



BUILDING A GLOBAL BAN:

Why States Have Not Joined the BWC



BioWeapons Prevention Project

April 2009

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PREFACE

From February 2006 until April 2008, the BioWeapons Prevention Project (BWPP) was entrusted with the implementation of the first EU Joint Action in support of the Biological and Toxin Weapons Convention (BTWC) - the first systematic undertaking intended, amongst other things, to promote the universalization of the Biological Weapons Convention (BWC).

During this time, BWPP staff cultivated and sustained relationships with government officials from states not yet party to the BWC all over the world and became their de facto first point of contact for BWC related information. Through our interactions with these officials, it became clear that States in the main were interested in learning more about the BWC but lacked even basic knowledge of the Convention - for some States, it was the first time that they had heard of its existence. It also became evident that States needed further information about the Convention and various assistance requirements, such as raising awareness within their governments of the Convention. Furthermore, States Parties were not meeting the needs of these States and much could be done to encourage and help States to join if only the non-States parties had a vehicle through which to voice their needs and request assistance.

With this in mind, and in order to assist those States to become full members of the Convention, as well as to clarify areas where States parties could actively and effectively contribute to this process, the BWPP began to collate and disseminate information from non-States parties and strove to provide a forum whereby these States could speak directly to States parties regarding their perspectives on the BWC and their assistance requirements. This publication, made possible by the generous support of the Foreign and Commonwealth Office (FCO) of the Government of the United Kingdom (UK), is the culmination of this research. It hopes to provide both a voice for non-States parties and a useful spring board for developing a sustainable universalization strategy for the BWC.

The articles written directly by government officials and other experts from non-States parties have been faithfully reproduced in their original state, with additional French to English translation where necessary. Where no information has been forthcoming, or where articles were not received on time, BWPP staff have collated country reports from information gleaned through its questionnaires, interviews, reports and open source documentation to provide as much information as possible to assist in the development of a comprehensive universalization strategy. In this regard, any and all errors remain the responsibility of the authors of this report. Regional overviews have been provided where possible and an overall analysis of the research has been produced. Appended to this report are Annexes written specifically with non-States parties in mind in order to provide them with key information concerning the Convention.

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ACRONYMS & ABBREVIATIONS

ACP	African, Caribbean and Pacific Group of States
AfDB	African Development Bank
ANWFZ	African Nuclear Weapons Free Zone Treaty (Treaty of Pelindaba)
AU/UA	African Union / Union Africaine
BWC/CIAB	Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction (Biological Weapons Convention)/ Convention sur l'interdiction de la mise au point, de la fabrication et du stockage des armes bactériologiques (biologiques) ou à toxines et sur leur destruction
Caricom	Caribbean Community
CBD	Convention on Biological Diversity
CPPNM	Convention on the Physical Protection of Nuclear Material
CPSP / CPLP	Community of Portuguese-Speaking Countries / Comunidade dos Países de Língua Portuguesa
CTBT	Comprehensive Nuclear Test Ban Treaty
CTBTO	Comprehensive Nuclear Test Ban Treaty Organization
CWC / CIAC	Chemical Weapons Convention / Convention sur l'interdiction des Armes Chimiques
DDA / ODA	United Nations Department for Disarmament Affairs / United Nations for Disarmament Affairs
ECOWAS/CEDEAO	Economic Community Of West African States/ Communauté économique des États de l'Afrique de l'Ouest
EU / UE	European Union /Union Européene
FAO	Food and Agriculture Organization
G-77	The Group of 77 (United Nations)
IAEA	International Atomic Energy Agency
ISU	Implementation Support Unit (of the Biological Weapons Convention)
LAS	League of Arab States
LDC	Least Developed Countries
LLDC	Landlocked Least Developed Country
NPT	Nuclear Non-Proliferation Treaty
OAS	Organization of American States
OIC	Organization of the Islamic Conference
OPCW/OIAC	Organization for the Prohibition of Chemical Weapons/Organisation pour l'interdiction des Armes Chimiques
PAHO / OPS	Pan American Health Organization / Organización Panamericana de la Salud
SIDS	Small Island Developing State
UNSC 1540	United Nations Security Council resolution No.1540
WHO / OMS	World Health Organization / Organisation mondiale de la santé
WMD / ADM	Weapons of Mass Destruction / Armes de destruction massive



PART 1: THE GLOBAL CONTEXT

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THE CURRENT STATUS OF THE BWC

Daniel Feakes

Over 30 years since its entry into force, the membership of the 1972 Biological Weapons Convention (BWC) stands at 163¹. While this is a clear majority of the countries of the world, the BWC is lagging behind its closest counterpart, the 1993 Chemical Weapons Convention (CWC) with its 186 states parties. The fact that membership of the BWC has only recently doubled since the original call for universal adherence at its First Review Conference in 1980 suggests that more effort needs to be expended in order to achieve the universalization of this crucial treaty.

The issue of universal membership for all weapons of mass destruction (WMD) treaties has increased in salience in recent years. Some treaties have adopted new approaches and reaped the benefits. The BWC which has, for most of its life, lacked any mechanism to conduct a sustained universalization campaign, has been unable to do so. The Sixth BWC Review Conference in 2006 adopted a number of measures designed improve upon this situation. These measures have had some success with membership increasing from 155 at the time of the Review Conference to 163 in early 2009. But progress has been slow, reflecting the longstanding low level of awareness of the BWC.

The Current Situation

The BWC entered into force on 26 March 1975 and by the end of that year had 64 states parties. Achieving universalization has been a long-stated aim of states parties and a concern of BWC review conferences since 1980, when the Final Declaration of the First Review Conference included the following: "The Conference notes with satisfaction that 81 States have ratified the Convention, 6 States have acceded to the Convention and a further 37 States have signed but have yet to ratify the Convention. The Conference calls upon all signatory States which have not ratified the Convention to do so without delay and upon those States which have not signed the Convention to join the States Parties thereto in the efforts to eliminate the risk of biological warfare." Similar exhortations to signatory and non-signatory states were included in all subsequent final declarations of the five-yearly review conferences. It has taken 30 years for membership to reach 163 (see annexed status list).

The BWC currently has 13 states which have signed but not ratified it (Burundi, Central African Republic, Côte d'Ivoire, Egypt, Guyana, Haiti, Liberia, Malawi, Myanmar, Nepal, Somalia, Syria and Tanzania) and 19 states that have neither signed nor ratified it (Andorra, Angola, Cameroon, Chad, Comoros, Djibouti, Eritrea, Guinea, Israel, Kiribati, Marshall Islands, Mauritania, Micronesia, Mozambique, Namibia, Nauru, Niue, Samoa and Tuvalu).² For many of these states, the BWC is low down on their list of priorities as issues such as HIV/AIDS, desertification and drought, poverty, and debt take precedence. Given time and continued awareness-raising and assistance from existing BWC states parties, many such states can be expected to join. Experience from the CWC suggests that it will be much more challenging to persuade countries such as Egypt, Israel and Syria to join.³ The Middle East will likely be the most serious obstacle to achieving BWC universalization. The BWC's prohibitions should be extended to the region, however, given that Egypt, Israel, and Syria are all suspected of possessing biological weapons which, combined with the existing tensions in the region, means that the area could witness the use of such weapons.

The Sixth BWC Review Conference

The Sixth BWC Review Conference convened from 20 November until 8 December 2006 in Geneva. Some work on BWC universalization had taken place prior to the Conference. In 2003, the European Union (EU) adopted a Common Position, stating that it will "make specific efforts to convince States which have not yet adhered to or ratified the [BWC] to do so without delay". A Canadian non-paper in 2005 cited the "lack of universality" as one challenge facing the BWC and states that "States Parties should continue to push for the complete universalization of the [BWC] prior to the Sixth Review Conference."⁴ The Australian Safeguards and Non-Proliferation Office envisaged "agreement on practical strategies for universalisation of the Convention" in 2006.⁵

In February 2006, the EU adopted a Joint Action on the BWC, which stated that the Sixth Review Conference “will be a good opportunity to agree on specific, practical and realistic measures to strengthen both the [BWC] and compliance with it.”⁶ The Joint Action provided over €500,000 to organize events promoting BWC universalization, including three preparatory meetings in Brussels, Geneva and New York in 2006 and five major regional seminars over the following two years: Southern and Eastern Africa in Nairobi in June 2006; Asia and the Pacific Islands in Bangkok in November 2006; Latin America and the Caribbean in Costa Rica in January 2007; West and Central Africa in Dakar in April 2007; and the Middle East in Rome in April 2008. Each seminar was targeted at representatives of non-states parties and was designed to raise their awareness of the BWC. These seminars were the first significant coordinated outreach activities undertaken during the life of the BWC, and they provided a good complement to the activities agreed at the Sixth Review Conference in late 2006. The Joint Action was implemented by the BioWeapons Prevention Project (BWPP), a Geneva-based NGO which has thereby developed extensive contacts within states not party to the BWC.

Acknowledging that the traditional approach to BWC universalization had resulted in only modest progress since 1975, in the months prior to the Conference a number of states parties circulated proposals for new initiatives.⁷ Four common themes emerged from these proposals: the adoption by the Review Conference of a universalization “action plan” or “strategy”; the designation of “focal points” within states parties; reporting on universalization activities to the annual Meetings of States Parties; and an intensification of bilateral and regional contacts by states parties vis-a-vis non-states parties. As the Review Conference began, there was therefore a large area of common ground among delegations on the issue of universalization, with a wide acceptance that more needed to be done in order for the BWC to “catch up” with its counterpart treaties.

This was reflected in the Conference’s final document, which included elements of all of these proposals. Although the Conference did not adopt a stand-alone universalization “action plan” as many had hoped, most of the elements proposed for inclusion in such a plan were included in the document’s “decisions and recommendations” section. Under the heading of “promotion of universalization”, the Conference acknowledged that “membership of the Convention falls behind other major multilateral arms control, disarmament and non-proliferation treaties” and therefore agreed that a “concerted effort” was required to improve the situation.⁸

As envisaged in the earlier proposals, states parties were required to designate “national points of contact”, to report on activities to the annual Meetings of States Parties and to intensify bilateral and regional efforts. In addition, the Conference endowed the Chairs of the annual meetings with responsibility for coordinating universalization activities and addressing non-states parties, and it mandated the newly-established Implementation Support Unit (ISU) to support the Chairs’ activities, to maintain a list of the “national points of contact”, and to compile information on progress made by non-states parties towards joining.

These measures are a great improvement upon the sporadic and uncoordinated activities that took place prior to the Sixth Review Conference. The BWC now has a figurehead, albeit annually changing, who can act as an interlocutor with non-states parties and raise the profile of the BWC at international and regional meetings, and a permanently staffed unit (at least until 2011) that can facilitate contacts and follow up activities initiated by states parties. The effectiveness of these measures can be demonstrated by the fact that eight states have joined the BWC since 2006.

Activities Since the Sixth Review Conference

As mandated by the Sixth Review Conference, the Chairs of the annual meetings in 2007 and 2008 have taken a central role in promoting BWC universalization upon which they both issued detailed reports. They have also been able to take advantage of the regional seminars organized under the aforementioned EU Joint Action with seminars for Latin America and the Caribbean in January 2007, for West and Central Africa in Dakar in April 2007, and for the Middle East in Rome in April 2008.

In 2007, Ambassador Masood Khan, acting in his role as Chair of the 2007 BWC meetings, reported on his efforts to reach out to non-states parties including letters to the foreign ministers of such states and meetings with their representatives in New York during the annual session of the

United Nations General Assembly. In November 2007, staff members of the ISU attended the annual meeting of CWC National Authorities in The Hague to meet with representatives of National Authorities from the then 29 states which were party to the CWC but not to the BWC. In his report to the Meeting of States Parties in December 2007, Ambassador Khan identified five states in which the accession or ratification process was “well advanced” and eight states in which it had started. However, with regard to a further 23 states the report noted that 12 were awaiting further information or assistance, three were not expected to take any action in the near future and eight had not provided any information or feedback. A number of states had also participated in the various EU regional seminars.

The Chair of the 2008 meetings, Ambassador Georgi Avramchev, submitted a similarly detailed report to the Meeting of States Parties in December 2008. The report described similar meetings in New York and Geneva in addition to ISU participation in a meeting in Malawi and the organization of a seminar in Geneva in June 2008 for French-speaking states not party. Following on from the 2007 contacts with CWC National Authorities in The Hague, in November 2008 Ambassador Avramchev wrote to the then 25 states which were party to the CWC but not to the BWC. In June 2008, BWPP and two local NGOs organized a seminar in a state not party, Malawi, designed to raise awareness about the BWC among parliamentarians, policymakers, different branches of government and other domestic stakeholders. The seminar was attended by representatives of neighbouring states and a staff member of the ISU. The Malawian Permanent Representative to the UN later told Ambassador Avramchev in New York “how helpful the in-country meeting had been in persuading officials that Malawi should ratify the Convention and motivating them to move forward.”⁹

In November 2008, the EU adopted a second Joint Action in support of the BWC which again had promoting the universalization of the BWC as one of its objectives. Under this new Joint Action, the universalization project is to be more targeted, involving country-specific or sub-regional legal assistance, assistance with domestic awareness-raising and implementation issues, and funding for travel to participate in BWC meetings or for visits to the relevant authorities in EU member states. The Joint Action states: “This project will enable partnerships between the EU Member States and beneficiary countries to ensure continuity of the EU’s universalisation efforts and to offer a permanent point of reference for the beneficiary countries throughout the process of ratification of or accession to the BTWC.”¹⁰

The Chair of the 2009 meetings, Ambassador Marius Grinius of Canada, informed states parties in February 2009 of his intention to lead an “active, organised and focused effort on universalization” requesting states parties to make direct contacts with politicians and officials in states not party in their regions.¹¹ Ambassador Grinius provided more detail in an earlier letter for states parties: “While outreach from Geneva has its role, I am convinced that the message “JOIN THE BTWC” resonates much more powerfully when it comes from one or more neighbouring countries, which are best placed to explain both the process and benefits of ratification or accession to the Convention in the regional context.”¹²

Possible Additional Activities

Joint missions/workshops

While activities undertaken solely within the BWC are an improvement on the previous situation, it might be more effective to convene joint missions with other international organizations. Experience from the OPCW could be instructive here. In its background paper to the First CWC Review Conference, the Technical Secretariat stated that efforts towards universality could benefit from “cooperation with other international organizations and agencies, in particular the UN, and the synchronisation of activities of common interest in order to create a synergy of purpose.”¹³ While it has previously been argued that international organizations guard their turf jealously, perhaps recent cross-WMD initiatives such as UN Security Council resolution 1540 and the EU Strategy Against the Proliferation of WMD are breaking down such attitudes.

In August 2004, for example, the OPCW conducted a bilateral visit to Myanmar/Burma in conjunction with the UN Department for Disarmament Affairs (DDA) (now the Office for Disarmament Affairs (ODA)), the International Atomic Energy Agency (IAEA) and the Comprehensive Nuclear Test Ban Treaty Organization (CTBTO). Perhaps the BWC Chairmen or ISU staff members could take part in future joint missions involving states not party to the BWC. The annexed status list illustrates just

how many signatory and non-signatory states are shared between the Geneva Protocol, the BWC and the Chemical Weapons Convention (CWC). Frequently, states ratify a number of related treaties at the same time. For example, when ratifying the CWC, states might also ratify the CTBT. However, a number of reasons (different depositaries, age of the treaty, ignorance of the treaty, lack of pressure to ratify and so on) mean that the BWC often gets forgotten in these decisions. For example, three states joined the CWC (Djibouti, Haiti and Liberia), all of which are only signatories to the BWC. If these states could have been made aware of the BWC at the same time as they were urged to ratify the CWC, the BWC might well have picked up three new states parties for the expenditure of relatively little effort, as well as saving time and resources within those countries approached.

The concept might also be worth broadening beyond coordinating bilateral visits; for example many of the participants in an OPCW workshop might also be responsible for the BWC within their own countries. Why not take advantage of their being in one place to also discuss the BWC?¹⁴ While this would not be able to be formally done under the OPCW's name or funding, it might be possible to think of organising an extra day, which could either be organized and paid for by the host country or a different body, such as the EU. With its Joint Actions on the CWC and BWC, the EU is now funding workshops for both treaties. Perhaps the most effective use of limited funds might be to organize back-to-back meetings.

Such an approach might be extended further to include the Geneva Protocol, which lags behind even the BWC in terms of membership. Many states have implicitly accepted the Geneva Protocol by joining the BWC and CWC, but they should be encouraged to make their commitment explicit. Meanwhile, existing states parties need to be encouraged to withdraw their reservations. In many countries, the same officials are responsible for all 'WMD' treaties, so a joined-up approach would be both logical and cost-effective.

Voluntary Trust Fund

Any initiatives beyond the merely rhetorical are likely to cost money. The travel costs associated with a coordinated and sustained universalization campaign might be picked up by those states parties involved. However, the model of a trust fund financed by voluntary contributions has a lot to recommend it. Such voluntary funding does not depend on the finite resources of the UN and avoids the problems and administrative burden that could arise if all states parties were required to contribute. It is clear from the OPCW that states are willing to contribute financially to universalization activities, particularly in their own regions. The EU has provided significant funding under its two Joint Actions since 2006. The 2008 Joint Action is to be implemented by the ISU and other states parties should be encouraged to also contribute funds for universalization activities to the ISU since the EU cannot target all of the current states not party.

Collaboration with civil society

The involvement of civil society should also be considered, particularly with respect to individual states parties or regional organizations. While 'top-down' interventions from foreign states or international organizations can frequently produce results they can also be sporadic and rapidly forgotten. In contrast, if local civil society can be recruited and enabled to campaign for BWC membership through their media, parliament etc they can conduct a more sustained campaign and such nationally-run 'bottom-up' approaches might be better received by government officials than démarches from abroad. In addition, local groups often have better contacts within governments and are likely to understand the national political and legal processes better.

Ideally, a combined approach should be adopted, in which 'top-down' and 'bottom-up' interventions are coordinated. However, it can be problematic for states to be seen to be 'stirring up' NGOs in other states, so this will need to be finessed. Such approaches might be made by the BWC Chairs or, alternatively, the EU might be able to provide some coordination and support along the lines of its 2004 action plan on the International Criminal Court (ICC).¹⁵ The ICC action plan states that the EU has been involved in funding awareness-raising campaigns led by NGOs, calls for the development of country or region-specific strategies, and establishes an EU focal point on the ICC.

Even without coordination with states, civil society itself should adopt more innovative approaches to encouraging BWC universalization. For example, the Coalition for an International Criminal Court (CICC) runs a universal ratification campaign in which it focuses on one state not party

to the Rome Statute every month. The CICC's website gives information on the particular country, provides addresses for its leader, foreign minister and justice minister, and gives a form letter for individuals to send. A similar campaign targeted at states not party to the BWC could be a relatively cost-effective way of putting pressure on such states to join the BWC.

Conclusion

It would be useful to further strengthen the link between BWC universalization and national implementation of the treaty. Many new member states find that they need advice and assistance to implement the treaty nationally while others draft their national implementing legislation prior to joining and therefore require assistance with ratification, accession, and national implementation before joining. There are also clear overlaps with UN Security Council resolution 1540, which requires all states to implement a variety of domestic measures to prevent non-state actors from acquiring weapons of mass destruction, their means of delivery, and related materials. Collaboration between the BWC and the 1540 Committee should therefore be stepped up. It is important to remember that "universality comprises more than just numbers of states parties."¹⁶ Getting a state to join the BWC is only the start of a long-term process. Adherence counts for little if states then do not follow through on their obligation to effectively implement the treaty domestically. Even in a world of universal BWC membership, the threat of safe havens will remain unless all states enact implementing legislation. So, although BWC universalization would be a significant step, even if that goal is achieved, much work will remain to be done.

For the past 30 years, the BWC has lacked a constant champion able to devote sustained and high-level energy to encouraging universalization. The depositaries have done their bit, but the way in which the treaty has been overtaken, particularly by the CWC, illustrates that much more needs to be done. The measures adopted by the Sixth Review Conference have been successful, alongside the activities of the EU. The empowerment of the Chairs of the annual meetings to coordinate universalization activities has increased the visibility of the BWC regionally and internationally. The effectiveness (and cost-effectiveness) of such measures would be increased if they could be undertaken in synergy with other organizations such as the UN, the IAEA and the OPCW. Finally, it should be stressed that the Convention does not just belong to its states parties and that civil society must actively support and be engaged in efforts to accelerate and achieve BWC universalization.

¹ According to official BWC figures. Available at www.unog.ch/bwc

² List compiled according to official BWC figures available at www.unog.ch/bwc/ However, this report also discusses the possibility that these figures are inaccurate. See the country reports for Dominica, Kiribati, Tuvalu and Vanuatu for more information.

³ Daniel Feakes, "Getting Down to the Hard Cases: Prospects for CWC Universality", *Arms Control Today*, (March 2008).

European Union, 'Council Common Position 2003/805/CFSP of 17 November 2003 on the universalisation and reinforcement of multilateral agreements in the field of non-proliferation of weapons of mass destruction and means of delivery', *Official Journal of the European Union*, L302/34, November 20, 2003.

⁴ Canada: Canadian Non-Paper: Looking Forward to the 2006 BTWC Review Conference. Undated, 2006.

⁵ Australian Safeguards and Non-Proliferation Office, Annual Report 2004-2005, October 13, 2005, p. 68, on the internet at <http://www.asno.dfat.gov.au/annual_report_0405/ASNO_2005_AR.pdf>

⁶ European Union, 'Council Joint Action 2006/184/CFSP of 27 February 2006 in support of the Biological and Toxin Weapons Convention, in the framework of the EU Strategy against the Proliferation of Weapons of Mass Destruction', *Official Journal of the European Union*, L 65/51, March 7, 2006.

⁷ BWC/CONF.VI/WP.6 Increasing Universal Adherence to the Biological and Toxin Weapons Convention (BTWC), Submitted by Italy on behalf of the European Union; BWC/CONF.VI/WP.9 and Corr.1 Universalization, Submitted by Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Mexico, Peru and Uruguay; BWC/CONF.VI/WP.15 An Action Plan for Realising the Universalisation of the Biological and Toxin Weapons Convention, Submitted by Australia; BWC/CONF.VI/WP.19 Universality of the BWC, Submitted by the Republic of Korea.

⁸ BWC/CONF.VI/6 Final Document of the Conference, 8 December 2006. Available at www.unog.ch/bwc

⁹ "Report of the Chairman on Universalization Activities", BWC/MSP/2008/4, 28 November 2008, p. 6.

¹⁰ European Union, Council Joint Action 2008/858/CFSP of 10 November 2008 in support of the Biological and Toxin Weapons Convention (BTWC) in the framework of the implementation of the EU Strategy against the proliferation of weapons of mass destruction', Official Journal of the European Union, L 302/29, 13 November 2008. Available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:302:0029:0036:EN:PDF>

¹¹ 11 Chairman's Speaking Notes, "Biological Weapons Convention: Regional Group Meetings February 2009", meetings held in Geneva on 26 and 27 February 2009, on the internet at [http://www.unog.ch/80256EDD006B8954/\(httpAssets\)/9623685DDC57BEB1C1257568005960FB/\\$file/Chairman_talking_points_group_meetings_Feb.pdf](http://www.unog.ch/80256EDD006B8954/(httpAssets)/9623685DDC57BEB1C1257568005960FB/$file/Chairman_talking_points_group_meetings_Feb.pdf).

¹² Ambassador Marius Grinius, Letter to BWC States Parties, 6 February 2009, p.2. Available at www.unog.ch/bwc

¹³ OPCW, 'Technical Secretariat: Background Paper on Universal Adherence to the Chemical Weapons Convention', RC-1/S/5, April 25, 2003, <http://www.opcw.org/docs/rc1s05.pdf>

¹⁴ For example, at an OPCW workshop in Addis Ababa in October 2005, six of the countries attending were signatories or non-signatories of the BWC. It is likely that the officials attending would be those responsible for BWC as well as CWC ratification.

¹⁵ EU, 'Action Plan to Follow-Up on the Common Position on the International Criminal Court', February 4, 2004, on the internet at <http://ue.eu.int/uedocs/cmsUpload/ICC48EN.pdf>

¹⁶ www.armscontrol.org/act/2008_03/Feakes.asp#26

INTRODUCTION TO REGIONAL OVERVIEWS

The following section provides general information at the regional level concerning the status and prospects for joining the Biological Weapons Convention (BWC) of states not yet party to the Convention (both signatory and non-signatory states).

These chapters have been commissioned from those most familiar with the regions and provide insights into the particular influences and challenges found in that particular part of the world. Particular focus has been placed here on both sub-Saharan Africa and the Pacific Island regions at these are where the highest concentrations of states currently outside of the BWC regime can be found.

SUB-SAHARAN AFRICA

Chandre Gould & Amelia du Rand

Of the 25 countries in eastern and southern Africa, six still remain outside of the BTWC more than 30 years after its entry into force. Just over half the countries in the region are States Parties, while three countries have signed, but not ratified the Convention. While 15 are States Parties to the BTWC, only 13 are party to 1925 Geneva Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases and of Bacteriological Methods of Warfare. Although two BTWC non-signatory states (Angola and Mozambique) have indicated that they may join the BTWC in the near future, the priority given to the BTWC by the majority of these countries is no more clearly illustrated than by their regular absence from BTWC meetings and negotiations. The notable exception to this is South Africa, which has played an active role in the BTWC for more than ten years.

These facts beg a number of questions that need to be answered to assess whether universalisation of the BTWC is a realisable goal. The most important question to consider is why to date African states have invested so little in the BTWC. We believe that there are a several reasons for this.

The two most obvious reasons are that biological weapons control is simply an issue of so little consequence in terms of national, regional and continental agendas that it receives no attention at all (outside of the requirements to report for the purposes of UNSC 1540). In addition, there is very little obvious incentive for African states to participate actively in the Convention. Unlike several developed western nations, African countries have not identified biological weapons as a real or significant threat to their security either from states or non-state actors. Moreover, although from a normative point of view strengthening one of the two international agreements that codify the ban on biological weapons development by states is a good idea, the facts that the treaty remains unenforceable, and states' declarations of compliance remain unverifiable, provides little motivation to invest in the process of strengthening the agreement for reasons of enhancing national security.

