

The Biological Weapons Convention (BWC) and Biosafety Diplomacy

Jesus S. Domingo

Minister, Permanent Mission of the Philippines to the United Nations, Geneva

Diplomacy and the BWC

Diplomacy has many definitions, some of them charitable. A popular one, to paraphrase poet Robert Frost, is the practice of remembering a lady's birthday but forgetting her age.

Levity aside, diplomacy entails the conduct of relations between and among nation-states and international organizations. Diplomacy may be political, legal, economic, cultural, or scientific in nature. Diplomacy is conducted on three levels: *multilateral*, engagement in the work of the United Nations (UN) system; *regional*, involving activity within a geographic region or regional organization such as the North Atlantic Treaty Organization (NATO) or the Association of Southeast Asian Nations (ASEAN); and *bilateral*, referring to the relations between a particular pair of nations.

While diplomacy is usually the domain of Foreign Service officials, international civil servants, and other government specialists, there is also *track two* diplomacy pursued in parallel among academic, scientific, professional, and other civil society communities. Such diplomacy may manifest itself in various forms such as the holding of academic conferences, the networking among experts, and the policy interventions of think tanks and non-governmental organizations (NGOs).

In the wake of 9/11 the various international non-proliferation conventions on chemical, biological, radiological, and nuclear *Weapons of Mass Destruction* (WMDs) have assumed unprecedented importance. UN Security Council Resolution 1540, passed in 2004, calls on all UN members to give high priority to joining and implementing the non-proliferation treaty regimes including the Biological Weapons Convention (BWC).

The purposes of the BWC are made clear from its formal title: "Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction." In summary, the BWC's provisions call on the world community to:

Article I: Never under any circumstances to acquire or retain biological weapons.

Article II: To destroy or divert to peaceful purposes biological weapons and associated resources prior to joining.

Article III: Not to transfer, or in any way assist, encourage, or induce anyone else to acquire or retain biological weapons.

Article IV: To take any national measures necessary to implement the provisions of the BWC domestically.

Article V: To consult bilaterally and multilaterally to solve any problems with the implementation of the BWC.

Article VI: To request the UN Security Council to investigate alleged breaches of the BWC and to comply with its subsequent decisions.

Article VII: To assist states which have been exposed to a danger as a result of a violation of the BWC.

Article X: To do all of the above in a way that encourages the peaceful uses of biological science and technology.

The scope of the BWC and related activity can also be summed up in two general thrusts: promoting biosafety or *protecting people from germs*, and advancing biosecurity or *protecting germs from people*.

As the BWC seeks to promote biosafety and biosecurity on a global scale, we have seen *biosafety diplomacy* emerge on the international scene. The biosafety professional has also become a diplomat, providing the necessary scientific and technical expertise for the implementation of the BWC and improving international biosafety and biosecurity practice. The traditional diplomat, normally a jack-of-all-trades, is in turn expected to master at least the fundamentals of biosafety when tasked to promote the BWC.

The Multilateral BWC Regime

Negotiated within the UN system and entering into force in 1975, the BWC broadens the scope of the 1925 Geneva Protocol for the "Prohibition of the Use in War of Asphyxiating, Poisonous or other Gases, and of Bacteriological Methods of Warfare." It is the first multilateral disarmament treaty outlawing the production, storage, and transfer of a particular type or class of weapon. As of now the BWC has 161 States Parties (countries that have signed and ratified the convention) and 14 signatories. There remain 20 states that have neither signed nor ratified the Convention.

The BWC has had a long and arduous journey in terms of its development and implementation. Defining exactly what constitutes a biological or toxin weapon was, and to an extent remains, a challenging issue. Its effectiveness, when compared to other WMD treaties, is somewhat handicapped as it does not have a *verification regime*—

an agreement among States Parties that they may be subject to inspections in order to verify treaty compliance.

By way of contrast, the Chemical Weapons Convention (CWC) mandates a clear verification regime, administered by the Organization for the Prohibition of Chemical Weapons (OPCW) headquartered in The Hague. The OPCW is empowered to conduct inspections of States Parties' chemical industries. Similarly, the Nuclear Non-Proliferation Treaty (NPT) authorizes the Vienna-based International Atomic Energy Agency (IAEA) to inspect NPT States Parties' nuclear facilities. Nevertheless, the BWC regime has made important strides in providing an international, legal and policy framework for biological weapons eradication and the advancement of biosafety and biosecurity.

