

thirds majority of all its members for decisions on substance and simple majority for decisions on procedural matters.

²⁶ See Walter Krutzsch and Ralf Trapp, *A Commentary on the Chemical Weapons Convention*, Martinus Nijhoff Publishers, 1994, Index, p.537.

²⁷ The measures under Art. VIII, paragraph 36 are: Inform all States Parties – bring the issue to the attention of the Conference – make recommendations to the Conference regarding measures to redress the situation and to ensure compliance (Article XII) – inform, in serious and urgent cases, the UN General Assembly and the UN Security Council.

²⁸ OPCW document C-8/DEC.16 dated 24 October 2003.

²⁹ Documented in *The CBW Conventions Bulletin* no 64 (June 2004), pp12-13.

³⁰ This is confirmed by Resolution 1540, paragraph 5.

³¹ Nicolas Sims referred to the UK Chemical Weapons Act 1996: “Proponents of Section 37 were concerned to make it explicit,

beyond argument, that government service could never be invoked as an excuse for contravening the Act. They insisted that government officials, including defence scientists and members of the armed forces, as well as the politicians to whom they are answerable, should be bound by exactly the same obligations as the rest of the population”. He added: “This is a principle of comprehensiveness which ought to apply globally” and added examples from Australia and Canada. *Open Forum*, proceedings, p 15.

³² In his report of 3 Sept.1992 to the CD (CD/PV.635) on the agreed draft text of the CWC, the Chairman of the ad hoc Committee on Chemical Weapons read out the statement by the Australian representative on 6 August 1992, in which he stated: “They (members of the Australia Group) undertake to review, in the light of the implementation of the Convention, the measures that they take to prevent the spread of chemical substances and equipment for purposes contrary to the objectives of the Convention, with the aim of removing such measures for the benefit of States Parties to the Convention acting in full compliance with their obligations under the Convention.”

Report from Geneva

Review no 23

The Biological Weapons Convention Meeting of Experts

As reported in *Bulletin 66* (December 2004), the Meeting of the States Parties of the Biological and Toxin Weapons Convention (BWC) during 6-10 December 2004 looked ahead in the final plenary session to the topic identified for 2005:

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

Ambassador John Freeman of the United Kingdom circulated a letter to the states parties which shared some initial reflections on this subject. The letter also set out 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 Meeting of Experts to consider this topic was held in Geneva from 13 to 24 June 2005.

Preparations for the Meeting of Experts, 2005

During the spring of 2005, Ambassador John Freeman of the UK, as Chairman of the 2005 meetings, wrote a further letter to the representatives of the states parties to the BWC on 24 March. In this he said that he tended to the view that given the scope and character of the work this year on codes of conduct for scientists, it was necessary to arrange the work in June so that there is sufficient time to hear from all those considering the issue of codes of conduct. He made it clear that by this he meant “*States Parties; International Organisations; NGOs; and other organisations outside government (be it in academia, industry or science's professional bodies) whose work or interest is relevant, or could be impacted,*” by the discussions in Geneva. The term ‘stakeholders’ was used to cover these organizations for the purposes of the letter. He hoped that states parties

would agree that it would be beneficial to their discussion for them all to have the fullest possible picture of what already exists or is in the planning stage on codes of conduct. He also added that it would be necessary to ensure that time was allowed to cover all the aspects of the 2005 mandate, i.e. “content” and the issues surrounding “promulgation” and “adoption” of codes of conduct.

Ambassador Freeman said that he was keen to have as broad a base of organizations as possible, both in terms of addressing the scope of the work and in terms of geographical coverage, and he would therefore encourage states parties to inform him of any organizations or groups they believe should be included. He attached a preliminary list to his letter of some 17 such organizations of which he was already aware: World Health Organisation (WHO), Food and Agriculture Organisation (FAO), World Organisation for Animal Health (OIE), Organisation for the Prohibition of Chemical Weapons (OPCW), International Atomic Energy Agency (IAEA), UN Educational, Scientific and Cultural Organisation (UNESCO) – in particular the Commission on the Ethics of Scientific Knowledge and Technology (COMEST), Organisation for Economic Co-operation and Development (OECD), The InterAcademy Panel on International Issues (IAP), International Centre for Genetic Engineering and Biotechnology (ICGEB), International Union of Microbiological Societies, International Committee of the Red Cross (ICRC), International Society for Infectious Disease, International Council of Scientific Unions, International Federation of Associations for the Advancement of Science, International Union of Biochemistry and Molecular Biology, International Federation of Pharmaceutical Manufacturers & Associations, and World Medical Association (WMA). Ambassador Freeman said that he intended to approach representatives of these organizations and other relevant national or international organizations which were brought to his attention by States Parties or the Secretariat with a view to inviting them to brief the Meeting of Experts in June.

