The Biological Weapons Convention (BWC) At A Glance

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Updated: September 2018

The Biological Weapons Convention (BWC) is a legally binding treaty that outlaws biological arms. After being discussed and negotiated in the United Nations' disarmament forum starting in 1969, the BWC opened for signature on April 10, 1972, and entered into force on March 26, 1975. It currently has 182 states-parties, including Palestine, and five signatories (Egypt, Haiti, Somalia, Syria, and Tanzania). Ten states have neither signed nor ratified the BWC (Chad, Comoros, Djibouti, Eritrea, Israel, Kiribati, Micronesia, Namibia, South Sudan and Tuvalu).

Terms of the Treaty

The BWC bans:

- The development, stockpiling, acquisition, retention, and production of:
  1. Biological agents and toxins "of types and in quantities that have no justification for prophylactic, protective or other peaceful purposes;"
  2. Weapons, equipment, and delivery vehicles "designed to use such agents or toxins for hostile purposes or in armed conflict."
- The transfer of or assistance with acquiring the agents, toxins, weapons, equipment, and delivery vehicles described above.

The convention further requires states-parties to destroy or divert to peaceful purposes the "agents, toxins, weapons, equipment, and means of delivery" described above within nine months of the convention's entry into force. The BWC does not ban the use of biological and toxin weapons but reaffirms the 1925 Geneva Protocol, which prohibits such use. It also does not ban biodefense programs.

Verification

The treaty regime mandates that states-parties consult with one another and cooperate, bilaterally or multilaterally, to solve compliance concerns. It also allows states-parties to lodge a complaint with the UN Security Council if they believe other member states are violating the convention. The Security Council can investigate complaints, but this power has never been invoked. Security Council voting rules give China, France, Russia, the United Kingdom, and the United States veto power over Security Council decisions, including those to conduct BWC investigations.

Membership and Duration

The BWC is a multilateral treaty of indefinite duration that is open to any country.

Implementation

The convention has been flagrantly violated in the past. The Soviet Union, a state-party and one of
the convention's depositary states, maintained an enormous offensive biological weapons program after ratifying the BWC. Russia says that this program has been terminated, but questions remain about what happened to elements of the Soviet program. Iraq violated its commitments as a signatory state with its biological weapons program, which was uncovered by the UN Special Commission on Iraq after the Persian Gulf War. Iraq became a state-party after the war.

In November 2001, the United States publicly accused Iraq, as well as member state North Korea, of breaching the convention's terms. Washington also expressed concern about compliance by Iran and Libya, which are also states-parties, and by Syria. The United States itself raised concerns in 2001 about whether some of its activities, ostensibly being conducted as part of its biodefense program, are permitted under the BWC. In 2002, Washington added Cuba, also a state-party, to its list of countries conducting activities that violate the convention.

In a 2017 report on compliance with the BWC, the United States indicated that Russia was the only state to have outstanding compliance issues with the BWC.

Review Conferences

States-parties have convened a review conference about every five years to review and improve upon the treaty's implementation.

Second Review Conference

In an effort to enhance confidence and promote cooperation among states-parties, at the second BWC review conference in 1986 member states agreed to implement a set of confidence-building measures. Under these politically binding measures, states should:

- Exchange data on high-containment research centers and laboratories or on centers and laboratories that specialize in permitted biological activities related to the convention.
- Exchange information on abnormal outbreaks of infectious diseases.
- Encourage the publication of biological research results related to the BWC and promote the use of knowledge gained from this research.
- Promote scientific contact on biological research related to the convention.

Third Review Conference

At the third BWC review conference in 1991, the scope of the first measure was expanded to include national biological defense programs and the second and fourth measures were slightly modified. In addition, three more measures were added to this list. States should:

- Declare legislation, regulations, and "other measures" pertaining to the BWC.
- Declare offensive or defensive biological research and development programs in existence since January 1, 1946.
- Declare vaccine production facilities.

These endeavors have been largely unsuccessful; the vast majority of states-parties have consistently failed to submit declarations on their activities and facilities.

