

Wednesday 21st August 2024

A return to cooperation and assistance under Article X: setting the scene

The topic scheduled for Friday, the final day of the Fourth 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 to the WG by the Ninth BWC Review Conference (2022). In addition, para 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.’ While the agenda item for this Session is the broader international cooperation and assistance (ICA) topic, it is likely that the possibilities for an ICA mechanism will be the focus of many discussions on Friday. The importance of the Article X issues within the BWC is reflected in the Working Group mandate which notes that any measures it proposes ‘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.’ Article X/ICA-related issues 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.

The official web page for this Session, hosted by the BWC Implementation Support Unit (ISU), can be found at <https://meetings.unoda.org/meeting/71781>.

Discussions in the WG

The ICA topic has been previously discussed during days one, two and three of the Second Session of the WG held in August 2023. The fourth day of that session was dedicated to discussion of a possible ICA mechanism. A number of working papers were submitted to that session on the subject of Article X and related issues with most of these focused on issues around a possible mechanism. The three referred to most often in the plenary discussions were WP.1 (ASEAN member states), WP.3 (USA and others) and WP.13 (Pakistan). The official webpage for the Second Session where these documents and other materials can be found is at <https://meetings.unoda.org/meeting/67451>.

Reports 2023-9 and 2023-10 in this series covered the discussions in the Second Session on the general topic and on the possible mechanism, respectively, and are available from the links provided overleaf.

For the Fourth Session, as of Tuesday night, one working paper (WP.7) had been published relevant to this topic. This was from the UK and follows the call in para 61 of the Final Declaration of the Seventh BWC Review Conference (2011) on the submission of national reports, at least biannually, on the steps taken by states parties to implement Article X. Other working papers may be submitted. The Friends of the Chair on this topic circulated a non-paper just before this Session on a possible decision for an ICA mechanism that includes draft ‘Guiding Principles’ for an ICA programme under the BWC, draft terms of reference for an ICA Fund to receive voluntary donations, and draft terms of reference of a ‘Steering Group’ to oversee the ICA programme and the Fund. It

is clear from the non-paper that consensus has not been reached on all of these elements, however, there has been notable progress since the discussions in the Second Session.

While the possible ICA mechanism and the possible mechanism to review scientific and technological (S&T) developments are distinct activities, political linkages have developed over the years. The political context is such that neither is likely to be adopted without the other and so progress on each of them relies on progress on the other.

Article X issues in context

Article X of the BWC is about access to the life sciences for peaceful purposes and sits at the heart of the ICA-related issues. 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 not to hinder the use of the life sciences for peaceful purposes. In addition, Article X 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 growing awareness over the last couple of decades of the vulnerability of modern societies to the impacts of infectious disease have influenced the debates on ICA issues. Outbreaks such as SARS, Ebola Virus Disease and the COVID-19 pandemic have illustrated the challenges of responding to infectious disease and lessons have been learned 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.

Nonetheless, the cluster of issues around cooperation and assistance and Article X have been the focus of long-standing divergences of views between governments. Security, economic and geographical considerations 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 inbetween 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. Other 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.

There have been many proposals over the years to enhance implementation of Article X but not many have been enacted. The Seventh Review Conference (2011) decided to ‘establish a database system to facilitate requests for and offers of exchange of assistance and cooperation among States Parties’, often referred to as the ‘Article X database’. While numbers of offers of help and requests for assistance in the database have risen over the years, a number of states parties have suggested that the database is underused. Iran has probably been the most vocal, calling it ‘inefficient’. The Ninth Review Conference (2022) added an ISU staff post which includes some ICA activities.

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. The reports are written by Richard Guthrie, CBW Events, who is solely responsible for their contents <richard@cbw-events.org.uk>.