

# **Strengthening the Biological Weapons Convention**

## **Review Conference Paper No 20**

### **Towards a New Implementation Mechanism for the BTWC**

**November 2007**

**Series Editors**

**Graham S Pearson and Malcolm R Dando**

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## TOWARDS A NEW IMPLEMENTATION MECHANISM FOR THE BTWC

by Graham S. Pearson\* and Nicholas A. Sims†

1. At the Meeting of Experts on 20 to 24 August 2007 it was notable that a number of the States Parties who made statements in the opening plenary session made reference to the importance of an implementation mechanism for the Biological and Toxin Weapons Convention (BTWC)<sup>1</sup>. The case for making progress in this respect was argued in the chapter on *Article V: Consultation and Cooperation*<sup>2</sup> in the Bradford Briefing Book *Key Points for the Sixth Review Conference* that was circulated to the States Parties to the BTWC in September 2006.
2. This Review Conference Paper has been written to consider how best the States Parties can move forward to a new implementation mechanism as it was evident that some of the statements made at the Meeting of Experts in August 2007 were not reflecting the reality of the situation and appeared to suggest that the States Parties might just resume consideration of the draft 'rolling text' of the legally binding instrument as it was when last considered in 2001. This is simply not a realistic proposition as there have been significant developments since 2001 – and indeed since the States Parties first began to consider how the Convention might be strengthened at the Third Review Conference in 1991. The success<sup>3</sup> of the Sixth Review Conference in 2006 has resulted in a new context, with a greater willingness to innovate and work together as BTWC States Parties.
3. As there is no doubt that at some time in the future the States Parties will again address an implementation mechanism for the Convention, it would be sensible to consider how this subject can be approached in the new context, by finding helpful wording and avoiding unacceptable echoes of the past. The strengthening of the Convention through a new implementation mechanism is in the interests of **every** State Party, both small and large.

### **Strengthening the effectiveness and improving the implementation of the Convention.**

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<sup>1</sup> Graham S. Pearson, *The Biological Weapons Convention Meeting of Experts, August 2007*, Report from Geneva, Review no 26 in *CBW Conventions Bulletin 76 + 77*, October 2007. Available at <http://www.sussex.ac.uk/Units/spru/hsp/pdfbulletin.html>

<sup>2</sup> Graham S. Pearson, *Article V: Consultation and Cooperation*. pp. 135-150 in Graham S. Pearson, Nicholas A. Sims & Malcolm R. Dando (eds), *Strengthening the Biological Weapons Convention Key Points for the Sixth Review Conference*, Department of Peace Studies, University of Bradford, September 2006. Available at <http://www.brad.ac.uk/acad/sbtwc>

<sup>3</sup> Graham S. Pearson, *The Successful Outcome of the Sixth BTWC Review Conference*, Review Conference Paper No. 19, Department of Peace Studies, University of Bradford, January 2007. Available at <http://www.brad.ac.uk/acad/sbtwc> and Graham S. Pearson, *The Biological Weapons Convention Sixth Review Conference*, pp. 1 – 36 in *The CBW Conventions Bulletin*, Issue No. 74, December 2006. Available at <http://www.sussex.ac.uk/Units/spru/hsp/pdfbulletin.html>

4. In the *Key Points for the Sixth Review Conference* it was pointed out<sup>4</sup> that whilst strengthening the effectiveness and improving the implementation of the Convention had recently been a contentious issue, it was not one that could be ignored. It was noted that there is little doubt that the majority, if not all, of the States Parties would indeed support, in principle if not in specific terms, the requirement to strengthen the effectiveness and improve the implementation of the Convention. Indeed, consideration of the statements made by States Parties at the Sixth Review Conference<sup>5</sup> and subsequently at the Meeting of Experts<sup>6</sup> in August 2007 shows that a common theme expressed by all States Parties is that the effectiveness of the Convention needs to be strengthened and that its implementation needs to be improved. No State Party has suggested otherwise. But a new approach is needed to develop this common theme in a way which is not divisive but unifying for the States Parties.

