

**20th Pugwash Workshop Study Group on the
Implementation of the CBW Conventions:
The BWC Intersessional Process towards the Sixth Review Conference and Beyond
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**Preparing for the First Meeting of the States Parties:
National Implementing Legislation and Security and
Oversight of Pathogenic Microorganisms and Toxins**

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Introduction

1.? The Meeting of Experts of the States Parties to the Biological and Toxin Weapons Convention in Geneva on 18 to 29 August 2003 was held, in accordance with the decision taken by the Fifth Review Conference [1], to prepare for the annual meeting of the States Parties of one week duration to be held in 2003 *to discuss, and promote common understanding and effective action on:*

- 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;*

The first week of the Meeting of Experts addressed the first topic and the second week the second topic.? 83 States Parties participated in the Meeting of Experts which heard national overview statements on national measures to implement the prohibitions of the Convention from 16 States Parties on Monday 18 August and then on subsequent days during the first week heard a total of 37 thematic presentations on this topic [2]. During the second week, national overview statements on national mechanisms to establish and maintain security and oversight of pathogenic microorganisms and toxins were heard from 14 States Parties on Monday 25 August and then on subsequent days during the second week a total of 36 thematic presentations were heard on this topic [3].?? During the two week period, 66 Working Papers were presented by States Parties on the two topics.

2.?? Although previous Briefing Papers [4] [5] had urged the States Parties in the report of the Meeting of Experts to start to identify the *common understandings and effective action* that had emerged as it was recognised that there would be little time to develop agreed language for such common understandings and effective action during the one week Meeting of the States Parties on 10 to 14 November 2003, the Meeting of Experts has produced only a factual report.? This is in accordance with the requirement in the decision of the Fifth Review Conference that "*The meeting of experts will prepare factual reports describing their work.*" but it did not offer draft text for the Meeting of States Parties to work on, as had been hoped.

3.? The Report of the Meeting of Experts in August 2003 is in two parts.? Part I [6] provides a four page procedural report of the meeting to which is attached Annex I providing a list of the documents.? Part II [7] is a 172 page document prepared to meet the decision of the Meeting of Experts that "*all the statements, presentations and contributions made available to the Chairman by the States Parties would be attached to this Report, in the language of submission, as Annex II*".??However, Annex II in Part II is preceded by a note from the Secretariat that:

"the statements, presentations and contributions included in this part of the report are presented in the languages of submission.? In cases where the language of submission is not English, the text as submitted is followed by an informal transcript of the English

interpretation, made from the tape recording of the meeting.? These transcripts are not an official record, and are provided solely as a convenience to delegations.? They may differ from the texts submitted.? Statements, presentations and contributions which were submitted as working papers are not included in this Annex; please refer to the Annex I for the list of working papers."

It is not easy to analyse the information provided in Annex II as no indication is provided as to where *statements, presentations and contributions which were submitted as working papers* -- and thus are not included in Annex II -- were made during the Meeting of Experts, nor is there any indication in Annex II as to where the statements, presentations and contributions fit into the agreed detailed programme of work [\[8\]](#) which broke down the two topics into subtopics and further detailed subelements.

4.?? This paper starts from the material presented in Briefing Papers No. 6 and No. 7 and develops this in the light of the material presented by States Parties at the Meeting of Experts in order to propose language for the two topics -- national measures to implement the prohibitions in the Convention and national measures to establish and maintain the security and oversight of pathogenic microorganisms and toxins -- for the Report of the First Meeting of States Parties in November 2003.?? It is recognised that the time available at the Meeting of the States Parties will be extremely limited and consequently it would be unrealistic to expect the Report to consist of more than a couple of pages -- about a page on the first topic and another on the second topic.? The aim here is thus to propose language for about a few page report on the two topics.? As in Briefing Papers No. 6 and No. 7,? the proposed language for the common understandings and effective action that could appear in the Report of the First Meeting of States Parties in the context of the forthcoming Sixth Review Conference is? based on the extended understandings agreed at previous Review Conferences.

