

SUCCESSFUL OUTCOMES FOR THE REVIEW CONFERENCE

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1. The Sixth Review Conference of the Biological and Toxin Weapons Convention (BTWC) is taking place ten years after the last review of the operation of the Convention which produced a Final Declaration at the Fourth Review Conference in 1996, and fifteen years after the last full review, at the Third Review Conference in 1991. Article XII of the Convention requires:

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 realized. Such review shall take into account any new scientific and technological developments relevant to the Convention.

All States Parties need to prepare now to ensure a successful outcome to the Sixth Review Conference. As others have pointed out, success is rarely accidental and needs to be planned for.

2. States Parties at the Sixth Review Conference need to seize the opportunity to **both** reaffirm the norm that biological weapons are totally prohibited **and** strengthen the effectiveness of the Convention by agreeing appropriate measures. These Key Points are prepared to help States Parties identify and review the issues that have arisen since the Fourth Review Conference and to suggest language that individual States Parties might draw upon in preparing the contributions that each State Party is encouraged to put forward to the Committee of the Whole whose task is to draw these together for the Drafting Committee to finalise as a draft Final Declaration for the Sixth Review Conference.

3. In this introductory chapter, we recall briefly some developments relevant to the Convention between the Fourth and Fifth Review Conferences followed by the BTWC-specific and wider international activities of the States Parties to the Convention since the Fifth Review Conference, the importance of sustaining and nurturing the Convention through the Sixth Review Conference and then set out some of the successful and achievable outcomes that are already attracting support from a number of States Parties. These are all considered further in later sections of this Briefing Book, which considers each Article in turn. Following the style adopted in the Briefing Books prepared for the Fourth Review Conference¹ and the Fifth Review Conference², these major issues are considered in outline here as this will help to set the scene and the expectations for the Review Conference.

¹Graham S. Pearson & Malcolm R. Dando (eds), *Strengthening the Biological Weapons Convention: Key Points for the Fourth Review Conference*, University of Bradford, Department of Peace Studies, November 1996. Available at <http://www.brad.ac.uk/acad/sbtwc>

² Graham S. Pearson, Malcolm R. Dando & Nicholas A. Sims (eds), *Strengthening the Biological Weapons Convention: Key Points for the Fifth Review Conference*, University of Bradford, Department of Peace Studies, November 2001. Available at <http://www.brad.ac.uk/acad/sbtwc>

Developments between the Fourth and Fifth Review Conferences

4. It is relevant to recall briefly the following developments that took place between the Fourth and Fifth Review Conferences:

- a. The entry into force on 29 April 1997 and subsequent implementation of the Chemical Weapons Convention (CWC);
- b. The scientific and technological developments relevant to the Convention. There have been major developments – indeed the 21st Century has been declared as the age of biotechnology and genomics. These developments are of particular relevance not only to Article I – the basic prohibition – but also to Article VII – assistance – and to Article X – technical cooperation.
- c. The lack of unanimity in the Security Council which led to the termination at the end of 1998 of the operations of the United Nations Special Commission (UNSCOM) in Iraq and its replacement by the United Nations Monitoring, Verification and Inspection Commission (UNMOVIC) which by 2001 had yet to commence its operations in Iraq.
- d. The continued stalemate in the trilateral process involving the UK, the USA and Russia addressing the dismantlement of the offensive biological weapons programme of the former Soviet Union, which cast doubt on the credibility of the commitment to fulfil their arms control and disarmament obligations and to prevent proliferation made on 31 January 1992 by the Security Council meeting at Heads of State and Government level.
- e. The negotiations in the Ad Hoc Group that had seen the development of the rolling text and the creation of the Chairman's composite text which had attracted the support of the majority of the States Parties engaged in the negotiations but failed in July 2001 to find consensus.
- f. The increased concern world wide and especially in the United States following the anthrax attacks in September/October 2001 about the use of biological agents and toxins by sub-State actors which underlined the importance of taking further the steps that were taken at the Fourth Review Conference to ensure that individuals or subnational groups are effectively prevented from acquiring or using such agents for other than peaceful purposes.
- g. The absence of any on-going body or standing secretariat to steer the regime to totally prohibit biological weapons, which had become all the more glaring by comparison with the Organization for the Prohibition of Chemical Weapons (OPCW) and its implementation of the Chemical Weapons Convention (CWC). When coupled with the rate in which major developments are occurring in biotechnology and microbiology, there is a compelling argument for a dedicated standing secretariat to nurture and sustain the regime against biological weapons.

The Fifth Review Conference

5. It will be recalled that the Fifth Review Conference opened on 19 November 2001. On the final day, 7 December 2001, the President said that the final declaration was 95 per cent ready but there seemed to be a serious lack of understanding concerning the issue of the Ad Hoc Group where the differences between positions seemed to be irreconcilable at least in the time remaining that day.³ Consequently, the Review Conference was adjourned until 11 to 22 November 2002.⁴

6. At the resumption in November 2002, the President of the Review Conference presented a proposal for the outcome of the Fifth Review Conference in the form of a draft decision establishing follow-up meetings over the next three years. This reflected the conclusion that he had reached that this was the only outcome which could realistically hope to be achieved that would ensure a continued multilateral approach to the implementation and strengthening of the Convention in a way that involved all States Parties. The draft decision called for a one-week annual Meeting of States Parties each year, with each such meeting to be preceded by a two-week Meeting of Experts. Five topics were set out for consideration by these meetings, with a timetable for which topic would be considered in which year. The five topics were:

i. The adoption of necessary national measures to implement the prohibitions set forth in the Convention, including the enactment of penal legislation;

ii. National mechanisms to establish and maintain the security and oversight of pathogenic microorganisms and toxins;

iii. Enhancing international capabilities for responding to, investigating and mitigating the effects of cases of alleged use of biological or toxin weapons or suspicious outbreaks of disease;

iv. Strengthening and broadening national and international institutional efforts and existing mechanisms for the surveillance, detection, diagnosis and combating of infectious diseases affecting humans, animals, and plants;

v. The content, promulgation, and adoption of codes of conduct for scientists.

It was proposed that items i and ii would be addressed in 2003, iii and iv in 2004 and v in 2005. The proposal was agreed by the States Parties and the resumed Fifth Review Conference concluded on 15 November 2002 when the Final Report⁵ was adopted.⁶

³ United Nations, *Comments made by the President of the Fifth Review Conference of States Parties to the Biological Weapons Convention after the adjournment of the Review Conference until November 2002*, Press Release 5RC-PR-011207, 7 December 2001. Available at <http://www.opbw>

⁴ For an account of the developments at the Fifth Review Conference in November-December 2001, see Graham S. Pearson, *The Biological and Toxin Weapons Convention*, Report from Geneva, Quarterly Review no 17, The CBW Conventions Bulletin, Issue No. 54, December 2001. Available at <http://fas-www.harvard.edu/~hsp/bulletin/cbwcb54.pdf>

⁵ United Nations, *Fifth Review Conference of the States Parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction*, Geneva, 19 November - 7 December 2001 and 11 - 22 November 2002, Final Document, BWC/CONF.V/17, Geneva 2002. Available at <http://www.opbw.org>

BTWC-Specific Developments since the Fifth Review Conference

7. As already noted, the outcome of the Fifth Review Conference was a decision that there would be an annual one week Meeting of States Parties in 2003, 2004 and 2005 prepared for by an earlier two week Meeting of Experts. The topics addressed in 2003 were:

- i. The adoption of necessary, national measures to implement the prohibitions set forth in the Convention, including the enactment of penal legislation;*
- ii. National mechanisms to establish and maintain the security and oversight of pathogenic microorganisms and toxins;*

8. The report⁷ of the annual Meeting of States Parties in 2003 included the following concluding paragraphs:

At the Meeting of States Parties, States Parties noted that notwithstanding the differing legal and constitutional arrangements among the 151 States Parties to the Convention, States have adopted similar basic approaches and share common principles. The States Parties stressed the need for undertaking activities at the national level in keeping with their obligations and responsibilities to strengthen and implement the Convention. The States Parties agreed, to that end, on the value of the following:

To review, and where necessary, enact or update national legal, including regulatory and penal, measures which ensure effective implementation of the prohibitions of the Convention, and which enhance effective security of pathogens and toxins.

The positive effect of cooperation between States Parties with differing legal and constitutional arrangements. States Parties in a position to do so may wish to provide legal and technical assistance to others who request it in framing and/or expanding their own legislation and controls in the areas of national implementation and biosecurity.

The need for comprehensive and concrete national measures to secure pathogen collections and the control of their use for peaceful purposes. There was a general recognition of the value of biosecurity measures and procedures, which will ensure that such dangerous materials are not accessible to persons who might or could misuse them for purposes contrary to the Convention.

⁶ For an account of the resumed Fifth Review Conference in November 2002, see Graham S. Pearson, *The Biological and Toxin Weapons Convention*, Report from Geneva, Quarterly Review no 18, The CBW Conventions Bulletin, Issue No. 58, December 2002. Available at <http://fas-www.harvard.edu/~hsp/bulletin/cbwcb58.pdf>

⁷ United Nations, Meeting of the States Parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, First Meeting, Geneva, 10-14 November 2003, *Report of the Meeting of States Parties*, BWC/MSP/2003/4 (Vol. I), 26 November 2003. Available at <http://www.opbw.org>

States Parties considered that agreement on the value of these measures discussed at the Meeting constitutes an essential effort to facilitate more effective implementation and enforcement of the Convention, as well as providing a basis for review of progress at the 2006 Review Conference.

It was evident from reports of both the Meeting of Experts⁸ and the Meeting of States Parties⁹ that they provided an opportunity for States Parties to share information on the approaches that they had taken nationally to address these two topics. Although decisions on further action were left to the Sixth Review Conference, the annual meetings had been effective in bringing the two topics to the attention of the States Parties.

9. The topics addressed in 2004 were:

iii. Enhancing international capabilities for responding to, investigating and mitigating the effects of cases of alleged use of biological or toxin weapons or suspicious outbreaks of disease;

iv. Strengthening and broadening national and international institutional efforts and existing mechanisms for the surveillance, detection, diagnosis and combating of infectious diseases affecting humans, animal, and plants;

10. The report¹⁰ of the annual Meeting of States Parties in 2004 included the following concluding paragraphs:

18. On the mandate to discuss, and promote common understanding and effective action on strengthening and broadening national and international institutional efforts and existing mechanisms for the surveillance, detection, diagnosis and combating of infectious diseases affecting humans, animals, and plants, the States Parties recognised that:

a) infectious disease outbreaks can be contained and suppressed through early-detection, immediate response and co-operation and support at the national and international level;

b) strengthening and broadening national and international surveillance, detection, diagnosis and combating of infectious disease may support the object and purpose of the Convention;

⁸ For an account of the Meeting of Experts in August 2003, see Graham S. Pearson, *The Biological Weapons Convention New Process*, Report from Geneva, Review no 19, The CBW Conventions Bulletin, Issue No. 61, September 2003. Available at <http://www.sussex.ac.uk/Units/spru/hsp/cbwcb61.pdf>

⁹ For an account of the Meeting of States Parties in November 2003, see Graham S. Pearson, *The Biological Weapons Convention New Process*, Report from Geneva, Review no 20, The CBW Conventions Bulletin, Issue No. 62, December 2003. Available at <http://www.sussex.ac.uk/Units/spru/hsp/cbwcb62.pdf>

¹⁰ United Nations, Meeting of the States Parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, Second Meeting, Geneva, 6-10 December 2004, *Report of the Meeting of States Parties*, BWC/MSP/2004/3, 14 December 2004. Available at <http://www.opbw.org>

c) the primary responsibility for surveillance, detection, diagnosis and combating of infectious diseases rests with States Parties, while the WHO, FAO and OIE have global responsibilities, within their mandates, in this regard. The respective structures, planning and activities of States Parties and the WHO, FAO and OIE should be co-ordinated with and complement one another;

d) scientific and technological developments have the potential to significantly improve disease surveillance and response.

