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EXPECTATION AND PREVENTION

During a rare public address last June, the Director General of the UK Security Service referred briefly to the probability of a terror attack with chemical, biological, radiological or nuclear (CBRN) weapons. She said “Sadly, given the widespread proliferation of the technical knowledge to construct these weapons, it will be only a matter of time before a crude version of a CBRN attack is launched against a Western city”, adding “But before we become unduly alarmist it would be worth noting that the bomb and the suicide bomber remain the most effective tool in the terrorist arsenal.”

Her careful qualifications, and the non-specific basis of the assessment, seem to have been disregarded by other UK officials and by journalists, some of whom have since portrayed the statement by the Director General as meaning that Western intelligence services have specific evidence that biological attacks, in particular, are in the making. In the US, even more than in the UK, proclamations of inevitability – “not if, but when” — have become commonplace. Does this serve the interest of protecting the public? We think not.

Prudent measures to prepare for a biological attack and to limit its consequences, so far as feasible and affordable, are certainly in order. Those actually charged with protecting against or responding to such an event cannot discount the possibility. But proclamations of inevitability, while providing a modicum of pre-emptive political cover to government officials in case an attack happens, foster an atmosphere in which short-term approaches distract attention from the need for long-term measures intended to keep biological weapons from coming into use in the first place.

In an atmosphere of inevitability, emphasis shifts toward unilateral approaches, including biodefence programmes that generate new dual-use risks because they are offensively orientated. As the old Western and Soviet biological-weapons programmes receded into the past, the number of persons skilled in the specific technologies required to create catastrophically effective biological weapons was declining. But secret offensively orientated BW defence projects have begun to reverse that trend by incorporating a new generation of scientists and engineers into programmes that blur the line between defensive and offensive technological development. In the US, for example, some biodefence activities have been known to go beyond the limits for defensive research that President Ford enunciated in 1975, after President Nixon

had closed down the US offensive programme and categorically renounced biological and toxin weapons.

Can we really welcome a new biological arms race, even if motivated by wanting to know what novel threats could lie ahead, a race that applies advanced methods to the creation of ever more dangerous pathogens and methods of delivery? Is there not a danger that, in some countries, secret offensively orientated defence programmes will take on a momentum of their own, eventually becoming offensive programmes?

There is a further danger in an atmosphere of inevitability and the proliferation of secret state programmes. They foreclose options for an internationally agreed system of monitoring and transparency, backed up by agreed sanctions, designed to discourage and deter banned activities and to relieve some of the impetus for ultimately less effective unilateral measures. Such agreements are needed to forestall state-level offensive biological weapons programmes, to ensure cooperation and harmonization of measures to deter and detect violations, and to punish those who commit them.

A promising approach here, one that could be adopted by like-minded states in the near future, is the elaboration and implementation of a treaty to criminalize CBW armament in international law. The adoption by the UN Security Council of resolution 1540 (2004) on proliferation of weapons of mass destruction (see the 28 April UN entry in the *News Chronology*, page 52 below), has taken the world part way towards such a treaty, for it obliges all 191 UN member-states individually to “adopt and enforce appropriate effective laws which prohibit any non-State actor to manufacture,

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acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, in particular for terrorist purposes". The new treaty that is needed would build upon this resolution by requiring each of its states parties to establish criminal jurisdiction in its national courts over any person present on its territory, not excluding government officials (as the resolution does) and regardless of their nationality, who orders or knowingly lends substantial assistance to the use of biological or chemical weapons anywhere. Such a mechanism for asserting, without exception, individual accountability for acts of CBW armament

or use could extend very substantially the current array of sanctions against violation of the Biological and Chemical Weapons Conventions. Issue 42 of this *Bulletin* presents the draft for such a treaty that HSP has prepared in consultation with eminent international lawyers.

An international system of monitoring and verification, supported by credible sanctions, is an essential requirement for averting the hostile exploitation of biotechnology, whether by states or by terrorists utilizing weapons technologies developed by states. Proclamations of inevitability just get in the way of what needs to be done.