

II. Biological weapon allegations

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Russia's years-long campaign about 'biolabs' and what it considers nefarious activities significantly escalated in 2022. It led to a formal consultative meeting under Article V of the 1972 Biological and Toxin Weapons Convention (BWC) in September 2022 and to several rounds of discussions in the United Nations Security Council, culminating in an unprecedented request from Russia in October 2022 for an investigation into 'military biological activities in Ukraine'. Security Council members did not find Russia's evidence convincing and voted against Russia's proposal.

Allegations in the context of Russia's invasion of Ukraine

In advance of the Winter Olympic Games in February 2022, Chinese president Xi Jinping and Russian president Vladimir Putin, who had travelled to Beijing for the opening ceremony, held talks, after which they released an extensive and wide-ranging joint statement on their countries' friendship and international relations 'entering a new era'. A part of the joint statement covered biological security. It re-iterated claims from statements in preceding months that 'domestic and foreign bioweapons activities by the United States and its allies raise serious concerns and questions for the international community regarding their compliance with the BWC'. China and Russia shared the view that 'such activities pose a serious threat to the national security' of both countries and 'are detrimental to the security of the respective regions', and they called on the USA and its allies 'to act in an open, transparent, and responsible manner by properly reporting on their military biological activities conducted overseas and on their national territory, and by supporting the resumption of negotiations on a legally binding BWC Protocol with an effective verification mechanism'.¹

The Russian invasion of Ukraine on 24 February 2022 was accompanied by increased political rhetoric alleging military biological activities by the USA and Ukraine. At Russia's request, the UN Security Council met on 11 March 2022 to discuss Russia's allegations of military biological activities in Ukraine.² Security Council members strongly rebutted the allegations, and the high representative for disarmament affairs, Izumi Nakamitsu, asserted that the UN was not aware of any biological weapons programmes.³

¹ China and Russia, Joint statement of the Russian Federation and the People's Republic of China on the international relations entering a new era and the global sustainable development, 4 Feb. 2022.

² Security Council Report, 'Ukraine briefing', What's in Blue, 11 Mar. 2022.

³ United Nations, 'Security Council on Russia allegations of military biological activities in Ukraine', YouTube, 11 Mar. 2022.

The Security Council met again on 18 March 2022, to continue discussions about Russia's allegations, including on chemical weapons.⁴ There were further rebuttals by Security Council members, and additional rebuttals in the UN General Assembly at meetings convened at the request of Ukraine.⁵ The North Atlantic Treaty Organization (NATO) and the Group of Seven (G7) states made intelligence disclosures on the possibility of Russia using biological or chemical weapon allegations as a pretext to employ unconventional weapons in its war against Ukraine, and noted the resolve of NATO and G7 members that any such use would result in severe consequences.⁶ Independent experts also rebutted the allegations, noting that Russia 'is exploiting the complex nature of biological research and biotechnology for its disinformation purposes'.⁷

Russia responded by circulating a letter on 1 April 2022, and another on 13 May 2022, to Security Council members with material claimed to relate to military biological programmes in Ukraine.⁸ On 6 April 2022 Russia hosted an Arria-formula meeting of the Security Council to further push its allegations against Ukraine.⁹ The Security Council met for a third time on 13 May 2022 to consider Russia's claims, which again were rebutted by several members.¹⁰

A formal consultative meeting

On 13 June 2022, Russia issued the USA with a diplomatic note asking it to answer 'questions' about the activities of its biological laboratories in Ukraine, which the USA stated contained no 'actual questions', only

⁴ 'Ukraine—Security Council: Allegations on chemical weapons', United Nations, YouTube, 18 Mar. 2022.

⁵ United Nations, General Assembly, 11th Emergency Special Session (Ukraine): Statement to press, 2 Mar. 2022. The emergency session was convened under Security Council Resolution 2623, 27 Feb. 2022.

