1. While appreciating the current inquiry by the Committee has a focus on nuclear weapon issues, this brief memo is intended to provide contextual information about related issues on international control of other weapons of mass destruction. Examining nuclear weapon issues in isolation brings with it a danger of not taking into account some of the broader context which can impinge upon the issue area in question, potentially leading to conclusions less informed than they might have been. There are key lessons to be learned from the situation in relation to chemical weapons.

2. Just as the nuclear Non-Proliferation Treaty (NPT) has a five-yearly review cycle, so do the treaties dealing with biological and chemical weapons. There are also a number of issues within these other treaties that overlap with the questions posed by the Committee in its call for evidence which can be addressed in further evidence if the Committee so desires. Not least of these are consequences, some of which are outlined below, of the difficulties of reaching consensus.¹

The Biological and Toxin Weapons Convention

3. The Eighth Review Conference for the Biological and Toxin Weapons Convention (BWC/BTWC, signed in 1972, entered into force in 1975) was held in Geneva in November 2016. It was unable to reach a substantive consensus outcome. The previous three Review Conferences had agreed on programmes of inter-sessional meetings intended to be practical and focused on developing ‘common understanding and effective action’. The Eighth Review Conference had received a number of proposals for inter-sessional activities but consensus could not be reached on a programme. Instead, the only Final Document that could be agreed was one without substantive content but which did include an annual Meeting of States Parties (MSP) without a specific agenda apart from the first year in which it ‘will seek to make progress on issues of substance and process for the period before the next Review Conference, with a view to reaching consensus on an intersessional process’. The document also preserved the Implementation Support Unit (ISU), the small nucleus of support staff for the Convention. The 2017 MSP agreed an annual work programme consists of 8 days of Meetings of Experts (MXs) with 4 days of MSPs, making 12 days of meetings each year. This compares with 15 days per year for 2003-05 and 10 days for 2007-10 and 2012-15.

¹ While common usage of the term ‘consensus’ means a large majority, the term is used in international diplomacy to mean a lack of dissension. It should be noted further that while lack of dissension is very similar to unanimity in favour, there are subtle differences which users of the term should be aware of, especially if a consensus document or consensus declaration from an inter-governmental meeting is being referred to. Within EU contexts, the term ‘unanimity’ includes situations in which abstentions are declared. In UN and arms control and disarmament treaty contexts, a consensus would not normally be considered to have been achieved if there was any explicit expression of abstention.
4. The 2018 MSP, the first to deal with the substantive topics discussed in the MXs in this inter-sessional programme, was unable to achieve consensus on substantive matters, with the key section of the report of the MSP reading: 'No consensus was reached on the deliberations including any possible outcomes of the Meetings of Experts.’ There was some progress on financial management issues that have caused significant problems across the arms control and disarmament treaties that have been caused by non-payment or delayed payment of assessed contributions. The 2018 MSP agreed to establish a ‘working capital fund’ based on voluntary contributions to enhance financial stability of the BWC.

5. In both the Eighth Review Conference and the 2018 Meeting of States Parties the state party actively blocking consensus on adoption of final document language on substantive issues was Iran.

6. The author’s reports from BWC meetings can be found at <http://www.cbw-events.org.uk/bwc-rep.html>.

The Chemical Weapons Convention

7. The Fourth Review Conference for the Chemical Weapons Convention (CWC, signed in 1993, entered into force in 1997) was held in The Hague in November 2018. It was unable to reach a consensus outcome for a final report. The primary divergence of views was focused on the allegations of use of chemical weapons, allegations that are considered proven by most states parties to the CWC.

8. Not only is Syria believed by most states parties to the CWC to have used chemical weapons on numerous occasions since that country joined the Convention in 2013, but Syria is also enjoying significant political support from Russia within the CWC context as well as the broader political context. Indeed, it can be argued that the vetoes exercised by Russia in the United Nations Security Council in relation to the investigation and evaluation of evidence regarding allegations of use of chemical weapons in Syria, such as with regard to the Joint Investigative Mechanism (JIM), were exercised because the JIM was too successful in identifying cases where there was not only clear evidence of use of chemical weapons but also where there was sufficient evidence to reach a conclusion that this use was carried out by the armed forces of the government of Syria.

9. The Fourth Review Conference had followed on from other CWC meetings held earlier in the year. The first, in June, was a special session of the Conference of States Parties (CSP) that adopted measures empowering investigations by the Organization for the Prohibition of Chemical Weapons (OPCW, established by the CWC) to indicate attribution for use of chemical weapons where the evidence allowed for such a conclusion. The adoption of these measures came at a political cost as the only means to adopt them was to take a vote on the decision, a political cost worth bearing in the view of many, including this author. The decision containing these attribution measures was proposed by the United Kingdom. It is the view of this author that the UK proposal would have been similar under any of the British governments that had
been in power in the last 30 years had the international circumstances prompted the need for it at the time. In other words, it was a bipartisan issue. The second of the other CWC meetings in 2018 was the twenty-third regular session of the CSP which was held immediately before the Review Conference. The agenda of the CSP regular session included adoption of the budget for the OPCW for 2019 which included funds for attribution activities in line with the June decision. Owing to the divergence of views on the June decision, the budget was adopted by consensus, creating further political tensions.

10. The author’s reports from CWC Review Conferences can be found at <http://www.cbw-events.org.uk/cwc-rep.html>.

Conclusions

11. The current situation within the CWC highlights a fundamental challenge to any regime controlling weapons – how does an international treaty and associated arrangements that have traditionally operated on a basis of consensus deal with a situation in which a state party is believed by most other states parties to be not only maintaining capabilities relating to the prohibited weapons but is believed to be actively using them? The current response within the CWC – the adoption of measures by voting, with the associated political costs – is not likely to be sustainable as a continuous process in the long term as those governments that regularly find themselves on the losing side will have little incentive to remain within the regime as time goes by. However, in the short term, there is no other logical path to follow to be able to provide attribution of use which is vital to keep the regime intact.

12. If solutions cannot be found to the difficulties of dealing with non-compliance within the CWC, there will be greater difficulties in adopting measures for disarmament of nuclear weapons. Governments get involved in international arrangements to control weapons only when they see it as being in their political and security interests to do so. If international arrangements are not seen as effective in controlling the weapons they prohibit then there is a reduced incentive to adopt new measures in relation to weapons that have a high degree of salience in security policy.

13. It is the view of this author that a world free of nuclear weapons that is stable and secure is achievable. However, to achieve this goal, lessons must be learned from other arrangements to control weapons.

CBW Events is a project to create a record of events to enable and encourage understanding of how policies on the issues relating to chemical and biological warfare (CBW) and its prevention are developed.

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