

Berlin Seminar
Outlook and Perspectives for the BTWC Seventh Review Conference
9 – 10 June 2011

Chair's Summary

The German Federal Foreign Office hosted the seminar on 9 and 10 June 2011 in Berlin. 35 participants from 20 countries and four organizations participated in the seminar. The seminar did not seek to agree any conclusions or recommendations as it was conducted under Chatham House rules. Based on experience from preceding similar events (Wilton Park, Beijing, Montreux), the agenda focused on issues which in view of the organizers required some more in-depth discussion. The chair prepared the following summary of discussions.

The five seminar sessions were moderated by different participants and started with opening statements by invited speakers. The agenda of the seminar sketched out some questions for each session and slides used for opening statements are attached.

Ambassador Klaus-Peter Gottwald, Director-General of the Arms Control and Disarmament Department of the FFO welcomed the participants, followed by Ambassador Paul van den Ijssel (NLD) expressing his expectations as President designate of the Seventh BTWC Review Conference.

Session 1: Confidence Building Measures

The seminar heard two brief summaries of the goal of the process which tries to build confidence by transparency and information exchange and to prevent ambiguities and improve international cooperation. The process has qualitative as well as quantitative problems. Qualitatively, the CBMs have not been updated in 20 years; quantitatively, less than 40 percent of the States Parties participate in the annual exchange. A lack of opportunity exists to monitor and discuss the information contained in CBM declarations. Analysis of CBM declarations addressing trends over time could be done by ISU. The way forward to make the process more reliable could be taking a decision at the 2011 RevCon on proposals in the CHE-NOR-GER paper and initiating a conceptual discussion on confidence building as agenda item of the intersessional process.

In the discussion, the so-called two-track approach, i.e. decision on updating CBM forms at the RevCon and a conceptual discussion, if needed, in the intersessional process was seen by several participants as the way forward for improving the CBM process. Some participants expressed that they favoured giving the task of a generic trend analysis to ISU, but that the ISU should refrain from individual analysis of CBM declarations. Also the idea of "peer analysis" was introduced, which means that in the intersessional process States Parties could present their CBM declarations and stand ready for discussion in a bottom-up process. One of the problems of low participation in the annual exchange may be the complexity of gathering information for filling the CBM forms. Therefore proposals for updating the CBMs should not increase the burden. Another problem may be that the submission of CBM declarations is not legally binding. Views were expressed that a legally binding system is seen in the context of a compliance regime rather than with confidence building measures.

Making full CBM declarations public available, as some States Parties already do, may not be an option for all States Parties, but they may be in a position to allow the publication of some

forms while keeping others restricted. Regarding Article X issues addressed in existing and proposed for updating CBM forms, views were expressed that a more flexible process than the static CBM declarations may be needed, but some argued to retain Article X issues in the CBM forms in addition to a possible other process.

Session 2: Compliance

The opening statement addressed the lack of a regime ensuring compliance with the BTWC and cautioned against mixing-up confidence building with compliance measures. States Parties are not in a position to restart a process on verification, but there seems to be growing understanding for enhancing compliance and looking for measures increasing trust in States Parties' compliance. Issues that need to be taken into account are prohibitions and preventive measures addressed in Articles I to IV but to some extent also activities related to Articles V, VI, VII and X. With regard to obligations under Articles I to IV States Parties could do more to broaden the "show" as well as the "see" side of compliance. Accountability reports, providing up-to-date text versions of relevant laws and regulations to the ISU implementation database, possibly mandatory, voluntary visits to military as well as civil facilities of concern and invitation of international participants to seminars and workshops at such facilities could provide deeper insight and build trust in compliance. With regard to Article V (consultation and cooperation in case of compliance concerns), procedures related to consultations were discussed in detail last time in 1991 (see Final Report of Third RevCon) and should be reviewed. In relation to Article VI (invoking UNSG and SG mechanism) diverging views exist as to whether and how this mechanism could complement the BTWC as a compliance measure.

The view was expressed that a compliance regime for the BTWC requires a legally binding structure and that compliance and verification measures under the CWC could provide relevant guidance. Other participants argued for having a discussion at the RevCon and in the intersessional process what compliance means in the BTWC context and to explore which measures are already in place and what could be done in addition to increase trust in compliance. Some expressed support for the proposals referred to in the opening statement and argued that improving compliance may also be possible without legally binding mechanisms. Some saw trust in compliance as an overarching issue that builds on a number of areas and their further development. They addressed the necessity of developing a baseline for all States Parties to understand what it means to build trust in compliance and to resolve compliance concerns.

