

Monday 23rd August 2021

## MX1 on cooperation and assistance: setting the scene

The first of the 2020 Meetings of Experts (MXs) to the 1972 Biological and Toxin Weapons Convention (BWC/BTWC) is scheduled to convene on the last two days of August 2021 in Geneva. MX1 was originally scheduled to be held in the middle of 2020 but was postponed owing to the COVID-19 pandemic and resultant restrictions to protect health. This MX1 is to be chaired by Kimmo Laukkanen (Finland) and will be the last occasion on which the MX1 topics will be discussed in an MX format before the Ninth BWC Review Conference, now scheduled for 2022.

The overarching topic for MX1 is ‘Cooperation and assistance, with a particular focus on strengthening cooperation and assistance under Article X’. The meeting has a number of agreed sub-topics on the agenda to guide discussion.

Article X of the BWC is about access to the life sciences for peaceful purposes – 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 that there is not hindrance to the use of the life sciences for peaceful purposes. Article X also 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.

MX1 has been preceded by two informal webinars held in November 2020 and June of this year. At the time of publication, four working papers for MX1 had been published. Links to the working papers and to the webinars can be found via [<<https://meetings.unoda.org/section/bwc-mx-2020-mx1/>>](https://meetings.unoda.org/section/bwc-mx-2020-mx1/). This is also the webpage that the BWC Implementation Support Unit (ISU) will post presentations and statements made during MX1.

### **Article X and cooperation and assistance in context**

While there is significant common ground on most issues within the BWC, the MX1 topic brings together a cluster of issues for which there are long-standing divergences of views between governments. Article X-related issues have been seen as sufficiently important by a range of states parties such that they 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.

Security, economic and geographical considerations and perspectives 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 in between 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.

There will be lessons from the current pandemic for Article X discussions, in particular as the pandemic has exposed vulnerabilities in responses to infectious disease. COVID-19 has highlighted that infectious disease can transcend geographic borders and that no country is safe from a highly transmissible disease unless there are capabilities to deal with that disease across the globe. However, this perspective runs up against the current challenges of vaccine availability in countries without the economic resources to compete with market forces.

### **The Assistance and Cooperation Database**

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’ and contains rising numbers of offers of help and requests for assistance. The operation of the database is summarized in the Annual Report of the ISU each year. A number of delegations have suggested during BWC meetings that the database is underused. Nevertheless, the clearest sign that this database has been seen as worthwhile is the proposal for a counterpart database in relation to Article VII which will be discussed during MX4.

### **Other proposals and developments on Article X and related issues**

In addition to the 2011 decision to establish the Article X database, there have been a number of other proposals to strengthen Article X. During the negotiations for a protocol to strengthen the BWC that came to halt in 2001 there were significant elements of the rolling text that were designed to enhance implementation of Article X. One of these elements was a ‘cooperation committee’. At the Sixth BWC Review Conference (2006) there were proposals for an Article X action plan alongside action plans on national implementation and universalization. The plans did not achieve consensus and so were not adopted. In 2009 a proposal for an Article X implementation mechanism was made by the non-aligned group of BWC states parties. This proposal has been updated and presented again subsequently. There have also been proposals for a cooperation officer post in the BWC Implementation Support Unit (ISU), although these have been mostly unclear about whether this might be through the creation of a new post or a reallocation of tasks for the existing staff. A new post has obvious financial implications. In 2019 India proposed the establishment of a trust fund, from voluntary contributions, to support cooperation and assistance activities.

One proposal that gained more traction was adopted in paragraph 61 of the Final Declaration of the Seventh BWC Review Conference which called for the submission of national reports, at least every two years, on the steps taken by states parties to implement Article X. Only a limited number of these have been submitted and these are published on the website pages for the meetings to which they are submitted. In 2018, Australia proposed a template for structure and content of Article X reports in an effort to make their content more usable.

### **Examples of connections with other MX topics**

There are potential benefits to the implementation of Article X through greater awareness of peaceful uses of scientific and technological developments via enhanced review mechanisms [MX2]. National implementation needs to be put into place so that a balance is struck between the different articles of the Convention [MX3]. Synergies between capacity building under Article X and under Article VII have been identified [MX4]. Article X-related measures would be likely to be included in any comprehensive proposals for institutional strengthening of the Convention [MX5].

