Addressing Legal Barriers to International Investigations

Georgetown University
Center for Global Health Science and Security
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Mr. Chair, Thank you for this opportunity to address the Meeting of States Parties. We are honoured to be participating and thankful for the continued opportunity for civil society and academia in particular, to contribute to this forum.

The Georgetown University Center for Global Health Science and Security, along with our collaborators from around the world, have a robust research agenda supporting issues related to the Biological Weapons Convention for many years, with a particular focus on Article VI and the UNSGM, and Article VII. Two years ago, we had the opportunity to address this forum on the importance of contextualizing the UNSGM within broader international legal developments, such as the application of Access and Benefit Sharing regimes to investigations into allegations of deliberate biological weapons use.

Clearly a lot has happened these last two years. As we all live through this pandemic, the BWC community should reflect how this crisis demonstrates the importance of operationalizing Art VII and ensuring that we have strong mechanisms in place to investigate and respond to deliberate biological events. It is perhaps often undervalued how these Meetings of States Parties are a key strength of the BWC, serving as an opportunity to review technological developments, set priorities based on our evolving understanding, and building norms of multilateralism for compliance and implementation of the treaty.

Today, we would like to highlight a project that has developed and expanded since we last presented to the Meeting of States. Working with our colleague from Colorado State University, our team has been assessing the implications and opportunities arising from the access and benefit sharing regime implemented by the United Nations’ Convention on Biological Diversity and its Nagoya Protocol as it relates to physical and biomedical samples in a potential United Nations Secretary General Mechanism investigation into alleged biological or toxin weapons use.

Parties to the CBD and Nagoya Protocol are at various stages of implementing domestic laws that require potential users of genetic resources to obtain their prior informed consent and come to mutually agreed terms for the use of those resources. These domestic laws may require the UNSGM investigations team to negotiate terms of access and, to, and utilization of, the physical and biomedical samples they require to conduct their investigation. The negotiation of such terms on a case-by-case basis could create delays to accessing vital samples, impose additional costs on an investigation and create an expectation that the UNSGM investigation team engage in capacity building activities well outside of their primary mandate.

With support of the US Department of State, we have further expanded our work to include developing potential tools, such as a template Material Transfer Agreement, and in addition to mapping national legislation implementing access and benefit sharing, we are mapping other potential legal barriers to the international sharing of samples, from export controls to transport requirements. This work builds on collaborations from across civil society, including with our colleagues at VERTIC. We are curating the database and look forward to sharing this searchable tool with you at the next Review Conference. We are building this in our continued efforts in academia to support the endeavours of the States Parties.

We continue to believe that this body is critical to supporting the capacity of the world to effectively address deliberate biological events, including the operation of Articles VI and VII and the UNSGM.

We thank all the States Parties for the attention to these issues at this critical juncture in time. We are doing what we can to support these efforts and will continue to do this work on UNSGM and providing
the usable tools to explain the global governance challenges and remain at your service to support Article VII and investigative measures.

Thank you for your time and we wish you a successful meeting.