

III. Biological weapon disarmament and non-proliferation

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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).¹ In 2022 Namibia deposited its instrument of accession, becoming the 185th state party.² A further four states have signed but not ratified the convention, and nine states have neither signed nor ratified the convention.

Key biological disarmament and non-proliferation activities in 2022 were carried out in connection with the BWC preparatory committee (PrepCom), the First Committee of the United Nations General Assembly, and the ninth review conference (RevCon9) of the BWC.

The 2022 preparatory committee

The PrepCom for RevCon9 had been opened at an initial one-day organizational meeting on 20 December 2021, which elected two vice-chairs in the absence of a clear nomination for president (which rotationally should have been from a Non-Aligned Movement (NAM) delegation).³ The meeting had also agreed a provisional agenda and draft rules of procedure for RevCon9, for final adoption at the more substantial PrepCom on 4–11 April 2022, and had requested the Implementation Support Unit (ISU) to prepare eight background information documents.⁴

Consultations on the election of a president for RevCon9 continued into 2022. On 24 January 2022, the NAM coordinator informed states parties that the group had decided to hand over the presidency to another interested regional group.⁵ The PrepCom meeting in April took note of the NAM's decision as well as its request to retain its rotational right to preside over the 10th review conference. The Western Group proceeded to nominate

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, see annex A, section I, in this volume.

² United Nations, Office for Disarmament Affairs (UNODA), 'BWC News: News from 2022'.

³ Lentzos, F., 'Biological weapon disarmament and non-proliferation', *SIPRI Yearbook 2022*, p. 491.

⁴ The ISU was established within the Geneva branch of UNODA after the sixth review conference in 2006 to provide administrative support to meetings agreed by the review conference as well as comprehensive implementation and universalization of the BWC and the exchange of confidence-building measures. Lentzos, 'Biological weapon disarmament and non-proliferation' (note 3), p. 491; and BWC, Ninth review conference (RevCon9), Preparatory committee (PrepCom), 'Interim report of the preparatory committee (20 December 2021)', BWC/CONF.IX/PC/2, 21 Dec. 2022, paras 22–28.

⁵ BWC, RevCon9, PrepCom, Final report, BWC/CONF.IX/PC/10, 14 Apr. 2022, para. 10; and Letters from the vice-chairpersons of the preparatory committee, BWC/CONF.IX/PC/9, 13 Apr. 2022.

Ambassador Leonardo Bencini of Italy for the role, subject to a PrepCom decision to move RevCon9 from the 8–26 August 2022 dates that had been agreed at the 2020 meeting of states parties (MSP), to later in the year.⁶ The PrepCom agreed to reschedule the review conference for 28 November to 16 December 2022, and also agreed the draft provisional agenda and draft rules of procedure.⁷

The background information documents requested by the December PrepCom were circulated in advance of the resumed April session. They covered: (a) the history and operation of the confidence-building measures; (b) the overall financial status of the BWC and implications of proposals for follow-on action after the review conference; (c) ‘additional understandings and agreements’ reached by previous review conferences; (d) ‘common understandings’ reached by the MSPs from 2017 to 2020; (e) the status of universalization; (f) compliance by states parties with all their obligations under the convention; (g) implementation of Article VII; and (h) implementation of Article X. The April 2022 PrepCom requested the ISU to prepare an additional background document, on new scientific and technological developments relevant to the BWC.⁸

States parties submitted 12 working papers to the PrepCom. In the general debate, 50 groups and individual states parties, and one observer agency, made statements.⁹ Ten non-governmental organizations (NGOs) delivered statements in an informal session.¹⁰ There were eight side events, organized by states, the United Nations Office for Disarmament Affairs (UNODA) and NGOs.¹¹

The PrepCom vice-chairs’ summary report of the meeting statements, working papers, and discussions highlighted cooperation and assistance, national implementation, consultation and cooperation, investigation of possible breaches of the BWC, provision of assistance, the Geneva Protocol and universalization, and science and technology. Proposals for follow-on action after RevCon9 addressed the future programme of work, the ISU, financial issues and gender.¹² Reflecting on the PrepCom, the two vice-chairs noted that the committee had not only fulfilled all its procedural tasks but had also seen a ‘substantive general exchange of views’ that demonstrated ‘a strong commitment’ by all states parties to the convention.¹³ Recognizing the challenging geopolitical climate, the vice-chairs emphasized that ‘the

⁶ BWC, BWC/CONF.IX/PC/10 (note 5), para. 14.