*This is the first in a series of reports for the Meetings of Experts for the BWC which are scheduled to be 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 contents. He can be contacted via <<[richard@cbw-events.org.uk](mailto:richard@cbw-events.org.uk)>>.*

Tuesday 24th August 2021

## MX2 on scientific and technological developments: setting the scene

The second of the 2020 Meetings of Experts (MXs) to the 1972 Biological and Toxin Weapons Convention (BWC/BTWC) is scheduled to convene on the first two days of September 2021 in Geneva. Like the other MXs in this series, MX2 has been held back by a year owing to the COVID-19 pandemic and resultant restrictions to protect health. The overarching topic for MX2 is ‘Review of Developments in the Field of Science and Technology Related to the Convention’ and the meeting has a number of agreed sub-topics on the agenda to guide discussion. The meeting is to be chaired by Kazuhiro Nakai (Japan) and will be the last occasion on which the MX2 topics will be discussed in an MX format before the Ninth BWC Review Conference, now scheduled for 2022.

The ongoing rapid advances within the life sciences mean that the BWC operates within a constantly changing scientific and technological (S&T) context. These advances bring new positive opportunities for peaceful uses, such as innovative medical treatments and new detection methods, but also lead to new negative opportunities for hostile uses. This leads to changes in the nature of risks and threats the BWC may need to counter. Ongoing understanding of this changing context is a critical challenge. Real world experience is that S&T developments move at a faster pace than policy developments meant to oversee them. In order to keep measures to control biological weapons under constant review there are many assessments that need to be made based on emerging scientific evidence. The emerging understandings of COVID-19 have been a clear example of the complex interactions at the interface where science and policy meet.

Since the previous MX2 in 2019, informal webinars have been held in October 2020 and June 2021. At the time of writing, ten working papers for MX2 had been published. Links to these papers, the webinars and statements/presentations given during MX2 can/will be found via <https://meetings.unoda.org/section/bwc-mx-2020-mx2/>.

### **Scientific and technological developments in context**

Simply understanding any new S&T developments is not enough – the greater challenge is to understand the implications of such developments. This has led to a widespread recognition for a number of years that there would be multiple benefits in reviewing S&T issues in a regular, consistent and ongoing manner (i.e., not just a one-off or occasional event). A number of statements at BWC meetings have suggested that the five year gap between Review Conferences is too wide for effective S&T review. The creation of MX2 within the current inter-sessional work programme was, in part, a recognition of this, but there have been many calls for a more specific arrangement or process. An example of a rapid advance in S&T that poses challenges to existing BWC arrangements is the CRISPR/Cas9 gene editing tool, often simply referred to as CRISPR, which allows for exact and accurate editing of genetic sequences. This had not been discovered when the Seventh BWC Review Conference met in 2011, yet by the time of the next Review Conference five years later it was in use in many labs around the world.

One area of concern is the convergence of scientific fields, most notably biology and chemistry. ‘Convergence’ means much more than just overlap as it also implies combining understandings or techniques from each field to create new possibilities

not possible in the single traditional discipline. As controls have tended to be focused on the traditional disciplines, this raises questions of effective regulation.

### **Proposals relating to S&T development issues**

There have been numerous proposals over the years for methods to enhance review of S&T developments. Some have called for a panel selected in some way in order to create a board or committee. Others have called for a structure involving experts from all states parties willing to participate. Each approach has certain advantages and disadvantages. A small panel can be rapidly tasked to examine a new issue in depth. An open membership arrangement can encourage inclusivity and more direct links into national processes. 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. Despite the differences in structure, all of the proposals bring similar elements together – the examination of S&T developments in order to understand the implications for the BWC and the need for a review process to provide relevant information in a timely manner to assist policy processes keep pace with S&T developments. The end result is likely to be a hybrid arrangement, drawing upon aspects and elements from a number of the proposals made thus far. Some proposals have included suggestions for a science officer post within the BWC Implementation Support Unit (ISU). This would have financial implications but proposers of such an addition suggest that the benefits would be worth the extra cost. It is not yet clear whether many delegations have come to a position on this.

Most stated national positions on S&T review are lacking in detail so that it is possible to identify some common ground on the need for a review process, but harder to identify any clear common ground on how to turn this into practical action. The lack of expressions of support for specific models may be a positive sign as many delegates would seem to prefer achieving consensus on some form of review arrangement rather than pressing for one specific model. However, it is clear that a number of states do not see S&T review as a priority. A key measure of success for some participants is how well any BWC system for S&T review assists national policy processes.

