

# THE FUNCTIONS OF THE BTWC REVIEW CONFERENCES: MAXIMIZING THE BENEFITS FROM THE FIFTH REVIEW CONFERENCE<sup>†</sup>

by

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## Introduction

1. Article XII of the Biological and Toxin Weapons Convention<sup>1</sup> (BTWC) states that:

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

2. Consequently, the answer to the question as to what the BTWC Review Conferences are for is **officially** "to review the operation of the Convention, with a view to assuring that the purposes of the preamble and the provisions of the Convention ... are being realized." In addition, Article XII also specifies two things to be given special attention:

*"negotiations on chemical weapons"; and*

*"any new scientific and technological developments relevant to the Convention."*

Although Article XII just provided for a single Review Conference, successive Review Conferences have been held at about five-yearly intervals in 1980, 1986, 1991 and 1996 with the Fifth Review Conference to be held from Monday 19 November to Friday 7 December 2001. These have been governed by the same statement of purpose; this is supplemented by specific tasks laid down in the Final Declarations. Thus in 1996 the Final Declaration of the Fourth Review Conference<sup>2</sup> included under Article XII the following paragraph:

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<sup>1</sup>United Nations, *Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction*, General Assembly Resolution 2826 (XXVI), 16 December 1971.

<sup>2</sup>United Nations, *Fourth 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*, 25th November - 6th December 1996, Final Declaration, BWC/CONF.IV/9 Available at <http://www.unog.ch/disarm/review/bintro.htm>

2. *The Conference decides that the Fifth Review Conference shall consider, inter alia,*

*- The impact of scientific and technological developments relating to the Convention;*

*- The relevance of the provisions of, and the implementation of the Chemical Weapons Convention on the effective implementation of the Biological and Toxin Weapons Convention, duly taking into account the degree of universality attained by such conventions at the time of the Fifth Review Conference;*

*- The effectiveness of confidence-building measures as agreed at the Second and Third Review Conferences;*

*- The conclusions of a Special Conference, to which the Ad Hoc Group shall submit its report, including a legally-binding instrument to strengthen the Biological and Toxin Weapons Convention, which shall be adopted by consensus, to be held as soon as possible before the commencement of the Fifth Review Conference; and further action as appropriate;*

*- The requirement for, and the operation of, the requested allocation by the United Nations Secretary-General of staff resources and other requirements to assist the effective implementation of the relevant decisions of the Fourth Review Conference;*

3. It is evident that the essential statement of purpose in Article XII of the Convention would **alone** give the Fifth Review Conference plenty to keep it usefully occupied for the three weeks from 19 November to 7 December 2001 **if** it were to take more seriously the review of relevant scientific and technological developments **and** were to do its best to subject those developments to careful collective scrutiny **and** with a view to agreeing on appropriate warning language for the Final Declaration.

4. However, in practice, the review process has extended the answer to the question as to what the BTWC Review Conferences are for by accruing, over the 21 years starting with the First Review Conference in 1980, a number of **additional** functions which are performed spasmodically and with variable degrees of effectiveness. **The Fifth Review Conference can thus be seen as the latest stage in a process of evolution for this particular pioneering disarmament treaty regime.** Thus far, the evolution of the treaty regime has depended heavily on the Review Conferences and their Final Declarations performing three particular functions:

a. Registering consensus on definitions and extended understandings of particular elements and language of the Convention, such as in particular Article I;

b. Identifying and elaborating procedures within the framework of the Convention, using the latent potential of the text as it stands together with the definitions and extended understandings it has accumulated through this review process; and

- c. Helping steer the evolution of the treaty regime through the next five years to the following Review Conference.

### **Additional Functions of the Review Conferences**

5. The first two of these additional functions are well established: they are carried forward through the cumulative drafting process that was used to produce the second Final Declaration in 1986 on the foundations laid in the first Final Declaration in 1980, and so on through the Final Declarations of 1991 and 1996 in which the previous Final Declaration is taken as the starting point to which additions are then agreed. Such cumulation deepens and extends the common positions, agreed procedures and statements of politically-binding commitments which the States Parties are willing to endow with collective authority by including them in the Final Declarations. Although such Final Declarations may not go as far as some would like, they are a good start and they now go a lot further than was even conceivable at the first Review Conference in 1980.

