

Wednesday 14th December 2022

First plenary discussion of the article-by-article review

Tuesday saw the article-by-article review being discussed in plenary for the whole day at the Ninth Review Conference for the 1972 Biological and Toxin Weapons Convention (BWC/BTWC). The plenary discussion allowed for further elaboration of perspectives on the review. Informal consultations of various forms continued through the day via the facilitators and also into the evening with the President.

The text used as the basis of discussion in the plenary was the draft of the article-by-article review that had been prepared by the Chair of the Committee of the Whole (CoW), Ambassador Tatiana Molcean (Republic of Moldova) as an initial attempt to identify where consensus might be reached. In past Review Conferences, such documents have been referred to as ‘best guess’ texts. The next ‘best guess’ text will be one prepared by the President.

Reminders of the impacts of infectious disease are becoming more present at the Review Conference. When it opened just over two weeks ago the Conference had felt closer to what had been normal practice before the arrival of COVID-19 as the pandemic restrictions had been further relaxed since the previous open BWC meeting. However, in the last few days there have been more and more participants wearing masks and being careful of their distancing.

Plenary discussion

The President of the Review Conference, Ambassador Leonardo Bencini (Italy), opened the plenary promptly at 10am and resumed the afternoon at 3pm – conveying a sense that he meant to maximise the time available.

The status of the proposed text was questioned by Russia as there was no official communication to convey this text from the CoW as the report of the CoW contained no annexes following the blocking of a substantive report on Monday. That delegation indicated it was happy to treat the text as a proposal by the President but wanted to clarify the situation. The President said that he had left the title on the document as a sign of appreciation for the work of Ambassador Molcean and her team, and that he didn’t want to lose any minutes to discussing non-substantive items and so would be happy to lose the title. The President invited the Chair of the CoW to the podium where she briefly described the work that went into the text and said it reflected ‘genuine and engaged discussions on the substance’ before returning to her seat. After some exchanges about procedure, the President announced that there would be discussion on the Solemn Declaration and then on articles clustered together.

The substantive discussion is challenging to characterise. There was clearly a divergence of perspectives on many issues, which was to be expected. Positions expressed were in line with the positions taken during the general debate in the first week. But there was also a divergence of perspectives of how a negotiating process should be dealt with at this stage of a Review Conference. For example, some delegations were proposing amendments to reinsert text that was clearly not going to reach consensus. If, at

each stage of a series of ‘best guess’ texts, non-consensus language is reinserted it is not clear where the process leads. While there were many substantive points made during the plenary debate, there were also many rhetorical ones that were repetitions of positions taken earlier in the Review Conference.

Closing the debate the President indicated that he hoped to provide an updated text of the article-by-article review which could then be incorporated into a draft of the whole final document, allowing delegates to consider the possible output of the Conference as a whole. Such a text was circulated to states parties overnight.

Challenges of the BWC review process

The range of styles of Review Conferences for various treaties illustrates that there is no ideal ‘one size fits all’ review process. Indeed, within the context of each treaty the review processes evolve with time and with experience. As noted in the first daily report of this series, international agreements are initially shaped by the concerns at the forefront of the minds of the negotiators during the period they were negotiated, making them creatures of their time. This means they need review processes to ensure the activities and understandings within the treaties match the ever-changing contexts they operate within. The inclusion of review processes in treaties like the BWC is an explicit recognition of a need for the updating of common understandings. When consensus has not been reached on an issue within a BWC Review Conference there has been a natural tendency to reach back and use text on that subject that had been agreed by consensus at an earlier Review Conference.

With a few delegations now clearly wishing to limit the scope of the output of this Review Conference, there is likely to be a need to revert to significant quantities of previously agreed text. This will mean that, at a time of rapidly changing contexts, the BWC Review Conference will be less contemporary that it could have been.

Side events

There was one side event on Tuesday, held at lunchtime. The Verification Research, Training and Information Centre (VERTIC) convened an in-person briefing on ‘Addressing misconceptions about chemical and biological weapons and related legal frameworks’.

This is the thirteenth report from the Ninth BWC Review Conference (28 November-16 December 2022). These have been produced for all BWC meetings with NGO registration since the Sixth Review Conference (2006) by the BioWeapons Prevention Project (BWPP). 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. Financial support for these reports has been gratefully received from Global Affairs Canada. The reports are written by Richard Guthrie, CBW Events, who is solely responsible for their contents <richard@cbw-events.org.uk>.