

## II. Biological weapon disarmament and non-proliferation

FILIPPA LENTZOS

The principal legal instrument against biological warfare is the 1972 Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction (Biological and Toxin Weapons Convention, BWC).<sup>1</sup> The treaty has 184 states parties and 4 signatory states. Ten states have neither signed nor ratified the convention. No state joined the treaty in 2021.

While the Covid-19 pandemic continued to affect the 2021 calendar of disarmament events, some meetings were able to take place in person, including BWC meetings. The BWC meetings of experts (MXs), originally scheduled for 25 August to 3 September 2020, were eventually held from 30 August to 8 September 2021 in Geneva. The First Committee of the United Nations General Assembly met from 4 October to 4 November 2021 in New York. The BWC meeting of states parties (MSP), originally scheduled for 8 to 11 December 2020, was held from 22 to 25 November 2021 in Geneva, and the first meeting of the ninth Preparatory Committee (PrepCom) was held on 20 December 2021, also in Geneva.

Increasing geopolitical tensions in 2021 between China, Russia and the United States were also visible in the biological field and resulted in allegations of non-compliance with the BWC.

### The 2020 meetings of experts

The third, and last, set of five MXs ahead of the ninth review conference considered topics assigned to them by the 2017 MSP.<sup>2</sup> MX1, chaired by Kimmo Laukkanen of Finland, considered cooperation and assistance, with a particular focus on strengthening cooperation and assistance on peaceful uses of the life sciences and associated technologies (BWC Article X). The chair's summary report of the two-day meeting characterized the discussions as 'in-depth and substantive', with a 'large number of proposals' indicating 'clear interest' in making progress on strengthening cooperation and assistance.<sup>3</sup> MX2, chaired by Kazuhiro Nakai of Japan, considered developments

<sup>1</sup> For a summary and other details of the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction see annex A, section I, in this volume.

<sup>2</sup> For meeting agendas, reports, working papers, technical briefing presentations, side event details, the joint statement of civil society organizations and other documentation see BWC, 'BWC-Meetings of Experts (2020)', United Nations Office for Disarmament Affairs (UNODA) Meetings Place.

<sup>3</sup> BWC, Meeting of States Parties (MSP), 'Report of the 2020 Meeting of Experts on cooperation and assistance, with a particular focus on strengthening cooperation and assistance under Article X', BWC/MSP/2020/MX.1/2, 1 Oct. 2021, annex I, para. 3.

in the fields of science and technology related to the BWC. Topics discussed over the two-day meeting included methodologies for establishing a science and technology review mechanism, and standards and guiding principles for biorisk management. Many states expressed their support for the ‘Tianjin Biosecurity Guidelines for Codes of Conduct for Scientists’, including their endorsement at the ninth review conference and agreement on a mandate from the review conference to promote and promulgate them.<sup>4</sup>

The one-day MX3, chaired by Arman Baissuanov of Kazakhstan, considered a variety of proposals on strengthening national implementation and efforts undertaken by states parties to enhance domestic implementation of the BWC.<sup>5</sup> The two-day MX4, chaired by Ambassador Elena Kuzmanovska Biondic of North Macedonia, considered assistance, response and preparedness. The chair observed ‘broad recognition of the need to make progress towards the operationalization of Article VII and a clear interest among delegations in advancing related proposals’.<sup>6</sup>

The final meeting—the one-day MX5 chaired by Grisselle del Carmen Rodriguez Ramirez of Panama on institutional strengthening of the convention—generated the most intense discussion and divergence of views.<sup>7</sup> Many, mostly Non-Aligned Movement (NAM), states repeated decades-old calls for resuming negotiations on a legally binding protocol to the BWC. A clear lack of consensus on pursuing such an approach was evident. Several Western Group states pointed out that this lack of consensus should not hinder efforts to strengthen the convention and called for a pragmatic approach to explore both legal and voluntary measures in greater depth. The USA said it would oppose any new calls that fail to address the technical and political challenges that precluded agreement on a verification protocol in 2001, noting that many of those issues still exist today and many may have gotten worse.

Russia introduced a proposal to establish a group of governmental experts from 2022 to 2026 to develop investigation procedures under Article VI. The proposal ‘received much attention and was discussed at great length, with opinions differing as to its necessity’.<sup>8</sup> Several, mainly Western Group, states opposed the initiative, noting that it would compete with, or undermine, the UN Secretary-General’s Mechanism for Investigation of Alleged Use

<sup>4</sup> BWC, MSP, ‘Report of the 2020 Meeting of Experts on review of developments in the field of science and technology related to the Convention’, BWC/MSP/2020/MX.2/2/Rev.1, 8 Oct. 2021, paras 19–22.

