

Strengthening the Biological Weapons Convention

Review Conference Paper No 12

Remedies for the Institutional Deficit of the BTWC: Proposals for the Sixth Review Conference

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REMEDIES FOR THE INSTITUTIONAL DEFICIT OF THE BTWC: PROPOSALS FOR THE SIXTH REVIEW CONFERENCE*

by Nicholas A Sims[†]

Introduction

1. The BTWC's institutional deficit has been long remarked¹. Institutions are needed not for their own sake, or for organisational neatness, but for practical reasons. They are needed for the performance of functions on behalf of the BTWC's States Parties which are best performed collectively; for ensuring that the BTWC's condition as a treaty regime is more regularly monitored and promoted than quinquennial Review Conferences alone can ever hope to do; for keeping track of new scientific and technological developments which pose a threat to the treaty regime; and for solving problems as they arise.

2. Jez Littlewood in his definitive account of the negotiations on the legally binding instrument to strengthen the effectiveness and improve the implementation of the Convention traces proposals for remedying the BTWC's institutional deficit through the early Review Conferences and the near-miss of 27 September 1991², when proposals for a two-person secretariat support unit collapsed, to the shaping of a prospective Organization for the Prohibition of Biological Weapons (OPBW) by the Ad Hoc Group working on the legally binding instrument. It is the fullest account of this subject yet written and it constitutes an invaluable resource from which to draw ideas for the future.³

3. What the BTWC needs in the longer term is still an OPBW. But for the years immediately ahead some less ambitious proposals must suffice. They will be shaped by everyone's expectations of what kind of event the Sixth Review Conference will prove to be.

4. The Sixth Review Conference should mark the confluence of two streams of BTWC development: the older-established stream of cumulative text, carrying forward all the reaffirmations, extended understandings, definitions and procedures elaborated by consensus at successive Review Conferences between 1980 and 1996, and the newer stream deriving

* This Review Conference Paper is developed from a paper presented at the 21st Workshop of the Pugwash Study Group on the Implementation of the Chemical and Biological Weapons Conventions: *The BWC New Process and the Sixth Review Conference* held in Geneva, Switzerland, 4-5 December 2004.

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¹ Leonard Beaton (1929-1971), one of the earliest supporters of the UK initiative which led to the BTWC, warned that "it is clear that a general [CBW] convention must be backed up by continuous definition and a serious administration." Leonard Beaton, *The Reform of Power: A Proposal for an International Security System*, London: Chatto & Windus, 1972, p.197. Recognition of the specific institutional deficit in the BTWC increased in the 1980s.

² The final day of the Third Review Conference, when proposals for a two-person secretariat support unit for the newly enhanced and expanded programme of agreed CBMs collapsed. These proposals were the most widely supported, as well as the most inexpensive, of all attempts to remedy the institutional deficit. Consequently their failure at a late stage was the subject of much recrimination at the time and later: see Jez Littlewood, *The Biological Weapons Convention: A Failed Revolution*, Aldershot, UK: Ashgate, 2005, p.191 and p.198, note 16.

³ Jez Littlewood, *The Biological Weapons Convention: A Failed Revolution*, Aldershot, UK: Ashgate, 2005, Chapter 8 'The Organization'.

from the Meetings of Experts and Meetings of States Parties of 2003-2005 held within the Inter Review Conference process mandated by the Fifth Review Conference.

5. Any Final Declaration which can be adopted in 2006 will be more different from the Final Declaration of 1996 than that of 1996 was from 1991, or 1991 from 1986, or 1986 from 1980. This is not just because of the ten years' lapse of time between 1996 and 2006 (instead of the customary five) but also because of the debacle of 2001-02 for the BTWC and the subsequent Inter Review Conference process from which common understandings and effective actions are supposed to flow, ready to be given further consideration and decisions reached on further action at the Review Conference in 2006.

6. This Review Conference Paper recognizes that what the BTWC needs in the longer term, to remedy its institutional deficit, is an OPBW. But, as noted above, for the years immediately following the Sixth Review Conference some less ambitious proposals must suffice. These might comprise an annual meeting of States Parties, or an open-ended meeting of their Bureau, supported by a Scientific Advisory Panel and a permanent Secretariat. All would derive their authority from the Sixth Review Conference. Proposals for their scope and mandate will need careful preparation between now and 2006⁴.

