

Document No. 48, ICRC, Biotechnology, Weapons and Humanity

A. Biological Weapons Convention

[Source: Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction. Opened for Signature at London, Moscow and Washington. 10 April 1972. Available at www.icrc.org]

Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction

The States Parties to this Convention,

Determined 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 convinced 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.

Recognising the important significance 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 [See Document No. 9, The Geneva Chemical Weapons Protocol], and conscious also of the contribution which the said Protocol has already made, and continues to make, to mitigating the horrors of war,

Reaffirming their adherence to the principles and objectives of that Protocol and calling upon all States to comply strictly with them,

Recalling that the General Assembly of the United Nations has repeatedly condemned all actions contrary to the principles and objectives of the Geneva Protocol of 17 June 1925, [...]

Convinced of the importance and urgency of eliminating from the arsenals of States, through effective measures, such dangerous weapons of mass destruction as those using chemical or bacteriological (biological) agents,

Recognising that an agreement on the prohibition of bacteriological (biological) and toxin weapons represents a first possible step towards the achievement of agreement on effective measures also for the prohibition of the development, production and stockpiling of chemical weapons, and determined to continue negotiations to that end,

Determined, for the sake of all mankind, to exclude completely the possibility of bacteriological (biological) agents and toxins being used as weapons,

Convinced that such use would be repugnant to the conscience of mankind and that no effort should be spared to minimise this risk,

Have agreed as follows:

ARTICLE I

Each State Party to this Convention undertakes 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;
2. Weapons, equipment or means of delivery designed to use such agents or toxins for hostile purposes or in armed conflict.

ARTICLE II

Each State Party to this Convention undertakes to destroy, or to divert to peaceful purposes, as soon as possible but not later than nine months after the entry into force of the Convention, all agents, toxins, weapons, equipment and means of delivery specified in Article I of the Convention, which are in its possession or under its jurisdiction or control. In implementing the provisions of this Article all necessary safety precautions shall be observed to protect populations and the environment.

ARTICLE III

Each State Party to this Convention undertakes not to transfer to any recipient whatsoever, directly or indirectly, and not in any way to assist, encourage, or induce any State, group of States or international organisations to manufacture or otherwise acquire any of the agents, toxins, weapons, equipment or means of delivery specified in Article I of the Convention.

ARTICLE IV

Each State Party to this Convention shall, in accordance with its constitutional processes, take any necessary measures to prohibit and prevent the development, production, stockpiling, acquisition or retention of the agents, toxins, weapons, equipment and means of delivery specified in Article I of the Convention, within the territory of such State, under its jurisdiction or under its control anywhere.

[...]

ARTICLE VIII

Nothing in this 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, signed at Geneva on 17 June 1925.

[...]

ARTICLE XII

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 realised. Such review shall take into account any new scientific and technological developments relevant to the Convention.

[...]

B. Appeal by the International Committee of the Red Cross

[Source: Official Statement, Appeal on Biotechnology, Weapons and Humanity; ICRC's appeal to the political and military authorities and to the scientific and medical communities, industry and civil society on the potentially dangerous developments in biotechnology, 25 September 2002; available at www.icrc.org]

APPEAL OF THE INTERNATIONAL COMMITTEE OF THE RED CROSS ON BIOTECHNOLOGY, WEAPONS AND HUMANITY

[...]

Background

The “age of biotechnology”, like the industrial revolution and the “information age”, promises great benefits to humanity. Yet if biotechnology is put to hostile uses, including to spread terror, the human species faces great dangers.

The International Committee of the Red Cross (ICRC), in keeping with its mandate to protect and assist victims of armed conflict, is particularly alarmed by the potential hostile uses of biological agents.

Potential benefits of advances in biological sciences and technologies are impressive. These include cures for diseases, new vaccines and increases in food production, including in impoverished regions of the world.

Yet the warnings of what can go wrong are profoundly disturbing. The ICRC believes these merit reflection at every level of society. Testimony from governments, UN agencies, scientific circles, medical associations and industry provides a long list of existing and emerging capacities for misuse. These include:

- Deliberate spread of existing diseases such as typhoid, anthrax and smallpox to cause death, disease and fear in a population.
- Alteration of existing disease agents rendering them more virulent, as already occurred unintentionally in research on the “mousepox” virus.
- Creation of viruses from synthetic materials, as occurred this year using a recipe from the Internet and gene sequences from a mail order supplier.
- Possible future development of ethnically or racially specific biological agents.