5. Instead of trying to resume consideration of the draft ‘rolling text’ as it existed in 2001, there would be value in going back **beyond** the legally binding instrument then under negotiation and the scientific and technical work that preceded it to the 1991 origins of the commitment by the BTWC States Parties “*to strengthen the effectiveness and improve the implementation of the Convention.*”

6. It needs to be recalled that at the Third Review Conference in 1991, the States Parties agreed in the Article V section of the Final Declaration<sup>7</sup> as follows:

*The 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. In accordance with the agreement reached in the Preparatory Committee, the Group shall be chaired by Ambassador Tibor Tóth (Hungary), who shall be assisted by two Vice-Chairmen to be elected by the States Parties participating in the first meeting.*

*The Group shall seek to identify measures which could determine:*

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<sup>4</sup> Graham S. Pearson, Nicholas A. Sims & Malcolm R. Dando, *Successful Outcomes for the Review Conference*. p. 36 in Graham S. Pearson, Nicholas A. Sims & Malcolm R. Dando (eds), *Strengthening the Biological Weapons Convention Key Points for the Sixth Review Conference*, Department of Peace Studies, University of Bradford, September 2006. Available at <http://www.brad.ac.uk/acad/sbtwc>

<sup>5</sup> Graham S. Pearson, *The Successful Outcome of the Sixth BTWC Review Conference*, Review Conference Paper No. 19, Department of Peace Studies, University of Bradford, January 2007. Available at <http://www.brad.ac.uk/acad/sbtwc> and Graham S. Pearson, *The Biological Weapons Convention Sixth Review Conference*, pp. 1 – 36 in *The CBW Conventions Bulletin*, Issue No. 74, December 2006. Available at <http://www.sussex.ac.uk/Units/spru/hsp/pdfbulletin.html>

<sup>6</sup> Graham S. Pearson, *The Biological Weapons Convention Meeting of Experts, August 2007*, Report from Geneva, Review no 26 in *CBW Conventions Bulletin* 76 + 77, October 2007. Available at <http://www.sussex.ac.uk/Units/spru/hsp/pdfbulletin.html>

<sup>7</sup> United Nations, Third Review Conference of the States Parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, Geneva, 9 – 27 September 1991. *Final Document*, BWC/CONF.III/23, 1991. Available at: <http://www.opbw.org>

*- 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.*

*To these ends the Group could examine potential verification measures in terms of the following main criteria:*

*- Their strengths and weaknesses based on, but not limited to, the amount and quality of information they provide, and fail to provide;*

*- Their ability to differentiate between prohibited and permitted activities;*

*- Their ability to resolve ambiguities about compliance;*

*- Their technology, material, manpower and equipment requirements;*

*- Their financial, legal, safety and other organizational implications;*

*- Their impact on scientific research, scientific cooperation, industrial development and other permitted activities, and their implication for the confidentiality of commercial proprietary information.*

*In examining potential verification measures, the Group should take into account data and other information relevant to the Convention provided by the States parties.*

*The Group shall adopt by consensus a report taking into account views expressed in the course of its work. The report of the Group shall be a description of its work on the identification and examination of potential verification measures from a scientific and technical standpoint, according to this mandate.*

*The report of the Group shall be circulated to all States Parties for their consideration. If a majority of States Parties ask for the convening of a conference to examine the report, by submitting a proposal to this effect to the Depositary Governments, such a conference will be convened. In such a case the conference shall decide on any further action. The conference shall be preceded by a preparatory committee.*

7. This language was agreed in 1991. It is, however, useful to consider what this language means in the light of the developments over the past sixteen years. Let us consider each paragraph in turn.

8. The first paragraph states that:

*The 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.*

As already noted, all States Parties in their current statements remain keen *to strengthen the effectiveness and improve the implementation of the Convention*. This objective is thus not disputed. The next clause recognizes *that effective verification could reinforce the Convention*. This clause does not say what should be verified to reinforce the Convention. It is evident in the light of the developments over the past sixteen years that there is general agreement that information provided by an individual State Party regarding its implementation of the Convention should be accurate and correct – and, hence, that such information should be validated so that States Parties collectively have confidence that information provided by individual States Parties is accurate and correct. The rest of the paragraph agrees to establish an Ad Hoc Group of Governmental Experts *to identify and examine potential verification measures from a scientific and technical standpoint*. These were measures relating to strengthening the effectiveness and improving the implementation of the Convention because the Ad Hoc Group, known as VEREX, was established explicitly in the context of that 1991 commitment by the States Parties..

