

**AGENDA ITEM 10c : PREAMBULAR PARAGRAPHS AND
PURPOSES OF THE CONVENTION**

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Solemn Declaration and Preamble at the Fourth Review Conference

1. At the Fourth Review Conference of the BTWC held on 25 November to 6 December 1996, the Final Declaration¹ contained a Solemn Declaration followed by a paragraph on the Preamble to the Convention:

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;*

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.

- *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.

2. The Solemn Declaration and the paragraph on the Preamble were developed from that in the Final Declaration² of the Third Review Conference. The Solemn Declaration at the Fourth Review Conference contained an additional two points whilst the paragraph on the Preamble was essentially identical to that at the Third Review Conference with the omission of the word "the" from the phrase "in the review" in the first line.

3. The changes in the Solemn Declaration were as follows. The first two points are identical to those in the Third Review Conference. The third point, reaffirming 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*, is new. The fourth and fifth points are identical to those in the Third Review Conference. The sixth point is developed from that at the Third Review Conference by the replacement of the words at the end "*and the*

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.

organizational arrangements set out below;" by the words "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;" The seventh point is identical as is the eighth apart from the change in the second line of the words "not hamper" by the word "facilitate". The ninth point that "Their recognition that purposes of this Convention include the prohibition of the use of biological weapons as contrary to the purpose of the Convention." is new. Both of the new points -- the third and the ninth -- provide valuable extended understandings that use is prohibited under any circumstances.

Developments since the Fourth Review Conference

4. Since the Fourth Review Conference there have been a number of significant developments relevant to the Biological and Toxin Weapons Convention:

- a. The entry into force on 29 April 1997 and subsequent implementation of the Chemical Weapons Convention (CWC);
- b. The scientific and technological developments relevant to the Convention. There have been major developments – indeed the 21st Century has been declared as the age of biotechnology and genomics. These developments are of particular relevance not only to Article I – the basic prohibition – but also to Article VII – assistance – and to Article X – technical cooperation.
- c. The lack of unanimity in the Security Council which led to the termination at the end of 1998 of the operations of the United Nations Special Commission (UNSCOM) in Iraq and its replacement by the United Nations Monitoring, Verification and Inspection Commission (UNMOVIC) which has yet to commence its operations in Iraq together with the continued stalemate in the trilateral process addressing the dismantlement of the offensive biological weapons programme of the former Soviet Union cast doubt on the credibility of the commitment to prevent proliferation made on 31 January 1992 by the Security Council meeting at Heads of State and Government level.
- d. The negotiations in the Ad Hoc Group that had seen the development of the rolling text and the creation of the Chairman's composite text which had attracted the support of the vast majority of the States Parties engaged in the negotiations but were rejected by one State Party for reasons that have been judged to be illogical. It is, however, encouraging to see that that same State Party has now identified some measures that might strengthen the Convention. It will be important to take these and other ideas forward in the multilateral forum.
- e. The increased concern world-wide and especially in the United States following the recent anthrax attacks about the use of biological agents and toxins by non-State actors which underlines the importance of taking further the steps that were taken at the Fourth Review Conference to ensure that individuals or subnational groups are effectively prevented from acquiring or using such agents for other than peaceful purposes.

f. The absence of any organisation or institution to steer the regime to totally prohibit biological weapons has become all the more glaring by comparison with the Organization for the Prohibition of Chemical Weapons and its implementation of the Chemical Weapons Convention. When coupled with the rate in which major developments are occurring in biotechnology and microbiology, there is a compelling argument for interim supportive institutions to nurture and sustain the regime against biological weapons.

5. The Fifth Review Conference is of particular importance to **all** States Parties as it is taking place at a time of unparalleled challenge and opportunity. The events of 11 September 2001 and subsequent developments including the anthrax attacks in the United States underline the importance of **totally** preventing the development, production, acquisition or use of biological weapons by anyone or any State whatsoever. The anthrax attacks in the United States and elsewhere in September and October 2001 have raised public awareness, alarm and concern about biological weapons to unprecedented levels.

Issues for the Fifth Review Conference

6. There would be particular advantage in the Solemn Declaration including language that reaffirms the value of the Convention, particularly in respect of Articles III and IV, in preventing any person whatsoever acquiring or developing or using biological or toxin weapons for purposes prohibited under the Convention.

7. It is suggested that the Fifth Review Conference should adopt similar language to that in the Solemn Declaration and Preamble as in the Final Declaration of the Fourth Review Conference, which referred back to the importance of the elements in the review of the Preamble to the Convention contained in the Final Declaration of the **Second** Review Conference. An additional point should be included to reaffirm the value of the Convention in contributing towards the prevention of the use of biological weapons by non-State actors.

8. In the proposed language below, a new sixth point is added addressing the prevention of the use of biological weapons by non-State actors. In the seventh point, language has been reintroduced, as in the Solemn Declaration of the Third Review Conference, referring to organizational arrangements as there is a compelling need for interim supportive institutions as addressed in the chapter on Article XII of this Briefing Book. Also in the seventh point, language has been modified so as to refer to a legally-binding instrument rather than to the Ad Hoc Group. The word "the" has been reinserted, as in the Final Declaration of the Third Review Conference, in the paragraph on the Preamble.

9. The language to be adopted by the Fifth Review Conference in might therefore be along the following lines, in which changes from the Fourth Review Conference are highlighted:

*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 21 NOVEMBER TO 7 DECEMBER 2001 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 reaffirmation of their firm commitment through the adoption of national measures to prevent transfers or the use of biological and toxin weapons by any person whatsoever in terrorist or criminal activity;*
- *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, **the organizational arrangements set out below**, and through the fulfilment of the mandate **to negotiate a legally-binding instrument as mandated** 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 **the** 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.*