19. The States Parties consequently agreed on the value of:

a) supporting the existing networks of relevant international organisations for the surveillance, detection, diagnosis and combating of infectious diseases and acting to strengthen the WHO, FAO and OIE programmes, within their mandates, for the continued development and strengthening of, and research into, rapid, effective and reliable activities for the surveillance, detection, diagnosis and combating of infectious diseases, including in cases of emergencies of international concern;

b) improving, wherever possible, national and regional disease surveillance capabilities, and, if in a position to do so, assisting and encouraging, with the necessary agreement, other States Parties to do the same;

c) working to improve communication on disease surveillance, including with the WHO, FAO and OIE, and among States Parties.

20. On the mandate to discuss, and promote common understanding and effective action on enhancing international capabilities for responding to, investigating and mitigating the effects of cases of alleged use of biological or toxin weapons or suspicious outbreaks of disease, the States Parties recognised that:

a) capabilities for responding to, investigating and mitigating the effects of cases of alleged use of biological or toxin weapons or suspicious outbreaks of disease promote the object and purpose of the Convention;

b) States Parties' national preparedness and arrangements substantially contribute to international capabilities for responding to, investigating and mitigating the effects of cases of alleged use of biological or toxin weapons or suspicious outbreaks of disease;

c) the Secretary-General's investigation mechanism, set out in A/44/561 and endorsed by the General Assembly in its resolution A/Res/45/57, represents an international institutional mechanism for investigating cases of alleged use of biological or toxin weapons.

21. The States Parties consequently agreed on the value of:

a) continuing to develop their own national capacities for response, investigation and mitigation, in cooperation with the relevant international

and regional organisations, and, if in a position to do so, assisting and encouraging, with the necessary agreement, other States Parties to do the same;

b) the Sixth Review Conference considering, inter alia, the further development of current procedures for the provision of assistance, by those in a position to do so, to States Parties in cases of alleged use of biological weapons or suspicious outbreaks of disease.

22. The States Parties further considered that in pursuing the above understandings and actions, States Parties could, according to their respective circumstances, consider the considerations, lessons, perspectives, recommendations, conclusions and proposals drawn from the presentations, statements, working papers and interventions made by delegations on the topics under discussion at the Meeting of Experts, as contained in the Annex II of the Report of the Meeting of Experts (BWC/MSP/2004/MX/3), as well as the synthesis of these considerations, lessons, perspectives, recommendations, conclusions and proposals contained in BWC/MSP/2004/L.1, which are attached to this report as Annexes II and III. These annexes were not discussed or agreed upon and consequently have no status.

It was again evident from reports of both the Meeting of Experts¹¹ and the Meeting of States Parties¹² that these had provided opportunities for States Parties to share information on the approaches being taken to address these two topics. Although decisions on further action were left to the Sixth Review Conference, the annual meetings were again effective in focussing the attention of the States Parties on these two topics.

11. The topic addressed in 2005 was:

v. The content, promulgation, and adoption of codes of conduct for scientists.

12. The report¹³ of the annual Meeting of States Parties in 2005 included the following concluding paragraphs:

18. On the mandate to discuss, and promote common understanding and effective action on the content, promulgation and adoption of codes of conduct for scientists, the States Parties recognised that:

(a) while the primary responsibility for implementing the Convention rests with States Parties, codes of conduct, voluntarily adopted, for scientists in the

¹¹ For an account of the Meeting of Experts in July 2004, see Graham S. Pearson, *The Biological Weapons Convention New Process*, Report from Geneva, Review no 21, The CBW Conventions Bulletin, Issue No. 65, September 2004. Available at <http://www.sussex.ac.uk/Units/spru/hsp/cbwcb65.pdf>

¹² For an account of the Meeting of States Parties in December 2004, see Graham S. Pearson, *The Biological Weapons Convention Meeting of States Parties*, Report from Geneva, Review no 22, The CBW Conventions Bulletin, Issue No. 66, December 2004. Available at <http://www.sussex.ac.uk/Units/spru/hsp/cbwcb66.pdf>

¹³ United Nations, Meeting of the States Parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, Third Meeting, Geneva, 5-9 December 2005, *Report of the Meeting of States Parties*, BWC/MSP/2005/3, 14 December 2005. Available at <http://www.opbw.org>

fields relevant to the Convention can support the object and purpose of the Convention by making a significant and effective contribution, in conjunction with other measures including national legislation, to combating the present and future threats posed by biological and toxin weapons, as well as by raising awareness of the Convention, and by helping relevant actors to fulfil their legal, regulatory and professional obligations and ethical principles;

(b) codes of conduct should reflect the provisions of the Convention and contribute to national implementation measures;

(c) a range of different approaches exist to develop codes of conduct in view of differences in national requirements and circumstances;

(d) codes of conduct should avoid impeding scientific discovery, placing undue constraints on research or international cooperation and exchange for peaceful purposes;

(e) science should be used for peaceful purposes only but has the potential to be misused in ways that are prohibited by the Convention, and therefore codes of conduct should require and enable relevant actors to have a clear understanding of the content, purpose and reasonably foreseeable consequences of their activities, and of the need to abide by the obligations contained in the Convention.

19. The States Parties recognised that all those with a responsibility for, or legitimate interest in, codes of conduct should be involved in their development, promulgation and adoption. The States Parties agreed on the value of codes of conduct applying not just to scientists, but to all those involved in scientific activity, including managers and technical and ancillary staff.

20. On the content of codes of conduct, recognising the principles listed in paragraph 18, the States Parties agreed on the importance of codes of conduct being:

(a) compatible with national legislation and regulatory controls and contributing to national implementation measures;

(b) simple, clear and easily understandable both to scientists and to wider civil society;

(c) relevant, helpful and effective for guiding relevant actors in making decisions and taking action in accordance with the purposes and objectives of the Convention;

(d) sufficiently broad in scope;

(e) regularly reviewed, evaluated for effectiveness, and revised as necessary.

21. On the adoption of codes of conduct, recognising that it is important to build on and coordinate with existing efforts, and avoid imposing burdensome and duplicative measures, the States Parties agreed on the value of:

(a) demonstrating the benefits of codes and encouraging relevant actors to develop codes themselves;

(b) using existing codes, mechanisms, frameworks and bodies as far as possible; and

(c) tailoring adoption strategies according to the needs of each relevant sector.

22. On the promulgation of codes of conduct, recognising that codes of conduct will be most effective if they, and the principles underlying them, are widely known and understood, the States Parties agreed on the value of continuous efforts on promulgation through appropriate channels.

23. The States Parties further considered that in pursuing the above understandings and actions, States Parties could, according to their respective circumstances, consider the considerations, lessons, perspectives, recommendations, conclusions and proposals drawn from the presentations, statements, working papers and interventions made by delegations on the topic under discussion at the Meeting of Experts, as contained in Annex I of the Report of the Meeting of Experts (BWC/MSP/2005/MX/3), as well as the synthesis of these considerations, lessons, perspectives, recommendations, conclusions and proposals contained in BWC/MSP/2005/L.1, which is attached to this report as Annex I. This annex was not discussed or agreed upon and consequently has no status.

It was again evident from reports of both the Meeting of Experts¹⁴ and the Meeting of States Parties¹⁵ that these had provided opportunities for States Parties to share information on the approaches being taken to address this topic. Although decisions on further action were left to the Sixth Review Conference, the annual meetings were again effective in focussing the attention of the States Parties on this topic.

13. The one week Meeting of States Parties in 2003, 2004 and 2005 prepared by the two week Meeting of Experts has worked well. As the interval between the Meeting of Experts and the Meeting of States Parties has lengthened – August to November 2003, July to December 2004 and June to December 2005 – so has the effectiveness of the intersessional process improved as the time between a Meeting of Experts held in June and a subsequent Meeting of States Parties held in December of the same year has enabled the States Parties to have sufficient time to consider the synthesis prepared by the Chairman following the Meeting of Experts and hence to prepare and arrive at useful conclusions for the Report of the Meeting of States Parties.

¹⁴ For an account of the Meeting of Experts in June 2005, see Graham S. Pearson, *The Biological Weapons Convention Meeting of Experts*, Report from Geneva, Review no 23, The CBW Conventions Bulletin, Issue No. 68, July 2005. Available at <http://www.sussex.ac.uk/Units/spru/hsp/cbwcb68.pdf>

¹⁵ For an account of the Meeting of States Parties in December 2005, see Graham S. Pearson, *The Biological Weapons Convention Meeting of States Parties, 2005*, Report from Geneva, Review no 24, The CBW Conventions Bulletin, Issue No. 69 + 70, December 2005. Available at <http://www.sussex.ac.uk/Units/spru/hsp/cbwcb70.pdf>

14. The outcomes from these annual meetings are addressed in these Key Points for the Sixth Review Conference in the relevant chapters addressing the individual Articles of the Convention as several topics considered at the annual meetings are relevant to more than one Article of the Convention.

Wider International Developments since the Fifth Review Conference

15. The summer of 2002 saw the agreement by the G-8 Leaders meeting at Kananaskis, Canada of a Global Partnership against the spread of weapons and materials of mass destruction. Their statement started by saying:

The attacks of September 11 demonstrated that terrorists are prepared to use any means to cause terror and inflict appalling casualties on innocent people. We commit ourselves to prevent terrorists, or those that harbour them, from acquiring or developing nuclear, chemical, radiological and biological weapons; missiles; and related materials, equipment and technology. We call on all countries to join us in adopting the set of non-proliferation principles we have announced today.

In a major initiative to implement those principles, we have also decided today to launch a new G8 Global Partnership against the Spread of Weapons and Materials of Mass Destruction.

and went on to say that:

Recognizing that this Global Partnership will enhance international security and safety, we invite other countries that are prepared to adopt its common principles and guidelines to enter into discussions with us on participating in and contributing to this initiative.

16. It then set out *Principles to prevent terrorists, or those that harbour them, from gaining access to weapons or materials of mass destruction* as follows:

The G8 calls on all countries to join them in commitment to the following six principles to prevent terrorists or those that harbour them from acquiring or developing nuclear, chemical, radiological and biological weapons; missiles; and related materials, equipment and technology.

1 Promote the adoption, universalization, full implementation and, where necessary, strengthening of multilateral treaties and other international instruments whose aim is to prevent the proliferation or illicit acquisition of such items; strengthen the institutions designed to implement these instruments.

2 Develop and maintain appropriate effective measures to account for and secure such items in production, use, storage and domestic and international transport; provide assistance to states lacking sufficient resources to account for and secure these items.

3 Develop and maintain appropriate effective physical protection measures applied to facilities which house such items, including defence in depth; provide assistance to states lacking sufficient resources to protect their facilities.

4 Develop and maintain effective border controls, law enforcement efforts and international cooperation to detect, deter and interdict in cases of illicit trafficking in such items, for example through installation of detection systems, training of customs and law enforcement personnel and cooperation in tracking these items; provide assistance to states lacking sufficient expertise or resources to strengthen their capacity to detect, deter and interdict in cases of illicit trafficking in these items.

5 Develop, review and maintain effective national export and transshipment controls over items on multilateral export control lists, as well as items that are not identified on such lists but which may nevertheless contribute to the development, production or use of nuclear, chemical and biological weapons and missiles, with particular consideration of end-user, catch-all and brokering aspects; provide assistance to states lacking the legal and regulatory infrastructure, implementation experience and/or resources to develop their export and transshipment control systems in this regard.

6 Adopt and strengthen efforts to manage and dispose of stocks of fissile materials designated as no longer required for defence purposes, eliminate all chemical weapons, and minimize holdings of dangerous biological pathogens and toxins, based on the recognition that the threat of terrorist acquisition is reduced as the overall quantity of such items is reduced.

These principles have led to a number of initiatives addressing one or more aspects in many countries during the subsequent years.

17. Of particular interest are the countries which have joined this G8 Global Partnership. A year later in 2003 at Evian it was announced that six countries: Finland, Netherlands, Norway, Poland, Sweden and Switzerland had joined the Global Partnership as donors. In 2004 at Sea Island, the G8 welcomed the decision of a further seven countries: Australia, Belgium, the Czech Republic, Denmark, Ireland, the Republic of Korea, and New Zealand to join. No further countries had joined by the 2005 summit in Gleneagles or the 2006 summit in St. Petersburg.

18. The G8 at their meeting in St. Petersburg on 16 July 2006 issued a statement on non-proliferation which stated in its opening paragraphs that:

The proliferation of weapons of mass destruction (WMD) and their means of delivery, together with international terrorism remain the pre-eminent threat to international peace and security. The international community must therefore boldly confront this challenge, and act decisively to tackle this threat. We reaffirm our determination and commitment to work together and with other states and institutions in the fight against the proliferation of WMD, including by preventing them from falling into hands of terrorists.