The 1991 review conference also tasked a group of "governmental experts" to evaluate potential verification measures for use in a future compliance protocol to the BWC. The group subsequently considered 21 such measures and submitted a report to a special conference of states-parties in 1994. Building off this report, the conference tasked a second body, known as the Ad Hoc Group, with negotiating a legally binding protocol to the BWC to strengthen the convention.

Ad Hoc Group

The Ad Hoc Group met from January 1995 to July 2001 and aimed to finish its work before the fifth
review conference, which began in November 2001. During the course of the negotiations, the group developed a protocol that envisioned states submitting to an international body declarations of treaty-relevant facilities and activities. That body would conduct routine on-site visits to declared facilities and could conduct challenge inspections of suspect facilities and activities as well.

However, a number of fundamental issues—such as the scope of on-site visits and the role export controls would play in the regime—proved difficult to resolve. In March 2001, the Ad Hoc Group’s chairman issued a draft protocol containing language attempting to strike a compromise on disputed issues. But in July 2001, at the Ad Hoc Group’s last scheduled meeting, the United States rejected the draft and any further protocol negotiations, claiming such a protocol could not help strengthen compliance with the BWC and could hurt U.S. national security and commercial interests.

Fifth Review Conference

The fifth BWC review conference, which many experts thought could resolve the fate of the Ad Hoc Group, was suspended on its last day, December 7, 2001, after the United States tabled a controversial proposal to terminate the Ad Hoc Group’s mandate and replace it with an annual meeting of BWC states parties. The United States was the only country that favored revoking the group’s mandate. The states parties resumed the fifth review conference in November 2002, but failed to agree on any verification measures, including the proposed protocol.

Sixth Review Conference

The sixth BWC review conference, which met between November 20 and December 8, 2006, was the first successful review conference since 1996, reaching agreement on a final document. The conference produced a list of four work programs held each successive year until the next review conference in 2011.

Some issues that enjoyed broad-based support did not make it into the work program. The United States and Russia opposed proposals to reform confidence-building measures on the basis that participation in the existing mechanisms is poor. Russia was the primary factor behind bio-terrorism being dropped from the list of agenda items.

States parties did agree to address the BWC’s institutional deficit through the creation of the Implementation Support Unit (ISU), which is staffed by three permanent employees based in Geneva. The permanent staff members will be paid by the BWC and will be housed in the UN Department of Disarmament Affairs in Geneva. Previously, the BWC review conference was only supported on a part-time basis.

The ISU’s mandate is to provide administrative support for the BWC as well as facilitating confidence-building measures between states parties. The ISU will, among other things, serve to ease communication between states parties, as well as compile and disseminate confidence-building measures submitted from states parties.

Since the conclusion of the 2006 review conference the ISU has been strengthened in terms of budget and staff. Despite initial U.S. opposition, an EU proposal to allow states parties to make additional, voluntary contributions to the ISU was accepted during the 2007 annual meeting. The United States originally objected to the proposal on the grounds that it would increase the responsibility of the ISU. However, this problem was resolved through a statement stressing that the ISU has only three staff members, and any contributions are only designed to assist the ISU in completing its mandate. During the 2008 meeting of states parties, the EU provided a $2 million dollar donation to the ISU in order to pay for two additional staff members for the following two years. The two new staff are officially assigned to the UN Office for Disarmament Affairs, to avoid any conflict over a perceived expansion of ISU.

Seventh Review Conference

The seventh BWC review conference was held in December 2011. The Final Declaration document
concluded that “under all circumstances the use of bacteriological (biological) and toxin weapons is effectively prohibited by the Convention and affirms the determination of States parties to condemn any use of biological agents or toxins other than for peaceful purposes, by anyone at any time.”

Eighth Review Conference

The eighth BWC review conference took place in November 2016. At the end of the conference, delegates agreed to a future one-week meeting of states-parties at the end of the year and a five-year extension of the BWC Implementation Support Unit.

Updated by Wanda Archy.

Text of the Biological Weapons Convention
Briefing Paper on the Status of Biological Weapons Nonproliferation
The 2006 Biological Weapons Convention Review Conference Reader

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