Proposals

7. It would be prudent to seek to achieve the most from the Inter Review Conference process, however meagre its achievements between 2003 and 2005. The outcome of the Meeting of the States Parties in 2004 is encouraging in that the language in its report⁵ that:

23. 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 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/17).

provides a clear linkage to consideration by the Sixth Review Conference and decisions on further action. This may lead to a new emphasis on capacity-building and mutual assistance to be carried forward, although this is by no means certain. In addition, there might also be a place for an Annual Meeting of States Parties – albeit suitably adapted so as to place it on a quite different basis from that of 2003-2005 – perhaps analogous to that of the annual Conference of the States Parties to the Chemical Weapons Conference.

8. A certain evolution can already be detected. Within the Inter Review Conference process each Meeting of States Parties, like the Meeting of Experts which precedes it, is confined to

⁴ The importance of starting to prepare now for the Sixth Review Conference is stressed in Graham S. Pearson & Nicholas A. Sims, *Preparing for the BTWC Sixth Review Conference in 2006*, University of Bradford, Department of Peace Studies, Review Conference Paper No. 10, February 2005. Available at <http://www.brad.ac.uk/acad/sbtwc>

⁵ United Nations, Meeting of the States Parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, Second Meeting, Geneva, 6 – 10 December 2004, *Report of the Meeting of States Parties*, BWC/MSP/2004/3, 14 December 2004. Available at <http://www.opbw.org>

particular topics: two in 2003, two in 2004, one in 2005. Its agenda and to a large extent its range of possible outcomes are constrained by the decision of the Fifth Review Conference from November 2002⁶. The decision in paragraph 18 stated that “the Conference decided (a) To hold three annual meetings ...”. This appeared to reflect the terminology in the language tabled by the United States in the final hours of the December 2001 session of the Fifth Review Conference that led to the suspension of that Review Conference and which did indeed refer to annual meetings of the States Parties⁷:

"1. The Conference decides, beginning in November 2002, that States Parties will meet annually between the Fifth Review Conference and the Sixth Review Conference to

(a) consider and assess progress by States Parties in implementing the new measures adopted at the Fifth Review Conference; and

(b) consider new measures or mechanisms for effectively strengthening the BWC

2. The Conference decides that an Expert Group may meet, following each annual meeting of the States Parties if agreed at the annual meeting. The Experts group will examine matters as directed by the States Parties at the preceding annual meeting. The Experts Group will not negotiate measures, but may provide a report, adopted by consensus, to the States Parties on matters examined.

9. Consequently, it was not surprising that some States Parties began at the first Meeting of States Parties on 10 November 2003 to call the event 'the Annual Meeting of States Parties'; and a few went further and seized the opportunity to push the limits of the agenda by expressing their views on the state of the Convention as a whole. Brazil, for example, repeated themes it had presented at the opening session of the Meeting of Experts on 18 August 2003. At the opening session of the Meeting of States Parties, it stated⁸ (inter alia):

The regime to prevent biological weapons is based on a set of reciprocal obligations negotiated by the States Parties to the BTWC.

We should take fully into account that countries signed the BTWC as an integrated group of fifteen articles covering the concerns and objectives of States Parties.

These include, inter alia, the issues of disarmament, non-proliferation, and biodefense, as well as the need to ensure access to the peaceful uses of biology,

⁶ United Nations, Fifth Review Conference of the States Parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, Geneva, 19 November – 7 December 2001 and 11 – 22 November 2002, *Final Document*, BWC/CONF. V/17, Geneva 2002, paragraph 18. Available at <http://www.opbw.org>

⁷ Graham S. Pearson, *The Biological and Toxin Weapons Convention*, Report from Geneva, Quarterly Review no 17, *CBW Conventions Bulletin No.54*, December 2001. Available at <http://www.sussex.ac.uk/Units/spru/hsp/pdfbulletin.html>

⁸ Statement by Brazil, in United Nations, Meeting of the States Parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, Geneva, First Meeting 10 -- 14 November 2003, *Report of the Meeting of States Parties*, Volume II, Annex II, Statements, Presentations and Contributions made available to the Chairman, BWC/MSP/2003/4 (Vol.II), 26 November 2003, pages 66-67. Available at <http://www.opbw.org>

including biotechnology, scientific and technological cooperation, and humanitarian assistance...