The letter also set out an indicative timetable for the meetings in June which proposed a mixture of ‘open’ sessions in which the ‘stakeholders’ would make presentations on work that they are doing related to the topic for 2005, and that these would be followed by working sessions in which the states parties would have follow-up discussions. Provision was included in the indicative time table for an informal NGO session on the morning of Friday 17 June.

In addition, Ambassador Freeman said in his letter that he had asked the secretariat to produce four information papers. These would be a paper summarising or listing existing codes of conduct that reference biological weapons; a paper summarising or listing codes of conduct relevant to the life sciences or biotechnology which do not reference biological weapons; a paper reviewing and analysing existing codes in other fields which might serve as models for the biological field; and a comprehensive list of organisations etc that might serve as sources of guidance.

There were four background papers: *Existing Codes of Conduct which Refer to Biological and Toxin Weapons* (10 pages), BWC/MSP/2005/MX/INF.1 — this and other official documents for MX/2005 are available at <http://www.opbw.org>; *Codes of Conduct Relevant to the Life Sciences or Biotechnology Which Do Not Refer to Biological and Toxin Weapons* (14 pages), BWC/MSP/2005/MX/

INF.2; *Review and Analysis of Relevant Elements of Existing Codes of Conduct in Other Fields* (20 pages), BWC/MSP/2005/MX/INF.3; and *Relevant Organisations, Associations, Professional Bodies and Institutions Which Might Serve as Sources of Guidance on the Formulation of Codes of Conduct and as Agents for Adopting and Promulgating Such Codes* (41 pages), BWC/MSP/2005/MX/INF.4. The papers were issued on 13 April 2005 (INF.1, 2 & 3) and on 27 April 2005 (INF.4) with summaries of the first three documents issued on 26 April 2005. The Secretariat are to be commended in producing these information papers in April some two months prior to MX/2005, as this enabled states parties to benefit from their availability – in contrast to the situation in 2004 when the information papers were issued less than a month before the start of MX/2004.

Meeting of Experts, 13 to 24 June 2005: Opening Plenary Session

The Meeting of Experts began on Monday 13 June 2005 in a plenary session where Ambassador John Freeman welcomed the representatives and experts from the States Parties. 82 States Parties participated in the Meeting of Experts – one less than in the corresponding 2004 Meeting of Experts – as eleven (Azerbaijan, Bolivia, Cambodia, Georgia, Iraq, Lithuania, Luxembourg, Mauritius, Nicaragua, Portugal, Singapore) participated whilst twelve (Albania, Bhutan, Bosnia and Herzegovina, Ghana, Iceland, Lebanon, Monaco, Mongolia, Oman, Senegal, Sri Lanka, Venezuela) did not. Three signatory States also participated: Egypt, Madagascar and Syrian Arabic Republic. One State, Israel, neither party or signatory to the Convention, participated as an observer. The Convention now has 155 States Parties and 16 Signatory States (BWC/MSP/2005/MX/INF.5 dated 21 June 2005) as the Republic of Moldova and Tajikistan had recently acceded. The United Nations, including UNDDA, UNIDIR and UNMOVIC, also attended the meeting – the participation of UNMOVIC was the first time that there was a seat in the room at a BWC meeting for UNMOVIC, or its predecessor, UNSCOM, although both UNSCOM and UNMOVIC had been included in the lists of participants for previous BWC meetings.

Representatives from eight Intergovernmental Organizations (FAO, ICGEB, ICRC, OECD, OPCW, UNESCO, WHO and OIE) participated as observers. In addition, at the invitation of the Chairman, and, as the final report stated, “in recognition of the special nature of the topic under consideration at this Meeting and without creating a precedent” twenty three scientific, professional, academic and industry bodies (AAAS, ABSA, AMA/CEJA, ASM, ABPI, Center for Deterrence of Biowarfare and Bioterrorism, Center for Biosecurity of the University of Pittsburgh Medical Center, CSIS, Det Norske Veritas, ICSU, Inter Academy Panel on International Issues, ICLS, IFPMA, IUPAB, IUBMB, IAS, Japanese Bioindustry Association, National Institute of Animal Health (Japan), Nature, NTI Global Health and Security Initiative, Royal Society (UK), Wellcome Trust (UK), and WMA) made presentations and participated in the open sessions “as guests of the Meeting of Experts.” Although the provisional programme of work (BWC/MSP/2005/MX/2) makes it clear that expert contributions were planned from ‘government science’, from ‘universities, funders, research

