

Monday 4th April 2022

The Preparatory Committee so far and a look toward the second session

Many intergovernmental meetings have had a problem – for example, a confrontational geo-political context, a lack of progress in appointing office holders, or a difficulty scheduling meetings. The Ninth Review Conference for the Biological Weapons Convention has all three, creating a challenging environment even before any pandemic influences are taken into account.

The Convention, signed in 1972, is also known as the Biological and Toxin Weapons Convention and so has two commonly used abbreviations – BWC and BTWC. Like treaties in comparable issue areas, the BWC holds five-yearly Review Conferences which take stock and provide strategic direction for the Convention. The Ninth BWC Review Conference was scheduled for 2021 but postponed owing to pandemic restrictions. To get ready for each Review Conference, a Preparatory Committee (PrepCom) is convened to decide on the practical arrangements (the administrative PrepCom). Starting with the Eighth Review Conference (2016), there has been additional PrepCom time to provide an early chance to discuss issues that might require decisions or agreed understandings at the Review Conference (the substantive PrepCom). It is usual practice in international diplomacy for these two types of PrepComs to have distinct identities and timings but the PrepCom this month will have elements of both.

The substantive PrepCom for the Eighth Review Conference carried out a comprehensive discussion of a wide range of aspects of the Convention. Indeed, in the experience of this author it was the most productive week of BWC meetings ever attended. Owing to the interruptions caused by the pandemic, amongst other influences, many delegations appear to be less prepared compared with 2016 and so discussion this time may be more limited.

The first day of the Preparatory Committee

The first session of the PrepCom was held on 20 December 2021 with a fairly sparse attendance as there were a number of travel complications prompted by the emergence of the omicron variant of COVID-19. The meeting formally took administrative decisions on meeting dates and on the Vice-Chairs – both of which had been discussed at the Meeting of States Parties (MSP) a few weeks earlier. The first session was unable to appoint a Chair for the PrepCom, who would be President-designate of the Review Conference, and so it was presided over by the Vice-Chairs.

Preparations for the Ninth BWC Review Conference since December

One of the key unresolved matters for the Review Conference remains the appointment of the President-designate. This position rotates between the regional groups. Following difficulties in selecting a President-designate, the non-aligned (NAM) group have handed over the Presidency to the other groups. This is not unprecedented, in 1991 the Eastern European Group were unable to find a President-designate for the Third Review Conference and so offered the position to the NAM as the group next in line. As the Western Group would have had the nomination for the Tenth Review Conference, the

expectation is that they might put forward a nomination for the Ninth. At the time of writing, no nomination has been publicly identified. Issues around the timing for the Ninth BWC Review Conference has complicated this matter.

The first session of the PrepCom decided that the three-week Ninth BWC Review Conference should be held during 8-26 August 2022 in Geneva. Since then, states parties to the nuclear Non-Proliferation Treaty (NPT) have decided to hold the four-week Tenth NPT Review Conference in New York during 1-26 August 2022. As each conference would involve many of the same delegates there are clear practical difficulties to holding both in parallel. There has been little public debate on how this might be resolved. This uncertainty may reduce the incentive for some Ambassadors to allow their names to be put forward as candidates for the Presidency of the BWC Review Conference as a number of countries place greater political emphasis on the NPT rather than the BWC.

The geo-political context and allegations regarding biological laboratories

The invasion of Ukraine by Russia and the ensuing international responses have produced a confrontational geo-political context. Russia has alleged that US-funded facilities in Ukraine have been involved in research work that could support biological weapons activities. These allegations have been denied by Ukraine and the USA.

The BWC has procedures for consulting on allegations, primarily the processes under Article V of the Convention. These have been elaborated further in various Review Conference final documents, particularly that of the Third Review Conference (1991). The Eighth Review Conference (2016) included the following text (repeated from earlier conferences) in the Article V section of its Final Document:

18. The Conference reaffirms that:

(a) this article provides an appropriate framework for States Parties to consult and cooperate with one another to resolve any problem and to make any request for clarification, which may have arisen in relation to the objective of, or in the application of, the provisions of the Convention;

(b) any State Party which identifies such a problem should, as a rule, use this framework to address and resolve it; and

(c) States Parties should provide a specific, timely response to any compliance concern alleging a breach of their obligations under the Convention.

If Article V is not invoked, what does this mean for the importance of the Convention? There is a clear argument to be made that the BWC is the forum in which compliance concerns should be discussed if the alleged activities are suggested to be in breach of the Convention. The processes and procedures for raising a compliance question are there. The 200-odd pages of *Note Verbale* recently circulated to BWC states parties by Russia have not been made public although they have been described as being similar to the materials presented to the UN Security Council during March. Either the allegations suggest that there has been a breach of the Convention, in which case it would be logical that Article V should be invoked, or they do not.

