

**FIFTH 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**

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PROPOSALS

Working paper submitted by the European Union

Article I

The Conference calls upon States Parties to establish a Scientific Advisory Panel (SAP) for an annual update of scientific and technological developments relevant to the Convention to report to States Parties.

The Conference invites States Parties to support educational programmes in academia and NGO circles to raise awareness in professional courses for biologists, chemists and other relevant professional categories, with the aim of establishing a norm in the profession against offensive CBW use. In particular the Conference invites States Parties to consider the possibility that professionals be required to take a pledge similar to the Hippocratic Oath.

Article II

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.

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

Article III

The Conference notes the continuing importance of Article III. The Conference affirms that Article III is sufficiently comprehensive to cover any recipient whatsoever at international, national or sub-national levels.

The Conference recalls that a number of States Parties have reported that they have already taken concrete measures to give effect to their undertakings under this Article. The Conference urges all those States Parties that have not already done so, to take all the necessary measures to give effect in their national legislation to the obligations that they have assumed under this Article. The Conference reiterates the call of the Third and Fourth Review Conferences for appropriate measures by all States Parties. Transfers relevant to the Convention should be authorised only when the intended use is for purposes not prohibited under the Convention.

The Conference invites States Parties to explore a possible set of common principles in the field of export controls to be applied on a voluntary basis.

The Conference calls upon all States Parties that have not yet done so to adopt legislative and regulatory measures to ensure export control over dual-use items, in accordance with Articles III and IV of the Convention.

In the development of implementation of Article III, the Conference recommends that States Parties should also consider ways and means, including through legislation or other regulatory provision, to ensure that any individuals or sub-national groups are effectively prevented from acquiring, through transfers, microbial or other biological agents and toxins for other than peaceful purposes.

The Conference invites States Parties to take appropriate measures in the case of any violation of their export control regulations or legislation, including the qualification of such a violation as a criminal offence.

Considering the utility of a global overview of international transfers in the current context of enhanced vigilance, the Conference invites States Parties to explore the possibility of voluntary notification of authorisations of transfers subject to licensing on an annual, aggregated basis.

The Conference reiterates that the provisions of this Article should be implemented in manner consistent with the provisions of Article X of the Convention

Article IV

The Conference calls upon States Parties to implement nationally regulatory mechanisms to control domestic transfers.

The Conference calls upon States Parties to implement nationally regulatory mechanisms to establish and maintain physical protection of biological agents and toxins.

The Conference calls upon States Parties to implement penal legislation to enforce national regulatory measures for transfers and physical protection.

The Conference calls upon States Parties to establish, if it is not yet the case, a national

procedure of approval of genetic engineering experiments based on ethical criteria and consistent with the Convention.

The Conference invites States Parties to explore possible standards for penal legislation to be implemented nationally to enforce the prohibitions of Article I of the Convention.

Article V

The Conference notes the importance of Article V and reaffirms the obligation assumed by States Parties to consult and co-operate 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 reviewed the operation of the consultative procedures to strengthen the implementation of the provisions of this Article which were adopted in the Final Declaration of the Third Review Conference and which built on the agreement reached at the Second Review Conference. The Conference notes that a State Party invoked this procedure in 1997 and that a Consultative Meeting was convened under the chairmanship of the United Kingdom of Great Britain and Northern Ireland. The Conference recalls the nature of the concern brought before the Consultative Meeting, the consideration of the non-compliance concern and the statements and submissions made by those States Parties participating in the meeting.

The Conference notes the report of the Consultative meeting circulated by Ambassador Ian Soutar of the United Kingdom of Great Britain and Northern Ireland in December 1997. It notes in particular the comment that due to the technical complexity of the subject and to the passage of time, it has not proved possible to reach a definitive conclusion with regard to the concerns raised by the Government of Cuba. The Conference also notes with satisfaction the comment in the report that there had been general agreement throughout the consultative process that the requirements of Article V of the Convention and of the consultative process established by the Third Review Conference had been fulfilled in an impartial and transparent manner.

The Conference noting the invocation and outcome of the Consultative process reaffirms the validity of that process. 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.

The Conference reaffirms that consultation and co-operation 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.

In accordance with the decision of the Fourth 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.

The Conference notes the background information document providing, in summary tabular form, data on the participation of States Parties in the agreed confidence building measures since the last Review Conference.

Concerned by the low level of participation in providing CBMs and convinced that annual comprehensive declarations do contribute to enhance confidence in States Parties' biological related activities, the Conference strongly urges all States parties to participate in CBM exchanges, noting the value of nil returns.

The Conference further reminds all States Parties of the importance of submitting their CBMs to the United Nations by the 15 April each year. In this regard, the Conference also recognizes the technical difficulties experienced by some States Parties with respect to preparing CBM responses.

With a view to increasing the transparency of CBM declarations, the Conference calls upon the United Nations Secretary-General to set up a database, easy to consult, of States Parties' annual declarations.