and publishers' and from 'industry', it was evident that the approach taken to achieve such participation varied enormously, with some invited as "guests of the Meeting of Experts" whilst others were included within delegations, and yet others — who had carried out original work of direct relevance — were only present as NGOs, and were thus unable to make salient points that could have found their way into the listing of issues. In addition, sixteen NGOs (BWPP, CACNP, Landau Network – Centro Volta, Monterey Institute, Orchard Network, Pax Christi International, Pôle Bernheim (Belgium), SIPRI, The London School of Economics and Political Science, The Sunshine Project, The US National Academies, University of Bradford, University of Exeter, University of Maryland, University of Sussex, and VERTIC) attended the open sessions of the Meeting. Over 500 individuals participated, which was more than at the Meeting of Experts in 2004, and included over 280 scientific and other experts from capitals and international agencies.

In the opening formalities, the provisional agenda (MX/1) and the provisional programme of work and indicative timetable (MX/2) were adopted, as were the rules of procedure of the Fifth Review Conference (as annexed to CONF.V/17) which would apply *mutatis mutandis*. The provisional programme of work included open sessions and closed sessions – the latter would be open to the delegations of states parties and the state signatories only. Provision was also made on the morning of Friday 17 June 2005 to suspend the formal session — as had been done at both the Fourth and Fifth Review Conferences and at the 2003 and 2004 Meetings — to allow a number of NGOs to make short statements in informal session.

An intervention was made by the representative of Iran, who assured the Chairman of the full cooperation of the Iranian delegation and went on to say that it was the view of Iran that the contributions proposed by observer organizations in the open sessions would not constitute any precedent for any other BWC meeting or for any other disarmament forum. The Chairman thanked Iran for its comment and went on to mention that the Secretariat had prepared four background papers (MX/INF.1, INF.2, INF.3 and INF.4) that had been made available to all delegations.

The Chairman recalled that in his letter of 24 March 2005 to States Parties he had invited them to advise him of any relevant national or international organizations with a view to his inviting them to brief the Meeting of Experts. He had consequently written to about 50 such organizations and about 30 had accepted his invitation. Some were individual experts who were participating as part of delegations whilst others would be participating as specialized agencies or guests of the Meeting of Experts.

In chairing the Meeting of Experts, Ambassador Freeman said that his personal objective would be to bear in mind the mandate from the Review Conference "to discuss and promote common understanding and effective action" on the topic for 2005 in order to prepare for the Meeting of States Parties in December 2005. His intention would be to follow the precedent established in previous years. He would seek to consult with delegations and regional groups and his aim would be to work as transparently as possible. He would be focusing on the subject and he believed that it might be helpful if attention was given to the seven questions that he had posed in his letter of December 2004 (reproduced in the Introduction above).

Eleven States Parties (Japan, China, Malaysia, Canada, United States, Iran, Cuba, India, Algeria, Republic of Korea, and Libya) then made statements before the end of the plenary session. A further statement was made by Nigeria during the afternoon session. This was significantly less than the 19 statements made at the start of MX/2004; it was notable that there was no statement by a member state of the EU or on behalf of the EU in contrast to MX/2004 when statements were made by Germany, UK and the Netherlands (on behalf of the EU).

Japan noted that this year marked the 30th anniversary of the entry into force of the BWC and the 80th anniversary of the signing of the 1925 Geneva Protocol and said that Japan supported the Joint Statement issued by the three co-Depositories in March. Japan encouraged all States Parties to take necessary national measures to implement the Convention and called upon all States Not Party to the BWC to join promptly. In regard to this year's topic, Japan said it was important in order to raise a sense of responsibility among scientists, increase public awareness and encourage debates over how to balance scientific and technological development and security concerns. Looking ahead to the Sixth Review Conference in 2006, Japan hoped that it "*will provide an opportunity to adopt further measures for strengthening the BWC against the backdrop of recent scientific and technological developments.*"

China said that the Meetings of Experts and States Parties are useful endeavours and important venues for strengthening the effectiveness of the Convention. In regard to codes of conduct, China noted that in a broad sense, the code of conduct is the joint social responsibility and strict criterion of conduct of the scientific community and the integration of scientific and humanistic spirits. The statement went on to point out that "*the international community and bioscience community care more and more about the responsibility and obligation of biological scientists in eliminating biological weapons threat, safeguarding world peace, security and stability.*" It concluded by noting that "*the profound changes in the international situation and the fast development of biotechnology have brought greater opportunities and challenges to the Convention than ever before.*"

