

the extent of salary increases predicted, the number of staff positions yet to be filled, and exchange-rate fluctuations, and the impact any changes in these assumptions would have on the budget.

It was reported that the next session of ABAF would take place during 9-13 May 2005.

### *Commission for the Settlement of Disputes Related to Confidentiality*

The final report of the sixth meeting of the Confidentiality Commission was issued in late November, the sixth meeting itself having taken place from 1 to 2 November under its Chairman, Dieter Umbach.

The Confidentiality Commission reported that a presentation was given on the latest changes to the OPCW confidentiality and security regime by the Office of Confidentiality and Security and that an update was provided on the status of changes to the OPCW Policy on Confidentiality. The Executive Council at its thirty-sixth session decided to defer consideration of these changes, which had been recommended by the Confidentiality Commission at its fifth meeting (see CBWCB 64).

The Confidentiality Commission considered the report of the working group established to review the Commission's operating procedures; certain changes were recommended to the Conference. The Commission also requested the Conference to approve funds for a workshop during its seventh meeting on dispute settlement for new Commission members. This request was further to a call by the First Review

Conference for "the Confidentiality Commission to be fully operational at all times" and a recommendation from the Commission at its fifth meeting.

Finally, the Confidentiality Commission recommended that relevant National Authority personnel be given the opportunity to receive training on the classification of information submitted to the OPCW and requested the Secretariat to consider this proposal, including the possibility of such trainings taking place during meetings of regional subgroups.

### **Future Work: EC-39 (14 December)**

The thirty-ninth session of the Executive Council took place during the week of publication of the December *Bulletin*, accordingly, the outcomes of that session, which only lasted a day, will be discussed in the March issue. Some of the decisions which were considered include several facility agreements regarding on-site inspections in Libya (the Al-Jufra Category 2 CWDF, Ruwagha CWSF, CWPF Tripoli STO-001, and CWPFs Rabta Pharmaceutical Factories 1 and 2, respectively); a combined plan for conversion and verification of the CWPFs Rabta Pharmaceutical Factories 1 and 2 (Phase II); a plan for the verification of destruction of chemical weapons at a CWDF in India; and deferred decisions in respect of the Aberdeen CWDF in the United States.

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*This review was written by Scott Spence, the HSP Researcher in The Hague.*

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*Report from Geneva*

*Review no 22*

## **The Biological Weapons Convention Meeting of States Parties**

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As reported in *Bulletin 65* (Sep 2004), the Meeting of Experts of the States Parties of the Biological and Toxin Weapons Convention (BWC) on 19 to 30 July 2004 had made significant progress in considering the two topics identified for 2004:

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

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

The Meeting had produced a report to which was attached as Annex II a paper prepared by the chairman listing the considerations, lessons, perspectives, recommendations, conclusions and proposals drawn from the presentations, statements, working papers and interventions made by delegations on the topics under discussion at the Meeting. The report stated that *The Meeting of Experts noted that it was the Chairman's view that the paper could assist delegations*

*in their preparations for the Meeting of States Parties in December 2004 and in its consideration of how best to 'discuss, and promote common understanding and effective action on' the two topics in accordance with the decision of the Fifth Review Conference.*

As noted in the previous Report from Geneva, this provided the states parties with an excellent starting point from which to develop language to meet the requirement of the mandate for the Meeting of State Parties in December 2004 to *discuss, and promote common understandings and effective action.*

### **Preparations for the Meeting of States Parties, 2004**

The Final Report (BWC/MSP/2004/MX/4 dated 11 August 2004 — this and other such official BWC documentation is available at <http://www.opbw.org>) of the Meeting of Experts comprised a report of 5 pages together with Annex I, a 14 page listing of the documents of the Meeting of Experts; Annex II, a 36 page listing of the considerations, lessons, perspectives, recommendations, conclusions and proposals drawn from the presentations, statements, working papers and interventions made by delegations on the topics under discussion at the Meeting; and Annex III, a 1-page draft agenda for the Meeting of States Parties in Geneva, 6 – 10 December 2004.

The chairman wrote to the States parties on 23 September 2004 to encourage them to focus their preparations for the Meeting of States Parties on the particular mandate that was provided for the 2004 meetings, and on what the states parties can agree to do (common understandings and effective action) under the topics under consideration. The chairman hoped that the list provided in Annex II would be a useful tool to assist delegations in their preparations. It was pointed out that the final version of the list clustered the proposals, etc, so that similar ones appeared together. The areas into which these proposals, etc, fell were:

Agenda item 5 (corresponding to iv. above):

1. *General principles and objectives*
2. *International cooperation and support*
3. *Organisation, structure and planning*
4. *Communication and information management*
5. *Standards and legal framework*
6. *Laboratories, techniques and training*
7. *Research and development*

Agenda item 6 (corresponding to iii. above):

1. *General principles and objectives*
2. *International cooperation and support*
3. *Organisation, structure and planning*
4. *Communication and information management*
5. *Standards and legal framework*
6. *Laboratories, techniques, technology and training*
7. *UN Secretary-General's investigation mechanism.*

The chairman's letter went on to point out that the full listing in Annex II was very lengthy and would be unmanageable as a basis for consideration at MSP/2004 if a successful outcome is to be achieved addressing the Review Conference's mandate. It went on to say that the clusters of areas into which the proposals, etc, fell could provide an indication of the subjects/areas where the states parties can agree on common understandings and effective action, and that this is where attention should focussed. The Chairman undertook to attempt to see which subjects/areas could be identified for this purpose, and which could possibly enjoy the necessary support of states parties.

A further letter was written by the chairman to the states parties on 29 October 2004 which advised that further work on the list in Annex II had made it possible to synthesise these proposals, etc, into a much more manageable form, which was attached to the letter. It was underlined that the synthesized version of the document continued to be based on the presentations, statements, working papers and interventions made by delegations, and did not include any new ideas. All that had been done was to remove repetitions and merge similar concepts. The chairman concluded by pointing out that the very limited duration of 1 week for the Meeting of States Parties would not provide time for delegations to again make extensive presentations and that attention needed to be directed to specifically addressing the mandate. The synthesis attached to the letter was subsequently issued as BWC/MSP/2004/L.1 dated 1 December 2004 and translated into all of the UN languages.

The approach taken in the synthesis document was to provide a paragraph for each of the areas identified in the earlier letter of 23 September 2004. Thus, for example, for area 1 under agenda item 5, the following paragraph appeared:

#### 1. *General principles and objectives*

*Recognising that improved national and international surveillance, detection, diagnosis and combating of infectious disease will support the object and purpose of the Convention, states parties should strengthen existing capabilities in these areas, including by:*

- *strengthening existing international networks, and in particular supporting the efforts of the WHO, FAO and OIE;*
- *building up their own national capabilities, to help ensure early detection of and rapid response to outbreaks of disease throughout their national territory;*
- *using existing standards, guidelines and recommendations wherever possible.*

A second example is taken from area 7 under agenda item 6, where the following two paragraphs appeared:

#### 7. **United Nations Secretary-General's investigation mechanism**

*Recognising that the Secretary-General's investigation mechanism, set out in A/44/561 and endorsed by the General Assembly in its resolution A/Res/45/57, represents the only existing international institutional mechanism for investigating cases of alleged use of biological or toxin weapons, states parties authorise the Chairman to write on their behalf to the Secretary-General to request that he review and consider updating the investigation mechanism, taking into consideration, inter alia, the following suggestions:*

- *re-evaluation and updating of the lists of experts;*
- *confidentiality agreements for all personnel which prohibit communicating any matter related to an investigation with any person or institution not involved in the investigation unless authorised to do so by the Secretary-General.*
- *consideration of the logistical and financial requirements for an investigation;*
- *revision of the information to be provided in support of a request for an investigation;*
- *re-evaluation of the guidelines and procedures relating to the victims of an alleged attack;*
- *re-evaluation of the guidelines and procedures for sampling and analysis;*
- *use of expert consultants whose composition should be specified to ensure a representative and geographic equality;*
- *a requirement for the final report to be transmitted to the Secretary-General, made available to the receiving state and any other involved state, and submitted to the Security Council.*

*The Chairman is requested to invite the Secretary-General to report to the Sixth Review Conference on his review, any updates which he recommends, and any action taken or required by the General Assembly. In addition, states parties should:*

- *identify the types of expertise that would be required for a new round of nominations of experts, if required;*
- *update their contributions for the list of qualified experts and list of laboratories;*

- *designate relevant specialised training courses available to qualified experts.*

In New York in the First Committee of the United Nations General Assembly, Hungary, on 12 October 2004, introduced a draft resolution (A/C.1/59/L.17) on the BWC which in its operative paragraphs noted with satisfaction the number of states that have become party to the Convention and reaffirmed the call upon all states not yet party to become so at an early date, welcomed the information and data provided to date and reiterated its call upon all states parties to participate in the exchange of information and data agreed at the Third Review Conference, and, in the third operative paragraph:

*“3. Recalls the decision reached at the Fifth Review Conference (in BWC/CONF.V/17, para. 18) to discuss and promote common understanding and effective action: ... 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 calls upon the states parties to the Convention to participate in its implementation;”*

As expected, the First Committee adopted this draft resolution without a vote. It was subsequently approved by the General Assembly without a vote on 3 December 2004 as A/RES/59/110.

