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B R I E F

# The BWC Ninth Review Conference: an overview of outcomes, outlooks and national implementation

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## Introduction

2022 saw an important milestone for the 1972 Biological and Toxin Weapons Convention (BWC), as it marked fifty years since its opening for signature. Since then, every five years, approximately, States Parties have convened for a Review Conference of the Convention. The Ninth Review Conference was held in the final quarter of 2022, amidst an international security landscape with a new set of challenges and priorities.

Upon the BWC’s entry into force in 1975, the UK’s then-Minister of State for Foreign Affairs noted that States Parties to the Convention “have both renounced this entire class of weapons and undertaken to prevent their future development, by appropriate national measures”.<sup>1</sup> His statement highlights the essential nature of national measures to achieve the Convention’s ultimate goal of banning biological weapons.

Following the conclusion of the Review Conference it is timely to take stock of the progress, challenges, and ways forward for national implementation of the BWC; a topic that VERTIC have been working on for over twenty years.<sup>2</sup> This Brief will do so in two parts: Part I provides a consideration of the outcomes and outlook of the Ninth Review Conference; Part II examines the coverage of national implementation at the Conference and, ultimately, provides a series of recommendations for strengthening national implementation during the next review cycle of the Convention.

## Part I: The outcome of the Ninth BWC Review Conference: a glimmer of hope in an overall bleak security environment

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The Ninth Review Conference of the BWC convened in Geneva, Switzerland from 28 November to 16 December 2022. A record number of more than 1,000 delegates<sup>3</sup> from 137 States Parties, two Signatory States, four Non-Signatory States, five United Nations organizations, twelve international organizations and 48 non-governmental organizations and research institutes met over three weeks to review the operation of the Convention.

The Conference was held against the backdrop of a number of key developments. Amongst these were Russia’s allegations about US-funded activities at biological laboratories in Ukraine, including its activation of the formal consultative mechanism under Article V and lodging the first ever complaint to the Security Council under Article VI of the Convention since entry into force of the BWC; the overall geopolitical climate and low levels of trust among key players. Further key developments included the shift in US policy to a more flexible position on issues of compliance and verification, the COVID-19 pandemic and implications for preparedness and response to future biological events, and the accelerating pace of advances in the life sciences and converging fields of science and technology.

During the three weeks of the Conference, States Parties engaged in intensive negotiations with the outcome uncertain until the final day. Ultimately, despite the

prevailing geostrategic climate and failures in other disarmament meetings during 2022, the Conference adopted a substantive final document, albeit one without an agreed article-by-article review of the Convention. The document establishes a new inter-sessional programme and, for the first time in two decades, States Parties will formally discuss issues relating to verification and compliance.

## Preparations for the Ninth Review Conference

The Ninth Review Conference was preceded by a Preparatory Committee, which convened with a delay of one year due to the COVID-19 pandemic on 20 December 2021 and resumed its work from 4 to 11 April 2022.<sup>4</sup> At the first preparatory meeting, States Parties considered a number of procedural issues for the Review Conference. At its second meeting, States Parties agreed on several organizational aspects, undertook a general exchange of views, and also considered comprehensively all provisions of the Convention, including cross-cutting issues such as science and technology, the next intersessional programme and matters concerning the Implementation Support Unit (ISU).<sup>5</sup>

A total of 115 States Parties, one Signatory State and two Non-Signatory States attended the Preparatory Committee. Fifty States Parties and one observer agency, the European Union, participated in the general exchange of views. States Parties submitted a total of twelve working papers, mainly focused on issues related to the creation of a review mechanism on developments in science and technology, the strengthening of the Convention by operationalizing specific articles and suggestions on the intersessional programme to take place after the Ninth Review Conference.

The Preparatory Committee unanimously elected Mr. Florian Antohi of Romania and

Mr. Tancredi Francese of Italy as its Vice-Chairs and authorized the Bureau to handle technical and other matters in the period before the Review Conference was convened. Following a decision by the Group of the Non-Aligned Movement and other States Parties to hand over the presidency of the Ninth Review Conference to another interested regional group, the Preparatory Committee agreed to recommend to the Ninth Review Conference that Ambassador Leonardo Bencini of Italy preside over the Conference, on the understanding the Group of the Non-Aligned Movement and other States Parties retained its rotational right to preside over the Tenth Review Conference. States Parties also agreed to hold the Ninth Review Conference from 28 November to 16 December 2022.

In addition to the Preparatory Committee, a number of informal activities took place in the run-up to the Ninth Review Conference. Among them were four regional preparatory meetings held between June and September 2022, in Vienna, Panama City, Bangkok and Addis Ababa, financed by the European Union.<sup>6</sup> A total of 86 States Parties attended these regional meetings, which allowed in-depth discussions among delegations. Additionally, the Italian Presidency, in cooperation with Wilton Park, organized an informal retreat from 10 to 11 November 2022 in Montreux, Switzerland in which over hundred representatives from 67 States Parties, the European Union, the United Nations Office for Disarmament Affairs (UNODA) and the United Nations Institute of Disarmament Research (UNIDIR) participated. Furthermore, UNIDIR published several reports<sup>7</sup> and organized a series of events in preparation for the Review Conference in order to enhance understandings of BWC Review Conferences, identify lessons to be learned from past experiences and stimulate thinking on substantive issues.

