



**PREPARING FOR SUCCESS AT THE  
NINTH BIOLOGICAL AND TOXIN  
WEAPONS CONVENTION REVIEW  
CONFERENCE:  
A GUIDE TO THE ISSUES**

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FOR DISARMAMENT RESEARCH

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# ABBREVIATIONS AND ACRONYMS

|                 |   |
|-----------------|---|
| <b>AHG</b>      | Ad Hoc Group  |
| <b>BWC</b>      | Biological Weapons Convention   |
| <b>CBM</b>      | Confidence-building measure   |
| <b>COW</b>      | Committee of the Whole  |
| <b>CSTO</b>     | Collective Security Treaty Organization   |
| <b>CWC</b>      | Chemical Weapons Convention   |
| <b>EEG</b>      | Eastern European Group  |
| <b>EU</b>       | European Union  |
| <b>GRULAC</b>   | Group of Latin American and Caribbean Countries   |
| <b>ISU</b>      | Implementation Support Unit   |
| <b>JACKSNNZ</b> | Japan, Australia, Canada, Republic of Korea, Switzerland, Norway and New Zealand  |
| <b>NAM</b>      | Non-Aligned Movement and Other States   |
| <b>NGO</b>      | Non-governmental organization   |
| <b>NNA</b>      | Neutral and Non-Aligned States  |
| <b>PrepCom</b>  | Preparatory Committee   |
| <b>UNODA</b>    | United Nations Office for Disarmament Affairs   |
| <b>VEREX</b>    | Ad Hoc Group of Governmental Experts to Identify and Examine Potential Verification Measures from a Scientific and Technical Standpoint |
| <b>WG</b>       | Western Group   |
| <b>WMD</b>      | Weapons of Mass Destruction   |

# SUMMARY

- The Ninth Review Conference of the 1972 Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction (BWC) presents a unique opportunity for States Parties to strengthen this important disarmament agreement. To make the most of this opportunity, this report offers practical insights and lessons from past Review Conferences to help the States Parties and stakeholders prepare for a successful outcome.
- The report illustrates how the early nomination of a President-designate with a strong personal interest in – and commitment to – the BWC adds to the chances of Review Conference success. In turn, the President-designate requires adequate policy and practical support from his or her government as well as sufficient time and resources to commit to the task. Working with the Bureau, the President-designate will need to foster engagement from States Parties, regional and other groups, the scientific community, industry, academia and civil society.
- The President-designate should work with office holders and the BWC Implementation Support Unit (ISU) to map out possible obstacles to progress and identify suitable contingency measures well in advance of the Review Conference. This includes advanced consideration of possible procedural and budgetary difficulties, as well as the preparation of materials outlining the financial implications of possible outcomes.
- States Parties should also begin to prepare early for the Review Conference. This includes, for example, preparing their proposals and working papers, as well as bilateral or cross-regional exchange, discussion and coalition-building in support of a balanced package of specific outcomes. To this end, States Parties might consider the organization of international and regional workshops or seminars, which have been useful in the past. These external events can foster discussion on technical issues, nurture working-level relations, develop proposals and build support for specific outcomes.
- In the face of current challenges such as the global Covid-19 pandemic, advances in science and technology, and mounting international tensions between several of the major powers, a successful Review Conference would send an important signal to the international community that the BWC remains relevant and should be adhered to. For these reasons, the event may attract greater media interest than previous BWC Review Conferences, which could be leveraged to achieve high-level political engagement by States Parties towards achieving a constructive outcome.



# 1. INTRODUCTION

The agreement on the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction (Biological and Toxin Weapons Convention, BWC) in 1972 was a landmark achievement, that served to outlaw an entire category of weapons of mass destruction (WMD). Today, the Convention has 183 States Parties – most of the world’s countries.<sup>1</sup> The BWC’s strengths, as one leading expert, Nicholas Sims, describes it, “lie in its comprehensive scope and its essential logic. The deliberate infliction of disease, whatever the disease, is an affront to humanity which almost all governments have renounced, comprehensively, as even a distant military option.”<sup>2</sup>

The contemporary international security environment is radically different from the Cold War geopolitics that formed the backdrop for the BWC’s adoption almost five decades ago. Since then, there have also been tremendous advances in the life sciences and related fields that have implications for the Convention’s continued relevance and effectiveness. Mechanisms for review of the BWC are thus critical, especially since – unlike other international WMD regimes such as the 1993 Chemical Weapons Convention (CWC) – the BWC regime lacks a standing permanent structure and legally binding verification and monitoring measures.

The current five-yearly review cycle of the BWC is due to culminate in its Ninth Review Conference. This event was originally scheduled for late 2021. This gathering of the BWC’s States Parties, as well as interested and often expert observers from science, industry and civil society, is a critical opportunity for the regime to take stock of implementation and chart a strategic course for the Convention’s future.

Although past five-yearly Review Conferences were meant to oversee and guide the BWC regime, they encountered mixed success. Not all culminated in tangible outcomes or even consensus Final Declarations. The precise reasons for these results vary and some were specific to their times, as is explored below. It is likely that the Ninth Review Conference will again be a difficult meeting for the BWC regime against the backdrop of strategic tensions between major military powers and the testing of multilateral norms related to WMD. Nevertheless, the Convention’s underlying objective – to prohibit and prevent biological weapons – remains the same, and the regime’s dynamics and processes have not changed beyond all recognition. It is therefore worth examining what might be learned from the BWC’s past to help identify how the States Parties can converge around a successful outcome at the next BWC Review Conference. That examination extends to asking what, indeed, success would look like.

Among the people who are well placed to provide insights are those who were intimately involved in the deliberations of previous BWC Review Conferences or followed them closely, including office holders, former secretariat officials, and national and academic experts. In this study we attempt to draw upon their accumulated knowledge systematically. Our data was gathered from three main sources. First, we undertook semi-structured oral interviews with a sample of experts, from which we gathered notes and made comparisons. Second, we drew, where

<sup>1</sup> As of 1 March 2021. See United Nations Office for Disarmament Affairs, Treaties Database, <http://disarmament.un.org/treaties/t/bwc>.

<sup>2</sup> N.A. Sims, “What Future for Biological Disarmament?”, Presentation to BWC 40th Anniversary Event, 30 March 2015, Council Chamber of the Palais des Nations, Geneva, <https://www.the-trench.org/future-biological-disarmament>.

possible, from the academic and policy literature on the BWC, including personal accounts of past Presidents. Lastly, we drew on our own past involvement in and direct experiences of the past four BWC Review Conferences.

In the next section, we discuss the purposes of BWC Review Conferences, then, in section 4, some wider contextual factors to consider. Next, insights into the preparations, proposals, procedures, participants and politics of past Review Conferences are explored in sections 5–8, followed by an overview of key issues affecting past BWC review processes in section 9. Finally, using our discussion of past outcomes in section 10 as a baseline, we consider in section 11 what it means for the Ninth Review Conference.

The aim of this study is to deliver practical insights for the current BWC review process in a digestible form for policy-oriented practitioners. Some of them may be coming to biological disarmament issues with little prior knowledge, as national officials tend to rotate career assignments frequently. To this end, a glossary is provided. We have also sought to keep jargon to a reasonable minimum.

Our findings should not be considered prescriptive. The Ninth BWC Review Conference, like all of those before it, faces its own unique challenges and dynamics. Between now and the Review Conference, changes in those dynamics may require fresh responses that we and the experts consulted did not anticipate. Nevertheless, as the Convention's States Parties head into the process, this study should help to prepare them to achieve an outcome that preserves and strengthens the biological weapons regime.



## 2. GLOSSARY

**Background Documentation:** This covers topics such as compliance by States Parties with their obligations under the BWC and the history and operation of the Convention's confidence-building measures (CBMs). According to recent practice, the Implementation Support Unit (ISU) prepares this documentation at the request of the Preparatory Committee (PrepCom).

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**Bureau:** This consists of a chairperson and two vice-chairs elected at the PrepCom who are authorized to handle "technical and other matters in the period before the [BWC] Review Conference".<sup>3</sup> The chairperson typically becomes the President-designate and is officially elected as President of the Review Conference at the beginning of the review meeting under its rules of procedure. One of the vice-chairs becomes the chair of the Committee of the Whole (COW) and other becomes the chair of the Drafting Committee. See also *General Committee* below.

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**Committee of the Whole (COW):** A committee established by the conference "to facilitate discussion and negotiation. Like other committees, the power of the COW is limited to making recommendations for adoption by the conference in plenary meeting".<sup>4</sup>

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**Credentials Committee:** A committee "mandated to review the credentials of delegations, ensure that they are properly accredited by an authority which is entitled to be represented at that conference, and report to the plenary of a conference".<sup>5</sup>

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**Drafting Committee:** A Committee tasked with coordinating "the drafting of and edit[ing of] all texts referred to it by the Conference".<sup>6</sup>

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**Friend of the Chair/President:** "A delegate who has been mandated by the presiding officer to undertake a task, usually that of finding consensus on a particular issue or body of issues."<sup>7</sup> Past BWC Review Conferences appointed Friends of the Chair to address various specific topics.

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<sup>3</sup> 8th BWC Review Conference, "Final report of the Preparatory Committee", BWC/CONFVIII/PC/9, 26 August 2016, <https://undocs.org/BWC/CONFVIII/PC/9>, paragraph 6.

<sup>4</sup> R.A. Walker and B. Boyer, A Glossary of Terms for UN Delegates, United Nations Institute for Training and Research (UNITAR), 2005, [https://www.unitar.org/sites/default/files/media/publication/doc/Glossary\\_E\\_0.pdf](https://www.unitar.org/sites/default/files/media/publication/doc/Glossary_E_0.pdf), p. 35.

<sup>5</sup> Ibid, p. 44.

<sup>6</sup> 8th BWC Review Conference, "Draft Rules of Procedure of the Eighth Review Conference", BWC/CONFVIII/2, 19 August 2016, <https://undocs.org/BWC/CONFVIII/2>, p. 9.

<sup>7</sup> R.A. Walker and B. Boyer, A Glossary of Terms for UN Delegates, United Nations Institute for Training and Research (UNITAR), 2005, [https://www.unitar.org/sites/default/files/media/publication/doc/Glossary\\_E\\_0.pdf](https://www.unitar.org/sites/default/files/media/publication/doc/Glossary_E_0.pdf), p. 65.

**General Committee:** This committee consists of the office holders and others responsible for the management of the Review Conference: the President (who chairs the committee) and 20 vice-presidents; the chairs and two vice-chairs of the COW and of the Drafting Committee; the chair and vice-chair of the Credentials Committee; the three regional group coordinators; and the three Depositary governments of the BWC.

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**General Purpose Criterion (GPC):** This refers to the intent-based definition of biological weapons employed under Article I of the BWC. This definition prohibits “microbial or other biological agents, or toxins whatever their origin or method of production, of types and in quantities that have no justification for prophylactic, protective or other peaceful purposes”.<sup>8</sup>

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**Implementation Support Unit (ISU):** The unit established by the Sixth Review Conference, in 2006, to provide support to the BWC and its States Parties. Currently, the three-person ISU is based within the Geneva Branch of the United Nations Office for Disarmament Affairs (UNODA) at the Palais des Nations. Prior to 2006, administrative support was provided to BWC meetings by staff temporarily assigned from within UNODA.

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**President:** Under its rules of procedure, each Review Conference elects a President. In practice, the term Review Conference chair is often used inter-changeably with that of President.

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**Preparatory Committee (PrepCom):** For the first seven BWC Review Conferences, the PrepCom typically met for a couple of days to discuss procedural matters related to the upcoming five-yearly review meeting. In 2016, this became two sessions: one two-day meeting in April focused on procedural matters and a second, five-day meeting in August on substantive issues. The PrepCom is chaired by a chairperson and two vice-chairs, who usually go on to become the President of the Review Conference and chairpersons of the COW and Drafting Committee, respectively.

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**Rules of Procedure:** The Rules of Procedure govern the workings and decision-making of the Review Conference. The Rules of Procedure for the BWC Review Conference were originally taken from the 1968 Treaty of the Non-Proliferation of Nuclear Weapons and have largely remained unchanged.<sup>9</sup>

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**Solemn declaration:** This refers to language in the Review Conference’s Final Declaration pertaining to the BWC’s preambular paragraphs.

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<sup>8</sup> Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, 1972, <http://disarmament.un.org/treaties/t/bwc/text>, Article I.

<sup>9</sup> See variously 6th BWC Review Conference, “Report of the Preparatory Committee”, BWC/CONFVI/PC/2, 3 May 2006, <https://undocs.org/BWC/CONFVI/PC/2>, paragraphs 19–21; 7th BWC Review Conference, “Report of the Preparatory Committee”, BWC/CONFVII/PC/2, 26 April 2011, <https://undocs.org/BWC/CONFVII/PC/2>, paragraphs 20–23; and 8th BWC Review Conference, “Final report of the Preparatory Committee”, BWC/CONFVIII/PC/9, 26 August 2016, <https://undocs.org/BWC/CONFVIII/PC/9>, paragraphs 22–25.

### 3. THE PURPOSES OF BWC REVIEW CONFERENCES

Article XII of the BWC states that:

*Five years after the entry into force of this Convention, or earlier if it is requested by a majority of Parties to the Convention by submitting a proposal to this effect to the Depositary Governments, a conference of States Parties to the Convention shall be held at Geneva, Switzerland, to review the operation of the Convention, with a view to assuring that the purposes of the preamble and the provisions of the Convention, including the provisions concerning negotiations on chemical weapons, are being realised. Such review shall take into account any new scientific and technological developments relevant to the Convention.*

Since States Parties to the BWC convened for the First Review Conference, in 1980, it has become established practice to hold five-yearly meetings of States Parties “to review the operation of the Convention”.<sup>10</sup> The First Review Conference took its agenda from Article XII of the Convention. Since the entry into force of the Chemical Weapons Convention (CWC) in 1997, reviewing the “provisions concerning negotiations on chemical weapons” has become less significant in BWC Review Conferences, although the two conventions do overlap in terms of their coverage of toxins, and chemistry and biology are converging. As a separate point, on the last role listed above, BWC States Parties have never really undertaken a systematic in-depth review of new scientific and technological developments during BWC Review Conferences.<sup>11</sup>

Nonetheless, each Review Conference represents a significant milestone in the BWC’s evolution. It is not just “another BWC meeting” but, as Sims remarked, a valuable opportunity to “take the pulse” of the Convention and:

*draw out the latent potential of particular Articles of the Convention and formulate extended understandings, reaffirming and where possible building on those recorded by previous Review Conferences in a cumulative process, in order to steer the constructive evolution of the BWC as a disarmament treaty regime through incrementally filling it out or (to put it another way) putting flesh on the bare bones of the Convention text.<sup>12</sup>*

In practice, over the past three BWC Review Conferences, States Parties have sought to achieve the aims Sims mentioned in two main ways: first, by recording of what have become known as “additional understandings and agreements” in the article-by-article review section of the Final

**10** The text of the Convention refers only to “a conference of States Parties” to review the operation of the Convention. However, successive Review Conferences have included language that extends the practice of five-yearly Review Conferences. Notably, at the Seventh Review Conference, the States Parties decided “that Review Conferences be held at least every five years”. 7th BWC Review Conference, “Final Document”, BWC/CONFVII/7, 3 January 2012, <https://undocs.org/BWC/CONFVII/7>, paragraph 65.

**11** Writing in May 2011, Sims remarked that “the conferences have never successfully reviewed scientific and technological developments relevant to the Convention, even though that requirement is specifically written into Article XII”. The authors’ experience since 2011 suggests that subsequent Review Conferences in 2011 and 2016 also lacked a significant review of science and technology. See N.A. Sims, “A Simple Treaty, a Complex Fulfillment: A Short History of the Biological Weapons Convention Review Conferences”, *Bulletin of the Atomic Scientists*, vol. 67, no. 3, May/June 2011, pp. 8–15, <https://doi.org/10.1177/0096340211407400>.

**12** N.A. Sims, *The Diplomacy of Biological Disarmament: Vicissitudes of a Treaty in Force, 1975–85, 1988*, pp. 288–309.

Document; and second, by developing forward-looking “decisions and recommendations”.

### 3.1 ADDITIONAL UNDERSTANDINGS AND AGREEMENTS

An additional understanding or agreement reached between the BWC States Parties at a Review Conference “(a) interprets, defines or elaborates the meaning or scope of a provision of the Convention; or (b) provides instructions, guidelines or recommendations on how a provision should be implemented”.<sup>13</sup> Past BWC Review Conferences have developed a range of additional understandings related to various articles of the Convention.