9. The second paragraph was administrative setting out who was to chair the Ad Hoc Group and when it was to meet:

*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. In accordance with the agreement reached in the Preparatory Committee, the Group shall be chaired by Ambassador Tibor Tóth (Hungary), who shall be assisted by two Vice-Chairmen to be elected by the States Parties participating in the first meeting.*

10. The third paragraph understandably and wisely set out the vision of the States Parties as to the areas in which measures should be considered by the Ad Hoc Group:

*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.*

11. The fourth paragraph also recognised that measures might well be more effective in combination and reminded members of the Ad Hoc Group that the measures needed to be devised so that they took into account the broad range of potential agents that might be used as a means of warfare:

*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.*

12. The fifth paragraph set out some criteria which might be used in the evaluation of possible measures:

*To these ends the Group could examine potential verification measures in terms of the following main criteria:*

- Their strengths and weaknesses based on, but not limited to, the amount and quality of information they provide, and fail to provide;*
- Their ability to differentiate between prohibited and permitted activities;*
- Their ability to resolve ambiguities about compliance;*
- Their technology, material, manpower and equipment requirements;*
- Their financial, legal, safety and other organizational implications;*
- Their impact on scientific research, scientific cooperation, industrial development and other permitted activities, and their implication for the confidentiality of commercial proprietary information.*

13. The sixth paragraph ensured that the Ad Hoc Group would be open to data and information received from the States Parties:

*In examining potential verification measures, the Group should take into account data and other information relevant to the Convention provided by the States parties.*

14. The final two paragraphs simply set out how the report should be developed and what should be done with it:

*The Group shall adopt by consensus a report taking into account views expressed in the course of its work. The report of the Group shall be a description of its work on the identification and examination of potential verification measures from a scientific and technical standpoint, according to this mandate.*

*The report of the Group shall be circulated to all States Parties for their consideration. If a majority of States Parties ask for the convening of a conference to*

*examine the report, by submitting a proposal to this effect to the Depositary Governments, such a conference will be convened. In such a case the conference shall decide on any further action. The conference shall be preceded by a preparatory committee.*

15. This Ad Hoc Group of Governmental Experts open to all States Parties, which became known as VEREX, met in 1992 and 1993 producing a report<sup>8</sup> which was considered by a Special Conference of States Parties in 1994. The Special Conference decided to establish a new Ad Hoc Group to negotiate a legally binding instrument to strengthen the effectiveness and improve the implementation of the Convention. The language agreed<sup>9</sup> by the Special Conference in 1994 in setting up the new Ad Hoc Group was the following:

*36. In pursuance of the second part of its mandate under Item 9, the 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, open to all States Parties. The objective of this Ad Hoc Group shall be to consider appropriate measures, including possible verification measures, and draft proposals to strengthen the convention, to be included, as appropriate, in a legally binding instrument, to be submitted for the consideration of the States Parties. In this context, the Ad Hoc Group shall, inter alia consider:*

- Definitions of terms and objective criteria, such as lists of bacteriological (biological) agents and toxins, their threshold quantities, as well as equipment and types of activities, where relevant for specific measures designed to strengthen the Convention;*
- The incorporation of existing and further enhanced confidence building and transparency measures, as appropriate, into the regime;*
- A system of measures to promote compliance with the Convention, including, as appropriate, measures identified, examined and evaluated in the VEREX Report. Such measures should apply to all relevant facilities and activities, be reliable, cost effective, non-discriminatory and as non-intrusive as possible, consistent with the effective implementation of the system and should not lead to abuse;*
- Specific measures designed to ensure effective and full implementation of Article X, which also avoid any restrictions incompatible with the obligations undertaken under the Convention, noting that the provisions of the Convention should not be used to impose restrictions and/or limitations on the transfer for purposes consistent with the objectives and the provisions of the Convention of scientific knowledge, technology, equipment and materials.*

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<sup>8</sup> United Nations, Ad Hoc Group of Governmental Experts to Identify and Examine Potential Verification Measures from a Scientific and Technical Standpoint, *Report*, BWC/CONF.III/VEREX/9, Geneva, 1993. Available at <http://www.opbw.org>