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## Review Conference proceedings

On 28 November 2022, Ms. Izumi Nakamitsu, Under-Secretary-General and High Representative for Disarmament Affairs, opened the Review Conference on behalf of the Secretary-General of the United Nations, followed by the election of Ambassador Leonardo Bencini of Italy as the President of the Review Conference. Additionally, the Secretary-General of the United Nations, Mr. Antonio Guterres, addressed the Conference via a video message. The Conference then addressed a number of procedural aspects and appointed by acclamation the office holders. Ambassador Tatiana Molcean of the Republic of Moldova was elected Chairperson of the Committee of the Whole, Ms. Sara Lindegren of Sweden as the Chairperson of the Drafting Committee and Mr. Angus September of South Africa as the Chairperson of the Credentials Committee. Additionally, the Russian Federation announced its withdrawal from the Eastern European Group and the formation of a “Group of One”.

After the opening formalities, the General Debate continued until 30 November, during which 92 States Parties and seven international organizations, and 18 non-governmental organizations and research institutes, in an informal session, made statements. Many of them noted that the COVID-19 pandemic had served as a wake-up call for the Conference to take substantive and timely actions to strengthen the Convention. Delegations from all regional groups highlighted in their statements their will to reach a substantive Review Conference outcome. Multiple States Parties also addressed in their statements the importance of strengthening the Convention in a comprehensive manner, with some calling for a new approach through the establishment of a dedicated working group examining different options, whereas others suggested returning straight

to the negotiation of a legally-binding protocol that foresaw the establishment of an international organization including on-site verification measures. Many States Parties highlighted the importance of strengthening international cooperation and assistance under Article X and exchange in the use of biological sciences and technology for peaceful purposes. Several delegations also noted the importance of establishing a science and technology review mechanism. Calls for strengthening national implementation, operationalizing assistance, response and preparedness mechanisms under Article VII of the Convention and advancing the universalization of the Convention also featured prominently in the statements. Overall, the debate saw well-known positions on several issues, but a noticeable development was the prominence given by a number of delegations to incorporate a gender perspective in the work of the Convention. Additionally, some States Parties underlined the importance of youth participation in the BWC.

The General Debate was overshadowed by repeated interventions, points of order and rights of reply made in relation to Russian allegations concerning the US and Ukraine’s compliance with the BWC. While Russia was of the view that these issues remain open and require solutions, several other countries, including the US and Ukraine, noted that the Russian allegations had been addressed at the Article V consultative meeting and that the Security Council decided to take no further action on Russia’s Article VI complaint.

Upon the conclusion of the General Debate, sixteen plenary meetings were held until the conclusion of the Review Conference on 16 December. The Committee of the Whole held eleven meetings during which it reviewed the provisions of the Convention, article by article. At its final meeting on 12 December, and after

two readings, a compilation of all proposals<sup>8</sup> was presented, but the Committee was not able to reach consensus in light of fundamentally different views on some issues, including how to reflect the activation of Articles V and VI earlier in 2022. Accordingly, the Chair of the Committee of the Whole, Ambassador Tatiana Molcean of the Republic of Moldova, submitted a short procedural report to the Conference at its plenary meeting on 13 December.<sup>9</sup>

The Drafting Committee held no formal meetings, but a series of informal plenaries on the “forward-looking” part of the Final Document were chaired by the Chairperson of the Drafting Committee, Ms. Sara Lindegren. The Italian Presidency appointed six facilitators<sup>10</sup> in the areas of assistance and cooperation (Article X), review of developments in the field of science and technology related to the Convention, national implementation, assistance, response and preparedness, future intersessional work programme and finances and the ISU in order to help States Parties find common ground. The facilitators issued a joint non-paper containing draft elements for the Final Document in the course of the second week of the Conference. The Credentials Committee held three meetings and adopted its report at its third and final meeting on 14 December 2022.<sup>11</sup>

In the final week of the Review Conference, Ambassador Bencini alternated between formal plenary sessions and informal consultations to negotiate differing stances of States parties. On 13 December, Ambassador Bencini issued a draft of the Final Declaration, including a revised version of the article-by-article review from the Committee of the Whole as its Part II and a refinement of the facilitators’ joint non-paper as its Part III.<sup>12</sup> However, in spite of intense informal consultations held by the President, consensus on the Final Declaration (Part II) was unattainable

due to persisting different views among a number of delegations on several proposed amendments. Thus, on 16 December the Conference adopted by consensus its Final Document,<sup>13</sup> which regrettably did not include a Final Declaration. The lack of an article-by-article review in the Final Document is unprecedented in the context of BWC review conferences and unfortunate, because some useful additional understandings could not be included on, inter alia, condemning the threat of use of biological weapons, promoting capacity-building through more active cooperation with relevant regional and subregional organizations, or further integrating a gender perspective in all aspects of the implementation of the Convention.

