

Monday 13th September 2021

MX5 on institutional strengthening: a summary of the proceedings

The fifth and final of the 2020 Meetings of Experts (MXs) to the 1972 Biological and Toxin Weapons Convention (BWC/BTWC) was held in Geneva on Wednesday, chaired by Grisselle del Carmen Rodrigues Ramirez (Panama), on the topic of ‘Institutional Strengthening of the Convention’. Report 5 of this series provides some background to this MX. MX5 materials, including documents, presentations and statements as well as the links to the UN Web TV recordings of the sessions together with an experimental set of automated transcripts are posted by the BWC Implementation Support Unit (ISU) to <<https://meetings.unoda.org/section/bwc-mx-2020-mx5/>>.

During the afternoon a short collective statement by some non-governmental organizations was given on MX5 issues, this time in Spanish.

MX5 used almost all of the available 6 hours with less than half an hour taken up with formalities such as adoption of the agenda and the adoption of the report. The meeting concluded with only minutes to spare before the end of interpretation.

Some reflections on this series of MXs and their inputs into the Ninth BWC Review Conference will be included in a forthcoming report in the *RevCon preview* series, also available from the websites at the end of this report.

Thematic discussion

As the formal reports of each MX provides a full list of speakers, these will not be given here. The work of MX5 is very broad. Unlike the other MXs, MX5 has only one sub-topic on its agenda: ‘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’. Therefore the working papers were considered in the order they were submitted apart from one held over until the afternoon because of the availability of the speaker. Following discussion of these, the floor was opened for interventions on any issue relevant to MX5. To simplify the summary of proceedings, the themes of the working papers will be followed in numerical order and some additional themes that emerged in discussion examined.

Decision making in inter-sessional meetings – The UK introduced WP.1 which it described as illustrating a ‘significant pattern of decision making’ in inter-sessional meetings, arguing that having such meetings taking decisions would enhance flexibility of any future inter-sessional work programme in response to circumstances. Some other delegations expressed a belief that the Review Conference was the only body empowered to take substantive decisions, primarily based on a contested interpretation of Article XII.

Article VI mechanism – Russia introduced WP.2 which proposes the establishment of a Group of Governmental Experts to examine, as part of the inter-sessional work programme following the Ninth Review Conference, how Article VI should be made operational. The paper repeats that country’s earlier position that the UN Security Council is the only body able to initiate an investigation into alleged use of biological weapons. This is a position that has been contested before and it was contested again in this MX with most interventions referring to Article VI also referring to the UN Secretary-General’s investigation mechanism (SGM/UNSGM) as also being an option that

would not need to involve the Security Council. Russia noted that the contraventions relevant to Article VI were more than use, prompting a response from the USA which raised a question about how such Article VI procedures would apply to situations such as the Sverdlovsk incident in 1979.

Open-ended working group – In introducing WP.3, which includes a suggestion for language for the Ninth Review Conference final document, Russia noted that the BWC was a product of its time and had gaps in its provisions because of this. There needed to be an update to the Convention, but there had been no form of negotiations since 2001. Russia suggested that a way around the blockage would be to establish an open-ended working group that could, in essence, look at all subjects other than verification, as this could be a pathway towards some form of legally binding instrument. This was an update of a proposal last put forward in 2015. Once MX5 moved to general discussion, numerous statements made specific reference to desires for a legally binding instrument to strengthen the Convention that would include verification measures. Some countries in favour of an instrument that would include verification measures, such as Switzerland, indicated that current conditions were not right to launch negotiations.

The establishment of a new international agency – Kazakhstan introduced WP.4 which is a concept note on the proposal by its President for an International Agency for Biological Safety. Most interventions that referred to this proposal welcomed it, with many suggesting that there were details yet to be resolved, including on its scope.

Sochi biosecurity conference – Russia spoke to WP.5 which includes a summary of the conference held in Sochi in June. This was the third in the series of conferences which has been held every other year since 2017. Russia extended an invitation to delegations for the fourth which is currently scheduled to be held in 2023.

Gender mainstreaming – Panama introduced WP.6 on gender issues. It described a ‘chronic systemic gender imbalance’ that has been present in disarmament forums. Suggestions in the paper include, *inter alia*, a mandate to mainstream gender issues within BWC arrangements and for the Meetings of States Parties (MSPs) to have a standing agenda item on gender issues. Almost all interventions referring to this paper were supportive of its aims. Russia asked how the proposal for achieving gender equality in representation could be implemented so it would not be regarded as an interference into the domestic affairs of another country. Iran flagged that there were ‘differences of views on how to address the proposals’ in WP.6.

Financial issues – Although all states parties have an assessed financial contribution towards the running costs of the BWC, not all countries have been paying their dues on time. Substantial arrears have built up over the years leading to significant financial challenges to the Convention. Monthly summaries of the financial situation are published, the latest of which, issued during the MXs, showed that there were currently insufficient funds available to hold the full Meeting of States Parties in November. Many interventions called for prompt payment of dues by all states parties.

The question of use within the Convention – Judging by interventions during MX5, as well as the earlier MXs, there appears to be reduced awareness of the history of the prohibition of use in the BWC. In 1971, use was removed from the list of prohibitions of the draft BWC text, primarily at the behest of the Soviet delegation which argued that including a prohibition on use in the BWC would weaken the prohibition on use in the 1925 Geneva Protocol. BWC Article VIII was inserted which reads ‘Nothing in this Convention shall be interpreted as in any way limiting or detracting from the obligations assumed by any State under the [Geneva] Protocol’. As the UN General Assembly resolutions, adopted by consensus, that provide the legal authority for the SGM directly refer to the Geneva Protocol, and the Geneva Protocol is the source of the prohibition on use accompanying the BWC, the SGM and the BWC are connected.

This is the tenth and final report in a series from the Meetings of Experts (MXs) for the BWC which were held from 30 August to 8 September 2021 in Geneva. These reports have been produced for all BWC meetings since the Sixth Review Conference in 2006 by the BioWeapons Prevention Project (BWPP). They are posted to <<http://www.bwpp.org/reports.html>> and <<http://www.cbw-events.org.uk/bwc-rep.html>>. An email subscription link is available on each page. The reports are prepared by Richard Guthrie, CBW Events, who is solely responsible for their content. He can be contacted via <richard@cbw-events.org.uk>.