### 3.2 FORWARD-LOOKING SECTION

The Review Conference process also serves as an opportunity for BWC States Parties to collectively chart a strategic course for the Convention over the ensuing five years and beyond. Since the resumed Fifth BWC Review Conference, in 2002, States Parties have sought to do this through the development of a forward-looking section of the Final Document on “Decisions and Recommendations”. Although the inclusion of this section in 2002 was out of necessity (given the inability of that Review Conference to reach consensus on an article-by-article review), it has since become an important indicator of success.<sup>14</sup> As Graham Pearson remarked in 2012, this component of the Final Document “should be recognized as being of equal weight with those of the Article by Article Final Declaration”.<sup>15</sup>

An important point is that, unlike other arms control or disarmament agreements, the BWC States Parties need to take certain decisions just to maintain the status quo. For example, if States Parties cannot agree to renew the mandate of the BWC Implementation Support Unit, it will cease to exist. Similarly, without a Review Conference decision – or an agreement to defer a decision – there will be no future intersessional work programme.<sup>16</sup>

**13** 8th BWC Review Conference, Preparatory Committee, “Additional Understandings and Agreements Reached by Previous Review Conferences Relating to Each Article of the Convention”, BWC/CONFVIII/PC/4, 31 May 2016, <https://undocs.org/BWC/CONFVIII/PC/4>, paragraph 1.

**14** Interview respondent 5, 8 October 2020.

**15** G.S. Pearson, “The Biological Weapons Convention Seventh Review Conference: A Modest Outcome”, Harvard Sussex Programme (HSP) Report from Geneva Review no. 35, March 2012, [http://www.sussex.ac.uk/Units/spru/hsp/Reports\\_from\\_Geneva/HSP\\_Reports\\_from\\_Geneva\\_Special\\_March\\_2012.pdf](http://www.sussex.ac.uk/Units/spru/hsp/Reports_from_Geneva/HSP_Reports_from_Geneva_Special_March_2012.pdf), p. 47.

**16** At the Eighth Review Conference, the States Parties deferred a decision on a future intersessional process, agreeing only to hold annual meetings in 2017–2020 and delegating the 2017 Meeting of States Parties to reach consensus on an intersessional programme.

## 4. THE IMPORTANCE OF CONTEXT

As Stuart Croft observed in the 1990s, “the form of arms control practiced is always a product of the international political culture and context of its time.”<sup>17</sup> The BWC Review Conferences bear this out: broader contemporary strategic trends have had a significant influence on the prospects for success over the lifespan of the BWC regime. For example, the winding down of the Cold War from the late 1980s created “a more propitious international climate” for the Third Review Conference, in 1991.<sup>18</sup> Dates and durations of Review Conferences can be found in Table 1.

**TABLE 1.** *Dates and duration of past BWC Review Conferences*

| REVIEW CONFERENCE         | CONFERENCE DATES   | DURATION           |
|---------------------------|--|--------------------|
| First Review Conference   | 3–21 March 1980  | 3 weeks            |
| Second Review Conference  | 8–26 September 1986  | 3 weeks            |
| Third Review Conference   | 9–27 September 1991  | 3 weeks            |
| Fourth Review Conference  | 25 November–6 December 1996                                  | 2 weeks            |
| Fifth Review Conference   | 19 November–7 December 2001<br>11–22 November 2002 (resumed) | 3 weeks<br>2 weeks |
| Sixth Review Conference   | 20 November–8 December 2006                                  | 3 weeks            |
| Seventh Review Conference | 5–22 December 2011   | 3 weeks            |
| Eighth Review Conference  | 7–25 November 2016   | 3 weeks            |

Specific exogenous events have also contributed to shaping the dynamics of BWC Review Conferences in ways that affected their prospects. For example, non-compliance concerns overshadowed both the First and Second Review Conferences, in 1980 and 1986. At the First Review Conference, concerns over non-compliance stemmed from an outbreak of anthrax in Sverdlovsk the Soviet Union in 1979 that other BWC States Parties, such as the United States of America, viewed as suspicious.<sup>19</sup> At the Second Review Conference, in 1986, the United States alleged that the Soviet Union had produced and used trichothecene mycotoxins – known as “Yellow Rain” – in the Lao People’s Democratic Republic, Kampuchea and Afghanistan.<sup>20</sup> The Soviet delegation strenuously denied these allegations. The United States–Soviet exchange nonetheless soured the mood of the Review Conference.<sup>21</sup>

Exogenous factors have not been limited to the realm of States Parties’ possible violations of the BWC’s prohibitions on biological weapons. In the 1980s, States in the Conference on Security and Co-operation in Europe adopted a revised package of confidence- and security-

<sup>17</sup> S. Croft, *Strategies of Arms Control: A History and Typology*, 1996, p. 31 quoted in J. Littlewood, *The Biological Weapons Convention: A Failed Revolution*, 2005, p. 223.

<sup>18</sup> J. Littlewood, *The Biological Weapons Convention: A Failed Revolution*, 2005, p. 25.

<sup>19</sup> J. Miller, S. Engelberg and W. Broad, *Germs: Biological Weapons and America’s Secret War*, 2001, pp. 76–80.

<sup>20</sup> 2nd BWC Review Conference, “Summary Record of the 3rd Meeting”, BWC/CONF.II/SR.3, 18 September 1986, <https://undocs.org/BWC/CONF.II/SR.3>, paragraph 17.

<sup>21</sup> See for example the comments by the Soviet Ambassador in 2nd BWC Review Conference, “Summary Record of the 7th Meeting”, BWC/CONF.II/SR.7, 22 September 1986, <https://undocs.org/BWC/CONF.II/SR.7>, paragraph 57.

building measures, which influenced the development of confidence-building measures (CBMs) at the Second BWC Review Conference.<sup>22</sup> Later, revelations about the failed efforts of the Japanese doomsday cult Aum Shinrikyo to develop biological weapons in the mid-1990s and the “Amerithrax” anthrax-in-the-mail attacks in the United States in 2001 led, at the Fourth, Fifth and Sixth Review Conferences, to greater emphasis on domestic measures to prevent bioterrorism.<sup>23</sup> A naturally occurring outbreak of Ebola that became the focus of international attention around the time of the Eighth Review Conference led to increased emphasis at that meeting on the provision of assistance under BWC Article VII.<sup>24</sup>

At both the Seventh and Eighth Review Conferences, wider “tensions over sanctions and export controls, spreading out from sharp differences over [interpretations of] Article X” among BWC States Parties, had an acute effect on the Review Conference process.<sup>25</sup> These differences go at least as far back as the Third Review Conference, in which “North–South difficulties over Article X of the Convention [on peaceful cooperation] and the application of export controls mirrored debates in the Nuclear Non-Proliferation Treaty (NPT) and in the final stages of the negotiations of the CWC.”<sup>26</sup> Sanctions and other restrictions that some BWC States Parties imposed on their transfers of biological materials and technologies deemed strategically sensitive (such as Australia Group export controls<sup>27</sup>) have continued to be a source of disagreement between several members of the Western Group (WG) and some countries in the Non-Aligned Movement (NAM).

If wider international trends and events challenge the BWC’s cohesion and effectiveness, States Parties do have options to manage exogenous factors without concealing them in the hope that they will be forgotten. In some cases, States Parties delayed discussion around issues that probably would have been detrimental to achieving a consensus outcome. For example, despite the wider geostrategic tension and compliance concerns evident in 1980, the States Parties were able to set aside specific concerns over a suspicious outbreak of disease in Sverdlovsk in the Soviet Union until after they had agreed the Final Declaration of the First BWC Review Conference, thus paving the way for a consensus agreement.<sup>28</sup> In a similar manner, at the Fourth Review Conference, in 1996, Iraq’s earlier admission of activities in violation of the Convention was omitted from the Final Document. This meant that a formula for agreement at the Review Conference was possible that included continued work on a draft BWC Protocol.<sup>29</sup>

**22** Interview respondent 6, 16 October 2020. See also for example N.A. Sims, *The Evolution of Biological Disarmament*, SIPRI Chemical & Biological Warfare Studies no. 19, 2001, p. 7; and E.J. McFadden, “The Second Review Conference of the Biological Weapons Convention: One Step Forward, Many More to Go”, *Stanford Journal of International Law*, vol. 24, no. 1, 1987, p. 102.

**23** On Amerithrax see B.E. Zimmerman and D.J. Zimmerman, *Killer Germs: Microbes and Diseases that Threaten Humanity*, 2002, pp. 231–235.

**24** Interview respondent 6, 16 October 2020.

**25** Correspondence with Nicholas Sims, 30 September 2020.

**26** J. Littlewood, *The Biological Weapons Convention: A Failed Revolution*, 2005, p. 33.

**27** The Australia Group currently has 43 participants, including Australia, the European Commission, all 27 member states of the European Union, the United Kingdom, the United States, Canada, India, Ukraine and Argentina. The name comes from Australia’s initiative to create the group. Australia manages the secretariat. See <https://australiagroup.net/>.

**28** J.P. Robinson, “East–West Fencing at Geneva”, *Nature*, vol. 284, 3 April 1980, p. 393, <https://doi.org/10.1038/284393a0>. See also M.I. Chevrier, “The Biological Weapons Convention: The Third Review Conference”, *Politics and the Life Sciences*, vol. 11, no. 1, February 1992, pp. 86–92, <https://doi.org/10.1017/S0730938400017238>.

**29** For an outline of the discussion at the Review Conference see G.S. Pearson, “The Fourth BWC Review Conference: An Important Step Forward”, *Arms Control Today*, vol. 26, no 1, January/February 1997, pp. 14–18, <https://www.armscontrol.org/act/1997-01/features/fourth-bwc-review-conference>.

Sometimes, such conference management tactics do not work. When the BWC Ad Hoc Group negotiations on a draft Protocol were dissolved in 2001, it led to such discord among States Parties that the only realistic compromise was to suspend the Fifth Review Conference for almost a year. This allowed delegations to cool off and provided time for the Review Conference President to conduct shuttle diplomacy with a view to plotting a course to a review meeting outcome in late 2002.<sup>30</sup>

Looking to the Ninth BWC Review Conference, several factors could promote or stifle progress. The meeting is currently scheduled to take place against a backdrop of international tensions; the collapse of certain major strategic arms control arrangements; significant division in the chemical weapons regime; rapid changes in the life sciences and a naturally occurring coronavirus pandemic that has underlined the vulnerability of globalized modern society to infectious diseases.

The Covid-19 pandemic and the uneven pattern of national responses to it are particularly salient. It is possible that the pandemic and its aftermath could lead to an acrimonious exchange of allegations that would seriously harm prospects for either consensus or a package of outcomes that strengthens the BWC regime. Another pathway is that the experience of the global pandemic mobilizes States Parties to enhance the BWC regime, particularly those aspects dealing with international cooperation and the provision of assistance, and international coordination to detect and monitor unusual outbreaks of disease.<sup>31</sup> It could also focus greater high-level political attention on the importance of biological disarmament “such that it comes to be seen as a superordinate value which should be pursued in its own right by everyone, regardless of their divergent positions in other sectors of arms control and disarmament”.<sup>32</sup> Such an outcome is unlikely to be spontaneous; it will require careful preparation and communication between BWC delegations across the political spectrum.

**30** See J. Borrie, “The Limits of Modest Progress: The Rise, Fall, and Return of Efforts to Strengthen the Biological Weapons Convention”, *Arms Control Today*, vol. 36, no. 8, October 2006, pp. 18–22, <https://www.armscontrol.org/act/2006-10/features/limits-modest-progress-rise-fall-return-efforts-strengthen-biological-weapons>.

**31** See for example J. Revill and J. Borrie, “COVID, Choices and a Darker Biological Weapons Future?”, UNIDIR, 2020, <https://unidir.org/commentary/covid-choices-and-darker-biological-weapons-future>, originally published in Spanish as J. Revill and J. Borrie, “¿Nos espera un futuro más sombrío debido a las armas biológicas?” [Does a Bleaker Future Await Us because of Biological Weapons?], *El País*, 9 June 2020, [https://elpais.com/elpais/2020/06/02/planeta\\_futuro/1591109458\\_151568.html](https://elpais.com/elpais/2020/06/02/planeta_futuro/1591109458_151568.html).

**32** Correspondence with Nicholas Sims, 30 September 2020

## 5. PREPARING FOR REVIEW CONFERENCES

Early preparation for a BWC Review Conference is an important ingredient for success. For example, Ambassador Masood Khan, President of the Sixth BWC Review Conference, in 2006, remarked that: “As with all successful multilateral enterprises, the foundations for the outcome were laid many months before the Conference itself began”.<sup>33</sup> States Parties and office holders can assist preparation in several ways. Here we focus on the roles of the Preparatory Committee (PrepCom), other relevant workshops and events, contingency planning, and generating high-level attention.

### 5.1 THE PREPARATORY COMMITTEE

As illustrated in Table 2, BWC Preparatory Committee meetings are typically comprised of a couple of days of interaction on procedural matters. Under normal circumstances, these are held around April of the year in which the Review Conference is convened. One novel development in the process leading to the Eighth Review Conference, in 2016, was that two separate sessions of the PrepCom were held. The first two-day session focused on procedure and produced an interim report. Three months later, in August 2016, a second five-day session addressed substantive issues, as well as some remaining procedural issues.

**TABLE 2.** *Dates of Preparatory Committee meetings*

| REVIEW CONFERENCE                | PREPARATORY COMMITTEE | DURATION |
|----------------------------------|-----------------------|----------|
| First Review Conference (1980)   | 9–18 July 1979        | 8 days   |
| Second Review Conference (1986)  | 28 April–2 May 1986   | 5 days   |
| Third Review Conference (1991)   | 8–12 April 1991       | 5 days   |
| Fourth Review Conference (1996)  | 9–10 April 1996       | 2 days   |
| Fifth Review Conference (2001)   | 25–27 April 2001      | 3 days   |
| Sixth Review Conference (2006)   | 26–28 April 2006      | 3 days   |
| Seventh Review Conference (2011) | 13–14 April 2011      | 2 days   |
| Eighth Review Conference (2016)  | 26–27 April 2016      | 2 days   |
|                                  | 8–12 Aug 2016         | 5 days   |

The August 2016 substantive PrepCom session was a useful innovation. One interview respondent, a seasoned BWC observer, remarked that it was “the most productive PrepCom” they had ever attended.<sup>34</sup> Another suggested that it was a “good break from past processes”.<sup>35</sup> This was in part because States Parties “had no text to discuss” and instead used the time

<sup>33</sup> M. Khan, “The 2006 BWC Review Conference: The President’s Reflections”, *Disarmament Diplomacy*, no. 84, Spring 2007, pp. 13–16, <http://www.acronym.org.uk/old/archive/dd/dd84/84bwcpr.htm>.

<sup>34</sup> Interview respondent 2, 24 September 2020.

<sup>35</sup> Interview respondent 1, 24 September 2020.



to raise any concerns rather than begin negotiations on textual inputs.<sup>36</sup> It was also because the process stimulated early thinking and preparation around matters of substance, including the provision of 39 working papers by August, well in advance of the Review Conference in November.<sup>37</sup> Since 2016, several BWC States Parties have indicated their support for repeating the model of the Eighth Review Conference.<sup>38</sup> Two preparatory sessions are scheduled for the Ninth Review Conference.<sup>39</sup>

## 5.2 OTHER EVENTS

A further notable feature of each of the past three BWC Review Conferences was that each was preceded by a series of external preparatory meetings and workshops. For example, during the lead up to the Seventh Review Conference, BWC-related events were hosted in Wilton Park (United Kingdom), Montreux (Switzerland), Manila (Philippines), Clingendael (Netherlands), Berlin (Germany) and Beijing (China).<sup>40</sup> These informal events allowed for useful working-level technical discussions in advance of the BWC Review Conference in settings conducive to informal dialogue and clarification and to the building of trust and professional rapport between participants from different national systems.<sup>41</sup>

In the case of the Eighth Review Conference, events included a workshop co-organized by Canada and China and a series of four regional workshops around the world organized by the European Union (EU). The Canada–China events helped to familiarize delegates with key issues whereas the EU workshops allowed for interaction between States in each region, including with experts from capitals. These meetings also contributed to a better understanding of regional and national interests involved in achieving a BWC Review Conference outcome.<sup>42</sup> In hindsight, more could have been made of the EU workshops, for example if written summaries of these useful events had been submitted as working papers to the Review Conference process.<sup>43</sup> As well as providing additional transparency, this could have contributed to discussions in a formal way.