## Outcomes and outlooks

The Ninth Review Conference convened in both heightened public health awareness and geopolitical tensions. Many States showed strong determination to strengthen the Convention and 65 working papers provided rich substance for consideration. Not least in view of the contentious political contexts transcending the BWC and diverging perspectives and priorities, States Parties’ agreement on a Final Document was “historic yet modest”, as evaluated by a number of States Parties in their closing statements.

One of the key accomplishments of the Ninth Review Conference is the decision to establish a new Working Group on the Strengthening of the Convention. Its aim 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.*”<sup>14</sup> Comprehensively, the Working Group will address measures on international cooperation and assistance

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under Article X; measures on scientific and technological developments relevant to the Convention; measures on confidence-building and transparency; measures on compliance and verification; measures on national implementation; measures on assistance, response and preparedness under Article VII, and; measures on organisational institutional and financial arrangements. Moreover, the mandate of the ISU was renewed and an additional staff position was added to the Unit for the period from 2023 to 2027.

While the upcoming intersessional programme certainly involves an expanded mandate and scope of topics to consider, several States Parties also expressed disappointment over the limited progress made at such a critical juncture for the Convention. Delegations could not agree on a number of “low-hanging fruits” such as the Tianjin Biosecurity Guidelines for Codes of Conduct for Scientists, the French-Indian Article VII database proposal or South Africa’s proposed voluntary guidelines for requesting assistance due to linkages which were made among the proposals. Furthermore, a number of States Parties regretted that mechanisms

to facilitate and support the full implementation of Article X as well as to review and assess scientific and technological developments relevant to the Convention were deferred to the Working Group, rather than being formally established by the Review Conference. Similarly, no agreement could be found on incorporating a gender perspective in the work of the BWC despite being widely supported by many delegations.

Nevertheless, the outcome of the Ninth Review Conference should be analysed against the backdrop of the current highly challenging international security environment. Ultimately, the “historic yet modest” progress places great importance on the work of the upcoming intersessional programme to prime the Convention for its full operationalization and institutionalization. As noted in the statement delivered by the German Presidency of the Global Partnership at the end of the Review Conference: “*The challenges remain before us: We need to overcome the longstanding stalemate of the Convention. We need to make the BWC fit for today’s and future challenges. We sincerely hope we made the first step today towards this objective.*”<sup>15</sup>

## Part II: National implementation at the Ninth Review Conference: progress, challenges and ways forward

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Throughout the Ninth Review Conference, frequent reference was made to the need to ensure that the BWC remains “*fit for today’s and future challenges*”, as the German Presidency of the Global Partnership noted. In order to keep pace with these challenges, including the increasingly acute need for biological emergency preparedness and response capacities, rapid advancements in life sciences and technology, and the ongoing and evolving threat of biological terrorism, States Parties must ensure that they fully implement the Convention into their national frameworks. This includes the adoption of appropriate laws and regulations enabling control over dangerous biological agents and toxins, prohibitions, detection of and response to prohibited activities and emergencies, and international cooperation and assistance.

National legislative implementation is an ongoing and long-term process that States Parties are continually engaged in. It was addressed in a number of initiatives and discussions at the Ninth Review Conference, and will continue to be an area requiring the sustained engagement and effort of States Parties throughout the next intersessional period.

## National implementation of the BWC and related discussions at the Ninth Review Conference

Article IV of the BWC requires States Parties to implement the Convention at the national level. It states that “Each State Party to this Convention 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, within the territory of such State, under its jurisdiction or under its control anywhere.”

National implementation is fundamental to the effective operation and practical application of the BWC. It is the primary avenue through which the provisions of the Convention, as international law, are applied directly within the territories and to the citizens of States Parties. Enacting national legislation makes it possible for States Parties to prevent and prosecute activities with biological weapons, prevent proliferation of biological weapons and related materials, and oversee activities involving biological agents and toxins and related dual-use items and research.

At the Ninth Review Conference, VERTIC highlighted the importance of national implementation in its statement made during the informal NGO session of the General Debate. VERTIC called upon States Parties to “give effect to the BWC at the national level by adopting, reviewing, updating and implementing comprehensive laws and regulations. Those should prohibit any activity with biological weapons, but also establish appropriate oversight and governance of activities with biological agents and toxins, including biosafety and biosecurity measures”.<sup>16</sup>

States Parties also referenced the need for comprehensive and effective national

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implementation measures in their statements, approaching the subject from a variety of perspectives. A number of them noted the general importance of national implementation of the BWC and the particular need to prioritise the issue at this Review Conference.<sup>17</sup> Others highlighted their own national implementation progress, referring to the development of national legislation and work of BWC National Authorities.<sup>18</sup> Some States Parties urged others to adopt national implementation measures and extended offers to assist other States Parties with developing such measures.<sup>19</sup>

