

**ARTICLE X: EXCHANGE OF EQUIPMENT, MATERIALS
AND SCIENTIFIC AND TECHNOLOGICAL INFORMATION
INTERNATIONAL COOPERATION AND DEVELOPMENT**

by Graham S. Pearson

Consideration of Article X at the Fourth Review Conference

1. Article X of the Convention states that:

"(1) The States Parties to this Convention 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. Parties to the Convention in a position to do so shall also cooperate in contributing individually or together with other States or international organisations to the further development and application of scientific discoveries in the field of bacteriology (biology) for the prevention of disease, or for other peaceful purposes.

(2) This Convention shall be implemented in a manner designed to avoid hampering the economic or technological development of States Parties to the Convention or international cooperation in the field of peaceful bacteriological (biological) activities, including the international exchange of bacteriological (biological) agents and toxins and equipment for the processing, use or production of bacteriological (biological) agents and toxins for peaceful purposes in accordance with the provisions of the Convention."

2. At the Fourth Review Conference of the BTWC held on 25 November to 6 December 1996, the Final Declaration¹ in respect of Article X stated that:

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,

¹United Nations, *The Fourth Review Conference of the States Parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction*, Geneva, 25 November - 6 December 1996, BWC/CONF.IV/9, Geneva 1996.

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.

3. The Article X section of the Fourth Review Conference Final Declaration was longer than any other section continuing the trend that was apparent with the Final Declaration of the Third Review Conference² which contained some 12 paragraphs on Article X which was longer than any other Article apart from Article V which had the longest section.

4. The language in the Article X section of the Fourth Review Conference Final Declaration was developed from the 12 paragraphs in the Third Review Conference Final Declaration. The first paragraph had the words "*once more*" inserted before the word "*emphasizes*" in the first line but was otherwise identical to the previous first paragraph. The second paragraph was identical to the previous second paragraph but had an additional sentence added in the Fourth Review Conference Final Declaration reading "*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.*" The third and fourth paragraphs were new. The fifth paragraph was identical to a paragraph in the Third Review Conference Final Declaration. The sixth paragraph was similar to the previous version although "*reiterates its call*" replaced "*calls*" in the first line and "*before the next Review Conference*" replaced "*not later than 1993*" in the second line. The seventh paragraph was also identical to the corresponding one in the Third Review Conference apart from the change of the word "and" to "or" in the last line.

5. The eighth, ninth and tenth paragraphs were all new. The eleventh paragraph is developed from an identical paragraph in the previous Final Declaration by the addition of the words "*, 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.*" The twelfth paragraph is developed and extended from the third paragraph of the Third Review Conference Final Declaration with the preambular language being modified as highlighted in the following:

*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*:*

The first six of the measures listed are identical to those in the previous Final Declaration. The seventh is developed from the previous version in that "*WHO, FAO*

² United Nations, *The Third Review Conference of the States Parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction*, Geneva, 9–27 September 1991, BWC/CONF.III/23, Geneva 1992.

and OIE" replace "WHO" alone and the words "and epizootical" are added after "epidemiological". The eighth measure was new. The thirteenth paragraph was new whilst the fourteenth paragraph was the same as one in the previous Final Declaration. The fifteenth paragraph was new whilst the sixteenth paragraph was closely similar to one in the previous Final Declaration although a new additional clause "assist in establishing systems for worldwide monitoring of communicable diseases," had been added in the penultimate line. The final seventeenth paragraph was also new.

Developments since the Fourth Review Conference

6. The principal development since the Fourth Review Conference has been the development of an Article in the rolling text negotiated by the Ad Hoc Group. In the latest version³ of the rolling text, annexed to the procedural report of the twenty-third session of the Ad Hoc Group in April/May 2001, Article VII *Scientific and Technological Exchange for Peaceful Purposes and Technical Co-operation* was almost free from square brackets indicating that there was almost consensus on the content of the Article.

