

Deconstructing the BWC Seventh Review Conference: Workshop Summary

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Introduction

The Harvard Sussex Program (HSP) in association with the UK Foreign & Commonwealth Office (FCO) hosted a Sussex Day on Deconstructing the Final Document of the BWC Seventh Review Conference. The meeting was attended by a number of interested parties, including NGOs and representatives of academia as well as individuals from various UK government departments, and took place on Thursday 8th March 2012. The meeting was comprised of two sessions: the first on what happened and why; and the second looking at where we go from here?

This report is the sole responsibility of its author, who was asked to prepare a brief account of the proceedings of the meeting. It does not necessarily reflect a consensus of the workshop as a whole, nor the views of participating individuals or organisations. The workshop was strictly governed by the Chatham House Rule, so reference to specific speakers is not detailed here.

Session 1: What happened at the Review Conference and why?

One of the non-governmental participants opened the first session with a short appraisal of the Review Conference based on a pre-distributed paper, which focused on the process rather than the politics. It was noted that there was a Final Document, and participants ought not to overlook this, as not all BWC Review Conferences had achieved this. However, the outcome was considered to be modest. The appraisal expressed disappointment with the decreased number of textual proposals submitted to the Committee of the Whole (CoW). The appraisal further criticised the “downgrading” of the status of the Article-by-Article review in the Final Declaration and the failure of States Parties to recognise the value of the common understandings derived from the past intersessional process, which it was argued, warranted “more systematic consideration by the Committee of the Whole”. Despite these criticisms, the speaker went on to congratulate the UK on their role in preventing the destruction of the Conference by various spoilers. It was suggested that there was now a much fuller set of topics under the Standing Agenda Items which will be addressed each year as part of the new intersessional process (ISP) and that there is great potential for those that wish to take the ISP forward and maximise the utility of that process. The speaker suggested this would however require the forward looking State Parties to be proactive in their early submission of papers to steer the meetings in the right direction.

In the ensuing discussion it was emphasised that the Seventh Review Conference was a hard fought three weeks and that the results on paper did not capture how difficult the negotiations were behind the scenes. A few countries appeared to be employing blocking tactics which meant that despite the years of careful preparation, the outcome came down to the last few days. It was underlined that the extent of blocking in the second half of the Conference was an important factor to consider in conducting an assessment of the Seventh Review Conference. Moreover, whilst some of the complications were foreseeable, even with all the preparation that

had taken place, there were a number of shocks and unpredictable twists, for example, a few EU member states objected to the proposed budget on the last day of the Conference.

The role of the President was also discussed and that of the role of the regional groups. It was recalled that the Sixth Review Conference in 2006 was Chaired by Ambassador Khan of Pakistan. Pakistan's Non-Aligned Movement (NAM) affiliation together with the political stance of some NAM states seeking a constructive outcome (in some cases, to draw attention to the US decision at the Fifth Review Conference), meant that 2006 was more conducive to being a success than 2011, even though the boundaries were in fact quite modest; the comparison had been with what had gone before at the Fifth Review Conference. It was also suggested that Friends of the Chair (FoCs) could have been exploited better; however, other participants indicated that the FoCs have a greater utility in dealing with technical issues. Given that the difficulties in 2011 were overwhelmingly political the utility of FoCs may have been limited; although there remains scope for FoCs to be usefully appointed in circumstances when technical problems arise in the future.

The timing of the Conference was also discussed and it was suggested that the deadline was a valuable tool in forcing States Parties to come to agreement, although this did entail a number of late night negotiations in the last week with the process only able to move at the pace of the slowest. However, as with all conferences, for those seeking to delay or halt the facilitations, raising divisive issues at a late stage in proceedings is an effective tool in blocking progress and this was certainly the case at the Review Conference. Indeed, it was remarked that even towards the end of the second week there was potential for a substantive outcome, but this rapidly changed in the third week. The absolute deadline in this case provided some benefits as it placed pressure on those who attempted to drag issues out to reach consensus.