The Meeting of Experts in August 2003: The First Week

5.?? The Meeting of Experts considered the national measures to implement the prohibitions in the Convention during the week of Monday 18 to Friday 22 August 2003.?? National overview statements were made on the first day by 16 States Parties and contributions and presentations were made by States Parties on their national implementing measures which included Argentina, Australia, Brazil, Bulgaria, China, Cuba, Czech Republic, Finland, Germany, India, Iran, Japan, Republic of Korea, Malaysia, Mexico, New Zealand, Netherlands, Poland, Russian Federation, South Africa, Thailand, Turkey, Ukraine, United Kingdom and the United States.?? In addition, 12 (Austria, Belgium, Finland, France, Germany, Ireland, Italy, the Netherlands, Portugal, Spain, Sweden and the UK) of the 15 EU countries contributed detailed information on national implementing measures to a composite Working Paper [\[9\]](#).?? It was evident that most of the States Parties which made statements, contributions and presentations to the Meeting of Experts had enacted national legislation to implement the prohibitions of the Convention and had national export control legislation and regulations.

6.? During the week, statements, presentations and contributions were made on successive days as the various subtopics of national implementing measures set out in the agenda were considered:

- A.? Legal, Regulatory and Administrative Systems.*
- B.? Prohibitions*
- C. Restrictions*
- D. Practical Implementation and Enforcement*
- E. Criminalization and Law Enforcement.*

Although Annex II in Part II of the Final Report includes statements, presentations and contributions made on each day, the material available together with the Working Papers do not fall neatly into the various Agenda item headings and subelements.? It is also evident, as noted above,

that a detailed analysis leading to an extensive set of detailed common understandings and hence of possible effective action would not be feasible given the reality of the one week duration of the Meeting of States Parties and hence the impossibility of agreeing a report of more than a few pages.

7.? The situation is assisted, however, by the fact that some of the contributions and Working Papers address the issues conceptually identifying core elements.? It is also very clear that there are indeed common understandings among the States Parties of the need for national measures to implement the prohibitions of the Convention.? Furthermore, such national measures need to be implemented effectively through appropriate national institutional mechanisms.

8.? The central prohibitions of the Convention are in Article I and in Article III.? Article I states that:

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.

Article III states that:

Each State Party to this Convention undertakes not to transfer to any recipient whatsoever, directly or indirectly, and not in any way to assist, encourage, or induce any State, group of States or international organizations to manufacture or otherwise acquire any of the agents, toxins, weapons, equipment or means of delivery specified in article I of this Convention.

It follows that the core elements for national implementing and penal legislation should include:

- a.? Prohibitions of the development, production, stockpiling, acquisition, retention, use and transfer of microbial and other biological agents, or toxins whatever their origin or methods of production, of types and quantities that have no justification for prophylactic, protective or other peaceful purposes.
- b.? Prohibitions of weapons, equipment or means of delivery designed to use such agents or toxins for hostile purposes or in armed conflict.
- c. Penal provisions specifying the penalties for any persons breaching such prohibitions.
- d.? Extraterritorial application of these prohibitions if undertaken by a State Party or by a State Party person, whether individual or corporate.
- e.? Provisions for offences by corporate bodies as well as individuals.
- f.? Powers of search and for obtaining evidence in cases of suspected breaches of the legislation.
- g.? Corresponding changes in military law so as to ensure that these prohibitions apply without exception to members of the armed forces.
- h.? Prohibition of the provision of assistance to others, whether within the State Party or elsewhere, to breach any of the prohibitions in the Convention.

9.? Insofar as the prohibitions in Article III of the Convention are concerned which prohibit the transfer to any recipient whatsoever or in any way to assist, encourage, or induce any State, group of States or international organizations to manufacture or otherwise acquire any of the agents, toxins or weapons, equipment or means of delivery specified in Article I of the Convention, provisions need to be made nationally for a mandatory licensing system which can track the movement

of specified materials, such as agents and toxins and certain items of equipment.? Such transfer monitoring and export control regulations should include:

a.? A list of biological agents and toxins, and of related genetic material, and equipment for which a license is required prior to export and internal transfer.

b.? A "catch all" clause that would require any person transferring such items to another to seek a license where that person suspected or had been informed by the national government that the item concerned may be for use in breach of the prohibitions in the Convention.

c.? Controls on the transfer of sensitive technology by intangible means such as by e-mail or facsimile.

d. Penal provisions specifying the penalties for any persons breaching such prohibitions.

e.?? Provision for changes to be made to the lists of agents and toxins and equipment in the light of changing circumstances.

