

Briefing Book

Seventh BWC Review Conference
2011

Briefing Book

Seventh BWC Review Conference 2011



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Caitríona McLeish and Richard Guthrie

October 2011

Contents

Abbreviations	7
Introduction	9
1. The Treaties	13
1925 Geneva Protocol Full Title: <i>Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or other Gases, and of Bacteriological Methods of Warfare</i>	17
1972 Biological Weapons Convention Full title: <i>Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction</i>	19
High Contracting Parties to the Geneva Protocol	25
Reservations to the Geneva Protocol	28
States Parties and Signatory States to the BWC	31
2. BWC Documents	33
BWC Review Conference Documents	
<i>Final Document of the First Review Conference, Part II, document BWC/CONF.I/10 (1980)</i>	39
<i>Final Document of the Second Review Conference, Part II, document BWC/CONF.II/13 (1986)</i>	45
<i>Final Document of the Third Review Conference, Part II, document BWC/CONF.III/23 (1991)</i>	57
<i>Final Document of the Fourth Review Conference, Part II, document BWC/CONF.IV/9 (1996)</i>	73
<i>Final Document of the Fifth Review Conference, document BWC/CONF.V/17 (2001 and 2002)</i>	91
<i>Final Document of the Sixth Review Conference, document BWC/CONF.VI/6 (2006)</i>	105
<i>Report of the Preparatory Committee for the Seventh Review Conference, BWC document BWC/CONF.VII/PC/2 (2011)</i>	123
Reports of 2007-2010 Meetings of States Parties	
<i>Report of the 2007 Meeting of States Parties, document BWC/MSP/2007/5 (2007)</i>	143
<i>Report of the 2008 Meeting of States Parties, document BWC/MSP/2008/5 (2008)</i>	161
<i>Report of the 2009 Meeting of States Parties, document BWC/MSP/2009/5 (2009)</i>	181
<i>Report of the 2010 Meeting of States Parties, document BWC/MSP/2010/6 (2010)</i>	201
Other BWC Documents	
<i>Ad Hoc Meeting of Scientific and Technical Experts, Report, document BWC/CONF.II/EX/2 (1987)</i>	215
<i>Annex to Third Review Conference Final Declaration on Confidence Building Measures, document BWC/CONF.III/23 (1991)</i>	229
<i>Ad Hoc Group of Governmental Experts to Identify and Examine Potential Verification Measures From a Scientific and Technical Standpoint, Summary Report, document BWC/CONF.III/VEREX/8 (1993)</i>	249
<i>Final Report of the Special Conference (Part II), document BWC/SPCONF/1 (1994)</i>	269
<i>Report of the Formal Consultative Process, document BWC/CONS/1 (1997)</i>	273

<i>Letter from Ambassador Soutar Regarding the Formal Consultative Process (15 December 1997)</i>	275
<i>Background Information on Scientific and Technological Developments that may be Relevant to the Convention, document BWC/MSP/2008/INF.1 (2008)</i>	279
<i>Background Information on Scientific and Technological Developments that may be Relevant to the Convention, document BWC/MSP/2009/INF.1 (2009)</i>	287
<i>Background Information on Scientific and Technological Developments that may be Relevant to the Convention: Report on an international workshop in Beijing, document BWC/MSP/2010/INF.1 (2010)</i>	293

3. UN Documents 297

UN General Assembly resolutions on the BWC

General Assembly resolution 61/102 [on the BWC], UN document A/RES/61/102 (2006)	301
General Assembly resolution 62/60 [on the BWC], UN document A/RES/62/60 (2007)	303
General Assembly resolution 63/88 [on the BWC], UN document A/RES/63/88 (2008)	305
General Assembly resolution 64/70 [on the BWC], UN document A/RES/64/70 (2009)	307
General Assembly resolution 65/92 [on the BWC], UN document A/RES/65/92 (2010)	309

