



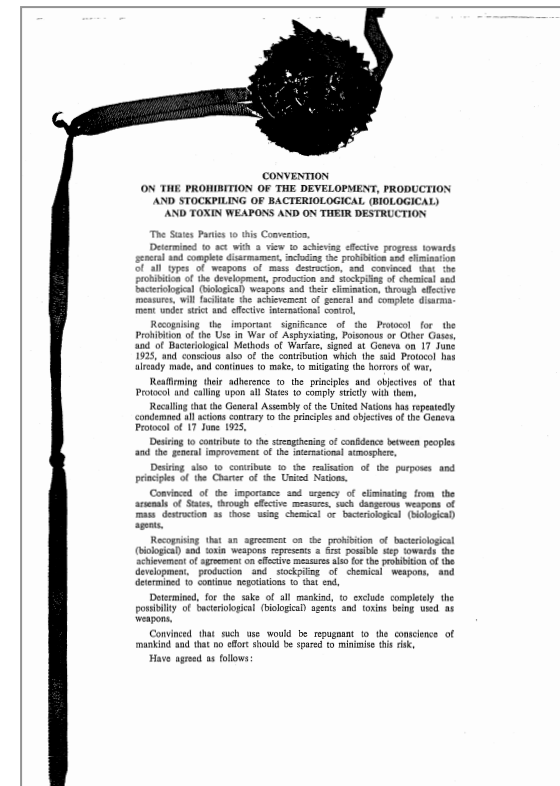
National Implementation of the Biological Weapons Convention

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Universalization of the Biological Weapons Convention in Africa
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Outline

- What is “National Implementation”?
- National Implementation Measures
- Benefits of National Implementation
- Approaches to National Implementation
- VERTIC’s Legal Services



What is “National Implementation”?

- Under **Article IV of the BWC**...

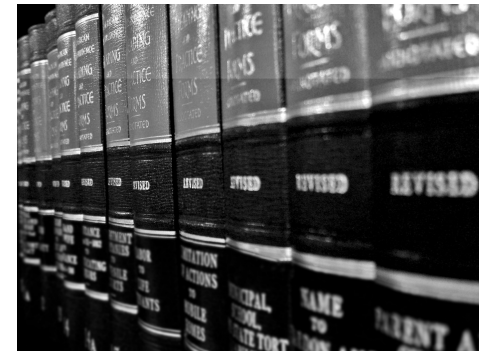
“Each State Party shall, in accordance with its constitutional processes, take *any necessary measures to prohibit and prevent* the development, production, stockpiling, acquisition, or retention of the agents, toxins, weapons, equipment and means of delivery specified in Article I of the Convention.”

- Final Declaration of the **Seventh BWC Review Conference**

“11. The Conference reaffirms the commitment of States Parties to take the necessary national measures under [Article IV]. The Conference also reaffirms that the enactment and implementation of necessary national measures under this Article, in accordance with their constitutional processes, would strengthen the effectiveness of the Convention. In this context, the Conference calls upon States Parties *to adopt, in accordance with their constitutional processes, legislative, administrative, judicial and other measures, including penal legislation (...)*”

National Implementation Measures (1/5)

- Which measures do States need to adopt in order to implement the BWC?
 - 1) Definitions
 - 2) Prohibitions and penalties
 - 3) Jurisdiction
 - 4) Biosafety and biosecurity
 - 5) Transfer control
 - 6) Enforcement



National Implementation Measures (2/5)

1) **Definitions:** biological weapon, biological agent, toxin, etc.

