

Strengthening the Biological and Toxin Weapons Convention

A three week session, the twenty-first, of the Ad Hoc Group (AHG) to consider a legally binding instrument to strengthen the Biological and Toxin Weapons Convention (BWC) was held in Geneva from Monday 20 November to Friday 8 December 2000. As in the July/August session, negotiations took place in a number of forums: the Friends of the Chair (FOCs) continued to hold formal meetings to develop the text for which they are responsible as well as also holding informal meetings and consultations with delegations to explore possible solutions to remove square brackets. The Chairman also continued a series of bilateral informal consultations with the representatives of the states parties participating in the negotiations to address the outstanding key issues in order to explore conceptual approaches to find common ground. These informal consultations by the Chairman took place in the week commencing 13 November, before the start of the Ad Hoc Group session, as well as during the session; over 80 such consultations were held during the four week session. Overall, the November/December session saw a continuation of the change that had begun in the July/August session to less work being carried out in formal sessions and more “give and take” discussion

in informal consultations. Again, as in the July/August session, there were further “bracket bazaar” meetings during the session when a number of square brackets were successfully removed in a series of trade-offs. To a certain extent, the previous more formal methods of work have achieved as much as possible in developing agreed text and in the removal of square brackets, and there is a need now to explore new informal and formal ways of reaching solutions that will attract wide support.

In the November/December session, 52 states parties and 3 signatory states participated; one more state party than in the July/August session as 2 states (Jamaica and Viet Nam) participated in November/December whilst one state (Slovenia) did not. Two additional signatory states (Egypt and Myanmar) participated in November/December.

There was no change to the Friends of the Chair. However, a new development was the recognition by the Ad Hoc Group that for the completion of its mandate, work was required in a number of areas additional to that of completion of the text of the Protocol. Consequently, the Chairman requested that Facilitators should assist the Ad Hoc Group in the following areas:

- Harmonization of timelines for activities and measures in the Protocol — Ambassador Ali Ashgar Soltanieh (Iran);
- Structural harmonization of issues in the Protocol — Ambassador Henrik Salander (Sweden);
- Editorial issues in the Protocol — Dr Ben Steyn (South Africa) and Dr John Walker (UK);
- Declaration on the Establishment of a Preparatory Commission — Mr Peter Goosen (South Africa), Mr Fu Zhigang (China) and Mr Gennady A. Loutai (Russia);
- The Headquarters Agreement with the Host Country — Ambassador Donald A. Mahley (USA) who will be assisted by Ambassador Krzysztof Jakubowski (Poland), Mr Adrian White (Australia), Mr Malik Azhar Ellahi (Pakistan), Ms Katarina Rangnitt (Sweden) and Sra. Rodriguez Camejo (Cuba) as well as additional personnel as considered necessary; and
- Harmonization of Legal Aspects of the Protocol — to be appointed.

The November/December session also saw on the penultimate day, 7 December, the presentation by the two candidates for the Seat of the Organization, the Netherlands and Switzerland, of their responses to the Questionnaire on possible arrangements regarding the seat of the Organization and General Information on the Host City. It will be recalled that this questionnaire was attached to the procedural report (BWC/AD HOC GROUP/52 (Part I), 11 August 2000) of the July/August session as Annex II. In addition to the formal submissions circulated as Working Papers 428 (the Netherlands) and 429 (Switzerland), presentations were made by the two countries outlining the basis of their respective bids.

There was a decrease in the number of new Working Papers (WPs) — to 10 in November/December from 12 in July/August 2000. The 10 WPs (WP.428 to WP.437) were presented by the following states: single papers by Australia, Iran, the Netherlands, South Africa, Spain, Switzerland and the USA; together with joint papers by China, Cuba, India, Indonesia, Iran, Libya, Mexico, Pakistan and Sri Lanka; Italy, Pakistan and Poland; and New Zealand and South Africa. These focused on a number of issues — 2, as noted above, were submissions regarding the seat of the organization, 2 relating to different aspects of declarations, 1 on methodology for random visits, 1 reporting on a practice random visit, 1 relating to investigations, 1 to transfers, 1 to the organization and 1 to reservations in respect of annexes and appendices. The Working Papers presented in the November/December session brought the overall total of WPs to 451 — this number excludes ‘WP.’ numbers assigned to draft procedural reports and includes the Working Papers presented at the second session which were given ‘BWC/AD HOC GROUP/’ numbers. An analysis of the WPs in the Table shows that, ignoring WPs presented by groups of 3 or more states parties, 2 or more WPs have been submitted by 30 states parties with South Africa leading the way with 76 WPs, followed by the UK with 43 WPs and then Japan (17), EU (14), Iran (14), USA (14), Cuba (13), Australia (11.5) and Ukraine (10); 6 WPs have been presented by the NAM and Other States (an index of WPs is available at www.brad.ac.uk/acad/sbtwc/adhocgrp/wpindex.htm).