Malaysia said that it was "*fully convinced that the establishment of an international code of conduct for those engaged in the life sciences would certainly make a significant and effective contribution in combating the present and future security threats of biological weapons and bioterrorism.*" They went on to say that it is important that all States Parties who are engaged in technology advances in the field of biological sciences strengthen their biosafety and biosecurity measures to ensure the safe handling of pathogenic microorganisms in their facilities. At the same time, Governments should also "*develop procedures and legislations that aimed to contain the movement and to minimize the risk of biological agent falling into the hand of irresponsible individuals for deliberate criminal acts.*"

Canada said that codes of conduct are an excellent way to inform and educate scientists, industrialists, academics, policy

makers and others who are engaged in an area of technology that is, by its very nature, dual use. Nevertheless, it is *“important to remember for all the usefulness of codes that they are not a replacement for a State Party’s Article IV obligations to ‘take any necessary measures to prohibit and prevent...’”* However, codes can offer a very useful complementary function to national legislation. The statement concluded by noting that this year is the last of the intersessional process leading up to the Sixth Review Conference in 2006 and that *“Canada considers that it is timely for all of us to begin thinking about its preparation.”* Implementation of the Convention must include the assurance that we are all in full compliance with our current legal and political obligations under the BTWC. In addition, Canada urged all States Parties to make every possible effort to complete their annual Confidence Building Measures submission in as thorough and timely a manner as possible.

The **United States** said that the 2003-2005 Work Program has, to date, been extremely constructive as *“it has provided one of the largest-ever international gatherings of experts on potential biological weapons-related activities and created renewed awareness of the importance of effective international measures, and how such measures can work in conjunction with worldwide efforts to stem the threat of biological weapons.”* The US hoped that the discussion and exchanges at MX/2005 will *“help to generate a greater understanding of emerging codes of conduct, their role in reinforcing, and in some cases personalizing, the norm against biological and toxin weapons, and provide an impetus to efforts promoting scientists’ professional responsibilities.”* The statement went on to say that *“I’ve no doubt that our upcoming discussions will also amply demonstrate that there is no ‘one size fits all’ approach to codes of conduct. A universal code of conduct is not, in our view, feasible.”* The statement concluded by listing five presentations to be made by the US government and then, after noting that *“a number of United States based non-government experts have chosen to present their views which are not representative of the views of the USG”*, listing ten such groups: AMA, Center for Biosecurity, CSIS, CBACI/IISS, NTI, ASM, USC Marshall School of Business, AAAS, Center for the Deterrence of Biowarfare and Bioterrorism at the University of Louisville, ABSA. These NGOs were thus present as Guests of the Meeting of Experts whilst other US-based NGOs participated as NGOs (listed earlier).

Iran noted that the 2005 set of meetings is the third and last part of the process established by the resumed Fifth Review Conference in 2002 *“in order to help keep the important issue of strengthening the implementation of the Convention in the multilateral framework.”* Iran had *“concerns over the fate of the work carried out by the Ad Hoc Group negotiating the Protocol strengthening the implementation of the BTWC. We were also unsatisfied with the selection of certain issues relevant to the Convention while remaining silent or even negligent on some other aspects of high importance to mainly developing States Parties.”* The statement went on to say that *“We still believe that the effective strengthening of the implementation of the BTWC is only possible through the adoption of a comprehensive, multilaterally negotiated legally*

binding international instrument.” It then said that the 2003 and 2004 meetings provided an opportunity for experts from States Parties to exchange views and experiences and get to know the best practices on the four issues assigned to those meetings and that Iran would participate likewise in 2005. Iran emphasized the importance of having a clear common understanding of the mandate and defining the limits of the discussion. Iran went on to point out that any conclusions or results are to be reached by consensus and that it is left to the 2006 Review Conference to consider the work of these meetings and decide on further action required.

Cuba expressed its concern about the absence of a legally binding instrument to strengthen the Convention and noted that, whilst codes of conduct could be beneficial effective, strengthening of the Convention would come only through multilateral negotiations and the completion of a legally binding instrument. Insofar as codes of conduct for scientists are concerned, it would be up to each country to decide what should be done, as there should not be a universal recipe for a code of conduct since it was impossible for poor countries to implement a pattern adopted by developed countries. The conclusion of MX/2005 should be a factual report, as there is no mandate for any negotiations. Looking ahead to the Sixth Review Conference in 2006, this should not be limited to a follow-up of the meetings in 2003, 2004 and 2005 as the Review Conference has a far broader mandate and needs to address how to strengthen the Convention in an integrated fashion.