The BWC's States Parties meet every five years in *Review Conferences* to evaluate progress made toward the convention's goals and objectives. The Second Review Conference in 1986 agreed to promote *Confidence Building Measures* (CBMs)—activities to be undertaken by States Parties to enhance transparency and reduce ambiguity with regard to each other's implementation of the treaty. Thus, CBMs play a particularly important role in interstate dynamics in the absence of a verification regime. States Parties were henceforth required to submit annual reports on CBMs they have undertaken. As of 1991, the annual CBM reports require national information on:

1. Research centers and laboratories, and national biological defense research and development programs
2. Outbreaks of infectious diseases and similar occurrences caused by toxins
3. Encouragement of the publication of results and the promotion of use of knowledge
4. Active promotion of contacts
5. Legislation, regulations, and other measures
6. Past activities in offensive and/or defensive biological research and development programs
7. Vaccine production facilities

The Fifth Review Conference decided to hold annual intercessional Meetings of Experts and States Parties. The Meetings of Experts involve technical discussions on selected aspects of the BWC and are preparations for the Meetings of States Parties. The participation of scientists, particularly biologists and biosafety professionals as members of national delegations and as observers, is a vital ingredient for the success of the meetings. The Sixth Review Conference, held in 2006, resolved to continue this successful practice and called for the establishment of a three-person BWC *Implementation Support Unit* (ISU) within the UN Office in Geneva to provide much-needed administrative and technical assistance to States Parties and other support activities for the BWC regime. Another important activity for the BWC is *universalization*, lobbying the 20 states remaining outside the regime to join the convention.

The BWC community closely coordinates its work

with other multilateral agencies concerned with health and biosafety, namely the World Health Organization (WHO), the UN Food and Agricultural Organization (FAO), and the World Organization of Animal Health (OIE), based respectively in Geneva, Rome, and Paris. The community also works with relevant regional and national governments, the private sector, and academic institutions. Noteworthy among such institutions is the BioWeapons Prevention Project (BWPP) based in Geneva, which has been particularly helpful to the diplomatic community and other stakeholders in providing information and training on the BWC process and in conducting biosecurity research.

The next BWC Meeting of Experts will convene in Geneva from 18-22 August 2008 to lay the groundwork for the Meeting of States Parties to be held from 1-5 December 2008. This year's intercessional meetings give particular emphasis to the work of biosafety professionals, as underscored in the themes for 2008:

1. National, regional, and international measures to improve biosafety and biosecurity, including laboratory safety and security of pathogens and toxins
2. Oversight, education, raising awareness, and adoption and/or development of codes of conduct with the aim of preventing misuse in the context of advances in bioscience and biotechnology research with the potential of use for purposes prohibited by the Convention

For more information on the development and implementation of the Convention, kindly refer to the web site of the BWC ISU at www.unog.ch/bwc and the web site of the BWPP at www.bwpp.org.

Regional, Bilateral, and National Activity: The Philippine Experience

Complementing the multilateral advancement of the BWC are diplomatic efforts on the regional and bilateral levels, and national implementation of the treaty. The Philippine experience is an illustrative case in point.

The Philippines is a founding and active member of ASEAN, the political, economic, and social association of Southeast Asian nations. It is said that among the world's regional and sub-regional groups, ASEAN is second only to the European Union in terms of cohesion and potential. In the UN system, we coordinate our political and security positions with the Non-Aligned Movement (NAM) and our ASEAN partners. Regional workshops in biosafety and biosecurity were held in Bangkok, Thailand in 2007. WMD non-proliferation is an important issue in ASEAN counter-terrorism and export control coordination. Such cooperation is also particularly active with the United States, Japan, and Australia.

The Philippine-American bilateral relationship remains one of our most important diplomatic cornerstones. President George W. Bush remarked that the Philippines is a major non-NATO American ally. Our two

nations have a strong mutual commitment to ensuring peace, stability, and progress in the Pacific, particularly through security and humanitarian efforts, and transnational crime and counter-terrorism cooperation.

