

Monday 19th August 2024

## Assistance, response and preparedness under Article VII: setting the scene

The Fourth 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 19 to 23 August, as decided by the Ninth BWC Review Conference (2022). The First Session established a schedule of work which was amended by decisions later in the year. The upcoming session is scheduled to deal with three topics: 'Measures on assistance, response and preparedness under Article VII' (Monday to Wednesday), 'Measures on scientific and technological developments relevant to the Convention' (Thursday), and 'Measures on international cooperation and assistance under Article X' (Friday). The first of these will be discussed here with the latter two having their own 'setting the scene' reports in this series which will be published over the next two days. A summary of the discussions that take place Monday to Wednesday will be published on Thursday. Reports in this series from the first three Sessions (and back to the Sixth Review Conference in 2006) are available from the links provided overleaf.

There have been a number of personnel changes as is usual in multi-year multilateral processes. Most delegates are posted to this issue area, whether in Geneva or in capital, on three- or four-year rotations. On occasion, national circumstances lead to reallocation before a rotation has been completed. This is the case with Ambassador Flávio Damico (Brazil) who was promoted this year to become his country's ambassador to Ecuador and his successor in Geneva is Ambassador Frederico S Duque Estrada Meyer. Ambassador Damico had been appointed Chair of the Working Group. Following consultations, Ambassador Meyer has been nominated to be the Chair. Ambassador Camille Petit (France) and Irakli Jgenti (Georgia) remain as Vice-Chairs. Other rotations mean that there are some changes to the 'Friends of the Chair' for the various topics under discussion within the WG.

Since the group last met in December there have been two additions to the membership of the BWC. Tuvalu deposited its instrument of accession on 28 June with Micronesia depositing its instrument on 12 July. They have become the 186th and 187th BWC states parties, respectively. Universalization issues are in the remit of the BWC Meeting of States Parties (MSP) to be held at the end of the year rather than the WG.

Official documents and other materials have been posted by the BWC Implementation Support Unit (ISU) to the official web page of the session at <https://meetings.unoda.org/bwc-/biological-weapons-convention-working-group-on-the-strengthening-of-the-convention-fourth-session-2024>

### **Assistance, response and preparedness issues in context**

This topic is based on Article VII of the Convention which deals with the provision of 'assistance' by states parties if a state party is 'exposed to danger' because of a 'violation of the Convention'. The negotiations that led to the adoption of the BWC included a divergence of perspectives on whether use of biological methods of warfare should be specifically included as a prohibition of the Convention or not – the argument being that inclusion might be interpreted as weakening the status of the 1925 Geneva Protocol which had already prohibited use. As use could only follow possession, which was clearly

prohibited, use of biological weapons could only result from a violation of the BWC.

Any large scale attack using biological weapons would be a emergency in public health terms, whether the initial target was humans, animals or plants. There is a considerable overlap in capacities needed to respond to natural or deliberate disease outbreaks, particularly in relation to dealing with mass casualties. Indeed, it may not be apparent early on that an outbreak of disease was naturally occurring or deliberately induced. However, there is a clear desire expressed by a number of delegations to avoid duplication of activities and resources. Nevertheless, it is widely recognised that effective measures to reduce naturally-occurring infectious disease are perhaps the most significant defence against use of biological weapons. Lessons have been learned from assistance between states in response to recent outbreaks such as from Ebola Virus Disease (EVD) and the COVID-19 pandemic. As no government is likely to have ready all of the resources required to respond to a severe biological attack, the concept of receiving assistance applies to all. Within BWC meetings, very practical concerns have been raised about how to implement Article VII.

The ISU has produced a background paper (BWC/WG/4/1) for this Session outlining relevant decisions from Review Conferences, common understandings reached in the inter-sessional work programmes, and relevant activities carried out by the ISU.

The advantages of governments requesting assistance under Article VII to be able to communicate their needs promptly and effectively has been long recognised. The lead on this issue has been taken by South Africa which over the years has produced a number of working papers on guidelines that could be used in a request for assistance, including a suggested checklist of information to be communicated. An updated working paper (BWC/WG/4/WP.1) has been submitted to this Session.

Russia has long argued that a system of mobile biomedical laboratories as part of international arrangements for response within the BWC would have advantages and has produced a number of working papers on the subject. An updated working paper (WP.2) has been submitted to this Session.

Article VII has never been invoked which has led to there being some uncertainties and divergences of perspectives on how this might best be carried out should the need arise. The US has submitted a working paper (WP.3), co-sponsored by 11 other states parties, reviewing some outstanding questions and uncertainties about the activation of the Article VII process.

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’. In 2015, France and India proposed an additional database for assistance under Article VII that should encompass ‘emergency assistance, containment measures and recovery assistance’. This proposal received what some have described as a decision in principle at the Eighth Review Conference (2016) and the challenges of reaching consensus at the Ninth Review Conference (2022) led to no further decision being taken on this. An updated working paper (WP.4) has been submitted to this Session.

Further working papers are understood to be in the pipeline to be published in the coming days.

The Friends of the Chair on this topic have prepared a paper that was circulated to states parties in July and posted on the Session website the Friday before the Session. The paper summarizes some of the activities and discussions so far and concludes with 10 ‘guiding questions’ on the role of the BWC and other international bodies, cross-cutting issues, and concrete proposals to strengthen implementation – a number of which are touched upon in the working papers above.

The Ninth Review Conference was 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.

*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](mailto:richard@cbw-events.org.uk)>.*

Tuesday 20th August 2024

## A return to scientific and technological developments: setting the scene

The topic scheduled for Thursday, the fourth 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 scientific and technological developments relevant to the Convention’. This is topic (b) of those allocated to the WG by the Ninth BWC Review Conference (2022). The Conference considered proposals for review of scientific and technological (S&T) developments in some detail, while facing considerable political challenges. In the final week, as successive iterations of the proposed text on S&T review were being produced in attempts to achieve consensus, more and more details were being removed. The Final Document was therefore sparse on this issue area and para 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.’ While the agenda item for this Session is the overarching S&T topic, it is likely that the possibilities for a mechanism will be the focus of many discussions.

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

These topics have been previously discussed during days five, six and seven of the Second Session of the WG. The eighth day of that Session was dedicated to discussion of a possible S&T review mechanism. A number of working papers were submitted to that session that highlighted relevant S&T developments. The three referred to most often in the plenary discussions were WP.4 (US), WP.8 (UK) and WP.12 (Iran). Of those focused on a possible 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 contains copies of these documents and other materials can be found at <https://meetings.unoda.org/meeting/67451>.

Reports 2023-11 and 2023-12 in this series covered the discussions in the Second Session and are available from the links provided overleaf. These include discussions on aspects of a possible S&T mechanism such as structure, appointment criteria, scope, selection of topics, outputs, oversight, and funding.

For the Fourth Session, as of Monday night, one working paper (WP.6) had been published on S&T issues. This was from the UK and highlights examples of S&T advances that state party considers relevant and worthy of review. Other working papers may be submitted. The Friends of the Chair on this topic circulated a non-paper on elements for an S&T mechanism to states parties in June. There are some square brackets in the non-paper which indicate areas where there does not yet appear to be consensus.

### Reasons for reviewing S&T developments

The understandings of the processes that underpin life change constantly as more research is carried out and new discoveries are made. This generates an ever-changing context that

the BWC has to operate within. Some developments are entirely peaceful. For example, some advances provide previously unsurpassed opportunities for development of innovative medical treatments and new ways to detect the spread of disease as well as many other possibilities. Some of the advances create negative opportunities for hostile uses through novel techniques. Some developments fall into both categories. Without an understanding of the S&T context, it is impossible to maintain controls over the use of disease as a weapon at either the national or international level.

Some of these challenges are amplified as the uses of biological techniques spread far more widely. There are multiple biological techniques that may be used and so it is often inappropriate these days to think of a 'biotechnology industry' rather than a range of industries that use biological techniques. This adoption of biological techniques has led to more widespread availability and knowledge of materials and processes that may have potential for both peaceful and hostile purposes.

### **The challenges of carrying out S&T reviews and the calls for a mechanism**

Science advice within governments remains challenging across the globe. The different perspectives that policy practitioners and S&T practitioners bring to discussions can provide clarification and guidance to many contemporary issues; yet those same differences can hinder discussions if there is not an effective process to bring them together. A key aspect is to ensure that there are trusted sources of advice for those who have to develop policies.

For many years, there has been a recognition amongst a large number of BWC states parties that the five-yearly process of briefly reviewing S&T developments during Review Conferences has not been enough. Article XII of the BWC, which deals with the role of Review Conferences, mandates 'Such review shall take into account any new scientific and technological developments relevant to the Convention.'

A key challenge is that identifying relevant S&T developments is not enough on its own – once developments are identified, what are their implications? This need to identify implications can perhaps best be illustrated by 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 tool (often simply referred to as CRISPR) that allows for exact and accurate editing of genetic sequences. What are the implications for regulation to prevent its hostile use?

Real-world experience has shown that S&T developments proceed at a faster rate than the developments in policy structures intended to monitor them, and if new risks or benefits are identified, to manage them.

Most of the past proposals for arrangements to enhance review of S&T developments looked at one or other of two models. One model was a panel, committee or board selected by some criteria to have a limited membership. 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. This is the basis of discussion in the non-paper from the Friends of the Chair.

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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.