<sup>5</sup> BWC, MSP, ‘Report of the 2020 Meeting of Experts on strengthening national implementation’, BWC/MSP/2020/MX.3/2, 1 Oct 2021.

<sup>6</sup> BWC, MSP, ‘Report of the 2020 Meeting of Experts on assistance, response and preparedness’, BWC/MSP/2020/MX.4/2, 14 Oct. 2021, annex I, para. 3.

<sup>7</sup> BWC, MSP, ‘Report of the 2020 Meeting of Experts on institutional strengthening of the Convention’, BWC/MSP/2020/MX.5/2, 14 Oct. 2021, annex I.

<sup>8</sup> BWC, BWC/MSP/2020/MX.5/2 (note 7), annex I, para. 7.

of Chemical and Biological Weapons (Secretary-General's Mechanism, UNSGM). Russia also proposed establishing an open-ended working group to develop proposals for strengthening the BWC that could eventually be included in a legally binding instrument. While some delegations were very supportive, others observed pragmatically that current circumstances do not seem conducive to establishing such a working group.

MX5 also discussed Kazakhstan's proposal to establish an International Agency for Biological Safety, which it had first introduced at the UN General Assembly in 2020. Kazakhstan reported receiving positive feedback on the concept note it had distributed to the Geneva and New York missions in May and June 2021, respectively, offering a vision of the mandate, objectives and functions of the proposed agency; and stated that, if conditions permit, it would convene an international conference in 2022 to discuss different approaches on how to create the agency. Based on those discussions, Kazakhstan hoped to present a collective vision of the proposed agency at the ninth review conference. Points of contention raised by states included 'the underlying meaning of the proposed organization's accountability' to the UN Security Council, its relationship with the BWC Implementation Support Unit (ISU) and 'potential overlaps with existing bodies'.<sup>9</sup>

A proposal from the United Kingdom to delegate decision-making authority from the review conference to the MSP met with a clear divergence of views.<sup>10</sup> A working paper from Panama with 12 concrete suggestions to enhance gender equality and women's empowerment under the BWC was well received, with several states expressing their support for further advancing the discussion on gender equality in the forum.<sup>11</sup>

While there were areas of broad agreement among states on how best to strengthen the BWC, the MXs also demonstrated significant areas of disagreement, with broader geopolitical tensions affecting the discussions.

### **The First Committee of the UN General Assembly**

The UN General Assembly committee on disarmament and international security (First Committee) convened from 4 October to 4 November 2021. In the general debate and thematic debate, 9 groups of states and 73 individual states referred to biological weapons in their statements. Most of the remarks emphasized the importance of the BWC and expressed support for the

<sup>9</sup> BWC, BWC/MSP/2020/MX.5/2 (note 7), annex I, para. 10.

<sup>10</sup> BWC, BWC/MSP/2020/MX.5/2 (note 7), annex I, para. 6. See also United Kingdom, 'Review conferences, decision making and future institutional strengthening of the Convention', Working paper, BWC/MSP/2020/MX.5/WP.1, 13 Aug. 2021.

<sup>11</sup> BWC, BWC/MSP/2020/MX.5/2 (note 7), annex I, para. 5. See also Panama, 'Enhancing gender equality and women's empowerment as an integral part of the institutional strengthening of the Biological Weapons Convention (BWC)', Working paper, BWC/MSP/2020/MX.5/WP.6, 30 Aug. 2021.

treaty. Many highlighted the need to universalize and implement the BWC effectively, including by adequately resourcing it. ‘About a dozen’ states referred in the first week to the Covid-19 pandemic in the context of biological threats, noting ‘the need to strengthen biosecurity, biorisk management, and disease surveillance’.<sup>12</sup>

The ninth review conference of the BWC also provided a focus for states. India spoke about the need for states to ‘work together, build convergences and achieve tangible outcomes’.<sup>13</sup> China and Russia urged states to adopt ‘a constructive approach’.<sup>14</sup> The UK called for ‘action, ambition and cooperation’, while the USA emphasized the need to ‘bring the Convention into the 21st century’.<sup>15</sup> Germany stated more firmly that a key deliverable for the review conference ‘should be the establishment of a Scientific and Technological Experts Advisory Forum’—which most states agreed with in principle but diverged on the specifics.<sup>16</sup>

