

# **Strengthening the Biological Weapons Convention**

## **Review Conference Paper No 15**

### **The BTWC Sixth Review Conference in 2006**

**November 2005**

**Series Editors**

**Graham S Pearson and Malcolm R Dando**

Department of Peace Studies, University of Bradford

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## THE BTWC SIXTH REVIEW CONFERENCE IN 2006

by Graham S. Pearson<sup>\*</sup> & Nicholas A. Sims<sup>†</sup>

### Introduction

1. In Review Conference Paper No. 10<sup>1</sup> distributed in February 2005 we looked ahead to the Sixth Review Conference of the Biological and Toxin Weapons Convention (BTWC) in 2006. We concluded then that:

*76. Key issues that the States Parties need to consider in preparation for the Review Conference are:*

- *What would constitute a successful outcome to the Review Conference and how best to secure it,*
- *What their response should be to the recommendations made to the BTWC States Parties by the UN Secretary-General's High Level Panel on Threats, Challenges and Change, and*
- *What the States Parties need to do to strengthen the Convention bearing in mind that the BTWC is currently the weakest of all the Conventions countering weapons of mass destruction.*

2. Since then there have been various developments, some positive and others not, on the international scene and further Review Conference Papers Nos. 11 to 14 have been issued addressing various aspects of the Sixth BTWC Review Conference. On 28 October 2005, the First Committee of the General Assembly adopted without a vote the draft resolution<sup>2</sup> put forward by Hungary which in its operative paragraph 6:

*6. Notes that, in accordance with the decision reached at the Fifth Review Conference, the Sixth Review Conference will be held in Geneva in 2006 and the dates will be formally agreed by the preparatory committee for that Conference, which will be open to all States parties to the Convention and which will meet in Geneva during the week beginning 24 April 2006.*

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<sup>1</sup>Graham S. Pearson & Nicholas A. Sims, *Preparing for the BTWC Sixth Review Conference in 2006*, University of Bradford, Department of Peace Studies, Review Conference Paper No. 10, February 2005. Available at <http://www.brad.ac.uk/acad/sbtwc>

<sup>2</sup> United Nations General Assembly, *Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction*, Hungary revised draft resolution, A/C.1/60/L.33/Rev.1, 25 October 2005. Available at <http://www.un.org>

3. It is timely, in November 2005, to review the situation and provide recommendations on what action the States Parties to the BTWC should take to ensure a successful outcome to the 2006 Review Conference.

## **Developments during 2005**

4. The G8 summit was held at Gleneagles, Scotland in July 2005 and agreed a statement<sup>3</sup> on non-proliferation which in its opening paragraphs said that:

- 1. We acknowledge, as we did at Evian and Sea Island, that the proliferation of weapons of mass destruction (WMD) and their delivery means, together with international terrorism, remain the pre-eminent threats to international peace and security. The threat of the use of WMD by terrorists calls for redoubled efforts.*
- 2. All States have a role to play in meeting the challenge of WMD proliferation by upholding international arms control, disarmament and non-proliferation norms. All must meet their obligations in full, and ensure effective implementation. We reaffirm our commitments in this regard. And we emphasise our determination to meet proliferation challenges decisively, through both national efforts and effective multilateralism.*

And went on to say in regard to:

### ***Universalising and reinforcing the non-proliferation regime***

*4. Multilaterally agreed norms provide an essential basis for our non-proliferation efforts. We strongly support universal adherence to and compliance with these norms. We will work to strengthen them, including through improved verification and enforcement. We call on all States not party to the Nuclear Non-Proliferation Treaty, an IAEA Comprehensive Safeguards Agreement and Additional Protocol, the Chemical Weapons Convention, the Biological and Toxin Weapons Convention, the 1925 Geneva Protocol and the Hague Code of Conduct Against the Proliferation of Ballistic Missiles, to accede without delay. We remain ready to assist States to this end.*

5. In regard to biological threats the G8 statement specifically looked forward to “ *a substantive and forward-looking Review Conference in 2006.*”:

### ***Defending against biological threats***

*18. We reaffirm our strong commitment to strengthening our defences against biological threats. Over the last year, our efforts have focussed on enhancing protection of the food supply. We will continue efforts to address biological threats and support work in other relevant international groups.*

*19. This year marks the 30th anniversary of the entry into force of the Biological and Toxin Weapons Convention. New biological threats mean that full compliance with*

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<sup>3</sup> G8, *Gleneagles Statement on Non-Proliferation*, G8 Gleneagles, July 2005. Available at: <http://www.g8.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1119518704554>

*the Convention remains as relevant today as it was at its inception. We encourage States Party to take a full part in the ongoing programme of work which this year will discuss the content, promulgation and adoption of codes of conduct for scientists. Further, we look forward to a substantive and forward-looking Review Conference in 2006.*

*20. 2005 also marks the 80th anniversary of the opening for signature of the 1925 Geneva Protocol prohibiting the use in war of asphyxiating, poisonous or other gases and bacteriological methods of warfare. We emphasise the continuing vital relevance of this multilateral rejection of the use in war of chemical and biological weapons.*

6. This statement agreed by the US, Russia, Canada, Japan and the EU members of the G8 gave hope that the outcome of the UN Summit in September 2005 might echo these sentiments. The draft outcome document<sup>4</sup> issued by the President of the General Assembly on 5 August 2005 contained useful language in regard to disarmament and non-proliferation:

#### ***Disarmament and Non-proliferation***

*57. We emphasize that progress in disarmament and non-proliferation is essential to strengthening international peace and security and appeal to all States to pursue and intensify negotiations with a view to advancing disarmament and strengthening the international non-proliferation regime. We also recognize that noncompliance with existing arms control, nonproliferation, and disarmament agreements and commitments may also threaten international peace and security of all nations and increase the possibility of terrorist acquisition of WMD.*

*58. We urge all States to accede to the Treaty on the Non-Proliferation of Nuclear Weapons, the Chemical Weapons Convention and the Biological and Toxin Weapons Convention and we pledge to comply fully with all the articles of those instruments, in order to strengthen international peace and security, enhance the multilateral framework for non-proliferation and disarmament and to achieve full adherence to these instruments.*

*59. We reiterate our firm commitment to the NPT and its three pillars: disarmament, non-proliferation, and the peaceful use of nuclear energy. We look forward to strengthening the NPT's implementation, including through future Review Conferences.*

*60. We resolve to:*

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<sup>4</sup> United Nations General Assembly, *Revised draft outcome document of the High-level Plenary Meeting of the General Assembly of September 2005 submitted by the President of the General Assembly*, Future document A/59/HLPM/CRP.1/Rev.2, 5August 2005 (9:30pm). Available at: <http://www.reachingcriticalwill.org>

- *Appeal to all States to take action, in a multilateral framework, to prevent the proliferation of weapons of mass destruction and their means of delivery in all its aspects;*
- *Also appeal to the nuclear weapon States to take concrete steps towards nuclear disarmament with the objective of eliminating all such weapons, including through the implementation of article VI of the Non-Proliferation Treaty;*
- *Maintain a moratorium on nuclear test explosions pending the entry into force of the Comprehensive Nuclear-Test-Ban Treaty and call upon all States to sign and ratify the Treaty;*
- *Strengthen the verification by the International Atomic Energy Agency of the peaceful use of nuclear energy by adopting the Model Additional Protocol and call for universal accession to the comprehensive safeguards agreements the standard for compliance;*
- *Support and continue to work towards the establishment of effectively verifiable nuclear-weapon-free zones, based on arrangements freely arrived at by consensus among the States of the region concerned, in order to reinforce regional peace and coexistence, prevent nuclear proliferation and advance disarmament;*
- *Call upon the nuclear weapons States to reaffirm their commitment to Negative Security Assurances;*
- *Strengthen the Biological and Toxin Weapons Convention through continued multilateral and national efforts to improve its verification and implementation, and encourage all States Parties to submit information on confidence-building measures as required by the Review Conference of the BTWC;*
- *Complete the destruction of chemical weapons consistent with the Chemical Weapons Convention in a timely and effective manner;*
- *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 adopt and enforce appropriate effective laws which prohibit non-state actors from gaining access to such weapons and means of delivery, and otherwise comply in full with Security Council Resolution 1540;*
- *Encourage States Parties to the Convention on the Physical Protection of Nuclear Material to seek early ratification of the amendment adopted on 8 July 2005, and we encourage those States that have not yet done so to promptly accede to the Convention on Physical Protection and Nuclear Material and to ratify its amendment;*

- Respect the full right of States that meet their non-proliferation obligations under the NPT to the peaceful uses of nuclear energy, including through access to markets for nuclear fuel and related services;
- Urge the Conference on Disarmament to agree on a programme of work which includes, *inter alia*, the commencement, without delay, of negotiations on a fissile material cut-off treaty and effective measures for the prevention of an arms race in outer space;
- Explore effective measures to prevent and combat the proliferation of nuclear, chemical and biological weapons, related technology and materials, and their means of delivery as well as to ban their transfer to non-State actors, including by implementing effective national export controls;
- Urge States involved in the transport of radioactive materials by sea through SIDS regions to continue to engage in dialogue with SIDS and other coastal States to address their concerns, particularly those related to the further development and strengthening, within the appropriate fora of international regulatory regimes to enhance safety, disclosure, viability, security and compensation in relation to such transport.