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Thursday 22nd August 2024

## Discussions on assistance, response and preparedness under Article VII

The first three days of the Fourth Session of the Working Group (WG) on the strengthening of the 1972 Biological and Toxin Weapons Convention (BWC/BTWC), discussed ‘Measures on assistance, response and preparedness under Article VII’ – topic (f) of those allocated to the WG by the Ninth BWC Review Conference (2022). This was the first opportunity within the Group for substantive discussions in this issue area.

It was opened on Monday morning by Mélanie Régimbal, Chief of the UN Office for Disarmament Affairs Geneva Branch who presided over the appointment of a new Chair, following the departure from Geneva of Ambassador Flávio Damico (Brazil). Ambassador Frederico S Duque Estrada Meyer (Brazil) was elected Chair by acclamation for the remaining time of the mandate of his predecessor (i.e., to the end of 2024).

The Chair then offered some opening remarks. He welcomed the two new states parties, Tuvalu and the Federated States of Micronesia, that had recently joined the BWC family and noted that both had delegates in the room. He highlighted the 50th anniversary of the entry into force of the BWC which might serve as a focal point for activities. He noted that 31 experts had been supported to attend the WG through the sponsorship programme with financial contributions from France, Republic of Korea, the UK and the EU and that the USA had supported additional experts bilaterally. He highlighted that there wasn’t much time available and so there was a need to work efficiently. He urged delegates not to waste half a minute in every intervention with the diplomatic formalities of congratulating him on being appointed and thanking him for his efforts. He said: ‘I consider myself thanked’ which received a rare round of applause.

During the opening period, there were a few formal decisions, for example on participation of observers such as inter-governmental organizations. Russia took the floor to argue that the rules of procedure should be followed ‘stringently’ and that observers should not be able to address the plenary. The delegate indicated that if an inter-governmental or non-governmental organization made a request to take the floor his delegation would wish to reopen the question of who could attend under what conditions.

The WG met in plenary all day on Monday and on Tuesday morning before moving into informal consultations in the afternoon. After the briefest plenary first thing on Wednesday, it moved into informal consultations for about an hour and a half before returning to plenary. This meant between a quarter and a third of the discussions on this topic were held behind closed doors with only delegates from states parties in attendance.

### Panel discussions

The first two days started with panel discussions comprising representatives of international organizations that carry out roles that were analogous or relevant to activities that might be carried out under Article VII. These were the World Health Organization (WHO) [from both the Health Emergencies Programme and from the Emergency Medical Teams], the World Organization for Animal Health (WOAH, formerly OIE), the International Plant Protection Convention (IPPC), the International Atomic Energy Agency (IAEA) and the Organization for the Prohibition of Chemical Weapons (OPCW). Each panel was followed by an active Q&A session. Where presenters have made their

presentations available, these have been posted to the Session website which can be found at <https://meetings.unoda.org/meeting/71781>.

### **Plenary discussions**

As the plenary moved into general discussions, those delegations that had submitted working papers were given priority to introduce their papers. In addition to the four working papers on this topic submitted before the start of the WG (and which were noted in the 'setting the scene' report in this series), a further paper (WP.5, UK) was published on Monday in which that state party highlighted capabilities that it is in a position to offer that are relevant to implementation and operationalization of BWC Article VII.

There were many points made about process and how assistance might be requested. The proposed guidelines received broad support, with many delegations stressing that such guidelines would be voluntary. As in earlier BWC meetings, the role of the UN Security Council was subject to divergent views.

The proposed Article VII database also received broad support, although there were questions about potential duplications with the existing Article X database. This also fed in to other points raised about which article was the best provision to carry out particular activities under. Others were less concerned about the specific article but whether it was better to do activities under the BWC rather than under another international arrangement. Some states parties referred to the possibility of an Article VII 'mechanism', although this is not on the agenda. As the other two possible mechanisms are taking a long time to reach agreement on, it is unlikely there would be much appetite across the room for another long discussion.

There were suggestions that Article VII provisions were best dealt with as part of a comprehensive legally-binding instrument while others were keen to develop actions in the shorter term that would enhance assistance, preparedness and response.

A number of interventions included one or more benchmarks or yardsticks by which potential measures could be evaluated which highlight perception of what might be considered success in this topic. These included: does it make a state party more prepared, either to provide assistance or to be able to make use of assistance? – can it be integrated with other measures so that activities are not piecemeal? – does it carry out a particular BWC function or would it duplicate measures elsewhere? – can it be applied globally? – does it recognise, take into account, or compensate for resource inequalities? – does it impact on gender equality? – does it speed up delivery of assistance? – is timeliness of assistance the primary criterion?

Discussions on funding were different under this topic to those under other topics within the WG as most suggested activities have few financial implications for the BWC itself. An exception to this is the proposal for provision of mobile bio-medical units as these would have significant financial implications; these appear to be the primary reason why delegations are hesitant about the mobile labs proposal.

There was no need for any conclusions to be drawn on this topic this Session as the same topic is earmarked to be discussed on the first day of the Fifth Session, scheduled to start on 2 December. The current Friends of the Chair on this topic are Andreas Fink-Jensen (Denmark) and Angel Dalmazzo (Argentina), although the latter has recently moved to a new portfolio. Mr Fink-Jensen provided the plenary with an update on progress to reach consensus and indicated a new version of the Friends of the Chair non-paper would be circulated in October ready for discussion in December.

At the conclusion of Article VII discussions late Wednesday morning, the Chair proposed moving to a rolling agenda which would allow for discussion of the next topic – scientific and technological (S&T) developments – that had been scheduled to start on Thursday. He noted that the room and interpreters had already been paid for and so this would allow for efficient use of resources. This was agreed and the S&T elements of discussions on Wednesday will be covered in the next report in this series

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Friday 23rd August 2024

## Discussions on scientific and technological (S&T) developments

The Fourth Session of the Working Group (WG) on the strengthening of the 1972 Biological and Toxin Weapons Convention (BWC/BTWC), had been scheduled to discuss ‘Measures on scientific and technological developments relevant to the Convention’ for the whole day on Thursday. However, as noted in the previous report in this series, the discussions on the Article VII topic finished during Wednesday, and so discussions on this topic started early. This report covers the discussions on S&T developments across the two days. As expected, most discussions centred around the creation of a possible review mechanism rather than the broader S&T topic.

The WG met in plenary on this topic for the remaining hour before lunch on Wednesday. The afternoon session was split roughly 50-50 between a plenary and informal consultations. There were then two hours of plenary on this topic on Thursday morning. This means roughly a quarter of the discussions on this topic were held behind closed doors with only delegates from states parties in attendance.

### Plenary discussions

Many delegates noted that progress was being made towards consensus on this subject, but that as with many other negotiations ‘the devil is in the detail’. There were many interventions highlighting positive benefits that could come from an S&T review process across a broad swath of BWC activities – from verification to international cooperation and assistance. There was broad agreement that any S&T process should be led by science and not by politics.

*Structure* – most delegates that expressed a preference were happy with a hybrid model as from most perspectives it contains the elements they want even if it includes elements they were not so keen on having included. The number of explicit preferences indicated for either a limited-membership committee/board or of a body open to all states parties were fewer than in the discussions in the Second Session.

*Review/oversight* – there was much common ground that the mechanism would need some form of oversight and perhaps a periodic review of how well it was working. One way of forcing a review would be to give it an initial period of operation that would then have to be renewed. Discussion with some delegates in the corridors suggested that while this seemed a pragmatic way forward it ran the risk of the renewal of the mechanism being held hostage to future political influences. While a number of interventions referred to links between the mechanism and the annual Meeting of States Parties (MSP) there was no clear consensus about how this might operate, part of which stems from divergences of views on whether the Review Conferences are the only BWC body empowered to take decisions. The five-year gap between Conferences is seen by many as being too long to be able to react to rapid S&T developments.

*Outputs* – compared with earlier discussions, there was much more emphasis in interventions of the importance of indicating minority opinions in any reports from the mechanism.

*Membership* – as before, 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. Precise methods for ensuring this are still subject to some discussion.

*Funding* – a number of concerns were raised about the financial implications of the mechanism as whichever model is chosen there would be at least some increase in assessed contributions to the BWC by states parties. There would also be some knock-on implications, such as the need for more ISU staff to service the mechanism. Global resource inequalities were highlighted as the costs of participation might privilege representation from countries more able to handle the resource implications.

*Process of adoption* – there were some divergences of perspectives on what was expected from the WG in terms of process, partly this may be down to when a decision is a decision or not a decision! It was suggested that only Review Conferences or Special Conferences could take decisions. [This is a point that is contested.] From this perspective, the WG cannot decide on anything. However, many delegations were speaking about adopting a decision to create an S&T mechanism. This seems to be simply a shorthand way of saying that the WG would agree a text that could be forwarded to the MSP in December which might then convene a Special Conference that would decide to create the mechanism(s). As the participants in the WG would be the same as in the Special Conference, it would be a reasonable assumption that if a text to create a mechanism was agreed by consensus at the WG it would also be adopted by consensus at a Special Conference.