### **Other Preparations**

On the weekend of 4-5 December 2004 before the Meeting of States Parties, there was a workshop in Geneva of the Pugwash Study Group on Implementation of the Chemical and Biological Weapons Conventions entitled *The BWC New Process and the Sixth Review Conference*. Over 50 participants from 18 countries considered a range of agenda items which focussed not only on the imminent Meeting of States Parties but also on meetings in 2005 and on the Sixth Review Conference in 2006. There was much attention given to the preparations for the Sixth Review Conference and the necessity to start such preparations now in order to ensure a successful outcome.

### **Meeting of States Parties, 6 to 10 December 2004: Opening Plenary Session**

The Meeting of States Parties began on Monday 6 December 2004 in a plenary session when the chairman, Peter Goosen of South Africa, welcomed the representatives from the 89 states parties that participated in the Meeting — two more than in the Meeting of Experts, as Azerbaijan, Belize, Brunei Darussalam, Cyprus, Jordan, Lithuania, Mongolia, and Yemen participated in December whilst Congo, Kenya, Monaco, Singapore, Sudan and Togo did not. Five signatory states participated: Egypt, Madagascar, Myanmar, Syria and Tanzania. Two states neither party or signatory, Israel and Kazakhstan, were granted observer status. The Convention now has 153 states parties and 16 signatory states (see BWC/MSP/2004/INF.2) as Azerbaijan and Kyrgyzstan had acceded

during the past year.

Four intergovernmental/international organizations (FAO, ICRC, OIE and WHO) participated as observers as did UNIDIR and 15 NGOs (BWPP, CACNP, CISSM, CNS, CSIS, INES, Landau Network – Centro Volta, Pax Christi, SIPRI, LSE, The Sunshine Project, Tri-Valley CARES, University of Bradford, University of Exeter, VERTIC). Over 450 individuals from states parties participated of whom just under 170 came from capitals.

In the opening formalities, the provisional agenda (MSP/2004/1) and the provisional programme of work (MSP/2004/2) for the meeting were formally adopted as were the rules of procedure of the Fifth Review Conference (as annexed to CONF.V/17) which would apply *mutatis mutandis*. The Chairman said that he had invited the FAO, OIE and WHO to participate and a subsequent request had been received from the ICRC. This participation was agreed. He went on to note that there was a considerable NGO participation with lunchtime seminars such as the one on Monday 6 December by the Department of the Peace Studies of the University of Bradford. He proposed to suspend the formal meetings so that, as had been done at the Fourth and Fifth Review Conferences, at the Meeting of Experts and of States Parties in 2003 and at the Meeting of Experts in 2004, NGOs could make statements to the states parties in informal session on Tuesday 7 December at 1000. This was agreed, concluding the formalities.

In his opening remarks, Peter Goosen said that, at the Meeting of Experts in July, the emphasis had continually been on the mandate, which was *to discuss, and promote common understanding and effective action* [on Agenda item 5 on] *strengthening and broadening national and international institutional efforts and existing mechanisms for the surveillance, detection, diagnosis and combating of infectious diseases affecting humans, animals, and plants* [and] *to discuss, and promote common understanding and effective action* [on Agenda item 6 on] *enhancing international capabilities for responding to, investigating and mitigating the effects of cases of alleged use of biological or toxin weapons or suspicious outbreaks of disease*. He wanted to focus participation on the agreed mandate and on what could be agreed to by consensus. He hoped that the Chairman’s paper attached as Annex II to the report of the Meeting of Experts which had been intended to be as comprehensive as possible, and the subsequent synthesis paper which contains no new ideas would help this process. He said that he had been pleasantly surprised at the positive response to the synthesis document, as it might help to reach concurrence on *common understanding and effective action* on the topics under consideration. He pointed out that the process being followed between the Fifth and Sixth Review Conferences was one that had been agreed to by all states parties and that the time for reflection and adjustment would be at the Sixth Review Conference.

He went on to note that the Biological Weapons Convention does not exist in a vacuum. The report (A/59/565) of the UN Secretary-General’s *High Level Panel on Threats, Challenges and Change* issued on Thursday 2 December 2004 had made recommendations of direct relevance to the Convention and some were even relevant to the mandate for this year. He noted recommendation 27 - that the states parties to the BWC should without delay return to negotiations for a

credible verification protocol; recommendation 34 - that the states parties to the BWC should negotiate a new biosecurity protocol; and recommendation 37 - that the Security Council should consult with the WHO Director-General to establish the necessary procedures for working together in the event of a suspicious or overwhelming outbreak of infectious disease. The chairman noted that these were only recommendations from the Panel that had yet to be considered. Nevertheless, they should be borne in mind, as some have direct relevance to the Convention.

### *Political Statements*

The meeting then continued with the General Debate in which 28 statements were made by states parties in the following sequence: Malaysia on behalf of the NAM, Brazil, Iran, USA, Russian Federation, Japan, Canada, Netherlands on behalf of the EU, Italy, Australia, UK, Argentina, Malaysia, Norway, India, Republic of Korea, China, Algeria, Indonesia, Saudi Arabia, Germany, Morocco, Switzerland, Pakistan, New Zealand, Nigeria, Mexico and Jordan. As at the Meeting of States Parties in 2003, many of the statements made by the states parties set out the perspective of the state party in regard to the broader picture of the BWC regime.

**Malaysia** spoke on behalf of the **NAM and Other States** noting that all members of the Group are seriously concerned with the potential threats of the use of biological agents and toxins as an instrument of war or terror. Consequently, the Group feels that there is a greater necessity and urgency for the states parties to work towards strengthening and improving the effectiveness and implementation of this Convention so that together we can fully address this concern. The statement went on to say that “the high importance the Group attaches to an effective and verifiable BWC, implemented in a comprehensive manner cannot be overemphasized”, and brought to the attention of the meeting paragraph 78 of the XIV NAM Ministerial Conference held in Durban, South Africa in August 2004 which said that:

*The Ministers of the States parties to the Biological and Toxin Weapons Convention (BWC) reaffirmed their conviction that the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (biological) and Toxin Weapons and on their Destruction is essential for the maintenance of international and regional peace and security. They reaffirmed the Movement’s continued determination, for the sake of humankind, that the possibility of any use of bacteriological (biological) agents and toxins as weapons should be completely excluded, and the conviction that such use would be repugnant to the conscience of humankind. They recognised the particular importance of strengthening the Convention through multilateral negotiations for a legally binding Protocol to the Convention. They believed that the effective contribution of the Convention to international and regional peace and security would be enhanced through universal adherence to the Convention. They stressed the importance for all states parties to pursue the objectives that were set forth by the Fourth Review Conference and underlined that the only sustainable method of strengthening the Convention is through multilateral negotiations aimed*

*at concluding a non-discriminatory legally binding agreement. They have been deeply disappointed at the inability that has been demonstrated in the endeavours of the states parties of the BWC to successfully undertake initiatives to strengthen the implementation of the Convention. They further regretted the limited nature of the decision that was taken during the resumed session of the Fifth Review Conference held from 11-15 November 2002 in Geneva and were disappointed that the opportunity to strengthen the Convention was foregone and that limited work, which at best only has the potential of enhancing the implementation of the Convention, is all that could be achieved despite the Movement’s best endeavours. They believed that, however, the Movement has succeeded in preventing any attempt to foreclose the option of more meaningful work in the future. In this regard, the movement has succeeded in preserving multilateralism as the only vehicle for preventing reprehensible use of disease as instruments of terror and war in a sustainable way.*

The statement concluded by stating that the Group underlines that both the Meeting of Experts and the Meeting of States Parties are central and principal for us to progress in our work, taking into account national experiences, as we prepare for the BWC Sixth Review Conference in 2006. The Group will work with the Chairman and other states parties to achieve a consensus outcome to this meeting, as mandated by the Fifth Review Conference.