UN Security Council

Note by the President of the Security Council [on proliferation as a threat to international peace and security], UN document S/23500 (1992)	311
Security Council resolution 1540 [on national obligations to control WMD], UN document S/RES/1540 (2004)	317
Security Council resolution 1977 [on extending the duration of resolution 1540], UN document S/RES/1977 (2011)	321
1540 Committee matrix [extracts]	327

Other UN activities, including Secretary-General's Investigation Mechanism

General Assembly resolution 37/98 D -- <i>Provisional Procedures to Uphold the Authority of the 1925 Geneva Protocol</i> (1982)	335
Security Council resolution 620 [on the Iran-Iraq War] (1988)	336
General Assembly resolution 45/57 C -- <i>Measures to Uphold the Authority of the 1925 Geneva Protocol</i> (1990)	337
<i>Uniting Against Terrorism: Recommendations for a Global Counter-Terrorism Strategy</i> , UN document A/60/825 (2006) [extracts]	339
General Assembly resolution 60/288 -- <i>The UN Global Counter-Terrorism Strategy</i> , UN document A/RES/60/288 (2006)	345

4. Documents from Other International Organizations 355

Food and Agriculture Organization (FAO)

<i>Biosecurity in Food and Agriculture</i> , FAO document COAG/2003/9 (2003)	361
--	-----

International Committee of the Red Cross (ICRC)

<i>Biotechnology, Weapons and Humanity</i> (2002)	369
<i>Preventing Hostile Use of the Life Sciences: From Ethics and Law to Best Practice</i> (2004)	371

Interpol

1st Interpol Global Conference – Final Communiqué (2005)	375
--	-----

Organization for the Prohibition of Chemical Weapons (OPCW)

<i>Action Plan on national implementation</i> , OPCW Document C-8/DEC.16 (2003)	377
<i>Action Plan on universality</i> , OPCW Document EC-M-23/DEC.3 (2003)	381
<i>Decision on further implementation of the Action Plan on universality</i> , OPCW Document C-14-DEC.7 (2009)	385
<i>Decision on national implementation measures</i> , OPCW Document C-14-DEC.12 (2009)	389
<i>Report of the Advisory Panel on Future Priorities</i> , OPCW Document S/951/2011 (2011)	393

World Health Organization (WHO)

Global Health Security: Epidemic Alert and Response, World Health Assembly resolution 54.14 (2001)	409
<i>Global Public Health Response to Natural Occurrence, Accidental Release or Deliberate Use of Biological and Chemical Agents or Radionuclear Material that Affect Health</i> , World Health Assembly resolution 55.16 (2002)	411
<i>Laboratory Biosafety Guidance</i> , WHO document WHO/CDS/CSR/LYO/2004.11 (2004) [extract]	413
International Health Regulations, World Health Assembly resolution 58.3 (2005)	417
<i>Laboratory Biosecurity Guidance</i> , WHO document WHO/CDS/EPR/2006.6 (2006) [extract]	437
<i>Responsible life sciences research for global health security: a guidance document</i> , WHO document WHO/HSE/GAR/BDP/2010.2 (2010) [extract]	451

World Organisation for Animal Health (OIE)

B. Vallat, J. Pinto & A. Schudel, 'International organisations and their role in helping to protect the worldwide community against natural and intentional biological disasters', <i>Scientific and Technical Review</i> [OIE] 25(1) (2006)	463
--	-----

5. Documents from Regional and Other Organizations/Regions 473

Association of Southeast Asian Nations (ASEAN) / ASEAN Regional Forum (ARF)

Workshop on Biorisk Management, Co-Chairs' Summary Report (Manila, Philippines, 28-30, September, 2010)	477
Third ARF Inter-Sessional Meeting on Nonproliferation and Disarmament, Co-Chairs' Summary Report (Las Vegas, USA, 23-25 February 2011) [extract]	485
18th ASEAN Regional Forum, Chair's Statement (Bali, Indonesia, 23 July 2011) [extract]	487

European Union (EU)