In addition, the BTWC is one of three international agreements relating to the control of weapons of mass destruction that includes also the Nuclear Nonproliferation Treaty (NPT) and the Chemical Weapons Convention. Considering the BTWC alone, without reference to the broader issues around non-proliferation and disarmament would be naive. In this context, there are ample reasons for why African states may regard the BTWC as less than a priority for investment. The oft-lamented imbalance in the NPT between nuclear weapons states and non-nuclear weapons states is no small matter. Nuclear weapons states have both shown little commitment to disarmament, or to understanding and assisting non-nuclear weapons states to meet their energy needs through peaceful nuclear development. African developmental issues have also not been adequately addressed in CWC negotiations and discussions, while implementation of the treaty at national level is resource intensive. Arguably there is clear national advantage to regulating the import and export of listed chemicals and ensuring safety and accountability in chemical production. Yet, even in the case of the CWC there seems little incentive for countries that have no chemical industry to put effort and resources into chemical regulation.

Lip service may from time to time be paid during discussions in Geneva as to how Article X of the BTWC could be used to enhance development agendas in the developing world, but it is clear from the topics for discussion by national experts since 2004 that no action will result in the foreseeable future. Indeed there is little demonstrable commitment from developed countries to finding ways of co-operating with developing countries in enhancing national development as far as the ability to respond to natural or deliberate disease outbreaks is concerned.

It is also impossible to discuss any issue relating to biological weapons prevention without reference to the United States led War on Terror. Through this the global threat has been articulated as being posed by 'rogue' states and non-state actors, and has been responded to through unilateral actions and through the United Nations Security Council (e.g. UNSC 1540). Certainly the world has not seen the United States responding to the threat by strengthening the BTWC that binds only states

to a gentleman's agreement. On the contrary, the huge investment made by at least one African state in the effort to find agreement on a verification regime for the Convention was scuttled by, amongst others, the US, in 2001. While States Parties may have come to an agreement to look forward rather than to gnash their teeth about the failures of the late 1990s, the fact is that past experience provides no sense that any investment in strengthening the treaty will yield good returns. Certainly the fig leaf provided by the current process of discussions does not hide the fact that the treaty is in trouble.

Even if these factors could be overcome, the absence of an institutional capacity to assist states to develop national implementing measures is a hindrance to the strengthening of the Convention. Although 12 of the 25 southern and east African countries have legislation in place that is directly or indirectly relevant to biosecurity issues, very few African countries have developed distinct legislation applicable to biological weapons control, South Africa being a notable exception. A study of legislation of nine African countries undertaken by the Africa Biosecurity Project (ABP) in 2007, found that although African states may have legislation in place, the legislation would be difficult to use to prosecute cases of international hostile use of biological agents. This may be remedied in the medium to long term with the increased involvement of academies of science in discussions about the need for biosecurity measures to be put in place. Certainly, following several civil society interventions and a meeting organised by the Ugandan Academy of Sciences earlier this year, it would appear as though there may be movement towards the development of national biosecurity legislation and possibly even renewed interest in the BTWC.

Indeed, despite the negative assessment offered above, there does appear to be an increase in awareness amongst African scientists about the need for national measures to prevent this misuse of the products of science. During 2008 several meetings were held in east and southern Africa that involved scientists and policy makers in discussions about biosecurity matters. In March the Ugandan Academy of Sciences brought together a large group of scientists that included eastern and west African scientists and politicians to discuss biosecurity. Although it was clear in that meeting that the term biosecurity was confusing in that it refers to many different things in different contexts, there was general agreement that laboratory biosafety measures needed to be strengthened in most countries represented, and that awareness about dual-use issues needed to be increased.

- A meeting organised by the Institute for Security Studies and the Centre for International and Security Studies at Maryland that brought together senior scientists from twelve African countries, concluded that biosecurity issues (including biosafety) are important. That meeting concluded with a joint statement from the group that included the following statements:

- The promotion of the life sciences and their biotechnological applications are beneficial to the advancement of human health and development and environmental well-being.

- In Africa, the primary concern is not the intentional misuse of science to cause harm, but rather, the risk to animal, plant and human health from natural disease outbreaks either originating on the continent or elsewhere.

- It is recognised that there is, nevertheless, a risk that human, plant or animal disease could be caused by an accidental or deliberate release of pathogens and products from laboratories.

- The public health systems of African countries have limited capacity to deal with large-scale disease outbreaks.

- There is an urgent need to develop and strengthen the capacity, both human and infrastructural, for life sciences research and diagnosis across the continent.

- There is an urgent need to improve the safety practices at laboratories and to develop policy and legislation in this regard

- African scientists, like scientists elsewhere in the world, have a responsibility to society and to their professions to ensure that their work is practiced safely, responsibly and in such a way as to minimise the risk that the knowledge or products of their research lead to destructive consequences, either deliberately or inadvertently (i.e. dual-use).

There - is a need to educate and raise the awareness of scientists, from school to professional level, about the risks, rules and responsibilities associated with dual-use research.

- There is a need to build upon existing review systems to develop oversight arrangements for life sciences research, particularly work that has dual-use implications. African governments and scientific associations need to become more involved in national, regional and international discussions and deliberations about biosecurity, and to start developing and implementing policies that promote safe, responsible science.

- The World Health Organization has an important leadership role to play in working with other partners to support countries to develop systems to prevent the misuse of the life sciences.

Two workshops co-hosted by the Institute for Security Studies and the BWPP were held in the eastern and southern African regions in November 2007 and June 2008. Both workshops focused on building stakeholder participation in the BTWC. Key challenges identified by the participants included the need for greater awareness-raising on bioweapons issues, as education on such issues is lacking at all levels of society, as well as a need to make issues related to bioweapons more context specific. Many African states feel the discussion on bio-related issues is not relevant for Africa because they do not have biological weapons. However, developments in the field of biotechnology raise the concern of dual-use, where science can be both beneficial and harmful.

These meetings made it clear that any efforts to universalise the BTWC should involve the scientific community and civil society and build on the processes that are currently underway. Yet, for as long as the international security agenda is dominated by the interests of the developed world, and for as long as the human security threats in the developing world receive short shrift in the context of WMD prevention, it is unlikely that there will be a significant change of attitude towards the BTWC from the developing world.

The table below summarises the status of eastern and southern African countries in terms of the Biological and Toxin Weapons Convention (BTWC), relevant biosecurity legislation per country (if available), and the status of these countries in terms of the United Nations Security Council Resolution 1540 (UNSC 1540), the 1925 Geneva Protocol and the United Nations Security Council Resolution 1373 (UNSC 1373).

Table 1: Status of the BTWC in Eastern and Southern Africa

COUNTRY	BIOLOGICAL AND TOXIN WEAPONS CONVENTION STATUS AND GENEVA PROTOCOL	RELEVANT LEGISLATION	UNSC RESOLUTIONS 1540 AND 1373 AND THE PELINDABA TREATY
Angola	Non-signatory to the BTWC State Party to the 1925 Geneva Protocol	Reference to the Criminal Code, which is used to cover chemical and nuclear weapons and export control of nuclear materials. The Code also includes measures to allow for the prosecution of terrorists who ‘jeopardise national integrity’ although it does not define a terrorist act ¹⁷	UNSC 1540: Last Report 2004 UNSC 1373: Last Report 2003 Pelindaba Treaty: States Signatory
Botswana	States Party to the BTWC CBMs submitted: None Not a state party to the 1925 Geneva Protocol		UNSC 1540: No report available UNSC 1373: Last Report 2004 Pelindaba Treaty: States Party
Burundi	State Signatory to the BTWC Not a state party to the 1925 Geneva Protocol	Currently drafting legislation ¹⁸	UNSC 1540: No report available UNSC 1373: Last Report 2005 Pelindaba Treaty: States Signatory
Comoros	Non-signatory to the BTWC Not a state party to the 1925 Geneva Protocol		UNSC 1540: No report available UNSC 1373: Last Report 2005 Pelindaba Treaty: States Signatory
Democratic Republic of Congo	States Party to the BTWC CBMs submitted: None Not a state party to the 1925 Geneva Protocol		UNSC 1540: No report available UNSC 1373: Last Report 2008 Pelindaba Treaty: States Signatory
Djibouti	Non-signatory of the BTWC Not a state party to the 1925 Geneva Protocol	“Does not manufacture WMDs...since it does not have the technology, cannot materially assist States or non-State actors to manufacture or procure WMDs” ¹⁹	UNSC 1540: Last Report 2005 UNSC 1373: Last Report 2006 Pelindaba Treaty: States Signatory
Eritrea	Non-signatory of the BTWC Not a state party to the 1925 Geneva Protocol	“At present, Eritrea has no enacted specific national legislation on non-proliferation and has not instituted control lists. The delay in taking national implementation measures is mainly caused by the preoccupation of the Government with the unresolved border issues with Ethiopia.” ²⁰	UNSC 1540: Last Report 2006 UNSC 1373: Last Report 2007 Pelindaba Treaty: States Signatory
Ethiopia	States Party to the BTWC CBMs submitted: None State Party to the 1925 Geneva Protocol	Covered by the Penal Code 2005 ²¹	UNSC 1540: No report available UNSC 1373: Last Report 2006 Pelindaba Treaty: States Party

COUNTRY	BIOLOGICAL AND TOXIN WEAPONS CONVENTION STATUS AND GENEVA PROTOCOL	RELEVANT LEGISLATION	UNSC RESOLUTIONS 1540 AND 1373 AND THE PELINDABA TREATY
Kenya	States Party CBMs submitted: None State party to the 1925 Geneva Protocol	Kenyan authorities have 'caught up with individuals purporting to sell nuclear material for non-peaceful uses... some of the material is under safe custody for further investigations'. ²² [This raises questions about whether all the nuclear materials purportedly up for sale were indeed confiscated.]	UNSC 1540: Last Report 2004 UNSC 1373: Last Report 2004 Pelindaba Treaty: States Party
Lesotho	States Party to the BTWC CBMs submitted: None State party to the 1925 Geneva Protocol		UNSC 1540: No report available UNSC 1373: Last Report 2004 Pelindaba Treaty: States Party
Madagascar	States Party to the BTWC State party to the 1925 Geneva Protocol		UNSC 1540: No report available UNSC 1373: Last Report 2003 Pelindaba Treaty: States Party (Accession)
Malawi	Signatory to the BTWC State party to the 1925 Geneva Protocol		UNSC 1540: No report available UNSC 1373: Last Report 2002 Pelindaba Treaty: States Signatory
Mauritius	States Party to the BTWC CBMs submitted: None State party to the 1925 Geneva Protocol	Prevention of Terrorism Act 2002	UNSC 1540: Last Report 2007 UNSC 1373: Last Report 2006 Pelindaba Treaty: States Party
Mozambique	Non-signatory Not State Party to the 1925 Geneva Protocol		UNSC 1540: No report available UNSC 1373: Last Report 2003 Pelindaba Treaty: States Party
Namibia	Non-signatory to the BTWC Not a State Party to the 1925 Geneva Protocol	Report is less than a page and states that Namibia "does not produce weapons of mass destruction and therefore cannot provide material support to States or non-State actors to produce or obtain such weapons." ²³	UNSC 1540: Last Report 2006 UNSC 1373: Last Report 2006 Pelindaba Treaty: States Signatory
Rwanda	States Party CBMs submitted: None State Party to the 1925 Geneva Protocol	Organic Law No. 08/96 of August 20, 1996 Penal Code	UNSC 1540: No report available UNSC 1373: Last Report 2005 Pelindaba Treaty: States Party

COUNTRY	BIOLOGICAL AND TOXIN WEAPONS CONVENTION STATUS AND GENEVA PROTOCOL	RELEVANT LEGISLATION	UNSC RESOLUTIONS 1540 AND 1373 AND THE PELINDABA TREATY
Seychelles	States Party CBMs submitted: None Not a State Party to the 1925 Geneva Protocol		UNSC 1540: No report available UNSC 1373: Last Report 2006 Pelindaba Treaty: States Signatory
Somalia	Signatory to the BTWC Not a State Party to the 1925 Geneva Protocol		UNSC 1540: No report available UNSC 1373: Last Report 2002 Pelindaba Treaty: States Signatory
South Africa	States Party CBMs submitted: 11 BTWC enacted as national legislation. State Party to the 1925 Geneva Protocol	<p>The two reports (of January 2005 and January 2006) are prefaced with a warning that the South African government is of the view that the implementation of the resolution should not detract from the activities of the IAEA or the OPCW and goes further to say that “The Government of South Africa, like other Governments, would be concerned if the Security Council were to assume legislative and treaty-making powers on behalf of the international community that are binding on all states and are not envisaged by the Charter of the United Nations.”²⁴</p> <ul style="list-style-type: none"> • Government Notice 712 Declaration of certain biological goods and technologies to be controlled and control measures applicable to such goods, 8 June 2004. • Anti-Terrorism Bill 2002 [not yet in force] • Declaration No. 428 of Certain Goods and Technologies to be Controlled and Control Measures Applicable to Goods 10 April 2002 • Declaration No. 429 of Certain Missile Technology and Related Items as Controlled Goods and Control Measures Applicable to Such Goods 10 April 2002 • Declaration No. 430 of Certain Nuclear-related Dual-use Equipment, Materials And Related Technology Items as Controlled Goods and Control Measures Applicable to such Goods 10 April 2002 • Declaration No. 704 of Certain Goods To Be Controlled Goods And The Control Measures Applicable To Such Goods 23 May 1997 • Decision No. 152 of Certain Goods To Be Controlled Goods And Control Measures Applicable To Such Goods 29 January 2003 • Declaration No. 1025 of Certain Goods as Controlled Goods and the Determination of Control Measures Applicable to Such Goods 2001 • Non-Proliferation of Weapons of Mass Destruction Act 1993 • Non-Proliferation of Weapons of Mass Destruction Amendment 1995 • Non-Proliferation of Weapons of Mass Destruction Amendment 1996 • Proclamation of the President of the Republic of South Africa No. R.16 2002 • Agricultural Product Standards Act (No. 119 of 1990) • Genetically Modified Organisms (GMO) Act (No. 15 of 1997) 	UNSC 1540: Last Report 2006 UNSC 1373: Last Report 2006 Pelindaba Treaty: States Party

COUNTRY	BIOLOGICAL AND TOXIN WEAPONS CONVENTION STATUS AND GENEVA PROTOCOL	RELEVANT LEGISLATION	UNSC RESOLUTIONS 1540 AND 1373 AND THE PELINDABA TREATY
		<ul style="list-style-type: none"> • Public Health Act (No 36 of 1919) (No 2306, clause no 4) • Animal Diseases Act (No 35 of 1984) • Agricultural Pests Act (APA) (No. 36 of 1983) • Occupational Health and Safety Act (No. 85 of 1993) • National Conventional Arms Control Act, 2002 (Act No. 41 of 2002) • Regulation on Biosafety Standards for Microbiological laboratories (Section 8) • Regulation (R 1420 of 26 Nov 1999)²⁵ 	
Sudan	States Party to BTWC CBMs submitted: None State Party to the 1925 Geneva Protocol		UNSC 1540: No report available UNSC 1373: Last Report 2006 Pelindaba Treaty: States Signatory
Swaziland	States Party to BTWC CBMs submitted: None State Party of the 1925 Geneva Protocol		UNSC 1540: No report available UNSC 1373: Last Report 2003 Pelindaba Treaty: States Party
United Republic of Tanzania	Signatory to the BTWC State Party of the 1925 Geneva Protocol	Prevention of Terrorism Act: if “(iii) any microbial or other biological agent or toxin” is released fully or partially it constitutes an act of terrorism. Private Health Laboratories Regulation Act 1997	UNSC 1540: Last Report 2005 UNSC 1373: Last Report 2005 Pelindaba Treaty: States Party
Uganda	States Party to the BTWC CBMs submitted: 1 State Party of the 1925 Geneva Protocol	Bioterrorism is defined under the Anti-terrorism Act of 2002 The suppression of terrorism bill, 2001	UNSC 1540: Last Report 2005 UNSC 1373: Last Report 2005 Pelindaba Treaty: States Signatory
Zambia	States Party to the BTWC Not a State Party of the 1925 Geneva Protocol		UNSC 1540: No report available UNSC 1373: Last Report 2002 Pelindaba Treaty: States Signatory
Zimbabwe	States Party CBMs submitted: None Not a State Party of the 1925 Geneva Protocol		UNSC 1540: No report available UNSC 1373: Last Report 2003 Pelindaba Treaty: States Party

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- ¹⁷ Note Verbale dated 27 October 2004 from the Permanent Mission of the Republic of Angola to the United Nations address to the Chairman of the Committee, S/AC.44/2004/(02)/29, document number 0459387, <http://disarmament2.un.org/Committee1540/report.html>
- ¹⁸ Vertic. 2007. Biological Weapons Convention: Collection of National Legislation. "Burundi", <http://www.vertic.org/datasets/B.asp>
- ¹⁹ Note verbale dated 17 March 2005 from the Permanent Mission of the Republic of Djibouti to the United Nations addresses to the Chairman of the Committee, S/AC.44/2004/(02)/108, document number 0529091, <http://disarmament2.un.org/Committee1540/report.html>
- ²⁰ Note verbale dated 22 June 2006 from the Permanent Mission of Eritrea to the United Nations addressed to the Chairman of the Committee, S/AC.44/2004/(02)/132, bar coded document, <http://disarmament2.un.org/Committee1540/report.html>.
- ²¹ Vertic. 2007. Biological Weapons Convention: Collection of National Legislation. "Ethiopia", <http://www.vertic.org/datasets/E.asp>
- ²² Note Verbale dated 20 July 2005 from the Permanent Mission of Kenya to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1540 (2004), S/AC.44/2004/(02)/121, bar-coded document, <http://disarmament2.un.org/Committee1540/report.html>
- ²³ Note verbale dated 26 October 2004 from the Permanent Mission of the Republic of Namibia to the United Nations addressed to the Chairman of the Committee, S/AC.44/2004/(02)/36, document number 0459740, <http://disarmament2.un.org/Committee1540/report.html>
- ²⁴ Note verbale dated 31 January 2005 from the Permanent Mission of South Africa to the United Nations addressed to the Chairman of the Committee, S/AC.44/2004/(02)/012, document number 0522723, <http://disarmament2.un.org/Committee1540/report.html>
- ²⁵ Vertic. 2007. Biological Weapons Convention: Collection of National Legislation. "South Africa", <http://www.vertic.org/datasets/S.asp>

PACIFIC ISLANDS

Tim Caughley

Introduction

As efforts intensify to extend the membership of the Biological and Toxin Weapons Convention (BTWC) to the score of nations still remaining outside this treaty, it is inevitable that there should be a growing focus on the region of the Pacific Ocean. This is so even though the seven countries in the Pacific which have yet to join the BTWC - Kiribati, Marshall Islands, Federated States of Micronesia, Nauru, Niue, Samoa and Tuvalu are not seen as any threat whatsoever to the tenets of the Convention, nor as being subject to any possible threats of use of biological or toxin weapons against them. They are small, peaceable nations, their economic resources are slender, their biology and biotechnology activities are minimal and their combined population in total is less than one million people.

Nonetheless, on a regional basis, it is inescapable that the Pacific region contains the largest number of countries that have yet to adhere to the BTWC. Viewed through the prism of the Pacific Islands Forum, an intergovernmental organization that fosters economic and other co-operation across the Pacific, only half of the full members of the Forum are parties to the BTWC (Australia, Fiji, New Zealand, Palau, Papua New Guinea, Solomon Islands, Tonga and Vanuatu).

Yet all countries in the region are parties to the Chemical Weapons Convention (CWC) and are thus members of the Organisation for the Prohibition of Chemical Weapons (OPCW) headquartered in The Hague. It is true that the CWC is regarded as one of the twenty-five core treaties of the United Nations, but in the sense that, like the BTWC, it outlaws an entire class of weapons of mass destruction, the latter instrument can be placed in a similar context in terms of the desirability of securing its universalisation.

In any event, it can be surmised from the fact of CWC universality within the region and from their traditional support for the rule of law, that there is no rooted objection to joining the BTWC.

Practical considerations

The comparative remoteness of the Pacific region does, however, give rise to a number of practical considerations in relation to membership of the Biological and Toxin Weapons Convention. Even for those Pacific nations that are party to the Convention, only Australia and New Zealand regularly attend meetings of States Parties. Indeed, those two countries alone from the region have permanent diplomatic missions in Geneva where States Parties invariably meet.

Practical considerations extend more tellingly to the comparatively onerous task of implementing the Convention. Parties are obliged to develop national measures normally in the shape of legislation to prohibit and prevent the development, production, stockpiling, acquisition or retention of microbial or other biological agents or toxins or weapons or means of delivery designed to use such agents or toxins, or their transfer or proliferation. There are, of course, models of such legislation, and various avenues for assistance in drafting it. The European Union is a significant actor in this regard. It must be remembered, however, that in these small countries the resources required to get the legislation onto the legislative calendar are competing intensely for the attention of their governments with other formal measures.

In relation to this issue of implementation it should be noted that for some of the eight Pacific countries which remain outside the BTWC, their constitutional procedures, inherited from the Westminster system of government, may require them to enact the necessary legislation prior to their being able to assume their obligations under the Convention. This was the case with Kiribati's accession to the CWC. In other words, the actual deposit of the instrument of accession may have to await completion of the legislation implementing various obligations assumed upon entry into force of the Convention for that country.

Nonetheless, all target countries will be aware of Security Council resolution 1540 (2004) that requires all States to “*take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical, or biological weapons and their means of delivery, including by establishing appropriate controls over related materials and to this end shall: ...establish, develop, review and maintain appropriate effective national export and trans-shipment controls over such items, including appropriate laws and regulations to control export, transit, trans-shipment and re-export...*”.

Rationale for Acceding

Given the competing priorities facing these small nations, the aspect of the rationale for acceding to the BTWC requires careful consideration. It might be noted that it is true of all treaties that their strength lies to a degree in the extent of the level of support they enjoy amongst nations. In the area of disarmament, non-proliferation and arms control, amongst treaties addressing weapons of mass destruction, the BTWC lags behind the CTBT and the CWC each of which is within or virtually within single figures of securing universality, while the NPT remains tantalizingly four nations shy of that objective.

As to these key instruments, the Pacific region falls short only in respect of the BTWC. This is a good record which should be readily acknowledged. It is a valid argument, however, that in ordinary circumstances the cause of general and complete disarmament, not to mention the rule of law and peace and security, is well served by progress on universalizing treaties such as the BTWC, the more so in the face of current concerns to take all possible steps to prevent access by terrorists to weapons of mass destruction. The validity of this argument is not diminished by the remoteness of this risk to the countries and peoples of the Pacific region. It is an argument that seems to have carried weight in the case of the CWC.

It must constantly be borne in mind that this target group of countries comprises some very small nations. Four of them have populations smaller than 20,000 people. The remaining four average barely over 100,000. As already mentioned, sensitivity to the limitations this places on their ability to transact the legislation that is an integral part of fulfilling the obligations of the BTWC is a fundamental ingredient in undertaking universality representations. This factor was made quite clear by the Cook Islands’ representative (Ms Myra Moeka’a) at the Asia-Pacific regional seminar held in Bangkok in November 2006, funded under the Joint Action of the Council of Europe. She explained that in this isolated region, security concerns were related less to issues of weapons of mass destruction and terrorism and more to climate change and sea level rise. Interestingly, she noted that while the question of joining the CTBT had been influenced by a regional issue (French nuclear testing), accession to the CWC had, in effect, stemmed from peer pressure within a concerted universalization drive.

It follows that a key success to securing accessions within the group of eight Pacific countries in question will be a multi-faceted approach. It will be necessary:

- I. to show sensitivity to the constraints that small island States face in taking treaty actions;
- II. to demonstrate that the international significance of becoming party to the BTWC warrants a reconsideration of legislative priorities. In other words, it will be important to explain that the rationale behind the proposed treaty action is in the national interest and will also promote regional solidarity; and
- III. to satisfy each Government that practical support is available immediately, and that such assistance will extend to the period beyond the point at which the Convention enters into force for the country concerned. (The extent to which co-operation in, say, transfer of biotechnology could be facilitated under article X of the BTWC, is probably limited given the scale of the countries concerned, but may nonetheless offer future potential.)

Content of Representations

In making representations to the eight Pacific countries to accede to the BTWC, it will be important to show sensitivity to the matter of according legislative priority to the implementing legislation. At the same time, clear information should be provided on the following aspects:

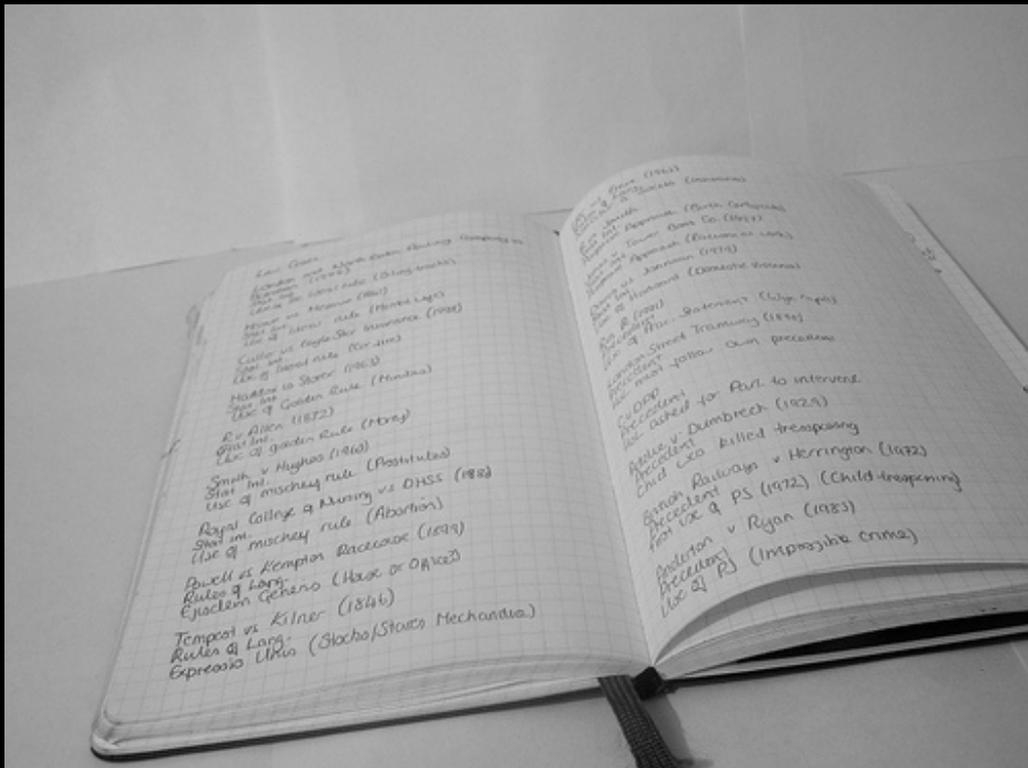
- I. the source(s) of practical and financial assistance;
- II. the applicability of various models of legislative measures;
- III. the extent to which administrative measures such as export controls will be needed;
- IV. the potential to “piggy-back” on existing legislative and administrative measures (eg, those implementing the CWC);
- V. compiling an inventory of facilities such as laboratories and any industrial users of biological agents that are susceptible to dual use (ie, for peaceful civilian purposes, or as potential weapons);
- VI. where such facilities exist, advising on licensing or other means of exercising the necessary control over activities;
- VII. foreshadowing the kind of practices that would be consistent with the presence of such facilities, ie, practices relating to inter-departmental co-operation for the purposes of enhancing physical protection of laboratories, the development of codes of conduct, establishing contacts with relevant international agencies, etc; and
- VIII. the costs and expectations of membership of the Convention including attendance at meetings of States Parties, the preparation of confidence building measures etc.