The NAM, the Association of Southeast Asian Nations (ASEAN) group and several other states—including China, Cuba, India, Iran and Russia—reiterated long-standing calls for a legally binding protocol to the BWC to ensure effective verification. The USA, which formally put an end to protocol negotiations in 2001 and which continued to advocate against a protocol, announced it ‘will propose that States Parties adopt measures to strengthen the BWC immediately and, simultaneously, take steps to intensively explore measures to strengthen implementation and promote compliance’.<sup>17</sup> The USA did not elaborate further on these measures. The UN high representative for disarmament affairs suggested ‘an innovative middle way that is responsive to scientific advances and the needs of developing countries, while rooted in international cooperation’.<sup>18</sup>

Russia called on ‘everyone concerned to refrain from the militarization of public healthcare’, yet it labelled efforts from several states to use voluntary

<sup>12</sup> Lentzos, F., ‘Biological weapons’, *First Committee Monitor*, vol. 19, no. 2 (9 Oct. 2021), p. 12, and no. 3 (16 Oct. 2021), p. 12.

<sup>13</sup> Sharma, P., Permanent representative of India to the Conference on Disarmament, Statement at the General Debate of the First Committee of the 76th session of the UN General Assembly, New York, 4 Oct. 2021, p. 2.

<sup>14</sup> Geng S., Chinese ambassador, Remarks on the release of the joint statement by the foreign ministers of China and Russia to the First Committee of the 76th session of the UN General Assembly, New York, 7 Oct. 2021, p. 6.

<sup>15</sup> United Kingdom, Statement to the First Committee of the 76th session of the UN General Assembly, New York, 6 Oct. 2021, p. 1; and Jenkins, B., US Under-secretary for arms control and international security, Remarks to the First Committee of the 76th session of the UN General Assembly, New York, 6 Oct. 2021, p. 4.

<sup>16</sup> Göbel, T., Ambassador and permanent representative of Germany to the Conference on Disarmament, Statement at the general debate of the First Committee of the 76th session of the UN General Assembly, New York, 5 Oct. 2021, p. 3.

<sup>17</sup> United States, Statement at the thematic debate on clusters 1–4, First Committee of the 76th session of the UN General Assembly, New York, 13 Oct. 2021, p. 1.

<sup>18</sup> Nakamitsu, I., UN high representative for disarmament affairs, Opening statement to the First Committee of the 76th session of the UN General Assembly, New York, 4 Oct. 2021, p. 5.

peer review as a way to enhance transparency about dual-use facilities and research as ‘dubious’, claiming that they ‘lack impartial criteria for assessment and selection of participants’.<sup>19</sup> Ukraine spoke of the ‘ruinous consequences of Russian aggression’ negatively impacting Ukrainian biosafety and biosecurity.<sup>20</sup> Iran described Israel’s rejection of BWC membership as ‘endangering regional security’.<sup>21</sup>

*A revised resolution on the UN Secretary-General’s Mechanism*

Russia introduced a draft resolution, co-sponsored by Nicaragua and Zimbabwe, on the UNSGM.<sup>22</sup> It was a revised version of a resolution introduced in 2020, co-sponsored by China, Nicaragua, and Venezuela, which faced an unprecedented defeat.<sup>23</sup>

The new draft resolution cut four of the nine operative paragraphs from the 2020 version, and introduced a revised version of another of the operative paragraphs. Two preambular paragraphs from 2020 were gone, but the rest remained intact and a new one was added. While the revised resolution went through two rounds of heavily contested consultations, much of the feedback Russia received, notably that the resolution undermines the UNSGM rather than strengthens it, did not appear to lead to any revisions.

The First Committee overwhelmingly rejected the draft resolution for a second time on 3 November 2021. There were 31 votes in favour, 64 votes against and 77 abstentions—figures very similar to the vote in 2020. Two individual paragraphs were also voted on, both rejected by even greater margins (26–58–68 and 25–88–68).

Before the vote took place, Slovenia on behalf of the European Union (EU) and other states (Albania, Australia, Canada, Georgia, Liechtenstein, Montenegro, Norway, Republic of North Macedonia, Ukraine and the UK), the USA, Switzerland and the Philippines all provided explanations of vote that urged states to vote against the draft resolution.

The US explanation noted that the revised resolution ‘might appear less contentious’, but claimed ‘it would still undermine the UNSGM’s integrity, independence, and impartial character’. The USA stated its particular concern about elements ‘that would launch a formal process’ for UN member

<sup>19</sup> Russia, Statement at the thematic debate on nuclear weapons, First Committee of the 76th session of the UN General Assembly, New York, 13 Oct. 2021, p. 7.

<sup>20</sup> Zlenko, A., Ukrainian second secretary, Statement at the thematic debate on clusters 1–4, First Committee of the 76th session of the UN General Assembly, New York, 13 Oct. 2021, p. 2.