The outcome of the July/August session was produced as a complete update of the Protocol issued as Annex I of the procedural report (BWC/AD HOC GROUP/54). This was thus the fourteenth version of the rolling text — previous versions having been produced in June 1997 (#35), July 1997 (#36), October 1997 (#38), February 1998 (#39) and June/July 1998 (#41), September/October 1998 (#43), January 1999 (#44), April 1999 (#45), July 1999 (#46), October 1999 (#47), February 2000 (#50), April 2000 (#51) and August 2000 (#52). However, unlike in previous procedural reports there was no Part II containing papers prepared by the Friends of the Chair of proposals for modified text for further consideration. This change reflected the general change in the overall negotiations which have moved towards a more informal exploration of possible solutions.

The November/December session had fewer formal meetings as Friends of the Chair used informal and formal meetings as they judged appropriate to carry forward their work. The FOC meetings focused on definitions and objective criteria (4 $\frac{1}{6}$ meetings), Article X measures (4 meetings), compliance measures (1 $\frac{1}{6}$ meetings), investigations (2 $\frac{5}{6}$ meetings) and declaration formats (2 $\frac{1}{6}$ meetings) with between 1 $\frac{5}{6}$ meetings to $\frac{1}{3}$ meeting on the preamble, general provisions, confidentiality issues, legal issues, organization and seat of the organization. There were 2 $\frac{1}{3}$ meetings devoted to AHG plenary meetings. As already noted, the Chairman held over 80 bilateral consultations during the preceding week and the 3-week session.

The AHG meeting as usual saw a number of associated events involving NGOs. During the weekend preceding the start of the Ad Hoc Group, 18–19 November, there was a meeting of the Pugwash Study Group on the Implementation of the Chemical and Biological Weapons Conventions entitled “Key Issues for the Fifth BWC Review Conference 2001” attended by 60 participants from 18 countries.

On 20 November, an informal meeting was held at lunchtime between NGOs and the delegations of the EU at which short statements relating to the Protocol were made by France as the EU Presidency and by representatives from the University of Bradford, the Harvard Sussex Program, VERTIC, the Federation of American Scientists and the International Network of Engineers and Scientists for Global Responsibility. These were followed by about 45 minutes of discussion on declarations, declaration follow-up procedures, export controls and cooperation. This meeting, attended by about 20 representatives from a dozen NGOs and a similar number of representatives from EU delegations, provided a valuable opportunity for the informed discussion of some of the key issues relating to the Protocol.

The following day, 21 November, saw the presentation and distribution by the Department of Peace Studies of the University of Bradford of a further *Briefing Paper* in its series: no 32, “Scientific and Technical Implications of the Implementation of the BTWC Protocol” and of a further *Evaluation Paper*: no 19, “The BTWC Protocol: Proposed Complete Text for an Integrated Regime” (both are available at www.brad.ac.uk/acad/sbtwc).

Two days later, on 23 November, a lunchtime briefing was held in the World Health Organization (WHO)

headquarters entitled “Global Health Security: filling the surveillance gaps: new alliances against infectious diseases” with opening remarks by Dr David Heymann, Executive Director, Communicable Diseases, followed by a presentation by Dr G Rodier, Department of Communicable Disease Surveillance and Response.

During the weekend of 25–26 November, Italy hosted a seminar in Trieste at the International Centre for Genetic Engineering and Biotechnology (ICGEB) entitled “Cooperation Activities in the Framework of the BTWC — Role of the International Centre for Genetic Engineering and Biotechnology” which was attended by about 50 representatives from the delegations of 41 of the states participating in the Ad Hoc Group.

Political Developments

As usual a number of statements were made during the November/December session.

On 20 November, the first day of the session, Ambassador Tibor Tóth, Chairman of the Ad Hoc Group, said in his opening remarks that it was with a sense of anticipation and some impatience that he opened this, the 21st, session of the Ad Hoc Group which would be the last session for this, the sixth year of the Ad Hoc Group. He expected much from those present — as individuals, as delegations and collectively as the Ad Hoc Group. He noted that after 20 sessions, the Ad Hoc Group had before it the 14th version of the draft Protocol. By comparing the present text with that in the first few versions, it is possible to see the