In this context, the Philippines was one of the first partners of the U.S. State Department's *Biosecurity Engagement Program* (BEP) in 2006. The program sought to assist the Philippine and other selected governments in developing and enhancing its biosafety and biosecurity capabilities, and in formulating an effective bioscience and counter-bioterrorism policy. BEP officials worked closely with the Departments of Health and Foreign Affairs, Anti-Terrorism Task Force, Philippine National Police, and other key agencies. It was through the BEP that I first came to learn of ABSA, as Association members served with the program team. An important component of the BEP was the exposure of Philippine biosafety professionals to ABSA and its activities.

UN member-states are not only enjoined to sign and ratify the various non-proliferation conventions, but are also expected to implement their provisions particularly in light of UN Security Council (UNSC) Resolution 1540 (the Philippines had served as Vice Chairman of the 1540 Committee during its term as a UNSC member from 2004-2005). Although the Philippines has never developed biological weapons, it has an extensive network of medical, health care, veterinarian, and other biological facilities and is concerned with bioterrorism and pandemics.

The template of implementation for the WMD treaties basically involves identification of a governmental focal point, establishment of a national authority, drafting, passing, and implementing legislation, information dissemination, and coordination with concerned government and private sector entities. Ministries and Departments of Foreign Affairs usually initiate this process, being the agencies charged with ensuring compliance with international agreements.

The Philippine Congress, like its American counterpart, is an important partner in our multilateral diplomacy. It is the body that frames overall national policies, ratifies international treaties, and passes implementing legislation. In the Philippines, as in most countries, an international agreement becomes operational only if enabling legislation is passed. Furthermore, such legislation must contain criminal and penal provisions in order to ensure effective compliance.

A more technically appropriate agency is later designated to serve as a national authority chairman; in the case of the BWC, it is our Department of Health. Our other WMD national authorities chairs include the Department of Environment and Natural Resources for the CWC, the Philippine Nuclear Research Institute for the Nuclear Non-Proliferation Treaty (NPT), and the Comprehensive Nuclear Test-Ban Treaty (CTBT). The Department of Foreign Affairs remains a key member of our national authorities. Other members include our Depart-

ments of National Defense, Interior, and Local Governments and Justice, National Security Council Secretariat, Anti-Terrorism Council, and Bureau of Customs. The latter's role is particularly important as it spearheads our efforts to enforce export controls, a vital component of non-proliferation and counter-terrorism activity.

With the BEP as an effective starting point, the Philippine BWC National Authority's priority activities include the completion of a national biosafety and biosecurity policy framework, the drafting of a BWC enabling law, and preparation and regular submission of CBMs.

ABSA and Biosafety Diplomacy

A noteworthy synergy and dynamism now pervade the BWC community—thanks to the able leadership of the immediate past and present chairmen of the Convention's intercessional process, Ambassadors Masood Khan of Pakistan and Georgi Avramchev of the Former Yugoslav Republic of Macedonia, the renewed spirit of cooperation among States Parties, the able support provided by the ISU, and of course the vital participation of biosafety professionals and other scientific experts. While the specter of bioterrorism and global pandemics provided an initial jump-start to revive the BWC process in the earlier part of the decade, diplomats now have a better appreciation of the intrinsic importance of the treaty and biosafety.

ABSA has made important contributions to the renewal of the BWC regime. I would like to express my appreciation to the Association and its members for their conduct of biosafety diplomacy, as evidenced by involvement in the BWC process and in other important global projects such as the U.S. BEP. The Association should continue its exemplary work in serving as the professional guild of the American biosafety community, lending technical support to the U.S. Government, providing capacity building for international colleagues, and advancing the overall cause of global biosafety and biosecurity. Furthering biosafety track two diplomacy through deepening relationships and networking with BWC stakeholders such as the ISU, national focal points, and other professional and academic entities is crucial.

In 2008 ABSA has a particularly vital role to play in the development of the BWC regime since this year's intercessional meetings focus on biosafety and biosecurity. Of special interest will be the exchange of professional and educational experiences and best practices, and collaboration in the development of biosafety codes of conduct.

My colleagues and I in Geneva look forward to meeting and dialoguing with ABSA members during the upcoming BWC and other biosafety-related conferences, and to forging a continuing working relationship with the Association as fellow biosafety diplomats.