As to the manner in which representations are made to the eight Pacific countries concerned, lessons learned in other universality campaigns such as for the Mine Ban Convention include the following:

- I. Visits and representations should be undertaken as part of a process, with follow-up, rather than as ad hoc events;
- II. There should be a prime focus on reaching the highest levels of Government, such as via briefing Ministers of parties inside and outside the region to lobby their counterparts; and
- III. The representations should be pitched as having a practical utility (at the national regional and international levels) rather than simply as treaty actions.

Conclusions

The strong record in the Pacific region of adherence to major disarmament treaties should provide confidence that approaches to them to join the BTWC conducted in a sensitive manner and based on the considerations outlined above will succeed in reducing significantly the number of nations currently outside the membership of this important treaty.



PART 2: COUNTRY CASE STUDIES

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ANDORRA

Status: Non-signatory state

Full name: Principality of Andorra

Background information

For more than 700 years Andorra has been ruled jointly by the leader of France and the Spanish Bishop of Urgel. The first Andorran Constitution was passed in 1993, establishing a parliamentary co-principality. The co-princes remain Andorra's heads of state but the roles are largely honorary²⁶ and the Government of Andorra is responsible for its own domestic and foreign relations.

Andorra's intimate history with Spain and France is also evident in its languages: Catalan is the official language and French, Castilian, and Portuguese are commonly spoken.

The next General Elections are expected to take place in 2009.

National Legal System

In order to be ratified and incorporated into Andorra's national legal system, international treaties require the approval of the Consell General by absolute majority of the Chamber for treaties related to internal security and to defence.²⁷

Research into Andorra's laws demonstrates that Andorra has a large raft of BW-related legislation already in place.

Article 127 of Andorra's Penal Code criminalizes the use of genetic technology to produce biological weapons. Any attempt or conspiracy to engage in such use is likewise criminalized. Article 266 punishes the trafficking and stockpiling of chemical and biological weapons.²⁸

Further to this Andorra has put in place legislation to control and monitor the movement of sensitive materials, including penal sanctions for any illicit activities. The Sensitive Materials Control Act, aiming at putting a stop to all illicit activities in the area of sensitive materials, provides for appropriate monitoring so that acts which constitute misdemeanours or serious offences under customs law may at the same time receive prior verification and investigation by the Administration, and be penalized a posteriori pursuant to the appropriate rules of law. To that end, the Act defines as "sensitive" any materials which may constitute a danger to health or public safety or may be the object of international smuggling or a clandestine market.²⁹

Article 2 of the Decree of 3 July 1989 on the possession, use and circulation of weapons prohibits the production, import, circulation, possession, use, purchase, sale and advertising of certain weapons, including weapons of war Article 262 of the new Penal Code criminalizes violations of safety standards posing a specific threat to persons. An individual who, when producing, handling, transporting, possessing or marketing materials, residues, devices, organisms or hazardous substances, violates established safety standards and endangers the life or health of persons is liable to up to two years' imprisonment.

Although the Principality of Andorra does not produce chemical or biological weapons, its legislators have endeavoured to close any legal loopholes which might allow a natural or legal person to handle such products in total secrecy, for example by promulgating the Act on Industrial Safety and Quality of 22 June 2000.³⁰

On the prevention level, Andorra established a special unit within its national police, the so called TEDAX (Techniciens pour le désamorçage des engins explosifs – explosive ordnance disposal (EOD) experts), competent to deal with all matters involving explosives. This unit prepares contingency plans for incidents involving, for example, anthrax. Members of TEDAX have received

specialized bacteriological and chemical toxins training in the disarming and neutralization of nuclear, biological and chemical products or weapons and the preparation of contingency plans for such incidents.

There are strict controls on the creation, opening and operation of any installation or establishment producing biological substances or medical or laboratory equipment or material, or other articles for medical use, which are subject to the quality standards required by the relevant international bodies. The General Health Act of 20 March 1989 establishes a procedure for the issue of authorizations, ensuring that the aforementioned products comply with the standards of effectiveness, tolerance, purity and stability and information requirements established by international scientific best practices. The Government may require prior individual authorization or the approval of a particular product for distribution, and may conduct a health inspection, inter alia, of potentially dangerous chemicals or biological products. The labelling, presentation, preservation, storage, handling, marketing and transport of these health products are also regulated by the Government. Under this Act, the Government may establish a requirement for physical and legal persons to obtain prior authorization for activities related to the import, export or distribution of medicines and other health products.

Andorra and the BWC

In response to a questionnaire sent by the BWPP in 2007, Andorra replied that since the entry into force of its constitution in 1993 the country started to review international treaties and was considering accession. In a subsequent informal communication in 2008 with the BWPP, a representative of Andorra had advised that it currently perceived other issues as more pressing, given its limited resources.³¹ Accordingly accession to the BTWC is currently not considered a priority since Andorra decided to focus on Human Rights treaties first.

In the response to the 2007 questionnaire it was further stated that the BTWC was of little relevance to the principality of Andorra since the country had never allowed the development in its territory of any activity or industry linked to the use of nuclear, chemical and biological products. Andorra stated that it does not produce, develop, market, buy, possess, use or have stocks of chemical, biological or nuclear weapons, their delivery systems, or related products and does not possess obsolete chemical, biological or nuclear weapons.³² It further gives no form of support to any non-State actors who may attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons or their means of delivery. Hence its regarded its non-participation in the treaty as not necessarily detrimental to the Convention's aims. Given Andorra's limited resources accession is rather unlikely in the near future.

In 2007, the Chairman of the BWC meetings reported that Andorra had not yet begun the formal accession process, but that feedback had been positive in that the Government was "eager to join the Convention".³³ Andorra was thus categorized as "waiting for further information or assistance" in the Report of the Chairman on Universalization of 2007.³⁴ A representative of Andorra met with the Chairman in New York in 2007 and was reported to be "optimistic on the prospects for accession and undertook to convey information to capital."³⁵ Since 2007, the Chairman of the 2008 BWC meetings has reported that Andorra was one of the countries that had responded to outreach efforts, indicating there were no political obstacles to joining the Convention but was yet to begin the process of accession.³⁶ Reference was made in the official Chairman's report on universalisation to the BWPP's communication with Andorra.

There has been no further communication from Andorra on this issue since 2008.

Participation in other disarmament regimes

Andorra is a state party to the NPT, CWC, and CTBT. It has not signed the CPPNM and it is not a member of any of the export control regimes.

Since joining the NPT in 1995, the Andorran Government has reported that it has been studying all treaties which relate to combating the proliferation of nuclear, chemical and biological weapons, which constitute a threat to international peace and security. The intentions of the Principality in terms of the ratification and implementation of international disarmament conventions and protocols are to honour the commitments entered into through the signature of those instruments.

Andorra is currently preparing necessary studies in order to carry out the corresponding ratifications as soon as possible. Since 1993, when the Andorran Constitution was adopted, some 80 conventions have been signed and ratified and about 50 are still being studied.³⁷

Prospects for joining the BWC

In view of the response to the BWPP's questionnaire, Andorra's accession to the BTWC in the near future seems unlikely without any external political pressure applied. However, in recent years Andorra acceded to a number of related treaties, proving its general support for disarmament. On 27 February 2003, Andorra deposited its instrument of accession to the Chemical Weapons Convention. The Convention entered into force for the Principality on 29 March 2003, and pursuant to its provisions, the Andorran national authority submitted a "nil declaration" to the Organisation for the Prohibition of Chemical Weapons, confirming that Andorra has neither chemical weapons nor any facilities for their production. Andorra also provides annual declarations confirming that the country still has no chemical weapons or production facilities.

Andorra has always expressed its support at the international level for non-proliferation of nuclear, chemical and biological weapons, and has striven for international peace and security.³⁸ At an EU Joint Action meeting in April 2007 Andorra requested support and assistance to ratify the Convention. However, in view of the countries limited resources and priority for Human Rights treaties accession will not be achieved in the near future.

Andorra is a member of numerous international and regional organizations that could be sources of cooperation in encouraging its accession to the BWC including the FAO, Interpol, OPCW, OSCE, and the UN. In addition, Andorra cooperates closely with the European Union, and it is suggested here that due to their unique relationship with Andorra, France and Spain could take the lead in encouraging Andorra to accede.

It is lamentable that the first EU Joint Action in support of the BTWC failed to include Andorra in its scope of activities. The next Joint Action, due to be undertaken by the BWC ISU imminently (approximately during May 2009) should take this oversight into account and ensure that Andorra receives equal attention as other states not yet party to the Convention.

²⁶ British Broadcasting Corporation, Country Profile: Andorra. Available at: http://news.bbc.co.uk/2/hi/europe/country_profiles/992562.stm

²⁷ Art. 64 (b), Constitution of the Principality of Andorra.

²⁸ Annex to the letter dated 31 October 2005 from the Permanent Representative of Andorra to the United Nations addressed to the Chairman of the Committee.

²⁹ S/AC.44/2004/(02)/19/Add.1.

³⁰ S/AC.44/2004/(02)/19/Add.1.

³¹ BWC/MSP/2008/4, p.7.

³² S/AC.44/2004/(02)/19/Add.1.

³³ BWC, Speaking Notes. Obtaining Universality for the Biological Weapons Convention: Introducing the Report of the Chairman. 2007, p.5.

³⁴ BWC ISU, BWC/MSP/2007/4, 11 December 2007. Report of the Chairman on Universalization Activities, p.3

³⁵ BWC ISU, BWC/MSP/2007/4, 11 December 2007. Report of the Chairman on Universalization Activities, p.6

³⁶ BWC, Speaking Notes. Obtaining Universality for the Biological Weapons Convention: Introducing the Report of the Chairman. 2008, p.4

³⁷ S/AC.44/2004/(02)/19.

³⁸ S/AC.44/2004/(02)/19.

ANGOLA

Status: Non-signatory state

Full name: Republic of Angola

Background information

Following independence from Portugal on 11th November 1975, Angola was embroiled in a 27-year civil war from which it has not yet recovered economically or in terms of infrastructure. The first Presidential elections since the end of the civil war in 2002 are scheduled for 2009.

Angola is classified by the UN as a Least Developed Country and it is reliant on food aid from foreign countries. The official languages are Portuguese as official language, Bantu and other African languages.

National legal system

Angola is governed by a president who is assisted by a prime minister and 33 ministers, all appointed by the president. Political power is concentrated in the presidency. The executive branch of the government is composed of the president (head of state and government), the prime minister, and the Council of Ministers. The Council of Ministers, composed of all government ministers and vice ministers, meets regularly to discuss policy issues. The president, the Council of Ministers, and individual ministers in their areas of competence have the ability to legislate by decree.

According to Angola's constitution, international treaties, when duly approved, are ratified by the president.³⁹ International treaties regarding Angola's participation in international organizations, defence and military matters require approval by the national assembly.⁴⁰ After ratification, international treaties are incorporated into Angola's national legislation by the constitutional tribunal.⁴¹

Angola's Criminal Code controls the use of chemical and nuclear weapons as well as the export of nuclear materials. However, so far no such legislation has been introduced regarding the use of biological weapons.⁴²

Angola and the BWC

Angola participated in an EU Joint Action regional seminar for West and Central Africa in April 2007 and requested support and assistance to ratify the convention.⁴³ The representative of Angola remarked that Angola was not a member of either the CWC or the BTWC since there continued to be a need to further sensitise the country's leaders and increase domestic awareness about why its participation in the convention was desirable. Hence a lack of information on the convention's aims and benefits of joining are pivotal for Angola's reluctance.⁴⁴

In November 2007 a representative of Angola indicated that Angola was currently dealing with a large backlog of international treaties awaiting ratification. In principle, however, Angola has the intention to accede, provided it obtains concrete guarantees that it will be provided with assistance.⁴⁵ In 2008 the timing for accession to the convention had seemed to be particularly appropriate as Angola had recently changed its government.⁴⁶

Angola also participated in the 2007 BWC MSP and was classified in the Chairman's report on Universalization as "waiting for further information or assistance, etc."⁴⁷ In 2008, the Permanent Representative of Angola in Geneva met with the Chairman of the BWC 2008 meetings, but that year's universalization report did not change its categorization of Angola's situation. The Permanent Representative restated the importance of raising awareness of the Convention in Angola and undertook to brief the Ministry of Foreign Affairs on the matter.⁴⁸

Participation in other disarmament regimes

Angola is a state party to the NPT, CWC, CTBT, 1925 Geneva Protocol and a signatory to the ANWFZ (Pelindaba Treaty). It has not signed the CPPNM.

Prospects for joining the BWC

Angola is a good candidate to join the BTWC in the nearer future. The government has been carrying out a study aiming at assessing needs and asked for technical assistance to ratify the convention.⁴⁹ Angola's participation in other disarmament regimes demonstrates its "strong determination to enhance international peace and security throughout the world and stressing the importance of all these treaties as a systematic and progressive effort towards nuclear disarmament and nuclear non-proliferation, since it is an integral part of its global efforts to achieve international security for all, free from the threat of weapons of mass destruction."⁵⁰ Its commitment to UNSC Resolution 1540 and UNSC Resolution 1373 indicates its intention to move forward in the control of biological weapons. However, Angola's intention to accede could be further delayed due to current setbacks regarding efforts to further democratise and stabilise the country.

Angola is a member of the following regional and international organizations that could be cooperated with to encourage its accession: ACP, AfDB, AU, CPLP, FAO, G-77, IAEA, Interpol, OAS (observer), SADC, and the UN. In addition, Angola has actively promoted the revival of the Community of Portuguese-Speaking Countries (CPLP), as a forum of cultural exchange and means of expanding ties with Portugal and Brazil. These two countries could take a leading role in assisting Angola in its accession efforts.

Special effort should be made to meet Angola's request for awareness-raising assistance and the ISU should open a regular channel of communication with the Angolan Ministry of Foreign Affairs to this end. Portuguese countries could also assist by providing any documentation relevant to the BWC to Angola in Portuguese

³⁹ Art. 66 (w), LEI CONSTITUCIONAL de Angola, 1992.

⁴⁰ Art. 88 (k), LEI CONSTITUCIONAL de Angola, 1992.

⁴¹ Art. 134 (b), LEI CONSTITUCIONAL de Angola, 1992.

⁴² http://www.un.org/sc/1540/docs/legis_db/Angola%20Legislation%20DB.doc.

⁴³ BWC ISU, BWC/MSP/2008/4, Report of the Chairman on Universalization Activities, 28 November 2008, p.4

⁴⁴ <http://www.euja-btwc.eu/node/221?>.

⁴⁵ <http://www.euja-btwc.eu/node/221?>.

⁴⁶ BWC/MSP/2008/4, p.7.

⁴⁷ BWC ISU, BWC/MSP/2007/4, 11 December 2007. Report of the Chairman on Universalization Activities, p.3

⁴⁸ BWC ISU, BWC/MSP/2008/4, Report of the Chairman on Universalization Activities, 28 November 2008, p.7

⁴⁹ UNSC 1540 Committee, S/AC.44/2004/(02)/29, Annex to the note verbale dated 27 October 2004 from the Permanent Mission of the Republic of Angola to the United Nations addressed to the Chairman of the Committee National report of the Republic of Angola on measures taken in implementation of Security Council resolution 1540 (2004).

⁵⁰ UNSC 1540 Committee, S/AC.44/2004/(02)/29, Annex to the note verbale dated 27 October 2004 from the Permanent Mission of the Republic of Angola to the United Nations addressed to the Chairman of the Committee National report of the Republic of Angola on measures taken in implementation of Security Council resolution 1540 (2004).

CAMEROON

Status: Non-signatory state

Full name: Republic of Cameroon

Background information

The modern state of Cameroon was created in 1961 by the unification of two former colonies, one British and one French. French and English remain official languages in addition to the languages of Bantu, Semi-Bantu and Sudanic groups.

Cameroon's economic development has been retarded by economic mismanagement, pervasive corruption, and a challenging business environment (for local and foreign investors). Cameroon remains one of the lowest-ranked economies on the World Bank's annual "Doing Business" and similar surveys and regularly ranks among the most corrupt countries in the world. Over the last three years, GDP growth has averaged 3%, which is far below the population's expectations and insufficient to meet the Millennium Challenge goals. Despite boasting a higher GDP per capita than either Senegal or Ghana, Cameroon lags behind these two countries in important socio-economic indicators, including in health and education.

National legal system

The 1972 constitution (amended in 1996 and 2008) provides for a strong central government dominated by the executive. The president is empowered to name and dismiss cabinet members, judges, generals, provincial governors, prefects, sub-prefects, and heads of Cameroon's parastatal (about 100 state-controlled) firms, obligate or disburse expenditures, approve or veto regulations, declare states of emergency, and appropriate and spend profits of parastatal firms. The president is not required to consult the National Assembly.

The judiciary is subordinate to the executive branch's Ministry of Justice. The Supreme Court may review the constitutionality of a law only at the president's request.

The 180-member National Assembly meets in ordinary session three times a year (March-April, June-July, and November-December), and seldom makes major changes in legislation proposed by the executive. Laws are adopted by majority vote of members present or, if the president demands a second reading, of total membership.⁵¹

Cameroon and the BWC

Cameroon attended the EU Joint Action in support of the BTWC preparatory meetings in Brussels and New York in 2006 but not the EU Joint Action regional seminar for West and Central Africa in Senegal in April 2007.

In 2007, the Chairman of the 2007 BWC meetings reported that Cameroon was among states that had indicated they had begun the process of accession but whose efforts were not much developed. He also reported that a representative of Cameroon had informed the ISU that the Ministry of Justice had received a draft law from the Ministry of Defence for review. It was stated that if this law was approved, the process to adopt it would be initiated. It was further reported that a Cameroon official met with the Chairman and ISU who reported that accession was unlikely before early 2008 due to the close of the Parliamentary session. The representative expressed an interest in avenues of assistance available to facilitate accession to the Convention.⁵²

By August 2008, the Chairman of the 2008 BWC meetings re-categorized Cameroon as being well advanced in its efforts towards accession of the convention⁵³ being one of the States described as "poised to become members in the near future"⁵⁴. Further, the Chairman asserted that;

"[o]ur outreach effort with Cameroon seems to have been particularly effective. Not only did Cameroon participate in the Meeting of Experts, but it would seem that joining the Convention is being dealt with at a high-level and with the support of several governmental departments."⁵⁵

Accordingly, the Report of the Chairman on Universalization Activities of 2008 included Cameroon in its "Accession or ratification process well advanced" category.⁵⁶ The report described its activities with Cameroon:

"As a result of universalization activities to date, Cameroon was an active participant in the 2008 Meeting of Experts and gave a presentation on its relevant national activities. In the lead up to the meeting, Cameroon requested the ISU to coordinate provisions of assistance to attend meetings of the Convention to raise the domestic profile of the importance of its accession. A representative of Cameroon informed the ISU on 10 November 2008 that a letter from the Ministry of Environment and Protection of Nature had been sent on 25 September 2008 to the Ministry for Foreign Affairs to further recommend accession to the BWC."

In subsequent communications with the BWPP, representatives from Cameroon reported that the file had been sent to the President and that accession was imminent. It was explained that a law from the Ministry of Defence was received for authorization by the President whose office then drew up an instrument of ratification. The authorizing law drafted by the Ministry of Defence was forwarded to the Ministry of Justice for review and justification. At this point, a technical problem occurred relating to the meaning of "biological arms" and its relevance to Cameroon (the problem was not related to the Armed Forces who do not have or pursue biological weapons but rather what such weapons are in context.) Since this update to the BWPP at the beginning of 2009, no further progress has been reported and the status of Cameroon's accession remains unknown.⁵⁷

Participation in other disarmament regimes:

Cameroon is a state party to the NPT, CWC, and CTBT, and a signatory of the ANWFZ (Treaty of Pelindaba). It has not signed the CPPNM.

Prospects for joining the BWC

Given Cameroon's demonstrable attempts to accede to the BWC, it is extremely important that States parties, the Chairman of the 2009 BWC meetings and the ISU strive to keep in contact with the government of Cameroon to monitor their progress, and offer timely assistance if necessary. Continued pressure to accede should be applied.

⁵¹ US Department of State, Background Note: Cameroon. Available at: <http://www.state.gov/r/pa/ei/bgn/26431.htm>

⁵² BWC ISU, BWC/MSP/2007/4, 11 December 2007. Report of the Chairman on Universalization Activities, p.3

⁵³ BWC, Biological Weapons Convention: Meeting of Experts 2008. Brief for the Chairman: Closing Meeting, 22 August 2008, p.1

⁵⁴ BWC, Speaking Notes, Obtaining Universality for the Biological Weapons Convention: Introducing the Report of the Chairman, 2008, p.3

⁵⁵ BWC, Speaking Notes, Obtaining Universality for the Biological Weapons Convention: Introducing the Report of the Chairman, 2008, p.3

⁵⁶ BWC ISU, BWC/MSP/2008/4, 28 November 2008. Report of the Chairman on Universalization Activities, p.3

⁵⁷ Personal communication with author.

CENTRAL AFRICAN REPUBLIC

Status: Signatory state (10 April 1972)

Full name: Central African Republic

Background information

The Central African Republic (CAR) has been unstable since its independence from France on 13 August 1960 and is one of the least-developed countries in the world.

It has endured several coups and a difficult period under a self-declared emperor, Jean-Bedel Bokassa, who headed a brutal regime. A pan-African military force has been in place since 2003 to restore order. Violence has spilled over from Sudan and Chad. Illegal weapons proliferate across the CAR and armed groups are active in the volatile north. The unrest has displaced tens of thousands of Central Africans, many of whom have crossed the border into Chad.

Some progress towards ending the conflict was made in 2008, when peace talks led to an agreement committing two of the main rebel groups to disarm. The process culminated with the creation of a national unity government incorporating two rebel leaders in early 2009.

The CAR possesses considerable agricultural, water and mineral resources, but corruption is rife, according to the IMF, and affects the timber and diamond industries.⁵⁸ It has been classified as a Least Developed Country (LDC) and a Landlocked Least Developed Country (LLDC) by the UN.

French is the official language and Sangho is the national language this is most commonly spoken.

National legal system

International treaties and agreements are signed and ratified by the President of the Republic. For treaties that concern the status of persons and human rights, ratification or denunciation may only occur after the prior authorisation of parliament.⁵⁹ Treaties or accords regularly ratified or approved have, from their publication, an authority superior to that of domestic laws.⁶⁰

As of time of writing the Central African Republic has not introduced any applicable legislation regarding the use or control of biological weapons.⁶¹

Central African Republic and the BWC

The Central African Republic participated in EU Joint Action regional seminar for West and Central Africa in April 2007 and requested support and assistance to ratify the Convention. The representative of the Central African Republic inquired whether it is possible to detect the introduction into the region of biological agents as weapons, expressing concern over several new diseases emerging in the region and the fact that they were rumoured to have been introduced deliberately.⁶²

In 2007, the BWC Chairman noted CAR's request for assistance in ratifying the Convention and his official report categorized the CAR as "Waiting for further information, assistance, or have other priorities, etc".⁶³ This categorization did not change in 2008 and further information has yet to be received from the Central African Republic to date.⁶⁴

Participation in other disarmament regimes

The Central African Republic is a state party to the NPT, CWC, CPPNM and the 1925 Geneva Protocol. It is a signatory to the CTBT and the ANWFZ (Treaty of Pelindaba).

Prospects for joining the BWC

There is a severe lack of information pertaining to the Central African Republic and the BWC. Efforts to engage the CAR must be redoubled to re-establish channels of communication and encourage the Government to ratify the Convention. The Central African Republic's commitment to international disarmament seems underwhelming, but in light of its severe economic and political difficulties, it is likely that this is due to other priorities. Ratification of the Convention in the near future seems unlikely without a sustained campaign of awareness-raising coupled with tangible assistance and provision.

The CAR is a member of numerous regional and international organizations that may be cooperative in encouraging the country to ratify the Convention including the ACP, AfDB, AU, FAO, G-77, IAEA, Interpol, OIC (observer), OPCW, and the UN.

⁵⁸ British Broadcasting Corporation, Country profile: Central African Republic. Available at: http://news.bbc.co.uk/2/hi/africa/country_profiles/1067518.stm

⁵⁹ Art. 66, Constitution of the Central African Republic.

⁶⁰ Art. 69, Constitution of the Central African Republic.

⁶¹ http://www.nti.org/db/1540/region_subsahara.html#CAR

⁶² <http://www.euja-btwc.eu/node/221?>

⁶³ BWC ISU, BWC/MSP/2007/4, 11 December 2007. Report of the Chairman on Universalization Activities, p.3

⁶⁴ See BWC, Speaking Notes, Obtaining Universality for the Biological Weapons Convention: Introducing the Report of the Chairman, 2008, p.4-5 and BWC ISU, BWC/MSP/2008/4, 28 November 2008. Report of the Chairman on Universalization Activities, p.4

CHAD

Status: Non-signatory state

Full name: Republic of Chad

Background information

A former colony of France, Chad gained independence on 11 August 1960. French remains an official language alongside Arabic but there exist more than 120 other different languages and dialects in use.

Chad suffers from inadequate infrastructure and internal conflict. Its post-independence history has been marked by instability and violence with the most recent coup attempt in 2006.

Whilst Chad is enjoying increased economic largesse due to its oil reserves, it remains classified as a Least Developed Country and a Landlocked Least Developed Country by the UN. Poverty is rife, and health and social conditions compare unfavourably with those elsewhere in the region. In addition, Chad ranks as the world's most corrupt state.⁶⁵

Chad further suffers from severe refugee problems coming from the Central African Republic and Sudan.