A further area in the S&T field that the BWC has dealt with over the years is codes of conduct for scientists. A China-Pakistan working paper from MX2 in 2018 on model codes has led to the creation of the Tianjin Biosecurity Guidelines for Codes of Conduct for Scientists which were endorsed in July by the Inter-Academy Partnership, a global network of national academies of sciences. These guidelines are likely to be presented to the Ninth BWC Review Conference for further endorsement.

A key element of codes of conduct is about empowering scientists to consider risks and benefits of research options. Wider forms of biological risk management have also been considered by MX2 in recent years and proposals put forward within the meetings for harmonized biorisk management practices. Of particular note has been biological risk management practices in laboratories.

### **Examples of connections with other MX topics**

Effective implementation of Article X relies on nuanced understandings of S&T developments [MX1]. National implementation relies on understanding the S&T context for effective judgements on what should be controlled; not just for Article IV national obligations but also Article III and export controls [MX3]. Article VII issues benefit from a pragmatic understanding of S&T developments as positive uses of advances in the life sciences are often the best defence against negative uses; an example of this would be new vaccines against modified disease agents [MX4].

*This is the second in a series of reports for the Meetings of Experts for the BWC which are scheduled to be 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](mailto:richard@cbw-events.org.uk)>.*

Wednesday 25th August 2021

## MX3 on national implementation: setting the scene

The third of the 2020 Meetings of Experts (MXs) to the 1972 Biological and Toxin Weapons Convention (BWC/BTWC) is scheduled to convene on 3 September 2021 in Geneva, the first of the one-day MXs. Like the other meetings in this series, MX3 has been delayed by a year due to the COVID-19 pandemic. The overarching topic for MX3 is ‘Strengthening National Implementation’ and there are a number of agreed sub-topics on the agenda to guide discussion. The meeting is to be chaired by Arman Baissuanov (Kazakhstan) and will be the last occasion on which the MX3 topics will be discussed in an MX format before the Ninth BWC Review Conference, now scheduled for 2022.

Each of the WMD treaties obliges states parties to carry out some form of national implementation to fulfil obligations undertaken. BWC Article IV reads: ‘Each State Party to this Convention shall, in accordance with its constitutional processes, take any necessary measures to prohibit and prevent the development, production, stockpiling, acquisition, or retention of the agents, toxins, weapons, equipment and means of delivery specified in article I of the Convention, within the territory of such State, under its jurisdiction or under its control anywhere.’ In addition, BWC Article III contains obligations not to assist others to acquire biological weapons.

Since the previous MX3 in 2019, two informal webinars have been held. At the time of writing, two working papers for MX3 had been published. Links to these papers, the webinars and statements/presentations given during the meeting can/will be found via <https://meetings.unoda.org/section/bwc-mx-2020-mx3/>. There is a background paper from 2018 by the Implementation Support Unit (ISU) on MX3 issues available at <https://undocs.org/BWC/MSP/2018/MX.3/2>. [Note: there is an equivalent paper for each of the MXs; apologies for not mentioning these in the earlier reports.]

### **National implementation issues in context**

For a number of years it has been observed that many states parties have incomplete domestic implementation measures with widespread acknowledgement that there is much room for improvement. There is also a need for ongoing review of existing legislation and enforcement activities in all countries to ensure they have kept pace with changing contexts in order to face new challenges and incorporate lessons learned.

National implementation has many facets – from security of pathogens (i.e., disease-causing micro-organisms) to controls on certain types of equipment. One of the lessons of past revelations of illicit trading networks of proliferation-sensitive materials and technologies was that countries can be host to companies that are contributing to proliferation activities without the relevant governmental authorities being aware. Effective national implementation therefore includes much more than simply the enactment of legislation but extends into areas such as licencing and customs controls.

BWC national implementation is not carried out in isolation. For example, some provisions overlap with those required to implement UN Security Council resolution 1540. Other provisions, such as disease surveillance, overlap with public health measures. Another example is that regulations for the control of biological laboratories overlap with health and safety provisions.

There has been a balance to be struck with Article III obligations to ensure that direct and indirect transfers relevant to the Convention, to any recipient whatsoever, are authorized only when the intended use is for purposes not prohibited under the Convention and Article X obligations to allow access for peaceful purposes.

There is a system of Confidence-Building Measures (CBMs) that was initiated at the Second BWC Review Conference in 1986 and subsequently amended. The CBM arrangements provide for returns to be submitted by states parties on certain relevant activities and facilities. While numbers of returns have been rising overall (with some fluctuation between years), there has been wide recognition that participation in CBMs could be improved further. There have been concerns raised that CBMs should not be used as a tool for assessment of whether countries were in compliance with the BWC.

