

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>.