...no selective implementation of the BTWC is viable, nor should it be allowed." (4)

10. The statements made⁹ during the General Debate/Discussion on the opening day of MSP/2003 on 10 November 2003 shows some movement by delegations in the direction of treating the occasion as an 'Annual Meeting of States Parties' with an implicitly BTWC-wide agenda, although admittedly most delegations on this evidence confined themselves strictly to the two agenda topics of 2003 as the decision of the Fifth Review Conference establishing the Inter Review Conference process had decreed.

11. In the statements made at the opening plenary session¹⁰ of the Meeting of States Parties on 6 December 2004 there were two references to "*the Annual Meeting*" (Brazil and Russia) but it is also possible to see signs of a trend towards acceptance of a more established role for this annual event within the life of the BTWC in the title "*the Second Meeting of States Parties*" used by Iran, Morocco and the Republic of Korea. More significant still is the title "*Conference of States Parties*" used by Italy, Saudi Arabia and Argentina.

12. Ambassador Carlo Trezza introduced his account of Italy's contribution to the Cooperative Threat Reduction programme with the words:

"I take the opportunity of this Conference to draw for the first time the attention of the Conference of the States Parties of the Biological Weapons on this issue"

and later in his statement referred to

"the Conference of States Parties of the BWC."

The representative of Saudi Arabia, Naif bin Bandar al Sudairy, referred in both the title and the text of his statement to the "*Conference of States Parties to the Convention on Prohibition of Biological Weapons*" and in the body of the text the words "*this important conference*" and "*our conference*" are used. For Argentina, Minister Marcelo Valle Fonrouge referred to "*La Conferencia de Estados Partes de la Convencion sobre la prohibicion de las armas biologicas*".

13. The use of words so closely associated with the title of the plenary body in the Chemical Weapons Convention (CWC), which meets in regular session every year and in special session as necessary, is at least suggestive of a readiness to think in terms of a plenary body for the BTWC equivalent to the annual Conference of the States Parties to the CWC and meeting at approximately the same frequency.

⁹ United Nations, Meeting of the States Parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, Geneva, First Meeting 10 -- 14 November 2003, *Report of the Meeting of States Parties*, Volume II, Annex II, Statements, Presentations and Contributions made available to the Chairman, BWC/MSP/2003/4 (Vol.II), 26 November 2003, pages 6-81. Available at <http://www.opbw.org>

¹⁰ The statements made at the opening plenary session of MSP/2004 on 6 December 2004 are available at <http://www.opbw.org>

14. Analysis of the statements made on 6 December 2004 also shows that more States Parties than in 2003 used the occasion to offer general observations on the future of the BTWC. Several States Parties, as before, stuck closely to the two agenda items prescribed for the 2004 Meeting of States Parties. Examples are the statements of the United States, United Kingdom, China, Indonesia, Republic of Korea and Switzerland. But others ranged beyond the confines of such a narrowly defined agenda.

15. Nigeria, for example, observed that *"the BTWC has no solid foundation and requires a lot of work in terms of installing the necessary institutional framework and mechanism"*; while Brazil used the opportunity to restate its insistence on seeing the BTWC as an *"integrated group of fifteen articles covering the concerns and objectives of States Parties"*, a perspective in which the selective attention to particular topics dictated by the Inter Review Conference process agenda is open to criticism.

16. Japan praised *"the three year programme of work"* but added:

"We will need to consider how to carry the new BWC process forward, including the issue of verification, as we prepare for the 2006 Review Conference."

17. In addition, Malaysia speaking on behalf of the Non-Aligned Movement and Other States Parties said:

"3. Like the rest of the international community, all members of the Group are seriously concerned with the potential threats of use of biological agents and toxins as an instrument of war and terror. In light of this development, the Group feels that there is a greater necessity and urgency for the States Parties of the BWC to work towards strengthening and improving the effectiveness and implementation of this Convention so that together we can fully address this concern.

4. The high importance the Group attaches to an effective and verifiable BWC, implemented in a comprehensive manner, cannot be overemphasized."