The Chairman then called for a short adjournment of the general debate. When it resumed, he announced that a typographical error had been noted in the Provisional Programme of Work (MSP/2004/2) which had earlier been agreed. This typographical error related to the words in parentheses “(Working Sessions)” which appeared in the line headed “Substantive Work” prior to “Working Session 1”. The words “(Working Sessions)” should be deleted and reinserted after the words “Working Session 4”. This had the effect of making it clear that the sessions which could be attended by NGOs included Working Sessions 1, 2 and 3.

**Brazil** then spoke, saying that there is a clear international consensus on the need to combat the proliferation of weapons of mass destruction. Thus, it is essential that the credibility of the BWC as a functioning instrument be strengthened. However, the BWC, unlike the CWC, does not contain provisions on the implementation of the Convention or on an implementing organization. In 2002, the international community witnessed – with frustration – how a valuable opportunity was missed to strengthen the BWC. Though the verification of compliance with the BWC, or with any other regime, can never be absolutely perfect, we consider that it is still possible to shape a reliable compliance regime for the Convention. This is a void in the BWC that must not be allowed to persist. The statement went on to say that the new “ad hoc” step-by-step method adopted at the Fifth Review Conference set back the clock of negotiations to strengthen the Convention. Nevertheless, it now represents the basis of our work and we thus consider participation in this exercise as a sign of our commitment to strengthen the institutional norm against the offensive use of biology. It was pointed out that recommendations that ignore the overall

objectives of the Convention by taking too narrow an approach are not constructive to the strengthening of the BWC. The statement concluded by pointing out that the BWC regime should be strengthened from within and from without, without losing sight of the objectives that led to its adoption.

**Iran** started by saying that it was associated with the statement made by Malaysia on behalf of the NAM. On the first topic, surveillance, the related intergovernmental organizations (WHO, OIE and FAO) could play a coordinating role in providing technical and financial assistance. However, it is essential that these organizations shall not act beyond their statutes, engaging in activities such as politically and/or security oriented investigation. On the second topic, investigation, Iran is of the belief that the most effective universally acceptable investigation mechanism could only be established on the basis of a multilaterally negotiated legally binding instrument based on the BWC. Iran believes that the only real and effective attempt to strengthen the implementation of the BWC lies in reverting back to the negotiation table dealing with the Convention in its totality and avoiding any selective approach. However, Iran was ready to work with other delegations so that the states parties will be in a better position in the Sixth Review Conference in 2006 to discuss and decide how to promote implementation of the Convention.

The **United States** noted that the Fifth Review Conference agreed a work programme for the years 2003-2005 with a view to discussing and promoting *common understanding and effective action* on a series of topics. This work has set in motion a number of important activities by respective states parties on a national level. The statement went on to say that the US analysis of the Meeting of Experts in July has centered on a perspective that drew heavily on the US understanding of the utility underlying the approach that the BWC states parties have adopted in this work programme. One of the outcomes is the recognition that there is a real need to find creative new ways to improve the global response to the threats posed by weapons of mass destruction, and, specifically, the biological threat. It was noted that the unanimous support for UN Security Council resolution (SCR) 1540 demonstrated how critical these issues are for international security. The statement went on to say that the United States has looked at this year's efforts with appreciation, especially in the collective ability (a) to focus on the issues described in the mandate and (b) to resist a false paradigm of trying to fit those assessments inappropriately into the formal, legal framework of the Convention itself. It says that the US sees value in updating and providing national expertise and laboratory capacity to the UN Secretary-General for investigating cases of alleged use of biological and toxin weapons, as well as to the WHO, OIE and FAO for their efforts in strengthening global health security. Such lists are being prepared and will be forwarded soon.

The **Russian Federation** emphasized the importance of strengthening the international efforts to prevent the proliferation of biological weapons. The statement noted the G-8 Nonproliferation Action Plan agreed at the Sea Island summit which confirmed that the BWC is a fundamental component to prevent proliferation of biological weapons and went on to mention UN SCR 1540. As to the outcome of the

meetings in 2004, the final document could serve as a useful basis for the Sixth Review Conference in 2006. The Russian Federation considered that the synthesis document circulated by the Chairman could serve as a solid basis for the elaboration of the final document. In regard to investigations, Russia did not object to the beginning of work to update the Secretary-General document of 1989, but wondered how to do this, and suggested that a working or expert group with a clear mandate was needed. In addition, Russia restated its position of principle in favour of resuming negotiations in order to reach agreement on the control mechanism of the Convention. Finally, the statement urged work to achieve universality to the Convention and considered that the experience of the OPCW in its Action Plan to increase universality to the CWC could serve as a good example.

**Japan** urged all non-member states to accede to the Convention and then emphasized the importance of the Convention which had been highlighted in UN SCR 1540 and the G-8 Action Plan on Nonproliferation. Japan was strongly committed to strengthening the BWC based on the three year programme of work, and saw the outcome of this Meeting as an important input to the Sixth Review Conference in 2006. It would be necessary to consider how to carry the BWC forward, including the issue of verification, as we prepare for the 2006 Review Conference.

**Canada** said that states parties must continue to take actions that will strengthen, and render fully effective, the norms against biological weapons. The BWC remains the key to this objective and international cooperation is essential for its realization. Mention was made of various international initiatives such as those under the G-8, APEC, OAS and the OECD. In regard to investigation, Canada encouraged the adoption by this meeting of the chairman's proposal that he write to the UN Secretary-General on behalf of the BWC states parties, in order to request that he review and consider updating the Secretary-General's investigative mechanism. Canada pointed out that this issue is too critical for international peace and security to have the Secretary-General rely on obsolete or ineffective tools. The task before the states parties was to create a concise and practical outcome document for 2004 for the consideration of the Sixth Review Conference. Canada had reviewed the chairman's synthesis document and was very encouraged that a meaningful outcome can emerge from this meeting. In looking forward to the Sixth Review Conference, Canada urged that maximum use should be made of all the tools at our disposal to strengthen the implementation of the Convention. One of the most useful of these tools are the Confidence-Building Measures, and Canada reiterated its call to all states parties to submit their CBM reports in as thorough, accurate and timely a fashion as possible.

The **Netherlands**, on behalf of the EU and also Bulgaria, Romania, Turkey and Croatia, as well as Albania, Bosnia & Herzegovina, the Former Yugoslav Republic of Macedonia, Serbia & Montenegro and the EFTA countries, Iceland and Liechtenstein, said that they attached high priority to the reinforcement of the BWC which is the cornerstone of our efforts to prevent biological agents and toxins being developed as weapons. The EU remains committed to developing measures to verify compliance with the BWC. The EU

supports and promotes wholeheartedly the universal adherence to the BWC, and, recognizing that 2005 will see both the 30th anniversary and of the entry into force of the BWC and the 80th anniversary of the Geneva Protocol opening for signature, the EU believes that states parties should make a particular effort to promote progress to universality of these instruments. The EU went on to say that it is fully supportive of the current working programme as, in the absence of negotiations on a verification mechanism, much useful work remains to be done within the parameters of these intersessional meetings. However, when considering the mandate of this meeting, the states parties to the BWC should focus on the particular actions that could be taken in the BWC context. Duplication of efforts better addressed in other fora is unwelcome. Instead, we should make good and, if necessary, better use of already existing mechanisms. The EU would welcome further discussion and follow-on action on the proposals to review, amend or update the existing mechanism under the Secretary-General for investigating alleged uses of biological weapons. The statement concluded by saying that it is important that the states parties to the BWC do not stand at the sideline, but take the responsibility to address the concerns regarding biological weapons, and their potential use. The Review Conference in 2006 will be a good opportunity to agree on specific, practical and realistic measures to strengthen both the Convention itself and compliance with it.