Many treaties that were agreed since the BWC have included obligations for each state party to name a national contact point. The Sixth Review Conference (2006) decided that each state party should designate a national point of contact for BWC issues and provide contact details to the ISU. The ISU annual report for 2019 indicated that about two-thirds of states parties had designated a national contact point.

### **Proposals and developments relating to national implementation**

Proposals relating to national implementation have mostly focused around how international processes could aid states parties in their implementation of the BWC. There have been suggestions that if there were a new legally binding instrument to strengthen the Convention this could contain guidance on what legal provisions were required nationally. Some states have expressed opposition to any negotiations on a legally binding instrument and there remain significant divergences of views of what forms of implementation activities should take place at a national vs an international level.

Other proposals have been put forward in which states parties could voluntarily have their implementation considered, either to illustrate compliance or to evaluate the effectiveness of the measures. For example, one proposal by Canada and Switzerland was for ‘compliance assessment’ through voluntary submissions. Another was a ‘peer review’ arrangement proposed by France in which officials from other governments are invited to review implementation. These were followed up by a paper to the Eighth Review Conference (2016) on ‘building confidence through voluntary transparency exercises’ submitted by a number of states parties (including representatives from most continents). Opposition to such proposals has been expressed on the grounds that they are a distraction from the creation of formal verification arrangements.

One proposal on the balance between Article III and X was made by China in 2015 which suggested the establishment of a ‘non-proliferation export control regime’.

There have been a number of proposals for direct assistance between states parties for support for implementation measures.

### **Examples of connections with other MX topics**

There is a balance to be struck between national implementation provisions and Article X [MX1]. In recent years, discussions on risk and benefit analysis have been a useful prelude to discussion about national implementation as the latter can only be effective if it is based on clear understandings of the risks and benefits of the life sciences activities that are taking place within that country [MX2]. There is an overlap with Article VII issues through improvements to disease surveillance and to national-level responses to disease outbreaks [MX4]. The long-standing divergence of views of what implementation activities should take place at a national level rather than those that could be introduced at an international level remain [MX5].

*This is the third in a series of reports for the Meetings of Experts for the BWC which are scheduled to be 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](mailto:richard@cbw-events.org.uk)>.*

Thursday 26th August 2021

## MX4 on assistance, response and preparedness: setting the scene

The fourth of the 2020 Meetings of Experts (MXs) to the 1972 Biological and Toxin Weapons Convention (BWC/BTWC) is scheduled to convene during 6-7 September 2021 in Geneva, having been postponed by a year owing to the COVID-19 pandemic. The overarching topic for MX4 is 'Assistance, Response and Preparedness' and discussion in the meeting will be guided by a number of agreed sub-topics on the agenda.

This meeting is to be chaired by Elena Kuzmanovska Biondic (North Macedonia) and will be the last occasion on which the MX4 topics will be discussed in an MX format before the Ninth BWC Review Conference, now scheduled for 2022.

Article VII deals with the provision of 'assistance' by states parties if a state party is 'exposed to danger' because of a breach of the Convention. 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.

There is a background paper from 2018 by the Implementation Support Unit (ISU) on MX4 issues available at <https://undocs.org/BWC/MSP/2018/MX.4/2>. An informal webinar has been held since the last MX4. At the time of writing, five working papers for MX4 had been published. Links to the webinar, the meeting agenda, these working papers and statements/presentations given during the meeting can/will be found via <https://meetings.unoda.org/section/bwc-mx-2020-mx4/>.

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

For a long time, discussions on Article VII were usually combined with discussions on Article VI and how investigations of alleged use of biological weapons might be carried out. In recent times these have more often been separated. There have been differing views expressed over whether or not a request for assistance under Article VII should be combined with a request for an investigation to the UN Security Council under Article VI. The UN Secretary-General's Mechanism for investigation of alleged use has previously been discussed in MX4 and there is likely to be a discussion of Article VI-related issues in MX5 this year. The means by which any alleged use of biological weapons might be investigated has been the subject of strongly held divergences of views.

Article VII specifies that the UN Security Council would decide if a state party was 'exposed to danger'. The Eighth Review Conference (2016) concluded: 'should a request for assistance be made, it should be promptly considered and an appropriate response provided. In this context, in view of the humanitarian imperative, the Conference encourages States Parties in a position to do so to provide timely emergency assistance, if requested pending consideration of a decision by the Security Council.'

