

**Third Meeting
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**Consideration of the content, promulgation, and
adoption of codes of conduct for scientists**

CONTENT OF CODES OF CONDUCT RELEVANT TO THE BTWC

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Introduction

1. A 2002 UK Government Green Paper¹ proposed for consideration that codes of conduct, developed by academic and professional bodies for their individual members and associates, could provide guidance for scientific and related work that are “relevant to the prohibitions of the Convention”. Furthermore, at the reconvened Fifth Review Conference of the States Parties of the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction (BTWC), it was decided that the Meeting of States Parties and the Meeting of Experts in 2005 would discuss, and promote common understanding and effective action on the content, promulgation, and adoption of codes of conduct for scientists.

2. The purpose of this paper is to consider in general the content of such codes, where they relate to core principles and responsibilities enshrined within the BTWC. In doing so, it is understood that the specific content of particular codes may necessarily vary depending on their individual contexts and objectives, and the way in which the codes are intended to be used and applied by organisations or professional bodies. Nevertheless, in this paper it is suggested that such content could address a range of issues relating to the BTWC under three broad themes:

- i The raising of awareness of the Convention and its Articles, key objectives and prohibitions;

¹ Foreign and Commonwealth Office (April 2002). “Strengthening the Biological and Toxin Weapons Convention: Countering the Threat from Biological Weapons”, Cm 5484. London: The Stationary Office Limited. GE.05-61718

- ii Undertakings to adhere to its prohibitions and to responsibilities aimed at preventing the misuse of science (whilst encouraging scientific exchange for peaceful purposes); and,
- iii Reporting concerns relating to breaches of the prohibitions.

Raising awareness of the BTWC objectives and prohibitions

3. The core prohibitions in the BTWC are located in Articles I, II and III. Therefore, a fundamental starting point for any code of conduct that refers to the BTWC should be the engendering of familiarity with these prohibitions and the wider objectives of the Convention. The aim would be that the responsibilities of individuals and organisations in relation to the BTWC are well understood. Furthermore, under Article IV a State has obligations to take “any necessary measure” to prevent contravention of the prohibitions by its citizens. In this context, therefore, it is at the very least desirable that individuals in its scientific and other relevant communities are adequately informed about the BTWC, and the responsibilities it places on them.

4. Although the Convention itself does not directly specify individual responsibilities, Article IV requires that States implement its provisions through national laws. In some constitutional systems, this would require primary legislation. In others, ratification of a treaty automatically translates its contents into domestic law - although in such cases additional legislation may be required to provide penal provisions. In the UK, such implementing legislation specifies individual and corporate responsibility, such that breaches of the Convention are considered criminal acts. Thus it follows that a further fundamental aspiration of a code of conduct should be to assure awareness amongst individuals of the obligations and restrictions drawn from national legislation implementing, or otherwise relating to, the BTWC.

5. Not all of the BTWC Articles are prohibitive, of course, and raised awareness of, say, Article X could promote responsible international scientific co-operation and collaboration for peaceful purposes, to the benefit, for example, of medical advances, and the control and prevention of naturally occurring disease. In this regard, it is important that codes are formulated so as not to undermine legitimate scientific exchange.

6. How raised awareness of the BTWC and its Articles is achieved will depend on local circumstances, but may include, for example, a requirement for training and accreditation, the promulgation of guidelines, undergraduate and postgraduate education programmes, or similar measures. In certain circumstances, a code of conduct itself may commit those to whom it is addressed to the process of raising awareness. To this end, a code may encourage an individual’s responsibility to reinforce, promote and strengthen the international norm against biological and toxin weapons, and their duty to support colleagues and those under their control and responsibility in their adherence to the relevant prohibitions and responsibilities.

Responsibilities

7. Having established the necessity for awareness of the BTWC and related legal instruments, the next logical step would be for codes to recognise the responsibilities that individuals have not to engage in research, production, development or other work that is

incompatible with the prohibitions referred to above. Furthermore, a code may reasonably require individuals to take all appropriate steps to ensure that their work cannot be so misused by others, whether in their own country, or abroad (that is, in accordance with Article III).

8. How this latter aspiration could be achieved will depend very much on the context of a particular code, and the community to which it is addressed. For those with supervisory, funding, directing, editorial, regulatory or other responsibilities (whether for research, programmes, staff, materials, equipment, facilities, tangible or intangible technology), it is reasonable to expect that responsibilities drawn from the BTWC and placed on them as individuals would also extend to the people, knowledge, equipment, etc., under their control. Codes of conduct seeking to be relevant to the prohibitions of the Convention may reasonably highlight such responsibilities for individuals in such roles.

9. Taking the example of academic research, steps to avert the deliberate or inadvertent misuse of science for purposes contrary to the BTWC could be taken at all the key strategic points in programmes. These points include, for example: the ethical consideration of research proposals; the training and selection of researchers; the regulation and review of work; the security of facilities and materials; and, decisions by authors and publishers on publication of results (particularly where unexpected results may arise that risk assisting third parties to prejudice the norms underpinning the prohibitions of the BTWC, or the prohibitions themselves). Codes of conduct containing elements directed at those with responsibilities in each of these key areas could reasonably point to the BTWC and related legislation. Such codes could also stress that responsible review of programmes in relation to the BTWC prohibitions could help uphold the integrity and reputation of science.

Reporting of concerns

10. Following on from the above issues, a third issue that it may be appropriate for such codes to address are the actions to be taken by persons when they have well-founded concerns that the prohibitions of the BTWC have been or may be breached.

11. In this respect, organisations may already have in place established procedures for reporting and investigating a wide range of concerns raised by their members, employees, etc. However, there may also be circumstances where the codes themselves could highlight the responsibilities individuals have to report any such concerns to the appropriate authorities, and to co-operate with those authorities. Who the “appropriate authorities” are in specific cases will depend very much on local and national circumstances, and the nature and severity of the supposed breach.

12. Again, codes of conduct, and indeed related education and training programmes, could emphasise that responsible reporting of concerns relating to the BTWC prohibitions contributes to safeguarding the integrity and reputation of science.

13. It is also important, of course, that codes should make provision where necessary to protect the individuals reporting concerns, and, indeed, to protect those who might be maliciously or mistakenly accused. In making such provision, however, codes must be compatible with, and take cognisance of, all relevant national legislation covering disclosure.

Codes of conduct that compelled individuals to act contrary to national laws governing disclosure would be clearly unacceptable.

Summary

14. The issues highlighted above for the content of codes of conduct, which aim to provide guidance for scientific and related work that are “relevant to the prohibitions of the Convention”, are intended to be neither prescriptive nor comprehensive. They do, however, identify important concepts relating to the core principles and responsibilities enshrined within the BTWC, which the UK believes government, industry and academic and professional bodies should consider and develop, in ways appropriate to their particular circumstances. In this respect, it is recognised that the specific content of codes of conduct will be very much shaped by those particular circumstances and contexts.
