Strengthening the Biological Weapons Convention

Review Conference Paper No 30

Achieving Realistic Ambitions for Decisions at the BTWC Seventh Review Conference

April 2011

Series Editors

Graham S Pearson and Malcolm R Dando

Division of Peace Studies, University of Bradford
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ACHIEVING REALISTIC AMBITIONS FOR DECISIONS AT THE BTWC SEVENTH REVIEW CONFERENCE

by Graham S. Pearson & Nicholas A. Sims

EXECUTIVE SUMMARY

1. In Bradford Review Conference Paper No. 25 Achieving Consensus at the BTWC Seventh Review Conference we considered what might be done to facilitate the achievement of consensus at the Seventh Review Conference as it was already evident in November 2010 that there are several topics that have been identified by the States Parties as requiring action at the Review Conference.

2. In this Bradford Review Conference Paper No. 30 Achieving Realistic Ambitions for Decisions at the BTWC Seventh Review Conference we note that the President-Designate Ambassador Paul van den IJssel following his nomination in December 2010 said that Ambitious realism will be my guiding principle in the coming year. He went on to add There is of course very little chance of developing agreements from scratch during a three-week conference: proposals need to be developed in advance. This means we need to use our time carefully, especially the period between the PrepCom and the Review Conference. More recently, in his letter to States Parties on 25 January 2011, he said in regard to the Preparatory Committee meeting that The purpose of this three-day meeting is to ensure that the necessary procedural mechanisms are in place for a thorough review of the Convention during the Review Conference itself. He then went on to add that One item that will need particular attention is the provisional agenda for the Review Conference; I would suggest that the agenda of the successful Sixth Review Conference would be a sound starting point for this. Another item that may need careful consideration is background documentation ....

3. We go on to examine the procedural mechanisms from the point of view of achieving realistic ambitions for decisions at the Seventh Review Conference. We take up the President-Designate's invitation to give particular attention at the Preparatory Committee to the Agenda for the Review Conference, and also to give careful consideration to the background documentation to be requested for the Conference. We recognise that the Sixth Review Conference took a considerable step forward in addressing cross-cutting issues by having a section entitled Decisions and Recommendations in its Final Document in addition to the Final Declaration section.

4. Looking ahead to the Seventh Review Conference, we recommend that the substantive items for the Agenda should be amended, in the light of the outcome of the Sixth Review Conference, so as to include a sub-item on Decisions and Recommendations in the following way:

10. Review of the operation of the Convention as provided for in its Article XII:

   (a) General debate;
   (b) Articles I-XV;
   (c) Decisions and Recommendations
   (d) Preambular paragraphs and purposes of the Convention.
11. Consideration of issues identified in the review of the operation of the Convention as provided for in its Article XII and any possible consensus follow-up action.

12. Other matters, including the question of future review of the Convention.

5. Our review of the advance documentation the Preparatory Committee might request for the Review Conference has led us to suggest an additional background information document that reports progress on the implementation of the Decisions and Recommendations agreed upon at the Sixth Review Conference. We have also reiterated the proposal first made in RCP No.25 that five Friends of the Chair (FoCs) should be appointed to conduct open-ended consultations with a view to preparing widely acceptable draft text on each of five topics already identified as likely to lead to decisions. Because time at the Review Conference itself is limited, and the breadth of its agenda wide, it remains our view that these consultations would benefit from starting well in advance. That is why, without prejudice to subsequent appointments of FoCs for further topics, we continue to advocate the appointment of five FoCs at the time of the Preparatory Committee.

6. Our proposals are aimed at improving the chances of a positive outcome by prudent organisation well in advance. The addition of the new sub-item to the agenda, the new background information document and early appointment of FoCs to conduct open-ended consultations to prepare acceptable text on the five topics already identified by States Parties as being likely to require decisions will together provide a flexible structure within which additional topics and FoCs can easily be inserted as they emerge between April and December. This maximises the flexibility available to the President-Designate. Such flexibility is essential. But it will be much easier for him to operate flexibly between April and December and to ensure that proposals are well prepared and made widely known in advance of the Review Conference, if the PrepCom has arrived at a clear view of the structure and process leading to the Decisions part of the Final Document and has put the first building-blocks in place while leaving the President-Designate to add others later.

7. We start from where we are: that is, we have taken care to identify five topics which are already seen as important by States Parties and which we see as leading most naturally to decisions. These five fit (or could be fitted if desired) into the 2006 sections of Decisions and Recommendations, slightly adapted. But 2011 might require further sections and/or rearrangement of sections. Our list of topics suited to decisions is not intended to be exhaustive, but is to help get the process started, learning from the lessons of 2006 and taking to heart the President-Designate's insistence on preparation of proposals for 2011 in good time.