6. The third of these functions -- helping steer the evolution of the treaty regime through the next five years -- is less clear cut as it is asking a lot of a Review Conference and is something that has not been done particularly well thus far. However, at the present time, in the absence of any other BTWC institutions, it is up to the Review Conference to carry out such steering or it will not be done at all. There is no other assembly of the States Parties, or even of representative States Parties, to help steer the treaty regime flowing from the BTWC. The treaty regime **does** need steering as it will not flourish through neglect. It is also not a credible option to leave it to the world's one remaining superpower to run it for the rest of the world. Hegemonic stability theory may explain some international regimes, but not this one. **The BTWC is a fully multilateral treaty, binding 143 sovereign states, and it needs institutions to match.** Indeed, the Fifth Review Conference is required *inter alia* to consider:

*- The requirement for, and the operation of, the requested allocation by the United Nations Secretary-General of staff resources and other requirements to assist the effective implementation of the relevant decisions of the Fourth Review Conference;*

This has been a regular exhortation of successive Review Conferences -- notable hitherto by the lack of any action between Review Conferences.

7. **The Convention urgently needs a modest set of institutions to help its treaty regime to flourish and develop.** It has been argued in a paper<sup>3</sup> presented at the Pugwash Workshop in Geneva last November that the chronic institutional deficit of the BTWC is about to re-emerge into prominence and that the Fifth Review Conference should determine the mandate and the membership of a Committee of Oversight or other representative body, to serve the States Parties collectively and support the biological weapons treaty regime. Its mandate and membership could be renewed or amended as necessary at the Sixth Review Conference in 2006. Such a Committee of Oversight should be assisted by a Scientific Advisory Panel and a Legal Advisory Panel. All three should be served by a small dedicated Secretariat. These would, however, be interim institutions, pending eventual integration of the Convention and

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<sup>3</sup>Nicholas A. Sims, *Interim Supportive Institutions for the Biological Weapons Convention: The Case for a Representative Body and Advisory Panels, pending Institutional Integration with the eventual Protocol Organization (OPBW)*, paper presented at the 14th Workshop of the Pugwash Study Group on the Implementation of the Chemical and Biological Weapons Conventions, Geneva, 18-19 November 2000.

the Protocol institutions into a permanent Organization for the Prohibition of Biological Weapons (OPBW).

### **Relationship to the Protocol negotiations**

8. As the Fifth Review Conference is required also to consider *inter alia*:

*- The conclusions of a Special Conference, to which the Ad Hoc Group shall submit its report, including a legally-binding instrument to strengthen the Biological and Toxin Weapons Convention, which shall be adopted by consensus, to be held as soon as possible before the commencement of the Fifth Review Conference; and further action as appropriate;*

it is necessary to consider the relationship of the Fifth Review Conference to the Protocol negotiations. On **any** scenario as to what happens by November -- optimistic or pessimistic - - the Fifth Review Conference must aim to agree a Final Declaration that takes the treaty regime forward. Three scenarios can be identified:

**Scenario A.** If the Protocol has been concluded in the Ad Hoc Group then it must go to a Second Special Conference for adoption. The first Special Conference in 1994 provided for a second Special Conference for that very purpose. This leaves the Fifth Review Conference with a clearer agenda as it then doesn't have to spend time on a special report from the Ad Hoc Group and sending a more urgent renewal of the mandate back to the Ad Hoc Group, as the Fourth Review Conference had to do in 1996. This Scenario A is the one assumed in the Final Declaration of the Fourth Review Conference which listed the report from the Second Special Conference as one of the items for the Fifth Review Conference.

**Scenario B.** If the Ad Hoc Group has broken up without success and there is no Protocol and no Second Special Conference, then there is an urgent task for the Fifth Review Conference of rescuing as much as possible of the "strengthening" agenda from the wreckage of the Ad Hoc Group and putting it into the Final Declaration, which would then become, among other things, a statement of the highest common factor of agreement achieved in the Ad Hoc Group negotiations.