Council Common Position 2003/805/CFSP of 17 November 2003 on the universalisation and reinforcement of multilateral agreements in the field of non-proliferation of weapons of mass destruction and means of delivery (2003)	489
Council Joint Action 2008/307/CFSP of 14 April 2008 in support of World Health Organisation activities in the area of laboratory bio-safety and bio-security in the framework of the European Union Strategy against the proliferation of Weapons of Mass Destruction (2008)	492
Council Joint Action 2008/858/CFSP of 10 November 2008 in support of the Biological and Toxin Weapons Convention, in the framework of the EU Strategy against the Proliferation of Weapons of Mass Destruction (2008)	499
Council Position Decision 2011/429/CFSP of 18 July 2011 relating to the position of the European Union for the Seventh Review Conference of the States Parties to the Convention on the prohibition of the development, production and stockpiling of bacteriological (biological) and toxin weapons and on their destruction (BTWC)	507

Latin America

The Declaration of Mendoza (1991)	513
Declaration on Renunciation of Weapons of Mass Destruction, Cartagena des Indias (1991)	515

Non-Aligned Movement (NAM)

15th Summit Conference of Heads of State or Government of the Non-Aligned Movement (Sharm el Sheikh, 2009) [extract]	519
<i>The Establishment of a Mechanism for the Full Implementation of Article X of the Convention</i> , Working Paper submitted to the BWC Meeting of Experts, BWC document BWC/MSP/2009/MX/WP.24 (2009)	523
16th Ministerial Conference of the Non-Aligned Movement (Bali, 2011) [extract]	527

Organization of American States (OAS)

<i>The Americas as a Biological and Chemical-Weapons-Free Region</i> , OAS General Assembly resolution AG/RES. 2000 (XXXIV-O/04)	531
--	-----

Regional and Other Seminars and Events

<i>Regional Seminar for South-East Asia on Promoting and Implementing Biosafety and Biosecurity</i> (Jakarta, Indonesia, 4-5 June 2008)	533
<i>International Workshop on Biological Weapons Convention Supporting Global Health: Reducing Biological Risks by Building Capacity in Health Security</i> (Oslo, Norway, 18-19 June 2009)	537
<i>Prospects for the 2011 BTWC Review Conference</i> , (Wilton Park, UK, 24-26 September 2010)	541
<i>International Workshop on Strengthening International Efforts to Prevent the Proliferation of Biological Weapons: The Role of the Biological and Toxin Weapons Convention</i> (Beijing, China, 4-6 November 2010)	549
<i>International Workshop on Developing Practical Proposals for the Seventh Review Conference of the Biological Weapons Convention</i> (Montreux, Switzerland, April 2011)	555
Outlook and Perspectives for the BTWC Seventh Review Conference (Berlin, Germany, 9-10 June 2011)	563
<i>Regional Workshop on Preparations for the Seventh Review Conference of the Biological Weapons Convention</i> (Manila, Philippines, 30 June-1 July 2011)	567
<i>BTWC Review</i> , (Wilton Park, [held in the Netherlands], 11-13 September 2011)	573

6. Documents from Other Arrangements 581

Australia Group

Control list of dual-use biological equipment and related technology (2011)	585
List of biological agents for export control (2011)	590
List of plant pathogens for export control (2011)	595
List of animal pathogens for export control (2011)	597

G8

The Global Partnership, Kananaskis (2002)	599
Statement on the Seventh BWC Review Conference (2011)	603

7. Non-Governmental Involvement 605

Abbreviations

AG	Australia Group
AHG	Ad Hoc Group
ARF	ASEAN Regional Forum
ASEAN	Association of Southeast Asian Nations
BTWC	Biological and Toxin Weapons Convention [<i>Note</i> : also known as the BWC]
BW	Biological Warfare/Weapons
BWC	Biological Weapons Convention [<i>Note</i> : also known as the BTWC]
CBM	Confidence-Building Measure
CBW	Chemical and biological warfare/weapons
CD	Conference on Disarmament
CW	Chemical Warfare/Weapons
CWC	Chemical Weapons Convention
EU	European Union
FAO	Food and Agriculture Organization
G8	Group of Eight Nations
IAP	InterAcademy Panel
ICRC	International Committee of the Red Cross
IHR	International Health Regulations
IMO	International Maritime Organization
Interpol	International Criminal Police Organization
IO	International Organization
ISP	Inter-Sessional Process
ISU	Implementation Support Unit
MSP	Meeting of States Parties
MX	Meeting of Experts
NAM	Non-Aligned Movement