As an essential element of our efforts to confront proliferation, we are determined to fulfil arms control, disarmament and non-proliferation obligations and commitments under relevant international treaties, conventions and multilaterally agreed arrangements to which we are parties or in which we participate. We call on all other states to meet their obligations and commitments in full in this regard. We rededicate ourselves to the re-invigoration of relevant multilateral fora, beginning with the Conference on Disarmament. These efforts will contribute to the further reinforcement of the global non-proliferation regime.

We call on all states not Party to the Treaty on the Non-proliferation of Nuclear Weapons (NPT), the Chemical Weapons Convention (CWC), the Biological and Toxin Weapons Convention (BTWC) and the 1925 Geneva Protocol to accede to them without delay and those states that have not yet done so to subscribe to the Hague Code of Conduct Against Ballistic Missile Proliferation.

19. This statement went on to specifically address the BTWC stating that:

We look forward to a successful 6th BTWC Review Conference dedicated to the effective review of the operation of the Convention. We will facilitate adoption by the Review Conference of decisions aimed at strengthening and enhancing the implementation of the BTWC.

We call upon all States Parties to take necessary measures, including as appropriate the adoption of and implementation of national legislation, including penal legislation, in the framework of the BTWC, in order to prohibit and prevent the proliferation of biological and toxin weapons and to ensure control over pathogenic micro organisms and toxins. We invite the States Parties that have not yet done so to take such measures at the earliest opportunity and stand ready to consider appropriate assistance. In this regard, we welcome initiatives such as the 2006 EU Joint Action in support of the BTWC.

It is helpful to note the commitment of the G8 nations – Canada, France, Germany, Italy, Japan, Russia, UK and the USA as well as the European Union – to adoption by the Sixth Review Conference of *decisions aimed at strengthening and enhancing the implementation of the BTWC.*

20. A closely related initiative is the Proliferation Security Initiative (PSI) which was announced by the United States in Krakow, Poland on 31 May 2003 and to which eleven nations – Australia, France, Germany, Italy, Japan, Netherlands, Poland, Portugal, Spain, UK and USA – agreed in Paris on 4 September 2003. The PSI is part of a cooperative international counterproliferation effort intended to apply intelligence, diplomatic, law enforcement, military, and other tools to prevent transfers of WMD-related items to states and non-state actors of proliferation concern. The PSI is seen as reinforcing not replacing other non-proliferation mechanisms. In June 2006, there were over 70 countries involved in this initiative with a Operational Experts Group made up in 2006 of 20 states (Argentina, Australia, Canada, Denmark, France, Germany, Greece, Italy, Japan, Netherlands, New Zealand, Norway, Poland, Portugal, Russia, Singapore, Spain, Turkey, UK and USA) working to develop practical cooperation on behalf of all PSI participants and to identify effective techniques to counter proliferation of weapons of mass destruction.

22. Another development was the adoption on 28 April 2004 by the Security Council of Resolution 1540 (2004)¹⁶. The preamble to the resolution recalled the Security Council statement of 31 January 1992 when the Council had met for the first time at the Heads of State or Government level:

Reaffirming, in this context, the Statement of its President adopted at the Council's meeting at the level of Heads of State and Government on 31 January 1992 (S/23500), including the need for all Member States to fulfil their obligations in relation to arms control and disarmament and to prevent proliferation in all its aspects of all weapons of mass destruction,

23. The preamble went on to set out the Council's support for the international treaties prohibiting biological and chemical weapons and to emphasise the importance for the States Parties to these treaties to implement them fully:

Affirming its support for the multilateral treaties whose aim is to eliminate or prevent the proliferation of nuclear, chemical or biological weapons and the importance for all States parties to these treaties to implement them fully in order to promote international stability,

24. The key operative paragraphs in the resolution record that the Council:

1. Decides that all States shall refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery;

2. Decides also that all States, in accordance with their national procedures, shall adopt and enforce appropriate effective laws which prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, in particular for terrorist purposes, as well as attempts to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them;

3. Decides also that all States shall take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical, or biological weapons and their means of delivery, including by establishing appropriate controls over related materials and to this end shall:

(a) Develop and maintain appropriate effective measures to account for and secure such items in production, use, storage or transport;

(b) Develop and maintain appropriate effective physical protection measures;

(c) Develop and maintain appropriate effective border controls and law enforcement efforts to detect, deter, prevent and combat, including through international cooperation when necessary, the illicit trafficking and brokering

¹⁶ United Nations Security Council, *Resolution 1540 (2004) Adopted by the Security Council at its 4956th meeting, on 28 April 2004, S/RES/1540 (2004), 28 April 2004.*

in such items in accordance with their national legal authorities and legislation and consistent with international law;

(d) Establish, develop, review and maintain appropriate effective national export and trans-shipment controls over such items, including appropriate laws and regulations to control export, transit, trans-shipment and re-export and controls on providing funds and services related to such export and trans-shipment such as financing, and transporting that would contribute to proliferation, as well as establishing end-user controls; and establishing and enforcing appropriate criminal or civil penalties for violations of such export control laws and regulations;

....

5. Decides that none of the obligations set forth in this resolution shall be interpreted so as to conflict with or alter the rights and obligations of State Parties to the Nuclear Non-Proliferation Treaty, the Chemical Weapons Convention and the Biological and Toxin Weapons Convention or alter the responsibilities of the International Atomic Energy Agency or the Organization for the Prohibition of Chemical Weapons;

25. Consequently, paragraph 2 requires **all** States, whether or not a State Party to the BTWC or other Conventions to *adopt and enforce appropriate effective laws which prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery*. Furthermore, paragraph 3 requires **all** States whether or not a State Party to the BTWC to *take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical, or biological weapons and their means of delivery, including by establishing appropriate controls over related materials*. Paragraph 5 makes it clear that none of the obligations set out in the resolution shall *conflict with or alter the rights and obligations of State Parties to ... the Biological and Toxin Weapons Convention*.

26. However, it needs to be recognized that the obligations under Article IV of the BTWC are more comprehensive in scope than those addressed in SCR 1540 (2004) in that Article IV requires that each State Party take necessary measures *“to prohibit and prevent”* [Emphasis added] which requires more than just to prohibit and enforce. Nor is Article IV limited to non-State actors. Unlike paragraph 2 of SCR 1540, the BTWC is addressed as fully to States and individuals in the service of a State as to anyone else. Article IV does not differentiate between agents of the State and others. **All** must be prohibited **and** prevented from engaging in any of the activities encompassed by Article I of the Convention.

27. As pointed out in Bradford Briefing Paper No. 6 (Second Series)¹⁷ in July 2003, by definition, the national measures taken must do more than merely prohibit the forbidden activities; they must also prevent them. This **prevention** requirement sets a high standard of effectiveness. It is indeed a very stringent criterion to attach to national implementing measures, but it is explicitly included in Article IV of the Convention and thus constitutes one of the obligations flowing from the Convention. It can usefully be regarded as a test of the

¹⁷ Graham S. Pearson & Nicholas A. Sims, *Maximizing the Benefits of the Inter Review Conference Process: I: National Implementing Legislation*, University of Bradford, Department of Peace Studies, Briefing Paper No. 6 (Second Series), July 2003, para 14. Available at <http://www.brad.ac.uk/acad/sbtwc>

effectiveness of legislation and other measures of a prohibitory nature in each State Party. If a State Party's legislative and other prohibitions are not strong enough even when enforced to **prevent** the activities involving biological weapons which are defined in Article I of the Convention, they may not meet the SCR 1540 standard of “*appropriate effective laws which prohibit*” but they will certainly not meet the high standard set by Article IV. Such a State Party accordingly risks falling short of full compliance with its international obligations under the Convention.

28. The States Parties to the BTWC at the Sixth Review Conference need therefore to address both elements of Article IV – *to prohibit and prevent* – and it would be desirable for the Review Conference in its Final Declaration to express a common understanding of the significance of the prevention criterion set by Article IV and to recommend that States Parties take effective action by reviewing the effectiveness of their national measures to implement the prohibitions of the Convention in meeting the prevention criterion.

29. The Security Council on 27 April 2006 adopted Resolution 1673 (2006)¹⁸ which extends the mandate of the 1540 Committee for a further two years and calls upon all States which have not yet presented a first report on steps they have taken or intend to take to implement resolution 1540 (2004) to do so without delay. It is to be noted that the reports that have been submitted by States to the 1540 Committee are available at <http://disarmament2.un.org/Committee1540/report.html> – on 28 June 2006 this had reports from 132 States and from the European Union – and that the 1540 Committee has also compiled a legislative database available at <http://disarmament2.un.org/Committee1540/list-legdb.html> – on 28 June 2006 this had links to legislation from 124 States and the European Union.

30. Further developments between the Fifth and Sixth Review Conferences were the UN Secretary-General's High Level Panel and his own report on the Millennium Declaration, and the Weapons of Mass Destruction Commission chaired by Dr. Hans Blix of Sweden. Each of these considered how the regimes for the prohibition of biological and toxin weapons might be strengthened.

31. The Secretary-General's High-Level Panel on Threats, Challenges and Change was established¹⁹ on 3 November 2003 with the terms of reference specifically to:

(a) Examine today's global threats and provide an analysis of future challenges to international peace and security. While there may continue to exist a diversity of perceptions on the relative importance of the various threats facing particular Member States on an individual basis, it is important to find an appropriate balance at a global level. It is also important to understand the connections between different threats;

(b) Identify clearly the contribution that collective action can make in addressing these challenges;

¹⁸ United Nations Security Council, *Resolution 1673 (2006) Adopted by the Security Council at its 5429th meeting, on 27 April 2006, S/RES/1673 (2006), 27 April 2006.*

¹⁹ United Nations General Assembly, *Letter dated 3 November 2003 from the Secretary-General to the President of the General Assembly, A/58/612, 28 November 2003.*

(c) Recommend the changes necessary to ensure effective collection action, including but not limited to a review of the principal organs of the United Nations.

The Report of the High Level Panel was issued²⁰ on 2 December 2004. In his covering note the Secretary-General said that he wholly endorsed the core arguments of the High Level Panel for “*a broader, more comprehensive concept of collective security: one that tackles new and old threats and addresses the security concerns of all States – rich and poor, weak and strong.*”[Emphasis in original] The Secretary-General also urged that “*we should move forward quickly and take action on recommendations wherever we can.*” An analysis of the biological weapons issues in the High Level Panel report was issued as Bradford Review Conference Paper No. 14²¹ which in its conclusions noted that:

Many of the High Level Panel’s conclusions and recommendations have merit but it is regretted that the High Level Panel in a number of areas omitted inclusion of parallel recommendations for the BTWC to those included for the NPT and the CWC especially as a strong argument has been made for the Sixth Review Conference to establish an interim supportive institution that could fulfil such parallel recommendations. It is also concluded that the wording of some of the recommendations that suggest involvement of the WHO with the Security Council in regard to any suspicious outbreak are verging on dangerous ground which could jeopardize the central role of the WHO. There is, however, a case for the WHO, OIE and FAO being able through the Secretary-General to alert the Security Council in the event of overwhelming outbreaks of human, animal or plant disease, regardless of its cause, to facilitate the mobilization of aid and the containment of the outbreak.

32. The Secretary-General’s comprehensive report²² *In larger freedom: towards development, security and human rights for all* on the Millennium Declaration was presented to the General Assembly on 21 March 2005. In the introduction to this report, the Secretary-General says that he has *drawn inspiration from two wide-ranging reviews of our global challenges — one from the 16-member High-level Panel on Threats, Challenges and Change, whom I asked to make proposals to strengthen our collective security system (see A/59/565); and the other from the 250 experts who undertook the Millennium Project.* The Secretary-General went on to state that:

I have resisted the temptation to include all areas in which progress is important or desirable. I have limited myself to items on which I believe action is both vital and achievable in the coming months. These are reforms that are within reach — reforms that are actionable if we can garner the necessary political will. With very few exceptions, this is an agenda of highest priorities for September. Many other issues will need to be advanced in other forums and on other occasions.