Table — Working Papers submitted to the Ad Hoc Group by Source																						
Session	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	
AHG/	3	28	29	31	32	34	36	38	39	40	41	43	44	45	46	47	49	50	51	52	54	
Date	Jan 95	Jul 95	Dec 95	Jul 96	Sep 96	Mar 97	Jul 97	Oct 97	Jan 98	Mar 98	Jul 98	Oct 98	Jan 99	Mar 99	Jul 99	Oct 99	Dec 99	Jan 00	Apr 00	Aug 00	Dec 00	To date
FOC WPs	–	1	20	10	9	14	8	10	11	3	6	3	1	2	2	2	–	–	–	–	–	102
Argentina	–	–	–	–	–	–	–	1	–	–	–	–	–	–	1	–	–	–	–	–	–	2
Australia	–	–	1	3	–	–	3	–	–	–	–	1	–	1.5	1	–	–	–	–	–	1	11.5
Austria	–	–	–	–	–	0.5	1	–	–	1	–	1	1	–	–	0.5	–	–	–	–	–	5
Brazil	–	2	1	1	1	–	1	–	–	1	–	–	–	–	–	–	–	–	–	–	–	7
Canada	1	–	1	3	2	1	1	–	–	–	–	–	–	–	–	–	–	–	–	–	–	9
China	–	2	–	–	–	1	–	–	–	–	1	1	1	–	–	–	–	–	–	–	–	6
Croatia	–	–	–	–	–	–	–	–	–	–	–	–	–	1	1	–	–	–	–	–	–	2
Cuba	–	3	4	–	–	–	2	–	–	–	–	–	–	–	1	1	–	–	1	1	–	13
Czech Republic	–	–	1	–	1	–	–	–	–	–	–	1	–	–	–	–	–	–	–	–	–	3
European Union	–	–	–	6	–	1	–	–	–	–	2	–	–	–	2	–	–	–	1	2	–	14
France	–	1	2	–	–	1	1.5	–	–	–	–	1.5	–	–	–	–	–	–	–	–	–	7
Germany	–	1	1	–	–	–	0.5	–	–	–	–	–	1.5	–	2.5	1	–	–	–	1	–	8.5
India	–	–	–	–	1	2	–	–	–	–	–	1	–	–	–	–	–	–	–	–	–	4
Indonesia	–	–	–	–	–	–	–	–	–	–	–	2	–	–	–	–	–	–	–	–	–	2
Iran	–	–	2	–	–	2	–	1	–	–	–	2	1	1	2	–	–	–	–	2	1	14
Italy	–	–	–	1	–	1	–	–	–	–	–	–	–	–	1	–	–	–	–	–	–	3
Japan	–	1	3	–	–	1	1	3	2	–	–	1	1	2	1	–	–	1	–	–	–	17
Republic of Korea	–	–	–	–	–	–	–	1	–	–	–	–	–	–	1	–	–	–	–	–	–	2
NAM & Others	–	–	–	–	–	–	–	–	1	–	–	–	2	–	1	2	–	–	–	–	–	6
Netherlands	–	1	2	–	0.5	–	3	–	–	–	–	–	–	0.5	–	–	–	–	–	–	1	8
New Zealand	–	–	1	1	1	0.5	–	–	–	–	–	–	–	0.5	–	–	–	–	–	–	0.5	4.5
Portugal	–	1	1	–	–	–	–	–	1	–	–	–	–	–	–	–	–	–	–	–	–	3
Russia	–	2	–	3	1	2	2	2	5	–	3	–	2	–	3	–	–	–	–	2	–	27
South Africa	–	2	3	6	3	7	6	14	6	2	5	3	7	2	3	3.5	–	–	–	2	1.5	76
Spain	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	1	–	1	2
Sweden	–	1	1	–	0.5	1	–	–	2	–	–	1	0.5	–	1.5	–	–	–	–	–	–	8.5
Switzerland	–	–	–	–	–	1	2	–	–	–	–	–	–	–	2	–	–	–	–	–	1	6
UK	–	3	4	2	1	1	9	2	5	2	2	1.5	5	2.5	2	–	–	–	–	1	–	43
Ukraine	–	–	–	–	–	–	1	–	–	–	–	2	1	–	2	1	1	1	–	1	–	10
US	–	1	1	1	–	–	1	–	–	–	2	4	1	–	1	–	1	–	–	–	1	14
Others	–	1	1†	–	–	–	2	1	–	–	–	1	2	–	–	–	1‡	–	–	–	2	11
Total	1	23	50	37	21	37	45	35	33	9	21	27	27	13	31	11	3	2	3	12	10	451

Note: † Turkey; ‡ Norway; Working Papers by more than 2 states parties are listed under ‘Others’

progress made from 1997. There are now wide sections of the text that are almost clean which is very pleasing. What had previously been referred to as 'islands of bracket-free text' have grown enormously over the last few sessions. This progress underlined even more those sections of text where there are almost as many square brackets as there are words and Ambassador Tóth noted that the Ad Hoc Group were all aware that not all the text is at an advanced stage and that a lot of additional effort is needed to move these particularly difficult issues forward. At previous sessions the first steps had been taken to address these issues and he was confident that the present session would provide the opportunity for delegations to engage fully in discussing these issues and developing solutions. The time for preliminary discussion is now over; it is time to negotiate solutions.

