

Monday 4th December 2023

## Confidence-building and transparency - setting the scene

The topic for the first day of the Third Session of the Working Group (WG) on the strengthening of the 1972 Biological and Toxin Weapons Convention (BWC/BTWC) is ‘Measures on confidence-building and transparency’. This is topic (c) of those allocated to the WG. To assist with discussions, Angel Horna (Peru) and Laurent Masmejean (Switzerland) have been appointed as facilitators/Friends of the Chair (FoCs) on this topic.

The Working Group is scheduled to convene in Geneva for its Third Session from 4 to 8 December 2023 and will be followed the week after by the annual BWC Meeting of States Parties (MSP). The First Session of the WG met during March 2023 to discuss organizational issues and the Second Session met during August 2023 to discuss some of the substantive topics, as scheduled by the First Session. The WG was established by a decision of the Ninth BWC Review Conference held at the end of 2022. Reports in this series from those meetings, together with reports from BWC meetings since 2006, are available from the links provided overleaf.

Issues of confidence-building and transparency are connected with understandings about compliance and verification. The key difference is that the former are usually less formal arrangements and the latter are legally binding measures. While some analysts would consider these two distinctly separate activities, many others would consider them as being different points on a continuum. Issues of compliance and verification are scheduled for discussion in the middle three days of this WG session.

### **The BWC Confidence-Building Measures (CBMs)**

The BWC system of CBMs provides for annual returns to be provided by states parties on certain relevant activities and facilities. The Second BWC Review Conference (1986) agreed: ‘that the States Parties are to implement, on the basis of mutual co-operation, the following measures, in order to prevent or reduce the occurrence of ambiguities, doubts and suspicions, and in order to improve international co-operation in the field of peaceful bacteriological (biological) activities’. The CBM forms were last updated at the Seventh BWC Review Conference (2011).

While numbers of returns have been rising over time, they are widely recognized to be low compared with the number of BWC states parties. In many BWC meetings in recent decades, numerous statements have been made suggesting that participation in CBMs could be improved further and perhaps that their scope could be redefined. The quality of information provided, as well as the quantity of returns, has been seen as important. A number of proposals have been made over the years to ‘strengthen’ or ‘enhance’ CBMs – but there has been no consensus on what this means in practical terms. For example, if CBMs are simplified in such a way that it takes less effort to fill them in – especially by reducing the level of detail in the information passed on – will the information be as valuable? On the other hand, if requirements for additional information were to be adopted, would this reduce the number of returns?

One of the key questions that has remained unresolved is how states parties might use the information that is shared in the CBM returns. A number of views have been expressed in BWC meetings with many statements stressing that CBMs should not

be a substitute for a verification system nor should they be used to assess compliance by states parties. Other statements indicated that CBMs are useful for helping governments understand each other's activities. States parties can choose to make their CBM returns public and this can help make the process more transparent. The lack of clarity about what is achieved through the CBM system may be an influence on why the number of returns remains low.

An often unremarked benefit of the CBM process is that the preparation of CBM returns can help governments with national implementation. Not only does the activity of collating the information provide a check that the government is aware of all of the relevant activities under its jurisdiction or control, it also promotes interaction between ministries, departments and agencies that have relevant responsibilities but do not routinely communicate with each other on BWC issues.

Progress has been made to ease the logistics for submitting returns through an electronic portal that allows for paperless submissions. There has been encouragement for a step-by-step approach for states parties collating the information required for their returns for the first time in which they can initially submit only the data under the forms for which they have the available information. For example, in the first year, a country might submit just part of a CBM, such as the summary of legislation in Form E, which would reduce the effort needed for that year. In the second year and third year, other CBM elements could be added.

2023 is a record year for returns with the BWC Implementation Support Unit (ISU) announcing on 30 November that the number of returns so far this year has reached 100, the first time the number has reached this milestone.

### **Proposals for voluntary transparency measures**

There have been a number of proposals made in recent years for voluntary transparency measures through which states can provide evidence that they are in compliance with their obligations under the Convention. While some of these have been put into practice, there has been opposition to such measures, primarily by states parties who suggest that such measures are a distraction from negotiating formal verification measures and that 'piecemeal' arrangements may create a false sense of assurance and as they are no substitute for verification. A counter argument to this has been that voluntary measures are a way to test ideas that might help develop future multilateral compliance and verification activities. In 2021 it was noted that 15 states parties had hosted at least one voluntary transparency activity and 35 states parties had been involved in total.

The most widely discussed and implemented voluntary transparency measure has been that of peer review, initially proposed by France in 2011. This involves officials within a state party inviting counterparts from other states parties to examine and discuss their implementation measures. Advocates of peer review have deliberately kept the scope loosely defined in order that it can be adapted to different national contexts. A proposal for 'compliance assessment', put forward by Canada and Switzerland, suggested a voluntary exchange of information.

In 2021, France proposed the creation of an 'exchange platform' so that BWC states parties can share experiences from voluntary transparency exercises that they have conducted. The stated aim is to strengthen implementation of the BWC and to support national implementation efforts in particular by being able to discuss and exchange information and good practices on voluntary transparency exercises as well as creating a compendium of voluntary transparency exercises, and lessons learned. Such a tool would therefore also help in identify potential needs for assistance and cooperation for national implementation of the Convention.

*These reports have been produced by the BioWeapons Prevention Project (BWPP) for all BWC meetings with NGO registration since the Sixth Review Conference (2006). They are available from <https://www.bwpp.org/reports.html> and <https://www.cbw-events.org.uk/bwc-rep.html>. A subscription link is available on each webpage. Financial support for reporting for the Third Session of the Working Group has been gratefully received from Global Affairs Canada. The reports are written by Richard Guthrie, CBW Events, who is solely responsible for their contents <[richard@cbw-events.org.uk](mailto:richard@cbw-events.org.uk)>.*