⁶ North Atlantic Treaty Organization (NATO), Statement by NATO heads of state and government, 24 Mar. 2022; European Council, 'G7 leaders' statement', Press release, 24 Mar. 2022; and German Federal Foreign Office, 'Statement by the G7 global partnership against the spread of weapons and materials of mass destruction on Ukraine', Press release, 29 Mar. 2022.

⁷ Jakob, U. et al., 'Russian allegations of biological weapons activities in Ukraine', Peace Research Institute Frankfurt (PRIF) Blog, 22 Mar. 2022.

⁸ United Nations, General Assembly and Security Council, Letter dated 1 April 2022 from the permanent representative of the Russian Federation to the United Nations addressed to the secretary-general and the president of the Security Council, A/76/785-S/2022/284, 1 Apr. 2022; and Letter dated 13 May 2022 from the permanent representative of the Russian Federation to the United Nations addressed to the secretary-general and the president of the Security Council, A/76/836-S/2022/393, 13 May 2022.

⁹ United Nations, 'The situation in Ukraine: UN Security Council Arria-formula meeting organized by the Permanent Mission of the Russian Federation', UN Web TV, 6 May 2022.

¹⁰ United Nations, 'United Nations unaware of any biological weapons programmes in Ukraine, top disarmament official affirms, as Security Council considers new claims by Russian Federation', Meetings coverage, Security Council, 9033rd meeting, SC/14890, 13 May 2022.

‘assertions and mischaracterizations’ of publicly available documents.¹¹ The USA response of 23 June was not considered ‘substantive’ by Russia, which on 29 June requested a formal consultative meeting (FCM) under Article V of the BWC.¹² Russia’s submission to the FCM repeated the allegations against both the USA and Ukraine.¹³

In the four-decade life of the BWC there has been only one other FCM under Article V, in 1997 when Cuba alleged the USA had disseminated insects to attack its agriculture. The procedures for the FCM were developed in 1986 and 1991, and adhered to for the 2022 meeting. Dates for meetings and the agenda were agreed in July and August, with the meeting formally opened on 26 August 2022 for a brief procedural session and reconvened for four days of consultations between 5 and 9 September 2022.

The FCM was a private meeting open only to states parties and signatory states, and states parties agreed to neither prepare summary records nor make public broadcasts.¹⁴ This makes the process opaque, but states could request that national positions and other documents be published as official working papers of the meeting. Many did so and there are over 70 working papers available, including the documentation related to Russia’s allegations, the rebuttals of the USA and Ukraine, and national statements about the process and the allegations themselves.¹⁵ Compared to the 1997 meeting which officially has only its procedural report and a follow-up letter available, the 2022 FCM was significantly more transparent.¹⁶

At the FCM, Russia focused on four issues: a patent issued in the USA that Russia claimed involved potential applicable usages for biological warfare; the culture collections in Ukrainian laboratories that Russia claimed were of little relevance to the predominant diseases endemic in Ukraine; a Turkish Bayraktar drone with a generating system capable of spraying more than 20 litres of aerosol; and the US funding provided to Ukraine under cooperative threat reduction programmes out of the US Defense Threat Reduction

¹¹ BWC, Formal consultative meeting of the states parties (FCM 2022), ‘Response by the United States of America to the request by the Russian Federation for a consultative meeting under Article V of the Biological and Toxin Weapons Convention (BWC)’, Working paper submitted by the USA, BWC/CONS/2022/WP.4, 5 Sep. 2022, para. 1.

¹² BWC, BWC/CONS/2022/WP.4 (note 11), paras 3–4.

¹³ BWC, FCM 2022, ‘Statement by the head of the delegation of the Russian Federation at the consultative meeting of the states parties to the Convention on the Prohibition of Biological and Toxin Weapons (BTWC) under BTWC Article V’, Working paper submitted by Russia, BWC/CONS/2022/WP.6, 6 Sep. 2022.

¹⁴ BWC, FCM 2022, Final report of the formal consultative meeting of the states parties, BWC/CONS/2022/3, 19 Sep. 2022, para. 3.