National legal system:

The constitutional basis for the government is the 1996 Constitution. A strong executive branch headed by the president dominates the Chadian political system.⁶⁶

According to Chad's constitution international treaties and agreements are negotiated and ratified by the President of the Republic.⁶⁷ Once published, the treaties and agreements regularly ratified have greater authority than that of the laws.⁶⁸

As of writing Chad has not introduced any applicable legislation regarding the use or control of biological weapons.⁶⁹

Chad and the BWC

Chad's first participation in BWC-related meetings occurred at the 6th Review Conference of the BWC in 2006.

Chad subsequently attended the EU Joint Action regional seminar for West and Central Africa in April 2007, where the representative agreed that adherence to the BWC was in line with the objectives of other international treaties as well as counter-terrorism efforts, and stated his hope that the seminar would provide additional impetus towards Chad's ratification of the Convention. It was indicated that Chad would benefit from other countries' experiences regarding the identification of key national stakeholders.⁷⁰

In 2007, the BWC Chairman grouped Chad with other countries who had yet to start the accession process linked with their need for further information or assistance or competing national priorities.⁷¹ A meeting between the Chairman and a representative of Chad led to assurances that the representative would pursue the issue of accession with his government.⁷² No further information has since been forthcoming although Chad participated in the ISU French language awareness raising and universalization seminar in Geneva in June 2008, at which it requested assistance and support in order to urge its government authorities to join the process of BWC accession and to form a committee competent to develop a ratification proposal for submission to parliament. Since then, no additional feedback from, or information about, Chad has been received.⁷³

In communications with the BWPP, one official has stated that the country was unsure whether accession to the convention was in the country's best interest. For further decision making a cost-benefit analysis is to be pursued.

Participation in other disarmament regimes

The republic of Chad is a state party to the NPT and the CWC and a state signatory to the CTBT and ANWFZ (Treaty of Pelindaba). It has not signed the CPPNM nor has it submitted a report to the UNSC resolution 1540 Committee.

Prospects for joining the BWC

Chad's accession to the BWC does not seem likely in the near future given its relative negligible engagement in international disarmament regimes in general, and its current political instability and lack of resources. In order to assist Chad achieve accession, it will be necessary to re-establish channels of communication with its government and supply offers of concrete assistance targeted at their specific needs. Awareness of the BWC seems very low and in country awareness-raising visits would be of great use to counter this.

Regional and international organizations of which Chad is member which could cooperate to encourage its accession include the ACP, AfDB, AU, FAO, G-77, IAEA, Interpol, OIC, OIF, OPCW, and the UN. Chad is officially nonaligned but has close relations with France, the former colonial power, and other members of the Western community. It receives economic aid from countries of the European Union, the United States, Libya and various international organizations all of whom present possible avenues of influence.

⁶⁵ British Broadcasting Corporation, Country Profile: Chad. Available at: http://news.bbc.co.uk/2/hi/africa/country_profiles/1068700.stm

⁶⁶ US Department of State, Background Note: Chad. Available at: <http://www.state.gov/r/pa/ei/bgn/37992.htm>

⁶⁷ Art. 219, Constitution of the Republic of Chad.

⁶⁸ Art. 222, Constitution of the Republic of Chad.

⁶⁹ http://www.nti.org/db/1540/region_sub Sahara.html#Chad

⁷⁰ <http://www.euja-btwc.eu/node/221?>

⁷¹ BWC, Speaking Notes, Obtaining Universality for the Biological Weapons Convention: Introducing the Report of the Chairman, 2007, p.6

⁷² BWC ISU, BWC/MSP/2007/4, 11 December 2007. Report of the Chairman on Universalization Activities, p.7

⁷³ BWC/MSP/2008/4, p.2.

COMOROS

Idaroussi Aboudou Mohamed

Status: Non-signatory state

Full name: Union of the Comoros

Situé à l'entrée Nord du Canal de Mozambique, à mi-chemin entre la Côte Est de l'Afrique et le Nord Ouest de Madagascar, au cœur de l'Océan Indien, l'Union des Comores est un Archipel composé de quatre Iles et de plus de dix sept îlots.

Avec une superficie de 2.236 km² et une population de 728.060 habitants, l'Archipel des Comores jouit de sa souveraineté seulement depuis le 6 juillet 1975. Il est membre des Nation Unies, de l'Union Africaine, de la Conférence Islamique et de la Ligue des Etats-Arabs.

Depuis le 13 janvier 1993, date à laquelle, les Comores ont apposé leur signature pour marquer leur adhésion aux objectifs poursuivis par la Convention pour l'Interdiction des Armes Chimiques, à Paris (France), ce pays n'a jamais perdu de vue l'importance de la problématique du désarmement et de la non-prolifération des armes de destruction massive et de la nécessité de renforcer les instruments multilatéraux à travers lesquels se prononcent les Etats en faveur de la paix et de la sécurité internationale pour une interdiction totale et efficace de la mise au point, de la fabrication, de l'acquisition, du stockage, de la conservation, du transfert et de l'emploi de ce type d'armes létales, ainsi que de l'utilisation illégale des différents produits chimiques ou biologiques, à des fins non pacifiques et de leur destruction.

Grâce à l'approche, par l'organisation pour l'interdiction des armes chimiques (O.I.A.C), favorisant la promotion d'une politique active orientée vers les Etats non encore membres, pour les encourager à ratifier la Convention sur l'Interdiction des Armes Chimiques (C.I.A.C) et avant tout la comprendre, l'Union des Comores a engagé le processus de son adhésion depuis octobre 2005, date de sa participation à l'atelier sur l'universalité et la mise en œuvre, qui s'est tenu à Addis Ababa. Ce processus a abouti à la ratification de la C.I.A.C le 10 août 2006 et se trouve dans sa deuxième phase consacrée à la préparation des lois internes pour sa mise en œuvre.

La division chargée, au sein de l'O.I.A.C, des relations avec les Etats a été constamment en relation avec le point focal national dans ses démarches auprès des autorités politiques et des structures techniques intéressées par le sujet, afin de les sensibiliser et de les amener à prendre les actes nécessaires et concrets pour l'engagement du pays.

C'est ainsi qu'une mission de l'O.I.A.C, conduite par le Directeur de ladite division, accompagné de trois membres de son équipe, dont un juriste, a été diligenté à partir du Siège de La Haye et a séjourné à Moroni (Comores) au mois de Février 2006.

Durant trois jours, cette mission a rencontré les responsables, aussi bien politiques que techniques. Des séances de travail ont été organisées au profit des structures ressources, comme le corps des douanes, des officiers des différents corps de la défense, et de la sécurité du pays et des agents et responsables des secteurs privé et associatif. Toutes ces activités ont grandement contribué à la sensibilisation des décideurs de l'exécutif, des élus et des praticiens du domaine judiciaire.

Après le séminaire régional pour l'Afrique Australe et Orientale qui s'est tenu à Nairobi du 21 au 22 juin 2006 sous l'égide de l'action commune de l'Union Européenne en faveur de l'Universalisation de la Convention sur les Armes Biologiques ou à Toxines, le même processus a été initié, par le point focal, qui fait office d'autorité nationale pour la non prolifération des armes de

destruction massive, en faveur de la CIAB. Les seuls outils de travail dont il disposait étaient les maigres documents obtenus à l'atelier de Nairobi.

La documentation sollicitée lors des entretiens obtenus par le représentant de l'Union des Comores avec les responsables et animateurs de l'atelier de Nairobi n'est pas arrivée, alors que pour cette convention, comme pour la première, aucune documentation n'était disponible à Moroni ; pas même le texte de ladite convention. Il a donc fallu multiplier le seul exemplaire amené de Nairobi, pour lancer le programme de sensibilisation dans le sillon du précédent. C'est ainsi que, grâce aux seuls efforts du point focal, la convention a été présentée en Conseil des Ministres et soumise aux Parlementaires pour être programmée dans la session de novembre 2006.

En effet, du côté du Parlement, comme du Cabinet de la Présidence, le principe de la ratification ne pose aucun problème. Mais la priorité actuelle est essentiellement politique et les débats sur ces sujets sont dominés par ceux de l'actualité politique, du fait de l'instabilité consécutive au phénomène du séparatisme de l'île d'Anjouan.

L'expérience comorienne en matière de procédure de ratification n'a rien d'original. Elle répond et passe par les exigences constitutionnelles d'un Etat Archipel, politiquement instable et économiquement faible.

La constitution exige que toute ratification passe d'abord par une autorisation du Parlement à l'issu d'un travail technique, accompli par le ou les commissions spécialisées de l'institution. C'est ainsi, qu'en ce qui concerne les engagements internationaux de l'Etat (Traités, Conventions, Accords Bi- et Multilatéraux), la procédure démarre par une note de présentation en Conseil des Ministres, accompagnée de la documentation appropriée (texte, rapport de motivation...) introduite auprès du Secrétariat du Gouvernement par le Ministère des Relations Extérieures et de la Coopération.

Procédure de ratification de l'Union des Comores

- Le Conseil des Ministres se prononce et sur la base du procès verbal, le Secrétariat du gouvernement introduit le dossier au Secrétariat général de l'Assemblée Nationale.
- Après un premier travail d'instruction dudit dossier, le bureau de l'Assemblée l'affecte à une ou à des commissions intéressées par le sujet afin qu'elles l'étudient.
- Des réunions sont tenues par ces commissions qui peuvent recourir à des experts pour mieux maîtriser la matière.
- Accompagné du rapport issu de leur étude, la commission introduit le dossier au bureau des questeurs qui doit le programmer programmé soit en session ordinaire soit en session extraordinaire, suivant l'urgence.
- A l'issu des débats sur le sujet en session plénière, le Secrétaire général de l'Assemblée retourne le
- Si l'autorisation de ratifier est accordée au Président par l'Assemblée, le Cabinet de la Présidence prend contact avec le Ministère des Relations Extérieures et, ensemble, ils préparent les instruments de ratification requis.
- La procédure de dépôt desdits instruments, auprès de l'instance ou de l'Etat dépositaire, est assurée par le Ministère des Relations Extérieures.

Pour conclure notre étude sur l'expérience comorienne, nous aimerions souligner le fait qu'à l'instar d'un certain nombre de pays, l'Union des Comores n'est pas en possession des moyens nécessaires ni de l'expertise nationale requise pour faire face à certaines exigences de la politique de la non-prolifération des A.D.M. C'est cette même raison qui explique que l'Union des Comores n'ait pas pu s'acquitter, comme elle l'aurait voulu, de ses engagements dans les délais impartis. Elle considère que l'application de la science et de la technologie à des fins pacifiques nécessite le renforcement des programmes de coopération internationale, en vue de permettre à des acteurs nécessaires de développer les compétences nationales par les échanges d'expérience et de l'expertise entre Etats.

La participation des techniciens de pays, tels que l'Union des Comores, à des manifestations en relation avec ces instruments internationaux (ateliers, séminaires, conférences...) reste hypothétique. En effet, sans sponsor, il sera difficile aux pays de ce type d'assumer tous seuls leurs obligations juridiques. Ils attendent donc beaucoup de la solidarité exprimée dans le cadre des programmes de coopération des organisations en charge de la promotion d'une politique d'universalisation de l'adhésion des Etats.

Le succès de l'universalisation de la convention pour l'interdiction des armes chimiques, ratifiée par plus de 180 Etats, et dont la connaissance par les membres les plus démunis est rendue possible grâce à la générosité et la disponibilité des Etats membres et le dynamisme du secrétariat technique de l'O.I.A.C., est plus que révélateur de cette volonté qui ne demande qu'à s'exprimer au nom de la sécurité, de la paix internationale et pour le bien être de l'humanité.

NOTE: présenté à l'été 2007

COTE D'IVOIRE

Konan Kouadio

Status: Signatory state (23 May 1972)

Full name: Republic of Cote d'Ivoire

La convention sur l'interdiction de la mise au point, de la fabrication et du stockage des armes bactériologiques (biologiques) ou à toxines et sur leur destruction ouverte à la signature le 10 avril 1972 à Londres (Grande Bretagne), Moscou (Russie) et à New York (Etats-Unis) a été signée par la Côte d'Ivoire le 23 mai 1972 à New York.

Mais cette convention, de même que bien d'autres textes internationaux, n'a débuté son processus de ratification qu'à partir de l'an 2000.

Dans cet article, je vais d'abord décrire le processus de ratification d'un traité international en Côte d'Ivoire, ensuite donner les raisons qui expliquent le retard dans le processus de ratification de la convention sur les armes biologiques et enfin terminer par des propositions d'aides dont la Côte d'Ivoire pourrait avoir besoin.

Le processus de ratification en Côte d'Ivoire.

La ratification des traités et accords internationaux se fait conformément à deux procédures fondamentales :

- La procédure complexe
- La procédure simple

La procédure complexe

Cette procédure est utilisée quand le contenu du traité ou de l'Accord exige que l'Assemblée Nationale prenne une loi pour autoriser le Président de la République à le ratifier. C'est en général la procédure employée pour les textes multilatéraux qui modifient la législation interne et/ou ont une incidence financière sur le budget de l'Etat.

Quand bien même, la constitution ivoirienne stipule en son article 84 que "Le Président de la République négocie et ratifie les traités et Accords internationaux" , au niveau du Gouvernement, le gestion du processus de ratification relève de la compétence exclusive du ministère en charge des Affaires Etrangères. A ce sujet, le décret N°61-157 du 18 mai 1961 relatif à la ratification et la publication des engagements internationaux souscrits par la Côte d'Ivoire stipule en son article premier que "le Ministre des Affaires Etrangères est le seul chargé de préparer la ratification et de pourvoir à la publication des conventions, accords, protocoles et règlements internationaux dont la Côte d'Ivoire est signataire ou pour lesquels la Côte d'Ivoire se trouve engagée".

Lorsque les services compétents du Ministère des Affaires Etrangères préparent le dossier de ratification, ils le transmettent au Secrétariat du Gouvernement qui l'inscrit à l'ordre du jour du Conseil des Ministres.

Si le conseil des ministres l'adopte, le Président de la République signe le document qu'il fait parvenir au Secrétariat du Gouvernement ; celui-ci l'achemine à l'Assemblée Nationale.

L'Assemblée Nationale organise le passage du Ministre des Affaires Etrangères devant les parlementaires pour présenter l'accord à ratifier.

Lorsque le Parlement donne son accord, il prend une loi autorisant le Président de la République à ratifier le texte en question. Cette loi est transmise au Secrétariat Général du Gouvernement, qui à son tour l'achemine avec l'ensemble du dossier préparé par le Ministère des Affaires Etrangères au Cabinet de la Présidence de la République.

Ainsi le Président de la République signe les décrets de ratification et de publication ainsi que la loi de promulgation.

Lorsque les documents ci-dessus sont transmis au Ministère des Affaires Etrangères, il initie l'instrument de ratification qui à son tour est soumis à la signature du Président de la République.

L'instrument de ratification signé par le Président de la République est transmis au Ministère des Affaires Etrangères qui le fait parvenir aux dépositaires du texte ainsi ratifié.

La procédure simple

Cette procédure est adoptée quand la ratification du texte n'entraîne pas une modification de la législation interne et/ou une incidence financière sur le budget de l'Etat.

C'est la procédure généralement utilisée pour les textes entrant dans le cadre des rapports bilatéraux entre la Côte d'Ivoire et un autre Etat.

Le dossier préparé par le Ministère des Affaires Etrangères est transmis au Secrétariat Général du Gouvernement qui l'inscrit à l'ordre du jour du conseil des ministres.

Au conseil, le texte est présenté par le Ministre des Affaires Etrangères. Si le Gouvernement donne son accord, le Président de la République signe le décret de ratification et de publication qui servent d'élément de base au Ministère des Affaires Etrangères pour préparer l'instrument de ratification qui une fois signé par le Président de la République est transmis au dépositaire ou à l'autre Etat partie par le Ministère des Affaires Etrangères.

Cas particulier : la procédure d'approbation.

Outre ces deux procédures traditionnellement appliquées, en cas d'urgence, le ministre des Affaires étrangères a recours à une 3ème procédure : la déclaration d'approbation.

L'urgence peut être justifiée par un intérêt politique ou diplomatique lié au texte à ratifier. Plusieurs raisons peuvent motiver ce choix :

- un ivoirien est candidat à un poste électif au sein d'une organisation internationale alors que le texte constitutif n'est pas encore été ratifié par la Côte d'Ivoire ;
- une organisation internationale ambitionne d'organiser une activité donnée en Côte d'Ivoire pendant que le texte constitutif n'est pas encore ratifié par la Côte d'Ivoire ;
- la Côte d'Ivoire veut bien ratifier une convention multilatérale, mais son contenu entre en contradiction avec certaines dispositions de la constitution qui doivent être modifiées avant que la ratification n'intervienne.

Cette procédure consiste à produire une déclaration sur instruction du Ministre des Affaires Etrangères, sur un papier portant les armoiries de la République. La déclaration stipule que la Côte d'Ivoire approuve le texte et promet que les dispositions qui y sont contenues seront inviolablement observées.

Toutefois, cette déclaration est produite sous réserve de l'instrument de ratification qui demeure l'acte conventionnel par lequel l'Etat s'engage. Elle n'annule donc pas la procédure conventionnelle de ratification.

Les motifs du retard de la ratification de la CIAB

La convention sur l'interdiction de la mise au point, de la fabrication et de stockage des armes bactériologiques (biologiques) ou à toxines et sur leur destruction est un texte dont la ratification entraînera, à coup sûr, une modification de la législation interne.

Ainsi, le processus de ratification indiqué est la procédure complexe décrite plus haut. Cette procédure est relativement longue, au regard des différentes administrations qui interviennent dans le processus.

Toutefois, la raison principale de ce retard demeure la crise politico-militaire survenue depuis le 19 septembre 2002.

En effet, les sessions des années 2003 ; 2004 et 2005 ont été consacrées à faire des aménagements législatifs en faveur de l'application de l'accord de paix de Linas Marcoussis signé en mars 2003 en France.

A partir de 2006, une polémique née de la légitimité du parlement a paralysé les sessions de l'année. Pour l'opposition ivoirienne, le mandat constitutionnel des députés étant venu à terme, cette Assemblée Nationale ne pouvait plus légiférer sur les textes concernant la vie du pays. Cette crise constitutionnelle a duré toute l'année 2006.

Lorsqu'à la première session parlementaire de mai 2007, le consensus a été retrouvé, les textes internationaux, à analyser, ont été programmés par le bureau de l'Assemblée Nationale selon leur priorité, étant donné qu'un nombre important de textes était en attente.

Il importe de préciser que l'examen de la CIAB a été reporté à la session parlementaire ordinaire d'octobre 2007.

Aide souhaitable pour la Côte d'Ivoire.

En vue d'amener les autorités ivoiriennes compétentes à inscrire la ratification de la CIAB en priorité, une action de lobbying, de plaidoyer s'avère nécessaire.

A l'instar de la mission de plaidoyer pour la ratification de la convention de la CEDEAO sur les armes légères et de petit calibre qu'effectue actuellement une délégation de la commission de la CEDEAO dans les Etats membres de cette organisation sous-régionale en vue de promouvoir la ratification de ladite convention, il serait souhaitable que l'Action Commune de l'UE en faveur de la convention sur l'interdiction des armes biologiques organise une mission en terre ivoirienne.

Au cours du séjour de la délégation, des audiences pourraient être organisées avec toutes les autorités concernées par la question de la ratification de la CIAB, y compris le Président de la République.

A ces audiences, la délégation présentera les enjeux de la CIAB. Ainsi, une décision politique en faveur d'une mesure nécessaire à prendre en vue de la ratification accélérée de la convention pourrait être prise.

Note: Présenté à l'été 2007

English Version:

The Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction (BWC) opened for signature on April 10, 1972 in London (United Kingdom), Moscow (Russia) and in New York (United States) and was signed by the Côte d'Ivoire on May 23, 1972 at New York. However, as with many other international instruments, the Côte d'Ivoire did not begin its process of ratification of this convention until some time later in the year 2000.

In this article, I will begin by describing the process of ratification of an international treaty in Côte d'Ivoire, then give the reasons explaining the delay in the ratification process of the Biological

Weapons Convention, and finish with proposals for assistance which the Côte d'Ivoire may find helpful.

The ratification procedures of the Côte d'Ivoire

The ratification of treaties and international agreements is carried out in accordance with two fundamental procedures:

- The complex procedure
- The simple procedure

The complex procedure

This procedure is used when the treaty or Agreement requires the National Assembly to implement a law authorizing the President of the Republic to ratify it. This is generally the procedure employed for the multilateral instruments which modify any national legislation and/or have a financial impact on the State budget.

While Article 84 of the constitution of the Côte d'Ivoire stipulates that "the President of the Republic negotiates and ratifies the treaties and International agreements", at Government level the management of the ratification process falls within the exclusive competence of the Minister of Foreign Affairs. On this subject, decree N°61-157 of 18 May 1961 relating to the ratification and publication of international agreements subscribed to by the Côte d'Ivoire stipulates in its first article that "the Foreign Minister is the solely authorized agent to prepare the ratification and to provide for the publication of conventions, agreements, protocols and international regulations to which the Côte d'Ivoire is signatory or for which the Côte d'Ivoire is bound".

When the competent services of the Ministry for Foreign Affairs have prepared the file for ratification, it is transmitted to the Secretariat of the Government which registers it with the day order of the Council of Ministers. If the Council of Ministers adopts the dossier, the President of the Republic signs the document which is then forwarded to the Secretariat of the Government, who in turn conveys it to the National Assembly. The National Assembly organizes the passage of the Foreign Minister in front of the members of Parliament to present the agreement to be ratified.

Once Parliament has given its assent, it passes a law authorizing the President of the Republic to ratify the text in question. This law is transmitted to the General Secretariat of the Government, which in turn conveys it, together with the entire file prepared by the Ministry for Foreign Affairs, to the Cabinet of the Presidency of the Republic. The President of the Republic signs the decrees of ratification and publication as well as the law of promulgation. When the documents above are transmitted to the Ministry for Foreign Affairs, it initiates the instrument of ratification which, in its turn, is subjected to the signature of the President of the Republic. The instrument of ratification signed by the President of the Republic is transmitted to the Ministry for Foreign Affairs which forwards it to the depositaries of the text so ratified.

The simple procedure

This procedure is used when the ratification of the text does not involve a modification of the national legislation and/or a financial burden on the State budget. It is the procedure generally used for the texts entered into in the case of bilateral agreements between the Côte d'Ivoire and another State.

The file prepared by the Ministry for Foreign Affairs is transmitted to the Secretariat-General of the Government which registers it with the day order of the Council of Ministers. The text is presented by the Foreign Minister to the Council.

If the Government gives its agreement, the President of the Republic signs the decree of ratification and publication which serves as the basic element for the Ministry for Foreign Affairs to prepare the instrument of ratification which, once signed by the President of the Republic, is transmitted to the depositary or to the other State party by the Minister for Foreign Affairs.

Special cases: the procedure of approval

In addition to these two traditionally applied procedures, in the event of an emergency, the Minister of Foreign Affairs has recourse to a third procedure: the declaration of approval.

The emergency must be justified by a political or diplomatic interest related to the text to be ratified. Several reasons can justify this course of action:

- if a national of the Côte d'Ivoire is a candidate for an elected post within an international organization where the constitutive text is not ratified yet by the Côte d'Ivoire;
- if an international organization wishes to organize an activity to be conducted within the Côte d'Ivoire while the constitutive text is not ratified yet by the Côte d'Ivoire; or,
- if the Côte d'Ivoire wishes to ratify a multilateral convention but its contents contradict or conflict with certain provisions of the constitution which must be modified before ratification.

This procedure consists of producing a declaration on instruction of the Foreign Minister, on a document bearing the official Seal of the Republic. The declaration stipulates that the Côte d'Ivoire approves the text and promises that the provisions contained therein will be faithfully observed.

However, this declaration is produced subject to the instrument of ratification which remains the conventional act by which a State begins. Therefore, it does not cancel the conventional procedure of ratification.

Reasons for the delay of the ratification of the BWC

The Biological Weapons Convention is a text whose ratification will undoubtedly involve a modification of the national legislation. Thus, the appropriate ratification procedure will be the complex procedure described above. This procedure is relatively long, taking into account all the various administrative tasks that intervene in the process.

However, the primary reason for this delay remains the political-military crisis that has beset the country since 19 September 2002.

Indeed, Parliamentary sessions in the years 2003-2005 were devoted to passing legislative instruments in favour of the application of the Linas Marcoussis peace agreement signed in March 2003 in France. From 2006, a polemic regarding the legitimacy of the Parliament paralysed the sessions of that year. For the parliamentary opposition, the constitutional mandate of the deputies having come in the long term, this National Assembly could no longer legislate on the texts relating to the life of the country. This constitutional crisis lasted for the whole of 2006.

When consensus was found with the first parliamentary session of May 2007, the international texts for consideration were selected by the office of the National Assembly according to their priority, due to the large number of texts that had been put on hold. It is important to specify that the examination of the BWC was deferred to the ordinary parliamentary session of October 2007.

Desirable assistance for the Côte d'Ivoire

In order to encourage the competent authorities of the Côte d'Ivoire to accord the ratification of the BWC a higher priority, a certain amount of lobbying will be necessary.

The example of the lobbying campaign for the ratification of the convention of the Economic Community of West African States (ECOWAS) on the light weapons and small arms could be followed. A delegation of the Member States of the Commission of ECOWAS, a sub-regional organization, undertook in-country visits to promote the convention. It would be desirable that the EU Joint Action in support of the BWC organizes a similar ground mission in the Côte d'Ivoire. During the stay of an EU delegation, audiences could be organized with all the relevant authorities concerned regarding the question of the ratification of the BWC, including the President of the Republic. With these audiences, the delegation would present the stakes of the BWC. Thus, a political decision in favour of a necessary measure to be taken for the accelerated ratification of the convention could be taken.

NOTE: Submitted in Summer 2007. No further information has been received since June 2007 regarding the progress of the BWC file through Parliament.

Côte d'Ivoire and the BWC

The Côte d'Ivoire attended its first BWC meeting in 2006 at the 6th Review Conference of the BWC followed by the 2007 MSP.

