

Wednesday 22nd August 2018

## MX5 on institutional strengthening and reflections on the MXs as a whole

The fifth, and final, meeting in the series of 2018 Meetings of Experts (MXs) under the 1972 Biological and Toxin Weapons Convention (BWC/BTWC) was held on Thursday on the topic of ‘Institutional Strengthening of the Convention’ and was the second of the one-day MXs. MX5 had just one sub-topic: ‘Consideration of the full range of approaches and options to further strengthen the Convention and its functioning, through possible additional legal measures or other measures, in the framework of the Convention’.

The substantive discussion was delayed owing to a desire by some to have an agenda that only reflected the single sub-topic, rather than follow the agenda proposed by the Chair that included time for discussion of other questions relating to the main topic. In the end a single agenda item was agreed with delegations acknowledged to be able to speak on anything they wished. Japan (WP.1), Cuba (WP.2) and the USA (WP.3) spoke to their working papers which were on building an investigation framework, on building on the protocol negotiations from the Ad Hoc Group (AHG), and on alternatives to a single instrument, respectively. Broadly, the subsequent interactions followed lines consistent with previous positions, some of which are discussed in the reflections piece below.

### Reflections

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

**MX5 and compliance/verification** – Before MX5 formally opened there was a US side event for which there had been some anticipation. The United States is by far the most vocal expressor of views against resumption of negotiations for any form of compliance instrument for the BWC and has regularly spoken about what it sees as limits to verification. Rather than speak to arguments against the US position, it was mostly a simple restatement of the policy which has remained relatively constant since 2001. In this sense it was a lost opportunity as what would be most productive now would be a debate and a debate would have involved challenging assumptions others have made about US policy.

Those that have been the most vocal advocates of negotiations for some form of legally binding instrument appear to forget the difficulties that the AHG had in attempting to reach consensus. Anyone interested in the lessons of history would do well to read Jez Littlewood’s book *The Biological Weapons Convention: a Failed Revolution* (Ashgate Publishing, 2005) which is based on his PhD research and illustrates some of the challenges faced by the AHG, many of which would be relevant if negotiations restarted tomorrow. As the Meetings of States Parties (MSPs) in 2014 and 2015 and the Eighth Review Conference in 2016 had considerable difficulties in reaching consensus on what were essentially political declarations [decision parts of the Review Conference document were cut back to the maintenance of the ISU and holding the 2017 MSP], it is not clear whether any form of

negotiation would foreseeably see any kind of consensus. This point is of such significance it is worth pausing for a moment and considering it from a slightly different angle – if it is hard to reach consensus on political declarations, how hard will it be to reach consensus on a document that would impose legal obligations on states parties, which any legally binding instrument to strengthen the Convention must, by definition, do? The airing of views in MX5 may have been seen by some as useful, although it would seem unlikely for any delegate to say the interaction changed their mind. Debate is needed, not just interaction.

The position of the non-aligned states is clear that they wish negotiations to start forthwith. Many other states parties would like to see a return to negotiation, but see it as impractical at this time. This author supports additional legal commitments to strengthen the Convention – whether that should be through a single instrument or a series of measures would depend on what was achievable in any particular circumstances.

An additional complication is the financial cost of negotiations. Support for meetings is one of the major costs of the BWC. With the financial uncertainties for the BWC, simply due to certain states parties being in arrears with their payments, it is unclear how financial support for negotiations could be considered sustainable.

**BWC finances** – The financial uncertainties for the BWC are imperiling the MSP to be held in December. Monthly reports of received assessed contributions are posted to the BWC website each month under the ‘latest information’ section. While some further funds might be expected in the coming months, the sums of money available at the time of writing would not be enough to support the four-day MSP. As the readership of these reports comes from around the world, it might be helpful to the sustainability of the Convention if readers were to review the monthly financial reports and see whether their governments were up to date with payments. It would seem that, despite many prompts on the subject, many delegations (and governments) do not seem to have grasped the severity of the situation.

**The current inter-sessional process** – Each of the inter-sessional programmes has had some differences in characteristics from the previous ones and the meetings in the first year of each all had some element of taking on board whatever innovation in the process that had been agreed upon. For this series of MXs there have been two notable innovations – (i) the breaking up of the former single MX with a number of major topics on its agenda into separate meetings each with one major topic; and (ii) the inclusion of institutional strengthening, including compliance/verification, as a topic for discussion. The second of these is discussed above. The five separate meetings had a benefit of focusing the substantive work, but had limitations (as in earlier work programmes) in making connections between topics dealt with in separate meetings. Having Chairs who need only focus on one topic spread the workload and enhanced the effectiveness of meetings, although the late appointment of a Chair for MX2 reduced the preparation time for that meeting. Early nomination of Chairs for next year would be beneficial.

A novelty of this series of MXs was the webcasting, made possible because the meetings were in room XVII. The MSP in December will return to room XVIII (where BWC meetings are usually held) which is not equipped for webcasting.

### **Side events**

There were three side events on Thursday. One, before the start of proceedings, entitled ‘BWC Compliance: Is Verification Feasible?’, was convened by the USA. Two were held at lunchtime, convened by the Geneva Disarmament Platform and the British American Security Information Council on ‘Establishing a WMD-free-zone in the Middle East: Biological compliance aspects’ and by King's College London and Norway on ‘Bringing the BWC Verification Protocol Discussion into the 21st Century’.

*This is the ninth and final report from the series of BWC Meetings of Experts which were held from 7 to 16 August 2018 in Geneva. The reports are prepared by Richard Guthrie (CBW Events) <richard@cbw-events.org.uk> and posted to <<http://www.cbw-events.org.uk/bwc-rep.html>> and <<http://www.bwpp.org/reports.html>>. An email subscription link is available on each page.*