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UNIDIR Seminar

Universalization of the Confidence-Building Measures in the Biological Weapons Convention

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Reaching a tipping point: achieving the universalization of the CBMs in the BWC
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Thank you Madam Chair. I would like to thank UNIDIR for inviting me to participate in this seminar today. My organization, VERTIC, was founded just over twenty years ago specifically to provide information and independent analysis on topical verification issues in the areas of arms control and disarmament. I am delighted to be able to participate in events such as this seminar which are intended to reinvigorate discussions on how to strengthen compliance monitoring of the Biological Weapons Convention. VERTIC appreciates the initiatives of the governments of France and Switzerland in seeking to move this process forward with respect to transparency and confidence-building.

My fellow panellists have provided an excellent overview of the state of play of the confidence-building measure process for the Biological Weapons Convention. We have been reminded of the importance of the CBM process for this Convention. We have heard statistics on States Parties' participation, or lack of participation, in the CBM process. And we have learnt about the various resources available to assist States to complete the CBM forms.

My task, then, is to provide some thoughts on how we might achieve greater participation in these confidence-building information exchanges. Indeed, I have been asked to consider how we might achieve a 'tipping point' in achieving universality of the BWC CBMs. But what does this

mean, to achieve a ‘tipping point’ in BWC CBMs? A ‘tipping point’ is a turning point, the achievement of an irreversible development. The term is thought to have originated in the field of epidemiology, where it is used to describe the point at which an infectious disease reaches a point beyond any local ability to control it from spreading more widely. If we can reach a tipping point of universality of the CBMs, we will be more prepared to prevent that particular epidemiological scenario.

So, how might we improve participation in the confidence-building measure process? There are a number of relatively simple activities that we can be undertaken to improve participation. We can improve our engagement with non-participating States to remind them of their obligation to complete annual CBM returns and to remind them of the value in participating in the process. We can encourage States to take up the practical assistance that is available from the BWC Implementation Support Unit and the new EU Joint Action on the BTWC, and we can seek to persuade States Parties to more enthusiastically share their experiences of compiling CBMs with each other, to support other States in undertaking this activity. We can also make certain procedural improvements, such as translating CBM returns in such a way as to make them more accessible for analysis.

Those activities will, I believe, go some way in ameliorating the frankly pitiful rate of CBM participation, and ideally, the comprehensiveness and accuracy of information that is submitted. But realistically, these activities can only achieve modest improvements in participation. I am not naïve enough to assume that this will get us to the elusive ‘tipping point’ of universality in CBMs.

So how can we achieve a sustainable universality of BWC CBMs? How might we reach this magical ‘tipping point’? I believe that we need an informed, sustained and committed effort to strengthen the treaty’s compliance monitoring system, of which the CBMs are currently a crucial component. We will need to take a fresh look at how to improve transparency and confidence-building concerning compliance. This will entail further development of the CBM process, particularly modifying the substantive information that is required to be exchanged under the CBM process, in order to make it more relevant in building confidence in compliance. As long as

the CBMs remain precisely that—confidence-building measures—they cannot, and should not, be unfavourably compared to a declaration system, as that places undue expectations on what CBMs can achieve.

However, we also need to take a fresh look at related mechanisms, such as existing compliance clarification processes, without which, confidence-building measures will only have a very limited role in ascertaining the state-of-play of BWC compliance.

I don't have all of the answers as to how we might achieve this. But I do have a series of questions that might help us work out how to get there.

First, we need to consider what we actually mean by 'universality' of the CBM process.

Does universality mean that each State *regularly* provides a CBM return, ideally each year but, more perhaps more realistically, as regular as is necessary to be able to demonstrate compliance sufficiently to engender confidence in its compliance by other States Parties? Or does universality mean the *provision of comprehensive and accurate information* from those states which do provide CBM returns? Or does universality mean *achieving a greater proportion* of States Parties preparing and submitting CBMs?

We need to understand what we mean by universality, in order to assemble the necessary strategies to achieve it. Personally, I consider that that CBM universality entails all three: that each State Party regularly provides comprehensive and accurate information through the confidence-building measure process.

Second, we need to have a clear understanding of why so many States Parties continue to remain outside the CBM process. Some useful studies have already been prepared which elucidate certain reasons, but more empirical analysis could usefully be undertaken to better inform our efforts to strengthen the process.