Whenever allegations are made, there is a need to examine them in context. Historically, most allegations about development of prohibited weapons have been politically motivated, primarily in attempts to demonise political opponents. Yet there have been allegations that have been eventually proven to be correct – even some that at first had appeared to be politically motivated. A number of analysts with experience of examining comparable allegations over many decades have examined the material published by Russia and concluded that what has been published does not support what is being alleged. Nevertheless, any such allegations need to be examined carefully. Untested allegations undermine the regime to control biological weapons, taking up considerable working time as well as raising questions about whether the regime can deal with potential breaches, and so should be resolved as soon as possible. That is a key reason why the Article V provisions were included in the Convention.

This is the first report from the Preparatory Committee for the Ninth BWC Review Conference being held 4 to 11 April 2022 in Geneva, but which continued for an extra day. These reports are available from <<http://www.bwpp.org/reports.html>> and <<http://www.cbw-events.org.uk/bwc-rep.html>> and have been produced for all BWC meetings since the Sixth Review Conference by the BioWeapons Prevention Project (BWPP). A subscription link is available on each webpage. The reports are written by Richard Guthrie, CBW Events, who is solely responsible for their contents. He can be contacted via <richard@cbw-events.org.uk>.

Tuesday 5th April 2022

The opening day of the second session of the Preparatory Committee

The second session of the Preparatory Committee for the Ninth Review Conference for the Biological and Toxin Weapons Convention (BWC/BTWC) opened in Salle XIX on Monday morning – the first BWC meeting since the start of the pandemic without plastic screens between delegates or numerical limits to room occupancy. However, face masks remained obligatory. The proceedings were presided over by the two Vice-Chairs – Tancredi Francese (Italy) and Florian Antohi (Romania) – as there has been no further progress on appointing a Chair (who would also thus be President-designate of the Review Conference). Before the meeting started formally, the Vice-Chairs invited participants to observe a minute's silence 'to pay tribute to the victims of the conflict in Ukraine'.

The opening formalities were relatively brief as many decisions, such as the adoption of the agenda, had been taken at the first session held on 20 December 2021. The Vice-Chairs informed the meeting that 22 experts from 22 states parties were in attendance through the sponsorship scheme operated by the BWC's Implementation Support Unit with financial support from Canada, France and the European Union.

The general exchange of views

Before opening the floor for this agenda item, Vice-Chair Francese noted that it was not a general debate such as happened at the Meeting of States Parties (MSP) and which will happen at the Review Conference. He suggested delegations should frame statements in the context of preparations for the Review Conference. While ideas could be raised at any time, he urged delegates to offer more detailed discussion on particular points during the article-by-article and cross cutting issues that would come later in the week. In order to allow many delegations to take the floor in the available time, Vice-Chair Francese gave a time limit of 7 minutes for group statements and 5 minutes for national statements. There were a number of occasions during the exchange of views in which he had to ask speakers to bring their comments to a conclusion to avoid going too far over time.

Group statements were given by the Global Partnership Against the Spread of Weapons and Materials of Mass Destruction (delivered by Germany), the Association of Southeast Asian Nations (delivered by Cambodia) and the Non-Aligned/NAM Group (delivered by Azerbaijan). National statements were given by Malawi, Georgia, UK, Dominican Republic, USA, South Africa, Ukraine, Philippines, Russia, India, Kenya, France, Switzerland, Sweden, Indonesia, Italy, Brazil, Iran, Chile, Panama, Mexico, Spain, State of Palestine, Republic of Korea, Japan, Netherlands, China, Germany, Poland, Belgium, Canada, Algeria, Nigeria, Colombia, Venezuela, Austria, Argentina, Cuba, Norway, Australia, Ireland, Peru, Pakistan, Saudi Arabia and Ecuador. The only statement by an international organization was delivered by the European Union. Speakers are listed in the order they spoke in each category, although there was some switching between categories during the day owing to availability of speakers at different times. The civil society groups addressing the meeting after these statements, some via recorded video, were: the Verification Research, Training and Information Centre (VERTIC); BioSecure; Council for Strategic Risks; Johns Hopkins Center for Health Security; London

Metropolitan University; Maat for Peace, Development, and Human Rights; and King's College London. At the end of the day there were a number of rights of reply exercised.

The geo-political situation entered the room during the first statement delivered when Russia called for a point of order twice during the Global Partnership statement. On both occasions, Russia suggested that the statement, which included a condemnation of the war in Ukraine, described as a 'serious breach of international law', was not about preparations for the Review Conference but was a political statement. Vice-Chair Francese noted that delegations could raise points they felt were relevant to preparations. Many statements during the day condemned the invasion.

Overseas laboratory allegations – A number of statements connected the allegations made by Russia to potential retrospective claims for justification for military action. Terms such as 'false', 'spurious' and 'disinformation' were used to describe the allegations. Russia denied this, claiming the allegations were 'well founded' and that the alleged activities constituted breaches of Articles I and IV. Russia said it reserved the right to raise the allegations through Article V or Article VI of the Convention. Izumi Nakamitsu, the UN High Representative for Disarmament Affairs, was quoted by some delegations. Speaking of Ukraine to the UN Security Council on 11 March, she had said: 'The United Nations is not aware of any biological weapons programmes'. A lunchtime side event was convened by Germany, Ukraine and the USA in response to the allegations.

