

Wednesday 15th March 2023

The BWC Working Group: setting the scene for the organizational meeting

The Ninth five-yearly Review Conference for the 1972 Biological and Toxin Weapons Convention (BWC/BTWC) held at the end of 2022 agreed on the establishment of a ‘Working Group on the strengthening of the Convention’. Although the Review Conference was unable to agree many details of how the Working Group might operate, the creation of the Group is seen by many practitioners as an advance on earlier arrangements for activities between Review Conferences.

The Working Group is ‘to identify, examine and develop specific and effective measures, including possible legally-binding measures, and to make recommendations to strengthen and institutionalise the Convention in all its aspects, to be submitted to States Parties for consideration and any further action. These measures should be formulated and designed in a manner that their implementation supports international cooperation, scientific research and economic and technological development, avoiding any negative impacts.’ Issue areas to be covered are: international cooperation and assistance under Article X; scientific and technological (S&T) developments relevant to the BWC; confidence-building and transparency; compliance and verification; national implementation of the Convention; assistance, response and preparedness under Article VII; and organizational, institutional and financial arrangements.

The Working Group has been allocated 15 days of meeting time each year from 2023 to 2026 for substantive discussion, but is encouraged to complete its work before the end of 2025. In addition, the Review Conference decided there should be two further days in 2023 to consider organizational issues; hence the remit for the current meeting. Each year, a three-day Meeting of States Parties (MSP) will oversee the activities of the Working Group and be responsible for managing the inter-sessional programme of work. The scheduled dates for the substantive sessions for the Working Group this year are 7-18 August and 4-8 December. The annual MSP is scheduled for 11-13 December – the first three working days after the second substantive Working Group session.

The official website for the meeting is <https://meetings.unoda.org/node/67449> where Working Group documents will be posted to. The Final Document of the Review Conference, as well as other documents from the Conference, are available from its official website at <https://meetings.unoda.org/bwc-revcon/biological-weapons-convention-ninth-review-conference-2022>.

Organizational aspects

As the Working Group is a novel development with many aspects undecided at the Review Conference, it is hard to predict what is to be expected during the organizational meeting. The only task specifically stated for the organizational meeting is the election of office holders consisting of a Chair and two Vice-Chairs. However, there will be a range of further organizational aspects to be dealt with, such as how the various topics will be discussed during the life of the Working Group. Administrative and procedural issues may seem dull, but it is hard to reach conclusions on substantive issues without agreement being reached on how discussions should be carried out.

As is traditional, the office holders are spread between the three regional groups. The agreement reached at the Review Conference was that the office holders for the Working Group should be appointed for the period 2023-24. The Review Conference did not specify which regional group would hold which post in the Working Group and so there has been informal discussions about this. The non-aligned group has put forward Ambassador Flávio Damico (Brazil) as its nomination for the Chair of the Working Group. For the two Vice-Chairs, the western group has nominated Ambassador Camille Petit (France) and the eastern group is understood to be in the process of preparing a nomination for the meeting. The formal decision on office holders will be one of the first actions of the organizational meeting.

The Chair for the annual MSP in 2023 is also to be from the non-aligned group, as decided by the Review Conference, and this role would be expected to rotate between the regional groups each year as has been past practice.

Evolution of the inter-sessional processes/programmes of work

The term ‘inter-sessional’ refers to the periods between the five-yearly Review Conferences. Up until 2001 there were many activities between Review Conferences, the most notable of which were negotiations on a protocol to strengthen the BWC in a forum known as the Ad Hoc Group. Key aspects of the protocol negotiations were measures to enhance compliance (and confidence in compliance) primarily through verification. The protocol negotiations encountered a number of political difficulties, including a statement by the USA that year that it could not agree to anything that might result from them. The Fifth BWC Review Conference which convened later that year had to be suspended as it could not reach a conclusion. When it reconvened the following year it agreed what was then called ‘the new process’ which comprised a Meeting of Experts (MX) in the middle of each calendar year and an MSP towards the end of the year. The Sixth Review Conference (2006) agreed a similar but modified process that then became known as ‘the inter-sessional process’ or the ‘inter-sessional programme of work’. Conveniently, both terms could be summarised by the same abbreviation – ISP. With hindsight, the ‘new process’ became known as the first ISP.

Subsequent Review Conferences agreed ISPs that were based around a mix of MXs followed by MSPs with some variations but there were many perceptions of limitations, not least that the MSPs were unable to reach consensus conclusions on substantive matters that had been discussed in the MXs. A commonly identified benefit of the MXs was that they were less formal than traditional diplomatic meetings and that this allowed for effective collaboration between experts. The new Working Group will involve some interactions between experts and there may be benefits in drawing from the experiences of the MXs.

One of the challenges at each Review Conference was the selection of topics to be discussed in the following ISP as this had to be agreed by consensus and there was resistance in some quarters to discussion of verification issues. The fourth ISP, resulting from the Eighth Review Conference (2016) and decisions taken at the 2017 MSP, included a topic of ‘institutional strengthening’ of the Convention which allowed for some discussion of these issues. The inclusion of the terms ‘compliance’ and ‘verification’ in the mandate of the Working Group therefore represents a step change in the evolution of the ISPs, notwithstanding that there are many challenging issues and divergent perspectives around what is understood by these terms.

BWC membership

Although universalization issues are in the remit of the MSP rather than the Working Group, it is worth highlighting that since the Ninth Review Conference the membership of the Convention has risen with South Sudan depositing its instrument of accession to the BWC on 15 February, becoming the 185th state party to the Convention.

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Thursday 16th March 2023

The first day of the BWC Working Group organizational meeting

The Working Group on the strengthening of the 1972 Biological and Toxin Weapons Convention (BWC/BTWC) completed the first of two days of meetings on organizational issues on Wednesday. There was considerable discussion on issues in relation to the agenda, duration and handling of topics. Discussions on these will continue on Thursday.

Opening of the meeting and election of office holders for 2023-24

The meeting was opened on Wednesday morning by Mélanie Régimbal, Chief of Service of the UN Office for Disarmament Affairs, Geneva Office. She confirmed the nominations of Ambassador Flávio Damico (Brazil) as Chair and of Ambassador Camille Petit (France) as Vice-Chair by the non-aligned and western groups respectively. Slovakia, as convenor of the eastern group, informed the meeting that the nomination for the other Vice-Chair would be Irakli Jgenti (Georgia). Ambassador Damico was elected Chair by acclamation and took his seat on the podium. He noted there were some exceptional circumstances to his taking this position as, until May, he is also Chair of the Group of Governmental Experts looking at Lethal Autonomous Weapon Systems. Rather than have him steering two processes in parallel, Vice-Chair Petit would preside over the rest of the proceedings for the organizational meeting once appointed. When Ambassador Damico asked the meeting to approve the Vice-Chair nominations, Russia asked for more time to consider the one from the eastern group. This delay was granted. Ambassador Petit was appointed and took on the role of Acting Chair.

Adoption of the Agenda

One of the first tasks of the meeting was the adoption of the agenda. A draft agenda had been circulated to delegates just before the meeting by Ambassadors Damico and Petit which was focused on the organizational aspects of the Working Group. It became clear very quickly that there were differing views on this subject that related to whether this meeting should be adopting an agenda for its own work on organizational matters that was separate from the agenda that would be adopted for the Working Group as a whole, including the sessions on substantive issues. Russia proposed an alternative text, based on the agenda adopted for the Ad Hoc Group (AHG) in January 1995. This included an item on adoption of rules of procedure which was needed for the AHG but not relevant for the Working Group as its rules of procedure were specified by the Ninth Review Conference. Nonetheless, the Russian proposal provided a focal point for discussion which enabled further development of a draft agenda that might be suitable for the Working Group as a whole. Concerns were raised that any agenda adopted at this meeting that would apply for the duration of the Working Group should be simple in scope in order to allow flexibility of activities as these could continue into 2026. On the other hand, concerns were also raised that too much flexibility could lead to long procedural discussions in the future as meetings considered how to tackle particular issues. A new draft agenda was circulated after lunch to delegates for their consideration and possible adoption on Thursday.

Duration of the Working Group

The Ninth Review Conference allocated 15 days of meeting time each year from 2023 to 2026 for substantive discussion within the Working Group. The Review Conference was also explicit in encouraging the Working Group to complete its work before the end of 2025 – the year that marks the centenary of the 1925 Geneva Protocol and 50 years since the entry into force of the BWC. If the Working Group was able to complete its work during the tenure of its initial office holders it would only need 30 working days. If it needed all the possible time allocated it would use 60 working days. This indeterminacy of duration raised further questions about how the Working Group might decide when it had completed its work, but also how the topics should be dealt with to make the best use of available time.

The handling of topics

The seven topics for discussion by the Working Group handed down by the Ninth Review Conference are: (a) international cooperation and assistance under Article X; (b) scientific and technological (S&T) developments relevant to the BWC; (c) confidence-building and transparency; (d) compliance and verification; (e) national implementation of the Convention; (f) assistance, response and preparedness under Article VII; and (g) organizational, institutional and financial arrangements.

There was broad agreement that the topics should remain as specified by the Review Conference. Many interventions noted that the topics were sufficiently diverse that they may need different approaches at times during the Working Group. Some were highlighted as possibly needing more time than others, such as (a), (b) and (d). There were some suggestions that the topics should be allocated a block of time each; for example, the August substantive session of two weeks could deal with one topic in its first week and another in its second.

Ambassador Leonardo Bencini (Italy), the President of the Ninth Review Conference who had overseen the adoption of the mandate for the Working Group, suggested that one approach could be to work through all of the topics in the first two years. The Working Group could assess the situation and repeat this cycle in 2025 to allow topics to be reconsidered if this was desired. There would also be the chance for a further repetition in 2026, if needed. There were a number of expressions of support for this idea. Bencini had used the term ‘cycles’ in his intervention and for some this raised echoes of the repetitive Meetings of Experts from the previous inter-sessional process. Others suggested that potentially useful proposals raised in a session may take time to be considered by delegates but also by their capitals; therefore it would be useful for any process to include a return to topics so that views from capitals could be considered and proposals further developed.

The role of facilitators to deal with specific topics became a topic of discussion. Ambassador Bencini highlighted how useful they had been in making progress during the Review Conference. There was broad support for their use within the Working Group and in particular how they might be able to make progress on issues between formal sessions.

While the current meeting is about procedure rather than substance, there were some comments about aspirations for the Working Group process. An example of how much the debate over strengthening the Convention has changed in recent years was given in a statement by the United States during the afternoon. Ambassador Ken Ward highlighted that the aim of the Working Group included ‘legally-binding measures’ and efforts to ‘institutionalise the Convention’. From the US perspective, the Working Group should therefore be identifying the building blocks that could be taken up in a subsequent formal negotiation to ‘finally achieve an implementation agreement for the BWC’. This is a perspective that country would not have brought into a BWC meeting for much of the past two decades.

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Monday 31st July 2023

Completion of the First Session of the Working Group on organizational issues

This report covers the conclusion of the First Session of the Working Group on the strengthening of the 1972 Biological and Toxin Weapons Convention (BWC/BTWC) that met in Geneva in March 2023 and includes some reflections on the Session.

The Working Group held its second and final day of meetings on organizational issues on Thursday 16 March, continuing into the evening beyond the provision of interpretation to complete its work. There was agreement on the agenda for the Group overall and on an indicative programme of work, both of which are included in the procedural report of the First Session – document BWC/WG/1/2, available from the website for the First Session at <https://meetings.unoda.org/meeting/67449/>. The site for the Second Session in August is at <https://meetings.unoda.org/meeting/67451/>. Official BWC documents are also available via <https://documents.un.org>.

The proceedings of the second day

As with the day before, the proceedings of the second day were presided over by Vice-Chair Ambassador Camille Petit (France). The first action of the morning was the approval of the other Vice-Chair, Irakli Jgenti (Georgia), who had been nominated by the Eastern Group. The Chair of the Working Group, Ambassador Flávio Damico (Brazil), was present in the room for the day's proceedings in line with the exceptional circumstances outlined and accepted the day before.

The focus of discussion was how to organize the work of the substantive sessions of the Working Group. To this end, a draft 'indicative programme of work' had been circulated to delegates on Wednesday night, although a technical issue meant many delegations did not see it until Thursday morning. This initial draft prompted a number of suggestions on how to develop it further.

One aspect for discussion was whether the Working Group had seven topics to discuss or nine. Seven topics were agreed by the Ninth Review Conference for the Working Group and listed in paragraph 8 of part II of its final report which are: (a) international cooperation and assistance under Article X; (b) scientific and technological (S&T) developments relevant to the BWC; (c) confidence-building and transparency; (d) compliance and verification; (e) national implementation of the Convention; (f) assistance, response and preparedness under Article VII; and (g) organizational, institutional and financial arrangements. It was suggested that the Article X and S&T review mechanisms should be dealt with as additional topics as the relevant paragraphs recording the decision of the Review Conference to work towards establishment of each of these mechanisms (nos. 18 and 19 respectively) included the wording: 'In order for this mechanism to be established, the Working Group on the strengthening of the Convention will make appropriate recommendations.' It was agreed that there would be allocated time specifically for discussion of each of the two mechanisms.