10.? The common understandings relating to national measures to implement the prohibitions in the Convention are thus that these national measures should include provisions such as those outlined in the above two paragraphs and the effective action would be to encourage all States Parties to review their existing national measures in the light of the information provided by the other States Parties and amend their national measures as necessary to strengthen them. ??It will be recalled that the States Parties have already agreed at previous Review Conferences to provide information on national legislation or other measures to implement the Convention -- see, for example, the language agreed at the Fourth Review Conference [\[10\]](#) in 1996:

... some States Parties, as requested by the Second Review Conference, have provided to the United Nations Department for Disarmament Affairs information on the texts of specific legislation enacted or other measures taken to assure domestic compliance with the Convention. These States Parties are invited, and all States Parties are encouraged, to provide such information and texts in the future. In this regard the? information provided by States Parties in response to the confidence-building measure agreed to at the Third Review Conference entitled "Declaration of legislation, regulations and other measures" is welcomed. In addition, all States Parties are encouraged to provide any useful information on the implementation of such measures.

Moreover, as stated in Briefing Paper No. 6 [\[11\]](#), it should be recognised that, as agreed at the Third Review Conference, from 15 April 1992 States Parties, under Confidence-Building Measure E,

????????? shall be prepared to submit copies of the legislation or regulations or written details of other measures on request to the United Nations Department for Disarmament Affairs or to an individual State Party. [\[12\]](#) [Emphasis added]

Each State Party can now, therefore, request these details **bilaterally** under the authority of the Third Review Conference, instead of depending solely upon the circulation of texts made available to the United Nations.? Although this extension to provide for bilateral requests has not been recorded explicitly in any Final Declaration, it is still one part of the politically binding requirement of CBM 'E'.? It therefore represents one of the common understandings which have evolved out of Article IV.? This bilateral approach should become more important as States Parties take a greater interest in the status and effectiveness of their own legislation as well as other States Parties' legislation, and whether it is sufficiently strong and comprehensive to contribute to security overall.? They can check one another's legislative performance individually, and make their own assessment of its adequacy.?? The possibility of requesting these details bilaterally could be used to bring diplomatic pressure to bear on any State Party which was thought, by reason of the

inadequacy of its national measures, to be leaving open loopholes which bioterrorists or others might exploit to the detriment of everyone's security.? To *"be prepared to submit copies of the legislation or regulations or written details of other measures on request"* is to accept that these texts are of legitimate interest to individual States Parties and that their requests are in accord with the common understanding of what Article IV implies for each State Party.

11.? Consequently, these existing agreed understandings should be used by the States Parties to provide information on the outcome of national reviews of their national implementing measures during 2004 and successive years.?? This would provide information that should enable the Sixth Review Conference in 2006 to review how effective had been the action agreed on national implementing measures as the outcome of the Meeting of Experts in 2003, and in particular of the opportunity it provided for the comparison of measures among States Parties, thereby contributing an international dimension to the reviews undertaken nationally.

The Meeting of Experts in August 2003: The First Week

12.?? The Meeting of Experts considered national measures to establish and maintain the security and oversight of pathogenic microorganisms and toxins during the week of Monday 25 to Friday 29 August 2003.?? National overview statements were made on the first day of the week by 14 States Parties and contributions and presentations were made by States Parties on their national measures which included Argentina, Australia, Brazil, Bulgaria, Canada, China, Cuba, Czech Republic, France, Germany, India, Iran, Japan, Republic of Korea, Libya, Malaysia, Mexico, New Zealand, Netherlands, Poland, Romania, Russian Federation, Sweden, Ukraine, United Kingdom and the United States.?? In addition, 12 (Austria, Belgium, Finland, France, Germany, Ireland, Italy, the Netherlands, Portugal, Spain, Sweden and the UK) of the 15 EU countries contributed detailed information on national implementing measures, which included national measures addressing the handling of human, animal and plant agents and toxins, to a composite Working Paper [13].?? It was evident that most of the States Parties which made statements, contributions and presentations to the Meeting of Experts had enacted national measures that addressed the security of pathogenic microorganisms and toxins whether from a biosafety or biosecurity viewpoint.

13.? During the week, statements, presentations and contributions were made on successive days as the various subtopics of national implementing measures set out in the agenda were considered:

A.? Legal, Regulatory and Administrative Systems.