Successive past Review Conferences have noted the importance of national implementation in upholding the Convention. Almost all have called upon States Parties which have not yet done so to pass legislative, administrative or other measures to implement the Convention,<sup>20</sup> and successive Final Documents have drawn attention to a range of aspects of national implementation. The Fourth Review Conference noted the need for national implementation measures “to exclude use of biological and toxin weapons in terrorist or criminal activity”,<sup>21</sup> while the Sixth, Seventh and Eight Review Conferences encouraged States Parties to designate national focal points to coordinate BWC national implementation and liaising with other States Parties and international organisations.<sup>22</sup>

## Overview of the status of implementation in legislation as of the Ninth Review Conference

The Committee of the United Nations Security Council Resolution 1540 (UNSCR 1540) conduct Comprehensive Reviews on the status of implementation of the Resolution approximately every 5 years.<sup>23</sup> The Comprehensive Reviews compile extensive data submitted by UN

Member States through the submission of 1540 Matrices to the Committee in order to assess the overall status of implementation of the Resolution, and include information on measures taken by States with regards to prohibiting biological weapons. The most recent Comprehensive Review took place in 2022, the same year as the Ninth Review Conference. Similarly, the previous Review coincided with the Eighth Review Conference in 2016. As such, the data gathered from both the most recent Reviews can provide a helpful indicator of progress made by States on their national implementation of biological-weapons related international obligations.

The 2022 Comprehensive Review recorded that UN Member States had implemented 50% of the possible measures identified in the UNSCR 1540 Matrix template relating to biological weapons.<sup>24</sup> This figure notably lagged behind the same statistic for nuclear weapons (at 61%) and chemical weapons (at 58%).

The 2022 Review also noted that of the 193 UN Member States reviewed, 75% had recorded measures in their national legal frameworks to prohibit the manufacture of biological weapons. 75% of Member States recorded measures to prohibit the acquisition of biological weapons; 75% recorded measures prohibiting possession; 69% recorded measures prohibiting development, and 91% recorded measures prohibiting use. Additionally, 61% of Member States recorded measures prohibiting transport and 77% recorded measures prohibiting transfers. Measures prohibiting the financing of the above-mentioned activities also yielded high results, with 91% of Member States recording such measures.

VERTIC has been conducting legislative analysis of BWC States Parties’ implementing legislation for the past decade and as a result has also been able to compile comparable data. VERTIC’s “Report on National Implementing Legislation” of



the BWC, also published in 2016, identified a similarly varied pattern of national implementation measures as those recorded by UN Member States to the 1540 Committee for the 2016 Comprehensive Review.<sup>25</sup>

Regarding BWC national points of contact, the BWC ISU recorded in 2019 that “a total of 122 States Parties (69%) had designated a national point of contact and noted “a continuous and steady increase in the number of NCPs designated since the Sixth Review Conference”.<sup>26</sup>

VERTIC has also continued to conduct legislative analysis surveys of States Parties’ national implementation of the BWC and to date has done so for 147 States.<sup>27</sup> Of this total, measures were identified in: 59 States prohibiting manufacture or production of biological weapons; 51 States prohibiting acquisition; 51 States prohibiting possession or retention; 41 States prohibiting stockpiling or storage; 42 States prohibiting development; and in 58 States prohibiting use. Furthermore, measures were identified in 58 States prohibiting transfers of biological weapons, and in 36 States prohibiting their transport. Finally, VERTIC surveys identified a similarly high number of States with measures pertaining to financing of biological weapons-related activities, at a total of 90.

The varying levels of implementation per category may be due to unequal prioritisation, perceived relevance, or difficulty in developing and adopting relevant implementation measures. It may also be a reflection of the availability of assistance and tools to develop legislation for specific categories.

The 2022 UNSCR 1540 Comprehensive Review provides a very helpful indication of the progress made by states towards implementation of the BWC since the Eighth Review Conference. Given the incremental but steady progress recorded by States Parties and relevant international organisations in this area since the entry into force of the

BWC, a degree of progress following the existing trajectory can be anticipated throughout the next review cycle. As was noted during the Ninth Review Conference, it is becoming increasingly necessary for States Parties to consider reviewing and updating their national legal frameworks to keep pace with developments in biological science and technology.

## Overview of available tools developed since the Eighth Review Conference

An important tool developed since the last Review Conference is the *Guide to Implementing the Biological Weapons Convention*. This comprehensive guide was created by UNODA, with support from the European Union and Norway, and is aimed at BWC States Parties engaged in the implementation process. It provides an overview of the implementation procedure and obligations under the BWC, outlining illustrations of legislative, regulatory and other measures that States Parties could consider developing and adopting to implement the Convention. It includes real life examples of the experiences of different States Parties when implementing the BWC to share lessons learned and best practices. This Guide will reinforce ongoing activities to support the implementation of the BWC, including activities led by the BWC ISU and UNODA. Throughout the last inter-sessional period, assistance providers continued to support States with their efforts to implement the Convention, with the BWC ISU playing a leading role in this process through a significant number of engagements. Such efforts have complemented regional initiatives to support implementation of the treaty, such as the Africa Centres for Disease Control Biosafety and Biosecurity Legal Framework.