**Scenario C.** If the Protocol hangs precariously in the balance -- if, for example, the Ad Hoc Group looks set to continue work **after** 7 December 2001 -- then it will need a renewal of its mandate from the Fifth Review Conference and it will need guidance for progress towards a successful conclusion. Such guidance might include, for example, a section under Article X in the Final Declaration which provides encouraging evidence of the lines along which *Article VII Scientific and Technological Exchange for Peaceful Purposes and Technical Cooperation* of the Protocol might eventually be agreed. The same goes for the section on Article IV in the Final Declaration: it needs to show that *Article X National Implementation Measures* of the Protocol can indeed command agreement based as it is on the line of evolution in successive Final Declarations, going right back to an initiative of the UK at the First Review Conference in 1980 to take Article IV seriously and develop its latent potential.

9. Even with Scenario C, the Fifth Review Conference needs to put real substance into its Final Declaration and **not** mark time waiting for the Protocol to arrive. After all, even in Scenario A it will take some years before the Protocol actually enters into force. To mark time was understandable in 1996 when the Fourth Review Conference didn't want to do anything that might complicate matters for the Ad Hoc Group, then only two years old. But in 2001, on any of these scenarios, to **mark** time would be to **waste** time.

### **The Final Declaration**

10. It is appropriate to consider what States Parties could usefully put into the Final Declaration on 7 December 2001. As with previous Review Conferences, it is very probable that most of the sections of the Final Declaration will correspond to the particular Articles of the Convention. In the following, consideration is given to some of the key Articles of the Convention.

#### *Article I*

11. This is the basic prohibition of the BTWC with its obligation that:

*Each State Party to this Convention undertakes never in any circumstances to develop, produce, stockpile or otherwise acquire or retain:*

*(1) Microbial or other biological agents, or toxins whatever their origin or method of production, of types and in quantities that have no justification for prophylactic, protective or other peaceful purposes;*

*(2) Weapons, equipment or means of delivery designed to use such agents or toxins for hostile purposes or in armed conflict.*

The Fourth Review Conference<sup>4</sup> continued the accumulation of extended understandings of the objects of prohibition. The Fifth Review Conference needs to emphasise the comprehensiveness of scope which is one of the Convention's greatest strengths, reinforced by the General Purpose Criterion. Where next should the Review Conference go in its reaffirmation of this comprehensiveness of scope? Bradford Review Conference Paper No 1<sup>5</sup> suggests four areas: bioregulators, genomics, bioinformatics and genetic recombination. However, there is more to Article I than just the "agents and toxins" of its first subparagraph. Bradford Review Conference Paper No 1 also recommends that the Fifth Review Conference might use its Final Declaration to develop an understanding of the term "hostile purposes" and to record an extended understanding of the phrase "weapons, equipment or means of delivery" in the second subparagraph -- a phrase that occasioned the more controversial of

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<sup>4</sup>United Nations, *Fourth 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*, 25th November - 6th December 1996, Final Declaration, BWC/CONF.IV/9 Available at <http://www.unog.ch/disarm/review/bintro.htm>

<sup>5</sup>Graham S. Pearson, *The Fifth BTWC Review Conference: Opportunities And Challenges*, University of Bradford, Department of Peace Studies, Review Conference Paper No. 1, March 2001. Available at <http://www.brad.ac.uk/acad/sbtwc>

Switzerland's two reservations to the Convention, a reservation repudiated by the United States but not yet withdrawn by Switzerland.<sup>6</sup>

## *Article II*

12. This Article obliges all States Parties to destroy or divert to peaceful purposes all agents, toxins, weapons, equipment and means of delivery specified in Article I:

*Each State Party to this Convention undertakes to destroy, or to divert to peaceful purposes, as soon as possible but not later than nine months after entry into force of the Convention, all agents, toxins, weapons, equipment and means of delivery specified in article I of the Convention, which are in its possession or under its jurisdiction or control. In implementing the provisions of this article all necessary safety precautions shall be observed to protect populations and the environment.*

Bradford Review Conference Paper No 1 also makes the useful suggestion that the Fifth Review Conference in its Final Declaration might for the first time affirm that facilities used in past offensive programmes have been destroyed or irreversibly converted to peaceful purposes. This could be taken further if the Final Declaration were also to exhort States Parties to reinforce the usefulness of Article II by disclosing what they did with biological and toxin weapons production facilities when they terminated any offensive programmes which they might have declared under, for example, Confidence-Building Measure F. It would be an opportunity for some States Parties setting a good example in what they declare at the Fifth Review Conference and thereby encouraging other States Parties to display equal openness and to record this new level of understanding in the Article II section of the Final Declaration.