The issue of the division of energy and attention between the Article-by-Article review and "forward looking" sections of the Final Document was also a topic of discussion. It was suggested that the priority had been the outcome of the Decisions and Recommendations part of the Final Document. In contrast to 2006, where there was a need to agree language in the Article-by-Article review (as a result of the failure to agree a Final Declaration at the Fifth Review Conference); in 2011, attention was focussed on the forward looking section and working out how future intersessional activities could be improved. The task for the Article-by-Article review was to prevent anything unsuitable or damaging being included.

Several issues related to participation were also discussed. It was remarked that a number of delegations were relatively new and there appeared to be a lack of awareness in terms of the objectives and processes of Review Conferences. This was compounded by a perceived division between those that viewed the Review Conference as occasional process, and those that saw it as part of a continual programme of activities related to biological disarmament. Further complicating this was the observation that some countries lack the internal resources and knowledge which create an understanding of the importance of the BWC and its role as a tool in fighting terrorism. The corollary of this knowledge deficit was a degree of disconnect, with the BWC being perceived as less significant in security activities by some States Parties. It was posited that some form of short instructive guide to what happens at Review Conferences could be useful in this regard.

A related issue was that of the selective memories of some delegations and a selective recognition of the suitability of past language from Review Conferences and Meetings of States Parties for inclusion in the 2011 Final Document. Other participants remarked that the backgrounds of certain delegations influenced their approach to the Conference, for example some delegations reverted to a legalistic approach because this was what they were more familiar with. Whilst understandable, a purely legal approach was seen by some as detracting from the breadth and depth of past discussions in Geneva and the broader role of the BWC in the biological disarmament regime. It was posited that the creation of a BWC treaty 'acquis' could be useful here as it would provide accumulated legislation, legal acts and decisions of relevance to the Convention through which to inform States Parties' discussions and provide a broader framework of reference.

The utility of background documentation was also raised. Some participants expressed disappointment at the extent to which background documentation, such as the S&T national submissions and the Article X reports, were discussed and used by States Parties. It was suggested that during the next ISP, the time constraints would elevate the importance of background documentation in making progress on the Standing Agenda Items.

The role of the EU was also discussed. It was stated that as a result of recent EU agreements, the EU voice counts as one and, that this may have reduced the expectation for wider contributions from EU member states, a trend that could be damaging to the Convention. This was compounded by the limited number of deep technical experts within EU member states. Another participant suggested that the role of the EU was traditionally more suited to that of an implementer and an underwriter, rather than a negotiator. However, the financial crisis limited the EUs ability to act as underwriter, something that became apparent in the final stages of the conference when a few EU member states indicated they could not in fact support any increase in the budget due to resource constraints.

A final area of discussion in the first session was that of verification. It was pointed out that verification remained a red line for some States Parties, such as the US, whereas for others verification was identified as an important topic. However, several of those states that were particularly vociferous about doing further work on verification, remained unwilling to compromise and discuss alternatives, yet more feasible, ways of seeking confidence in compliance and instead adopted a 'verification or nothing' approach in the full knowledge that verification was not a realistic option. The topic of verification thus became a tool in a broader political game. Nonetheless, it was suggested that there is potential for some aspects of the language agreed in December to be exploited to touch upon areas of verification.

Session II – Forward Looking Session or Decision and recommendations

The second session was opened with a short introduction by a governmental participant on some of the opportunities and challenges that can be envisaged in future intersessional work. The speaker began by underlining that the situation is far from ideal, but that there are many potentialities to be explored in what has been agreed. Key challenges will include:

- the limited time available for discussion on a number of aspects under the Standing Agenda Items (particularly in the science and technology Standing Agenda Item);
- the limited resources that are available (particularly in terms of the Implementation Support Unit);
- how the meetings will be organised and operate;
- the continued conservatism of some States Parties, something that may impinge upon exploring the latent potentialities of what has been agreed in the forward looking section;
- ambiguities in terms of the outcomes of intersessional meetings, specifically in terms of whether States Parties will have to stack up recommendations for the Review Conference or will be able to operate in between meetings; and,
- uncertainties surrounding regional group dynamics and politics. The Iranian delegation is to assume the role of Chair of the NAM; how might the upcoming US elections affect their policy towards the BWC?