NGO	Non-Governmental Organization
OAS	Organization of American States
OIE	World Organization for Animal Health (formerly Office International des Epizooties)
OPCW	Organization for the Prohibition of Chemical Weapons
PrepCom	Preparatory Committee
PSI	Proliferation Security Initiative
UN	United Nations
UNDDA	United Nations Department for Disarmament Affairs [UNODA from 2006]
UNGA	United Nations General Assembly
UNODA	United Nations Office for Disarmament Affairs [UNDDA until 2006]
UNSC	United Nations Security Council
UNSG	United Nations Secretary-General
UNSGIM	United Nations Secretary-General's Investigation Mechanism
VEREX	Ad Hoc Group of Governmental Experts to Identify and Examine Potential Verification Measures from a Scientific and Technical Standpoint
WHO	World Health Organization
WMD	Weapons of Mass Destruction

Introduction

On 5th December 2011 States Parties to the 1972 Biological Weapons Convention (BWC)¹ will reconvene in the Palais des Nations in Geneva for the treaty's Seventh Review Conference. This comprehensive BWC Briefing Book has been compiled to facilitate and stimulate active participation in the Conference by government delegations. It contains official documents and other texts relating to the biological weapons regime, including: official BWC documents (including the Final Documents from the previous five Review Conferences); documents from the United Nations, other international and regional organisations; documents from other arrangements; and a section on non-governmental involvement. Although designed primarily for Review Conference delegates, we hope this Briefing Book will also be a useful resource for researchers, NGOs, journalists and others in civil society with an interest in the biological weapons regime embodied in the BWC.

The BWC is a landmark treaty in international efforts to tackle threats to international peace and security as it was the first treaty to comprehensively ban an entire category of weapons of mass destruction. While the BWC itself may have been through trials and tribulations over its almost 40-year lifespan, it reflects a fundamental norm of the international community – that the hostile use of disease is indeed “repugnant to the conscience of mankind.” We view the Seventh Review Conference as an opportunity to consolidate the past achievements of the BWC and to plan for its future. We believe that the norm embodied in the BWC is strong and that the Review Conference can take practical steps to improve the universality and implementation of the Convention.

Background to the Briefing Book

The primary idea behind the Briefing Book is to assist delegates at the forthcoming Review Conference in their work and thus to contribute to a successful and constructive outcome to the Conference. By collecting together as many of the key relevant documents as possible, we hope to provide a convenient reference source for use during this Seventh BWC Review Conference, and beyond.

Experience, from having attended many previous BWC meetings as well as other international diplomatic gatherings, shows how advantageous it can be to have as many of the relevant documents as possible collected into one publication. We also hope that the Briefing Book will raise awareness of the BWC both with states that have not yet joined the Convention, and with researchers, academics, journalists and the general public who have an interest in issues relating to it. In producing this Briefing Book, we also hope to demonstrate the constructive input which civil society can make to international meetings such as the Seventh Review Conference. We are both longstanding supporters of the BWC and we see this Briefing Book as one of our contributions to nurturing and strengthening the Convention.

This volume is also intended to complement other activities by civil society at the Review Conference, such as the production of the daily reports under the auspices of BWPP (see <http://www.bwpp.org/reports.html>).

¹ *Note on terminology:* The *Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction* is known by two common names: the *Biological Weapons Convention* and the *Biological and Toxin Weapons Convention* with the consequent abbreviations BWC and BTWC. Therefore, the Seventh BWC Review Conference is also known as the Seventh BTWC Review Conference.

This Briefing Book follows on from earlier volumes prepared for the Sixth BWC Review Conference in 2006 and the Second Review Conference for the Chemical Weapons Convention (CWC) in 2008. This volume has been made possible through the financial support of the UK Foreign and Commonwealth Office.