Once there was agreement on the number of topics there remained the question of how much time should be allocated to each topic. There was broad recognition that the discussions of the proposed mechanisms would build upon discussions in their relevant

substantive topics and thus the two mechanism topics might not need so much time allocated. Other than this, should each of the topics be allocated an equal time? For example the question was raised as to whether compliance and verification should be allocated more time than Article X and S&T review as these had been the subject of much more discussion at expert level in recent years. Other delegations expressed opposition to allowing some topics to be allocated more time at the expense of others. The balance between topics was the subject of plenary discussions together with informal consultations. The final agreed version allows for all but one of the topics [(f) on Article VII] to be considered at least once during 2023.

The mandate for the Working Group only specifies a final report and there was some discussion about whether time should be allocated to preparing progress reports. The mandate specifies that the Working Group Chair will update the annual Meeting of States Parties on the work of the Group. It was noted that past practice in BWC was to prepare a procedural report from each session of meetings. There was no discussion on what form the final report from the Working Group might take.

The phrasing of the key items on the agenda was agreed after considerable discussion. The key substantive item in the adopted agenda: 'Identifying, examining and developing specific and effective measures, including possible legally-binding measures, and making recommendations to strengthen and institutionalize the Convention in all its aspects within the mandate of the Working Group' is based on the wording in paragraph 8 of part II of the final report of the Ninth Review Conference. Another agenda item allows for discussion of 'Other matters within the mandate of the Working Group'.

Reflections

A conscious effort is taken in writing these daily summaries to report as objectively as possible. However, there are times that this style of reporting does not convey some of the atmosphere of meetings or possible consequences of activities. The following are some personal reflections that do not necessarily represent anyone's views other than the author's own.

The Working Group represents a significant opportunity for the Convention, but progress is not likely to be immediately obvious as the political differences between states parties that prevented agreement at the Ninth Review Conference on items such as the two proposed mechanisms seem likely to remain in the short term. Yet this should not be a reason to be pessimistic about the prospects for the Working Group as time should allow for positive developments.

Further clarity may be useful on what is expected from the Working Group as it was clear from the plenary discussions that there is a lack of an agreed vision on how the substantive work will be taken forward. In discussions in the corridors with delegates, many agreed with one description of the role, that the Working Group should prepare 'building blocks' for a legally binding instrument, while others indicated that the Group should be identifying parts of a collection of measures that should then be forwarded to a new body to be developed further. A clearer collective vision on the potential output may help focus proceedings and help deal with the challenge of turning what was a relatively brief discussion at the Review Conference on what the Working Group might do into a plan of activities in the coming years for the Working Group itself and beyond.

The adoption of an indicative programme of work stretching so far – all the way into 2026 – was surprising when looked at from the perspective of past negotiations in many forums. It is rare for an indicative schedule looking so far ahead to remain intact. Moreover, the consultations at a later stage to amend a previously agreed indicative schedule can be time consuming as it is a well-known negotiating tactic of those not keen on progress to argue that the agreed programme should be adhered to in circumstances where the majority of delegations see benefits in adaptation.

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Tuesday 1st August 2023

Setting the scene for the substantive sessions of the BWC Working Group

The Second Session of the Working Group (WG) on the strengthening of the 1972 Biological and Toxin Weapons Convention (BWC/BTWC) is scheduled to convene in Geneva from 7 to 18 August 2023. The Group was established by a decision of the Ninth BWC Review Conference held at the end of 2022.

The First Session met during March 2023 to discuss organizational issues and appointed Ambassador Flávio Damico (Brazil) as Chair of the Working Group with Ambassador Camille Petit (France) and Irakli Jgenti (Georgia) as Vice-Chairs, each of whom is in post until the end of 2024. The First Session also adopted an agenda for the Working Group and an indicative programme of work for the substantive sessions.

Documents and statements (where those giving them have wanted them posted) from the Second Session will be posted to the official webpage for the Session at <https://meetings.unoda.org/meeting/67451>. Official BWC documents are also available via <https://documents.un.org>. A number of working papers have been published and more are expected.

Topics and facilitators

The 'Bureau' – the body composed of the office holders that administers the Working Group – has appointed facilitators to assist in each of the topic areas to be discussed by the Working Group. It is possible that further facilitators will be appointed over time.

There are seven topics for discussion at the Working Group with two potential mechanisms to be considered. The seven topics [and the facilitators for each] are:

- (a) international cooperation and assistance under Article X [JJ Domingo (Philippines) and Thomas Fetz/Trevor Smith (Canada)];
- (b) scientific and technological (S&T) developments relevant to the BWC [Grisselle Rodríguez (Panama), Peter Ahabwe/Musa Kwehangana (Uganda), Vincent Bodson (Belgium) and Ljupčo Gjorgjinski (North Macedonia)];
- (c) confidence-building and transparency [Angel Horna (Peru) and Laurent Masmejean (Switzerland)];
- (d) compliance and verification [Alonso Martínez (Mexico) and Ambassador Robert Bosch (Netherlands)];
- (e) national implementation of the Convention [Grisselle Rodríguez (Panama), Athikarn Dilogwathana (Thailand), Reski Ilahi (Indonesia), Faith Bagamuhunda (Uganda) and Michelle Carr (Australia)];
- (f) assistance, response and preparedness under Article VII [Angel Dalmazzo (Argentina) and Sofie Kallehauge (Denmark)]; and
- (g) organizational, institutional and financial arrangements [Husham Ahmed (Pakistan), Ambassador Ichiro Ogasawara/Shigeru Umetsu (Japan) and Arsen Omarov (Kazakhstan)].

The first two topics are those which have proposals for implementation mechanisms associated with them which will be the subject of additional discussions.

The selection of topics represents the breadth of issues that BWC delegations have felt need developing in order to strengthen the Convention and there is a widespread

recognition that any consensus efforts for strengthening of the Convention will require action in each of the topic areas. As with many other multilateral issues, there are diverse perspectives on the emphasis placed on each of the topics and elements within them.

Activities during the Second Session

The First Session agreed that Monday 7 to Wednesday 9 August will be dedicated to topic (a) international cooperation and assistance/Article X with the Thursday focused on the proposal for mechanism for implementation in this issue area. Friday 11, Monday 14 and Tuesday 15 August will discuss topic (b) on S&T developments with Wednesday 16 looking at proposals for a mechanism to review S&T developments. The final two days of the Second Session – Thursday 17 and Friday 18 – will focus on issues of national implementation as topic (e).

During July, the Chair circulated an indicative programme of work with further details which includes time for remarks from facilitators for each topic and panels to enhance discussion.

The initial week of the Second Session will be running in parallel with the Preparatory Committee for the next Review Conference of the nuclear Non-Proliferation Treaty (NPT) that is meeting during 31 July-11 August in Vienna. Countries that are states parties to both treaties, especially those with smaller disarmament delegations, may find their resources stretched for the overlapping week.

Topics and dates for subsequent sessions

The Third Session is scheduled for 4-8 December 2023 and will be immediately followed by the annual Meeting of States Parties (MSP). The Third Session includes time allocated for (c) confidence-building and transparency (one day), (d) compliance and verification (three days) and (g) organizational, institutional and financial arrangements (one day).

Dates for the BWC meetings in 2024 have been proposed as 12-23 August for the Fourth Session and 2-6 December for the Fifth. The 2024 MSP would then follow the Fifth Session. The Fourth Session is scheduled to start with discussion of topic (f) assistance, response and preparedness under Article VII, following which topics previously discussed will be returned to.

Outputs from the Working Group

Paragraph 16 of the Final Document of the Ninth BWC Review Conference, states that '[a]t the completion of its work' the WG is to 'adopt a report, by consensus, that includes conclusions and recommendations according to its mandate'. The report is to be presented for consideration at the Tenth Review Conference (scheduled for 2027), 'or earlier at a Special Conference if it is requested according to the procedure established by the Third Review Conference (BWC/CONF.III/23), to decide on any further action'.

The challenges of reaching consensus in the final week of the Ninth Review Conference meant that there were a number of things added to the Working Group in a form of consensus by deferral. The lack of time at the Ninth Review Conference to get into details of how the Working Group would operate has left open a question of how much detail the WG needs to get into on any proposed measures. In other words, should the Working Group simply outline what are the collection of measures that would strengthen the Convention under each topic in order for a follow-on process to elaborate them further or should the Working Group propose detailed measures?

In addition to the final substantive report of the Working Group, there will be a procedural report from each Session, in line with BWC past practice. No time has been specifically allocated within each Session for this task in the expectation that preparation and adoption of a procedural report should not take much time.

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Wednesday 2nd August 2023

International cooperation and assistance/Article X - setting the scene

The topic for the first three days of the Second Session of the Working Group (WG) on the strengthening of the 1972 Biological and Toxin Weapons Convention (BWC/BTWC) is ‘Measures on cooperation and assistance under Article X’. This is topic (a) of those allocated. The fourth day of this session will be devoted to discussion on possibilities for a mechanism to improve implementation of international cooperation and assistance.

The Working Group is scheduled to convene in Geneva from 7 to 18 August 2023, as decided by the Ninth BWC Review Conference (2022). The First Session of the WG met during March 2023 to discuss organizational issues. Reports in this series from those meetings are available from the links provided overleaf.

Article X of the BWC is about access to the life sciences for peaceful purposes and sits at the heart of the issues relating to international cooperation and assistance. Article X embodies a key bargain within the Convention that the renunciation of biological weapons and the implementation of controls over hostile uses of the life sciences have to be balanced so that there is not hindrance to the use of the life sciences for peaceful purposes. Article X also provides that states parties ‘undertake to facilitate, and have the right to participate in, the fullest possible exchange of equipment, materials and scientific and technological information for the use of bacteriological (biological) agents and toxins for peaceful purposes’. The concept of ‘cooperation and assistance’ goes further than Article X itself, including other aspects such as capacity building.

The importance of the Article X issues within the BWC is reflected in the Working Group mandate which notes that any measures proposed by the Group ‘should be formulated and designed in a manner that their implementation supports international cooperation, scientific research and economic and technological development, avoiding any negative impacts.’

To assist with discussions, JJ Domingo (Philippines) and Thomas Fetz/Trevor Smith (Canada) have been appointed as facilitators on these issues.

Article X and cooperation and assistance in context

The topic of international cooperation and assistance brings together a cluster of issues for which there have been long-standing divergences of views between governments.

Security, economic and geographical considerations and perspectives influence how individual governments see the balance between the two sides of the bargain embodied in Article X of the Convention. Most Western states have consistently put emphasis on the security aspects of the bargain, while states seeking greater economic development see access to peaceful uses as a key justification for using precious governmental resources in their engagement with the Convention. There are many delegations who hold positions somewhere in between these two perspectives, with many perceiving the global benefits of activities such as capacity building and efforts to control infectious disease as worth pursuing in their own right, irrespective of BWC provisions.

Where the divergence remains strongest is on the scope of Article X and on the question of how to improve implementation of it. Some delegations have expressed the view in past BWC meetings that Article X is incompatible with the imposition of

economic sanctions (often referred to as ‘unilateral coercive measures’) and that denials of export licences for materials and technologies for peaceful purposes are contrary to Article X. A larger number of delegations have taken an opposite view and have highlighted the challenges of controlling materials and technologies that have peaceful uses as well as having potential to contribute to a biological weapons programme.

An illustration of the significance of Article X-related issues is that they have been included in some form in each of the inter-sessional work programmes since the first was established at the resumed Fifth BWC Review Conference in 2002.

There have been many lessons from events outside of the BWC for Article X discussions. Outbreaks such as Ebola Virus Disease and the COVID-19 pandemic have illustrated the challenges of responding to infectious disease. Experience shows that no country is safe from a highly transmissible disease unless there are capabilities to deal with that disease across the globe. As biological weapons are essentially tools for the deliberate spread of disease, it follows that enhanced capacities to deal with naturally occurring diseases reduce the potential for harm from deliberate disease. There are considerable synergies with Working Group topic (f) on assistance, response and preparedness under Article VII which will be discussed during 2024.

Proposals and developments on Article X and related issues

The Seventh BWC Review Conference (2011) decided to ‘establish a database system to facilitate requests for and offers of exchange of assistance and cooperation among States Parties’. This has become known informally as the ‘Article X database’ and contains rising numbers of offers of help and requests for assistance. The operation of the database is summarized in the Annual Report of the BWC Implementation Support Unit (ISU) each year. A number of delegations have suggested during BWC meetings that the database is underused. A proposal for a counterpart database in relation to Article VII was agreed in principle at the Eighth Review Conference (2016).

During the negotiations for a protocol to strengthen the BWC that came to halt in 2001 there were significant elements of the rolling text that were designed to enhance implementation of Article X. One of these elements was a ‘cooperation committee’. At the Sixth Review Conference (2006) there were proposals for an Article X action plan alongside action plans on national implementation and universalization. The plans did not achieve consensus and so were not adopted. In 2009 a proposal for an Article X implementation mechanism was made by the non-aligned group of BWC states parties and was updated occasionally and presented again. In 2019 India proposed the establishment of a voluntary trust fund to support cooperation and assistance activities. The Ninth Review Conference (2022) added a staff post to the ISU, the tasks for whom were not specified in the Final Document but which are understood to include international cooperation and assistance activities.