<sup>9</sup> United Nations, Special Conference of the States Parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, *Final Report*, BWC/SPCONF/1, Geneva, 19 -30 September 1994. Available at <http://www.opbw.org>

*Measures should be formulated and implemented in a manner designed to protect sensitive commercial proprietary information and legitimate national security needs.*

*Measures shall be formulated and implemented in a manner designed to avoid any negative impact on scientific research, international cooperation and industrial development.*

*37. In undertaking its task, the Ad Hoc Group will take into account all Working Papers, Summary Records, and all other relevant material presented to the Special Conference, as contained in its Final Report.*

*38. The Conference also decided that a short session of the Ad Hoc Group should be held in Geneva from 4 - 6 January, 1995. The session will be devoted to procedural matters and will decide the Group's methods of work, including the adoption, by consensus, of its Rules of Procedure. The Group will hold additional sessions as appropriate. It will complete its work as soon as possible and submit its report, which shall be adopted by consensus, to the States Parties, to be considered at the Fourth Review Conference or later at a Special Conference. The Group will be chaired by Ambassador Tibor Tóth (Hungary), who will be assisted by two Vice-Chairmen, to be elected by the Group.*

*39. The Conference recommended that the General Assembly of the United Nations request the Secretary-General to render the necessary assistance and to provide such services as may be required for the convening of the Ad Hoc Group.*

16. This language was agreed in 1994. It is, however, useful to consider what this language means in the light of the developments over the past thirteen years. Let us again consider each paragraph in turn.

17. The first paragraph sets out the basic objective:

*36. In pursuance of the second part of its mandate under Item 9, the 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, open to all States Parties. The objective of this Ad Hoc Group shall be to consider appropriate measures, including possible verification measures, and draft proposals to strengthen the convention, to be included, as appropriate, in a legally binding instrument, to be submitted for the consideration of the States Parties. In this context, the Ad Hoc Group shall, inter alia consider:*

As already noted, all States Parties in their current statements are keen to *strengthen the effectiveness and improve the implementation of the Convention*. This objective is thus not disputed. The next clause recognizes *that effective verification could reinforce the Convention*. This clause does not say what should be verified to reinforce the Convention. It is evident in the light of the developments over the past 13 years that there is general agreement that information provided by an individual State Party regarding its implementation of the Convention should be accurate and correct – and, hence, that such information should be validated so that States Parties collectively have confidence that

information provided by individual States Parties is accurate and correct. The second sentence of the paragraph agrees to establish an Ad Hoc Group *to consider appropriate measures, including possible verification measures*. In other words, the Ad Hoc Group is to consider appropriate measures to strengthen the effectiveness and improve the implementation of the Convention and to include possible measures whereby the information provided can be validated. The sentence goes on to require the Ad Hoc Group to *draft proposals to strengthen the convention, to be included, as appropriate, in a legally binding instrument*. This simply requires the Ad Hoc Group to draft proposals for a system of measures to strengthen the effectiveness and improve the implementation of the Convention in such a way that they can be incorporated into a legally-binding instrument and thus arrive at a truly effective strengthening of the Convention.

18. The first paragraph also includes a number of subparagraphs listing topics which the Ad Hoc Group is, *inter alia*, to consider. In other words the Ad Hoc Group is free to consider a wide range of topics in the context of drafting its proposals. However, such consideration should include the following:

- *Definitions of terms and objective criteria, such as lists of bacteriological (biological) agents and toxins, their threshold quantities, as well as equipment and types of activities, where relevant for specific measures designed to strengthen the Convention;*

There was much discussion about this during the meetings of the Ad Hoc Group and it became clear what this does not refer to and what it does refer to. It does not in any way suggest that the States Parties should seek to define what the Convention means, but rather that for an effective system of measures to strengthen the effectiveness and improve the implementation of the Convention, it will be necessary to define what the terms **in these measures** mean so that a consistent approach is taken by all States Parties in implementing the system of measures.

19. The second subparagraph

- *The incorporation of existing and further enhanced confidence building and transparency measures, as appropriate, into the regime;*

recognizes that the existing Confidence Building Measures might well as they are or in an enhanced form provide the basis for some of the measures in the regime. This is clearly a relevant matter to be considered in designing the strengthened system.