8. We recommend that at the Preparatory Committee meeting on 13 to 15 April 2011 steps be taken to prepare the ground for effective Decisions and Recommendations at the Seventh Review Conference. The inclusion of the topic Decisions and Recommendations in the agenda for the Seventh Review Conference together with an additional background information document and the appointment of five Friends of the Chair to conduct informal open-ended consultations aimed at developing agreed text, on each of the topics already identified by States Parties as ones requiring decisions, for submission to the Drafting Committee for incorporation into the Decisions and Recommendations section of the Final Document would clear the way towards achieving realistic ambitions.
ACHIEVING REALISTIC AMBITIONS FOR DECISIONS AT THE BTWC SEVENTH REVIEW CONFERENCE

by Graham S. Pearson* & Nicholas A. Sims†

Introduction

1. Review Conference Paper No. 25 on Achieving Consensus at the BTWC Seventh Review Conference considered what might be done to facilitate the achievement of consensus at the Seventh Review Conference as it was already evident that there are several topics that have been identified by the States Parties as requiring action at the Review Conference. As was noted in Review Conference Paper No. 21, the time available at the Review Conference itself to discuss, consider and agree language is limited to the three-week period in which the Conference is held. At the Sixth Review Conference the three weeks – or 15 working days – were taken up as follows:

   a. The general debate in plenary session was largely confined to the first two days.

   b. The Committee of the Whole then met for the next eight days.

   c. Informal consultations then took place for the next five days leading to agreement on the text of the Final Document on the final day.

And the Seventh Review Conference in 2011 will have one less day in which to achieve this as the final day of the three week period is a UN holiday.

2. Review Conference Paper No. 25 concluded that in preparing for the successful outcome of the Seventh Review Conference in 2011, it is already evident that there are a number of important topics that need to be considered at the Review Conference and that these are topics on which decisions are likely to be made. In order to achieve consensus, it is evident that preparation needs to commence prior to the Review Conference itself. It is evident from experience at previous Review Conferences that the three weeks of the Review Conference are already heavily committed and that there would be much benefit from the President of the Review Conference appointing Friends of the Chair at the Preparatory Committee with responsibility for holding open-ended consultations in order to prepare an agreed text on each of their respective topics for submission to the Drafting Committee for incorporation into the Decisions and Recommendations section of the Final Document. The normal work of the Committee of the Whole to develop text for the Article by Article

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consideration of the Convention in the Final Declaration section of the Final Document would be carried out in the same way as at previous Review Conferences.

3. More recently, the Meeting of States Parties in December 2010\(^3\) approved the nomination by the Western Group of Ambassador Paul van den IJssel of the Netherlands as President of the Review Conference and Chairman of the Preparatory Committee. Following his nomination, Ambassador Paul van den IJssel said\(^4\) that Ambitious realism will be my guiding principle in the coming year. He then went on to add There is of course very little chance of developing agreements from scratch during a three-week conference: proposals need to be developed in advance. This means we need to use our time carefully, especially the period between the PrepCom and the Review Conference. He went on to encourage all concerned to Be creative: look for synergies and mutually beneficial solutions.

4. In his letter to the States Parties on 25 January 2011, Ambassador Paul van den IJssel said\(^5\) in regard to the Preparatory Committee meeting on Wednesday 13 April to Friday 15 April 2011 that The purpose of this three-day meeting is to ensure that the necessary procedural mechanisms are in place for a thorough review of the Convention during the Review Conference itself. He then went on to add that One item that will need particular attention is the provisional agenda for the Review Conference: I would suggest that the agenda of the successful Sixth Review Conference would be a sound starting point for this. Another item that may need careful consideration is background documentation ....

5. This Review Conference Paper examines the procedural mechanisms from the point of view of achieving realistic ambitions for decisions at the Seventh Review Conference. It takes up the President-Designate's invitation to give particular attention at the Preparatory Committee to the Agenda for the Review Conference, and also to give careful consideration to the background documentation to be requested for the Conference. It recognises that the Sixth Review Conference made a considerable step forward in addressing cross-cutting issues by having a section entitled Decisions and Recommendations in its Final Document in addition to the Final Declaration section.

