

National Implementation of the Biological Weapons Convention

Scott Spence, Programme Director for National Implementation

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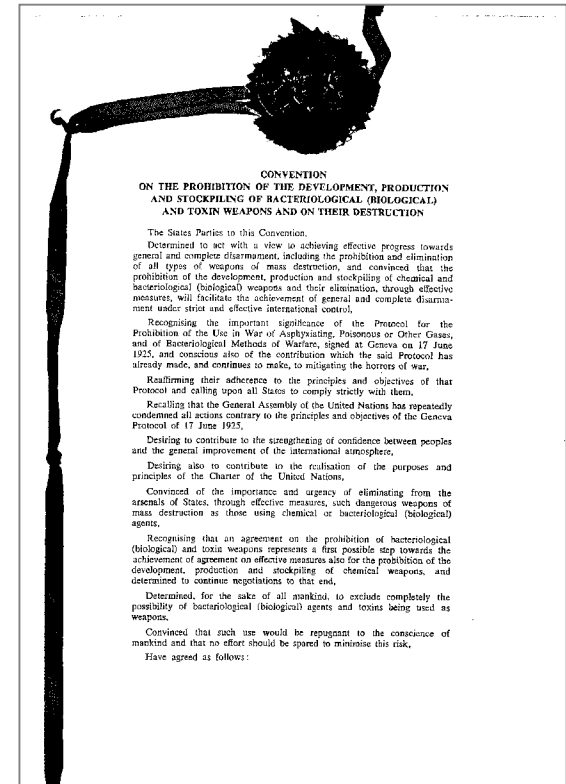


About VERTIC

- The Verification Research, Training and Information Centre (VERTIC) is an independent not-for-profit organization located in London, United Kingdom, established in 1986. VERTIC promotes the effective verification and implementation of international agreements and related regional and national initiatives.
- VERTIC's National Implementation Measures (NIM) Programme advises States on national implementation of the provisions in the following international instruments:
 - the Biological Weapons Convention (“BWC”);
 - the Chemical Weapons Convention (“CWC”);
 - the Convention on the Physical Protection of Nuclear Material (“CPPNM”) (as amended);
 - the International Convention for the Suppression of Acts of Nuclear Terrorism (“ICSANT”);
 - the Code of Conduct on the Safety and Security of Radioactive Sources and other instruments for the security of nuclear and other radioactive material;
 - as well as UN Security Council Resolution 1540 (2004) (“UNSCR 1540”).

Outline

- What is “National Implementation”?
- National Implementation Measures
- Benefits of National Implementation
- Approaches to National Implementation
- VERTIC’s Legal Services, examples of assistance and VERTIC tools



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.

1) **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 toxins, and biological equipment and technology
- Transfer permit system
- End-user certificate
- Effective border controls

National Implementation Measures (5/5)

6) Legislative enforcement:

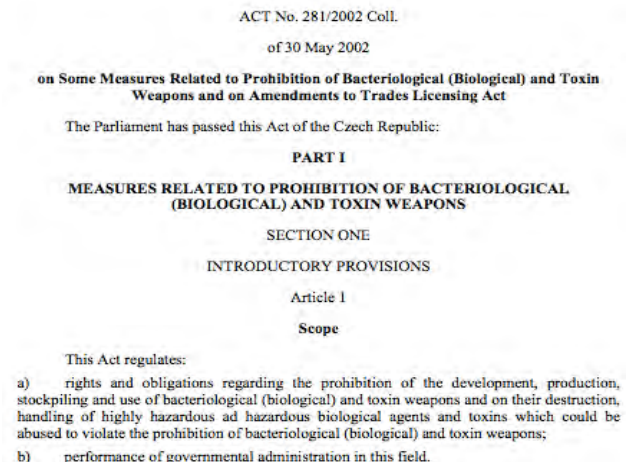
- National Authority – start with notifying a national point of contact to the BWC's Implementation Support Unit
- National licensing system
- Inspections of laboratories and other facilities where controlled biological agents or toxins may be found
- Training and special powers for law enforcement officials 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





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

1) Undertake comprehensive analysis of a State's existing legislation for the implementation of the BWC

1) 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)

Examples of legislative assistance

- BWC Action (2013-15):
 - Regional workshops in Africa, Eastern Europe, South and South East Asia, Central America and the Caribbean to raise awareness about the BWC
 - National workshops to raise awareness on national implementation of the BWC, establishment of BWC national authorities
 - Assistance visits to review and draft BWC legislation, with VERTIC experts
- EU CBRN Centres of Excellence Project 8: Prerequisite to strengthening CBRN national legal frameworks in South East Asia (2013-2015), VERTIC as lead partner (along with BAFA and UNODC)
- BWC legislative drafting workshops:
 - Recent: Senegal (20-22 October), Bangladesh (23-24 November)
 - Upcoming: a Caribbean country (1Q 2016)

VERTIC Tools

- **Fact sheets** on the BWC
- Comprehensive BWC **legislative analysis** template and statistics database (not publicly available)
- VERTIC's *Legislative Guide to National Implementation of UNSCR 1540*
- **Model legislation:** VERTIC's *BWC Sample Act*
- **Ratification/Accession** tools for the BWC
- VERTIC's **BWC Legislation Database**

MAY 2013 (Rev.) FACT SHEET 7

NATIONAL IMPLEMENTATION MEASURES FOR THE 1972 CONVENTION ON THE PROHIBITION OF THE DEVELOPMENT, PRODUCTION AND STOCKPILING OF BACTERIOLOGICAL (BIOLOGICAL) AND TOXIN WEAPONS AND ON THEIR DESTRUCTION (BWC)

FACTS ABOUT THE CONVENTION

The 1972 Biological Weapons Convention (BWC) opened for signature on 10 April 1972 and entered into force on 26 March 1975.



IS MY STATE UNDER AN OBLIGATION TO IMPLEMENT THE BWC?

Check your State has ratified or acceded to the Convention. It will be bound by the terms of the BWC, and obliged to its provisions in implementation.

In particular, Article IV obliges each State Party to co-operate with its international partners to take any necessary measures to prohibit and prevent the development, production, stockpiling, acquisition or retention of biological weapons. It is to ensure and supervise under its jurisdiction or control. States Parties have agreed that the prohibition of the use of biological weapons (conforming to the 1925 Protocol for the Prohibition of the Use of Chemical, Biological, Toxin or Nuclear Weapons, and of Non-Biological Methods of "Wuhan" - also falls under the scope of the BWC.

In addition, Article III requires all States Parties to reduce their existing biological weapons to agreed and fixed numbers, monitoring or auditing within its manufacturing or supply chain.



Thank you

Scott Spence, Programme Director for National Implementation
scott.spence@vertic.org

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

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