- Creation of novel biological warfare agents for use in conjunction with corresponding vaccines for one's own troops or population. This could increase the attractiveness of biological weapons.
- New methods to covertly spread naturally occurring biological agents to alter physiological or psychological processes of target populations such as consciousness, behavior and fertility, in some cases over a period of years.
- Production of biological agents that could attack agricultural or industrial infrastructure. Even unintended release of such agents could have uncontrollable and unknown effects on the natural environment.
- Creation of biological agents that could affect the makeup of human genes, pursuing people through generations and adversely affecting human evolution itself.

The life processes at the core of human existence must never be manipulated for hostile ends. In the past, scientific advances have all too often been misused. It is essential that humanity acts together now to prevent the abuse of biotechnology.

The ICRC calls on all concerned to assume their responsibilities in this field, before it is too late. We must reaffirm the ancient taboo against the use in war of "plague and poison", passed down for generations in diverse cultures. From the ancient Greeks and Romans, to the Manu Law of War in India, to rules on the conduct of war drawn from the Koran by the Saracens, the use of poison and poison weapons has been forbidden. This ban was codified in the 1863 Lieber Code during the US Civil War and, internationally, in the 1899 Hague Declaration and the Regulations annexed to the 1907 Hague Convention IV. [See Document No. 1, The Hague Regulations]

In February 1918, the ICRC launched an impassioned appeal, describing warfare by poison as "a barbaric invention which science is bringing to perfection..." and protesting "with all the force at [its] command against such warfare, which can only be called criminal." This appeal is still valid today.

Responding in part to the ICRC's appeal, States adopted the 1925 Geneva Protocol, [See Document No. 9, The Geneva Chemical Weapons Protocol] reaffirming the general ban on the use of poison gas and extending it to cover bacteriological weapons. This norm is now part of customary international law – binding on all parties to all armed conflicts.

The 1972 Biological Weapons Convention significantly reinforced this prohibition by outlawing the development, production, stockpiling, acquisition, retention and transfer of biological weapons. As regards new advances in biotechnology and possible terrorist threats, this Convention covers all biological agents which "have no justification for prophylactic, protective or other peaceful purposes" and includes the means to deliver such agents. (Article 1, 1972 Biological Weapons Convention). The ICRC deeply regrets that lengthy negotiations to strengthen this Convention through a compliance-monitoring regime did not come to fruition as expected in November 2001. This underlines the urgent need for a renewed commitment by all States to ensure effective control of biological agents.

The responsibility to prevent hostile uses of biotechnology lies with each State. But it extends beyond governments to all persons, especially to military, scientific and medical professionals and those in the biotechnology and pharmaceutical industries. [...]

The ICRC appeals in particular:

TO ALL POLITICAL AND MILITARY AUTHORITIES

- To become parties to the 1925 Geneva Protocol and the 1972 Biological Weapons Convention, if they have not already done so, to encourage States which are not parties to become parties, and to lift reservations on use to the 1925 Geneva Protocol,
- To resume with determination efforts to ensure faithful implementation of these treaties and develop appropriate mechanisms to maintain their relevance in the face of scientific developments,
- To adopt stringent national legislation, where it does not yet exist, for implementation of the 1925 Geneva Protocol and the 1972 Biological Weapons Convention, and to enact effective controls on biological agents with potential for abuse,
- To ensure that any person who commits acts prohibited by the above instruments is prosecuted,
- To undertake actions to ensure that the legal norms prohibiting biological warfare are known and respected by members of armed forces,
- To encourage the development of effective codes of conduct by scientific and medical associations and by industry to govern activities and biological agents with potential for abuse, and
- To enhance international cooperation, including through the development of greater international capacity to monitor and respond to outbreaks of infectious disease.

TO THE SCIENTIFIC AND MEDICAL COMMUNITIES AND TO THE BIOTECHNOLOGY AND PHARMACEUTICAL INDUSTRIES

- To scrutinize all research with potentially dangerous consequences and to ensure it is submitted to rigorous and independent peer review,
- To adopt professional and industrial codes of conduct aimed at preventing the abuse of biological agents,
- To ensure effective regulation of research programs, facilities and biological agents which may lend themselves to misuse, and supervision of individuals with access to sensitive technologies, and

- To support enhanced national and international programs to prevent and respond to the spread of infectious disease.

The ICRC calls on all those addressed here to assume their responsibilities as members of a species whose future may be gravely threatened by abuse of biological knowledge. The ICRC appeals to you to make your contribution to the age-old effort to protect humanity from disease. We urge you to consider the threshold at which we all stand and to remember our common humanity.