A notable intervention was that of Ambassador Leonardo Bencini (Italy) who drew on his experiences as President of the Ninth BWC Review Conference that had provided the mandate for the Working Group, adopted by consensus in December 2022. He wanted to remind delegates of what had been agreed in 2022 and drew particular attention to the last sentence of paragraph 12 of section B of the Final Document which reads: ‘The Conference urges the Working Group to complete its work as soon as possible, preferably before the end of 2025.’ He asked the rhetorical question: ‘Why did the conference agree to urge, that is quite a strong word, to urge this Working Group to complete its work as soon as possible? Why?’ Answering his own question, he said: ‘Because there was a clear sense of urgency in that sentence that we all shared. It was the sense of urgency of the world just coming out of the worst pandemic in a century. We had to rise to the occasion and, if only partially, we did. And we did so by establishing this Working Group and deciding to develop the two mechanisms. The two mechanisms had a special place in the Final Document, specific separate paragraphs for both of them. This is why we think they should be part of what we and others have called an early harvest, a decision to be made in 2025 at a Special Conference.’

The specific topic of the possible mechanism is earmarked to be discussed on the seventh day of the Fifth Session, scheduled to start on 2 December. The current Friends of the Chair (FoCs) on this topic are Grisselle Rodríguez (Panama), Peter Babigumira Ahabwe/Musa Kwehangana (Uganda), Vincent Bodson (Belgium) and Ljupčo Gjorgjinski (North Macedonia). Owing to other commitments, not all of the team had been able to be in the BWC meetings this week and Mr Bodson indicated that this would be his last BWC meeting before moving to a new post. The FoCs provided the plenary with an update on progress to reach consensus and encouraged delegates to remain active and in contact on this topic as they prepare a new version of their non-paper ready for discussion in December.

The discussions on S&T developments finished about two-thirds through the morning session on Thursday. Which meant they had been discussed for the same duration as had been scheduled if they had all been carried out on Thursday. The Chair then continued with the rolling agenda and moved on to the next topic – cooperation and assistance under Article X – that had been scheduled to start on Friday. The ICA/Article X discussions on Thursday and Friday, together with the adoption of the report and closing of the meeting will be covered in the next report in this series.

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Monday 2nd December 2024

## The closure of the Fourth Session and preparations for the Fifth

The Working Group (WG) on the strengthening of the 1972 Biological and Toxin Weapons Convention (BWC/BTWC), will convene for its Fifth Session on 2 December having finished the Fourth Session on 23 August. The topics for discussion in the WG were decided at Ninth BWC Review Conference, held in 2022. The two-week Fifth Session will be followed by the annual Meeting of States Parties (MSP) which is scheduled for 16-18 December.

This report focuses on some overarching issues. Individual topics up for discussion during the Fifth Session have been examined in earlier reports in this series, and in particular in the ‘setting the scene’ reports.

### **Article X discussions and closing of the Fourth Session**

The Fourth Session of the WG had been scheduled to discuss ‘Measures on cooperation and assistance under Article X’ for the whole day on Friday 23 August. As with other topics during the Session, discussions had started the day before as the agenda was running ahead of schedule. This allowed time for informal consultations and for adoption of the report.

Unlike the discussions on science and technology (S&T) issues on the Wednesday and Thursday which had focused on a possible review mechanism in that area, the international cooperation and assistance (ICA) discussions were much broader and focused on the importance many delegations placed on improving implementation of Article X rather than on the specifics of a possible ICA mechanism.

The WG met in plenary on this topic for the last hour before lunch on Thursday as well as the full three hours of plenary in the afternoon. The topic was discussed for an hour in plenary on Friday morning before switching to informal consultations. Towards the end of the afternoon the plenary resumed for a couple of further interventions on this topic before hearing from the Friends of the Chair. The plenary then went on to adopt the procedural report of the Session. As with earlier topics there was no specific need to come to conclusions at this point as the same topic is due for consideration on the sixth working day (Monday 9 December) of the Fifth Session.

Fourth Session documents, including where presenters have made their presentations available, have been posted to <https://meetings.unoda.org/meeting/71781>. There is a separate website for the Fifth Session and the MSP (see below).

### **Activities between the Sessions**

Since the closure of the Fourth Session there have been many ongoing activities in support of the WG. The Friends of the Chair for each topic have continued consultations and there seems to be a sense of progress.

Much of what is happening is going on behind closed doors. For example, from what can be ascertained there have been considerable consultations on what form an ICA mechanism might take. However, as there remains divergent perspectives on what might be the favoured structure for such a mechanism, there is a strong argument for some of the consultations on this and related issues to be held discreetly in the hopes of making progress. The arrangements for a possible ICA mechanism are much less developed than

those for a possible S&T mechanism. Although both mechanisms are stand-alone items, there are political linkages that remain between the two which make it unlikely that one could be adopted without the other.

Perhaps the major activity was a retreat held in Montreux on 21-22 November. Very little has been placed on the public record from the retreat, although the Chair of the WG, Ambassador Frederico S Duque Estrada Meyer (Brazil) has published his opening remarks. In these, he notes a proposal to establish the two mechanisms with provisional mandates and use them to inform deliberations on other parts of the WG deliberations, and in particular the issues of compliance and verification. This would allow for a confirmation of progress already made alongside an enhancement of progress towards the Tenth BWC Review Conference which is scheduled for 2027. Ambassador Meyer spoke of the need for action: 'The time to act is now. Procrastination is the ally of stagnation. The BWC is at a crossroads. It can either solidify its role as the cornerstone of international biosecurity or risk being overshadowed by more agile actors.'

### **The Fifth Session and the MSP**

The Fifth Session and the Meeting of States Parties that follows it are the final tranche of BWC meetings in 2024. They also mark the end of the first phase of the WG as the initial office holders of the WG had a two-year term of office which comes to an end this year.

According to the provisional WG programme of work, most days have specific topics for discussion but the last two days have been set aside for overall consideration of the topics handed down by the Ninth Review Conference.

The MSP will deal with overarching issues for the BWC and its provisional programme of work has been published. Some administrative arrangements appear to be outstanding, such as appointment of office holders.

A number of working papers have been submitted to the Fifth Session. These and other relevant documents are being posted to the Fifth Session website which can be found at <https://meetings.unoda.org/meeting/71783>. The website for the MSP is at <https://meetings.unoda.org/meeting/71785>.

### **Some reflections on fiftieth anniversary issues**

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 key aspects. The following are some personal reflections that do not necessarily represent anyone's views other than the author's own.

The BWC entered into force on 26 March 1975 and so next year marks the 50th anniversary which has prompted thinking by a number of delegates. Some have suggested that an anniversary event would focus the attention of governments and would be an ideal moment to convene a Special Conference (as allowed for in the decision of the Ninth Review Conference) to adopt some or all of the outcomes so far in the Working Group. Others have indicated hesitation about this, adopting a maximalist position that only when all issues are agreed in full can there be any form of adoption.

There is considerable common ground on what is needed to strengthen the Convention. But this is not a universal orthodoxy. The number of delegations outside of this orthodoxy is few; yet it is the few that are the limiting factor on the rate of progress. This is not to assume that those who hold to the orthodoxy are (i) united on every substantive point or (ii) holders or defenders of some fundamental truth.

The Chair's opening comments during the Montreux retreat reflect concerns in a broad swath of delegates that there have been many lost opportunities in the past to strengthen the Convention that have resulted from the objections of just one or of a few states parties. Which states parties raise objections change over time. Could the 50th anniversary finally be the moment at which consensus can be reached on substantive measures? If not the 50th anniversary, what might the catalyst for consensus be?

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Tuesday 3rd December 2024

## Fifth Session, first day: assistance, response and preparedness - Article VII

The Fifth Session of the Working Group (WG) on the strengthening of the 1972 Biological and Toxin Weapons Convention (BWC/BTWC) opened on Monday morning in the Tempus Building in the Palais des Nations in Geneva. This is a temporary facility in use while renovation works are carried out in other parts of the Palais. Arrangements in the building are relatively basic and may have an impact on proceedings compared with the specialized facilities usually available.

The scheduled topic for the plenary on Monday was ‘assistance, response and preparedness under Article VII’ which had previously been discussed during the first three days of the Fourth Session in August. Once plenary discussions on this topic came to an end on Monday, the Friends of the Chair on international cooperation and assistance under Article X convened a meeting to discuss the proposed ICA mechanism. Work on this mechanism is ongoing and further such meetings are expected during the Fifth Session.

Further working papers were published on Monday and have been posted to the Fifth Session website which can be found at <https://meetings.unoda.org/meeting/71783>.

### Opening of the meeting and procedural issues

The proceedings were opened by the Chair of the WG, Ambassador Frederico S Duque Estrada Meyer (Brazil), who spoke along the lines of his opening remarks to the Montreux retreat in November. He stressed the need ‘to break the cycle of discussions that have for too long characterized the Biological Weapons Convention. We need a forcing mechanism to break the logjam once and for all’. He repeated his proposal to establish the ICA and science and technology (S&T) mechanisms with provisional mandates and use them to inform the other WG deliberations. He thanked delegations for the positive feedback he had received on the proposal. However, he cautioned that if states parties decided to convene a Special Conference (as envisioned in the decisions of the Ninth BWC Review Conference), they would have to be sure that there were substantive recommendations to discuss and everything done to ensure it was a success.

Ambassador Meyer announced replacements for Friends of the Chair owing to departures from Geneva. Claudia Henfry has replaced Michelle Carr (both from Australia) on national implementation; Kiseok Michael Kang (Republic of Korea) has replaced Vincent Bodson (Belgium) on S&T; and Daisuke Namioka has replaced Shigeru Umetsu (both from Japan) on organizational, institutional and financial arrangements.