**Italy** made a statement noting that it had sponsored a seminar in Geneva on 28 September on the Cooperative Threat Reduction Programmes, and took the opportunity for the first time to draw the attention of the Conference of the States parties to the BWC to this issue. Italy pointed out that whilst the main CTR efforts have hitherto been focused on nuclear and chemical weapons, we believe that the time has come to present this concept to the Conference of States parties to the BWC as it is an opportunity to highlight the potential of bio-threat reduction.

**Australia** welcomed this meeting of the states parties to the BWC as it is an important reminder of the centrality of the BWC in countering the genuine threat of biological weapons. The importance of the BWC has been underlined by UN SCR 1540. Australia urged all states parties to take full advantage of *inter alia* the BWC work programme, to plan, and with best endeavours, to harmonise national and international efforts to strengthen our collective efforts against the misuse of harmful biological agents.

The **UK** said that it fully associated itself with the statement made by the Netherlands on behalf of the EU. It went on to say that the UK had identified a number of common themes from the information presented at the Meeting of Experts and subsequently usefully summarised by the Chairman's synthesis paper. The UK statement set out a number of proposals for both topics that the UK believes enjoy widespread support. It went on to recall the proposal made by the UK in July regarding the updating and reviewing of the existing procedures in the UN Secretary-General's report on the investigation of alleged use, for example, by taking into account the experiences of other international organizations such as the OPCW and the CTBTO. The UK will continue

to consider how best to gain consensus and take this forward. The statement went on to note that the UK is aware that some are concerned that these meetings may be addressing only some of the elements of the provisions of the Convention. To some extent, the Review Conference of 2002 determined that incremental approach. However, the UK believes that it is essential that these concerns do not undermine what we regard as an excellent forum for a real exchange of knowledge. The statement concluded by saying that the UK would like to build on the success of last year as we work towards the Review Conference in 2006.

**Argentina** emphasized the importance of non-proliferation of WMD and noted SCR 1540. Argentina had in 2004 modified its criminal code so as to address the requirements of Articles I and IV of the BWC. It supported the proposal to update the mechanism for the investigation of alleged use. The results of the Meeting of Experts in July augurs well for the success of the Meeting of States Parties and the achievement of results that would give full effect to the mandate from the Fifth Review Conference.

**Malaysia** associated itself with the statement made on behalf of the NAM. It then went on to set out its appreciation of the importance of disease surveillance. The statement went on to say that Malaysia calls for support of the Confidence-Building Measures through submission of national reports which permit states parties to demonstrate their compliance in an open, systematic and continuous manner. This would help to create a more positive atmosphere for future cooperation amongst states parties. Of equal importance too, states parties would have to eventually return to the discussion on verification and compliance issues. However, this should not stop states parties from pursuing a step-by-step measure towards this end. In this regard, Malaysia is of the view that, as an initial step, states parties could explore the establishment of an implementing mechanism, within the control of states parties, in agreed areas, in order to achieve the objective of the Convention in particular in responding to, investigating, and mitigating the effects of cases of alleged use of biological or toxin weapons or suspicious outbreaks of disease.

**Norway** attached great importance to the BWC which had been the first treaty to ban an entire class of WMD. Norway urged that work should continue on all aspects leading to achieving full compliance with the BWC and noted that the Secretary-General's High Level Panel had recommended that *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*. Norway said that the format of annual meetings of states parties prepared by meetings of experts, provides us with an opportunity to move the BWC process forward. We must fully seize this opportunity. We must also have in mind the 2006 Review Conference and how best to prepare for this. On enhancing the mechanisms for the investigation of alleged use or suspicious outbreaks of disease, the mechanism under the Secretary-General must be reviewed, and Norway called for a concrete recommendation in this respect. It was important to move forward with the 2006 Review Conference in mind.

**India** fully supported initiatives to strengthen the BWC, ensure its full implementation by all states parties and make it universal. In regard to the investigation and mitigation the effects of cases of alleged outbreaks of biological or toxin weapons or suspicious outbreaks of disease, Articles VI and VII of the Convention provide the mechanism for such investigation and to provide assistance. India pointed out that it is a matter of satisfaction that the provisions of Articles VI and VII have not been invoked. However, this also has resulted in the efficacy and adequacy of the prevailing mechanism remaining untested. We remain, therefore, in uncharted territory in considering how to enhance the international capabilities for responding to, investigating and mitigating the effects of cases of alleged use of biological or toxin weapons or suspicious outbreak of diseases. It is the lack of a mechanism for verification of compliance that diminishes the Convention's effectiveness. India said that it is willing to consider all efforts to strengthen the Convention within a multilateral framework and favours the provision of an adequate and effective verification mechanism in the BWC. India also seeks increased international cooperation in transfers and exchanges of biological materials and technologies for peaceful purposes. India concluded by stating that the Sixth Review Conference will be the proper forum to review the implementation of the Convention in its entirety, achieve overall balance in its results, and draw up recommendations, take decisions and undertake fresh commitments to strengthen the Convention and promote its implementation.

**South Korea** said that the Meeting of Experts in July had laid a solid foundation for this Meeting of States Parties and that this meeting could and should be used to improve the ability of the international community to respond to alleged use of biological weapons or dangerous outbreaks of disease, whether naturally occurring or deliberate. The statement went on to say that the outcome will set the stage for the subsequent work leading to the Sixth Review Conference. In this respect, Korea believes that a final document of a substantive nature with practical recommendations, if adopted by consensus at this meeting, will serve as useful guidance in reviewing the implementation of the Convention.

**China** said that the Biological Weapons Convention plays a key role in eliminating the threat of and preventing proliferation of biological weapons. In regard to investigations, China said that the mechanism of consultation, cooperation and investigation as stipulated by Articles V and VI of the BWC sets out the means and procedures for all issues concerning treaty implementation, and is the main approach in dealing with the alleged use of biological weapons. States parties should observe and implement this mechanism, and within the treaty framework, explore ways of enhancing capabilities for the investigation of BWC breach. The Secretary-General's investigation mechanism for alleged use of chemical and biological weapons was established against unique historical background and has specific scope of application. Whilst initial discussions were held at the Meeting of Experts on the proposal to review and update this mechanism, further discussion is needed.

In the afternoon of Monday 6 December, the general debate continued with further statements.

**Algeria** said that they endorsed the statement made on behalf of the NAM. The horizontal and vertical proliferation of weapons of mass destruction was a serious threat to international peace and security. It was important to strengthen the BWC as this was the only instrument to combat biological weapons. SCR 1540 was helping to combat proliferation and Algeria had enhanced its national implementation of the BTWC. Algeria was convinced of the need for a legally binding instrument that was not discriminatory and addressed all Articles of the Convention.

**Indonesia** endorsed the statement made on behalf of the NAM. The statement went on to consider the problems caused by outbreaks of disease. It added that Indonesia is always of the view that the states parties should also reap the benefits contained in the Convention and make sure that the Convention is implemented as transparently as possible.

**Saudi Arabia** said that the BWC is a significant cornerstone for global peace and security. The statement went on to mention SCR1540 and to call for universality in regard to the BWC.

**Germany** said that, in full accordance with the EU statement, it wished to emphasize its primary interest in continuing the multilateral process of disarmament and arms control, in particular in the area of biological weapons and toxins. In regard to investigations, Germany still believes that a multilaterally negotiated protocol to strengthen the BWC is a better way of solving the problem of investigating alleged use. However, in the present situation we are also convinced that revisiting and updating existing mechanisms initiated by UN GA Resolution 42/37C and fixed in document A/44/561 are a good interim solution. The statement went on to say that a further question should be to focus this document more on biological and less on chemical issues, as, with the inception of the OPCW in 1997, the Secretary-General of the United Nations now has a knowledgeable partner. It concluded by saying that Germany would prefer the Secretary-General to take the initiative for reviewing document A/44/561. Alternatively, the issue could be taken up in the First Committee meeting in autumn 2005 by asking the Secretary-General to review the document in the light of technological developments.

**Morocco** said that it had sent to the Secretariat in July its updated legislation. Morocco called for universal adherence to the BWC.

**Switzerland** said that it looked forward to the Review Conference in 2006 to consider concrete recommendations that had been synthesized from the efforts of the last two years. In regard to investigations and assistance, Switzerland wondered whether the provisions in Articles VI and VII of the Convention required strengthening. The statement concluded by urging that the outcome of the Meeting of Experts should be translated into concrete recommendations which might be adopted at the Sixth Review Conference.

