes'
  - Regime of Compliance
  - Regime of Development
  - Regime of Permanence/Institutionalisation
  - Regime of Research
- These regimes have developed unevenly, and, in particular, the regime of research requires much further elaboration

# 10. Compliance (i)

- Compliance and verification are separate concepts
  - The central disarmament obligations are set out in Articles I,II and III
  - Articles IV,V, VI and VII provide substitutes for effective verification
- As the original verification system is inadequate other means have been added
  - Confidence-Building Measures (CBMs) agreed in 1986 and improved in 1991
  - VEREX and the *Ad Hoc* Group negotiations throughout most of the 1990s that failed to produce a Verification Protocol in 2001

# 11. Compliance (ii)

- Confidence-Building Measures
  - Agreed first in 1986 Second Review Conference and defined in 1987
- Required Annual Declarations of
  - Exchange of data on research centres and laboratories that meet very high biosafety standards
  - Exchange of information on all outbreaks of infectious diseases or similar occurrences by toxins that seem to deviate from normal patterns
  - Encouragement of publication of results of biological research directly related to the Convention in generally available scientific journals
  - Active promotion of contacts between scientists engaged in biological research directly related to the Convention, including exchanges for joint research on a mutually agreed basis

# 12. Compliance (iii)

- Improvements to the CBMs in 1991
  - CBMs were developed and reorganised into a new set of seven labelled A to G
  - For example
    - CBM 'A' changed the declaration of high containment facilities to a declaration of national defence activities
    - A new CBM 'E' required declaration of legislation, regulations and other measures implementing the BTWC under Article IV
- Unfortunately CBM returns have been unsatisfactory in number and often in quality
- However, some States are now putting their returns openly on the web so that civil society can examine them

# 13. Development

- Article X has a promotional obligation
  - “The States Parties to this Convention undertake to facilitate, and have the right to participate in, the fullest possible exchange of equipment, materials and scientific and technological information for the use of bacteriological (biological) agents and toxins for peaceful purposes...”
- Article X also has a regulatory obligation
  - “The Convention shall be implemented in a manner designed to avoid hampering the economic or technological development of States Parties...or international cooperation in the field of peaceful bacteriological (biological) activities...”
- This article has been subject to little development or activity

# 14. Permanence/Institutionalisation

## (i)

- Article XII states
  - “Five years after the entry into force of this Convention...a conference of States Parties...shall be held at Geneva, Switzerland, to review the operation of the Convention, with a view to assuring that the purposes of the preamble and the provisions of the Convention, including the provisions concerning negotiations on chemical weapons, are being realised...”
- The Article continues
  - “...Such review shall take into account any new scientific and technological developments relevant to the Convention.”

# 15. Permanence/Institutionalisation

## (ii)

- BTWC entered into force in 1975
- First Review Conference held in 1980
- Second Review Conference held in 1986
  - Mandated first CBMs
  - These were defined in 1987
- Third Review Conference held in 1991
  - Mandated development of CBMs
  - Mandated VEREX analysis of scientific and technological aspects of verification



# 16. Permanence/ Institutionalisation (iii)

- Special Conference of 1994
  - Received results of VEREX and mandated *Ad Hoc* Group negotiation of a Verification Protocol
- Fourth Review Conference of 1996
  - Encouraged completion of the *Ad Hoc* Group's work
- Fifth Review Conference of 2001-2002
  - Instituted new Inter-Sessional Process (ISP)
- Sixth Review Conference of 2006
  - Agreed new phase of ISP meetings
  - Agreed small Implementation Support Unit (ISU)

# 17. Research (i)

- Research is not mentioned in the text of Article I of the BTWC
- Yet the 1991 Review Conference demonstrated that research can be of concern
  - “The Conference notes that experimentation involving open-air release of pathogens or toxins harmful to man, animals or plants that has no justification for prophylactic, protective or other peaceful purposes is inconsistent with the undertakings contained in Article I.”
- But it may not be easy to determine when research crosses the line into prohibited activity

# 18. Research (ii)

- The 2006 Sixth Review Conference reaffirmed the comprehensive nature of the prohibition
  - “The Conference reaffirms the importance of Article I, as it defines the scope of the Convention. The Conference declares that the Convention is comprehensive in its scope and that all naturally or artificially created microbial and other biological agents and toxins, regardless of their origin and method of production and whether they affect humans, animals or plants, of types and in quantities that have no justification for prophylactic, protective or other peaceful purposes, are unequivocally covered by Article I.”

# 19. The First ISP (i)

- Topics for meetings in 2003-2005
  - “i. the adoption of necessary national measures to implement the prohibitions set for the in the Convention, including the enactment of penal legislation;
  - ii. National measures 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;

# 20. The First ISP (ii)

- Topics for 2003 – 2005 continued
  - “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.”