20. The third subparagraph

- *A system of measures to promote compliance with the Convention, including, as appropriate, measures identified, examined and evaluated in the VEREX Report. Such measures should apply to all relevant facilities and activities, be reliable, cost effective, non-discriminatory and as non-intrusive as possible, consistent with the effective implementation of the system and should not lead to abuse;*

rightly sets out that the system of measures *should apply to all relevant facilities and activities, be reliable, cost effective, non-discriminatory and as non-intrusive as possible,*

*consistent with the effective implementation of the system.* Again these provide a sensible set of criteria against which the system should be assessed.

21. The fourth subparagraph

*- Specific measures designed to ensure effective and full implementation of Article X, which also avoid any restrictions incompatible with the obligations undertaken under the Convention, noting that the provisions of the Convention should not be used to impose restrictions and/or limitations on the transfer for purposes consistent with the objectives and the provisions of the Convention of scientific knowledge, technology, equipment and materials.*

is a recognition that in a regime of measures *to strengthen the effectiveness and improve the implementation of the Convention* there is no intention only to improve the implementation of some Articles of the Convention and not others. When considering a regime of measures the opportunity should be taken to consider how to improve the implementation of **all** Articles of the Convention, including Article X.

22. The next two subparagraphs in the first paragraph:

*Measures should be formulated and implemented in a manner designed to protect sensitive commercial proprietary information and legitimate national security needs.*

*Measures shall be formulated and implemented in a manner designed to avoid any negative impact on scientific research, international cooperation and industrial development.*

provide guidance that measures should protect commercial proprietary information and legitimate security needs and that they should be designed to avoid a negative impact. Again this is clearly sensible guidance.

23. The second paragraph:

*37. In undertaking its task, the Ad Hoc Group will take into account all Working Papers, Summary Records, and all other relevant material presented to the Special Conference, as contained in its Final Report.*

rightly requires the Ad Hoc Group to take into account what VEREX produced and presented to the Special Conference. Again this is clearly a sensible approach.

24. The third paragraph:

*38. The Conference also decided that a short session of the Ad Hoc Group should be held in Geneva from 4 - 6 January, 1995. The session will be devoted to procedural matters and will decide the Group's methods of work, including the adoption, by consensus, of its Rules of Procedure. The Group will hold additional sessions as appropriate. It will complete its work as soon as possible and submit its report, which shall be adopted by consensus, to the States Parties, to be considered at the Fourth Review Conference or later at a Special Conference. The Group will be chaired by*

*Ambassador Tibor Tóth (Hungary), who will be assisted by two Vice-Chairmen, to be elected by the Group.*

is largely procedural. As the Chairman is no longer available, it would be necessary to agree a new Chairman and two Vice-Chairmen. It is suggested that this could be readily agreed at the first meeting of a resumption of the Ad Hoc Group to consider a regime of measures *to strengthen the effectiveness and improve the implementation of the Convention*. It would seem appropriate for the Eastern Group to provide the new Chairman.

25. The final paragraph:

*39. The Conference recommended that the General Assembly of the United Nations request the Secretary-General to render the necessary assistance and to provide such services as may be required for the convening of the Ad Hoc Group.*

continues to be applicable and is again sensible and non-contentious.

26. This analysis shows that the mandate for the Ad Hoc Group agreed by the Special Conference of the States Parties to the BTWC in 1994 is still relevant today, some 13 years later, in considering a system of measures *to strengthen the effectiveness and improve the implementation of the Convention*, so long as the States Parties do not retrace the steps taken by the Ad Hoc Group from 1995 to 2001 but focus on the 1994 mandate distinct from the subsequent sessions of the Ad Hoc Group. The material prepared for the Ad Hoc Group and its own documentation should be regarded as a collection of data and information that can be drawn upon if appropriate in the resumed consideration of a system of measures.