## *Article III*

13. This Article obliges States Parties not to transfer or in any way assist in the acquisition of any of the agents, toxins, weapons, equipment or means of delivery specified in article I:

*Each State Party to this Convention undertakes not to transfer to any recipient whatsoever, directly or indirectly, and not in any way to assist, encourage, or induce any State, group of States or international organizations to manufacture or otherwise acquire any of the agents, toxins, weapons, equipment or means of delivery specified in article I of this Convention.*

The key language in Article III which the Fifth Review Conference in its Final Declaration should interpret and adopt extended understandings of is "*not in any way to assist*". This obligation is not qualified by a word such as knowingly or intentionally. It follows that the obligation covers unwitting or unintended assistance as well as deliberate assistance. A State Party could be in breach of this obligation if its conduct amounted to recklessness. The Fifth Review Conference could usefully address the question: which activities could be regarded as being so irresponsible that those who commit them are guilty of being reckless as to whether they amount to assistance? A useful analogy comes from the way in which in the Article I

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<sup>6</sup>A further account of this reservation is provided in Graham S. Pearson & Nicholas A. Sims, *Article XXI: Reservations*, University of Bradford, Department of Peace Studies, Evaluation Paper No. 6, September 1999. Available at <http://www.brad.ac.uk/acad/sbtwc>

section of the Final Declarations of the Third Review Conference<sup>7</sup> in 1991 and the Fourth Review Conference<sup>8</sup> in 1996 addressed "experimentation involving open-air release of pathogens or toxins, harmful to man, animals or plants." Such experimentation was conditionally declared to be inconsistent with Article I. The Fifth Review Conference could usefully consider and declare what activities it has identified as being inconsistent with Article III.

#### *Article IV*

14. This Article requires States Parties to take any necessary measures to implement the Convention:

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

It is important to recognise what a stringent standard Article IV sets for the States Parties in its requirement that "Each State Party ... shall ... take **any necessary measures** to prohibit **and prevent** ..." This is a rigorous requirement. States Parties need to organise themselves to take this requirement seriously. Exhortation in the Final Declaration is a necessary, but not in itself sufficient, condition for this to happen.

15. The Article IV section of the Final Declaration of the Fifth Review Conference could also usefully commend the Harvard Sussex Program initiative<sup>9</sup> for an international convention on individual criminal responsibility for biological and chemical weapon activities. Criminalisation in this way would supplement the criminalisation already achieved, but with a significantly less comprehensive scope of jurisdiction, by national legislation under Article IV. It would also help to compensate for the disgraceful omission of biological and toxin weapon activities from the international crimes which the Rome Statute, when it comes into force, will allow the International Criminal Court to try. The question also arises as how best to take this extended criminalization forward intergovernmentally. At present, about the only option is through the Sixth Committee of the United Nations General Assembly. However, if the States Parties to the BTWC were to set up its own supportive institutions, then the States Parties' own representative body and Legal Advisory Panel could prepare a negotiating draft for the Sixth Committee.

16. Additionally, a representative body of States Parties to the BTWC could chase up legislation as well as Confidence-Building Measure declarations and point out, as the Organization for the Prohibition of Chemical Weapons (OPCW) has been doing for some years now, where legislation is either absent or inadequate.

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<sup>7</sup>United Nations, *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*, 9th - 27th September 1991, Final Declaration, BWC/CONF.III/23

<sup>8</sup>United Nations, *Fourth 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*, 25th November - 6th December 1996, Final Declaration, BWC/CONF.IV/9 Available at <http://www.unog.ch/disarm/review/bintro.htm>

<sup>9</sup>CBW Conventions Bulletin, *A Draft Convention to Prohibit Biological and Chemical Weapons under International Criminal Law*, Issue No. 42, December 1998, pp.1-5.

