Time for structural changes to make the biological and toxin weapons convention more effective

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ABSTRACT
The Eighth Review Conference of the Biological and Toxin Weapons Convention (BTWC), which totally prohibits the use of biological agents and toxins to cause harm to humans, animal or plants, is in Geneva on 7–25 November 2016. This article outlines the development of the BTWC since entry into force in 1975 and its evolution to the present. In the intersessional periods between the recent Review Conference (from 2003 to 2005, then 2007–2010 and most recently 2012–2015) States Parties have been less successful in producing concrete actions with results. Substantive paragraphs have been agreed by using the approach of consensus by deletion rather than recognizing that an objective can be achieved by various alternatives. It is timely – and necessary – that States Parties prepare for the Eighth Review Conference by considering the structural change needed to be agreed to actually strengthen the Convention and enhance its effectiveness and implementation.

1. Introduction
The Eighth Review Conference of the Biological and Toxin Weapons Convention (BTWC) (United Nations, 1972) is taking place in Geneva, Switzerland, in November 2016. The BTWC is a cornerstone of the framework prohibiting weapons of mass destruction as it was opened for signature on 10 April 1972 and entered into force on 26 March 1975. It was the first multilateral disarmament treaty banning the production and use of an entire category of weapons; it prohibits the development, production, acquisition, transfer, stockpiling and use of biological and toxin weapons.

In accordance with Article XII of the BTWC, Review Conferences have been held at five-year intervals since 1980 to review the operation of the Convention; these reviews are also required to take into account any new scientific and technological developments relevant to the Convention. A summary of the important outcomes of these Review Conferences in relation to the main topics of consideration is presented here to facilitate the consideration of the goals for the Eighth Review Conference to be held in Geneva in November 2016.

1.1. Article I. The general purpose criterion
A key element in the BTWC is the ‘general purpose criterion’ in Article I that comprehensively embraces all biological and toxin weapons in its prohibitions,

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

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

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

The ‘general purpose criterion’ is shown in bold above. Each Review Conference has considered new developments in science and technology relating to Article I and agreed that they were covered by the ‘general purpose criterion’. Consequently, the States Parties to the BTWC have agreed extended understandings to that effect in the Final Declarations of the Review Conferences held at five-year intervals since the entry into force in 1975.

At the Seventh Review Conference of the BTWC held in 2011, the Final Declaration (United Nations, 2012) in respect of Article I stated that:
(1) The Conference reaffirms the importance of Article I, as it defines the scope of the Convention. The Conference declares that the Convention is comprehensive in its scope and that all naturally or artificially created or altered microbial and other biological agents and toxins, as well as their components, regardless of their origin and method of production and whether they affect humans, animals or plants, of types and in quantities that have no justification for prophylactic, protective or other peaceful purposes, are unequivocally covered by Article I.

(2) The Conference reaffirms that Article I applies to all scientific and technological developments in the life sciences and in other fields of science relevant to the Convention … [Emphasis added]

These extended understandings make it clear that all microbial and other biological agents and toxins, as well as their components, and whether they affect humans, animals or plants are unequivocally covered by Article I as well as all scientific and technological developments in the life sciences and in other fields of science relevant to the Convention.

1.2. Article XII. Review Conferences

Review Conferences are required by Article XII of the Convention which states:

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

Although Article XII required only one Review Conference, which took place in March 1980, the States Parties have chosen to meet regularly for further Review Conferences of their own volition. Review Conferences have been held in 1986, 1991, 1996, 2001–2002, 2006 and 2011. Each Review Conference has its own character and achievements.

1.3. Article X. Cooperation and assistance

Particular attention is given to Article X as this has, over the years, been given increased importance by the group of the Non-Aligned Movement and other States Parties. Article X requires States Parties to facilitate, and have the right to participate in, the fullest possible exchange of equipment, materials and scientific and technological information for the use of bacteriological(biological) agents and toxins for peaceful purposes. They shall also cooperate in the further development and application of scientific discoveries in the field of bacteriology(biology) for prevention of disease or for other peaceful purposes. In addition, the BTWC shall be implemented in a manner designed to avoid hampering the economic or technological development of States Parties for peaceful purposes.

1.4. Time for structural changes

The title of this article makes the point that the last 14 years since the Fifth Review Conference was completed in 2002 – which was a salvage operation following the end of the Ad Hoc Group and the Protocol negotiations – has been ineffective and has failed to result in significant common understandings or any effective action. Increasingly, the years have been carefully trying to balance the NAM on Article X and the Western States Parties on national implementation and doing nothing on science and technology.

A summary of the important outcomes of these Review Conferences is presented here in relation to the main topics of consideration to facilitate the consideration of the goals for the Eighth Review Conference to be held in Geneva in November 2016. There is need now for structural change to make the Convention more effective – and actually agree effective action.

2. Review Conferences

2.1. The First Review Conference

The First Review Conference in 1980 (United Nations, 1980) was overshadowed by the reports of an anthrax release at Sverdlovsk in April 1979 which had resulted in a number of deaths. Nevertheless, a Final Declaration was successfully agreed that noted with satisfaction that 81 States ratified the Convention, 6 States acceded and a further 37 States signed but have not yet ratified the Convention.

2.2. The Second Review Conference

The next Review Conference was held in 1986 when the Final Declaration (United Nations, 1986) elaborated the procedure to be followed in regard to consultations carried out under Article V of the Convention and also agreed that all States Parties should provide an annual exchange of data under four Confidence-Building Measures (CBMs) in order to ‘prevent or reduce the occurrence of ambiguities,
doubts and suspicions. The four CBMs, subsequently further elaborated in March/April 1987, address:

1. Exchange of data, including name, location, scope and general description of activities, on research centres and laboratories that meet very high national or international safety standards established for handling, for permitted purposes, biological materials that pose a high individual and community risk or specialise in permitted biological activities directly related to the Convention.

2. Exchange of information on all outbreaks of infectious disease and similar occurrences caused by toxins that seem to deviate from the normal pattern as regards type, development, place, or time of occurrence. If possible, the information provided would include, as soon as it is available, data on the type of disease, approximate area affected, and number of cases.

3. Encouragement of publication of results of biological research directly related to the Convention, in scientific journals generally available to States Parties, as well as promotion of use for permitted purposes of knowledge gained in this research.

4. Active promotion of contacts between scientists engaged in biological research directly related to the Convention, including exchanges for joint research on a mutual agreed basis.