States Parties and other organizations are planning several workshops and events in preparation for the Ninth Review Conference. For example, the EU will again support “A series of four regional or sub-regional workshops ... to address the topics of the 2018–2020 intersessional programme

<sup>36</sup> Interview respondent 2, 24 September 2020.

<sup>37</sup> Interview respondent 2, 24 September 2020.

<sup>38</sup> R.A. Wood, United States Permanent Representative, “U.S. General Statement at the 2019 BWC Meeting of State Parties”, 3 December 2019, <https://geneva.usmission.gov/2019/12/03/u-s-general-statement-at-the-2019-bwc-meeting-of-states-parties/>; EU Statement, 2019 Meeting of BWC States Parties, 4 December 2019, [https://eeas.europa.eu/delegations/un-geneva\\_en/71512/Biological\\_and\\_Toxin\\_Weapons\\_Convention\\_Meeting\\_of\\_States\\_Parties\\_2019\\_-\\_EU\\_Statement](https://eeas.europa.eu/delegations/un-geneva_en/71512/Biological_and_Toxin_Weapons_Convention_Meeting_of_States_Parties_2019_-_EU_Statement); and Statement by Austria, 2019 Meeting of BWC State Parties, 3 December 2019, <https://meetings.unoda.org/section/bwc-msp-2019-statements/>.

<sup>39</sup> C.K. Mailu. Letter to BWC States Parties on the revised schedule of meetings, 28 July 2020, <https://front.un-arm.org/wp-content/uploads/2020/12/Chairletter28.07.20.pdf>.

<sup>40</sup> For further details see United Nations Geneva, “Seventh Review Conference”, [https://web.archive.org/web/20210126024318/https://www.unog.ch/80256EE600585943/\(httpPages\)/F1CD974A1FDE4794C125731A0037D96D?OpenDocument](https://web.archive.org/web/20210126024318/https://www.unog.ch/80256EE600585943/(httpPages)/F1CD974A1FDE4794C125731A0037D96D?OpenDocument).

<sup>41</sup> U. Becker-Jakob, Balanced Minimalism: The Biological Weapons Convention after its 7th Review Conference, Peace Research Institute Frankfurt (PRIF) Report no. 120, 2013, [https://www.hsfg.de/fileadmin/HSFK/hsfk\\_downloads/prif120.pdf](https://www.hsfg.de/fileadmin/HSFK/hsfk_downloads/prif120.pdf); and G.S. Pearson, “Developing Practical Proposals for the BWC Seventh Review Conference”, Special Harvard Sussex Programme (HSP) Report from Montreux, May 2011, [http://www.sussex.ac.uk/Units/spru/hsp/Reports\\_from\\_Geneva/HSP\\_Reports\\_from\\_Geneva\\_Special\\_May\\_2011\\_\(Montreux\).pdf](http://www.sussex.ac.uk/Units/spru/hsp/Reports_from_Geneva/HSP_Reports_from_Geneva_Special_May_2011_(Montreux).pdf). See also G.S. Pearson, “Preparing for the BWC Seventh Review Conference in 2011”, Special Harvard Sussex Programme (HSP) Report from Beijing, December 2010, [http://www.sussex.ac.uk/Units/spru/hsp/Reports\\_from\\_Geneva/HSP\\_Reports\\_from\\_Geneva\\_Special\\_Dec\\_2010.pdf](http://www.sussex.ac.uk/Units/spru/hsp/Reports_from_Geneva/HSP_Reports_from_Geneva_Special_Dec_2010.pdf).

<sup>42</sup> Interview respondent 1, 24 September 2020.

<sup>43</sup> Interview respondent 6, 16 October 2020.

and to provide help . . . ahead of, and during, the Ninth Review Conference”.<sup>44</sup> However, at the time of writing, the Covid-19 pandemic has cast doubt over the prospects for at least some of these in-person events. To facilitate informal working-level discussions, some creative, new approaches are needed, including through the use of virtual or hybrid meetings.<sup>45</sup>

The experience of other formal multilateral meetings is informative in this regard. In October 2020, for instance, the First Committee of the United Nations General Assembly proceeded on a hybrid basis: some New York-based and other delegates met face to face, with officials based in Geneva and capitals participating virtually, and in some cases in parallel during consultations over texts of resolutions. It remains to be seen how viable this approach is, or whether it can carry over effectively to a BWC Review Conference. Nevertheless, it indicates that States are seeking to adapt their practices in the multilateral disarmament field, and that, in principle at least, alternatives can be explored as they acquire experience. For the foreseeable future, this seems likely to encompass “hybrid” virtual and face-to-face events as well as purely virtual events to a greater degree than before the 2020–2021 pandemic.

### 5.3 GENERATING HIGH-LEVEL ATTENTION

Perhaps because of the technical nature of some of the proceedings of the BWC regime, government leaders have, historically, left management of these proceedings mostly to specialized levels of their foreign affairs and national security bureaucracies. Nevertheless, higher-level political interest can be helpful in overcoming obstacles at the technocratic level in the BWC regime and for creating momentum toward broader goals. This interest is sometimes signified by senior figures from governments and concerned international organizations addressing BWC review meetings. For example, in 2006, the Secretary-General of the United Nations, Kofi Annan, addressed the Sixth Review Conference on its opening day;<sup>46</sup> and at the Seventh Review Conference, in 2011, foreign ministers, including United States Secretary of State Hillary Rodham Clinton, delivered opening remarks.<sup>47</sup> The attendance of such senior officials can help to focus the attention on the Review Conference among counterparts from other countries.

In addition, high-level joint statements can serve to draw attention to the Review Conference and indicate unity of purpose and resolve among those involved.<sup>48</sup> A good example of this followed the effective deferral by the Eighth Review Conference of decisions on an intersessional process in 2016. Despite the difficult political climate, the Depository States (the Russian Federation, the United Kingdom and the United States) issued a joint statement in advance of the 2017 Meeting of States Parties stating that it was “vital to redouble efforts to build consensus around the next programme of work the adoption of which in our common view must be the main outcome of

<sup>44</sup> United Nations Office for Disarmament Affairs, “European Union Support: Support to the Intersessional Programme and BWC Review Conferences”, <https://www.un.org/disarmament/biological-weapons/eu-support-to-the-bwc/support-to-bwc-review-conferences/>.

<sup>45</sup> One type of virtual meeting is the use of informal webinars, an approach employed in support of BWC Meetings of Experts in 2020. See United Nations Office for Disarmament Affairs, “Biological Weapons Convention – Meetings of Experts: Informal Webinar”, 24 November 2020, [https://meetings.unoda.org/section/bwc-mx-2020-mx1\\_webinar/](https://meetings.unoda.org/section/bwc-mx-2020-mx1_webinar/).

<sup>46</sup> United Nations, Secretary-General, “Secretary-General’s Remarks to the Sixth Review Conference of the Biological Weapons Convention”, Geneva, 20 November 2006, <https://www.un.org/sg/en/content/sg/statement/2006-11-20/secretary-generals-remarks-sixth-review-conference-biological>.

<sup>47</sup> United Nations Office for Disarmament Affairs, “Biological Weapons Convention – Seventh Review Conference: Statements”, <https://meetings.unoda.org/section/bwc-revcon-2011-statements/>.

<sup>48</sup> Interview respondent 7, 8 October 2020.

that meeting”.<sup>49</sup>

Notably, civil society can also raise awareness about the importance of Review Conferences and the specific issues facing them. Historically, academic experts and non-governmental organizations (NGOs) have played significant roles in bridging the technocratic discussions within the biological disarmament regime with the media, professional associations, scientific societies and industry (NGOs are discussed further in section 8.5). The contribution that civil society can make to a constructive atmosphere in the current review process should not be underestimated. It is in the interests of States Parties to engage with civil society as it is often a useful source of ideas and possible proposals.

This engagement could be through States Parties helping to fund the work of civil society stakeholders, hosting joint events such as workshops and briefings, and allowing civil society experts to join national delegations during important meetings, such as the Review Conference itself and the Preparatory Committee. Such engagement usually benefits States Parties as those civil society experts frequently generate independent reports of meetings and other published literature that benefit national decision makers and others seeking to follow the BWC review process. Civil society experts also publish opinion editorials and participate in media interviews that draw attention to the importance of Review Conferences and highlight their options and the expectations for them.

#### **5.4 CONTINGENCY PLANNING**

Well in advance of the Review Conference, office holders in cooperation with the Implementation Support Unit (ISU) need to map out possible obstacles to progress that might emerge and identify suitable approaches to overcome them. Experience in previous BWC and other disarmament meetings points to several possible emergent pitfalls (illustrated in Table 3 overleaf). These range from practical and logistical matters that can disrupt or delay proceedings (even seriously), to highly political matters that result in failure to achieve a consensus outcome and thus derail the entire conference.

<sup>49</sup> Ministry of Foreign Affairs of the Russian Federation, “Statement by the Russian Federation on behalf of the Russian Federation, the United Kingdom, and the United States Sochi, 2 November 2017”, 2 November 2017, [https://www.mid.ru/en/foreign\\_policy/news/-/asset\\_publisher/cKNonkJE02Bw/content/id/2932126](https://www.mid.ru/en/foreign_policy/news/-/asset_publisher/cKNonkJE02Bw/content/id/2932126).

**TABLE 3.** *Illustrative examples of possible practical and logistical difficulties*

Lack of availability of conference facilities during the Strategic Heritage Plan renovations of the Palais des Nations<sup>50</sup>

Restrictions on in-person meetings due to the Covid-19 pandemic

Congestion of conference services (e.g. documentation, language services) due to pandemic-related backlog of postponed conferences

Financial shortfalls limiting conference services, including interpretation and translation

Individual States seek to obstruct proceedings or hold the conference hostage to a particular issue; this is particularly difficult when the issue concerned is external to the BWC and cannot be resolved within the Review Conference

Lack of clarity about the status of observers of various categories (e.g. States not party to the BWC, regional and international organizations) and their access to different segments of the conference

Access for NGOs limited to some segments of the conference<sup>51</sup>

Failure to effectively manage one or more segments of the conference (e.g. the Committee of the Whole), resulting in follow-on delays and disruption of the schedule

Past BWC Review Conferences serve as reminders of the importance of contingency planning. There are many other examples of procedural issues that could reasonably be foreseen and will therefore need to be subject to contingency planning.

<sup>50</sup> United Nations Geneva, “Strategic Heritage Plan”, <https://www.ungeneva.org/en/palais-des-nations/shp>.

<sup>51</sup> R. Guthrie, “The First Day: The Opening of the General Debate”, CWC CSP-24 Report no. 2, 26 November 2019, <https://www.cbw-events.org.uk/CSP-24-02.pdf>.

## 6. PROCESSES AND PROCEDURES

Delegations of BWC States Parties typically interact at Review Conferences in several different modes. These include general debates, meetings of the Committee of the Whole (COW), informal plenaries, Drafting Committee meetings and informal consultations of various kinds. The sequencing and timing of these interactions have varied over the history of Review Conferences. This is illustrated in Figure 1, which covers the indicative agenda for the first week of the past three Review Conferences based on their respective provisional indicative programmes of work.<sup>52</sup>

**Figure 1.** Provisional indicative programme of work for the first weeks of the Sixth, Seventh and Eighth BWC Review Conferences

| SIXTH REVIEW CONFERENCE  | SEVENTH REVIEW CONFERENCE  | EIGHTH REVIEW CONFERENCE   |
|--|--|--|
| <ul style="list-style-type: none"> <li>• Opening formalities</li> <li>• General debate               <ul style="list-style-type: none"> <li>» NGO statements</li> </ul> </li> <li>• Plenary</li> <li>• COW</li> <li>• Informal plenary</li> <li>• COW</li> <li>• Informal plenary</li> </ul> | <ul style="list-style-type: none"> <li>• Opening formalities</li> <li>• General debate               <ul style="list-style-type: none"> <li>» NGO statements</li> </ul> </li> <li>• Plenary</li> <li>• COW</li> <li>• Informal Plenary               <ul style="list-style-type: none"> <li>» Industry Panel</li> </ul> </li> <li>• COW</li> <li>• Informal Plenary               <ul style="list-style-type: none"> <li>» Poster Session</li> </ul> </li> <li>• Informal Plenary</li> </ul> | <ul style="list-style-type: none"> <li>• Opening formalities</li> <li>• General debate               <ul style="list-style-type: none"> <li>» NGO statements</li> </ul> </li> <li>• COW</li> <li>• Informal Plenary</li> </ul> |

The order of the Review Conference programme can be important. For example, one expert we interviewed suggested that going straight into negotiations on language around additional understandings after opening statements are delivered can lock States Parties into textual negotiations and “reopen old arguments”.<sup>53</sup> The process whereby these different components are integrated is also important. Pearson and Sims, writing in 2017, noted that, at the Eighth Review Conference, “No mechanism was set in motion in the final week to draw these different strands of work together or try to remedy the problems evident in the Committee of the Whole”.<sup>54</sup>

<sup>52</sup> 8th BWC Review Conference, “Provisional Indicative Programme of Work”, BWC/CONFVIII/3, 7 October 2016, <https://undocs.org/BWC/CONFVIII/3>; 7th BWC Review Conference, “Provisional Indicative Programme of Work”, BWC/CONF.VII/2, 21 November 2011, <https://undocs.org/BWC/CONFVII/2>; and 6th BWC Review Conference, “Provisional Indicative Programme of Work”, BWC/CONFVI/2, 7 November 2006, <https://undocs.org/BWC/CONFVI/2>.

<sup>53</sup> Interview respondent 2, 24 September 2020. Also interview 6, 16 October 2020.

<sup>54</sup> G.S. Pearson and N.A. Sims, “The BWC Eighth Review Conference: A Disappointing Outcome”, Harvard Sussex Programme (HSP), Report from Geneva Review no. 46, February 2017, [https://web.archive.org/web/20170807075743/http://www.unog.ch/80256EDD006B8954/\(httpAssets\)/96E73A407E36F9DOC12580ED00354AB3/\\$file/REPORT\\_FROM\\_GENEVA\\_46+E.pdf](https://web.archive.org/web/20170807075743/http://www.unog.ch/80256EDD006B8954/(httpAssets)/96E73A407E36F9DOC12580ED00354AB3/$file/REPORT_FROM_GENEVA_46+E.pdf), p. 206.

As a commentary on the Eighth Review Conference noted, “whatever approach is taken to structuring these sorts of meetings, there will always be downsides and difficulties generated by procedural choices”.<sup>55</sup> However, an insight of the President of the Sixth Review Conference’s presents one useful approach:

*We would run several issues in parallel, so that if one got bogged down or overheated, we could instantly switch focus to another. We would alternate the “article-by-article review” meetings of the Committee of the Whole with informal meetings devoted to “cross-cutting” issues: issues that either did not naturally fall under a particular article of the Convention, or which had for one reason or another become controversial or sensitive. Set-piece debates would be carefully limited: we agreed that we would quickly suspend any meeting that threatened to degenerate into unhelpful rhetoric and recrimination.*<sup>56</sup>

Whichever approach Review Conference office holders choose, it is essential that they have a clear sense of the main issues at play and the dynamics of each of the main regional groupings on those issues. In the BWC, traditionally these are the Eastern European Group (EEG), the Western Group (WG), and the Group of the Non-Aligned Movement and Other States (which, in addition to NAM members, includes Mexico, Brazil and China). In practice, this requires the President and the President’s team to be thoroughly familiar and prepared ahead of the Review Conference and to have open channels of informal communication with the group coordinators, with regular opportunities for consultation.

## 6.1 VOTING

Rule 28 of the BWC Review Conference Rules of Procedure provides for voting in circumstances where “all efforts to achieve consensus have been exhausted”.<sup>57</sup> However, it also states that the “President shall defer the vote for 48 hours and during this period of deferment shall make every effort . . . to facilitate the achievement of general agreement”.

In practice, the States Parties have avoided resorting to voting to date. In general, the interview respondents cautioned against voting, suggesting that it is potentially risky as it could backfire and divide States Parties.<sup>58</sup> Instead, they emphasized the importance of building consensus. However, some experts have argued that there should be voting “if this is the only way to make progress”.<sup>59</sup> In any case, the 48-hour deferral period means that it is difficult to envisage circumstances in which a vote would be a practical option, as the President is unlikely to have “exhausted all efforts to achieve consensus” until the final day of the Review Conference.

<sup>55</sup> J. Revill, C. McLeish and A. Ghionis, “Deconstructing the BWC Eighth Review Conference”, Harvard Sussex Programme (HSP), Sussex Day Summary, 2017.

