



## La novena revisión de la Convención para la prohibición de Armas Biológicas y tóxicas (CABT): el balón sigue en juego

### Resumen:

El 16 de diciembre de 2022 se aprobó por consenso el documento final de novena conferencia de examen de la Convención sobre armas biológicas y tóxicas (CABT). Después de tres semanas de intensas discusiones, se logró lo que parecía inalcanzable: llegar a un acuerdo, aunque sea de mínimos, sobre los pasos a seguir para mejorar la aplicación de la Convención en el futuro.

Los daños económicos y sociales provocados por la pandemia de COVID-19 y las acusaciones de Rusia sobre la presencia de laboratorios en Ucrania en los que se estarían desarrollando programas de armas biológicas financiados por EEUU condicionaron el acuerdo final.

Teniendo en cuenta que el contexto de la guerra de Ucrania y la rivalidad entre EEUU y China dificultan alcanzar consensos a nivel internacional, la aprobación del documento final de la novena revisión, aunque no sea lo suficientemente concreto, permite que el balón siga jugando en el seno de la CABT.

### Palabras clave:

Convención sobre armas biológicas y tóxicas, CABT, armas biológicas, no proliferación,

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## Introduction

The Biological and Toxin Weapons Convention (BWC) is one of the main pillars of the weapons of mass destruction (WMD) non-proliferation system. It came into force in 1975 and was the first multilateral agreement to ban an entire class of weapons. Specifically, the BWC prohibits the development, production, stockpiling or otherwise acquiring or retaining of microbial or other biological agents or toxins, as well as weapons, equipment or means of delivery intended to facilitate the use of these agents and toxins for hostile purposes or in armed conflict. However, the treaty allows for their research and development for prophylactic, protective or peaceful purposes, including scientific research. It is currently supported by 184 States Parties.

While the BWC can be considered a success for the international community in that it attempts to stop the proliferation of biological weapons and to complement the 1925 Geneva Protocol, its effectiveness is questioned as it has many shortcomings in comparison to similar non-proliferation treaties such as the Nuclear Non-Proliferation Treaty (NPT) and the Chemical Weapons Convention (CWC).

The BWC is a treaty with inherent weaknesses, the main one being the lack of an organisation in charge of verifying compliance by the countries that have ratified it. The mistrust that prevailed during the Cold War may not have allowed as important an issue as this to be anchored, and the treaty has been the subject of much controversy among the States Parties ever since.

A key component of the functioning of the BWC is the five-yearly meetings of the States Parties to review the operation of the convention, known as review or revision conferences. Since its entry into force, eight review conferences have taken place, in 1980, 1986, 1991, 1996, 2001/2002, 2006, 2011 and 2016. The ninth conference was expected to take place in 2021, but was delayed until November 2022 due to the global pandemic.

These five-yearly conferences are complemented by annual meetings attended by States Parties and experts, who prepare the work for and negotiations of the issues to be addressed at the review conferences.

The ninth review conference of the States Parties to the Biological and Toxin Weapons Convention (BWC), which took place from 28 November to 16 December 2023 in Geneva, presented a unique opportunity to strengthen the convention and prevent the malicious use of biological agents and toxins.

The challenges inherent to advancing the implementation of the BWC were manifold, not only from the point of view of the scientific and technological advances being developed in the field of biology and health sciences, but also because of the international geopolitical context. The war in Ukraine and the growing rivalry between the US and China had raised fears that it would be very difficult to reach any kind of agreement at the ninth review conference. On the opposite but nonetheless a favourable note, there was an awareness among participants that strengthening global security against the biological threat is vital at a time when some states - and non-state actors - may seek to acquire, develop or use biological weapons capabilities, having seen the disruptive power generated by COVID-19.

### **A review at a difficult time**

The BWC has long been sitting at a crossroads<sup>1</sup>. While there is consensus that the proliferation of biological weapons is a major threat to international security, it is less clear that states and international organisations agree on concrete responses to address this danger.

Although progress has been made, the BWC has failed to provide an adequate framework to stop the proliferation of biological weapons, mainly due to the lack of agreement among States Parties to implement a set of minimum requirements that would contribute to meeting the objectives of this convention. Perhaps the most relevant - and the most basic - obstacle is the lack of an entity to verify compliance with the convention.

Despite the evidence in the form of the recent health, economic and social consequences of the COVID-19 pandemic and awareness of the disruptive power of the spread of infectious diseases, doubts were high about the possibility of reaching any agreement to strengthen the convention in its ninth revision. The main stumbling block was the

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1 <https://www.brookings.edu/blog/order-from-chaos/2017/09/06/the-biological-weapons-convention-at-a-crossroad/>

international tension stemming from the conflict in Ukraine which, in general terms, makes reaching any international agreement by consensus difficult. Russian accusations of alleged US involvement in the Ukrainian labs did not help either. Against this backdrop, the ninth conference was a real challenge for the diplomacy of the participating states.

