

Thursday 12th December 2024

Plenary discussions of compliance and verification plus a new proposal draft

The second Wednesday of the Fifth Session of the Working Group (WG) on the strengthening of the 1972 Biological and Toxin Weapons Convention (BWC/BTWC) returned, as scheduled, to the topic of ‘compliance and verification’; the topic also discussed in plenary on Wednesday and Thursday of the first week of the session.

The plenary lasted all morning and was presided over by Vice-Chair Irakli Jgenti (Georgia) so that the Chair of the WG, Ambassador Frederico S Duque Estrada Meyer (Brazil), had more time for consultations away from the conference room.

There was no plenary in the afternoon with some uncertainty for most delegates of what was expected. After a while, the Chair appeared and announced there would be a new version of his proposal to be circulated shortly, which was done in the form of a non-paper. After delegates had a brief chance to read through this, the Chair invited feedback on the new draft. At the end of the feedback session, Ambassador Meyer announced that would be further discussions on the text in a small group on Thursday morning. The composition of the small group was not publicly announced.

Discussions on compliance and verification

The Friends of the Chair for this topic, Ambassador Robert in den Bosch (Netherlands) and Alonso Martínez (Mexico), introduced a ‘food for thought’ non-paper they had prepared since the plenary discussions the previous week. They emphasised that their document does not have any formal status, but was to stimulate further thinking and to focus discussion. They reported that as a result of their consultations they had identified four convergences: a shared appetite to work on compliance and verification; that Article I is a core negative obligation that needs to be verified; a need to positively engage with the work previously done by VEREX and the Ad Hoc Group; and that the subject matter requires input from subject matter experts. The two-page non-paper was composed of four sections: measures; past work and existing approaches; advances in science and technology (S&T); and other matters. They flagged that there would need to be a combination of measures as there was not a single measure that could fulfil all of the needs of a compliance and verification regime.

General comments – In discussion there were many points that were repeated from the plenaries a week before and so some will not be included here. It was suggested that the non-paper could do with a short section at the beginning to provide context. A number of delegates noted benefits of reaching a shared understanding of what the endpoint of the creation of a compliance and verification system might look like in order to help focus discussion. This would include considerations of the object(s) and purpose(s) of an overarching verification and compliance regime.

Coverage of verification – While there was common ground that compliance with Article I should be verified, there were various perspectives on other Articles, with Articles II, III and IV being referred to most often. These are the key articles for those who focus on the security- and disarmament-related aspects of the Convention. There were some suggestions that all of the Convention should be covered. For example, what about those parts that are about promotion, such as Article X? This raised a secondary

question about whether such an Article could be verified with the implication there could be some other form of compliance assessment. Were all Articles equally amenable to what is traditionally understood to be verification? It was suggested that any verification system should be universally applied and non-discriminatory with no escape clauses for some states parties through the Article VI provisions.

Negative/positive obligations – The distinction between a negative obligation and a positive obligation was elaborated during the discussion as it seemed some delegates had not experienced aspects of the Convention being framed this way. An example given of a negative obligation was that in Article I to not develop biological weapons (i.e., a state party is not to do something). An example given of a positive obligation was that under Article IV for a state party to prevent others from developing biological weapons within its territory (i.e., a state party has to take action to achieve something). The non-paper had highlighted that measures relating to verification of negative obligations could differ from those verifying positive obligations.

Legal nature of measures – There was some discussion of the legal nature of potential verification measures. It was suggested that legally binding obligations (whether negative or positive) need legally binding verification measures. However, there was some recognition that there were non-legally binding measures that might aid transparency or assist in developing good practices in national implementation which would assist with compliance. The discussion illustrated some aspects of the continuum that stretches between transparency and verification. The BWC system of Confidence-Building Measures (CBMs) was mentioned in the non-paper. How these might relate to a verification system was raised in the discussion. A number of states parties have had a long-standing position that CBMs are not a substitute for verification and should not be used to assess compliance. However, it is clear that some of the information contained in CBM returns would also be relevant to any system of national declarations under a comprehensive compliance and verification system. Exchange of other categories of information from CBM returns would continue to be useful transparency measures once a verification system was in place. The question of whether CBMs should be made mandatory was raised.

‘Working platform’ – The non-paper had used this term in the context of creating a forum or workspace through which verification and compliance measures could be further developed. As the nature of such a platform was not specified, this raised a number of questions during the discussions. What would this look like? Would this be as an addition to the activities of the WG over the next two years or would this be created after the Tenth BWC Review Conference scheduled for 2027? In their wrap-up comments at the end of the plenary, the Friends of the Chair noted that this was an idea still very much in its early stages, and that the WG would not be the final step in consideration of this topic and so there was a need to think ahead.

‘Biological threat landscape’ – This phrase was used in the non-paper in the context of understanding the threats upon which there needed to be a common understanding in order to develop a compliance and verification regime. It seems this term didn’t easily translate into other languages used in the room. When operating in a multilingual setting, it is important to remove ambiguities from uncertain terms in any of the languages. The term ‘threat landscape’ is commonly used in relation to cyber security issues as a shorthand to summarize the overall challenges which would include, for example: vulnerabilities to attack that might be identified; what malicious software techniques might be used; how might these be defended against; who might be potential perpetrators of attacks; and how might any given context heighten or reduce such threats. The concept of the biological threat landscape takes similar points and substitutes biological techniques for cyber techniques. In discussion, it was suggested that a ‘one health’ approach should be adopted combining consideration of potential deliberate health threats to humans, animals and plants.

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>.