In this session, Ambassador Tóth looked for continued cooperation in the formal Friends of the Chair meetings — these are the main forum where the text is progressively developed, concepts are clarified and explained and changes are negotiated — as well as in informal meetings and bilateral consultations both by the Chairman and by the Friends of the Chair. He anticipated these methods of work continuing in this session. The Chairman said that he intended to carry forward informal consultations in the same way during the 21st session, structuring these into investigations and compliance measures issues during the first week, transfers, cooperation, objective criteria and legal issues during the second week and organization and other issues during the last week. He would report back continuously in bureau meetings and plenary sessions on how the process is developing and any results achieved. If, as a result of these informal consultations at all levels, support emerges for compromises then he would introduce the 'bracket bazaar' format where proposals for restructuring and streamlining of the text could be considered by the Ad Hoc Group in plenary session. Ambassador Tóth said that he very much hoped that all delegations would look at suggested changes in a spirit of compromise but made it clear that, in this process, no delegation will be spared the pain of compromise.

He concluded by calling on all delegations to provide their continued support in bringing the work of the Ad Hoc Group to a successful conclusion next year. Not only did the Ad Hoc Group have to conclude the negotiations on the draft Protocol but the Special Conference has to be convened that will approve it. He noted that we have to fulfill the mandate and that no delegation should need reminding that the time when the mandate is to be fulfilled is fast approaching. Consequently, primarily due to this deadline, he believed that the Ad Hoc Group needed to make significant progress at this session and why he expected much of everyone — as individuals, as delegations and as the Ad Hoc Group.

The opening plenary session continued with a number of statements. Ambassador Hubert de la Fortelle of France spoke on behalf of the European Union and the associated central and eastern European countries of Bulgaria, the Czech Republic, Estonia, Latvia, Lithuania, Poland, Romania, Slovakia and also the associate countries of Cyprus, Malta and Turkey. In this he noted that the Fifth Review Conference would open in a year's time and that this

was the deadline set by the Fourth Review Conference to conclude negotiations on the Protocol to strengthen the BWC. He said that the member states of the EU:

today affirm their determination to respect the 2001 deadline which is mandatory for all the States Parties to the Convention.

He went on to review the progress achieved as after five years of negotiation, the Ad Hoc Group has succeeded in bringing points of view closer on the provisions at the heart of the Protocol. These achievements were recalled as follows:

- The general structure of declarations is no longer under discussion and it has now been agreed that declarations will focus on biodefence facilities, maximum biological containment facilities, and on industrial facilities relevant under the Convention;
- The concept of visits has been agreed;
- The principle of a clarification procedure followed by a visit if necessary has also been agreed by delegations;
- The value of the provisions relating to investigations in the event of a strong suspicion that the Convention is being breached is no longer questioned by anyone, and most of the provisions relating to their conduct no longer raise any difficulties;
- It is also acknowledged that a small, independent and cost-effective organization is needed to implement these measures;
- Inclusion in the Protocol of a specific and significant article on cooperation is also one of the items about which differences have been smoothed out. The draft article contains a substantial series of measures that the States parties are invited to adopt, as well as the specific duties of the Secretariat. It also puts forward the idea of a Cooperation Committee about which a number of European Union Member States made innovative proposals a year ago. Overall, Article VII of the Protocol is very much more comprehensive as regards cooperation and assistance than any other such articles in other legal instruments on security issues.
- Furthermore, some progress has been made during the last sessions as regards the way in which issues relating to transfers are addressed: precise and realistic proposals were put forward by a number of European Union Member States.

He then went on to outline a number of steps that need to be taken:

1. Declarations must be tailored in such a manner as to provide for an increased transparency of relevant facilities.
2. Visits should apply to all declared facilities as the justification for declaration triggers is identifying those facilities liable to be diverted for purposes contrary to the Convention. It is therefore important, to improve transparency, that all declared facilities can be visited. We do not think certain declared facilities are more relevant than others.
3. It should be possible to include within the scope of clarification measures those facilities which were not declared but should have been, depending on their particular characteristics. We know that this is a sensitive point, but we believe that this issue is not a matter first and foremost

for challenge investigations. It should be possible to work out a clarification procedure suited to this problem.

4. Investigations should remain credible as, in the end, the possibility of establishing whether or not the Convention has been breached depends on them. From this point of view, it is essential for them to be launched rapidly without unnecessary delay, on the basis of a clear mandate and conducted in the most effective manner possible.