<sup>21</sup> Balouji, H. A., First counselor of the permanent mission of Iran, Statement at combined thematic debate on nuclear weapons, other WMDs, outer space and conventional weapons, First Committee of the 76th session of the UN General Assembly, New York, 13 Oct 2021, p. 3.

<sup>22</sup> United Nations, General Assembly, ‘Secretary-General’s Mechanism for Investigation of Alleged Use of Chemical and Biological Weapons’, Draft resolution, A/C.1/76/L.54, 14 Oct. 2021.

<sup>23</sup> Lentzos, F. and Littlewood, J., ‘How Russia worked to undermine UN bioweapons investigations’, *Bulletin of the Atomic Scientists*, 11 Dec. 2020.

states to critique the mechanism's guidelines and procedures 'without a compelling reason and without regard for existing review provisions', and questioned Russia's aim in introducing the resolution: 'It is clear that Russia does not intend to stop with this first step of critiquing the UNSGM's technical procedures and guidelines. Russia will continue pressing to steadily strip away the UN Secretary-General's prerogative to lead any technical review and update process in an objective manner.'<sup>24</sup>

The statement on behalf of the EU and other states was equally critical of Russia's motives: 'The ulterior motive behind this supposed need to review the SGM guidelines and procedures is to subordinate the SGM, and more specifically the Secretary General's decisional power as to whether to launch an investigation into alleged use of biological weapons, to the UN Security Council.'<sup>25</sup> The statement also highlighted the resolution's proposed review of the UNSGM guidelines and procedures as its key concern, noting that the resolution 'fails to mention' their 2007 review and update, and that they had 'worked adequately in a real-world situation in 2013, when the SGM was launched to investigate allegations of chemical weapons use in Syria'.<sup>26</sup>

Switzerland similarly made the point that the mechanism is functional and proved its value in Syria in 2013. Placing the resolution in the larger context of 'the erosion of key arms control instruments in recent years', Switzerland emphasized that the foundational principle of the UNSGM, namely its independence, is undermined by the draft resolution, as is the authority of the UN secretary-general—both of which 'must be protected and not diminished'.<sup>27</sup>

Iran's explanation of vote, also delivered before the vote, urged states to vote for the resolution.<sup>28</sup> Argentina, India and Mexico provided explanations of their abstentions after the vote.<sup>29</sup>

<sup>24</sup> USA, Explanation of vote L.54 on the UNSGM, First Committee of the 76th session of the UN General Assembly, New York, 3 Nov. 2021, p. 1.

<sup>25</sup> Slovenia on behalf of European Union member states, Explanation of vote L.54 on the UNSGM, First Committee of the 76th session of the UN General Assembly, New York, 3 Nov. 2021, p. 2.

<sup>26</sup> Slovenia on behalf of European Union member states (note 25), p. 2.

<sup>27</sup> Switzerland, Explanation of vote L.54 on the UNSGM, First Committee of the 76th session of the UN General Assembly, New York, 3 Nov. 2021.

<sup>28</sup> Iran, Explanation of vote L.54 on the UNSGM, First Committee of the 76th session of the UN General Assembly, New York, 2 Nov. 2021.

<sup>29</sup> Argentina, Explanation of vote L.54 on the UNSGM, First Committee of the 76th session of the UN General Assembly, New York, 2 Nov. 2021; India, Explanation of vote L.54 on the UNSGM, First Committee of the 76th session of the UN General Assembly, New York, 2 Nov. 2021; Mexico, Explanation of vote L.54 on the UNSGM, First Committee of the 76th session of the UN General Assembly, New York, 2 Nov. 2021; and United Nations, 'First Committee, 19th meeting (16th plenary meeting)—General Assembly, 76th session', UN Web TV, 2 Nov. 2021.

*Sticking points*

Both the First Committee and the General Assembly adopted draft resolution A/C.1/76/L.35 on the BWC without a vote (Resolution 76/67).<sup>30</sup> The resolution only contained two minor technical updates on the 2021 version.