India recognized that *“recent advances in bio-sciences, including genetic engineering, biotechnology and information and communication technologies offer novel ways of manipulating basic life processes and can possibly be misused, deliberately or even unintentionally.”* India went on to say that *“The States Parties, therefore, have the primary responsibility, in order to meet the obligations undertaken by them under the Convention, to ensure that the research and development work in bio-sciences and biotechnology, conducted by scientists working in public institutions and private enterprises, do not contribute to proliferation of technologies, materials or equipment”* that may enable biological weapons. Those who *“conduct, fund, administer, and regulate research and development work in bio-medical sciences need to be made aware of their responsibilities to assure that they will use their knowledge and skill for the advancement of human welfare and will not engage in activities contrary to the obligations undertaken by the States Parties under the Convention.”*

Algeria said that the risk of vertical and horizontal proliferation of biological weapons is a genuine threat to peace and security. The biological threat is becoming more urgent, requiring coordinated action and a collective response. The Convention is a useful and effective tool to counter these challenges. However, it does not yet have the necessary verification mechanism that would guarantee its effective implementation. Although the annual meetings have been very useful, these have not been an alternative to the strengthening of the Convention through a legally binding verification instrument. Algeria urged the States Parties to seize the opportunity at the 2006 Review Conference to reinstate the negotiations of a legally binding instrument into which the States Parties have

already invested some seven years of effort. Algeria noted that the Secretary-General's High Level Panel had urged the States parties without delay to resume negotiations of a credible verification protocol and that the biotechnology sector should be invited to participate actively. Finally, in regard to codes of conduct, Algeria considered that there would be benefit in a matrix of codes.

The Republic of Korea said that the proliferation of biological weapons is a serious issue affecting the security of the international community as a whole. They went on to say that the advance of state-of-the-art biotechnology and of the life sciences – and accordingly the widespread availability of dual-use technology – have “*rendered it increasingly difficult to make a clear distinction between the peaceful use of microorganisms permitted in the BWC and the military use prohibited by the Convention. There is, indeed, a greater risk that potential proliferators will take advantage of those loopholes.*” Korea welcomed UN SCR 1540 which clearly outlines the obligations each country should take to counter proliferation of WMD by non-State actors. This, together with the 2004 G-8 Action Plan on Non-Proliferation should help us to focus on our tasks during the next two weeks. Korea concluded by saying that it believes that the universal adoption of codes of conduct, codes of practice or codes of ethics by all related sectors, such as biotechnology and the life sciences, will “*provide very concrete and solid ground from which useful best practices can emerge.*”

Libya recalled the efforts that had been made to negotiate a legally binding instrument to implement all Articles of the Convention, as without such an instrument it was difficult to verify that there was no non-compliance with the Convention. Libya considered that the best way to enhance the Convention was through a legally binding instrument. The statement went on to outline a number of measures that had been taken, frequently with the UK and the US, to show Libya's compliance with the Convention and its good intentions.

Although this concluded the statements by States Parties made in the morning session, there was a further statement made at the start of the Monday afternoon session by Nigeria.

Nigeria said that it is committed to the full implementation of the BTWC. Nigeria considered that a code of conduct for scientists is absolutely necessary. Recent events in various parts of the globe have shown that “*there is a need to establish an international code of conduct for those engaged in life sciences as part of efforts to prevent present and future threats from biological weapons and bioterrorism*”. The Code should lay out standards internationally for work relevant to the Convention.

Intergovernmental Organization Presentations

In the afternoon of Monday 13 June 2005 seven IGOs – UNESCO, ICGEB, ICRC, OECD, OPCW, FAO and OIE – made the following presentations, giving an overview of the relevant activities of these organizations:

- UNESCO, *Code of Conduct for Scientists*
- ICGEB, *Building Blocks for a Code of Conduct for Scientists, in relation to the Safe and Ethical Use of*

Biological Sciences

- ICRC, *Preventing Hostile Use of Life Sciences: Connecting Law and Ethics to Best Practice*
- OECD, *The Organisation for Economic Co-operation and Development*
- OPCW, *OPCW Activities and Perspectives on the Content, Promulgation and Adoption of Codes of Conduct for Scientists*
- FAO, *Consideration of the Content, Promulgation, and Adoption of Codes of Conduct for Scientists*
- OIE, *Consideration of the Content, Promulgation, and Adoption of Codes of Conduct for Scientists*