The Mountbatten Centre for International Studies (MCIS), based within the University of Southampton, has produced an NPT Briefing Book, first published in 1990, which served as a model for this Briefing Book (see <http://www.mcis.soton.ac.uk>). There seemed to be no obvious reason why something which was clearly useful and well-received by delegates to NPT Review Conferences would not also be seen in the same way by delegates to BWC Review Conferences.

The concept of a Briefing Book for Review Conferences was initially discussed at a workshop of the Pugwash Study Group on the Implementation of the CBW Conventions in April 2005 in the Netherlands. The immediate priority then was the Sixth Review Conference and thanks to the support of the Ministry of Foreign Affairs of the Netherlands, HSP together with two other non-governmental organizations, the British-American Security Information Council (BASIC) and the Verification Research, Training and Information Centre (VERTIC) produced a Briefing Book for the Sixth Review Conference. Such was its success that HSP decided to produce a similar Resource Guide for the Second CWC Review Conference 2008. Through financial support from the UK Foreign and Commonwealth Office, the Ministry of Foreign Affairs of the Netherlands and the Ministry of Foreign Affairs of Portugal this idea was realised.

Selection of Documents

Following past precedent, editorial control regarding the content of this Briefing Book lies with the authors. In preparing a compilation of reference documents, we necessarily had to make decisions about which documents, or portions of them, to include or exclude. We realise that questions may be asked about our selection criteria, such as why we included one particular document and not another.

One easy answer to these questions relates to space; this Briefing Book is already quite a bulky volume and including more documents would have meant an even heavier book, and one that our target audience would be less likely to use. This reduces the possibilities of including lengthy documents in their entirety, except where they were essential or where extracting sections would have lessened their usefulness. Where we have included extracts from long documents we provide a reference to the original text.

In order to include those documents of most relevance to the Seventh Review Conference, we have focused on source materials published since the Sixth Review Conference in 2006. The main exception to this has been documents from previous Review Conferences and other BWC meetings. We include the report from the Preparatory Committee in April 2011 but have refrained from including any other documents of the Seventh Review Conference that have been released in advance because they will be distributed at the Review Conference.

We are also aware of the excellent resource that is <http://www.opbw.org> where hundreds, if not thousands, of BWC documents from the First Review Conference in 1980 onwards are available. Similarly, the website <http://www.unog.ch/bwc> also contains many of the official BWC documents from the First Review Conference onwards, including advance copies of papers for the Seventh Review Conference and information for States Parties, NGOs and the media. While aware of these electronic resources and keen to avoid duplication, we were also intent on producing something that was useful to delegates in the conference room and when away from computers.

This Briefing Book will also be hosted on the website <http://www.bwc2011.info>. Whilst the documents in the hard copy version of this Briefing Book are in English the e-version not only replicates the hardcopy Briefing Book but also contains, where readily available, the documents in their official translations into the five other UN languages.

While we have tried to be as comprehensive as possible, it is likely that we have missed some useful documents or that people will take issue with our selection policy. We therefore welcome comments on this Briefing Book, including suggestions of additional documents that may be included in a future edition.

Outcomes

A successful outcome of the Seventh Review Conference is vital to avoid the risk that the BWC may be seriously undermined at a time when biological weapons are recognised as a growing threat to international security. The authors firmly believe that the BWC remains the cornerstone of global efforts to prohibit and prevent biological weapons. However, for it to be truly effective, the Convention requires continued and renewed support. The baseline objective for a successful outcome at the Review Conference, therefore, should be for States Parties to identify, develop and promote initiatives for strengthening the BWC in the framework of a further series of annual meetings between the Seventh and Eighth Review Conferences, as has been suggested by a number of States Parties. However, more is needed than a repeat of the first two intersessional processes where common understandings were developed but little effective action taken. There is no shortage of pragmatic recommendations on how the intersessional process might evolve; what is needed at the Review Conference is innovative thinking and political will.