The Conference acknowledges that the scope for declaration could be extended under some specific measures in order to provide a broader range of relevant information, consistent with the approach agreed in 1991. Therefore, the Conference recommends the following modifications:

- Measure B: the exchange of information on any outbreak of contagious disease or any other disease caused by pathogens or toxins shall include not only humans but also animals and plants;
- Measure E: the declaration relative to the export and import of micro-organisms and toxins shall incorporate the States Parties' relevant legislation, regulations and procedures, including those on transfer of dual-use equipment, health and safety issues and penal legislation, as well as the changes therein;
- Measure G: the declaration of vaccine production facilities shall be extended to also cover animal vaccines, microbially based pesticides and biocontrol agents.

Therefore the Conference invites States Parties to review existing declaration formats to adjust them accordingly.

The Conference calls upon States Parties to set up or designate a national entity responsible for the national implementation of CBMs and any subsequent follow-up.

The Conference calls upon States Parties to consider as mandatory the requirement to provide information under:

- Measure E (including penal legislation);
- Measure G (including animal vaccines, microbially based pesticides and biocontrol agents).

The Conference invites the States Parties to explore the possibility of making Measure C (scientific programmes) more focussed and effective.

The Conference calls upon States Parties to consider means of strengthening and revising bilateral consultation mechanisms, for consideration of CBM returns and for clarification of suspected non-compliance. This would include information exchange, and the possibility of a bilateral visit with a mechanism to involve an appropriate international body, for example the United Nations, in the case where a visit is not offered voluntarily after inconclusive bilateral exchange of information.

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

The Conference notes with regret that the Ad Hoc Group has, as yet, been unable to complete its work. The Conference recalls that the Chairman of the Ad Hoc Group presented a composite text of a possible legally binding instrument based on the rolling text on 30 March 2001. The Conference notes that this text has been unable to command consensus as a basis for a legally binding instrument to strengthen the Convention.

The Conference stresses the need for all State Parties to deal effectively and promptly with compliance issues. In this connection the States Parties reconfirm their agreement to provide specific, timely responses to any compliance concern alleging a breach of their obligations under the Convention. Such responses should be submitted, if appropriate, 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

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

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 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.

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.

The Conference calls upon the States Parties to establish a compliance mechanism under an appropriate international body to investigate suspicious outbreaks of diseases, alleged use and suspicious facilities.

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. Pending the establishment of the mechanism described in the paragraph above, 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.

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.

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.

Article VII

The Conference reaffirms the commitment of States Parties to provide assistance in cases of alleged use or suspicious outbreaks of disease.

The Conference invites States Parties to explore the identification of possible types of medical, veterinary, financial or other assistance that might be made available.

Article VIII

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.

The Conference acknowledges that the 1925 Geneva Protocol, by prohibiting the use of bacteriological methods of warfare, forms an essential complement to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction.

The Conference reaffirms that nothing contained in the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction 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.

Noting the actions in support of the Protocol taken by the Security Council and General Assembly of the United Nations, and recalling the solemn reaffirmation of the prohibition as established in the Protocol, issued by the Conference of 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 that Protocol and urges all States Parties not yet Parties to the 1925 Geneva Protocol to accede to it without delay.

The Conference stresses the importance of the withdrawal of all reservations to the 1925 Geneva Protocol related to Bacteriological Methods of Warfare.

The Conference welcomes the actions which States parties have taken to withdraw their reservations to the 1925 Geneva Protocol, and calls upon those States Parties that continue to maintain their reservations to the 1925 Geneva Protocol to withdraw those reservations, and to notify the Depositary of the 1925 Geneva Protocol of their withdrawals without delay.

Article X

The Conference invites the WHO, the FAO and the OIE to establish mechanisms for epidemiological prevention and surveillance by making use of existing international efforts to include:

- International reporting system, for example a register for diseases;
- Detection and diagnosis;
- Medical response teams.

The Conference invites the WHO, the OIE, the FAO and other relevant organisations as appropriate to each establish a coordination mechanism on epidemiological prevention and surveillance.

The Conference calls upon States Parties to explore ways of implementing at a global level Good Laboratory Practices, including audit trails for the transfer of pathogens and toxins between, and within, laboratories, taking into account the views of the WHO, the OIE, the FAO, the ICGEB and other relevant organisations as appropriate.

The Conference invites States Parties to establish an integrated network among them and relevant international organisations to exchange information on and with a view to improving the monitoring, diagnosis and detection of outbreaks of diseases.

The Conference calls upon States Parties to promote synergies among national research activities, with a view to strengthening the capabilities of States Parties in the field of prophylaxis, control and protection against infectious diseases.

The Conference calls upon States Parties to enhance international cooperation on research, development and production of vaccines.

Article XI

The Conference recalls the 1996 formally presented proposal of the Islamic Republic of Iran to amend Article I and the title of the Convention to include explicitly the prohibition of use of biological weapons. The Conference notes that the proposal did not attract the support of a majority of States Parties for the amendment to enter into force. The Conference also recalls in this respect the reaffirmation of the Fourth Review Conference that the use by 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.

The Conference notes 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.
