

**Report by Secretary of State Rogers to President Nixon:  
Convention on the Prohibition of the Development, Production,  
and Stockpiling of Bacteriological (Biological) and Toxin  
Weapons, and on Their Destruction, June 21, 1972<sup>1</sup>**

DEPARTMENT OF STATE,  
*Washington, D.C., June 21, 1972.*

THE PRESIDENT,  
*The White House.*

*The President:* I have the honor to submit to you, with the recommendation that it be transmitted to the Senate for its advice and consent to ratification, a certified copy of the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons, and on their Destruction.

The Convention was opened for signature at Washington, London and Moscow on April 10, 1972. Seventy-four States, including the United States of America, the United Kingdom of Great Britain and Northern Ireland and the Union of Soviet Socialist Republics, signed the Convention in Washington on that date.<sup>2</sup> A number of other States have also signed the Convention in one or more of the three capitals.

In January 1969, immediately after this Administration took office, the Secretary of Defense initiated a review of all chemical and biological programs within his Department. In April you directed that the National Security Council conduct a comprehensive study of United States policies and programs relating to chemical and biological warfare. This was the first such review ever undertaken on this subject at the Presidential level. On November 25, 1969, you announced that the study had been completed and that you had made several decisions on the basis of that review. At that time you announced that the United States was unilaterally renouncing biological methods of warfare and would destroy its existing stocks of these weapons.<sup>3</sup>

On February 14, 1970, a further, closely related step was taken. As a result of a study of our policy and programs concerning toxins subsequent to your November announcement, the United States also renounced the use of toxins as a method of warfare.<sup>4</sup>

In May 1971, the Department of Defense announced that plans to destroy the United States inventory of bacteriological and toxin weapons at Pine Bluff,<sup>5</sup> Arkansas had been cleared by interested agencies and would proceed forthwith. Similar announcements with respect to other facilities were made in July 1971.<sup>6</sup> All

<sup>1</sup>S.Ex. Q, 92d Cong., 2d sess., pp. 1-6.

<sup>2</sup>*Ante*, pp. 133-138.

<sup>3</sup>*Documents on Disarmament, 1969*, pp. 592-593.

<sup>4</sup>*Ibid.*, 1970, pp. 5-6.

<sup>5</sup>*New York Times*, May 8, 1971, p. 11; *ibid.*, June 10, 1971, p. 47.

<sup>6</sup>*Ibid.*, July 14, 1971, p. 8.

anti-personnel agents have now been destroyed. Destruction of anti-crop material is continuing and will be completed before the end of 1972. With respect to Fort Detrick, Maryland, it was announced on October 18, 1971, that this facility would be converted into a cancer research center.

Included in your November 25 announcement was the positive association of the United States with the principles and objectives of the draft Convention on Biological Weapons that had been submitted by the United Kingdom at the Geneva Eighteen-Nation Committee on Disarmament, now the Conference of the Committee on Disarmament (CCD), in July 1969.<sup>7</sup>

Important provisions of the present Convention are derived from that United Kingdom draft, which was revised in 1970 after extensive discussion at the CCD.<sup>8</sup> At our suggestion, the coverage of the United Kingdom draft was expanded to include toxins.<sup>9</sup> Other provisions of the Convention are based on a draft convention presented at the Geneva conference in March 1971 by the Soviet Union and a number of its allies.<sup>10</sup>

Following the tabling by the United States and by the Soviet Union and its allies of identical drafts of a convention prohibiting biological and toxin weapons at Geneva on August 5, 1970, [1971]<sup>11</sup> the representatives of Brazil, Burma, Egypt, Ethiopia, India, Mexico, Morocco, Nigeria, Pakistan, Sweden and Yugoslavia presented a paper containing specific suggestions which are reflected in the present text.<sup>12</sup> Other recommendations reflected in the language of this Convention and in statements regarding its interpretation were put forward at Geneva by representatives of Argentina, Canada, Egypt, Japan, Italy, Morocco, the Netherlands, and the United Kingdom. On September 28, 1971, a final revised draft text was cosponsored in Geneva by the United States, the Soviet Union and the United Kingdom, together with Bulgaria, Canada, Czechoslovakia, Hungary, Italy, Mongolia, the Netherlands, Poland, and Romania.<sup>13</sup> This text was forwarded to the United Nations General Assembly for its consideration. On December 16, 1971, by a vote of 110-0, with one abstention, the General Assembly commended this draft text and requested that the Convention be opened for signature and ratification at an early date.<sup>14</sup>

The Convention consists of a Preamble and 15 Articles. The Preamble contains ten paragraphs expressing the consensus of the Parties. The first expresses the belief that an agreement eliminating biological weapons will facilitate the achievement of general and

<sup>7</sup>*Documents on Disarmament, 1969*, pp. 324 ff.

<sup>8</sup>*Ibid.*, 1970, pp. 428 ff.

<sup>9</sup>*Ibid.*, pp. 272-273.

