

# THE FIFTH BTWC REVIEW CONFERENCE: OPPORTUNITIES AND CHALLENGES<sup>†</sup>

by

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## Introduction

1. Article XII of the Biological and Toxin Weapons Convention<sup>1</sup> (BTWC) states that:

*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.*

Review Conferences of the BTWC have been held in 1980, 1986, 1991 and 1996 with the Fifth Review Conference to be held from Monday 19 November to Friday 7 December 2001.

2. At the Fourth Review Conference in 1996, the States Parties adopted the provisional agenda<sup>2</sup> which the Preparatory Committee had agreed to recommend. This was the agenda of the Third Review Conference with the addition of a new agenda item entitled "12. Consideration of the work of the Ad Hoc Group established by the Special Conference in 1994." The central items of the agenda were thus:

*10. Review of the operation of the Convention as provided for in its article XII*

*(a) General debate*

*(b) Articles I - XV*

*(c) Preambular paragraphs and purposes of the Convention*

together with the new item:

*12. Consideration of the work of the Ad Hoc Group established by the Special Conference in 1994.*

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<sup>†</sup> A shorter version of this paper has been published as *Opportunities for the Fifth Review Conference* in UNIDIR Disarmament Forum, *Biological Weapons: From the BWC to Biotech*, four, 2000. pp. 27-31.

<sup>1</sup>United Nations, *Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction*, General Assembly resolution 2826 (XXVI), 16 December 1971.

<sup>2</sup>United Nations, *Report of the Preparatory Committee for the Fourth 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*, BWC/CONF.IV/1, 1 November 1996.

3. As at previous Review Conferences, background documents were provided by the Secretariat providing information submitted by individual States Parties:

*BWC/CONF.IV/2 Background information on the participation of States Parties in the agreed confidence-building measures (CBMs) 1992-1996* (Secretariat)

*BWC/CONF.IV/3 Background information document on compliance by States Parties with all their obligations under the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction* (Secretariat including information provided by Australia, Belarus, Bulgaria, Canada, Colombia, Cyprus, Czech Republic, Denmark, Finland, France, India, Italy, Lebanon, Luxembourg, Netherlands, New Zealand, Pakistan, Philippines, Republic of Korea, Russian Federation, Slovakia, Ukraine, and United Kingdom).

BWC/CONF.IV/3/Add. 1 Additional background information provided by South Africa, Sweden, Turkey and United States of America.

BWC/CONF.IV/3/Add. 2 Additional background information provided by Germany.

BWC/CONF.IV/3/Add. 3 Additional background information provided by China.

*BWC/CONF.IV/3/Add. 4\* Background paper on new scientific and technological developments relevant to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction* (Secretariat including information provided by Cuba, Finland, Switzerland, United Kingdom, and United States of America.

BWC/CONF.IV/3/Add. 4/Add. 1 Additional background information on new scientific and technological developments provided by Sweden.

BWC/CONF.IV/3/Add. 4/Add. 2 Additional background information on new scientific and technological developments provided by Germany.

The information provided by States Parties in the above documents ranges from a single sentence to several pages of detailed information.

4. As usual, the Final Declaration<sup>3</sup> of the Fourth Review Conference consisted of some opening paragraphs followed paragraphs under the individual headings of the Preamble, each individual Article of the Convention and of "*Consideration of the work of the Ad Hoc Group established by the Special Conference in 1994.*" The entire Final Document from the Fourth Review Conference is available on the UN website at Geneva at <http://www.unog.ch/disarm/review/bintro.htm> and the Final Declaration is reproduced in the Annex to this paper.

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<sup>3</sup>United Nations, *Fourth 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*, 25th November - 6th December 1996, Final Declaration, BWC/CONF.IV/9 Available at <http://www.unog.ch/disarm/review/bintro.htm>

5. Insofar as the topics to be considered by the Fifth Review Conference in 2001 are concerned, the Final Declaration of the Fourth Review Conference included under Article XII the following paragraph:

*2. The Conference decides that the Fifth Review Conference shall consider, inter alia,*

- The impact of scientific and technological developments relating to the Convention;*
- The relevance of the provisions of, and the implementation of the Chemical Weapons Convention on the effective implementation of the Biological and Toxin Weapons Convention, duly taking into account the degree of universality attained by such conventions at the time of the Fifth Review Conference;*
- The effectiveness of confidence-building measures as agreed at the Second and Third Review Conferences;*
- The conclusions of a Special Conference, to which the Ad Hoc Group shall submit its report, including a legally-binding instrument to strengthen the Biological and Toxin Weapons Convention, which shall be adopted by consensus, to be held as soon as possible before the commencement of the Fifth Review Conference; and further action as appropriate;*
- The requirement for, and the operation of, the requested allocation by the United Nations Secretary-General of staff resources and other requirements to assist the effective implementation of the relevant decisions of the Fourth Review Conference;*

These are similar to but differ in detail from the corresponding provisions agreed in the Final Declaration of the Third Review Conference<sup>4</sup> which stated that:

*2. The Conference decides that the Fourth Review Conference shall consider, inter alia,*

- The impact of scientific and technological developments relating to the Convention;*
- The relevance of the provisions of, and the implementation of the Chemical Weapons Convention on the effective implementation of the Biological and Toxin Weapons Convention;*
- The effectiveness of coordinated confidence-building measures as agreed in this Final Declaration;*

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<sup>4</sup>United Nations, *Third 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*, 9th - 27th September 1991, Final Declaration, BWC/CONF.III/23

- *The report of the Ad Hoc Group of Governmental Experts on Verification as well as the conclusions of a special conference, if it is convened earlier;*
- *The requirement for, and the operation of, the requested allocation by the United Nations Secretary-General of staff resources and other requirements to assist the effective implementation of the relevant decisions of the Third Review Conference, and in particular of the confidence-building measures;*
- *In the light of these considerations and of the provisions of Article XI, whether or not follow-up action is called for to create further cooperative measures in the context of Article V or legally binding improvements to the Convention, or a combination of both.*

The central items of the Agenda can thus be expected to be the individual Articles of the Convention and the preambular paragraphs and purposes of the Convention together with consideration of the work of the Ad Hoc Group.

6. The Final Declarations of the successive Review Conferences have enabled the States Parties to the Biological and Toxin Weapons Convention to extend their understandings of the Convention and thereby strengthen the prohibition regime for biological and toxin weapons.

7. For the Fourth Review Conference the University of Bradford Department of Peace Studies and the Quaker United Nations Office in Geneva produced and distributed to delegations a Briefing Book<sup>5</sup> entitled "*Strengthening the Biological Weapons Convention: Key Points for the Fourth Review Conference*". This paper is the first in a new series of Review Conference Papers that will be prepared for and distributed to the delegations to the Fifth Review Conference.