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VERTIC’s NIM programme has also developed and updated a number of tools to further national implementation of the Convention during this period, to support its ongoing legislative assistance activities to implement the BWC. The team updated VERTIC Fact Sheets related to the implementation of the BWC to reflect updated understandings and best practices at the national level. These two short documents, concerning BWC national implementation measures and BWC national authorities, contain explanatory information about implementation of the BWC and can be used to raise awareness among key stakeholders.

The analysis of existing legislation is another important component of national legislative implementation of the BWC, allowing states to examine what further legislative measures are necessary to fully implement their international obligations. To support this process, the NIM programme published the [Survey Template of National Implementation Measures for the 1972 BWC and Biological Weapons-Related Provisions of Relevant International Instruments](#) in May 2021. This legislative analysis tool, developed in-house, underwent a major revision in 2020. The template identifies 137 distinct measures that are relevant for the implementation of the BWC and is accompanied by a ‘survey overview’ template that provides a space to summarise the survey’s main findings and formulate recommendations to strengthen legislation. It is freely available online in English, French and Spanish, with translation into Arabic and Russian planned in the coming months. NIM staff have continued to use the templates to develop BWC legislation surveys in close collaboration with states during this period, to inform drafting assistance activities.

VERTIC’s NIM staff further continued to provide tailored assistance for the drafting of new legislation during in-country

and online workshops using legislative drafting tools developed in-house and by supplying examples of legislation in force to identify best legislative and regulatory practices. One of these tools is the [Model Law for National Implementation of the 1972 Biological and Toxin Weapons Convention and Related Requirements of UN Security Council Resolution 1540](#) which was published in March 2023 following the Ninth Review Conference. It is a revised version of VERTIC’s 2012 Sample Act for National Implementation of the 1972 Biological and Toxin Weapons Convention and Related Requirements of UN Security Council Resolution 1540. This document has been used and refined during the NIM team’s engagements with states on legislative drafting, leading to the creation or amendment of laws and regulations to implement the Convention, which in some instances are now in force.

## Proposals to strengthen national implementation at the Ninth Review Conference

The Ninth Review Conference both addressed the topic of national implementation and featured proposals to strengthen it, from States Parties as well as international and non-governmental organisations. A number of side-events promoted the availability of assistance activities for States Parties interested in strengthening national implementation and tools to aid States Parties with establishing national implementation measures.

A side-event was organised by UNODA on “EU Council Decisions in support of the BWC: national implementation highlights and support of the preparations for the Ninth Review Conference”. The side-event focused on national implementation activities under two EU Council Decisions in support of the BWC.<sup>28</sup> These Decisions, adopted within the framework of the EU’s

Strategy against the Proliferation of Weapons of Mass Destruction, provide assistance to States interested in joining the BWC<sup>29</sup> and to States Parties seeking to strengthen national implementation of the Convention. The side-event sought to highlight opportunities for States Parties to further engage with the initiative, and also launched UNODA's National Implementation Guide.

VERTIC and Norway also held a side-event on "Legislative assistance for implementation of the BWC"<sup>30</sup> presenting its legislative assistance activities for implementation of the BWC under a project funded by the Norwegian Ministry of Foreign Affairs. The side-event showcased VERTIC's legislative assistance tools which are freely available for States Parties to use and promoted the upcoming launch of its Model Law for national implementation of the BWC, which is intended to assist States Parties in drafting legislation to implement the BWC. The side-event also discussed effective coordination between assistance providers on national implementation matters, and highlighted three case studies of states' experiences of working with VERTIC on national implementation.

The Republic of Korea organised a side-event on "Biorisk Management: Involving Diverse Actors for Better Implementation of the BWC" which highlighted the importance and contribution of biorisk management systems to enhancing national implementation of the BWC.<sup>31</sup> There were also side-events approaching the topic of strengthening national implementation with a regional focus: the Global Partnership, BWC ISU and Africa CDC held one on universalisation and implementation of the BWC in Africa, and the EU, Philippines, Japan, Lao PDR and UNICRI organised one on efforts to strengthen the implementation of the BWC in Southeast Asia.<sup>32</sup>

In addition, a number of States Parties also submitted Working Papers which

addressed initiatives to strengthen national implementation. While none directly addressed the topic of legislative or regulatory measures to implement the BWC, they instead highlighted approaches to strengthening national implementation through assistance activities and policy proposals.