2.3. The Third Review Conference

The Third Review Conference was held in 1991 (United Nations, 1991). This meeting extended the range of CBMs and set up an Ad Hoc Group of Governmental Experts to examine methods of verification, known as VEREX. The CBMs were extended to the following:

1. Declaration form on ‘Nothing to declare’ or ‘Nothing new to declare’

2. Confidence-building measure ‘A’:
   - Part 1: Exchange of data on research centres and laboratories;
   - Part 2: Exchange of information on national biological defence research and development programmes.

3. Confidence-building measure ‘B’:
   - Exchange of information on outbreaks of infectious diseases and similar occurrences caused by toxins.

4. Confidence-building measure ‘C’:
   - Encouragement of publication of results and promotion of use of knowledge.

5. Confidence-building measure ‘D’:
   - Active promotion of contacts.

6. Confidence-building measure ‘E’:
   - Declaration of legislation, regulations and other measures.

7. Confidence-building measure ‘F’:
   - Declaration of past activities in offensive and/or defensive biological research and development programmes.

8. Confidence-building measure ‘G’:
   - Declaration of vaccine production facilities.

In addition, the Third Review Conference determined to strengthen the effectiveness and improve the implementation of the Convention and recognizing that effective verification could reinforce the Convention, decides to establish an Ad Hoc Group of Governmental Experts open to all States parties to identify and examine potential verification measures from a scientific and technical standpoint. The Group shall meet in Geneva for the period 30 March to 10 April 1992. The Group will hold additional meetings as appropriate to complete its work as soon as possible, preferably before the end of 1993.

The mandate for the Group, which became known as VEREX, included the following:

The Group shall seek to identify measures which could determine:
- Whether a State party is developing, producing, stockpiling, acquiring or retaining microbial or other biological agents or toxins, of types and in quantities that have no justification for prophylactic, protective or peaceful purposes;
- Whether a State party is developing, producing, stockpiling, acquiring or retaining weapons, equipment or means of delivery designed to use such agents or toxins for hostile purposes or in armed conflict.

Such measures could be addressed singly or in combination. Specifically, the Group shall seek to evaluate potential verification measures, taking into account the broad range of types and quantities of microbial and other biological agents and toxins, whether naturally occurring or altered, which are capable of being used as means of warfare.

VEREX met in 1992 and 1993 and circulated its report to all States Parties in September 1993. A Special Conference of the States Parties was then held in September 1994 to consider this report. This Special Conference agreed to establish an Ad Hoc Group open to all States Parties to consider appropriate measures, including possible verification measures and draft proposals to strengthen the Convention.

2.4. The Fourth Review Conference

By the time of the Fourth Review Conference held in November/December 1996 (United Nations, 1996), the Ad Hoc Group had met for four substantive sessions each of two weeks. The work of the Ad Hoc Group was supported with every State Party that spoke during the general debate being in favour of the work of the Ad Hoc
Group and the need to strengthen the BTWC. The Final Declaration in its section on Article V included the following language:

(6) The Conference stresses its determination to strengthen effectiveness and improve the implementation of the Convention, and its recognition that effective verification could reinforce the Convention.

And in regard to the Ad Hoc Group it noted that:

The Conference welcomes the decision of the Ad Hoc Group, in order to fulfil its mandate, to intensify its work with a view to completing it as soon as possible before the commencement of the Fifth Review Conference and submit its report, which shall be adopted by consensus, to the States Parties, to be considered at a Special Conference. The Conference encourages the Ad Hoc Group to review its method of work and to move to a negotiating format in order to fulfil its mandate.

The following year, in July 1997, the Ad Hoc Group successfully transitioned to a rolling text of a legally binding instrument to improve the implementation and strengthen the effectiveness of the Convention.

2.5. The Fifth Review Conference

The negotiations by the Ad Hoc Group of the States Parties to the BTWC of a legally binding instrument to improve the implementation and strengthen the effectiveness of the Convention continued during the years leading up to the Fifth Review Conference held in 2001. In the spring of 2001, Ambassador Tibor Toth, the Chairman of the Ad Hoc Group, had circulated a Chairman's text with compromise language to resolve the relatively few outstanding issues. In May 2001, a report (Pearson, 2001) on the April/May session of the Ad Hoc Group concluded that 'it is evident that the Protocol negotiation can indeed be completed before the Fifth Review Conference and result in an effective and valuable strengthening of the prohibition regime against biological weapons'.

Although the Ad Hoc Group of the BTWC had been close in April/May 2001 to completing its work on a legally binding instrument, its next four-week meeting in July 2001 was disrupted. After about 50 of the 55 or so States Parties engaged in the negotiations had spoken in favour of the Chairman's composite text being used as the basis for the political decisions needed to complete the Protocol prior to the Fifth Review Conference in November 2001, the mood was sharply changed on Wednesday, 25 July 2001, when the United States delivered a 10-page statement rejecting both the composite Protocol and the approach adopted in the Protocol. This effectively stalled the Ad Hoc Group negotiations – and certainly contributed to the failure of the Ad Hoc Group to agree on a procedural report of the July/August session.

This failure in the early hours of Saturday, 18 August 2001, (at the eleventh hour of the Protocol) is primarily attributed to the US rejection. Many delegations had come to the July/August session expecting hard negotiations to result in successful agreement of an agreed Protocol. The US rejection was described in an evaluation (Pearson, Dando & Sims, 2001) as being 'a huge mistake based on illogical assessments'. This evaluation concluded that it has always been evident during the negotiations that the United States were not showing leadership but rather participating reluctantly with objectives that are unrealistic in the global world of the 21st century. Although following the US statement of 25 July 2001 there have been some suggestions that the composite Protocol text should be put onto the shelf for the time being, one has to ask the question – for what purpose? It is very clear that if at some future date – a couple of months, a couple of years or a decade or more hence – the United States indicates that it is ready to give further consideration to a Protocol to strengthen the Convention, it would be unrealistic not to expect the other States Parties at that time not to want to reexamine the provisions in the composite Protocol text and there will then be extensive unraveling of what is an excellent package of measures in the Chairman's composite text resulting in a net loss of the benefits for health, safety, security and prosperity that are available from the Protocol. The United States statement that it intends to develop other ideas and different approaches to effectively strengthen the Convention ignores the reality that by having withdrawn from the Protocol at the eleventh hour, the United States has effectively killed any favourable multilateral consideration of any ideas, however meritable, that it may bring forward at some subsequent date. Any new proposals, no matter how meritable, associated with the United States will be dead on arrival and will be rejected by the international community. There is simply no prospect of any early strengthening of the biological weapons multilateral prohibition regime by any means other than the Protocol in the foreseeable future.