### **Opportunities for the Fifth Review Conference**

8. The Fifth Review Conference in 2001 provides real opportunities for the States Parties to extend their understandings of the Convention which through being reflected in the Final Declaration thereby strengthen the prohibition regime for biological and toxin weapons. At the two-week (and therefore shorter than the previous three-week Review Conferences) Fourth Review Conference in 1996, States Parties were much aware of the ongoing Ad Hoc Group negotiations of a Protocol to strengthen the effectiveness and improve the implementation of the Convention and considerable care was taken, and rightly so, to do nothing which might impede the work of the Ad Hoc Group<sup>6</sup>. Now, 5 years later, much attention has been focussed on the Protocol negotiations which are now close to completion with the principal elements of the Protocol elaborated and detailed in the text<sup>7</sup>. The

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<sup>5</sup>Graham S. Pearson & Malcolm R.Dando (eds), *Strengthening the Biological Weapons Convention: Key Points for the Fourth Review Conference*, University of Bradford, Department of Peace Studies, ISBN 1 85143 152 7, November 1996. Available at <http://www.brad.ac.uk/acad/sbtwc>

<sup>6</sup>Malcolm R. Dando & Graham S. Pearson, *The Fourth Review Conference of the Biological and Toxin Weapons Convention: Issues, Outcomes, and Unfinished Business*, *Politics and the Life Sciences*, 16 (1), pp. 105-126, March 1997.

<sup>7</sup>United Nations, *Procedural Report of the Ad Hoc Group 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*, BWC/AD HOC GROUP/55, 1 March 2001, Geneva.

outstanding issues are now apparent<sup>8</sup> and will be resolved during the next few months as the Ad Hoc Group brings its negotiations to a close. It is now timely to begin to look ahead to the 21st Century and what else needs to be done to strengthen the Convention.

9. There are several issues that need to be addressed that emerge from the Protocol negotiations as some of the proposed, but thus far not agreed -- and unlikely to be agreed --, language would have the effect of modifying the scope of the Convention which would go beyond the mandate of the Ad Hoc Group which is limited to a legally-binding instrument *to strengthen the effectiveness and improve the implementation of the Convention*. The opportunity is provided by the Fifth Review Conference to extend the understanding of the Convention by States Parties so that these issues -- such as pests and vectors and the definition of hostile purposes -- that have emerged from the Protocol negotiations can be addressed in the Final Declaration of the Review Conference in much the same way that the issue of use was successfully addressed at the Fourth Review Conference. Other issues arise from the review of any new scientific and technological developments relevant to the Convention required under Article XII of the Convention. All of these will need to be addressed in the Article by Article review of the Convention by the States Parties during the Review Conference.

10. For clarity it is useful here to consider these issues according to the Article under which they could be considered at the Fifth Review Conference.

#### **Article I**

11. The basic prohibition of the Convention is enshrined in the general purpose criterion of Article I under which the States Parties undertake 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.*

At the Fourth Review Conference the Final Declaration reaffirmed that the Convention unequivocally included *"all microbial and other biological agents or toxins, naturally or artificially created or altered, as well as their components, whatever their origin or method of production of types and in quantities that have no justification for prophylactic, protective or other peaceful purposes."*

12. It will be necessary, and appropriate, for the review of new scientific and technological developments to consider what advances might usefully be specifically referred to in the Final Declaration in order to ensure that there are no perceived omissions or exclusions which might be exploited in a way that is inconsistent with the objectives and purposes of the Convention. It is interesting to note how the language regarding scientific and technological developments has developed in successive Review Conferences. Thus at the First Review Conference in 1980, the Final Declaration<sup>9</sup> in respect of Article I simply stated that:

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<sup>8</sup>Graham S. Pearson, *Strengthening the Biological and Toxin Weapons Convention*, Progress in Geneva, Quarterly Review no 12, CBW Conventions Bulletin, Issue No. 49, September 2000, pp. 13-23.

<sup>9</sup>United Nations, *First 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*, 3rd - 21st March 1980, Final Declaration, BWC/CONF.I/10

*The Conference believes that Article I has proved sufficiently comprehensive to have covered recent scientific and technological developments relevant to the Convention.*

By the Second Review Conference in 1986, the Final Declaration<sup>10</sup> contained stronger language:

*The Conference, conscious of apprehensions arising from relevant scientific and technological developments, inter alia, in the fields of microbiology, genetic engineering and biotechnology, and the possibilities of their use for purposes inconsistent with the objectives and the provisions of the Convention, reaffirms that the undertaking given by the States Parties in Article I applies to all such developments.*

*The Conference unequivocally applies to all natural or artificially created microbial or other biological agents or toxins whatever their origin or method of production. Consequently, toxins (both proteinaceous and non-proteinaceous) of a microbial, animal or vegetable nature and their synthetically produced analogues are covered.*

At the Third Review Conference in 1991 the Final Declaration<sup>11</sup> contained similar language:

*The Conference, conscious of apprehensions arising from relevant scientific and technological developments, inter alia, in the fields of microbiology, genetic engineering and biotechnology, and the possibilities of their use for purposes inconsistent with the objectives and the provisions of the Convention, reaffirms that the undertaking given by the States Parties in Article I applies to all such developments. The Conference also reaffirms that the Convention unequivocally covers all microbial agents or toxins, naturally or artificially created or altered, whatever their origin or method of production.*

At the Fourth Review Conference in 1996 the Final Declaration<sup>12</sup> was broadened:

*The Conference, conscious of apprehensions arising from relevant scientific and technological developments, inter alia, in the fields of microbiology, biotechnology, molecular biology, genetic engineering and any application resulting from genome studies, and the possibilities of their use for purposes inconsistent with the objectives and the provisions of the Convention, reaffirms that the undertaking given by the States Parties in Article I applies to all such developments.*

13. At the Fifth Review Conference, it will again be important to include language in the Final Declaration in relation to relevant scientific and technological developments that unequivocally reaffirms that the coverage of the prohibition in Article I is all embracing and

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<sup>10</sup>United Nations, *Second 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*, 8th - 26th September 1986, Final Declaration, BWC/CONF.II/13/II

<sup>11</sup>United Nations, *Third 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*, 9th - 27th September 1991, Final Declaration, BWC/CONF.III/23

<sup>12</sup>United Nations, *Fourth 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*, 25th November - 6th December 1996, Final Declaration, BWC/CONF.IV/9

applies to all such developments. Examples of relevant scientific and technological developments that should be addressed relate to bioregulators, which are essential for normal bodily functions but can cause harm if administered in unusual quantities, to genomics and bioinformatics and to genetic recombinations.

14. Little attention has been paid at previous Review Conferences to reaffirmation that the language in Article I relating to the weapons, equipment and means of delivery:

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

An issue that has arisen during the Protocol negotiations has related to the use of pests and vectors. Whilst there is language within square brackets in the Protocol<sup>13</sup> *Article I General Provisions* stating that:

*[2. Each State Party to this protocol undertakes not to use pests or vectors as a method of warfare or for hostile purposes.]*

there is much to be said for States Parties addressing this issue through an affirmation in the Final Declaration of the Fifth Review Conference that the prohibition in Article I on weapons, equipment and means of delivery applies also to the use of pests and vectors for hostile purposes or in armed conflict.