2) **Prohibitions** of certain activities and penalties:

- Offences related to biological weapons: development, production, possession, transport, use, etc.
- Offences related to biological agents and toxins: development, acquisition, possession, storage, transport, transfer, etc. without authorization
- Alternative criminal liability



3) **Jurisdiction:** extending the reach of the prohibitions:

- To natural and legal persons
- Extraterritorially (e.g. jurisdiction on the basis of nationality of perpetrator, nationality of victim, impact on State interests)

National Implementation Measures (3/5)

4) Biosafety and biosecurity measures:

- Biosafety measures aim to prevent unintentional exposure to pathogens and toxins, or their accidental release
- Biosecurity measures aim to prevent unauthorized access, loss, theft, misuse, diversion or intentional release of biological agents and toxins
- Some specific biosafety and biosecurity measures could include:
 - List of controlled biological agents and toxins
 - System for notification of accidents, loss or theft
 - Comprehensive record-keeping
 - Physically secure laboratories
 - Biosafety and biosecurity training for personnel
 - Secure transportation



National Implementation Measures (4/5)

5) Transfer Controls:

- Under **Article III** of the BWC...
“Each State Party to this Convention undertakes not to transfer to any recipient whatsoever, directly or indirectly, and not in any way to assist, encourage, or induce any State, group of States or international organisations to manufacture or otherwise acquire any of the agents, toxins, weapons, equipment or means of delivery specified in Article I of the Convention.”
- List of controlled biological agents and toxin, and biological equipment and technology
- Transfer permit system
- End-user certificate
- Effective border controls



National Implementation Measures (5/5)

6) Legislative enforcement:

- National Authority – notify a national point of contact to the BWC's Implementation Support Unit
- National licensing system
- Inspections of laboratories and other facilities where controlled biological agents or toxins may be found
- Training and special powers for law enforcement officials including customs and other border officials, sea port and airport authorities
- Disease surveillance; response capability in the event of a natural, accidental or intentional outbreak; co-operation among law enforcement, health officials and doctors as well as among Ministries of Health, Environment and Agriculture, etc.
- International co-operation on judicial and criminal matters



Benefits of National Implementation

- States can investigate, prosecute and punish any offences, including preparatory acts, associated with biological agents or toxins committed by non-State actors;
- States can monitor and supervise any activities, including transfers, involving biological agents and toxins;
- States will enhance their national security and public health and safety;
- States with effective and adequate legislation will strongly signal to potential investors that they are a safe and responsible location for activities involving certain biological agents;
- States' obligations under the BWC and UN Security Council Resolution 1540 will be satisfied;
- States will be able to comply effectively with international reporting requirements.



Approaches to National Implementation

- Comprehensive stand-alone BWC law:
 - Law that only contains the necessary penal provisions for the BWC (e.g., Antigua and Barbuda)
 - Comprehensive law containing penal provisions, biosafety/biosecurity measures, transfer control provisions, and enforcement measures (e.g., Czech Republic, Singapore)

- Weapons of Mass Destruction law:
E.g., India, South Africa

- Implementation through several laws and regulations

ACT No. 281/2002 Coll.
of 30 May 2002
on Some Measures Related to Prohibition of Bacteriological (Biological) and Toxin Weapons and on Amendments to Trades Licensing Act
The Parliament has passed this Act of the Czech Republic:
PART I
MEASURES RELATED TO PROHIBITION OF BACTERIOLOGICAL (BIOLOGICAL) AND TOXIN WEAPONS
SECTION ONE
INTRODUCTORY PROVISIONS
Article 1
Scope
This Act regulates:
a) rights and obligations regarding the prohibition of the development, production, stockpiling and use of bacteriological (biological) and toxin weapons and on their destruction, handling of highly hazardous and hazardous biological agents and toxins which could be abused to violate the prohibition of bacteriological (biological) and toxin weapons;
b) performance of governmental administration in this field.



VERTIC's Legal Services

At a Government's request, we can provide cost-free legal services to:

- 1) Assist States to ratify or accede to the BWC
- 2) Undertake comprehensive analysis of a State's existing legislation for the implementation of the BWC
- 3) Organize and participate in awareness-raising workshops and technical assistance visits to:
 - Draft/revise legislation;
 - Elaborate national legislation action plans;
 - Support national processes considering legislative development and treaty adherence (either in capital or at relevant workshops).



Thank you

- NIM@vertic.org
- See also: www.vertic.org > Programmes > National Implementation Measures

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