## Article V

17. This Article requires States Parties to consult and cooperate with each other in solving any problems relating to the Convention:

*The States Parties to this Convention undertake to consult one another and to cooperate in solving any problems which may arise in relation to the objective of, or in the application of the provisions of, the Convention. Consultation and Cooperation pursuant to this article may also be undertaken through appropriate international procedures within the framework of the United Nations and in accordance with its Charter.*

The follow-up of Confidence-Building Measures (CBMs) under Article V was where the Third Review Conference in 1991 came closest to creating a Secretariat Unit of two posts in the United Nations but failed. The Fifth Review Conference should, like the Fourth Review Conference, concentrate on improving CBM returns rather than adding new ones. Supportive institutions to collate, analyse and chase up missing declarations would help.

18. The trilateral process, which started officially with the Joint US/UK/Russian Statement<sup>10</sup> on Biological Weapons of 14 September 1992, could, if used responsibly by all three governments, be reported to the Fifth Review Conference as evidence of cooperation in solving problems. Article V is not **just** about the multilateral mode of compliance diplomacy even though that is where an appropriate international procedure was first identified at the First Review Conference in 1980 and a contingency mechanism elaborated further at the Second Review Conference in 1986 and the Third Review Conference in 1991 and eventually put to use in 1997. Bilateral and trilateral consultation are equally relevant to the successful operation of Article V. And the other 140 States Parties have a legitimate interest in learning the outcome of the trilateral process and the lessons that can be derived from it.

19. A representative body and secretariat could usefully encourage and make known the further evolution of Article V as a framework for compliance diplomacy.

## Article VIII/XIV

20. Article VIII addresses the Geneva Protocol:

*Nothing in this Convention shall be interpreted as in any way limiting or detracting from the obligations assumed by any State under the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, signed at Geneva on June 17, 1925.*

whilst Article XIV in its first paragraph makes it clear that universality is the goal:

*(1) This Convention shall be open to all States for signature. Any State which does not sign the Convention before its entry into force in accordance with paragraph (3) of this Article may accede to it at any time.*

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<sup>10</sup>US Department of State, Joint US/UK/Russian Statement on Biological Weapons, 14 September 1992.

21. There is a real need for the States Parties to organise themselves to tackle the shocking fact that there are still 50 non-parties to the Convention. Although Final Declarations as at the Fourth Review Conference in 1996 under Article XIV call upon "*States which have not yet ratified or acceded to the Convention to do so without delay and upon those States which have not signed the Convention to join the States Parties thereto, thus contributing to the achievement of universal adherence to the Convention.*" and go on to say "*In this connection, the Conference requests States Parties to encourage wider adherence to the Convention.*", the follow-up, however, to such exhortations is patchy. Whilst some States will always be the last to join a treaty regime, given that the Nuclear Non-Proliferation Treaty (NPT) with all its well-known problems can reach 188 States Parties the BTWC ought to be able to do better than its present 143 States Parties. It is virtually certainly going to be overtaken by the much newer Chemical Weapons Convention (CWC), which is much more expensive and demanding than the BTWC, yet the CWC had at 12 February 2001 143 States Parties.

22. The World Health Organization (WHO) has 191 members. Its Director-General in a public lecture at the London School of Economics on 16 March 2001 argued that with globalization, a single microbial sea washes all of humankind. There are thus no health sanctuaries and the separation between domestic and international health problems is no longer useful. In that perspective, what justification can 48 members of the WHO give for staying out of the BTWC?

23. Again, a representative body with a secretariat sending out a stream of enquiries on behalf of the States Parties as a whole might **bore** some governments into joining the BTWC. At least the drive to achieve universality would not be left to the spasmodic activity of individual States Parties and NGOs.

24. A similar argument holds for coordinating pressure for withdrawal of the remaining Geneva Protocol reservations. What States Parties want is clear from their Final Declaration at the Fourth Review Conference in 1996 when they declared under Article VIII that:

*The Conference stresses the importance of the withdrawal of all reservations to the 1925 Geneva Protocol related to the Biological and Toxin Weapons Convention.*

However, the follow-up still requires organization, and continuity, to get governments to translate good intentions into formal action recognized by the French Government as the Depositary for the Protocol and made known worldwide. After all, what does it say for a State Party's commitment to the Convention if it retains a legal status reserving, however conditionally, a right of retaliation which purports to include "the use of bacteriological methods of warfare".