Verification and compliance – a number of delegations suggested the Convention would be strengthened by the addition of verification measures, most of these referred to a legally binding instrument of some form. Some suggested that verification arrangements might have been useful to deal with the Russian allegations. The USA, criticised by some as the country stopping progress on verification, referred back to the Jenkins statement at the MSP that specific measures to strengthen the Convention should be adopted by the Review Conference at the same time as forming a temporary expert working group to enhance confidence and promote compliance.

Science and technology (S&T) review – The broad support for establishment of some form of S&T review process or body remained. Some calls were made for prompt efforts to develop details of arrangements that could be adopted.

Codes of conduct – Many references were made to the Tianjin Biosecurity Guidelines for Codes of Conduct for Scientists with broad support being expressed.

Article VII – Many statements raised points about making Article VII responses effective in the event they were required to respond to humanitarian consequences following a breach of the Convention. Support was expressed for capacity building efforts, for the proposed Article VII database and for guidelines for requesting assistance.

National and group actions and events – The ASEAN statement referred to recent regional capacity building workshops. The Dominican Republic spoke of a national workshop that brought 23 institutions together in relation to the BWC. Canada spoke of the Signature Initiative within the Global Partnership to enhance BWC implementation across Africa. The European Union spoke of its investment in CBRN-related actions, notably the most recent Council Decision to support the BWC.

Review Conference administrative arrangements – The challenges of holding the Ninth BWC Review Conference in parallel with the Tenth nuclear Non-Proliferation Treaty (NPT) Review Conference were raised by many delegations with a majority expressing a view that a delay to the BWC conference would also assist with finding a President-designate. A couple of delegations resisted calls to change the dates for the Review Conference.

There seemed to be fewer references to lessons from the pandemic than in opening statements to the recent MSP, perhaps because delegations were raising other points in the limited time. There seemed to be a higher number of references to gender issues than earlier comparable exchanges of views.

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Wednesday 6th April 2022

The start of the article-by-article review of the Convention

The second session of the Preparatory Committee for the Ninth Review Conference for the Biological and Toxin Weapons Convention (BWC/BTWC) moved to the agenda item on the ‘Comprehensive consideration of all provisions of the Convention’. The first part of this was an interactive article-by-article discussion which covered Articles I through V on Tuesday (no delegation asked for the floor to discuss the Preamble).

Before the plenary meeting started there were informal consultations held behind closed doors on procedural arrangements for the Review Conference. By all accounts there was little progress in the consultations at this stage. During the day the meeting briefly returned to the general exchange of views to allow Botswana to give a national statement. There were no side events on Tuesday.

The article-by-article review

Under *Article I* the BWC States Parties undertake: ‘never in any circumstances to develop, produce, stockpile or otherwise acquire or retain ... microbial or other biological agents, or toxins whatever their origin or method of production, of types and in quantities that have no justification for prophylactic, protective or other peaceful purposes’. Russia was first to take the floor under this article, repeating parts of the allegations by its country on US-funded biological facilities in Ukraine, suggesting that the types of pathogens (i.e., microbes that cause disease) being researched indicated a military programme that breached Article I and that the destruction of the pathogens when military action started reinforced this. The USA, Ukraine and a number of other delegations dismissed these allegations. France noted that the World Health Organization (WHO) had recommended destroying pathogens in the war zone. Ukraine noted it had sent a *note verbale* to the WHO to request a visit to the facilities in its territory as a transparency effort. Iran, which has long pressed for an amendment to Article I to include use, did not do so in its intervention this time. However, it did restate its call for reservations to the 1925 Geneva Protocol to be withdrawn.

While the obligation in *Article II* on states parties to destroy those things prohibited under Article I, or divert them to peaceful purposes, might be seen as of historical interest, it was noted that this may be relevant if any new states parties possessed biological weapons when they joined the Convention.

Article III deals with obligations not to transfer items that could assist, encourage or induce anyone else to acquire biological weapons. While this was highlighted as a national obligation under the Convention, there were many calls for there to be a multilateral arrangement to oversee this in a non-discriminatory manner. Consistent with discussion in earlier years on this Article, the interaction and balance between Article III and the Article X obligations to ensure ‘the fullest possible exchange of equipment, materials and scientific and technological information for the use of bacteriological (biological) agents and toxins for peaceful purposes’ was a particular focus. This year there were many more comments about how effective implementation of one Article can help implement the other. Perhaps the most developed proposal of the day that had not been previously heard was that from Iran on creating a new system of

transparency in the field of transfers including assurances of end uses consistent with the provisions of the Convention and restrictions on transfers to non-signatories of the BWC.

Article IV relates to national implementation of the obligation not to have biological weapons. Russia took the floor to repeat some of its allegations on the US-funded facilities in Ukraine stating activities there breached Article IV. Numerous delegations spoke against these allegations. A major point of discussion was the role of voluntary arrangements to help develop good practice, such as peer review, which the proponents suggest can also enhance confidence in compliance amongst the participants. France spoke to WP.4 of the most recent Meeting of States Parties on an ‘exchange platform’ for voluntary transparency exercises. Other states raised hesitations over the use of voluntary measures which could not replace formal verification measures. On the question of improving standards of laboratory practice, France introduced WP.1 on the ‘SecBio’ proposal for an international platform dedicated to biosecurity and biosafety. China expressed hopes that the Review Conference would endorse the Tianjin Biosecurity Guidelines for Codes of Conduct for Scientists and that the new inter-sessional work programme would discuss their dissemination.