15. Another issue that has arisen during the Protocol negotiations relates to the definition of "hostile purposes" for which there is language within square brackets in the Protocol *Article II Definitions* stating that

*[4. Hostile purposes mean*

*[Any purpose, which has no prophylactic, protective or other peaceful intention.]*

*[4 bis (a) The use of bacteriological (biological) or toxin weapons or the threat of use [by a State] with a view to inflicting military, economic, [moral] or other kind of damage;*

*[(b) Any other purpose, which has no prophylactic, protective or other peaceful intention.]]]*

There are two cases relating to the use of biological agents and toxins for hostile purposes which could with advantage be taken into account by the Fifth Review Conference in considering and elaborating their Final Declaration in regard to Article I. First, relates to the possible use by a State of biological weapons against the people, animals or crops of a part of its own territory. There would be advantage in the Final Declaration affirming that hostile purposes and armed conflict includes any use of biological or toxin weapons by a State Party against the people, animals or crops of a part of their territory. The second case relates to a

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<sup>13</sup>All language from the Protocol is taken from the latest version in United Nations, *Procedural Report of the Ad Hoc Group 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*, BWC/AD HOC GROUP/52 (Part I), 11 August 2000, Geneva.

particular type of biocontrol which is increasingly being applied, where appropriate, by States around the world. This particular type of biocontrol relates to the possible attack of drug crops by a biological agent. The programmes carried out by the UN International Drug Control Programme include programmes for the elimination of illicit crops through the development of an environmentally safe and reliable biological control agents<sup>14</sup>. There would be advantage in the Final Declaration affirming that the use of biocontrol agents by a State Party within its own territory is justified for peaceful purposes -- the implication would be clear that use of biocontrol agents within the territory of a State without the consent of that State would be in breach of the Convention.

16. A further issue that needs to be addressed at the Fifth Review Conference in the context of Article I is that of non-compliance. This is a difficult issue as it is the non-compliance of States Parties that is being addressed -- and as those States Parties are participants in the Review Conference, they can dilute the language adopted for the Final Declaration as happened in 1996 at the Fourth Review Conference. It is nevertheless important that concerns about non-compliance are addressed -- it is unsatisfactory if statements are made, as by the United States in 1996, that the number of States possessing or seeking to possess biological weapons had more than doubled since the entry into force of the Convention. After all, when looking back to the Third Review Conference in 1991, there were significant statements then about the non-compliance of the Soviet Union and Iraq and, in neither case, have subsequent events resolved the issues satisfactorily.

17. Finally, the useful strong language agreed in 1996 at the Fourth Review Conference about the prohibition of use needs to be reaffirmed in the Final Declaration of the Fifth Review Conference.

## **Article II**

18. A more difficult issue, but again an opportunity, is for the States Parties to extend their joint understandings in relation to facilities that have been used in previous offensive biological weapons programmes.<sup>15</sup> The prohibition in the Convention makes it clear that no State Party shall develop, produce, stockpile or otherwise acquire and retain microbial or other agents or weapons, equipment or means of delivery designed to use such agents or toxins for hostile purposes or in armed conflict. Furthermore, under Article II each State Party undertakes *to destroy or divert to peaceful purposes, ...not later than nine months after entry into force of the Convention, all agents, toxins, weapons, equipment and means of delivery specified in Article I of the Convention*. There is no mention of production facilities -- in contrast to the Chemical Weapons Convention under which in Article I States Parties undertake to destroy any chemical weapons production facilities. There would be considerable benefit from language under Article II in which the Conference affirmed that facilities used in past offensive programmes have been destroyed or irreversibly converted to peaceful purposes.

## **Article III**

19. In this Article each State Party *undertakes not to transfer to any recipient whatsoever ... any of the agents, toxins, weapons, equipment or means of delivery specified in Article I of*

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<sup>14</sup>See various documents available at <http://www.undcp.org> and at <http://www.incb.org>

<sup>15</sup>A fuller account of this issue is provided in Graham S. Pearson, *Production Facilities: A BTWC/CWC Discrepancy*, Working Paper, Pugwash Meeting no. 258, Geneva, 18-19 November 2000.



*this Convention.* The Fourth Review Conference called for all States Parties to take appropriate measures to implement this obligation. Furthermore, it noted that *States Parties should consider ways and means to ensure that individual and subnational groups are effectively prevented from acquiring, through transfers, biological agents and toxins for other than peaceful purposes.* At the Fifth Review Conference attention should be given to strengthening this language given the increased concern expressed in many States about the possible use of biological agents and toxins by terrorist groups. There would also be benefit from considering the measures being adopted internationally to implement the Cartagena Protocol on Biosafety to the Convention on Biological Diversity under which States require Advance Informed Agreement prior to the import of genetically modified organisms.

#### **Article IV**

20. Each State Party is obliged under this Article to take appropriate national measures to prevent and prohibit the development and production of biological weapons. At the Fourth Review Conference the States Parties recognized *the need to ensure, through the review and/or adoption of national measures, the effective fulfilment of their obligations under the Convention in order, inter alia, to exclude use of biological and toxin weapon weapons in terrorist or criminal activity.* Given the increased concern expressed in many States about the possible use of biological agents and toxins by terrorist groups, there would be merit in States Parties giving increased attention to the adoption of national measures. Whilst there have been exhortations at successive Review Conferences for States Parties to provide information to the UN DDA on specific legislation, more needs to be done with this information which needs to be provided to all States Parties thereby aiding those who have yet to take appropriate national measures to do so.

21. It is interesting to note a recent joint initiative by Organization for the Prohibition of Chemical Weapons (OPCW) and the Caribbean States, which have little if any chemical industry, has identified the potential value of an integrated approach to legislation that addressed both toxic chemicals and pesticides and the implementation of the CWC<sup>16</sup>. A similar integrated approach could well be attractive for similar small States in respect of the legislation required to implement both the Protocol on Biosafety to the Convention on Biological Diversity and the future BTWC Protocol.

22. Since the Fourth Review Conference proposals<sup>17</sup> have been made to strengthen the prohibition regime against biological and chemical weapons through the international criminalization of work on such weapons by regarding such work as being in the same category as the crimes of piracy, torture, and hijacking. The Fifth Review Conference could usefully encourage further examination of these proposals by the Sixth Committee of the General Assembly with a view to the negotiation of an international jurisdiction treaty.

23. At successive Review Conferences, the Conference has noted the importance of *inclusion in textbooks and in medical, scientific and military education programmes of information dealing with the prohibitions and provisions contained in the ... Convention.* It is, however, apparent that there is a real need for a global outreach programme to ensure that all medical,

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<sup>16</sup>Organization for the Prohibition of Chemical Weapons, *An Integrated Approach to National Implementing Legislation: Model Act developed by the Secretariat of the Organisation of Eastern Caribbean States*, External Relations Division, Office of the Legal Adviser, S/190/2000, 23 May 2000.