27. As noted in *Review Conference Paper No. 14*<sup>10</sup> and in the *Key Points for the Sixth Review Conference*, there is no value in continuing recriminations about why the negotiations of the Ad Hoc Group came to an end during its 24th session in July 2001. Rather, a **fresh start** needs to be made. It needs to be recognized that there have been significant developments both politically and technically since the meetings of VEREX in 1992 and 1993, almost 15 years ago, and that the success of the Sixth Review Conference in 2006 has introduced a new context from that of 1995-2001 for the work of the Ad Hoc Group to be resumed, with a better hope of success, after the Seventh Review Conference in 2011. It is recommended that a **fresh start** be made by considering all developments since the Third Review Conference in 1991 and its decision to *strengthen the effectiveness and improve the implementation* of the Convention – an aim which has been frequently referred to by the States Parties in their statements at the Review Conferences and subsequent intersessional meetings in Geneva.

28. Realistically, such a **fresh start** cannot be made before the Seventh Review Conference in 2011. However, the States Parties can do much to help to bring about such a fresh start by including proposals for the resumption of the Ad Hoc Group, and planning for a new implementation mechanism, in their preparations for the 2011 Review Conference, and meanwhile being careful in the language that they use in their statements at the intersessional meetings. There is much to be said for referring to the value of efforts *to strengthen the*

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<sup>10</sup> Graham S. Pearson, *The UN Secretary-General's High Level Panel: Biological Weapons Issues*, University of Bradford, Department of Peace Studies, Review Conference Paper No. 14, May 2005. Available at <http://www.brad.ac.uk/acad/sbtwc>

*effectiveness and improve the implementation of the Convention.* Likewise use of language about a system of measures for improving implementation is also helpful. It is not helpful to refer either to verification or to definitions unless care is taken to explain that verification refers to the validation of information provided by States Parties in a system of measures *to strengthen the effectiveness and improve the implementation of the Convention* and that definitions refer to what is to be provided under such a system. It is equally not helpful to suggest that a resumption of negotiations is all that is required as this is likely to be taken to refer to a resumption of negotiations on the draft rolling text of 2001. It needs to be recognized by all that a **fresh start** needs to be made in which all the previous work by VEREX in 1992-1993 and the Ad Hoc Group in 1995-2001 is available as material that can be drawn upon as appropriate but no more than that. The starting point is the statement of 1991; the mandate is that of 1994. For there to be agreement to make a **fresh start**, there would need to be an understanding that there were **no preconditions** but simply that the States Parties would consider collectively how best to achieve the objective of *strengthening the effectiveness and improving the implementation of the Convention* taking into account all the developments since 1991.

29. Nor would it be helpful to suggest that the mandate for the Ad Hoc Group should be revisited as to do so would result in wasted energy and time. The States Parties need to recognize that the mandate that was agreed by the Special Conference in 1994 is sufficient – it does after all state clearly that the objective is *to strengthen the effectiveness and improve the implementation of the Convention* and all that the States Parties need to do is to agree to make a fresh start by meeting without any preconditions to consider how best to move forward towards this goal.

30. Those States Parties that take the opportunity in their statements to Meetings of Experts, Meetings of States Parties or to the General Assembly to urge strengthening the effectiveness and improving the implementation of the Convention through a system of measures would be wise to demonstrate using the existing provisions and long established procedures of the Convention – and, in particular, the Confidence Building Measures agreed in 1986 and extended in 1991 – that they do support the strengthening of the Convention by making annual and fully comprehensive CBM returns.

## **Conclusions**

31. The States Parties to the BTWC are urged to recognize that there is broad agreement on the value of a resumed effort *to strengthen the effectiveness and improve the implementation of the Convention.* However, realistically they also need to recognize that a **fresh start** with **no preconditions** is needed in the light of all the developments over the past sixteen years. Such a **fresh start** will not happen before the Seventh Review Conference but States Parties can help to prepare the ground for such a **fresh start** by including proposals for the resumption of the Ad Hoc Group, and planning for a new implementation mechanism, in their preparations for the 2011 Review Conference, and meanwhile being careful in their statements to the intersessional meetings and elsewhere to recognize the benefits to all States Parties of efforts *to strengthen the effectiveness and improve the implementation of the Convention.* They should not needlessly continue in such statements to use words like verification, when they could use validation instead, or definitions, when they could make it clear that definitions apply to what the measures in a future system will entail, or refer to resumption of negotiations without making it clear that a fresh start is necessary. It will be better to emphasize at every opportunity the value of joining together in a **fresh start** with **no**

**preconditions** to consider a system of measures for a new implementation mechanism *to strengthen the effectiveness and improve the implementation of the Convention.*