### **The Institutional Deficit**

25. It is useful to return to the consideration of the institutional deficit. Almost every useful thing that one could imagine coming out of the Fifth Review Conference would benefit from some continuing institutional capacity. Indeed, providing for some continuing institutional capacity could be one of the best things to come out of the Fifth Review Conference, not for its own sake, but to enable the treaty regime to evolve more coherently over the next five years; and, more concretely, to enable the States parties collectively to carry out the actions to which they are committing themselves, politically, in the Final Declaration. This is a treaty

regime which needs steering -- it will not flourish otherwise -- and who else has the right to **steer** it but a representative body of the States Parties?

26. Given that there are high expectations that the Protocol negotiation will be completed by the time of the Fifth Review Conference, the question can be asked as to whether the Protocol organization's Preparatory Commission (PrepCom) should not carry out such steering. There is, however, a compelling reason why the OPBW PrepCom is unlikely to be able to carry out such steering. The PrepCom will be preoccupied with building the organization, which is to be an Organization of the States Parties **to the Protocol** after the Protocol comes into force. It will not be able to act on behalf of the States Parties **to the Convention** and it is doubtful whether legally it will be able to task its Provisional Technical Secretariat with functions which derive from the Convention rather than the Protocol. Imaginative drafting **might** do the trick -- but there is a big difference between the PrepCom being able to utilize the CBM declaration information to inform the establishment of the Protocol Organization and the PrepCom being charged with functions which derive from the Convention. The allocation of responsibility is not straightforward, especially if some States Parties to the Convention fail to sign the Protocol and therefore can logically be presumed **not** to want a Provisional Technical Secretariat or a PrepCom for an eventual OPBW.

27. Consequently, the argument remains for the Fifth Review Conference to remedy the institutional deficit of the Convention with interim supportive institutions, mandated by the Fifth Review Conference until the Sixth Review Conference in 2006, renewable or amendable by the Sixth Review Conference to the Seventh Review Conference in 2011 at which convergence<sup>11</sup> with the Protocol Organization might become possible. Such convergence would only be possible then on optimistic assumptions -- that the two rosters of States Parties were approaching identity, that the OPBW had the capacity to take over the functions for the Convention on top of its primary responsibility for the Protocol, and that the States Parties indeed had the determination to overcome legal obstacles to create a fully integrated treaty regime for the prohibition and prevention of biological and toxin weapons.

28. The interim supportive institutions would be modest in terms of both staff and funds; the secretariat would not need to be more than a handful of people whilst the proposed Committee of Oversight, supported by its Scientific and Legal Advisory Panels, would be composed of representative States Parties to the Convention who would only meet probably annually. In cost terms, these would be less than the current costs of the Ad Hoc Group.

## **Conclusions**

29. The Fifth Review Conference has a real opportunity to strengthen the treaty regime prohibiting and preventing biological and toxin weapons over and above its consideration of the outcome of the Ad Hoc Group's negotiations of the Protocol *to strengthen the effectiveness and improve the implementation* of the Convention. Whilst it was understandable that the Fourth Review Conference in 1996 marked time, this would be inappropriate for the Fifth Review Conference and, were it to happen, would mean that the Fifth Review Conference had wasted time.

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<sup>11</sup>This convergence is discussed further in Graham S. Pearson & Nicholas A. Sims, *Article XIII: Review of the Protocol*, University of Bradford, Department of Peace Studies, Evaluation Paper No. 11, November 1999. Available at <http://www.brad.ac.uk/acad/sbtwc>

30. The Fifth Review Conference needs to review the operation of the Convention, with a view to assuring that the purposes of the preamble and the provisions of the Convention are being realised. It needs to review the scientific and technological developments of relevance to the Convention as well as to register consensus on definitions and extended understandings of particular elements and language of the Convention and to identify and elaborate procedures within the framework of the Convention, using the latent potential of the text as it stands together with the definitions and extended understandings it has accumulated through the review process. Finally, it needs to help steer the evolution of the treaty regime through the next five years to the Sixth Review Conference in 2006. There is a compelling argument for the Fifth Review Conference to set up interim supportive institutions which will enable the BTWC treaty regime to flourish and achieve its true potential. The resources required are indeed modest and should be less than those currently provided annually for the Ad Hoc Group.