There was some discussion of the WG rules of procedure. Paragraph 11 of the ‘Decisions and recommendations’ section of the Final Document of the Ninth BWC Review Conference reads: ‘The Rules of procedure of the Conference will be applied to the Working Group, *mutatis mutandis*. The Working Group will conduct its work by consensus.’ Paragraph 5 of the Procedural Report of the First Session of the WG reads: ‘In accordance with the decision of the Ninth Review Conference, the Working Group confirmed as its rules of procedure, *mutatis mutandis*, the rules of procedure of the Ninth Review Conference, as contained in document BWC/CONF.IX/2.’ [‘*Mutatis mutandis*’ is a phrase in Latin used in relation to legal documents that means with necessary changes being applied in the new circumstances.] Russia questioned the ability of inter-governmental organizations (IGOs) to officially present their views to the WG. After

some back-and-forth with the Chair, Russia joined the agreement that six IGOs could attend as observers, but would not join in agreement that the EU could put forward its views in writing as official documents. According to the literal interpretation of the rules expressed by the Russian delegation, this would require a consensus decision. Other delegations highlighted past practice during which IGOs had engaged with BWC plenary meetings. The Russian delegation stated that the last time the EU had put forward its views in official documents was during the Third Session of the WG and that these views had been critical of Russia.

### **Article VII discussions**

The Friends of the Chair on this topic are Andreas Fink-Jensen (Denmark) and Angel Dalmazzo (Argentina). The plenary discussion on this topic was opened by Mr Fink-Jensen on behalf of the Friends outlining a non-paper they had circulated to delegations on Friday. Noting there was no consensus for a single overarching measure, he outlined a ‘pragmatic step-by-step approach’ based on three discrete measures that could form the basis of future progress. These were: voluntary guidelines; a registry of deployable capacities; and a database of offers of assistance. He also noted that the non-paper includes additional measures such as encouraging participation in exercises at multiple levels to test and refine response capabilities and proposes continuing to explore synergies with other international bodies like the World Health Organization (WHO), the World Organization for Animal Health (WOAH, formerly OIE) and the Food and Agriculture Organization (FAO) ‘to ensure coherence and avoid duplication’.

The idea for voluntary guidelines to assist a state party when submitting a request or application for assistance has been under consideration for a decade since the first proposal from South Africa. In the discussion there was emphasis on the voluntary nature of these guidelines and that it would be up to the state party making the request to decide what information to include. The need for speed in generating a request in an emergency situation was highlighted. The humanitarian imperative to deal with the public health implications of the use, or threat of use, of biological weapons was stressed in many interventions with a number recalling the conclusion of the Eighth BWC Review Conference (2016) that states parties in a position to do so should provide timely emergency assistance, if requested, pending consideration by the UN Security Council. The registry of deployable capacities could include, for example, expert teams and mobile laboratory facilities that could be utilised in an emergency. The registry could form the first step towards discussion of more structured response arrangements. Ideas for an Article VII database have been under discussion since an initial proposal by France and India in 2015. Some delegates expressed hesitation about a database suggesting that the existing Article X database was not proving as useful as many had hoped. Whenever the two Articles are discussed in the same intervention there are usually either references to synergies or to distinctions and separations between them. There remain divergences of perspectives on this.

As in earlier discussions, the impact of ‘unilateral coercive measures’, commonly known as sanctions, was raised as a possible inhibitor to Article VII implementation, primarily by countries who are under sanctions themselves. While the subject is one of higher-level policy deliberations, it is clear that such issues are a political priority for those delegations.

One aspect of the issues that was not stated in the plenary meetings this year is the global security enhancement implicit in the strengthening of assistance, response and preparedness. Those who might consider the acquisition and use of biological weapons are likely to be motivated by a sense that such weapons would cause a significant impact if used. If potential perpetrators were persuaded that the use of biological weapons would have less impact than they might otherwise have expected – because of enhanced assistance, response and preparedness – what might be the inhibition on possible intent?

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Wednesday 4th December 2024

## Fifth Session, second day: confidence-building and transparency

The plenary topic for the second day of the Fifth Session of the Working Group (WG) on the strengthening of the 1972 Biological and Toxin Weapons Convention (BWC/BTWC) was ‘confidence-building and transparency’ which had previously been discussed during the first day of the Third Session in December 2023 (although as some time had been lost on the first day of that Session, a few statements on this topic were made on the second).

The Chair of the WG, Ambassador Frederico S Duque Estrada Meyer (Brazil) opened the plenary promptly at 10am on Tuesday morning in line with his stated aim of using the available working time effectively. Once plenary discussions on confidence-building and transparency came to an end, the Friends of the Chair on the topic convened a meeting to continue discussions informally. This was followed by a similar meeting convened by the Friends of the Chair on the science and technology (S&T) mechanism.

Documents, including working papers and statements are being posted to the official Fifth Session website at <https://meetings.unoda.org/meeting/71783>.

### Confidence-building and transparency issues

The BWC system of Confidence-Building Measures (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). Over the years a number of voluntary transparency measures have been suggested and enacted.

The Chair introduced the topic, reminding delegates that these issues had been discussed in many meetings before the WG had been established. He highlighted that the submission rate for CBM returns has been over 50 per cent of states parties for the past four years with the number steadily increasing each year since 2017. He noted that 2023 had been a record year with a total of 106 state parties submitting a CBM return and informed the plenary that 105 have already been submitted this year, with ‘several more’ still expected. [Later in the day, news came through that Cameroon had just submitted its return bringing the 2024 total to 106 to equal the 2023 record.]

The Friends of the Chair for this topic, Laurent Masmajeun (Switzerland) and Angel Horna (Peru) introduced a ‘food-for-thought paper’ they had circulated to delegations mid-November. This had been based on an early reflections paper which had been discussed online in June and then further developed. The non-paper identifies five possible areas of work. The Chair opened the floor for specific responses to the new document and then for general comments. [*Editorial note: to make what follows a more accessible summary, this report will summarize points made from the Friends of the Chair or from delegates in each of the five areas identified but will precede them with some of the general comments as they provide context.*]

*General comments* – Many of the general comments made were in line with points raised in earlier meetings. Many delegations emphasised that CBMs/transparency

measures were no substitute for a legally binding verification system, nor could they be used to judge the compliance of a state party. Lack of clarity about what is achieved through CBMs may be an influence on the low number of returns. Some states parties noted that they make their CBM returns public and this can help with overall transparency. Lesotho indicated it has a draft first CBM return which will be submitted soon.

*Enabling greater participation in CBMs* – The Friends of the Chair noted that proposals fell in four sub-areas: providing enhanced guidance and tailored support; taking steps to facilitate the reporting process; easing the burden of submitting CBMs; and increasing incentives to participate in CBMs. It was highlighted that these were primarily technical in nature. A number of examples of training activities were highlighted in discussion. For example, Timor-Leste spoke of a two-day workshop in Dili in March funded by the UK and the EU involving officials from various ministries to prepare for the CBM submission process. Timor-Leste and others referred to a capacity-building workshop in China hosted in association with the Lao PDR. Australia noted CBM discussions in a universalization workshop it had hosted in January. Support was expressed for the step-by-step approach to enable states parties to submit partial returns as they develop their national processes to compile relevant information. There was some discussion about whether to make CBM returns mandatory and it was highlighted that if they were made legally binding there would be a need to ensure the relevant national capacities were in place.

*Ensuring that existing CBMs remain up to date* – The Friends of the Chair suggested setting up a regular review process of CBMs from a scientific and technical (S&T) perspective as biosafety and biosecurity developments as well as other developments in the life sciences could change what information would be relevant. During discussion there were connections made with the parallel discussions on a possible S&T review mechanism. A need for understanding other changing contexts was suggested.

*Expansion of the scope of existing CBMs or the adoption of new ones* – Over the years there have been a number of proposals although these have primarily been about modifying existing CBMs or adding new elements. During the discussion, Russia introduced WP.8 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. As with the introduction of a similar working paper a year before, references were made to allegations about Ukraine, prompting points of order.

*Leveraging information provided through CBMs* – Alongside the question of what is the information that should be included within the CBM system is one of how the information could be used better. The Friends of the Chair highlighted what might be done collectively to leveraging the information provided in CBMs. One might be to ask the BWC Implementation Support Unit (ISU) to make a quantitative assessment of CBMs. Another would be to organize a regular peer review of CBM submissions [not to be confused with the peer review transparency activities] A third option would be to put arrangements in place to clarify any question or comments that CBMs might give rise to. All of the identified options have resource implications.

*Establishment of new transparency measures or mechanisms* – The Friends of the Chair noted that there have been a number of such measures proposed over recent years including implementation reviews, voluntary visits and voluntary peer reviews which have been developed by ad hoc collections of states parties who have made use of them. As with discussions on these in earlier meetings, some delegations indicated preferences for measures that can be universally applied. Support was expressed for these measures and for the more recent exchange platform proposal to share information on transparency measures with a view to identifying good practices which might be translated into making national implementation more effective and efficient.

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Thursday 5th December 2024

## Fifth Session, third day: a return to compliance and verification

The plenary topic for the third and fourth days of the Fifth Session of the Working Group (WG) on the strengthening of the 1972 Biological and Toxin Weapons Convention (BWC/BTWC) was ‘compliance and verification’ which had previously been discussed during the middle three days of the Third Session in December 2023.

As with other days this week, Wednesday morning consisted of a plenary with the afternoons being used for informal meetings convened by the Friends of the Chair on various topics. On Wednesday these were on compliance and verification and then after a short break on the international cooperation and assistance mechanism.