Article V deals with consultations and cooperation, bilaterally and multilaterally. As such, it also includes the system of Confidence-Building Measures (CBMs) and some points raised about CBMs under other Articles on Tuesday are reported here for brevity and clarity. The BWC Implementation Support Unit (ISU) introduced its background information document on CBMs (PrepCom document 3) which includes some suggestions for technical changes that the Review Conference might consider. The document also highlights that 2021 was a record year for CBM submissions, reaching 50 per cent of states parties for the first time. While welcoming this increase, some delegations suggested the level was not high enough and urged all states parties to participate. Botswana highlighted its experience in preparing its first CBM return which is expected to be submitted soon; one lesson was that there had not been a focal point to implement the activities needed to compile the return until a CBRN office was established in 2018. There were divergences of views as to the nature of the obligation for CBM returns with some saying they were voluntary as there was no legal requirement to submit them with others saying that Final Documents of successive Review Conferences had agreed that states parties should submit them – if Review Conference conclusions were not followed, where would this take the Convention? Russia spoke to WP.3 on a proposal to require states parties to declare in the CBMs if they had military biological facilities in the territory of other countries. This proposal was supported by China which also noted that one US document said there were 26 supported laboratories in Ukraine while another said 46 and that clarification would be useful. The USA responded by saying there were no biological defence facilities in the territory of other countries other than hospital laboratories to support the health of personnel on military bases. The USA then asked whether the core of the concern was a need for transparency when a military entity collaborated with a civilian biological research laboratory; if so, why was China not being open about military cooperation with a specific but unnamed civilian biological research laboratory? China responded by saying this brought forth unfounded accusations against China, including the work of the Wuhan Institute of Virology, and that such discussion was highly political. On Article V consultation measures, Switzerland noted that earlier Review Conferences had agreed that a consultative meeting should be held within 60 days of a request and asked if the BWC financial arrangements would be able to facilitate this.

As the day drew to a close, Poland asked for a clarification as to whether the BWC was being asked to consider data to support the Russian allegations that had been gathered during an illegal act of war. Russia responded that there was no war, only a special military operation to denazify Ukraine. There was an audible response from many delegates in the room on hearing these words.

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Thursday 7th April 2022

Article VI to Article XI of the article-by-article review

Wednesday, the third day of the second session of the Preparatory Committee for the Ninth Review Conference for the Biological and Toxin Weapons Convention (BWC/BTWC), started with a breakfast side event and ended with a reception to mark the 50th anniversary of the signing of the Convention which falls on Sunday. In between was a full day of plenary meetings as well as a lunchtime side event. In plenary, the interactive article-by-article discussion continued, reaching Article XI.

PrepCom documents and details of side events are available from the official web page of the meeting at <https://meetings.unoda.org/meeting/bwc-prepcom-2021/>.

The continuation of the article-by-article review

Article VI contains provisions for taking a complaint of a breach of the Convention to the UN Security Council but the Article is very short and gives no details how this might be carried out. Russia introduced its working paper (WP.5) which proposes establishing an expert group to examine this. Some delegations disagreed with this approach, characterising the proposal as making the Security Council central to all decisions on investigation with concerns being raised at the prospects of Permanent Members being able to wield a veto. It was highlighted that the UN Secretary-General's Mechanism (SGM) to carry out an investigation started in 1981 with a UN General Assembly resolution as a proposed investigation at that time would have been subject to a veto in the Security Council. Many political expressions of support were given for the SGM. Examples of practical efforts to enhance the SGM were given by Germany in terms of training exercises and by Switzerland on preparing a network of designated laboratories to support such investigations which was also one part of the breakfast side event. Canada encouraged states parties to designate experts to the roster that could be called on for an investigation and to consider issues of gender diversity in doing so. There were a number of calls for a comprehensive legally-binding verification arrangement as the optimum way of handling investigation issues. [*Historical note:* the SGM has been triggered without reference to any resolutions. For example, the authority for the first of the SGM investigations of use of chemical weapons in the Iran-Iraq war was explained in its official report in the following terms: 'Conscious of the humanitarian principles embodied in the Charter, and of the moral responsibilities vested in his office, the Secretary-General felt duty-bound to ascertain the facts and, to that end, requested four eminent specialists in their respective fields to undertake a fact-finding visit to Iran.' – S/16433, 26 March 1984, available via <https://documents.un.org/>]