**Sixth Review Conference**

6. As already described in Review Conference Paper No. 25\(^6\), at the Sixth Review Conference\(^7\) in 2006, following the adoption of the Report of the Committee of the Whole, the President, Ambassador Khan of Pakistan, was assisted by Facilitators who engaged in informal consultations in a number of areas:

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\(^4\) Ambassador Paul van den IJssel, Remarks following nomination available on President-Designate’s page at http://www.unog.ch/bwc


\(^6\) Graham S. Pearson & Nicholas A. Sims, Achieving Consensus at the BTWC Seventh Review Conference, University of Bradford, Department of Peace Studies, Review Conference Paper No. 25, November 2010. Available at http://www.brad.ac.uk/acad/sbtwc and on the Think Zone page at http://www.unog.ch/bwc


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Solemn Declaration: Ambassador Paul Meyer (Canada)
Articles I-IV and XII: Ambassador Doru Costea (Romania)
Articles V-VII and XI: Mr. Knut Langeland (Norway)
Articles VIII-IX: Mr. Muhammad Shahrul Ikram Yaakob (Malaysia)
Article X: Mr. Ben Steyn (South Africa)
Implementation Support Unit (ISU): Mr. Marcelo Valle Fonrouge (Argentina)
Work of the 2003-2005 Meetings: Mr. Knut Langeland (Norway)
Universalization: Mr. Enrique Ochoa (Mexico)
National Implementation: Mr. Craig Maclachlan (Australia)
2007-2010 Intersessional Topics: Ambassador Jayant Prasad (India)
Confidence-building Measures (CBMs): Ambassador Jean-François Dobelle (France)
Cross-cutting Issues: Ambassador John Duncan (United Kingdom)

These informal consultations took place at the end of the second week and the start of the third week of the Review Conference with a view to finding consensus language for the various areas. They effectively took the place of the Drafting Committee which did not meet at the Sixth Review Conference.

11. As the Facilitators were appointed after the Committee of the Whole had reported, they had only a limited time in which to carry out their consultations aimed at arriving at an agreed text. The first five Facilitators were tasked with addressing the Article by Article elements of Section II: Final Declaration of the Final Document whilst the other seven Facilitators were tasked with considering those elements that became Section III: Decisions and Recommendations of the Final Document.

12. Section III: Decisions and Recommendations had a number of separate parts:

- Work of the 2003-2005 Meetings of States Parties
- Implementation Support Unit
- Intersessional Programme 2007-2010
- Confidence-building Measures
- Promotion of Universalization

under which the decisions and recommendations were set out.

**Approaching the Seventh Review Conference**

13. In Review Conference Paper No. 25\(^8\), we noted that it was already evident from the statements made by States Parties at the annual Meetings of Experts and Meetings of States Parties in 2007, 2008, 2009 and 2010 that there are cross-cutting topics that will be considered by the Seventh Review Conference that would benefit greatly from their being considered prior to the Review Conference itself by Friends of the Chair charged with conducting informal consultations aimed at developing agreed text on each of their respective topics for submission to the Drafting Committee for incorporation into the Decisions and Recommendations section of the Final Document. We identified the following cross-cutting topics as being among those in particular need of decisions being made at the Seventh

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Review Conference:

a. Recent advances in science and technology of relevance to the Convention and whether the implications need to be considered more frequently.

b. The Confidence-Building Measures mechanism and whether, for example, additional new CBMs should be adopted or existing ones discontinued or modified.

c. The strengthening of the Implementation Support Unit.

d. The holding of Annual Meetings of States Parties with authority to make decisions.

e. The development of an accountability framework.

f. An Action Plan for national implementation of Article IV.

g. A specific mechanism or other approaches to the implementation of Article X.

h. A mechanism to strengthen the effectiveness and improve the implementation of the Convention.

14. In order to achieve realistic ambitions for the Seventh Review Conference, it is important to make preparations so that decisions and recommendations can be agreed by the Seventh Review Conference on these topics. In considering the agenda for this Review Conference, therefore, a new sub-item Decisions and Recommendations needs to be included this time, recognising that the agenda for the Sixth Review Conference was agreed before the States Parties added a new Part III. Decisions and Recommendations to their Final Document. The substantive items of the Agenda for the Sixth Review Conference were:

10. Review of the operation of the Convention as provided for in its Article XII:

   (a) General debate;
   (b) Articles I-XV;
   (c) Preambular paragraphs and purposes of the Convention.

11. Consideration of issues identified in the review of the operation of the Convention as provided for in its Article XII and any possible consensus follow-up action.

12. Other matters, including the question of future review of the Convention.

15. Looking ahead to the Seventh Review Conference, it is recommended that the substantive items for the Agenda should be amended, in the light of the outcome of the Sixth Review Conference, so as to include a sub-item on Decisions and Recommendations in the following way:

10. Review of the operation of the Convention as provided for in its Article XII:


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11. Consideration of issues identified in the review of the operation of the Convention as provided for in its Article XII and any possible consensus follow-up action.

