



## *The BTWC Process: Overview and Current Status*

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### *The international norm against BW*

- **1925 Geneva Protocol**
  - Bans the use of CBW in war
  
- **1972 Biological and Toxin Weapons Convention**
  - Bans development, production and stockpiling of BW and toxin weapons
  - Ban on use explicitly referred to at 4<sup>th</sup> Review Conference (1996) and 6<sup>th</sup> Review Conference (2006)
  
- **1993 Chemical Weapons Convention**
  - Bans development, production, stockpiling and use of toxin weapons



## *The BTWC as a disarmament treaty*

- Biological and toxin weapons cannot be developed, produced, or stockpiled, or otherwise acquired or retained (Art. I)
  - Ban on use through reference to 1925 Geneva Protocol
  - Confirmation of ban on use at 1996 and 2006 Review Conferences
- Destruction or conversion obligation (Art. II)
  - Must have been fulfilled before a State can become a new Party to the BTWC (2006 Review Conference)
- Non-proliferation obligation (Art. III):
  - No transfer to any recipient (state or non-state actor) of BTW
  - No assistance, encouragement or inducement of states, groups of states or international organizations to acquire BTW
- National legislation and regulations makes these prohibitions applicable to individuals and legal entities in State Party (Art. IV)



## *The BTWC: Some basic facts*

- Negotiation: 1969-71
- Opening for signature: 10 April 1972
- Entry into force: 26 March 1975
- Global membership (June 2010):
  - States parties: 163
  - Signatory states: 13
  - Non-signatory states: 19

**→ 32 non-states parties (= 16.4%)**



## *Benefits deriving from the BTWC*

### ● **Security regime**

- Opportunities for international cooperation in the fields of protection, prophylaxis, and other peaceful purposes (Art. I & X)
- Right to request international assistance in case of BTW threat or treaty violation (Art. VII)
- Consultation and complaints procedures (Art. V & VI)
- Unlimited duration (Article XIII)

### ● **Development regime**

- Possibilities for economic development and scientific and technological exchanges in support of peaceful purposes (Art. X)
  - Opportunities for bilateral cooperation or interregional initiatives
  - Opportunities to strengthen national health infrastructure (also against natural disease outbreaks) and oversight capacity



## *Security benefits from the BTWC – 1*

### ● **Contribution to threat reduction**

- Closing of gaps in the international network against BW
  - Territory cannot be used for illicit activities by terrorists or criminals
  - Benefits one's own country
  - Benefits other states, particularly neighbours and other ones in the region
- BTWC implementation
  - Gives ability to prevent incident from happening (e.g., apprehension of terrorists before incident)
  - Promotion of transparency and accountability by relevant research institutes, industry and other facilities
- International cooperation for dealing with BW threats becomes possible
- Participation in BTWC regime formation
  - Review conferences (every 5 years)
  - Annual meetings of experts and the States Parties on specific topics



## *Security benefits from joining the BTWC – 2*

- **Contribution to national health security (also for natural disease!)**
  - Participation in (the development of) programmes for disease surveillance
  - Improvement of oversight (biosafety & biosecurity)
  - Improvement of health infrastructure
    - Contribution to capabilities to deal with emerging and re-emerging diseases
- **Opportunities for international cooperation**
  - Learning from the experiences from other States Parties to the BTWC
  - Possibilities of bilateral assistance and cooperation to address their specific needs
    - e.g., national implementation assistance for BTWC States Parties under this EU Joint Action
  - Possibilities for scientific exchanges



## *Stakeholders*

- Any person or legal entity affected by national measures to implement and enforce the BTWC:
  - Parliamentarians
  - Government departments (agriculture, customs, education, foreign affairs, justice, health, internal affairs, science, trade)
  - Law enforcement agencies
  - Biotechnology industry associations
  - Scientific associations in the field of human/veterinary/plant biosciences
  - Civil society
- Important: engage in consultation, awareness-raising, and training of certain stakeholder groups at the earliest opportunity