Just as Article VII discussions were invigorated by lessons learned from the Ebola Virus Disease (EVD) outbreak in west Africa in 2014, it is reasonable to expect that there will be a potentially greater influence resulting from the COVID-19 pandemic. There is a commonality of capacities to respond to natural and 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; moreover, whether natural or deliberate (or resulting from an accident), there

would be some form of emergency in public health terms. There have been rationales expressed for the need for relevant capacities to be put in place at local, regional, national and international levels. However, there is a clear desire expressed by a number of delegations to avoid duplication of activities and resources.

### **Proposals and developments relating to assistance, response and preparedness**

Within BWC meetings, very practical concerns have been raised about how to implement Article VII. Indeed, the discussions around Article VII are probably the most pragmatic that the current author has seen in a BWC setting. An illustration of this pragmatic approach is provided by a 2018 joint Russia/UK working paper on ‘Core Elements for an Effective Article VII Response’ that was presented at a time of heightened tensions between the two countries.

There have been discussions on how governments requesting assistance under Article VII should communicate their needs. South Africa has taken a lead on this issue and has produced a number of working papers on guidelines that could be used, including a suggested checklist of information to be included in a request for assistance.

France and India submitted a proposal in 2015 to establish a database, along the lines of the Article X database [discussed in the first report of this series], for assistance under Article VII. The proposers emphasised that such a database would not mean duplicating other emergency assistance mechanisms and suggested it should encompass ‘emergency assistance, containment measures and recovery assistance’. This proposal has generated considerable discussion and further working papers on this subject have been produced looking into greater detail about how such a database would operate. Paragraph 47 of the final document of the Eighth Review Conference (2016) reads: ‘The Conference supports the establishment of a database ... to facilitate assistance under the framework of Article VII.’ However, the difficult negotiations of other sections of that final document meant that the sections of it that would have provided a specific mandate and a budget for such a database were not agreed upon. One delegate to the MX4 in 2018 described this as a ‘decision in principle’ for the Article VII database. However, a more detailed decision from the Ninth Review Conference would be needed to establish the database.

A further idea that has been suggested in interventions in BWC meetings has been to establish a trust fund or other voluntary fund in relation to Article VII, although this has not been presented as a detailed proposal.

There have been a number of national resources that delegations have presented to BWC meetings in recent years connected with Article VII. For example, Russia has proposed introducing mobile biomedical laboratories as part of international structures for response within the BWC and has produced a number of working papers on the subject. Other national resources for outbreak assistance described in BWC meetings have included the UK Public Health Rapid Support Team and the Japan Disaster Relief Infectious Diseases Response Team. Japan has been funding work to enhance preparedness of BWC states parties in Asia for addressing deliberate biological events.

### **Examples of connections with other MX topics**

Effective response to any deliberately induced outbreak of disease would be enhanced by further capacity building – a key lesson cited from responses to the EVD outbreaks [MX1]. Greater knowledge of how diseases spread and new techniques that be used to counter them can enhance Article VII [MX2]. Effective national implementation measures can help with the capacity to deal with Article VII issues [MX3]. Institutional strengthening of the Convention may provide more resources to deal with assistance, response and preparedness issues [MX5].

*This is the fourth in a series of reports for the Meetings of Experts for the BWC which are scheduled to be 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](mailto:richard@cbw-events.org.uk)>.*

Friday 27th August 2021

## MX5 on institutional strengthening: setting the scene

The fifth and final of the 2020 Meetings of Experts (MXs) to the 1972 Biological and Toxin Weapons Convention (BWC/BTWC) is scheduled to convene on Wednesday 8 September 2021 in Geneva. Like the other meetings in this series, MX5 has been held back by a year owing to the COVID-19 pandemic and resultant restrictions to protect health. The meeting will be chaired by Grisselle del Carmen Rodrigues Ramirez (Panama) and will be the last occasion on which the MX5 topics will be discussed in an MX format before the Ninth BWC Review Conference, now scheduled for 2022.

The overarching topic for MX5 is ‘Institutional Strengthening of the Convention’ and the meeting 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’. The control of chemical weapons is supported by the Organization for the Prohibition of Chemical Weapons. The control of nuclear weapons is supported by the International Atomic Energy Agency. The control of biological weapons has no comparable institutional support. Of all of the MXs, MX5 includes the subject matter for which the divergences of views between delegations have been historically most pronounced, particularly on compliance and verification issues.