The speaker went on to suggest that it would be necessary to maximise outcomes in a variety of ways: firstly, it would be important to ensure that the Chair and the two Vice Chairs operated effectively. Support by the Implementation Support Unit (ISU) was identified as important in this regard. Secondly, the organisation of the meetings was likely to be important and maximising the available time was identified as a critical factor in making the most of the third intersessional process. In this regard, a decision on the structure and process, as well as how best to fit in – and focus- civil society contributions effectively, was identified as an important undertaking. It was stated that political issues were much more difficult to make progress on. However, it was recognised that for both civil society and the UK government, working with likeminded states from other regional groups could be a useful means of making progress. However, the brutal reality was that for many states the Convention was not seen as priority and progress would be slow. Certainly, if Confidence Building Measures (CBMs) and science and technology (S&T) were anything to go by it suggests progress takes time.

The ensuing discussion raised a number of points. One participant provided an update on the situation with the Chairpersons and reiterated the presenters' comments on the importance of intersessional leadership in facilitating the next five years of work. It was suggested that there could be benefits to having sceptics and states that have traditionally blocked progress in key roles as well as working closely with more moderate states within the NAM. In this regard, it was noted that a number of NAM countries have increasingly taken leadership roles in many aspects of the BWC discussions.

The issue of decision-making was also discussed. It was suggested that there was some mileage in the language in the Final Document on the need to reach consensus, although some delegations remained disappointed, others felt there was a need to "make do" with this language and should a situation emerge where there was agreement, there should be a push to take decisions. In this sense, a situation could emerge in which it could be possible to turn the

consensus rule back on States Parties who opposed decision making. Participants proposed that this would however require a very specific topic to test the water with.

The issue of consensus was raised with specific regard to science and technology, and it was noted by one participant that a factual report of events would necessarily include any divergent views of scientists. This was something which was identified as important to capture. This led to a broader discussion on the science and technology related Standing Agenda Item. It was suggested that the annual process under the S&T Standing Agenda Item has the potential to result in a number of different outcomes. Discussion on the benefits and challenges posed by different developments in S&T would not necessarily result in recommendations, but would fill a perennial lacuna in scientific discussion under the Convention. In contrast, there was scope for developing recommendations when discussing topics that are more action-orientated, such as biological risk management or education and oversight. Examples of recommendations could include proposed methods to promote screening guidance for gene synthesis suppliers. It was pointed out by other participants that the number and breadth of topics to be discussed opens the way for potential mischief-makers, accordingly, it was reiterated that the role of the Chair and the Vice Chairs would be important shaping the discussion. Others countered this by pointing out that there were so many topics it would require a conscious effort to prepare to block everything and it was hoped that the Chair would be able to get two sessions on science and technology and invite states and stakeholders to contribute on discrete topics.

The discussion around science and technology linked in with the topic of engaging academic specialists and interested parties from civil society and one participant questioned whether the same level of engagement and participation by civil society that has been enjoyed in the past was something that was seen as feasible in the upcoming ISP. It was noted that engagement was something which remained important, but it was suggested that civil society contributions could benefit from being more focused on the specific topics being discussed that year. There were a number of options proposed by various participants, such as linking the breakfast and lunchtime sessions directly with the topics under discussions and interactive formal sessions of the meetings where civil society was invited to provide contributions on specific topics. For example, one proposal which was more closely linked to the S&T agenda item, was to arrange for panel of scientists who would be pre-briefed on the nature of the Convention and the concerns of the biological disarmament community before speaking on the relevance of specific scientific developments in their field. Such an approach would enable participants to make the most of the limited time available through a better informed and focused expert contribution. It was suggested that the Chair could have a role in selecting which academic specialists and other stakeholders spoke at these sessions. Although it was pointed out that this would require a process of selection that could be sensitive and difficult, participants did not see this as something that was insurmountable, particularly if there were other avenues through which all stakeholders could contribute, such as a continuation of poster sessions.