61. We commit to adopt and implement an international instrument to regulate the marking and tracing, illicit brokering, trade and transfer of small arms and light weapons. We also commit to implement the United Nations Plan of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects.

62. We agree to ensure the effective monitoring and enforcement of United Nations arms embargos.

63. We urge States parties to the Anti-Personnel Mine Ban Convention and Amended Protocol II to the Convention on Certain Conventional Weapons to fully implement their respective obligations, and we encourage those States that have not yet done so to promptly accede to those instruments. We also call upon States in a position to do so to provide greater technical assistance to mine-affected States.

64. We urge all States to take and implement confidence-building and disarmament measures, with a view to promoting and strengthening regional and international peace and security.

7. As the draft outcome language proposed by the president of the general Assembly failed to gain consensus, compromise language was put forward<sup>5</sup> by the Seven Nation Initiative (Australia, Chile, Indonesia, Norway, Romania, South Africa and the United Kingdom) proposing that:

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<sup>5</sup> Australia, Chile, Indonesia, Norway, Romania, South Africa and the United Kingdom, *Seven Nation Draft Outcome Text for the Millennium + 5 Summit*, 26 July 2005. Available at <http://www.reachingcriticalwill.org/political/1com/1com05/sevennationM5.html>

1. We affirm that nuclear non-proliferation, continued progress on nuclear disarmament and the peaceful uses of nuclear energy are all vital and impose responsibilities on all States. We appeal to all States to pursue and intensify negotiations with a view to preventing proliferation, achieving a world free of nuclear weapons, and strengthening the international non-proliferation regime through full compliance with all of their obligations.
2. We urge all States to accede to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), the Chemical Weapons Convention, and the Biological and Toxin Weapons Convention. We pledge to comply fully with all the articles of these conventions; to ensure the integrity of these conventions; and to reinvigorate the multilateral framework for non-proliferation and disarmament.
3. We resolve therefore to:

  - A. Take urgent action to eliminate the proliferation of weapons of mass destruction;
  - B. Pursue practical, systematic and progressive efforts to advance disarmament globally and reduce nuclear weapons towards achieving a world free of nuclear weapons, including through greater security and transparency of fissile material holdings for all States;
  - C. Ensure the soonest commencement in the Conference on Disarmament of negotiations without preconditions on a treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices. Pending entry into force of such a Treaty we urge all nuclear weapon States and the States not party to the NPT to apply a moratorium on the production of fissile material for nuclear weapons or other nuclear explosive devices;
  - D. Maintain a moratorium on nuclear test explosions pending the entry into force of the Comprehensive Nuclear Test-Ban Treaty; support completion of the International Monitoring System for the Preparatory Commission of the Comprehensive Nuclear Test-Ban Treaty Organization; and call on States to sign and ratify the Treaty;
  - E. Strengthen verification to improve the effectiveness and efficiency of International Atomic Energy Agency (IAEA) safeguards, and to this end call on all states that have not yet done so to conclude and implement relevant Safeguards Agreements and Additional Protocols without delay;
  - F. Support and continue to work with all prospective States parties and other countries engaged in the region towards the establishment of nuclear-weapon-free zones in order to prevent proliferation and advance disarmament;
  - G. Prohibit any non-State actor to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical and biological weapons and their means of delivery, including by criminalizing such acts and establishing and enforcing appropriate effective control measures in accordance with UN Security Council resolution 1540; and also to seek early ratification of the

*amendment to the Convention on the Physical Protection of Nuclear Material, and to encourage those States that have not already done so to promptly accede to the Convention and ratify its amendment;*

*H. Fully respect the inalienable right to peaceful uses of nuclear energy, under the framework of the NPT, and urge timely agreement to establish mechanisms to ensure guaranteed access to the market for nuclear fuel and related services for States in compliance with their non-proliferation obligations and safeguards obligations under the NPT, as determined by the IAEA. We welcome the report of the IAEA Director General's Expert Group on Multilateral Approaches to the Nuclear Fuel Cycle, and resolve to support all efforts to identify and develop a consensus solution that provides assurances of both supply of services and non-proliferation;*

*I. Explore for consideration in the Conference on Disarmament effective measures for the prevention of an arms race in outer space.*

However, disappointingly, despite these proposals for outcome language, it was not possible to agree language on disarmament and non-proliferation in the Summit outcome document of 16 September 2005.

#### *General Assembly First Committee*

8. The First Committee of the General Assembly commenced its meetings on 3 October 2005. In the opening General Debate, a number of States Parties made statements which regretted the failure of the summit to agree language on disarmament and non-proliferation and went on to address *inter alia* the situation in regard to biological weapons. The Under Secretary-General for Disarmament Affairs spoke first setting the scene<sup>6</sup>:

*We meet at a particularly difficult and challenging moment for disarmament and non-proliferation, and at a time of heightened global anxiety about weapons of mass destruction – particularly nuclear weapons. I believe that it is our responsibility, even more than is normally the case, to use this meeting to promote and strengthen the various multilateral efforts to reduce or eliminate the threat they pose.*

*However, it can be a secret to no one in this room that collectively we are at present signally stumbling to meet that challenge. The recent World Summit demonstrated that States could not agree on the way forward on disarmament, non-proliferation and the peaceful uses of nuclear energy.*

*I believe that the words of the Secretary-General perfectly encapsulate both the nature of the problem and set it in its wider context. In his address to the World Summit he said:*

*"Twice this year – at the NPT review conference, and now at this Summit – we have allowed posturing to get in the way of results. This is inexcusable.*

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<sup>6</sup> Nobuyasu Abe, Under Secretary-General for Disarmament Affairs, *Statement before the First Committee of the General Assembly*, 3 October 2005. Available at: <http://www.reachingcriticalwill.org/political/1com/1com05/statements/statements.html>

*Weapons of mass destruction pose a grave danger to us all, particularly in a world threatened by terrorists with global ambitions and no inhibitions. We must pick up the pieces in order to renew negotiations on this vital issue... ”*

9. Argentina then spoke<sup>7</sup> on behalf of the Rio Group (Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Guyana, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay, Venezuela and Argentina) saying that:

*The Rio Group is convinced that multilateralism is the only way for maintenance of international peace and security and that the collective effort of all States to collectively agree instruments and mechanisms will lead us to guarantee mutual security.*

....

*The international community has been and still is compromised with the early elimination of chemical weapons and biological weapons as well as with the early conclusion of the verification protocol to the Convention on the Prohibition of Biological Weapons.*

*In that regard, the Rio group will continue actively working for the strict compliance and in good faith of the obligations contained in all instruments of disarmament and non-proliferation of weapons of mass destruction, and we promote their universalisation as a goal to achieve in the first decade of this 21st century because only in that way will it be possible to set the basis for a mutually assured security as paramount objective.*

10. The UK then spoke on behalf of the European Union and the acceding countries Bulgaria and Romania, the candidate countries Turkey and Croatia, the countries of the stabilisation and association process and potential candidates, Albania, Bosnia and Herzegovina, the Former Yugoslav Republic of Macedonia, Serbia and Montenegro, and the EFTA country, Norway as well as the Ukraine and the Republic of Moldova. The EU statement<sup>8</sup> said that:

*6. However, there were also setbacks at the Summit. The EU regrets that no consensus on non-proliferation and disarmament language in the outcome document was reached. We agree with the Secretary-General that this was a considerable disappointment.... We believe that the international community must take responsibility and address the serious threat posed to peace and security by the proliferation of weapons of mass destruction and their means of delivery. We recognise that this outcome requires due reflection from us all....*

*7. As expressed in the EU's Strategy Against the Proliferation of WMD, we are convinced that a multilateral approach to non-proliferation remains the best means of countering this threat to international security. As we said in our 2003 Common Position on multilateral agreements in the field of non-proliferation, we support the*

<sup>7</sup> Argentina, *Statement in the General Debate of the First Committee of the General Assembly*, 3 October 2005. Available at: <http://www.reachingcriticalwill.org/political/1com/1com05/statements/statements.html>

<sup>8</sup> United Kingdom, *Statement by Ambassador John Freeman, United Kingdom of Great Britain and Northern Ireland on behalf of the European Union*, General Assembly, First Committee, 3 October 2005. Available at: <http://www.reachingcriticalwill.org/political/1com/1com05/statements/statements.html>

*universal ratification of, and adherence to, the NPT, the Chemical Weapons Convention, Biological and Toxin Weapons Convention and ..... These key instruments provide a basis for the international community's disarmament and non-proliferation efforts. They contribute to international confidence and stability and peace, including the fight against terrorism.*

....