<sup>56</sup> M. Khan, “The 2006 BWC Review Conference: The President’s Reflections”, Disarmament Diplomacy, no. 84, Spring 2007, pp. 13–16, <http://www.acronym.org.uk/old/archive/dd/dd84/84bwcpr.htm>.

<sup>57</sup> 8th BWC Review Conference, “Draft Rules of Procedure of the Eighth Review Conference”, BWC/CONFVIII/2, 19 August 2016, <https://undocs.org/BWC/CONFVIII/2>, p. 7.

<sup>58</sup> Interview respondent 2, 24 September 2020.

<sup>59</sup> Correspondence with Nicholas Sims, 2020. See also G.S. Pearson and N.A. Sims, “The BWC Eighth Review Conference: A Disappointing Outcome”, Harvard Sussex Programme (HSP), Report from Geneva Review no. 46, February 2017, [https://web.archive.org/web/20170807075743/http://www.unog.ch/80256EDD006B8954/\(httpAssets\)/96E73A407E36F9D0C12580ED00354AB3/\\$file/REPORT\\_FROM\\_GENEVA\\_46+E.pdf](https://web.archive.org/web/20170807075743/http://www.unog.ch/80256EDD006B8954/(httpAssets)/96E73A407E36F9D0C12580ED00354AB3/$file/REPORT_FROM_GENEVA_46+E.pdf).

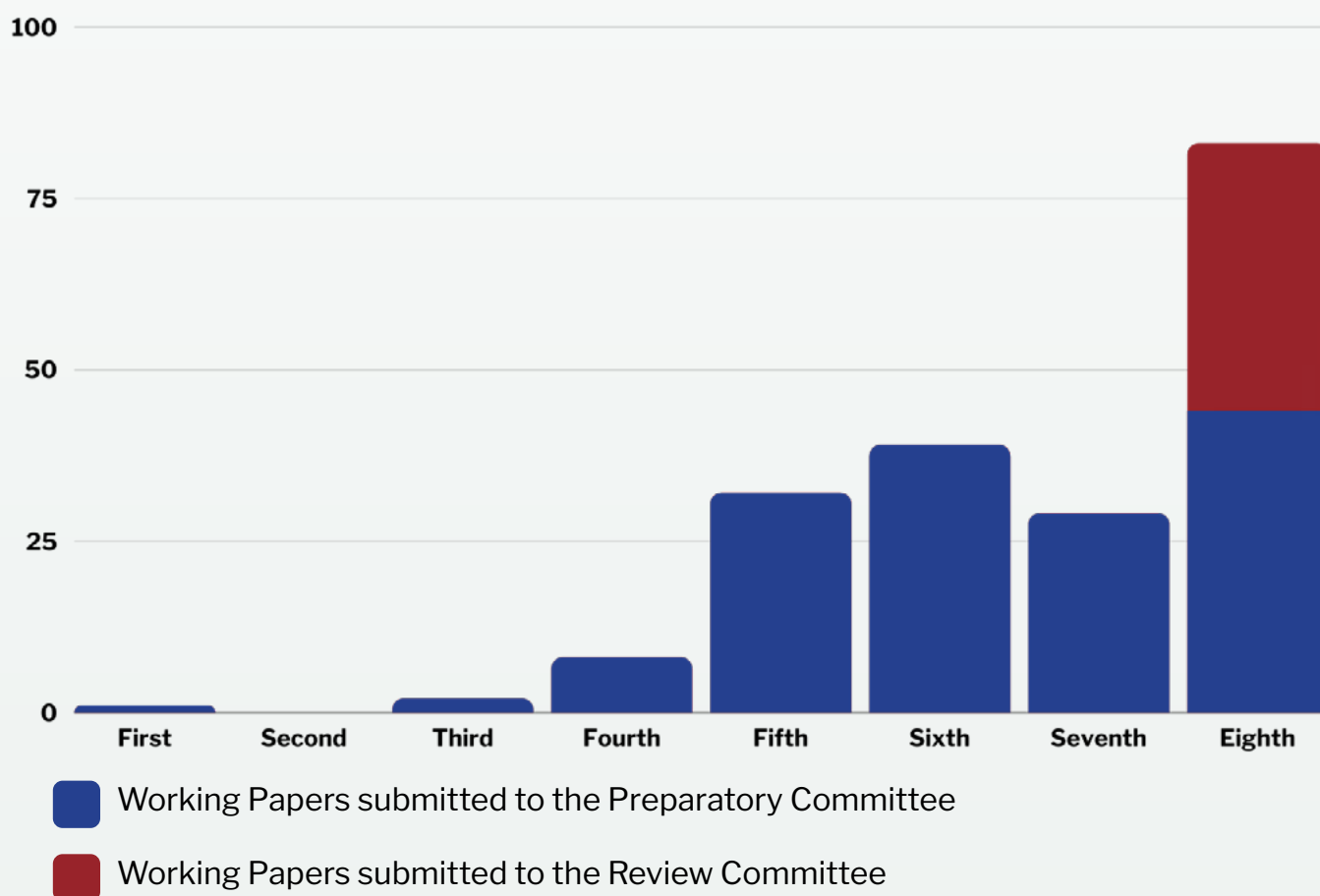
# 7. PROPOSALS AND WORKING PAPERS

One of the main ways in which States Parties and others can influence decisions in the BWC regime is through the development and submission of and consultation on working papers and other proposals. While it may seem obvious that these documents “should be submitted early on to allow enough time to study them and formulate national positions on them”, this does not always occur in practice.<sup>60</sup> The problem is that late proposals usually require just as much consideration in capitals as other proposals, which can increase the time pressure in a Review Conference or result in the rejection or neglect of otherwise sound ideas.

## 7.1 WORKING PAPERS

A substantive Preparatory Committee meeting can encourage the early submission of working papers and so reduce the chances of late surprises for those engaged in the delicate task of building consensus in the review process. In turn, the early emergence of working papers can be spurred on by external events such as the regional or cross-regional workshops discussed in section 5.2, as well as by exogenous developments such as the ongoing Covid-19 pandemic.

**FIGURE 2.** *Number of working papers submitted to BWC Review Conferences*



<sup>60</sup> Meeting of BWC States Parties, Meeting of Experts on Institutional Strengthening of the Convention, “International Conference ‘Global Biosecurity Challenges. Problems and Solutions’, Sochi, 20–21 June 2019”, Working paper submitted by the Russian Federation, BWC/MSP/2019/MX.5/WP.3, 25 July 2019, <https://undocs.org/ru/BWC/MSP/2019/MX.5/WP.3>, paragraph 8. Also Interview respondent 1, 24 September 2020.

Presidents-designate can also play an important role in encouraging the early submission of papers by engaging with regional groups and soliciting working papers from States Parties in a quasi-official capacity.<sup>61</sup> In 2006, the President-designate encouraged working paper authors to “collaborate with others (including in other groups) to identify and perhaps merge similar ideas”.<sup>62</sup> Indeed, the Sixth Review Conference was also notable for a degree of cross-regional convergence in working papers, with three groupings – the EU, the Group of Latin American and Caribbean Countries (GRULAC) and the JACKSNNZ (consisting of Japan, Australia, Canada, the Republic of Korea, Switzerland, Norway and New Zealand) – providing substantive papers that were “close enough in substance . . . for all three groupings to coalesce broadly in 2006 as a formidable, and cross-regional, set of diplomatic *demandeurs*”.<sup>63</sup>

States Parties can further aid convergence through the framing of their proposals in ways intended to appeal to the widest range of other States Parties, or which at least do not alienate them. Sometimes, in terms of prescription, less is more in these cases, although this can create tension between the diplomat’s desire for tact and flexibility and the lawyer’s need for clarity. Constructive ambiguity is a balancing act requiring sound drafting skills and a clear sense of the scope for compromise in the conference chamber. This is difficult for delegations to develop within their own political caucuses, which underlines the value of cross-regional initiatives in helping them to this end, and in effect to aid the process of convergence. Historically, countries such as South Africa and Sweden frequently played this role in reaching across regional caucuses, but this prospective role is by no means limited to them.

## 7.2 BACKGROUND PAPERS

In addition to working papers, it has become established practice that meetings of the BWC Preparatory Committee request the provision of background documentation for the Review Conference. In the early years, the three Depository States (the Soviet Union, the United Kingdom and the United States) produced these reports.<sup>64</sup> Subsequently, the United Nations Office for Disarmament Affairs (UNODA) – and more recently the ISU – developed background documentation or compiled submissions from States Parties on topics such as States Parties’ compliance with their obligations under the Convention and relevant, new scientific and technological developments.<sup>65</sup> Table 4 provides a breakdown of background documentation by Review Conference.

<sup>61</sup> M. Khan, “The 2006 BWC Review Conference: The President’s Reflections”, *Disarmament Diplomacy*, no. 84, Spring 2007, pp. 13–16, <http://www.acronym.org.uk/old/archive/dd/dd84/84bwcpr.htm>.

<sup>62</sup> *Ibid.*

<sup>63</sup> Correspondence with Nicholas Sims, 30 September 2020. See also U. Becker, *Light at the End of the Tunnel? The Sixth Review Conference of the Biological Weapons Convention*, Peace Research Institute Frankfurt (PRIF) Report no. 79, 2007, [https://www.hsfk.de/fileadmin/HSFK/hsfk\\_downloads/prif79.pdf](https://www.hsfk.de/fileadmin/HSFK/hsfk_downloads/prif79.pdf), p. 41.

<sup>64</sup> For example, at the First Review Conference, the PrepCom requested the Depository States to produce a paper on new developments in science and technology. See 1st BWC Review Conference, “Report of the Preparatory Committee”, BWC/CONF.I/03. [https://web.archive.org/web/20160318171347/http://www.unog.ch/bwcdocuments/1980-03-1RC/BWC\\_CONF.I\\_03.pdf](https://web.archive.org/web/20160318171347/http://www.unog.ch/bwcdocuments/1980-03-1RC/BWC_CONF.I_03.pdf)

<sup>65</sup> See for example background documentation from the Eighth BWC Review Conference.



**TABLE 4.** Background documentation prepared for BWC Review Conferences

| TITLE OR TOPIC   | 1 <sup>66</sup> | 2 <sup>67</sup> | 3 <sup>68</sup> | 4 <sup>69</sup> | 5 <sup>70</sup> | 6 <sup>71</sup> | 7 <sup>72</sup> | 8 <sup>73</sup> |
|--|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|
| Report of the Ad Hoc Committee on Chemical Weapons to the Conference on Disarmament  | ✓ <sup>74</sup> | ✓               | ✓               |                 |                 |                 |                 |                 |
| Additional understandings and agreements reached by previous Review Conferences relating to each Article of the Convention |                 |                 |                 |                 |                 | ✓               | ✓               | ✓               |
| Common understandings reached by the Meetings of States Parties during the intersessional programme                        |                 |                 |                 |                 |                 |                 | ✓               | ✓               |
| Compliance by States Parties with their obligations under the Convention   | ✓               | ✓               | ✓               | ✓               | ✓               | ✓               | ✓               | ✓               |
| Developments since the last Review Conference in other international organizations which may be relevant to the Convention |                 |                 |                 |                 |                 | ✓               | ✓               |                 |
| History, operation, participation or implementation of the confidence-building measures                                    |                 |                 | ✓               | ✓               | ✓               | ✓               | ✓               | ✓               |
| Implementation of Article VII of the Convention  |                 |                 |                 |                 |                 |                 |                 | ✓               |
| Implementation of Article X of the Convention  |                 |                 |                 |                 |                 |                 | ✓               | ✓               |
| New scientific and technological developments relevant to the Convention   | ✓               | ✓               | ✓               | ✓               | ✓               | ✓               | ✓               |                 |
| Financial implications of proposals for follow-on action after the Review Conference                                       |                 |                 |                 |                 |                 |                 |                 | ✓               |
| Status of universalization of the Convention   |                 |                 |                 |                 |                 | ✓               | ✓               | ✓               |

One interview respondent observed that these documents provide BWC delegates with useful overviews on certain issues.<sup>75</sup> Nevertheless, it is unclear how much States Parties rely on this background documentation. Certainly, discussion on background papers in BWC Review Conferences has typically been limited, including those on science and technology. Historically, the pool of States Parties contributing to background compilation papers prepared by the ISU is

**66** United Nations Office for Disarmament Affairs, “Biological Weapons Convention – First Review Conference: Documents”, <https://meetings.unoda.org/section/bwc-revcon-1980-documents/>.

**67** United Nations Office for Disarmament Affairs, “Biological Weapons Convention – Second Review Conference: Documents”, <https://meetings.unoda.org/section/bwc-revcon-1986-documents/>.

**68** United Nations Office for Disarmament Affairs, “Biological Weapons Convention – Third Review Conference: Documents”, <https://meetings.unoda.org/section/bwc-revcon-1991-documents/>.

**69** United Nations Office for Disarmament Affairs, “Biological Weapons Convention – Fourth Review Conference: Documents”, <https://meetings.unoda.org/section/bwc-revcon-1996-documents/>.

**70** United Nations Office for Disarmament Affairs, “Biological Weapons Convention – Fifth Review Conference: Documents”, <https://meetings.unoda.org/section/bwc-revcon-2001-documents/>.

**71** United Nations Office for Disarmament Affairs, “Biological Weapons Convention – Sixth Review Conference: Documents”, <https://meetings.unoda.org/section/bwc-revcon-2006-documents/>.

**72** United Nations Office for Disarmament Affairs, “Biological Weapons Convention – Seventh Review Conference: Documents”, <https://meetings.unoda.org/section/bwc-revcon-2011-documents/>.

**73** United Nations Office for Disarmament Affairs, “Biological Weapons Convention – Eighth Review Conference: Documents”, <https://meetings.unoda.org/section/bwc-revcon-2016-documents/>.

**74** Background documentation submitted to the First Review Conference includes a section in BWC/CONF.I/04 on the Status of efforts to reach agreement on a prohibition of chemical weapons. See United Nations Office for Disarmament Affairs, “Biological Weapons Convention – First Review Conference: Documents”, <https://meetings.unoda.org/section/bwc-revcon-1980-documents/>.

**75** Interview respondent 6, 16 October 2020.

also limited.<sup>76</sup> For example, in 2016, only 29 States Parties (16 per cent) submitted contributions to the background document on compliance with obligations under the Convention (see Table 5).

**TABLE 5.** Contributors to selected background documentation on compliance prepared for the Seventh and Eighth BWC Review Conferences

| BACKGROUND INFORMATION DOCUMENT   | NUMBER OF CONTRIBUTORS             | CONTRIBUTORS  |
|---|------------------------------------|---|
| 2016 Compliance by States Parties with Their Obligations under the Convention <sup>77</sup> | 29 of the 177 States Parties (16%) | Australia, Brazil, Bulgaria, Canada, China, Colombia, Cuba, Cyprus, Czech Republic, Finland, Germany, India, Iraq, Japan, Mexico, Netherlands, Norway, Qatar, Republic of Moldova, Russian Federation, Serbia, Seychelles, Slovakia, Sudan, Sweden, Switzerland, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America.   |
| 2011 Compliance by States Parties with Their Obligations under the Convention <sup>78</sup> | 36 of the 164 States Parties (21%) | Argentina, Australia, Brazil, Bulgaria, Canada, China, Cuba, Cyprus, Czech Republic, Denmark, Finland, France, Georgia, Germany, Greece, India, Italy, Iran (Islamic Republic of), Ireland, Japan, Kazakhstan, Netherlands, New Zealand, Norway, Pakistan, Poland, Portugal, Qatar, Republic of Moldova, Russian Federation, South Africa, Sweden, Switzerland, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States. |

As such, it would be useful for the office holders, in consultation with the ISU, to consider the requirements for background materials for States Parties carefully and as soon as possible in the run-up to the Review Conference. Office holders need to develop a strategy that enlists States Parties with the interest and resources to do so to help generate these materials for dissemination to the wider membership.

<sup>76</sup> The science and technology report of the First Review Conference was produced by the Depository governments with additional contributions from Hungary and Sweden. The science and technology report for the Second Review Conference included contributions from Czechoslovakia, Denmark, Finland, Sweden, the UK, the USA and the USSR. The Third Review Conference included papers from Australia, Canada, Czechoslovakia, Denmark, Sweden, Switzerland, the UK, the USA and the USSR. The Fourth Review Conference included contributions from Cuba, Finland, Germany, Sweden, Switzerland, the UK and the USA. The Fifth Review Conference background report included contributions from Bulgaria, South Africa, Sweden, the UK and the USA. The Sixth Review Conference included submissions from Argentina, Australia, China, the Czech Republic, the Netherlands, Portugal, the Russian Federation, Sweden, the UK and the USA.