7. It has been clear during the Ad Hoc Group negotiations that there has been an increasing appreciation by both developed and developing countries that measures to implement Article X of the Convention were an integral and essential part of the legally-binding instrument. In 1998 there was clear recognition at the **political** level that effective Article X measures can not only be identified but must also be incorporated into the regime when the British Foreign Office Minister of State, speaking on behalf of the European Union, to the Ad Hoc Group noted⁴ "*the great importance attached by many Delegations to the provisions foreseen under Article VII of the Protocol [Measures to implement Article X of the BTWC]. I recognise that it will be important to ensure that agreement be reached between the divergent positions on this **crucial** element of the eventual regime. I feel sure that it will be possible to identify measures that will address real needs.*" [Emphasis added]. The same word "crucial" had been used earlier by the NAM Foreign Ministers who had, in their communiqué following their meeting at Cartagena on 19 - 20 May 1998, expressed⁵ their concern about Article X measures saying that "*Substantive progress in strengthening the application and full operationalisation of Article X is **crucial** to the conclusion of a universally acceptable and legally binding instrument designed to strengthen the Convention. They reaffirm readiness to work with other delegations in order to achieve an appropriate balance in the Protocol.*" [Emphasis added]

8. The importance of Article X measures was further emphasised in July 1998 in Working Paper 296⁶ by some 29 Western and Eastern States (ranging from Argentina

³United 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/56-1 and 56-2, 18 May 2001, Geneva.

⁴Tony Lloyd, *Time to Accept the Realities of the Control of Biological Weapons*, Address to the Ad Hoc Group, Geneva, 22 June 1998.

⁵Non-Aligned Movement, *Ministerial Meeting of the Coordinating Bureau of the Non-Aligned Movement*, Communiqué, 19 - 20 May 1998, Cartagena de Indias, Columbia: para 107. Available at <http://www.nam.gov.Za/cartagena98.html>

⁶United Nations, *Working Paper submitted by Argentina, Australia, Austria, Belgium, Bulgaria, Canada, Czech Republic, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Japan, Netherlands, New Zealand, Norway, Poland, Portugal, Republic of Korea, Romania, Slovakia, Spain,*

to Canada, the Czech Republic, the EU States, Japan and the United States) which reaffirmed *"their commitment to actively promote and engage in international cooperation and exchanges in the field of biotechnology for peaceful purposes under the BWC....Further, they look forward to the development of specific measures in Article VII of the Protocol to take full advantage of the opportunities for cooperation, which the Protocol will create among its States Parties. Such measures should also address needs for assistance to ensure the Protocol's implementation."* US support was shown by John Holum's statement⁷ to the Ad Hoc Group in October 1998 when he said *"Another element of these negotiations is how to build on the principles of Article X of the Convention for more effective cooperation and coordination of peaceful biotechnology among State Parties to the Protocol. The Protocol will impose additional legally binding, requirements on its participants. Those obligations must be carried out accurately and promptly. If assistance to States Parties will promote compliance, it will be to everyone's benefit."*

9. Encouraging developments followed in the Ad Hoc Group negotiations when in the April 1999 Ad Hoc Group session, a working paper⁸ by New Zealand and the Netherlands addressed measures related to Article X and identified a number of possible measures along with some possible criteria to evaluate the suggested measures. These were accompanied by some analytical criteria which might be used to evaluate such measures. The intention was to stimulate discussion and, potentially, move towards a specific inventory of such measures in Article VII. Some of these ideas were taken forward in an Australian/UK working paper⁹ proposing language for Article VII. This language was incorporated into the rolling text.

10. Further political recognition of the importance of the Protocol Article VII measures was evident in May 1999 in the Common Position adopted by the European Union¹⁰ which states that:

*Agreement shall be promoted, in particular in the negotiations, on the following measures which are **both central to, and essential for**, an effective Protocol to strengthen compliance with the BTWC:*

....

-- provision for specific measures in the context of Article 7 of the Protocol in order to further international cooperation and exchanges

Sweden, Switzerland, Turkey, United Kingdom and the United States, BWC/AD HOC GROUP/WP. 296, 10 July 1998.

⁷John D. Holum, *Statement to the Biological Weapons Convention Ad Hoc Group Session XII*, Geneva, 6 October 1998. Available on <http://www.acda.gov/>

⁸United Nations, *Working paper submitted by the Netherlands and New Zealand: BWC Article X/Protocol Article VII*, BWC/AD HOC GROUP/WP. 362, 6 April 1999.

⁹United Nations, *Working paper submitted by Australia and the United Kingdom of Great Britain and Northern Ireland: Article VII - Proposals*, BWC/AD HOC GROUP/WP. 363, 1 April 1999.