Additional working papers have been published and posted to the official Fifth Session website at <https://meetings.unoda.org/meeting/71783>. Four working papers relevant to this topic were outlined by states parties during the plenary: WP.6/Rev.2 (France with co-sponsor Belgium, Hungary, Morocco and UK); WP.7 (Germany); WP.9 (Russia); and WP.11 (Switzerland).

With a second day of discussions on this topic due on Thursday (although it is not clear how many delegations may want to make statements), it is possibly premature to provide a thematic summary of points raised during the plenary and so this will be provided in the next report. However, there was a useful summary of the history of the topic provided at the start of the day which is worth recounting below. In a departure from the usual practice of these reports, this report contains some unsourced quotes from statements describing what verification is in the BWC context as a prompt to encourage thinking.

### Opening of the compliance and verification discussions

The Chair of the WG, Ambassador Frederico S Duque Estrada Meyer (Brazil) introduced this topic. He noted that, prior to the discussions during the Third Session, this topic had not been formally and collectively discussed among BWC states parties for over two decades and so the agreement at the Ninth Review Conference (2022) to move forward on this topic was a key achievement. Summarizing the history of the topic, he noted that even before the BWC entered into force in 1975 there were calls to strengthen it by including elements of a verification system. Recognizing that biology presents more challenges for verification than other fields, he described the absence of any verification provision as ‘glaring’. He reminded delegates that the Third BWC Review Conference (1991) had established a group of government experts to identify and examine potential verification measures from a scientific and technical standpoint that had become known as ‘VEREX’ which identified 21 potential on-site and off-site verification measures. He quoted from the September 1993 VEREX report which noted that ‘some of the potential verification measures would contribute to strengthening the effectiveness and improve the implementation of the Convention, also recognizing that appropriate and effective verification could reinforce the Convention’. States parties then convened a Special Conference in 1994 which agreed to create an Ad Hoc Group (AHG) ‘to consider appropriate measures including possible verification measures and draft proposals to strengthen the convention to be included as appropriate in a legally binding instrument’. The AHG undertook negotiations to develop such a legally binding instrument and

Ambassador Meyer noted that ‘in 2001 the group failed to reach consensus on its outcome and verification has not been formally considered since then’. Thus the scientific and technical aspects of verifying compliance with the BWC have not been studied since completion of the VEREX report in 1993. He recounted that several states parties had indicated during the Third Session of the WG, that the negotiations that took place within the AHG may contain some useful elements for discussions within the WG and recalled that the Ninth Review Conference specifically noted that the decision to establish the WG is ‘without prejudice to the mandate of the Ad Hoc Group established by the Special Conference in 1994, nor does it succeed, supplant or change it’. He noted a need to acknowledge that two decades have passed since the end of the negotiations ‘during which time we have seen amazing advances in the life sciences’ including expansion of biotechnological industries and vaccine production. He concluded his historical summary by saying: ‘Last but not least, we should also recall that there were still wide diversions among states parties on the many fundamental issues in the text being negotiated by the Ad Hoc Group’.

### **Friends of the Chair questions**

The Friends of the Chair for this topic, Ambassador Robert in den Bosch (Netherlands) and Alonso Martínez (Mexico), outlined some reflections resulting from their consultations. They posed three questions:

What are the scope and purpose of the concepts of verification and compliance with regard to the obligations under the Convention?

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?

What should the Working Group deliver with regard to the way forward on the topic of compliance and verification in its report for state parties to be considered at the Tenth Review Conference or earlier at a Special Conference?

### **What is meant by ‘verification’?**

It has been noted by a number of delegations that a shared understanding of the concept and purpose of verification would enable progress in discussions. However, the process of discussions in conference rooms is rarely optimal for prompting thinking about such a shared understanding. As an experiment, five quotes from the discussions on Wednesday are listed below without their sources. The intention is to encourage readers to think about the commonalities and differences.

Verification is ...

‘the means through which a judgment on compliance is made. Verification is a process. Compliance is the requirement’ [a]

‘a tool to strengthen international security and it involves the collection, collation and analysis of information in order to make a judgment as to whether a party is complying with its obligations’ [b]

‘when you believe you have sufficient confidence that the measures employed can determine whether the actions are compliant or non-compliant’ [c]

‘a process of collecting and assessing data to be in a position to make an informed assessment of compliance with obligations [based on three pillars: declarations and visits; assessment; and measures in case of uncertainties and/or suspicions]’ [d]

‘a complex process based on three pillars: sound scientific understanding; consolidation of political will; and adequate legal and institutional crafting’ [e]

The sources will be provided in the next report.

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Friday 6th December 2024

## Fifth Session, fourth day: compliance and verification continued

Discussions at the Fifth Session of the Working Group (WG) on the strengthening of the 1972 Biological and Toxin Weapons Convention (BWC/BTWC) continued on Thursday on the topic of ‘compliance and verification’.

There was only a short plenary on Thursday morning which was followed by an informal session convened by the Friends of the Chair. Once discussion on this was completed, similar sessions on the topic of the S&T mechanism and the Chair’s proposal (for the adoption by a Special Conference of the two proposed mechanisms in order to promote discussion on compliance and verification) were convened. This report focuses on the compliance and verification issues arising during Wednesday and Thursday and should be read in conjunction with the previous report in this series.

Delegates are scheduled to consider this topic further in plenary on Wednesday 11 December with possible Friends of the Chair-led discussions before that if there is available time.

### **Compliance and verification discussions**

There was a recognition that the compliance and verification topic was at an earlier stage of development than other topics within the mandate of the WG. Some hints were dropped that perhaps this needed more time allocated to it. There were clear indications that there was no chance of the WG agreeing on a package of measures unless the elements relating to compliance and verification were better developed. There was broad consensus on the need for verification of some sort but quite a diversity of perspectives on the details of how it might be carried out. In a corridor discussion, one delegate described it as ‘agreement on aspiration’.

*Purpose of verification* – The Friends of the Chair asked three questions (listed in the previous report in this series), the first of which asked about purpose and scope of verification. It could be argued that many interventions in the discussions separated some aspects of these so that thoughts on scope followed after thoughts of purpose. There was common ground that verification was needed to detect a violation. But was it also there to deter acquisition and use? Was it only there to deter through the fear of political implications of detection? Were there financial costs in reducing chances of being detected that might make a programme prohibitively expensive? It was suggested that perhaps regional workshops could be convened to prompt a greater consideration of compliance and verification while these concepts were being developed. The need to understand the evolution of future threats was stressed. There was some distinction expressed between the concepts of verification and of transparency with recognition that they were on a spectrum or a continuum but without a clear conclusion of the differences.

*Scope of verification* – A common understanding on the purpose of verification would help develop an understanding of its scope. Which articles should be included in the scope? There was clear agreement that the obligations under Article I should be subject to verification measures, but should other Articles be included? There was a diversity of views expressed on this with some identifying particular articles and a few suggesting the whole Convention. That states parties should be in compliance with the

whole of the Convention seemed to be an accepted concept, but does that mean verification arrangements are needed for all of the Convention's provisions? What would verification measures mean for some articles?

*Objects of verification* – There was little discussion in detail about what might be the physical items subject to verification. Should there be lists of types of organism or of equipment? The general purpose criterion (that prohibitions apply unless for peaceful purposes) that underpins the Convention was barely mentioned. As many materials and technologies could be used for both peaceful and hostile purposes are there other forms of assessment needed to gain a better understanding of intent?

*Comparison with other regimes* – It was noted that the BWC is the only core WMD convention without an associated verification regime. It was highlighted that biological materials can be hard to verify through material balances (as chemical and nuclear materials can be) because living organisms reproduce and die. It was not possible to simply adopt a system from another regime. For example, the OPCW was not copied and pasted from the IAEA but lessons were learned from it. The phrase 'tailored regime' was used a few times.

*How to deal with past negotiations?* – A number of positive elements were identified from the VEREX study but there was recognition that much has changed since, particularly in the science and technology (S&T) landscape [as well as the economic landscape which has seen substantial growth in industrial activities that use biological techniques that might fall within the purview of the BWC]. It was highlighted that VEREX never indicated that all measures would be needed, just that the identified measures each had potential. While there seemed to be confusion in some interventions about whether certain past activities were part of VEREX or the Ad Hoc Group, various interventions indicated a preference to make use of one aspect or other of past activities or to reject aspects. Others questioned whether any collective decision was needed about what could be used from the past as delegates would propose whatever they thought was a useful idea. Few delegates spoke of having to use a past text as a starting point. This also raised the question of what should be the starting point.

*Need for multiple elements* – There was a broad acknowledgement that there was no single verification technique that could be relied upon and that a mix of measures would be needed. Moreover, combinations of measures could be mutually reinforcing. As with the Third Session, routine visits were again talked down by one delegation, but only about one aspect of their purpose. The role of national verification measures feeding into the multilateral system was noted.

*The technical-policy interface* – It was widely accepted that compliance and verification have technical and policy factors and that these interact. The three criteria identified in 2023 by the Friends of the Chair for any new arrangements remained in play: politically palatable, technologically feasible, and financially viable. In many ways this would come down to a question of how much to pay for what levels of effectiveness. It was noted that verification can never be 100 per cent effective. There was a common understanding that an effective system of verification would require the establishment of an organization.