The ICRC urges States to adopt at a high political level an international Declaration on “Biotechnology, Weapons and Humanity” containing a renewed commitment to existing norms and specific commitments to future preventive action.

Geneva, September 2002

C. Sixth 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

[Source: Sixth 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, Doc. BWC/CONF.VI/6, Geneva, 2006; available at www.un.org]

SIXTH 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, 20 November – 8 December 2006)

FINAL DOCUMENT

[...]

Part 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 20 NOVEMBER TO 8 DECEMBER 2006 TO REVIEW THE OPERATION OF THE CONVENTION, SOLEMNLY DECLARE:

- (i) Their conviction that the Convention is essential for international peace and security;
- (ii) Their determination also to act with a view to achieving effective progress towards general and complete disarmament under strict and effective international control including the prohibition and elimination of all weapons of mass destruction

and their conviction that the prohibition of the development, production and stockpiling of bacteriological (biological) weapons and their elimination, will facilitate the achievement of this goal;

[...]

- (v) Their continued determination, for the sake of humankind, to exclude completely the possibility of the use of bacteriological (biological) weapons, and their conviction that such use would be repugnant to the conscience of humankind;
- (vi) 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;
- (vii) Their conviction that terrorism in all its forms and manifestations and whatever its motivation, is abhorrent and unacceptable to the international community, and that terrorists must be prevented from developing, producing, stockpiling, or otherwise acquiring or retaining, and using under any circumstances, biological agents and toxins, equipment, or means of delivery of agents or toxins, for non-peaceful purposes, and their recognition of the contribution of full and effective implementation of United Nations Security Council Resolution 1540 by all states to assist in achieving the objectives of this Convention;
- (viii) Their conviction that the full implementation of all the provisions of the Convention should facilitate economic and technological development and international cooperation in the field of peaceful biological activities;
- (ix) Their reiteration that the effective contribution of the Convention to international peace and security will be enhanced through universal adherence to the Convention, and their call on signatories to ratify and other states not party to accede to the Convention without delay;
- (x) Their recognition that achieving the objectives of the Convention will be more effectively realized through greater public awareness of its contribution, and through collaboration with relevant regional and international organizations, in keeping within their respective mandates, and their commitment to promote this;

[...]

Article I

1. The Conference reaffirms the importance of Article I, as it defines the scope of the Convention. The Conference declares that the Convention is comprehensive in its scope and that all naturally or artificially created or altered microbial and other biological agents and toxins, as well as their components, regardless of their origin and method of production and whether they affect humans, animals or plants, of types and in quantities that have no justification for prophylactic, protective or other peaceful purposes, are unequivocally covered by Article I.

2. The Conference reaffirms that Article I applies to all scientific and technological developments in the life sciences and in other fields of science relevant to the Convention.
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. 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. The Conference affirms the determination of States Parties to condemn any use of biological agents or toxins for other than peaceful purposes, by anyone at any time.
4. The Conference notes that experimentation involving open-air release of pathogens or toxins harmful to humans, animals and plants that have no justification for prophylactic, protective or other peaceful purposes is inconsistent with the undertakings contained in Article I.

[...]

Article III

8. The Conference reaffirms that Article III is sufficiently comprehensive to cover any recipient whatsoever at the international, national or sub-national levels. The Conference calls for appropriate measures, including effective national export controls, by all States Parties to implement this Article, in order to ensure that direct and indirect transfers relevant to the Convention, to any recipient whatsoever, are authorized only when the intended use is for purposes not prohibited under the Convention.
9. The Conference calls for appropriate measures by all States Parties to ensure that biological agents and toxins relevant to the Convention are protected and safeguarded, including through measures to control access to and handling of such agents and toxins;

[...]

