

REVISITING BWC VERIFICATION

Peaceful Cooperation

By Jez Littlewood

Policy Brief 7 of 7

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BWC Article X

Article X of the BWC states:

(1) The States Parties to this Convention 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. Parties to the Convention in a position to do so shall also co-operate in contributing individually or together with other States or international organisations to the further development and application of scientific discoveries in the field of bacteriology (biology) for the prevention of disease, or for other peaceful purposes.

(2) This Convention shall be implemented in a manner designed to

avoid hampering the economic or technological development of States Parties to the Convention or international co-operation in the field of peaceful bacteriological (biological) activities, including the international exchange of bacteriological (biological) agents and toxins and equipment for the processing, use or production of bacteriological (biological) agents and toxins for peaceful purposes in accordance with the provisions of the Convention.

Since the entry into force of the Convention peaceful cooperation has become more important to states parties. During the negotiations on the Protocol it was observed that “the road to the Protocol goes through Article X.”¹ It may be similarly claimed that any intersessional work on strengthening the BWC must also address peaceful cooperation as evidenced by

statements and the programmes of work of the last three intersessional processes.

The 2018-2020 intersessional work programme

Under the 2018-2020 intersessional work programme, the first meeting of experts (MX1) is devoted to “Cooperation and assistance, with a particular focus on strengthening cooperation and assistance under Article X”. Its mandate includes: reports on implementation of Article X; review of the ISU’s report on the assistance and cooperation database; identification of challenges and obstacles to implementation of Article X; guidelines and resource mobilisation and facilitation of education and training related to implementation; capacity-building, including in

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preparedness, response, crisis management and mitigation; and, collaboration with international organisations and networks.

To an external observer less familiar with the politics of biological disarmament and Article X, each of these areas appears to connect with other areas of the mandate of the 2018-2020 ISP:

- Reports on implementation of Article X connect with MX3 and MX5;
- The cooperation and assistance database with MX4 and MX5;
- Challenges and obstacles with MX2, MX3 and MX4;
- Mobilisation of resources, education and training with MX3, MX4 and MX5; and,
- Collaboration with international organisations with all other Meetings of Experts.

In that sense there appears to be a recognition of the synergies between cooperation and assistance and other areas of the Convention, as well as identification of the importance of peaceful cooperation and assistance to the overall well-being of the BWC as a whole.

More experienced observers of the BWC will recognise that there is a disconnect between the topics and the politics of Article X as expressed in statements and working papers of certain states parties and groups of states. The challenge is Article X(2) – the regulatory component of the issue, its connections to Article III and the non-proliferation obligations under the BWC, and the proposals to develop a non-proliferation mechanism within the BWC

including some form of quasi-judicial body that will question the sovereign decisions of a state in relation to export licensing decisions. Put simply the Australia Group and export denials.

As Guthrie noted with regard to the issue of denials and export licences, “the UK and USA both emphasised how few export licence denials there were, while Brazil and Iran countered that some companies didn’t even consider certain possible exports on the assumption licences would not be granted and so the headline figures did not tell the full story.”² Differences of view about export controls, the existence of the Australia Group and related issues are not going to be resolved in the near future.

The way forward

At best, the ISP and the next review conference can seek to expand existing cooperation and assistance mechanisms and move to develop the common understandings around the Article X(2) and Article III relationship and how it can be managed by states parties individually and collectively.

With regard to the latter, a central issue is a lack of hard data in this area. Incomplete information complicates any

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analysis of the effect of export licensing obligations on public health. At the same time, the available data from other sources points, overall, to some remarkable improvements in global public health, life expectancy, disease incidents and the globalisation of the life sciences since 1975 (this is not, of course, to say that significant challenges in public health do not exist). None of these positive developments are due to the BWC per se and implementation of Article X in particular. They occurred because of obligations, commitments and policy initiatives outside of the BWC at the national, regional and in -