⁷ BWC, BWC/CONF.IX/PC/10 (note 5), paras 29–34.

⁸ BWC, BWC/CONF.IX/PC/10 (note 5), paras 35 and 36.

⁹ UNODA, ‘Biological Weapons Convention—Ninth preparatory committee: Statements’.

¹⁰ UNODA, ‘Biological Weapons Convention—Ninth preparatory committee: NGO statements’.

¹¹ UNODA, ‘Biological Weapons Convention—Ninth preparatory committee: Side events’.

¹² BWC, RevCon9, PrepCom, Vice-chairs’ letter to the states parties to the BWC, 29 Apr. 2022.

¹³ BWC, Vice-chairs’ letter to the states parties to the BWC (note 12), pp. 1 and 5.

Convention has weathered similar situations in the past and has emerged stronger'.¹⁴

The First Committee of the UN General Assembly

The UN General Assembly committee on disarmament and international security (First Committee) convened from 3 October to 4 November 2022. In the general debate, six groups of states and 71 individual states referred to biological weapons in their statements.¹⁵ In the thematic cluster on other weapons of mass destruction (WMDs), a further six groups of states and 40 individual states referred to biological weapons in their statements, with disinformation in the context of Russia's war on Ukraine dominating the discussions.¹⁶

The annual resolution on the BWC was adopted in the First Committee without a vote, as usual, on 1 November 2022.¹⁷ The resolution contained minor technical updates along with a new preambular paragraph on the formal consultative meeting of the BWC held in September 2022 (see section II). The new paragraph simply stated that the meeting was convened on request from Russia, that Russia presented its outstanding questions, that Ukraine and the United States responded, and that no consensus was reached on an outcome.¹⁸

A Russia-led resolution on the UN secretary-general's mechanism (UNSGM) for investigation of alleged use of chemical and biological weapons was overwhelmingly rejected for a third time in the First Committee.¹⁹ There were 30 votes in favour, 65 votes against, and 77 abstentions—figures very similar to the last two rounds in 2021 and 2020.²⁰ Operative paragraph 3 was voted on separately and also rejected (27–63–70).²¹ In its statement introducing the resolution, Russia claimed that the draft resolution was not on the UNSGM but a proposal that the secretary-general give 'willing' member

¹⁴ BWC, Vice-chairs' letter to the states parties to the BWC (note 12), p. 5.

¹⁵ Lentzos, F., 'Biological weapons', *First Committee Monitor*, vol. 20, no. 2 (8 Oct. 2022), p. 13; and Lentzos, F., 'Biological weapons', *First Committee Monitor*, vol. 20, no. 3 (15 Oct. 2022), p. 17.

¹⁶ Lentzos, F., 'Biological weapons', *First Committee Monitor*, vol. 20, no. 4 (22 Oct. 2022), p. 20. See also section II in this chapter.

¹⁷ Reaching Critical Will, 'Draft resolutions, voting results and explanations of vote from First Committee 2022'; and United Nations, General Assembly, First Committee, 'Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction', Draft resolution, A/C.1/77/L.74, 14 Oct. 2022. This became UN General Assembly Resolution 77/95, 1 Nov. 2022.

¹⁸ UN General Assembly A/C.1/77/L.74 (note 17), p. 2.

¹⁹ United Nations, General Assembly, First Committee, 'Secretary-general's mechanism for investigation of alleged use of chemical and biological weapons', Draft resolution, A/C.1/77/L.69, 13 Oct. 2022.

²⁰ Reaching Critical Will (note 17); and Lentzos, 'Biological weapon disarmament and non-proliferation' (note 3), p. 487.