*Investigations of alleged use* – The challenges of distinguishing between natural and deliberate disease were highlighted. There were questions whether the existing provisions in the Convention should be relied on for triggering an investigation; at least one delegation suggested that it was unacceptable for some states to be able to shield themselves from investigation under Article VI through the UN Security Council.

### **Quote sources**

The sources for the quotes used in the last report were: [a] Friends of the Chair; [b] Australia quoting the 2008 UN report on *Verification in All Its Aspects*; [c] USA; [d] Switzerland; and [e] Friends of the Chair.

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Monday 9th December 2024

## End of the first week: organizational, institutional and financial arrangements

Discussions for the first week of the Fifth Session of the Working Group (WG) on the strengthening of the 1972 Biological and Toxin Weapons Convention (BWC/BTWC) concluded on Friday on the topic of ‘organizational, institutional and financial arrangements’. The plenary continued until lunchtime. The afternoon started with a Friends of the Chair-led session on the plenary topic which was followed by a similar session on the proposed international cooperation and assistance mechanism. At the end of the day, the Chair indicated he would circulate an updated version of his proposal on the adoption of the two measures and a non-paper on a compilation of recommendations.

Meetings within the BWC have been impacted in recent years by the global political context. During the weekend, rebel groups in Syria ousted the government of Bashar Assad. It is too early to tell if this might have an impact on WG proceedings.

### **Discussions on organizational, institutional and financial arrangements**

As organizational, institutional and financial arrangements underpin almost all aspects of strengthening the BWC that are in the mandate of the WG, there were many references to other topics under consideration at the Fifth Session.

Indeed, in his opening remarks, the Chair stressed ‘we cannot ignore the organizational, institutional and financial aspects of proposals made under other topics and I would strongly urge all delegations to consider these aspects at an early stage in the development of proposals’. Deciding that new tasks would need to be carried out, such as supporting the two proposed mechanisms, will require support for direct financial costs as well as human resources. He therefore urged delegates to liaise with the financial authorities in their countries, concluding: ‘If we do not provide adequate resources, both human and financial, we will be setting the mechanisms up for failure’.

Three working papers had been submitted to the Fifth Session on this topic: WP.1 (USA + cosponsors); WP.4 and WP.5 (both Kazakhstan). These, together with other documents and statements, are available from the official Fifth Session website at <https://meetings.unoda.org/meeting/71783>.

The US introduced its working paper as bringing the seven separate topics of the WG together so that there could be an organization to implement the strengthening of the Convention – ‘Think of it as the various parts of a car. Until you bring them together, it is not a car.’ An element in the paper was a proposal for ‘familiarization visits’ which might be used as a transparency and facilitation measure to visit biodefence sites and locations with the highest level of laboratory protection a state party had. This would allow for better understanding but also as a spur for international cooperation and assistance. It was suggested that these could be a substitute for routine visits for verification purposes. The paper suggested the organization could be a lean one and have annual costs around half of those of the OPCW which the delegation suggested was some EUR82 million. In discussion, one delegation suggested familiarization visits should be voluntary. The US replied to say they would not be voluntary. Other delegations welcomed the proposal as a useful discussion point; however, there were a number of questions about the role and function of such visits and expressions of desire to see more

details before considering the proposal. The car analogy ended up being taken up in many responses with Sweden asking whether the Convention needed a Fiat Uno or a school bus (preferring the former), Italy sharing the preference for a Fiat Uno and Kazakhstan raising the question of how do delegations make sure the wheels fit the car.

The two papers from Kazakhstan were the third version of its concept paper on an International Agency for Biological Security (IABS) and an update to elements that might be in the statute of such an agency. The delegation noted this proposal had evolved following many consultations. One of the latest changes was a change from ‘biological safety’ to ‘biological security’ in the title to better reflect the suggested roles. Kazakhstan noted that the UN General Assembly had adopted by consensus a resolution on Monday that encouraged the WG ‘to further consider the measures aimed at strengthening and institutionalizing the Convention in all its aspects, in particular on how to proceed on organizational matters within the Working Group, including the possibility of an international agency for biological security and other institutional arrangements’ [This resolution will bear the reference A/RES/79/79 when it is published.] In discussion, many delegations appreciated the flexibility from Kazakhstan in evolving its proposal and particular the title change that was agreed on the margins of the UNGA First Committee in New York. Russia suggested it could support an IABS if it reported to the UN Security Council. Other delegations responded to this by indicating that any BWC-related organization should be a stand-alone body and answerable to BWC states parties.

As discussion moved to more general aspects, there were suggestions that any BWC organization would need to be appropriately funded to carry out all of its aspects and that would include international cooperation and assistance. Many interventions highlighted the past financial challenges faced by the BWC which had been alleviated but not cured by the created of the Working Capital Fund at the Meeting of States Parties in 2018. There were a number of calls for states parties to pay their assessed contributions on time and in full. There were reminders that the monthly summary of contributions paid continue to be published and illustrate the challenges late payments can cause. A question was raised about whether the ISU model was the optimum for the functions that would need to be carried out centrally within the BWC as activities were expanded. The question was also raised about what was the best location for the ISU as it was allocated additional activities and thus staffing. Some delegations had made points that had touched upon the expansion issues and it would seem that there was clear recognition that there would have to be an expansion of the ISU if the two mechanisms were adopted but a fully-fledged organization if negotiations to strengthen the Convention achieved a result. There was less clarity on whether the ISU should take on additional tasks to support negotiations on an instrument to strengthen the Convention if this was decided upon at the Tenth Review Conference scheduled for 2027.

At the end of the plenary, the Friends of the Chair – Husham Ahmed (Pakistan), Arsen Omarov (Kazakhstan) and Daisuke Namioka (Japan) – provided an update on their consultations. They introduced a non-paper on the topic with some cost estimates prepared with the help of the ISU on possible costs for implementing a decision on the two proposed mechanisms. It was emphasised that these were provisional and did not include key aspects such as additional staff roles in the ISU.

An issue not discussed was the costs of convening a Special Conference. These will not be trivial as it is like holding Review Conference in miniature. As the Ninth Review Conference (2022) decided a Special Conference should follow the pattern set out by the Third Review Conference (1991), there would need to be a Preparatory Committee (PrepCom), a Credentials Committee (as formal credentials would be required), a Drafting Committee and a Committee of the Whole. While states parties may be able to adapt these measures – e.g., there is nothing that says a PrepCom has to last for a specific duration and could simply be a brief meeting just before the Conference – there would still be significant costs.

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Tuesday 10th December 2024

## Chair's proposal introduced in plenary and discussion of the ICA mechanism

The second week of the Fifth Session of the Working Group (WG) on the strengthening of the 1972 Biological and Toxin Weapons Convention (BWC/BTWC) began with plenaries on the topic of the possible 'international cooperation and assistance mechanism', commonly referred to as the ICA mechanism. There were two fairly short plenaries, one in the morning and one in the afternoon. The morning plenary heard just a couple of statements before moving on to the introduction by the Chair of his proposal. The afternoon plenary heard further statements and then the meeting was suspended. No reason was stated, but the understanding of many in the room was that this was to allow the Chair to hold bilateral meetings with delegations to try to figure out what red lines delegates had and where common ground might be found on remaining issues.

There is a political need to have the WG agree by consensus a recommendation for a decision (or decisions) at a Special Conference. Such a Conference can be called for by a simple majority of states parties but any outputs from it need to be agreed by consensus. There will be hesitation by many delegations at calling for a Special Conference if there is not confidence in its outcome.

Although the plenary discussions on the possible ICA began before the Chair introduced his proposal (and continued afterwards), it is simpler in producing a brief report on proceedings to start with the proposal.

### **The introduction in plenary of the Chair's proposal**

The Chair of the WG, Ambassador Frederico S Duque Estrada Meyer (Brazil), introduced the latest draft of his proposal (CRP.1) to agree draft decisions on adoption of the two proposed mechanisms. This draft had been circulated to delegates over the weekend and it was clear during the day that many were waiting for their capitals to digest the proposal and provide instructions. A decision for each mechanism is outlined with appended terms of reference for each as well as terms of reference for related entities that would be created at the same time, such as an ICA fund.

Ambassador Meyer highlighted the challenges of the BWC: 'Ours is a treaty born of necessity and tempered by history. A bold vision forged in the very absence of perfect conditions. Its evolution has never been easy.' Referring to the upcoming centenary of the 1925 Geneva Protocol and the 50th anniversary of entry into force of the BWC, he noted: 'These milestones are cause for both reflection and action. They remind us that progress in disarmament has always required a willingness to grapple with the imperfect and the courage to act before circumstances dictate otherwise.' He noted that there remained some differences in positions on details of the mechanisms and stressed 'history judges not on the elegance of our solutions, but our ability to act when action was needed most'. He urged delegations to act with 'both realism and resolve' and suggested 'time for restating positions on the mechanisms is over.'

The informal session that followed the morning plenary allowed delegates a chance for an initial exchange of views, however, the Chair requested that delegates provide any observations on the proposal in writing.

### **Plenary discussions on the ICA mechanism**

There were two group statements. The first by South Africa for the African Group and the second by Mozambique for a group of Portuguese-speaking countries – Angola, Brazil, Mozambique, Portugal and Timor-Leste. The African Group statement covered other aspects of the WG mandate as well as the ICA mechanism.