India used the opportunity to express grievances about the BWC working capital fund. India said the fund should operate on the basis of assessed contributions by states parties, not through voluntary contributions (highlighting the OPCW working capital fund as a model), and not by non-state entities, referring to a contribution to the fund from the Nuclear Threat Initiative.<sup>31</sup>

The Philippines used the opportunity to focus on aligning agendas on disarmament and sustainable development. Heeding the UN secretary-general's 2018 call for 'a re-imagining of our efforts in WMD disarmament in the context of development', the Philippines agreed 'there is space for taking further steps to unlock the synergies between the disarmament paradigm and the sustainable development agenda'. It said the upcoming review conference can 'establish a more developed BWC institutional machinery that meets the challenges of the 21st century' and that it hoped a successful conference outcome would provide a basis for substantively updating the BWC resolution at the 77th session of the First Committee. The Philippines also joined calls for the resumption of multilateral negotiations for a legally binding verification protocol and highlighted the importance of initiatives to enhance international cooperation and assistance, particularly with respect to Article X and Article VII.<sup>32</sup>

The clear signal coming from the First Committee was that these two aspects—verification, and cooperation and assistance—will form fundamental sticking points at the ninth review conference.

<sup>30</sup> UN General Assembly Resolution 76/67, 'Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction', A/RES/76/67, 6 Dec. 2021; and Reaching Critical Will, 'Draft resolutions, voting results, and explanations of vote from First Committee 2021', [n.d.].

<sup>31</sup> India, Explanation of vote L.35 on the BWC, First Committee of the 76th session of the UN General Assembly, New York, 6 Dec. 2021; United Nations, 'General Assembly: 45th plenary meeting, 76th session', UN Web TV, 6 Dec. 2021; and 'Voluntary contributions', BWC Newsletter, Nov. 2021 (see summary table of the current status of the BWC working capital fund).

<sup>32</sup> Philippines, Explanation of vote L.35 on the BWC, First Committee of the 76th session of the UN General Assembly, New York, 6 Dec. 2021; and United Nations (note 31).

## The 2020 meeting of states parties and the 2021 Preparatory Committee

The 2020 meeting of states parties (MSP) was postponed several times due to the Covid-19 pandemic, but eventually convened in November 2021.<sup>33</sup> The chair of the 2020 MSP, Ambassador Cleopa K. Mailu of Kenya, produced a report in advance of the meeting providing information on the 14 states not party to the BWC and on activities to promote universalization of the convention.<sup>34</sup>

Upon request from the 2019 MSP, the chair also produced a report to the 2020 MSP on the financial situation of the BWC and the implementation of the financial measures adopted in 2018. The report noted a 91.9 per cent collection rate for 2020 by the end of that year, compared with a 94.8 per cent collection rate for 2019.<sup>35</sup> The state party with by far the largest outstanding amount was Brazil, with Venezuela, United Arab Emirates and Argentina with the next largest outstanding amounts.<sup>36</sup> The working capital fund, established by the 2018 MSP, had received \$628 801 as of 31 August 2021—82.7 per cent of the target level set for the fund. The fund was set aside in 2019, 2020 and 2021 as guarantee for contract renewals for ISU staff, but did not have to be used for this purpose because additional contributions were received in time to cover payroll charges.<sup>37</sup>

The ISU's annual report on its activities up to September 2021 reported that 2020 saw the highest number of confidence-building measures submitted, with reports received from 85 states parties (46.4 per cent), and that the figure for 2021 was likely to eclipse that figure because by the end of September 2021 it had already received 87 submissions (47.5 per cent).<sup>38</sup> A reminder letter sent by the ISU in early January 2022 stated that the final number of reports submitted by 31 December was 92 (50.3 per cent).<sup>39</sup> The annual report also stated that 129 states parties had nominated a national

<sup>33</sup> Permanent Mission of the Republic of Kenya to the United Nations and other International Organisations, Letter to the UN Office in Geneva, Chairperson of the 2020 BWC Meeting of States Parties, KMG/BWC-MSP-2020/44, 28 July 2020; Permanent Mission of the Republic of Kenya to the United Nations and other International Organisations, Letter to the UN Office in Geneva, Chairperson of the 2020 BWC Meeting of States Parties, KMG/BWC-MSP-2020/145, 9 Feb. 2021; and BWC, 'Report of the 2020 Meeting of Experts on strengthening national implementation', BWC/MSP/2020/MX.3/CRP.1, 3 Sep. 2021, para. 4.

<sup>34</sup> BWC, MSP, 'Report on universalization activities', BWC/MSP/2020/3, 27 Sep. 2021.

<sup>35</sup> BWC, MSP, 'Report on the overall financial situation of the Biological Weapons Convention', BWC/MSP/2020/5, 27 Sep. 2021, paras 7 and 9.

<sup>36</sup> United Nations Office for Disarmament Affairs, 'Outstanding amounts / prepayments by year and convention as at 31 January 2022', 31 Jan. 2022, p. 1.

<sup>37</sup> BWC, BWC/MSP/2020/5 (note 35), para. 15.

<sup>38</sup> BWC, MSP, 'Annual report of the Implementation Support Unit', BWC/MSP/2020/4, 27 Sep. 2021, paras 21–22.