It is clear that there is no one single solution to a problem as complex as the threat posed by biological weapons. What is required is the involvement of a wide range of stakeholders at all levels from the individual to the international. In this regard, this Briefing Book will help to demonstrate the range of organizations, initiatives and arrangements that are already engaged in this process and contributes positively to promoting interactions and constructive collaborations.

Caitríona McLeish and Richard Guthrie

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1. The Treaties

The existing BW governance regime is made up of many elements but two multilateral treaties – the 1925 Geneva Protocol and the 1972 Biological Weapons Convention – stand apart from the rest, acting as the bedrock and the normative heart around which all other elements are built. This section includes the text of both treaties and lists the States Parties, Signatory States and non-Signatory States to both instruments.

The 1925 Geneva Protocol

Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare	
Date of adoption	17 June 1925
Date of entry into force	8 February 1928
Depositary	Government of France
States Parties	138
Signatory States	0

The 1925 Geneva Protocol prohibits “the use in war of asphyxiating, poisonous, or other gases and of all analogous liquids, materials or devices”, and it also bans “bacteriological methods of warfare.” It was adopted by the Conference for the Supervision of the International Trade in Arms and Ammunition and in Implements of War convened in Geneva by the League of Nations and builds on earlier international agreements on the laws of war, such as those from the 1899 and 1907 peace conferences in The Hague. The Geneva Protocol prohibitions are now widely considered to have entered customary international law, making them binding on all states, whether or not they have formally joined the treaty.

On joining the Geneva Protocol, over 40 states entered reservations. These reservations upheld the right of the reserving states to use the prohibited weapons against non-parties or in response to the use of these weapons by a violating party, or against the allies of the violating party even if they themselves have not committed a violation. These reservations, which were not strictly necessary as the Protocol was expressly drafted as a contract between its parties, reinforced the fact that the Protocol was essentially a no-first-use agreement. As a result of diplomatic pressure and the entry into force of the treaties banning production and possession of these weapons (the 1972 Biological Weapons Convention and the 1993 Chemical Weapons Convention), at least 17 states withdrew their reservations to the Protocol. However, according to a non-paper distributed by France during the 2006 session of the UN General Assembly’s First Committee, around 22 states parties retain reservations that are “often incompatible with the commitments made within the framework of the BTWC and CWC.” A list of High Contracting Parties to the Geneva Protocol and a list of those countries retaining reservations is provided in this section of the Briefing Book.

Since the 1980s, resolutions have been passed by both the United Nations Security Council and General Assembly encouraging the UN Secretary-General to investigate reports of possible violations of the Geneva Protocol. A total of 12 investigations have subsequently been carried out by the Secretary-General, some under the authority of these resolutions. During the Iran-Iraq

war of the 1980s UN investigators confirmed the use of chemical weapons by Iraq. In January 1989 States Parties to the Geneva Protocol and other interested states met in Paris to respond to the confirmed use of chemical weapons in the Iran-Iraq war and to support the negotiation of a chemical weapons convention. In the Final Declaration of the conference, they also reaffirmed their "full support for the Secretary-General in carrying out his responsibilities for investigations in the event of alleged violations of the Geneva Protocol." More detail of the Secretary-General's investigatory mechanism, and some of the relevant documents, is provided in the UN Documents section of the Briefing Book.

The Geneva Protocol currently has 138 High Contracting Parties. States wishing to ratify or accede to the Geneva Protocol should deposit their instrument of ratification/accession with the French Government, which is the Depositary of the Protocol. Instruments of ratification or accession should be sent to:

M. Aurélien Lepine-Kouas
Ministère des Affaires Etrangères
Sous-Direction du Désarmement chimique, biologique et de la maîtrise des armements
classiques
37 Quai d'Orsay
75700 Paris 07 SP
France

E-mail: Aurelien.LEPINE-KOUAS@diplomatie.gouv.fr

Phone: +33 1 43 17 43 09

Fax: +33 1 43 17 49 52

The 1972 Biological Weapons Convention

Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction	
Date of adoption	16 December 1971 (UN General Assembly)
Date of opening for signature	10 April 1972 (London, Moscow, Washington)
Date of entry into force	26 March 1975
Depositaries	Governments of Russia, United Kingdom and United States
States Parties	165
Signatory States	12