These presentations are available at <http://www.opbw.org>

NGO Activities

As already noted, the opening plenary session agreed that non-governmental organizations (NGOs) could make short statements in informal session on the morning of Friday 17 June 2005. Short 6 to 8 minute statements were made by the following NGOs:

- Malcolm R. Dando, Department of Peace Studies, University of Bradford
- Elisa Harris, Center for International and Security Studies at Maryland (CISSM)
- Alan Pearson, Scientists Working Group on CBW, Center for Arms Control and Non-Proliferation, Washington DC
- Paul Lansu, Pax Christi International
- David Atwood, Quaker United Nations Office on behalf of the International Network of Engineers and Scientists for Global Responsibility (INES)
- Jean Pascal Zanders, BioWeapons Prevention Project (BWPP)
- Richard Guthrie, Stockholm International Peace Research Institute (SIPRI)

As at the Fourth and Fifth Review Conferences and at the 2003 and 2004 Meetings, 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 which, with simultaneous translation into the six official UN languages, enabled the NGOs to communicate their views to all present.

There were a series of lunchtime seminars throughout the Meeting of Experts:

- **Monday 13 June 2005** The University of Bradford, Department of Peace Studies, in conjunction with the Quaker United Nations Office Geneva, made presentations on two Bradford Briefing Papers: No. 16, *Codes of Conduct for the Life Sciences: Some Insights from UK Academia*; and No. 17, *Effective Action to Strengthen the BTWC Regime: The Impact of Dual Use Controls on UK Science*, and then on five Review Conference Papers: No. 10, *Preparing for the BTWC Sixth Review Conference in 2006*; No. 11, *What Would Be a Successful Outcome for the BTWC Sixth Review Conference in 2006 ?*; No. 12, *Remedies for the Institutional Deficit of the BTWC: Proposals for the Sixth Review Conference*; No. 13, *Achieving Effective*

Action on Universality and National Implementation: The CWC Experience; and No. 14, *The UN Secretary-General's High Level Panel: Biological Weapons Issues*. All these papers are available at <http://www.brad.ac.uk/acad/sbtwc>.

- **Tuesday 14 June 2005** The BioWeapons Prevention Project made a launch of Phase 1 of the BioWeapons Monitor, a civil society initiative to track the compliance of governments and other entities with the 1972 Biological and Toxin Weapons Convention. A demonstration was made of an online searchable database. The Bioweapons Monitor is online at <http://www.bwpp.org/bwm/>.
- **Wednesday 15 June 2005** The Royal Society (UK) held a seminar entitled *Towards Effective Codes of Conduct* which was chaired by Professor Julia Higgins, FRS, Vice President and Foreign Secretary of the Royal Society, with short presentations by Brian Rappert (University of Essex), Vivienne Nathanson (British Medical Association) and Elisa Harris (Center for International and Security Studies at Maryland)
- **Monday 20 June 2005** A seminar entitled *Codes of Conduct: Critical, Technical and Scientific Issues* was chaired by Professor Malcolm Dando of the University of Bradford, with short presentations by Professor Ronald M Atlas, Co-director of the Centre for the Deterrence of Bio-warfare and Bio-terrorism at the University of Louisville, Kentucky, and Professor Alastair Hay of the University of Leeds.
- **Wednesday 22 June 2005** A seminar organized by the Universities of Bradford and of Exeter was chaired by Patricia Lewis, Director of UNIDIR, with short presentations by Brian Rappert of the University of Essex, Malcolm Dando of the University of Bradford and Jean-Pascal Zanders of the BioWeapons Prevention Project.

Outcome of the Meeting of Experts

The Meeting of Experts met in both open and closed sessions during the period from 13 to 24 June 2005 in accordance with the programme of work (BWC/MSP/2005/MX/2). One statement was made by a representative of a State Party on the afternoon of Monday 13 June. On 14 June, two open sessions were devoted to consideration of government science, during which the Meeting heard a total of 20 presentations and statements from States Parties. The three remaining open sessions, held between 15 and 20 June, were devoted to expert contributions, including from universities, funders, research, publishers, industry and professional bodies. During these sessions, the Meeting heard 10 presentations and statements from States Parties and 20 presentations and statements from guests of the Meeting. It was notable that, although the Chairman invited questions after each of the presentations, there were very few. This was especially evident following the IGO presentations on the afternoon of Monday 13 June, although the situation improved following the presentations on Tuesday when some provoked a lively discussion whilst others attracted no questions.