<sup>39</sup> See United Nations Office for Disarmament Affairs, 'ISU sends out reminder letter', About the Biological Weapons Convention, Latest information, 15 Jan. 2022.



contact point; 77 offers of assistance from 10 states parties and one group of states parties had been made; and 51 requests for assistance, from 17 states parties, had been received.<sup>40</sup>

States parties submitted 16 working papers to the MSP, considerably more than the 5 produced for the 2019 MSP and the 11 for the 2018 MSP.<sup>41</sup> In the general debate, 56 states parties made statements.<sup>42</sup> There were eight virtual side events, organized by states, the United Nations Office for Disarmament Affairs (UNODA) and non-governmental organizations.

In reviewing the MXs, the MSP noted ‘the value of the work’ and welcomed ‘the substantive discussions’ of the MXs, but consideration of how to reflect the deliberations was ‘inconclusive’ and no consensus could be reached.<sup>43</sup> This is the third MSP in a row where no substantive outcome document was produced.

The MSP decided that an initial PrepCom meeting would be held in Geneva on 20 December 2021 to consider organizational aspects of the review conference. A second, more substantial, PrepCom meeting was scheduled for 4–11 April 2022. The MSP agreed the ninth review conference would be held in Geneva from 8 to 26 August 2022. The NAM was invited to nominate the president of the ninth review conference and chair of the PrepCom. Azerbaijan, as coordinator of the NAM, nominated Pakistan. Unusually, India and the Philippines raised objections to the nomination, and the MSP decided to provide the NAM more time for consultation.<sup>44</sup>

The one-day December PrepCom meeting elected Florian Antohei of Romania and Tancredi Francese of Italy as vice-chairs and reached understanding on a provisional agenda and draft rules of procedure for the review conference, for final adoption at the April PrepCom. The meeting also requested the ISU prepare eight background information documents for the review conference.

Several rounds of NAM consultations on a nomination for the review conference presidency failed to reach agreement by the end of 2021. The disarray and presumably ill feeling among the NAM delegations will likely make it harder to achieve consensus on substantive outcomes at the ninth review conference.

<sup>40</sup> BWC, BWC/MSP/2020/4 (note 38), paras 13 and 28.

<sup>41</sup> BWC, MSP, ‘Report of the 2020 Meeting of States Parties’, BWC/MSP/2020/7, 25 Nov. 2021, annex II; BWC, MSP, ‘Report of the 2019 Meeting of States Parties’, BWC/MSP/2019/7, 11 Dec. 2019, annex II; and BWC, MSP, ‘Report of the 2018 Meeting of States Parties’, BWC/MSP/2018/6, 11 Dec. 2018, annex II.

<sup>42</sup> BWC, BWC/MSP/2020/7 (note 41), para. 15.

<sup>43</sup> BWC, BWC/MSP/2020/7 (note 41), paras 26–28.

<sup>44</sup> BWC, BWC/MSP/2020/7 (note 41), paras 31–32. See also United Nations, ‘10th meeting, Biological Weapons Convention—Meeting of States Parties’, UN Web TV, 26 Nov. 2021; and Guthrie, R., ‘The extra day of the Meeting of States Parties and some reflections’, BioWeapons Prevention Project, MSP report 6, 3 Dec. 2021.

## The evolving China–Russia–United States relationship

Geopolitical tensions among the USA, China and Russia continued to spill over into the biological field in 2021, with allegations of BWC non-compliance aired in public reports and statements.<sup>45</sup>

### *The US arms control compliance report*

While the USA has been concerned about Russian compliance with the BWC for many years, as reflected in its annual arms control compliance reports from the US Department of State, the 2021 compliance report, published on 15 April 2021, assessed outright that Russia maintains an offensive biological warfare programme and that Russia is in violation of the BWC. No new evidence was provided in the report to explain why the USA changed its assessment from ‘concerns about Russian activities’ in 2020 to ‘Russia maintains an offensive [biological weapons] program’ in 2021.<sup>46</sup> However, in August 2020 the USA added three key military biological facilities—the 48th Central Scientific Research Institute in Kirov, Sergiev Posad and Yekaterinburg—to the list of entities the USA considers to pose a security or foreign policy risk to its interests, making them subject to export control restrictions. The 2021 compliance report asserted that ‘the United States has reasonable cause to believe these institutes are Russian Ministry of Defense facilities associated with the Soviet and Russian biological weapons program’.<sup>47</sup> The report further stated:

Russia is providing an incomplete acknowledgment of the former Soviet program, a lack of evidence of the dismantlement or cessation of key activities, and continues its ongoing secrecy efforts (including both the military facilities noted above and legislation criminalizing any disclosure of information about the former Soviet program). As such, Russia has not fulfilled its obligations under Article II to ‘destroy or divert to peaceful purposes’ the [biological weapons] specified in Article I of the Convention that it inherited from the Soviet Union.<sup>48</sup>

The 2021 compliance report also continued to raise concerns about China’s compliance with Article I of the BWC. It asserted that ‘China continues to develop its biotechnology infrastructure and pursue scientific cooperation with countries of concern’, and that it ‘has never acknowledged publicly or in

<sup>45</sup> On the geopolitical tensions between the USA and Russia see chapter 5, section I, in this volume. On the geopolitical tensions between the USA and China see chapter 4, section II, in this volume.

<sup>46</sup> US Department of State, *Adherence to and Compliance with Arms Control, Non-Proliferation, and Disarmament Agreements and Commitments* (US Department of State: Washington, DC, June 2020), p. 60; and US Department of State, *Adherence to and Compliance with Arms Control, Non-Proliferation, and Disarmament Agreements and Commitments* (US Department of State: Washington, DC, 15 Apr. 2021), p. 50.

<sup>47</sup> US Department of State, *Adherence to and Compliance with Arms Control, Non-Proliferation, and Disarmament Agreements and Commitments* (2021) (note 46), p. 52.

<sup>48</sup> US Department of State, *Adherence to and Compliance with Arms Control, Non-Proliferation, and Disarmament Agreements and Commitments* (2021) (note 46), p. 51.

diplomatic channels its past offensive [biological warfare] programme'.<sup>49</sup> The report declared that over the last year China 'engaged in activities with dual-use applications', highlighting toxin research and development undertaken at Chinese military medical institutions.

The report also raised previous concerns in relation to two other countries: that 'Iran has engaged in dual-use activities with potential for BW applications'; and that North Korea has an offensive biowarfare programme.<sup>50</sup>

#### *Closer coordination by China and Russia on the BWC*

During the 76th session of the First Committee of the General Assembly, on 7 October 2021, China and Russia released a joint statement for the first time, on strengthening the BWC. According to the Chinese Ministry of Foreign Affairs, the statement demonstrated 'the high level of the China–Russia comprehensive strategic coordination in a new era as well as the two countries' strong determination and responsible attitude towards safeguarding global biosecurity and defending multilateralism'.<sup>51</sup> The joint statement called on BWC states parties to develop operating standards for a BWC mechanism to investigate allegations of biological weapons use, emphasizing that BWC functions 'should not be duplicated by other mechanisms'.<sup>52</sup> The statement also expressed 'serious concerns' about 'military biological activities' of the USA 'and its allies' both within and outside their national territory. China and Russia alleged that over 200 US biological laboratories are deployed outside US national territory; that these laboratories function in a non-transparent manner; and that such activities pose serious risks for their own national security and the security of relevant regions. No such concerns have been formally raised within the context of the BWC.

The joint statement from China and Russia appears to signal a closer coordination of their policies on the BWC, and potentially complicates efforts to deliver a substantial outcome to the ninth review conference. It may also signal a greater emphasis on biological weapons in disinformation campaigns.

#### *A two-track approach from the United States*

Initially announced in the First Committee, the USA's new approach to strengthening the BWC was given prominence in a statement by US national

<sup>49</sup> US Department of State, *Adherence to and Compliance with Arms Control, Non-Proliferation, and Disarmament Agreements and Commitments* (2021) (note 46), pp. 46 and 52.

<sup>50</sup> US Department of State, *Adherence to and Compliance with Arms Control, Non-Proliferation, and Disarmament Agreements and Commitments* (2021) (note 46), pp. 47–49.

<sup>51</sup> Zhao, L., Chinese Ministry of Foreign Affairs press conference, 8 Oct. 2021, Transcript.

<sup>52</sup> Chinese Ministry of Foreign Affairs, 'Joint Statement by the Foreign Ministers of the People's Republic of China and the Russia Federation on Strengthening the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction', 7 Oct. 2021.

security advisor Jake Sullivan in advance of the BWC MSP. Sullivan said the USA was ‘concerned that some nations still possess biological weapons programs, while other nations as well as nonstate actors seek to acquire them’, and he urged ‘all countries to take seriously the threat of biological weapons’.<sup>53</sup> Sullivan repeated the US intention to propose ‘immediate action at the Review Conference on a number of practical measures that will build capacity to counter biological threats and benefit BWC members’.