Under *Article VII* each state party 'undertakes to provide or support assistance, in accordance with the United Nations Charter' to any requesting state party 'if the Security Council decides that such Party has been exposed to danger as a result of violation of the Convention'. As even the most developed state could struggle to cope with a mass casualty attack, this Article has the most common ground between delegations. The pandemic has highlighted the societal disruptions that can be caused by infectious disease. South Africa introduced its updated proposal (WP.7), on suggested

guidelines for how to compose an assistance request under this Article. France and India each spoke to their earlier joint proposal to establish a database to help implement this Article. There were many expressions of support for each of these proposals with hopes expressed that both could be adopted at the Review Conference. A repeated proposal by Russia for use of mobile laboratories (WP.2) received a more mixed response with questions raised about organizational and financial issues. There were references to practical actions such as an upcoming ASEAN Regional Forum tabletop exercise and to a recently completed UN Office for Disarmament Affairs project on Article VII. As Article VII assistance relies on a Security Council decision which might take some time, there was recognition that delays to assistance might increase suffering. A number of references were made to the encouragement in the Eighth Review Conference Final Declaration for states parties in a position to do so ‘to provide timely emergency assistance, if requested pending consideration of a decision by the Security Council’ (paragraph 35).

Article VIII states that nothing in the BWC limits or detracts from the 1925 Geneva Protocol. France, the depositary power to the Geneva Protocol, noted that there were 40 BWC states parties that were not parties to the Protocol. As the two were linked, France encouraged moves toward universality of the Geneva Protocol. Some states still have formal reservations registered under the Geneva Protocol to allow for retaliation in kind and which were deposited before the BWC was negotiated. As the possession of biological weapons is prohibited under the BWC, there were calls for these remaining reservations to be withdrawn.

Article IX calls for negotiation of a Chemical Weapons Convention (CWC) which has been accomplished – the CWC celebrates 25 years since entry into force this month. Switzerland noted the increasing convergence between biology and chemistry (the other part of the breakfast side event). Iran called for CWC universality and completion of the final much-delayed chemical weapons destruction activities.

Article X deals with rights of access to peaceful uses of the life sciences. Of all aspects of the Convention, it is the one which historically has had the most firmly expressed consistent divergences of views. While political differences remain, particularly on perspectives where the balance between security and development should lie, there has been a greater focus on practical activities in recent years. Contributors to this have been lessons learned from capacity building and from synergies with Article VII. A number of non-aligned (NAM) states parties called for ‘full, effective and non-discriminatory’ implementation of Article X and referred to previous NAM proposals for a Plan of Action to strengthen Article X, including a creation of a Cooperation Officer in the Implementation Support Unit (ISU) and a Cooperation Committee. During the inter-session programme of work (ISP) since the Eighth Review Conference (2016) there were a number of proposals regarding possible enhancements to the institutional machinery that might support Article X. The three Chairs of MX1, Philippines (2018), Georgia (2019) and Finland (2020), together with Norway, prepared a working paper (WP.9) to summarise these and each of the sponsors spoke to this. Some delegations referred to activities they had carried out or to offers they had placed on the database established by the Seventh BWC Review Conference (2011) ‘to facilitate requests for and offers of exchange of assistance and cooperation among States Parties’, known informally as the ‘Article X database’. France spoke to aspects relevant to Article X of the ‘SecBio’ proposal it had put forward with Togo (WP.1) that had been introduced under Article IV the day before. Canada highlighted the ‘Biosecurity Central’ resource platform which was now operational.

Article XI covers amendments to the Convention. Iran restated its amendment proposal from the Fourth Review Conference (1996) to add use to Article I. [Report 3 of this series suggested that Iran was not pressing this – this resulted from an overinterpretation of a slight change in wording used, *mea culpa*.]

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Friday 8th April 2022

From the article-by-article review to discussion of cross cutting issues

The fourth day of the second session of the Preparatory Committee saw completion of the article-by-article review in the morning and the start of cross-cutting discussions. Thursday began with further informal consultations behind closed doors on procedural matters which seem to have made progress. There was one lunchtime side event.

PrepCom documents and details of side events are available from the official web page of the meeting at <https://meetings.unoda.org/meeting/bwc-prepcom-2021/>.

The completion of the article-by-article review

Article XII calls for a Review Conference and states that the review should include scientific and technological (S&T) developments. As this discussion at this part of the meeting overlapped with the cross-cutting S&T discussion, points made at this time are reported there for brevity and clarity.

Article XIII contains the provisions for withdrawal from the Convention. No delegation asked for the floor to discuss this Article.

Article XIV relates to administration of membership of the Convention. The Implementation Support Unit (ISU) introduced its background document on universalization (document 7), noting that five countries had become party to the Convention since the Eighth Review Conference (2016) raising the number of states parties from 178 to 183. There remain 4 signatory states who have yet to ratify the Convention and 10 states that have neither signed nor acceded to the Convention. In the interactive discussion there were expressions of welcome to the new members.

Article XV relates to the official languages of the Convention. Cuba noted the principle of language equality.

Article XVI is imaginary and Tancredi Francese (Italy), who was presiding at the time, asked if anyone wanted to take the floor to see if everyone was paying attention!