12. Other matters, including the question of future review of the Convention.

16. In considering this further in the light of the recommendation that Friends of the Chair be appointed to conduct informal open-ended consultations aimed at developing agreed text on each of their respective topics for submission to the Drafting Committee for incorporation into the Decisions and Recommendations section of the Final Document, it can be seen that the individual topics identified in paragraph 13 above all fall under the headings that were adopted in 2006 in Part III: Decisions and Recommendations and modified mutatis mutandis for 2011. Thus, in 2011 the headings in Part III: Decisions and Recommendations might be expected to read:

- Work of the 2007-2010 Meetings of States Parties
- Implementation Support Unit
- Intersessional Programme 2012-2015
- Confidence-building Measures
- Promotion of Universalization

17. The cross-cutting topics on which realistic ambition indicates that Decisions and Recommendations should be sought at the Seventh Review Conference can be regarded as falling under the following headings:

a. Recent advances in science and technology of relevance to the Convention and whether the implications need to be considered more frequently. ⇒ Intersessional Programme 2012-2015

b. The Confidence-Building Measures mechanism and whether, for example, additional new CBMs should be adopted or existing ones discontinued or modified. ⇒ Confidence-building Measures

c. The strengthening of the Implementation Support Unit. ⇒ Implementation Support Unit

d. The holding of Annual Meetings of States Parties with authority to make decisions. ⇒ Intersessional Programme 2012-2015

e. The development of an accountability framework. ⇒ Intersessional Programme 2012-2015

g. A specific mechanism or other approaches to the implementation of Article X. ⇒ Implementation Support Unit

h. A mechanism to strengthen the effectiveness and improve the implementation of the Convention. ⇒ Intersessional Programme 2012-2015

18. It thus follows that the number of Friends of the Chair that should be appointed to conduct informal open-ended consultations aimed at developing agreed text on each of their respective topics for submission to the Drafting Committee for incorporation into the Decisions and Recommendations section of the Final Document, corresponds to the number of headings in the Decisions and Recommendations section, namely five.

19. Some Bradford Review Conference papers have already set out the background to some of these cross-cutting topics. Thus, Review Conference Paper No. 22\textsuperscript{10} addresses an Annual Meeting for the BTWC and Review Conference Paper No. 23\textsuperscript{11} sets out the argument for an Accountability Framework. Review Conference Paper No. 24\textsuperscript{12} addresses the Confidence-Building Measures regime and how this might be enhanced. Review Conference Paper No. 27\textsuperscript{13} addresses the consideration of advances in science and technology relevant to the Convention. Review Conference Paper No. 28\textsuperscript{14} addresses a specific mechanism or other approaches to the implementation of Article X through a clearing-house mechanism within the ISU and Review Conference Paper No. 29\textsuperscript{15} addresses a mechanism to strengthen the effectiveness and improve the implementation of the Convention through a 2020 vision working group.

20. The arguments relating to an Action Plan for the national implementation of the Convention largely arise from the Sixth Review Conference. Prior to the Sixth Review Conference, a Bradford Review Conference Paper No. 16\textsuperscript{16} set out our appraisal of the situation regarding national implementation and took note of the situation in regard to the

\begin{thebibliography}{9}
\bibitem{10} Nicholas A. Sims, \textit{An Annual Meeting for the BTWC}, University of Bradford, Department of Peace Studies, Review Conference Paper No. 22, June 2010. Available at http://www.brad.ac.uk/acad/sbtwc and on the Think Zone page at http://www.unog.ch/bwc
\bibitem{11} Nicholas A. Sims, \textit{An Accountability Framework for the BTWC}, University of Bradford, Department of Peace Studies, Review Conference Paper No. 23, June 2010. Available at http://www.brad.ac.uk/acad/sbtwc and on the Think Zone page at http://www.unog.ch/bwc
\bibitem{12} Filippa Lentzos, \textit{Improving the BTWC Confidence-Building Measures regime}, University of Bradford, Department of Peace Studies, Review Conference Paper No. 24, October 2010. Available at http://www.brad.ac.uk/acad/sbtwc and on the Think Zone page at http://www.unog.ch/bwc
\bibitem{16} Graham S. Pearson and Nicholas A. Sims, \textit{Successful Outcomes for the BTWC Sixth Review Conference}, University of Bradford, Department of Peace Studies, Review Conference Paper No. 16, March 2006. Available at http://www.brad.ac.uk/acad/sbtwc
\end{thebibliography}
Action Plan that had been carried out for the Chemical Weapons Convention\textsuperscript{17}. More recently, Review Conference Paper No. 26\textsuperscript{18} has set out the reasons why awareness raising and education are an essential integral element of a National Implementation Action Plan. It is evident from the experience of 2006 that for an Action Plan on Implementation, however well drafted, to be acceptable to a Review Conference it needs to be introduced early in the proceedings, so that delegations’ consideration of it does not run out of time. This requires the detailed advance preparation of a balanced text with acceptable language to be ready at the opening of the Review Conference, which informal consultations, conducted by a Friend of the Chair in good time before the Review Conference begins, could provide.