18. This forward-looking use of the 6 December plenary session was carried further by the Netherlands Presidency on behalf of the 25 member states of the European Union and ten other European states wishing to associate themselves with the statement. This statement combined endorsement of the *"current working programme"* of the Inter Review Conference process with a reaffirmation of the EU common position in favour of BTWC verification and a new emphasis on the importance of the 2006 Review Conference. Key sentences were:

"The EU remains committed to develop measures to verify compliance with the BTWC."

"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."

19. Norway went further, in singling out for endorsement from the Report of the UN Secretary-General's High-Level Panel on Threats, Challenges and Change the Panel's Recommendation 27:

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

New Zealand "*weighed the words*" of the High-Level Panel, while several other States Parties (including India, Iran, Malaysia and Pakistan) urged the need for a BTWC verification protocol, and Germany without using the word 'verification' called for "*a multilaterally negotiated protocol to strengthen the BTWC.*"

20. Indeed, the Chairman of MSP/2004, Peter Goosen of South Africa, in his opening remarks noted that the BTWC does not exist in a vacuum and that the High-Level Panel report issued on 2 December 2004 had made recommendations of direct relevance to the Convention. He mentioned Recommendation 27 and said that, whilst these were only recommendations that had yet to be considered, they should, nevertheless, be borne in mind as some have direct relevance to the Convention.

21. All these statements in their different ways represented a trend towards the institution of an Annual Meeting with a BTWC-wide agenda.

22. A useful proposal for the Sixth Review Conference would be to institute explicitly an Annual Meeting of States Parties, with an agenda ranging across the BTWC as a whole, to meet in 2007 and successive years, its functions and mandate to be derived from the Conference of 2006.

23. A part of its time should be dedicated to the collective scrutiny of scientific and technological developments relevant to the BTWC. The rapid pace of change in relevant areas of science and technology is one of the most powerful factors driving a need for more frequent meetings – a point made by the United Kingdom in 2001 in its contribution¹¹ to the background paper on scientific and technological developments relevant to the Convention in which the UK said:

18. Throughout the various studies and consultations carried out by the UK to inform this review, it has been clear that the rate of change in science and technology fields relevant to the BTWC has been much greater than in the previous five year period, that is between the third and fourth Review Conferences. A number of advances in scientific knowledge and its applications could be of consequence for the provisions of the BTWC. Given the accelerating pace in science and technology, the UK wonders whether it is prudent to maintain a five year gap between such assessments under the BTWC. The UK suggests that the upcoming Review Conference consider establishing a mechanism for States Parties to work together on a more frequent basis to conduct such scientific and technical reviews and to consider any implications at the necessary level of expertise.

¹¹ Information provided by the United Kingdom of Great Britain and Northern Ireland contained in Fifth Review Conference of the Parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, Geneva, 19 November – 7 December 2001, *Background Paper on New Scientific and Technological Developments Relevant to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction*, BWC/CONF.V/4/Add.1, 26 October 2001.

24. The Fifth Review Conference did not establish such a mechanism, which should accordingly be considered by the Sixth Review Conference. Five years is simply too long an interval over which to leave the implications of change unexamined. A practical mechanism for organising this collective scrutiny would be to commission a Scientific Advisory Panel to prepare a report each year for the Annual Meeting. There has long been a persuasive case in any event for the States Parties to create a Scientific Advisory Panel. They need to equip the BTWC with such a Panel in the interests of acquiring an early warning capacity for monitoring scientific threats to their treaty regime.

25. Another indispensable call on the time of the Annual Meeting should be the 'consolidation agenda' of progress towards completion of actions by States Parties in accordance with their politically-binding commitments long since accepted by consensus. All were contained in Final Declarations of the first four Review Conference from 1980 to 1996. An earlier proposal¹² had expressed the hope that such completion might be achieved by the time the thirtieth anniversary of the BTWC's entry into force comes to be commemorated on 26 March 2005. Realistically, however, this 'consolidation agenda' will remain live beyond that date. Progress towards completion should therefore be reported year by year.