Statements were made by States Parties on the morning of Monday 13 June, followed in the afternoon by a further

statement by one State Party, then the IGO presentations and finally one presentation on government science by a State Party whose representative had not been able to be present on Tuesday 14 June when the morning and afternoon sessions had been devoted to government science. Wednesday 15 June saw presentations by representatives from universities, funders, research and publishers, and Thursday 16 June saw presentations from representatives from industry. Friday 17 June saw the informal session with short statements from NGOs. The second week started on Monday 20 June with presentations from professional bodies, and then on Tuesday and Wednesday working sessions addressing first the content of codes of conduct followed by issues relating to the promulgation and adoption of codes of conduct. The final couple of days were to consider the draft factual report and then to adopt this.

By the end of the Meeting of Experts, 35 Working Papers had been submitted by 15 States Parties well under half of the 83 Working Papers submitted by 21 States Parties to the corresponding 2004 Meeting of Experts and just over half of the 66 Working Papers submitted to the 2003 Meeting of Experts. The reduced number of Working Papers probably reflected the fact that only a single topic is being considered in 2005. In 2005, the Working Papers were submitted by Canada (7), Germany (6), Australia (4), UK (4), Cuba (2), Japan (2) Russian Federation (2), and Argentina (1), China (1), India (1), Indonesia (1), Iran (1), Italy (1), Korea (1), and South Africa (1). In contrast to 2004, there were no Working Papers from France, Hungary, Netherlands, Norway, Poland, Spain, Sweden, Thailand and the Ukraine, although in 2005, there were Working Papers from Argentina, Indonesia and Korea. In addition, three MISC papers were circulated: Misc 2. by Argentina entitled *Normas de Ética de la Asociación Física Argentina*, Misc 3. by Iran entitled *The Avicenna Prize for Ethics in Science*, and Misc 4. by the USA entitled *Presentations submitted by the United States*.

The Working Papers all address aspects of the topic of codes of conduct. As at the Meeting of Experts in 2004, at the end of the first week on Friday 17 June 2005, the Secretariat made available to delegations a tabulation prepared by the Chairman providing a chronological listing of “*considerations, lessons, perspectives, recommendations, conclusions and proposals drawn from the presentations, statements, working papers and interventions on the topics under discussion at the meeting*” relating to Agenda Item 5 “*Consideration of the content, promulgation, and adoption of codes of conduct for scientists*”. The tabulation separates out the separate morning and afternoon sessions throughout the first four days – 13 to 16 June 2005 — and includes as well a tabulation of points drawn from the Working Papers up to WP. 23 (with points from two unnumbered WPs for Bulgaria and South Africa).

In the second week, on the penultimate day, Thursday 23 June 2005, a clustered tabulation prepared by the Chairman of “*considerations, lessons, perspectives, recommendations, conclusions and proposals drawn from the presentations, statements, working papers and interventions on the topics under discussion at the meeting*” relating to Agenda Item 5 “*Consideration of the content, promulgation, and adoption of codes of conduct for scientists*” was provided to delegations. As at MX/2004, this was annexed to the report of the Meeting of Experts as Annex

II. The paragraph in the report relating to this states that:

The Chairman, under his own responsibility and initiative, prepared a paper listing considerations, lessons, perspectives, recommendations, conclusions and proposals drawn from the presentations, statements, working papers and interventions on the topics under discussion at the Meeting. The Meeting of Experts noted that this paper had no status; that it had not been discussed; that it could not be considered as being complete; that the appearance of any consideration, lesson, perspective, recommendation, conclusion or proposal in the paper did not in any way indicate or imply that States Parties agreed with it; and that it should not necessarily form a basis for future deliberations. 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 2005 and in its consideration of how best to "discuss, and promote common understanding and effective action on" the topic in accordance with the decision of the Fifth Review Conference.

This was closely similar to the corresponding paragraph which had appeared in the report of MX/2004, although with one change in that the paragraph in the report of MX/2004 in the first sentence had included the words "made by delegations" after the word "interventions". This change accurately reflects the inclusion in the listing of points arising from presentations made by international organizations and by the guests of the meeting.

An analysis of the States Parties, IGOs and Guests of the Meeting who had put forward items listed in the drafts of Annex II is shown in the Table alongside.

This shows that some 28 States Parties out of the 82 participating in the Meeting of Experts were identified with 369 items listed in the Annex. 16 States Parties put forward 10 or more items: US (54), Australia (50), China (30), Japan (30), Canada (24), Iran (17), UK (17), Italy (16), Cuba (13), Germany (13), Nigeria (13), Pakistan (13), Argentina (12), Russian Federation (12), South Africa (12) and France (11). Three of the eight IGOs were identified with 7 items and 17 of the 23 Guests of the Meeting were identified with 59 items.