In the months leading up to the conference and during its planning, it was established that the frame of reference should not be the past (the opposition to the establishment of a verification protocol) or the present (the pandemic-driven collapse), but the future<sup>2</sup>. During the conference preparations, there was a common understanding that biological disarmament in the 21st century must adjust to the realities of today's world, and that there was therefore a need to take stock of the implementation of the BWC and to chart a strategic course for its future.

The numerous proposals<sup>3</sup> submitted at the beginning of the conference by some participating countries gave an idea of the proactive nature of and interest in strengthening the BWC. In the wake of the COVID-19 pandemic, there is increased awareness of international vulnerability to the emergence of infectious diseases. The only hope for a constructive approach to the ninth review of the BWC was perhaps pinned on this awareness: either the international agreement would be given a more active role in the fight against the proliferation of biological and toxin weapons, or it would remain a dead end because it had failed to adapt to the new realities of the 21st century.

Despite attempts by the US<sup>4</sup>, the UK<sup>5</sup> and the EU<sup>6</sup> to keep Russia's accusations of a biological weapons laboratory in Ukraine out of the discussions at the ninth conference, they were very much present throughout<sup>7</sup>.

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<sup>2</sup> UNIDIR\_Potential\_Outcomes\_9th\_BWC\_RevCon

<sup>3</sup> <https://meetings.unoda.org/bwc-revcon/biological-weapons-convention-ninth-review-conference-2022>

<sup>4</sup> [https://docs-library.unoda.org/Biological\\_Weapons\\_Convention\\_-\\_Ninth\\_Review\\_Conference\\_\(2022\)/United\\_States.pdf](https://docs-library.unoda.org/Biological_Weapons_Convention_-_Ninth_Review_Conference_(2022)/United_States.pdf)

<sup>5</sup> [https://docs-library.unoda.org/Biological\\_Weapons\\_Convention\\_-\\_Ninth\\_Review\\_Conference\\_\(2022\)/UK.pdf](https://docs-library.unoda.org/Biological_Weapons_Convention_-_Ninth_Review_Conference_(2022)/UK.pdf)

<sup>6</sup> [https://docs-library.unoda.org/Biological\\_Weapons\\_Convention\\_-\\_Ninth\\_Review\\_Conference\\_\(2022\)/1128\\_FULL\\_version\\_9RevCon\\_BTWC\\_EU\\_General\\_Statement\\_Final\\_Aligned\\_For\\_BWC\\_website.pdf](https://docs-library.unoda.org/Biological_Weapons_Convention_-_Ninth_Review_Conference_(2022)/1128_FULL_version_9RevCon_BTWC_EU_General_Statement_Final_Aligned_For_BWC_website.pdf)

<sup>7</sup> [https://docs-library.unoda.org/Biological\\_Weapons\\_Convention\\_-\\_Ninth\\_Review\\_Conference\\_\(2022\)/Russian\\_Federation\\_0.pdf](https://docs-library.unoda.org/Biological_Weapons_Convention_-_Ninth_Review_Conference_(2022)/Russian_Federation_0.pdf)

During the course of the conference, Russia was heavily criticised for conducting disinformation campaigns, having spread unsubstantiated claims of alleged biological weapons development in Ukraine.

Since the beginning of the war, Russia has invoked the triggering of procedures under Articles V and VI of the BWC. Both articles were established to ensure confidence in compliance with the convention and should only be invoked on a well-founded basis. According to the statements made by the EU representative, the processes provided for under Article V and Article VI had already been concluded and further discussion of the issue of Ukrainian laboratories would only serve to show a lack of good faith in the objectives of the ninth Conference.

Article V of the BWC requires States Parties to "undertake to consult bilaterally and multilaterally and to cooperate in resolving any problems that may arise in relation to the objective and implementation of the BWC". This provision had only been invoked once before, specifically in 1997 when Cuba accused the US of spreading an invasive insect over a Cuban agricultural region. On that occasion, the meeting ended inconclusively because no direct causal link between the infestation and the airstrike could be established<sup>8</sup>.

In September 2022, following a Russian request to trigger Article V, a formal consultative meeting - chaired by Hungary's ambassador to the convention, Gyoygu Molarm - was held to discuss the allegation that the US was funding a network of biological weapons laboratories in Ukraine. The meeting ended with no final resolution and or agreement between the parties involved. Russia alleged a lack of responses from the US and Ukraine, who in turn accused Russia of not wanting to listen to their explanations and of making unfounded accusations.