Working papers were introduced in this plenary by Russia (WP.10) and Norway (WP.2). These, together with other documents and statements (including that from the African Group), are available from the official Fifth Session website which is at <https://meetings.unoda.org/meeting/71783>.

There was clear support for the mechanism with a majority of interventions including support for prompt adoption. Notwithstanding the Chair's plea, there were a number of divergences on what should be within the mechanism and some variation in perspectives on how it might be managed. For example, the current draft includes the suggestion that, to promote sustainability and ownership of activities, projects should have a 'cost-share contribution' from the states parties receiving them. In addition, there are extra decision-making processes if a state party is in arrears for three or more consecutive years for its financial contributions to the BWC. There were delegates that raised concerns whether these provisions would prevent some countries from benefiting from the mechanism. A particular concern for some delegations is the selection of membership of the Steering Group. There were calls for this to be 'fair' and 'transparent' with balances in terms of geographical representation and gender. Finding a method to do this in a way that is seen to be free of political bias has been challenging. Donor states including France, Germany, Japan, Norway and Russia highlighted cooperation and assistance activities they had financed. [One of the yardsticks for success or failure of any potential ICA mechanism the current author has in mind is whether it attracts additional funding from donor countries.] Iran reiterated the position it had outlined in a working paper submitted to the Second Session (BWC/WG/2/WP.11) and repeated its perspective that an ICA mechanism should have elements in relations to unilateral coercive measures, i.e., sanctions, and denials of export licences. Russia echoed points about sanctions.

### **A brief reflection on the physical arrangements for the Working Group**

As noted in report 6 of this series, this Session of the WG is held in temporary facilities while refurbishments of parts of the Palais des Nations are carried out. The Tempus building is essentially a rectangular box with relatively basic facilities. The lighting has been uneven and the audio system has cut out sometimes for particular microphones. On the other hand, why spend a considerable amount on a temporary facility? Of particular note is that the building is less suited than the facilities usually used for BWC meetings which had a nearby cafeteria and many nooks and crannies in which quick conversations could be grabbed. In the current facilities, there are far fewer spaces for a small group of delegates to be able to engage discreetly in order to find common ground on areas of contention. In past meetings there have been many moments where a few delegates have been able to find a solution to one aspect or another of a proposal. This has allowed Chairs or Friends of the Chairs to be focused on issues that take greater negotiation.

### **A brief reflection on the possible adoption of the two mechanisms**

The proposal to adopt the two mechanisms has not come out of the blue. The Ninth BWC Review Conference had 'encouraged' the WG to complete its work by the end of 2025. The WG adopted by consensus its indicative schedule of activities at the First Session (March 2023). In this, the only days allocated specifically to discuss the possible mechanisms were in 2023 and 2024 – indicating a clear expectation that the basic details of the mechanisms should have been resolved by the end of this period. The indicative schedule is published as Annex II of the procedural report in document BWC/WG/1/2.

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Wednesday 11th December 2024

## Discussion of the S&T mechanism and ongoing bilateral consultations

The seventh working day of the Fifth Session of the Working Group (WG) on the strengthening of the 1972 Biological and Toxin Weapons Convention (BWC/BTWC) was held under the topic of the proposed ‘science and technology review mechanism’, commonly referred to as the S&T mechanism. There was short plenary in the morning. This was followed by bilateral consultations with delegations as part of the efforts to find consensus before Friday. To allow more time for these, the Chair of the WG, Ambassador Frederico S Duque Estrada Meyer (Brazil), passed the gavel to one of the Vice-Chairs, Ambassador Camille Petit (France), to preside over the plenary. Ambassador Petit had presided over the First Session in March 2023.

### Discussions on the S&T mechanism

There were 13 interventions including one group statement by Mozambique for the same group of Portuguese-speaking countries – Angola, Brazil, Mozambique, Portugal and Timor-Leste – that had made a statement the previous day. During this Session there has been a clear sense that delegations feel that the proposal for an S&T mechanism is more mature and developed than that for the international cooperation and assistance (ICA) mechanism. This was reflected in the relatively brief plenary discussion that lasted just over an hour. The structure for the S&T mechanism in the Chair’s proposal involves an S&T Review Group with participation by all states parties and a smaller Reporting Committee of 25 experts selected for their expertise. There were a number of calls in support of the Chair’s proposal.

Most of the interventions repeated points that had been made in earlier plenaries and there was significant common ground on issues such as financing. It was recognized that S&T developments were both a challenge and an opportunity for the Convention. There were some calls for what delegates perceived as improvements or clarifications. As with the ICA mechanism discussions on Monday, there were questions raised about the selection process for the smaller group and expression of the same needs for a fair and transparent selection process that would deliver a panel balanced in terms of geographical representation and gender, free of perceptions of political bias. The need for independence of the experts was stressed. Concerns were raised that, as some countries would not have experts to nominate in the relevant fields, their voices might not be heard. While many delegations expressed optimism on the prompt adoption of both proposed mechanisms, Iran expressed a note of caution: ‘it is essential that the Working Group mandate be carried out in a balanced, thorough and full manner. Therefore, no agreement should be considered finalized until all aspects are settled. Nothing is agreed until everything is agreed.’

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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.

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Friday 13th December 2024

## Approaching the endgame, but an abrupt halt to consultations

Thursday, the penultimate day 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 ‘Overall consideration of all topics as contained in paragraphs 8, 18 and 19’. At the end of the afternoon plenary a draft of the procedural report of the WG was circulated.

### **Proceedings on the Chair’s proposal**

The Chair’s proposal focuses on the adoption of the two proposed mechanisms – one on international cooperation and assistance that relates to implementation of Article X (the ICA mechanism) and one providing advice from the review of scientific and technological developments of relevance to the Convention (the S&T mechanism) – at a possible Special Conference. The last full version of the proposal was provided to delegates on Wednesday. In place of a plenary on Thursday morning there were consultations in a small group setting. During a brief plenary on Thursday afternoon texts for three replacement paragraphs were circulated. There are further paragraphs from the Wednesday draft under discussion in the informal consultations which have been held behind closed doors.

Consultations were expected to continue late into Thursday night, but were halted abruptly following a position taken by one delegation, Russia. As it was a meeting behind closed doors and after hours, there are details that remain sketchy at the time of writing. The intervention that halted the consultations was in relation to whether paragraph 16 of the Decisions and Recommendations part of the Final Document of the Ninth BWC Review Conference (2022) applies to paragraphs 18 and 19 on setting up the two mechanisms. A plenary was already scheduled for Friday morning for a report back from the consultations and this is likely to make things clearer.

### **Atmosphere of the WG before the abrupt ending of the consultations**

The atmosphere was typical of the last days of a BWC meeting, with some progress towards consensus in the various consultations but no certainty it could be achieved. Indeed, history shows that a sense that it may be challenging to achieve consensus focuses minds and puts pressure on delegations and their capitals to think through what points they may be prepared to concede to gain the advances they are most in favour of.

As has been mentioned many times in BWC meetings, concluding a consensus document is not about finding a text that everyone is delighted with; it is about finding a text that everyone can live with. As one delegate once put it, there should be an equal sense of achievement and of disappointment across all participants.

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Monday 16th December 2024

## Fifth Session closure - a rare speech and concerns for the future

Friday 13th, was always going to be an inauspicious date for the last day of a meeting. The Fifth Session of the Working Group (WG) on the strengthening of the 1972 Biological and Toxin Weapons Convention (BWC/BTWC) held its last day on this date, opening with a peculiar atmosphere owing to the events of the night before (see the previous report in this series) which had brought the current efforts of the WG to an abrupt halt. The Chair of the WG, Ambassador Frederico S Duque Estrada Meyer (Brazil), spoke with some intensity to the plenary. This was, with some certainty, the most furious speech this particular commentator has seen in international diplomacy, with a clear expression of passion and frustration. Owing to this rare character, the speech is repeated in full below.

### **The Chair's speech (as delivered)**

Dostoevsky once wrote 'when reason fails, the devil helps'. These words, though penned in another era, echo faintly in moments like this.

Yesterday evening an interpretation was voiced in sharp divergence with the assumptions that guided our collective work up to that point. It was not anticipated and it introduced an element of uncertainty into what had otherwise been a coherent path of collaboration.

This unexpected shift posed questions about the very foundations we have laid together at this Fifth Session of the Working Group. As you all know, the urgency with which this presidency has approached its mandate is rooted in a conviction that action on the mechanisms of International Cooperation and Assistance (ICA) and Science and Technology (S&T) cannot wait. The groundwork has been clear from the beginning and even before – a concerted effort to deliver recommendations that could support the adoption of these mechanisms by 2025. The aim has always been pragmatic, anchored in the belief that our Convention needs tools that are both effective and timely.

We have poured our time and energy into this effort. Precious resources have been spent to ensure these mechanisms could be operational by 2025. Yet now we are told to wait, to delay, to finish every item on the agenda before these mechanisms can breathe life. If we take this path, mechanisms will one day – at best – be born old.

This delay is not harmless. It comes at a cost, a huge cost. The biosecurity landscape is evolving rapidly. The BWC risks failing even further behind. A single lapse in vigilance could spark consequences that reverberate across continents and generations. Developing countries, in particular, will bear the brunt of this inertia. And I repeat, developing countries in particular will bear the brunt of this inertia. The link between disarmament and development is not theoretical.

Let us be honest. The broader disarmament community is struggling. Respect for the UN charter is wanting. Consensus outcomes elude us. And again I repeat, consensus outcomes elude us. The culture of multilateralism is fraying. Emerging threats are not being addressed with the seriousness they demand.