¹⁵ See e.g. BWC, BWC/CONS/2022/WP.4 (note 11); BWC, BWC/CONS/2022/WP.6 (note 13); and other documents available at United Nations, Office of Disarmament Affairs (UNODA), ‘Biological Weapons Convention—Formal consultative meeting (2022): Documents’.

¹⁶ UNODA, ‘Biological Weapons Convention—Formal consultative meeting (1997): Documents’.

Agency (DTRA) that Russia claimed violated the BWC.¹⁷ Both the USA and Ukraine refuted the claims through statements and presentations.¹⁸ Immediately prior to the meeting both countries, along with Armenia, Georgia, Iraq, Jordan, Liberia, the Philippines, Sierra Leone and Uganda, had issued a joint statement on the positive contribution threat reduction activity made to global health security.¹⁹

Up to 185 states parties to the BWC and 4 signatories could have attended the FCM. Only 90 did so: 89 states parties and Syria as a signatory. This represents less than half of the membership and suggests limited interest in dealing with, rather than simply talking about, compliance with the BWC. In total, 65 states parties, including Russia, the USA and Ukraine, expressed a view either in a national statement or in aligning with statements of others.²⁰

A detailed reading of the available national or group statements, press releases and other documents indicates that responses to Russia's allegations fall into five categories. In the first category Russia stands alone and in isolation as the only state that alleges the USA and Ukraine were in non-compliance with and violation of the BWC.

Second are those states that stopped short of explicitly claiming non-compliance, but that supported Russia's use of the consultation process and indicated Russia's allegations left questions for the USA and Ukraine to answer. Of the eight states in this category (Belarus, China, Cuba, Iran, Nicaragua, Syria, Venezuela and Zimbabwe), China went further than most. Its deft use of implication rather than assertion is in substance an admonition that the USA should recognize Russia's concerns, set an example of compliance, make more comprehensive efforts to respond to the questions

¹⁷ BWC, FCM 2022, 'Questions to the United States regarding compliance with the obligations under the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction (BTWC), in the context of the activities of biological laboratories in the territory of Ukraine', Working paper submitted by Russia, BWC/CONS/2022/WP.2, 15 Sep. 2022, paras 1, 6, 10, 11 and 15; and 'Questions to Ukraine regarding compliance with obligations under the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction (BTWC), in the context of the activities of biological laboratories', Working paper submitted by Russia, BWC/CONS/2022/WP.3, 15 Sep. 2022, paras 4, 5 and 10.

¹⁸ See e.g. BWC, FCM 2022, 'United States technical briefing to the Article V consultative meeting under the Biological and Toxin Weapons Convention', Working paper submitted by the USA, BWC/CONS/2022/WP.38, 8 Sep. 2022; and 'Ukraine presentation, Biological and Toxin Weapons Convention Article V consultative meeting', Working paper submitted by Ukraine, BWC/CONS/2022/WP.24, 6 Sep. 2022.

¹⁹ US Department of State, Office of the Spokesperson, 'Joint statement on the contribution of the cooperative threat reduction partnerships to global health security', Press release, 29 Aug. 2022.

²⁰ See e.g. BWC, FCM 2022, 'EU statement at the formal consultative meeting pursuant to Article V of states parties to the Biological and Toxin Weapons Convention', Working paper submitted by the Czech Republic on behalf of the EU and its member states, BWC/CONS/2022/WP.27, 7 Sep. 2022; and 'Joint statement of the results of the consultative meeting of the states parties to the Convention on the Prohibition of Biological and Toxin Weapons (BTWC) under BTWC Article V', Working paper submitted by the Belarus, China, Cuba, Nicaragua, Russia, Syria, Venezuela and Zimbabwe, BWC/CONS/2022/WP.63, 12 Sep. 2022.

posed and provide a clear answer to the international community. China appended to its own statement a list of questions and was at the forefront of supporting Russia's call for follow-up actions that might include lodging a non-compliance complaint with the UN Security Council under Article VI.²¹