<sup>10</sup>*Ibid.*, 1971, pp. 190-194.

<sup>11</sup>*Ibid.*, pp. 456-460.

<sup>12</sup>*Ibid.*, pp. 500-501.

<sup>13</sup>*Ibid.*, pp. 568-573.

<sup>14</sup>*Ibid.*, pp. 890 ff.

complete disarmament: the second recognizes the significance of the Geneva Protocol of 1925;<sup>15</sup> the third reaffirms the adherence of the Parties to the principles and objectives of the Protocol; the fourth recalls condemnations by the United Nations of all actions contrary to those principles and objectives; the fifth and sixth express the desire to contribute to the improvement of the international atmosphere and to the realization of the purposes and principles of the United Nations Charter; the seventh notes the importance of eliminating chemical and biological weapons; the eighth expresses the determination to continue negotiations on effective measures for prohibiting chemical weapons; the ninth expresses the determination to exclude completely the possibility of biological agents and toxins being used as weapons; and the final preambular paragraphs expresses the conviction that the use of such weapons would be repugnant to the conscience of mankind.

In Article I, the Parties undertake never in any circumstances to develop, produce, stockpile, acquire or retain 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, as well as weapons, equipment and means of delivery designed to use such agents or toxins for hostile purposes or in armed conflict.

Many Parties to the Geneva Protocol have, in their ratification of that Agreement, entered reservations regarding the right to use weapons covered by the Protocol (including biological and toxin weapons) in retaliation against States Parties which themselves use such weapons in violation of the Protocol. The phrase "never in any circumstances" in Article I of this Convention makes it clear that, as a practical matter, these reservations would not result in any exception to the total prohibition of biological and toxin weapons achieved by the Convention. Moreover, since war would obviously be one of the "circumstances" referred to, the phrase "never in any circumstances" emphasizes the intention of the Parties that this Convention remain in full force and effect in time of war. The inclusion of this phrase does not, of course, prejudice the rights of Parties under the withdrawal clause in Article XIII.

While this Convention does not explicitly ban the use of biological weapons, no Party to the Convention would be permitted to possess such weapons even in wartime. There is no possibility that a Party could use biological or toxin weapons without being in violation of Articles I and II of this Convention.

The phrase "whatever their origin or method of production" after the word "toxins" in Article I is intended to ensure that the concept of toxins will be interpreted broadly and that toxins produced synthetically, as well as those produced naturally by bacteriological or other biological organisms, would be covered by the prohibition. Toxins are poisonous chemical substances which

<sup>15</sup>*Ibid.*, 1969, pp. 764-765.

are naturally produced by living organisms and which, if present in the body, produce effects comparable to those of infection by hostile organisms.

The provisions of Article I would not permit any quantities of the agents or toxins covered to be developed, produced, stockpiled, acquired or retained for hostile purposes or for use in armed conflict. Nor would they permit the stockpiling or retention for non-peaceful purposes of agents or toxins that, when acquired, had a justification for a peaceful purpose, such as meeting hospital requirements.

Article I provides that biological agents or toxins justified for purposes covered by the terms "prophylactic" and "protective" are not prohibited by this Convention. The word "prophylactic" refers to activities related to the protection of the human body from the effects of organisms or substances to which an individual might be directly exposed. It encompasses medical activities such as diagnosis, therapy and immunization, and related research. The term "protective" applies to the development of such equipment as decontamination systems, protective masks and clothing, air and water filtration systems, and detection and warning devices. Laboratory quantities of certain agents and toxins might well be required for research and testing in these areas. In order to avoid any possible ambiguity, it was made clear during the negotiation of this Convention that the terms "prophylactic" and "protective" are not intended to convey any broader meaning which would in any way permit possession of biological agents or toxins for weapons purposes on the theory that such weapons were for "defensive" warfare, retaliation or deterrence.

Article II sets forth a requirement for destruction of the agents, toxins, weapons and equipment prohibited by Article I within nine months after the entry into force of this Convention. It is expected that the United States program of destruction will be completed before the expiration of this period. Article II specifies that, in carrying out such destruction, all necessary safety precautions should be observed to protect the populations of all States and the environment. We believe, as we and a number of other participants in the negotiation of this Convention have already made clear, that it would be appropriate and desirable for each Party to inform other Parties, through notices to the Depositary Governments, of actions taken in the implementation of the provisions of this Article. The United States intends to do so when its program has been completed.

Article III provides that no Party shall transfer to any recipient, directly or indirectly, or assist any other State or States to manufacture or otherwise acquire any of the agents, toxins, weapons, equipment or means of delivery specified in Article I. This Article is designed to prevent indirect participation by States Parties in the development, production or stockpiling of biological and toxin weapons.