## *Why involvement from stakeholders?*

### **Article IV of the BTWC**

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.*



## *Analysis of Article IV of the BTWC*

- State Party obligation to adopt any necessary measures to transpose the prohibitions of Articles I, II, and III into national law
  - Article I: core prohibitions relating to the development, acquisition and retention of BW
  - Article II: obligation to destroy any existing BW holdings or to convert them to peaceful uses
  - Article III: non-proliferation obligation (covers state and non-state actors)
- Core elements of Article IV
  - Prohibition, prevention and enforcement
  - Geographical reach:
    - Within the territory of the State Party
    - Any territory under the jurisdiction of the State Party
    - Any territory under the control of the State Party
    - Extraterritorial application, if possible, with respect to natural and legal persons possessing a State Party's nationality (*6<sup>th</sup> Review Conference*)
  - Applies to any natural or legal person (including foreign entities)
- Undertaken in accordance with constitutional processes of the State Party



## *Objects of the prohibitions*

- Defined in Article I of the BTWC
- Biological agents and toxins
  - Understanding of concepts expanded at Review Conferences
    - *See additional understandings prepared by the BTWC Implementation Support Unit (ISU)*
  - Application of the 'General Purpose Criterion'
    - *'... that have no justification for prophylactic, protective or other peaceful purposes'*
  - General Purpose Criterion also bound by
    - The *type* of the biological agents and toxins concerned
    - The *quantities* of biological or toxin agents available
- Instruments designed to use biological agents and toxins for hostile purposes or in armed conflict
  - Weapons, equipment and delivery means



## *Prohibited activities*

- Development, production, stockpiling, acquisition and retention of BW (*Article I*)
- Transfer to any *state* or *non-state* actor of BW (*Article III*)
- Assistance, encouragement, inducement of other entities to undertake any activity in violation of Article I (*Article III*)
- Use of biological agents
  - As an instrument of war
    - 1925 Geneva Protocol (*Preamble and Article VIII*)
    - Understandings stated at the 4<sup>th</sup> and 6<sup>th</sup> Review Conferences
  - For criminal or terrorist purposes
    - UN Security Council Resolution 1540



## Required activities

- Destroy existing biological agents and toxins that do not meet the General Purpose Criterion (*Article II*)
- Divert such biological agents and toxins to peaceful purposes (*Article II*)
  - Bear in mind: *types* and *quantities* determine what can be diverted to peaceful purposes
  - Should have been done nine months after entry into force
  - For new States Parties: this must have been completed upon ratification of accession to the BTWC (*6<sup>th</sup> Review Conference*)



## Types of legislative measures

- 'Any necessary measures' (*Article IV*)
  - Wide range of legislative and regulatory tools available
- Penal legislation
  - Deterrence and prevention
- Criminal procedural legislation
  - Enable investigation and prosecution of BW-related crimes
    - Before an incident (→ incorporation of the General Purpose Criterion)
    - After an incident
- Transfer controls
  - Import and export control legislation
  - Legislation governing domestic transfers of materials
- Authorization of legitimate biological activities
  - Registration and licensing of legal and natural persons and certain types of activity
  - Transport regulations
  - Biosafety and biosecurity measures
- Designation of a national focal point for the coordinating of national implementation of the BTWC and communicating with other States Parties and relevant international organizations (*6<sup>th</sup> Review Conference*)



## *Other activities under Article IV*

The 6<sup>th</sup> Review Conference urged States Parties to undertake the following activities under Article IV:

- Strengthening of methods and capacities for **surveillance and detection of outbreaks of disease** at the national, regional and international levels
- **Inclusion of information on the BTWC and the 1925 Geneva Protocol** in medical, scientific and military educational materials and programmes.
- **Promotion of the development of training and education** programmes for those granted access to biological agents and toxins relevant to the Convention and for those with the knowledge or capacity to modify such agents and toxins, in order to raise awareness of the risks, as well as of the BTWC obligations
- Support and encouragement of the development, promulgation, adoption and promotion of **codes of conduct and other self-regulatory mechanisms**



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