Review of cross-cutting issues

On 30 March, Ken Ward was announced as the new U.S. Special Representative to the Biological Weapons Convention. He addressed the meeting at the start of the general discussion of cross-cutting issues. Following on from the statement last November to the Meeting of States Parties (MSP) by Under Secretary of State Bonnie Jenkins, he outlined that the approach advocated by the USA would be to convene a two-year period of expert meetings that could consider questions such as ‘how do we improve transparency?’, ‘how do we enhance compliance?’, and ‘how do we address assistance and cooperation?’ If there was agreement after those two years, ‘a legally binding type of negotiation’ could be started. He noted that this activity would possibly replace the usual inter-sessional programme of work (ISP) between Review Conferences. During the discussion, there were requests to the USA for more information about what was meant by this proposal. It was noted in later discussion that there were some functions carried out within the ISP that would have to be continued, such as oversight of the ISU and as the focal point for universalization activities.

S&T review – the benefits of some form of improved S&T review have been recognised by most delegations for a number of years. North Macedonia gave a detailed statement (which is already on the website of the meeting) outlining some of the options that those creating a review arrangement had to consider. A key one was whether the body to carry out any review should be open to all to participate in or whether a smaller selected group would be better. There are benefits and costs for each of these options, but they are not mutually exclusive and a hybrid option where an open-ended group and a limited group work in a synchronized way could be developed. Russia introduced its working paper (WP.4) on establishment of a Scientific Advisory Committee which is based on a smaller selected arrangement. A number of references were made to the work of MX2 in the most recent ISP. In particular references were made to the concept note and chart outlining ideas that had been put forward as part of the discussions towards creating a review arrangement collated by Japan as Chair of the 2020 MX2. A number of delegations suggested that an S&T review arrangement should be supported by an S&T officer in the ISU. Brazil and Iran indicated they were not in support of this. Kenya observed that S&T reviews needed consideration of ethical issues. China highlighted the Tianjin Guidelines (the subject of the lunchtime side event on Wednesday). Switzerland noted that the S&T review issues were truly cross-cutting as they affected all articles of the Convention. Iran suggested any decision on an S&T review arrangement should be tied with a decision on a Cooperation Committee.

Future programme of work – as an introduction to this issue, the ISU spoke to its background document on the ISP from 2017 to 2020 (document 6). This had seen a new structure compared with the previous ISPs which had been structured such that there was one Chair each year for the Meeting of Experts (MX) and the MSP. The new structure of five separate MXs and one MSP meant six Chairs. The ISU noted that this kept all regional groups engaged in BWC activities during each year and helped distinguish between the technical focus of the MXs and the political focus of the MSP. The ISU noted that there did not seem to be sufficient time for some meetings, especially the MSPs, to complete the tasks allocated to them. In the discussion, there were expressions of some sadness that so much time was taken up with having to deal with financial issues caused by late payments by states parties of their assessed contributions. It was noted that this was the fourth round of ISP meetings and the first not to reach substantive common understandings.

Strengthening the ISU – The ISU introduced its report of activities 2017-2022 (document 8) to provide some background for the discussion. The budget for the ISU is limited, with 3 staff hosted by the UN Office of Disarmament Affairs. An increase in voluntary contributions has allowed for more requests for assistance by states parties to be fulfilled. [An example of a project that the ISU is involved with that relies on voluntary funding is the Signature Initiative to Mitigate Biological Threats in Africa which was the subject of the lunchtime side event.] In the discussion there were many expressions of support for the ISU and no suggestion that its mandate should not be renewed. However, there was a divergence of views on whether additional staffing posts should be created within the ISU, such as an S&T officer or a cooperation officer. There were a number of financial aspects to the ISU that were not covered on Thursday as there was slot to discuss financial issues for the BWC during Friday.

Gender – Panama introduced an update (WP.8) to its MX5 paper on gender issues. This has two parts, one on gender diversity in representation at BWC meetings and the other on differentiated impacts the use of biological weapons might have. There were many expressions of support for this paper. There were suggestions that this issue could be added to subjects covered by the next ISP. Vice-Chair Francese noted that gender representation issues were considered in administering the sponsorship programme.

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Monday 11th April 2022

BWC finances and a possible Review Conference President-designate

The fifth day of the second session of the Preparatory Committee marked the end of the working week. The morning was started with the last statements on substantive issues before moving on to discussing financial matters with the afternoon discussing preparations for the Ninth BWC Review Conference. There was some discussion on whether there should be an additional background document on science and technology (S&T) issues. A decision on this is expected on Monday. More significantly, there was considerable progress made on the preparations for the Review Conference. There were two side events, one before the start of the plenary and the other during the lunch break.

PrepCom documents and details of side events are available from the official web page of the meeting at <https://meetings.unoda.org/meeting/bwc-prepcom-2021/>.

Discussion on substantive issues

The morning started with a statement by Russia marking the fiftieth anniversary of the signing of the Convention which fell on Sunday. This was used not only as an opportunity to emphasise the Russian position on issues such as calls for verification but also to restate the allegations they have been making about US-funded biological facilities in Ukraine. These allegations have found very little traction at the PrepCom as there are many experts highly familiar with peaceful biological research programmes in the meetings who see nothing in what the Russians have published that is inconsistent with peaceful research.