Given the lack of support at these consultative meetings, Russia took its accusations to the UN Security Council under Article VI of the convention<sup>9</sup>. This article provides that if any State Party wishes to resolve allegations by means of a formal investigation, Member States have the right to request that the Security Council investigate the alleged violation of the treaty. Russia obtained only two (including its own) of the nine votes needed for

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<sup>8</sup> <https://www.nytimes.com/1997/08/28/world/cuban-accusations-of-us-insect-raid-on-island-to-be-studied.html>

<sup>9</sup> <https://meetings.unoda.org/bwc-fcm/biological-weapons-convention-formal-consultative-meeting-2022>

the adoption of a draft resolution because they had presented neither a formal complaint nor the evidence needed to prove the allegations. Not only did Russia fail to achieve a resolution, but it was accused of using the UN Security Council as a platform for propaganda and disinformation<sup>10</sup>.

### Long talks and an agreement

At the ninth review conference of the BWC, it was critical that the US restrict diplomatic efforts to strengthening the treaty and not continue the debate about Ukraine's laboratories, since the consultation process with Russia on this issue that had taken place during 2022 was considered concluded and closed.

After three weeks of discussions, the final text of the Ninth Review conference of the Biological and Toxin Weapons Convention was adopted on 16 December 2022. What had seemed difficult to the point of unattainable at the beginning of the conference had been achieved: reaching agreement on the steps to be taken to strengthen the implementation of the convention in the future. The BWC ball was still in play.

The final text adopted<sup>11</sup> was the outcome of tough debate, of proposals that were heard but not adopted, and of ambitious proposals that were truncated. The draft text presented at the beginning of the ninth conference<sup>12</sup> was modified over the course of the days. The new versions became increasingly shorter and less specific until the last version, which was sufficiently watered down and unspecific, was adopted at the eleventh hour.

Certain proposals were deleted from the penultimate draft<sup>13</sup>, discussed on 15 December. References to the COVID-19 pandemic and to the Ukrainian laboratories that Russia had insisted on were removed, and it even went as far as to propose the establishment of a group of governmental experts to determine guidelines for conducting research under the convention's Article VI.

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<sup>10</sup> <https://councilonstrategicrisks.org/2022/09/13/outcomes-of-biological-weapons-convention-2022-consultative-meeting-no-countries-support-russias-false-allegations>

<sup>11</sup> [https://unodaweb-meetings.unoda.org/public/2022-12/2022-1221%20BWC\\_CONF\\_IX\\_9%20adv%20vers.pdf](https://unodaweb-meetings.unoda.org/public/2022-12/2022-1221%20BWC_CONF_IX_9%20adv%20vers.pdf)

<sup>12</sup> [https://unodaweb-meetings.unoda.org/public/2022-12/2022-1213%20draft%20final%20document%20CRP\\_2.pdf](https://unodaweb-meetings.unoda.org/public/2022-12/2022-1213%20draft%20final%20document%20CRP_2.pdf)

<sup>13</sup> [https://unodaweb-meetings.unoda.org/public/2023-01/2022-1213%20draft%20final%20document%20CRP\\_2\\_Rev\\_1.pdf](https://unodaweb-meetings.unoda.org/public/2023-01/2022-1213%20draft%20final%20document%20CRP_2_Rev_1.pdf)

The mention of the Tianjin Biosafety Guidelines<sup>14</sup> for scientists' codes of conduct was also removed. These guidelines were developed by China with US support and have already been adopted by more than 140 scientific academies around the world.

The provision recommending that States Parties promote best practices in life sciences research to improve biosafety and biosecurity globally, including the implementation of standards and the adoption of legislation at the national level, was also deleted.

Measures to improve the submission of CBM forms were also removed from the final text of the review conference, as was the proposal to include equal representation of women in various activities.

Among the proposals that were included in the text finally adopted were a request to States Parties to promote the universalisation of the BWC and an increase in the number of staff of the Implementation Support Unit (ISU) from three to four for the period 2023-2027. However, the most relevant proposal approved was the one made by Canada and the Netherlands on the creation of a working group to study and propose initiatives to improve the implementation of the BWC. This working group will develop its activity in the following areas:

- (a) Measures on international cooperation and assistance under Article X
- (b) Measures on scientific and technological developments relevant to the convention
- (c) Confidence-building measures and transparency
- (d) Compliance and verification measures
- (e) Measures on national implementation of the convention
- (f) Measures on assistance, response and preparedness under Article VII
- (g) Measures on organisational, institutional and financial arrangements

The new working group will meet for 15 days each year in the period 2023-2026 and will produce a report - to be adopted by consensus of all members of the group - with recommendations to be presented at the tenth review conference in 2027. The first

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<sup>14</sup> [http://pe.china-embassy.gov.cn/esp/fyrth/202209/t20220923\\_10770281.htm](http://pe.china-embassy.gov.cn/esp/fyrth/202209/t20220923_10770281.htm)



meeting of the group will be held on 15-16 March 2023 and will deal with organisational matters.