B.? Facilities

C. Personnel

D. Transport and Transfer

E. Oversight & Enforcement.

Although Annex II in Part II of the Final Report includes statements, presentations and contributions made on each day, the material available together with the Working Papers do not fall neatly into the various Agenda item headings and subelements.? It is also evident, as noted above, that a detailed analysis leading to an extensive set of detailed common understandings and hence of possible effective action would not only be difficult but is also unwarranted given the reality of the one week duration of the Meeting of States Parties and hence the impossibility of agreeing a report of more than a few pages.

14.? The situation is assisted, however, by the fact that some of the contributions and Working Papers address the issues conceptually identifying key principles.? It is also very clear that there are indeed common understandings among the States Parties of the need for national measures to establish and maintain the security and oversight of pathogenic microorganisms and toxins.? Furthermore, there are common understandings that such national measures need to be implemented effectively through appropriate national institutional mechanisms.

15.? The central requirement for the security and oversight of pathogenic microorganisms and

toxins stems from the general purpose criterion in Article I of the Convention which states? that:

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;

It is thus clear that each State Party needs to take national measures to ensure that, never in any circumstances, are pathogenic microorganisms and toxins used for other than prophylactic, protective or other peaceful purposes.

16.? It follows that national measures to address the security of pathogenic microorganisms and toxins should address a number of areas:

- ? Physical access to facilities holding such pathogenic microorganisms and toxins;
- ? Storage of pathogenic microorganisms and toxins within those facilities;
- ? Access to pathogenic microorganisms and toxins within those facilities;
- ? Transfer of pathogenic microorganisms and toxins between facilities;
- ? Integrity of facilities holding and of personnel handling pathogenic microorganisms and toxins;

National measures to address these should include:

- a.? Determination of which pathogenic microorganisms and toxins should be the subject of such national measures -- referred to as listed pathogenic microorganisms and toxins.
- b. Registration and licensing of all national facilities holding listed pathogenic microorganisms and toxins.
- c. Scrutiny and licensing of all personnel working with listed pathogenic microorganisms and toxins.
- d. Facility handling procedures to ensure the security of listed pathogenic microorganisms and toxins.
- e.? Requirements for the physical security of facilities and storage areas holding listed pathogenic microorganisms and toxins.
- f.? Requirements for the security and licensing of transfers between facilities of listed pathogenic microorganisms and toxins.

17.? The oversight of pathogenic microorganisms and toxins was seen as covering two different areas in the statements, presentations and contributions made to the Meeting of Experts.? In many States Parties, oversight was used to refer to measures to ensure the effective and consistent implementation in all facilities holding pathogenic microorganisms and toxins of the national measures addressing the security of such materials.? In some States Parties, oversight was also used to refer to national measures requiring the prior approval of certain work involving listed pathogenic microorganisms and toxins.? Both types of oversight contribute to enhancing the national implementation of the Convention through ensuring that pathogenic microorganisms and toxins are not used for purposes other than those permitted under the Convention.

18.? Such oversight mechanisms should include provisions for:

- ? A requirement for the regulatory authority to be notified of the names and addresses of facilities holding any listed pathogenic microorganisms and toxins.?? The prior approval of the regulatory authority may be required prior to the facility holding any such listed pathogenic microorganisms and toxins.
- ? A requirement for approval to be sought from the regulatory authority prior to the carrying out of particular types of work involving listed pathogenic microorganisms and

toxins.

? Powers for the regulatory authority to inspect and search facilities and individuals, to instruct work to stop, to remove listed pathogenic microorganisms and toxins or require them to be destroyed, and to restrict access by specified individuals to the listed pathogenic microorganisms and toxins.

? Appropriately trained officials in the regulatory authority who are authorised to inspect facilities, make assessments and take any enforcement action.

19.? The common understandings relating to national measures to establish and maintain the security and oversight of pathogenic microorganisms and toxins are thus that these national measures should include provisions such as those outlined in the above paragraphs and the effective action would be to encourage all States Parties to review their existing national measures in the light of the information provided by the other States Parties and amend their national measures as necessary to strengthen them.?? It is also clear that these common understandings regard the national measures to establish and maintain the security and oversight of pathogenic microorganisms and toxins as integral to the national measures to implement the prohibitions in the Convention and, in particular, to ensuring the national implementation of the general purpose criterion in Article I that pathogenic microorganisms and toxins are not used for purposes other than those permitted under the Convention.

20. As already noted in the discussion on the first week, the existing agreed understandings should be used by the States Parties to provide information on the outcome of national reviews of their national measures to establish and maintain the security and oversight of pathogenic microorganisms and toxins during 2004 and successive years.?? This would provide information that should enable the Sixth Review Conference in 2006 to review how effective had been the action agreed on national measures on security and oversight as the outcome of the Meeting of Experts in 2003.