*15. The EU also believes that the Biological and Toxin Weapons Convention (BTWC) has an essential role in countering the threat of biological weapons and urges States who are not parties to it adhere to this treaty. In 2006, we will play an active role at the BTWC Review Conference to secure a substantive outcome and strengthen the Convention and compliance with it.*

11. Stephen Rademaker, Acting Assistant Secretary, United States then made a statement<sup>9</sup> on Confronting Today's Threats. In this he said that:

*...this year's meeting of the First Committee is especially significant, as it follows the recent Nuclear Non-Proliferation Treaty Review Conference and the High-Level Event. Both of these gatherings were unable to produce consensus statements of arms control and non-proliferation priorities. The United States does not, however, share the oft-expressed view that those meetings were failures because they did not produce consensus statements....*

*...the challenges that we confront today differ profoundly from those of the Cold War. ... The preoccupations of the 21st Century are different, however, as are the policies required to address today's threats. Today, our foremost fear is the acquisition and possible use of weapons of mass destruction by rogue states, terrorists, or, perhaps most worrisome of all, by terrorists armed by rogue states. Deterrence is a weak reed on which to lean in confronting those kinds of actors, who fundamentally will not be deterred. Moreover, traditional arms control treaties alone cannot protect against these risks, particularly in a world where certain countries do not honour their commitments, as enshrined in those treaties. We need to elaborate more appropriate strategies to address the threats we face today.*

*I am pleased to report that the United States, joined by many other members of the international community, is making progress in developing new strategies for confronting today's threats.*

[There was no mention of either the CWC or the BTWC in this statement]

12. Canada then made a statement<sup>10</sup> saying that:

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<sup>9</sup> United States, *Statement by Stephen Rademaker, Acting Assistant Secretary, Bureau of International Security and Nonproliferation, on Confronting Today's Threats*, General Assembly, First Committee, 3 October 2005. Available at: <http://www.reachingcriticalwill.org/political/1com/1com05/statements/statements.html>

<sup>10</sup> Canada, *Statement by Paul Meyer, Ambassador and Permanent Representative to the United Nations for Disarmament to the Second Meeting of the First Committee of the Sixtieth General Assembly Session of the United Nations*, General Assembly, First Committee, 4 October 2005. Available at: <http://www.reachingcriticalwill.org/political/1com/1com05/statements/statements.html>

*We meet at a troubled time for multilateral arms control.... Last month, the inability of the UN Summit to agree a text on non-proliferation and disarmament gave further testament to the disunity of the international community. The Secretary-general, the Canadian Prime Minister and others have rightly decried this failure of political responsibility and admonished us to renew negotiations on this most vital issue. The weapons of mass destruction that threaten our existence have not disappeared, just because the Summit failed to find an agreed formula for referring to our obligation to curb their proliferation and effect their elimination.*

....

*Next year will bring major Review Conferences in three areas of interest to this Committee – the first review of the UN Programme of Action on Small Arms and Light Weapons, the sixth Review Conference of the Biological and Toxin Weapons Conference and the third Review Conference of the Convention on Certain Conventional Weapons. We believe that these meetings represent important opportunities to advance, in a tangible manner, the aims of these key agreements.*

13. Indonesia made a statement<sup>11</sup> on behalf of the Non-Aligned Movement saying that;

*3. NAM strongly underlines and reaffirms that multilateralism and multilaterally agreed solutions, in accordance with the UN charter, provide the only sustainable method of addressing disarmament and international security issues.... In this regard, NAM is deeply disappointed with the omission of the section on Disarmament and Non-proliferation from the Outcome Document. [of the recent UN Summit]*

*4. We missed another opportunity to articulate the necessary political will and determination with a view to set a new direction and to address these critical issues facing the international community. This is another setback for the cause of disarmament and non-proliferation ...*

*5. .... We also underline the need for strengthening the disarmament machinery as forums for deliberation and negotiation in a balanced, constructive and comprehensive manner in accordance with the principles of the UN Charter and multilaterally negotiated treaties, negotiations and conventions.*

....

*12. NAM reaffirms the need for all States to fulfil their obligations in relation to arms control and disarmament and to prevent the proliferation of weapons of mass destruction in all its aspects.*

*15. Furthermore, NAM underlines the need to ensure that any action by the Security Council does not undermine existing international treaty regimes on weapons of mass destruction and conventional weapons and of international organisations established in this regard, such as the International Atomic Energy Agency (IAEA) and the*

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<sup>11</sup> Indonesia, Statement by H. E. Mr. Rezlan Ishar Jenie, Permanent Representative of Indonesia to the United Nations on behalf of the Non-Aligned Movement, General Assembly, First Committee, 3 October 2005. Available at: <http://www.reachingcriticalwill.org/political/1com/1com05/statements/statements.html>

*Organisation for the Prohibition of Chemical Weapons (OPCW) as well as the role of the General Assembly.*

14. Norway in its statement<sup>12</sup> said that:

*Multilateralism in disarmament and non-proliferation is under growing stress....The World Summit could not agree a text on how to deal with grave proliferation challenges....*

*This grim situation is unfortunate in view of all the pressing security challenges we are facing, such as the proliferation of weapons of mass destruction to new States and terrorist groups, ...*

....

*It is equally important that this Committee supports the Chemical Weapons Convention and the Biological and Toxin Weapons Convention and calls for steps to further strengthen these vital two treaties.*

15. Russia in its statement<sup>13</sup> said that:

*Recently, various views have been voiced about the critical state of multilateral non-proliferation regime, arms control and disarmament. We agree that our expectations in this field remain unfulfilled. Naturally, all of us expected more of the 2005 Summit final document and NPT Review Conference. Nevertheless the balance of the UN activity remains positive. We have managed to prevent and settle dozens of armed conflicts, and to prevent WMD falling into the hands of international terrorists.*

*We would like to clearly reiterate our firm support to the strengthening of multilateralism in addressing the objectives of disarmament and WMD non-proliferation on the basis of strict compliance with relevant international agreements in this field.*

....

*The issues of WMD non-proliferation, including the counter-terror component, remain the focus of world politics. The G8 leaders have once again expressed their approaches to these issues in a special statement at the Gleneagles meeting.*

....

*We believe it necessary to continue the search for the ways of strengthening the Convention on the Prohibition of the Development, Production and Stockpiling of*

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<sup>12</sup> Norway, *Statement by H. E. Mr. Johan L. Løvald, Ambassador, Permanent Representative, General Assembly, First Committee, 3 October 2005.* Available at: <http://www.reachingcriticalwill.org/political/1com/1com05/statements/statements.html>

<sup>13</sup> Russian Federation, *Statement by H. E. Anatoly I. Antonov, Director of the Department of Security Affairs and Disarmament of the Ministry of Foreign Affairs of the Russian Federation, General Assembly, First Committee, 4 October 2005.* Available at: <http://www.reachingcriticalwill.org/political/1com/1com05/statements/statements.html>

*Bacteriological (Biological) and Toxin Weapons and on their Destruction (BWC). Elaboration of legally binding BWC verification measures remains important. The program of work adopted by the Fifth BWC Review Conference is to be completed this year. Therefore, we attach great importance to successful and productive conduct of the Sixth BWC Review Conference next year.*

16. South Africa made a brief mention of the BTWC in its statement<sup>14</sup>:

*In the area of biological weapons, we will continue to seek to strengthen the BTWC and believe that 2006 Review Conference could provide the vehicle to collectively move forward in this important area.*

17. China in its statement<sup>15</sup> said that:

*As an important part of the international efforts to promote peace and promote development, the international arms control, disarmament and non-proliferation process is at a critical juncture.*

*On the one hand, international arms control, disarmament and non-proliferation regime is still playing an important role in safeguarding world peace and stability. The majority of the multilateral arms control treaties have been implemented smoothly while further progress has been achieved in some areas. Multilateral efforts to strengthen the effectiveness of the Chemical Weapons Convention and the Biological Weapons Convention have been further promoted....*

*On the other hand, multilateral arms control and disarmament process is also faced with difficulties and challenges. ....*

*It is the common and imperative task of the international community to address these new threats and challenges, promote the healthy development of international arms control, disarmament and non-proliferation process and build a new century of peace, justice, democracy and prosperity. To this end the following measures should be fully implemented:*

*Firstly, a new security concept centred on equality, mutual trust, mutual benefit and cooperation should be fostered. ....*

*Secondly, the regime of international arms control, disarmament and non-proliferation treaties should be firmly preserved. As an important part of the international security framework, this regime is indispensable to maintaining world peace and stability. ....*

*Thirdly, the multilateral arms control, disarmament and non-proliferation efforts should be further strengthened. ....*

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<sup>14</sup> South Africa, *Statement by Ambassador Dumisani S. Kumalo, Permanent Representative of the Republic of South Africa to the United Nations*, General Assembly, First Committee, 4 October 2005. Available at: <http://www.reachingcriticalwill.org/political/1com/1com05/statements/statements.html>

<sup>15</sup> China, *Statement by H. E. Ambassador Hu Xiaodi*, General Assembly, First Committee, 4 October 2005. Available at: <http://www.reachingcriticalwill.org/political/1com/1com05/statements/statements.html>

18. New Zealand in its statement<sup>16</sup> said that:

*New Zealand was therefore deeply concerned at the failure of the High Level Summit to agree any language on disarmament and non-proliferation. This gives a misleading message about the ongoing importance of addressing these critical issues at the highest possible level with an international framework. We commend the seven nations who, led by Norway, made such efforts to gain agreement on a meaningful statement on disarmament and non-proliferation for our leaders.*

....