26. It is possible, given the widespread recognition of the importance of achieving universal adherence to the BTWC and of universal enactment of national implementation legislation, that the Sixth Review Conference might decide, following its consideration of the topics considered in the Inter Review Conference process in 2003, to adopt Action Plans. These could be based on the model of the Action Plans for universality and for national implementation legislation adopted at the First Review Conference of the CWC and subsequently implemented by its Conference of the States Parties in 2003. There would be advantage in subsequent Annual Meetings of the States Parties monitoring and taking any further actions needed to achieve full implementation of such Action Plans. In addition, Annual Meetings might even adopt Action Plans, to encourage progress, in relevant areas of the Convention.

27. Additional functions could be undertaken within the pattern of sessions of the Annual Meeting as need arises in 2007 and successive years, provided sufficient flexibility is built into the mandate given to the Annual Meeting by the Sixth Review Conference. Flexibility in the mandate is essential if unforeseen problems are to be solved by the BTWC States Parties as they arise.

28. An alternative approach instead of such Annual Meetings could be for the Sixth Review Conference to authorise its Bureau to hold regular meetings after 2006 in the inter Review Conference years for these collective purposes. If these were open-ended meetings, or if the Bureau were allowed to convene Meetings of States Parties at its discretion, potential breadth of participation could be combined with an identifiable nucleus of responsibility.

29. The idea of authorising the Bureau of the Review Conference to remain in existence and to continue meeting until the next Review Conference, as a standing committee of the States

¹² Nicholas A. Sims, *A proposal for putting the 26 March 2005 anniversary to best use for the BWC, CBW Conventions Bulletin No. 62*, December 2003, pp 1-6. Available at <http://www.sussex.ac.uk/Units/spru/hsp/pdfbulletin.html> Nicholas A. Sims, *Towards the BTWC Sixth Review Conference: Making Best Use of the 26 March 2005 Anniversary*, University of Bradford, Department of Peace Studies, Briefing Paper (Second Series) No.10, December 2003. Available at <http://www.brad.ac.uk/acad/sbtwc>

Parties to the BTWC, goes back to 1990. It was proposed¹³ by the US arms control expert and retired ambassador Charles C. Flowerree, who had led the US delegation to the BTWC First Review Conference in 1980. Ambassador Flowerree saw the Bureau as a variant on the Committee of Oversight proposed in the academic literature during the 1980s¹⁴. In his view, it would secure the advantages of regional and other balances needed for a representative body, without the trouble of fresh elections. He thought a continuing Bureau would be particularly valuable in upholding the Convention when doubts over compliance might arise.

30. Since 1990 the contingency mechanism for such compliance diplomacy under BTWC Article V has developed into Informal and Formal Consultative Meetings, as demonstrated in 1997 when this procedure was invoked for the first time. However, the role of the Bureau of the Consultative Meeting in 1997 over the *Thrips palmi* allegations by Cuba against the United States suggests that a small committee, chosen to be representative of the political and geographical spread of States Parties, is indispensable.

31. A Bureau of the Review Conference could still have a role to play in upholding the Convention when, for whatever reason, the Consultative Meeting procedure under Article V was not invoked; and it would have a much wider role representing the interests of the States Parties as a collectivity and overseeing the progress of the BTWC in the round.

32. Canada has prospectively combined the two bodies, one plenary, one representative, in its proposal¹⁵ of 5 April 2004 for 'Overcoming the institutional deficit of the NPT'. It starts by observing that:

"Unlike the more modern non-proliferation, arms control and disarmament accords, the NPT lacks provisions and institutional machinery to protect adequately the interests of its States Parties. There is no annual meeting of States Parties, no standing bureau and no dedicated organization or secretariat to oversee the state of health of the Treaty. The IAEA has certain on-going responsibilities under the Treaty, but they are limited in scope and its membership and that of the NPT are not co-terminous. Only the quinquennial Review Conferences are empowered to take decisions on behalf of the States Parties. The interests of the Treaty membership are not well-served by a situation where it can only exercise its decision-making functions once every five years."

All these observations, bar one, apply equally to the BTWC. Indeed, the plight of the BTWC is even worse than that of the NPT, in terms of institutional deficit, because it does not even have the limited services of the IAEA or an equivalent organisation at its disposal. ('Limited' because the IAEA, so far from being a treaty organisation for the NPT, merely carries out some functions for it, notably through the Safeguards Agreements required under Article III.)