Paragraph 18 of the Final Document of the Ninth Review Conference reads: ‘The Conference decides to develop with a view to establishing a mechanism open to all States Parties to facilitate and support the full implementation of international cooperation and assistance under Article X. In order for this mechanism to be established, the Working Group on the strengthening of the Convention will make appropriate recommendations.’ Discussions during the Review Conference were unable to reach consensus on what form such a mechanism might take and this remains a subject for discussion. For example an ASEAN working paper to this WG Session (WP.1) proposes a ‘Cooperation Advisory Group’ to facilitate international cooperation activities. A second working paper (WP.3), from Australia, Germany, Japan, UK and USA, proposes establishment of a mechanism utilizing ‘a programmatic approach’ funded through a voluntary trust fund governed by an ‘ICA Fund Committee’.

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Thursday 3rd August 2023

Review of scientific and technological developments - setting the scene

The topic for days five, six and seven of the Second Session of the Working Group (WG) on the strengthening of the 1972 Biological and Toxin Weapons Convention (BWC/BTWC) is ‘Measures on scientific and technological developments relevant to the Convention’. This is topic (b) of those allocated. The eighth day of this session will be devoted to discussion on possibilities for a mechanism to enable a systematic review of scientific and technological (S&T) developments relevant to the Convention.

The Working Group is scheduled to convene in Geneva from 7 to 18 August 2023, as decided by the Ninth BWC Review Conference (2022). The First Session of the WG met during March 2023 to discuss organizational issues. Reports in this series from those meetings, together with reports from BWC meetings since 2006, are available from the links provided overleaf.

There are ever-changing contexts that the BWC has to operate within, of which the changes brought about through S&T developments are key. Rapid advances within the life sciences, as well as other areas such as engineering, have significant impact on potential benefits and risks in areas relevant to the BWC. Such advances provide previously unsurpassed opportunities for peaceful uses through development of innovative medical treatments and new ways to detect the spread of disease, for example. Yet they also create negative opportunities for hostile uses through novel techniques. Moreover, as well as the cutting-edges of S&T developments, the adoption of biological techniques within new technological areas has led to more widespread availability and knowledge of materials and processes that may have potential for both peaceful and hostile purposes.

There has been a recognition amongst a large number of BWC states parties that the changing S&T contexts require ongoing review and that the five-yearly process during Review Conferences has not been enough. This is a critical challenge as real world experience has shown that S&T developments proceed at a faster pace than the policy developments intended to monitor them, and if new risks or benefits are identified, to manage them. Hence the inclusion of this topic within the mandate of the WG.

Of all the topics allocated to the Working Group, the one on S&T developments is the one with the highest level of overlap and synergies with the other topics. For example, it impacts upon the operation of Article X on international cooperation and assistance; on Article VII responses to breaches of the Convention; and on national implementation. Moreover, better understandings of the developing S&T topics will be critical for compliance and verification under the Convention.

To assist with discussions, Grisselle Rodríguez (Panama), Peter Ahabwe/Musa Kwehangana (Uganda), Vincent Bodson (Belgium) and Ljupco Gjorgjinski (North Macedonia) have been appointed as facilitators on these issues.

Scientific and technological developments in context

Processes and procedures for science advice within governments are a challenge across the world. The different perspectives that policy practitioners and S&T practitioners bring to discussions can bring clarification and guidance to many contemporary issues; yet those

same differences can hinder discussions as well as enlighten them. It is therefore crucial that appropriate arrangements for review of relevant S&T developments are developed. A key aspect is to ensure that there are trusted sources of advice for those who have to develop policies.

One of the challenges is that it is simply not enough to identify relevant S&T developments; once developments are identified, what are their implications? One illustration of the need for this two-level approach can be found in the contemporary discussions about artificial intelligence. It is clear this particular field has been the subject of tremendous advances in recent years and while some implications are readily apparent, it is clear that there are likely to be more that will emerge. The same is true for many developments in the life sciences. One example, much cited, is the CRISPR/Cas9 gene editing tool (often simply referred to as CRISPR) that is barely a decade old which allows for exact and accurate editing of genetic sequences.

Proposals relating to S&T development issues

The widespread recognition for a number of years that there would be multiple benefits in reviewing S&T issues in a regular, consistent and ongoing manner has meant there have been many proposals for how a review might be carried out. The Meetings of Experts (MXs) in inter-sessional work programme between the Eighth and Ninth Review Conferences included one (MX2) dedicated to S&T issues which allowed more focused development of earlier ideas.

Many of the early proposals for arrangements to enhance review of S&T developments looked at one or other of two models. One model was or a panel selected in some way in order to create a board or committee. The other was to have a structure open to experts from all states parties willing to participate. These can be described as the 'selected' or 'open' models. Each approach has certain advantages and disadvantages. A small panel can be rapidly tasked to examine a new issue in depth and is the model for the Scientific Advisory Board created under the Chemical Weapons Convention. An open membership arrangement can encourage inclusivity with more direct links into national processes and has been used successfully in other issue areas. A selected panel would probably need financial resources to support it centrally whereas costs for an open membership model would be likely to fall on the states parties participating. More recently, many proposals have taken a hybrid approach that includes an open arrangement with some activities delegated to smaller panels.

The Ninth BWC Review Conference considered proposals for S&T review processes in some detail. However, the Review Conference faced considerable political challenges which made it hard to achieve consensus. In the last week of the Review Conference, as successive iterations of the sections on S&T review were being produced, more and more details were being removed. The Final Document is therefore sparse on this issue area and paragraph 19 reads: 'The Conference decides to develop with a view to establishing a mechanism to review and assess scientific and technological developments relevant to the Convention and to provide States Parties with relevant advice. In order for this mechanism to be established, the Working Group on the strengthening of the Convention will make appropriate recommendations.' In addition, the Ninth Review Conference added a staff post to the BWC Implementation Support Unit (ISU), the tasks for whom were not specified in the Final Document but which are understood to include S&T activities.

Working papers submitted to the WG Second Session have included proposals or discussion relating to S&T review. A working paper (WP.4) from the USA has been published and it is understood that further papers on this subject area are expected from other states parties.

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Friday 4th August 2023

National implementation issues - setting the scene

The topic for the final two days of the Second Session of the Working Group (WG) on the strengthening of the 1972 Biological and Toxin Weapons Convention (BWC/BTWC) is 'Measures on national implementation of the Convention'. This is topic (e) of those allocated to the WG.

The Working Group is scheduled to convene in Geneva from 7 to 18 August 2023, as decided by the Ninth BWC Review Conference (2022). The First Session of the WG met during March 2023 to discuss organizational issues. Reports in this series from those meetings, together with reports from BWC meetings since 2006, are available from the links provided overleaf.

Without effective implementation, any international treaty is essentially just a declaration of intent. As the treaties dealing with control of weapons of mass destruction (WMD) are each concerned with types of weapons that are perceived to be of strategic importance, effective implementation is considered to be a high priority. Each of the WMD treaties therefore obliges states parties to carry out some form of national implementation to fulfil the obligations undertaken. In the case of the BWC, Article IV reads: 'Each State Party to this Convention shall, in accordance with its constitutional processes, take any necessary measures to prohibit and prevent the development, production, stockpiling, acquisition, or retention of the agents, toxins, weapons, equipment and means of delivery specified in article I of the Convention, within the territory of such State, under its jurisdiction or under its control anywhere.' In addition, BWC Article III contains obligations not to assist others (not just states) to acquire biological weapons.

The phrasing of Article IV is a reminder that the BWC is not a treaty between governments but a treaty between sovereign states. This is important for two reasons. One is that when there is a change of government within a state the obligations under the BWC still apply to that state. The other is that the provisions of the Convention apply to all activities within states parties, not just those owned or operated by the government.

To assist with discussions, Grisselle Rodríguez (Panama), Athikarn Dilogwathana (Thailand), Reski Ilahi (Indonesia), Faith Bagamuhunda (Uganda) and Michelle Carr (Australia) have been appointed as facilitators on these issues.

National implementation issues in context

There are many reasons why a state party might have incomplete or ineffective national implementation. For some, this may start with a lack of specific implementation legislation owing to challenges in finding parliamentary time against competing priorities. For others it may be resource limitations that mean legislation is not properly enforced. In numerous statements in BWC meetings there has been widespread acknowledgement that there is much room for improvement in the field of national implementation.

Additionally, there is a need for ongoing review of existing legislation and enforcement activities in all states parties as ever-changing contexts (and in particular scientific and technological (S&T) developments) mean that implementation arrangements need to be kept up to date.

National implementation has many facets – from security of pathogens (i.e., disease-causing micro-organisms) to controls on certain types of equipment. One of the lessons of past revelations of illicit trading networks of proliferation-sensitive materials and technologies was that countries can be host to companies that are contributing to proliferation activities without the relevant governmental authorities being aware. Effective national implementation therefore includes much more than simply the enactment of legislation.

BWC national implementation is not carried out in isolation. For example, some provisions overlap with those required to implement UN Security Council resolution 1540 which is focused on preventing access to WMD-relevant materials to those who might use them for acts of terror. Indeed, for some states parties this is the key aim of enhanced national implementation. Yet it should not be forgotten that other provisions, such as disease surveillance, overlap with national public health measures. A further example is that regulations for the control of biological laboratories overlap with health and safety provisions and therefore issues of public safety.

There has been a balance to be struck with Article III obligations to ensure that direct and indirect transfers relevant to the Convention, to any recipient whatsoever, are authorized only when the intended use is for purposes not prohibited under the Convention and Article X obligations to allow access for peaceful purposes.

There are areas of overlap between national implementation and S&T developments. One of these is to ensure any BWC system for S&T review informs and assists national policy processes. Another is the issue of codes of conduct for scientists. Work over a number of years on model codes has led to the creation of the Tianjin Biosecurity Guidelines for Codes of Conduct for Scientists which were endorsed in July 2021 by the Inter-Academy Partnership, a global network of national academies of sciences. These guidelines were presented to the Ninth BWC Review Conference for further endorsement, but the challenges to reach consensus in the final week resulted in them not being referred to in the Final Document.

Proposals and developments relating to national implementation

Proposals relating to national implementation have mostly focused around how international processes, including coordination of national offers of assistance, could aid states parties in their implementation of the BWC. There is a significant overlap here with capacity-building activities under international cooperation and assistance measures associated with Article X. An example of this is the Signature Initiative to Mitigate Biological Threats in Africa (SIMBA) supported by the Global Partnership and highlighted in a working paper for this session, (WP.7) submitted by Japan, co-sponsored by Canada and Germany.

There have been suggestions that if there were a new legally binding instrument to strengthen the Convention this could contain guidance on what legal provisions were required nationally. The decision to convene the BWC Working Group is a clear sign that discussions in this area are developing and it remains to be seen whether there is an evolving convergence of perspectives on what forms of implementation activities should take place at a national vs an multilateral level.

As national circumstances and legal and political systems vary between countries, it has long been recognised that there is no one-size-fits-all solution for implementation arrangements. At the same time, there has been recognition that there are many lessons to be learned by states parties from the implementation experience of others. One of the side events of the WG Second Session will see the ‘live launch’ of the BWC National Implementation Measures Database being developed by UNIDIR and VERTIC which had its ‘soft launch’ during May.

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Tuesday 8th August 2023

The opening of the Second Session of the BWC Working Group

The Working Group (WG) on the strengthening of the 1972 Biological and Toxin Weapons Convention (BWC/BTWC) was opened on Monday morning in Salle XIX in the Palais des Nations. This was the first opportunity for substantive discussion of the first of the topics – international cooperation and assistance – allocated to it by the Ninth BWC Review Conference (2022). As the day progressed, much of the working time was taken up by procedural issues. [*Note: Reporting of the substantive parts of some elements of activities on Monday will be held over to the later report in this series summarizing the overall discussions on this topic. These include a briefing from facilitators, the introduction of the ASEAN working paper (WP.1) and a statement by the EU.*]

Opening the meeting, the Chair of the Working Group, Ambassador Flávio Damico (Brazil) noted this was a public meeting webcast to the world via UN Web TV <https://media.un.org/en/webtv>. He reminded delegates of the updated programme he had circulated on 21 July and noted that once states parties had completed their contributions, observers would be invited to make contributions and that this would include non-governmental representatives.

Documents and presentations (where those giving them want them posted) will be available via <https://meetings.unoda.org/meeting/67451> – the official webpage for the Second Session. Official BWC documents are also available via <https://documents.un.org>.

Message from the UN High Representative

The first formal presentation of the day was a video message from Izumi Nakamitsu, the UN High Representative for Disarmament Affairs. She highlighted that the COVID-19 pandemic had shown the catastrophic global impact that infectious disease can have, arguing this demonstrated the importance of the BWC and the need for it to be ‘fully operationalized, properly institutionalized and fit for purpose’. She reminded delegates that the recent paper by the UN Secretary-General ‘New Agenda for Peace’ recommends enhanced efforts to identify and respond to emerging and evolving biological risks.

Technical presentation and panel

Michael Ryan from the Health Emergencies Programme at the World Health Organization (WHO) gave a technical presentation. He spoke of efforts by the member states of the WHO to negotiate a new international accord, commonly known as the ‘pandemic treaty’, to help countries work more effectively in the event of a new pandemic. He also spoke to the work on possible revisions to the International Health Regulations (which include suggested changes to provisions relating to detection, compliance and verification) and preparations for a high-level meeting in New York in September. He noted that the interface between the WHO and others in the response to a deliberate event is the area where there is ‘the least clarity’ as the WHO must have public health as its primary role while other agencies deal with any political and criminal aspects. While rapid response measures had received considerable resources, prevention and preparedness measures were much harder to gain sustainable funding, he argued.