Outcome of the First Meeting of States Parties

21.? As the Meeting of Experts did not include any language in its Report which lends itself to the drafting of language for the outcome of the Meeting of States Parties, the development of such language and its agreement will need to be achieved during the one week Meeting of the States Parties from 10 to 14 November 2003.?? Two points are immediately clear.? First, the outcome cannot realistically be more than a few pages focussing on the central elements and second, the language should be developed from that agreed by States Parties at the Fourth Review Conference as the Meeting of States Parties in November 2003 is part of the **inter** Review Conference process between the Fifth and Sixth Review Conferences.? Language developed from that of the Fourth Review Conference offers the prospect of easy assimilation and further development by the Sixth Review Conference as the cumulative review process resumes.

22.? Consequently, the outcome language proposed at the end of Briefing Paper No. 6 and No. 7 has been reviewed and shortened to reflect the reality of what is achievable in a one week Meeting of the States Parties.?? The proposed language for the outcome of the November 2003 Meeting of States Parties is as follows:

OUTCOME OF THE FIRST MEETING

1. The First Meeting reaffirmed the commitment of States Parties to take the necessary national measures under Article IV in accordance with their constitutional processes. These measures must ensure the prohibition and prevention of the development, production, stockpiling, acquisition or retention of the agents, toxins, weapons, equipment and means of delivery specified in Article I of the Convention anywhere within their territory, under their jurisdiction or under their control, in order to prevent their use for purposes contrary to the Convention.

2. The First Meeting noted those measures already taken by a number of States Parties in this

regard, including the adoption of penal legislation, and urged any State Party that has not yet taken any necessary measures to do so immediately. Such measures should apply within its territory, under its jurisdiction or under its control anywhere. The First Meeting invited each State Party to consider the application of such measures also to actions taken anywhere by natural persons possessing its nationality.

3.? The First Meeting encouraged each State Party that is in a position to do so upon request to afford the appropriate form of legal assistance to other States Parties to facilitate the implementation of the obligations in Article IV of the Convention.

4.? The First Meeting recognised that national measures to implement the prohibitions in the Convention need to utilize identical language to that of Article I of the Convention and also to embrace the extended understandings that have emerged from the successive Review Conferences.? The First Meeting recommended that States Parties should take effective action by reviewing their national measures to ensure that they do indeed prohibit and prevent the activities defined in Article I.

5.?? The First Meeting recognised that national measures to implement the obligations? of Article III of the Convention need to utilize essentially identical language to that of Article III of the Convention.? These measures require to be effective internationally, nationally and subnationally. The First Meeting recommended that States Parties should take effective action by reviewing their national measures to ensure that they do indeed implement the obligations of Article III.

6. The First Meeting noted that some States Parties, as requested by the Second Review Conference, have provided to the United Nations Department for Disarmament Affairs information on the texts of specific legislation enacted or other measures taken to assure domestic compliance with the Convention. The First Meeting invited these States Parties, and encouraged all States Parties, to provide such information and texts in the future both to the United Nations Department for Disarmament Affairs and, upon request, to an individual State Party.? In this regard the First Meeting welcomed information provided by States Parties in response to the confidence-building measure agreed to at the Third Review Conference entitled "Declaration of legislation, regulations and other measures".

7.? The First Meeting emphasized that national implementing legislation needs to include prohibition of development, production, stockpiling, retention, acquisition and use of biological weapons with language that applies to both biological and toxin agents and to the weapons, equipment and means of delivery.? It was recommended that language used in the national legislation should be identical to that in the Convention so as to avoid any loopholes.

8.? The First Meeting recognized the importance of ensuring that national measures? are applicable to all natural persons and furthermore apply to activities carried out not only within but also outside the territory of the State Party.?? The First Meeting recommended that States Parties review their national measures to ensure that they apply to all natural persons and that there are no exclusions and also to ensure that they are applicable to natural persons anywhere.

9.? The First Meeting recognized that effective national implementation of the prohibitions of the Convention requires the mounting of an effective and continuing campaign to ensure that all those working with biological agents and toxins both now and in the future are aware of the prohibitions of the Convention and of the national legislative, administrative and other measures to implement these prohibitions.