The other states in this group were more circumspect. Russia has vigorously defended Syria in the UN Security Council and in the Organisation for the Prohibition of Chemical Weapons (OPCW; see section IV in this chapter), but Syria could only muster a tepid response about the professionalism of Russia's presentations and the technical details of the documents, before simply noting the USA and Ukraine had made no serious attempt to answer the questions.²² Iran only supported Russia's right to request the meeting and suggested the USA should provide clarifications in a transparent manner.²³ Iran's support was so lukewarm that it did not join the other states in their joint statement declaring that questions remained unresolved and there should be some form of follow-up process.²⁴

The USA and Ukraine had five times as many backers in the third category: a total of 42 states rejected the allegations. Sweden called for Russia to cease its 'unfounded allegations and stop its disinformation campaign', and Ireland urged Russia to stop misusing consultation procedures to further its efforts to undermine multilateral disarmament and non-proliferation agreements.²⁵ The Czech Republic spoke on behalf of all EU member states and those that aligned with the EU statement—35 states parties in total—to categorically reject the Russian claims.²⁶ Others, such as Norway, 'heard nothing—or read nothing—that even comes close to substantiating such allegations'.²⁷ The collective message of these 42 states was encapsulated by Switzerland in a polite statement that ended with a 'firm view' that Russia's allegations were not substantiated, the conclusions drawn were 'neither convincing nor

²¹ BWC, FCM 2022, 'Remarks by HE Ambassador Li Song and questions to the United States at the formal consultative meeting of the Biological Weapons Convention', Working paper submitted by China, BWC/CONS/2022/WP.48/Rev.1, 9 Sep. 2022.

²² BWC, FCM 2022, Working paper submitted by Syria (Arabic only), BWC/CONS/2022/WP.42, 8 Sep. 2022.

²³ BWC, FCM 2022, 'Statement by Mr. Mehdi Aliabadi, Deputy permanent representation of the Islamic Republic of Iran to the United Nations and other international organizations in Geneva before the formal consultative meeting of the states parties to the Biological Weapons Convention (BWC) pursuant to Article V', Working paper submitted by the Islamic Republic of Iran, BWC/CONS/2022/WP.65, 12 Sep. 2022, paras 3 and 7.

²⁴ BWC, BWC/CONS/2022/WP.63 (note 20), paras 2–3.

²⁵ BWC, FCM 2022, 'Swedish national statement, BWTC Article V consultative meeting', Working paper submitted by Sweden, BWC/CONS/2022/WP.43, 9 Sep. 2022, para. 5; and 'National statement of Ireland by Mr. Jamie Walsh, Deputy permanent representative of Ireland to the Conference on Disarmament', Working paper submitted by Ireland, BWC/CONS/2022/WP.33, 7 Sep. 2022, para. 9.

²⁶ BWC, BWC/CONS/2022/WP.27 (note 20).

²⁷ BWC, FCM 2022, 'National statement by Norway to the formal consultative meeting pursuant to Article V', Working paper submitted by Norway, BWC/CONS/2022/WP.55, 12 Sep. 2022, para. 4.

credible', and 'in no way' was it possible to draw the conclusion that the USA and Ukraine had violated their obligations under the BWC.²⁸

The fourth category captures states that neither supported nor rejected the allegations but expressed a view in support of the BWC and the consultation mechanism under Article V. Twelve states took this approach. Some, such as South Africa and Chile, hinted at Russia's misuse of the Article V process, but most used the FCM and its challenges as a platform to reiterate their support for the BWC and biological disarmament, and their preference for a verification mechanism. These 12 states, as well as others, held that a verification procedure would resolve the issues Russia's questions purported to address.²⁹

A fifth category is the 25 'silent' states that were physically present but, based on written documents, not engaged in the process. Some may have privately made their views known but chose to avoid expressing a view publicly out of realpolitik concerns. However, for the Middle East, the silence of Jordan, Kuwait, Iraq, Lebanon, Qatar, Saudi Arabia and the United Arab Emirates (UAE), was notable compared to the voices of Syria and Iran.

