

Wednesday 2nd August 2023

International cooperation and assistance/Article X - setting the scene

The topic for the first three days of the Second Session of the Working Group (WG) on the strengthening of the 1972 Biological and Toxin Weapons Convention (BWC/BTWC) is ‘Measures on cooperation and assistance under Article X’. This is topic (a) of those allocated. The fourth day of this session will be devoted to discussion on possibilities for a mechanism to improve implementation of international cooperation and assistance.

The Working Group is scheduled to convene in Geneva from 7 to 18 August 2023, as decided by the Ninth BWC Review Conference (2022). The First Session of the WG met during March 2023 to discuss organizational issues. Reports in this series from those meetings are available from the links provided overleaf.

Article X of the BWC is about access to the life sciences for peaceful purposes and sits at the heart of the issues relating to international cooperation and assistance. Article X embodies 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.

The importance of the Article X issues within the BWC is reflected in the Working Group mandate which notes that any measures proposed by the Group ‘should be formulated and designed in a manner that their implementation supports international cooperation, scientific research and economic and technological development, avoiding any negative impacts.’

To assist with discussions, JJ Domingo (Philippines) and Thomas Fetz/Trevor Smith (Canada) have been appointed as facilitators on these issues.

Article X and cooperation and assistance in context

The topic of international cooperation and assistance brings together a cluster of issues for which there have been long-standing divergences of views between governments.

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.

Where the divergence remains strongest is on the scope of Article X and on the question of how to improve implementation of it. Some delegations have expressed the view in past BWC meetings that Article X is incompatible with the imposition of

economic sanctions (often referred to as ‘unilateral coercive measures’) and that denials of export licences for materials and technologies for peaceful purposes are contrary to Article X. A larger number of delegations have taken an opposite view and have highlighted the challenges of controlling materials and technologies that have peaceful uses as well as having potential to contribute to a biological weapons programme.

An illustration of the significance of Article X-related issues is 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.

There have been many lessons from events outside of the BWC for Article X discussions. Outbreaks such as Ebola Virus Disease and the COVID-19 pandemic have illustrated the challenges of responding to infectious disease. Experience shows that no country is safe from a highly transmissible disease unless there are capabilities to deal with that disease across the globe. As biological weapons are essentially tools for the deliberate spread of disease, it follows that enhanced capacities to deal with naturally occurring diseases reduce the potential for harm from deliberate disease. There are considerable synergies with Working Group topic (f) on assistance, response and preparedness under Article VII which will be discussed during 2024.

Proposals and developments on Article X and related issues

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 BWC Implementation Support Unit (ISU) each year. A number of delegations have suggested during BWC meetings that the database is underused. A proposal for a counterpart database in relation to Article VII was agreed in principle at the Eighth Review Conference (2016).

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 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 and was updated occasionally and presented again. In 2019 India proposed the establishment of a voluntary trust fund to support cooperation and assistance activities. The Ninth Review Conference (2022) added a staff post to the ISU, the tasks for whom were not specified in the Final Document but which are understood to include international cooperation and assistance activities.

Paragraph 18 of the Final Document of the Ninth Review Conference reads: ‘The Conference decides to develop with a view to establishing a mechanism open to all States Parties to facilitate and support the full implementation of international cooperation and assistance under Article X. In order for this mechanism to be established, the Working Group on the strengthening of the Convention will make appropriate recommendations.’ Discussions during the Review Conference were unable to reach consensus on what form such a mechanism might take and this remains a subject for discussion. For example an ASEAN working paper to this WG Session (WP.1) proposes a ‘Cooperation Advisory Group’ to facilitate international cooperation activities. A second working paper (WP.3), from Australia, Germany, Japan, UK and USA, proposes establishment of a mechanism utilizing ‘a programmatic approach’ funded through a voluntary trust fund governed by an ‘ICA Fund Committee’.

These reports have been produced by the BioWeapons Prevention Project (BWPP) for all BWC meetings with NGO registration since the Sixth Review Conference (2006). 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 reporting for the Second Session of the Working Group 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>.