**Pakistan** associated itself with the statement of the NAM. It welcomed the two new states parties and urged further progress towards universality. Pakistan noted that the Convention had no verification mechanism and that success had not been possible at the last Review Conference in 2002.

In regard to investigations, Pakistan noted that the existing mechanism resulted from a General Assembly resolution and said that Pakistan did not believe that the Secretary-General needed any advice from the states parties to the BWC. It was now timely to look forward to the next Review Conference in 2006, which would determine essentially the fate of the BWC. During the next two years, the possibilities should be explored to see whether negotiations for a legally binding verification protocol could be restarted. If this remains elusive, then we should look at Article X of the Convention, which relates to international cooperation in the scientific field. We may continue to follow the best practices approach to protect human and animal lives from any biological agents. But this exercise would definitely need to be voluntary in nature.

**New Zealand** strongly supported the BWC and said that states parties must do all they can to strengthen the norm. It was important to fulfil the mandate, and New Zealand supported the chairman's paper towards this. However, the WHO, FAO and OIE can only take the states parties so far as it is up to the states parties to agree how to verify the BWC. In regard to investigations, New Zealand supported the approach in the chairman's paper regarding the Secretary-General's investigation mechanism, as we must make the most of the tools at our disposal. Updating the Secretary-General's investigation mechanism as endorsed by General Assembly resolution A/Res/45/57 would give states parties to the BWC a much needed renewed sense of purpose and ownership, and demonstrate that the BWC remains relevant in today's fragile security environment. However, this was not a substitute for a verification protocol and the recommendation of the Secretary-General's High Level Panel in this respect was noted. The statement concluded by saying that the more effective the Meeting of Experts, the greater the need for a pointed outcome from the Meeting of States Parties to pave the way for an effective Sixth Review Conference.

**Nigeria** endorsed the NAM statement and said that Nigeria is fully committed to the BWC. The statement then set out actions taken by Nigeria for national implementation. Thanks were expressed to the UK and the USA who have supported these national implementation efforts in Nigeria.

**Mexico** endorsed the NAM statement and emphasized the need for a legally binding verification mechanism. At the Sixth Review Conference, it would be important to review the Convention in its entirety. In regard to investigations, Mexico supported the review and update of the Secretary-General's investigation mechanism set out in a document agreed 15 years ago.

**Jordan** recognized the threat to international peace and security from WMD and in particular from biological weapons. Jordan has suffered from wars and is fully aware of the importance of peace and security. It had never had recourse to biological weapons and had no desire to have any programmes whatsoever in this area. The statement went on to outline steps being taken by Jordan to modernize its legislation implementing the Convention.

After a short break, the meeting then continued with powerpoint presentations made by representatives of the WHO, FAO and OIE.

The **WHO** presentation by Dr Ottorino Cosivi was entitled *Preparedness for Deliberate Epidemics: WHO Approach*. This set out the historical context of WHO involvement in countering deliberate releases of biological agents. It was pointed out that the preamble to the WHO constitution of 1948 states "The states parties to this Constitution declare, in conformity with the Charter of the United Nations, that the following principles are basic to the happiness, harmonious relations and security of all peoples." – thus including the term security – and that Article 2 (d) states that the WHO shall *furnish appropriate technical assistance and, in emergencies, necessary aid upon the request or acceptance of Governments*. The presentation went on to outline current WHO activities relating to preparedness.

The **FAO** presentation by Dr Juan Lubroth was entitled *The Food and Agriculture Organization* set out the role of the FAO, addressed the Global Framework for Progress Control of Transboundary Animal Diseases (GF-TADs), and outlined the Global Early Warning and Response System for Transboundary Animal Diseases (GLEWS), which involves the FAO, OIE and WHO. It was pointed out that food security in the context of the FAO addresses the question of "Will I have food tonight?"

The **OIE** presentation by Dr James Pearson was entitled *The Challenge of International Biosecurity and the OIE Standards and Actions*. This mentioned that the OIE, which had 167 member countries, was not a UN organization and went on to describe its mission to promote transparency in the animal health situation throughout the world.

This concluded the statements and presentations on Monday 6 December 2004 with the Chairman reminding participants that NGOs would make statements in the informal session on Tuesday morning at 10am and strongly encouraging delegations to be present.

### **NGO Activities**

As already noted, the opening plenary session agreed that NGOs could make short statements in informal session at the beginning of the Tuesday 7 December 2004 morning session. Short 6 to 8 minute statements were made by the following nine NGOs:

- Graham S. Pearson, Department of Peace Studies, University of Bradford.
- Angela Woodward, VERTIC
- Kathryn Nixdorff, International Network of Engineers and Scientists for Global Responsibility (INES)
- Jean Pascal Zanders, BioWeapons Prevention Project
- Paul Lansu, Pax Christi International
- Nicholas A. Sims, London School of Economics
- Barbara Rosenberg & Alan Pearson, Scientists Working Group on CBW, Center for Arms Control and Non-Proliferation
- Loulena Miles, Tri-Valley CAREs (Communities Against a Radioactive Environment)
- Richard Guthrie, Stockholm International Peace Research Institute (SIPRI)

As at the Fourth and Fifth Review Conferences and at the Meeting of Experts, the NGO speakers spoke from seats in



the room whilst their statements were distributed to all those present. There were about 200 people present in the room during the NGO statements; the simultaneous translation into the six official UN languages that was provided enabled the NGOs to communicate their views to all present.

The **University of Bradford** statement first addressed an approach to a code of practice for the life sciences and then looked ahead to the Sixth Review Conference urging the states parties to agree a Final Declaration that reaffirms and further extends the extended understandings agreed in previous Final Declarations, agreement of an interim supportive institution to nurture and sustain the regime, agreement to hold an annual Conference of states parties comparable to those held by the states parties to the CWC and agreement to resume negotiation of a legally binding instrument to strengthen the effectiveness and improve the implementation of the Convention.

The **VERTIC** statement addressed the enhancement of international capabilities for investigating cases of alleged use of biological and toxin weapons or suspicious outbreaks of disease. The UN Secretary-General's mechanism currently consists only of woefully outdated lists of experts and laboratories and can only support hastily assembled, ad hoc missions. It has no standing support staff, body of trained inspectors, equipment set, or pre-arranged logistical support. A review of the Secretary-General's mechanism could usefully draw upon the cumulative practice of biological weapons verification to date, and in particular on the experience of the United Nations Monitoring Verification and Inspection Commission (UNMOVIC). Looking to the future, VERTIC has identified a range of complementary initiatives which could, in a modular approach, enhance the effectiveness of the Secretary-General's mechanism and improve BW verification and compliance overall.

The **INES** statement outlined recent advances in the life sciences and their relevance to the Convention. INES urged the states parties at the Sixth Review Conference in 2006 to ensure that there is a Final Declaration with language in the Article I section that reaffirms that all developments in the life sciences over the past 10 years and anticipated in the next five years are covered by the prohibitions in Article I.

The **BWPP** statement welcomed the recent accession of two further states to the Convention and urged that further efforts be made to achieve universality. It went on to endorse the importance of providing assistance to states parties in regard to national implementation. In looking ahead to the Sixth Review Conference, the BWPP stressed the importance of addressing scientific and technological developments in regard to the basic prohibitions of the Convention.

The **Pax Christi** statement said that all those engaged in the life sciences share in the responsibility to prevent misuse for biowarfare or bioterrorism. It set out five elements that Pax Christi is in favour of in regard to codes of conduct for scientists and those engaged in industry. It also set out responsibilities for the USA, for the EU and its member states, for states not yet party to the BWC and for all states.

The **London School of Economics** statement addressed

the topic of investigation of alleged use. It recalled that states parties to the Convention have been under a strong obligation to make sure that their treaty status under the Convention is rendered consistent with, and is complemented by, their full and unconditional acceptance of the 1925 Geneva Protocol. Some 20 states parties have yet to withdraw their retaliatory reservation and a further 33 states parties have yet to accede to the 1925 Geneva Protocol. The statement urged that the 30th anniversary of the entry into force of the BWC on 26 March 2005 should be adopted as a target date for the 53 states parties to adhere to the Geneva Protocol and withdraw their reservations.