As this rejection of the negotiations had preceded the anthrax letter attacks in the US of September/October 2001, there was some hope that the US might reconsider its position at the Fifth Review Conference of the BTWC, which was held from 19 November to 7 December 2001. However, it became evident during the Review Conference that the US, whilst content to call for national measures, would not consent to any language that required multilateral action or sought to arrive at legally binding measures to strengthen the regime. The US also had difficulty in accepting language referring to other international treaties such as the Convention on Biological Diversity or the Cartagena Protocol on Biosafety, to which the United States is not a party even though such language had been agreed at previous Review Conferences. The tabling of language, within two hours of the end of the Review Conference, without any prior consultation even
with close allies, proposing termination of the Ad Hoc Group and of its mandate showed a serious misreading of the widespread desire of all the other States Parties to strengthen the effectiveness and improve the implementation of the Convention in accordance with the mandate of the Ad Hoc Group. This led to the adjournment of the Review Conference for a year until November 2002 even though the Final Declaration was said by the President to be some 95% complete.

The attitude of the US to the Review Conference and the BTWC is very hard to understand let alone explain. The rest of the world appreciates and recognises the value of the multilateral regime against biological weapons in strengthening collective security and following the events of 11 September and the subsequent anthrax attacks in the US, it would have been expected that the US would have been aware of – and would have wished to benefit from – the considerable benefits that could accrue from multilaterally strengthening the BTWC regime as national measures are always going to be subject to national interpretation and are unlikely to be harmonised internationally. The US missed a real opportunity to help protect itself – and its fellow States Parties – from the dangers of biological weapons.

2.5.1. The resumption of the Fifth Review Conference

At the resumption of the Fifth Review Conference in November 2002 (United Nations, 2002), there was agreement to a modest programme of continued annual meetings by the States Parties to discuss, and promote common understanding and effective action on the following topics:

(i) The adoption of necessary, national measures to implement the prohibitions set forth in the Convention, including the enactment of penal legislation;
(ii) National mechanisms to establish and maintain the security and oversight of pathogenic microorganisms and toxins;
(iii) Enhancing international capabilities for responding to, investigating and mitigating the effects of cases of alleged use of biological or toxin weapons or suspicious outbreaks of disease;
(iv) Strengthening and broadening national and international institutional efforts and existing mechanisms for the surveillance, detection, diagnosis and combating of infectious diseases affecting humans, animal, and plants;
(v) The content, promulgation, and adoption of codes of conduct for scientists.

The first two topics would be addressed in 2003, the third and fourth in 2004 and the fifth in 2005. It is, however, regrettable that the opportunity was missed to adopt a Final Declaration as the reaffirmations and extended understandings provided by such Final Declarations do significantly contribute to the strengthening of the norm and regime totally prohibiting biological weapons. Certainly the international situation regarding the BTWC was one in which there was urgency to strengthen the norm and regime and thereby send a clear message to States Parties and to substate actors that these weapons are totally prohibited.

2.6. The Sixth Review Conference

The Sixth Review Conference held in 2006 (United Nations, 2006) was much more successful as it agreed a Final Declaration, with its Article-by-Article review, and in its Decisions and Recommendations section had elements on the following topics: work of the 2003–2005 Meetings of States Parties, Implementation Support Unit, Intersessional Programme 2007–2010, Confidence-Building Measures, and Promotion of Universalisation. A report on the Sixth Review Conference (Pearson, 2006): it was noted that more could have been achieved if there had been earlier provision of proposals from the Non-Aligned movement (NAM) group of States Parties. Although Cuba was an effective coordinator of the NAM group, it was evident throughout much of the Review Conference that the NAM was having to run to catch up – for example, their nominations for the various Review Conference positions were generally late. Earlier submission of proposals in advance copies of Working Papers, especially by the groups of States, would have enabled compromises to be explored informally prior to the Review Conference. In reflections, Pearson’s report observed that:

> It is worth noting that the proposals put forward prior to the actual Review Conference in advance copies of Working Papers had the best chance of finding consensus, as they could be considered by States Parties in preparing for the Review Conference. Proposals put forward during the Review Conference were generally too late for reflection and consideration.

Draft action plans were proposed for universality, national implementation and Article X implementation. The first two appeared to have wide support and had been referred to in many of the statements made in the general debate. Language had been proposed in the Committee of the Whole for a universality Action Plan by the Latin American group, Australia and the EU, and for the national implementation Action Plan by the EU. The proposal for an Action Plan on Article X implementation was the subject of language proposed by the NAM to the Committee of the Whole (COW) – and the identical language was also proposed in a Working Paper by the NAM (BWC/CONF.VI/WP. 39).

Unfortunately, none of these proposed Action Plans were agreed. The proposal in regard to universality became a Promotion of Universality. The failure to agree on an Action Plan on National Implementation is to be regretted. This largely was due to the rather late proposal by the
NAM of a Plan of Action on implementation of Article X, and the insufficient time during the Review Conference to reach agreement on what to agree. Although the NAM draft Action Plan needed to be refined and focused onto activities of particular relevance to the Convention, there appeared to be nothing particularly contentious in the concepts underlying either of the Action Plans, and it might have been wiser to keep them apart rather than trying to combine them into an Action Plan on comprehensive implementation. Indeed, it could have been advantageous to keep them separate as it would then have become evident to the States Parties – from the progress reports on the individual Action Plans – what further action was needed in each area.

The Sixth Review Conference agreed (United Nations, 2006) to hold four annual meetings of the States Parties to discuss, and promote common understanding and effective action on:

(i) Ways and means to enhance national implementation, including enforcement of national legislation, strengthening of national institutions and coordination among national law enforcement institutions.

(ii) Regional and sub-regional cooperation on implementation of the Convention.

(iii) National, regional and international measures to improve biosafety and biosecurity, including laboratory safety and security of pathogens and toxins.

(iv) Oversight, education, awareness raising, and adoption and/or development of codes of conduct with the aim of preventing misuse in the context of advances in bio-science and bio-technology research with the potential of use for purposes prohibited by the Convention.

(v) With a view to enhancing international cooperation, assistance and exchange in biological sciences and technology for peaceful purposes, promoting capacity building in the fields of disease surveillance, detection, diagnosis, and containment of infectious diseases:

(1) for States Parties in need of assistance, identifying requirements and requests for capacity enhancement; and

(2) from States Parties in a position to do so, and international organizations, opportunities for providing assistance related to these fields.

