

## ARTICLE XIV: UNIVERSAL ADHERENCE TO THE CONVENTION

by Graham S Pearson & Nicholas A. Sims

### Consideration of Article XIV at the Fourth Review Conference

1. Article XIV states that:

*(1) This Convention shall be open to all States for signature. Any State which does not sign the Convention before its entry into force in accordance with paragraph (3) of this Article may accede to it at any time.*

The other paragraphs of this Article set out the procedures for the depositing of instruments of ratification and instruments of accession with the Depositary Governments and for the notification of all signatory and acceding States of the date of each signature, of deposit of each instrument of ratification or of accession, etc.

2. At the Fourth Review Conference of the BTWC held on 25 November to 6 December 1996, the Final Declaration<sup>1</sup> in respect of Article XIV stated that:

*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.*

3. This was closely similar to the language in the Final Declaration<sup>2</sup> of the Third Review Conference -- differences between this Final Declaration and that of the Fourth Review Conference are shown in bold -- which stated that:

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<sup>1</sup>United 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.

*The Conference notes with satisfaction that a **significant** number of States have **ratified or** acceded to the Convention since the **Second Review Conference and the 1989 Paris Conference of States Parties to the 1925 Geneva Protocol and Other Interested Parties to the Convention, and that there are now more than 115 States Parties to the Convention, including all the permanent members of the Security Council of the United Nations.***

*The **Conference** 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.*

*In this connection, the Conference **encourages** States Parties to **take action to persuade non-parties to accede to the Convention without delay.***

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

*The Third Review Conference appeals to those States Parties to the **Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons** which have **not** taken part in the Conference to participate in the implementation of provisions contained in the Final Declaration of this Conference, **and in particular to implement the agreed confidence-building measures.***

4. Attention needs to be drawn to the change of the word "**Conference**" in the first line of the Final Declaration of the Third Review Conference into "**Convention**" in the corresponding paragraph in the Final Declaration of the Fourth Review Conference and the omission of the word "**not**" in the third line of the final paragraph of the Final Declaration of the Third Review Conference from the final paragraph of the Final Declaration of the Fourth Review Conference. These are clearly both errors which appear not to have been noticed during the Fourth Review Conference as both errors appears in the text for Article XIV put before the Committee of the Whole and proposed by the United States.<sup>3</sup>

## **Developments since the Fourth Review Conference**

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<sup>2</sup> 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.

<sup>3</sup>United 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, Part III, page 59.

5. As the number of States Parties has increased to 143, there is cause for further satisfaction whilst still encouraging all States which have not ratified or acceded to the Convention to do so without delay. It is therefore suggested that the Fifth Review Conference should adopt similar language for Article XIV to that in the Final Declaration of the Fourth Review Conference but taking care not to perpetuate the error in the final paragraph of that Declaration.

6. Consequently, the Conference is recommended to repeat the five paragraphs of the Article XIV section of the 1996 Final Declaration, with four changes apart from the simple updating of Review Conference titles in paragraphs 1 and 5.

7. In paragraph 2, in addition to correcting "Convention" to "Conference" in the first line, it is recommended that the Conference authorise its General Committee or other continuing representative body (Committee of Oversight) to follow up the "calls upon" request which is addressed -- in effect -- to signatory-only and non-signatory states. This would be consistent with the authorisation of the same continuing representative body to undertake demarches under paragraph 6 of the Article VIII section of the Final Declaration.

8. In paragraph 4, it is recommended that "wider adherence" as used in paragraph 3 be repeated. "Accession" is a narrower term than "adherence" and should be avoided here. Regional initiatives have always encouraged ratification of the Convention by signatory-only states as much as accession to the Convention by other states.

9. In paragraph 5, it is recommended that the appeal in the first sentence be addressed to those States Parties which have **not** taken part in the Conference. This would return to the 1986 formulation by the Second Review Conference and the 1991 formulation by the Third Review Conference, from which the 1996 formulation was a seemingly accidental deviation.

10. In paragraph 5, there would be advantage in including a "without prejudice" clause in the second sentence to take account of the sensitivities of some States Parties to any reference to future work of the Ad Hoc Group. It is recommended that, with the addition of such a clause, the 1996 appeal be repeated to all States Parties to participate actively with a view to the early completion of work to strengthen the Convention. The phrase "*early completion of work to strengthen the Convention*" does not specify any particular form a legally-binding instrument might take; nor does it prejudge the relationship of possible measures to other strengthening measures within the continuing (1994) mandate of the Ad Hoc Group from the 1994 Special Conference. Such a phrase should therefore prove acceptable to States Parties with differing views about the future work of the Ad Hoc Group.

11. The following text is therefore recommended for the Article XIV section of the Final Declaration:

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

2. *The Conference 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. The Conference authorises its [Committee of Oversight] to follow up this request from the Conference by undertaking demarches as appropriate to such States.*
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 adherence to the Convention.*
5. *The Fifth Review Conference appeals to those States Parties to the Biological and Toxin Weapons Convention which have not 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, without prejudice to the positions of States Parties on matters under negotiation in the Ad Hoc Group of States Parties, to participate actively with a view to the early completion of work to strengthen the Convention.*