33. In the context of the NPT, Canada goes on to state:

¹³ Charles C. Flowerree, *On tending arms control agreements*, The Washington Quarterly, vol.13 no.1 (Winter 1990), pp. 199-214.

¹⁴ Nicholas A. Sims, *The Diplomacy of Biological Disarmament: Vicissitudes of a Treaty in Force, 1975-85* (London: Macmillan; New York: St. Martin's Press, 1988) pp. 298-306.

¹⁵ Working Paper submitted by Canada to the Third Preparatory Committee for the 2005 NPT Review Conference: NPT/CONF.2005/PC.III/WP.1 (5 April 2004). Available at <http://www.reachingcriticalwill.org/legal/npt/prepcom04/papers/canadawp1.pdf>

"we believe the time is right to overcome the institutional deficit and recommend the following:

(i) Replace the present Preparatory Committees with Annual General Conferences of States Parties to consider and decide on any issues covered by the Treaty. Such Conferences would have a duration of one week, although in the year immediately preceding a Review Conference, the Annual Conference would extend two weeks and carry out the function of a preparatory committee for that Review Conference. The overall time allocation for these conferences would remain within the current six weeks devoted to the Preparatory process.

(ii) The bureau of the review process be reconstituted as a standing bureau of the Treaty comprised of the President and Chairs of the quinquennial Review conference (to be elected at the end of each Review Conference with a mandate extending until the subsequent Review Conference). This bureau would be empowered, at the request of the Depositary Governments, the UN Secretary-General or pursuant to a consensus decision of their own, to convene extraordinary sessions of the General Conference of States Parties when situations arose that threatened the integrity or viability of the Treaty, for example, a notification of intent to withdraw from the Treaty or the violation by a State Party of its obligations under the Treaty.

(iii) The UN Department of Disarmament Affairs would, within existing resources, continue to provide support to the bureau, the annual conferences and any extraordinary sessions."

34. Rebecca Johnson in a recent article¹⁶ has drawn attention to the Irish precursors of the Canadian proposal, and offers an interestingly worked example of improvements which such innovations might bring to the handling of NPT problems. The BTWC differs from the NPT in other respects, but in seeking to remedy its institutional deficit the States Parties to the BTWC would be well advised to consider the remedies Ireland and Canada have proposed for the NPT and to see how they could be adapted to the requirements of the BTWC.

35. Whatever the precise nature of the inter-governmental Bureau or Annual Meeting, or a combination of the two, a small permanent Secretariat would be essential. Useful experience of secretariat functions related to aspects of the BTWC has been built up fairly continuously since 1991; but it is important to remember that each secretariat has been the secretariat of a distinct Review Conference, or Special Conference, or Ad Hoc Group, or Meeting of Experts or of States Parties under the Inter Review Conference process. Formally, the BTWC as such still has no secretariat. To point this out is not to detract in any way from the devoted service that members of successive secretariats have given under the auspices of the UN Department for Disarmament Affairs. Rather, it is to encourage the Sixth Review Conference to put this succession of formally discrete secretariats on to a permanent footing, as a BTWC Secretariat, adequately resourced to meet the predicted needs of the BTWC treaty regime as it will evolve in the years following 2006.

¹⁶ Rebecca Johnson, *Is the NPT up to the challenge of proliferation?*, Disarmament Forum 2004/4, Autumn 2004, pp 9-19, at p 16.

Conclusions

36. Past proposals for remedying the BTWC's institutional deficit led to the proposed OPBW which was in prospect from 1997 to 2001 in the context of strengthening the effectiveness and improving the implementation of the Convention under a legally binding instrument that was then under negotiation. Because of what happened to these negotiations, an OPBW remains a longer-term necessity but not an immediate possibility.

37. So the gap must be filled in the short term by less ambitious remedies. Those proposed in this paper – an Annual Meeting of States Parties, and/or a Bureau of the Review Conference extended into the follow-up years with open-ended meetings or the power to convene Meetings of States Parties as need arises, supported by a Scientific Advisory Panel and a Secretariat – do not require the BTWC Article XI amendment process to be invoked. They are fully within the power of the Sixth Review Conference to authorise. What is needed between now and then is careful preparation of proposals so that the Sixth Review Conference in 2006 can agree their scope and mandate.