<sup>77</sup> 8th BWC Review Conference, “Compliance by States Parties with Their Obligations under the Convention”, BWC/CONF.VIII/INF.2, 21 October 2016, <https://undocs.org/BWC/CONFVIII/INF.2>, BWC/CONFVIII/INF.2/Add.1, 4 November 2016, <https://undocs.org/BWC/CONFVIII/INF.2/Add.1>, BWC/CONFVIII/INF.2/Add.2, 18 November 2016, <https://undocs.org/BWC/CONFVIII/INF.2/Add.2>, and BWC/CONFVIII/INF.2/Add.3, 13 December 2016, <https://undocs.org/BWC/CONFVIII/INF.2/Add.3>.

<sup>78</sup> 7th BWC Review Conference, “Compliance by States Parties with Their Obligations under the Convention”, BWC/CONF.VII/INF.2, 23 November 2011, <https://undocs.org/BWC/CONFVII/INF.2> and BWC/CONF.VII/INF.2/Add.1, 7 December 2011, <https://undocs.org/BWC/CONFVII/INF.2/Add.1>.

## 8. PARTICIPANTS & POSITIONS

Review Conferences involve several types of actor, each with varying functions. These are discussed below.

### 8.1 THE PRESIDENT

The Review Conference Presidency is a pivotal position in the BWC stewardship process. It requires considerable time and energy from the senior national diplomat undertaking the role. Past Presidents have indicated that they spent much of the year prior to the Review Conference over which they were to preside preparing. For example, past Presidents organized meetings, consulted with officials in various national capitals and coordinated with the ISU on the basic practical details of conference management planning. While these actions are time-consuming, they allow the President-designate to build trust, identify key issues, determine areas of focus and prepare for contingencies well in advance.<sup>79</sup> To do these things well requires support from the capital in terms of time and resources to cover travel and hospitality, among other things, as one interview respondent indicated.<sup>80</sup> It also requires the President's early designation, to allow this person to engage with the issues and interact confidently with stakeholders in Geneva and elsewhere.

**TABLE 6.** *BWC Review Conference Presidents*

| REVIEW CONFERENCE                   | PRESIDENT  | REGIONAL GROUP    |
|-------------------------------------|--|-------------------|
| First Review Conference (1980)      | Ambassador Oscar Værnø (Norway)                  | WG                |
| Second Review Conference (1986)     | Ambassador Winfried Lang (Austria)               | NNA <sup>81</sup> |
| Third Review Conference (1991)      | Ambassador Roberto García Moritán (Argentina)    | NAM               |
| Fourth Review Conference (1996)     | Ambassador Sir Michael Weston (United Kingdom)   | WG                |
| Fifth Review Conference (2001/2002) | Ambassador Tibor Tóth (Hungary)                  | EEG               |
| Sixth Review Conference (2006)      | Ambassador Masood Khan (Pakistan)                | NAM               |
| Seventh Review Conference (2011)    | Ambassador Paul van den IJssel (the Netherlands) | WG                |
| Eighth Review Conference (2016)     | Ambassador György Molnár (Hungary)               | EEG               |

Presidents of successful BWC Review Conferences tend to have had some common characteristics. Typically they have had a thorough understanding of the political and technical issues related to the BWC and detailed awareness of where difficult issues lie.<sup>82</sup> They have also

<sup>79</sup> Interview respondent 4, 7 October 2020.

<sup>80</sup> Interview respondent 2, 24 September 2020.

<sup>81</sup> Neutral and Non-Aligned States.

<sup>82</sup> Interview respondent 4, 7 October 2020

known how to play the role of “an impartial, honest broker”.<sup>83</sup> At the same time, one interview respondent stressed the importance of Presidents being personally invested in achieving a genuine Review Conference success.<sup>84</sup>

The Presidency rotates among the three groups (see Table 6), and the President of the Ninth Review Conference is due to come from a State in the NAM group. Interview respondents highlight the special importance of the President being chosen from the NAM, the largest and arguably most politically heterogeneous caucus in the BWC context. Respondents suggested that a NAM Presidency of the Sixth Review Conference was particularly significant in building trust and support among NAM States for a substantive outcome in 2006. This could bode well for the Ninth Review Conference.

## **8.2 APPOINTMENT OF KEY PERSONNEL**

BWC Review Conferences typically must wrestle with several difficult issues. Friends of the President or other facilitators can aid in addressing some of these topics, help manage proceedings and, when required, provide critical feedback to the President.<sup>85</sup> For example, the President of the Sixth Review Conference, Ambassador Khan, made “intensive use of facilitators to take individual issues out of the big conference room, and develop them in smaller groups”.<sup>86</sup>

Presidents of past BWC Review Conference have made use of facilitators in several different areas. Early appointment of facilitators allows more time for engagement and consultations in advance of the Review Conference. At the Eighth Review Conference, facilitators were appointed prior to the Review Conference itself.<sup>87</sup> In other cases, facilitators have been appointed during the conference once it became clear exactly which issues were in need of attention and who the most effective facilitators might be, given the mix and atmosphere in the conference room. Selection of facilitators requires some careful consideration to ensure impartiality and balance in addressing specific issue areas.<sup>88</sup> Table 7 provides examples of facilitation at the past three Review Conferences.

**83** Interview respondent 5, 8 October 2020.

**84** Interview respondent 6, 16 October 2020.

**85** G.S. Pearson, “The Biological Weapons Convention Seventh Review Conference: A Modest Outcome”, Harvard Sussex Programme (HSP) Report from Geneva Review no. 35, March 2012, [http://www.sussex.ac.uk/Units/spru/hsp/Reports from Geneva/HSP Reports from Geneva Special March 2012.pdf](http://www.sussex.ac.uk/Units/spru/hsp/Reports%20from%20Geneva/HSP%20Reports%20from%20Geneva%20Special%20March%202012.pdf).

**86** M. Khan, “The 2006 BWC Review Conference: The President’s Reflections”, *Disarmament Diplomacy*, no. 84, Spring 2007, pp. 13–16, <http://www.acronym.org.uk/old/archive/dd/dd84/84bwcpr.htm>.

**87** Ambassador György Molnár, President of the Eighth Review Conference, announced facilitators a month before the Review Conference. See for example G. Molnár, “Letter from the President-Designate”, 6 October 2016, [https://web.archive.org/web/20170807080118/https://www.unog.ch/80256EDD006B8954/\(httpAssets\)/6DFB7252D9FEF04FC125804500571A3C/\\$file/President-Designate+Letter+to+SPs+-+October+2016+FINAL.pdf](https://web.archive.org/web/20170807080118/https://www.unog.ch/80256EDD006B8954/(httpAssets)/6DFB7252D9FEF04FC125804500571A3C/$file/President-Designate+Letter+to+SPs+-+October+2016+FINAL.pdf).

**88** Interview respondent 5, 8 October 2020.

**TABLE 7.** *Facilitators of the Sixth, Seventh and Eighth BWC Review Conferences*

| REVIEW CONFERENCE                | AREAS OF FACILITATION AND FACILITATORS  |
|----------------------------------|---|
| Sixth Review Conference (2006)   | <ul style="list-style-type: none"> <li>• Solemn Declaration: Ambassador Paul Meyer (Canada)</li> <li>• Articles I–IV and XII: Ambassador Doru Costea (Romania)</li> <li>• Articles V–VII and XI: Mr. Knut Langeland (Norway)</li> <li>• Articles VIII–IX: Mr. Muhammad Shahrul Ikram Yaakob (Malaysia)</li> <li>• Article X: Mr. Ben Steyn (South Africa)</li> <li>• Implementation Support Unit (ISU): Mr. Marcelo Valle Fonrouge (Argentina)</li> <li>• Work of the 2003–2005 Meetings: Mr. Knut Langeland (Norway)</li> <li>• Universalization: Mr. Enrique Ochoa (Mexico)</li> <li>• National Implementation: Mr. Craig Maclachlan (Australia)</li> <li>• 2007–2010 Intersessional Topics: Ambassador Jayant Prasad (India)</li> <li>• Confidence-building measures (CBMs): Ambassador Jean-François Dobelle (France)</li> <li>• Cross-cutting Issues: Ambassador John Duncan (United Kingdom)</li> </ul> |
| Seventh Review Conference (2011) | <ul style="list-style-type: none"> <li>• Solemn Declaration: Ambassador Alexandre Fasel (Switzerland)</li> <li>• Articles I–XV: Ms. Judit Körömi (Hungary) and Mr. Daniel Simanjuntak (Indonesia)</li> <li>• Science and technology: Mr. Zahid Rastam (Malaysia)</li> <li>• Assistance and cooperation: Mr. Jesus Domingo (Philippines)</li> <li>• Confidence-building measures (CBMs): Mr. Paul Wilson (Australia)</li> <li>• Intersessional programme: Ambassador Jo Adamson (United Kingdom) and Mr. Ben Steyn (South Africa)</li> </ul>   |
| Eighth Review Conference (2016)  | <ul style="list-style-type: none"> <li>• Solemn Declaration: Ambassador Boudjemâa Delmi (Algeria)</li> <li>• Assistance and cooperation: Mr. Zahid Rastam (Malaysia)</li> <li>• Science and technology: Mr. Laurent Masméjean (Switzerland)</li> <li>• Implementation issues: Ambassador Michael Biontino (Germany)</li> <li>• Article III: Ambassador Hernán Estrada Román (Nicaragua)</li> <li>• Article VII: Ambassador Alice Guitton (France)</li> <li>• Future intersessional work programme and the ISU: Ambassador Tehmina Janjua (Pakistan) and Mr. Ian McConville (Australia)</li> </ul>   |

Looking back earlier still, Sims recalls how the President of the First Review Conference, Ambassador Oscar Vaernø of Norway,

*was assisted by Bjarne Lindstrøm [the alternative head of the Norwegian delegation] who kept in close touch with the progress of drafting the Final Declaration. Bjarne was able to concentrate single-mindedly on assisting the Presidency function and hence the progress of the conference as a whole . . . a Counsellor in the delegation, Kai Lie, took charge of representing the national position of Norway.<sup>89</sup>*

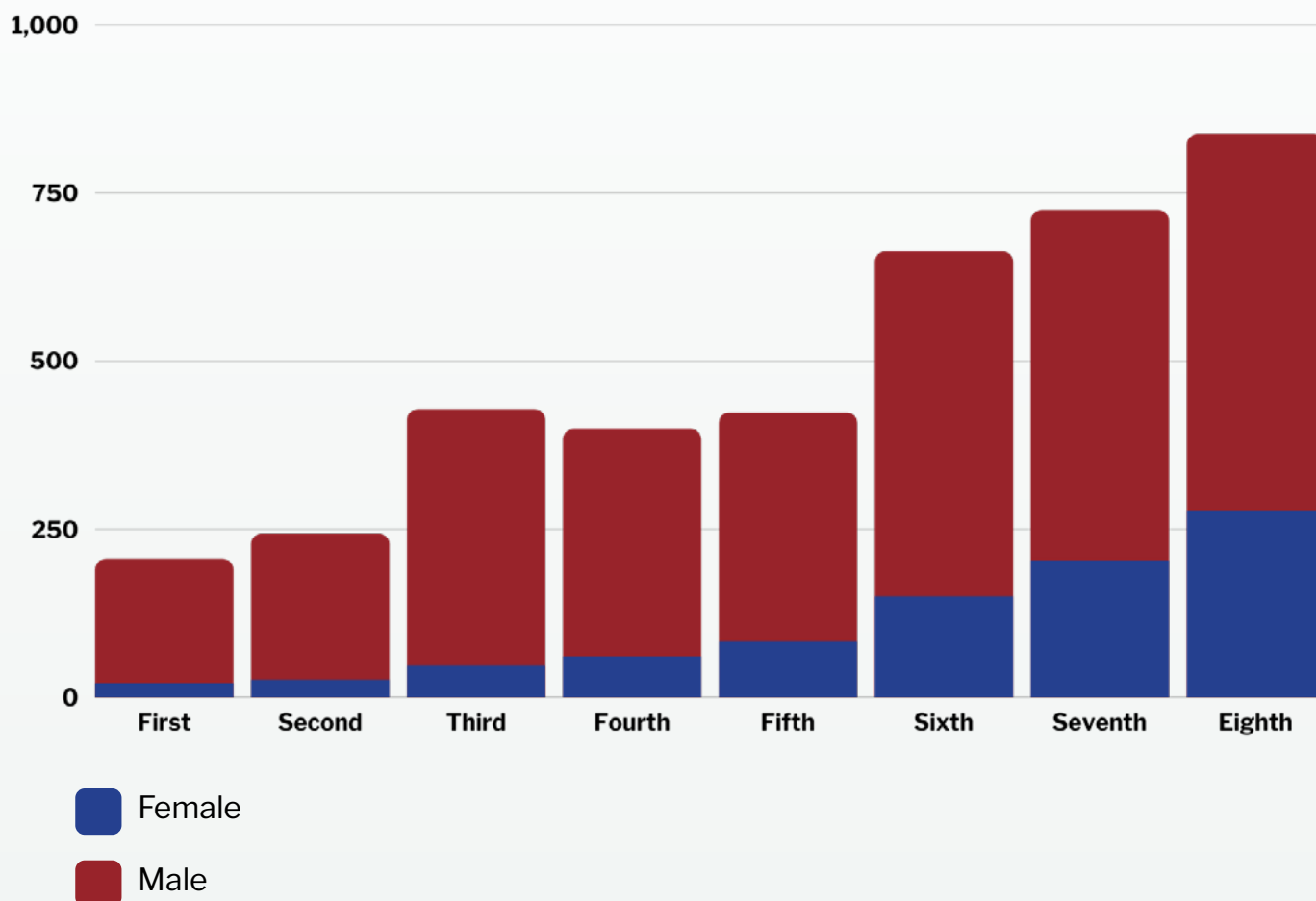
This suggests potential benefit in appointing additional senior personnel to assist the Presidency. It also reinforces the point that provision of sufficient resources for the diplomat taking on the role of President is an important factor in his or her success.

<sup>89</sup> Correspondence with Nicholas Sims, 2020.

### 8.3 DELEGATES

The number of delegates to BWC Review Conferences increased significantly between the First and Eighth Conferences. As illustrated in Figure 3, there was a gender imbalance in participation in past Review Conferences, with men forming the majority of participants. This gender inequality is particularly acute among senior-level delegates, with only 20 per cent of delegations having a female head.<sup>90</sup> There has never been a female President of a Review Conference.

**FIGURE 3.** Numbers of participants in BWC Review Conferences broken down by gender



Many delegates at BWC meetings cover a wide range of issue areas against the backdrop of an increasingly busy arms control and disarmament calendar. In some cases, these delegates are operating on their own, either as officials sent from their capital or – as is more commonly the case in small- and medium-sized countries – from Geneva diplomatic posts. Especially if biological disarmament is viewed as a lesser priority, obtaining sufficient resources and staffing for BWC Review Conferences can be challenging for diplomatic services in this position.<sup>91</sup> This can affect levels of preparation and engagement in the BWC and can even negate the efforts of office holders and other stakeholders to achieve Review Conference success.

<sup>90</sup> Based on data acquired for a forthcoming UNIDIR publication on Gender and the BWC (2021).

<sup>91</sup> J. Revill, “Deconstructing the BWC Seventh Review Conference: Workshop Summary”, Harvard Sussex Program (HSP) “Sussex Day”, 8 March 2012, [http://hsp.sussex.ac.uk/sandtreviews/uploads/500d730e886cd/hsp\\_deconstructing\\_the\\_bwc\\_seventh\\_review\\_conference.pdf](http://hsp.sussex.ac.uk/sandtreviews/uploads/500d730e886cd/hsp_deconstructing_the_bwc_seventh_review_conference.pdf).

## 8.4 REGIONAL GROUPINGS

As mentioned above, there have traditionally been three regional groupings in the BWC: the Group of the Non-Aligned Movement and Other States (NAM), which includes China, the Western Group (WG), and the Eastern European Group (EEG).<sup>92</sup> Key office holder positions in BWC meetings typically rotate between these three groups. Historically, the NAM group has produced joint statements and working papers reflecting group perspectives more frequently than the other groupings, which have done this only rarely, if at all, in recent decades.