(vi) Provision of assistance and coordination with relevant organizations upon request by any State Party in the case of alleged use of biological or toxin weapons, including improving national capabilities for disease surveillance, detection and diagnosis and public health systems.

It was also agreed that the topics for consideration at each annual meeting of States Parties will be as follows: items (i) and (ii) will be considered in 2007; items (iii) and (iv) in 2008; item (v) in 2009; and item (vi) in 2010.

In a significant, albeit modest, step forward, the Sixth Review Conference, recognising the importance of providing administrative support to meetings agreed by the Review Conference, as well as comprehensive implementation and universalisation of the Convention and the exchange of confidence-building measures, decided to establish an 'Implementation Support Unit' (ISU) consisting of three full-time staff members within the Geneva Branch of the United Nations Department for Disarmament Affairs, and funded by States Parties for the period 2007–2011.

2.7. The Seventh Review Conference

The Seventh Review Conference was held in 2011 (United Nations, 2012). It agreed to continue an intersessional programme to discuss, and promote common understanding and effective action on the following Standing Agenda Items, to be addressed at meetings of both the Meeting of Experts and Meeting of States Parties in every year from 2012–2015:

(a) Cooperation and assistance, with a particular focus on strengthening cooperation and assistance under Article X;

(b) Review of developments in the field of science and technology related to the convention;

(c) Strengthening national implementation.

In addition, the following other items were to be discussed during the intersessional programme in the years indicated:

(a) How to enable fuller participation in the CBMs (2012 and 2013);

(b) How to strengthen implementation of Article VII, including consideration of detailed procedures and mechanisms for the provision of assistance and cooperation by States Parties (2014 and 2015).

In the Analysis and Reflections section that was made in a report (Pearson & Sims, 2012) on the outcome of the Seventh Review Conference, it was noted that its Final Document (BWC/CONF.VII/7) was successfully agreed on late on the afternoon of the final day, Thursday, 22 December 2011. This achievement in itself was cause for relief as it came 10 years after the Fifth Review Conference had failed to reach agreement. Whilst the Sixth Review Conference in 2006 had successfully demonstrated the will of the States Parties to work together to nurture and strengthen the Convention, there had been indications of potential difficulties at the Meeting of States Parties in 2010, the year before the Seventh Review Conference, when some States Parties were reluctant to accept language saying that they agreed on certain ideas even though they had accepted such language at the previous year’s meeting in 2009.
below realistic expectations. Indeed, at the beginning of the Seventh Review Conference, many States Parties appeared to have and to cherish realistic ambitions for the outcome of the Conference. Certainly in the opening week, the optimistic tone of many contributions to the general debate appeared to hold out the prospect of consensus on a reasonably wide range of BTWC topics, even if not all. The contrast in atmosphere just two weeks later was noted with dismay. Political difficulties surfaced very late in the Review Conference when on the final Monday proposals for the Intersessional Programme were tabled by China, India, Iran, Pakistan and Russia which sharply curtailed expectations. At this point, failure was a distinct possibility. It is much to the credit of those who persevered to get the best outcome they could, and steered the Conference through its truncated third week, that a Final Document was achieved at all.

The Final Document is the outcome on which an overall appraisal of the Conference rests. In preparing this appraisal, a conscious emphasis was laid on the process rather than the politics of the Conference, partly because the process issues are more openly documented, and partly because non-governmental commentators are better placed to contribute to improving the structures and procedures of Review Conferences than to influencing the politics of the BTWC. The Seventh Review Conference revealed weaknesses in the process: weaknesses for which remedies can be prescribed. Nevertheless, the part played by the politics of States Parties to the BTWC should not be underestimated. Political differences among States Parties undoubtedly constrained the options for the Conference and reduced the chances of a more positive outcome. It is also evident that the chances of achieving a more positive outcome can be improved by more groups of States Parties, and States Parties making their contributions both as proposals for the Committee of the Whole and as Working Papers.

3. Looking ahead to the Eighth Review Conference in November 2016

3.1. Preparatory committee meeting

The States Parties to the BTWC are to be complimented for the steps that they have taken, starting in 2015, to prepare to ensure a successful outcome of the Eighth Review Conference. As others have pointed out, success is rarely accidental and needs to be planned. There is a real opportunity to make progress at the Eighth Review Conference as it comes following, for the first time, a Preparatory Committee in two stages being held in both April (2 days) and August 2016 (one week) instead of the previous two-day procedural Preparatory Committees held before the previous Review Conferences. When the President-designate, Ambassador Dr György Molnár of Hungary, spoke to the Regional Groups on 8 February 2016, he noted (United Nations, 2016a) that the Meeting of States Parties (MSP) in December had agreed on an innovative approach and said success will depend on early preparation and sharing of proposals. He then said that:

I encourage States Parties, individually and in groups, to put forward specific proposals for discussion as soon as possible prior to the first session of the PrepCom. The BWC website is a convenient way to share ideas and proposals with a wide audience, and to invite reactions and discussion.

3.2. The intersessional process: 2002–2005, 2007–2010, and 2012–2015

In looking ahead to the Eighth Review Conference, it is essential to step back and consider the way in which the BTWC has advanced over the 40 years since it entered into force in 1975. It needs to be recalled that the Intersessional Process was agreed in 2002 at the continuation of the Fifth Review Conference and in a report (Pearson, 2002) on that meeting in a section entitled Reflections, it was noted that the decision to hold annual meetings represents a modest step forward which found consensus support by all States Parties – and, as such, was better than the indications earlier in the year (outlined in Bradford Review Conference Paper No. 8) which suggested that agreement might not be forthcoming even on annual meetings prior to the Sixth Review Conference in 2006. The report also noted that as the President of the Fifth Review Conference, Ambassador Töth, had said the success of the new approach depends on the States Parties regaining confidence that they can do things together and that if the meetings of 2003–2005 are well prepared then the new approach can produce concrete actions with results. Otherwise, the new approach could be an empty shell. The onus was clearly on all States Parties to be proactive and to prepare effectively for the annual meetings in the intersessional period.