Although the intention was that the recommendations from the Secretary-General should be considered for decision by the Heads of State and Government at the Summit Plenary of the General Assembly on 14 – 16 September 2005, the Summit Plenary produced nothing

²⁰ United Nations General Assembly, *Note by the Secretary-General, A/59/565*, 2 December 2004.

²¹ Graham S. Pearson, *The UN Secretary-General’s High Level Panel: Biological Weapons Issues*, University of Bradford, Department of Peace Studies, Review Conference Paper No. 14, May 2005. Available at <http://www.brad.ac.uk/acad/sbtwc>

²² United Nations General Assembly, *In larger freedom: towards development, security and human rights for all, Report of the Secretary-General, A/59/2005*, 21 March 2005.

relating to non-proliferation or disarmament, because despite strenuous efforts by many participants to offer acceptable language there was no agreement on the content of the relevant section of the outcome document.

33. The Weapons of Mass Destruction Commission chaired by Dr. Hans Blix of Sweden was set up in December 2003 with the following mandate:

The Commission should seek to identify desirable and achievable directions for international cooperation. It should present realistic proposals aimed at the greatest possible reduction of the dangers of weapons of mass destruction. These should comprise both short-term and long-term approaches and aim at preventing the further spread of weapons as well as at their reduction and elimination. The scope of the investigation should be comprehensive and include nuclear, biological, chemical and radiological weapons and the means of delivering them, as well as possible links between these issues and terrorists.

The Commission should not be engaged in any tasks or negotiations at the governmental or intergovernmental level.

The Commission should help to stimulate an informed public debate about international and national efforts against weapons of mass destruction. It should therefore undertake outreach activities within its capacity to engage civil society and non-governmental organisations.

The Commission's Final Report entitled *Weapons of Terror: Freeing the World of Nuclear, Biological, and Chemical Arms* was issued on 1 June 2006 when the WMDC Chairman Dr. Hans Blix presented the Commission report to the United Nations Secretary-General Kofi Annan in New York. The report contains sixty concrete proposals on how the world could be freed of nuclear, biological and chemical weapons. An analysis of the biological and toxin weapons issues in the Commission's report was issued as Bradford Review Conference Paper No. 17²³ which in its conclusions noted that:

The recommendations of the WMDC, in some cases with slight modification, are thus highly relevant to the forthcoming Sixth Review Conference of the BTWC to be held in Geneva from 20 November to 8 December 2006. The States Parties are urged to take these recommendations into account in their preparations for the Review Conference and, as recommended in Bradford Review Conference Paper No. 16, to start considering successful outcomes identified therein now and to draft language that they can submit to the Committee of the Whole in regard to the relevant Articles of the Convention. In addition, States Parties with a particular interest in one or more of the successful outcomes are encouraged to prepare and submit Working Papers to the Review Conference. As noted in the introduction, success is rarely accidental and needs to be planned for.

34. The section in the WMD Commission's Report addressing the strengthening of the BTWC concludes with a final paragraph that states accurately and correctly:

²³ Graham S. Pearson, *The Blix Weapons of Mass Destruction Report: Biological Weapons Related Issues*, University of Bradford, Department of Peace Studies, Review Conference Paper No. 17, June 2006. Available at <http://www.brad.ac.uk/acad/sbtwc>

The last full review of the operation of the BTWC was in 1991. In view of developments since then, the parties need to carry out a full review during the 2006 Review Conference. It is crucially important for the BTWC states parties to use the Sixth Review Conference, to be held in late 2006, to reassert the Convention's role as the central component of the overall regime and agree on concrete measures to implement it. The Commission's recommendations aim at making maximum use of this opportunity.

The Commission is to be complimented for focussing on recommendations that make maximum use of the opportunity at the Sixth Review Conference from 20 November to 8 December 2006 of reasserting the BTWC's central role in the overall regime and to agree on concrete measures to implement it.

Preparing for the Sixth Review Conference

35. The Sixth Review Conference of the Biological and Toxin Weapons Convention (BTWC) will be held in Geneva during the period from 20 November to 8 December 2006. Article XII of the Convention requires 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 realized. Such review shall take into account any new scientific and technological developments relevant to the Convention.

As there has not been a review of the operation of the Convention which produced a Final Declaration since 1996, it is especially important that all States Parties prepare now to ensure a successful outcome to the Sixth Review Conference. As others have pointed out, success is rarely accidental and needs to be planned for.

36. Article XII of the Convention provided only for one Review Conference, five years after the BTWC's entry into force. In 1980 it was touch and go whether the First Review Conference would reach agreement on convening another; its timing remained contentious until late 1984. The Review Conferences of 1986, 1991, 1996 and 2001/2 generated expectations of a continuing series at 5-year intervals. This is the pattern into which the Sixth Review Conference fits.

Formal functions

37. All six Review Conferences are primarily governed by the Article XII mandate "*to review the operation of the Convention, with a view to assuring that the purposes of the preamble and the provisions of the Convention...are being realized.*" This includes taking into account the impact of "*any new scientific and technological developments relevant to the Convention.*" That is their common agenda.

38. Each Conference's Final Declaration, apart from the Fifth Review Conference which had no such Final Declaration, has supplemented the common agenda with specific tasks laid upon the next Review Conference. Thus the Fourth Review Conference asked the Fifth also to consider the relevance of the provisions and implementation of the CWC on the effective implementation of the BTWC (updating the original Article XII provision that "*negotiations on chemical weapons*" be given particular attention); the effectiveness of confidence-building measures agreed at the Second and Third Review Conferences; the conclusions of the expected (post-Ad Hoc Group) Special Conference "*and further action as appropriate*"; and the UN Secretary-General's provision of staff and other resources required to assist the effective implementation of Fourth Review Conference decisions.

Informal functions

39. In practice, the Review Conferences have acquired additional, informal functions. These are performed imperfectly and unevenly (as indeed are the formally stated functions). However, they are essential for the nurturing of the BTWC treaty regime. In the absence of other institutions, the evolution of that regime has depended heavily upon the Review Conferences and their Final Declarations performing four, inter-connected, functions in particular:

1. Registering consensus on definitions and extended understandings of specific terms used in the Convention, especially those which reinforce the general purpose criterion and comprehensive coverage of Article I.
2. Identifying and elaborating procedures within the framework of the Convention, notably Article V, using the latent potential of the text as it stands together with the definitions and extended understandings it has accumulated through this review process.
3. Reaffirming the positions established at earlier Review Conferences and moving beyond them to the extent consensus allows.
4. Steering the evolution of the BTWC treaty regime through the next five years.

41. In 2006 the third of these functions is vitally important especially given the failure of the Fifth Review Conference to agree a Final Declaration. The Sixth Review Conference will need to reaffirm – whether specifically or generally – the body of understandings built up between 1980 and 1996 and move beyond them to the extent consensus allows, drawing in particular on the 2003 – 2005 reports of the annual Meetings of States Parties and integrating their findings into the cumulative text carried forward. There is much value in the cumulative drafting process, in which the last Review Conference's Final Declaration is the starting point and new language is added. Such cumulation deepens and extends the common positions, agreed procedures and politically-binding commitments which the BTWC States Parties are willing to endow with their collective authority.

Steering the treaty regime

42. There is also a strong case for paying particular attention in 2006 to the fourth of the informal functions listed above: steering the evolution of the BTWC treaty regime through the next five years. This is not something at which previous Review Conferences have

excelled. They have left the BTWC to evolve in an uncoordinated fashion, divergent and unbalanced as between the different sectors into which its treaty regime can be divided for purposes of analysis. It has also been evident during the past decade that a number of other initiatives have been pursued outside the BTWC regime and the Sixth Review Conference provides the opportunity to adopt an integrated and comprehensive approach to strengthen the regime prohibiting biological and toxin weapons. To achieve convergence and equilibrium in its constructive evolution will require deliberate steering. But in the absence of any other treaty institutions it is up to the Review Conference to undertake such steering or create the means by which a representative body may act on its behalf; or it will not be done at all.

43. The treaty regime does need steering – it will not flourish through neglect. And it must be steered by its States Parties collectively. The BTWC is a fully multilateral treaty, binding 155 sovereign states, and it needs institutions to match.

Successful Outcomes for the Sixth Review Conference

44. In this introductory chapter to the Key Points for the Sixth Review Conference a look ahead is made to successful outcomes for the Sixth Review Conference in the light of the developments relevant to the Convention around the world recalled earlier in this chapter. A number of successful outcomes are identified and it is recommended that the States Parties adopt a modular approach obtaining agreement where consensus is achievable.

Background

45. The BTWC is the multilaterally agreed norm that totally prohibits biological and toxin weapons and provides the cornerstone against the risks that such weapons might be used by States Parties or by sub State actors. It also enhances international peace and security against the risk that advances in the life sciences may provide novel ways of causing harm to humans, animals or plants.

46. There is no doubt about the risks posed by biological and toxin weapons. Their capabilities were proven in national offensive programmes in the years prior to the entry into force of the BTWC in 1975.²⁴ It is also evident that public awareness and concerns about outbreaks of disease in humans, animals and plants are greatly heightened – SARS, Avian Flu and Foot and Mouth Disease outbreaks have caused widespread public alarm. In addition, the past decade has seen heightened concern about the possible use of biological or toxin agents by sub-State actors notably following the attempts to disperse anthrax and botulinum toxin by the Aum Shinrikyo sect in Tokyo in 1993/4 without casualties and the anthrax letters in the United States in September/October 2001 which resulted in five deaths.

47. There is widespread recognition of the value to international peace and security provided by the BTWC. For example, recent statements by the G-8, EU, NAM, ASEAN, the Rio Group as well as major powers such as China and the Russian Federation have all reaffirmed the importance of the BTWC and the need to take steps to increase its effectiveness.

48. Consequently, as we approach the Sixth Review Conference there are widespread expectations both politically and publicly that the States Parties will demonstrate their

²⁴ For a comprehensive account see Mark Wheelis, Lajos Rozsa and Malcolm Dando (eds), *Deadly Cultures: Biological Weapons since 1945*, Harvard University Press, Cambridge, Massachusetts, 2006.

accountability and commitment to the obligations that they have undertaken in becoming States Parties to the Convention. There is also a widespread anticipation that the States Parties will act responsibly by adopting a constructive approach to achieving a successful outcome to the Sixth Review Conference and thereby demonstrating in concrete terms the real value to international peace and security made by the Convention.

49. The Preparatory Committee met in Geneva on 26 to 28 April 2006. The atmosphere at the Preparatory Committee Meeting in preparation for the Sixth Review Conference was positive²⁵. Many of the group statements and individual statements by States Parties emphasized the importance of successfully carrying out a comprehensive article by article review of the Convention at the Sixth Review Conference. There was ready agreement on a three-week duration for the Review Conference from 20 November to 8 December 2006. Although there were divergences between Iran and the USA on the wording of draft Agenda item 11 – which replaced Agenda items 11 and 12 in the Agenda adopted by the Fifth Review Conference – a successful compromise was found. There was a significant step forward in the agreement to request six background documents. The new background document showing the additional understandings and agreements reached by previous Review Conferences is particularly welcome, as it will be up to the Sixth Review Conference to consider how to further extend these understandings and agreements, thereby strengthening the Convention. Equally welcome was another new background document on developments since the last Review Conference in other international organizations, as it has become increasingly clear during the past few years that there are initiatives being taken by other international organizations that are relevant to the Convention, and that the Sixth Review Conference needs to take stock of these developments.