It is clear that participation remained low during the protocol negotiations, when States Parties were anticipating their future reporting requirements and largely neglecting to fulfil existing

obligations, notably national implementation and CBM participation. This excuse is now redundant. As national implementation is incrementally improving, so too is States Parties' administrative capacity to compile CBM returns. VERTIC has long advocated that States establish or task an existing government agency with BWC implementation and afford it the necessary authority to compile and submit CBMs. Likewise, the improved availability of technical assistance, and the sharing of experience in compiling CBM returns among States Parties, should reduce certain technical impediments to the participation in CBMs. However these improvements do not address other known fundamental challenges to State participation—low prioritization of the CBM issue over other pressing, competing demands, and perceived irrelevance of the CBM process. These two challenges are linked.

Third, we need to develop strategies for improving the relevance of the confidence-building measures in the treaty compliance monitoring process and thereby promote the prioritization of CBMs in a State's busy agenda.

Dr Filippa Lentzos released her report on “Preparing the ground for the CBM content debate” at Tuesday's lunchtime seminar. This report sought to identify whether certain information that is required to be provided through the confidence-building measures is helpful in demonstrating transparency and whether it is sufficient to build confidence in compliance. In the course of her research for this report, Dr Lentzos sought views from national experts on these questions. Two aspects of the experts' comments are striking: that other types of information than those currently requested on the CBM forms would be helpful in building confidence in compliance, and that the information that is submitted would be more useful in demonstrating compliance if it was put into context.

If we are to achieve universality of CBMs, let alone a ‘tipping point’, issues of relevance of CBM data to transparency and confidence-building need to be addressed urgently. A further study, addressing the reasons why States do not currently participate in the CBM process would usefully inform our collective efforts to improve transparency and build confidence in compliance with this Convention.

But all of this presupposes that States have an interest in confidence-building and that they see value in compiling, submitting, receiving and reviewing CBM data. While many States do not participate in the CBM process, we heard from Richard Lennane at Tuesday's lunchtime seminar that a significant number of those States which do provide CBM returns do not even access them on the secure ISU website. And the treaty lacks a process for systematically analysing the information in reports.

So I will return to my question, how can we develop strategies for improving the relevance of the confidence-building measures in the treaty compliance monitoring process and thereby promote the prioritization of CBMs.

We can promote the relevance of compiling and submitting CBM returns as a national quality control check on national implementation. Compliance, after all, begins at home, and regular review by the relevant parliamentary authorities can only be a good thing.

However, if we are to be successful in encouraging the majority of States to prioritize the compilation and submission of CBMs over other pressing demands, we need to think about how to make this process more relevant to non-participating States Parties' specific needs and concerns. We could usefully revisit the type of data that is requested on the CBM forms, to ensure that it is relevant to building confidence in compliance.

But we also need to revisit the means by which CBMs are reviewed, in order to make the process more relevant to all States Parties and more relevant to the compliance challenges facing the Convention. This is perhaps a more challenging prospect, which is why we need to start considering this now, in order to have a coherent strategy for making the necessary improvements at the Seventh Review Conference in 2011.

For example, it would be helpful to develop objective indicators of compliance and non-compliance, to improve our ability to recognize and to detect non-compliant activity among a vast sea of compliance and, more importantly, to enable non-compliance to be responded to as rationally as possible. This will require a renewed consideration of precisely what constitutes compliance. Do we know non-compliance when we see it? What other information sources need

to be harnessed in this assessment? This will also make a review of the compliance clarification mechanisms necessary: in particular, we need to take a fresh look at the effectiveness of the current Article V procedure as it was elaborated at the Fourth Review Conference.

I will conclude my presentation by highlighting that States could undertake certain helpful activities to improve meaningful participation in the CBM process. But for these to reach a ‘tipping point’ towards universality, then significant changes to the CBM process and the compliance monitoring and clarification system as a whole, will be necessary. But we need not wait until improvements can be made to the CBM process before we seek to improve the levels of participation. We should continue to promote universalization of participation in the CBM process and work towards enhancing transparency and confidence-building in tandem. Much work is to be done, and it needs to start now, so that the ground is well prepared for the Seventh Review Conference. You have seen that civil society has relevant expertise to contribute to these activities and we will certainly be putting forward proposals for strengthening the CBMs in advance of the Seventh Review Conference.

I will end my presentation there. Thank you very much for your attention.

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