Article IV

11. The Conference reaffirms the commitment of States Parties to take the necessary national measures under this Article. The Conference also reaffirms that the enactment and implementation of necessary national measures under this Article would strengthen the effectiveness of the Convention. In this context, the Conference calls upon States Parties to adopt, in accordance with their constitutional processes, legislative, administrative, judicial and other measures, including penal legislation, designed to:

- (i) enhance domestic implementation of the Convention and ensure the prohibition and prevention of the development, production, stockpiling, acquisition or retention of the agents, toxins, weapons, equipments and means of delivery as specified in Article I of the Convention;
 - (ii) apply within their territory, under their jurisdiction or under their control anywhere and apply, if constitutionally possible and in conformity with international law, to actions taken anywhere by natural or legal persons possessing their nationality;
 - (iii) ensure the safety and security of microbial or other biological agents or toxins in laboratories, facilities, and during transportation, to prevent unauthorized access to and removal of such agents or toxins.
12. The Conference welcomes those measures taken by States Parties in this regard, and reiterates its call to any State Party that has not yet taken any necessary measures to do so without delay. [...]
13. The Conference reaffirms the commitment of States Parties to take the necessary national measures to strengthen methods and capacities for surveillance and detection of outbreaks of disease at the national, regional and international levels.
14. The Conference urges the inclusion in medical, scientific and military educational materials and programmes of information on the Convention and the 1925 Geneva Protocol. The Conference urges States Parties to promote the development of training and education programmes for those granted access to biological agents and toxins relevant to the Convention and for those with the knowledge or capacity to modify such agents and toxins, in order to raise awareness of the risks, as well as of the obligations of States Parties under the Convention.
15. The Conference encourages States Parties to take necessary measures to promote awareness amongst relevant professionals of the need to report activities conducted within their territory or under their jurisdiction or under their control that could constitute a violation of the Convention or related national criminal law. In this context, the Conference recognises the importance of codes of conduct and self-regulatory mechanisms in raising awareness, and calls upon States Parties to support and encourage their development, promulgation and adoption.
16. The Conference urges States Parties with relevant experience in legal and administrative measures for the implementation of the provisions of the Convention, to provide assistance on request to other States Parties. The Conference also encourages such initiatives on a regional basis.
- [...]

Article VIII

39. The Conference appeals to all States Parties to the 1925 Geneva Protocol to fulfill their obligations assumed under that Protocol and urges all states not yet party to the Protocol to ratify or accede to it without delay.

40. The Conference acknowledges that the 1925 Geneva Protocol, which prohibits the use in war of asphyxiating, poisonous or other gases, and of bacteriological methods of warfare, and the Convention complement each other. The Conference reaffirms that nothing contained in the Convention shall be interpreted as in any way limiting or detracting from the obligations assumed by any state under the 1925 Geneva Protocol.
41. The Conference stresses the importance of the withdrawal of all reservations to the 1925 Geneva Protocol related to the Convention.

[...]

Article IX

[...]

45. The Conference welcomes the fact that the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction entered into force on 29 April 1997 and that 181 instruments of ratification or accession have now been deposited with the United Nations. The Conference calls upon all states that have not yet done so to accede to that Convention without delay.

[...]

Article XIV

63. The Conference notes with satisfaction that eleven states have acceded to or ratified the Convention since the Fifth Review Conference.
64. The Conference calls upon signatories to ratify the Convention, and upon those states which have not signed the Convention to accede to it without delay, thus contributing to the achievement of universal adherence to the Convention.
65. The Conference encourages States Parties to take action to persuade non-parties to accede to the Convention without delay, and particularly welcomes regional initiatives that would lead to wider accession to the Convention.

[...]

Part III. Decisions and Recommendations

[...]

Intersessional Programme 2007-2010

7. The Conference decides:
 - (a) To hold four annual meetings of the States Parties of one week duration each year commencing in 2007, prior to the Seventh Review Conference, to be held not later than the end of 2011, to discuss, and promote common understanding and effective action on:

- (i) Ways and means to enhance national implementation, including enforcement of national legislation, strengthening of national institutions and coordination among national law enforcement institutions.
- (ii) Regional and sub-regional cooperation on implementation of the Convention.
- (iii) National, regional and international measures to improve biosafety and biosecurity, including laboratory safety and security of pathogens and toxins.
- (iv) Oversight, education, awareness raising, and adoption and/or development of codes of conduct with the aim of preventing misuse in the context of advances in bio-science and bio-technology research with the potential of use for purposes prohibited by the Convention.
- (v) With a view to enhancing international cooperation, assistance and exchange in biological sciences and technology for peaceful purposes, promoting capacity building in the fields of disease surveillance, detection, diagnosis, and containment of infectious diseases: (1) for States Parties in need of assistance, identifying requirements and requests for capacity enhancement; and (2) from States Parties in a position to do so, and international organizations, opportunities for providing assistance related to these fields.
- (vi) Provision of assistance and coordination with relevant organizations upon request by any State Party in the case of alleged use of biological or toxin weapons, including improving national capabilities for disease surveillance, detection and diagnosis and public health systems.

[...]