The meeting outcome was inconclusive (as it was in 1997). Reporting and commentary emphasized that few states sided with Russia and supported its allegations, with most concluding 35 states backed the USA in rejecting the allegations and 7 states backed Russia.³⁰ The 35–7 score is accurate but may mislead observers into thinking these seven other states formally backed Russia's claims of US and Ukrainian non-compliance with the BWC, when in fact Russia stood alone on this point. What support Russia did receive was limited to endorsing the consultation process under Article V of the BWC, the legitimacy of Russia's request to call such a meeting, and a view that Russia has posed some questions for the USA and Ukraine.

²⁸ BWC, FCM 2022, 'Speech by the Swiss delegation to the formal consultative meeting under Article V of the Biological Weapons Convention and the final declarations of the second and third review conferences', Working paper submitted by Switzerland, BWC/CONS/2022/WP.44, 9 Sep. 2022, para. 8.

²⁹ See e.g. BWC, FCM 2022, 'Statement delivered on behalf of the Republic of South Africa on the occasion of the formal consultative meeting of the states parties to the [BWC]', Working paper submitted by South Africa, BWC/CONS/2022/WP.54, 12 Sep. 2022, paras 9 and 11; and 'Declaración nacional de Chile ante la Reunión Consultiva Formal' [National declaration of Chile before the formal consultative meeting], Working paper submitted by Chile, BWC/CONS/2022/WP.60 (Spanish only), 12 Sep. 2022, paras 10–11.

³⁰ See e.g. Myers, S. L., 'US rebukes Russia for claims of secret bioweapons in Ukraine', *New York Times*, 13 Sep. 2022; and US Department of State, 'Conclusion of Article 5 formal consultative meeting under the Biological Weapons Convention', Press release, 13 Sep. 2022.

An unprecedented request for an investigation of non-compliance with the BWC

The UN Security Council met on 27 October 2022 at the request of Russia for a fourth briefing on ‘military biological activities in Ukraine’.³¹ This time was different, however. Three days earlier, Russia had filed a formal complaint in a letter circulated to Security Council members, in which Russia claimed the USA and Ukraine were in non-compliance with the BWC.³² Russia maintained that the responses it had received at the FCM were insufficient, leading Russia to submit a draft resolution invoking Article VI of the BWC to ask the Security Council to launch an investigation.³³

Article VI enables BWC states parties to lodge a complaint with the Security Council. The complaint must be accompanied by ‘all possible evidence confirming its validity’ alongside a request for the complaint and the evidence to be considered by the Security Council. If the Security Council decides to act on a complaint, it may initiate an investigation and states must cooperate with such an investigation. How the Security Council conducts its investigation is not articulated in the BWC in detail and since the procedure has never been invoked there is no precedent to fall back on.

Russia proposed a draft resolution calling for the Security Council to set up a commission of inquiry made up of the Security Council’s 15 members to formally investigate the allegations. This commission would report back to the Security Council by 30 November 2022, and to BWC states parties at the ninth review conference set to begin in late November.³⁴

Two things were immediately obvious. First, the evidence Russia provided in the ‘310-page dossier’ it characterized as ‘evidence’ was the same as the information provided to BWC states parties at the FCM a few weeks earlier. Of the fifteen Security Council members, six had already rejected the allegations (Albania, France, Ireland, Norway, the UK and the USA), three had supported the process of consultations but not voiced any support for the actual claims Russia was making (Brazil, India and Mexico), three had been publicly silent (Ghana, Kenya and the UAE), one had offered some support to Russia (China), and one had not been present at the FCM (Gabon).

Second, to observers, Russia’s commission was not a serious proposal. The draft resolution lacked any detail on how the commission would do its work, who would chair the commission, what activities it would undertake, how it would acquire and review additional information to support or question the

³¹ United Nations, Security Council, 9171st meeting, S/PV.9171, New York, 27 Oct. 2022, p. 3.

³² Lederer, E. M., ‘Russia seeks UN probe of claims on Ukraine biological labs’, AP News, 26 Oct. 2022.