<sup>17</sup>CBW Conventions Bulletin, *A Draft Convention to Prohibit Biological and Chemical Weapons under International Criminal Law*, Issue No. 42, December 1998, pp.1-5.

scientific and military personnel are aware of the prohibitions of the Convention. Given the potential of the internet, it should be possible in the 21st Century to mount a more effective campaign to achieve this awareness raising.

## **Article V**

24. Under this Article, States Parties *undertake to consult one another and to cooperate in solving any problems which may arise in relation to the objective of, or in the application of the provisions of, the Convention.* The confidence-building measures (CBMs) agreed at the Review Conference in 1986 and extended and strengthened in 1991 come under this Article. At the Fourth Review Conference in 1996, little attention was paid, because of the ongoing Ad Hoc Group consideration of a Protocol, to the CBMs other than to continue to urge *all States Parties to complete full and timely declarations in the future.* At the Fifth Review Conference, the outcome of the Protocol negotiations will be apparent and it will be timely and appropriate to give more detailed consideration to the quality of the information provided under the CBMs as these obligations will continue for all States Parties. It is evident that there is much variation between States Parties in the attention given to provision of information under the politically binding CBMs and it will be appropriate to examine how the quality of the information provided can be both harmonised and upgraded. There would be considerable benefit from making the CBM information more widely available as it is clear to those engaged in the field that some of the information is inaccurate -- which hardly contributes to building confidence.

25. In addition, given that the negotiation of the Protocol is nearing completion, there are clear benefits from initially the Provisional Technical Secretariat and subsequently the future Organization being required to process, translate and analyse CBM information and circulate this to States Parties as this analysis would enable the Provisional Technical Secretariat to plan more effectively for the eventual entry into force of the Protocol. This analysis and distribution of CBM information could be achieved through imaginative drafting of the resolution establishing the PrepCom.

26. As the Protocol is nearing completion, it is also timely to start to give consideration to the future of the CBMs which will continue to be politically binding on all States Parties until a Review Conference decides otherwise. As several of the CBMs are effectively being incorporated into the Protocol, there will come a time after entry into force of the Protocol there will be duplicate reporting with closely similar information being provided under some of the Protocol declarations and under some of the CBMs. When the Protocol has been finalised, consideration could then be given to what the continuing obligations in regard of the current CBMs should be after entry into force on the States Parties to the Convention who are also party to the Protocol.

27. Another topic for consideration under Article V are the procedures to strengthen the implementation of Article V which were adopted at the Third Review Conference and which, it was noted at the Fourth Review Conference, had not yet been invoked. They were invoked by Cuba in 1997 in respect of the outbreak of Thrips palmi in Cuba and it will be appropriate at the Fifth Review Conference to examine and review the procedures. One point that might usefully be considered is the provision of information to the public as it is important for the strength of the Convention that it is publically known that it is alive and functioning well -- and this relates across to the public awareness campaign needed under Article IV. There is little point in raising public awareness if the operations of the Convention are cloaked in secrecy as the benefits accruing from the Convention will not be evident.

## **Article IX**

28. This recognises the importance of effective prohibition of chemical weapons. At the Fourth Review Conference, the Final Declaration noted that the Chemical Weapons Convention would enter into force on 29 April 1997. At the Fifth Review Conference it will be appropriate to note that the First Review Conference of the CWC will take place in the following year, 2002, and it will be important to ensure that there are no gaps -- or perceived gaps -- between the prohibitions under the general purpose criteria in the two Conventions. As both Conventions address toxins and other substances within the region between chemical and biological agents, it will be beneficial to ensure that the two series of Review Conferences are aware of each other's developments.

## **Article X**

29. Under this Article, States Parties *undertake 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.* At previous Review Conferences there has been much discussion leading to a lengthy statement in the Final Declaration but without significant subsequent action. For example, the Fourth Review Conference requested *the Secretary-General to collate on an annual basis, and for the information of States Parties, reports on how this article is being implemented.* No such reports have appeared, probably, in part or wholly, due to an absence of agreement as to what information should be provided by States Parties to the Secretary-General to enable such a report to be prepared. The period since the Fourth Review Conference has seen continued intensive discussion in the Ad Hoc Group negotiations of specific measures to implement Article X and it is evident that Article VII of the Protocol has successfully identified a range of specific measures that will meet this objective. In addition, it has become evident that there are several initiatives in other fora such as the improvement of biosafety standards worldwide which require the setting up of national competent authorities and a system of inspections of facilities which will over time contribute to improved safety, health, prosperity and security. Consequently, it will be necessary to focus under the Convention and Protocol on those activities for which the future Organization is best fitted to carry out avoiding unnecessary duplication.

## **Concluding Remarks**

30. There is a real opportunity for the Fifth Review Conference to significantly strengthen and enhance the regime for the total prohibition and elimination of biological and toxin weapons through extended understandings enshrined in the Final Declaration. To achieve this strengthening requires the provision of information to all States Parties so that they can judge for themselves the benefits that such extended understandings would bring. An effective Review Conference together with a completed and effective Protocol will set the scene for a safer and more secure 21st Century in which the international norm against the use of disease as a weapon of war against humans, animals and plants has been significantly strengthened.

## ANNEX

### FINAL DECLARATION OF THE FOURTH REVIEW CONFERENCE, 1996

#### Final Document BWC/CONF.IV/9

#### PART II

#### II. FINAL DECLARATION

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, WHICH MET IN GENEVA FROM 25 NOVEMBER TO 6 DECEMBER 1996 TO REVIEW THE OPERATION OF THE CONVENTION, SOLEMNLY DECLARE:

- Their conviction that the Convention is essential to international peace and security;
- Their reaffirmation of their determination to act with a view to achieving effective progress towards general and complete disarmament, including the prohibition and elimination of all types of weapons of mass destruction, and their conviction that the prohibition of the development, production and stockpiling of chemical and bacteriological (biological) weapons and their elimination, through effective measures, will facilitate the achievement of general and complete disarmament under strict and effective international control;
- Their reaffirmation that under any circumstances the use, development, production and stockpiling of bacteriological (biological) and toxin weapons is effectively prohibited under Article I of the Convention.
- Their continued determination, for the sake of mankind, to exclude completely the possibility of the use of bacteriological (biological) agents and toxins as weapons, and their conviction that such use would be repugnant to the conscience of mankind;
- Their reaffirmation of their firm commitment to the purposes of the Preamble and the provisions of the Convention, and of their belief that universal adherence to the Convention would enhance international peace and security;
- Their determination to enhance the implementation and effectiveness of the Convention and to further strengthen its authority, including through the confidence-building measures and agreed procedures for consultations agreed by the Second and Third Review Conferences, and through the fulfilment of the mandate entrusted to the Ad Hoc Group established by the Special Conference in 1994;
- Their recognition that effective verification could reinforce the Convention;
- Their conviction that the full implementation of the provisions of the Convention should facilitate economic and technological development and international cooperation in the field of peaceful biological activities;

- Their recognition that purposes of this Convention include the prohibition of the use of biological weapons as contrary to the purpose of the Convention.