# Sample Questions

- 1. Briefly outline the major elements of the BW Prohibition Regime. What are the major deficiencies that need to be corrected?**
- 2. Sims has suggested that the Biological and Toxin Weapons Convention has four 'regimes' or dimensions. What are these four dimensions and which Articles of the Convention related to each dimension in particular?**
- 3. To what extent do the Biological and Toxin Weapons Convention deal with the problem of bioterrorism?**
- 4. How is the new Inter-Sessional Process different from the Ad Hoc Group negotiations in the 1990s? Do you think the new process has been success?**

# References

(Slide2)

**International Committee of the Red Cross. *Responsibilities of actors in the life sciences to prevent hostile use* [Online]. 20 January 2004 [Cited 15 September 2008]. Available from: <http://www.icrc.org/web/eng/siteeng0.nsf/iwpList515/7358E6A439390A02C1256E21004E1195>**

(Slide3)

***Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare (Geneva Protocol)* Geneva, 17 June 1925 Reproduced in International Humanitarian Law Treaties and Documents ICRC. [Online]. [Last updated 2005]. Available: <http://www.icrc.org/ihl.nsf/52d68d14de6160e0c12563da005fdb1b/626de49e3227d36dc125641e003a172a>**

**(Slide4)**

**The Biological and Toxin Weapons Convention Website.**  
***Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction*** [online]. Undated [cited 15 September 2008]. Available from:  
**<http://www.opbw.org/convention/conv.html>**

**Bradford Project on Strengthening the Biological and Toxin Weapons Convention (BTWC), *Video Background Briefings*** [Online] BDRC [Cited 15 June 2009]. Available from  
**<http://www.brad.ac.uk/acad/sbtwc/other/video/Sims2A.wvx>**

**(Slide5)**

**Sims, Nicholas (2001) *The Evolution of Biological Disarmament*** (SIPRI Chemical & Biological Warfare Studies No. 19). Oxford: Oxford University Press.

**Bradford Project on Strengthening the Biological and Toxin Weapons Convention (BTWC), *Video Background Briefings*** [Online] BDRC [Cited 15 June 2009]. Available from  
**<http://www.brad.ac.uk/acad/sbtwc/other/video/btwc6.ram>**



(Slide6)

Japan (2006) Sixth Review Conference of the Parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction. *Review of National Implementation of the Biological and Toxin Weapons Convention*, BWC/CONF.VI/WP.17 [Online]. 15 November [Cited 15 September 2008]. Available from: <http://www.opbw.org/>

(Slide7)

Pearson, G. S (2005) Article IV: Lodging of Complaints with and Their Investigation by the Security Council. *Key Points of the Fifth Review Conference*. Bradford: University of Bradford [online] November [cited 15 September 2008]. Available from: <http://www.brad.ac.uk/acad/sbtwc/key5rev/contents.htm>

**(Slide8)**

**Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (Chemical Weapons Convention). Reproduced in the Organization for the Prohibition of the Chemical Weapons Convention, Available at <http://www.opcw.org/chemical-weapons-convention/>**

**(Slide9)**

**Revill, J., and Dando, M. R (2008) Life scientists and the need for a culture of responsibility: after education ... what?. *Science and Public Policy*, February 35(1), 29-35. Available from <http://www.ingentaconnect.com/content/beechn/spp;jsessionid=5bl1glilpuae.alice>**

**(Slide10)**

**Sims, A. N (2007) The Future of Biological Disarmament: New Hope after the Sixth Review Conference of the Biological Weapons Convention. *Non Proliferation Review*, 1 July 14(2), 351-372. Available from <http://cns.miis.edu/npr/142toc.htm>**

**(Slide12)**

**Littlewood, J (2008) *Confidence-building measures and the Biological Weapons Convention: where to from here?* (Compliance Chronicles. No. 6). Ottawa: The Canadian Centre for Treaty Compliance. Available from <http://www.carleton.ca/cctc/docs/CC6.pdf>**

**(Slide 13)**

**Pearson, G. S (2006) Article X: Exchange of Equipment, Materials and Scientific and Technological Information: International Cooperation and Development, *Key Points of the Sixth Review Conference*. Bradford: University of Bradford [Online] BDRC [Cited 15 September 2008]. Available from: <http://www.brad.ac.uk/acad/sbtwc/key6rev/contents.htm>**

**(Slide14)**

**United Nations (2006) Sixth Review Conference of the Parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction. *Final Declaration*, BWC/CONF.VI/6 [Online]. 8 December [Cited 15 September 2008]. Available from: <http://www.opbw.org/>**

**(Slide15)**

**United Nations (1991) Third Review Conference of the Parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction. *Final Declaration*, BWC/CONF.III/23 [Online]. 27 September [Cited 15 September 2008]. Available from: <http://www.opbw.org/>**

**(Slide16)**

**United Nations (2000) Ad Hoc Group of the Parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction. *FOC Marked Text*, BWC/AD HOC GROUP/50 (Part I) [Online] BDRC [Cited 15 September 2008]. Available from: <http://www.brad.ac.uk/acad/sbtwc/ahq50/ahq50.htm>**

**(Slide17)**

**Tucker, J. B (2004) Biological Threat Assessment: Is the Cure Worse Than the Disease?. *Arms Control Today*, [online] October [cited 15 September 2008]. Available from: [http://www.armscontrol.org/act/2004\\_10/Tucker](http://www.armscontrol.org/act/2004_10/Tucker)**

**(Slide 18)**

**United Nations (2006) Sixth Review Conference of the Parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction. *Final Declaration*, BWC/CONF.VI/6 [Online]. 8 December [Cited 15 September 2008]. Available from: <http://www.opbw.org/>**

**(Slide19)**

**United Nations (2003) States Parties of the Parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction. *Report of the Meeting of States Parties*, BWC/MSP/2003/4 (Vol. I) [Online] 26 November [Cited 15 September 2008]. Available from: <http://www.opbw.org/>**

**(Slide 20)**

**United Nations (2005) States Parties of the Parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction. *Report of the Meeting of States Parties*, BWC/MSP/2005/3 [Online] 14 December [Cited 15 September 2008]. Available from: <http://www.opbw.org/>**