*The Biological Weapons Convention still lacks any verification mechanism. This remains a major hole in multilateral defences at a time when biological weapons have been identified as a growing threat. We hope the BWC Review Conference next year will provide an opportunity to consider how to address this issue.*

19. Following the General Debate there were thematic debates. One of these addressed “Other Weapons of Mass Destruction” when further statement were made notably by the UK on behalf of the EU and by Pakistan as well as by Hungary.

20. The United Kingdom on behalf of the EU in its statement<sup>17</sup> said that:

*1. As we set out in our General Statement the EU supports and promotes the universal ratification of and adherence to the Chemical Weapons Convention and the Biological and Toxin Weapons Convention. These Treaties have an essential role in countering the threat of chemical and biological weapons, and together with other key multilateral agreements provide a basis for the international community’s disarmament and non-proliferation efforts, which contribute to international confidence, stability and peace, including the fight against terrorism. We therefore take this opportunity to urge States who are not parties to them to adhere to these treaties and join the mainstream. The EU will continue to stress the importance of these treaties, and promote universal adherence, in its relations with third countries. And we will continue to urge all those States who are parties to the treaties to take all necessary steps to implement their obligations under both these treaties and UNSCR 1540, including in relation to enacting penal legislation. The EU stands ready to assist when requested to do so.*

*2. The EU is continuing to pursue its Strategy against the Proliferation of Weapons of Mass Destruction, which was adopted in December 2003. Since then we have identified concrete actions in support of promoting and reinforcing the CWC and the BTWC. We will continue to seek practical ways to pursue the implementation of this strategy....*

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<sup>16</sup> New Zealand, *Statement by Deborah Panckhurst, Ministry of Foreign Affairs and Trade, New Zealand, General Assembly, First Committee, 5 October 2005.* Available at: <http://www.reachingcriticalwill.org/political/1com/1com05/statements/statements.html>

<sup>17</sup> United Kingdom, *Statement by Ambassador John Freeman, United Kingdom of Great Britain and Northern Ireland on behalf of the European Union, Other Weapons of Mass Destruction, General Assembly, First Committee, 12 October 2005.* Available at: <http://www.reachingcriticalwill.org/political/1com/1com05/statements/statements.html>

8. *The BTWC is now 30 years old. It remains as relevant as ever today and is the cornerstone of our efforts to prevent biological agents and toxins from being developed as weapons. Since 2002 we have been engaged in a very useful follow-up process. .... We intend to assess the efficacy of this intersessional process with a view to its further employment in the future after 2006. We intend to play an active role in the Review Conference scheduled for 2006. We believe that it is important that States Parties agree a substantive outcome at that Conference so as to strengthen the Convention and build a sound basis for future work. The EU reiterates its commitment to developing measures to verify compliance with the Convention.*

9. *To implement its Strategy against proliferation of WMD in the field of biological weapons the EU is focusing on practical measures, in particular universality and national implementation, with the aim of agreeing a Joint Action. We also believe that the annual Confidence Building Measures exchange is important and needs to be revitalised. We are working internally to improve our own record in this regard. The EU continues to support the UN Secretary-General's mechanism to investigate the alleged use of chemical, biological and toxin weapons, endorsed at the 45th session of the UN General Assembly in 1990. EU Member States will consider and volunteer expertise to the Secretary-General to help update the lists of experts and laboratories that he may call upon in an investigation. Furthermore, we believe the mechanism, which is now 15 years old, needs to be reviewed and updated so that it can take advantage of the progress of science and investigation in the intervening years and supports efforts to make progress in this regard.*

21. Pakistan in its statement<sup>18</sup> said that:

*On the BTWC, we should not lose hope or abandon efforts to strengthen international cooperation to ensure compliance and verification. In fact, we should make renewed efforts to achieve this objective.*

*We should try to build bridges and develop collective strategies to prevent acquisition or proliferation of biological weapons. A productive endeavour is underway to evolve appropriate codes of conduct as well as self-discipline by industry and scientific and medical institutions. In order to achieve the full potential of bio-sciences, we must act responsibly, while preserving the space necessary for research and industrial applications.*

*We need to develop a long-term perspective. We should untangle ourselves from the past wranglings and look towards the 2006 Review Conference and beyond for 5 to 10 years. The pace of change in bio-sciences is phenomenal, which requires a new international paradigm that would allow for fullest cooperation amongst nations to prevent proliferation and to use bio-sciences in the service of humanity.*

22. Hungary in its statement<sup>19</sup> introduced in detail the draft resolution relating to the Review Conference of the BTWC. This resolution is reproduced and discussed later in this Review Conference Paper.

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<sup>18</sup> Pakistan, *Statement by Ambassador Masood Khan, Permanent Representative of Pakistan to the United Nations, Geneva, General Assembly, First Committee, 12 October 2005.* Available at: <http://www.reachingcriticalwill.org/political/1com/1com05/statements/statements.html>

23. Against the background of the failure of the Summit to agree any language on disarmament and non-proliferation, it was encouraging that the First Committee of the General Assembly were able in the final week of October 2005 to agree, without a vote, on resolutions relating to both the BTWC and to the Chemical Weapons Convention.

#### *Other International Developments*

24. Earlier in 2005, Canada prepared and distributed to many States Parties, a non-paper entitled “*Looking Forward to the 2006 BTWC Review Conference*” which contains a number of specific proposals that the States Parties could achieve during the Sixth Review Conference including:

- Action Plans for Universalization and National Legislation
- Transparency and Confidence-Building Measures
- Various UN Mechanisms of Interest to the BTWC such as the UN Secretary-General’s investigative mechanisms into alleged CBW use
- Annual Meetings
- BTWC Scientific Advisory Body
- BTWC Implementation Support

All of these require consideration and development by the States Parties prior to the Sixth Review Conference so that language can be prepared in advance, discussed with other States Parties and submitted jointly by a number of States Parties to the Committee of the Whole. For at least the first, fourth, fifth and sixth of these proposals, some of the possible modalities and estimated costs of secretariat support need to be worked out also prior to the Review Conference. The Preparatory Committee could usefully authorize work on this, under the auspices of its bureau, with the necessary technical support from its secretariat, in readiness for the Review Conference.