The States Parties recognize that the important principles contained in this Solemn Declaration can also serve as a basis for further strengthening of the Convention.

## **Preamble**

The Conference reaffirms the importance of the elements in review of the Preamble to the Convention contained in the Final Declaration of the Second 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.

## **Article I**

1. The Conference notes the importance of Article I as the provision which defines the scope of the Convention. The Conference reaffirms its support for the provisions of this Article.
2. The Conference reaffirms that the Convention prohibits the development, production, stockpiling, other acquisition or retention of microbial or other biological agents or toxins harmful to plants and animals, as well as humans, of types and in quantities that have no justification for prophylactic, protective or other peaceful purposes.
3. The Conference reaffirms that the use by the States Parties, in any way and under any circumstances, of microbial or other biological agents or toxins, that is not consistent with prophylactic, protective or other peaceful purposes, is effectively a violation of Article I of the Convention.
4. The Conference reaffirms the undertaking in Article I never in any circumstances to develop, produce, stockpile or otherwise acquire or retain weapons, equipment or means of delivery designed to use such agents or toxins for hostile purposes or in armed conflict, in order to exclude completely and forever the possibility of their use.
5. The Conference also reaffirms that the Convention unequivocally covers all microbial or other biological agents or toxins, naturally or artificially created or altered, as well as their components, whatever their origin or method of production, of types and in quantities that have no justification for prophylactic, protective or other peaceful purposes.
6. The Conference, conscious of apprehensions arising from relevant scientific and technological developments, *inter alia*, in the fields of microbiology, biotechnology, molecular biology, genetic engineering, and any applications resulting from genome studies, and the possibilities of their use for purposes inconsistent with the objectives and the provisions of the Convention, reaffirms that the undertaking given by the States Parties in Article I applies to all such developments.
7. The Conference notes that experimentation involving open-air release of pathogens or toxins harmful to man, animals or plants that have no justification for prophylactic, protective or other peaceful purposes is inconsistent with the undertakings contained in Article I.
8. The Conference appeals through the States Parties to their scientific communities to lend their support only to activities that have justification for prophylactic, protective and other

peaceful purposes, and refrain from undertaking or supporting activities which are in breach of the obligations deriving from provisions of the Convention.

9. The Conference emphasizes, once more, the vital importance of full implementation by all States Parties of all the provisions of the Convention, especially Articles I, II and III. The Conference agrees that the application by States Parties of positive approaches in accordance with the provisions of the Convention is in the interest of all States Parties and that any non-compliance with its provisions could undermine confidence in the Convention. Non-compliance should be treated with determination in all cases, without selectivity or discrimination.

## **Article II**

1. The Conference recognizes that for any State acceding to the Convention after the entry into force of the Convention, the destruction or diversion to peaceful purposes specified in Article II would be completed upon accession to the Convention. The Conference emphasizes that the destruction or diversion to peaceful purposes specified in Article II should be carried out completely and effectively.

2. The Conference notes the importance of Article II and welcomes the statements made by States which have become Parties to the Convention since the Third Review Conference that they do not possess agents, toxins, weapons, equipment or means of delivery referred to in Article I of the Convention.

3. The Conference notes that the submission to the Centre for Disarmament Affairs of appropriate information on destruction by States Parties which had stockpiles and have destroyed them in fulfilment of their Article II obligations and which have not already made such submissions could enhance confidence in the Convention and its objectives.

4. The Conference stresses that States which become Parties to the Convention, implementing the provisions of this Article, shall observe all necessary safety precautions to protect populations and the environment.

## **Article III**

1. The Conference notes the importance of Article III and welcomes the statements which States that have acceded to the Convention have made to the effect that they have not transferred agents, toxins, weapons, equipment or means of delivery as specified in Article I of the Convention, to any recipient whatsoever and have not furnished assistance, encouragement or inducement to any State, group of States or international organizations to manufacture or otherwise acquire them. The Conference affirms that Article III is sufficiently comprehensive to cover any recipient whatsoever at international, national or subnational levels.

2. The Conference notes that a number of States Parties stated that they have already taken concrete measures to give effect to their undertakings under this Article and in this context also notes statements made by States Parties at the Conference about the legislative or administrative measures they have taken since the Third Review Conference. The Conference calls for appropriate measures by all States Parties. Transfers relevant to the Convention should be authorized only when the intended use is for purposes not prohibited under the Convention.

3. The Conference discussed the question whether multilaterally-agreed guidelines or multilateral guidelines negotiated by all States Parties to the Convention concerning the transfer of biological agents, materials and technology for peaceful purposes to any recipient whatsoever might strengthen the Convention. In the development of implementation of Article III, the Conference notes that States Parties should also consider ways and means to ensure that individuals or subnational groups are effectively prevented from acquiring, through transfers, biological agents and toxins for other than peaceful purposes. The Conference notes that these issues are being considered as part of the ongoing process of strengthening the Convention.

4. The Conference reiterates that the provisions of this Article should not be used to impose restrictions and/or limitations on the transfers for purposes consistent with the objectives and purposes of the Convention of scientific knowledge, technology, equipment and materials under Article X.

#### **Article IV**

1. The Conference underlines the importance of Article IV. It reaffirms the commitment of States Parties to take the necessary national measures under this Article, in accordance with their constitutional processes. These measures are to 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. The States Parties recognize the need to ensure, through the review and/or adoption of national measures, the effective fulfilment of their obligations under the Convention in order, inter alia, to exclude use of biological and toxin weapons in terrorist or criminal activity.

2. The Conference notes those measures already taken by a number of States Parties in this regard, for example the adoption of penal legislation, and reiterates its call to any State Party that has not yet taken any necessary measures to do so immediately, in accordance with its constitutional processes. Such measures should apply within its territory, under its jurisdiction or under its control anywhere. The Conference invites each State Party to consider, if constitutionally possible and in conformity with international law, the application of such measures also to actions taken anywhere by natural persons possessing its nationality.

3. The Conference notes the importance of:

- Legislative, administrative and other measures designed to enhance domestic compliance with the Convention;
- Legislation regarding the physical protection of laboratories and facilities to prevent unauthorized access to and removal of microbial or other biological agents, or toxins;
- Inclusion in textbooks and in medical, scientific and military education programmes of information dealing with the prohibitions and provisions contained in the Biological and Toxin Weapons Convention and the Geneva Protocol of 1925.

4. The Conference believes that such measures which States Parties might undertake in accordance with their constitutional processes would strengthen the effectiveness of the Convention, as requested by the Second and Third Review Conferences.

5. The Conference notes 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 Conference invites these States Parties, and encourages all States Parties, to provide such information and texts in the future. In this regard the Conference welcomes 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". In addition, the Conference encourages all States Parties to provide any useful information on the implementation of such measures.