Three intersessional periods have now been successfully completed – from 2003 to 2005, then 2007–2010 and most recently 2012 to 2015 – and States Parties have demonstrated that they can do things together. However, they have been less successful in producing concrete actions with results. In fact, the practice at the annual Meetings of States Parties has been to agree the substantive paragraphs by using the approach of consensus by deletion rather than recognising that an objective can be achieved by various alternatives. It is timely – and appropriate – that States Parties prepare for the Eighth Review Conference by considering how States Parties can work together effectively and actually strengthen the Convention and its implementation.
One of the clearest indications of the ineffectiveness of the present arrangements has come from BWC/MSP/2015/WP. 10 (Switzerland, 2015) that states:

During the current intersessional work programme, States Parties have devoted 1.5 days per year to issues around science and technology. Under half of the allotted time has been used to review relevant developments (an average of almost 4.5 h per year). [Emphasis added]

Discussions to promote common understanding and effective action must focus on reaching conclusions or results by consensus, and these discussions must include reviewing issues around science and technology and recent relevant developments. In a time where advances in biological sciences and technologies have increased at the most rapid rate in civilisation, it is astounding that such little time has been devoted to their discussion with reference to the BTWC.

It is therefore timely and appropriate for States Parties at the Eighth Review Conference to consider how best to strengthen the Convention and improve its implementation as the Final Declaration (United Nations, 2012) under Article XII of the Convention at the Seventh Review Conference specifically stated that:

(66) The Conference decides that the Eighth Review Conference shall be held in Geneva not later than 2016 and should review the operation of the Convention, taking into account, inter alia:

(a) new scientific and technological developments relevant to the Convention, taking into account the relevant decision of this Conference regarding the review of developments in the field of science and technology related to the Convention;
(b) the progress made by States Parties on the implementation of the Convention;
(c) progress of the implementation of decisions and recommendations agreed upon at the Seventh Review Conference, taking into account, as appropriate, decisions and recommendations reached at previous review conferences.

3.3. Preparing for a successful Eighth Review Conference

What then does the Eighth Review Conference need to achieve in order to steer the BTWC along a trajectory of constructive evolution through its next five years? The strengthening of the Convention through the review process is incremental, corresponding to the cumulative building up of extended understandings and agreements on the foundations laid by previous Review Conferences. The purpose of the Eighth Review Conference is accordingly to enable the States Parties to strengthen the BTWC through the next five years by reaffirming the accumulated body of understandings and agreements built up by previous Review Conferences and recording, wherever they can achieve consensus, further advances in their understanding of the Convention and its implications for what they should do individually and collectively to implement it more effectively. These reaffirmations and advances should be recorded in the Article-by-Article Final Declaration, and in a separate Decisions and Recommendations part of the Final Document, as in 2011. The balanced development of the BTWC treaty regime will be assisted if strengthening decisions and extended understandings can be recorded in as many areas as possible, across the whole range of the regime, which is why every Article of the Convention needs to receive attention.

Certain elements on which decisions will be sought have by common consent been given particular attention and have acquired particular prominence in the run-up to the Eighth Review Conference; these are listed and then introduced one by one for discussion in the next section of this article. However, whilst decisions are important, they are but one part of the Review Conference process and the recording of extended understandings in the Article-by-Article Final Declaration is just as important. States Parties need to prepare for and give attention equally to both the Article-by-Article Final Declaration and Part III: Decisions and Recommendations.

4. Decisions required at the Eighth Review Conference in November 2016

There are a number of topics on which decisions need to be taken at the Eighth Review Conference so as to achieve a more effective Convention and there is growing consensus on what the outcome should be for several of these topics even if not yet for all. The topics on which decisions are needed are:

(a) The Intersessional Process and its Structure
(b) Advances in Science and Technology
(c) Reassurance of Compliance with Articles of the Convention
(d) The Confidence-Building Measures regime
(e) The Implementation Support Unit
(f) Universalisation of the Convention

4.1. The intersessional process and its structure

Looking back at the intersessional period that was completed in 2015, it is evident that consideration needs to be given to establishing a more effective arrangement such as an Annual Meeting of States Parties with a clear mandate to agree and to take actions as appropriate supported by Open-Ended Working Groups (OEWG). One such OEWG should address the topic of relevant advances in science and technology, whilst another OEWG should address
providing reassurance that States Parties are implementing all Articles of the Convention. This OEWG should address the implementation of Articles of the Convention, particularly III, IV, V and X, and would provide a forum within which consideration could be given to the annual submission of CBMs as well as to the biannual reports by States Parties on the implementation of Article X. Reassurance concerning implementation needs to be addressed across the Convention as a whole.

Further, there is a need for continuity and leadership during the intersessional period that will also make them more effective such as by establishing a Steering Committee that would be made up of the Chair and Vice-Chairs of the Annual Meeting of States Parties together with the Chairs of the Open-Ended Working Groups and could continue the momentum gained from the Review Conference.

4.2. Advances in science and technology

A Standing Agenda Item on Review of developments in the field of science and technology related to the Convention was agreed by the Seventh Review Conference (United Nations, 2012):

(22) The Conference decides that the following topics will be addressed under the Standing Agenda Item on review of developments in the field of science and technology related to the Convention:

(a) new science and technology developments that have potential for uses contrary to the provisions of the Convention;
(b) new science and technology developments that have potential benefits for the Convention, including those of special relevance to disease surveillance, diagnosis and mitigation;
(c) possible measures for strengthening national biological risk management, as appropriate, in research and development involving new science and technology developments of relevance to the Convention;
(d) voluntary codes of conduct and other measures to encourage responsible conduct by scientists, academia and industry;
(e) education and awareness-raising about risks and benefits of life sciences and biotechnology;
(f) science- and technology-related developments relevant to the activities of multilateral organizations such as the WHO, OIE, FAO, IPPC and OPCW;
(g) any other science and technology developments of relevance to the Convention.

(23) The following topical scientific subjects will be considered in the years indicated:

(a) advances in enabling technologies, including high-throughput systems for sequencing, synthesizing and analyzing DNA; bioinformatics and computational tools; and systems biology (to be considered in 2012);
(b) advances in technologies for surveillance, detection, diagnosis and mitigation of infectious diseases, and similar occurrences caused by toxins in humans, animals and plants (to be considered in 2013);
(c) advances in the understanding of pathogenicity, virulence, toxicology, immunology and related issues (to be considered in 2014);
(d) advances in production, dispersal and delivery technologies of biological agents and toxins (to be considered in 2015).

However, in looking back at the consideration of this Standing Agenda Item during the Intersessional Period from 2012 to 2015, it is evident that, as noted earlier, the time spent on considering advances in S & T has amounted to about 4.5 h a year and that there has been no effective action arising from the Intersessional Period.