This was followed by the final interventions in the examination of cross-cutting issues. Iran spoke of the correlation between national implementation and international cooperation, in part drawing on ideas in an earlier working paper (WP.3 of MX3 2019). [It was paragraph 8 of this paper that was the basis of the Iranian ideas referred to in report 3 of this series.] There was a notable example of how language issues can impede discussion. The US described the BWC as a ‘discriminatory treaty’ using the argument that only those who are trying to acquire biological weapons are disadvantaged under it. However, this argument does not work so well with simultaneous interpretation into other languages as it is challenging to get some of the nuances across in a live situation. The US intervention prompted a few angry responses that the BWC should never be a discriminatory treaty, responding to a meaning the US did not seem to have intended.

Financial issues

The Implementation Support Unit (ISU) introduced its report on finances (document 4). This has two major parts – one looking at the current financial status and the other giving some illustrations of the cost implications of possible outcomes of the Ninth Review Conference. It was highlighted that while the rate of payment of assessed contributions had improved, not all monies for the Review Conference were yet in place. It was noted that the Working Capital Fund, introduced in 2018, was now fully capitalized.

In the discussion that followed, there were calls for all states to pay their assessed contributions on time and in full. North Macedonia raised concerns about the so-far incomplete funding for the Review Conference and noted that it was one thing to cut

days from an MSP for lack of finances (as had been done in 2018), another to do so from a Review Conference. India reiterated its perspective that the Working Capital Fund should be paid for from assessed contributions, not voluntary contributions, and only from states parties [there is a USD50,000 contribution from an NGO in the fund]. There were questions about the 13 per cent charge levied by the United Nations within the accounts and what this represented. [*Historical note:* In 2006, when proposals were being put together for what became the ISU, it was not clear whether any such proposal would gain consensus. As people were exploring options for how to support the BWC, it was clear that the advantages of operating within the UN system were worth the costs. Moreover, when other options were explored to try to support the BWC without using the UN but remaining in Geneva the costs worked out to be broadly similar.] The 13 per cent charge includes a range of administrative services such as managing the accounts (including raising invoices) and provision of central services such as the UNOG Library.

It was suggested during the discussions that the primary problem with the finances had been a liquidity problem and that the package of measures taken in 2018 has significantly improved the liquidity situation. This position does not take into account the simple fact that the liquidity problem was manifestly more challenging because of the scale of arrears. According to the financial dashboard for the disarmament treaties based in Geneva, as of 31 March 2022, the total of arrears to the BWC was a little under USD300,000, half of which was owed by just two countries.

Preparations for the Ninth BWC Review Conference

One of the key unresolved matters for the Review Conference remains the appointment of the President. Vice-Chair Tancredi Francese (Italy) provided some history to the challenges there have been for the forthcoming Conference (these were covered in report 1 of this series). The first session of the PrepCom, held on 20 December 2021, decided that the three-week Ninth BWC Review Conference should be held during 8-26 August 2022 in Geneva and a later decision by states parties to the nuclear Non-Proliferation Treaty (NPT) to hold the four-week Tenth NPT Review Conference in New York during 1-26 August 2022 had complicated matters.

The unpicking of the collection of inter-related challenges has resulted in a package proposal for a solution which relies on a number of elements. The incoming Ambassador of Italy, Leonardo Bencini, has expressed a willingness to have his name put forward for the role of President-designate as the nomination of the western group. However, if he was appointed now there would not be adequate time to prepare for the Review Conference if it remained scheduled for August. The package therefore includes a proposal to move the Review Conference to 28 November-16 December 2022. While these dates would avoid the BWC Review Conference operating in parallel with its NPT equivalent, the first week of the proposed new dates would coincide with the 27th session of the Conference of the States Parties to the Chemical Weapons Convention which might cause a difficulty for some delegations. Azerbaijan, on behalf of the NAM group, welcomed the nomination by the western group. No decision was taken on Friday on this package solution, with delegations asking for time over the weekend to consider the implications and to consult with their capitals.

The change of the rotating Presidency from the NAM Group to the western group would bring with it some changes to other positions held within the Conference. If the NAM group had retained the Presidency, the western group would have nominated the Chair-designate of the Drafting Committee and the eastern group the Chair-designate of the Committee of the Whole. With a western group Presidency, the occupancy of other roles might be expected to follow the pattern of the Seventh Review Conference (2011) when it last held the key role – the NAM group held the role of Chair of the Committee of the Whole and the eastern group held the Chair of the Drafting Committee.

This is the sixth report from the Preparatory Committee for the Ninth BWC Review Conference being held 4-11 April 2022 in Geneva. These have been produced for all BWC meetings since the Sixth Review Conference by the BioWeapons Prevention Project (BWPP). They are available from <<http://www.bwpp.org/reports.html>> and <<http://www.cbw-events.org.uk/bwc-rep.html>>. A subscription link is available on each webpage. The reports are written by Richard Guthrie, CBW Events, who is solely responsible for their contents <richard@cbw-events.org.uk>.