²¹ Reaching Critical Will (note 17).

states an opportunity to express their views on whether the UNSGM guidelines and procedures might need updating.²² The USA, the European Union (EU), and New Zealand gave statements urging states to vote against the draft resolution. The key arguments made were that the existing guidelines and procedures already contain a provision for being updated when and if necessary; they were reviewed and updated in 2007; a list of qualified experts is maintained and relevant training courses are held on a regular basis; and the draft resolution would undermine the UNSGM's integrity, independence and impartial character.²³

The biennial resolution on 'Measures to uphold the authority of the 1925 Geneva Protocol', which prohibits the use of chemical and biological weapons, was agreed by 182 states.²⁴ None voted against, but there were two abstentions, from the two states that usually abstain on this resolution (Israel and the USA).²⁵ The resolution renews its previous call to all states 'to observe strictly the principles and objectives of the Protocol' and to states that continue to maintain reservations to the Geneva Protocol to withdraw them.²⁶

In an explanation of its vote, Russia said: 'Amid well-founded suspicions of biological weapons development, the US has defiantly refused to support the 1925 Geneva Protocol, the only arms control instrument prohibiting the use of biological weapons. This is in addition to Washington's consistent statements of reluctance to withdraw reservations reserving its ability to use the types of WMD regulated by this instrument'.²⁷ Russia concluded that the USA's failure to support the resolution 'is a matter of great concern to all UN member states and only confirms the need to get Ukraine and the United States to disclose their bioweapons programs as soon as possible'.²⁸

The ninth review conference

In a nod to current geopolitical challenges, the years-long BWC logjam and Russia's allegations, many political statements in the run-up to RevCon9 emphasized the need for collaboration and substantive outcomes. Italy, which

²² United Nations, General Assembly, First Committee, Statement by Russia on draft resolution A/C.1/77/L.69, 31 Oct. 2022.

²³ United Nations, General Assembly, First Committee, Explanation of vote on cluster 2 (Draft resolution A/C.1/77/L.69), Statement by New Zealand, Nov. 2022; and Lentzos, F., 'Biological weapons', *First Committee Monitor*, vol. 20, no. 6 (5 Nov. 2022), pp. 13–14.

²⁴ United Nations, General Assembly, First Committee, 'Measures to uphold the authority of the 1925 Geneva Protocol', Draft resolution, A/C.1/77/L.11, 19 Sep. 2022, formally adopted as UN General Assembly Resolution 77/50, 13 Dec. 2022. For the 1925 Geneva Protocol see annex A, section I, in this volume.

²⁵ Reaching Critical Will (note 17).

²⁶ UN General Assembly Resolution 77/50 (note 24), paras 2 and 3.

²⁷ United Nations, General Assembly, First Committee, Explanation of vote on cluster 2 (Draft resolution A/C.1/77/L.11), Statement by Russia, 31 Oct. 2022, p. 1.

²⁸ United Nations, General Assembly, Statement by Russia (note 27), p. 2.

held the review conference presidency and which was heavily impacted by Covid-19, stressed how important it was for the international community to work together to improve global biosecurity and biosafety, and urged states to end ‘reciprocal recriminations’ about the BWC’s past and to open a ‘new page’ for the future of the convention.²⁹ Australia characterized the review conference as an ‘opportunity to break the stalemate of the last two decades’; Finland emphasized the importance of adopting ‘forward-looking decisions to provide a clear roadmap for the next cycle’; Burkina Faso called on states parties to show cooperation and flexibility; and Slovakia called for a constructive focus.³⁰

The review conference was held in Geneva from 28 November to 16 December 2022. States parties submitted 65 working papers to the conference.³¹ Under secretary-general and high representative for disarmament affairs, Izumi Nakamitsu, opened the conference on behalf of the UN secretary-general, Antonio Guterres, who addressed the conference via a video message.³² In the general debate, 92 groups and individual states parties, and seven observer agencies, made statements.³³ In addition to a joint NGO statement, a further eight NGOs delivered statements in an informal session.³⁴ There were 46 side events, an exceptionally high number, organized by states, the UN, international organizations and NGOs.³⁵