50. The Provisional Agenda for the Sixth Review Conference agreed by the Preparatory Committee and subsequently issued as BWC/CONF.VI/1²⁶ is as follows:

1. *Opening of the Conference*
2. *Election of the President*
3. *Adoption of the agenda*
4. *Submission of the final report of the Preparatory Committee*
5. *Adoption of the Rules of Procedure*
6. *Election of the Vice-Presidents of the Conference and Chairmen and Vice-Chairmen of the Committee of the Whole, the Drafting Committee and the Credentials Committee*
7. *Credentials of representatives to the Conference*
 - (a) *Appointment of the Credentials Committee*
 - (b) *Report of the Credentials Committee*
8. *Confirmation of the nomination of the Secretary-General*

²⁵ For an account of the Preparatory Committee Meeting of States Parties in April 2006, see Graham S. Pearson, *The Preparatory Committee for the Sixth BWC Review Conference*, Report from Geneva, Review no 25, The CBW Conventions Bulletin, Issue No. 71, May 2006. Available at <http://www.sussex.ac.uk/Units/spru/hsp/cbwcb71.pdf>

²⁶ United Nations, Sixth Review Conference of the States Parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, *Provisional Agenda for the Sixth Review Conference*, BWC/CONF.VI/1, 11 July 2006. Available at <http://www.opbw.org>

- 9. Programme of work
- 10. Review of the operation of the Convention as provided for in its Article XII
 - (a) General debate
 - (b) Articles I-XV
 - (c) Preambular paragraphs and purposes of the Convention
- 11. Consideration of issues identified in the review of the operation of the Convention as provided for in its Article XII and any possible consensus follow-up action
- 12. Other matters, including the question of future review of the Convention
- 13. Report of the Committee of the Whole
- 14. Report of the Drafting Committee
- 15. Preparation and adoption of the final document(s)

Successful Outcomes

51. In looking ahead to the Sixth Review Conference, all States Parties need to reaffirm the value of a strong Biological and Toxin Weapons Convention (BTWC) and to recognise that the regime has been strengthened effectively by the extended understandings agreed by the States Parties in their Final Declarations at successive Review Conferences. There is a great deal that the States Parties can achieve at the Sixth Review Conference in November/December 2006. It will be important to concentrate on substance, to be reasonably ambitious and by adopting a modular approach obtain agreement where there is consensus.

52. In this introductory chapter to the Key Points for the Sixth Review Conference a number of successful outcomes are examined which could be adopted in a modular approach. The focus is on the possible outcomes that appear to have been most thoroughly considered and hence to be likely to be successfully achieved. Each single successful outcome is self-contained and independent of any other outcome. Subsequent chapters will address in more detail how each of these successful outcomes might best be achieved.

Final Declaration

53. As already noted above in the consideration of the Preparatory Committee meeting held on 26 to 28 April 2006, many of the group statements and individual statements by States Parties emphasized the importance of successful carrying out a comprehensive article by article review of the Convention at the Sixth Review Conference. In addition, the States Parties agreed to request that a new background document be provided showing the additional understandings and agreements reached by previous Review Conferences. This is particularly welcome, as it will help the States Parties to prepare for the Sixth Review Conference by considering how to further extend these understandings and agreements, thereby strengthening the Convention. The chapters in these Key Points for the Sixth Review Conference consider in an Article by Article review and recommend how these understandings and agreements might be further extended by proposing language that States Parties might put forward in their submissions in the Committee of the Whole. As already observed, there is much value in the cumulative drafting process, in which the last Review Conference's Final Declaration is the starting point and new language is added. Such cumulation deepens and extends the common positions, agreed procedures and politically-binding commitments which the BTWC States Parties are willing to endow with their collective authority.

Universality

54. At successive Review Conferences the States Parties have called upon States which have not yet ratified or acceded to the Convention to do so without delay. Thus at the Fourth Review Conference in the Final Declaration²⁷ under Article XIV:

1. *The Conference notes with satisfaction that a number of States have acceded to the Convention since the Third Review Conference.*
2. *The Convention calls upon States which have not yet ratified or acceded to the Convention to do so without delay and upon those States which have not signed the Convention to join the States Parties thereto, thus contributing to the achievement of universal adherence to the Convention.*
3. *In this connection, the Conference requests States Parties to encourage wider adherence to the Convention.*
4. *The Conference particularly welcomes regional initiatives that would lead to wider accession to the Convention.*

In addition, the resolution adopted by the General Assembly without a vote on 8 December 2005 as A/RES/60/96 included as its first operative paragraph:

1. *Notes with satisfaction the increase in the number of States parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, reaffirms the call upon all signatory States that have not yet ratified the Convention to do so without delay, and calls upon those States that have not yet signed the Convention to become parties thereto at an early date, thus contributing to the achievement of universal adherence to the Convention.*

55. There is therefore a widespread and continuing recognition by all States Parties of the importance of achievement of universal adherence to the Convention. However, the rate at which States have become Parties to the Convention has been very slow during recent years:

	October 2001	October 2002	November 2003	December 2004	June 2005
Number of States Parties	144	146	151	153	155

²⁷ United Nations, Fourth Review Conference of the States Parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, Geneva, 25 November – 6 December 1996. *Final Document*, BWC/CONF.IV/9, 1996. Available at: <http://www.opbw.org>

Number of Signatory States	18	17	16	16	16
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56. This slow rate of approaching universality is all the more pronounced when a comparison is made with the Chemical Weapons Convention which entered into force on 29 April 1997. At its First Review Conference²⁸ in April/May 2003, the States Parties in regard to universality of the CWC agreed that:

The First Review Conference recommended that the Council, with the cooperation of the Secretariat, develop and implement a plan of action to further encourage, in a systematic and coordinated manner, adherence to the Convention and to assist States ready to join the Convention in their national preparations to implement it. [Emphasis added]

The background paper²⁹ provided by the OPCW on adherence to the CWC for the First Review Conference provided a summary of the participation in the Convention on the anniversaries of its entry into force:

Date	Number of States Parties	Number of States Parties for which Entry into Force was pending	Signatory States not Party	Non-Signatory States not Party
29 April 1997	87	0	78	28
29 April 1998	107	1	60	25
29 April 1999	121	0	48	24
29 April 2000	132	3	37	21
29 April 2001	143	0	31	19
29 April 2002	143	0	31	19

57. Since adoption of the Action Plan on Universality following the CWC Review Conference, the number of States Parties has increased³⁰ significantly:

Date	Number of States Parties	Number of States Parties for which Entry into Force was	Signatory States not Party	Non-Signatory States not Party
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²⁸ Organisation for the Prohibition of Chemical Weapons (OPCW), *Report of the First Special Session of the Conference of the States Parties to Review the Operation of the Chemical Weapons Convention (First Review Conference) 28 April – 9 May 2003*, RC-1/5, para. 7.18, 9 May 2003. Available at <http://www.opcw.org>.

²⁹ Organisation for the Prohibition of Chemical Weapons (OPCW), *Background Paper on Universal Adherence to the Chemical Weapons Convention*, RC-1/S/5, 25 April 2003. Available at <http://www.opcw.org>.

³⁰ Scott Spence, *Achieving Effective Action on Universality and National Implementation: The CWC Experience*, University of Bradford, Department of Peace Studies, Review Conference Paper No. 13, April 2005. Available at <http://www.brad.ac.uk/acad/sbtwc>

		pending		
May 2003	151	2	25	16
October 2003	154	3	22	15
June 2004	164	0	18	12
February 2005	167	0	16	11
March 2006	178	0	8	8

58. It is thus evident that in March 2006, the States Parties to the CWC are some 178, over twenty more than the number of States Parties to the BTWC. There is consequently a window of opportunity at the forthcoming Sixth Review Conference in November/December 2006 for the States Parties to the BTWC to mount an initiative to encourage all those States which have acceded to the CWC to also accede to the BTWC. Rather than just adopting an exhortation, as at previous Review Conferences, it would be timely to agree to actually do something to achieve the objective of universality. Whilst this might be called an Action Plan there might be advantage in adopting some different terminology such as an achievement timeline with the objective of reaching 180 States Parties to the BTWC no later than the Seventh Review Conference in 2011. The States Parties at the Sixth Review Conference in agreeing this achievement timeline need to also agree on how the initiative is to be progressed and how the progress towards this objective will be reported regularly to the States Parties. Such a progress report would be appropriate at future annual Meetings of the States Parties or other representative body – such as an Intersessional Committee of Oversight – at which agreement could be reached on additional action should that be necessary.

National Implementation

59. At successive Review Conferences the States Parties have reaffirmed the importance of Article IV of the Convention. Thus at the Fourth Review Conference the Final Declaration³¹ under Article IV stated:

1. The Conference underlines the importance of Article IV. It reaffirms the commitment of States Parties to take the necessary national measures under this Article, in accordance with their constitutional processes. These measures are to ensure the prohibition and prevention of the development, production, stockpiling, acquisition or retention of the agents, toxins, weapons, equipment and means of delivery specified in Article I of the Convention anywhere within their territory, under their jurisdiction or under their control, in order to prevent their use for purposes contrary to the Convention. The States Parties recognize the need to ensure, through the review and/or adoption of national measures, the effective fulfilment of their obligations under the Convention in order, inter alia, to exclude use of biological and toxin weapons in terrorist or criminal activity.

2. The Conference notes those measures already taken by a number of States Parties in this regard, for example the adoption of penal legislation, and reiterates its call to any State Party that has not yet taken any necessary measures to do so

³¹ United Nations, Fourth Review Conference of the States Parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, Geneva, 25 November – 6 December 1996. *Final Document*, BWC/CONF.IV/9, 1996. Available at: <http://www.opbw.org>

immediately, in accordance with its constitutional processes. Such measures should apply within its territory, under its jurisdiction or under its control anywhere. The Conference invites each State Party to consider, if constitutionally possible and in conformity with international law, the application of such measures also to actions taken anywhere by natural persons possessing its nationality.

60. In addition, national implementation was one of the issues considered during the 2003 to 2005 intersessional process³² when the topic in 2003 was:

- i. the adoption of necessary national measures to implement the prohibitions set forth in the Convention, including the enactment of penal legislation;*

The outcome of the Meeting of States Parties in 2003 was to agree a short report³³ on both of the topics saying:

At the Meeting of States Parties, States Parties noted that notwithstanding the differing legal and constitutional arrangements among the 151 States Parties to the Convention, States have adopted similar basic approaches and share common principles. The States Parties stressed the need for undertaking activities at the national level in keeping with their obligations and responsibilities to strengthen and implement the Convention. The States Parties agreed, to that end, on the value of the following:

To review, and where necessary, enact or update national legal, including regulatory and penal, measures which ensure effective implementation of the prohibition of the Convention, and which enhance effective security of pathogens and toxins.

The positive effect of cooperation between States Parties with differing legal and constitutional arrangements. States Parties in a position to do so may wish to provide legal and technical assistance to others who request it in framing and/or expanding their own legislation and controls in the areas of national implementation and biosecurity.

The need for comprehensive and concrete national measures to secure pathogen collections and the control of their use for peaceful purposes. There was a general recognition of the value of biosecurity measures and procedures, which will ensure that such dangerous materials are not accessible to persons who might or could misuse them for purposes contrary to the Convention.

³² United Nations, Fifth Review Conference of the States Parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, Geneva, 19 November – 7 December 2001 and 11 – 22 November 2002. *Final Document*, BWC/CONF.V/17, 2002. Available at: <http://www.opbw.org>

³³ United Nations, Meeting of the States Parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, First Meeting, Geneva, 10 – 14 November 2003. *Report of the Meeting of States Parties*, BWC/MSP/2003/4 (Vol. 1), 24 November 2003. Available at: <http://www.opbw.org>

States Parties considered that agreement on the value of these measures discussed at the Meeting constitutes an essential effort to facilitate more effective implementation and enforcement of the Convention, as well as providing a basis for review of progress at the 2006 Review Conference.

61. It should also be recalled that national implementation measures have been the subject of an Action Plan undertaken by the States Parties to the CWC following their First Review Conference in 2003. At that Review Conference the States Parties agreed³⁴:

*The First Review Conference **called upon** States Parties that have not already done so to inform the OPCW by the next regular session of the Conference of the status of their adoption of the legislative and administrative measures necessary for or taken by them to implement the Convention, of any problems they have encountered, and of any assistance they require. **Having considered** the importance of national implementation measures for the proper functioning of the Convention, and **having reviewed** the activities undertaken by the States Parties as well as the Secretariat, the First Review Conference...*

(h) agreed to develop, at its next regular session, a plan of action based on a recommendation from the Council regarding the implementation of Article VII obligations, with the objective of fostering the full and effective implementation of the Convention by all States Parties. [Emphasis added]

62. Bradford Review Conference Paper No. 13³⁵ described the action being taken by the OPCW and a further update was published³⁶ in the *CBW Conventions Bulletin* of September/December 2005. The situation can be summarised as follows:

Status at	Number of States Parties	Number (and percentage) of States Parties that have submitted national implementation	Legislation covers area key to the enforcement of the CWC
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³⁴ Organisation for the Prohibition of Chemical Weapons (OPCW), Report of the First Special Session of the Conference of the States Parties to Review the Operation of the Chemical Weapons Convention (First Review Conference) 28 April – 9 May 2003, RC-1/5, para. 7.83, 9 May 2003. Available at <http://www.opcw.org>.