The remit of MX5 is broad. In addition to the subjects outlined below, discussions in the previous two years of MX5 have included calls for improving the system of Confidence-Building Measures (CBMs), improved consultative arrangements under Article V, ways of giving an institutional basis to areas under discussion in other MXs, universalization of the Convention, and the integration of gender perspectives.

There is a background paper on MX5 issues published by the Implementation Support Unit (ISU) in 2018 – the first year of the current inter-sessional work programme – available at <<https://undocs.org/BWC/MSP/2018/MX.5/2>>. Two informal webinars have been held since the last MX5 in 2019, in November 2020 and July 2021. At the time of writing, four working papers for MX5 had been published. Links to these papers, the webinars and statements/presentations given during the meeting can/will be found via <<https://meetings.unoda.org/section/bwc-mx-2020-mx5/>>.

### **Institutional strengthening issues in context**

The focus of many speakers in past MX5s has been the possibilities for a legally binding instrument to strengthen the Convention. While the focus has often been on compliance and verification measures that might be included in such an instrument, a comprehensive instrument would cover all aspects of the Convention. There had been negotiations on a protocol to do just this, carried out in a forum called the Ad Hoc Group initiated by a Special Conference held in 1994. The negotiations came to a halt in 2001. The first inter-sessional work programme was established by the Fifth Review Conference which was resumed in 2002 having been unable to come to a consensus outcome the year before.

Every legal text reflects the main interests of the negotiators at the time that it was put together. Indeed one of the arguments put forward in the early 1990s on the need for negotiation of a BWC protocol was that the Convention text was two decades old and

that global concepts of arms control and disarmament had moved forward, most notably with the negotiation of the Chemical Weapons Convention which was opened for signature in 1993. There were two versions of the protocol text in circulation when the negotiations came to a halt – the ‘rolling text’ which was a compilation of all suggested text, including alternative versions of parts of the text contained in square brackets; and the ‘composite text’ which had been introduced by the Chair of the negotiations in an effort to reach consensus. Analysis of statements from many delegations in more recent years indicates there is a significant political pull for returning to the protocol text (whether the rolling text or the composite text) in order to complete what is perceived as unfinished work, despite the draft protocol text now being two decades old.

An additional complication is the financial cost of negotiations. With the current financial challenges for the BWC (arising from some states parties being in arrears with their payments that were assessed by a formula they had agreed) it is unclear how financial support for negotiations could be considered sustainable.

### **Proposals relating to institutional strengthening**

The most detailed proposal to reopen negotiation on some form of additional instrument has been put forward by Russia which has proposed that a new mandate should include essentially all issues other than the questions of compliance and verification. The proposal, first suggested in 2014, has been updated and repeated in a number of working papers. Other delegations have expressed disagreement with this approach, in part because those who focus on the security aspects of the Convention as being the primary concern (which is a large proportion of the BWC membership) argue that any negotiations without compliance and verification issues would not bring significant benefits to global security. Russia has also brought forward suggestions in a separate working paper for a group of group of governmental experts to discuss procedures for initiating an investigation of alleged use of biological weapons under BWC Article VI.

In September 2020, at the high-level plenary of the UN General Assembly, the President of Kazakhstan proposed the establishment of an International Agency for Biological Safety (IABS) which would be ‘based on the 1972 Biological Weapons Convention and accountable to the UN Security Council’. Some further details have been provided recently through a concept note. This MX5 is the first opportunity for this proposal to be discussed at an expert level.

Another area where there have been some proposals over the years is the enhancing of the ISU. The ISU was established by the Sixth Review Conference (2006), replacing the ad hoc support arrangements for BWC meetings and taking on the the UN Office for Disarmament Affairs (UNODA) functions in relation to the BWC such as the processing of CBM returns from states parties. It currently has three staff and there have been proposals that additional tasks be allocated to the ISU which would require new posts to be created. For example, there have been proposals for: a cooperation officer that would support Article X-related activities; an officer to support the Article VII database; and a science officer as part of new arrangements to carry out reviews of scientific and technological developments. Creation of any additional post has financial implications.

### **Examples of connections with other MX topics**

As the remit of MX5 is so broad, institutional enhancements could support cooperation and assistance activities in relation to Article X and beyond [MX1], support the review of scientific and technological developments [MX2], provide support for national implementation [MX3], and enhance assistance, response and preparedness to biological threats [MX4].

*This is the fifth in a series of reports for the Meetings of Experts (MXs) for the BWC which are scheduled to be 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](mailto:richard@cbw-events.org.uk)>.*