Participating in the 2007 EU Joint Action regional seminar for West and Central Africa, it was reported by a representative that the Côte d'Ivoire had commenced the ratification process but an internal political crisis had prevented any progress being made in Parliament.⁷⁴

The BWC Chairman reported later in the year that the ISU had met with a representative of the Côte d'Ivoire in November 2007 who confirmed that the ratification process had been initiated. Later in November, at another meeting between the Côte d'Ivoire and the ISU and Chairman, the representative requested additional information on available assistance.⁷⁵

Reports by the BWC Chairman in 2008 were hopeful for ratification within 12 months. The Côte d'Ivoire participated in the ISU French-language awareness-raising and universalization seminar in June 2008 but no further information has since been received regarding the progress of ratification, despite reports that a draft act for ratification had been placed before Parliament in 2007.⁷⁶

⁷⁴ EU Joint Action in support of the BTWC. Report of the Regional Seminar for West and Central Africa. Available at: <http://www.euja-btwc.eu/node/221>

⁷⁵ BWC ISU, BWC/MSP/2007/4, 11 December 2007. Report of the Chairman on Universalization Activities, p.3-4.

⁷⁶ BWC ISU, BWC/MSP/2008/4, 28 November 2008. Report of the Chairman on Universalization Activities, p.5.

DJIBOUTI

Phasellus ut arcu ut nulla dignissim auctor
Mariam goumaneh

Status: Non-signatory state

Full name: Republic of Djibouti

The Republic of Djibouti took part, as a non-States Party, in the seminar devoted to the universalisation of the of 1972 Biological and Toxin Weapons Convention (BTWC) that took place at the United Nations office in Nairobi, Kenya from 21-22 June 2006. The seminar, organized by the European Union within the framework of the Joint Action in support of the Biological and Toxin Weapons Convention, was focused towards countries within East and Southern Africa who had not yet ratified or otherwise joined the aforementioned Convention.

The representative of Djibouti thus could take note of the BTWC, which whilst it is fairly old, is characterised by a lack of understanding of its contents and objectives.

Thanks to the seminar, the Djibouti authorities have been informed of the state of ratification of the Convention: in sub-Saharan Africa, only 19 countries are Party to the Convention out of 47 and of the 19 countries who make up Southern and Eastern Africa, 11 are not States parties.

The Djibouti authorities were also sensitized to the risk that the biological threat constitutes for countries that do not have such weapons since the latter do not have the equipment necessary in general to face the threat nor have adequate preventive legislation.

In addition, we are informed that expertise is available for countries wishing to put in place national legislation, once the Convention is ratified.

The ratification of a convention inevitably involves financial costs, but the fact that joining the BTWC does not require any specific pecuniary expenditure by states beyond administrative costs, is seen as an advantage.

Conforming to one of the recommendations made during the seminar, the dossier on biological weapons has been passed on to the Ministry contact point in charge of chemical weapons.

Today, the Republic of Djibouti recognized and accepts the necessity of ratifying the BTWC. Although the joining process requires the reproduction 90 copies of the text of the Convention (25 copies for the Council of Ministers to examine and 65 copies for examination and adoption by the deputies) what causes expenses for a Ministry of limited financial means, who does not have adequate equipment for such a work of reproduction and who does not have either the sufficient budget to entrust it to a third party.

It is only after the promulgation of the law by the President of the Republic, that the Instrument of Ratification could be transmitted to the one of the countries agent of Convention.

DOMINICA

Status: Requires clarification

Full name: Commonwealth of Dominica

Background information

Contested between France and the United Kingdom (UK) for over a century, Dominica became an undisputed British colony in the late 1700s, and was governed as part of the Windward Islands until 1958 when it joined the short-lived West Indies Federation. Dominica became an associated state of the UK in 1967 and formally took responsibility of its internal affairs, with foreign affairs remaining in the hands of the UK. Dominica was granted independence on 3rd November 1978.

On account of its long history with France and Britain, the official language of the Commonwealth of Dominica is English, but French patois is the most commonly spoken language.

Dominica suffers from poor infrastructure and is vulnerable to environmental disasters and natural hazards such as tropical storms and hurricanes. According to the Pan American Health Organization (PAHO)⁷⁷, regional office for the Americas of the World Health Organization (WHO), Dominica has no systematic process for collection, analysis and dissemination of epidemiological information concerning communicable diseases and has only one public and one private health laboratory service for the island.⁷⁸

General elections are held every five years, with the next election scheduled to be held by 5th August, 2010.

National legal system

Dominica is a democratic parliamentary Republic with an executive Branch composed of a President and a Prime Minister. The president is elected by the House of Assembly for a term of five years. A presidential candidate is nominated jointly by the Prime Minister and Leader of the Opposition. The President appoints as Prime Minister the elected member of the House who commands the support of a majority of its elected members. The President serves as the constitutional Head of State.

The Parliament is a unicameral legislature and serves for a fixed period of 5 years. Parliament is responsible for making laws which are then passed by the House and assented to by the President. Laws are then published in the Official Gazette - no law made by Parliament comes into operation until its publication in the Official Gazette. Laws may be made with retrospective effect.⁷⁹

Dominica and the BWC

Despite having been listed as a State party to the BWC since 1996 in official BWC Fourth Review Conference documentation⁸⁰, the status of the Commonwealth of Dominica's (hereafter referred to as Dominica) membership to the Convention is in need of clarification.

At the time of entry into force of the BWC on 26 March 1975, as part of the West Indies Federation and thus an Associated State of the UK, Dominica was covered by the "all territories" scope of the UK's ratification of the BWC on 26 March 1975:

"The United Kingdom ratification was in respect of the United Kingdom and Great Britain and Northern Ireland, Dominica and Territories under the territorial sovereignty of the United Kingdom..."⁸¹

Following independence on 3rd November 1978, a communication to the UN Secretary-General from the Prime Minister of Dominica dated 21 December 1982 stated as follows:

“The Government of Dominica declares that, with regard to multilateral treaties applied or extended to the former British Associated State of Dominica, it will continue to apply such terms of each treaty provisionally and on the basis of reciprocity until such time as it notifies the depositary authority of its decision in respect thereof.”

Thus it can be argued that since there does not appear to have been a subsequent modification of this statement. This suggests that Dominica would consider itself at least politically bound by the treaties that applied to it prior to independence, including the BWC.

However, Dominican government officials confirm that the BWC does not appear on their lists of treaties to which they consider themselves legally bound⁸², despite indications by the UN Treaty Section website, amongst others, that Dominica deposited an instrument of accession with the UK on 8th November 1978⁸³. Neither the Government of Dominica nor the UK Treaty Office have any record of such an instrument having been deposited.

According to Dominican government officials, these kinds of cases are a subject of debate within the Ministry of Foreign Affairs and must be resolved by a decision by the Minister of Legal Affairs. Whilst some similar cases reviewed by the Ministry of Legal Affairs have been judged positively in terms of membership of the treaty in question, in general, it is the general view and practice of the Government of Dominica that they should still accede or claim succession formally to any and all Conventions.

Prospects for joining the BWC

As Dominica has until now been considered to be a State Party to the BWC since at least 1996, it has therefore slipped through the gaps of any universalisation efforts that have been undertaken. Dominica was invited to participate in the EU Joint Action regional seminar for Latin America and the Caribbean that took place in San Jose, Costa Rica in January 2007 in its role as a States Party. However, no officials took part which may in fact have brought their status to light.

By virtue of having been part of the West Indies Federation (ex-Leeward Islands), Dominica would be entitled to claim succession to the BWC. The onus would be on the Government of Dominica to confirm this. It is suggested here that the Chairman of the 2009 BWC Meeting of Experts and Meeting of States Parties, acting in his capacity as the leading force on BWC universality issues and with the assistance of the BWC ISU, therefore contact the Government of Dominica in order to set the wheels in motion for the said Government to review the case of the application of the BWC.

⁷⁷ British Broadcasting Corporation (BBC) Country Profile: Dominica. Available at http://news.bbc.co.uk/2/hi/americas/country_profiles/1166435.stm

⁷⁸ PAHO, Country Profile: Dominica. http://www.paho.org/English/DD/AIS/cp_212.htm

⁷⁹ Section 49. Constitution of the Commonwealth of Dominica of 1978, Act 22 of 1984. Available at http://www.da-academy.org/DA_Constitution.html

⁸⁰ Biological Weapons Convention, List of States Parties as of 25 November 1996, BWC/CONF.IV/INF.2, 3 December 1996

⁸¹ UK Foreign and Commonwealth Office, Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, States which have signed ratified or acceded in London. Available at: <http://www.fco.gov.uk/resources/en/pdf/3706546/3892723/Trbio-weapons1972status>

⁸² Private communication with author

⁸³ United Nations, UN Office for Disarmament Affairs, Status of Multilateral Arms Regulation and Disarmament Agreements. Available at <http://disarmament.un.org/TreatyStatus.nsf>

GUYANA

Status: Signatory state (3 January 1973)

Full name: Cooperative Republic of Guyana

Background information

A British territorial possession from 1815 until its independence in 1966, Guyanese nationals speak a number of languages including English, Amerindian dialects, Creole, Caribbean Hindustani and Urdu. Guyana has a richly diverse but vulnerable ecosystem and an equally vulnerable agricultural sector on which it heavily relies for its economic growth and stability. Guyana is recognized by the UN as a Small Island Developing State (SIDS) and currently suffers from heavy debt, economic difficulties and continuing political insecurities.

The last general elections in Guyana took place in August 2006 with subsequent elections due in 2011.

National Legal System

Guyana is governed by three separate branches of Government: the Legislature (National Assembly), the Executive (President, Cabinet and Government Departments) and the Judiciary (Courts).

Parliament consists of the President and the National Assembly. It is the most important branch of the Government and makes the laws, including the highest law in the country, the Constitution. It can also change laws.⁸⁴

The Parliament of Guyana has a Parliamentary Sectoral Standing Committee on Foreign Relations. Sectoral Committees have the responsibility for the scrutiny of all areas of Government policy and administration. In the exercise of their responsibility they have the power to examine all policies and administration for each sector to determine whether the execution of Government policy is in consonance with the principle of good governance and in the best interest of the nation.⁸⁵

Executive power is vested in the President who has to assent to a bill passed by the National Assembly before the bill becomes law.⁸⁶ Guyana's constitution does not proclaim any procedures for the negotiation or ratification of international treaties and agreements.⁸⁷

Guyana and the BWC

Communication from the Government of Guyana regarding its progress towards ratifying the BWC has been scarce.

In 2004 the Permanent Mission of the Republic of Guyana to the United Nations informed that Guyana did not manufacture or trade in nuclear, chemical and biological weapons, and that a ratification of the convention was hence not regarded as priority.⁸⁸

In response to the invitation to attend the EU Joint Action regional seminar for Latin America and the Caribbean in January 2007, Guyana refused the invitation on the grounds that they possessed no biological weapons and the Convention was therefore not relevant, and this not a priority, for their country.⁸⁹

By 31 October 2007, in a meeting between the Chairman of the 2007 BWC meetings and a representative of Guyana in New York information on reservations under the Convention was requested and duly received. At the 2007 BWC Meeting of States Parties, Guyana was reported to fall within the category of "waiting for further information or assistance"⁹⁰.

In December 2008, the Chairman of the 2008 BWC meetings reported that Guyana remained within the category of awaiting further information or assistance, and had responded to outreach efforts by the Chairman and ISU and had indicated that they no political problems hindered their joining the Convention, but were yet to begin formal ratification procedures.⁹¹ In a letter addressed to the BWPP dated 12 November 2008, Guyana stated that other issues were perceived as more pressing, given Guyana's limited human and financial resources.⁹²

Guyana has not attended any formal BWC meetings to date and neither have any representatives attended any other meetings, such as NGO presentations and seminars or EU Joint Action in support of the BTWC, relating to the BWC to which they have been invited.

In their report dated 11 November 2004 to the Chairman of the UNSC resolution 1540 Committee, the Government of Guyana informed the Committee that it "does not manufacture or trade in nuclear, chemical and biological weapons, and that there are no laws at this time that criminalize trafficking in nuclear, chemical and biological weapons." The note further stated that the Government was "in the process of evaluating necessary actions pursuant to Security Council resolution 1540 (2004)".

Participation in other disarmament regimes

Guyana is a state party to the CWC, NPT, CTBT, Treaty of Tlatelolco, and CPPNM.

Prospects for joining the BWC

Despite the positive message received by the Chairmen of the 2007 and 2008 BWC meetings, the continued absence of Guyana at BWC-related meetings, and its repeated comments eschewing the relevance and subsequent priority accorded to joining the BWC does not seem particularly encouraging for any imminent ratification of the Convention.

However, Guyana's participation in other relevant disarmament regimes as well as the UNSC resolution 1540 does indicate a commitment to disarmament in general.

Guyana is a member of a number of regional and international organizations that could be cooperated with to stress the importance of joining the BWC including the ACP, Caricom, CDB, FAO, G-77, Interpol, OAS, OPCW, and the UN. The EU, WHO and OAS have offices in the capital city of Georgetown, and Caricom has its Secretariat headquartered there. Guyana has sought to keep foreign policy in close alignment with the consensus of Caricom members, especially in voting in the UN, OAS, and other international organizations.⁹³

⁸⁴ US Department of State, Background Note: Guyana. Available at <http://www.state.gov/r/pa/ei/bgn/1984.htm>

⁸⁵ Constitution of the Co-operative Republic of Guyana. At No.2 of 1980. Chapter 10, para 119B. Available at <http://www.sdn.org.gy/parliament/constitution/constitutionindex.php>

⁸⁶ Parliament of the Cooperative Republic of Guyana. System of Government webpage. Available at http://www.sdn.org.gy/parliament/s_government.php

⁸⁷ Constitution of the Co-operative Republic of Guyana. At No.2 of 1980. Available at <http://www.sdn.org.gy/parliament/constitution/constitutionindex.php>

⁸⁸ Note verbale dated 11 November 2004 from the Permanent Mission of Guyana to the United Nations addressed to the Chairman of the Committee S/AC.44/2004/(02)/78

⁸⁹ Personal communication with author.

⁹⁰ BWC ISU, BWC/MSP/2007/4, 11 December 2007. Report of the Chairman on Universalization Activities, p.3

⁹¹ BWC, Speaking Notes. Obtaining Universality for the Biological Weapons Convention: Introducing the Report of the Chairman, 2008, p.4. See also BWC ISU, BWC/MSP/2008/4, p.3. (Information in the report was based on a communication from BWPP to the ISU dated 12 November 2008)

⁹² BWC ISU, BWC/MSP/2008/4, p.5. Report of the Chairman on Universalization Activities, 28 November 2008

⁹³ US Department of State, Background Note: Guyana. Available at <http://www.state.gov/r/pa/ei/bgn/1984.htm>

HAITI

Status: Signatory state (10 April 1972)

Full name: Republic of Haiti

Background information

Settled by the Spanish in the late 1400s, and later becoming a French colony before gaining independence in 1804, Haiti still illustrates the influence of the French in its adoption of French and Creole as its official languages. The poorest country in the Western Hemisphere, Haiti has been plagued by political violence for most of its history. After an armed rebellion led to the forced resignation and exile of the President in February 2004, an interim government took office to organize new elections under the auspices of the United Nations Stabilization Mission in Haiti (MINUSTAH). Continued violence and technical delays prompted repeated postponements, but Haiti has inaugurated a democratically elected president and parliament in May of 2006.⁹⁴ The next general elections are expected to take place in 2011.

Haiti is the poorest country in the Western Hemisphere, with 80% of the population living under the poverty line and 54% in abject poverty. Two-thirds of all Haitians depend on the agricultural sector, mainly small-scale subsistence farming, and remain vulnerable to damage from frequent natural disasters, exacerbated by the country's widespread deforestation. While the economy has recovered in recent years, registering positive growth since 2005, four tropical storms in 2008 severely damaged the transportation infrastructure and agricultural sector. The government relies on formal international economic assistance for fiscal sustainability.

Haiti is also a Caribbean transshipment point for cocaine en route to the US and Europe as well as a location for substantial bulk cash smuggling activity - Colombian narcotics traffickers favor Haiti for illicit financial transactions and Haiti is perceived to suffer from pervasive corruption.⁹⁵

National Legal System

According to Section C, Article 98-3 of the Constitution of the Republic of Haiti, the National Assembly enjoys the right to approve or reject international treaties and conventions.⁹⁶ However, with executive power vested in the President, he is responsible for negotiating and signing international treaties, conventions and agreements which he then submits to the National Assembly for ratification.⁹⁷

Haiti and the BWC

The government of Haiti have demonstrated a continued interest in the BWC since 2003, having participated in 5 official BWC meetings to date⁹⁸ in its capacity as an observing signatory state and also attending EU Joint Action in support of the BTWC preliminary meetings in Geneva and New York.

Haiti was invited to participate in the EU Joint Action regional seminar for Latin America and the Caribbean in January 2007, but was unable to attend due to bureaucratic delays. However, the Government of Haiti was keen to attend the meeting, and continued to contact the BWPP with regards to assistance in organizing an in-country awareness-raising event to gather together all the relevant Government stakeholders and convince of the importance of joining the Convention. Due to lack of resources and personnel, Haiti were unable to pursue this goal itself, and despite repeated requests for assistance made by the BWPP on Haiti's behalf at BWC meetings, States parties to the Convention have not yet acted on this request. This request for assistance was reiterated at a meeting between the 2008 BWC Chairman and representatives of Haiti in November 2008.

In 2007, the Chairman of the 2007 BWC meetings reported that he had not received any information or feedback from Haiti.⁹⁹ The Chairman of the 2008 BWC meetings met with a

representative of Haiti in 2008, and consequently reported that Haiti had been reclassified by the ISU as “awaiting assistance or having indicated they have currently have other priorities”.¹⁰⁰ In his Report on Universalization Activities, the Chairman noted that Haiti participated in the ISU French language awareness raising and universalization seminar that took place on 12 June 2008 in Geneva. It was also noted that the Haitian Ministry of Foreign Affairs “was not convinced of the need to ratify the Convention given Haiti’s domestic situation and other priorities”. An awareness-raising event was thought to be useful to ameliorate this situation.¹⁰¹

Participation in other disarmament regimes

Haiti is a state party to the NPT, CWC, CTBT, and Treaty of Tlatelolco. It has signed but not ratified the CPPNM.

Prospects for joining the BWC

Despite a clear interest in the BWC, and repeated requests for assistance, Haiti seems no closer to ratification of the BWC. Assistance by States parties could help this situation, especially in funding an awareness-raising seminar in Haiti to inform and educate the relevant Government stakeholders of the importance of the BWC. In addition, ensuring that accurate and useful information regarding the BWC is available in French would be of great assistance to Haiti as would regular contact with the Political Department of the Ministry of Foreign Affairs.

Without regular contact and specific assistance, it would seem unlikely that Haiti would instigate ratification proceedings by itself at this stage, given its competing priorities and political turbulence.

Haiti is a member of a number of regional and international organizations that could be cooperated with to exert some pressure on the Government to ratify the Convention, including: ACP, Caricom, CDB, FAO, G-77, IAEA, Interpol, IOC, OAS, OIF, OPCW, and the UN.

⁹⁴ CIA World Factbook: Haiti. Available at <https://www.cia.gov/library/publications/the-world-factbook/geos/ha.html>

⁹⁵ CIA World Factbook: Haiti. Available at <https://www.cia.gov/library/publications/the-world-factbook/geos/ha.html>

⁹⁶ Constitution of the Republic of Haiti 1987. Available at http://www.oas.org/Juridico/mla/en/hti/en_hti-int-const.html

⁹⁷ Chapter III, Section B, Article 139, Constitution of the Republic of Haiti 1987. Available at http://www.oas.org/Juridico/mla/en/hti/en_hti-int-const.html

⁹⁸ Haiti participated at the 2003 BWC MSP, 2005 BWC MSP, 6th Review Conference of the BWC, 2007 BWC MX, and the 2008 BWC MSP.

⁹⁹ BWC. Speaking Notes. Obtaining Universality for the Biological Weapons Convention: Introducing the Report of the Chairman. December 2007 and BWC ISU, Report of the Chairman on Universalization Activities, 11 December 2007, BWC/MSP/2007/4, p.4

¹⁰⁰ BWC. Speaking Notes. Obtaining Universality for the Biological Weapons Convention: Introducing the Report of the Chairman. December 2008.

¹⁰¹ BWC ISU, Report of the Chairman on Universalization Activities, 28 November 2008, BWC/MSP/2008/4, p.5

ISRAEL

David Friedman

Status: Non-signatory state

Full Name: State of Israel

The State of Israel is one of 21 states that have not joined the Biological and Toxin Weapons Convention (BTWC).

In contrast with most of the world, Israel lives in a highly unstable and complicated political arena: both the innermost circle and the second and third circles of Israel's strategic environment include several states that are not at peace with Israel, and even threaten its existence. Some of these states have signed and ratified the BTWC. Yet in the current situation, where the convention has no effective and verification mechanisms, it cannot guarantee that these states do not possess BW (biological weapons). In fact, intelligence data suggests that some of these states have WMD programs and weapons. Moreover in recent years, and specifically since 9/11, it has become obvious that BW can be developed, procured, and used by terror organizations, mainly by radical Islamic groups like Al-Qaeda and similar organizations. These global terror elements together with local groups have declared many times that Israel should be destroyed and toward this end it is legitimate to use any means, including BW and other WMD. Thus, verification mechanisms are useless regarding BW in the hands of such terror groups.

Israel agrees with and supports the basic objectives of the BTWC, and it is a party to the 1925 Geneva protocol for prohibition of the use of asphyxiating, poisonous, or other gases and bacteriological methods of warfare (since 1969) and accepts the international norm regarding the prohibition of BW use. However, given the array of global and regional threats, and given the inability of the BTWC to ensure that BW will not be used by hostile states or organizations, Israel cannot assume that the BTWC will prevent BW use against Israel. Therefore, Israel supports the inclusion of the issue in a gradual regional process that would begin in confidence building measures, good neighbourliness, and regional security frameworks, and only after those have been established should the more complex topic of a WMD-free zone (WMDFFZ) be raised.

As part of its policy to support the basic objectives and underlying norms of the BTWC, i.e., to curb the proliferation of BW, its components and delivery systems, Israel has joined and supports various international initiatives and strategies in this area. First and foremost Israel participates as an observer in the work of the BTWC and by this keeps an open channel of dialogue with member states and is apprised of the discussions and new initiatives raised in this forum. Last year, Israel participated in a regional seminar organized by the EU in Rome on the issue of BTWC universality which can be regarded as a strengthening of relations. In addition, Israel attaches great importance to its export control system and regards it as a major element in the effort to curb the proliferation of WMD and their delivery systems, and as a key instrument for preventing conventional weapons and dual use items and technologies from falling into the wrong hands. Indeed, Israeli legislation meets recognized standards, including those set by the major supplier regimes:

- Import and Export Control Order (2004) - the lists of materials covered is based on NSG and AG lists
- Dual-Use Order (2006)
- Export Control Law (2007)

Other Israeli initiatives and activities include:

- Israel has accepted the Proliferation Security Initiative (PSI).

- Israel supported UNSC resolution 1540 of 2004, which aims to curb and prevent proliferation of WMD to the wrong hands and reduce non-conventional terrorism, including bioterror, mainly by national legislation and additional instruments.
- A joint steering committee of the Israeli Academy of Science and National Security Council, "Biotechnological Research in Age of Terrorism," recommended the establishment of a national and institutional control system to reduce the leakage of dangerous biological agents and dual use technologies to the hands of terrorists and thus reduce the potential for BW use.
- Last November, the Knesset (Israeli Parliament) has enacted a new law dealing with oversight of research and use of dangerous biological agents. The principals of this law are coherent with the recommendations of the steering committee mentioned above.
- The Israeli Academy of Science has joined and signed a bio-security statement of the international organization of academies in the world (IAP) to prevent abuse of biological research.
- The Israeli Academy of Science has participated in an international bio-security working group that deals with the issue of control of dual use technologies.

Although Israel is not a party to the BTWC, its clear policy is to join and participate in international efforts to curb the proliferation of WMD. Israel should continue to adhere to and strengthen this approach. For that Israel should proceed and maintain its open channel and dialogue with member states, to participate as an observer in various forums and meetings when possible. Israel should take part and even initiate additional CBM with EU countries, Mediterranean and regional states like Jordan, Egypt, and others. Different topics and areas can be subject for CBM and cooperation, including:

- Epidemiological research programs and policies for treatment and response to epidemics (e.g., avian flu in cooperation with Ministry of Health, Ministry of Agriculture, Ministry of Science and Technology)
- Policies and approaches for biosafety and bio-security
- R&D, manufacture, and stockpiling of vaccines and drugs
- Data and information exchange and cooperation in legislation, regulation, and export control systems
- Border security cooperation

My personal view is that this process together with gradual advance and stabilization in the security and strategic situation in the region, with the help and cooperation of states parties to the BTWC, might help Israel join the Convention and continue to contribute to non-proliferation in the interim.

Israel and the BWC

Officials from Israel have repeatedly reported that Israel's failure to join the BWC to date is due to difficult regional security circumstances and that no accession activity is likely to take place in the near future. Consequently, reports from the Chairmen of the 2007 and 2008 BWC meetings have consistently listed Israel under the category of "No action expected in near future".¹⁰²

Israel has demonstrated a long term interest in BWC developments, having attended 16 official BWC meetings, as well as the EU Joint Action preparatory meetings in Brussels, Geneva and New York as well as participating in the EU Joint Action regional seminar for the Middle East that took place in Rome, Italy in April 2008. A local representative of the Israel Mission in Geneva is also a regular participant in less formal BWC-related events, including NGO BWC lunchtime seminars and meetings outside of the BWC timetable.

Prospects for joining the BWC

Accession is not likely in the near future and is dependent upon significant political changes within the Middle East region making the political climate more conducive to accession.

Pressure should be regularly applied to Israel by States parties to the Convention and strategies involving the promotion and implementation of regional confidence-building measures in support of the goals of the BTWC may be the only realistic way to promote the convention in the region.

¹⁰² BWC ISU, BWC/MSP/2007/4, 11 December 2007. Report of the Chairman on Universalization Activities, p.3 and BWC ISU, Report of the Chairman on Universalization Activities, 28 November 2008, BWC/MSP/2008/4, p.3

KIRIBATI

Status: to be clarified

Full name: Republic of Kiribati

Background information

Formerly known as the Gilbert Islands under British colonial rule until its independence on 12 July 1979, Kiribati is a made up of 33 atolls in the Pacific Ocean, most of which are low-lying and at risk from rising sea levels and other natural disasters. Classified as a Small Island Developing State by the UN, Kiribati has a weak economy and relies heavily upon foreign aid. English remains the official language of Kiribati but I-Kiribati is most commonly spoken.