The **Scientists Working Group on CBW** statement pointed out that the states parties to the BWC are the same diplomats who participate in the General Assembly's First Committee, and urged that action should be taken there to strengthen the capabilities of the UN Secretary-General. On the surveillance of disease, the statement said that it is in the self-interest of every state party to promote the detection, diagnosis and reporting of disease outbreaks everywhere in the world. Finally, in looking ahead to the topic for 2005, the statement urged that governmental responsibilities be considered as well, including the development and implementation of codes of conduct for government conducted or sponsored research.

The **Tri-Valley CAREs** statement addressed concerns relating to the planned collocation of Bio-Safety Level 3 facilities within US nuclear weapons laboratories at Livermore and Los Alamos. Difficulties encountered in gaining information about the activities of the Institutional Biosafety Committee at Lawrence Livermore were outlined, and the statement concluded by calling upon all nuclear weapons states to pledge not to collocate such biological agent research facilities within nuclear weapons facilities.

The **SIPRI** statement started by observing the security consequences of outbreaks of disease, and went on to look ahead to the Sixth Review Conference in 2006. It was noted that processes and procedures relating to the connection between the current inter-sessional process and the 2006 Review Conference have yet to be decided and there is thus a danger that procedural issues may come to dominate substantive issues in the run up to Review Conference — and substantive issues need to be addressed if the Convention is to retain its vitality. The statement concluded by saying that it would be useful if the states parties could identify as soon as possible the individual who will hold the Presidency for the Sixth Review Conference as this person would provide a useful focal point for planning.

Following the statements made by the NGOs, the representative of Iran asked for the floor and proceeded to give a comprehensive commentary on all nine NGO statements. This was followed by a short announcement by the representative of France that France and Switzerland intended to hold a meeting in June 2005 after the Meeting of Experts to mark the 80th anniversary of the 1925 Geneva Protocol and France would be pleased to receive any inputs from NGOs and from states parties. As this was to be a commemoration, it would be looking back as well as looking to the future.

The Chairman then closed the informal session, thanking

the NGOs for the time and effort that they had put in, not just at this meeting, but throughout.

### **Lunchtime Presentations**

Lunchtime presentations were also made on five days:

- a. **Monday 6 December 2003.** Seminar arranged by Department of peace Studies, University of Bradford and the Quaker United Nations Office Geneva. *Planning for the Sixth Review Conference: Bradford Briefing Paper No. 14*, Graham S. Pearson & Nicholas A. Sims (LSE), *Code of Conduct for the Life Sciences*, Bradford briefing Paper No. 13, Malcolm R. Dando, Bradford Briefing Paper No. 15, Graham S. Pearson, *Pax Christi International Calls for Ethical Approach to Biological Weapons*, Paul Lansu & Ineke Malsch.
- b. **Tuesday 7 December 2004.** Seminar arranged by the BioWeapons Prevention Project entitled *Challenges for 2005 and Beyond: Enhancing BWC Implementation: A Modular Approach*, Angela Woodward (VERTIC); *The Difficulties in Applying Ethics to BW-Relevant Life Sciences Research*, Kathryn Nixdorff (INES); *Science and technology Considerations at the 2011 Seventh Review Conference of the BTWC: Will the Convention have been by-passed*, Malcolm R. Dando (University of Bradford).
- c. **Wednesday 8 December 2004.** Seminar organized by the Sunshine Project examining the CBM submitted by some states parties followed by a seminar organized by Tri-Valley CAREs to elaborate on their concerns about the collocation of biological agent research facilities within nuclear weapons facilities.
- d. **Thursday 9 December 2004.** Seminar organized by the BioWeapons Prevention Project to launch the 2004 BWPP Report.
- e. **Friday 10 December 2004.** Seminar organized by the ICGEB at which Decio Ripandelli made a presentation entitled *Global Cooperation in the Development of Biotechnology*, which included consideration of the role of scientists to avoid misuse of biotechnology and the establishment of codes of conduct.

### **Outcome of the Meeting of States Parties**

The Meeting of States Parties met in private working sessions during the period from 7 to 10 December 2004. Although the programme of work (BWC/MSP/2004/2) had allocated Tuesday afternoon, Wednesday morning and part of Wednesday afternoon to consideration of disease surveillance (topic iv), part of Wednesday afternoon and Thursday to consideration of investigations of alleged use (topic iii) and part of Friday morning to the arrangements for the Meeting of Experts and the Meeting of States Parties in 2005 with the rest of Friday to consideration of the draft report, the consideration of disease surveillance was completed on Tuesday afternoon and of investigations of alleged use on the Wednesday morning with the rest of the time being used for consideration of the draft report.

There were no working papers submitted by states parties although there are four MISC papers - two submitted by Argentina (MISC. 2 & 3) and two by Iran (MISC.4 & 5).

On Wednesday 8 December, the Chairman circulated a short paper setting out in six paragraphs, the possible outcome of the meeting of states parties:

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

- a) *infectious disease outbreaks do not respect international boundaries, and can best be prevented, contained and suppressed through early-detection, immediate response and international cooperation and support;*
- b) *improved national and international surveillance, detection, dissemination of information, diagnosis and the combating of infectious disease will support the object and purpose of the Convention;*
- c) *the WHO, FAO and OIE are the international organisations primarily responsible for global disease surveillance and response, and that national organisations, structures and planning should be co-ordinated with and complement these activities of those organisations;*
- d) *scientific and technological developments have the potential to significantly improve disease surveillance and response.*

18. *The states parties consequently agreed:*

- a) *to support the existing disease surveillance and response networks of relevant international organisations and to act to strengthen the WHO, FAO and OIE programmes for the continued development and strengthening of, and research into, rapid, effective and reliable disease surveillance and response activities, including in cases of emergencies of international concern;*
- b) *to improve, wherever possible, national and regional disease surveillance capabilities, and to encourage and, where appropriate and if in a position to do so, assist other states parties to do the same;*
- c) *to encourage research on disease surveillance and response, including within the context of the WHO, FAO and OIE;*
- d) *to work to improve communication on disease surveillance, including with the WHO, FAO and OIE, and among states parties.*

19. *On the mandate to discuss, and promote common understanding and effective action on enhancing international capabilities for responding to, investigating and mitigating the effects of cases of alleged use of biological or toxin weapons or suspicious outbreaks of disease, the states parties recognized that:*

- a) *effective capabilities for responding to, investigating and mitigating the effects of cases of alleged use of biological or toxin weapons or suspicious outbreaks of disease are essential for promoting international peace and security;*
- b) *international capabilities depend to a large extent on states parties' national preparedness and arrangements for responding to, investigating and mitigating the effects of cases of alleged use of*

*biological or toxin weapons or suspicious outbreaks of disease;*

- c) *the Secretary-General's investigation mechanism, Set out in A/44/56 I and endorsed by the General Assembly in its resolution A/Res/45/57, represents the only existing international institutional mechanism for investigating cases of alleged use of biological or toxin weapons.*

20. *The states parties consequently agreed:*

- a) *to continue to develop their own national capacities for response, investigation and mitigation, in cooperation with the relevant international and regional organisations, and to encourage and, where appropriate and if in a position to do so, assist other states parties to do the same;*
- b) *that consideration should be given to reviewing the Secretary General's mechanism for investigation of cases of alleged use of biological or toxin weapons and to invite the Secretary General to report to the Sixth Review Conference on any actions that may be taken in this regard on the basis of consideration by the United Nations General Assembly,*
- c) *to consider at the Sixth Review Conference the further development of procedures for the provision of assistance to states parties in cases of alleged use of biological weapons or suspicious outbreaks of disease.*

21. *The states parties further considered that in pursuing the above understandings and actions, states parties could, according to their respective circumstances, consider the considerations, lessons, perspectives, recommendations, conclusions and proposals drawn from the presentations, statements, working papers and interventions made by delegations on the topics under discussion at the Meeting of Experts, as contained in the Annex II of the Report of the Meeting of Experts (BWC/MSP/2004/MX/3), as well as the synthesis of these considerations, lessons, perspectives, recommendations, conclusions and proposals contained in BWC/MSP/2004/L. 1, which are attached to this report as Annex 1 and II.*

22. *States parties are encouraged to inform the Sixth Review Conference of any actions, measures or other steps that they may have taken on the basis of the outcome of the 2004 Meeting of States Parties in order to facilitate the Sixth Review Conference's consideration of the work undertaken at the meetings in 2004 and of a decision on any further action in accordance with paragraph 18 (e) of the decision adopted at the Fifth Review Conference (BWC/CONF.V/1 7).*

This was first considered by the Group Coordinators and then by the states parties. A further version was circulated on the morning of Friday 10 December 2004 which was closely similar to the final version agreed on the Friday afternoon.