This was followed by a panel made up of Martin Krause of the Department of Technical Cooperation at the International Atomic Energy Agency (IAEA) and Sylvie Briand of the Pandemic and Epidemic Diseases Department at the WHO. The IAEA presentation described its Technical Cooperation Programme, which is funded by the Technical Cooperation Fund (TCF). The TCF has a hybrid character as it is a voluntary fund but donations are provided in line with the assessed contributions to the Agency by member states. This was the focus of a number of questions to the panel. [Note: the TCF is outlined at <https://www.iaea.org/topics/temporary/funding-the-programme>.] Within the TCP, capacity building is conceptualized at three levels: human level (e.g., training of experts to enhance skills); institutional level (e.g., strengthening regulators and operators); and the systemic level (e.g., enhancing laws). The WHO presentation spoke of the UN Biosecurity Working Group that involves 30 UN entities, of which around 10 were added in 2022. While the COVID-19 pandemic had less medical impact than the flu pandemic 100 years earlier in terms of fatalities, but the impact was arguably greater as modern societies are more vulnerable to disruption, including through rumours and disinformation, despite modern tools to counter infectious disease. One theme of questions was how lessons might be learned from these institutions while the BWC remains without one. For example, the TCP has around 200 staff compared with the BWC ISU total staff of four.

Implementation Support Unit (ISU) briefing

ISU Chief Daniel Feakes briefed the Working Group on the activities of the ISU to support international cooperation and assistance. He noted five areas it is specifically mandated in this area: the Article X database; the sponsorship programme; receipt of national Article X reports; providing support for the comprehensive implementation and universalization of the BWC; and support for decisions and recommendations of the Review Conference. He also highlighted the Youth for Biosecurity Initiative, the tailored regional approach in Africa, and other capacity-building activities coordinated by the ISU, mostly funded through voluntary contributions.

Procedural issues

Before the video message from the High Representative was played a point of order was raised by Russia to express concerns about possible flexibility relating to non-governmental statements to the WG, suggesting that NGO statements at the Ninth Review Conference had been ‘politicized’. The Chair responded by saying he would not hesitate to intervene if any statement was out of order.

Before the technical presentation a point of order was raised by Russia to express concerns that the initial activities were focused on international bodies and that the BWC should focus on interactions between states parties. An exchange of views followed. Summing up, the Chair suggested the meeting should proceed as planned on the basis this would not set a precedent and that observers, whether inter-governmental or non-governmental, could make observations after states parties had made their views known. There was no objection to this suggestion.

In the afternoon, the Chair offered the floor to the EU, prompting a point of order by Russia to express concern that an observer was being given precedence over states parties. An exchange of views followed. As no solution was immediately apparent, the meeting was suspended for 15 minutes for consultations, resuming nearly two hours later. The Chair informed the Group that no solution had been found and, in order to return to substantive business, asked if any state party wished to make a statement. As no state party indicated it wished to do so, the Chair asked if there was any observer wishing to take the floor. The EU raised its nameplate and the Chair gave the EU the floor to read its statement just over two hours after it had initially been given the floor. After this, the meeting was adjourned as it was now close to the scheduled end of the day’s proceedings.

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Thursday 10th August 2023

Discussions on international cooperation and assistance measures

Discussion of the first topic allocated to the Second Session of the Working Group (WG) on the strengthening of the 1972 Biological and Toxin Weapons Convention (BWC/BTWC) – (a) international cooperation and assistance under Article X – was completed on Wednesday. There were no collective conclusions drawn at this stage. Indeed, it seems most delegates would agree it is too early to reach conclusions as there is more work needed to reach a collective understanding of key aspects of what is desirable. Thursday is allocated for discussion of the related topic of a possible mechanism to enhance implementation of international cooperation and assistance (ICA).

At the end of Wednesday, the Chair of the Working Group, Ambassador Flávio Damico (Brazil), circulated a draft of elements of what will become the procedural report of this session. He asked delegates for feedback on its contents and format to save time later in preparation of the report.

Documents, statements and presentations are being posted to the official webpage for the Second Session at <https://meetings.unoda.org/meeting/67451>. Official BWC documents are also available via <https://documents.un.org>.

Panel discussions

There were three panels held during Tuesday and Wednesday. These were: Adrien Sivignon and Elodie Liobard (Interpol), Alessandro Marcello, International Centre for Genetic Engineering and Biotechnology (ICGEB), Peter McGrath, The World Academy of Sciences (TWAS), and Federica Irene Falomi, UN Technology Bank [Tuesday morning]; Madison Wimmers, World Organization for Animal Health (WOAH, formerly the OIE), Joe Simmonds-Issler, Coalition for Epidemic Preparedness Innovations (CEPI), Irina Albrecht, 1540 Committee, and Sergey Zinoviev, Organization for Prohibition of Chemical Weapons (OPCW) [Wednesday morning]; and Dumisani Dladla, Arms Trade Treaty (ATT) secretariat, Dimo Calovski, UN Conference on Trade and Development (UNCTAD), and Tak Mashiko, Conventional Arms Branch, UN Office for Disarmament Affairs (UNODA) [Wednesday afternoon]. The major element of each of the panels was management and financing of ICA activities.

Substantive issues and key questions

[*Note: this reporting includes substantive points from the first three days of the WG. Issues specific to the proposed mechanism will be covered in the next report.*]

There is greater common ground than there was in past years for many of the issues related to ICA, building on the broad agreement on the possible ways forward in this issue area during the Ninth Review Conference (2022). There was considerable convergence of perspectives expressed in descriptions of some of the challenges of dealing with infectious disease in circumstances where available resources and know-how are limited. There were many references to COVID-19 pandemic experiences. At the same time, there remain significant divergences of views relating to the extent of the role of the BWC in ICA, especially around the desirability of a dispute resolution element. These divergent positions have been strongly held for a long period on each side of the debate.

One of the key questions is where the BWC might find its niche amongst other related bodies. A number of interventions considered how BWC ICA activities could fit into the existing panoply of related programmes of other global and regional bodies, not to mention bilateral programmes. There were many concerns raised about overlap with other bodies, primarily to avoid duplication of activities and inefficiencies in use of precious resources. There was also a question of whether other entities have crept into areas that might have been expected to be filled by the BWC but which had remained vacant by the BWC because of its lack of an institution. As the Chair noted, nature abhors a vacuum.

There was broad support for some form of new fund. Perceived advantages and disadvantages of different financing models were expressed. Having funding from the regular budget of an agency can provide consistency, predictability and sustainability. A fear with any voluntary fund is that it is established but attracts minimal donations. [Note: funding from an entity's regular budget brings with it difficult budget decisions through international policy processes and the history of the BWC is littered with late-night meetings having difficulty in reaching consensus on budgets. While voluntary funding alleviates pressure on multilateral policy processes, this has the disadvantage that each donor has to decide on how much to offer. Moreover, negotiations between foreign ministries and finance ministries within individual governments about voluntary funds can be more difficult than getting agreement for payment of an assessed contribution.]

Appropriateness and sustainability of assistance was raised. One example cited was the mismatch of building diagnostic laboratories in low-resource settings that had been designed to operate in higher-income countries. This has prompted initiation of a 'Grand Challenge for sustainable diagnostic laboratories'.

Measures other than the proposed mechanism

The remit for topic (a) is about measures, which includes the proposed mechanism to be discussed on Thursday. While the mechanism has been the focus of many interventions, there are measures beyond the mechanism. Some delegations see a mechanism in the context of an 'action plan' which might include other commitments. There was encouragement for more participation in submission of reports on Article X activities, including from recipient countries, in order to share experiences. Potential benefits of further development of guidelines or templates for such reporting were noted. Support was expressed for improvement to the existing Article X database. A number of delegations highlighted the use of other resources such as the proposed SecBio platform.

Some untackled questions

There was a clear sense from many interventions in the plenary and many conversations with delegates in the corridors that what is happening with ICA is not considered effective enough. But how should effectiveness be defined in this context and who evaluates it? While this may seem like a conceptual discussion, it might be useful to frame understanding – even if boils down to the simple question of what would a 'successful' implementation of Article X look like. The tone of the discussion illustrates that simply doing more of what is being done now under the BWC would not be considered enough. Following this argument to its logical conclusion, there has to be some difference in character for future activities, and so this question is key – what would those changed characteristics be? Another aspect that was not discussed represents a significant challenge. Those panellists that provided information about their major sources of funds showed very similar lists of donors. There is a very real prospect that enhanced ICA activities under the BWC may simply result in the same funding achieving the same outcomes that it would have done before, but being channelled through this new route. Consideration of ways of increasing available funds in this area may be productive.

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Friday 11th August 2023

A possible mechanism for international cooperation and assistance/Article X

Thursday, the fourth day of the Second Session of the Working Group (WG) on the strengthening of the 1972 Biological and Toxin Weapons Convention (BWC/BTWC), was devoted to discussions relating to a possible mechanism for international cooperation and assistance (ICA). Paragraph 18 of the Final Document of the Ninth Review Conference reads: ‘The Conference decides to develop with a view to establishing a mechanism open to all States Parties to facilitate and support the full implementation of international cooperation and assistance under Article X. In order for this mechanism to be established, the Working Group on the strengthening of the Convention will make appropriate recommendations.’ The discussions on Thursday were therefore of a slightly different nature than the three previous days which had been discussing ‘Measures on cooperation and assistance under Article X’.

The day was mostly held in plenary session except for about one hour in the morning for informal consultations. Towards the end of the afternoon, the plenary heard a report back from the facilitators who have increasingly been referred to as ‘Friends of the Chair’ (FoCs) – the terms are essentially interchangeable. It is clear from the FoC briefing and from conversations with delegates how much work remains to be done and, as the old saying goes, ‘the devil is in the details’.

There have been a number of working papers submitted that have put forward points about an ICA mechanism. The three referred to most often in plenary were WP.1 by ASEAN, WP.3 by the USA and others, and WP.13 by Pakistan. The official webpage for the Second Session can be found at <https://meetings.unoda.org/meeting/67451>. Official BWC documents are also available via <https://documents.un.org>.

Substantive discussions

Much of the substantive discussion reflected points made earlier in the week about the challenges that can be responded to through ICA. Additional points raised included an observation that, if efforts to counter global biological threats are hindered by lack of capacity because of lack of resources, then this could be seen as a failing of the BWC.

Points on the pros and cons of different financing models (assessed vs voluntary) were repeated with the suggestion that different routes for funding could be used for different purposes.

A considerable number of interventions discussed aspects of the political structures needed for oversight of an ICA mechanism. The two models previously proposed – a small selected committee/group or a body composed of all states parties – each received expressions of support. Proponents of the smaller group approach did not appear to hold strong views on how many members this should have and a range of numbers were put forward. There was a greater divergence over how the membership might be selected. Since its entry into force, the BWC has used three regional groups for coordination and for administrative purposes such as nominating office holders. The formal titles are quite long but can be summarized as the western group, the eastern group and the non-aligned group. In most multilateral bodies, there is a UN system of five groups based on geography. Noting that ICA challenges for Africa, for example, had

some different characteristics than, say, Latin America and the Caribbean, there were some advocates for using the UN regional groups as the basis for selection. Others expressed support for keeping with past BWC practice. At the Ninth Review Conference (2022), Russia withdrew from the eastern group and declared itself to be a ‘group of one’.

There was a suggestion that care should be taken to ensure that the mechanism was only implementing activities related to Article X. This prompted responses that there were common aspects with other areas such as Article VII that were important.

Briefing from the facilitators/FoCs

JJ Domingo (Philippines) and Trevor Smith (Canada) briefed the plenary on their progress thus far. They noted that some of the positions put forward are difficult to reconcile but many of them enjoy a significant measure of convergence. They offered a snapshot of where discussions might be moving toward, based on their consultations. They suggested that there might be an open-ended ICA committee and a 15-strong steering group to operate on the basis of consensus. Steering group membership would be allocated through the BWC groups but reflect geographical representation. The cost of the steering group and of related support provided by the BWC Implementation Support Unit (ISU), including increases in staff numbers, would be financed by assessed contributions from states parties. The mechanism would include a ‘results-oriented’ action plan to provide guidance for identification and development of possible projects or other activities and reflect gaps and needs identified through enhanced Article X reporting guidelines and standards. There would be an ICA fund contributed to by states parties and other actors in a position to provide financial resources, to which all states parties could apply for project funds. The steering group would have a role facilitating consultations between donors and those requesting assistance. This would include use of the Article X database.

As might be expected at this stage of discussions, there were expressions of support from delegations for elements of what was put forward by the FoCs, but no outright endorsement. There were strong expressions of desire to see a paper from the FoCs, presented on a ‘food for thought’ basis, but there remained some question as to what the best way to do this might be. The first suggestion was to append the FoC paper to the procedural report but others responded that having anything other than factual material within that report could lead to long discussions. Another suggestion was to circulate it as a conference room paper, commonly known as a CRP. The Chair of the Working Group, Ambassador Flávio Damico (Brazil), noted that delegations would want to know that a FoC paper did not have the same status as a working paper submitted by a state party, for example. [Note: this challenge of finding an appropriate way of recording how ideas have developed in issue areas under ongoing discussion has appeared in many multilateral forums with no uniform practice emerging. The routine rotation of postings for delegates means that the personnel dealing with an issue such as the BWC undergo frequent changes, and as the Tenth Review Conference approaches, there will be many new delegates who would benefit from being able to find documents that illustrate the development of the issues they are dealing with. CRPs have an unfortunate tendency to be lost from the record over time. Practice in the Ad Hoc Group, the last active negotiating forum within the BWC, was for FoCs to be able to issue working papers in their own right. This had been introduced, in part, so that FoCs would not have to get approval from their capitals for putting their country name on a paper, something most governments have strict rules about. For example, BWC/AD HOC GROUP/WP.150/Rev.1 (24 March 1997) and WP.259 (12 January 1998) were both submitted by the Article X FoC to the Ad Hoc Group.] It is reasonable to expect that there will be FoC papers within each of topics allocated to the Working Group in this session as well as in the coming years and developing a consistent practice for handling them will be to the benefit of current and future delegates.