Tuesday 19th April 2022

The conclusion of the PrepCom and some reflections

Monday 11 April 2022 was the sixth and final day of the second session of the Preparatory Committee for the Ninth Review Conference of the Biological and Toxin Weapons Convention (BWC/BTWC). It saw the adoption of a report of the meeting with decisions on the dates of the Review Conference, the appointment of the President-designate and the allocation of other roles in the Conference. There was one side event, held during the lunch break.

The meeting was presided over by the Vice-Chairs, Tancredi Francese (Italy) and Florian Antohi (Romania). Documents and side event details are available from the official meeting web page at <https://meetings.unoda.org/meeting/bwc-prepcom-2021/>.

The Review Conference decisions and the adoption of the report

The PrepCom adopted the proposed package of measures such that Ambassador Leonardo Bencini (Italy) would be President-designate of the Review Conference which would be rescheduled for 28 November-16 December 2022. This decision was made on the understanding that the non-aligned (NAM) group would retain the right to preside over the Tenth Review Conference.

It had been widely expected that the change of the rotating Presidency from the NAM group to the western group would bring with it some changes to other positions held within the Conference. However, Russia took the stance that decisions on positions such as the Chair of the Committee of the Whole and of the Drafting Committee taken at the first session of the PrepCom should be unchanged. The argument made was that the regional groups had been discussing nominations for the Vice-Chairs of these committees with some possible office holders having started work on the issues they might be responsible for. If the Chairs were to be moved between the groups it would also change the groups the Vice-Chairs would be nominated from. After consultations between states parties, it was decided that these positions would remain as agreed in December. The result creates something of an anomaly in multilateral arrangements in which the same regional group holds the presidency of a conference as well as one of its major committees. For the Ninth BWC Review Conference, the western group will hold the Presidency and the Chair of the Drafting Committee; the eastern group the Chair of the Committee of the Whole; and the NAM group the Chair of the Credentials Committee.

The PrepCom also decided that a further background paper should be prepared on 'New scientific and technological developments relevant to the Convention', to be compiled from information submitted by states parties.

One element of the final report that was not included was the 'Chair's summary' of the meeting to be prepared by the Vice-Chairs in lieu of a Chair. This had been an important element of the report from the equivalent PrepCom in 2016. It was claimed that a Chair's summary could be confused with a consensus statement on the meeting. At least one country suggesting this had been vocally supportive of inclusion of the comparable summary in 2016. The Chair's summary will instead be published as a separate PrepCom document.

Reflections

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

Perhaps the first thing to note from the perspective of this author was that the PrepCom contained more substantive discussion than had seemed possible in the weeks running up to it. While the PrepCom was officially co-chaired by the two Vice-Chairs, it was Tancredi Francese who presided over all of the plenary sessions. While his relative youth and corresponding diplomatic rank ruled him out as a potential Review Conference President, he showed remarkable skill at guiding the PrepCom to a consensus outcome.

The confrontational geo-political context loomed large in the room with many references to the invasion of Ukraine by Russia. The allegations about US-funded biological facilities in Ukraine were repeated by the Russian delegation many times. It is not clear what the end game for the Russian policy of focusing on these allegations is meant to be. The allegations found little traction at the PrepCom, as many experts attending from across the world highly familiar with peaceful biological research programmes could see nothing in what had been published that was inconsistent with peaceful research. Unless some dramatic new piece of information becomes available, this seems likely to remain the case. The allegations are a reminder that almost anything can be made to appear dangerous if aspects are selectively highlighted. In the 1990s, a mock campaign group was put together calling to ban a particular substance which, amongst other things, was an industrial solvent found in all cancer tumours and which could kill you if inhaled but there were no controls on who could possess it or use it. The vast majority of people presented with the information about this substance were willing to sign a petition calling for controls to be implemented. The substance was water, given the pseudo-scientific name 'dihydrogen monoxide'. As the USA and some of its allies found to their cost since 2002-03, making unsubstantiated claims in the field of biological warfare issues can result in long-lasting reputational damage.

The agreed package that combined appointment of a President-designate alongside a delay to the holding of the Review Conference was possibly the only solution that would have gained consensus. In earlier years it would have been expected that any regional group would actively push back against a possible decision that would have left it without any of the three major posts within a Review Conference. That the NAM group accepted holding only the Chair of the Credentials Committee is possibly a reflection of the bruising experience within the group over the Presidency nomination.

The increased gap between the PrepCom and the Review Conference could be disadvantageous as it may be difficult to maintain focus on key issues without any formal meetings in the interim. During the pandemic lockdown, when it was not possible to hold in-person meetings, a range of virtual events such as webinars were held and the continuation of some of these might prove beneficial. Within the PrepCom itself, the reduced COVID precautions allowed for a greater attendance than at recent BWC meetings and this also led to increased interaction outside of the main conference room. Such informal interactions are key to success in a Review Conference.

The confrontational geo-political context makes it harder to define what might be considered success at the Review Conference. There is still much work that needs to be done to formulate a balanced package of measures that might garner consensus. One unknown quantity is the US proposal to establish an expert group to consider compliance issues. It is not clear how much traction this will gain amongst states parties. This PrepCom had far fewer working papers presented to it than had been the case in 2016 – early submission of working papers for the Review Conference itself may help gather support for ideas.

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