A Working Paper from the Kyrgyz Republic highlighted national efforts to enhance BWC implementation under EU Council Decision 2019/97 through a peer-review exercise organised with the OSCE Programme Office in Bishkek, UNODA and the BWC ISU.<sup>33</sup> A Working Paper submitted by Sri Lanka and the Netherlands promoted the establishment of a national inventory for dangerous pathogens as an implementation activity to build upon the national implementation obligations of the BWC and related requirements of UNSCR 1540.<sup>34</sup> It highlighted the availability of a database and guidance tools created by the Netherlands National Institute of Public Health and the Environment (RIVM) to aid states in establishing a national inventory. A joint Working Paper submitted by a number of States Parties examined "Biorisk management standards and their role in BTWC implementation", particularly how industrial standards can help States Parties to implement their BWC obligations.<sup>35</sup>

The draft Final Document for the Ninth Review Conference reflected many of the proposals outlined above.<sup>36</sup> It welcomed capacity-building efforts by and for States Parties to strengthen national implementation<sup>37</sup> and acknowledged the efforts of "States Parties, international, regional and subregional organisations and non-governmental stakeholders to develop model legislation and guidance on national implementation".<sup>38</sup> In the article-by-article review of Article III, it highlighted helpful initiatives to strengthen implementation including pathogen repository and inventory

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systems, model legislation and laboratory biorisk management guidelines, amongst others.<sup>39</sup> However, as the article-by-article review could not be agreed on, substantive recommendations for strengthening national implementation were ultimately not included in the Final Document.

## Outcomes of the Ninth Review Conference with regards to national implementation

As this Brief has discussed, the Final Document ultimately adopted by the Ninth Review Conference did not include a Final Declaration and as a result did not contain substantive recommendations for strengthening national implementation. However, the task of addressing measures for national implementation of the Convention was notably assigned to the Working Group on the strengthening of the Convention.<sup>40</sup>

The Working Group was established with the stated goal to “strengthen the effectiveness and to improve the implementation of the Convention in all its aspects”.<sup>41</sup> Amongst the tasks assigned to it is to identify and examine “specific and effective measures, including possibly legally binding measures” to implement the Convention.<sup>42</sup> It will be open to all States Parties, conduct its work by consensus and is allocated 15 working days per year from 2023 to 2026 to complete its work. Ultimately, it will submit a report to States Parties at the Tenth Review Conference that includes conclusions and recommendations according to its mandate.

Alongside the efforts of the Working Group, the continuation of the work of other assistance providers will be key to further strengthening national implementation of the Convention during the next review cycle. The Final Document notes that the ISU “will render the necessary assistance and provide such services as may be required for the convening and activities of the Working Group”. Furthermore, the Working Group is required to take into account “as appropriate, all documents agreed by the States Parties under the Convention, as well as the work already done by States Parties to strengthen the Convention”.<sup>43</sup>

As this Brief has discussed, gaps persist in States Parties’ legal frameworks for implementing the Convention at the national level. In this regard, the work of legislative assistance providers such as VERTIC, the ISU and other relevant international organisations, as well as scientific and academic institutions and non-governmental organisations will continue to fulfil an important need towards achieving full national implementation of the Convention. Such organisations play an instrumental role in furthering the implementation and overall effectiveness of the Convention during the intersessional programmes, which was recognised in the Ninth Review Conference Final Document.<sup>44</sup>

Finally, previous Review Conferences have also encouraged States Parties to provide assistance to other States Parties (upon request) on implementation measures under Article IV of the Convention.<sup>45</sup>

## Conclusion and recommendations

The outcome of the “historic yet modest” Final Document of the Ninth Review Conference confers a more significant undertaking on the upcoming intersessional programme than previous ones to further the implementation of the Convention. While the Ninth Review Conference made limited progress in its formal recommendations regarding national implementation, the multitude of side-events and working papers submitted at the Conference highlight the breadth of assistance opportunities and guidance available to States Parties to work together and with assistance providers to advance national implementation throughout the next review cycle.

VERTIC has worked with states on legislative implementation of the BWC for over twenty years, and as a result has identified a number of recommendations for the consideration of both States Parties and relevant assistance providers to further national implementation.

Firstly, States Parties are urged to prioritise ensuring that their national legal frameworks fully implement all their obligations under the Convention. While the upcoming intersessional programme will commence amidst a challenging international security environment, many States Parties noted during the Review Conference that factors such as the COVID-19 pandemic and rapid advances in biological sciences and technology served as reminders to take timely actions to strengthen and implement the Convention. Legislation is needed to underpin important policy measures, for example, biosafety and biosecurity procedures for laboratories.

When analysing their own legal frameworks, and drafting new legislation, States Parties should consider consulting one another and specialised assistance providers to ensure that they have up to date information and expertise to create comprehensive legal frameworks. Legal and regulatory

frameworks need to address a range of intermingled measures that all contribute to full implementation of the BWC, including biosafety and biosecurity, the role of public health measures, and measures to comprehensively address the threat of bioterrorism. These measures will implicate national legislative and regulatory frameworks across all areas of national law: criminal law, environmental law and public health law, amongst others. It is also crucial that those affected by these laws and regulations (for example, those working with biological materials and equipment) are aware of the laws and their obligations under them.