25. On 1 September 2005, China issued a white paper<sup>20</sup> entitled ‘China's Endeavours for Arms Control, Disarmament and Non-Proliferation’ intended to fully elaborate on the Chinese government's policies and positions on arms control, disarmament and non-proliferation. This sets out the Chinese appreciation of the international situation:

*Peace, development and cooperation have become the trend of the times in the current world. World multi-polarization and economic globalization are developing in depth, and science and technology are advancing by leaps and bounds. Countries and regions have constantly strengthened their exchanges and cooperation as they are increasingly interdependent in security. World peace and development are facing rare opportunities as factors for maintaining peace and restraining war are increasing. It has become the consensus of the international community to enhance cooperation and jointly meet global challenges.*

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<sup>19</sup> Hungary, *Statement*, General Assembly, First Committee, 12 October 2005. Available at: <http://www.reachingcriticalwill.org/political/1com/1com05/statements/statements.html>

<sup>20</sup> China, *China's Endeavours for Arms Control, Disarmament and Non-Proliferation*, White Paper, 1 September 2005. Available at: [http://www.chinadaily.com.cn/english/doc/2005-09/01/content\\_474248.htm](http://www.chinadaily.com.cn/english/doc/2005-09/01/content_474248.htm)

*However, the world is far from tranquil as traditional security issues persist, local wars and violent conflicts crop up time and again and hot-spot issues keep emerging. Non-traditional security threats such as terrorism, proliferation of weapons of mass destruction (WMD), transnational crimes and infectious diseases are on the rise. The intertwined traditional and non-traditional threats pose severe challenges to international security.*

*International arms control, disarmament and non-proliferation are closely linked with international security. Given more diversified threats to international security and larger numbers of unstable and unpredictable factors, the dimensions of arms control, disarmament and non-proliferation have been constantly expanded with increasing importance. Opportunities and challenges develop side by side while hopes and potential risks coexist.*

*On the one hand, as an integral part of the global security order, the international arms control, disarmament and non-proliferation regime is still playing an important role in safeguarding world peace and stability. Since the 1990s, fresh achievements have been scored in arms control, disarmament and non-proliferation. A number of important treaties have been concluded in such areas as the prohibition of chemical weapons and nuclear tests. The international consensus has been constantly strengthened on preventing the proliferation of WMD. The UN Security Council has unanimously adopted Resolution 1540 on non-proliferation. Political and diplomatic efforts have been continuously pursued to settle proliferation issues through dialogue and cooperation. Initiatives on strengthening the non-proliferation regime have been introduced. Security dialogues have been intensified among countries and regional security cooperation has been expanded. The aforementioned progress has enhanced mutual trust among countries, boosted the relaxation of the security situation and maintained international strategic stability.*

26. In regard to chemical and biological weapons, the white paper says that China's basic policy and position is:

*China stands for complete prohibition and thorough destruction of biological and chemical weapons and firmly opposes proliferation of such weapons.*

*Against the backdrop of increased threat of bio-terrorism and prominence of bio-security issue, it is of great realistic significance to continue to explore and formulate measures to strengthen the effectiveness of the Biological Weapons Convention (BWC) under the framework of this Convention. China holds that the international community should take the following actions.*

- \* Encourage more countries to accede to the BWC and urge all its States Parties to fulfill their obligations in a comprehensive and faithful manner.*
- \* Maintain and facilitate the multilateral process aimed at enhancing the effectiveness of the BWC and explore and formulate concrete measures through full consultations.*
- \* Encourage more countries to submit to the UN declarations on confidence-building measures regarding the BWC.*

27. The white paper goes on to address how China has participated in and promoted the international arms control and disarmament process:

*China suffered a lot from the use of biological and chemical weapons by foreign countries in history. ....*

*China supports the efforts by the international community to ban biological and chemical weapons and has actively participated in the negotiations of relevant treaties or protocols. China has taken concrete actions to promote the process undertaken by the international community to achieve complete prohibition and thorough destruction of biological and chemical weapons.*

*China acceded to the BWC in 1984, and has always supported and actively participated in the multilateral endeavours aimed at strengthening the effectiveness of the Convention. China has actively participated in the BWC Review Conferences and submitted reports on compliance with the BWC. Since 1988, China has submitted to the UN its annual declarations on the confidence-building measures pursuant to relevant decisions of the Review Conferences. China has also played an active role in the negotiations on a protocol to the BWC as well as in the annual meetings of the States Parties and meetings of the experts.*

### **Review Conference Papers for the Sixth Review Conference**

28. Before considering the preparations for the Sixth Review Conference, it should be recalled that some further Bradford Review Conference Papers have been prepared and distributed to the States Parties since RCP No. 10 in February 2005:

- a. RCP No 11: What Would Be a Successful Outcome for the BTWC Sixth Review Conference in 2006? by Jez Littlewood, March 2005
- b. RCP No 12: Remedies for the Institutional Deficit of the BTWC: Proposals for the Sixth Review Conference by Nicholas A. Sims, March 2005
- c. RCP No 13: Achieving Effective Action on Universality and National Implementation: The CWC Experience by Scott Spence, April 2005
- d. RCP No 14: The UN Secretary-General's High Level Panel: Biological Weapons Issues by Graham S. Pearson, May 2005.

These are all available on the Bradford website at <http://www.brad.ac.uk/acad/sbtwc> Each is briefly summarised in the following paragraphs.

29. *Review Conference Paper No. 11* by Jez Littlewood addressed what would be a successful outcome for the Sixth BTWC Review Conference in 2006. It concluded that a full review of the Convention should be undertaken as required by Article XII and that the agenda for 2006 should include:

- “(a) A review of the operation of the Convention as required by Article XII with a view to assuring that the purposes of the preamble and the provisions of the Convention are being realized;
- (b) The impact of scientific and technological developments relevant to the Convention;
- (c) The relevance, and the implementation, of the CWC on the implementation of the BWC, taking into account the degree of universality attained by the conventions in 2006;
- (d) The effectiveness of confidence-building measures as agreed at the Second and Third Review Conferences;
- (e) The requirement for, and the operation of, the requested allocation of resources by the United Nations Secretary-General and other requirements to assist the effective implementation of the Convention;
- (f) The work of the annual Meetings of States Parties and the preceding Meetings of Experts in 2003, 2004 and 2005, and any further action to be taken with regard to these meetings;
- (g) The work required between the Sixth Review Conference and Seventh Review Conference;
- (h) A decision to hold further Review Conferences.”

Furthermore, it urged that existing mechanisms should be improved before developing new ones and that the deficiencies in the CBMs, including the forms, submission process, analysis, and their assessment, should be addressed. Five new CBMs were proposed. In addition, it was recommended that the nascent mechanisms of a Chairman or a standing Bureau and a secretariat should be developed, further action should be taken on the annual topics considered in 2003, 2004 & 2005 and annual meetings held during the period between the Sixth and Seventh Review Conferences to consider the topics proposed in the Review Conference Paper.

30. *Review Conference Paper No. 12* by Nicholas A. Sims addressed how the long recognized institutional deficit of the BTWC might be remedied. It examined a number of alternative approaches and concluded that past proposals for remedying the BTWC's institutional deficit led to the proposed OPBW which was in prospect from 1997 to 2001 in the context of strengthening the effectiveness and improving the implementation of the Convention under a legally binding instrument that was then under negotiation. Because of what happened to these negotiations, an OPBW remains a longer-term necessity but not an immediate possibility. Consequently, the gap must be filled in the short term by less ambitious remedies. Those proposed in Review Conference Paper No. 12 – an Annual Meeting of States Parties, and/or a Bureau of the Review Conference extended into the follow-up years with open-ended meetings or the power to convene Meetings of States Parties as need arises, supported by a Scientific Advisory Panel and a Secretariat – do not require the BTWC Article XI amendment process to be invoked. They are fully within the power of the Sixth Review Conference to authorise. What is needed between now and then is

careful preparation of proposals so that the Sixth Review Conference in 2006 can agree their scope and mandate.

31. *Review Conference Paper No. 13* by Scott Spence examined the Chemical Weapons Convention (CWC) experience in achieving effective action on universality and national implementation. This process was analysed as it was recognized that it could serve as a model for how the Sixth Review Conference of the Biological and Toxin Weapons Convention (BTWC) in 2006 might implement effective action on universality and on national implementation. It concluded that the experience of the OPCW in implementing its action plans could inform similar plans to achieve universal adherence to the BTWC and the treaty's full and effective implementation at the national level should the Sixth Review Conference decide to take such action. Review Conference Paper No. 13 concluded that the action plans for universal adherence and for national implementation of the Article VII obligations, recommended by the First Review Conference of the CWC in April/May 2003, have been developed and taken forward by the Executive Council and the annual sessions of the Conference of States Parties. It is evident that the success achieved through these action plans has depended largely on the efforts of the Technical Secretariat in promoting initiatives in cooperation with States Parties and sub-regional, regional and international organisations. Consequently, in considering how analogous action plans might be adopted by the Sixth Review Conference of the BTWC, it was apparent that an exhortation by the Review Conference alone may not be effective either in promoting universality or in the national adoption by the States Parties to the BTWC of the national legislation necessary to implement their obligations under the Convention. The OPCW's experience shows that for action plans to be effective, the States Parties to the BTWC will need at the Sixth Review Conference to address how best to provide for a mechanism, such as an interim secretariat, that could carry out the work necessary to facilitate the implementation of such action plans.