Although the report of MX/2004 had included as a useful innovation in its Annex III to the factual report of a draft agenda and indicative schedule for the Meeting of States Parties to be held in Geneva in December 2004, this was regrettably not continued in 2005. As was noted in the report on MX/2004 in the *CBWCB 65*, the schedule in Annex III showed a General Debate on Monday 6 December, followed by an informal session on the morning of Tuesday 7 December for statements by NGOs. Whilst the agenda and the programme of work would be formally adopted at the opening of the Meeting of States Parties, the indicative schedule provided a valuable opportunity to plan for participation at the Meeting of States Parties in December 2004.

Towards the end of the Meeting of Experts, the UK, on behalf of the three co-Depositaries, announced that the Preparatory Committee for the Sixth Review Conference would meet in Geneva during the week commencing 24 April 2006. It also became known during the Meeting of Experts that the nomination by the NAM of the President for the Sixth Review Conference would be Ambassador Mahood Khan of Pakistan.

	Agenda Item 5 (Codes of Conduct) (Annex II MX/3)
State Party	Number of items
Algeria	6
Argentina	12
Australia	50
Bulgaria	2
Canada	24
China	30
Cuba	13
France	11
Georgia	1
Germany	13
India	7
Indonesia	4
Iran	17
Italy	16
Japan	30
Korea	3
Libya	4
Malaysia	6
Nigeria	13
Norway	1
Pakistan	13
Poland	2
Russian Federation	12
South Africa	12
Sweden	7
Ukraine	3
UK	17
USA	54
Number of SPs	28
Number of Issues	369

IGOs	
ICGEB	5
OECD	1
UNESCO	1
Number of IGOs	3
Number of Issues	7
Guests of the Meeting	
AAAS	12
ABPI	4
ABSA	1
AMA	1
CDBB	3
Center for Biosecurity, University of Pittsburgh	3
CSIS	1
Det Norske Veritas	6
Inter Academy Panel	6
ICLS	1
Islamic WAS	2
IUBMB	3
Japan, National Institute of Animal Health	1
Japanese Bioindustries Association	1
NTI	4
The Royal Society	7
WMA	3
Number of Guests of the Meeting	17
Number of issues	59

Reflections

The Meeting of Experts in June 2005 followed the pattern that was established at the corresponding Meeting of Experts in 2004. The background papers in 2005 were available two months prior to MX/2005 which was a significant step forward on which the Chairman and the Secretariat are to be congratulated. The chairman also succeeded in significantly extending the participation in MX/2005 through the invitation of 23 “guests of the Meeting of Experts” which increased the expert involvement in the consideration of the topic of “*the content, promulgation, and adoption of codes of conduct for scientists*”. It is a step forward to be able to include items identified in these presentations in the Annex to the report of the list of “*considerations, lessons, perspectives, recommendations, conclusions and proposals drawn from the presentations, statements, working papers and interventions on the topics under discussion at the meeting*” prepared by the Chairman. However, although the provisional programme of work (BWC/MSP/2005/MX/2) made it clear that expert contributions were planned from ‘government science’, from ‘universities, funders, research and publishers’ and from ‘industry’, it was evident that the approach taken to achieve such participation varied enormously with some such experts invited as “guests of the Meeting of Experts”, whilst other such experts were included within delegations, and yet other experts who had carried out original work of direct relevance, were only present as NGOs, and were thus unable to make salient points that could have found their way into the listing of issues.

It is evident that in general the Chairman, Ambassador John Freeman of the UK, is following the precedent that had been set in 2004. Consequently, it seems probable that the next step will be, as in 2004, the preparation of a synthesis paper to help the States Parties prepare for the Meeting of States Parties on 5 to 9 December 2005. It is hoped that, as in 2004, any such synthesis will appear at least a couple of months before the Meeting of the States Parties. There is much to be said for such a synthesis appearing in September 2005, as this will then give States Parties adequate time to consider it before the Meeting of States Parties in December.

In regard to the substance of the topic “*the content, promulgation, and adoption of codes of conduct for scientists*”, there appears to be recognition of the value of a matrix of codes comprising an overarching set of moral and ethical principles which might have wide applicability, a code of conduct which could give guidance and, at the more detailed level, an extension to an existing national code of practice which might set out steps that need to be taken as a regular process when any new work is being considered. There also appears to be widespread recognition that education and awareness-raising will be an essential part if any codes are to be effective. It is also recognized that any code should apply to all those engaged in all activities in the life sciences. Furthermore, it was recognized that codes could usefully complement, but not be a substitute for, national implementation legislation

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