¹⁰European Union, *Common Position of 17 May 1999 adopted by the Council on the basis of Article 15 of the Treaty on European Union, relating to progress towards a legally binding Protocol to strengthen compliance with the Biological and Toxin Weapons Convention (BTWC), and with a view to the successful completion of substantive work in the Ad Hoc Group by the end of 1999*, (1999/346/CPSP), Official Journal of the European Commission, L.133/3, 28 May 1999.

in the field of biotechnology. Such measures shall include assistance to promote the Protocol's implementation. [Emphasis added]

11. It was therefore apparent that, had the Protocol negotiations been successfully completed, there would have been a well developed Article addressing the implementation of Article X of the Convention which would have brought significant benefits to all States Parties -- both developed and developing. Unfortunately, the rejection of the draft Protocol by the United States at the twenty-fourth session of the Ad Hoc Group in July/August 2001 has resulted in the negotiations going into limbo. The situation relating to the As Hoc Group is addressed in the chapter of this Briefing Book addressing Agenda item 12 *Work done to strengthen the Convention in accordance with the decision of the 1994 Special Conference.*

Article X in the Final Declarations of successive Review Conferences

12. A useful analysis¹¹ has been presented which examined the statements made at successive Review Conferences in regard to what are known as the promotional aspect of Article X -- paragraph (1) of the Article. The analysis then examined the extent to which the negotiations of a Protocol *to strengthen the effectiveness and improve the implementation* of the Convention by the Ad Hoc Group have encompassed the issues raised at successive Review Conferences. The following paragraphs are based on and developed from this analysis.

13. At each successive Review Conference the Final Declaration related to Article X of the Convention has become longer and longer. Only Article V of the Convention has had a greater amount of text devoted to it in each Final Declaration and at the Fourth Review Conference Article X had a greater amount of text than did Article V. In approaching the Fifth Review Conference and bearing in mind the requirement in Article XII of the Convention requiring that *Such review shall take into account any new scientific and technological developments relevant to the Convention* it is clear that the consideration of the wider context of relevant developments in science and technology since 1996 including issues such as the expansion of biotechnology, related developments such as the Human Genome Project, and the continued emergence and re-emergence of infectious diseases strongly suggest that international cooperation under Article X of the Convention will again be an important issue at the Fifth Review Conference.

14. It is useful therefore to examine those parts of the final declarations of preceding Review Conferences related to Article X. There has been a strong element of continuity in the text of the Final Declarations and it both timely and appropriate to examine the continued relevance of those elements of the Final Declarations and to identify issues which are yet to be implemented.

15. Examination of the Article X sections of the Final Declarations shows that the text is generally divided into three groups:

¹¹Jez Littlewood, *Article X Issues at the Fifth Review Conference: Aspects of Cooperation*, Working Paper, Pugwash Meeting no. 258, 14th Workshop of the Pugwash Study Group on the Implementation of the Chemical and Biological Weapons Conventions: "*Key Issues for the Fifth Review Conference 2001*", Geneva, Switzerland, 18 - 19 November 2000

Statements of intention and/or principles;

General statements noting the importance of developments related to the area;

Proposed specific measures that States Parties could undertake to implement Article X of the Convention.

There is to some extent a degree of overlap between these groups and in the Third and Fourth Review Conference Final Declarations, a number of the earlier general statements have been transformed into proposed specific measures. A summary list of the general statements and principles related to Article X made in the Final Declarations of successive Review Conferences is provided in Table I.

Table I: General Statements and Principles relating to Cooperation made in Article X
Final Declarations

	Statement	First Review Conference	Second Review Conference	Third Review Conference	Fourth Review Conference
1	Disarmament should promote economic and technological development	+	+	+	+
2	Implementation has not hampered economic and technological development	+			
3	Increasing importance of Article		+	+	+
4	Scientific developments have increased potential for co-operation		+	+	+
5	Recognition of measures undertaken by States Parties		+	+	+
6	UN specialized agencies, e.g. WHO should be participate in discussions to improve institutional co-operation		+	+	+
7	All States Parties urged to promote international co-operation / exchange		+	+	+
8	States Parties urged to undertake specific measures		+	+	+
9	States Parties should use existing institutional means in UN system			+	+
10	Welcomes efforts to establish international programme of vaccine development			+	+
11	Implementation needs to be consistent with obligations of the Convention				+
12	Legal obligation to facilitate, and have the right to participate in, exchanges and not hamper development				+
13	Provisions should not be used to impose restrictions / limitations				+
14	Notes mandate of the AHG				+
15	Notes steps taken at 1992 Rio conference / Agenda 21 / Convention on Biodiversity				+
16	Concern over emerging / re-emerging diseases				+
17	Multilateral organizations /financial institutions should support vaccine production projects.				+

16. A list of measures proposed at successive Review Conferences is provided in Table II. It should be noted that these tables are intended to serve only as a general guide to assist in identifying issues and topics discussed at successive Conferences;

they are not intended to be a definitive record of the text from each Review Conference.