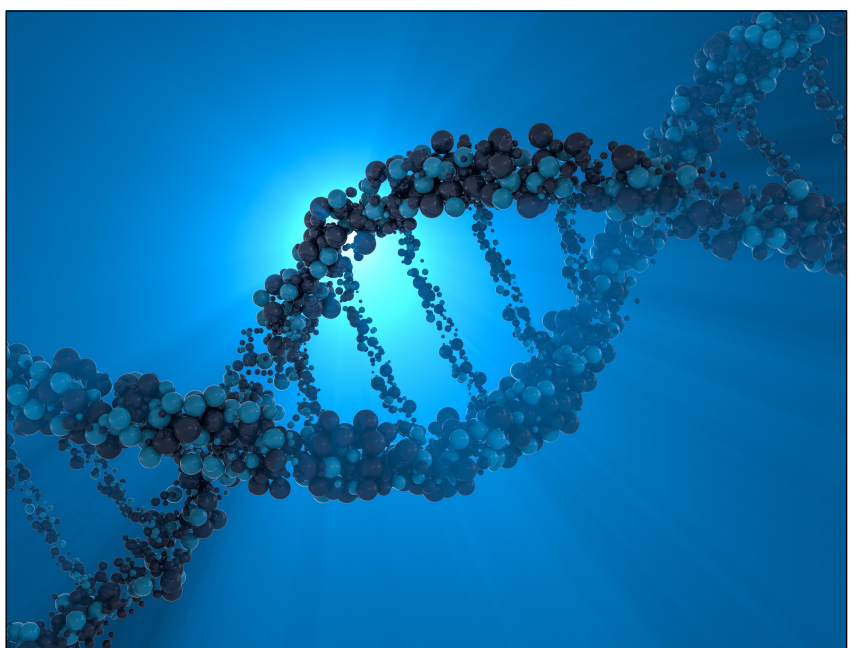


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ternational level. At the same time, without accurate data about implementation of Article X measures, the effect of export licensing on peaceful cooperation, and awareness of the regional and country-level data related to public health issues, it remains possible for states parties with very different views to talk past each other. These issues should be addressed with regard to reporting on Article X, the development of CBMs, and the question of collaboration.

In other areas there is significant scope to reimagine peaceful cooperation and assistance issues within the BWC under the broader anti-biological weapons regime. States parties need to consider where the BWC adds value to existing cooperation, development, assistance and other mechanisms or where BWC states parties could insert or focus upon a Convention-specific aspect of any existing institutional, bilateral, regional or multilateral efforts. In sim-

ple terms what can the BWC do, under Article X, that other mechanisms and procedures, agreements and institutions are unable to undertake or have limited expertise on?

Article X of the BWC is undoubtedly broad and understandings about what implementation of the article entails have only expanded since 1975. If it becomes too expansive, implementation will be very difficult to measure and identify. Like all other substantive articles of the BWC, some consideration of its practical limits needs a more fulsome and less strident discussion. A structured, focused debate with the purpose of identifying the BWC-specific cooperation and assistance issues that interconnect with other mechanisms and procedures would be a positive way forward. A more realistic and honest debate over non-proliferation, export controls and export denials would be another way forward. Finally, recognition and ex-

ploitation of the synergies between MX1 and the other Meetings of Experts would also go some way to bringing practical benefits into focus in the next few years while also establishing the groundwork for efforts at and after, the next review conference.



Photo credit: iStock

Endnotes

1. Cited in Smithson, Amy. 1999. Tall Order: Crafting a Meaningful Verification Protocol for the Biological Weapons Convention. *Politics and the Life Sciences* (March) p. 82
2. Guthrie, Richard. 2018. MX report 2 -- Wednesday 8th August 2018. The opening of the 2018 Meetings of Experts: MX1 cooperation & assistance.

Policy brief series authors

Dr Jez Littlewood is a freelance researcher with expertise in biological weapons, arms control and national security issues. He previously worked at Carleton University (Ottawa), University of Southampton (UK), served under secondment to the UK Foreign and Commonwealth Office, and at the UN in Geneva.

Email: jlittlewood@gmail.com

Twitter: @JezLittlewood

Dr Filippa Lentzos is a senior research fellow at King's College London with expertise in biological threats, biological arms control and the security and governance of emerging technologies in the life sciences.

Web: www.filippalentzos.com

Email: filippa.lentzos@kcl.ac.uk

Twitter: @FilippaLentzos

Dr James Revill is a research fellow with the Harvard Sussex Program at the University of Sussex with expertise in biological arms control, and the security and governance of emerging technologies in the life sciences.

Email: j.revill@sussex.ac.uk

Twitter: @RevillJames

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