

**Statement by Ambassador Rakesh Sood, Permanent Representative of India to the Conference on Disarmament, at the First Meeting pursuant to decision of 5<sup>th</sup> Review Conference of the States parties to the BWC, Geneva, November 10, 2003**

Mr. Chairman,

Please accept my warmest congratulations on your assumption of the Chairmanship of the Meeting of the States Parties to the Biological and Toxin Weapons Convention (BWC). Your widely acknowledged expertise on this issue, long years of experience and deep commitment give us confidence that this Meeting is in good hands. On behalf of my delegation, I would like to assure you of our full cooperation in contributing to bringing this Meeting to a successful conclusion.

2. This Meeting marks a new beginning for BWC States Parties. During the last 30 years that the BWC has been in existence, we have held five Review Conferences. The outcome of four of these Conferences reflected a continuity in terms of the direction in which we were moving. Last year, however, we decided on an outcome that is qualitatively different. As we begin the first Meeting of the States Parties pursuant to the decision of the Fifth Review Conference, it is worth reflecting on its implications, both for the BWC and beyond.

3. Multilateral processes move slowly, somewhat like ocean liners changing course. By the time we realize that the direction is altered, a long distance has already been covered. So, as we begin our journey with new coordinates, it is worth looking beyond to see if this course is leading us to the destination that we seek.

4. We only have to recall the speeches made by our Heads of State and Government and Ministers at the 58th Session of the UN General Assembly two months ago to discern the universal concern over growing security challenges, both traditional and non-traditional, in today's world. The situation is made more complex by rising levels of uncertainty. Political, socio-economic and technological drivers are generating new threats in a globalised world with the emergence of non-State actors. Leaders from every continent and region highlighted the urgent need to tackle the potential nexus between global terrorism and proliferation of weapons of mass destruction. Reflecting this concern are calls for designing appropriate collective responses as well as institutional reform. Some initiatives have been taken in the First Committee last month, and in the UN Security Council last week by some countries. The UN Secretary General has just set up a High Level Panel on global security threats and reform of the international system. Since BW is often seen as a likely weapon for terror (only two years ago, we saw the impact of the anthrax containing envelopes in the United States), the change of direction in our deliberations as BWC States Parties could well have wider implications because the first Meeting of States Parties will set a precedent for subsequent Annual Meetings till the next Review Conference in 2006.

5. It is universally accepted that though brief, the 1972 Biological and Toxin Weapons Convention is of vital importance in dealing with the BW proliferation threat. If it did not exist, we know what our priority would have been – to negotiate one. Fortunately, our predecessors have already done so and in more than three decades of its existence, the BWC has acquired a normative status, notwithstanding subsequent developments in the field of bio-technology. Review

Conferences, CBMs, transparency measures and the subsequent 6-year long negotiations for a protocol, though inconclusive, were all aimed at strengthening the norm against biological weapons, by strengthening the BWC as a whole.

6. And then we changed course. The negotiations were rejected and the outcome discarded. The qualitatively different approach that was adopted last year focuses on parts of the BWC and not its entirety. Five subjects have been selected for deliberations over a 3-year period. Secondly, the objective of the exercise is to 'promote common understanding and effective action' in these areas but negotiations are not part of the mandate. Questions have been asked whether 'promoting common understanding' also implies 'achieving common understanding'. Some feel that 'achieving common understanding' requires negotiations. And 'effective action', if it has to be collective, has to emerge from 'achieving a common understanding', otherwise, 'effective action' will remain limited to unilateral measures on national level. Terminological parsing of this nature reflects the fragility of the consensus, a fragility exposed in the interpretative statements made after the adoption of the Report last year.

7. The Meeting of Experts held in August has produced a factual report on the two subjects discussed – (a) the adoption of necessary national measures to implement the provisions set forth in the Convention, including the enactment of penal legislation; and (b) national mechanisms to establish and maintain the security and oversight of pathogenic microorganisms and toxins. 86 countries participated in the meetings; 66 Working Papers were submitted on these two issues but since the report is factual, it contains neither any conclusion nor a recommendation. We will only return to these subjects at the next Review Conference in 2006. So what shall we conclude from our deliberations this week because, as I mentioned earlier, the approach we take will have a bearing on how we will deal with the issues of investigating cases of alleged BW use, surveillance and combating of infectious disease outbreaks and codes of conduct for scientists in following years.

8. The Annotated Agenda for our Meeting has sub-divided the two substantive subjects into seven sub-items, which is at least a more manageable number than 100 plus sub-items that we identified to structure our discussions in August. India provided details about its legislation and rules and regulations regarding both national implementation and security and oversight practice, as did many others. Web links to the relevant documentation and agencies are indicated in the compilation prepared by the Secretariat.

9. However, neither the Annotated Agenda (BWC/MSP/2003/3) nor the Compilation on the CD-ROM answers the question that even if domestic legal constraints exist on a country's statute book how can the body of States Parties conclude that these are being fully implemented. Unsatisfactory compliance was identified as a principal concern, and inability to verify was the main reason by many States Parties for rejecting the idea of negotiations on a legally binding instrument. But if a multilateral instrument does not exist how then can the collective body of States Parties obtain re-assurance that there is compliance? And if verification is not possible then how should compliance be ensured? It may be true that we are all honourable men and women but our obligations to pay taxes are not left merely to our goodwill and good sense; it is codified as a legal obligation. For the same reason that we have domestic laws, we also need international treaties and conventions, to codify rights and obligations of members of the community of sovereign states. If unilateral actions could provide adequate assurances to the international community, good faith would constitute the norm. But long ago, we learnt that good faith is often subjective and

therefore lacking in legitimacy; and realized that a norm only gets built around the legal structure of an equitable treaty.

10. We are moving into a new territory with our present exercise. How far it will take us from familiar terrain will only become apparent after some years. Meanwhile, we need to be conscious of the implications of this exercise, because as States Parties to BWC, it is vital that we remain committed to strengthening its objectives and the norm it establishes.