Unexpectedly, but with precedent outside of the BWC, Russia informed the conference of its decision to withdraw from the Eastern European Group and to ‘form a new regional group under this Convention, consisting of one country—the Russian Federation’.³⁶ The final report of the review conference noted this decision and that the new group of one would function in accordance with the practice of the BWC ‘on a non-discriminatory basis as the other regional groups’.³⁷ It further noted that Russia ‘indicated that this withdrawal does not set a precedent, concerns only the work within the Convention and has no consequences outside of it’.³⁸

²⁹ Italy, ‘Other weapons of mass destruction’, Statement to the First Committee, 18 Oct. 2022.

³⁰ Australia, Statement to the First Committee, General debate, 12 Oct. 2022, p. 4; Finland, Statement to the First Committee, General debate, 10 Oct. 2022; Burkina Faso, Statement to the First Committee, General Debate, 6 Oct. 2022, p. 5; and Slovakia, Statement to the First Committee, General debate, 7 Oct. 2022, p. 4.

³¹ UNODA, ‘Biological Weapons Convention—Ninth review conference: Documents’, 2022.

³² BWC, RevCon9, ‘Final document of the ninth review conference’, BWC/CONF.IX/9, 22 Dec. 2022, part I, paras 18, 19 and 21.

³³ BWC, BWC/CONF.IX/9 (note 32), part I, para. 36.

³⁴ UNODA, ‘Biological Weapons Convention—Ninth review conference: Statements’, 2022.

³⁵ UNODA, ‘Biological Weapons Convention—Ninth review conference’, 2022.

³⁶ BWC, RevCon9, ‘The decision of the Russian Federation to withdraw from the Eastern European Group of the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction (BTWC)’, Working paper submitted by Russia, BWC/CONF.IX/WP.14, 2 Dec. 2022, paras 5–6.

³⁷ BWC, BWC/CONF.IX/9 (note 32), part I, para. 26.

³⁸ BWC, BWC/CONF.IX/9 (note 32), part I, para. 26; and BWC, BWC/CONF.IX/WP.14 (note 36), para. 6.

The Committee of the Whole—a committee established by the conference to facilitate discussion and negotiation, and to make recommendations for adoption by the conference in plenary meetings—convened nearly a dozen times during the conference in which it reviewed the provisions of the BWC, article by article, but it was unable to reach consensus and the final report of the review conference does not contain the traditional article-by-article review.³⁹ Instead, the report of the Committee of the Whole was issued as a separate document.⁴⁰

A draft final declaration was presented at the last meeting of the review conference, but consensus again proved elusive. The final document of the ninth review conference, adopted by consensus on 16 December 2022, did not contain a final declaration and comprised two, rather than the usual three, parts: I Organization and work of the conference, and II Decisions and recommendations.⁴¹

There was no substantive outcome of the 2017–20 intersessional programme. The final report simply noted that the conference’s consideration of proposals to reflect the deliberations on steps to further strengthen treaty implementation was ‘inconclusive’, and that the conference ‘regrets that no consensus was reached’.⁴²

The most successful outcome of the review conference was agreement on an intersessional programme of work for 2023–26. The conference decided that three-day MSPs will be held annually, with the first scheduled for 11–13 December 2023. In addition, the conference established a working group on the strengthening of the convention, open to all states parties and to conduct its work by consensus.⁴³ The aim of the working group is ‘to identify, examine and develop specific and effective measures, including possible legally-binding measures, and to make recommendations to strengthen and institutionalise the Convention in all its aspects, to be submitted to States Parties for consideration and any further action’.⁴⁴ More specifically, the conference allocated 15 days every year from 2023 to 2026 for its substantive meetings to address measures on: (a) international cooperation and assistance under Article X of the BWC; (b) scientific and technological developments relevant to the BWC; (c) confidence-building and transparency; (d) compliance and verification; (e) national implementation of the

³⁹ For the article-by-article review see e.g. BWC, RevCon9, ‘Proposals made to the Committee of the Whole (as at 15.00, 3 December 2022)’, Submitted by the Chair of the Committee of the Whole, BWC/CONF.IX/COW/INF.1.