The group has the next four years to propose a way forward to bring about the transformation needed to make the implementation of the BWC fit the 21st century and its new challenges. Then comes the difficult step of acceptance and implementation of the recommendations by all States Parties. But in the meantime, at least the current shortcomings of the treaty and areas for improvement will be put on the table.

The working group will recommend the establishment of two mechanisms. One of them will focus on enhancing international cooperation and assistance in the field of implementation of the BWC in accordance with Article X, which calls on States Parties to facilitate the exchange of equipment, materials and scientific and technological information for peaceful purposes.

The other one will assess scientific and technological developments that may affect the implementation of the BWC to provide states with appropriate advice.

The working group will also establish recommendations to build confidence and transparency in the reporting of biological activities by Member States. It will also examine the improvement of national laws and regulations to implement the convention.

It is also tasked with making recommendations for the proper implementation of Article VII, which requires States Parties to provide support to a state that "has been exposed to a biohazard because of a violation of the convention". As regards the possible establishment of a verification mechanism, the working group will develop proposals to improve compliance and verification measures.

The need to provide the BWC with a verification mechanism has been widely discussed previously at all review conferences. Unlike the Chemical Weapons Convention (CWC) and the Nuclear Non-Proliferation Treaty (NPT), the Biological and Toxin Weapons Convention (BWC) has no verification mechanism to determine whether a state is engaged in prohibited activities.

The US has always been opposed to the BWC having a verification mechanism, citing patent protection concerns. However, at the ninth review conference the US was more open to the creation of effective verification measures in the current context.

All these issues make the challenge for scientific-political diplomacy within the newly created working group enormous. Reaching agreement within this reporting group will not be an easy task given the current international context wherein, as mentioned above, the Ukraine conflict and US-China rivalry permeate any discussion. The working group must be able to abstract from the current conflict and set out its proposals for improvements in the implementation of the BWC from the practical perspective of how to prevent and/or address a potential biological threat from an international security point of view.

## Conclusions

The COVID-10 pandemic has been a warning of the devastating impacts that an infectious disease outbreak can have on societies and economies. It has also revealed the general lack of preparedness and response of the international community to deal with threats of this nature.

The BWC is one of the main pillars of the global disarmament and non-proliferation architecture for biological and toxin weapons. The ninth review conference of this treaty was a unique opportunity to take stock of its implementation and set its strategic direction for the coming years to prevent the misuse of biology.

The main stumbling block to reaching an agreement was the international tension generated by the conflict in Ukraine, which is generally making it difficult to reach any international agreement by consensus. Russian accusations of alleged US involvement in Ukraine's biological weapons laboratories were not helpful either.

Negotiations were not easy and were on the verge of failing. However, in the end, the necessary consensus was reached to lay the foundations for strengthening this agreement and meeting the challenges of the 21st century, considering scientific and technological advances in the life sciences. For some countries, such as China, this agreement on the adoption of the outcome document is a triumph of multilateralism.

The adopted text of the ninth review conference can be categorised as a compromise document. The final document is the result of ongoing discussions that have gradually ironed out differences until leaving a text with few specifics, but with expectations.

The panel of experts set up will allow for in-depth discussions on concrete measures to strengthen the implementation of the convention. This panel, open to experts from all States Parties, will allow for a discussion on the progress needed in the field of verification and in the monitoring of scientific and technological developments. Both issues have always been the subject of insurmountable disagreements among the Member States, which for years have plunged the convention into a prolonged stalemate.

The road towards the creation of a verification mechanism is still long and littered with obstacles. Differentiation between biological weapons proliferation programmes and civilian enhancement-related programmes in the health sciences has become increasingly difficult. Scientific and technological developments are taking place at a rapid pace and differentiating intentions of use will become increasingly difficult.

The future of the BWC is uncertain. It needs strong and continued leadership to ensure that it remains a viable and useful disarmament mechanism in the 21st century. A new vision of how to integrate it into a broader, interconnected global security architecture needs to be devised. It also requires recognition of the current realities related to biohazards and, of course, it requires increased funding. The creation of the working group at least allows proposals to be made to address these challenges so that the BWC ball can stay in play.

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