6. The Conference encourages cooperation and initiatives, including regional ones, towards the strengthening and implementation of the Biological and Toxin Weapons Convention regime.

7. The Conference reaffirms that under all circumstances the use of bacteriological (biological) and toxin weapons is effectively prohibited by the Convention.

## **Article V**

1. The Conference notes the importance of Article V and reaffirms the obligation assumed by States Parties to consult and cooperate with one another in solving any problems which may arise in relation to the objective of, or in the application of the provisions of, the Convention. The Conference reiterates its appeal to States Parties made at the Third Review Conference to make all possible efforts to solve any problems which may arise in relation to the objective of, or in the application of the provisions of the Convention with a view towards encouraging strict observance of the provisions subscribed to. The Conference notes that this Article provides an appropriate framework for resolving any such problems, and reaffirms that any State Party which identifies such a problem should, as a rule, use these procedures to address and resolve it.

2. The Conference also reviewed the operation of the procedures to strengthen the implementation of the provisions of Article V which were adopted in the Final Declaration of the Third Review Conference and which built on the agreements reached at the Second Review Conference. While noting that these procedures have not yet been invoked, the Conference reaffirmed their present validity. The Conference calls on any State Party which identifies a problem arising in relation to the objective of, or in the application of the provisions of the Convention to use these procedures, if appropriate, to address and resolve it.

3. The Conference reaffirms that consultation and cooperation pursuant to this Article may also be undertaken through appropriate international procedures within the framework of the United Nations and in accordance with its Charter.

4. In accordance with the decision of the Third Review Conference, the Conference reviewed the effectiveness of the confidence-building measures as agreed in the Final Declaration of the Third Review Conference. The Conference notes the continued importance of the confidence-building measures agreed upon at the Second and Third Review Conferences, as



well as the modalities elaborated by the Ad Hoc Meeting of Scientific and Technical Experts from States Parties to the Convention, held in 1987.

5. The Conference notes the background information document prepared by the United Nations Secretary-General providing data on the participation of States Parties in the agreed confidence-building measures since the Third Review Conference. The Conference welcomes the exchange of information carried out under the confidence-building measures, and notes that this has contributed to enhancing transparency and building confidence. The Conference recognizes that participation in the confidence-building measures since the last Review Conference has not been universal, and that not all responses have been prompt or complete. In this regard, the Conference also recognizes the technical difficulties experienced by some States Parties with respect to preparing CBM responses. In this regard, the Conference urges all States Parties to complete full and timely declarations in the future. The Conference notes that the Ad Hoc Group of States Parties established by the Special Conference in 1994 is, as part of its continuing work, considering the incorporation of existing and further enhanced confidence-building and transparency measures, as appropriate, in a regime to strengthen the Convention.

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.

7. In this regard, the Conference recalls that:

- The Third Review Conference established the 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 held four sessions in 1992-1993 and circulated its report to all States Parties in September 1993.

- A Special Conference was held in September 1994 to consider the report, and decided to establish an Ad Hoc Group open to all States Parties. The Conference considered the work of the Ad Hoc Group under agenda item 12 and its conclusions are reflected in the section of this document entitled "Consideration of the work of the Ad Hoc Group established by the Special Conference in 1994".

8. The Conference stresses the need for all States Parties to deal effectively with compliance issues. In this connection, the States Parties had agreed to provide a specific, timely response to any compliance concern alleging a breach of their obligations under the Convention. Such responses should be submitted in accordance with the procedures agreed upon by the Second Review Conference and further developed by the Third Review Conference. The Conference reiterates its request that information on such efforts be provided to the Review Conferences.

## **Article VI**

1. The Conference notes that the provisions of this Article have not been invoked.

2. The Conference reaffirms the importance of Article VI, which, in addition to the procedures contained in Article V, provides that any State Party which finds that any other State Party is acting in breach of its obligations under the Convention may lodge a complaint

with the United Nations Security Council. The Conference notes that the provisions of Article VI will be taken into account, as appropriate, for any future verification regime resulting from the consideration by the Ad Hoc Group of a system of measures to promote compliance with the Convention. The Conference emphasizes the provision of Article VI that such a complaint should include all possible evidence confirming its validity. It stresses that, as in the case of the implementation of all the provisions and procedures set forth in the Convention, the procedures foreseen in Article VI should be implemented in good faith within the scope of the Convention.

3. The Conference invites the Security Council to consider immediately any complaint lodged under Article VI and to initiate any measures it considers necessary for the investigation of the complaint in accordance with the Charter. The Conference reaffirms the undertaking of each State Party to cooperate in carrying out any investigations which the Security Council may initiate.

4. The Conference recalls, in this context, United Nations Security Council resolution 620 (1988), which at the time encouraged the United Nations Secretary-General to carry out prompt investigations, in response to allegations brought to its attention by any Member State concerning the possible use of chemical and bacteriological (biological) or toxin weapons that could entail a violation of the 1925 Geneva Protocol or of any other applicable rule of international treaty or customary law. The Conference also recalls the technical guidelines and procedures contained in Annex I of United Nations document A/44/561 to guide the United Nations Secretary-General on the timely and efficient investigation of reports of the possible use of such weapons. The States Parties reaffirm their agreement to consult, at the request of any State Party, regarding allegations of use or threat of use of bacteriological (biological) or toxin weapons and to cooperate fully with the United Nations Secretary-General in carrying out such investigations. The Conference stresses that in the case of alleged use the United Nations is called upon to take appropriate measures expeditiously, which could include a request to the Security Council to consider action in accordance with the Charter.

5. The Conference invites the Security Council to inform each State Party of the results of any investigation initiated under Article VI and to consider promptly any appropriate further action which may be necessary.

6. The Conference notes that the procedure outlined in this Article is without prejudice to the prerogative of the States Parties to the Convention to consider jointly the cases of alleged non-compliance with the provisions of the Convention and to make appropriate decisions in accordance with the Charter of the United Nations and applicable rules of international law.

7. The Conference notes that provisions for investigating alleged breaches of the Convention, including measures for the investigation of alleged use of biological and toxin weapons, continue to be considered by the Ad Hoc Group of States Parties, in accordance with its mandate.

## **Article VII**

1. The Conference notes with satisfaction that these provisions have not been invoked.

2. The Conference reaffirms the undertaking made by each State Party to provide or support assistance in accordance with the Charter of the United Nations to any Party to the

Convention which so requests, if the Security Council decides that such Party has been exposed to danger as a result of violation of the Convention.

3. The Conference takes note of desires expressed that, should a request for assistance be made, it be promptly considered and an appropriate response provided. In this context, pending consideration of a decision by the Security Council, timely emergency assistance could be provided by States Parties if requested.

4. The Conference takes note of the proposal that the Ad Hoc Group might need to discuss the detailed procedure for assistance in order to ensure that timely emergency assistance would be provided by States Parties if requested.