At the final public plenary session on the afternoon of Friday 10 December 2003, the states parties adopted the report of the Meeting of States Parties. This report (BWC/MSP/

2004/3) addresses both the procedural aspects and the operative paragraphs of the Meeting of States Parties. Unlike the report of the Meeting of States Parties in 2003 (MSP/2003/4), the outcome is integrated into the report and not attached as a separate Part II. The report of MSP/2004 has three Annexes: Annex I provides a listing of all the official documents of the meeting, Annex II contained the considerations, lessons, perspectives, recommendations, conclusions and proposals drawn from the presentations, statements, working papers and interventions made by delegations on the topics under discussion at the Meeting of Experts (as contained in the Annex II of the Report of the Meeting of Experts (BWC/MSP/2004/MX/3)), and Annex III contained the synthesis of these considerations, lessons, perspectives, recommendations, conclusions and proposals (as contained in BWC/MSP/2004/L.1). As these will both be translated into all the UN official languages, it ensures that this material is available to all states parties in an available form, unlike the material in 2003, which was uncollated and available only in English.

One paragraph in the Final Report addresses the arrangements for 2005. This states that the Meeting of States Parties approved the nomination by the Western Group of Ambassador John Freeman of the UK as Chairman of the Meeting of Experts and of the Meeting of States Parties in 2005. Furthermore, it was confirmed that the Meeting of Experts would be held in Geneva from 13 to 24 June 2005 and that the Meeting of the states parties would be held in Geneva from 5 to 9 December 2005.

There was agreement to seven paragraphs of substance on the outcome of the meeting – the main additions to the original proposed outcome are shown in bold :

***“16 bis. The Meeting of States Parties was preceded by a Meeting of Experts where measures relevant to the two agenda items were discussed in detail. States parties noted that the Meeting of Experts was helpful in promoting common understanding and effective action on the agenda items. They stressed the need for undertaking activities at the national and international levels on these two agenda items in accordance with the decision adopted by consensus in the Final Document of the Fifth Review Conference of the States Parties to the Convention (BWC/CONF.V/17) in the section dealing with decisions and recommendations.***

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

- a) ***infectious disease outbreaks can be contained and suppressed through early-detection, immediate response and co-operation and support at the national and international level;***
- b) ***strengthening and broadening national and international surveillance, detection, diagnosis and combating of infectious disease may support the object and purpose of the Convention;***

- c) *the primary responsibility for surveillance, detection, diagnosis and combating of infectious diseases rests with states parties, while the WHO, FAO and OIE have global responsibilities, within their mandates, in this regard. The respective structures, planning and activities of states parties and the WHO, FAO and OIE should be co-ordinated with and complement one another; [Reordered]*
- d) *scientific and technological developments have the potential to significantly improve disease surveillance and response.*
18. *The states parties consequently agreed on the value of:*
- a) *supporting the existing networks of relevant international organisations for the surveillance, detection, diagnosis and combating of infectious diseases and acting to strengthen the WHO, FAO and OIE programmes, within their mandates, for the continued development and strengthening of, and research into, rapid, effective and reliable activities for the surveillance, detection, diagnosis and combating of infectious diseases, including in cases of emergencies of international concern; [Reordered]*
- b) *improving, wherever possible, national and regional disease surveillance capabilities, and, if in a position to do so, assisting and encouraging, with the necessary agreement, other states parties to do the same; [Reordered]*
- c) *working to improve communication on disease surveillance, including with the WHO, FAO and OIE, and among states parties.*
19. *On the mandate to discuss, and promote common understanding and effective action on enhancing international capabilities for responding to, investigating and mitigating the effects of cases of alleged use of biological or toxin weapons or suspicious outbreaks of disease, the states parties recognised that:*
- a) *capabilities for responding to, investigating and mitigating the effects of cases of alleged use of biological or toxin weapons or suspicious outbreaks of disease **promote the object and purpose of the Convention;***
- b) *States parties' national preparedness and arrangements **substantially contribute to international capabilities** for responding to, investigating and mitigating the effects of cases of alleged use of biological or toxin weapons or suspicious outbreaks of disease;*
- c) *the Secretary-General's investigation mechanism, set out in A/44/561 and endorsed by the General Assembly in its resolution A/Res/45/57, represents **an international institutional mechanism** for investigating cases of alleged use of biological or toxin weapons.*
20. *The states parties consequently agreed on the value of:*
- a) *continuing to develop their own national capacities for response, investigation and mitigation, in cooperation with the relevant international and regional organisations, and, if in a position to do so, assisting and encouraging, with the necessary agreement, other states parties to do the same;*
- b) *the Sixth Review Conference considering, inter alia, the further development of current procedures for the provision of assistance, by those in a position to do so, to states parties in cases of alleged use of biological weapons or suspicious outbreaks of disease. [Reordered]*
21. *The states parties further considered that in pursuing the above understandings and actions, states parties could, according to their respective circumstances consider the considerations, lessons perspectives, recommendations, conclusions and proposals drawn from the presentations, statements, working papers and interventions made by delegations on the topics under discussion at the Meeting of Experts, as contained in the Annex II of the Report of the Meeting of Experts (BWC/MSP/2004/MX/3), as well as the synthesis of these considerations, lessons, perspectives, recommendations, conclusions and proposals contained in BWC/MSP/2004/L. 1, which are attached to this report as Annex II and III. **These annexes were not discussed or agreed upon and consequently have no status.***
22. *States parties are encouraged to inform the Sixth Review Conference of, inter alia, any actions, measures or other steps that they may have taken on the basis of the **discussions at the 2004 Meeting of Experts and of the outcome of the 2004 Meeting of States Parties** in order to facilitate the Sixth Review Conference's consideration of the work undertaken at the meeting in 2004 and of a decision on any further action in accordance with paragraph 18 (e) of the decision adopted at the Fifth Review Conference (BWC/CONF.V/17)."*
- The most significant deletion was of the subparagraph intended to have been included as part of paragraph 20, which in the initial version of the outcome paper would have read:
- b) *that consideration should be given to reviewing the Secretary General's mechanism for investigation of cases of alleged use of biological or toxin weapons and to invite the Secretary General to report to the Sixth Review Conference on any actions that may be taken in this regard on the basis of consideration by the United Nations General Assembly,*
- and was revised in the second version of the outcome paper to read:
- b) *consideration being given by the United Nations General Assembly to reviewing the Secretary General's mechanism for investigation of cases of alleged use of biological or toxin weapons, and the Sixth Review Conference considering, inter alia, any actions that may be taken in this regard, bearing in mind that any investigation of alleged use of biological or toxin weapons would be of direct relevance to violations of Article I of the Convention;*

This disagreement reflected the tension already evident from the statements made in the general debate regarding the relevance of the Meeting of States Parties of the BWC to the UN Secretary-General's investigation mechanism even though there was widespread agreement that the UN Secretary-General's mechanism needed reviewing and updating. It was consequently unlikely that there would be consensus regarding the suggestion in the Chairman's synthesis paper that *Recognising that the Secretary-General's investigation mechanism, set out in A/44/561 and endorsed by the General Assembly in its resolution A/Res/45/57, represents the only existing international institutional mechanism for investigating cases of alleged use of biological or toxin weapons, states parties authorise the Chairman to write on their behalf to the Secretary-General to request that he review and consider updating the investigation mechanism.* It follows that, in the absence of any specific language in the report of the Meeting of States Parties, it will depend on states parties to consider submitting an appropriate resolution to the First Committee of the General Assembly in autumn 2005. Given that the UK had submitted a working paper on this to the Meeting of Experts, there would be much to be said for the UK and South Africa submitting a joint resolution to the First Committee in autumn 2005.

The outcome of the Meeting of States Parties in 2004 was considerably more substantial than that of the 2003 Meeting. The structure of the substance setting out the elements that states parties recognized – the common understandings – and then setting out what the states parties agreed upon – the effective action – was a significant step forward. In addition, the clear linkage of the outcome in paragraph 22 to the Sixth Review Conference with its call for states parties to inform that Conference of *any actions, measures or other steps they may have taken* is a valuable linkage which should facilitate the work of the Sixth Review Conference in 2006.