³⁵ Scott Spence, *Achieving Effective Action on Universality and National Implementation: The CWC Experience*, University of Bradford, Department of Peace Studies, Review Conference Paper No. 13, April 2005. Available at <http://www.brad.ac.uk/acad/sbtwc>

³⁶ Santiago Oñate, Ralf Trapp and Lisa Tabassi, *Decision on the Follow-up to the OPCW Action Plan on Article VII: Ensuring the Effective Implementation of the Chemical Weapons Convention*, *CBW Conventions Bulletin*, Issue No 69 + 70, September/December 2005, pp. 5-10.

May 1997	87	0 (0%)	Not available
December 1997	103	24 (23%)	Not available
November 1998	120	40 (33%)	Not available
July 1999	125	43 (34%)	Not available
May 2000	133	48 (36%)	Not available
May 2001	143	53 (38%)	Not available
October 2002	145	70 (48%)	39 (27%)
October 2003	154	94 (61%)	51 (33%)
November 2004	166	96 (58%)	52 (31%)
November 2005	174	106 (61%)	59 (34%)

This shows that even after the Action Plan, although almost two thirds of the States Parties to the CWC had submitted information on their national implementation to the OPCW, only about one third of the States Parties had succeeded in adopting legislation that covered the areas key to the enforcement of the CWC.

63. It is therefore essential that legislation adopted under Article IV of the BTWC encompasses the full scope of the prohibitions contained in the Convention. It is recommended that this should extend to the control and monitoring of relevant dual-use materials and technologies.

64. The situation in regard to the adoption of national measures to implement the BTWC, as required by Article IV of the Convention which requires:

Each State Party to this Convention shall, in accordance with its constitutional processes, take any necessary measures to prohibit and prevent the development, production, stockpiling, acquisition, or retention of the agents, toxins, weapons, equipment and means of delivery specified in article I of the Convention, within the territory of such State, under its jurisdiction or under its control anywhere.

is much less certain than that for the CWC. There is, however, no basis on which to conclude that the situation is any better and it is likely to be worse.

65. There is widespread recognition of the importance of all States Parties adopting national legislation *to prohibit and prevent the development, production, stockpiling, acquisition, or retention of the agents, toxins, weapons, equipment and means of delivery specified in article I of the Convention.* The adoption of Security Council Resolution 1540 (2004)³⁷ has also provided additional impetus for all States – and not solely the States Parties to the BTWC – to adopt national legislation. Operative paragraph 2 requires:

*2. Decides also that all States, in accordance with their national procedures, shall adopt and enforce appropriate effective laws which prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or **biological** weapons and their means of delivery, in particular for terrorist purposes, as well as attempts to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them; [Emphasis added]*

³⁷ United Nations Security Council, *Resolution 1540 (2004) Adopted by the Security Council at its 4956th meeting, on 28 April 2004, S/RES/1540 (2004), 28 April 2004.*

It would therefore be timely – and bring significant benefits to all States Parties – for the States Parties to the BTWC at the forthcoming Sixth Review Conference in November/December 2006 to do more than simply adopt an exhortation along the lines of those agreed previously at Review Conferences. There is a need for action to adopt national legislation to counter the continuing threat posed by biological and toxin weapons whether by States or by sub-State actors. It is, however, appreciated that the action plan adopted by the OPCW has required significant resources from the Technical Secretariat and comparable resources are currently not available for the States Parties to the BTWC.

66. As recognised by SCR 1540 (2004) in its seventh operative paragraph, States may require assistance to implement this resolution:

7. Recognizes that some States may require assistance in implementing the provisions of this resolution within their territories and invites States in a position to do so to offer assistance as appropriate in response to specific requests to the States lacking the legal and regulatory infrastructure, implementation experience and/or resources for fulfilling the above provisions;

Consequently, at the Sixth Review Conference particular attention should be given to seeking a commitment from those States Parties in a position to do so to provide assistance to States Parties requiring such assistance in developing and adopting national implementation legislation.

67. Although there may be some consideration to whether to adopt an action plan, it would be wise to adopt different terminology as the resources provided by the OPCW to support the CWC Article VII national implementation action plan will not be available. It is suggested that an achievement timeline which sets a target for two thirds of the States Parties to the BTWC to have adopted national implementation legislation by the time of the Seventh Review Conference would be an effective and desirable outcome. It would be greatly aided by one or more States Parties undertaking to provide resources to facilitate the adoption of legislation by States Parties as well as to monitor and report to the States Parties annually on progress towards this target. Such a progress report would be appropriate at future annual Meetings of the States Parties or other representative body – such as an Intersessional Committee of Oversight – at which agreement could be reached on additional action should that be necessary.

Education, Outreach and Codes of Conduct

68. At the Fourth Review Conference the States Parties in the Article IV section of the Final Declaration³⁸ noted the importance of:

- Inclusion in textbooks and in medical, scientific and military education programmes of information dealing with the prohibitions and provisions contained in the Biological and Toxin Weapons Convention and the Geneva Protocol of 1925.

³⁸ United Nations, *Fourth Review Conference of the States Parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction*, Geneva, 25 November – 6 December 1996. *Final Document*, BWC/CONF.IV/9, 1996. Available at: <http://www.opbw.org>

using language slightly developed from that agreed at the Second and Third Review Conferences.

69. At the annual Meeting of States Parties in 2005 consideration was given to the topic of:

The content, promulgation and adoption of codes of conduct for scientists.

The report³⁹ of this Meeting of States Parties recognised that codes of conduct could have a significant and effective role in conjunction with national legislation and helping those engaged in the relevant scientific communities relevant to the Convention to fulfil their legal, regulatory and professional obligations and ethical principles.

70. Seminars carried out in the last two years in the UK, US, Finland, Germany, Netherlands and South Africa have shown⁴⁰ that there is little awareness of the BTWC amongst those engaged in the life sciences. It is consequently evident that for in depth implementation of the necessary measures required by Article IV to prohibit and prevent the development, production, stockpiling, acquisition or retention of agents, toxins, weapons, equipment and means of delivery specified in Article I of the Convention the States Parties need to take steps for education, outreach and codes of conduct. It is recommended that the States Parties should agree to hold an annual Meeting of States Parties prepared for by a Meeting of Experts during the intersessional period before the Seventh Review Conference to consider the topic:

Education and outreach for all those concerned with the life sciences.

Article V Consultation and Cooperation Procedures

71. At the Third Review Conference the States Parties agreed⁴¹ procedures to strengthen the implementation of Article V:

The Conference notes the importance of Article V and reaffirms the obligation assumed by States parties to consult and cooperate with one another in solving any problems which may arise in relation to the objective of, or in the application of the provisions of, the Convention.

The Conference reaffirms the agreement reached at the Second Review Conference, and agrees that in order to strengthen the implementation of the provisions of Article V the following provisions should be adopted:

³⁹ United Nations, *Meeting of the States Parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction*, Third Meeting, Geneva, 5-9 December 2005, *Report of the Meeting of States Parties*, BWC/MSP/2005/3, 14 December 2005. Available at <http://www.opbw.org>

⁴⁰ Malcolm R. Dando, *Article IV: Education, Outreach and Codes of Conduct*, in Graham S. Pearson, Nicholas A. Sims & Malcolm R. Dando (eds), *Key Points for the Sixth Review Conference*, University of Bradford, Department of Peace Studies, September 2006. Available at <http://www.brad.ac.uk/acad/sbtwc>

⁴¹ United Nations, Third Review Conference of the States Parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, Geneva, 9 – 27 September 1991. *Final Document*, BWC/CONF.III/23, 1991. Available at: <http://www.opbw.org>

- *A formal consultative meeting could be preceded by bilateral or other consultations by agreement among those States parties involved in the problems which had arisen;*
- *Requests for the convening of a consultative meeting shall be addressed to the Depositaries, who shall immediately inform all States parties of the request and shall convene within 30 days an informal meeting of the interested States parties to discuss the arrangements for the formal consultative meeting, which shall be convened within 60 days of receipt of the request;*
- *With regard to the taking of decisions, the consultative meeting shall proceed in accordance with rule 28 of the rules of procedure of the Review Conference;*
- *The costs of the consultative meeting shall be met by the States parties participating in accordance with the United Nations assessment scale prorated to take into account differences between the United Nations membership and the number of States parties participating in the meeting;*
- *A consultative meeting may consider any problems which may arise in relation to the objective of, or in the application of the provisions of, the Convention, suggest ways and means for further clarifying, inter alia, with assistance of technical experts, any matter considered ambiguous or unresolved, as well as initiate appropriate international procedures within the framework of the United Nations and in accordance with its Charter;*
- *The consultative meeting, or any State party, may request specialized assistance in solving any problems which may arise in relation to the objective of, or in the application of the provisions of, the Convention, through, inter alia, appropriate international procedures within the framework of the United Nations and in accordance with its Charter;*
- *The States parties agree that, should the consultative meeting, or any State party, make use of such procedures within the framework of the United Nations, including lodging a complaint with the Security Council under Article VI of the Convention, the Secretary-General may be kept informed;*
- *The Conference considers that States parties shall cooperate with the consultative meeting in its consideration of any problems which may arise in relation to the objective of, or in the application of the provisions of, the Convention, and in clarifying ambiguous and unresolved matters, as well as cooperate in appropriate international procedures within the framework of the United Nations and in accordance with its Charter.*

72. At the Fourth Review Conference in 1996 the States Parties in their Final Declaration⁴² under Article V noted the following in regard to these procedures:

⁴² United Nations, Fourth Review Conference of the States Parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, Geneva, 25 November – 6 December 1996. *Final Document*, BWC/CONF.IV/9, 1996. Available at: <http://www.opbw.org>

2. *The Conference also reviewed the operation of the procedures to strengthen the implementation of the provisions of Article V which were adopted in the Final Declaration of the Third Review Conference and which built on the agreements reached at the Second Review Conference. While noting that these procedures have not yet been invoked, the Conference reaffirmed their present validity. The Conference calls on any State Party which identifies a problem arising in relation to the objective of, or in the application of the provisions of the Convention to use these procedures, if appropriate, to address and resolve it.*

73. These procedures were used in 1997 when an allegation was made by Cuba⁴³. It will therefore be appropriate to review the procedures at the Sixth Review Conference in the light of the experience gained in the 1997 implementation of them and the developments in the international scene since then. A successful outcome at the Sixth Review Conference is thus a review and reaffirmation or amendment of the procedures for consultation and cooperation under Article V of the Convention.

Confidence-Building Measures

74. The States Parties agreed at the Second Review Conference in 1986 to submit information annually under Confidence Building Measures (CBMs). The CBMs were reviewed and extended at the Third Review Conference in 1991⁴⁴:

In accordance with the decision of the Second Review Conference, and taking into account views expressed concerning the need to strengthen the implementation of the provisions of Article V, the Conference reviewed the effectiveness of the provisions in Article V for consultation and cooperation and of the cooperative measures agreed in the Final Declaration of the Second Review Conference, and considered whether or not further actions were called for to create further cooperative measures. The Conference came to the following conclusions and recommendations:

The Conference notes the importance of the confidence-building measures agreed upon at the Second Review Conference, as well as the modalities elaborated by the Ad Hoc Meeting of the Scientific and Technical Experts from States parties to the Convention held in 1987. The Conference recognizes the exchange of information that took place on this agreed basis between 1987 and 1991. The Conference urges all States parties to submit information to future rounds of information exchange.

With a view to promoting increased participation and strengthening further the exchange of information, the Conference agrees to reaffirm those measures established at the Second Review Conference with the following improvements: to add a declaration on "Nothing to declare" or "Nothing new to declare"; to amend and

⁴³ For an account of the way in which the Article V procedures were used to deal with the Cuban allegation see Graham S. Pearson, *Article V: Consultation and Cooperation*, in Graham S. Pearson, Malcolm R. Dando & Nicholas A. Sims, *Key Points for the Fifth Review Conference*, University of Bradford, Department of Peace Studies, November 2001. Available at: <http://www.brad.ac.uk/acad/sbtwc>

⁴⁴ United Nations, Third Review Conference of the States Parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, Geneva, 9 – 27 September 1991. *Final Document*, BWC/CONF.III/23, 1991. Available at: <http://www.opbw.org>

extend the exchange of data on research centres and laboratories; to amend the exchange of information on outbreaks of infectious diseases and similar occurrences caused by toxins; to amend the measure for the active promotion of contacts; and to add three new confidence-building measures entitled "Declaration of legislation, regulations and other measures"; "Declaration of past activities in offensive and/or defensive biological research development programmes"; and "Declaration of vaccine production facilities".