21. It thus appears that in order to achieve realistic ambitions at the Seventh Review Conference, the initial steps need to be taken at the Preparatory Committee meeting on 13 to 15 April 2011. The Agenda for the Seventh Review Conference should, with advantage, be amended to include a sub-item \textit{Decisions and Recommendations} and the President-Designate of the Review Conference should identify Friends of the Chair for each of the topics that is likely to form part of the \textit{Decisions and Recommendations} part of the Final Document of the Seventh Review Conference.

\textbf{Background Documents}

22. As already noted, the President-Designate has drawn the attention of States Parties to the fact that \textit{Another item that may need careful consideration is background documentation.} The background documents prepared for the Sixth Review Conference were:

(i) A background information document on the history and operation of the confidence-building measures agreed at the Second Review Conference and revised at the Third Review Conference. The document included data in summary tabular form on the participation of States Parties in the measures since the last Review Conference;
(ii) A background information document on compliance by States Parties with all their obligations under the Convention. For the purpose of compiling this document, the Secretariat requested States Parties to provide information regarding compliance with all the provisions of the Convention;
(iii) A background information document on new scientific and technological developments relevant to the Convention, compiled from information submitted by States Parties as well as from information provided by relevant international organizations;
(iv) A background information document on developments since the last Review Conference in other international organizations which may be relevant to the Convention;
(v) A background information document showing the additional understandings and agreements reached by previous Review Conferences relating to each article of the Convention, extracted from the respective Final Declarations of these conferences;

\textsuperscript{17} Scott Spence, \textit{Achieving Effective Action on Universality and National Implementation: The CWC Experience}, University of Bradford, Department of Peace Studies, Review Conference Paper No. 13, April 2005. Available at http://www.brad.ac.uk/acad/sbtwc
(vi) A background information document on the status of universalization of the Convention.

23. Background documents as listed above all appear relevant to the Seventh Review Conference although, as noted in Bradford Review Conference Paper No. 27, it is welcomed that, in regard to background document (iii) on new scientific and technological developments, following a direct request from a State Party, the intention in 2011 for the Seventh Review Conference is to return to a situation in which the submissions made by States Parties on new scientific and technological developments will be reproduced in the background document and that States Parties as for the earlier Review Conferences will be asked to provide information in response to the wording that This information should cover the applications being made of such developments and their relevance to various aspects of the Convention.

24. The Final Declaration of the Sixth Review Conference in Part II. Final Declaration included in the section on Article XII the words:

61. The Conference decides that the Seventh Review Conference shall be held in Geneva not later than 2011 and should review the operation of the Convention, taking into account, inter alia:

(i) new scientific and technological developments relevant to the Convention;
(ii) the progress made by States Parties on the implementation of the obligations under the Convention;
(iii) progress of the implementation of the decisions and recommendations agreed upon at the Sixth Review Conference.

The first two sub-items would be covered by background documents (iii) and (ii) respectively. The third sub-item would only partially be covered by any of the proposed background documents based on those prepared for the 2006 Review Conference. It is therefore recommended that an additional background document be prepared by the Implementation Support Unit for the Seventh Review Conference:

(vii) A background information document that reports progress on the implementation of the decisions and recommendations agreed upon at the Sixth Review Conference.

Conclusions

25. In order to achieve a successful outcome at the Seventh Review Conference, it is necessary at the Preparatory Committee meeting on 13 to 15 April 2011 to take some steps to prepare the ground for effective Decisions and Recommendations at the Seventh Review Conference. This Review Conference Paper shows that inclusion of the topic Decisions and Recommendations in the agenda for the Seventh Review Conference together with an additional background information document and the appointment of five Friends of the Chair to conduct informal open-ended consultations aimed at developing agreed text on each of their respective topics for submission to the Drafting Committee for incorporation into the Decisions and Recommendations section of the Final Document would clear the way towards achieving realistic ambitions.