10.? The First Meeting noted that the effectiveness of drawing up national measures to implement the prohibitions of the Convention can be enhanced through making draft national measures available for consultation by seeking proposals for amendment from the public in general and the community that will be affected by and implement the measures in particular.? Advisory committees including representatives of the community that are affected by the measures can enhance the implementation of the national measures.

11.? The First Meeting recognized that the national measures to implement the prohibitions of the Convention need to be enforced effectively, in order to ensure the prevention of all the prohibited activities, and recommended that each State Party should review the effectiveness of its enforcement of the prohibitions.

12.? The First Meeting recognized that similar approaches are being taken by States Parties nationally, regionally and more widely to address the safety in storage, handling and use of pathogenic microorganisms and toxins and of genetically modified microorganisms and that such approaches will include considerations of biocontainment and thus the physical security of such materials.?? However, it was also recognized that these safety related approaches are frequently different for human, animal and plant pathogens and for toxins.? It was noted that the national legislation and regulations and administrative procedures being used to ensure such materials are stored, handled and used safely can provide a basis which can be strengthened further to prevent unauthorized access or unauthorized acquisition of such materials.???

13.? The First Meeting urged all States Parties to review their existing national legislation and regulations to determine whether additional provisions are required to prevent unauthorized access to or unauthorized acquisition of the agents of concern.

14.? The First Meeting recognized the benefits that standards, best practice and codes of practice could provide towards ensuring the effective and consistent implementation nationally of legislation and regulations addressing the safety, security and oversight of pathogenic microorganisms and toxins.? States Parties were urged to share information on the standards, best practice and codes of practice on the safety, security and oversight of pathogenic microorganisms and toxins so that individual States Parties could review the adequacy of their national standards, best practice and codes of practice and determine whether any modification or amendment was required.

15.? The First Meeting noted that in many States Parties the national regulations relating to pathogenic microorganisms and toxins required all those engaged in activities involving such materials to be appropriately trained and qualified.? Such qualified and trained personnel contribute to ensuring that pathogenic microorganisms and toxins are handled safely and appropriately and thereby contribute to ensuring the security of such materials.

16.? The First Meeting recognized that the national institutional frameworks in States Parties are frequently separate and different for human, animal and plant pathogens and toxins.?? It was noted that there are benefits in States Parties holding annual oversight fora at about annual intervals involving all the different government agencies concerned in the implementation of national legislation and regulations addressing human, animal, and plant pathogens and toxins to review the effectiveness of the implementation and the comprehensiveness of national legislation and regulations to ensure that there are no loopholes or perceived loopholes or deficiencies.

17.? The First Meeting recognized that the determination as to which pathogenic microorganisms and toxins are of concern needs to be carried out nationally as the precise composition of the national list of agents of concern will reflect national circumstances.? The principles of risk assessment to be used in drawing up the national list of human, animal and plant pathogens and toxins of concern should be broader than just the inherent properties of the agent.? States Parties were urged to share information on their national list of agents of concern so that individual States Parties could review the adequacy of their national list of agents of concern and determine whether any modification or amendment was required.

18.? The First Meeting noted that the biocontainment levels required in many States Parties for facilities handling pathogenic microorganisms reflect the hazards posed by such materials and consequently contribute to ensuring the security of such materials, and, in particular, those materials presenting the greatest hazard.? Several other biosafety requirements for facilities handling pathogenic microorganisms such as perimeter access, access to collections and stored pathogenic microorganisms and the logging and recording of those working in the facility and requirements for

storage, containment, custody and disposal of pathogenic microorganisms also contribute to ensuring the security of such materials and provide a basis on which to add further or more stringent security requirements as judged appropriate by the State Party.? The First Meeting urged all States Parties to review from a security viewpoint their existing requirements for biocontainment, for perimeter access, for access to collections and to stored pathogenic microorganisms, and for the logging and recording of those engaged in working with pathogenic microorganisms and requirements for storage, containment, custody and disposal of pathogenic microorganisms in order to determine whether these requirements and measures need to be made more stringent.?

19.? The First Meeting in considering personnel issues related to security and oversight recognized the importance competence, training and further education of **all** personnel engaged in activities involving pathogenic microorganisms and toxins.? They recommended that States Parties should review their national requirements for the competence, training and further education to consider what modification or amendment was required to address security aspects.?