As highlighted by several side-events at the Review Conference, States Parties can make use of a variety of freely available tools to support the legislative analysis and drafting process. This Brief has outlined a number of them, including UNODA’s Guide to Implementing the BWC, VERTIC’s Model Law for National Implementation of the BWC and Survey Template of National Implementation Measures for the BWC and biological weapons-related provisions of relevant international instruments. In addition to consulting these tools, there is a need for States Parties and assistance providers to tailor them to country-specific circumstances. In this regard, regional tools such as the Africa CDC’s Biosafety and Biosecurity Legal Framework provide a valuable focused perspective to relevant states, which can then be further tailored to national specificities.

Finally, assistance providers are encouraged to continue to work together to coordinate legislative assistance efforts, in order to ensure that national implementation activities are as effective as possible. Communication, coordination and cooperation can all help to ensure that all stakeholders are aware of the current status of activities already implemented and that such activities complement rather than duplicate one another, and so that best practices and lessons are learned from these activities.

“The outcome of the ‘historic yet modest’ Final Document of the Ninth Review Conference confers a more significant undertaking on the upcoming intersessional programme than previous ones to further the implementation of the Convention.”

## Endnotes

- 1 [Statement](#) by the Minister of State for Foreign and Commonwealth Affairs, the Rt. Hon. David Hedley Ennals MP at the ceremony marking the entry into force of the Biological Weapons Convention in London on Wednesday 26 March 1975", London, 27 March 1975.
- 2 See, for example, A. Woodward, "[Biological weapons: time to lay down the law](#)", *Trust & Verify* issue no. 110, VERTIC. 2003.
- 3 Thirty-nine percent of the delegates were women and thirty-four percent of states had women as heads of delegation, thereby reaching a proportion far higher than at previous Review Conferences.
- 4 See [BWC/CONF.IX/PC.10](#), 14 April 2022: Final Report of the Preparatory Committee.
- 5 At each Review Conference, BWC States Parties negotiate the 'intersessional programme' of work to be undertaken in the period up until the next Review Conference. The BWC Implementation Support Unit (ISU) was established after the Sixth Review Conference in 2006, within the Geneva Branch of the United Nations Office for Disarmament Affairs, to provide support to matters including: administration in relation to the BWC, the exchange of confidence-building measures, and the comprehensive implementation and universalization of BWC.
- 6 See UNODA, "[Regional Preparatory Meetings for the Ninth Review Conference of the Biological Weapons Convention. Summary Report](#)", Geneva, 2022.
- 7 See J. Revill, V. Zhang and M. Garzón Maceda (eds.) "[Stakeholder perspectives on the Biological Weapons Convention](#)", UNIDIR, Geneva, 2022. J. Revill, J. Borrie and R. Lennane, "[Back to the Future for Verification in the Biological Disarmament Regime?](#)", UNIDIR, Geneva, 2022. J. Revill, and M. Garzón Maceda (eds.), "[Options for International Cooperation under Article X of the Biological Weapons Convention](#)", UNIDIR, Geneva, 2022. J. Littlewood, "[Potential Outcomes of the Ninth BWC Review Conference](#)", UNIDIR, Geneva, 2021. J. Revill, A. Anand, and G. Persi Paoli, 2021. "[Exploring Science and Technology Review Mechanisms Under the Biological Weapons Convention](#)", UNIDIR, Geneva. J. Revill, J. Borrie, R. Lennane, and E. Saunders, "[Preparing for Success at the Ninth Biological and Toxin Weapons Convention Review Conference: A Guide to the Issues](#)", UNIDIR, Geneva, 2021.
- 8 See [BWC/CONF.IX/COW/INF.2](#), dated 8 December 2022 and [BWC/CONF.IX/COW/INF.2/Add.1](#): Combined proposals made to the Committee of the Whole. Submitted by the Chair of the Committee of the Whole.
- 9 See [BWC/CONF.IX/COW/CRP.1](#), dated 13 December 2022. The Conference took note of the final report of the Committee of the Whole to be issued as document [BWC/CONF.IX/COW/1](#).
- 10 See paragraph 38, [BWC/CONF.IX/9](#), dated 21 December 2022: Final Document of the Ninth Review Conference.
- 11 See [BWC/CONF.IX/CC/CRP.1](#), dated 14 December 2022. The Conference took note of the report to be issued as document [BWC/CONF.IX/CC/1](#).
- 12 See [BWC/CONF.IX/CRP2/Rev.1](#), dated 15 December 2022: Draft Final Document of the Ninth Review Conference.
- 13 See [BWC/CONF.IX/CRP2/Rev.2](#), dated 16 December 2022: Draft Final Document of the Ninth Review Conference\*, as orally amended.
- 14 See [BWC/CONF.IX/9](#), dated 21 December 2022, paragraph 8.