32. *Review Conference Paper No. 14* by Graham S. Pearson paper set out the conclusions and recommendations relating to biological weapons first in the Secretary-General's High Level Panel's report, then in the Secretary-General's report *In larger freedom* of 21 March 2005 and finally in the Secretary-General's recommendations for decision by the Heads of State and Government at the Summit Plenary of the General Assembly on 14 – 16 September 2005. These conclusions and recommendations were analysed from the point of view of the States Parties to the Biological and Toxin Weapons Convention in the reverse order – first the Summit Plenary, then the Secretary-General's recommendations and finally the High Level Panel's recommendations. Consideration was given to how these should be addressed and taken forward at the BTWC Sixth Review Conference in 2006. The Review Conference Paper concluded that many of the High Level Panel's conclusions and recommendations have merit but it was 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 was also concluded that some of the recommendations that suggest involvement of the WHO with the Security Council are verging on dangerous ground which could jeopardize the primary mission of the WHO if there should be any suggestion that the Director-General of the WHO is going to keep the Security Council informed *during any suspicious ... outbreak of infectious disease*. [Emphasis added]. It was noted that the BTWC Sixth Review Conference has a major opportunity to strengthen the regime countering biological and toxin weapons through endorsement of a strong Final Declaration which addresses a number of multilayered

actions. As was pointed out in Review Conference Paper No. 11<sup>21</sup>, success is rarely accidental, so those seeking a positive outcome in 2006 will have to plan for it.<sup>22</sup> The States Parties to the BTWC were urged to start preparing now for the Sixth Review Conference in 2006 and achieving a successful outcome.

## **Preparing for the Sixth Review Conference in 2006**

33. It is now appropriate to revisit Review Conference Paper No. 10 in order to consider how the recommendations made in that paper need to be revised in the light of the subsequent developments on the international scene. The background to the Sixth Review Conference addressed in paragraphs 5 to 26 (The First Four Review Conferences) and in paragraphs 27 to 39 (The Fifth Review Conference) stands unchanged enabling consideration here to be focussed on paragraphs 50 onwards (Preparing for the Sixth Review Conference).

### *First Committee and General Assembly Resolution*

34. The Final Document<sup>23</sup> of the resumed Fifth Review Conference included the decision that *the Sixth Review Conference would be held in Geneva in 2006, and would be preceded by a Preparatory Committee*. Traditionally these events are subject to prior consultation and agreement on dates and other modalities recorded in a UN resolution. Such a resolution also serves to authorise the provision of conference services by the UN Secretary-General. Consequently, in 2005 it was expected that a resolution would be submitted to the First Committee and subsequently to the General Assembly that might be similar in purpose to that adopted in 2000. The resolution 55/40, adopted without a vote in the First Committee on 31 October 2000 and again without a vote in the General Assembly on 20 November 2000, was introduced into the First Committee by Hungary on 19 October 2000. It had 62 sponsors and two additional sponsors.

35. Resolution 55/40 had six preambular paragraphs and seven operative paragraphs. It was, however, clearly drafted at a time when expectations were high that the negotiations of the Ad Hoc Group would soon be successfully completed and several paragraphs were directly related to the work of the Ad Hoc Group. Consequently, resolution 55/40 did not provide a suitable model for the situation in 2005.

36. Examination of the resolution 50/79, which prepared the way for the Fourth Review Conference in 1996, adopted without a vote on 12 December 1995 showed that this was drafted following the outcome of VEREX and of the Special Conference in 1994 which established the Ad Hoc Group so resolution 50/79 also did not provide a suitable model for the situation in 2005.

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<sup>21</sup> Jez Littlewood, *What Would Be a Successful Outcome for the BTWC Sixth Review Conference in 2006?*, University of Bradford, Department of Peace Studies, Review Conference Paper No. 11, March 2005. Available at <http://www.brad.ac.uk/acad/sbtwc>

<sup>22</sup> Graham S. Pearson & Nicholas A. Sims, *Preparing for the BTWC Sixth Review Conference in 2006*, University of Bradford, Department of Peace Studies, Review Conference Paper No. 10, February 2005. Available at <http://www.brad.ac.uk/acad/sbtwc>

<sup>23</sup> 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 Toxins 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>

37. It was thus necessary to go back to resolution 45/57B adopted without a vote on 4 December 1990 to find a suitable model, albeit somewhat dated, for a resolution which envisaged a comprehensive review, not one overshadowed by concurrent negotiations in a parallel process or, as in 1995, the earlier stages of such a process.

38. In Review Conference Paper No. 10 we considered what might usefully be included in a resolution to be adopted by the First Committee and then by the General Assembly in 2005, by bearing in mind the basic approach followed in resolution 45/57B whilst drawing upon the language included in appropriate paragraphs of the later resolutions 55/40 and 59/110. Consequently, it was proposed that the draft resolution to be put to the First Committee and General Assembly in autumn 2005 might take the following form, in which the origins of text in resolutions and other documents is shown in square brackets for ease of reference:

***Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction [55/40]***

*The General Assembly [55/40]*

*Recalling* its previous resolutions relating to the complete and effective prohibition of bacteriological (biological) and toxin weapons and to their destruction, [55/40][59/110]

*Noting with satisfaction* that there are one hundred and fifty-three States Parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, including all of the permanent members of the Security Council, [55/40 & 59/110 updated by BWC/MSP/2004/INF.2]

*Bearing in mind* its call upon all States parties to the Convention to participate in the implementation of the recommendations of the Review Conferences, including the exchange of information and data agreed to in the Final Declaration of the Third Review Conference of the Parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, and to provide such information and data in conformity with standardized procedure to the Secretary-General on an annual basis and no later than 15 April, [55/40][59/110]

*Welcoming* the reaffirmation made in the Final Declaration of the Fourth Review Conference that under all circumstances the use of bacteriological (biological) and toxin weapons and their development, production and stockpiling are effectively prohibited under article I of the Convention, [55/40][59/110]

*Recalling* the decision reached at the Fifth Review Conference to hold three annual meetings of the States parties of one week's duration each year commencing in 2003 until the Sixth Review Conference and to hold a two-week meeting of experts to prepare for each meeting of the States parties, [59/110]

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 signed the Convention to become parties thereto at an early date, thus contributing to the achievement of universal adherence to the Convention; [55/40][59/110]

2. *Welcomes* the information and data provided to date, and reiterates its call upon all States parties to the Convention to participate in the exchange of information and data agreed to in the Final Declaration of the Third Review Conference of the Parties to the Convention; [55/40][59/110]

3. *Recalls* the decision reached at the Fifth Review Conference<sup>4</sup> to discuss and promote common understanding and effective action: in 2003 on the two topics of the adoption of necessary national measures to implement the prohibitions set forth in the Convention, including the enactment of penal legislation, and national mechanisms to establish and maintain the security and oversight of pathogenic micro-organisms and toxins; in 2004 on the two topics of 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 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; and in 2005 on the topic of the content, promulgation and adoption of codes of conduct for scientists; [59/110]

4. *Notes* that, at the request of the States parties, the Sixth Review Conference of the Parties to the Convention will be held at Geneva from [insert three weeks date] 2006, and that, after appropriate consultation, a Preparatory Committee for that Conference, open to all States parties to the Convention, was established and will meet at Geneva from [insert one week date] 2006; [55/40]

5. *Requests* the Secretary-General to render the necessary assistance and to provide such services as may be required for the Sixth Review Conference and the preparations for it; [developed from 45/57B and 55/40]

6. *Decides* to include in the provisional agenda of its sixty-first session the item entitled “Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction”. [59/110]

39. In addition, we took note of the Secretary-General’s High Level Panel report and consequently suggested that the General Assembly resolution to be considered in autumn 2005 concerning the Sixth Review Conference might contain a preambular paragraph along the lines of:

*Bearing in mind* the recommendations of the Secretary-General’s High Level Panel on Threats, Challenges and Change relating to the Biological and Toxin Weapons Convention,

40. Hungary, as anticipated, made a statement<sup>24</sup> submitting a draft resolution<sup>25</sup> on 12 October 2005. One operative paragraph:

5. Recalls *the decision reached at the Fifth Review Conference that the Sixth Review Conference would consider the work of the meetings of States parties and meetings of experts and decide on any further action;* (reference to BWC/CONF.V/17, para. 18(e))

was subsequently deleted and removed from the revised draft resolution<sup>26</sup> which was adopted without a vote on 28 October 2005. The revised resolution read as follows:

*The General Assembly,*

*Recalling its previous resolutions relating to the complete and effective prohibition of bacteriological (biological) and toxin weapons and to their destruction,*

*Noting with satisfaction that there are one hundred and fifty-five States parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction,<sup>27</sup> including all of the permanent members of the Security Council,*

*Bearing in mind its call upon all States parties to the Convention to participate in the implementation of the recommendations of the Review Conferences, including the exchange of information and data agreed to in the Final Declaration of the Third Review Conference of the Parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction,<sup>28</sup> and to provide such information and data in conformity with standardized procedure to the Secretary-General on an annual basis and no later than 15 April,*

*Welcoming the reaffirmation made in the Final Declaration of the Fourth Review Conference<sup>29</sup> that under all circumstances the use of bacteriological (biological) and toxin weapons and their development, production and stockpiling are effectively prohibited under article I of the Convention,*

*Recalling the decision reached at the Fifth Review Conference to hold three annual meetings of the States parties of one week's duration each year commencing in 2003*

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<sup>24</sup> Hungary, *Statement to the First Committee of the General Assembly*, General Assembly, First Committee, 12 October 2005. Available at: <http://www.reachingcriticalwill.org/political/1com/1com05/statements/statements.html>

<sup>25</sup> United Nations General Assembly, *Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction*, Hungary draft resolution, A/C.1/60/L.33, 12 October 2005. Available at: <http://www.reachingcriticalwill.org/political/1com/1com05/statements/statements.html>

<sup>26</sup> United Nations General Assembly, *Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction*, Hungary revised draft resolution, A/C.1/60/L.33/Rev.1, 25 October 2005. Available at <http://www.un.org>

<sup>27</sup> Resolution 2826 (XXVI), annex.