20. The First Meeting noted that many States Parties had already adopted international standards for the transportation of pathogenic microorganisms and for toxins (which are generally treated as chemicals) which also include the requirements for the containers and/or packaging to be used for such transportation.?? The First Meeting urged all States Parties to adopt such international standards.

21.? The First Meeting recognized that for human, animal and plant health reasons many States Parties have legislation and regulations to control the import of human, animal and plant pathogens, which are judged by that State Party to present a particular risk from a health viewpoint, into the State Party, to control the export of such pathogens and to control transfers of such pathogens within the State Party. ??States Parties are urged to review, from a security viewpoint, their existing national legislation and regulations for the control of transfers, both nationally and internationally, of human, animal and plant to determine whether these provisions require strengthening for pathogenic microorganisms and toxins of concern.

22.? The First Meeting noted in regard to legislation and regulations addressing involving pathogenic microorganisms and toxins that these were frequently different for human, animal and plant pathogens and for toxins.? Consequently, the First Meeting urged that all States Parties instigate an annual oversight process in which all the government authorities concerned with the implementation of national legislation and regulations for human, animal and plant pathogens and for toxins review their comprehensiveness to ensure that there are no loopholes or perceived loopholes and the effectiveness of their enforcement.?

23.? The First Meeting recognized that a few States Parties already have national regulations and procedures for the oversight and prior approval of certain activities involving pathogenic microorganisms and toxins of concern.?? The First Meeting encouraged all States Parties to share information on their national regulations and procedures for the oversight and prior approval of certain activities involving pathogenic microorganisms and toxins of concern so that individual States Parties could review the adequacy of their national regulations and procedures and determine whether any modification or amendment or new regulations and procedures were required.

24.? The First Meeting recognized that a number of States Parties already have national regulations and procedures for the licensing and accreditation of facilities working with pathogenic microorganisms and toxins of concern.?? The First Meeting encouraged all States Parties to share information on their national regulations and procedures for the licensing and accreditation of facilities working with pathogenic microorganisms and toxins of concern so that individual States Parties could review the adequacy of their national regulations and procedures and determine whether any modification or amendment or new regulations and procedures were required.

25.? The First Meeting recognized that a few States Parties already have national regulations and procedures for the licensing of individuals working with pathogenic microorganisms and toxins of

concern.?? The First Meeting encouraged all States Parties to share information on their national regulations and procedures for the licensing of individuals working with pathogenic microorganisms and toxins of concern so that individual States Parties could review the adequacy of their national regulations and procedures and determine whether any modification or amendment or new regulations and procedures were required.

26.? The First Meeting noted that in a number of States Parties consideration was being given to what information should be made publicly available and what should not be disclosed.? The First Meeting observed that in striking a balance between transparency and security that States Parties should provide enough detail so that the public -- and other States Parties -- acquire an accurate understanding of the activities concerned and so gain confidence yet not providing so much detail as to expose vulnerabilities or to aid those seeking to acquire biological weapons.

23.? The First Meeting of States Parties on 10 to 14 November 2003 needs to seize the opportunity to agree in its report a coherent and comprehensive set of common understandings and effective action.? Beyond November, the significance of the report of the First Meeting is to add value to the Inter Review Conference process and to set the pattern of the meetings scheduled for 2004 and 2005 on the remaining topics identified by the Fifth Review Conference.? The process should therefore contribute, within the limits of the agenda topics and the mandate for the meetings agreed by the Fifth Review Conference, to the recovery and strengthening of the BTWC through a return to the cumulative development of extended understandings leading to effective action at the Sixth Review Conference.

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

[2] United Nations, *Meeting of the States Parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, Meeting of Experts, Geneva, 18 - 29 August 2003*, Report of the Meeting of Experts (Part I), BWC/MSP.2003/MX/4 (Part I), 18 September 2003.?? Available at <http://www.opbw.org>

[3] United Nations, *Meeting of the States Parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, Meeting of Experts, Geneva, 18 - 29 August 2003*, Report of the Meeting of Experts (Part I), BWC/MSP.2003/MX/4 (Part I), 18 September 2003.?? Available at <http://www.opbw.org>

[4] Graham S. Pearson & Nicholas A. Sims, *Maximizing the Benefits of the Inter Review Process: I: National Implementing Legislation*, University of Bradford, Department of Peace Studies, Briefing Paper No.6 (Second Series), July 2003.? Available at <http://www.brad.ac.uk/acad/sbtwc>

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