However, other regional or likeminded groupings of States have also emerged at different points in the evolution of the BWC. The European Union has submitted working papers and made collective statements since the Fifth Review Conference.<sup>93</sup> Another example emerged in 2006 in the form of a group of BWC States Parties comprising Japan, Australia, Canada, the Republic of Korea, Switzerland, Norway and New Zealand, commonly abbreviated to “the JACKSNNZ”. States from the JACKSNNZ developed joint statements in 2006 and 2011 as well as producing several working papers in 2006 that were prepared in consultation with the group.<sup>94</sup> At the time, the JACKSNNZ group was hailed as having broken the mould “by forming a group based on post-Cold War shared interests, rather than regional or other groupings”.<sup>95</sup> Notably, these JACKSNNZ working papers converged with papers submitted by a collective of Latin American States comprising Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, Guatemala, Mexico, Peru and Uruguay.<sup>96</sup> This seemingly ad hoc collective submitted five working papers to the Sixth BWC Review Conference.<sup>97</sup>

Other examples from 2011 include a joint statement from the Collective Security Treaty Organization (CSTO) and the emergence of a “new ad hoc alliance” between China, India, the Islamic Republic of Iran, Pakistan and the Russian Federation, which, Becker-Jakob observes,

<sup>92</sup> The NAM group was formerly known as the Neutral and Non-Aligned (NNA) group and included countries such as Sweden and Austria.

<sup>93</sup> See for example the reference to an EU contribution to the general debate in 5th BWC Review Conference, “Summary Record (Partial) of the 1st Meeting”, BWC/CONFV/SR.1, 27 November 2001, <https://undocs.org/BWC/CONFV/SR.1>, p. 7; and also 5th BWC Review Conference, “Proposals”, Working paper submitted by the European Union, BWC/CONFV/COW/WP.23, 27 November 2001, <https://undocs.org/BWC/CONFV/COW/WP.23>. At the Fourth Review Conference, EU representatives were attached to Ireland’s delegation. See 4th BWC Review Conference, “List of Participants”, BWC/CONFIV/INF.3, 5 December 1996, <https://undocs.org/BWC/CONFIV/INF.3>, p. 14.

<sup>94</sup> JACKSNNZ states submitted several working papers indicating that they are “one of a series of papers prepared in consultation with Japan, Australia, Canada, Republic of Korea, Switzerland, Norway and New Zealand (JACKSNNZ)”. See for example 6th BWC Review Conference, “An Action Plan for Realising the Universalisation of the Biological and Toxin Weapons Convention”, Working paper submitted by Australia, BWC/CONFVI/WP.15, 15 November 2006, <https://undocs.org/BWC/CONFVI/WP.15>; and 6th BWC Review Conference, “Support Unit for the Biological and Toxin Weapons Convention”, Working paper submitted by Norway, BWC/CONFVI/WP.16, 15 November 2006, <https://undocs.org/BWC/CONFVI/WP.16>.

<sup>95</sup> M. Chevrier, *Arms Control Policy: A Guide to the Issues*, 2012, p. 121.

<sup>96</sup> U. Becker, *Light at the End of the Tunnel? The Sixth Review Conference of the Biological Weapons Convention*, Peace Research Institute Frankfurt (PRIF) Report no. 79, 2007, [https://www.hsfk.de/fileadmin/HSFK/hsfk\\_downloads/prif79.pdf](https://www.hsfk.de/fileadmin/HSFK/hsfk_downloads/prif79.pdf).

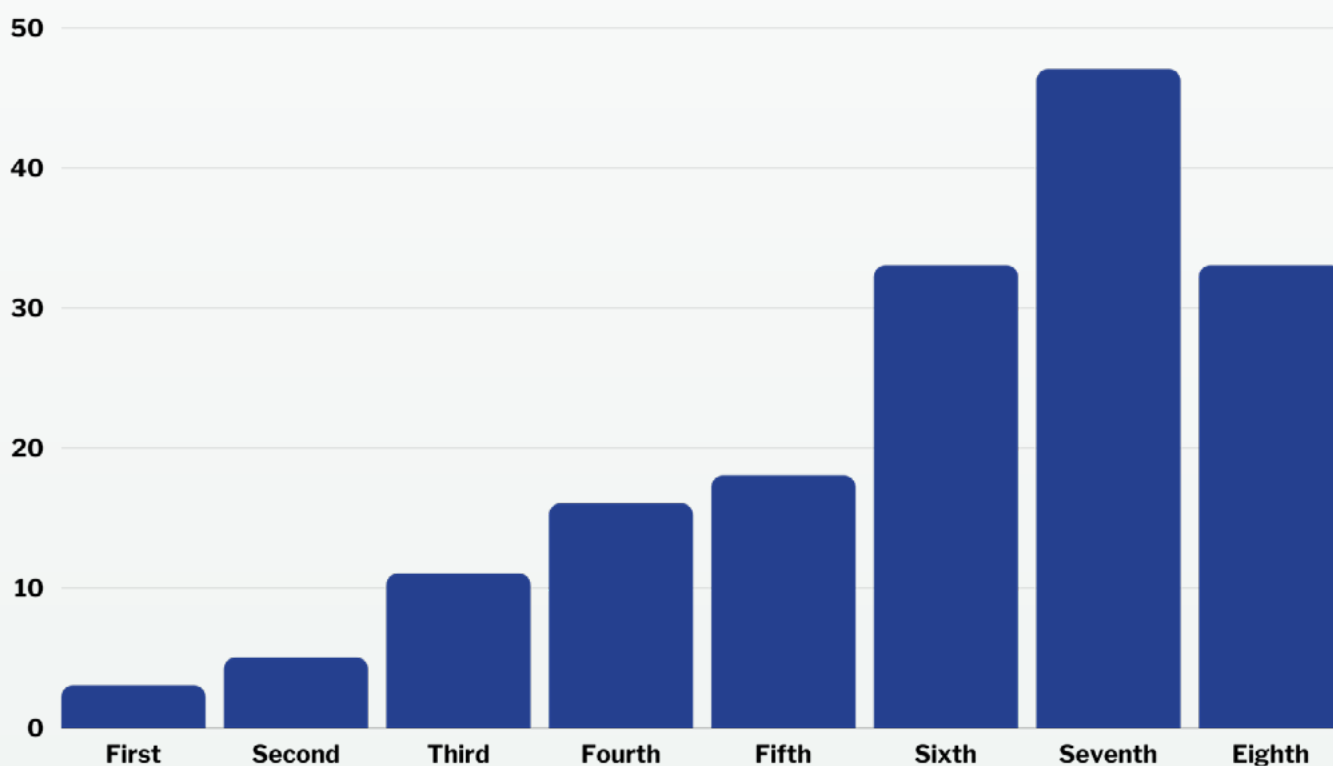
<sup>97</sup> 6th BWC Review Conference, “Universalization”, Working paper submitted by Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, Guatemala, Mexico, Peru and Uruguay, BWC/CONFVI/WP.9, 20 October 2006, <https://undocs.org/BWC/CONFVI/WP.9>; 6th BWC Review Conference, “Scientific Cooperation and Technology Transfer Article X”, Working paper submitted by Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, Guatemala, Mexico, Peru and Uruguay, BWC/CONFVI/WP.10, 20 October 2006, <https://undocs.org/BWC/CONFVI/WP.10>; 6th BWC Review Conference, “Follow-Up Mechanism”, Working paper submitted by Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, Guatemala, Mexico, Peru and Uruguay, BWC/CONFVI/WP.10, 20 October 2006, <https://undocs.org/BWC/CONFVI/WP.11>; 6th BWC Review Conference, “Confidence-Building Measures”, Working paper submitted by Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, Guatemala, Mexico, Peru and Uruguay, BWC/CONFVI/WP.10, 20 October 2006, <https://undocs.org/BWC/CONFVI/WP.12>; and 6th BWC Review Conference, “Support Unit”, Working paper submitted by Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, Guatemala, Mexico, Peru and Uruguay, BWC/CONFVI/WP.10, 20 October 2006, <https://undocs.org/BWC/CONFVI/WP.13>.

collaborated on certain topics and on proposals for future intersessional issues.<sup>98</sup> Nevertheless, the three traditional regional groupings – the EEG, the NAM group and the WG – have proven to be remarkably enduring.

## 8.5 NON-GOVERNMENTAL ORGANIZATIONS AND CIVIL SOCIETY

The non-governmental organization (NGO) presence in BWC Review Conferences has increased from 3 organizations comprising a total of 6 individuals in 1980 to more than 30 organizations and 70 registered NGO participants in 2016 (see Figure 4). In terms of overall profile, NGOs participating in BWC meetings more closely fit the definition of an “epistemic community” than the campaigning NGOs seen in the other contexts.<sup>99</sup> Moreover, NGOs engaged in the BWC largely tend to be Western, “expert, technical, quiet”.<sup>100</sup> These NGOs serve as an important source of independent expertise but have had limited ability to pressure governments into adopting or changing certain positions.

**FIGURE 4.** *Number of non-governmental organizations participating in BWC Review Conferences*



**98** Statement by Belarus on behalf of the member States of the CSTO, December 2011, <https://meetings.unoda.org/section/bwc-revcon-2011-statements/>; and U. Becker-Jakob, *Balanced Minimalism: The Biological Weapons Convention after its 7th Review Conference*, Peace Research Institute Frankfurt (PRIF) Report no. 120, 2013, [https://www.hsfk.de/fileadmin/HSFK/hsfk\\_downloads/prif120.pdf](https://www.hsfk.de/fileadmin/HSFK/hsfk_downloads/prif120.pdf).

**99** Haas describes epistemic communities as holding in common a set of principled and causal beliefs, possessing a shared notion of validity and a shared policy enterprise: “Their authoritative claim to policy-relevant knowledge in a particular domain is based on their recognized expertise within that domain. These features distinguish epistemic communities from other groups often involved in policy coordination . . . Epistemic communities need not be made up of natural scientists; they can consist of social scientists or individuals from any discipline or profession who have a sufficiently strong claim to a body of knowledge that is valued by society.” See P.M. Haas, “Epistemic Communities and International Policy Coordination”, *International Organization*, vol. 46, no. 1, 1992, pp. 1–35, <https://doi.org/10.1017/S0020818300001442>, p. 16.

**100** Kings College London and Geneva Disarmament Platform, *Civil Society and the BWC: Finding a Way Forward*, Workshop Report, Geneva, 3 December 2017, <https://www.filippalenzos.com/wp-content/uploads/2018/03/Civil-society-and-the-BWC-report-final.pdf>.



Following an innovative step taken at the Fourth Review Conference, subsequent Review Conferences have set aside a segment of the general debate during which registered NGO participants can deliver statements to an informal session of the plenary.<sup>101</sup> More recent Review Conferences have also featured opportunities for NGOs and civil society to organize breakfast or lunchtime side events and to submit research materials. In accordance with the rules of procedure, NGOs are permitted to be in the conference chamber during Review Conference plenary sessions; practice has varied as to the degree to which other sessions of the conference have been held in public and open to NGOs. As noted in section 5.4, on contingency planning, to avoid any delay or disruption at the conference, it would be prudent for the President-designate to establish a clear understanding on the practice to be followed well in advance.

In addition, online spaces have been created for civil society to showcase relevant work and engage with issues that they see as being of importance for the BWC. For example, in 2011, participants in the Bioweapons Prevention Project set up a Review Conference Discussion Forum. This involved a written exchange between experts addressing questions such as “How can Article X be implemented successfully?”<sup>102</sup> The succinct nature of contributions to the discussion provides a useful potential model that could inform thinking in preparation for the Ninth BWC Review Conference.

In preparation for both the Seventh and Eighth Review Conferences, the ISU established a “Thinkzone” to serve as a repository of material on different topics of relevance to the BWC produced by States and non-State stakeholders. This innovative resource further provided “space for outside experts, particularly experts from industry, biosafety associations and academia, to present different perspectives and relevant literature as it is published”.<sup>103</sup> In 2016, the ISU organized material in the Thinkzone by theme, covering topics such as assistance and cooperation, science and technology, and national implementation. There would appear to be few, if any, downsides to reviving this practice for the Ninth Review Conference.

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**101** G.S. Pearson, “The Fourth BWC Review Conference: An Important Step Forward”, *Arms Control Today*, vol. 26, no 1, January/February 1997, pp. 14–18, <https://www.armscontrol.org/act/1997-01/features/fourth-bwc-review-conference>.

**102** BioWeapons Prevention Project, “Civil Society Preparations for the 7th BWC Review Conference 2011”, 2011, <http://www.bwpp.org/revcon.html>.

**103** J. Revill and C. McLeish, “So You Want to Do ‘Something’ on Science and Technology Reviews in the Biological Weapons Convention?”, Discussion paper, *Achieving Realistic Decisions at the Seventh BWC Review Conference in 2011*, Workshop of the Pugwash Study Group on Implementation of the CBW Conventions, Geneva, 3–4 December 2011, [http://sro.sussex.ac.uk/id/eprint/39589/1/18-revill\\_mcleish.pdf](http://sro.sussex.ac.uk/id/eprint/39589/1/18-revill_mcleish.pdf), p. 4. See also G.S. Pearson, “The Biological Weapons Convention Seventh Review Conference: A Modest Outcome”, Harvard Sussex Programme (HSP) Report from Geneva Review no. 35, March 2012, [http://www.sussex.ac.uk/Units/spru/hsp/Reports from Geneva/HSP Reports from Geneva Special March 2012.pdf](http://www.sussex.ac.uk/Units/spru/hsp/Reports%20from%20Geneva/HSP%20Reports%20from%20Geneva%20Special%20March%202012.pdf).

## 8.6 INDUSTRY ENGAGEMENT

During the BWC Ad Hoc Group negotiations at the turn of the century (see Section 9.1), international pharmaceutical and life science industry bodies indicated industry reservations about a comprehensive international inspection regime of the kind developed in the draft Protocol. To this end there have been efforts to better engage industry. For instance, in the run-up to the Sixth Review Conference, in 2006, the President-designate, Ambassador Masood Khan, organized a discussion panel with industry representatives at the Meeting of States Parties with a view to building a “new positive relationship between the BWC and the private sector”.<sup>104</sup> The President of the Seventh BWC Review Conference, Ambassador Paul van den IJssel, arranged an industry panel in the indicative programme of work (as well as an industry side-event on the same day).<sup>105</sup>

Industry engagement in the BWC is an area that is ripe for further development. Greater contact could help delegates from BWC States Parties gain a better understanding of new developments in science and technology, as well as of the day-to-day experience of industry. It could also reveal industry views on the implications of new initiatives to strengthen the Convention, for example, in terms of potential effects on proprietary commercial information. Conversely, greater exposure to the BWC could help to build awareness among industry stakeholders about the Convention’s prohibitions and so conceivably enhance implementation in the longer run.<sup>106</sup>

<sup>104</sup> M. Khan et al., “The 2007–2010 Intersessional Process and the Future of the BWC”, *Disarmament Forum*, no. 1, 2011, pp. 51–70, <https://www.unidir.org/files/publications/pdfs/beyond-the-BWC-rev-con-en-313.pdf>, p. 56.

<sup>105</sup> 7th BWC Review Conference, “Provisional Indicative Programme of Work”, 21 November 2011, <https://undocs.org/BWC/CONFVII/2>; and United Nations Office for Disarmament Affairs, “Biological Weapons Convention – Seventh Review Conference: Side Events”, December 2011, <https://meetings.unoda.org/section/bwc-revcon-2011-events/>.

<sup>106</sup> Interview respondent 4, 7 October 2020.

## 9. KEY ISSUES

Several key issues have dominated past BWC Review Conferences. Among them, the five topics discussed below will probably influence the Ninth Review Conference.

### 9.1 HOW THE PROTOCOL WILL BE REVISITED

Although often referred to as a “verification Protocol”, the proposed BWC Protocol was in fact intended as a “balanced package” of measures to strengthen the Convention in various ways, including verification measures. Beginning in 1995, BWC States Parties negotiated a draft instrument in what was known as the Ad Hoc Group (AHG) process. This process followed the findings of a group of BWC verification experts (VEREX), which had concluded “that potential verification measures . . . could be useful to varying degrees in enhancing confidence, through increased transparency, that States Parties were fulfilling their obligations under the BWC”.<sup>107</sup>

The AHG made some progress, but by 1999 proceedings slowed and positions hardened on several issues around which there were “strong conceptual differences in views”.<sup>108</sup> Prominent among these differences was the potential effectiveness of verification in the BWC. This was a matter over which the United States – a key player whose change of position earlier in the 1990s had tipped the balance to enable BWC “reformists” to gain the support necessary to embark on strengthening the Convention – equivocated.<sup>109</sup> At the 24th AHG session, prior to the Fifth Review Conference in 2001, the United States delegation announced “that the current approach to a Protocol to the Biological Weapons Convention . . . is not, in our view, capable of achieving the mandate set forth for the Ad Hoc Group”.<sup>110</sup> The AHG negotiations promptly collapsed, and the resulting acrimony and recrimination dominated the Fifth Review Conference.