³³ United Nations, S/PV.9171 (note 31), p. 5.

³⁴ United Nations, ‘Security Council rejects text to investigate complaint concerning non-compliance of Biological Weapons Convention by Ukraine, United States’, Meetings coverage, Security Council, 9180th meeting, SC/150975, 2 Nov. 2022.

evidence Russia presented, when such work could be conducted by Security Council members, and why it only had one month to complete its work and report back to the Council. As Mexico remarked at the meeting which voted on the resolution (see below), it was ‘not realistic to believe that a commission can be set up as proposed and can present a report with recommendations to the Council in a period of 28 days’.³⁵

At the Security Council meeting on 27 October 2022, the director and deputy high representative for disarmament affairs at the UN initially briefed the Council on the information currently available and echoed earlier statements to the Council in March and May 2022 that the UN had no knowledge of any military biological activities in Ukraine. He also stressed that the UN has neither the mandate nor the technical capacity to conduct such an investigation.³⁶

Very few states explicitly supported Russia at the meeting. China, which had supported Russia’s right to ask questions at the FCM, supported invoking Article VI and again called on the USA and Ukraine to respond to Russia’s request. Gabon said the allegations should be taken seriously and an investigation set up. Kenya, Ghana and India remained non-committal. Brazil called for resumption of negotiations on a binding protocol on strengthening the BWC, and the UAE called for a peaceful resolution to the conflict in Ukraine, including through dialogue.³⁷

Seven states (Albania, France, Ireland, Mexico, Norway, the UK and the USA) said they had listened to Russia, as provided for in BWC Article V, and studied the documents provided, but they had found no evidence to support the Russian allegations. Most of these states deplored the use of the Security Council, yet again, as a platform for disinformation and propaganda. Albania castigated the information Russia presented as evidence and said the meeting could have been called the ‘Security Council briefing on nothing’.³⁸

Six days later, on 2 November 2022, Russia moved its draft resolution to a vote. It lost. The summary reporting after the vote together with eight available explanations of vote, make it clear 13 states viewed the allegations as lacking evidence.³⁹ Only China seems to have endorsed Russia’s approach. France remarked: ‘Russia is isolated, more than ever, and its lies fool no one.’⁴⁰

³⁵ United Nations, SC/150975 (note 34).

³⁶ United Nations, ‘United Nations not aware of any biological weapons programmes in Ukraine, senior disarmament official tells Security Council’, Meetings coverage, Security Council, 9171st meeting (PM), SC/15084, 27 Oct. 2022.

³⁷ United Nations, S/PV.9171 (note 31) pp. 9–13; and United Nations, SC/15084 (note 36).

³⁸ United Nations, S/PV.9171 (note 31), p. 6 (Norway), pp. 7–9 (UK, Albania, USA), p. 10 (France, Mexico), pp. 11–12 (Ireland); and United Nations, SC/15084 (note 36).

³⁹ United Nations, SC/150975 (note 34).

⁴⁰ De Riviere, N., Permanent representative of France to the UN Security Council, ‘Ukraine: Explication de vote’ [Ukraine: Explanation of vote], French Permanent Mission to the United Nations Press release, 3 Nov. 2022.

Some states were also unhappy with the procedural machinations. Norway observed that it was ‘deeply problematic that the State that has lodged the complaint with the Security Council itself has “taken the pen” and submitted the resolution that addresses the complaint’.⁴¹ Outsiders may look at the vote of two in favour and three against as a close call. The 10 abstentions, however, reveal that the non-permanent members of the Security Council abstained to protect the obligations of the BWC in substantive terms and its working methods in procedural terms.

Conclusions

Russia’s non-compliance allegations and misuse of disarmament instruments in 2022 for its own disinformation purposes, did not persuade states of its perspective, but does pose significant challenges for the BWC and its credibility. And there is nothing to stop Russia submitting additional requests for further FCMs and Security Council interventions in future, needlessly wasting time and resources, and diverting attention from the real work of strengthening the convention.

⁴¹ United Nations, SC/150975 (note 34).