Finally, he mentioned that there are essentially two obstacles to be overcome, from the point of view of EU member states. These are:

- Activities relating to defence against the risk of biological aggression are legitimate, but they also legitimately arouse the interest of the international community. The balance to be struck here is complex as no country would accept that its security should be reduced by excessive transparency, although neither is false transparency acceptable in this area.
- Export controls contribute directly to the security of all States and are an obligation for all States Parties. Their existence is thus justified and necessary. It is for each State to determine the ways in which such controls are to be exercised. European Union Member States have adopted a European Union regulation on this issue which was revised in June of this year; this regulation cannot in any way be regarded as discriminatory.

Ambassador de la Fortelle concluded by stating that the EU member states would fully support the Chairman in his efforts to achieve:

the conclusion of a balanced and effective Protocol which will increase the security of all States through enhanced transparency and cooperation.

Further statements were then made in plenary on a variety of other subjects by a number of different States including South Africa, Brazil, UK, Iran, Italy, Norway, China, Cuba, Pakistan, India and Indonesia. Several of these interventions related to the introduction of Working Papers. South Africa, in noting that this was the start of the 21st session, suggested that the Ad Hoc Group was coming of age and saw this session as being a particularly significant one. South Africa then introduced a Working Paper (WP.430) which addressed the implications of the Annexes and Appendices to the Protocol being subject to Reservations which would follow if language was to be adopted stating that the Annexes and Appendices of the Protocol:

shall not be subject to reservations incompatible with its object and purpose or that of the Convention.

Iran, China, Cuba, India, Indonesia and Pakistan spoke in respect of a Working Paper (WP.432) addressing the settlement of disputes arising as a result of denial of transfers. The Chinese intervention included a statement that subjecting the control of transfer of equipment and materials to stringent export controls was conducive to the prevention of proliferation and in conformity with the object and purpose of the Convention. In regard to transfers, it is important to take a long term view over many years as increased confidence between states parties does not happen at the instant of entry into force of the Protocol — rather

entry into force should be the start of a process that will over years increase transparency and build confidence between states parties to the Protocol.

Further statements were made later in the Ad Hoc Group session by the United States (23 November), Russia (27 November) and India (8 December) as well as by the Netherlands and Switzerland (7 December) to introduce their bids for the seat of the Organization. Ambassador Don Mahley of the United States emphasised that throughout the negotiations the USA has made the point very strongly that:

we believe this to be a crucial security negotiation. We want a Protocol, and we want that Protocol to strengthen the Biological Weapons Convention. The threat of biological weapons is global, growing and is a security concern to each of us.

After noting that biological issues were:

more complex, by an order of magnitude, than any other field of arms control and disarmament

he went on to say that:

Despite this daunting challenge, we have reached constructive agreement on a number of crucial issues in progress towards a successful Protocol. The U.S. believes that we should redouble our efforts over the coming months towards the successful conclusion of a BWC Protocol that meets all of our security and non-proliferation conditions.

Although his statement included language considering that the USA considers the November 2001 date a very important target and that:

we are also prepared to stay at the job until it is done right

he also said that:

The United States will exert every reasonable effort to complete prior to that date a Protocol that will further strengthen international security.

Ambassador Sidorov of Russia announced that on 24 November the Council of the Federation of the Federal Assembly of the Russian Federation had adopted the Federal Law withdrawing the reservations to the Geneva Protocol signed in Geneva on 17 June 1925. He said that:

in this way Russia once again reaffirmed its commitment to the complete prohibition of biological weapons.

He went on to say:

Speaking today on behalf of the Russian Federation, which is one of the Depositaries of the Convention, I should like to urge all the participants of the negotiations to do everything possible for the full implementation of the mandate of the Ad Hoc Group and of the decision of the Fourth Review Conference on the time-frame of the development of the Protocol, that is as soon as possible before the Fifth Review Conference which will be held in November–December 2001. I want to say that the Russian Federation is fully committed to reaching that goal. There is now a unique opportunity to strengthen the Convention regime by way of creating a reliable and cost-effective mechanism for the verification of compliance with it and by way of insuring the unhampered development of cooperation in the biological area.

He urged:

all the participants of the negotiations in the Ad Hoc Group to use most effectively the time left before the Fifth Review Conference. ... The situation we face does not permit us to lose time, thus putting the entire endeavour at risk. In recent years we witnessed the appeals of many delegations to the Ad Hoc Group to intensify our efforts. We believe that such an intensification is ever more appropriate and necessary at the final, finishing stage of the work of the Ad Hoc Group.