<sup>28</sup> BWC/CONF.III/23, part II.

<sup>29</sup> BWC/CONF.IV/9, part II.

*until the Sixth Review Conference and to hold a two-week meeting of experts to prepare for each meeting of the States parties,*<sup>30</sup>

*Recalling also the decision reached at the Fifth Review Conference that the Sixth Review Conference would be held in Geneva in 2006 and would be preceded by a preparatory committee,*<sup>31</sup>

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,*<sup>1</sup> 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 signed the Convention to become parties thereto at an early date, thus contributing to the achievement of universal adherence to the Convention;*
2. Welcomes *the information and data provided to date, and reiterates its call upon all States parties to the Convention to participate in the exchange of information and data agreed to in the Final Declaration of the Third Review Conference of the Parties to the Convention;*
3. Recalls *the decision reached at the Fifth Review Conference<sup>30</sup> to discuss and promote common understanding and effective action in 2003 on the two topics of the adoption of necessary national measures to implement the prohibitions set forth in the Convention, including the enactment of penal legislation, and national mechanisms to establish and maintain the security and oversight of pathogenic micro-organisms and toxins; in 2004 on the two topics of 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 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; and in 2005 on the topic of the content, promulgation and adoption of codes of conduct for scientists; and calls upon the States parties to the Convention to participate in its implementation;*
4. Welcomes *the significant participation of the States parties at the meetings of States parties and meetings of experts to date and the constructive and useful exchange of information achieved, and welcomes also the discussion and the promotion of common understanding and effective action on agreed topics;*
5. Notes that, *in accordance with the decision reached at the Fifth Review Conference,<sup>31</sup> the Sixth Review Conference will be held in Geneva in 2006 and the dates will be formally agreed by the preparatory committee for that Conference, which will be open to all States parties to the Convention and which will meet in Geneva during the week beginning 24 April 2006;*
6. Requests *the Secretary-General to continue to render the necessary assistance to the depositary Governments of the Convention and to provide such services as may*

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<sup>30</sup> See BWC/CONF.V/17, para. 18.

<sup>31</sup> BWC/CONF.V/17, para. 20.

*be required for the implementation of the decisions and recommendations of the Review Conferences, including all necessary assistance to the annual meetings of the States parties and the meetings of experts, and to render the necessary assistance and provide such services as may be required for the Sixth Review Conference and the preparations for it;*

7. *Decides to include in the provisional agenda of its sixty-first session the item entitled “Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction”.*

41. The adopted resolution is identical in its first five preambular paragraphs to that recommended in Review Conference Paper No. 10. The sixth paragraph is new and unexceptional:

*Recalling also the decision reached at the Fifth Review Conference that the Sixth Review Conference would be held in Geneva in 2006 and would be preceded by a preparatory committee,<sup>32</sup>*

As might be expected from the failure of the Summit to agree language on disarmament and non-proliferation, there is no mention in the preambular paragraphs – or elsewhere in the resolution – of the Secretary-General’s High Level Panel.

42. In regard to the operational paragraphs of the adopted resolution, paragraphs 1, 2 and 7 are identical to those recommended in Review Conference Paper No. 10. Paragraph 3 is identical apart from the addition in the adopted resolution of a final phrase: “; and calls upon the States parties to the Convention to participate in its implementation;”. This refers back to the decision of the Fifth Review Conference authorizing the topics for the meetings of 2003, 2004 and 2005, of which one remains to be held. Paragraph 4 is new and welcomes the significant participation at the annual meetings to date. In this context, the deletion of the original paragraph 5 in the initial draft resolution which recalled that the Sixth Review Conference would decide on any further action is potentially helpful as it facilitates the consideration of the outcome of the annual meetings in the full review of the operation of the Convention rather than as a separate activity. It enables the Sixth Review Conference to integrate the recent outcomes of the annual meetings of 2003 to 2005 with the longer-term development of extended understandings, definitions and procedures through the cumulative language agreed by consensus in the Final Declarations of the first four Review Conferences and thus restore a much-needed continuity to the review process in its fullest perspective.

43. Paragraph 5 in the adopted resolution states that the Sixth Review Conference will be held in Geneva in 2006 and that the preparatory committee will meet in Geneva during the week beginning 24 April 2006. In contrast to earlier comparable resolutions, this operative paragraph does not give the precise dates for either the preparatory committee or for the Review Conference itself. This is regretted as it means that uncertainty about the dates will continue until clarification is provided by the Depositary Governments. It is hoped that the dates will become clearer during the Meeting of States Parties in December 2005.

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<sup>32</sup> BWC/CONF.V/17, para. 20.

44. Paragraph 6 in the adopted resolution requests that the Secretary-General continues to provide all necessary assistance and is unexceptional.

*Preparatory Committee*

45. Review Conference Paper No. 10 recommended that because the Sixth Review Conference in 2006 is the first opportunity for the States Parties to carry out a comprehensive review of the operation of the Convention since the Third Review Conference in 1991 a **whole week** should be allowed for the Preparatory Committee to agree on an Agenda to recommend to the Sixth Review Conference and that the Review Conference itself should be allocated **three weeks** so that it can carry out the necessary comprehensive review.

46. The normal practice of the Preparatory Committee has been to agree to recommend to a Review Conference who should preside over the Review Conference as well as to recommend the distribution of the posts of Chairmen and Vice-Chairmen of its subsidiary bodies among the various Groups. This history was tabulated in paragraph 36 of Review Conference Paper No.10 from which it was concluded that, for the Sixth Review Conference, the President can be expected to be from the Group of Non-Aligned and Other States, the Chairman of the Committee of the Whole from the Group of Eastern European States, the Chairman of the Drafting Committee from the Western Group and the Chairman of the Credentials Committee from the Western Group. It is understood that Ambassador Masood Khan of Pakistan will be recommended as President of the Sixth Review Conference.

47. The Preparatory Committee also can be expected to give consideration to the following questions relating to the organization of the Review Conference:

- (a) Date and duration;
- (b) Provisional agenda;
- (c) Draft Rules of Procedure;
- (d) Background documentation;
- (e) Publicity;
- (f) Final document(s).

48. The **date and duration** are likely to have already been determined by consultation among the States Parties if the Depositary Governments have identified a three week period for the holding of the Sixth Review Conference prior to the start of the preparatory committee.

49. The **provisional agenda**, because there was no Final Declaration following the Fifth Review Conference, is likely to be developed from that recommended for the Fifth Review Conference by its Preparatory Committee which was as follows:

*ANNEX I*

*DRAFT PROVISIONAL AGENDA FOR THE FIFTH REVIEW CONFERENCE*

1. *Opening of the Conference by the Chairman of the Preparatory Committee*
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
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 Article XII contained in the Final Declaration of the Fourth Review Conference, and possible follow-up action
12. Work done to strengthen the Convention in accordance with the decision of the 1994 Special Conference
13. Other matters, including the question of future review of the Convention
14. Report of the Committee of the Whole
15. Report of the Drafting Committee
16. Preparation and adoption of the final document(s)

50. It is probable that agenda items 1 to 11 would be unchanged as would agenda items 13 to 16. Agenda item 11 would provide the link between the outcome of the Fourth Review Conference and its decision as to what should be considered *inter alia* by the next Review Conference. Two questions that would need to be considered by the Preparatory Committee would be whether it was necessary or desirable to include in the provisional agenda for the Sixth Review Conference the decision of the Fifth Review Conference to hold annual meetings of the States Parties during the period between the Fifth and Sixth Review Conferences and secondly whether it was necessary or desirable to retain agenda item 12:

12. Work done to strengthen the Convention in accordance with the decision of the 1994 Special Conference

51. Insofar as the decision of the Fifth Review Conference is concerned, the key requirement is that the Sixth Review Conference should *inter alia* consider the outcome of the annual meetings and whether any further action is required. There would therefore be merit in inclusion in the provisional agenda for the Sixth Review Conference of the following additional item to appear after agenda item 11 as follows:

- 11bis. Consideration of issues identified in accordance with the decision of the Fifth Review Conference

52. The question relating to agenda item 12 of the Fifth Review Conference is much more contentious. 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 Convention and the objective agreed in the Final Declaration of the 1994 Special Conference as a mandate for the new Ad Hoc Group which it established:

*The objective of this Ad Hoc Group shall be to consider appropriate measures including possible verification measures, and draft proposals to strengthen the Convention, to be included as appropriate in a legally binding instrument to be submitted for the consideration of the States Parties.*

It is, however, equally true that it was a failure to agree on language in regard to agenda item 12 in the Final Declaration of the Fifth Review Conference that led to the adjournment of that Review Conference. The mandate derived from the 1994 Special Conference is now one among several competing approaches to the strengthening of the Convention. To emphasise its unique significance or authority may no longer be productive.