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Wednesday 16th August 2023

Working Group discussions on scientific and technological (S&T) developments

The Working Group (WG) on the strengthening of the 1972 Biological and Toxin Weapons Convention (BWC/BTWC) completed three days of discussion on Tuesday on ‘Measures on scientific and technological developments relevant to the Convention’. Although the topic was measures, much of the discussion was on the possible mechanism and on S&T areas of relevance to the BWC. As Wednesday is allocated for discussion of a possible mechanism to enhance implementation of the review of S&T developments, some of the points made specifically on issues around a mechanism will be held over to the following report.

To assist with discussions, Grisselle Rodríguez (Panama), Peter Ahabwe/Musa Kwehangana (Uganda), Vincent Bodson (Belgium) and Ljupčo Gjorgjinski (North Macedonia) have been appointed as facilitators/Friends of the Chair (FoCs) on these issues; the last of these was also a facilitator in this issue area during the Ninth Review Conference (2022). A working paper submitted by North Macedonia at the closing of the Review Conference (BWC/CONF.IX/WP.65) was cited by many delegations as a basis for future work on the possible mechanism. The FoCs produced a ‘food for thought’ paper which was circulated during Tuesday morning that drew from that working paper.

There have been a number of working papers submitted to this session of the Working Group that have highlighted S&T developments relevant to the BWC. The three referred to most often in plenary were WP.4 (US), WP.8 (UK) and WP.12 (Iran). Those focused on the possible mechanism will be cited in the next report. The official webpage for the Second Session can be found at <https://meetings.unoda.org/meeting/67451>. Official BWC documents are also available via <https://documents.un.org>.

There were long pauses during the plenary as there was more time available than requests for the floor and so some of the time was used to carry out further informal consultations. One NGO requested the floor and was allowed to speak at the end of the proceedings for the morning meeting on Monday. To save time later in the week, part of the time on Monday afternoon was used to further examine the draft procedural report.

Panel discussions and technical presentations

Discussions on this topic were started on Friday morning with panel presentations. These were given by John Reeder, World Health Organization (WHO); Sarah Clapham, Organization for the Prohibition of Chemical Weapons (OPCW); Peter McGrath, The World Academy of Sciences (TWAS)/InterAcademy Partnership (IAP); and Madison Wimmers, World Organization for Animal Health (WOAH, formerly OIE). There was a technical presentation on Monday afternoon by Sayed Ashraf, International Atomic Energy Agency (IAEA). A panel on Tuesday morning consisted of Maricela Muñoz and Martin Müller, Geneva Science and Diplomacy Anticipator (GESDA); and Nicolas Seidler, Geneva Science-Policy Interface (GSPI). Each time there were opportunities for questions, much of which were taken up with how topics were selected for examination, how those giving advice were selected or appointed, and how advice processes were funded. These fed into discussions on the possible mechanism.

Substantive points

As well as discussion around the panels and presentations, there were many statements and interventions by delegations from the floor over the three days. There was widespread recognition in the large amount of work on S&T issues that had been carried out previously, culminating in the work of the last Review Conference. Of the measures discussed that were not the possible mechanism, the most prominent was codes of conduct. There were many references to the Tianjin guidelines.

While much of the discussion related directly to the possible mechanism, the overarching principles of S&T advice were also discussed. There were many statements suggesting that any form of scientific advice needs to avoid politics. [Note: one of the challenges of science advice within governance processes has been the provision of advice that is appropriate to the policy context without being active within political discussions. Many of the challenging decisions within the BWC context are at the confluence of economic, legal and political issues as well as scientific or technical ones. It is rare for a decision to be exclusively on S&T grounds.] There were many references to the need for independence of advice, and for advice to be drawn from a diverse array of sources. It was also noted that there was a need for any policy processes receiving advice to be able to make use of the advice for practical action.

There were a number of overlaps or synergies identified with other aspects of BWC. The need for an understanding of the changing S&T context in order for national implementation measures to be kept up to date was recognized. This also applies to any multilateral arrangements that might be adopted in the future in relation to compliance and verification measures to strengthen the BWC. However, the aspect of the BWC that drew the most attention was that of interactions with the issues of international cooperation and assistance (ICA) – the topic of much of the first week of the Working Group. The need for any S&T arrangements under the BWC to examine benefits as well as risks was emphasised by many delegations. Just as in the first week, there were questions raised about where the BWC should find its ‘niche’ in relation to other international bodies that also have arrangements for coordinating or providing S&T advice. The practical overlap with the OPCW where there are toxins that fall within the definitions of what is controlled by the BWC and by the Chemical Weapons Convention (CWC) was noted.

Themes of S&T developments

In understanding the issues of how to handle the dual-use nature of S&T developments in order to manage the risks while harnessing the benefits, a number of themes were referred to. This included new technological possibilities, but also a recognition that many formerly expensive activities can now be carried out at a fraction of the previous cost. This means that biological techniques are being adopted across more sectors of industry. It also makes some biological techniques available to people to carry out their own experiments. There were reminders that the BWC is concerned not only with weapons that could be used against humans, but also against animals and plants. This meant that S&T developments relevant to all of these need to be monitored.

Examples were cited in which advances in disciplines outside of the life sciences can change aspects of risks and benefits within the areas relevant to the BWC. The most often cited of these was that of artificial intelligence (AI). There were positive aspects noted in which AI tools could be used to find new and cheaper paths to developing novel therapeutic drugs with the negative aspects that these could also find new and cheaper paths to make pathogens (disease-causing micro-organisms) more infectious or more resistant to treatments. Another positive noted from AI was its potential contribution to other systems such as disease detection and surveillance where new tools for pattern recognition may identify signals of possible outbreaks earlier than is currently possible.

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Thursday 17th August 2023

Discussions on the possible S&T developments review mechanism

The eighth day of the Second Session of the Working Group (WG) on the strengthening of the 1972 Biological and Toxin Weapons Convention (BWC/BTWC) was dedicated to discussions of a possible mechanism to review scientific and technological (S&T) developments relevant to the BWC. Discussions also drew upon the proceedings of the previous three working days on ‘Measures on scientific and technological developments relevant to the Convention’ some of which have been already reported on in this series.

In addition to allocating seven broad topics to the WG, the Ninth BWC Review Conference (2022) also asked it to look at two possible mechanisms – one on international cooperation and assistance (ICA) and one on the review of S&T developments. Paragraph 19 of the final document of the Review Conference reads: ‘The Conference decides to develop with a view to establishing a mechanism to review and assess scientific and technological developments relevant to the Convention and to provide States Parties with relevant advice. In order for this mechanism to be established, the Working Group on the strengthening of the Convention will make appropriate recommendations.’

A number of working papers have been submitted to this WG session of the Working Group that discuss the possible BWC S&T review mechanism. The three referred to most often in plenary were WP.9 (UK), WP.16 (Russia) and WP.19 (Iran). The official webpage for the Second Session that hosts statements and documents can be found at <https://meetings.unoda.org/meeting/67451>. Official BWC documents are also available via <https://documents.un.org>.

There were no concrete recommendations from the discussions on Wednesday. While progress was made in clarifying some areas, too many details remained where common ground had not been found. There were also political linkages with other issues, discussed overleaf, that need to be taken into account. Towards the end of the day, the team of facilitators/Friends of the Chair (FoCs) that had circulated an informal ‘food for thought’ paper during Tuesday, indicated that the paper would be circulated as a CRP document without any substantive changes. They also indicated they would continue their facilitation role between the formal WG sessions.

Aspects of the possible S&T review mechanism

It was noted there were many other international bodies with advisory mechanisms and that the BWC might be seen as lagging behind. However, there are aspects on which agreement would need to be found before any BWC mechanism could be adopted.

Structure – while there are still proponents for the models of either a limited-membership committee/board or of a body open to all states parties, a considerable majority of interventions during this session that expressed a preference spoke in favour of a hybrid model containing elements of the two. Some outlined how elements within a hybrid system might interact with each other, and with any temporary working groups (TWGs) that might be asked to closely examine particular issues. While there were many similarities, there were also a number of differences, particularly when it came to how the mechanism would interact with other policy processes such as the annual Meeting of States Parties (MSP) or the five-yearly Review Conference. Desires have been expressed

for any mechanism to be inclusive as well as to be agile in responding to rapid developments, a challenging combination.

Appointment criteria – whatever the size of a limited-size board or committee, there will be a need to establish criteria for who might be selected to join it. It was recognized that experts should be acting in an independent capacity, as is standard in other comparable arrangements. There was broad agreement that there needed to be a balance of scientific disciplines represented and that the individuals appointed had an appropriate gender and geographical balance between them.

Scope – the overall range of topics that a BWC S&T advisory process might examine is the subject of some divergences of perspectives. Discussions with delegates in the corridors outside of the plenary meeting room suggest that this is more to do with finding a particular niche which doesn't duplicate the work of other bodies than any matter of principle. One suggestion was whether the mechanism should start its work by doing an initial review of the S&T context relevant to the BWC, which might take time, before examining individual topics.

Selection of topics – how topics might be selected for consideration will be connected with the structure adopted. An open membership group, as it would have representation from all states parties, could set its own agenda. However, some delegations would prefer such agenda setting to be taken at a higher political level such as through an MSP or Review Conference. Arrangements for setting the agenda for a smaller body or for TWGs would also have to take into account financial issues.

Outputs and reporting – the forms of output from the possible mechanism has received less attention than the time spent discussing how the mechanism might be structured. From corridor discussions, it is clear that many delegates want arrangements where *outputs* from the review mechanism can be turned into practical *outcomes* which deliver real progress in managing risks of developments in the life sciences and harvesting benefits. However, there is no clear common ground on how this might be achieved.

Oversight – the question was raised as to whether an annual dedicated meeting open to all states parties to talk about the activities of the mechanism would be adequate for oversight or would this be better feeding into an MSP or Review Conference. Part of this resonates with past divergences of views on whether the Review Conferences are the only BWC body empowered to take decisions. The gap between Conferences is seen by many as too long to be able to guide any mechanism in an agile manner.

Funding – the funding issues around the possible S&T review mechanism are much less stark than those around the possible ICA mechanism. In part this is because there are primarily administrative costs here and the major cost of the ICA is funding for projects. For meetings of an open body with all states parties able to attend the costs would be likely to fall into place in the same way they did for MXs – costs of meeting room provision and conference services such as interpretation would be likely to be taken out of assessed funds with delegations paying their own travel and accommodation costs for attending. For meetings of a smaller group, it might be considered discriminatory if members selected (or their countries) had to cover all of their costs as this would privilege representation from countries more able to handle the resource implications.

Linkages to the ICA debate

In recent years there have been political linkages made between the debates on S&T developments and on ICA. These are more to do with the history of political debates within the BWC than any specific connection between the two. The linkages are particularly marked in relation to the possible mechanisms in each area. Each of the mechanisms has distinct but overlapping purposes and each could be considered a significant addition to implementation of the BWC on its own merits. Yet the historical linkages mean that it is difficult to conceive of one being adopted without the other.

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Thursday 30th November 2023

National implementation discussions and adoption of the WG2 report

The last two days (17 and 18 August, the ninth and tenth days) of the Second Session of the Working Group (WG) on the strengthening of the 1972 Biological and Toxin Weapons Convention (BWC/BTWC) were devoted to the subject of ‘Measures on national implementation of the Convention’ [topic (e) of those allocated to the WG] and to the adoption of the report of the Second Session.

The second day of these discussions coincided with activities to commemorate World Humanitarian Day which fell on the day after, Saturday 19 August. The Friday therefore started with a minute’s silence and at the end of the day some delegates participated in a memorial event in honour of UN workers who died on duty that was held outside of the room the WG was meeting in – Salle XIX – as that is the location of the memorial plaques in the Palais des Nations. A number of BWC WG participants had friends or colleagues who were commemorated in the memorial event.

The official webpage for the Second Session that hosts statements and documents can be found at <https://meetings.unoda.org/meeting/67451>. Official BWC documents are also available via <https://documents.un.org>.

Panel discussions and technical presentations

The proceedings on the national implementation topic started on Thursday with a panel discussion focused on the experiences of four states parties with presentations given by Melanie Reddiar (South Africa), Song Yajun (China), Peter Ahabwe Babigumira (Uganda) and Somsanouk Keobounsouk (Lao PDR). Points raised during this panel included distinctions between creating a comprehensive policy framework, a legislative framework and a regulatory framework as all are needed for effective national implementation. The importance of addressing both traditional and non traditional security issues was highlighted. The need for coordinated action between government ministries, departments and agencies was emphasised, together with cooperation with regional partners. The need for capacity building efforts where particular skill sets were not immediately available was noted. There were many questions posed from delegations.