Ambassador Sood of India said that India saw the mandate of the Group as:

negotiating a protocol with a range of measures, aimed at strengthening the norm against biological weapons, the principal objective of the Convention.

He went on to say that:

Considerable progress has been achieved in recent years and is reflected in the Rolling Text, even though this may not be easily apparent to the uninitiated.

He noted that:

The Fifth Review Conference of the States Parties is scheduled to take place in less than twelve months and whether a deadline or a target, this increases our awareness of our efforts between now and November 2001.

He went on to conclude that:

we need to develop a protocol which will attract the adherence not just of all States Parties but also bring in countries that have not yet joined the BWC. Anything less would not do justice to our mandate. ... It is in the spirit of strengthening the BWC that my delegation will seek to work during the coming months.

The Emerging Regime

In the opening session, Ambassador Tibor Tóth recalled the expansion of the method of working in the July/August session to include informal sessions and bilateral consultations and said that he expected these methods to continue at the November/December session. He emphasised that the Ad Hoc Group had to fulfil its mandate and that the time when this mandate is to be fulfilled was fast approaching and he therefore expected much from individuals, delegations and from the Ad Hoc Group in moving the text forward.

At the end of the November/December session it was apparent that a number of different approaches had been followed in order to explore how best to make further progress in removing square brackets and developing the text:

- Friends of the Chair had continued to hold formal and informal meetings to consider the parts of the rolling text for which they are responsible in order to further develop the text.
- Bilateral consultations had been carried out between delegations and between the Friends of the Chair and delegations to seek areas in which common ground could be used to make progress.
- Proposals which appeared to attract wide support as a result of these consultations were brought before the Ad Hoc Group in plenary session in so-called "bracket bazaars" in which some proposals were accepted and others not.

- Informal bilateral consultations were held by the Chairman with delegations to explore conceptual solutions.

As there had been a slowing down in the removal of square brackets, it was evident that the Ad Hoc Group needed to explore alternative approaches whereby the Protocol as a whole can be considered. It is clear that there are interactions between the different elements in the various Articles and, as such, go beyond the areas for which individual Friends of the Chair are responsible making the removal of square brackets less easy. This slowing down in the removal of square brackets is yet another indication that the Ad Hoc Group is now in its final phase of its work to complete the Protocol. Consequently, the Chairman has intensified his bilateral consultations with all delegations taking care to ensure that any delegation who had requested a meeting had had one. From these bilateral consultations, where it has been possible to identify areas for further exploration the Chairman has provided delegations with written elements related to certain parts of the text in order for delegations to look at these and consider the ideas contained in them so as to come back to him with their views and any ideas for how the text may be developed so as to attract wide support. These written elements have included some from the following areas: declarations, declaration follow-up procedures, investigations, transfers, entry into force, cooperation and issues related to the organization. In order to achieve the compromises necessary to fulfil the mandate of the Ad Hoc Group every delegation has to move away from its own favoured position and begin to embrace the ideas of other delegations. As Ambassador Tóth said in his opening remarks to the session, in the final phase of the negotiations no delegation would be spared the pain of compromise. It is becoming very clear to all involved that the Ad Hoc Group is now poised — and that the necessary momentum is there — for the final push to complete the Protocol in 2001 during which delegations will have to identify and accept compromises so as to arrive at an effective protocol which attracts wide support.

The Seat of the Organization A particular development during the November/December session was the presentation and distribution on 7 December, the penultimate day of the session, to the Ad Hoc Group of the formal responses to the "Questionnaire on possible arrangements regarding the seat of the BWC organization and general information on the host city" which had been provided on 13 October to the Friend of the Chair on the Seat of the Organization, Ambassador Seiichiro Noboru of Japan. The Netherlands presentation was led by Ambassador Chris Sanders and Vice-Mayor Bas Verkerk of The Hague who congratulated all delegations on the progress made towards:

an effective and comprehensive Protocol that would once and for all rid the world of ... the deliberate use of disease as a weapon

and said that the Netherlands believes that the Protocol:

offers us a unique opportunity to strengthen the effectiveness of the BTWC at a time when biological weapons are perceived to be one of the major threats against humanity, while at the same time ensuring that all states, small and big, north and south, east and west, can benefit equally from the ever faster developments in the field of biotechnology and

the unprecedented progress in communications. We strongly believe that a careful balance between these two objectives will enhance the effectiveness of the Protocol and its organisation.

They went on to say that the Netherlands Government is convinced that the location of the Organization for the Prohibition of Biological Weapons in The Hague would contribute to that effectiveness.

In outlining the essential elements of the Netherlands bid, Ambassador Sanders noted that:

the Netherlands has drawn and continues to draw the necessary lessons from the experience gained during the establishment, management and operation of the OPCW and the diplomatic representations thereto.