There are clearly several elements relating to advances in science and technology relevant to the Convention from which the Convention can benefit:

(a) Are there any advances in science and technology that appear not to be covered by the extended understandings which make it clear that all microbial and other biological agents and toxins, as well as their components, and whether they affect humans, animals or plants are unequivocally covered by Article I as well as all scientific and technological developments in the life sciences and in other fields of science relevant to the Convention. And, if so, to develop extended understanding that cover these developments.
(b) Whether any advances in science and technology will have an impact on the effective implementation of the Convention and may require the strengthening of biological risk management, as appropriate, in research and development involving new science and technology developments of relevance to the Convention.
(c) Whether any advances in science and technology require changes to arrangements for education and outreach to ensure that they remain effective thereby ensuring that national legislation and regulations are all embracing.
(d) Whether any advances in science and technology can help improve preparedness to counter outbreaks of disease whether natural, accidental or deliberate.
It is evident that there is a clear need for a group of appropriate experts that meets each year and submits recommendations to the Annual Meeting of States Parties. It is suggested that an Open-Ended Experts on Science and Technology Working Group (OEESTWG) be established – that is open-ended so that all States Parties can participate and also open-ended in being able to include appropriate experts from government, academia, international and national academies and trade associations, so that they can advise on the relevant advances in science and technology, on the implications for national legislation and regulations and on education and outreach.

4.3. Reassurance of compliance with Articles of the Convention

One of the most promising ideas put forward at the Seventh Review Conference was the proposal for a conceptual discussion of compliance to take place in a dedicated working group between 2012 and 2015. However, despite receiving wide-ranging support, this proposal did not achieve consensus in 2011. It was kept alive after the Seventh Review Conference by ‘We need to talk about compliance’ (Australia et al., 2012) and other working papers, notably from Australia, in the intersessional period. There remains much merit in the idea, but it may benefit in 2016 from a change in perspective and terminology. An emphasis on reassurance could help the Eighth Review Conference make progress. An Open-Ended Working Group which recasts the proposed conceptual discussion of compliance in terms of providing reassurance on implementation could prove a more acceptable framework for doing broadly similar work to strengthen the Convention.

The proposed Open-Ended Working Group would be primarily concerned with providing reassurance on implementation, but might also serve as a forum in which CBM returns could be considered. There is a need for the CBM returns which States Parties submit annually to be discussed collectively, for sharing of experiences, identification of trends and, where necessary, clarification of information contained in them. Without such a forum for discussion, there is little encouragement for those who are tasked with collating the CBM returns within governments or those tasked with analysing the results to persevere in their time-consuming efforts. In proposing this new Working Group as an appropriate forum for the consideration of CBM returns, it should be noted that the relationship between the long-established CBMs, which are politically binding, and the more recent initiatives to provide reassurance, which are not politically binding, is likely to evolve in practice in ways that cannot be predicted. The reassurance initiatives differ in status but have the capacity to perform broadly similar functions in the life of the Convention.

Reassurance applies to several Articles of the Convention, starting from Article IV. As the authors (Australia et al., 2015a) of the 11 August 2015 Working Paper (BWC/MSP/2015/MX/WP.16) pointed out in paragraph 7 of that paper.

Reassurance that all BWC provisions are implemented effectively is important – not only those related to National Implementation.

The paper then went on to cite aspects of implementation in relation to Articles V, VI, VII and X. This emphasis on the applicability of the reassurance perspective to several Articles could be reflected in constructing the agenda for sessions of the Working Group, so as to ensure that States Parties have opportunities to compare experiences and ways of providing reassurance on their implementation of the Convention in all its provisions. Agenda construction, moreover, needs to, and ideally should, not treat each relevant Article in isolation. On the contrary, it could also take into account the connections between, for example, Article VII and Article X which some States Parties wish to explore further in the intersessional period.

It must be emphasised that, as pointed out in paragraph 9 of the December 2015 Working Paper (BWC/MSP/2015/WP.11/Rev.1) (Australia et al., 2015b):

States Parties have the opportunity to crystallise better ways to provide reassurance as we head towards the Eighth Review Conference in 2016, to advance the cause of building a safer world free of the threat of biological weapons.

These ‘better ways to provide reassurance’ should be brought together and considered, regularly and systematically in an Open-Ended Working Group dedicated to that purpose.

4.4. The confidence-building measures regime

On Confidence-Building Measures, it needs to be recalled that at the Seventh Review Conference, the States Parties in their Final Declaration (United Nations, 2012) on Article V agreed:

(22) The Conference emphasises the importance of the exchange of information among States Parties through the confidence-building measures (CBMs) agreed at the Second and Third Review Conferences. The Conference welcomes the exchange of information carried out under these measures and notes that this has contributed to enhancing transparency and building confidence.

(23) The Conference recognises the urgent need to increase the number of States Parties participating in CBMs and calls upon all States Parties to participate annually. The Conference notes that since the Sixth Review Conference, there has only been a slight increase in the percentage of State Parties submitting their CBMs. The Conference emphasises the importance of increasing and continuing participation in the CBMs.
In addition, States Parties also agreed at the Seventh Review Conference that the first biennial item to be considered in the Intersessional Process was to be:

(a) How to enable fuller participation in the CBMs (2012 and 2013);

The language agreed in the Report of the Meeting of States Parties in 2013 (BWC/MSP/2013/5) (United Nations, 2013) – the second and final year of this biennial item – regarding this biennial item was:

D. Biennial item: how to enable fuller participation in the Confidence Building Measures (CBMs)

(44) Recalling their recognition of the importance of annual exchanges of information to provide transparency and build mutual trust, States Parties noted the value of:

(a) Encouraging States Parties that have not participated regularly in the CBMs or have never participated, to share information on the specific reasons on why they do not participate;
(b) Consider voluntarily making all, or part, of their CBM returns public.

(45) Recalling their previous understanding of the value of the Chairman writing each year to all States parties to remind them of the call by the Seventh Review Conference to participate annually in the CBMs, States Parties recognized the value of including in this reminder a request for information on issues affecting their participation in the CBMs

(46) Recalling their agreement on the value of activities identified in 2012 for addressing the technical difficulties experienced by some States Parties in completing full and timely CBM submissions, States Parties agreed to work to:

(a) Provide further technical assistance and support to States Parties, on request, for preparing and submitting CBM submissions, including through bilateral cooperation on CBMs and the provision of assistance, using the national point of contact list available on the ISU website;
(b) Continue to develop the electronic CBM platform that was demonstrated at the Meeting of States Parties, including through collaborating with the ISU to test and refine the system;
(c) Further improve access by States Parties to the information submitted in CBMs by examining the financial and technical feasibility, benefits and implications of various means of making CBM submissions available in more UN languages;
(d) Convene regional seminars and workshops to promote awareness of CBMs and to provide an opportunity for States Parties to report on their difficulties and needs for assistance;
(e) Consider a ‘step-by-step’ approach in CBM participation whereby States Parties submit CBM forms separately or one by one, as the information is collected and updated, working towards the end goal of updating and completing CBM submissions while upholding the Decisions of the Seventh Review Conference. In this approach, submitting a ‘less than perfect’ CBM initially, and subsequently updating and completing it, would not have negative consequences.