Table II: Specific Article X Measures Proposed at successive Review Conferences

	Proposed measure	First Review Conference	Second Review Conference	Third Review Conference	Fourth Review Conference
1	Increase scientific and technical co-operation	+	+	+	+
2	Transfer / exchange of information	+	+	+	+
3	Training of personnel	+	+	+	+
4	Transfer of equipment / materials	+	+	+	+
5	Information on implementation	+	+	+	+
6	Transfer / exchange information on research programmes		+	+	+
7	Promotion of contacts between scientists and technologists		+	+	+
8	Technical co-operation to include training programmes		+	+	+
9	Facilitate conclusion of bilateral, regional and multi-regional agreements		+	+	+
10	Co-ordinate national and regional programmes		+	+	+
11	Increase co-operation in international public health and disease control		+	+	+
12	Use institutional means in UN system		+	+	+
13	UN body to assess means of improving co-operation		+	+	+
14	Provide information on epidemiological and data reporting systems to improve disease reporting			+	+
15	Establish world data bank			+	+
16	Further develop institutional mechanisms			+	+
17	Study of enhanced radioactivity on micro-organisms			+	
18	Support system for global monitoring of disease				+
19	Exchange and training programmes for scientists				+
20	Support and promote vaccine production projects in developing countries				+

17. The way in which the Final Declarations have progressively developed is clearly shown by these tables. Additionally, it is evident at successive Review Conferences that certain principles have been reaffirmed and repeated together with certain proposed measures. The repetition of principles and general statements can be beneficial as it will be recalled that the reaffirmation of the principles, intentions and

obligations of the Convention is an important part of the Review Process which serves to strengthen the norms established by the Convention.

8. However, in respect of the Final Declaration under Article X, it is pertinent to question whether at the Fifth Review Conference it will be useful to repeating and reaffirming Article X principles and measures from previous Final Declarations given the ongoing work of the Ad Hoc Group to strengthen the Convention through the Protocol.

9. An examination of the latest version of the Protocol indicates that most of the principles re-iterated at Review Conferences and almost all of the proposed measures included in the Final Declarations have been incorporated into the provisions of Article VII of the Protocol as is shown in Table III and Table IV respectively:

Table III: The incorporation of principles made in the Final Declarations of previous Review Conferences into the text of Article VII of the Protocol

(BWC/AD HOC GROUP/52 (Part I) see pages 99-111.)

- refers to paragraph number in Article VII of the rolling text

Principle	RT August 2000	Comment
Disarmament should promote economic and technological development		<i>Implicit in Article VII</i>
Implementation has not hampered economic and technological development		
Increasing importance of Article		Preamble, #18
Scientific developments have increased potential for co-operation		Preamble, #12
Recognition of measures undertaken by States Parties	#4	
UN specialized agencies, e.g. WHO should be participate in discussions to improve institutional co-operation		<i>Implicit in undertakings of section (F)</i>
All States Parties urged to promote international co-operation / exchange	Section (A)	
States Parties urged to undertake specific measures	Explicit obligations contained in Article VII	
States Parties should use existing institutional means in UN system	#4 and Section (F)	
Welcomes efforts to establish international programme of vaccine development		<i>Implicit in reference to IVI in #4 and #25</i>
Implementation needs to be consistent with obligations of the Convention	#2, #3	
Legal obligation to facilitate, and have the right to participate in, exchanges and not hamper development	Relevant measures/obligations in #1 (c) and section (C)	
Provisions should not be used to impose restrictions / limitations	#1 (c), section (C)	
Notes mandate of the AHG		<i>Not applicable if AHG completes its work by 2001</i>
Notes steps taken at 1992 Rio conference / Agenda 21 / Convention on Biodiversity	#4 and Section (F)	<i>Cooperation with the Secretariat of the Convention on Biological Diversity</i>
Concern over emerging / re-emerging diseases	Explicit obligations relating to disease in Article VII	
Multilateral organizations /financial institutions should support vaccine production projects.		<i>Implicit in competing obligations, #18 (a)</i>

Table IV: The incorporation of proposed measures made in the Final Declarations of previous Review Conferences into the text of Article VII of the Protocol (BWC/AD HOC GROUP/52 (Part I) see pages 99-111.)