Accordingly, the Conference, mindful of the provisions of Article V and Article X, and determined to strengthen the authority of the Convention and to enhance confidence in the implementation of its provisions, agrees that the States parties are to implement, on the basis of mutual cooperation, the following measures set out in the annex to this Final Declaration, in order to prevent or reduce the occurrence of ambiguities, doubts and suspicions, and in order to improve international cooperation in the field of peaceful bacteriological (biological) activities:

- 1. Declaration form on "Nothing to declare" or "Nothing new to declare"*
- 2. Confidence-building measure "A":*
 - Part1: Exchange of data on research centres and laboratories;*
 - Part 2: Exchange of information on national biological defence research and development programmes.*
- 3. Confidence-building measure "B":*
 - Exchange of information on outbreaks of infectious diseases and similar occurrences caused by toxins.*
- 4. Confidence-building measure "C":*
 - Encouragement of publication of results and promotion of use of knowledge.*
- 5. Confidence-building measure "D":*
 - Active promotion of contacts.*
- 6. Confidence-building measure "E":*
 - Declaration of legislation, regulations and other measures.*
- 7. Confidence-building measure "F":*
 - Declaration of past activities in offensive and/or defensive biological research and development programmes.*
- 8. Confidence-building measure "G":*

- Declaration of vaccine production facilities.

The Conference also agrees that the exchange of information and data, using the revised forms, be sent to the United Nations Department for Disarmament Affairs no later than 15 April on an annual basis and should cover the previous calendar year.

75. At the Fourth Review Conference⁴⁵, the States Parties did not carry out a detailed review of the CBMs as they were aware that the Ad Hoc Group was then engaged in considering the incorporation of existing and further enhanced CBMs into a regime of compliance measures to strengthen the Convention:

5. The Conference notes the background information document prepared by the United Nations Secretary-General providing data on the participation of States Parties in the agreed confidence-building measures since the Third Review Conference. The Conference welcomes the exchange of information carried out under the confidence-building measures, and notes that this has contributed to enhancing transparency and building confidence. The Conference recognizes that participation in the confidence-building measures since the last Review Conference has not been universal, and that not all responses have been prompt or complete. In this regard, the Conference also recognizes the technical difficulties experienced by some States Parties with respect to preparing CBM responses. In this regard, the Conference urges all States Parties to complete full and timely declarations in the future. The Conference notes that the Ad Hoc Group of States Parties established by the Special Conference in 1994 is, as part of its continuing work, considering the incorporation of existing and further enhanced confidence-building and transparency measures, as appropriate, in a regime to strengthen the Convention.

76. At the Fifth Review Conference, a number of useful proposals to strengthen the CBMs were submitted by South Africa⁴⁶. These are well worth further consideration, along with other ideas for improving the responses from the States Parties in their annual submissions of CBM returns, at the forthcoming Sixth Review Conference in November/December 2006. Consideration needs to be given to a review of the existing CBMs and their format; proposals for new CBMs; provision for electronic submission and circulation; collation, translation and elaboration procedures; and the provision of assistance, where requested. It needs, however, to be considered whether there will be sufficient time at the Sixth Review Conference to consider the details of the existing CBMs and how they might be improved. It should be recalled that at the Second Review Conference in 1986 the States Parties agreed to hold an ad hoc meeting in 1987 of scientific and technical experts from States Parties *to finalise the modalities for the exchange of information and data by working out, inter alia, appropriate*

⁴⁵ United Nations, Fourth Review Conference of the States Parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, Geneva, 25 November – 6 December 1996. *Final Document*, BWC/CONF.IV/9, 1996. Available at: <http://www.opbw.org>

⁴⁶ South Africa, Fifth Review Conference of the States Parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, Geneva, 19 November – 7 December 2001. *Strengthening Confidence-Building Measures: Working Paper by South Africa*, BWC/CONF.V/COW/WP.1, 16 November 2001. Available at: <http://www.opbw.org>

forms to be used by States Parties for the exchange of information agreed to in this Final Declaration, thus enabling States Parties to follow a standardised procedure.

77. There would be merit in the States Parties at the Sixth Review Conference agreeing that a Meeting of States Parties should be held in 2007 to consider and decide how to improve the effectiveness of the CBM process with this Meeting being prepared for by an earlier two week Meeting of Experts. The Meeting of Experts on CBMs to prepare for the annual Meeting would provide an opportunity for States Parties to share best practice in compiling annual CBM returns and identifying how the effectiveness of the CBM process might best be improved. It is evident from the experience gained during the period from 2003 to 2005 that the process of annual one week Meetings of States Parties prepared by an earlier two week Meeting of Experts has worked well and been effective in achieving a good exchange of information.

Strengthening the effectiveness and improving the implementation of the Convention

78. This is historically a contentious issue but is not one that can be ignored. There is little doubt that the majority, if not all, of the States Parties would indeed support, in principle if not in specific terms, the requirement to strengthen the effectiveness and improve the implementation of the Convention. Within the agenda for the Sixth Review Conference, this could be taken under the heading of “*possible consensus follow-up action*” in Agenda item 11, or under the review of Article V in Agenda item 10(b).

79. Work on how to strengthen the effectiveness and improve the implementation of the Convention could be taken forward as a part of the modular approach by the States Parties at the Sixth Review Conference agreeing to hold an ‘ad hoc’ meeting of experts from States Parties in 2007 as an appendix to the Conference to consider future action to strengthen the Convention, as recommended in Review Conference Paper No. 14⁴⁷.

80. As noted in Review Conference Paper No. 14, there is no value in continuing recriminations about why the negotiations of the Ad Hoc Group came to an end in July 2001. Rather, a fresh start needs to be made. This could therefore be to consider all developments since the Third Review Conference in 1991 and its decision to *strengthen the effectiveness and improve the implementation* of the Convention – an aim which must surely still command consensus amongst all States Parties. It is hard to imagine that any State Party would object to such an objective and it is argued that all States Parties would indeed agree to this.

81. Having agreed this objective, the next step is to consider how best the States Parties can achieve this objective starting from the Sixth Review Conference in 2006. By recognizing the common agreement to the objective, the onus is put onto **all** States Parties to address how best to move forward to achieve this. It also needs to be recognized that the Sixth Review Conference is **not** the occasion on which to address the **details** of how best to achieve this objective as there is a great deal of substantive business that needs to be accomplished during the three weeks of the Review Conference. The Final Declaration of the Sixth Review

⁴⁷ Graham S. Pearson, *The UN Secretary-General’s High Level Panel: Biological Weapons Issues*, University of Bradford, Department of Peace Studies, Review Conference Paper No. 14, May 2005. Available at <http://www.brad.ac.uk/acad/sbtwc>

Conference should include in its Article V section or in an Agenda item 11 section at the end language along the lines of:

The Conference reaffirms the importance of strengthening the effectiveness and improving the implementation of the Convention and agrees that experts from the States Parties shall meet in 2007 to consider and recommend to a subsequent Meeting of States Parties how best to achieve this objective.

It would be up to this ‘ad hoc’ meeting of experts in 2007 to recommend to a subsequent Meeting of States Parties how best to achieve the objective of strengthening the effectiveness and improving the implementation of the Convention. Language as suggested above would be effective in moving the process forward in 2006.

82. The meeting proposed in 2007 would have no preconditions but simply require the experts from the States Parties to consider collectively how best to achieve the objective of strengthening the effectiveness and improving the implementation of the Convention taking into account all the international developments over the past fifteen years.

Article VI Investigations

83. The States Parties at the Fourth Review Conference agreed in their Final Declaration⁴⁸ under Article VI that:

2. The Conference reaffirms the importance of Article VI, which, in addition to the procedures contained in Article V, provides that any State Party which finds that any other State Party is acting in breach of its obligations under the Convention may lodge a complaint with the United Nations Security Council. The Conference notes that the provisions of Article VI will be taken into account, as appropriate, for any future verification regime resulting from the consideration by the Ad Hoc Group of a system of measures to promote compliance with the Convention. The Conference emphasizes the provision of Article VI that such a complaint should include all possible evidence confirming its validity. It stresses that, as in the case of the implementation of all the provisions and procedures set forth in the Convention, the procedures foreseen in Article VI should be implemented in good faith within the scope of the Convention.

84. In addition, the Final Declaration also included:

4. The Conference recalls, in this context, United Nations Security Council resolution 620 (1988), which at the time encouraged the United Nations Secretary-General to carry out prompt investigations, in response to allegations brought to its attention by any Member State concerning the possible use of chemical and bacteriological (biological) or toxin weapons that could entail a violation of the 1925 Geneva Protocol or of any other applicable rule of international treaty or customary law. The Conference also recalls the technical guidelines and procedures contained in Annex I of United Nations document A/44/561 to guide the United Nations

⁴⁸ United Nations, Fourth Review Conference of the States Parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, Geneva, 25 November – 6 December 1996. *Final Document*, BWC/CONF.IV/9, 1996. Available at: <http://www.opbw.org>

Secretary-General on the timely and efficient investigation of reports of the possible use of such weapons. The States Parties reaffirm their agreement to consult, at the request of any State Party, regarding allegations of use or threat of use of bacteriological (biological) or toxin weapons and to cooperate fully with the United Nations Secretary-General in carrying out such investigations. The Conference stresses that in the case of alleged use the United Nations is called upon to take appropriate measures expeditiously, which could include a request to the Security Council to consider action in accordance with the Charter.

85. In addition, the States Parties at their annual meetings in 2004 considered the topic:

iii. enhancing international capabilities for responding to, investigating and mitigating the effects of cases of alleged use of biological or toxin weapons or suspicious outbreaks of disease;

and in their Report⁴⁹ they agreed:

20. On the mandate to discuss, and promote common understanding and effective action on enhancing international capabilities for responding to, investigating and mitigating the effects of cases of alleged use of biological or toxin weapons or suspicious outbreaks of disease, the States Parties recognised that:

a) capabilities for responding to, investigating and mitigating the effects of cases of alleged use of biological or toxin weapons or suspicious outbreaks of disease promote the object and purpose of the Convention;

b) States Parties' national preparedness and arrangements substantially contribute to international capabilities for responding to, investigating and mitigating the effects of cases of alleged use of biological or toxin weapons or suspicious outbreaks of disease;

c) the Secretary-General's investigation mechanism, set out in A/44/561 and endorsed by the General Assembly in its resolution A/Res/45/57, represents an international institutional mechanism for investigating cases of alleged use of biological or toxin weapons.

21. The States Parties consequently agreed on the value of:

a) continuing to develop their own national capacities for response, investigation and mitigation, in cooperation with the relevant international and regional organisations, and, if in a position to do so, assisting and encouraging, with the necessary agreement, other States Parties to do the same;

b) the Sixth Review Conference considering, inter alia, the further development of current procedures for the provision of assistance, by those in

⁴⁹ United Nations, Meeting of the States Parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, Second Meeting, Geneva, 6 – 10 December 2004. *Report of the Meeting of States Parties*, BWC/MSP/2004/3, 14 December 2004. Available at: <http://www.opbw.org>

a position to do so, to States Parties in cases of alleged use of biological weapons or suspicious outbreaks of disease.

86. As reported⁵⁰ at the time, the draft outcome paper for the December 2004 Meeting of States Parties had initially contained the following:

(b) that consideration should be given to reviewing the Secretary-General's mechanism for investigation of cases of alleged use of biological and toxin weapons and to invite the Secretary-General to report to the Sixth Review Conference on any actions that may be taken in this regard on the basis of consideration by the United Nations General Assembly.

However, consensus could not be found on this language or on a development thereof. Consequently, all consideration had to be deferred to the Sixth Review Conference.