The information (United Nations, 2016b) about the submission of CBMs since the Seventh Review Conference and which of these have been made publicly available is shown in Table 1.

As the BTWC has currently 174 States Parties, the above table shows that in 2015, some 42% – less than half of the States Parties submit their annual CBM returns and of these, less than half make their CBM returns publicly available. It is also evident that although the biennial item in 2012–2013 was How to enable fuller participation in the CBMs, there has been no significant change in the number of CBMs submitted, although the increase in the number made publicly available is welcomed.

Consequently, States Parties at the Eighth Review Conference need to take steps to ensure that a majority of all States Parties submit their annual CBM returns and make them publicly available.

In addition, the Eighth Review Conference needs to make further improvements in the content of the CBMs so that the CBMs really build confidence. After all, the Seventh Review Conference only adopted 11 out of the 25 proposed improvements – and it also needs to make provision for the CBM returns to be discussed collectively each year in the intersessional period from 2017 onwards.

Moreover, the Annual Meeting of States Parties should be authorised to decide on, within the broad framework set by the Eighth Review Conference, the adoption of minor refinements to the CBMs during the intersessional period in the light of these collective discussions. After all, it should be recalled that back in 1987, an Ad Hoc Meeting of Experts, as an ‘appendix’ to the Second Review Conference, was convened to ‘finalise the modalities’ of the original CBMs. The Annual Meetings of States Parties from 2017 onwards should likewise be empowered to ‘finalise the modalities’ of an improved CBM regime coming out of the Eighth Review Conference.
4.5. The implementation support unit

In regard to the Implementation Support Unit (ISU), it needs to be recalled that at the Seventh Review Conference there was considerable support for a modest increase in the strength of the ISU from three to five positions. However, it became evident late in the Seventh Review Conference that this could not be agreed (Pearson & Sims, 2012). This report noted that:

Financial constraints were particularly emphasised by States Parties from southern Europe, but the climate of austerity they reflected was more widely felt. It is evident from the paper circulated by the Secretariat on 21 December 2011 that the annual additional resources sought from Portugal and Spain for the measured and modest augmentation of the ISU in BWC/CONF.VII/4 were $2869 for Portugal and $17,775 for Spain. Given that the major participants had accepted the measured and modest augmentation of the ISU, and that the EU Joint Action in support of the BTWC [Council Joint Action 2008/858/CFSP of 10 November 2008] with its budget of 1.4 M Euro ($1 M) was about to terminate at the end of December 2011 with some $270,000 unspent, it appears that this was yet another example of the EU’s fragmentation and its failure to think and plan ahead in a coordinated way. These constraints resulted in the Conference adopting, in its final hours, a budget embodying zero real growth increase subject only to variations for inflation and for currency fluctuations against the Swiss franc. This strict budgetary discipline impinged on the costs permitted to the Intersessional Process and, notably, prevented any increase of staff or resources for the Implementation Support Unit. The BWC is, in comparison with many, a very inexpensive treaty to administer, but this fact counted for nothing: its diminutive scale of assessments on States Parties was still subjected to the full force of public expenditure cash limits.

The subsequent annual reports (United Nations, 2016c) of the ISU in 2012 to 2015 have each year reiterated the difficulties caused by the lack of resources:

- The decision of the Seventh Review Conference to mandate additional tasks to the Unit without increasing its resources did pose a challenge, however, and the concerns raised in the 2011 ISU report to the Seventh Review Conference about the capacity of the ISU to respond to the requests of States Parties and the geographic distribution of ISU activity remain unresolved – and have even been exacerbated. (MSP/2012/2, para 33).

- The decision of the Seventh Review Conference to mandate additional tasks to the Unit without increasing its resources continued to pose a challenge and the concerns raised in the 2011 ISU report to the Seventh Review Conference about the capacity of the ISU to respond to the requests of States Parties and the geographic distribution of ISU activity remain unresolved. (MSP/2013/4, para 31).

Consequently, States Parties in their preparations for the Eighth Review Conference need to give early consideration to the resources for the ISU.

At the Seventh Review Conference on the penultimate day, the Secretariat issued BWC/CONF.VII/4 dated 21 December 2011. This was entitled Estimated costs of the intersessional programme of the Convention to be held from 2012–2015 and in its first paragraph stated:

1. By resolution 65/92, adopted without a vote on 8 December 2010, the General Assembly requested the United Nations Secretary-General to continue to render the necessary assistance to the depositary Governments of the Convention and to provide such services as may be required for the implementation of the decisions and recommendations of the Review Conferences.

2. This document is submitted pursuant to the above-mentioned resolution, and pending the decision of the Seventh Review Conference to commission an intersessional programme to run from 2012 to 2015, comprising annual meetings of experts and States Parties, an Implementation Support Unit, and associated elements.

There would be considerable merit in requesting the ISU to prepare a note on the estimated costs for the 2017–2020 intersessional period for consideration during the preparations for and at the Review Conference itself. This document could be entitled Estimated costs for the intersessional period of the Convention during 2017–2020 and commence with two paragraphs:

1. By resolution 70/74, adopted without a vote on 7 December 2015, the General Assembly requested the United Nations Secretary-General to continue to render the necessary assistance to the depositary Governments of the Convention and to provide such services as may be required for the implementation of the decisions and recommendations of the Review Conferences.

2. This document is submitted pursuant to the above-mentioned resolution, and pending the decision of the Eighth Review Conference to commission a programme to run in the intersessional period from 2017 to 2020, comprising annual meetings such as of open-ended working groups and States Parties, an Implementation Support Unit, and associated elements.
The amendments shown in bold would enable this document to include illustrative costs for alternative arrangements during the next intersessional period between the Eighth and Ninth Review Conferences and could with advantage include costs for additional members of the ISU, such as individuals with appropriate expertise in regard to advances in science and technology, in national implementation and education who might serve as support to the proposed Open-Ended Working Groups.

There would be immense benefit in such an estimate of costs being made available before or during the Preparatory Committee in August, as this would enable States Parties and the European Union to prepare more effectively for the Review Conference and the necessary agreement of the resources for the subsequent activities of the ISU.