Thursday afternoon started with technical presentations from Jun Xing (World Health Organization) and Irina Albrecht (1540 committee panel of experts).

Substantive points

The Thursday morning panel session was followed by a briefing from the BWC Implementation Support Unit (ISU) on its work to support national implementation. A number of activities were highlighted, including publication of an implementation guide that was now available in all UN official languages, convening of regional workshops, and compilation of compliance reports based on submissions from states parties. Delegations were reminded of the value of national contact points (NCPs), that many states parties had not yet identified an NCP and that there were benefits of regular NCP workshops.

There was considerable discussion on national implementation issues with many points covering common ground. Perhaps the best way to summarize this is to paraphrase the reporting back to the plenary from the facilitators/Friends of the Chair

(FoCs). Grisselle Rodríguez (Panama), Athikarn Dilogwathana (Thailand), Reski Ilahi (Indonesia), Faith Bagamuhunda (Uganda) and Michelle Carr (Australia) are the appointed facilitators/FoC for this topic. On Friday afternoon, the facilitators/FoCs provided a verbal briefing on what they had taken from the formal discussions in the meeting room and from their informal consultations. The following paragraph draws heavily from the FoC briefing but adds in some points raised elsewhere in the discussions.

There is clearly significant common ground expressed by delegations that full and effective national implementation is critical to the success of the BWC. Nevertheless, national implementation can be challenging as biological agents and toxins exist in nature and can often be of a dual-use character. The BWC contains obligations for implementation under Article IV to prohibit and to prevent biological weapons. While creation of such a prohibition may be fairly straightforward, the prevention aspect is understood to be more complex and challenging to implement. Many interventions highlighted that national implementation requires a holistic multi-sectoral approach at the national level however this brings its own challenges. Adoption of national implementation legislation and the creation of a national coordinating authority are important parts of this but can only be partial solutions to effective national implementation. There had been a number of interventions by delegations identifying a need for regular review of national implementation measures and of this being a continuous process of improvement. There are clear links between national implementation and other topics on the WG agenda. The connection to international cooperation and assistance, particularly in capacity building, was highlighted. The institutional deficit within the BWC means there has been a lack of a central implementing agency analogous to the OPCW in the chemical field or the IAEA in the nuclear field which has meant that there is no central focal point within the BWC for international assistance and capacity building. While the ISU can fulfil some of this role it has very limited resources much of which is dependent on voluntary contributions. The connection between national implementation and compliance and verification issues was highlighted.

There were no concrete recommendations from the discussions on Thursday and Friday. The FoCs indicated that they would circulate an informal ‘food for thought’ at a future stage and that they would continue their facilitation role between the formal WG sessions.

Adoption of the report of the second session of the WG

The WG adopted a report that was entirely procedural and which made no comment on substantive issues. The aspect of the report that took the longest to conclude was how, or even whether, the ‘food for thought’ papers should be referred to as they had been circulated as ‘conference room papers’. A range of perspectives were put forward. One was that CRPs only have a life within the conference room. Others suggested that they needed to be preserved in order that they could be built upon. One question raised was that if these papers have no status, why was so much effort put into preparing them and presenting them in the plenary? In the end a paragraph was agreed for the report that reads: ‘Following a preliminary exchange of views and to facilitate further discussions, the respective Friends of the Chair circulated the informal papers listed in Annex I (BWC/WG/2/CRP.2 and BWC/WG/2/CRP.5). The preparation and submission of those papers is without prejudice to the positions of delegations on the issues under consideration in the Working Group and does not imply agreement on the scope or content of the papers.’ [Note: CRP.2 is the food for thought paper on a possible international cooperation and assistance/Article X mechanism and CRP.5 is the food for thought paper on a possible science and technology review mechanism.]

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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.

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Tuesday 5th December 2023

Compliance and verification - setting the scene

The topic for the middle three days 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 compliance and verification'. This is topic (d) of those allocated to the Working Group.

The WG 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 2006 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.

The Chair of the Working Group is Ambassador Flávio Damico (Brazil) with Ambassador Camille Petit (France) and Irakli Jgenti (Georgia) as Vice-Chairs. To assist with discussions on the issues of compliance and verification, Alonso Martínez (Mexico) and Ambassador Robert Bosch (Netherlands) have been appointed as facilitators/Friends of the Chair (FoCs).

A number of working papers have been submitted to this WG session on the subject of compliance and verification. The official webpage that hosts statements and documents for this session can be found at <https://meetings.unoda.org/meeting/67453>. Official BWC documents (those with document symbols that start 'BWC/') are also available via <https://documents.un.org>.

Compliance and verification issues in context

While there is broad agreement that measures for verification and compliance of the BWC would strengthen the Convention, there is far less common ground on what specific measures should be adopted. While the focus for many states parties is on the security aspects of the BWC, there are others which press for measures to ensure compliance with all aspects of the Convention, including international cooperation and assistance issues under Article X. The verification and compliance issues had been the area in which there was the greatest divergence of views between states parties over the last two decades and there are many delegates who have clearly expressed a desire to make the most of the possibilities enabled by the evolution of the debate in this issue.

One of the challenges within the BWC is to be able to draw on lessons from the past without being drawn into hindrances from the political baggage from the history of the Convention.

When the BWC Group of Verification Experts (VEREX) examined verification measures to enhance the Convention in the early 1990s, the experts concluded that there was no single measure for effective verification and that an appropriate collection of measures would be needed. In the eyes of most analysts in the field, this conclusion remains valid.

During the VEREX process, there was no common definition of the terms ‘verification’ or ‘compliance’, a situation that remains today. This was not much of a hindrance as even if there was no common understanding of the term verification, there were many activities that could be identified as verification measures and which contributed to compliance, however it might be defined. In some ways it is like the challenge of putting a large number of people in a room and asking them to define what poetry is. Most participants would be able to produce examples of what they regard as poems but it would be unlikely that an overarching definition of poetry would encompass every example. This illustrates that it may be possible to agree on a collection of verification measures that receives common support, even if there is no precise common definition of verification.

The conclusion of the VEREX process led to agreement in 1994 on a mandate for what became known as the ‘Ad Hoc Group’ (AHG) tasked with negotiating a protocol to strengthen the BWC. Participants at the time described the negotiations as challenging. There is a current perception held by many that the negotiations for such a protocol were close to completion in 2001 but this does not tally with the historical record. There were two draft texts in circulation at the time when the USA effectively brought proceedings to a halt by declaring it could not support any conclusions from the AHG. These were the ‘rolling text’ BWC/AD HOC GROUP/56-I and the ‘composite text’ put together by the AHG Chair BWC/AD HOC GROUP/CRP.8. In the rolling text there were more than 1200 pairs of square brackets indicating text that was yet to be agreed. By rejecting the work of the AHG, the USA implicitly rejected both of these texts. The process for putting together the composite text had been rejected by a number of non-aligned states parties in their statement in BWC/AD HOC GROUP/WP.451 which noted that ‘wide differences continue to exist among delegations on several issues’ and called for the negotiation process to return to the rolling text. Both of the AHG texts embodied compromises made at the time in efforts to move towards consensus, but it seems unlikely that the logic of some of these compromises would be replicated in current circumstances.

Many delegations continued to press for verification, some vocally. Others desired some form of verification, but sensed political difficulties and so were not sure what to do next. This often led to examination of other options to build confidence in compliance and provide experience of exchanges of relevant information.

The debate on compliance moved forward with working paper BWC/CONF.VII/WP.11 submitted by Australia, Japan and New Zealand to the Seventh BWC Review Conference (2011) which contained a proposal for a working group to address compliance issues. This was followed by working paper BWC/MSP2012/WP.11 presented to the BWC Meeting of States Parties (MSP) the following year entitled ‘We need to talk about compliance’ submitted by Australia, Canada, Japan, New Zealand and Switzerland. Both papers focused on two key questions: ‘what constitutes compliance?’ and ‘how can states parties demonstrate compliance?’ These questions remain at the core of the contemporary debate on these issues.

A key turning point in the contemporary debate was the Jenkins statement given on the opening day of the 2020 Meeting of States Parties (MSP) – held in 2021 owing to the COVID-19 pandemic. Bonnie Jenkins, US Under Secretary of State for Arms Control and International Security, travelled to Geneva to give the US general debate statement in which she described the efforts to strengthen the Convention as ‘treading water’ for two decades and that new measures should be explored to include those which could ‘enhance assurance of compliance’. The process started by the Jenkins statement is what led to establishment of the current Working Group.

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Wednesday 6th December 2023

Working Group discussions on confidence-building and transparency

The Third Session of the Working Group (WG) on the strengthening of the 1972 Biological and Toxin Weapons Convention (BWC/BTWC) opened on Monday morning in Salle XVII in the Palais des Nations in Geneva. This is the circular meeting room below Salle XIX where most of the recent BWC meetings have been held.

The meeting was opened by the Chair Ambassador Flávio Damico (Brazil) who kept the opening formalities brief. He noted that nearly 60 experts present in the room had received support under the BWC sponsorship programme supported by the Implementation Support Unit (ISU). He thanked Canada, France, Republic of Korea, Spain, UK and the European Union for their financial support for the programme and the USA for providing bilateral support for experts from four developing states.

Before the start of the substantive discussions on the allocated topic of measures for confidence-building and transparency, the Russian delegation proposed a change to practice, suggesting that international organizations should only be allowed to address BWC meetings in an informal setting. Other than emphasizing the perspective that states parties should take precedence in BWC proceedings, no reason was presented for this suggested change. However, it may not be unconnected to the objections by Russia to the statement made by NATO during the Ninth BWC Review Conference (2022). Two interventions opposed the proposal by Russia and no other delegation spoke in favour of it. The Rules of Procedure used for BWC meetings have remained unchanged since the First Review Conference but practice under them has evolved over the years through a series of informal understandings. It is one of these understandings that has allowed for international organizations to address BWC meetings in a formal setting. It has long been recognised that it would be difficult to achieve consensus for any formal amendments to the Rules. No decision has been taken on the suggestion and consultations on the it are continuing.

Documents, statements and presentations are being posted to the official webpage for the Third Session at <https://meetings.unoda.org/meeting/67453>. Official BWC documents are also available via <https://documents.un.org>.

Panel discussions

The proceedings on confidence-building and transparency began with a panel discussion featuring Daniel Feakes (BWC ISU) and James Revill (UNIDIR). The first presentation gave an overview of the BWC system of Confidence-Building Measures (CBMs) and described how they had evolved over time. The second outlined some of the objectives or purposes of transparency measures that states parties had developed and then identified some measures that have been considered or could be considered to enhance transparency beyond those. This prompted an active Q&A session.

Substantive points

This summary includes some of the substantive points raised during the panel session. Additionally, as some time had been lost at the beginning of Monday, some statements on this topic were delivered on Tuesday. This summary covers statements made on each day.

Russia introduced working paper WP.4 which suggests amendments to the CBM forms, in particular on military biomedical activities conducted by states parties on the territory of other states and on animal vaccine production facilities. Many references were made to the situation in Ukraine, prompting many points of order and rights of reply.

Uganda introduced WP.7 on CBMs which includes a suggestion to harmonize CBM reporting with the cycles and formats of global health security assessments with the aim of easing the reporting burden for states parties. During discussion, other delegations noted that the use of data for more than one international arrangement would save resources. The themes behind this working paper were seen as beneficial to promoting 'one health' approaches

There was a strong emphasis that CBMs were not a substitute for verification, together with comments that noted that CBM-type information exchange would be an important contribution to any verification system. The need to match information being exchanged with the need for enhanced global security was highlighted. Some statements noted that even if CBMs were to be replaced by a verification system in the long run, it would still be worthwhile to consider them more carefully in the short term as any verification instrument might well take some years to negotiate and then further years before entering into force.

The nature of the obligation to produce CBM returns was raised, as is usual in discussions on this issue area. Some statements suggested that submissions were a voluntary activity with others stressing the politically-binding decision by consensus that all states should submit them. A new suggestion was made that the nature of the obligation could be clarified by making CBM submissions mandatory.

There were many expressions of appreciation for increased levels of assistance to states parties for preparation of CBMs and it was suggested that the rise in recent years of CBM returns, reaching the milestone of 100 this year, was more likely due to additional capacity-building assistance being made available than changes introduced by the Seventh BWC Review Conference (2011). There has been a rise in submissions from African states parties, possibly connected with programmes such as the Signature Initiative.

There were suggestions that the CBM process needed to be more user friendly. The ISU noted that the electronic platform for CBM submissions was being updated.

A number of delegations encouraged their counterparts to make their CBM returns public and suggestions were made that some form of central analysis could be carried out on the CBM returns.

One new aspect of this Working Group session is the presentation of statements by Nigeria on behalf of the African Group. While this isn't an official group within the BWC, it is a coordination arrangement within a variety of other international bodies in Geneva. That the Group is becoming active within the BWC can be taken as an indication of increasing attention to the Convention across the continent.

At the end of these discussions, the Friends of the Chair for this topic Angel Horna (Peru) and Laurent Masméjean (Switzerland) offered a few comments on what they regarded as takeaways. They noted that the discussions had shown that confidence building and transparency activities had performed a number of important functions under the Convention and that they have proven their worth is widely acknowledged. CBMs should be preserved if not improved upon. Harmonization with other reporting could be beneficial. There would also be value in exploring whether and how transparency measures could contribute to advancing other topics discussed by the Working Group. They noted that there had been a large number of proposals and comments and that they intended to provide some structure to these contributions so that they can be taken forward in an efficient and organized manner in 2024.