53. Although an option would be to omit agenda item 12 from the provisional agenda for the Sixth Review Conference and to leave the question of the strengthening of the Convention to the consideration of Article V in the review of the operation of the Convention, this would serve simply to postpone the agenda issue to the Sixth Review Conference itself, and might hinder adequate preparation for addressing the substance of the question. It also needs to be recalled that the report<sup>33</sup> of the UN Secretary-General's High Level Panel on Threats, Challenges and Change was issued on 2 December 2004 and that this included two recommendations specifically relating to the Biological and Toxin Weapons Convention:

*27. States Parties to the Biological and Toxin Weapons Convention should without delay return to negotiations for a credible verification protocol, inviting the active participation of the biotechnology industry.*

*34. States Parties to the Biological and Toxin Weapons Convention should negotiate a new bio-security protocol to classify dangerous biological agents and establish binding international standards for the export of such agents.*

54. The first opportunity for the States Parties to the BTWC to consider these recommendations will be at the Sixth Review Conference in 2006. Whilst the Secretary-General's report<sup>34</sup> *In larger freedom* took some aspects of these recommendations forward, the failure of the Summit to agree language on disarmament and non-proliferation means that the impact of the High Level Panel recommendations will, by late 2006, have become somewhat diluted and muted by the passage of the two years since its report appeared. There is also the prospect that the Swedish Weapons of Mass Destruction Commission chaired by Hans Blix will produce its report early in 2006 and that it will include recommendations relating to the BTWC. From the statements made at the First Committee of the General Assembly in late 2005, it is evident that there is still considerable political attention being given to what should be done to strengthen the BTWC. It would therefore be prudent for the Sixth Review Conference to address the substance of the issue in agenda item 12 as States Parties would then prepare for this discussion. It is recommended that an appropriate item should be included in the provisional agenda. Whilst this could have been along the lines of:

*12. Work done to strengthen the Convention in accordance with the decision of the 1994 Special Conference*

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<sup>33</sup> United Nations General Assembly, *Note by the Secretary-General*, A/59/565, 2 December 2004.

<sup>34</sup> 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.

this might with advantage be made more open-ended and forward looking and thus, more widely acceptable, by updating the item to read:

## *12. Work to strengthen the Convention*

55. This could therefore 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. Work on such an item 12 could adopt a modular approach which could include consideration *inter alia* of such ideas as the holding of further annual Meetings of States Parties prepared by Meetings of Experts as well as the holding of an ‘ad hoc’ meeting of States Parties in 2007 to consider future action to strengthen the Convention, as recommended in Review Conference Paper No. 14.

56. In that paper, it was recognised that the essence was *to strengthen the effectiveness and improve the implementation of the Convention*. The question that needs to be addressed in preparing for the Sixth Review Conference is whether this objective – to strengthen the effectiveness and improve the implementation of the Convention – would be agreed by all States Parties to the BTWC. 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.

57. 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 other substantive business that needs to be accomplished during the three weeks of the Review Conference. It would suffice for the Final Declaration of the Sixth Review Conference to include language of the same degree of generality as in 1991, along the lines of:

*The Conference reaffirmed the importance of strengthening the effectiveness and improving the implementation of the Convention and agreed that the States Parties would meet in 2007 to consider how best to achieve this objective.*

provided that it leaves the ‘ad hoc’ meeting in 2007 and its agenda, the same degree of generality.. It would then be up to the ‘ad hoc’ meeting in 2007, carrying on from the Review Conference, to consider how best to achieve the objective of strengthening the effectiveness and improving the implementation of the Convention. No attempt should be made in the Final Declaration of 2006 to draw on potentially divisive language such as that in the High Level Panel’s report as the aim at the Sixth Review Conference needs to be to move forward and avoid acrimony. Language as suggested above would be effective in moving the process forward by consensus and would be an effective response to the expression by many States Parties of their belief in the continued importance of strengthening the Convention, as exemplified in the statements quoted earlier in this paper.

58. The **draft rules of procedure** are likely to be the same as in 2001. The Preparatory Committee can be expected to recommend as the draft Rules of Procedure of the Sixth Review Conference the Rules of Procedure of the Fifth Review Conference, as contained in document BWC/CONF.V/17.

59. The **background documentation** required is likely to be the same as requested in 2001 although the opportunity should be taken **in addition** to specifically invite the States Parties to provide information to the Secretariat regarding actions taken by the States Parties following the annual meetings of the States Parties held in accordance with the decision of the Fifth Review Conference. The requirement for background documentation would thus be for **four** documents to be compiled by the Secretariat this time:

1. Background information document providing, in summary tabular form, data on the participation of States Parties in the agreed Confidence-Building Measures since the last Review Conference.
2. Background information document on compliance by States Parties with all their obligations under the Convention, compiled from information provided by them.
3. Background information on new scientific and technological developments relevant to the Convention and covering the applications being made of such developments and their relevance to various aspects of the Convention, compiled from information provided by the States Parties.
4. Background information document on actions taken by States Parties following the annual meetings of the States Parties held in accordance with the decision of the Fifth Review Conference, compiled from information provided by them.

In addition to these four documents of a general character, more specifically focused papers on the possible modalities for measures such as those identified in paragraph 24 above and estimated costs of secretariat support for particular purposes within the overall operation and implementation of the Convention could usefully be requested by the Preparatory Committee or its bureau so that the Review Conference is more adequately prepared. The Preparatory Committee should agree that such additional specifically focused papers be prepared by the Secretariat under the guidance of the bureau.

60. In regard to **publicity** for the Review Conference, it would be expected that, as at the Fifth Review Conference, the Preparatory Committee would decide to request the Secretariat to issue press releases for the meetings of the Review Conference.

61. Finally, in regard to **final document(s)** of the Review Conference, it would be expected that, as at the Fifth Review Conference, the Preparatory Committee would decide to include an appropriate item in the provisional agenda of the Conference. Although this would not, in itself, commit the Conference to a Final Declaration, it is our view that a Final Declaration, derived from a comprehensive review, is vital for a successful outcome to the Sixth Review Conference, and that its centrality to maximising the benefits of the review process must be reaffirmed for the process to recover.

## Conclusions

62. It is important that **all** States Parties **now** start preparing for the Sixth Review Conference in 2006. The various Groups need to consider their nominations for the Vice-Chairmen of

the Preparatory Committee and for the various posts in the Review Conference itself – in particular, the chairmanships of the subsidiary bodies.

63. Resolution A/C.1/60/L.33/Rev.1 has been adopted without a vote by the First Committee and needs to be adopted by the General Assembly. The Preparatory Committee needs to meet for a week and the Review Conference for three weeks to enable a comprehensive review of all Articles of the Convention to be carried out.

64. It is suggested that the Preparatory Committee should recommend a provisional agenda for the Sixth Review Conference along the following lines:

**DRAFT PROVISIONAL AGENDA FOR THE SIXTH REVIEW CONFERENCE**

- 1. Opening of the Conference by the Chairman of the Preparatory Committee*
- 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*
- 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 Article XII contained in the Final Declaration of the Fourth Review Conference, and possible follow-up action*
- 12. Consideration of issues identified in accordance with the decision of the Fifth Review Conference*
- 13. Work to strengthen the Convention*
- 14. Other matters, including the question of future review of the Convention*
- 15. Report of the Committee of the Whole*
- 16. Report of the Drafting Committee*
- 17. Preparation and adoption of the final document(s)*

65. Key issues that the States Parties need to consider in preparation for the Review Conference are:

- What would constitute a successful outcome to the Review Conference and how best to secure it,
- What their response should be to the continued importance seen by many States Parties in achieving an effective strengthening of the regime totally prohibiting biological and toxin weapons, and

- What modular steps the States Parties can agree at the Sixth Review Conference to strengthen the Convention bearing in mind that the BTWC continues to be the weakest of all the Conventions countering weapons of mass destruction.