⁴⁰ BWC, RevCon9, ‘Combined proposals made to the Committee of the Whole’, Submitted by the Chair of the Committee of the Whole BWC/CONF.IX/COW/INF.2, 8 Dec. 2022 and ‘Addendum’, BWC/CONF.IX/COW/INF.2/Add.1, 8 Dec. 2022.

⁴¹ BWC, BWC/CONF.IX/9 (note 32), part I, para. 42.

⁴² BWC, BWC/CONF.IX/9 (note 32), part II, paras 1–3.

⁴³ BWC, BWC/CONF.IX/9 (note 32), part II, paras 8 and 11.

⁴⁴ BWC, BWC/CONF.IX/9 (note 32), part II, para. 8.

convention; (f) assistance, response and preparedness under Article VII; and (g) organizational, institutional and financial arrangements.⁴⁵

Finally, the conference decided to renew the mandate of the ISU from 2023 to 2027, as well as to add one new position, bringing full-time staff numbers up from three to four.⁴⁶

Commentaries on RevCon9 spoke of a ‘modest’ success.⁴⁷ In a post-conference interview, the conference president, Ambassador Leonardo Bencini of Italy, said the conference ‘succeeded in breaking the deadlock and set out a very good plan of action’.⁴⁸ While establishing a working group, and just agreeing to keep talking, may seem like a minimal accomplishment, Bencini indicated it was ‘as far as we could go’.⁴⁹ And it matters, he said, because ‘we don’t want fragmentation of the way in which the international community deals with nonproliferation of weapons of mass destruction. It is absolutely vital that we have a forum where all countries meet and discuss and try to find shared solutions’.⁵⁰ A spokesperson for the UN secretary-general characterized the outcome as ‘a glimmer of hope in an overall bleak international security environment’.⁵¹ Long-standing BWC commentator Richard Guthrie noted that the loss of the Solemn Declaration as the overarching political statement from the review conference was a significant loss, ‘perhaps more important than the loss of the article-by-article review’.⁵² But the establishment of the working group, ‘primed to discuss possible compliance activities that could be agreed for the BWC’, was ‘a significant step forward’.⁵³

Conclusions and outlook

Given current geopolitical tensions, there is a risk that the BWC logjam will persist and that the intersessional programme will again end up with no substantive outcomes at the 10th review conference. There are certainly no guarantees of agreement on substantive issues in future, but, for now at least, a process for continued dialogue under the convention has been preserved.⁵⁴

⁴⁵ BWC, BWC/CONF.IX/9 (note 32), part II, paras 8 and 12.

⁴⁶ BWC, BWC/CONF.IX/9 (note 32), part II, paras 24–25.

⁴⁷ See e.g. Kirby, J., ‘The treaties that make the world safer are struggling’, *Vox*, 5 Jan. 2023.

⁴⁸ ‘Assessing the ninth BWC review conference: An interview with conference president Leonardo Bencini’, *Arms Control Today*, vol. 53, no. 1 (Jan./Feb. 2023), p. 18.

⁴⁹ ‘Assessing the ninth BWC review conference’ (note 48), p. 19.

⁵⁰ ‘Assessing the ninth BWC review conference’ (note 48), p. 18.

⁵¹ United Nations, Secretary-General, Statement attributable to the spokesperson for the secretary-general on the ninth review conference of the Biological Weapons Convention, 16 Dec. 2022.

⁵² Guthrie, R., ‘The final document of the review conference and some reflections’, *Bioweapons Prevention Project*, RevCon Report no. 17, 17 Jan. 2023, p. 2.

⁵³ Guthrie (note 52), p. 2.

⁵⁴ ‘Assessing the ninth BWC review conference’ (note 48), p. 19.