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Thursday 7th December 2023

Organizational, institutional and financial aspects - setting the scene

The topic for the final day of the Third Session of the Working Group (WG) on the strengthening of the 1972 Biological and Toxin Weapons Convention (BWC/BTWC) is scheduled to be ‘Measures on organizational, institutional and financial arrangements’. This is topic (g) of those allocated to the WG. To assist with discussions on this topic Husham Ahmed (Pakistan), Ambassador Ichiro Ogasawara/Shigeru Umetsu (Japan) and Arsen Omarov (Kazakhstan) have been appointed as facilitators/Friends of the Chair.

Discussion of this topic comes at the end of an active week of the WG which has been meeting in Geneva for its Third Session during 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 2006 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 (2022). Reports in this series from those meetings, together with reports from BWC meetings since 2006, are available from the links provided overleaf.

This topic is very broad as it underpins many other aspects of possible measures to strengthen the Convention, not just compliance and verification. For example, a central focal point with sustainable funding could support international cooperation and assistance activities in relation to Article X and beyond, support the review of scientific and technological (S&T) developments, provide support for national implementation, and enhance assistance, response and preparedness to biological threats. However, it may be difficult for discussion of this topic to engage with all of the implications of these issues until further progress has been made on the other topics.

The meanings of the terms ‘organizational’ and ‘institutional’ have considerable overlap in English. However, the terms have greater distinction in some other languages. Discussions with delegates in the corridors outside of the meeting room suggest that many see the ‘organizational’ thread of this topic to be related to decision-making arrangements and the ‘institutional’ thread to be related to what form of entity (and its roles and responsibilities) would be most suitable to strengthen the Convention. While there are other interpretations of the distinction, this is the one this daily report will be based on. It is a useful reminder that the BWC is a multilingual forum.

Organizational arrangements

Whatever form of institution might be at the centre of any new arrangements to strengthen the BWC, there will need to be political oversight in one form or another. How this is organized will be key to many delegations.

This sub-topic is also a logical place in which to have discussions about the organization of the WG and what form of output should be agreed by the WG to be presented to the Tenth BWC Review Conference (or a Special Conference if the timing is more appropriate) which would then presumably be forwarded to a new negotiating forum established by that Conference. Corridor discussions suggest there is not yet a clear common view of what is the preferred form of output should be. Establishing some clarity about this might help focus discussions within the other topics being discussed by the WG.

Institutional arrangements

The institutional deficit within the BWC has been long recognized, but perspectives on how this should be resolved have varied significantly over the years. Institutional strengthening of the Convention was the topic for Meeting of Experts MX5 in the last intersessional programme of work. In part this was because it could be a starting point for discussing what form of institution might be useful for making the BWC more effective.

Over the years there have been a number of proposals for an institution analogous to the Organization for the Prohibition of Chemical Weapons (OPCW) established under the Chemical Weapons Convention (CWC). In addition, in September 2020, at the high-level plenary of the UN General Assembly, the President of Kazakhstan proposed the establishment of an International Agency for Biological Safety (IABS) which would be 'based on the 1972 Biological Weapons Convention and accountable to the UN Security Council'. Further details have been provided through a number of working papers, the most recent of which were to this session of the WG.

Another area where there has been some discussions over the years is the enhancing of the Implementation Support Unit (ISU). The ISU was established by the Sixth Review Conference (2006), replacing the ad hoc support arrangements for BWC meetings and taking on the the UN Office for Disarmament Affairs (UNODA) functions in relation to the BWC such as the processing of CBM returns from states parties. If the WG were to recommend negotiations on a new institution to replace the ISU, it would take some years before the negotiations were concluded and further years before any agreed instrument entered into force. The ISU has considerable support and would be expected to have the duration of its mandate extended while those negotiations were taking place. Moreover, preparations for such negotiations may identify appropriate expansions to the mandate of the ISU to take on additional tasks identified as useful to strengthen the BWC in the interim and to assist in the transition to the new institution.

Financial arrangements

The MSP to be held next week will be discussing the short-term issues of financing, while the WG will be looking at the longer-term issues. However, it can only do so if there is a clear understanding of the current financial situation.

Over the last decade or so, the BWC has gone through considerable financial difficulties that were caused by arrears in payments by states parties of their assessed contributions. While the situation has improved overall there are still a number of challenges. When the Chair of the MSP this year, Ambassador Cristian Espinosa Cañizares (Ecuador), wrote to states parties on 29 September in preparation for the meeting, he noted 'the fact remains that a significant number of States Parties have still not paid their assessed contributions for 2023, and many also have outstanding amounts owed for previous years. Full and timely payment of assessed contributions is necessary in order for us to conduct the activities that we agreed to at the Ninth Review Conference. I would therefore like to encourage all States Parties to fulfil the obligation to pay their assessed contributions for 2023 in full as soon as possible, and to request any States Parties with outstanding contributions from earlier years, to clear them as soon as possible.' The financial situation of the Convention has improved in part because of an improved rate of payment of assessed contributions and some payment of arrears but also because of a set of financial measures adopted at the 2018 MSP which included the establishment of a Working Capital Fund (WCF).

Many of the subject areas being considered by the WG have considerable financial implications and these will need to be examined. If the WG recommends the establishment of some form of negotiations these themselves will be costly and so the implications of these will need to be evaluated.

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Friday 8th December 2023

Working Group discussions on compliance and verification

Tuesday morning of the Third Session of the Working Group (WG) on the strengthening of the 1972 Biological and Toxin Weapons Convention (BWC/BTWC) started with the topic of ‘Measures on compliance and verification’. Discussions on this topic continued as scheduled up to the end of Thursday.

To assist with discussions on the issues of compliance and verification, Alonso Martínez (Mexico) and Ambassador Robert in den Bosch (Netherlands) have been appointed as facilitators/Friends of the Chair (FoCs).

The official webpage for this session that hosts presentations, statements, documents and details of side events is at <https://meetings.unoda.org/meeting/67453>. Official BWC documents are also available via <https://documents.un.org>.

Panel discussions and working papers

Each of the three days on this topic began with a panel discussion. On Tuesday the theme was reflections on past compliance and verification discussions. On Wednesday the theme was other international bodies with verification arrangements. On Thursday it was on scientific and technical issues related to verification. Each prompted an active Q&A session. As the panel members will be listed in the procedural report of the third session, space will be saved by not also listing them here. Most panel members have provided copies of slides or speaking notes that have been posted on the website.

Working papers submitted to this session relevant to this topic include: WP.5 (Russia), WP.6 (UK), WP.8/Rev.1 (Denmark, Kenya, Malawi, Montenegro, Norway, Panama, Singapore, Thailand and Uruguay), WP.9 (USA), WP.10 (China), WP.11 (Iran), WP.13 (Russia) and WP.14 (Panama).

Substantive points

This summary includes some of the substantive points raised during the panel sessions, in working papers or in interventions from the floor. Much of the discussion is in the early stages of conceptual thinking and many questions were raised about what is meant by the terms compliance and verification. This is healthy as they are inter-related concepts that can be viewed from a variety of perspectives. It is inevitable that any progress on strengthening the BWC will rely on reaching at least a broad common understanding of what is desirable to be achieved in these areas. There was recognition that a topic that had been difficult to discuss for two decades could only make so much progress in three days.

Conceptual scope – There were many suggestions. One example was that compliance is the goal and verification is the method for reaching it. Another was that compliance is an obligation and verification is a way to check compliance is taking place. Some parts of this were posed as simple questions such as: ‘what do we want to verify?’ or ‘who should verify?’ – questions that are simpler than the possible answers. The FoCs, in delivering their reflections at the end of Thursday, suggested two questions: ‘what are the scope and purpose of the concepts of verification and compliance with regard to the obligations under the Convention?’ and ‘what process is required to identify, examine and

develop specific and effective measures related to compliance and verification within the context of the Convention taking into account the historical context as well as technological advancements?’

Ideal vs pragmatic – It was noted that there might be a gap between ideal technically feasible arrangements and what might be diplomatically possible. Nonetheless there should be scientific and technical input into any compliance and verification arrangements. The FoCs suggested three criteria for any new arrangements: ‘politically palatable’, ‘technologically feasible’, and ‘financially viable and sustainable’.

Purpose of verification – Questions were raised as to whether verification was intended to allow states parties to demonstrate compliance, to provide assurance of compliance by other states parties, to deter non-compliance, or a combination of these.

Verification elements – There was a broad acknowledgement that there was no single verification technique that could be relied upon and that a combination of measures would be needed. Only one verification tool was specifically spoken against by one delegation and that was the role of routine on-site inspection of industry. Other delegations spoke in favour of this tool.

Biological uniqueness – The particular challenges of dealing with living organisms were highlighted as reasons why biological controls require different characteristics to their equivalents for chemical or nuclear and so, therefore, it was not possible to ‘cut and paste’ measures from other regimes. That was not to say there weren’t lessons to be learned, such as the way verification of nuclear testing brings together data of very different technical origins to reach any conclusions.

History – Many delegations spoke positively of the VEREX process and the report resulting from it. While there were many comments on advances in technologies and techniques since then, there seemed to be little emphasis on comprehensively revisiting the VEREX process. On the status of the texts from the Ad Hoc Group, there were a few calls to return to these as a starting point for negotiation. There were also more nuanced suggestions to review the elements of the draft protocol texts to see what could be useful in the current context rather than simply returning to the protocol as a whole. Others expressed a preference for starting with a clean slate. It was noted that any negotiations would end up with some past elements and some modern elements in any case. It was suggested that part of the challenge of developing a road map for the WG and any follow-on measures was that there was not yet an agreed starting point nor end point.

Contextual changes – Changes noted over the past two decades included: rapid advances in the life sciences; lessons learned from the disruption caused by the COVID-19 pandemic (including a heightened awareness of societal vulnerabilities to biological events); and lessons learned from other weapons control regimes.

Legally binding – There wasn’t any statement suggesting there was no need for any legally binding measures, but there were variations of views as to whether all measures should be legally binding or whether just a core needed to be so, with additional measures having other characteristics. It was highlighted that there was a danger of seeing this as a binary option between legally binding and non-legally binding.

WG outputs – There was little discussion about how the WG would present its conclusions. Ambassador Flávio Damico (Brazil) indicated that his intention was to be in a position where he could formulate recommendations on compliance and verification before his term of office as WG Chair was complete in 2024. The FoCs suggested that the following question should be considered: ‘what process is required to identify, examine and develop specific and effective measures related to compliance and verification within the context of the Convention taking into account the historical context as well as technological advancements?’

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Monday 11th December 2023

WG discussions on organizational, institutional and financial arrangements and adoption of the WG3 report

Friday, the final day of the Third Session of the Working Group (WG) on the strengthening of the 1972 Biological and Toxin Weapons Convention (BWC/BTWC), was devoted to the topic of ‘Measures on organizational, institutional and financial arrangements’. To assist with discussions on this topic Husham Ahmed (Pakistan), Ambassador Ichiro Ogasawara/Shigeru Umetsu (Japan) and Arsen Omarov (Kazakhstan) were appointed as facilitators/Friends of the Chair (FoCs).

The official webpage for this session that hosts presentations, statements, documents and details of side events is at <https://meetings.unoda.org/meeting/67453>. Official BWC documents are also available via <https://documents.un.org>.

ISU presentation

Rather than start with a panel discussion, as the topics had started on each day earlier this week, the substantive part of Friday started with a presentation by the Implementation Support Unit (ISU). ISU Chief Daniel Feakes reminded delegates that the ISU was a recent innovation having been founded by the Sixth BWC Review Conference (2006) with some additions to its role being decided by the following conference in 2011. The legal position is that it requires a decision at each Review Conference for it to continue. The ISU started with three staff, which was increased to four following a decision at the Ninth BWC Review Conference (2022). The ISU is paid for from assessed contributions to the BWC and receives no income from UN funds. There is funding from voluntary contributions that allows for additional activities that fall outside of the regular ISU budget, such as support for the Article X database and the sponsorship programme. While the voluntary contributions are valuable, more predictable core funding would allow for further additional activities such as capacity-building.

Many delegations from across the geographical regions took the floor to express support for the ISU. Some highlighted the challenges of funding and suggested that the ISU should be put on a permanent footing. A related suggestion was for the ISU to continue until any specific Review Conference decision to disband it or replace it.

Substantive discussions

As with earlier topics, delegations that had submitted relevant working papers were encouraged to introduce them at the beginning of discussions.

Kazakhstan introduced two papers, WP.1 and WP.2, that relate to its proposal for an International Agency for Biological Safety. The first is an update to the concept paper that has taken into account consultations with other stakeholders. The second contains elements that might be included in the legal arrangements for such an agency. In response, other delegations took the floor and provided broad expressions of support for the initiative – either for the proposed agency itself or for the opportunity it provided to discuss what form of institution would be useful for the BWC in the future. Some

interventions raised concerns about whether such the proposed agency might duplicate other activities. Differing perspectives were expressed over the role of the UN Security Council in overseeing the proposed agency. As with ISU discussion, delegations from across the geographical regions took part in the discussion of these two working papers.