National legal system

The constitution promulgated at independence establishes Kiribati as a sovereign democratic republic and guarantees the fundamental rights of its citizens.

The unicameral House of Assembly (Maneaba) has 45 members: 43 elected representatives, one appointed member by the Banaban community on Rabi Island in Fiji, and the Attorney General on an ex officio basis. All of the members of the Maneaba serve 4-year terms. The speaker for the legislature is elected by the Maneaba from outside of its membership and is not a voting member of Parliament.

Kiribati and the BWC

Following its independence from the United Kingdom (UK) in July 1979, the Beretitenti (President) of Kiribati (formerly known as the Gilbert Islands) wrote to the Secretary-General of the United Nations in reference to the “*question of the status of conventions, treaties and other international instruments applied to, or entered into on behalf, of the Gilbert Islands [by the Government of the United Kingdom]... prior to independence.*”¹⁰³

Referring to the status of conventions, treaties and other international instruments applied to, or entered into on behalf of the Gilbert Islands by the United Kingdom prior to independence, the Beretitenti (President) of Kiribati made a statement reading in part as follows:

“The Government of the Republic of Kiribati desires that questions of succession to such conventions, treaties and other international instruments be governed by accepted rules of international law and by the relevant principles contained in the Convention on Succession of States in respect of Treaties, done at Vienna on 23 August 1978.

*Accordingly, the Government of the Republic of Kiribati declares that, with regard to multilateral treaties applied or extended to the former Gilbert Islands it will continue to apply the terms of each such treaty provisionally and on the basis of reciprocity until such time as it notifies the depositary authority of its decision with respect thereto.”*¹⁰⁴

As the BWC was in force in 1975 and the UK expressly stated that it would apply to its territories, it is therefore clear that the BWC was applied to the Gilbert Islands at that time. To date no notification from the Government of Kiribati has been made on the discontinuation of the application of the BWC to its territory.

It seems that Kiribati is either unaware of this or considers itself not to be bound. In its first Report to the UN Security Council resolution 1540 Committee, Kiribati states expressly that “[c]onsideration will be given to Kiribati becoming a party to the Biological Weapons Convention”.¹⁰⁵

Although since the Second World War some one hundred colonies or overseas territories such as protectorates and trust territories have gained independence, the practice of newly independent

states has not been consistent. There are two possible approaches to such a situation: the *theory of universal succession* and the *clean-slate doctrine*.¹⁰⁶

Under the theory of universal succession, popular until 1960, a new state inherits all the treaty rights and obligations of the former power insofar as they had been applicable to the territory before independence.¹⁰⁷ The clean-slate doctrine holds no such presumption that a treaty would apply to a new State would do so, and works from the position that new States are free to pick and choose which treaties it will succeed to.

In the case of Kiribati, it is clear that the government at the time considered itself successor to pre-independence treaties however it is also evident that it intended to notify the depositaries of the treaties in respect to the confirmation or discontinuation of their application. Thus the situation is not clear cut and remains open to interpretation.

Clarification has not yet been received by the BWPP from the Government of Kiribati on this issue and it is suggested here that States parties with good links to the country (especially other Pacific Island states, Australia, New Zealand and the UK) contact the Government of Kiribati requesting clarification. In addition, the Chairman of the 2009 BWC meetings should open channels of communication with Kiribati in an endeavour to both receive clarification and extend the full support and assistance of the BWC in order to gain some progress in Kiribati's membership of the BWC. Whilst it may be possible to consider that Kiribati is at least politically bound to the treaty, it would be instructive for Kiribati to provide unequivocal evidence of its adherence to the Convention in the form of an Instrument of Succession or Accession.

¹⁰³ Communication from I.T. Tabai, Beretitenti of the Republic of Kiribati to H.E. Dr Kurt Waldheim, Secretary-General of the United Nations, dated 11 September 1979.

¹⁰⁴ see Pacific Islands Treaty Series database. Available at http://www.pacii.org/pits/en/country_information.shtml#kiribati

¹⁰⁵ S/Ac.44/2004/(02)/127 Letter dated 1 May 2006 from the Chairman of the Security Council Committee established pursuant to resolution 1540 (2004) addressed to the Committee

¹⁰⁶ Aust, A., 2nd ed., *Modern Treaty Law and Practice* (Cambridge: 2007), p.372-373

¹⁰⁷ Aust, A., 2nd ed., *Modern Treaty Law and Practice* (Cambridge: 2007), p.372-373

MAURITANIA

Status: Non-signatory state

Full name: Islamic Republic of Mauritania

Background information

A former French protectorate, Mauritania gained independence on 28th November 1960 and adopted a Constitution on 12 July 1991. Arabic is the official language with French also spoken amongst a number of other languages.

Largely desert, Mauritania depends heavily on drought-prone agriculture and is vulnerable to water shortages. As one of the world's poorest countries, it is classified as a Least Developed Country by the UN.

Recent political upheavals between 2005 and 2008 are hoped to be resolved at the next General election scheduled to take place by June 2009.

National Legal System

According to Mauritania's constitution international treaties and agreements are negotiated and ratified by the President of the Republic. However peace treaties, union treaties, commerce treaties, treaties or accords concerning an international organization, treaties which require the finances of the State, treaties which modify provisions of a legislative nature, treaties concerning the status of persons, and treaties concerning the borders of the State may only be ratified by a law.¹⁰⁸ Once published, the treaties and agreements regularly ratified have, greater authority than that of the laws.¹⁰⁹

At time of writing Mauritania has not introduced any applicable legislation regarding the use or control of biological weapons.¹¹⁰

Mauritania and the BWC

Mauritania has engaged to a limited degree with BWC-related issues and meetings, having attending only one official BWC meeting since they begun.¹¹¹ In 2007, the Chairman of the 2007 BWC meetings reported that he had yet to receive any information or feedback from Mauritania, although the Chairman and ISU met with a representative on 6 November 2007 who undertook to transmit information back to capital.¹¹²

Since then, the Chairman of the 2008 BWC meetings met with a representative of Mauritania in November 2008 and has since re-classified Mauritania as having responded to outreach efforts and "waiting for further information, assistance of have other priorities" and reported that Mauritania "is seriously considering joining the Convention." It was noted, however, that Mauritania "linked accession to issues of priority and capacity, and a request for assistance in drafting the instrument of accession was made". The representative suggested that the Chairman write to the Minister of Foreign Affairs and that the ISU open a channel of communication directly with the Chemical Weapons Convention National Authority as a further hindrance is the lack of a dedicated disarmament office in Mauritania.¹¹³

Mauritania has yet to participate in any EU Joint Action meetings on the BWC or respond to any communications from the BWPP. This may well be a consequence of the lack of a dedicated disarmament office at capital.

Participation in other disarmament regimes

Mauritania is a state party to the NPT, CTBT, CWC, and ANWFZ (Treaty of Pelindaba). It is also a state party to the CPPNM.

Prospects for joining the BWC

To facilitate Mauritania's process of accession the ISU should establish regular communications directly with the Mauritanian Chemical Weapons Convention National Authority. It is unlikely that Mauritania will pursue dedicated action towards accession without significant efforts to encourage the process by States parties and the Chairmen of future BWC meetings. Substantial awareness-raising activities should be undertaken, taking care to engage Mauritania in its official languages.

It is encouraging that Mauritanian officials have expressed an interest in joining the BWC, but this impetus needs to be maintained in order to reach any achievements. In general, Mauritania has been active in related disarmament fields and this may prove a fruitful avenue for exploration.

Mauritania is member to a number of regional and international organizations that may be cooperated with to provide further channels of communication and encouragement including ACP, AfDB, AU, FAO, G-77, IAEA, Interpol, LAS,OIC, OPCW, and the UN.

¹⁰⁸ Art. 78, Constitution, Islamic Republic of Mauritania.

¹⁰⁹ Art. 80, Constitution, Islamic Republic of Mauritania.

¹¹⁰ http://www.nti.org/db/1540/region_sub Sahara.html#Mauritania

¹¹¹ Representatives from Mauritania registered to attend the 2008 Meeting of Experts in Geneva.

¹¹² BWC ISU, BWC/MSP/2007/4, 11 December 2007. Report of the Chairman on Universalization Activities, p.8

¹¹³ BWC ISU, Report of the Chairman on Universalization Activities, 28 November 2008, BWC/MSP/2008/4, p.8-9

SYRIA

Status: Signatory state (14 April 1972)

Full name: Syrian Arab Republic

Background information

Modern Syria gained independence from France on 17 April 1946 and has been ruled by the Arab Baath party since 1963. Having come under fire in recent years for its alleged support of Iraqi insurgents and its role in Lebanon, Syria's relative isolation on the international stage appears to be easing following French efforts to bring Syria into the international fold. Syria remains a staunch enemy of Israel which features prominently in its foreign policy, but peace talks resumed after a period of suspension in 2008. These talks were suspended pending the formation of a new Israeli government.

National legal system

According to Syria's constitution, the People's Assembly's approval is needed in order to ratify international treaties and agreements connected with state security.¹¹⁴

Other relevant legal information includes the national chemical safety plan implemented in 2002, which involved the adoption of an action plan for improving the management of chemical substances in Syria by means of a number of measures.¹¹⁵ These do however all refer to chemical weapons.

As far as dealing in any type of weapons is concerned, the Government of the Syrian Arab Republic imposes severe penalties ranging from a term of imprisonment to a monetary fine, the duration or amount of which, respectively, is determined in accordance with national regulations and the rules provided in local legislation, on anyone dealing in such weapons either illegally or without having previously obtained official licences issued by the approved governmental agencies. The licences cover all aspects of such dealing, including the import, export, illegal trading, production, distribution, transport, transit, repair, bearing and possession of weapons.¹¹⁶ However, so far no according legislation has been introduced regarding biological weapons.¹¹⁷

Syria and the BWC

Syria participated in the first preparatory meeting in support of the universalisation of the Biological and Toxin Weapons Convention, held in Brussels on 3 April 2006 as well as in the second and third preparatory meeting, held in Geneva, 25 April 2006 and in New York on 30 May 2006.¹¹⁸ At the first preparatory meeting, the Syrian representative reflected on the complexities of making any progress in the control of nuclear, chemical and biological weapons in the Middle East. He discerned value in developing common regional strategies with regard to combating emerging and re-emerging diseases as a way forward. Syria criticised the EU for not finalizing the negotiation of a bilateral agreement that would enable the country to develop national capabilities to combat disease.¹¹⁹

Syria has also participated regularly in recent in BWC meetings in its capacity as a observer signatory state.¹²⁰ The Chairman of the BWC 2007 meetings reported that Syria cited regional security issues as an impediment to its ratification of the BWC during a meeting in New York with a representative of the Syrian Arab Republic on 31st October 2007, but that it supported the aims and objectives of the Convention. He added that no action towards ratification should be expected in the near future.¹²¹ Syria was accordingly classified as "No action expected in the near future" in the official Report of the Chairman on Universalization Activities.¹²² This position was not changed in 2008 and no additional information was received.¹²³

Syria which has an elementary-level biotechnology industry, has been accused of engaging in offensive biological weapons research and development by the United States.¹²⁴ The US Department

of Defense estimates however that without assistance from other countries, Syria is not able to produce or weaponize significant amounts of agent.¹²⁵ No evidence has been produced supporting any biological warfare allegations in relation to Syria.¹²⁶

Participation in other disarmament regimes

Shortly before the adoption of Security Council resolution 1540 in 2004, the Syrian government proceeded to adopt a number of measures for regulating the handling of chemical and biological materials employed in various peaceful applications with a view to preventing their falling into the hands of non-governmental bodies. The competent Syrian authorities established national legislation on the sound management of chemicals and strove to develop all national standards relating to the permissible maximum limits for the concentration of chemical substances in the environment. They also established a timetable for reducing the release of chemicals and hazardous wastes into the environment. As early as 1994 a national centre was established for the purpose of furnishing needed information regarding preventive measures required in connection with the handling of chemical and biological substances used in medicine, industry and agriculture.

Syria is a State party to most of the conventions on the management of chemicals and hazardous waste, including the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, the Stockholm Convention on Persistent Organic Pollutants and the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade.

Syria has ratified the NPT and become a party to the 1925 Geneva Protocol for the Prohibition of the use in War of Asphyxiating, Poisonous or other Gases, and of Bacteriological Methods of Warfare (Geneva Protocol), but has not signed the CWC, CTBT or CPPNM.

Prospects for joining the BWC

There are no indications that Syria might ratify the convention in the near future. Regional dynamics are a clear obstacle for Syria's ratification process. The country believes itself to be subject of double-standard and selective reporting and indicated that it would not ratify the convention until Egypt and Israel was bound by it as well. Syria generally agrees with the concept of the BTWC but speaks in favour of a complete disarmament in the Middle East. While Syria has expressed its opposition to WMD, it has at the same time supported the right of states to take those measures that they deem most appropriate to protect their security. Some security experts interpret this as a political argument for the right of states to acquire WMD. Until Syria's requests regarding the participation of both Egypt and Israel in the convention are not fulfilled ratification of the convention is very unlikely.¹²⁷

A Syrian representative discerned value in developing common regional strategies with regard to combatting emerging and reemerging diseases as a way forward. Future talks with Syria could take this approach into account.

Syria is member to a number of international and regional organizations that could be employed to encourage its ratification of the Convention: FAO, G-24, G-77, IAEA, Interpol, LAS, OIC, and the UN.

¹¹⁴ Art. 71 (5), Constitution of the Syrian Arab Republic.

¹¹⁵ http://www.un.org/sc/1540/docs/legis_db/Syria%20Legislation%20DB.doc

¹¹⁶ S/AC.44/2004/(02)/70/Add.2

¹¹⁷ S/AC.44/2004/(02)/70

¹¹⁸ <http://www.euja-btwc.eu/node/55?>

¹¹⁹ <http://www.euja-btwc.eu/node/54>

¹²⁰ 3rd Review Conference PrepCom, 7th, 13th and 14th Meetings of the Ad Hoc Group, and all BWC MSPs and MXs since 2004 except the BWC 2007 MSP

¹²¹ BWC, Speaking Notes. Obtaining Universality for the Biological Weapons Convention, 2007, p. 6-7

¹²² BWC ISU, BWC/MSP/2007/4, 11 December 2007. Report of the Chairman on Universalization Activities, p.3

¹²³ BWC ISU, Report of the Chairman on Universalization Activities, 28 November 2008, BWC/MSP/2008/4, p.6

¹²⁴ <http://www.armscontrol.org/node/3260>

¹²⁵ <http://stimson.org/cbw/?sn=CB2001121274>

¹²⁶ http://www.nti.org/e_research/profiles/Syria/Biological/3338.html

¹²⁷ BWC/MSP/2008/4, p.6.

TUVALU

Status: To be clarified

Full name: Tuvalu

Background information:

Formerly known as the Ellice Islands under colonial rule by the United Kingdom, Tuvalu gained independence on 1st October 1978. Reflecting its long history with the United Kingdom, Tuvalu is a constitutional monarchy with a parliamentary democracy and English is one of its primary languages as well as Tuvaluan, Samoan and Kiribati.

Tuvalu is made up of nine low lying islands located in the South Pacific and is vulnerable to natural disasters and the effects of climate change. There are no natural sources of fresh water and traditional subsistence farming is under threat. Tuvalu relies heavily on foreign aid and has only a rudimentary infrastructure.

Tuvalu and the BWC:

In a note dated 19 December 1978 from the Prime Minister of Tuvalu to the Secretary-General of the United Nations, the Government of Tuvalu made a statement reading in part as follows:

“The Government of Tuvalu, conscious of the desirability of maintaining existing international legal relationships, and conscious of its obligations under international law to honour its treaty commitments, acknowledges that many treaty rights and obligations of the Government of the United Kingdom in respect of the Gilbert and Ellice Islands Protectorate, the Gilbert and Ellice Islands Colony and Tuvalu were succeeded to by Tuvalu upon Independence by virtue of customary international law. Since, however, it is likely that by virtue of that law certain of such treaties may be said to have lapsed at that date of Tuvalu’s Independence, it seems essential that each treaty purporting or deemed to bind Tuvalu before that date should be subjected to legal examination. The Government of Tuvalu proposes after such examination has been completed to indicate which, if any, of the treaties which may be said to have lapsed by virtue of customary international law it proposes to treat as having lapsed.

The Government of Tuvalu desires that it should be presumed that each treaty purporting or deemed to bind Tuvalu before Independence has been legally succeeded to by Tuvalu and that action should be based on such presumption unless and until the Government of Tuvalu decides that any particular treaty should be treated as having lapsed. Should the Government of Tuvalu be of the opinion that it has legally succeeded to any treaty, and wish to terminate the operation of such treaty, it will in due course give notice of termination in the terms thereof.

For the avoidance of any doubt, the Government of Tuvalu further declares that it does not regard itself as bound by the terms of any convention creating an international organization to the extent that such convention requires the payment of any sum by any State, by virtue only of the accession of the Government of the United Kingdom to such convention¹²⁸.

The above declaration regarding the succession by Tuvalu to treaty rights and obligations of the Government of the UK in respect to Tuvalu could be interpreted as evidence that Tuvalu has succeeded to the BWC.

When the UK ratified the BWC in 1975, it did so on behalf of territories and dominions under its sovereign control at the time - including the colony of the Ellice Islands (now known as Tuvalu). Following Tuvalu's independence in 1978, as is common practice, the UK informed Tuvalu of those treaties that had applied to the territory of Tuvalu prior to independence - a list which included the BWC.

The only caveats placed by the Government of Tuvalu on its continued application of pre-independence treaties are that the Government would not succeed to any international treaty deemed to have lapsed (and therefore the government reserved the right to conduct a legal examination of all treaties after which it would indicate which treaties it would treat as lapsed and therefore consider not binding), and that it would not be bound by any convention that created an international organization.¹²⁹

According to Article XIII of the Biological Weapons Convention, the convention “*shall be of unlimited duration*”. The Convention has clearly not lapsed and is unlikely to in the near future. Neither does the BWC create an international organization.

Accordingly, in light of the declared wishes of Tuvalu that pre-independence treaties should be presumed to have been legally succeeded to, and in the absence of any declaration to the contrary as well as the fact that the BWC has not lapsed, it could be argued that Tuvalu has legally succeeded to the BWC or at the very least remains politically bound to the treaty until it states otherwise.

In addition, note 12 of the *Vienna Convention on Consular Relations* (Vienna, 24 April 1963) shows that Tuvalu clearly regarded their note of 19 December 1978 as their notification of succession. In this instance, the Government of Tuvalu relies on this notification to support its rejection of the Optional Protocol to Tuvalu, which it considered as having lapsed. Therefore, it is evident that Tuvalu has put into practice and abides by the terms set out in its notification of succession.

However, it is clear from Tuvalu’s first Report (13 March 2007) to the United Nations addressed to the Chairman of the Security Council Committee pursuant to UN Security Council resolution 1540, that Tuvalu is either unaware of its succession to the BWC or considers itself not to be bound. In this Report, the Government of Tuvalu makes no mention of its membership of the BWC when listing the Conventions relevant to the UNSCR 1540 to which it is party.¹³⁰

In its Report to the UNSCR 1540 Committee, Tuvalu asserts its support “*...in principle to the objectives of the remaining international conventions and arrangements relevant to Security Council resolution 1540 and is considering accession to these...*”

To clarify whether Tuvalu should be considered to be a bona fide State party to the BWC, a specific instrument of succession or unequivocal statement to that effect should be made. Although since the Second World War some one hundred colonies or overseas territories such as protectorates and trust territories have gained independence, the practice of newly independent states has not been consistent. There are two possible approaches to such a situation: the *theory of universal succession* and the *clean-slate doctrine*.¹³¹

Under the theory of universal succession, popular until 1960, a new state inherits all the treaty rights and obligations of the former power insofar as they had been applicable to the territory before independence.¹³² The clean-slate doctrine holds no such presumption that a treaty would apply to a new State would do so, and works from the position that new States are free to pick and choose which treaties it will succeed to.

Clarification has not yet been received by the BWPP from the Government of Tuvalu on this issue and it is suggested here that States parties with good links to the country (especially other Pacific Island states, Australia, New Zealand and the UK) contact the Government of Tuvalu requesting clarification. In addition, the Chairman of the 2009 BWC meetings should open channels of communication with Tuvalu in an endeavour to both receive clarification and extend the full support and assistance of the BWC in order to gain some progress in Tuvalu's membership of the BWC. Whilst it may be possible to consider that Tuvalu is at least politically bound to the treaty, it would be instructive for Tuvalu to provide unequivocal evidence of its adherence to the Convention in the form of an Instrument of Succession or Accession.

¹²⁸ see Pacific Islands Treaty Series database. Available at http://www.paclii.org/pits/en/country_information.shtml#

¹²⁹ Letter to Un Secretary-General dated 19 December 1978 from the Prime Minister of Tuvalu.

¹³⁰ S/AC.44/2004/(02)/137 Note Verbale dated 13 March 2007 from the Permanent Mission of Tuvalu to the United Nations addressed to the Chairman of the Committee.

¹³¹ Aust, A., 2nd ed., *Modern Treaty Law and Practice* (Cambridge: 2007), p.372-373

¹³² Aust, A., 2nd ed., *Modern Treaty Law and Practice* (Cambridge: 2007), p.372-373

VANUATU

Status: To be clarified

Full name: Republic of Vanuatu

Background information

Vanuatu is an archipelago of approximately 83 islands situated in the South-western Pacific Ocean. In 1774, Captain James Cook made the first detailed exploration of the islands which became known as the New Hebrides. In 1887 the islands were placed under British-French naval commission. The commission was replaced by a joint British-French condominium in 1906 until Vanuatu gained independence from the UK and France on 30 July 1980 becoming the Republic of Vanuatu - previously called the Condominium of the New Hebrides. The official languages of Vanuatu are Bislama, English and French, with approximately 115 'mother tongues' in common use. The country has a dualistic economy, with a large smallholder subsistence agricultural sector and a small financial sector. Vanuatu has been categorised as a Small Island Developing State although the development of itself as an off-shore finance and banking centre has improved the economic situation of the country over the last decades. The economic situation of Vanuatu has shown some improvement over the last five years although Vanuatu still remains largely dependent upon foreign financial aid.

National legal system

The Republic of Vanuatu is an independent parliamentary democracy with general elections held every 4 years - the most recent of which were held in July 2008. The President of the Republic is the Head of State and the Prime Minister and the 12 co-members of the council of ministers oversee the administration of Vanuatu's 13 government ministries. The Constitution provides for executive and legislative arms of government, and the judiciary.

According to the Constitution of the Republic of Vanuatu adopted on 30th July 1980¹³³, Parliament has the power to make laws by passing bills introduced by either one or more Members of Parliament or by the Prime Minister or a Minister. Once a bill has been passed by Parliament, it is presented within two weeks to the President of the Republic who should give assent within two weeks, unless the bill is considered inconsistent with any provision of the Constitution. Should this arise, the bill is referred to the Supreme Court for consideration.

According to Chapter 4, Article 21(1), Parliament meets twice a year in ordinary session and may convene in extraordinary session. The Parliament takes decisions in general by public vote by a simple majority, unless otherwise provided in the Constitution.

For the ratification and negotiation of international treaties, such treaties are presented to Parliament for ratification when they fall under the following conditions:

- concern international organizations, peace or trade;
- commit the expenditure of public funds;
- affect the status of people;
- require amendment of the laws of the Republic of Vanuatu; or
- provide for the transfer, exchange or annexing of territory.

According to the 1540 Committee, Vanuatu does have some BW related legislation in place including in the Penal Code (Amendment) Act 2003, Maritime Authority Act 1998 and several border control and export control legal instruments.¹³⁴

Vanuatu and the BWC

Despite Vanuatu appearing on official BWC lists of States parties since the Fourth Review Conference of the BWC¹³⁵ in 1996 as well as on numerous websites listing the date of accession (as

deposited in London, UK) as 12th October 1990¹³⁶, the status of Vanuatu's membership of the BWC remains unclear.

When the UK ratified the BWC on 26 March 1975, it explicitly referred to the "Condominium of the New Hebrides" as Vanuatu was then known in its instrument of ratification. As such, Vanuatu would be entitled to claim succession to the BWC. However, there is no indication in UK records to date that the Treaty Office has received a declaration of treaty succession from Vanuatu.

In addition, in its first report to the UN 1540 Committee, the government of Vanuatu lists the UNSC 1540 relevant conventions to which it is party - a list which does not feature the BWC, which is a clear indication that it does not consider itself a party to the Convention.

Participation in other disarmament regimes:

Vanuatu is a member of the 1993 Chemical Weapons Convention (16/09/05) but not the 1925 Geneva Protocol. It has also joined the CTBT (16 September 2005) as well as being a member of the Treaty of Rarotonga (9 February 1996).

Prospects for joining the BWC

In the event that Vanuatu is not a successor state to the BWC, there does not appear to be any particular political obstacle to its succession or accession. In its report to the UNSC resolution 1540 Committee, Vanuatu states that it "...recognises the importance of, and agrees in principal with the objectives of the remaining conventions and arrangements relevant to UNSCR 1540. It is giving consideration to adopting these relative to other domestic and international priorities" which presumably includes the BWC. Vanuatu also goes on to state, in relation to Operative Paragraph 8 concerning the universal adoption of multilateral treaties including the BWC:

"In relation to OP's 8... Vanuatu supports, to the greatest extent possible, international initiatives so reduce the threat posed by the proliferation of nuclear, chemical and biological weapons, their means of delivery and related components. It will continue to participate and contribute to efforts (primarily in the Pacific region) to reduce this threat."

Whilst Vanuatu has not attended any BWC-relevant meetings, it is hoped that due to its participation in the 1540 process, its awareness of the BWC is above average and therefore it is giving timely consideration to full membership of the Convention.

Among Vanuatu's foreign policy priorities is the importance of its relations with New Zealand and Australia. It could perhaps be most appropriate for these countries to pursue Vanuatu's accession and provide any necessary assistance. Vanuatu also maintains close economic and cultural ties to France and has also been seeking closer diplomatic ties with Asian countries who may also play a significant role in persuading Vanuatu to accede/succeed. Since 1980, Australia, the United Kingdom, France, and New Zealand have provided the bulk of Vanuatu's development aid. One aspect that may be a hindrance to the country successfully joining the Convention is the relative instability of the Government due to the fluctuating allegiances of individual MPs.