The 1972 Biological Weapons Convention prohibits the development, production, stockpiling or other acquisition or retention, or transfer of biological and toxin weapons (which are defined in Article I using a general purpose criterion) and requires the destruction of existing weapons. BWC states parties have additionally agreed that BW use is effectively covered by the treaty’s prohibitions. The states parties have therefore renounced germ weapons in order to “exclude completely” the possibility of such weapons being used against humans, animals or plants. States that have signed but not ratified the BWC are nonetheless obliged to refrain from acts which would defeat the object and purpose of the treaty, such as developing or using biological weapons.

The BWC was negotiated by the Conference of the Committee on Disarmament (a precursor of today’s Conference on Disarmament) at a time of heightened international concern about chemical and biological weapons in the late 1960s and was the first occasion when the two categories of weaponry prohibited together in the Geneva Protocol were separated. The justification for separate treatment of the two categories of weapon was the perception that, unlike a comprehensive prohibition of chemical weapons, a ban on biological weapons did not require intrusive verification and that it could therefore be concluded quickly.

The Convention reflects the post-Second World War renunciation of biological weapons by the defeated Axis powers, as found in the 1954 Revised Brussels Treaty, as well as the subsequent unilateral renunciations by other states, particularly by the US in 1969. The BWC extends the existing regime prohibiting the use of chemical or biological weapons (CBW) (elaborated in the 1925 Geneva Protocol), by explicitly banning the development, production, stockpiling and transfer of biological and toxin weapons. However, the BWC essentially makes no provision for any particular procedures or forms of international cooperation or organization to implement its rules, to verify compliance with its obligations (aside from the consultation and cooperation procedure in Article V and the complaint procedure involving the UN Security Council in Article VI) or to enforce its norm of non-possession. The Convention has been strengthened at its periodic Review Conferences and an attempt was made during the 1990s to negotiate a protocol to strengthen the BWC, although this ultimately failed in 2001. Section 2 provides more detail and documentation on the Review Conferences and efforts to strengthen the BWC.

As of 18 October 2011 the BWC has 165 States Parties and 12 Signatory States, while 18 States have neither signed nor ratified the BWC. The depositaries of the BWC are the governments of Russia, the UK and the USA. States wishing to ratify (Signatory States) or accede (non-Signatory States) to the treaty should send their instrument of ratification/accession to one or more of these three countries. The addresses to which instruments of ratification/accession should be sent are below:

Depository Contact Details

Russia	<p>Legal Department Ministry of Foreign Affairs of Russia 32/34 Smolenskaya-Sennaya Square Moscow 121 200 Russian Federation Phone: ++ 7 495 241 77 18 Fax: ++ 7 495 241 11 66 E-mail: dp@mid.ru</p> <p>NB: The instruments of ratification or accession are deposited in Moscow upon their transmittal through the established diplomatic channels.</p>
United Kingdom	<p>1 Treaty Section (Legal Advisers) Room G62 Old Admiralty Building Foreign and Commonwealth Office London SW1A 2PA United Kingdom Telephone: ++ 44 207 008 1109 Fax: ++ 44 207 008 1115 E-Mail: treaty.fco@gt.net.gov.uk Website: www.fco.gov.uk/treaty</p> <p>NB: Envelopes should be marked "For the attention of the Depository"</p>
United States of America	<p>Office of the Assistant Legal Adviser for Treaty Affairs United States Department of State, Suite 5420 2201 C Street, N.W. Washington, D.C. 20520 United States of America Phone: ++ 1 202 647 1345 E-mail: treatyoffice@state.gov Website: www.state.gov/s/l/treaty/</p> <p>NB: states wishing to deposit in Washington are advised to forward their instruments of ratification/accession to the Treaty Office through their embassies in Washington. Embassy staff should then call the Depository Officer at the Treaty Office on the phone number above to schedule an appointment for hand-delivery of the instrument.</p>