Session 3: Cooperation and Assistance

In the introduction to the session, it was stated that the Article X issue is a well known topic also from other treaties but has not been resolved to general satisfaction in different fora. There are clauses in Article X where States Parties have not yet agreed on their meaning. In addition different views exist with regard to security efforts and economic development activities under the BTWC. The intersessional process demonstrated that apart from the differences a lot of cooperation and assistance between States Parties exists. One of the benefits of the intersessional process was that experts who could clearly identify needs of their countries met experts from countries that can provide support. This may have contributed to a common understanding and to enabling an agreement on something substantive as to Article X at the RevCon. However, a proposal should be circulated very soon if it is to stand a chance for agreement. It should be sufficiently detailed and should take into account what could be done in the BTWC context and that there are also other fora for assistance and cooperation. An

electronic information exchange of needs and offers could increase cooperation, but it should not be restricted to electronic matching, but rather include also personal communication.

In the discussion, views were expressed that the ISU could manage a database on assistance and cooperation requests and offers, but an active coordination role of the ISU was seen going too far. The ISU could have a clearing house function and possibly assist a requesting State Party in clearly defining its need. The problem of avoiding duplication of activities was mentioned by several participants considering that other fora also deal with cooperation and assistance. It was mentioned that from 2012 with the full implementation of the IHR an additional mechanism for assistance and cooperation will be in place. As on the national level different organisations may be involved in providing international assistance and cooperation it is sometimes difficult to identify what is already being done and by whom. Providing respective data could avoid duplication and help identifying where gaps exist. Making assistance and cooperation an integral part of the intersessional process would help identifying gaps and ways as to how they can be addressed. Some participants referred also to the possible south-south component of assistance and cooperation, seeing that some States in the south developed already some potential of being technology providers. Participants expressed the feeling that a positive mood can be identified for progress in solving the Article X issue at the RevCon. For achieving such progress at the RevCon the availability of a draft paper as soon as possible could be helpful. Such paper may take into account concerns expressed with regard to Article X papers tabled in 2009.

Session 4: Proposals and Options for Decision Making

Two opening statements introduced new ideas for consideration. The first one dealt with the questions whether and how decision-making could improve the intersessional process (see attachment). The second one suggested that the creation of a “bureau”-like body in Geneva could stimulate awareness and assist improving governance of the BTWC process.

Concerns were expressed regarding the overlap of MXPs and MSPs in the past, therefore the focus should be on how to avoid this overlap. It was questioned whether making decisions and recommendations will solve the problem. At MXPs and MSPs States Parties always could have agreed on recommendations and decisions by consensus if willed to do so. While the decision making process at the Review Conference is based on States Parties’ credentials, MXPs and MSPs lack such backing. The “straightjacket” mandate for topics being discussed in the past intersessional process limited decision making anyway, a more flexible “comfort zone” approach for topics of the future intersessional process could provide a better chance for making recommendations and go beyond the present status of creating only common understanding. But, views were expressed that decisions and recommendations could be made at MXPs and MSPs, if at all, only on clearly defined technical and administrative but not on substantive issues.

A proposal was made to establish a “Bureau” in Geneva consisting of representatives from the regional groups in Geneva with rotating chairmanship, depositaries, chairman of the MSP/RevCon and the head of the ISU as the “Bureau’s” secretary which could assist in preparing meetings and create a higher degree of commitment to the BTWC by continuing discussions between meetings. One objective is improving interaction between States Parties especially in the long period between January and August, but also to serve as some kind of focal point for the inclusion of new and attractive thematic areas and an increased involvement of industry and science.

Session 5: Structure of the Intersessional Process

The session started with two presentations proposing concrete steps for reorganizing the structure of the intersessional process (see attachments). Both proposals suggest the restructuring of the intersessional process by creating open-ended working groups. Each of the working groups could be tasked with a cluster of substantive issues which would allow that within the cluster the group could set different priorities. Each group could be guided by a coordinator responsible for overseeing work between formal meetings and would report the group's work to the MSP. According to one proposal, formal working group sessions would take place together with other sessions at the MXP. The other suggestion foresaw that the working groups would meet twice a year. In this case the second meeting could take place in the week before the MSP and could recommend decisions that could be agreed in the MSP. More or less similar proposals for the content of the clusters were made.

Participants expressed the view that wide international participation was one of the benefits of the past intersessional process. This should not be lost. A concern was expressed that splitting in different working groups may require more money for experts. But, use of modern communication and collaboration tools (e-mail or internet platforms) could limit formal meetings to the minimum necessary. However, use of English as single working language would be a prerequisite. The question was raised, how national positions could be communicated when more than one expert from a State Party participates in the electronic exchange of views. With regard to decision making, concerns mentioned above under Session 4 were reiterated. Some participants saw the possibility that with the proposed working group structure without decision making a shorter MSP could be possible. Some addressed a possible combination of the proposed structure with the aforementioned "bureau" idea. Some participants expressed their preference for retaining the MXP/MSP-structure as it is and argued for additional standing panels/committees with government and government named academics and industry representatives dealing with S+T but also other BTWC relevant issues.

Attachments:

- Agenda
- Presentation on Decision Making
- Presentations on Structure of the Intersessional Process (2)