- refers to paragraph number in Article VII of the rolling text

Proposed measure	RT August 2000	Comment
Increase scientific and technical co-operation	#1; #3; #25 (c)	
Transfer / exchange of information	#1 (a); 4 (a); 18 (h); 19 (g)-(j); 25 (a) (i); 25 (a) (v); 25 (d)	
Training of personnel	#4 (i); 18 (e); 19 (e)	
Transfer of equipment / materials	#1 (a)-(b); 4 (g); 18 (i)	
Information on implementation	Sections (E) and (H), #27	
Transfer / exchange information on research programmes	#4 (a); 4 (d); 18 (g)	
Promotion of contacts between scientists and technologists	18 (c)	
Technical co-operation to include training programmes	#18 (e), 19 (e)	
Facilitate conclusion of bilateral, regional and multi-regional agreements	Section (F)	
Co-ordinate national and regional programmes		<i>Implicit as one of the roles of the Cooperation Committee and within section (F)</i>
Increase co-operation in international public health and disease control	#4 (b)-(d); 4 (h); 18 (d); 25 (b)	
Use institutional means in UN system	Section (F)	
UN body to assess means of improving co-operation		<i>Explicit in role of future BW Organization and the Cooperation Committee</i>
Provide information on epidemiological and data reporting systems to improve disease reporting	#25 (b)	
Establish world data bank	#4 (e); 25 (a) (iv)	
Further develop institutional mechanisms	Section (D); #25 (b)	<i>Explicit in Cooperation Committee</i>
Study of enhanced radioactivity on micro-organisms		
Support system for global monitoring of disease	#4(c); 4 (f); 4 (g)	
Exchange and training programmes for scientists	#4 (i)	
Support and promote vaccine production projects in developing countries	#18(a)-(a) <i>ter</i>	

20. Analysis of these Tables shows that of the seventeen principles and general statements listed in Table I, nine are not explicit in the text of Article VII. Of these nine, five are implicit within Article VII: (1) disarmament should promote economic and technological development; (2) United Nations specialized agencies should participate in discussions to improve institutional cooperation; (3) The Secretariat to the Convention on Biological Diversity should likewise participate in discussions to improve institutional cooperation (4) welcoming efforts to establish a programme of vaccine development; (5) multilateral organizations should support vaccine production projects. A further two issues listed in Table I are addressed in the Preamble of the Protocol: (1) increasing importance of the Article X; (2) increased potential for cooperation. Of the remaining two issues, one issue would have no longer been valid if the AHG had completed its work by Fifth Review Conference. Thus, only one general statement has neither an explicit nor implicit reference in Article VII or elsewhere in the Protocol -- namely the statement that implementation has not hampered economic and technological development which was made only at the First Review Conference in 1980 and was not repeated at subsequent Review Conferences.

21. Similarly, of the twenty identified proposals for specific measures at previous Review Conferences, only one has not been transformed into a specific obligation within Article VII, nor is it implicit in the obligations undertaken; namely a study of the enhanced radioactivity on micro-organisms. Indeed, an examination of Article VII indicates that a further ten areas of cooperation have been proposed in the Protocol relating to:

- Designation of laboratories;
- Biosafety;
- Environmental protection;
- Occupational health;
- Good Laboratory Practice / Good Manufacturing Practice;
- Diagnostics;
- International Regulations;
- Protocol implementation assistance;
- Information sharing on genetically-modified organisms;
- Regulations governing handling and transportation, use and release of agents;

In addition it should be recognised that Article VII of the Protocol was not the only area of the text proposing cooperation as Article VI contains explicit requirements for cooperation among States Parties in the area of assistance and protection against biological and toxin weapons.

22. The above analysis demonstrated that the Ad Hoc Group in its negotiations has successfully incorporated general statements and principles from the Review Conferences into specific legally binding obligations in the future Protocol. It is very much to be hoped that these obligations will be carried forward into the eventual legally-binding instrument.

Issues for the Fifth Review Conference

23. It is recommended that the Fifth Review Conference should adopt language developed from that in the Final Declaration of the Fourth Review Conference. The twelfth paragraph proposing specific measures could with advantage be extended so as to incorporate all the measures identified in Article VII of the rolling text which were free from square brackets and thus had gained consensus. The fourteenth paragraph could usefully call upon the interim supportive institution recommended in the Article XII chapter to carry out this task. The following language is proposed with changes highlighted:

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 **life sciences**, 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 the Cartagena Protocol on Biosafety**, 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.*
- 9. Cooperation in the sharing of information on environmental release of genetically-modified organisms;*

10. The promotion of programmes to implement Good Manufacturing Practice (GMP), Good Laboratory Practice (GLP), biological containment and other biosafety regulations and practices;

11. Cooperation in the application and harmonisation of regulations governing the handling, transportation, use and release of biological agents and toxins.

12. Facilitation of access to databases containing information on the peaceful uses of biological agents and toxins, biosafety and results of scientific research in the life sciences in areas of particular relevance to the Convention.

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 [**Committee of Oversight**] 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.