The failed Protocol negotiations have cast a long shadow over the BWC regime and the proceedings of its review process. To some extent, the Sixth Review Conference, in 2006, was able to navigate divisions over the Protocol and “avoid a return to the ‘trench warfare’ that had bedevilled the Fifth Review Conference”.<sup>111</sup> However, the residue of discord was clearly manifest at the Sixth, Seventh and Eighth Review Conferences.<sup>112</sup>

**107** Ad Hoc Group of Governmental Experts to Identify and Examine Potential Verification Measures from a Scientific and Technical Standpoint (VEREX), “Summary Report”, BWC/CONF.III/VEREX/8, 24 September 1993, [https://web.archive.org/web/20150919174258/http://www.unog.ch/bwcdocuments/1993-09-VEREX4/BWC\\_CONF.III\\_VEREX\\_08.pdf](https://web.archive.org/web/20150919174258/http://www.unog.ch/bwcdocuments/1993-09-VEREX4/BWC_CONF.III_VEREX_08.pdf), paragraph 31.

**108** Ad Hoc Group of the BWC States Parties, “Procedural Report of the Ad Hoc Group of the States Parties to the Convention: Part I”, BWC/AD HOC GROUP/52 (Part I), 11 August 2000, [https://undocs.org/BWC/ADHOCGROUP/52\(PARTI\)](https://undocs.org/BWC/ADHOCGROUP/52(PARTI)), paragraph 9. Issues on which there was “strong conceptual differences in views” (known as Category III issues) included aspects of investigations, declarations, technology transfers, export controls and the role of the envisaged Cooperation Committee.

**109** J. Littlewood, *The Biological Weapons Convention: A Failed Revolution*, 2005, p. 59.

**110** D. Mahley, United States Special Negotiator for Chemical and Biological Arms Control Issues, “Statement by the United States to the Ad Hoc Group of Biological Weapons Convention States Parties”, 25 July 2001, <https://2001-2009.state.gov/t/ac/rls/rm/2001/5497.htm>.

**111** M. Khan, “The 2006 BWC Review Conference: The President’s Reflections”, *Disarmament Diplomacy*, no. 84, Spring 2007, pp. 13–16, <http://www.acronym.org.uk/old/archive/dd/dd84/84bwcpr.htm>.

**112** See for example the reflections in U. Becker-Jakob, *Balanced Minimalism: The Biological Weapons Convention after its 7th Review Conference*, Peace Research Institute Frankfurt (PRIF) Report no. 120, 2013, [https://www.hsfk.de/fileadmin/HSFK/hsfk\\_downloads/prif120.pdf](https://www.hsfk.de/fileadmin/HSFK/hsfk_downloads/prif120.pdf).

Nonetheless, despite the difficult history, the Covid-19 pandemic appears to have sharpened rather than dulled interest in mechanisms to verify the BWC if statements at the 2020 meetings of the First Committee of the United Nations General Assembly are any guide. Of course, some States have expressed their support for revisiting the prospect of a Protocol regularly over the past two decades, including the members of NAM and the Russian Federation.<sup>113</sup> In contrast, some States in the Western Group have sought to draw a line under the exercise. For example, the United Kingdom encouraged States Parties “not [to] dwell exclusively on the Protocol and the verification question”, suggesting the all-or-nothing approach to the Protocol was “a recipe for indefinite inaction”.<sup>114</sup>

Overall, this means that, 20 years after the Protocol negotiations ended, it remains difficult for BWC States Parties to engage in a constructive and open-minded discussion of the Protocol and its associated issues. Nor, to date, do BWC States Parties seem ready as a collective body to again consider the pros, cons and different modalities of pursuing legally binding measures to strengthen the Convention, beyond their previous exchanges over whether the Protocol was “good” or “bad”.

The Protocol will undoubtedly be an issue at the Ninth Review Conference. If past patterns are repeated, it will be treated as a fundamental divide to be addressed in order to find a workable consensus. There is, however, scope to tackle the issue more constructively and to shift the debate into new, more productive and forward-looking territory. In the intervening period, monitoring and verification in the biological arena have moved on significantly, not only in terms of the technology and techniques involved, but also in terms of distillation of some past experiences. As recently observed by one former biological weapons inspector involved in the United Nations Special Commission (UNSCOM) inspections of Iraq in the 1990s, what is really at stake is not verification per se, but how to address and resolve non-compliance concerns. The former inspector added:

*To this end, BWC States Parties could launch a process to develop appropriate ways and means to address specific types of non-compliance concerns. Measures developed through this process would not be legally binding and could be compiled into a “catalogue” of possible cases and options for their resolution.*<sup>115</sup>

A broad recognition among BWC State parties of the heterogeneity of non-compliance situations in their Review Conference dealings would be a helpful step beyond the stark, even ideological, divides of the draft Protocol era.

**113** M. Koba, Ambassador/Deputy Permanent Representative of Indonesia, Statement on behalf of the Non-Aligned Movement, First Committee General Debate, 75th Session of the United Nations General Assembly, New York, 9 October 2020, [https://estatements.unmeetings.org/estatements/11.0010/20201009/yBOH3dYWEM2T/7FboK4Q9evhe\\_en.pdf](https://estatements.unmeetings.org/estatements/11.0010/20201009/yBOH3dYWEM2T/7FboK4Q9evhe_en.pdf); and V. Ermakov, Head of the Delegation of the Russian Federation, Statement, First Committee General Debate, 75th Session of the United Nations General Assembly, New York, 9 October 2020, [https://geneva.mid.ru/web/geneva\\_en/home/-/asset\\_publisher/BWLEuC9rCBOG/content/statement-by-the-head-of-the-delegation-of-the-russian-federation-director-of-the-foreign-ministry-department-for-nonproliferation-and-arms-control-vl?inheritRedirect=true](https://geneva.mid.ru/web/geneva_en/home/-/asset_publisher/BWLEuC9rCBOG/content/statement-by-the-head-of-the-delegation-of-the-russian-federation-director-of-the-foreign-ministry-department-for-nonproliferation-and-arms-control-vl?inheritRedirect=true).

**114** Meeting of BWC States Parties, Meeting of Experts on Institutional Strengthening of the Convention, “Institutional Strengthening of the Convention: Reflections on the 2001 Protocol and the Verification Challenge”, Working paper submitted by the United Kingdom, BWC/MSP/2019/MX.5/WP.1, 10 July 2019, <https://undocs.org/en/BWC/MSP/2019/MX.5/WP.1>, paragraph 10.

**115** G. Kraatz-Wadsack, “Monitoring and Verification in the Biological Weapons Area”, *Nonproliferation Review*, 5 February 2021, <https://doi.org/10.1080/10736700.2020.1865629>, p. 7.

## 9.2 INTERNATIONAL COOPERATION

Article X of the BWC – on exchange of equipment, materials and information for peaceful purposes – was not especially controversial during the negotiation of the Convention. However, since 1972, this article has become a perennial cause of disagreement, which partially lies in differing expectations about the promotional aspect of Article X. In plain terms, some States Parties feel that the “haves” have not done enough to assist the “have-nots” in terms of international cooperation and capacity building in line with the Convention’s objectives. Another difference concerns the regulatory aspect of Article X: specifically, the obligation that States Parties “avoid hampering the economic or technological development of States Parties”. Some States view denials of authorization for biotechnology-related exports as a violation of this regulatory aspect of Article X. Disagreement typically unfolds along regional group lines, with many Western Group positions diverging from those of the NAM group.

Along with verification provisions and other measures, drafts of the Protocol by 2001 included measures to strengthen the implementation of Article X. A common concern among those calling for a return to negotiations on the Protocol is that BWC verification measures will be pursued independently, without the cooperation measures (and measures to redress export control decisions) that were part of the “balanced package” of the Ad Hoc Group mandate.

## 9.3. SCIENCE AND TECHNOLOGY REVIEWS

At past BWC Review Conferences, many States Parties submitted proposals in support of enhancing the science and technology review process under the Convention.<sup>116</sup> However, the States Parties have failed to agree on exactly how to achieve a more effective science and technology review. In preparation for the Ninth Review Conference, several States Parties, such as Germany, China and the Russian Federation, have once again indicated their interest in some form of review mechanism.<sup>117</sup>

**116** See for example 8th BWC Review Conference, Preparatory Committee, “Elements on Science and Technology for the 2016 Review Conference – The Importance of an Active Review Process”, Working paper submitted by Finland, Norway and Sweden, 25 April 2016, BWC/CONFVIII/PC/WP.7, <https://undocs.org/BWC/CONFVIII/PC/WP.7>; Meeting of BWC States Parties, Meeting of Experts on Review of Developments in the Field of Science and Technology Related to the Convention, “Rethinking the BWC Science and Technology Review: A Renewed Case for a BWC Scientific and Technological Experts Advisory Forum (STEAF)”, Working paper submitted by Germany, the Netherlands and Sweden, BWC/MSP/2019/MX.2/WP.1, 2019, <https://undocs.org/BWC/MSP/2019/MX.2/WP.1>; 8th BWC Review Conference, “The BWC Review Process of Science and Technology”, Working paper submitted by the Islamic Republic of Iran, BWC/CONFVIII/WP.12, 21 October 2016, <https://undocs.org/BWC/CONFVIII/WP.12>; 8th BWC Review Conference, Preparatory Committee, “Strengthening the Biological Weapons Convention: Proposal for the Establishment of a Scientific Advisory Committee”, Working paper submitted by the Russian Federation, BWC/CONFVIII/PC/WP.2/Rev.2, 4 July 2016, <https://undocs.org/BWC/CONFVIII/PC/WP.2/Rev.2>; 8th BWC Review Conference, Preparatory Committee, “Revisión de Ciencia y Tecnología en la CABT: Elementos para un Proceso Políticamente Independiente” [Science and Technology Review in the BWC: Elements for a Politically Independent Process], Working paper submitted by Spain, BWC/CONFVIII/PC/WP.27, 10 August 2016, <https://undocs.org/BWC/CONFVIII/PC/WP.27>; Meeting of BWC States Parties, “Need to Establish a BWC Science and Technology Review Process”, Working paper submitted by Switzerland, BWC/MSP/2017/WP.2, 17 November 2017, <https://undocs.org/BWC/MSP/2017/WP.2>; 8th BWC Review Conference, Preparatory Committee, “A Future Science and Technology Review Process”, Working paper submitted by the United Kingdom, BWC/CONFVIII/PC/WP.4, 11 April 2016, <https://undocs.org/BWC/CONFVIII/PC/WP.4>; and 8th BWC Review Conference, Preparatory Committee, “Science and Technology Review for the BWC: Features of an Effective Process”, Working paper submitted by the United States, BWC/CONFVIII/PC/WP.3, 11 April 2016, <https://undocs.org/BWC/CONFVIII/PC/WP.3>.

**117** G. Sautter, Deputy Permanent Representative of Germany, Statement, First Committee General Debate, 75th Session of the United Nations General Assembly, New York, 12 October 2020, <https://new-york-un.diplo.de/un-en/news-corner/-/2404454>; Geng Shuang, Head of the Chinese Delegation, Statement, First Committee General Debate, 75th Session of the United Nations General Assembly, New York, 12 October 2020, [https://www.fmprc.gov.cn/mfa\\_eng/wjb\\_663304/zwjg\\_665342/zwbd\\_665378/t1823442.shtml](https://www.fmprc.gov.cn/mfa_eng/wjb_663304/zwjg_665342/zwbd_665378/t1823442.shtml); and V. Ermakov, Head of the Delegation of the Russian Federation, Statement, First Committee General Debate, 75th Session of the United Nations General Assembly, New York, 9 October 2020, [https://geneva.mid.ru/web/geneva\\_en/home/-/asset\\_publisher/BWLEuC9rCBOG/content/statement-by-the-head-of-the-delegation-of-the-russian-federation-director-of-the-foreign-ministry-department-for-nonproliferation-and-arms-control-vl?inheritRedirect=true](https://geneva.mid.ru/web/geneva_en/home/-/asset_publisher/BWLEuC9rCBOG/content/statement-by-the-head-of-the-delegation-of-the-russian-federation-director-of-the-foreign-ministry-department-for-nonproliferation-and-arms-control-vl?inheritRedirect=true).

While few States Parties oppose this idea in principle, there are significant differences between some of them on the precise purpose and form of such a mechanism.<sup>118</sup> To achieve progress, States Parties will need to converge on issues such as the objectives and outputs of any mechanism as well as matters related to the nature of participation in it. These challenges are not insuperable but will require some careful preparatory work from office holders in the review process and probably a willingness to compromise on the part of those States Parties that have championed particular mechanisms in the past.

## 9.4 FINANCIAL FACTORS

Financial issues have also had a bearing on past BWC Review Conferences. For example, on the last day of the Seventh Review Conference, a small number of European States indicated that they were unable to support a budget increase to cover a modest expansion of the BWC ISU (from three to five staff), among other things.<sup>119</sup> This effectively scuppered proposals for an expansion of the ISU, which many States Parties and independent experts considered to be under-resourced.

To avoid any last-minute shocks at the Ninth Review Conference, all States Parties (with the support of the ISU) should carefully consider the budgetary implications of proposals for the BWC well in advance of the Review Conference. To this end, it would be useful to develop background documentation on the financial implications of proposals for follow-on action, a practice that was employed at the Eighth BWC Review Conference.<sup>120</sup>

Beyond the ISU-resourcing challenge, the BWC faces more chronic financial difficulties.<sup>121</sup> Many BWC States Parties are in financial arrears. As of November 2020, the Convention had outstanding payments totalling \$277,000.<sup>122</sup>

At the Meeting of States Parties in 2018, the States Parties established a Working Capital Fund, “to be financed by voluntary contributions”, which has alleviated some of the immediate financial pressures.<sup>123</sup> However, these shortfalls have significant implications for what the BWC regime is realistically able to achieve in the future. This is not a new problem: for example, late payments resulted in a shortening of the 2018 Meeting of States Parties.<sup>124</sup> However, it may become more serious in view of the financial challenges posed by the Covid-19 pandemic and its economic aftermath for the national budgets of BWC States Parties.

**118** Based on the results of a UNIDIR survey of the views of States Parties on a BWC science and technology review mechanism.

**119** J. Revill, “Deconstructing the BWC Seventh Review Conference: Workshop Summary”, Harvard Sussex Program (HSP) “Sussex Day”, 8 March 2012, [http://hsp.sussex.ac.uk/sandreviews/uploads/500d730e886cd/hsp\\_deconstructing\\_the\\_bwc\\_seventh\\_review\\_conference.pdf](http://hsp.sussex.ac.uk/sandreviews/uploads/500d730e886cd/hsp_deconstructing_the_bwc_seventh_review_conference.pdf).

**120** 8th BWC Review Conference, Preparatory Committee, “Financial Implications of Proposals for Follow-on Action after the Eighth Review Conference”, Background information document submitted by the Implementation Support Unit, BWC/CONFVIII/PC/6, 7 June 2016, <https://undocs.org/BWC/CONFVIII/PC/6>.

**121** O.-I. Kvalheim, Deputy Permanent Representative of Norway, Statement, First Committee General Debate, 75th Session of the United Nations General Assembly, New York, 9 October 2020, <https://www.norway.no/en/missions/UN/statements/general-assembly-committees/2020/1c-general-debate/>; and E. A. Manalo, Permanent Representative of the Philippines, Statement, First Committee General Debate, 75th Session of the United Nations General Assembly, New York, 9 October 2020, [https://estatements.unmeetings.org/estatements/11.0010/20201009/gY5EMUzkSO4X/LdJpBxTz5jKS\\_en.pdf](https://estatements.unmeetings.org/estatements/11.0010/20201009/gY5EMUzkSO4X/LdJpBxTz5jKS_en.pdf).

**122** United Nations Office for Disarmament Affairs, “Outstanding Amounts/Prepayments by Year and Convention”, November 2020, <http://bit.ly/UNODA-Outstanding-Payments>.

**123** Meeting of BWC State Parties, “Report of the 2018 Meeting of States Parties”, BWC/MSP/2018/6, 1 December 2018, <https://undocs.org/BWC/MSP/2018/6>, paragraph 22(a).