The bid includes the following elements (see www.minbuza.nl/english/):

- A building to house the future BWC organisation donated by the Netherlands and constructed in close cooperation with the OPBW PrepCom, the Netherlands Government and the host city of The Hague.
- Up to 10,000 m² gross office space (depending on the size of the organisation, with a maximum of 250 workplaces).
- Land, free of charge (exact location to be decided, depending on the eventual size of the building).
- All maintenance and major repair costs for the full implementation phase of the organisation for a period not exceeding 10 years.
- Funding of conference facilities for the plenary meetings of the PrepCom and the Conference of States Parties for a period not exceeding 10 years.
- Free accommodation for the PrepCom for a maximum of 5 years.
- Flexible workplaces, adjustable walls, adjustable work stations, flexible meeting facilities and internal growth capacity for 100 to 250 staff members.
- State-of-the-art ICT facilities, organised through different networks; each floor will have its own patch panel with cable ducts in the corridors. For security reasons, internet facilities will be completely separate from the other network systems and not connected in any way to any of the external networks.
- Adequate parking space.
- A conference room with multiple translation facilities for the Executive Council.
- A spacious restaurant for staff.
- Separate meeting rooms for press conferences and VIP receptions.
- An executive dining room and an executive suite.
- Adequate audio-visual facilities.
- State-of-the-art security facilities.
- A complete ‘package’ of furniture to be selected by the future OPBW management.
- Facilities for socialising, exercise equipment and other keep-fit facilities.
- All the privileges and immunities for staff members and representation members which are currently granted to the OPCW.

Ambassador Sanders finished by saying:

We believe that location of OPCW and OPBW in the same city will bring many benefits to both organisations. Not only

will the two organizations be able to constantly learn from each other’s experiences, they will also be able to jointly help achieve the political mass necessary for the eradication of these inhuman weapons of mass destruction. ... I am confident that together we will arrive at the conclusion that the Hague is the ‘bio-logical’ choice.

The Swiss presentation focused on “*Geneva’s Humanitarian Tradition: the Best Cure for Biological War*” and noted that since the Geneva Protocol of 1925, “Geneva has been home to all international endeavours to ban biological weapons”. It went on to say that:

By choosing Geneva, the Biological Weapons Organisation will directly benefit from the long-standing experience of Switzerland and the Geneva Authorities in hosting international organisations.

It pointed out that:

Geneva hosts more than 1,800 conferences a year and is the meeting point of 2,000 political and economic world leaders and 100,000 government representatives, international civil servants, experts as well as representatives from non-governmental organisations. 33,000 members of the diplomatic community and their families all call Geneva home from home.

It noted that:

148 countries are represented to international organisations in Geneva. There are over 190 permanent delegations with highly qualified staff. 19 international organisations and some 170 non-governmental organisations with consultative status at the United Nations have chosen Geneva as their headquarters.

It said that:

The Biological Weapons Organisation will benefit from Geneva’s long experience in welcoming international organisations, its humanitarian tradition and its people. The Organisation will find a specialised environment of multilateral diplomacy which understands and competently deals with the needs of international organisations and institutions. Experts, diplomats and international civil servants work together in this closely knit community, ensuring efficient knowledge exchange.

It pointed out that:

Most of the international organisations based in Geneva offer useful synergies to the Organisation from a variety of perspectives: humanitarian, disarmament, health, trade and development, science and technology and environment protection.

Insofar as the bid is concerned, the Organization and its Preparatory Commission would benefit from:

- Free provision of office equipment, furniture and fittings (up to a ceiling of CHF 12,500 per workplace and a maximum of 250 workplaces);
- Rent-free premises for five years;
- Free-parking for five years for 150 vehicles;
- Competitive conditions after five years for an unlimited period (subsidised rents);
- If the Organisation prefers to own its premises and construct a building according to its specific requirements it will be offered a plot of land free of charge and an interest-free loan for construction with an amortisation over 50 years;

- A large number of fully equipped conference rooms of various sizes for use free of charge at the Geneva International Conference Centre (GICC)

as well as:

- Comprehensive and professional assistance to new arrivals from the Geneva Welcome Centre which will also help solving any subsequent problems;
- Subsidised office rents for permanent delegations from developing countries;
- Large privileges and immunities that are granted to the international community, permanent missions, international organisations and international civil servants in Geneva, simply and with a minimum of red tape. Exemption from VAT, for instance, is granted by means of deduction at source;
- Guaranteed free access for family members to the local and international job market with its excellent employment opportunities at international organisations, multinational companies, non-governmental organisations and private enterprises;
- A high security level. The Swiss Government's security services and the Geneva Police are constantly at the disposal of foreign missions. Ad hoc security measures are, in joint agreement, rapidly ordered as soon as risks of danger (for example, demonstrations, political crises, international conflicts) surface. Geneva has the reputation to be a safe city with a low crime rate.

