

IV. Biological arms control

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The principal legal instrument against biological warfare is the 1972 Biological and Toxin Weapons Convention (BTWC).¹ In 2016 Angola, Côte d'Ivoire, Guinea, Liberia and Nepal joined the convention. As of December 2016 the BTWC had 178 states parties and 6 signatory states.²

The first session of the Preparatory Committee for the Eighth BTWC Review Conference met on 25–26 April 2016. It tasked the Geneva-based Implementation Support Unit (ISU) to produce eight background papers.³ The second session of the Preparatory Committee met on 8–12 August. It finalized the Eighth BTWC Review Conference provisional agenda and its rules of procedure. Four regional workshops were held in the lead-up to the conference. Their aim was to facilitate information consultations and information sharing within and between geographic regions on how to ensure successful review conference outcomes. The Eighth BTWC Review Conference met on 7–25 November in Geneva.

The Eighth BTWC Review Conference

During the conference states parties reviewed the BTWC article by article while at the same time exchanging views and understandings on thematic issues, including (a) the role and structure of current politically binding confidence-building measures (CBMs); (b) an intersessional work programme for the period 2017–20; (c) measures to strengthen implementation of BTWC provisions and to achieve universal membership; (d) the implications of advances in science and technology (S&T); (e) the promotion of cooperation and assistance in the peaceful uses of life sciences and associated technologies; and (f) the future of the ISU.

Fundamental questions included the nature and feasibility of 'deterrence', and 'prevention' of the misuse of science. China was among a number of

¹ 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 (BTWC) see annex A, section I, in this volume. Documents related to the convention are available at <<http://www.unog.ch/bwc>>.

² The states that had signed but not ratified the BTWC were the Central African Republic, Egypt, Haiti, Somalia, Syria and Tanzania. UN member states that have neither signed nor acceded to the BTWC are Chad, Comoros, Djibouti, Eritrea, Israel, Kiribati, Micronesia, Namibia, Niue, Samoa, South Sudan and Tuvalu.

³ For official Preparatory Committee documentation see United Nations Office at Geneva, Preparatory Committee for the Eighth Review Conference, <[http://www.unog.ch/_80256ee600585943.nsf/\(httpPages\)/be0b6b9f091aa80dc1257fa7003362b6?OpenDocument&ExpandSection=3#_Section3](http://www.unog.ch/_80256ee600585943.nsf/(httpPages)/be0b6b9f091aa80dc1257fa7003362b6?OpenDocument&ExpandSection=3#_Section3)>.

states parties that expressed support for developing codes of conduct.⁴ Several states parties, including the United Kingdom, emphasized the importance of (a) introducing an improved S&T review process in the regime; (b) education on biosecurity issues; and (c) oversight of selected research in academia and industry.⁵ Russia proposed to establish a temporary working group on mobile biomedical units to be dispatched to assist any party that might have been threatened with or attacked by biological weapons.⁶

The conference was unable to agree on a final declaration. Iran blocked consensus by taking the position that the conference should agree to negotiate measures to strengthen BTWC compliance that partly builds on work by an ad hoc group that negotiated in 1995–2001 a draft protocol to strengthen treaty compliance. For reasons that are unclear to many, Iran also systematically took procedural decisions that inhibited the functioning of the conference by, for example, maintaining that meetings be closed to non-governmental organizations, observer agencies and certain states (which included signatory parties such as Syria). The draft protocol negotiated in 1995–2001 was rejected by the United States, and the states parties then agreed a series of annual political and expert meetings between review conferences (the intersessional process).

Conference participants discussed the modalities for a further intersessional process to consider a revised list of agenda items, including compliance, S&T developments and assistance to victims of biological warfare attack. Iran elected not to support a further iteration of another intersessional process. The conference was criticized as a technically deficient display of multilateral diplomacy.⁷

The Eighth BTWC Review Conference agreed, in principle, to hold annual Meetings of States Parties between 2017 and 2020 (but no Meetings of Experts). It also agreed to extend the mandate of the ISU (unless later decided otherwise) for the period 2017–21 and to continue a cooperation database established by the Seventh Review Conference. A Meeting of States Parties will be held in late 2017 to confirm whether and how an intersessional meeting schedule will be implemented. A Ninth BTWC Review Conference will be held in 2021 and the three-person ISU will continue its work.⁸

⁴ Preparatory Committee for the Eighth BTWC Review Conference, China, 'Statement of Ambassador Fu Cong at the First Session of the Preparatory Committee for the 8th Review Conference of the BWC', 26 Apr. 2016, pp. 1–2.

⁵ Preparatory Committee for the Eighth BTWC Review Conference, United Kingdom, 'A future science and technology review process', BWC/CONF.VIII/PC/WP.4, 11 Apr. 2016.

⁶ Eighth BTWC Review Conference, Russia, 'Draft decision on the establishment of a Temporary Working Group on Mobile Biomedical Units', BWC/CONF.VIII/WP.8, 14 Oct. 2016.

⁷ Littlewood, J., 'The art of looking for trouble', *CBRNe World* (Dec. 2016), pp. 54–56.

⁸ Eighth BTWC Review Conference, 'Final document of the Eighth Review Conference', BWC/CONF.VIII/4, 11 Jan. 2017.

Looking ahead

As in any multilateral arms control framework, some delegations actively express their views and policy preferences. Those who remain largely silent or passive may do so because other delegations already reflect their views and further discussions are superfluous. Some delegations nevertheless opt for obstruction (e.g. by cross-linking negotiating positions) or merely prefer inaction and silence. Some delegations generally consider the raising of past compliance concerns to be counterproductive and not forward looking. Some are not familiar with the background to such discussions. The states parties (collectively) have also not fully thought through the role of CBMs and the mechanisms or procedures necessary for BTWC verification or compliance, including in terms of political acceptability.

Underlying BTWC-relevant themes of continuing relevance include questions such as at what point does an assassination programme or a given sub-activity by a state become an 'offensive biological weapon programme'?⁹ What are the legal, institutional and regime implications of the understandings and application of the terms 'weaponization' and 'militarization'? To what extent are historical programmes and activities of current regime concern? How can or should the regime's institutional memory inform consideration of possible legal and political precedents in relation to the view that the BTWC text should be read as is? What role does implementation practice play in this regard? Broader issues affecting the nature of the BTWC regime include the extent to which states are interested in the efficacy or effectiveness of the BTWC. For example, do they actively drive treaty implementation processes towards constructive goals?

States will continue to evaluate the experiences and possible synergies between biological and chemical weapon arms control and disarmament regimes, including with respect to sampling and analysis procedures (e.g. of biomedical samples), the implications of S&T developments, and CBMs.

⁹ The general principles set forth by Roffey remain relevant in this regard and could be further considered in the light of S&T developments for improved verification or for BTWC prohibited purposes. Roffey, R., 'Biological weapons and potential indicators of offensive biological weapon activities', *SIPRI Yearbook 2004*, pp. 557-71.