87. At the Sixth Review Conference, it is recommended that consideration be given to two aspects relating to Article VI Investigations. The first is that the States Parties should consider developing the modalities of the procedure implicit in the first paragraph of Article VI of the Convention which states that:

(1) Any State Party to this convention which finds that any other State Party is acting in breach of obligations deriving from the provisions of the Convention may lodge a complaint with the Security Council of the United Nations. Such a complaint should include all possible evidence confirming its validity, as well as a request for its consideration by the Security Council.

(2) Each State Party to this Convention undertakes to cooperate in carrying out any investigation which the Security Council may initiate, in accordance with the provisions of the Charter of the United Nations, on the basis of the complaint received by the Council. The Security Council shall inform the States Parties to the Convention of the results of the investigation.

The modalities of the procedure implicit in the first paragraph might be elaborated along the following lines:

1. The State Party lodging a complaint should identify which obligation under the Convention it considers has been breached and in what manner the breach has occurred.

2. The State Party lodging the complaint should compile a report containing all possible evidence relating to the alleged breach of obligations and the evidence therein should be validated to the extent possible.

3. The State Party lodging a complaint should implement the procedure as soon as possible after the alleged breach of the obligations under the Convention has taken place.

⁵⁰ Graham S. Pearson, *The Biological Weapons Convention Meeting of States Parties*, Report from Geneva, Review no. 22, in *The CBW Conventions Bulletin*, Issue no 66, December 2004, pp. 21-34. Available at <http://www.sussex.ac.uk/Units/spru/hsp>

88. Secondly, the States Parties should recognise that it is in the interests of all States Parties to the BTWC to ensure that any investigation that may be carried out is both effective and credible. Consequently, the States Parties should consider what steps are needed to ensure that the Secretary-General's mechanism for the investigation of cases of alleged use of biological and toxin weapons would indeed be effective and credible. There have been significant developments since the Secretary-General's mechanism was first set up – for example, the OPCW has set up its own mechanism for investigation of alleged use of chemical weapons and UNMOVIC has developed its procedures for investigations. In both cases, the importance of trained experts and of accredited laboratories that have validated procedures for the analysis of samples have been recognised. The Secretary-General's mechanism has neither and is therefore seriously deficient in regard to the current internationally expected standard. This is a matter which should be of special concern to the States Parties to the BTWC and proposals for remedying the deficiencies of the mechanism should find a place in the Article VI section of the Final Declaration.

Assistance

89. Article VII of the Convention states:

Each State Party to this Convention undertakes to provide or support assistance, in accordance with the United Nations Charter, to any Party to the Convention which so requests, if the Security Council decides that such Party has been exposed to danger as a result of violation of the Convention.

90. At the Fourth Review Conference, the States Parties agreed in their Final Declaration⁵¹ under Article VII that:

2. The Conference reaffirms the undertaking made by each State Party to provide or support assistance in accordance with the Charter of the United Nations to any Party to the Convention which so requests, if the Security Council decides that such Party has been exposed to danger as a result of violation of the Convention.

3. The Conference takes note of desires expressed that, should a request for assistance be made, it be promptly considered and an appropriate response provided. In this context, pending consideration of a decision by the Security Council, timely emergency assistance could be provided by States Parties if requested.

91. It is considered that the States Parties at the Sixth Review Conference should include as a topic for a future annual Meeting of States Parties prepared for by a Meeting of Experts the topic:

To develop a procedure for the provision of timely emergency assistance to States Parties on request.

⁵¹ United Nations, Fourth Review Conference of the States Parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, Geneva, 25 November – 6 December 1996. *Final Document*, BWC/CONF.IV/9, 1996. Available at: <http://www.opbw.org>

This topic would be broader than the narrowly drawn conditions under which Article VII applies. It would, for example, include assistance to States Parties attacked by a non-party or by a non-State actor, or from an unknown source. Such an annual Meeting should clearly involve participation by the WHO, FAO and OIE.

92. It should, however, be recognised that the provision of timely assistance to States Parties is wider than solely being concerned with emergency assistance. For example, it is widely recognised that States Parties may require assistance with national implementation and with the preparation of annual CBM returns as well as in areas such as surveillance, detection, diagnosis and combating of infectious diseases affecting humans, animals, and plants. There would therefore be advantage in further broadening the scope of the topic for a future annual Meeting of States Parties prepared for by a Meeting of Experts to:

To develop a procedure for the provision of timely assistance to States Parties on request.

International Cooperation

93. At the Fourth Review Conference, the States Parties in the Article X section of the Final Declaration⁵² agreed seventeen paragraphs relating to international cooperation. In particular, consideration was given to how existing institutional ways and means of promoting multilateral cooperation might be developed further:

5. *The Conference notes that existing institutional ways and means of ensuring multilateral cooperation between the developed and developing countries would need to be developed further in order to promote international cooperation in peaceful activities in such areas as medicine, public health and agriculture.*

6. *The Conference reiterates its call upon the Secretary-General of the United Nations to propose for inclusion on the agenda of a relevant United Nations body, before the next Review Conference, a discussion and examination of the means of improving institutional mechanisms in order to facilitate the fullest possible exchange of equipment, materials and scientific and technological information regarding the use of bacteriological (biological) agents and toxins for peaceful purposes.*

7. *The Conference recommends that invitations to participate in this discussion and examination should be extended to all States Parties, whether or not they are members of the United Nations or concerned specialized agencies.*

94. In addition, the Final Declaration in its section on Article X addressed the response to infectious diseases:

10. *The Conference shares the worldwide concern about new, emerging and re-emerging infectious diseases and considers that the international response to them offers opportunities for increased cooperation in the context of Article X application and of strengthening the Convention. The Conference welcomes the efforts to*

⁵² United Nations, Fourth Review Conference of the States Parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, Geneva, 25 November – 6 December 1996. *Final Document*, BWC/CONF.IV/9, 1996. Available at: <http://www.opbw.org>

establish a system of global monitoring of disease and encourages States Parties to support the World Health Organization, including its relevant newly established division, the FAO and the OIE, in these efforts directed at assisting Member States to strengthen national and local programmes of surveillance for infectious diseases and improve early notification, surveillance, control and response capabilities.

and also went on to list a number of possible measures:

12. The Conference urges States Parties, the United Nations and its specialized agencies to take further specific measures within their competence for the promotion of the fullest possible exchange of equipment, materials and scientific and technological information for the use of bacteriological (biological) agents and toxins for peaceful purposes and of international cooperation in this field. Such measures could include, inter alia:

- 1. Transfer and exchange of information concerning research programmes in biosciences and greater cooperation in international public health and disease control;*
- 2. Wider transfer and exchange of information, materials and equipment among States on a systematic and long-term basis;*
- 3. Active promotion of contacts between scientists and technical personnel on a reciprocal basis, in relevant fields;*
- 4. Increased technical cooperation and assistance, including training programmes to developing countries in the use of biosciences and genetic engineering for peaceful purposes through active association with United Nations institutions, including the International Centre for Genetic Engineering and Biotechnology (ICGEB);*
- 5. Facilitating the conclusion of bilateral, regional and multiregional agreements providing, on a mutually advantageous, equal and non-discriminatory basis, for their participation in the development and application of biotechnology;*
- 6. Encouraging the coordination of national and regional programmes and working out in an appropriate manner the ways and means of cooperation in this field;*
- 7. Cooperation in providing information on their national epidemiological surveillance and data reporting systems, and in providing assistance, on a bilateral level and/or in conjunction with WHO, FAO and OIE regarding epidemiological and epizootical surveillance, with a view to improvements in the identification and timely reporting of significant outbreaks of human and animal diseases;*
- 8. The promotion of programmes for the exchange and training of scientists and experts, and the exchange of scientific and technical*

information in the biological field between developed and developing countries.

95. The Final Declaration also called for the Secretary-General to collate annually reports on how Article X is being implemented:

14. The Conference requests the Secretary-General to collate on an annual basis, and for the information of States Parties, reports on how this article [X] is being implemented.

15. The Conference welcomes the information provided by a number of States Parties on the cooperative measures they have undertaken towards fulfilling their Article X obligations and encourages States Parties in a position to do so to provide such information.

96. Thus far, there has been no such annual report by the Secretary-General and the information provided by a number of States Parties has largely been limited to working papers provided to Review Conferences. It is recommended that at the Sixth Review Conference the States Parties should include as a topic for a future annual Meeting of States Parties prepared for by a Meeting of Experts the topic:

To develop a procedure to facilitate international cooperation between States Parties and as part thereof to develop and adopt a Confidence-Building Measure to enhance transparency of cooperation between States Parties under Article X.

The proposed development of a CBM to provide transparency of Article X cooperation would help to focus attention on the actual situation rather than the rhetoric so often expressed in this area. Information on actual cooperation under Article X would make it easier for States Parties to recognise what cooperation is already taking place – and, through transparency, to be aware of what is achievable bringing benefits to all States Parties.

Interim Supportive Structures

97. The BTWC needs support. It has long suffered from an institutional deficit lamentable in a multilateral treaty of such importance. The Sixth Review Conference can begin to remedy this institutional deficit, by choosing among a set of options for organisational arrangements. In the long run, an Organization for the Prohibition of Bacteriological (Biological) and Toxin Weapons (OPBW) is needed, to strengthen the effectiveness and improve the implementation of the Convention. But until there is an OPBW with the capacity to match the requirements of the BTWC, the Convention needs a modest set of interim supportive structures to nurture its treaty regime as, with careful steering, it starts to overcome its long-recognised fragility.

98. Almost every useful advance one could imagine coming out of the Conference would benefit from continuing institutional capacity. By creating interim supportive structures, the Conference would be providing such capacity for the period between the Sixth and Seventh Review Conferences in the first instance, without prejudice to the diverse positions of States Parties on the desirability of an OPBW in the long run.

99. It is recommended that the Conference should return to the commendation of the organizational arrangements set out below in its Solemn Declaration, as was done by the

Third Review Conference in 1991, and for the substance of these arrangements should introduce a new, second, part to the Article XII Review Conferences section of its Final Declaration. This second part of the Article XII section would authorise the President and General Committee to undertake continuing tasks after the end of the Conference in order to provide interim strengthening structures in support of the Convention, designed to bridge the interval between the Sixth and Seventh Review Conferences.

100. The principal strengthening structure might take the form of a representative Intersessional Committee of Oversight or of an Annual Meeting of States Parties. In either case, it might be empowered to take decisions, supported by advisory panels and a dedicated standing secretariat, which are the other interim supportive structures recommended. The Article XII chapter of this Briefing Book includes in its recommended language for the Final Declaration two alternative texts for Part Two of the Article XII section. These alternative texts include mandates for an Intersessional Committee of Oversight and an Annual Meeting of States Parties respectively, with much common ground between them, while also providing for advisory panels and a dedicated standing secretariat.

101. Two things must be re-emphasised. First, the case for BTWC supportive structures is a long-established one, developed and articulated since the 1980s. Second, they must be seen as interim arrangements, pending eventual establishment, in the long run, of a permanent OPBW.

102. It is appropriate to include the relevant text in the Article XII section, as addressing the institutional deficit of the BTWC while ensuring that interim supportive structures take their authority from the Review Conference, which is the subject of Article XII.

103. Through interim supportive structures the Sixth Review Conference can put in place the organizational arrangements necessary to steer the BTWC treaty regime into constructive channels and nurture its evolution, pending the arrival of a permanent OPBW which remains vital to its strengthening in the long run.

Conclusions

104. This introductory chapter has looked ahead to the Sixth Review Conference in the light of the developments relevant to the Convention around the world. As we approach the Sixth Review Conference there are widespread expectations both politically and publicly that the States Parties will demonstrate their accountability and commitment to the obligations that they have undertaken in becoming States Parties to the Convention. There is also a widespread anticipation that the States Parties will act responsibly by adopting a constructive approach to achieving a successful outcome to the Sixth Review Conference and thereby demonstrating in concrete terms the real value to international peace and security made by the Convention.

105. A number of successful outcomes are identified and it is recommended that the States Parties adopt a modular approach obtaining agreement where consensus is achievable. States Parties are urged to start considering such successful outcomes now and to drafting language for the Final Declaration that they can submit to the Committee of the Whole in regard to the relevant Articles of the Convention. In addition, States Parties with a particular interest in one or more of the successful outcomes are encouraged to prepare and submit

Working Papers to the Review Conference. Once again it is worth emphasising that success is rarely accidental and needs to be planned for.