Vanuatu is also a member of several regional and international organizations that may be prevailed upon to cooperate in encouraging it to succeed or acceded to the Convention, including the British Commonwealth, the French League of Nations, the Pacific Islands Forum, the United Nations, the Secretariat of the Pacific Community, the World Bank and the Asian Development Bank (which has its regional headquarters in Port Vila).¹³⁷

Clarification of Vanuatu's status and intentions towards joining the BWC is hoped to be received in the aftermath of the UNSCR 1540 regional meeting taking place in Vanuatu in late April 2008.

¹³³ Available at: http://www.paclii.org/vu/legis/consol_act/cotrov406/

¹³⁴ See UNSC resolution 1540 Committee website legislative database information on Vanuatu at: <http://www.un.org/sc/1540/legisdocuments.shtml#V>

¹³⁵ Biological Weapons Convention, BWC/CONF.IV/INF.2, 3rd December 1996. List of States Parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction as of 25 November 1996. Available at: <http://www.opbw.org/>

¹³⁶ Despite indications that Vanuatu acceded to the Convention in 1990, it is not shown in the BWC list of States Parties of the 3rd Review Conference that took place in the following year (1991).

¹³⁷ Website of the Government of Vanuatu. Available at: www.vanuatu.gov.vu



PART 3: UNIVERSALIZATION TOOLS

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ANALYSIS: WHY STATES HAVE NOT JOINED

Kathryn McLaughlin

Introduction

There are myriad reasons why states have not yet ratified or otherwise joined the Biological Weapons Convention. In order to achieve universalization of the Convention, it is essential to understand and respond appropriately to these reasons from which a comprehensive strategy for future activities can be devised.

This section outlines the reasons so far given by states for not joining and makes recommendations on possible actions for States Parties and the ISU to assist these states overcome these obstacles.

In summary, issues relating to ratification and national implementation were identified as key impediments to joining the Convention in addition to the need for assistance in awareness-raising amongst government stakeholders and parliamentarians as well as within the non-governmental community (law enforcement, industry, media etc.) to inform them of their responsibilities and national implementation issues. The burden of implementation obligations was a commonly cited challenge, especially for smaller states who enjoy only limited resources and administrative and technical capacities. Competing national priorities, political instability, and a failure to appreciate the relevance of membership of the BWC for overcoming related domestic difficulties are also recurring reasons given by states for not yet having ratified or acceded to the Convention. Finally, the Convention has not yet been successful in providing non-member States with persuasive motivation for joining - such as not being seen as a 'weak link' in global non-proliferation effort or in how it can assist States in improving their public health capacities.

Reasons why states have not yet joined the BWC

The main reasons why states have not yet ratified or acceded/succeeded to the BWC can be broadly categorized as follows:

- Lack of awareness / information deficit;
- Misunderstandings of the Convention, its provisions, implications and relation to other security, disarmament and non-proliferation treaties;
- Resource burden;
- Lack of political will and other competing priorities;
- Constitutional/organizational difficulties (including parliamentary session interruptions, political upheavals and instability, and lack of relevant departments to deal with the issue).

It is important to appreciate that many countries suffer from a combination of these factors.

Lack of awareness / information deficit

One of the primary reasons for certain states' failure to commit themselves to the BWC is a simple lack of reliable and accurate information about the actual existence of the treaty and its provisions.

Prior to the 6th Review Conference of the BWC in December 2006, there was no systematic strategy to raise awareness of the existence of the Convention, and no permanent agency tasked or even capable of carrying out any awareness-raising activities, let alone a sustainable campaign. In addition, there are a large number of countries who have come into existence or gained independence only after the entry into force of the Convention and thus had never been made aware of its existence.

The lack of a permanent agency promoting the Convention has also meant that any non-State party aware of the Convention but in need of additional information and/or assistance has experienced some difficulty in knowing who to contact. Without an easily identifiable contact point, some States have reported having abandoned attempts to garner the information needed and consequently lost interest in the Convention.

Furthermore, many countries do not have sophisticated or reliable communications systems and so rely on paper copies of treaties to be aware of them. It is not generally depositary policy to provide paper copies of the Convention to requesting States, and some States not yet party require multiple copies of the Convention to distribute to their relevant ministries, agencies and other stakeholders. Whilst this may seem a matter of the country in question simply printing of the number of copies required, the lack of technological equipment or resources and their attendant difficulties sometimes prevents a country being able to do so. In addition, the failure to provide sufficient numbers of copies of the Convention has been interpreted by some countries to demonstrate the lack of importance attached to the Convention itself by States parties (e.g. see the country case study for the Comoros).

Another consequence of the awareness deficit is that some States are not sure who are the relevant stakeholders within their governments that need to be consulted. A representative from Tanzania reported that his government was unsure where to house the BWC-responsible agency.

Awareness of the Convention at the Ministry of Foreign Affairs level has improved significantly due to the recent endeavours of the EU under its first EU Joint Action in support of the BTWC and of the Chairmen of the 2007 and 2008 BWC meetings, aided by the ISU. However, in general, States not yet party still suffer from a general lack of awareness amongst relevant stakeholders, including parliamentarians. Most countries that are not yet members of the BWC are under-resourced and whilst the government representative with direct responsibility may be aware of the Convention, key individuals elsewhere in the Ministry of Foreign Affairs or Defence, and in other Ministries are usually not.

Misunderstandings of the Convention, its provisions, implications and relation to other security, disarmament and non-proliferation treaties

As a direct result of the pervasive lack of awareness of the Convention, it is apparent that many countries do not understand its relevance or objectives. There have been many cases where States have simply replied that there is no need to join the Convention at the present time (particularly in light of other pressing priorities) on the basis that they do not, and never have, possessed or pursued biological weapons.

Further, some States were not aware that there was a difference between the Biological Weapons Convention and the Chemical Weapons Convention, and were convinced that being a member of the latter also covered the former.

Resource burden

One of the most commonly cited obstacles for joining the Convention is the financial cost, especially for smaller countries. Indeed, approximately 80 per cent of all non-states parties have been categorized by the UN as an LDC, LLDC or SIDS state, meaning that the vast majority of countries that are not party to the BWC are amongst the poorest in the world.

The cost of joining the convention, including the enactment and execution of national legislation as well as the participation in the Confidence Building Measures entails a cost and commitment of people to prepare and execute those tasks - one that is difficult for many countries to bear without external assistance. In combination with the high number of other security conventions that require ratification and implementation, this places a high resource burden on the administration of countries.

In addition, a significant proportion of non-states parties have also raised concerns that they do not possess the means to implement and enforce the Convention properly in terms of legal tools, border control equipment, expertise etc., which is regarded as a disincentive to being the process.

Lack of political will & other pressing priorities

Although far less common, some countries have demonstrated a lamentable lack of interest in the BWC and have dismissed it as being of no relevance to their country. Whilst some countries have acknowledged the importance of joining the BWC, they argue that small arms, light weapons and landmines pose far greater risks than biological weapons do as do naturally-occurring infectious diseases - indeed that the threat from biological weapons is too remote to be considered real.

More often, however, States have argued that it is difficult to get the BWC on national agendas because there are more pressing priorities facing their governments, such as health, environmental, and financial issues.

Constitutional/organizational difficulties (including parliamentary session interruptions, political upheavals and instability, and lack of relevant departments to deal with the issue)

A high percentage of countries have also encountered challenges to joining the BWC due to internal political events that have prohibited any movement in their ratification or accession process. In some cases, Parliaments have been dissolved or more pressing issues have leapfrogged the Parliamentary agenda. In others, the election of new Governments have stalled any progress that was being made.

One problem that has also been flagged in this area is that there is no logical department or agency in place with whom to lodge responsibility for the BWC should it be ratified/acceded to. A representative from the Government of the United Republic of Tanzania expressed this very concern, saying that it was a matter of ongoing debate on whether this is a preserve of the military, Ministry of Foreign Affairs or another department. Until the issue is concluded, progress could not be made.

Recommendations

Given the reasons outlined above, there are a number of recommendations for concrete action that can be made. This section breaks these recommendations down into:]

- I. General recommendations
- II. Recommendations for States Parties
- III. Recommendations for the BWC ISU

Many of these recommendations overlap with each other, so that activities that could be undertaken by the ISU could also be conducted by States Parties.

General comments and observations

- **Awareness-raising seminars** have proved a useful starting point for drawing attention to the Convention and engaging States not yet party in preliminary discussions as demonstrated by the high level of attendance at the EU Joint Action regional seminars (2006-2008) and other meetings such as the ISU French-language awareness-raising and universalization seminar (2008). Whilst these are not as useful in the long-run as targeted in-country missions, broader meetings do play a key role in raising the issue on national agendas and providing an introduction to the BWC.
- **Providing relevant assistance** has been identified by the majority of States not yet party to the Convention as a key requirement needed before they can begin the process of joining the BWC. Specific assistance needs identified include:
 - awareness-raising amongst all relevant stakeholders on the importance of joining the treaty, the relevance of the treaty for national priorities and global security, the specific responsibilities and obligations of each stakeholder group and what assistance is on offer from various organizations and agencies such as interpol or individual countries, as well as NGOs such as VERTIC

- examples/experiences of achieving political support for ratification and achieving national implementation in other similar states
 - national implementation, including the drafting of legislation and advice and training on implementation (in particular, enforcement is seen as very important)
 - CBM preparation
 - Following developments in the treaty - States recognize that once they join they treaty, it is important to keep up with developments but the lack of funding to participate in treaty meetings or other related events is a prohibiting factor
- **Coordination of efforts** is also crucial to success in universalization activities. Currently there is no central strategy for conducting universalization efforts and thus maximizing their effect. This means that States parties and the Chairmen of the BWC meetings, aided by the ISU, operate independently of each other and many opportunities are lost to approach target states effectively. States Parties rarely report relevant demarches undertaken prior to the event. In addition, by and large, communication between States Parties and the ISU is currently not sufficiently effective to allow for the coordination of activities such as piggybacking a universalization event off of another related issue, such as chemical weapons or other security related meetings hosted or organized by States.
 - **Answering the specific concerns** identified by non-States parties is imperative in demonstrating that States Parties place importance on the Convention and that they are taking each and every country seriously. Many countries have repeatedly articulated their particular needs and concerns, such as chemical dumping and need for assistance in coping with infectious disease. These concerns, however, have in the main, not been acknowledged to the satisfaction of non-States parties, which has given the impression that universalization of the Convention is simply a question of numbers and is not taken seriously by the international community. States parties and the ISU should devise ways of tying in these concerns with the benefits of joining the Convention.
 - **Every opportunity should be used** to push countries to ratify or accede to the Convention. States Parties and the ISU should investigate the possibilities provided by national and international meetings to raise the issue of the BWC. One such possibility could be to piggyback off the 2009 (and future) UN Treaty Events whereby States are given the opportunity to attend “signing events” at the UN New York headquarters for a number of highlighted treaties. A side event could be organized for the promotion of the BWC.¹³⁸
- Further, States Parties should seize the opportunities offered by other meetings to meet with representatives from States not yet party to the BWC to raise the issue of their ratification or accession. The ISU should be provided with the funding to attend relevant meetings to also perform this function and to make full use of the opportunity to make further contacts within the targeted Governments.
- **Maintaining universalization efforts** is similarly crucial. Once complaint made by States not yet party to the Convnetion is that approaches made by States or other actors, such as the EU, have been sporadic at best. This sends the message that the BWC is not a priority within the agendas of States Parties. In addition, once a country has joined the BWC, it is then left alone without regular contact. This has also been seen as a disincentive to joining the Convention.
 - **Provide motivation and incentives to join the BWC** - not being seen as a ‘weak link’ in the global non-proliferation or constituting a 'safe haven' for non-state actors and being inadvertently responsible for the spread of disease is a persuasive driver for States to join the BWC (as it was for CWC and Ottawa Convention). In addition, many States have shown interest in the possibility provided by the BWC to benefit from technological exchanges and cooperation and this should be re-examined in order to be able to demonstrate some concrete gains that joining the BWC offers.
 - The **exertion of political influence and demonstration of political will** would also help greatly in persuading States of the importance of ratifying or acceding to the BWC. Some States parties have particularly close ties with certain States not yet party which they could use to emphasize the importance of joining the Convention.

Recommendations for States Parties

- If States parties have authored their own unofficial translations of the BWC in languages other than the official UN languages, it would be helpful to transmit these to the ISU for inclusion on the website,
- Fund awareness-raising seminars,
- Fund and offer assistance to non-States parties, either through national means, the ISU or other actors,
- Meet with non-states parties whenever possible through demarches and on the margins of other meetings,
- Provide funding for ISU members to attend relevant meetings, whether scientific, security, health related in order to facilitate their universalization efforts,
- coordinate with the ISU - provide details of when planning demarches and events and invite them to participate where possible,
- use available political influence to push for ratification or accession,
- the depositary states in particular should ensure that they coordinate regularly regarding the lists of States parties and that their information is as up to date and complete as possible. The current ambiguities over the status of Dominica, Kiribati, Tuvalu and Vanuatu have come to light through the efforts of the BioWeapons Prevention Project, and is something that requires resolution through action by the depositaries and/or the Chairman. A stock-check of the list of States parties should be undertaken to ensure no other discrepancies exist.

Recommendations for the BWC ISU

The ISU should be given the means to act as a conduit for information, a coordinator and communication hub. In this capacity, there are many useful activities that it could undertake, given the means and mandate to do so by States Parties, including:

- Creation of **information packs and promotional material** on the BWC and its provisions in at least all official UN languages available for download on the ISU website as well as sent to Capitals by mail or through local Geneva missions. These packs should be used by the ISU, Chairmen, States parties and depositaries alike when contacting States not yet party to the Convention. This would facilitate the dissemination of standardized information and ensure that all States are receiving the same advice regardless of the source. Any unofficial translations of the Convention should also be available electronically.
- **Organization and participation in awareness-raising seminars.** The ISU should pursue funding from partners such as States Parties and other outside agencies in order to conduct regular awareness-raising seminars both in Geneva and elsewhere. Foreign language seminars would be particularly useful.
- **In-country visits**, similar to those conducted by the OPCW, are crucial for bringing the message of the BWC to States directly and have proved highly useful in capturing the attention of states not yet party. For example, the Norwegian-funded awareness raising seminar organized by the BWPP held in Lilongwe, Malawi in June 2008 was later commended by a representative of Malawi to the 2008 BWC Chairman as *“helpful... in persuading officials that Malawi should ratify the Convention and motivating them to move forward.”*¹³⁹ Bringing the Geneva process to the State not yet party to the Convention would send a strong and positive message to Governments of the importance of the BWC and helps them to understand the issues more easily. Since many smaller states also suffer from a general lack of resources to attend BWC meetings, these visits would be invaluable.
- **Stable contact points** would enable States not yet party to have a reliable point of contact for all information relating to the BWC. In this case, the most sensible option would be for the BWC Implementation Support Unit (ISU) to constitute the main reference point for all States not yet party. This could be supplemented by the creation of regional contact points, or persons appointed as “regional facilitators” similar to the example of the OPCW, who are in regular contact with, and coordinated by, the ISU. These regional facilitators could be drawn from personnel at the UN ODA regional offices:

- United Nations Regional Centre for Peace and Disarmament in Africa (UNREC) in Lomé, Togo
- United Nations Regional Centre for Peace and Disarmament for Asia and the Pacific (UNRCPP) in Kathmandu, Nepal
- United Nations Regional Centre for Peace, Disarmament and Development in Latin America and the Caribbean (UN-LiREC) in Lima, Peru

Facilitators in New York, Brussels and The Hague would provide an easy contact point for those countries without missions in Geneva.

A further development could be the future expansion of the ISU to include regional facilitators working within the ISU offices in Geneva who are responsible for keeping in continuous contact with the governments of States not yet party to the Convention.

- **ISU as a coordinating body:** the ISU should also act as a coordinating body for all universalization activities. States Parties should inform the ISU of actions they are undertaking (demarches, letters etc) as a matter of course and strive to involve ISU personnel when possible. If a State party is holding a meeting in a country that is not party to the Convention or hosting/participating in a regional meeting, they should inform the ISU of this possibility to reach out to States not party and include them either by providing funding for their attendance, working with the ISU so that the ISU can send a message by electronic means or simply by distributing informational material produced by the ISU.

The ISU should continue to act as a conduit of information between Contracting states and non-States Parties to facilitate, coordinate and respond to any requests for assistance. It is imperative that States parties respond to these assistance requests or at the very least, provide the financial and resource means for the ISU to do so. Whilst the ISU remains a small unit with just three personnel members, it is impossible for them from a financial and resource standpoint to react directly to requests for assistance. States parties should consider increasing the staffing budget of the ISU to allow them to create in-house expertise that could be use for the direct benefit of non-state parties to the Convention. In the meantime, the ISU should continue to log requests and attempt to match them with the stated capacities of States parties.

- **Regular contact:** Due to the small size of the ISU and the large undertaking that preparing for and conducting twice yearly meetings under the Intersessional process imposes upon it, there is often not adequate time to conduct as regular communications with states not yet party as one might wish. However, regular contact with these countries is the most effective way of ensuring that joining the Convention remains on their political radar.

One way of resolving this issue could be for the ISU to produce monthly or bi-monthly briefs of its activities which are faxed to all missions in Geneva and the closest missions/embassies of non-states parties that do not have representation in Geneva (i.e. Brussels or The Hague).

¹³⁸ See the United Nations Treaty Collection website for more information, available at <http://untreaty.un.org/English/treaty.asp>

¹³⁹ “Report of the Chairman on Universalization Activities”, BWC/MSP/2008/4, 28 November 2008, p.6.

REASONS TO JOIN THE BWC

An Aide Memoire developed by Ambassador Masood Khan, 2007 Chair of the BWC

Geneva, 11 November 2007

As Chairman of the 2007 Meeting of States Parties to the Biological Weapons Convention, I have a formal mandate from the States Parties to make contact with states not yet party, and to engage in dialogue which we hope will lead to universalisation of this important treaty.

This aide memoire is intended to answer the following questions: why is the BWC is so important; why is universal membership is essential; and what are the benefits of joining for individual states?

The first consideration is the BWC's role in collective security, and as a forum for cooperation in meeting our international security obligations:

- The BWC is one of the three fundamental pillars of the international community's effort against weapons of mass destruction (along with the Nuclear Non-proliferation Treaty and the Chemical Weapons Convention).
- Biological weapons can be used to attack humans, but also livestock and crops. The economic effects can be devastating. All states are potentially at risk, and all can benefit from joining the BWC.
- Compared to other weapons of mass destruction, biological weapons are relatively easy to develop, transfer and conceal. The struggle against them must therefore be shared across the international community, and needs to involve the security, scientific, public health and agricultural sectors.
- The BWC complements Security Council Resolution 1540: joining and implementing the BWC will help meet the requirements of SCR 1540.
- There is a growing risk that biological weapons may be obtained and used by non-state actors, including terrorist groups. Wider membership of the BWC will ensure there are fewer places where bioterrorists can work with impunity. Joining the BWC is a step all states can take to help reduce the threat of terrorism.

The second consideration is the role the BWC can play in strengthening our national public health, veterinary, agricultural and emergency-response capacities:

- The BWC supports the development of the peaceful uses of biological science and technology. Article X of the BWC requires States Parties 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 biological agents and toxins for peaceful purposes.
- BWC States Parties meet regularly to advise and assist each other in developing their national capacities in such areas as disease surveillance, detection and diagnosis; biosafety and biosecurity; education, training and awareness-raising; emergency response; and legal, regulatory and administrative measures (such as licensing, registration, customs, law enforcement, transport).
- Bilateral or regional assistance and cooperation may be available under the BWC that is not available through other channels, or not available to non-parties.

The third consideration is the growing international consensus on universalising the BWC:

- Membership has increased from 155 to 159 States Parties in 2007. All the permanent members of the Security Council are States Parties, as are all the members of the European Union, all the former Soviet states, nearly all states in Latin America, and a large majority of states in Asia.

The fourth consideration is that joining the BWC is simple, free, and will lead to international recognition:

- There is no financial cost involved in joining the BWC, or any annual assessment for being a State Party. States Parties pay only a share the cost of any meetings in which they participate (according to the UN scale of assessments).
- There is no waiting or qualification period to become a State Party, or special procedure required: the BWC comes into force as soon as your instrument of ratification/accession is deposited in London, Moscow or Washington.
- New States Parties will be formally welcomed at the annual Meeting of States Parties (10-14 December 2007), and their accession will be noted in the international security journals that report on these meetings, as well as in the wider media.
- The Implementation Support Unit can provide information and advice on sensitising policy makers in your country to the importance of the BWC and reasons for joining.

Finally, it is important to be aware that support is available to help with implementation of the BWC's obligations:

- Other States Parties, including in your region, are ready to assist with drafting or amending implementing legislation, establishing regulations, building administrative capacity, and other aspects of national implementation.
- Administrative support and advice on all aspects of accession and implementation is also available from the Implementation Support Unit (for further information, please see <http://www.unog.ch/bwc>).

MEMBERSHIP OF KEY INTERNATIONAL TREATIES

(as of 18 March 2009)

X = state party to treaty

Light grey = signatory state

Dark grey = non-signatory state

		1925 GP	1972 BWC	1993 CWC
1.	Afghanistan	X	X	X
2.	Albania	X	X	X
3.	Algeria	X	X	X
4.	Andorra			X
5.	Angola	X		
6.	Antigua and Barbuda	X	X	X
7.	Argentina	X	X	X
8.	Armenia		X	X
9.	Australia	X	X	X
10.	Austria	X	X	X
11.	Azerbaijan		X	X
12.	Bahamas		X	
13.	Bahrain	X	X	X
14.	Bangladesh	X	X	X
15.	Barbados	X	X	X
16.	Belarus		X	X
17.	Belgium	X	X	X
18.	Belize		X	X
19.	Benin	X	X	X
20.	Bhutan	X	X	X
21.	Bolivia	X	X	X
22.	Bosnia and Herzegovina		X	X
23.	Botswana		X	X
24.	Brazil	X	X	X
25.	Brunei Darussalam		X	X
26.	Bulgaria	X	X	X
27.	Burkina Faso	X	X	X
28.	Burundi			X

29.	Cambodia	X	X	X
30.	Cameroon	X		X
31.	Canada	X	X	X
32.	Cape Verde	X	X	X
33.	Central African Republic	X		X
34.	Chad			X
35.	Chile	X	X	X
36.	China	X	X	X
37.	Colombia		X	X
38.	Comoros			X
39.	Congo, Republic of the		X	X
40.	Cook Islands*		X	X
41.	Costa Rica		X	X
42.	Côte d'Ivoire	X		X
43.	Croatia	X	X	X
44.	Cuba	X	X	X
45.	Cyprus	X	X	X
46.	Czech Republic	X	X	X
47.	Democratic People's Republic of Korea	X	X	
48.	Democratic Republic of the Congo		X	X
49.	Denmark	X	X	X
50.	Djibouti			X
51.	Dominica		X	X
52.	Dominican Republic	X	X	
53.	Ecuador	X	X	X
54.	Egypt	X		
55.	El Salvador		X	X
56.	Equatorial Guinea	X	X	X
57.	Eritrea			X
58.	Estonia	X	X	X
59.	Ethiopia	X	X	X
60.	Fiji	X	X	X
61.	Finland	X	X	X
62.	France	X	X	X
63.	Gabon		X	X
64.	Gambia	X	X	X
65.	Georgia		X	X
66.	Germany	X	X	X
67.	Ghana	X	X	X

68.	Greece	X	X	X
69.	Grenada	X	X	X
70.	Guatemala	X	X	X
71.	Guinea			X
72.	Guinea-Bissau	X	X	X
73.	Guyana			X
74.	Haiti			X
75.	Holy See*	X	X	X
76.	Honduras		X	X
77.	Hungary	X	X	X
78.	Iceland	X	X	X
79.	India	X	X	X
80.	Indonesia	X	X	X
81.	Iran, Islamic Republic of	X	X	X
82.	Iraq	X	X	X
83.	Ireland	X	X	X
84.	Israel	X		
85.	Italy	X	X	X
86.	Jamaica	X	X	X
87.	Japan	X	X	X
88.	Jordan	X	X	X
89.	Kazakhstan		X	X
90.	Kenya	X	X	X
91.	Kiribati			X
92.	Kuwait	X	X	X
93.	Kyrgyzstan		X	X
94.	Lao People's Democratic Republic	X	X	X
95.	Latvia	X	X	X
96.	Lebanon	X	X	X
97.	Lesotho	X	X	X
98.	Liberia	X		X
99.	Libyan Arab Jamahiriya	X	X	X
100.	Liechtenstein	X	X	X
101.	Lithuania	X	X	X
102.	Luxembourg	X	X	X
103.	Madagascar	X	X	X
104.	Malawi	X		X
105.	Malaysia	X	X	X
106.	Maldives	X	X	X

107.	Mali		X	X
108.	Malta	X	X	X
109.	Marshall Islands			X
110.	Mauritania			X
111.	Mauritius	X	X	X
112.	Mexico	X	X	X
113.	Micronesia, Federated States of			X
114.	Monaco	X	X	X
115.	Mongolia	X	X	X
116.	Montenegro		X	X
117.	Morocco	X	X	X
118.	Mozambique			X
119.	Myanmar			
120.	Namibia			X
121.	Nauru			X
122.	Nepal	X		X
123.	Netherlands	X	X	X
124.	New Zealand	X	X	X
125.	Nicaragua	X	X	X
126.	Niger	X	X	X
127.	Nigeria	X	X	X
128.	Niue*			X
129.	Norway	X	X	X
130.	Oman		X	X
131.	Pakistan	X	X	X
132.	Palau		X	X
133.	Panama	X	X	X
134.	Papua New Guinea	X	X	X
135.	Paraguay	X	X	X
136.	Peru	X	X	X
137.	Philippines	X	X	X
138.	Poland	X	X	X
139.	Portugal	X	X	X
140.	Qatar	X	X	X
141.	Republic of Korea	X	X	X
142.	Republic of Moldova		X	X
143.	Romania	X	X	X
144.	Russian Federation	X	X	X
145.	Rwanda	X	X	X

146.	Saint Kitts and Nevis	X	X	X
147.	Saint Lucia	X	X	X
148.	Saint Vincent and the Grenadines	X	X	X
149.	Samoa			X
150.	San Marino		X	X
151.	Sao Tome and Principe		X	X
152.	Saudi Arabia	X	X	X
153.	Senegal	X	X	X
154.	Serbia	X	X	X
155.	Seychelles		X	X
156.	Sierra Leone	X	X	X
157.	Singapore		X	X
158.	Slovakia	X	X	X
159.	Slovenia	X	X	X
160.	Solomon Islands	X	X	X
161.	Somalia			
162.	South Africa	X	X	X
163.	Spain	X	X	X
164.	Sri Lanka	X	X	X
165.	Sudan	X	X	X
166.	Suriname		X	X
167.	Swaziland	X	X	X
168.	Sweden	X	X	X
169.	Switzerland	X	X	X
170.	Syrian Arab Republic	X		
171.	Tajikistan		X	X
172.	Thailand	X	X	X
173.	The former Yugoslav Republic of Macedonia		X	X
174.	Timor-Leste		X	X
175.	Togo	X	X	X
176.	Tonga	X	X	X
177.	Trinidad and Tobago	X	X	X
178.	Tunisia	X	X	X
179.	Turkey	X	X	X
180.	Turkmenistan		X	X
181.	Tuvalu			X
182.	Uganda	X	X	X
183.	Ukraine	X	X	X
184.	United Arab Emirates		X	X

185.	United Kingdom of Great Britain and Northern Ireland	X	X	X
186.	United Republic of Tanzania	X		X
187.	United States of America	X	X	X
188.	Uruguay	X	X	X
189.	Uzbekistan		X	X
190.	Vanuatu		X	X
191.	Venezuela, Bolivarian Republic of	X	X	X
192.	Viet Nam	X	X	X
193.	Yemen	X	X	X
194.	Zambia		X	X
195.	Zimbabwe		X	X

* The UN recognizes 195 states as being capable of taking treaty actions in relation to treaties for which the UN is the depositary. These are the 192 member states of the UN, plus the observer state the Holy See and two non-members, the Cook Islands and Niue. Cook Islands is a state party to the BWC and CWC, the Holy See is a state party to the GP, BWC and CWC and Niue is a state party to the CWC.