Ambassador Bonnie Jenkins, US under-secretary for arms control and international security, further elaborated these measures and the US approach in her opening remarks to the BWC MSP in November 2021. Without naming specific countries, she said that ‘Some states continue to possess sophisticated, well-established biological weapons programs’, that ‘non-state actors have shown continuing interest in acquiring [biological weapons] capabilities’, and that ‘widespread availability of sophisticated scientific and technological tools and methods is gradually eroding barriers to the development of biological weapons’.<sup>54</sup>

To overcome the political impasse of the last 20 years, the USA outlined a two-track approach. Track one sees the upcoming review conference taking ‘near-term, concrete action’ on a set of proposals that have been discussed at BWC meetings over the past few years, including ‘creating a mechanism to review scientific advances’, ‘establishing a voluntary fund for technical cooperation’ and ‘enabling more agile decision-making’.<sup>55</sup>

Track two, addressing ‘the harder issues’, proposed that the ninth review conference establish ‘a new expert working group to examine possible measures to strengthen implementation of the Convention, increase transparency, and enhance assurance of compliance’.<sup>56</sup> The vision was not, Ambassador Jenkins made clear, a return to the 1990s negotiations on a verification protocol. But while she firmly noted that current efforts should not be defined by past approaches, she did not rule out building on them either. Ambassador Jenkins announced the US Department of State will ‘dedicate a senior official to drive’ its new approach, and to play an active and constructive role in ensuring the success of the ninth review conference.<sup>57</sup> There was no mention, however, of how the new expert working group would be funded.

#### *Allegations and counter-allegations at the 2020 meeting of states parties*

In opening remarks to the BWC MSP, Russia claimed that significant expansion of military biomedical activities by the USA and its NATO allies, ‘espe-

<sup>53</sup> White House, ‘Statement by National Security Advisor Jake Sullivan on the US approach to strengthening the Biological Weapons Convention’, Briefing Room statement, 19 Nov. 2021.

<sup>54</sup> Jenkins, B., US under-secretary for arms control and international security, Statement to the BWC MSP, Geneva, 22 Nov. 2021, pp. 1–2.

<sup>55</sup> Jenkins (note 54), pp. 2–3.

<sup>56</sup> Jenkins (note 54), p. 2.

<sup>57</sup> Jenkins (note 54), p. 4.

cially in countries near to us, raises questions about their true nature and content'.<sup>58</sup> Echoing Russia's accusations, China said that 'The bio-military activities carried out by the United States both in and outside its territory has caused serious compliance concerns' and that the USA's 'serious lack of transparency' in these activities 'poses a grave threat to the security of relevant states and regions'.<sup>59</sup> Responding to the 'truly appalling distortions of fact', the USA maintained the allegations were 'pure disinformation, plain and simple'.<sup>60</sup> The hundreds of laboratories Russia and China accuse of suspicious activity are not American facilities, explained the deputy head of the US delegation to the meeting. While they have been supported by the US Department of Defense's Cooperative Threat Reduction Program, they are public and animal health facilities that are owned and operated by the countries they are located in. He pushed back on claims that US activities lack transparency, emphasizing the irony of being lectured on transparency by Russia and China.

## Conclusions

By the close of 2021, allegations of offensive weapons programmes and nefarious activities had rebounded in meetings rooms of the UN and ricocheted around the world in both credible and disreputable media. Yet the BWC, the bulwark against the return of biological weapons into the arsenals and war plans of states, has languished and efforts to strengthen it have been in a holding pattern for over 20 years since the USA scuppered the negotiations on a verification protocol in July 2001. The ninth review conference provides an opportunity to redress this situation. The prospects for making progress are better than they have been for over a decade. China, Russia and the USA have each articulated plans that address issues of compliance, transparency and accountability. Their approaches differ, but there is common ground to craft a workable compromise solution if these three states and others are determined enough. The most significant reason for hope is a change in the US approach to making the convention more robust. Yet, reaching consensus on anything in the BWC remains extremely difficult, and multiple challenges must be overcome if the ninth review conference is to deliver a new approach to biological weapons controls. It will not take much to prevent success and the festering allegations of non-compliance will not help the situation.

<sup>58</sup> Russia, Statement in general debate at the BWC MSP, Geneva, 22 Nov. 2021, pp. 2–3.

<sup>59</sup> Li, S., Chinese ambassador, Statement in general debate at the BWC MSP, Geneva, 22 Nov. 2021, p. 7.

<sup>60</sup> US Department of Defense, Defense Threat Reduction Agency, 'The US government responds to false allegations targeted at DoD CTR Program', YouTube, 11 Jan. 2022.