The presentation document concluded with the statement:

The Government of Switzerland and the authorities of Geneva are hopeful that their candidature is accepted. They would be disarmingly proud to serve such a noble cause.

Other Developments The current draft Protocol includes language in respect of randomly selected visits that states:

the maximum number of visits which a State Party may receive in any year shall be limited to a number proportional to the cube root of the number of declared facilities in that State Party.

A Working Paper by New Zealand and South Africa (WP.433) provides a detailed analysis of selection methodologies in which the cube root model and a variant of this involving a small constant for selecting states parties for randomly-selected visits are examined. The analysis shows that the cube root model — in which the probability of a visit is proportional to the cube root of the number of facilities within a state party — is likely to result in states parties with only one or two facilities being likely to be overvisited and that this can be ameliorated by a small mathematical adjustment to the cube root model involving the introduction of a small constant less than 1 which is subtracted from the number of facilities. In addition, the analysis demonstrates that maximums are not necessary and that the expected visit loads in particular years are quite acceptable. This analysis is illustrated using a range of fictional countries with numbers of facilities ranging from 1 up to 900 and calculating the 1 year mean number of visits and the 5 year mean number of visits. The paper concludes such a formula can make the visit load manageable for small

states without respreading the visit load disproportionately onto states parties with a large number of facilities and moreover that the amount of variance that large states are likely to experience from year to year should be manageable and acceptable. The names of the fictional states parties make interesting reading as they include: Volkerland, Soutaria, Malikstan and Tiboria as well as Bradforda and Phillipsravia!

The current *Annex D Investigations II. Field Investigations* includes in square brackets a number of different options for the area to be investigated which range from 300 to 15,000 sq. km. A Working Paper by Iran (WP.434) sets out an argument for a limited size of an area of investigation which says that “the ultimate travelling distance of bioaerosols could not be more than 10km downwind from the source of release” and hence that the limit for bioaerosol dispersion should not be more than 10km. The basis for this suggestion is surprising as it ignores the considerable literature relating to past biological warfare trials which have demonstrated that biological aerosols under optimum conditions can travel hundreds of kilometres downwind (see, for example, WHO, *Health aspects of chemical and biological weapons*, 1970 and FOA, *A briefing book on biological weapons*, 1996).

Prospects

The November/December session addressed the programme of work for Ad Hoc Group for 2001 and the procedural report noted that:

The Ad Hoc Group affirmed that the necessary time to complete its work shall be made available in 2001. The Ad Hoc Group decided to hold its twenty-second, twenty-third and twenty-fourth sessions in the following periods in 2001:

- Twenty-second session, 12 to 23 February
- Twenty-third session, 23 April to 11 May
- Twenty-fourth session, 23 July to 17 August

The programme of work for the twenty-second session was agreed with the 20 meetings allocated as follows:

Compliance measures	1
Declaration formats	2
Investigations	0.5
Article X	1
Definitions	1
Seat of Organization	1
Ad Hoc Group/Informal	11
General Provisions	0.5
Preamble	0.5
Legal Issues	0.33
National Implementation	0.33
Confidentiality	0.33
<u>Host Country Agreement</u>	<u>0.5</u>
Total	20

The allocation of over half of the meetings to Ad Hoc Group/Informal sessions continues the change that began in the July/August session and continued in the November/December session to less work being carried out in formal sessions and more “give and take” discussion in informal consultations.

At the end of 2000, it is evident that the Ad Hoc Group has gone as far as it is virtually possible to go in the incremental development of the individual parts of the text that are the responsibility of the Friends of the Chair. The remaining issues are all interrelated and require delegations to consider the Protocol as a whole. Consequently, new approaches have to be adopted to find effective ways of developing the text further.

The November/December session saw a clear commitment by all delegations to the completion of the negotiations by the Fifth Review Conference in November/December 2001. There continues to be real engagement between the delegations who are addressing how to find solutions to the differences of views which augurs well for

the future. The presentation and submission of the bids for the seat of the Organization together with the appointment of Facilitators addressing topics such as the Establishment of a Preparatory Committee and the Headquarters Agreement with the Host Country as well as the harmonization of timelines for activities and measures, of structural harmonization of issues and of legal aspects as well as editorial issues in the Protocol demonstrate clearly that the Ad Hoc Group is poised and ready to complete its work in 2001. It is evident that the Protocol negotiation can indeed be completed before the Fifth Review Conference.

This review was written by Graham S Pearson, HSP Advisory Board