Have we learned nothing from COVID-19?

Without trust, there is no multilateralism. Without faith in each other's intentions, there is no progress. The events last night test this trust. They cast a shadow over the clarity and purpose we have worked so hard to cultivate.

Let's dispense with the illusion that success in disarmament can be measured in terms of tactical brinkmanship. The challenges we face demand genuine solutions, not fleeting triumphs over process. History will judge harshly those who left urgent needs unmet and critical opportunities wasted.

But shadows only exist where there is light. This community has shown, time and again, its capacity to rise above setbacks. We share a responsibility that transcends national lines and procedural debates. It is a responsibility to the future – to those who will leave with the decisions we make here today.

Trust, once tested, must be rebuilt with action. We owe it to ourselves and to each other to recommend this shared purpose.

Let us move forward with clarity of purpose and unshakable resolve. The stakes demand no less. The urgency of our times demands no less.

As the mandate of this presidency draws to a close later this month, the path forward will depend on the collective resolve and leadership of this community. The strength of this convention lies not in a single term or individual, but in the shared commitment of its membership.

Allow me to close with a personal reflection. I owe this community an apology. I thought the devil was confined to the details. But I now see that it found its way in this very room.

### **plenary discussions that followed**

There were nearly 40 interventions in a short plenary with many statements of regret that unfulfilled progress had been made and that what had been achieved thus far should be the basis for future work. Frustration was expressed regarding the blocking position and why had it not been expressed earlier. The UK, speaking also for the USA, acknowledged as depositaries that a Special Conference would be convened if a majority of states parties so requested. France indicated it had prepared a declaration for states parties to sign up to call a Special Conference. Ambassador Bencini (Italy), who had been President of the Ninth BWC Review Conference (2022) which had agreed the text that was being contested, disagreed with the interpretation being placed upon it by Russia.

By tradition, when one state raises an objection during informal consultations it is not named in the plenary. Belgium asked for enlightenment for those ‘not privileged to partake in the informal consultations’ as to which state party had voiced its objection or to invite the state party to repeat its objection. This was the last intervention from the floor. After the meeting, Russia claimed to have raised its nameplate to indicate it wished to take the floor before the gavel had been brought down.

The Fifth Session was brought to an end by a simple announcement by the Chair that it was closed, after he had reached the end of his list of those asking to take the floor. There was no adoption of a procedural report.

### **Some possible consequences of the situation**

The most pressing challenge is can the momentum that has been built up to this point be sustained? Apart from the three-day Meeting of States Parties (MSP) to be held this week (which is suffering its own challenges and will be reported on in the next report in this series), there is no official BWC meeting until the Sixth Session of the WG which is likely to be held in August. This would allow for much informal work between the Fifth and the Sixth Session. However, it needs a focal point in the role of the Chair. However, no potential office holder has volunteered their name to be put forward. Without a Chair it is inevitable that there will be some loss of focus. Moreover, without a Chair is it possible to have ‘Friends of the Chair’. Even if they were rebranded as ‘facilitators’, perhaps, the individuals may be willing to continue working but would they be able to convince their capitals that this is an acceptable use of their time?

There is a strong feeling that a Special Conference could still be convened but this raises immediate questions. If a Special Conference were to be convened, would it be able to reach a conclusion by consensus? The rules of procedure of BWC meetings allow for voting, but this would be an unprecedented step within the Convention. Most states parties are usually hesitant about voting as they would not want to be in a minority in a future situation. However, if other routes to progress are blocked what is the alternative? If the BWC cannot make progress, should action move to a different forum – but might that weaken the BWC even further? Would this make voting the lesser of two evils?

*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](mailto:richard@cbw-events.org.uk)>.*

Tuesday 17th December 2024

## A minimal MSP and some reflections on the 2024 BWC meetings

The annual Meeting of States Parties (MSP) of the 1972 Biological and Toxin Weapons Convention (BWC/BTWC) met on Monday for the briefest of meetings. The MSP website which hosts official documents is at <https://meetings.unoda.org/meeting/71785>.

### **The difficulties of finding an MSP Chair**

In normal circumstances, the rotation system would have had this position filled by a representative from the Eastern European Group some time before the MSP; however that Group informed the BWC Implementation Support Unit (ISU) on 22 October it had decided not to present a nominee. Usual practice is to then approach the next Group in the cycle and the Western Group informed the ISU on 26 November that it too was not in a position to provide a nomination. The final Group in the rotation, the Group of Non-Aligned Movement and Other States Parties (NAM), informed the ISU on 13 December that it was not in a position to present a nominee.

### **Issues in play**

In the run-up to the MSP, there were a number of issues in play, not just around who might hold the position of the Chair. Some of these were being dealt with at the same time as the attempts to bring the Working Group (WG) to consensus in the previous two weeks and there were many moments when for practical reasons the WG took priority. The divergences previously expressed at BWC meetings and the rights of observers such as inter-governmental and non-governmental organizations were anticipated to be raised under discussion of the adoption of the rules of procedure. The 2023 MSP had been a lost opportunity, brought down by procedural issues having been unable to adopt its rules of procedure or programme of work and thus not carry out any substantive discussions. There were concerns that the situation would be repeated in 2024. Much of this was down to the underlying global political context. Russia, the delegation that raised the procedural objections at the 2023 MSP (as well as at the openings of the sessions of the WG during 2024), has claimed that positions of states parties should not be criticized by observers in official proceedings or documents and has objected to comments by NATO and the EU in recent BWC meetings. Meetings of the Convention on Conventional Weapons (CCW) in November had also been impacted by procedural issues which may have been a further disincentive to potential volunteers for the BWC MSP Chair.

### **Proceedings of the MSP**

The meeting was opened on Monday morning by Mélanie Régimbal, Chief of Service of the UN Office for Disarmament Affairs, Geneva Branch. She highlighted the challenges of finding a Chair for the MSP and emphasised the need for a Chair so that the 2025 dates for the WG Sessions could be agreed. Without a formal decision officially reported, conference rooms could not be booked and other arrangements put into place. With less than four minutes of plenary time used, the meeting was suspended to allow for informal consultations and quick Group meetings were held. The plenary resumed for two minutes to check whether any nominees had been found and was suspended again. The Group coordinators and the depositaries then consulted informally about the best way forward.

The plenary resumed at 11.50 with the announcement that Ambassador Yuri Sterk (Bulgaria) would be nominated as Chair and he was promptly appointed by acclamation. He noted the ‘extraordinary circumstances’ and that he would chair it with the ‘only purpose of facilitating the preparation and adoption of the report of this Meeting’ – a phrase agreed in informal consultations. With a Chair in place it was possible to announce that the draft report would be circulated so it could be discussed during the afternoon. The plenary closed at 11.56. The draft report was the bare bones of what could be adopted and noted the limited role of the Chair, stating: ‘This does not set a precedent for the future.’ The afternoon plenary was opened at 15.17. The dates for the 2025 meetings were agreed with the Sixth Session of the WG to be held 11-22 August and the Seventh Session scheduled for 8-12 December to be followed by the MSP on 15-17 December. Other than some minor amendments in relation to attendance and documents, the report was adopted at 15.30 and the Meeting closed. There was no general debate and, as with MSP 2023, states parties could submit their statements to be published as working papers.

### **Reflections on the BWC meetings in 2024**

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

The BWC meetings in 2024 took considerable time and effort and at a first glance look like they achieved very little. But drill deeper than a superficial examination and it is clear that progress has been made, not only on the two mechanisms but also in thinking about what would constitute a compliance and verification regime. Nevertheless, there is much distance yet to travel. But if BWC meetings produce few immediately obvious tangible results, will states parties commit the human and financial resources needed to eventually negotiate a legally binding instrument that would comprehensively strengthen the Convention?

There were many analogies to cars during 2024. The Iranian position that all WG provisions should be agreed at the same time led to this author wondering whether anyone would trust a car that had been put together without testing key parts such as means of propulsion before everything is finally assembled. The two mechanisms would have been an engine for the required provisions to strengthen the Convention but the simplest opportunity to test them and refine them has been lost.

Iran’s position was a substantive one. Russia’s position came across as using procedural objections to prevent substantive discussion. There was much visible frustration at its late raising of its interpretation of paragraph 16 of the Decisions and Recommendations section of the Final Document of the Ninth BWC Review Conference and it is notable that none of its usual allies, including within the BRICS, gave a public endorsement of its actions.

Aside from the opportunity costs of not being able to make best use of the MSP, the MSP highlighted the direct financial costs of political shenanigans. About 25 minutes of plenary time was used. Usual practice is for there to be six hours of plenary per day with full interpretation. The MSP was scheduled for three days, a total of 1080 minutes of possible plenary, meaning that the MSP used only around 2.5 percent of this. However, as the conference room itself, the conference room assistants and the interpreters were all booked and paid for, the states parties do not save any costs in holding a minimal meeting.

The most memorable moment of the 2024 BWC meetings was the speech by WG Chair Ambassador Frederico S Duque Estrada Meyer (Brazil) on Friday 13th. His suggestion that ‘History will judge harshly those who left urgent needs unmet and critical opportunities wasted’ clearly resonated with many in the room. With no nominee for Chair of the WG for 2025, there are many hoping that Ambassador Meyer will allow his name to be put forward, notwithstanding his bruising experiences of the Fifth Session.

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