In the final plenary session, the United Kingdom, as the Chairman of the meetings in 2005, circulated a letter to all states parties which shared some initial reflections on the subject for 2005, namely, *the content, promulgation, and adoption of codes of conduct for scientists*. An issue of particular relevance will be the purpose seen for any codes of conduct. Although such codes cannot in themselves prevent illegal work on BW by determined states or non-state actors, they can have a part to play in managing risk. It follows that codes may reinforce the international norm against BW and make access to relevant technology more difficult for those bent on misuse. But at the same time, states parties will also want to consider how to guard against codes of conduct constraining science unnecessarily. A further dimension will be the relative roles of the individual and the state party. The Convention does not specify individual responsibility, although Article IV does require national implementing legislation to be put in place by each State Party. This becomes important when there is talk of enforcing the norms/prohibitions through codes of conduct. Third, it is noteworthy that activities relevant to the BWC provisions could go much wider than the biological and medical sciences, for example involving chemists, physicists, engineers and so on. So terms such as “life sciences”, which frequently occur in these types of discussion, though well understood and therefore useful, can sometimes

be too narrow in scope and should be used carefully.

The UK then identified some seven questions that could be examined at the meetings in 2005:

- *How can we raise awareness of the BTWC provisions in the global scientific community and reinforce the responsibilities of scientists?*
- *Should under-graduate and post-graduate education programmes address the ethical and practical aspects of preventing the misuse of science? How can we encourage due consideration of the possible consequences of the misuse of research?*
- *How can we encourage universities, industry, research bodies and government to reflect BTWC issues in their own in-house codes of practice and operational frameworks? Might we consider the introduction of guidance or instructions into existing structures that deal with the safety and ethics of individual experiments and research?*
- *How can we promote the proper use of science-based activities and knowledge and encourage appropriate oversight of such work?*
- *Is it necessary to provide guidance on how to deal with research that throws up unexpected or unpredictable results of relevance to the BTWC prohibitions?*
- *How might we promote consideration among research and project funders of BTWC issues when considering proposals, eg, whether the research could be misused in the future and what steps might help prevent this?*
- *To whom or to what body might an individual turn if he/she suspects that someone else's conduct is in breach of BTWC prohibitions? What safeguards might there be for such individuals? And how might any malign accusations be filtered out?*

The UK also noted that there are other international actors currently considering codes of conduct in contexts which are in some cases more specific and in some cases more general than its own. It will be important to take account of such linked activities, but the UK's remit in 2005 is to examine these issues in the context of the BTWC and it is intended to focus discussion accordingly. The UK concluded by saying that it would write to states parties early next year to offer a suggested timetable and agenda for the Meeting of Experts in June 2005. In the meantime any comments, ideas or suggestions to enhance the preparations for work next year would be welcomed.

### **Reflections**

The atmosphere at the 2004 Meeting of States Parties was more positive than a year ago. It was particularly noticeable in the statements in the General Debate, as well as in some of the NGO statements and activities, that attention is increasingly being given to the Sixth Review Conference in 2006. There was useful recognition that the Review Conference needs to review the Convention in its entirety and that a Final Declaration that builds upon and extends the understandings agreed at previous Review Conferences is a key outcome to maintain the vitality of the Convention. The outcome of the Meeting of States Parties in 2004 was significantly better than that of the corresponding meeting in 2003. Not only was the substance incorporated into the final report but its structure and content were distinctly better. This

augurs well for the Meetings of Experts and of States Parties in 2005 addressing the topic of *the content, promulgation, and adoption of codes of conduct for scientists*.

At the Meeting of States Parties in December 2004 there were two statements in the General Debate made on behalf of a group of states parties – one by Malaysia on behalf of the NAM and Other States Parties, and the other by the Netherlands on behalf of the European Union together with Bulgaria, Romania, Turkey and Croatia as well as Albania, Bosnia & Herzegovina, the Former Yugoslav Republic of Macedonia, Serbia & Montenegro and the EFTA countries, Iceland and Liechtenstein. There was no statement on behalf of the Western Group – the last time there had been such a statement was at the resumption of the Fifth Review Conference in 2002 – or by the Eastern Group. The statement of the NAM was able to draw upon the political statement from the XIV Ministerial Meeting of the NAM in August 2004, whilst the EU statement reflected the political coherence of the EU and its associated states.

The NAM statement called for multilateral negotiations aimed at concluding a non-discriminatory legally binding agreement to strengthen the Convention; a point that was underlined by several of the NAM countries in their subsequent individual statements. The EU statement attached high priority to the reinforcement of the BWC which is the cornerstone of the efforts to prevent biological agents and toxins being developed as weapons and the EU remained committed to develop measures to verify compliance with the BWC.

It was also evident that the states parties at the Meeting of States Parties were aware of – and indeed the chairman had drawn attention in his opening remarks to – the report of the Secretary-General's *High Level Panel on Threats, Challenges and Change* which had been issued on the Thursday

prior to MSP/2004. This had made recommendations of direct relevance to the Convention and some were even relevant to the mandate for this year. Recommendation 27 that *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* was specifically quoted by Norway and alluded to by New Zealand.

Although there is clearly much to be considered before there are any decisions on whether to implement the recommendations, there is little doubt that future statements on behalf of the NAM and by individual NAM States will not miss any opportunity to cite recommendation 27 as being in support of the NAM position for multilateral negotiations of a legally binding instrument to strengthen the Convention. If no remedial action is taken, it seems probable that there could all too easily be a situation at the Sixth Review Conference that is a repeat of that at the Fifth Review Conference with the states parties **other** than the NAM Group being portrayed as those that have prevented progress. The requirement is for the EU as a coherent political group to devise a package of measures that will together strengthen the Convention that can attract broad support and, should consensus not be forthcoming, can be taken forward by a coalition of the willing on as wide an international basis as possible or perhaps on a regional basis in one or more regions. This would offer the prospect of a successful outcome to the Sixth Review Conference one way or another – either by consensus or by a coalition of the willing.

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

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## News Chronology

## August through October 2004

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*What follows is taken from issue 66 of the Harvard Sussex Program CBW Chronicle, which provides a fuller coverage of events during the period under report here, and also identifies the sources of information used for each record. All such sources are held in hard copy in the Sussex Harvard Information Bank, which is open to visitors by prior arrangement. For access to the Chronicle, or to the electronic CBW Events Database compiled from it, please apply to Julian Perry Robinson*

**1 August** *The (London) Mail on Sunday* reports that Chairman of the Joint Intelligence Committee John Scarlett tried “with breathtaking highhandedness” to “insert untruths” into a report by the US Iraq Survey Group (ISG) earlier this year [see 30 Mar]. Quoting “senior and credible sources” it states that on 8 March Scarlett sent a confidential e-mail to ISG head Charles Duelfer, inviting him to include in his report ten “golden nuggets”. These so-called ‘nuggets’ included allegations that Iraq had, or was developing, smallpox weapons; that it possessed mobile biological weapons laboratories; and that it possessed or was preparing to build a top-secret rail gun for use in nuclear weapons research. The paper quotes an unidentified ISG source as saying that all the information provided by Scarlett was already known to the ISG by January and that it was therefore “bizarre” that he tried to get such “nonsense” included in the report. Another unnamed source is quoted as saying that Duelfer went through each nugget in detail, however, experts in the ISG were eventually able to

convince him that inclusion of any such information would be dishonest, deceitful and eventually disastrous. The source says that in the end ninety-nine per cent of the ‘nuggets’ were discarded. I would have thought that after his problems with that JIC dossier, Scarlett might have learned his lessons, another source is quoted as saying.

The next day, a spokesman for the Prime Minister, not refuting that Scarlett had indeed sought to influence the content of the ISG report, says: “There is no question of the Government or any of its departments or agencies, and that includes the JIC and its then chairman John Scarlett, seeking to mislead the ISG.” The same day, John Scarlett assumes the post of Head of the UK Secret Intelligence Service, MI6.

Two days later, in a telephone interview with *The (London) Guardian*, Duelfer says: “What [the British] provided was not new information but elements of a previous report, which I decided were not relevant.”