**124** R. Guthrie, “The 2018 Meeting of States Parties: Setting the Scene”, MSP report no. 1, BioWeapons Prevention Project, 4 December 2018, <https://www.cbw-events.org.uk/MSP18-combined.pdf>, p. 1.

## 9.5 NON-COMPLIANCE ALLEGATIONS

To varying degrees, allegations of non-compliance have featured in all previous BWC Review Conferences. As noted above, non-compliance concerns overshadowed the First and Second Review Conferences. At the Fourth Review Conference, Australia, France, the United Kingdom and the United States raised Iraqi and Soviet non-compliance with the BWC. Pearson suggests that these allegations created obstacles to the negotiation of the Final Declaration, although States Parties ultimately overcame them.<sup>125</sup> At the Fifth and Sixth BWC Review Conferences, the United States openly questioned the compliance of selected States Parties and signatory States, although it did not offer supporting evidence.<sup>126</sup> Those States accused and present at each of these Conferences denied the accusations.<sup>127</sup> At the Sixth Review Conference, BWC States Parties moved past early allegations and went on to agree a consensus final outcome.

More recently, several allegations of non-compliance with the BWC have emerged. For example, the Russia Federation has expressed concern that research undertaken at the Richard Lugar Center for Public Health Research in Tbilisi, Georgia, contradicts “the letter and the spirit of the [BWC]”.<sup>128</sup> The United States has alleged that the Russian Federation maintains a biological weapons programme.<sup>129</sup> The accusing States have not substantiated these allegations and in each case the allegation has been denied.

It is the prerogative of BWC States Parties to raise their compliance concerns however they see fit. Nevertheless, such statements can “sour the atmosphere of the conference”.<sup>130</sup> Given recent (and unsubstantiated) allegations surrounding the origins of the SARS-CoV-2 virus and the allegations outlined above, issues of non-compliance could emerge at the Ninth Review Conference. Depending on how and when States Parties raise these concerns, such allegations could have a detrimental effect on the Review Conference’s dynamics and make common agreement harder to achieve.

There are essentially two ways in which non-compliance allegations could be handled without significantly disrupting the Ninth Review Conference or preventing a consensus outcome. First, as happened in 1996 and 2006, allegations made (and responded to) in the general debate could simply be left there, on the record of the debate, but not formally deliberated on in the

<sup>125</sup> G.S. Pearson, “The Fourth BWC Review Conference: An Important Step Forward”, *Arms Control Today*, vol. 26, no 1, January/February 1997, pp. 14–18, <https://www.armscontrol.org/act/1997-01/features/fourth-bwc-review-conference>.

<sup>126</sup> On allegations at the Fifth Review Conference, see R. Lennane, “Blood, Toil, Tears and Sweat: The Biological and Toxin Weapons Convention since 2001”, *Disarmament Forum*, no. 3, 2006, pp. 5–16, <https://unidir.org/files/publications/pdfs/toward-a-stronger-BWC-en-336.pdf>. On allegations by the United States at the Sixth Review Conference, see J.C. Rood, United States Assistant Secretary for International Security and Nonproliferation, “Remarks to the Sixth Biological Weapons Convention Review Conference”, 20 November 2006, <https://2001-2009.state.gov/t/isn/rls/rm/76446.htm>.

<sup>127</sup> For example, in 2006 the United States alleged that the Islamic Republic of Iran “probably has an offensive biological weapons program”. The Islamic Republic of Iran subsequently rejected these allegations as “baseless”, arguing that this claim was “contrary to the cooperative spirit of this Conference”. See *Ibid*; and A. R. Moaiyeri, Permanent Representative of the Islamic Republic of Iran, Statement, Sixth BWC Review Conference, Geneva, 20 November 2006, [https://web.archive.org/web/20150929081639/www.unog.ch/80256EDD006B8954/\(httpAssets\)/77FFE3C801D8016EC1257230003A5A18/\\$file/BWC-6RC-Statement-061120-Iran2.pdf](https://web.archive.org/web/20150929081639/www.unog.ch/80256EDD006B8954/(httpAssets)/77FFE3C801D8016EC1257230003A5A18/$file/BWC-6RC-Statement-061120-Iran2.pdf).

<sup>128</sup> Ministry of Foreign Affairs of the Russian Federation, “Comment by the Information and Press Department on developments involving the Richard Lugar Centre for Public Health Research in Georgia”, 26 May 2020, [https://www.mid.ru/drugie-vidy-omu/-/asset\\_publisher/JBSvkVAIGJSS/content/id/4138777](https://www.mid.ru/drugie-vidy-omu/-/asset_publisher/JBSvkVAIGJSS/content/id/4138777).

<sup>129</sup> C.A. Ford, United States Assistant Secretary of State for International Security and Non-Proliferation, “Our Global Partnership against Chemical Weapons Abuses”, Remarks, Plenary Meeting, Global Partnership Against the Spread of Weapons and Materials of Mass Destruction, 18 November 2020, <https://2017-2021.state.gov/our-global-partnership-against-chemical-weapons-abuses/>.

<sup>130</sup> R. Lennane, “Blood, Toil, Tears and Sweat: The Biological and Toxin Weapons Convention since 2001”, *Disarmament Forum*, no. 3, 2006, pp. 5–16, <https://unidir.org/files/publications/pdfs/toward-a-stronger-BWC-en-336.pdf>, p. 6.

conference or mentioned in the Final Document. Second, if the accusing State or States want to pursue the matter, the conference could agree to refer the issue to the Article V consultative process developed by previous Review Conferences and applied in 1997, to be convened sometime after the conclusion of the Ninth Review Conference.



## 10. OUTCOMES

The previous eight BWC Review Conferences have concluded with mixed results. Seven managed to achieve a consensus Final Document, in some cases with valuable forward-looking steps.

The First Review Conference, in 1980, achieved a consensus Final Document that included an agreement to hold further Review Conferences, something that until that time was by no means guaranteed. It also recognized the right of all States Parties to request an Article V consultative meeting and called upon them to increase their “scientific and technological co-operation”.<sup>131</sup> Similarly, the Second Review Conference, in 1986, also achieved a consensus Final Document. Notably, this Review Conference further confirmed the broad scope of the Convention, indicating that Article I “unequivocally applies to all natural or artificially created microbial or other biological agents or toxins”. This Review Conference further developed measures for the exchange of information and agreed to hold a further expert meeting in March and April 1987 to “finalize the modalities for the exchange of information and data”.<sup>132</sup>

States Parties achieved consensus at the Third Review Conference, in 1991, as well as several forward-looking steps largely embodied in the Additional Understanding under Article V. Notably, the Third Review Conference also established VEREX. Moreover, under Article X, the Review Conference urged “all States Parties actively to promote international cooperation and exchange with States Parties in the peaceful uses of biotechnology”.<sup>133</sup>

The Fourth Review Conference, in 1996, achieved a consensus Final Declaration. Reflecting concerns arising from Aum Shinrikyo’s attempted development of biological weapons, the States Parties agreed an additional understanding under Article IV that extended national measures to “exclude use of biological and toxin weapons in terrorist or criminal activity”.<sup>134</sup> The Final Declaration further “endorsed the work of the Ad Hoc Group [on the Protocol] and encouraged it to move on to a negotiating format”.<sup>135</sup>

The Fifth Review Conference, in 2001, failed to achieve consensus on a Final Declaration. However, when it resumed in 2002, States Parties accepted the President’s proposal for a series of intersessional meetings beginning in 2003.<sup>136</sup> The Sixth Review Conference successfully achieved a consensus Final Document including a Final Declaration and a forward-looking “Decisions and Recommendations” section.<sup>137</sup> The Decisions and Recommendations included an intersessional programme of work for the ensuing four years that covered national

**131** 1st BWC Review Conference, “Final Document”, BWC/CONF.I/10, 21 March 1980, <https://undocs.org/BWC/CONF.I/10>, part II, p. 9.

**132** 2nd BWC Review Conference, “Final Document”, BWC/CONF.II/13, 30 September 1986, [https://web.archive.org/web/20200923211704/https://www.unog.ch/bwcdocuments/1986-09-2RC/BWC\\_CONF.II\\_13.pdf](https://web.archive.org/web/20200923211704/https://www.unog.ch/bwcdocuments/1986-09-2RC/BWC_CONF.II_13.pdf), part II, pp. 3, 6.

**133** 3rd BWC Review Conference, “Final Document”, BWC/CONF.III/23, 1992, [https://web.archive.org/web/20150909094348/http://www.unog.ch/bwcdocuments/1991-09-3RC/BWC\\_CONF.III\\_23.pdf](https://web.archive.org/web/20150909094348/http://www.unog.ch/bwcdocuments/1991-09-3RC/BWC_CONF.III_23.pdf), part II, p. 21.

**134** 4th BWC Review Conference, “Final Document”, BWC/CONF.IV/9, 1996, <https://undocs.org/BWC/CONF.IV/9>, part II, p. 17.

**135** G.S. Pearson, “The Fourth BWC Review Conference: An Important Step Forward”, *Arms Control Today*, vol. 26, no 1, January/February 1997, pp. 14–18, <https://www.armscontrol.org/act/1997-01/features/fourth-bwc-review-conference>.

**136** 5th BWC Review Conference, “Final Document”, BWC/CONF.V/17, 2002, <https://undocs.org/BWC/CONF.V/17>, paragraph 18.

**137** 6th BWC Review Conference, “Final Document”, BWC/CONF.VI/6, 2006, <https://undocs.org/BWC/CONF.VI/6>.

implementation, biosafety and biosecurity, and international cooperation, among other things. Notably, the Sixth Review Conference also established the ISU.

The Seventh Review Conference agreed a consensus Final Document, comprising a Final Declaration that included several updated additional understandings<sup>138</sup> and a Decisions and Recommendations section that renewed the ISU's mandate and agreed a new intersessional agenda with three standing agenda items on cooperation and assistance; developments in the field of science and technology; and strengthening national implementation.

Pearson, a veteran of BWC meetings, observed that the Eighth Review Conference was “undoubtedly the best prepared of all the Review Conferences”, yet the outcome was “disappointingly meagre”.<sup>139</sup> There was agreement on a Final Declaration and some development in additional understandings, particularly related to Article VII. Moreover, the States Parties again renewed the ISU's mandate. However, because certain States objected, the development of additional understandings was limited and there was no agreement on a future intersessional programme of work beyond a decision that “States Parties will hold annual meetings” to “seek to make progress on issues of substance and process”.<sup>140</sup> This essentially deferred decisions about the details of a programme of intersessional work until December 2017, at which time States Parties were able to agree a renewed intersessional process. Nonetheless, at the time this left many States Parties with a sense of “disappointment and frustration”.<sup>141</sup>

Interview respondents for this report presented a range of views as to what a successful outcome for the Ninth Review Conference would look like. Several respondents stressed the importance of an outcome document that contains both a reaffirmation and extension of additional understandings from past Review Conference and agreement around a “renewed intersessional program that has moved on from what we have so far and is more than what we had”.<sup>142</sup> Other respondents further proposed that reasonable indicators of success would include the adoption of existing proposals or further work on a science and technology review mechanism, codes of conduct, CBMs, the provision of assistance, mobile biomedical units, international cooperation or “enabling fuller and more imaginative use of Article V”.<sup>143</sup> One respondent suggested that an important indicator of success would be agreement to further explore technical means of verifying compliance or agreement on modalities for exploring the comprehensive strengthening of the Convention.

There are several common elements in these responses. Perhaps the most striking common theme is their modest level of ambition: most would be satisfied with a consensus Final Document containing forward-looking elements, including a renewed intersessional process. This no doubt reflects a degree of sensible realism informed by the experience of the disappointing Eighth Review Conference and amplified by the serious problems that have beset multilateral arms control and disarmament since then, as well as the Covid-19 factor.

**138** 7th BWC Review Conference, “Final Document”, BWC/CONFVII/7, 2011, <https://undocs.org/BWC/CONFVII/7>.

**139** G.S. Pearson and N.A. Sims, “The BWC Eighth Review Conference: A Disappointing Outcome”, Harvard Sussex Programme (HSP), Report from Geneva Review no. 46, February 2017, [https://web.archive.org/web/20170807075743/http://www.unog.ch/80256EDD006B8954/\(httpAssets\)/96E73A407E36F9D0C12580ED00354AB3/\\$file/REPORT\\_FROM\\_GENEVA\\_46+E.pdf](https://web.archive.org/web/20170807075743/http://www.unog.ch/80256EDD006B8954/(httpAssets)/96E73A407E36F9D0C12580ED00354AB3/$file/REPORT_FROM_GENEVA_46+E.pdf), pp. 205, 211.

**140** 8th BWC Review Conference, “Final Document”, BWC/CONFVIII/4, 2016, <https://undocs.org/BWC/CONFVIII/4>, part III, paragraph 6.

**141** M. David, E. Konovalova and C. Bertherat, “Biological Weapons Convention 8th Review Conference Outcome: Below Expectations”, Trust & Verify, no. 155, winter 2017, pp. 1–5, <https://www.vertic.org/media/assets/TV/TV155.pdf>, p. 4.

**142** Correspondence with Nicholas Sims, 30 September 2020; and Interview respondent 3, 24 September 2020.

**143** Correspondence with Nicholas Sims, 30 September 2020; and other Interviews.

Nonetheless, it is important to keep in mind that the outcome of every BWC Review Conference has amounted to less than the proposals and ideas that went into it: even the best-prepared and most widely supported proposals are inevitably watered down and pared back in the process of negotiation and compromise required to secure a consensus. There is therefore a risk of setting goals that are too modest. A more ambitious and energetic approach may be justified in order to be sure of having at least a modestly satisfactory outcome emerge at the end of the negotiations. This will be particularly important at the Ninth BWC Review Conference. Another limited outcome could fragment effective international support for the BWC when international relations are strained and biotechnology is rapidly advancing.

# 11. CONCLUSIONS

Each reader may draw different specific conclusions from the various lessons and experiences considered in this paper. This is only to be expected. However, it is hoped that all readers find this report a useful resource, and that it stimulates productive discussions among BWC stakeholders on how best to proceed with preparations for the Ninth Review Conference. In making such preparations, our research identifies the following steps as particularly important for a successful conference:

- Early nomination of a President-designate who has a strong personal interest in and commitment to the BWC and the success of the Review Conference, as well as backing from his or her government and the time and resources to commit to the task.
- Early development of proposals and working papers, and – crucially – cross-regional exchange, discussion and coalition-building in support of a balanced package of specific outcomes.
- Development and stimulation of constructive high-level political interest in the conference, including through highlighting linkages with high-priority exogenous developments such as the Covid-19 pandemic.
- Early identification by the President-designate and the Bureau of potential obstacles and sticking-points, and consultation with the States Parties concerned to develop trust and rapport and to start working on possible solutions.
- Convening of international and regional workshops and seminars to discuss issues, develop proposals and build support for specific outcomes.
- Consistent efforts by the President-designate and the Bureau to encourage, facilitate and (where needed) drive exchange and consultation among States Parties, regional and other groups, the scientific community, industry and civil society.
- Contingency planning by the Bureau and the ISU on procedural, financial and conference management issues.

Each of these elements would lay the groundwork for States Parties to take advantage of the opportunities that the next Review Conference presents. Nevertheless, as important as each of these ingredients is, the wider politics and priorities of States Parties will also shape prospects for success at the Ninth Review Conference.

Success with the forward-looking component of the Final Document at the Ninth BWC Review Conference is particularly important. Another outcome widely seen among States Parties as disappointing – or, worse, as another failure – can be expected to exacerbate political divisions within the biological weapons regime and fragment effective international support for achieving its aims at a time when biology and biotechnology are advancing rapidly. At the same time, geopolitical tensions are at the highest level they have been since the end of the Cold War and political pressures are mounting for some governments to be seen to act on their non-

compliance concerns in the biological disarmament regime. In time, in the absence of confidence in the Convention, these pressures could lead to States launching new international initiatives that duplicate or undermine the BWC. The creation of other standards pertaining to biological weapons that are narrower in focus or do not have broad support from BWC States Parties would be likely to weaken the biological weapons regime. A second conceivable scenario is that the BWC regime drifts towards apathy and irrelevance due to insufficient political interest and leadership. (These two scenarios are not necessarily mutually exclusive.)

Achieving convergence in the expectations of States Parties will therefore require forethought, commitment and collaboration over the course of the remaining months before the Review Conference is scheduled to begin. This is vital if the Ninth Review Conference is to contribute to strengthening this increasingly important disarmament agreement at a critical point in its evolution.



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