- 15 [Statement](#) by the German Presidency of the Global Partnership Against the Spread of Weapons and Materials of Mass Destruction at the conclusion of the 9th Review Conference of the States Parties to the Biological Weapons Convention. Geneva, 16 December 2022.
- 16 [Statement](#) by VERTIC to the Ninth Review Conference of the Biological Weapons Convention, Geneva, 30 November 2022.
- 17 See, for example, statements delivered by [Austria](#) and [Japan](#) during the General Debate on 28 November 2022.
- 18 See, for example, statements delivered by [Georgia](#) and [Nepal](#) during the General Debate on 28 November 2022.
- 19 See, for example, statements delivered by [China](#) and [South Africa](#) during the General Debate on 28 and 29 November 2022 respectively.
- 20 See [BWC/CONF.IX/PC/5](#), dated 10 January 2022: Additional understandings and agreements reached by previous Review Conferences relating to each article of the Convention. Background information document submitted by the ISU, paragraphs 36-37.
- 21 See [BWC/CONF.IX/PC/5](#), paragraph 33.
- 22 See [BWC/CONF.IX/PC/5](#), paragraph 35.
- 23 The purpose of UNSCR 1540 to address threat of non-state actors acquiring or using nuclear, chemical & biological weapons and their means of delivery complements a number of the national implementation obligations of States Parties to the BWC.
- 24 See [S/2022/899](#), dated 1 December 2022: Final document on the 2022 Comprehensive Review of the Status of Implementation of Resolution 1540 (2004). Submitted by the Chair of the Security Council Committee, paragraph 21.
- 25 A. Woodward, with contributions by S. Drobysz, S. Spence and L. MacFaul, "[Biological Weapons Convention: Report on National Implementing Legislation](#)", VERTIC, 2016. Page 10.
- 26 See [BWC/MSP/2019/MX.3/INF.2](#), dated 5 August 2019: Background information – Update. Submitted by the ISU, paragraph 4.
- 27 VERTIC has undertaken legislative surveys of 147 States as of March 2023, however, this figure is the total number of surveys conducted to date over a period of several years. Consequently, the information contained in these surveys may not necessarily reflect the most recent status of implementation in States.
- 28 EU Council Decisions 2019/97 and 2021/2072. See side-event [Agenda](#) for further information.
- 29 As recorded on the UNODA Disarmament Treaties Database, the BWC currently has 185 States Parties and four Signatory States. Nine States have not yet signed nor acceded to the Convention.
- 30 See side-event [Concept Note](#) for further information.
- 31 See side-event [Concept Note](#) for further information.
- 32 See side-event [Concept Note](#) and [Programme for further information](#).
- 33 See [BWC/CONF.IX/WP.52](#), dated 13 December 2022: "Efforts of the Kyrgyz Republic in enhancing implementation of the Biological Weapons Convention: Peer Review Exercise under EU Council Decision 2019/97 in support of the Biological Weapons Convention". The peer review exercise aimed to review and develop the country's legal framework for BWC implementation and a comprehensive national approach to biosafety and biosecurity.
- 34 See [BWC/CONF.IX/WP.32](#), dated 25 November 2022: "Establishment of a National Inventory of Dangerous Pathogens. An illustrative example of the implementation of Articles IV and X".
- 35 See [BWC/CONF.IX/WP.36](#), dated 28 November 2022: "Biorisk management standards and their role in BTWC implementation". Submitted by Austria, Belgium, Chile, France, Germany, Iraq, Ireland, Mexico, Netherlands, Philippines, Republic of Korea, Spain, Thailand and the United States.
- 36 See [BWC/CONF.IX/CRP2/Rev.2](#), dated 16 December 2022: Draft Final Document of the Ninth Review Conference.
- 37 See [BWC/CONF.IX/CRP2/Rev.2](#), paragraph 15.
- 38 See [BWC/CONF.IX/CRP2/Rev.2](#), paragraph 17.
- 39 See [BWC/CONF.IX/CRP2/Rev.2](#), paragraphs 21-26.
- 40 See [BWC/CONF.IX/CRP2/Rev.2](#), paragraph 8(e).
- 41 See [BWC/CONF.IX/9](#), dated 21 December 2022: Final Document of the Ninth Review Conference, paragraph 8.
- 42 See [BWC/CONF.IX/9](#), paragraph 8.
- 43 See [BWC/CONF.IX/9](#), paragraph 10.
- 44 See [BWC/CONF.IX/9](#), paragraph 3.
- 45 See, for example, [BWC/CONF.IX/PC/5](#), dated 10 January 2022: Additional understandings and agreements reached by previous Review Conferences relating to each article of the Convention. Submitted by the ISU, paragraph 55.

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## About this paper

Following the conclusion of the Biological Weapons Convention's Ninth Review Conference in December 2022, this Brief analyses the outcomes and outlook of the Review Conference and takes stock of the progress, challenges, and ways forward for national implementation. VERTIC wishes to thank the Ministry of Foreign Affairs of Norway for their financial support for the production of this Brief, and the BWC Implementation Support Unit for their collaboration in writing it. The views expressed by VERTIC do not necessarily reflect either of theirs.

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