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Improving implementation of the BWC: preparedness, response, and assistance

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[speaking notes, as prepared for delivery]

The technical challenges of investigating alleged use of biological weapons and for providing humanitarian assistance to reduce the effects of the use of such weapons are complex. Both activities, investigation and assistance, have some common challenges, and each has some specific challenges. While we are primarily focused within this session on technical issues, we have to recognise that these are set within broader legal and political contexts.

The only existing international arrangement for investigating alleged use of biological weapons is one on which there are strongly held divergent views – this is the investigative mechanism operated by the UN Secretary-General, known in short as the SGM, as agreed in consensus UN General Assembly resolution A/RES/42/37C, and enacted through guidelines elaborated in UN document A/44/561. It is always possible that new political or legal arrangements that would be able to carry out investigations of alleged use of biological weapons could emerge in future. Indeed, most of the technical issues considered in this short presentation would still apply under any new arrangement, and so I shall look at some general issues surrounding investigation and assistance, rather than particular issues of the SGM itself. However, it should be noted that much of what I am presenting now is derived from experience within workshops or other activities looking at enhancing implementation of the SGM.

It should be noted that the main focus of much work has been to examine relatively simple scenarios of a suspicious human disease outbreak in a cooperative environment. A key lesson of the Syria investigations into alleged use of chemical weapons is that investigations may have to take place in a conflict setting and that there may be issues of big power politics in play that can create challenging political contexts.

An absolutely critical aspect must be kept in mind – it is unlikely that a standing full-scale investigative capacity within an international agency will be established as this inevitably will be seen as too expensive. While a new intergovernmental body should be able to field an initial team, a full investigation into a large scale attack is always likely to have to draw on national capacities and capabilities. Moreover, no individual government is likely to have at its disposal all of the resources to immediately respond to a severe biological attack and so the concept of receiving assistance under BWC Article VII applies to all countries.

A request from a government, either for investigation or for assistance, could lead to a decision in a short time frame under much political pressure. An allegation could relate to deliberate use, but might be made for propaganda purposes or could relate to an event that in its early stages is ambiguous or suspicious as to its origin. In many scenarios an investigation would be needed and this may be followed up or be accompanied by humanitarian assistance. As these possible processes or procedures are being considered, it is clear that in some scenarios there may be very specific requests for investigation or assistance and in some others, especially those involving a large scale attack, there may be only one very simple request – ‘help’!

To ensure any request, whether for investigation or assistance, can be evaluated promptly and practical steps taken, points of contact need to be maintained across relevant government departments, UN departments/agencies and other relevant bodies. There would be benefits from exercises to test request (and evaluation of request) procedures. Further work would be useful in helping to explore potential triggers in different scenarios that might suggest whether a fast/slow response with a small/large investigation team on the ground would be needed for each scenario. Memoranda of Understanding exist between relevant agencies with new points of contact being established with additional bodies, so much has already been done but more needs doing. Some agencies, especially those needing to be seen as neutral in conflict zones, may wish to keep at arms length from investigation missions in case cooperation impacts on other work.

Funding for investigative and assistance activities has been inherently unpredictable and reliant on voluntary contributions – this is a key aspect of the political context. The logistics needed to support any investigation team is dependent on the scenario and these are resource intensive. There are three key phases – the launch phase, field phase and recovery phase – and each will be impacted by the scenario. Obviously, smaller teams are easier to support than larger teams, but smaller teams inherently contain fewer capacities. A key issue is how self-sufficient the team should be. Greater self-sufficiency entails more logistic support that needs to be in place from the start. Reliance on local supplies or additional agencies eases logistics but can lead to unpredictable difficulties if supplies or other forms of support are interrupted – a key lesson from some field activities during the 2014 Ebola virus disease outbreak. Use of equipment to collect evidence means personnel must be familiar with each item and calibration checks must be carried out before use to ensure credibility. All of these require ongoing funding. Critically, without a sense of funding levels that might be available, it is hard to effectively plan for certain types of possible mission.

The safety of the mission is paramount – any members of an investigation or assistance team that are themselves injured add to the numbers of casualties to be dealt with and thus weaken the overall response. There are legal context issues here as well. Host countries may be able to provide services such as security, first aid and medical countermeasures, but this can lead to questions of liability. Some medicines need licensing to move across borders if they are carried in by investigation or assistance teams. While some staff might be inoculated already against relevant diseases, it would not be reasonable to assume all possible personnel would be already vaccinated.

Action is needed in these areas. More reliable sources of funding are needed. It will help if funders can be provided with better metrics to show funding is being used effectively and appropriately, but this can be hard to illustrate. Flexibility of planning is needed to be able to respond to complex scenarios where there is rarely complete information. Offers of specific forms of logistical assistance from governments and agencies, such as for transport of samples, should be encouraged. A lesson from the Syria chemical weapons investigation was that commercial carriers do not like transporting biomedical samples and alternative arrangements had to be found. Training for sampling strategies should be sought as sampling strategies utilised during exercises had been found to be less than optimum. Preparations for ongoing dynamic risk assessment arrangements, including regular situation reports, need to be made that will fit in with the diverse procedures that exist within the multiple agencies that might contribute personnel. Medical needs for team members should be planned for. Multi-agency table top exercises would be useful to identify where overlaps, complementarities and conflicts might be with other bodies that could be operating in the field in potential scenarios.

There are capabilities gaps in skills and analysis areas. One example: experience, from law enforcement and from epidemiology (as well as from the Syria investigations) shows that some skills

such as interviewing techniques are needed to maximise efficacy of information gained and to contextualize the situation; therefore such skills are critical, however, experts in specific scientific or technological fields do not often naturally have these skills – multiskilling provides for greater investigation or assistance team flexibility. Further communications skills, such as report writing to communicate complex technical issues in a legal context, are required. This point illustrates that there is a core basic skills set for investigators and means there may be opportunities for common training with bodies such as CTBTO, IAEA and OPCW.

There is a challenge here as the BWC itself, with its lack of an operational institution at its core, does not seem to be best placed to be the focal point for some of the actions required outlined here. But if not through the BWC, where should action be focused? One answer is everywhere – we should remember our humanity and remember that disease has been a scourge of civilizations throughout history. We must remember our humanity and ensure that any entities we are involved with are prepared to contribute to resilience against the horrors of the use of disease as a weapon. But the BWC, and the states parties and other members of the communities that operate within it, will retain a vital role in coordinating international efforts for investigation and for assistance. It is therefore vital that these issues are able to be dealt with through a robust BWC inter-sessional process. If we fail to prepare, history will not look kindly upon us for the chances we will have wasted.