THE BIOLOGICAL WEAPONS CONVENTION

Ambassador Georgi Avramchev, 2008 Chair of the BWC

The Biological Weapons Convention is one of the cornerstones of international peace and security. It ensures that biology is only used for our collective benefit and that the life sciences continue to yield benefits for health, wealth, agriculture and the environment. Ensuring that these same advances are not used to hostile ends is a significant challenge and the BWC has been evolving to ensure that we work collectively on a shared problem. The threat posed by malign biology is truly global. Hence we must ensure that our response is global, too. As a result, it is more important than ever that we continue to expand the membership of this treaty.

At the Sixth Review Conference, States Parties agreed to undertake a concerted effort to persuade states to join the Convention. We set out a plan for how we were going to accomplish this. We agreed to promote universalization through bilateral contacts as well as regional and multilateral forums and activities. We decided to nominate points of contact for this important issue, to inform the ISU of our activities and to report, as appropriate, to the Meetings of States Parties.

Universalization means more than just gathering information. It requires us to take action. During my time as Chairman, in the course of my duties I have taken every opportunity to raise awareness of the importance of joining the BWC. I have encouraged scientists, policy makers, academics and other stakeholders from states currently outside the BWC to encourage their governments to join our Convention. It is particularly rewarding to be able to report that my requests have almost always been warmly welcomed, and that there seems to be a broad-based interest in our efforts throughout stakeholder communities. I believe that if we can get our message to a wide enough audience, we will build momentum to make real progress in further expanding our membership.

I am also pleased to report that during my Chairmanship our universalization efforts have been greatly assisted by the activities of our NGO friends. NGOs have organized national awareness raising events in states not party. They have used their own network of contacts to encourage these countries to join our treaty and to gather information on their progress. They have also provided me with the information generated from their activities, helping my efforts to coordinate universalization and adding depth of our understanding of the current situation. Through their activities this year, these organizations have shown that they can be important partners in our efforts to expand the membership of the BWC.

At the 2008 Meeting of Experts of the BWC, I called upon States Parties to ensure that resources are available to turn our aims of universality into a reality. I said that the current economic climate will impact the availability of financial assistance but that as this is an issue that is important to us, we must find ways to ensure that practical universalization efforts continue. This book shows that we can find new ways to work on old problems. I am sure it will become an important tool in our collective efforts to ensure that the ban on biological weapons is truly global and I would like to congratulate you on taking this initiative.

Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction

*Signed at London, Moscow and Washington on 10 April 1972.
Entered into force on 26 March 1975.*

The States Parties to this Convention,

Determined to act with a view to achieving effective progress towards general and complete disarmament, including the prohibition and elimination of all types of weapons of mass destruction, and convinced that the prohibition of the development, production and stockpiling of chemical and bacteriological (biological) weapons and their elimination, through effective measures, will facilitate the achievement of general and complete disarmament under strict and effective international control,

Recognizing the important significance of the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, signed at Geneva on June 17, 1925, and conscious also of the contribution which the said Protocol has already made, and continues to make, to mitigating the horrors of war,

Reaffirming their adherence to the principles and objectives of that Protocol and calling upon all States to comply strictly with them,

Recalling that the General Assembly of the United Nations has repeatedly condemned all actions contrary to the principles and objectives of the Geneva Protocol of June 17, 1925,

Desiring to contribute to the strengthening of confidence between peoples and the general improvement of the international atmosphere,

Desiring also to contribute to the realization of the purposes and principles of the United Nations,

Convinced of the importance and urgency of eliminating from the arsenals of States, through effective measures, such dangerous weapons of mass destruction as those using chemical or bacteriological (biological) agents,

Recognizing that an agreement on the prohibition of bacteriological (biological) and toxin weapons represents a first possible step towards the achievement of agreement on effective measures also for the prohibition of the development, production and stockpiling of chemical weapons, and determined to continue negotiations to that end,

Determined for the sake of all mankind, to exclude completely the possibility of bacteriological (biological) agents and toxins being used as weapons,

Convinced that such use would be repugnant to the conscience of mankind and that no effort should be spared to minimize this risk,

Have agreed as follows:

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;
- (2) Weapons, equipment or means of delivery designed to use such agents or toxins for hostile purposes or in armed conflict.

Article II

Each State Party to this Convention undertakes to destroy, or to divert to peaceful purposes, as soon as possible but not later than nine months after entry into force of the Convention, all agents, toxins, weapons, equipment and means of delivery specified in article I of the Convention, which are in its possession or under its jurisdiction or control. In implementing the provisions of this article all necessary safety precautions shall be observed to protect populations and the environment.

Article III

Each State Party to this Convention undertakes not to transfer to any recipient whatsoever, directly or indirectly, and not in any way to assist, encourage, or induce any State, group of States or international organizations to manufacture or otherwise acquire any of the agents, toxins, weapons, equipment or means of delivery specified in article I of this Convention.

Article IV

Each State Party to this Convention shall, in accordance with its constitutional processes, take any necessary measures to prohibit and prevent the development, production, stockpiling, acquisition, or retention of the agents, toxins, weapons, equipment and means of delivery specified in article I of the Convention, within the territory of such State, under its jurisdiction or under its control anywhere.

Article V

The States Parties to this Convention undertake to consult one another and to cooperate in solving any problems which may arise in relation to the objective of, or in the application of the provisions of, the Convention. Consultation and Cooperation pursuant to this article may also be undertaken through appropriate international procedures within the framework of the United Nations and in accordance with its Charter.

Article VI

(1) Any State Party to this convention which finds that any other State Party is acting in breach of obligations deriving from the provisions of the Convention may lodge a complaint with the Security Council of the United Nations. Such a complaint should include all possible evidence confirming its validity, as well as a request for its consideration by the Security Council.

(2) Each State Party to this Convention undertakes to cooperate in carrying out any investigation which the Security Council may initiate, in accordance with the provisions of the Charter of the United Nations, on the basis of the complaint received by the Council. The Security Council shall inform the States Parties to the Convention of the results of the investigation.

Article VII

Each State Party to this Convention undertakes to provide or support assistance, in accordance with the United Nations Charter, to any Party to the Convention which so requests, if the Security Council decides that such Party has been exposed to danger as a result of violation of the Convention.

Article VIII

Nothing in this Convention shall be interpreted as in any way limiting or detracting from the obligations assumed by any State under the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, signed at Geneva on June 17, 1925.

Article IX

Each State Party to this Convention affirms the recognized objective of effective prohibition of chemical weapons and, to this end, undertakes to continue negotiations in good faith with a view to reaching early agreement on effective measures for the prohibition of their development, production and stockpiling and for their destruction, and on appropriate measures concerning equipment and

means of delivery specifically designed for the production or use of chemical agents for weapons purposes.

Article X

(1) 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. Parties to the Convention in a position to do so shall also cooperate in contributing individually or together with other States or international organizations to the further development and application of scientific discoveries in the field of bacteriology (biology) for prevention of disease, or for other peaceful purposes.

(2) This Convention shall be implemented in a manner designed to avoid hampering the economic or technological development of States Parties to the Convention or international cooperation in the field of peaceful bacteriological (biological) activities, including the international exchange of bacteriological (biological) and toxins and equipment for the processing, use or production of bacteriological (biological) agents and toxins for peaceful purposes in accordance with the provisions of the Convention.

Article XI

Any State Party may propose amendments to this Convention. Amendments shall enter into force for each State Party accepting the amendments upon their acceptance by a majority of the States Parties to the Convention and thereafter for each remaining State Party on the date of acceptance by it.

Article XII

Five years after the entry into force of this Convention, or earlier if it is requested by a majority of Parties to the Convention by submitting a proposal to this effect to the Depositary Governments, a conference of States Parties to the Convention 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 realized. Such review shall take into account any new scientific and technological developments relevant to the Convention.

Article XIII

(1) This Convention shall be of unlimited duration.

(2) Each State Party to this Convention shall in exercising its national sovereignty have the right to withdraw from the Convention if it decides that extraordinary events, related to the subject matter of the Convention, have jeopardized the supreme interests of its country. It shall give notice of such withdrawal to all other States Parties to the Convention and to the United Nations Security Council three months in advance. Such notice shall include a statement of the extraordinary events it regards as having jeopardized its supreme interests.

Article XIV

(1) This Convention shall be open to all States for signature. Any State which does not sign the Convention before its entry into force in accordance with paragraph (3) of this Article may accede to it at any time.

(2) This Convention shall be subject to ratification by signatory States. Instruments of ratification and instruments of accession shall be deposited with the Governments of the United States of America, the United Kingdom of Great Britain and Northern Ireland and the Union of Soviet Socialist Republics, which are hereby designated the Depositary Governments.

(3) This Convention shall enter into force after the deposit of instruments of ratification by twenty-two Governments, including the Governments designated as Depositaries of the Convention.

(4) For States whose instruments of ratification or accession are deposited subsequent to the entry into force of this Convention, it shall enter into force on the date of the deposit of their instruments of ratification or accession.

(5) The Depositary Governments shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit or each instrument of ratification or of accession and the date of entry into force of this Convention, and of the receipt of other notices.

(6) This Convention shall be registered by the Depositary Governments pursuant to Article 102 of the Charter of the United Nations.

Article XV

This Convention, the English, Russian, French, Spanish and Chinese texts of which are equally authentic, shall be deposited in the archives of the Depositary Governments. Duly certified copies of the Convention shall be transmitted by the Depositary Governments to the Governments of the signatory and acceding states.

DEPOSITORY INFORMATION

Taken from the HSP and VERTIC Briefing Book

Functions of the Depositaries

The depositary does the administrative work relating to a treaty. The text of a treaty establishes which state(s) or international organization is the depositary. The administrative work includes:

- keeping custody of the original text of the treaty and any full powers;
- receiving any signatures and receiving and keeping custody of any instruments of ratification, acceptance, accession or succession, any reservations or declarations, and all other notifications and communications related to the treaty;
- examining whether the signature, or any instrument, notification or communication relating to the treaty, is in the correct and proper form, and in case of doubt, bringing the matter to the attention of the state in question. The depositary notes the date of deposit as the date on which it was received. If the instrument is in a foreign language, the depositary does not generally acknowledge receipt until the instrument has been translated and checked. For this reason, it is advisable to provide a suitable translation of the instrument if it has been written in a language foreign to that of the depositary; and,
- informing states parties, and states entitled to become parties, of acts, notifications and communications relating to the treaty including proposals for amendments and adoption of amendments and notices of withdrawal from the treaty.

Depositaries of the BWC

In the case of the BWC, there are three states that act as depositaries, and states not yet party to the Convention may deposit their instruments and other communications and notifications with any one of them, or combination of the three. The three depositaries are:

- I. the Russian Federation
- II. the United Kingdom of Great Britain and Northern Ireland, and
- III. the United States of America.

These depositaries maintain their own lists of states party to the Convention according to the instruments deposited with them, and liaise with one another when necessary to update their own lists of state parties and/or when more than one depositary receives an instrument from the same country.

In most cases, treaties take effect for a new State Party either on the day an instrument is deposited or after a pre-determined period of time has elapsed. The exact date the instrument is received by the depositary government is therefore crucial, as it determines exactly when a State is bound by international law to exercise the rights and obligations that the treaty concerned provides.

Instruments of ratification, accession and succession should be sent to the following addresses or transmitted through established diplomatic channels :

Russian Federation

Legal Department
Ministry of Foreign Affairs of Russia
32/34 Smolenskaya-Sennaya Square
Moscow 121 200
Russian Federation

Telephone: 007 495 241 77 18
Fax: 007 495 241 11 66
E-mail: dp@mid.ru

United Kingdom

Treaty Section
(Legal Advisers)
Room W. LG 167
King Charles Street
Foreign and Commonwealth Office
London SW1A 2AH
United Kingdom

Telephone: 0044 207 008 1109
Fax: 0044 207 008 1115
E-Mail: treaty.fco@gtnet.gov.uk
Website: www.fco.gov.uk/treaty

(Note: Envelopes should be marked "For the attention of the Depository")

United States of America
Affairs

Office of the Assistant Legal Adviser for Treaty
United States Department of State
Suite 5420
2201 C Street, N.W.
Washington, D.C. 20520
United States of America

Telephone: 001 202 647 1345
E-mail: treatyoffice@state.gov
Website: www.state.gov/s/l/treaty/

(Note: states wishing to deposit in Washington are advised to forward their instruments of ratification/accession to the Treaty Office through their embassies in Washington. Embassy staff should then call the Depository Officer at the Treaty Office on the phone number above to schedule an appointment for hand-delivery of the instrument if desired.)

GUIDE TO RATIFICATION, ACCESSION AND SUCCESSION

Ratifying, acceding and succeeding to the BWC

Each State undertakes the process of ratifying, acceding or succeeding to the Biological Weapons Convention (BWC) in accordance with its own national constitutional process.

The ratification and accession process are described in Article XIV of the Convention, which reads as follows:

“(1) This Convention shall be open to all States for signature. Any State which does not sign the Convention before its entry into force in accordance with paragraph (3) of this Article may accede to it at any time.

(2) This Convention shall be subject to ratification by signatory States. Instruments of ratification and instruments of accession shall be deposited with the Governments of the United States of America, the United Kingdom of Great Britain and Northern Ireland and the Union of Soviet Socialist Republics, which are hereby designated the Depositary Governments.

(3) This Convention shall enter into force after the deposit of instruments of ratification by twenty-two Governments, including the Governments designated as Depositaries of the Convention.

(4) For States whose instruments of ratification or accession are deposited subsequent to the entry into force of this Convention, it shall enter into force on the date of the deposit of their instruments of ratification or accession.

(5) The Depositary Governments shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification or of accession and the date of entry into force of this Convention, and of the receipt of other notices.

(6) This Convention shall be registered by the Depositary Governments pursuant to Article 102 of the Charter of the United Nations.”

A State will ratify the Convention if it has signed the BWC before its entry into force on 26 March 1975. In order to ratify, it will deposit an instrument of ratification with one, two or all three Depositary States (the Russian Federation, United Kingdom and the United States).

A State will accede to the BWC if it has not signed the Convention before entry into force. In order to accede, the State will deposit its instrument of accession with one, two or all three Depositary States (the Russian Federation, United Kingdom and the United States).

For States depositing their instruments of ratification or accession after the entry into force of the Convention, the BWC shall enter into force on the date of deposit.

A State that has become newly independent since entry into force of the BWC (26 March 1975) may also be eligible to succeed to the BWC. A State is eligible to succeed if the Convention had applied to it whilst it was part of another State e.g. when the application of the BWC was expressly extended to cover its territory by virtue of being a colony of a State party to the Convention. This information can be found in the lists of treaties that applied to the State before gaining independence that are normally transmitted to the new government by the former ruling State.

A newly independent State will not normally automatically succeed to the BWC - an instrument of succession is usually required, and is advisable in order to demonstrate the State's express intent to be bound to the Convention. Some States have made general declarations of succession (see Vanuatu, Tuvalu and Kiribati country reports for example) which should be backed up by formal instruments of succession to clarify their intent to join the BWC.

Format of Instruments of Ratification, Accession and Succession

Instruments of Ratification, Accession and Succession come in many different forms according to the practice and procedures of the individual State.

Variances in the texts of these instruments are of no importance, providing that they clearly provide all the relevant information the depository needs to know. Above all, the instrument must give clear and unambiguous expression to its intention to be bound by the Biological Weapons Convention. The instrument should therefore include:

- name of State;
- the full title of the treaty and date when, and place where, it was concluded;
- name and title of the person signing the instrument; and,
- state where and when the instrument was issued.

In addition, the instrument itself should be:

- the original document (a photocopy of the instrument will not suffice);
- signed by current personnel with full powers to do so (e.g. President, Minister of Foreign Affairs); and,
- preferably affixed with the official seal of the Government.

Any queries, or requests for further information or assistance, can be directed to the Treaty Departments of any of the Depositories (see contact details in the Depository Information section) or to:

Head
Implementation Support Unit of the Biological Weapons Convention
United Nations Office for Disarmament Affairs
United Nations Office at Geneva
Palais des Nations
CH-1211 Geneva 10
Switzerland

Telephone: +41 (0)22 917 2230
Fax: +41 (0)22 917 0483
E-mail: bwc@unog.ch

MODEL INSTRUMENTS OF RATIFICATION, SUCCESSION & ACCESSION

Model Instrument of Ratification

INSTRUMENT OF RATIFICATION

BY

[NAME OF STATE]

WHEREAS the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction was opened for signature at London, Moscow and Washington on 10 April 1972,

AND WHEREAS the said Convention has been signed on behalf of the Government of [NAME OF STATE] on [DATE],

NOW THEREFORE, the Government of [NAME OF STATE] having considered and approved the said Convention hereby confirms and ratifies the said Convention and undertakes faithfully to perform and carry out the stipulations contained therein,

IN WITNESS THEREOF, I [NAME AND TITLE OF HEAD OF STATE, HEAD OF GOVERNMENT OR MINISTER OF FOREIGN AFFAIRS] have signed this Instrument of Ratification on behalf of the Government of [NAME OF STATE] and affixed the official seal.

DONE at [PLACE] on [DATE].

[Public Seal]

[Signature of Head of State or of Head of
Government or Minister of Foreign Affairs]

Model Instrument of Accession

INSTRUMENT OF ACCESSION

BY

[NAME OF STATE]

WHEREAS the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction was opened for signature at London, Moscow and Washington on 10 April 1972 and entered into force on 26 March 1975,

AND WHEREAS Article XIV of the Convention provides that any State which does not sign the Convention before its entry into force may accede to it at any time;

AND WHEREAS, the Government of [NAME OF STATE] wishes to accede to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction;

NOW THEREFORE, the Government of [NAME OF STATE], having considered and approved the said Convention, hereby formally accedes to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction and undertakes to faithfully perform and carry out all the stipulations contained therein.

IN WITNESS THEREOF, I [NAME AND TITLE OF HEAD OF STATE, HEAD OF GOVERNMENT OR MINISTER OF FOREIGN AFFAIRS] have signed this Instrument of Accession on behalf of the Government of [NAME OF STATE] and affixed the official seal.

DONE at [PLACE] on [DATE].

[Public Seal]

[Signature of Head of State or of Head of Government or Minister of Foreign Affairs]

Model Instrument of Succession

INSTRUMENT OF SUCCESSION

BY

[NAME OF STATE]

WHEREAS the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction was opened for signature at London, Moscow and Washington on 10 April 1972 and entered into force on 26 March 1975, was ratified by [Former State Party]

AND WHEREAS, the Government of [NAME OF SUCCESSOR STATE] has examined the said Convention;

THE GOVERNMENT of [NAME OF SUCCESSOR STATE] declares that they regard the said Convention as continuing in force for [NAME OF SUCCESSOR STATE] and hereby succeed to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction;

NOW THEREFORE, the Government of [NAME OF STATE], having considered and approved the said Convention, hereby formally notifies the succession of the [NAME OF SUCCESSOR STATE] to the said Convention, and undertakes to faithfully perform and carry out all the stipulations contained therein.

IN WITNESS THEREOF, I [NAME AND TITLE OF HEAD OF STATE, HEAD OF GOVERNMENT OR MINISTER OF FOREIGN AFFAIRS] have signed this Instrument of Succession on behalf of the Government of [NAME OF STATE] and affixed the official seal.

DONE at [PLACE] on [DATE].

[Public Seal]

[Signature of Head of State or of Head of Government or Minister of Foreign Affairs]

GLOSSARY

Acceptance/Approval: Have the same legal effect as **ratification**.

Accession: An act whereby a State expresses its consent to be legally bound by the terms of a particular treaty, instead of **signature** followed by **ratification**. Accession is the usual method by which a State, which has not taken part in the negotiations or signed the **treaty**, may subsequently consent to be bound by its terms. In general, accession is permitted after the entry into force of the treaty.

Agreement: A title for a **treaty**.

Amendment: A means of modifying the text of an existing **agreement**.

Article: International legal instruments generally include a Preamble (stating the reasons for and underlying understandings of the drafters and adopters of the instrument) and a series of 'articles', which lay out the obligations of those States choosing to be bound by it and procedural matters involving the **treaty**. The term '**provision**' is often used as an alternative when referring to the content of particular articles.

Communication: A communication is a **declaration** by which a State expresses its views relating to the treaty, notifies a new domestic law or specify the content of a domestic law in relation with the **treaty**, rectify an error or an omission made upon **ratification**. Communications may be made under the terms of the **treaty**, for example when a State has to designate a competent national authority, or formulated spontaneously by States.

Concluded: Indicates the date of adoption of an **agreement**, whether by an international conference, or by a standing body such as the UN General Assembly, or otherwise.

Consent to be bound: To **ratify**, **accept**, approve or **accede** to a **treaty**.

Contracting State: A State which has consented to be bound by a **treaty** whether or not the treaty has entered into force.

Convention: A term frequently employed for formal **agreements** between States. The generic term 'convention' is synonymous with the generic term '**treaty**'. Conventions are normally open for participation by the international community as a whole, or by a large number of States. Usually the instruments negotiated under the auspices of an international organization are entitled conventions (e.g. the Convention on the Rights of the Child, adopted by the General Assembly of the United Nations in 1989).

Declaration: A declaration is a notification by which a State clarifies the meaning or the scope it gives to a **treaty** or to a **provision**, or by which a State sets down the reasons for becoming a Party.

Deposit: After a treaty has been concluded, the written instruments which provide formal evidence of a State's consent to be bound are placed in the custody of a depositary.

Depositary: One of more States, or an International Organization, or its chief administrative office so designated in a multilateral **treaty**. The depositary performs in an impartial manner various functions with regard to the treaty: including receiving and transmitting **signatures** and instruments of **accessions**, **reservations** and **declarations** etc, and communicating comprehensive and up-to-date information on the status of the treaty (e.g. list of parties). Articles 77 to 79 of the Vienna Convention on the Law of Treaties sets out different depositary functions. Depositaries are the guardians of the **treaties**.

Entry into force: A **treaty** does not enter into force when it is adopted. Typically, the **provisions** of the **treaty** determine the date on which the **treaty enters into force**, often at a specified time following its

ratification or **accession** by a fixed number of states, at which point the treaty has a legal existence in the international legal system and in the legal systems of States Parties (those States which gave the required consent).

Extension: The process of applying a **treaty** to an overseas territory.

Party/State party: A Party or State party to a **treaty** is a country or the International Organization that has consented to be legally bound by the **treaty** through **ratification**, **accession** or **succession** and for which the **treaty** is in force.

Protocol: A protocol is a legal instrument, which complements, amends or modifies the main treaty.

Ratification: Ratification is an act by which the State expresses its definitive consent to be bound by a particular **treaty**. To ratify a **treaty**, the State first signs it and then fulfils its own national legislative requirements. Once the appropriate national organ of the country - Parliament, Senate, the Crown, Head of State or Government, or a combination of these - follows domestic constitutional procedures and makes a formal decision to be a **party** to the **treaty**, an instrument of ratification, a formal sealed letter referring to the decision and signed by the State's responsible authority, is then prepared and deposited with the designated **depository** of the **treaty** in question. Once a State has deposited its instrument of ratification, it becomes a State Party to the **agreement** and must respect the provisions of the **treaty** and implement it.

Reservation: A reservation is a country's attempt to modify certain terms of the **agreement**, as between itself and other countries.

Signature: Signature of a **treaty** is an act by which the State expresses its preliminary endorsement in a treaty and intent to examine the treaty domestically and consider becoming a **Party** to it. The State is not bound by the **signature** or committed to **ratification**, but does have an obligation not to defeat the object and purpose of the **treaty** until it has made its intention clear not to become a **Party** to the **treaty**.

Signatory: Not a precise term. Usually used to mean a country that has signed but not yet **ratified** a **treaty**.

Territorial declaration: A territorial declaration is a **declaration** by which a State specifies the territory or territories to which the treaty will apply.

Treaty: A treaty (sometimes called a **convention**, covenant, **protocol**, charter, pact, etc.) is an agreement formally concluded between two or more States or international organizations in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments. It may be bilateral (between two countries), or multilateral (between three or more countries). The treaty text may provide for the manner by which it takes effect. Often, the agreement will **enter into force** when it has been **signed** and **ratified** by a certain number of parties. Unless restricted by the terms of the treaty, **parties** may **ratify** a treaty with **reservations** or other **declarations**. Under the Vienna Conventions on the Law of Treaties, a treaty must be (1) a binding instrument, which means that the contracting parties intended to create legal rights and duties; (2) concluded by states or international organizations with treaty-making power; (3) governed by international law and (4) in writing.

Note: Definitions are adapted from The Concise Oxford Dictionary of Current English (8th edition), Clarendon Press, Oxford, 1990; the United Nations Treaty Collection, Treaty Reference Guide, 1999, available at <http://untreaty.un.org/English/guide.asp> and A. Aust, Modern Treaty Law and Practice, 2nd ed, Cambridge: Cambridge University Press, 2008.