Another participant posited that NGOs and other stakeholders could form coalitions or partnerships in order to get everyone's views heard. However, it was pointed out that there had been earlier efforts to achieve this, specifically through the BioWeapons Prevention Project (BWPP), but it was something that proved difficult. It was also suggested that even amongst those States Parties that appeared to oppose the role of outside participation -something that

was contentious at the Prep Com- there was a sense of respect for contributions from academics.

Regarding CBMs, the participants expressed hopes that the language agreed in the Final Document provides sufficient flexibility to (re)address the purpose of the CBMs in future discussions. One participant suggested that further consideration of a number of aspects of the CBMs was required, including consideration of whether there was more that could be done on the forms and what additional measures could be included; but also consideration of the challenges endured in authoring CBMs and where states can provide support in this regard. Other participants remarked that past initiatives to improve CBMs, most recently through the Geneva Forum, had generated limited interest from the States Parties in a more conceptual discussion and the focus was limited to redesigning the forms, with limited appetite amongst some for more significant changes.

The database system to 'facilitate assistance requests and offers' was also discussed with participants speculating as to the utility of this new system compared with other channels through which aid could be, and has been, provided. It was noted that such an approach to engagement could prove useful as a mechanism for industries seeking to work in countries, such as China or India. Related to the provision of assistance, it was suggested that for some delegations there would be a difficulty from the supply side as there are so many different actors, departments and agencies playing a role in providing assistance of different types, working out who is doing what is difficult. Equally, from the demand side there were challenges in both identifying what to ask for and articulating what was needed. This confusion over identification and articulation of requests, it was suggested, may leave some delegations vulnerable to political manipulation. This is something a database type approach could seek to change by facilitating more specific requests for assistance. One participant suggested this will however require extra work on the part of the ISU, which may prove difficult given their limited numbers.

Participants also raised the topic of the ISU and the difficulties experienced with trying to expand the unit. It was noted that States Parties were surprised at the amount of travel that the ISU had undertaken, with some States Parties concerned that this level of activity meant that the ISU was seen as the BWC, rather than an implementation support unit. It was suggested a more suitable role for the ISU would be to revert to more Geneva-based activities with States Parties assuming greater control for activities, such as universalization, in the future. On the topic of universalization, it was suggested that there is a greater need for coordination by, for example, getting countries that have good existing relations with non-States Parties to engage and encourage them to sign up to the BWC.

The issue of convergence between chemistry and biology was also raised and it was suggested that there are a number of practical activities that could be undertaken during the next ISP to strengthen relations between the BWC and CWC, including inviting representatives of one treaty to attend meetings of the other. It was remarked that closer cooperation between the CWC and the BWC in the field of S&T would be particularly useful as well as necessary, and this was something which is, to some extent, already happening through the activities of IUPAC, in which recent CWC focused meetings containing a significant biological component. The relationship between 1540, EU joint action and the BWC was also raised with general agreement that greater coordination was important.

In terms of practical steps to be undertaken before the first meeting of the third ISP, it was noted that much of the preparation was in stasis until States Parties received a steer from office holders, something scheduled for April. It was hoped that mechanisms such as the 'Think Zone' could be sustained, albeit with a more structured approach. This, one participant suggested, could be coupled with some form of e-communication system which would enable papers to be developed, circulated and commented upon in between meetings.

Participants at the HSP Sussex Day were encouraged to submit to the UK delegation proposals and concepts which could be employed to develop the third intersessional process format, and it was stated that it would be useful to gather thinking on potential ISP formats, models and concepts in the short, mid and longer term. Such thinking would be particularly important in setting the first meeting of the new intersessional process on the right track as it was recognised that this initial meeting often sets the precedent for the future. It was agreed that it would be beneficial to keep each other informed of what activities were being undertaken by different actors in the field of biological disarmament.

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