5. The Conference considers that in the event that this Article might be invoked, the United Nations, with the help of appropriate intergovernmental organizations such as the World Health Organization (WHO), could play a coordinating role.

### **Article VIII**

1. The Conference reaffirms the importance of Article VIII and stresses the importance of the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, signed at Geneva on 17 June 1925.

2. The Conference acknowledges that the 1925 Geneva Protocol, by prohibiting the use of bacteriological methods of warfare, and the Biological and Toxin Weapons Convention complement each other.

3. The Conference reaffirms that nothing contained in the Biological and Toxin Weapons Convention shall be interpreted as in any way limiting or detracting from the obligations assumed by any State under the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare.

4. Noting the actions in support of the Protocol taken by the Security Council and General Assembly of the United Nations, through Security Council resolution 620 (1988) and General Assembly resolutions 41/58 C, 42/37 C, 43/74 A, 44/115 B and 45/57 C and recalling the solemn reaffirmation of the prohibition as established in the Protocol, issued by the Conference of the States Parties to the 1925 Geneva Protocol and other interested States held in Paris from 7 to 11 January 1989, the Conference appeals to all States Parties to the Geneva Protocol to fulfil their obligations assumed under the Protocol and urges all States not yet Parties to the 1925 Geneva Protocol to accede to it without delay.

5. The Conference stresses the importance of the withdrawal of all reservations to the 1925 Geneva Protocol related to the Biological and Toxin Weapons Convention.

6. The Conference welcomes the actions which States Parties have taken to withdraw their reservations to the 1925 Geneva Protocol related to the Biological and Toxin Weapons Convention, and calls upon those States Parties that continue to maintain pertinent reservations to the 1925 Geneva Protocol to withdraw those reservations, and to notify the Depository of the 1925 Geneva Protocol of their withdrawals without delay.

7. The Conference notes that reservations concerning retaliation, through the use of any of the objects prohibited by the Biological and Toxin Weapons Convention, even conditional, are

totally incompatible with the absolute and universal prohibition of the development, production, stockpiling, acquisition and retention of bacteriological (biological) and toxin weapons, with the aim to exclude completely and forever the possibility of their use.

### **Article IX**

1. The Conference reaffirms that Article IX identifies the recognized objective of effective prohibition of chemical weapons. The Conference welcomes conclusion of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, which was opened for signature on 13-15 January 1993 in Paris.
2. The Conference welcomes the fact that sixty-five instruments of ratification have now been deposited, and that the Convention will therefore enter into force on 29 April 1997.
3. The Conference stresses the importance to the Convention that all possessors of chemical weapons, chemical weapons production facilities or chemical weapons development facilities should be among the original parties to the Convention and, in this context, the importance of the United States of America and the Russian Federation, having declared possession of chemical weapons, being among the original States Parties to the Convention.
4. The Conference calls upon all States that have not yet done so to sign and/or ratify the Convention without delay.
5. The Conference notes that the Preparatory Commission for the Organization for the Prohibition of Chemical Weapons, at its fourteenth session (22-26 July 1996) entrusted the Chairman of the Commission, in close consultation with its member States, with the task of convening, as necessitated by circumstances in connection with the occurrence of the trigger point, a meeting of the Commission to provide appropriate guidance.

### **Article X**

1. The Conference once more emphasizes the increasing importance of the provisions of Article X, especially in the light of recent scientific and technological developments in the field of biotechnology, bacteriological (biological) agents and toxins with peaceful applications, which have vastly increased the potential for cooperation between States to help promote economic and social development, and scientific and technological progress, particularly in the developing countries, in conformity with their interests, needs and priorities.
2. The Conference, while acknowledging what has already been done towards this end, notes with concern the increasing gap between the developed and the developing countries in the field of biotechnology, genetic engineering, microbiology and other related areas. The Conference urges all States Parties actively to continue to promote international cooperation and exchange with States Parties in the peaceful uses of biotechnology, and urges all States Parties possessing advanced biotechnology to adopt positive measures to promote technology transfer and international cooperation on an equal and non-discriminatory basis, in particular with the developing countries, for the benefit of all mankind. At the same time, the Conference stresses that measures to implement Article X need to be consistent with the objectives and provisions of the Convention.

3. The Conference recalls that the States Parties have a legal obligation 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 and not to hamper the economic and technological development of States Parties.
4. The Conference emphasizes that States Parties should not use the provisions of the Convention to impose restrictions and/or limitations on transfers for purposes consistent with the objectives and provisions of the Convention of scientific knowledge, technology, equipment and materials.
5. The Conference notes that existing institutional ways and means of ensuring multilateral cooperation between the developed and developing countries would need to be developed further in order to promote international cooperation in peaceful activities in such areas as medicine, public health and agriculture.
6. The Conference reiterates its call upon the Secretary-General of the United Nations to propose for inclusion on the agenda of a relevant United Nations body, before the next Review Conference, a discussion and examination of the means of improving institutional mechanisms in order to facilitate the fullest possible exchange of equipment, materials and scientific and technological information regarding the use of bacteriological (biological) agents and toxins for peaceful purposes.
7. The Conference recommends that invitations to participate in this discussion and examination should be extended to all States Parties, whether or not they are members of the United Nations or concerned specialized agencies.
8. The Conference, at the same time, notes that the Ad Hoc Group of States Parties was mandated by the Special Conference in September 1994 to consider 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, emphasizing 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.
9. The Conference takes note of the significant steps forward in promoting cooperation in the biological field taken by the United Nations Conference on Environment and Development held in Rio de Janeiro, Brazil, in 1992, including the adoption of Agenda 21 and the Rio Declaration, and by the Convention on Biological Diversity, and underlines their importance in the context of Article X implementation.
10. The Conference shares the worldwide concern about new, emerging and re-emerging infectious diseases and considers that the international response to them offers opportunities for increased cooperation in the context of Article X application and of strengthening the Convention. The Conference welcomes the efforts to establish a system of global monitoring of disease and encourages States Parties to support the World Health Organization, including its relevant newly established division, the FAO and the OIE, in these efforts directed at assisting Member States to strengthen national and local programmes of surveillance for infectious diseases and improve early notification, surveillance, control and response capabilities.

11. The Conference urges the use of existing institutional means within the United Nations system and the full utilization of the possibilities provided by the specialized agencies and other international organizations, and considers that the implementation of Article X could be enhanced through greater coordination among international cooperation programmes in the biological field for peaceful purposes conducted by States Parties, specialized agencies and other international organizations.