In the broader debate that followed, it was noted that the BWC was the only treaty prohibiting a category of weapons of mass destruction that did not have a permanent institution. Other than the Kazakh proposal, there were no specific structures suggested. The phrase ‘form should follow function’ was used a number of times in this context as well as the suggestion that any institution within the BWC must be a means to an end, not an end in itself. Questions were raised on what role the ISU or any new body would have in support of the two proposed mechanisms on international cooperation and assistance and on reviewing scientific and technological developments. Some delegations noted there needed to be some near-term and medium-term decisions on institutional arrangements. There were calls for staffing of any institution to have a fair geographical and gender balance and calls for any BWC institution to mainstream gender policies.

There were calls for finances for BWC activities to be more predictable. A number of interventions urged states parties to pay their assessed contributions in full and in a timely manner. It was noted that every proposal for new activities has a price tag. The three criteria for any new compliance and verification arrangements suggested by the Friends of the Chair for that topic – ‘politically palatable’, ‘technologically feasible’, and ‘financially viable and sustainable’ – were cited under this topic.

In line with the emerging practice, the Friends of the Chair provided some thoughts on how discussion on the topic was developing. They noted that they saw their role for this topic to be to ease discussion. Without any intention to presuppose the outcomes of the WG, the FoCs were preparing a non-paper which would include illustrative figures for likely costs of various measures that might be proposed under other WG topics. The non-paper would also include a template to help match proposals with their organizational, institutional and financial implications.

Adoption of the procedural report of the Third Session

Usually the adoption of a procedural report by a BWC meeting is a fairly routine matter as they are factual statements about the meeting. The exception is when there are questions raised about some aspect of the meeting. In this case, Russia raised questions about the status of working papers submitted by the European Union and published on the final day.

The general sense in the room was that this had more to do with the geo-political situation than with a specific issue in the BWC. Russia phrased its objections in a way that seemed intended to provoke a strong reaction from EU member states and such a reaction was forthcoming. That delegation connected the issues it was raising with the points it raised on Monday about practice diverging from what was written in the Rules of Procedure and suggested that since its interruption of the NATO statement at the Ninth BWC Review Conference that previous practice had been terminated. No other delegation took the floor to support the Russian position.

As the plenary meeting room needs staffing to run its systems, including the audio system, the WG had to move to a smaller room to work without interpretation after 6pm. A number of informal consultations were carried out before a solution that allowed the report to be adopted by consensus was found. One element of this was the formal adoption of a decision about the presence of the EU at the WG session and its ability to put forward its views in writing. The report was adopted at 20.19 and the meeting was promptly closed.

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Tuesday 12th December 2023

The opening day of the BWC MSP - procedure over substance

Monday saw the first day of the 2023 Meeting of States Parties (MSP) of the 1972 Biological and Toxin Weapons Convention (BWC/BTWC). This meeting is being held in Salle XVIII, across the corridor from the room in which the Working Group was held in last week. Salle XVIII was traditionally the conference room that disarmament meetings would be held in. The 2023 MSP is chaired by Ambassador Cristian Espinosa Cañizares (Ecuador) with Ambassador Thomas Göbel (Germany) and Nikola Yakov (Bulgaria) as Vice-chairs.

Rather than the day of general debate that most delegates had hoped for, most of the time was taken up with procedural issues. Time was found for the formal report back from the BWC Working Group (WG), although this was done without any opportunity for questions from the floor.

The official webpage for this session that hosts presentations, statements, documents and details of side events is at <https://meetings.unoda.org/meeting/67446>. Official BWC documents are also available via <https://documents.un.org>.

The opening of the Meeting of States Parties

After some brief opening comments, the Chair introduced a video message from Izumi Nakamitsu, the UN High Representative for Disarmament Affairs. She welcomed the establishment of the Working Group and noted that the discussions on compliance and verification ‘marked a historic moment representing the first discussion on this topic in two decades’. She described the Convention as ‘a cornerstone in safeguarding against intentional biological threats playing a vital role in disarmament and global security’. Reflecting on the context of the Convention, she said: ‘as we navigate the intersection of rapid advances in science and technology we must envisage the future free of past failures by learning from them’ and ‘we know that strengthening the Convention would require a global effort involving numerous stakeholders’. She described the MSP as ‘an opportunity for pragmatic collaboration between state parties whereby we can acknowledge challenges and find common ground to resolve them’.

The draft programme of work and rules of procedure

The Chair noted that the draft programme of work had been circulated on 12 October, allowing time for any delegations with questions about it to raise whatever issues they wished to in private.

When the Chair asked if the programme of work could be adopted, the delegation of Russia took the floor. That delegation noted that the proposed programme of work included time for non-governmental organizations (NGOs) to address the plenary in an informal session, suggesting that this was not within the BWC rules of procedure, and indicated they would be happy to agree to the programme of work if that session was removed. The Chair asked for any views from other delegations. Nearly 40 took the floor, all disagreed with the Russian suggestion. The Chair then suggested that perhaps the question of the programme of work could be temporarily put to one side for a while to allow for consultations to be carried out.

The next item on the agenda was adoption of the rules of procedure. The Chair suggested that the rules of procedure should be adopted with the understandings that had been in place for MSPs since 2003. The delegation of Russia took the floor to say it could only agree to their adoption if there was a clear understanding that they would be applied as written with no exceptions or additions in practice. This would apply especially to Rule 44 paragraphs 4 and 5 which relates to attendance by inter-governmental and non-governmental observers, respectively. Neither paragraph refers to oral statements by each category of observers. As in the Working Group, the claim was made that past practice on presentations by observers had been broken at the Ninth Review Conference (2022) with the statement by NATO and so that practice now runs counter to what is in the rules of procedure. Again a number of delegations took the floor, none of which agreed with the Russian interpretation of the rules. Ambassador Leonardo Bencini (Italy), who had served as President of the Ninth Review Conference, denied that practice had been broken then and noted that the final report of the Conference listed the statements that had been made. The state party delegations closest to expressing support were those of Cuba and Nicaragua who called for consultations on the rules, but both noted that only one delegation was raising the question. A signatory state, Syria, suggested that there was an ‘overwhelming symphony of voices from the Global West’ in response to the Russian question. [Note: while the majority of delegations taking the floor were Western, there were also many from Latin America, for example.] After further exchanges it was agreed that consultations should take place and the formal plenary was suspended not long before the scheduled lunch break.

Report back from the BWC Working Group

The plenary was scheduled to resume at 15:00, but did not do so as consultations were continuing. At 16:30 the Chair took his place on the podium and announced that there was not yet any positive outcome from the consultations. However, rather than lose all of the time available, the Chair suggested that the report back from the Working Group could take place. The Russian delegation took the floor to confirm that there would be no discussion following the report back.

The WG Chair for 2023 and 2024, Ambassador Flávio Damico (Brazil), addressed the Meeting from the podium. He reminded delegates that the Ninth BWC Review Conference (2022) had agreed on the establishment of a ‘Working Group on the strengthening of the Convention’. He highlighted that the WG had held 34 meetings in three sessions and that more than 430 delegates from around 120 states parties had attended the WG. Forty-six working papers had been tabled together with four non-papers by the Friends of the Chair (FoCs). Thirteen panel discussions had been held.

Ambassador Damico thanked the FoCs and described them as a ‘robust and sizeable group, comprised of able and experienced diplomats’, bringing a wide array of perspectives and expertise, and whose diversity brings ‘knowledge and experience from different corners of the world’. He suggested that the panels played a role in clarifying the challenges ahead, noting that by engaging with these experts, ‘we gain clear insights into the nuances and intricacies of our tasks, providing us with a more informed understanding of the potential obstacles and opportunities that lie ahead’. He thanked the BWC Implementation Support Unit (ISU), describing it as ‘instrumental’ in managing the logistics and administration of the WG.

Looking forward, he spoke of the need to step up efforts during the coming year and that delegates should be ‘prepared to roll up your sleeves for a very intense 2024’. He concluded by saying ‘I will protect the mandate, its bottom-up character, its member-driven process and the effort to arrive at a safe harbour by 2024’.

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Saturday 16th December 2023

The closing day of the 2023 BWC MSP - a meeting of lost opportunities

The 2023 Meeting of States Parties (MSP) of the 1972 Biological and Toxin Weapons Convention (BWC/BTWC) drew to an end on Wednesday evening, having held no plenary sessions on Tuesday and not reconvening until Wednesday afternoon.

The MSP did not need to appoint its own Bureau [the Chair and two Vice-chairs] as these had agreed by the processes that had prepared the meeting. The 2023 MSP was chaired by Ambassador Cristian Espinosa Cañizares (Ecuador) with Ambassador Thomas Göbel (Germany) and Nikola Yakov (Bulgaria) as Vice-chairs.

The official webpage for the MSP that hosts documents and details of side events is at <https://meetings.unoda.org/meeting/67446>. Official BWC documents are also available via <https://documents.un.org>.

What the MSP was able to do

On Wednesday the MSP was able to adopt a very thin report of the meeting which included decisions on the dates for BWC meetings in 2024. That was all. This followed the activities on Monday to adopt the agenda and find time for one substantive item – the oral report back from the BWC Working Group (WG), delivered without any discussion.

What the MSP was not able to do

The MSP was not able to adopt its programme of work or its rules of procedure. It did not have the chance to consider whether to allow countries that were neither parties nor signatories to attend as observers or whether to allow international organizations to attend as observers. There was no general debate, the annual opportunity for states parties to express their views on any matter within the remit of the BWC. There was also no opportunity for international organizations and non-governmental organizations to address the MSP, which had been past practice. Three important reports had been prepared for consideration by the MSP – on efforts to encourage universalization of the Convention, on financial matters, and on the activities of the BWC Implementation Support Unit (ISU) over the past year. Each of these is usually introduced to an MSP with a presentation and there is a chance for delegations to discuss the issues raised. These usual discussions are valuable opportunities for states parties to keep abreast of these important issue areas. Lack of formal proceedings hindered informal networking as many discussions over coffee or lunch, etc., are prompted because of what has been said in the conference room.

How did this happen?

The underlying cause for this chain of events was the delegation of Russia objecting to the programme of work and the rules of procedure. The Russian delegation claims it had to act because of events before the MSP. [Questions of ‘why’ are discussed below.]

Without rules of procedure, there was a distinct challenge of how to adopt a report and formally close the MSP. The proceedings of the WG the week before had been interrupted by calls for points of order and rights of reply – how can a Chair be asked to judge whether an intervention is in order when there are no rules? The Chair therefore decided to introduce a short draft factual report which would not be subject to discussion

but to which delegations were invited to suggest any factual or technical modifications.

Russia queried the suggested dates for 2024 meetings, saying they would cause difficulties. These proposed dates had been circulated months previously (including being reported in August in the fourth report in this series). Frustration was expressed in the corridors that the dates should be questioned at such a late stage – if there had really been such a difficulty, why couldn't this have been raised earlier? It was agreed that one week of the August WG session would be moved to December. Dates for 2024 are thus: WG4 19-23 August, WG5 2-13 December and the MSP 16-18 December.

Interactions continued in the main conference room until 18:00 when it had to be vacated as the audio system requires staffing to run it. The MSP moved a short distance to Salle XXVI. There was also no interpretation available at such a late hour and inevitably this put some delegates at a disadvantage. At 21:00, a number of the other room systems, such as the projector and audio equipment, shut off on a timer as part of the UN cost saving measures. This led to delegates having to speak loudly to be heard.

The delegation of Russia objected to the inclusion of the European Union in the title of a working paper submitted by Japan that contained a statement from the G7. This resulted in the titles being omitted from the list of documents in the report. France spoke assertively about protecting the 'sovereign right' of states parties to submit working papers with the titles they choose. Others followed up on this point to suggest that states parties should not censor each other. Concerns were expressed over the possibilities of dangerous precedents being set through these proceedings. A total of 49 working papers were submitted to the MSP, many of which were copies of statements delegations had intended to give in the general debate. The adoption of the report was slightly confused, as a technical amendment was accepted just after the it had been gavelled through at 20:48.

Questions were raised about the participant lists. BWC practice has been to circulate a provisional list as document MISC.1 which is followed up by a final list of participants which is usually document INF.1 of the meeting. If the applications of observers had not been considered could they be counted as participating? Should the final list recognize that there had been the observer applications? Cuba floated the idea that a second document could be circulated that listed the applicants. The Chair suggested this was a matter that should be left to the secretariat and closed the meeting at 22:00.

As with the opening day, there was very little support from other delegations for the Russian positions.

Why did this happen?

It is an obvious statement that much of what happened was connected with wider geopolitical issues, but nevertheless true. As in the WG, Russia made the claim that BWC practice on presentations by observers had been broken at the Ninth Review Conference (2022) with the statement by NATO. Yet this can only be part of the picture as that delegation has raised similar objections in other disarmament bodies in Geneva.

It would seem that the target was international organizations and that the impact on NGOs was 'collateral damage' as it was the first in the sequence of any decisions about observers. The NGOs in attendance appreciated the support expressed by many delegations and the briefing given to them by the Bureau on Tuesday.

The juxtaposition of hopes at the opening of the MSP with reality at the end of it

When Izumi Nakamitsu, the UN High Representative for Disarmament Affairs, recorded her video message with the line 'we know that strengthening the Convention would require a global effort involving numerous stakeholders', she was probably unaware how difficult it would be for some of those stakeholders to engage with the meeting. While the MSP was a meeting of lost opportunities, the WG showed progress on challenging issues.

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 2023 Meeting of States Parties 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>.