

Smallpox InfoBrief #4

Written by Edward Hammond for the Third World Network and smallpoxbiosafety.org, May 2011
Fourth in a series of short informational briefings on the issue of destruction of smallpox virus stocks

Dealing with the possibility of stalemate

It's no secret that the United States and Russia oppose destruction of smallpox stocks. Any hope that these two remaining holders of smallpox stocks have had a dramatic change of heart has been dashed in recent weeks, most prominently in an editorial in the *New York Times* by the US Secretary of Health published at the end of April. That editorial was most notable for how non-notable it was. The US has no new reasons for retention of smallpox stocks, and continues to use the same old tired arguments that it has put forth for more than a decade. All of these claims have been debunked time and time again, most recently by the Advisory Group of Independent Experts to review the smallpox research programme (AGIES).

Notwithstanding the reality that there is no longer any essential public health purpose for the smallpox stocks, meaning that the time to destroy them has certainly arrived, what would happen if at the end of 64th World Health Assembly (WHA) the US and Russia still refused to acknowledge this simple fact and still sought to block a resolution to fix a new destruction date and withdraw authorization for research? This InfoBrief considers that possibility and contemplates what it might mean for the future.

If there's no resolution... As of this date, no WHO Member State is known to have tabled a resolution on variola (smallpox) stocks, although there are expectations that text(s) will appear. If the 64th WHA plays out without a resolution being adopted, what would happen?

A non-decision or mere taking note of the Secretariat's report by the WHA would result in smallpox stocks being retained for no purpose. Prior resolutions authorizing continued temporary retention (with no destruction date set) would remain controlling, and with no new date for destruction set, the US and Russia would not be compelled to destroy the viruses. At the same time, however, as WHO's public health experts have effectively concluded that there is no essential public health research utilizing variola virus that remains to be done, justifying any new research projects would be difficult.

This situation would cast a strong spotlight on the Advisory Committee on Variola Virus Research (ACVVR), the WHO technical committee that oversees smallpox research. The ACVVR would have to simultaneously manage the results of the Major Review, which identifies no essential public health purpose for retaining virus stocks, and contradictory requests by US and Russian researchers to conduct new experiments. The ACVVR is next scheduled to meet late this year, when it would face a politically and technically challenging situation.

Placing the ACVVR in this position would be a matter of concern to developing countries. While criticism from Member States in recent years has led to an improvement in the effectiveness of ACVVR oversight of research, developed countries, particularly the US, have historically been highly overrepresented and unduly influential over the committee.

The WHO has also failed to eliminate conflicts of interest from the ACVVR, whose members include Russian and US government scientists linked to smallpox research and the government organizations that hold smallpox stocks. Its invitation-only meetings have also been further physically dominated by large numbers of invited “advisors” from companies and labs with vested interests in smallpox research. The ACVVR also does not appear to have rules of procedure to enable it to resolve conflict in an ordered fashion.

Another effect of the 64th WHA not adopting a resolution would likely be for the smallpox issue to very quickly return to the WHA for substantive consideration. Few, if any, countries would be satisfied with stocks being retained but not used. Nor is taking no action in response to the Major Review a satisfactory outcome. And if ACVVR were to approve new experiments, it would be questioned if these were essential for public health. These factors would likely prompt developing countries to quickly insist on another substantive discussion.

In sum, no resolution at the 64th WHA would likely have two short-term results: First, the operations of the ACVVR would come under intense scrutiny. Second, it is likely to quickly result in the WHA again considering variola as a substantive item.

If a resolution text is left on the table... It is also possible that negotiations on a text will not reach agreement prior to the closing of the WHA, and Member States will be faced with deciding how to proceed, for instance, by stopping negotiation, or establishing an intercessional negotiation group, or delaying decision until 2012.

It is crystal clear, however, that for many years at each point that the United States and Russia have been given any new mandate to continue to temporarily retain the virus stocks that this mandate has been abused, and that neither country has been willing to destroy the virus stocks when the mandate has been fulfilled (either a date or, at present, a research programme).

Therefore, if a resolution text under discussion was strongly influenced by the United States and Russia and held any significant possibility of resulting in a final text that does not fix an irrevocable date for destruction, Member States should strongly consider stopping negotiation and walking away from such a weak resolution. That is because recent history with Russia and the US very strongly suggests that if they obtain any new pretext from the WHA for virus retention, they will very likely seek to play it out for as many years as possible.

It is therefore preferable to avoid a new resolution that authorizes any continued temporary retention of virus stocks because the present reasons for retention – the research programme – have been fulfilled. In other words, with the US and Russia

fast running out of excuses not to destroy the virus, the WHA should not give them the chance to claim that a 64th WHA resolution provides them with any new justifications, or any extension of the old mandate.

The practical effect of walking away from a resolution so as not to create any new pretext for virus retention would be to force the US and Russia to justify any further use of virus stocks under the existing research programme. Making such justifications is increasingly difficult and, provided the ACVVR is true to its mandate, should result in few, if any, new research protocols being approved.

In the heat of discussions it is very important for Member States to remember that even the best diplomatic efforts may not be worthwhile when negotiating with other parties who ultimately have no intention of agreeing to a new destruction date. Under those circumstances, Member States should bear in mind that their best option may be to simply stop negotiation on a weak resolution at the 64th WHA if it will not result in the setting of a new destruction date.

Such a stalemate, however, is a last resort rather than a desirable outcome. In order to prevent it from coming about, proponents of smallpox destruction will need to come forward with well-crafted proposals to close the research programme and fix a date for virus destruction. These will need to be defended through the sometimes contorted resolution process, including the merger of proposals with competing intents. While this can be a daunting prospect, proponents of prompt destruction can rest assured that both history and the weight of the scientific community, particularly those who eradicated smallpox from the wild, are squarely on their side.