12. The Conference urges States Parties, the United Nations and its specialized agencies to take further specific measures within their competence for the promotion of the fullest possible exchange of equipment, materials and scientific and technological information for the use of bacteriological (biological) agents and toxins for peaceful purposes and of international cooperation in this field. Such measures could include, inter alia:

1. Transfer and exchange of information concerning research programmes in biosciences and greater cooperation in international public health and disease control;
2. Wider transfer and exchange of information, materials and equipment among States on a systematic and long-term basis;
3. Active promotion of contacts between scientists and technical personnel on a reciprocal basis, in relevant fields;
4. Increased technical cooperation and assistance, including training programmes to developing countries in the use of biosciences and genetic engineering for peaceful purposes through active association with United Nations institutions, including the International Centre for Genetic Engineering and Biotechnology (ICGEB);
5. Facilitating the conclusion of bilateral, regional and multiregional agreements providing, on a mutually advantageous, equal and non-discriminatory basis, for their participation in the development and application of biotechnology;
6. Encouraging the coordination of national and regional programmes and working out in an appropriate manner the ways and means of cooperation in this field;
7. Cooperation in providing information on their national epidemiological surveillance and data reporting systems, and in providing assistance, on a bilateral level and/or in conjunction with WHO, FAO and OIE regarding epidemiological and epizootical surveillance, with a view to improvements in the identification and timely reporting of significant outbreaks of human and animal diseases;
8. The promotion of programmes for the exchange and training of scientists and experts, and the exchange of scientific and technical information in the biological field between developed and developing countries.

13. The Conference considers that a worldwide data bank might be a suitable way of facilitating the flow of information in the field of genetic engineering, biotechnology and other scientific developments. In this context, the Conference underlines the importance of monitoring all related developments in the field of frontier science and high technology in the areas relevant to the Convention.

14. The Conference requests the Secretary-General to collate on an annual basis, and for the information of States Parties, reports on how this article is being implemented.

15. The Conference welcomes the information provided by a number of States Parties on the cooperative measures they have undertaken towards fulfilling their Article X obligations and encourages States Parties in a position to do so to provide such information.

16. The Conference welcomes efforts to elaborate an international programme of vaccine development for the prevention of diseases which would involve the scientific and technical personnel from developing countries that are States Parties to the Convention. The Conference recognizes that such a programme will not only enhance peaceful international cooperation in biotechnology but also contribute to improving health care in developing countries, assist in establishing systems for worldwide monitoring of communicable diseases, and provide transparency in accordance with the Convention.

17. The Conference calls upon all States Parties in a position to do so to fully cooperate with the developing States Parties to the Convention in the area of promotion and financing the establishment of vaccine production facilities. The Conference recommends further that the relevant multilateral organizations and world financial institutions provide assistance for establishment and promotion of vaccine production projects in these countries.

## **Article XI**

1. The Conference notes that the Islamic Republic of Iran has formally presented a proposal to amend Article I and the title of the Convention to include explicitly the prohibition of use of biological weapons.

2. The Conference notes that the Depositaries are notifying all States Parties of the proposal. The Conference encourages all States Parties to convey their views to the Depositaries on whether the Convention needs to be amended to make clear explicitly that the use of biological weapons is effectively prohibited.

3. The Conference requests the Depositaries to take such measures as may be requested by a majority of States Parties, including the option of convening a conference open to all States Parties to the Convention at the earliest appropriate opportunity to take a decision on the proposal, should a majority of the States Parties so decide.

4. The Conference meanwhile reaffirms the importance of Article XI. In this context the Conference underlines that the provisions of Article XI should in principle be implemented in such a way as not to affect the universality of the Convention.

## **Article XII**

1. The Conference decides that a Fifth Review Conference shall be held in Geneva at the request of the majority of States Parties, or in any case, not later than 2001.

2. The Conference decides that the Fifth Review Conference shall consider, inter alia,

- The impact of scientific and technological developments relating to the Convention;

- The relevance of the provisions of, and the implementation of the Chemical Weapons Convention on the effective implementation of the Biological and Toxin Weapons Convention, duly taking into account the degree of universality attained by such conventions at the time of the Fifth Review Conference;

- The effectiveness of confidence-building measures as agreed at the Second and Third Review Conferences;

- The conclusions of a Special Conference, to which the Ad Hoc Group shall submit its report, including a legally-binding instrument to strengthen the Biological and Toxin Weapons Convention, which shall be adopted by consensus, to be held as soon as possible before the commencement of the Fifth Review Conference; and further action as appropriate;

- The requirement for, and the operation of, the requested allocation by the United Nations Secretary-General of staff resources and other requirements to assist the effective implementation of the relevant decisions of the Fourth Review Conference;

3. The Review Conference recommends that conferences of States Parties to review the operation of the Convention should be held at least every five years.

### **Article XIII**

1. The Conference notes the provisions of Article XIII and, while emphasizing that the Convention is of unlimited duration and applies at all times, expresses its satisfaction that no State Party to the Convention has exercised its right to withdraw from the Convention.

### **Article XIV**

1. The Conference notes with satisfaction that a number of States have acceded to the Convention since the Third Review Conference.

2. The Convention calls upon States which have not yet ratified or acceded to the Convention to do so without delay and upon those States which have not signed the Convention to join the States Parties thereto, thus contributing to the achievement of universal adherence to the Convention.

3. In this connection, the Conference requests States Parties to encourage wider adherence to the Convention.

4. The Conference particularly welcomes regional initiatives that would lead to wider accession to the Convention.

5. The Fourth Review Conference appeals to those States Parties to the Biological and Toxin Weapons Convention which have taken part in the Conference to participate in the implementation of provisions contained in the Final Declaration of this Conference. The Conference also appeals to all States Parties to participate actively in the Ad Hoc Group of States Parties, with a view to the early completion of its work to strengthen the Convention.

### **Article XV**



The Conference notes the importance of this Article as well as the importance of the legal status of the languages of the Convention and United Nations system in the work of the Ad Hoc Group established by the Special Conference in 1994.

### **Consideration of the work of the Ad Hoc Group established by the Special Conference in 1994**

The Conference welcomes the report on the progress of the Ad Hoc Group as contained in BWC/AD HOC GROUP/32 and notes in particular the following:

- The 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 (September 1994) 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.
- Since its establishment, the Ad Hoc Group has held one short organizational session and four substantive sessions of a duration of two weeks each.
- In accordance with its mandate, as contained in the Final Report of the Special Conference (BBC/SPCONF/1), the Ad Hoc Group has been considering appropriate measures, including possible verification measures, to strengthen the Convention. Where relevant, consideration of issues has sought to build on the considerable body of technical work connected with strengthening the Biological and Toxin Weapons Convention regime undertaken by the Ad Hoc Group of Technical Experts to Identify and Examine Potential Verification Measures from a Scientific and Technical Standpoint (VEREX) in 1992 and 1993.
- The Ad Hoc Group has made significant progress towards fulfilling the mandate given by the Special Conference, including by identifying a preliminary framework and elaborating potential basic elements of a legally-binding instrument to strengthen the Convention.
- Nevertheless, the Ad Hoc Group was not able to complete its work and submit its report including a draft of the future legally-binding instrument to the States Parties for consideration at the Fourth Review Conference. In this context it is noted that the cumulative period allocated to substantive negotiations in the Ad Hoc Group has been eight weeks.

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 Conference notes that the Ad Hoc Group is considering, as part of its continuing work, 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.