4.6. Universalisation of the Convention

The United Nations General Assembly on 7 December 2015 – when there were 173 States Parties to the BTWC – adopted resolution A/RES/70/74 without a vote on 7 December 2015 (United Nations, 2015). This included as its second introductory paragraph:

Noting with satisfaction that, with the ratification and accession of three additional States, there are now 173 States parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on

Table 2. The increase in number of states that have become party to the convention.

| Number of States Parties | December 2011 | December 2012 | December 2013 | December 2014 | December 2015 | June 2016 |
|--------------------------|---------------|---------------|---------------|---------------|---------------|----------|
| Signatory States not Party | 165           | 166           | 170           | 171           | 173           | 174      |
| Non-signatory States not Party | 12            | 12            | 10            | 9             | 9             | 8        |

Table 3. States that have become party to the CWC but not to the BTWC.

| State                           | Entry into force of CWC | Status in regard to BTWC |
|---------------------------------|-------------------------|--------------------------|
| Angola                          | 16 Oct 2015             | Not party                |
| Central African Republic        | 20 Oct 2006             | Signatory only           |
| Chad                            | 14 Mar 2004             | Not party                |
| Comoros                         | 17 Sept 2006            | Not party                |
| Djibouti                        | 24 Feb 2006             | Not party                |
| Eritrea                         | 15 Mar 2000             | Not party                |
| Guinea                          | 9 July 1997             | Not party                |
| Haiti                           | 24 Mar 2006             | Signatory only           |
| Kiribati                        | 7 Oct 2000              | Not party                |
| Liberia                         | 25 Mar 2006             | Signatory only           |
| Micronesia (Federated States of) | 21 Jul 1999            | Not party                |
| Namibia                         | 29 Apr 1997             | Not party                |
| Nepal                           | 18 Dec 1997             | Signatory only           |
| Niue                            | 21 May 2003             | Not party                |
| Samoa                           | 27 Oct 2002             | Not party                |
| Somalia                         | 28 June 2013            | Signatory only           |
| Syrian Arab Republic            | 14 October 2013         | Signatory only           |
| Tuvalu                          | 18 Feb 2004             | Not party                |
| United Republic of Tanzania     | 25 July 1998            | Signatory only           |

Their Destruction, including all the permanent members of the Security Council, and stressing at the same time that, while marking the fortieth anniversary of the entry into force of the Convention, there is a continuing need to achieve its universalization, and then went on in its third introductory paragraph to state:

Reaffirming its call upon all signatory States that have not yet ratified the Convention to do so without delay, and calling upon those States that have not signed the Convention to become parties thereto at the earliest possible date, thus contributing to the achievement of universal adherence to the Convention.

There is therefore a widespread and continuing recognition by all States Parties of the importance of achievement of universal adherence to the Convention. As agreed at the Seventh Review Conference, each year’s Chairman has prepared an annual report on universalisation for each Meeting of States Parties (United Nations, 2016d). These show that the number of States that have become Parties to the Convention has increased by between one and four each year (Table 2).

It should, however, be noted that the situation regarding the Chemical Weapons Convention (CWC) is rather different. In 2011, at the Seventh Review Conference, the number of States Parties to the CWC was 188, some 24 more than the number of States Parties than to the BTWC. Now, in 2016, as we approach the Eighth Review Conference, the States Parties to the CWC are 192, some 18 more than the number of States Parties to the BTWC. Although the successive Chairmen of the intersessional
process together with the ISU, have endeavoured to encourage ratification or accession to the Convention, as shown above, only nine States have become States Parties since the Seventh Review Conference in 2011. This is the same number of States that became States Parties between the Sixth Review Conference in 2006 and the Seventh Review Conference in 2011.

However, States in becoming party to the CWC have accepted obligations much heavier (in terms of the reporting load, and accepting international inspection, and having to have a National Authority and contribute to the budget of a full-scale Organisation, etc.) than any contained in the BTWC. Therefore, it is surprising that some States that have become party to the CWC have stayed outside the BTWC. On any comparison of obligations, and of compliance costs, the CWC appears the more onerous of the two. So, having accepted the CWC, there should be no obstacle to joining the BTWC.

A further point relates to toxins. In becoming party to the CWC, which covers toxins, a State has already accepted part of the prohibition in the BTWC (which also covers toxins) and such a State is already ‘halfway’ to accepting the rest of the obligations of the BTWC. The State which, through being a Party to the CWC, is already prohibited from developing, acquiring or retaining toxins should have less difficulty extending the prohibition to microbial or other biological agents than one which has not taken that first step.

Table 3 shows which States have become party to the CWC but are not yet party to the BTWC:

There is consequently a window of opportunity at the forthcoming Eighth Review Conference in November 2016 for the States Parties to the BTWC to mount an initiative to encourage all those States which have ratified or acceded to the CWC also to ratify or accede to the BTWC. Rather than just adopting an exhortation, as at previous Review Conferences, it would be timely to agree on concrete decisions to promote and achieve the objective of universality. It is recommended that, at the Eighth Review Conference, an Action Plan be adopted with an interim objective of reaching 190 States Parties to the BTWC no later than the Ninth Review Conference in 2021. Such an Action Plan has been proposed in April 2016 by the EU (EU, 2016).

In addition, there would be benefits from appointing a Steering Committee, as has been proposed by the USA (USA, 2015) in December 2015, consisting of the Chairmen and Vice-Chairmen of the Annual Meetings of States Parties to be held between the Eighth and Ninth Review Conferences together with the Chairmen of any Open-Ended Working Groups to annually review the progress made under the Action Plan and report on this to the Annual Meeting of States Parties and to the Ninth Review Conference. This Steering Committee should work in close cooperation with the Russian Federation, United Kingdom and United States as Depositaries, supported by the ISU, who would need to be provided with the necessary additional resources to implement the Action Plan.

5. The Eighth Review Conference

It is evident that the States Parties to the BTWC have a real opportunity to make significant progress at the Eighth Review Conference in November 2016. The structure adopted since the Fifth Review Conference has had limited effectiveness, whilst the potential risks arising from deliberate misuse of the life sciences has remained high and, indeed, could be argued to have increased with the advances in science and technology.

There is widespread recognition that the potential harm of outbreaks of disease whether natural, accidental or deliberate in humans, animals or plants is of global concern and that all States need to work together to be prepared for and to counter any such outbreaks. The Eighth Review Conference of the BTWC can contribute significantly to this by making the structural changes outlined in this article and moving forward constructively to a more effective Convention and a better world for all of us.

Disclosure statement

No potential conflict of interest was reported by the author.

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