Article IV provides that each Party shall, in accordance with its constitutional processes, take any necessary measures to prohibit and prevent those activities prohibited by Article I, within its territory, under its jurisdiction or under its control anywhere. The question of what measures are necessary at a given time must, of course, be assessed in the light of the factual circumstances facing a State Party at that time. The governmental policies with respect to biological and toxin weapons announced on November 25, 1969 and February 14, 1970 assure compliance with the Convention by the United States Government. Article IV also contemplates the adoption by legislative or administrative action of any measures which may be necessary to prohibit and prevent private activity which would defeat the central objectives of the Convention. Existing United States statutes relevant to this obligation include the Munitions Control provisions of the Mutual Security Act of 1954 (22 U.S.C. § 1934 (1970)) and the Export Administration Act of 1969 (50 U.S.C. App. § 2401 et. seq. (1970)). However, additional legislation for more effective implementation of Article IV is being prepared for early submission to the Congress.

Articles V, VI, and VII strengthen this Convention by establishing a framework for consideration of any problems arising under the Convention and for possible assistance to any Party endangered as a result of a violation.

Article V provides for consultations and cooperation in solving any problems which may arise in relation to the objective of the Convention or the application of its provisions. Such consultations and cooperation need not be limited to narrow questions of a possible technical violation of any particular article but may encompass as well any problems concerning the achievement of the overall objective of this Convention. Consultation and cooperation pursuant to this Article may be undertaken directly among Parties or through appropriate international procedures within the framework of the United Nations and in accordance with its Charter.

Article VI provides that any Party to the Convention which finds that any other Party is acting in breach of its obligations under this Convention may lodge a complaint with the Security Council of the United Nations. In the second paragraph of Article VI each Party undertakes to cooperate with any investigation that the Security Council may initiate on the basis of such a complaint.

Article VII concerns providing or supporting assistance, "in accordance with the United Nations Charter," to any Party to the Convention which so requests, if the Security Council decides that such Party has been exposed to danger as a result of a violation of this Convention. This Article does not, of course, alter the obligations or the rights of Parties under the United Nations Charter but reaffirms those rights and obligations in the specific context of a possible violation of this Convention. While this Article does not create any new international commitment, it

stresses the importance of strict observance of the Convention by placing the question of a possible violation, resulting in danger to any State which has agreed to abide by its prohibition, on the highest plane of international concern. It was made clear during the negotiations that under this provision assistance would be provided only following a request by the endangered Party and each Party would decide for itself whether it was in a position to provide or support the form of assistance requested. In the course of the negotiations, the United States, the United Kingdom and the Soviet Union expressed their view that medical or other humanitarian relief assistance would be suitable. While this Article, by its terms, would not apply until a decision by the Security Council had been made that a Party had been exposed to danger as a result of a violation, Parties would remain free to provide assistance that they deemed appropriate in the interim.

Article VIII provides that nothing in this Convention shall in any way limit or detract from obligations assumed by any State under the Geneva Protocol.

Article IX reaffirms the objective of effective prohibition of chemical weapons, and contains an undertaking to continue negotiations with a view to reaching early agreement on effective measures to eliminate such weapons.

Article X is designed to encourage international cooperation regarding the peaceful uses of biological agents and toxins. It contains a general undertaking by the Parties to cooperate in efforts to facilitate the widest possible application of discoveries in the field of biology for the prevention of disease or for other peaceful purposes. In addition, it provides for implementation of this Convention in a manner which avoids hampering the economic and technological development of Parties in this area. The Article is based on similar provisions in the Non-Proliferation Treaty.

Article XI sets forth the procedure for amendment. Any Party may propose amendments. An amendment would enter into force for each Party accepting it upon acceptance by a majority of the Parties, and for any other Party on the date it accepts the amendment. This Article is similar to a provision found in the Outer Space Treaty.

Article XII provides for a review conference to be held five years after entry into force of the Convention, or earlier if requested by a majority of the Parties. The provision for a review conference was included to assure that the purposes of the Preamble and the provisions of the Convention, including the provisions concerning negotiations on chemical weapons, were being realized, taking into account any relevant technological developments. This Article is similar to a provision of the Non-Proliferation Treaty.<sup>16</sup>

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<sup>16</sup>*Ibid.*, 1968, pp. 461-465.

Article XIII provides in its first paragraph that the Convention shall be of unlimited duration and contains in its second paragraph the withdrawal clause that has been standard in post-war arms control treaties. This clause provides that a Party may withdraw from the Convention upon notice if it finds that extraordinary events related to the subject matter of the Convention have jeopardized its supreme interests. The notice period required is three months.

Article XIV designates the United States, the United Kingdom and the Soviet Union as Depositary Governments, and provides that the Convention shall enter into force upon the deposit of instruments of ratification by twenty-two signatory States including the Depositary Governments. It specifies how other States may become Parties and contains provisions of a formal nature relating to ratification, accession and registration with the United Nations.

The final Article provides for official languages and other formal matters.

The provisions for signature and accession have been designed to permit the widest possible application of the Convention. At the same time adherence to the Convention will in no way imply recognition or change in status of regimes the United States does not now recognize. Nor will it in any way result in according recognition or change in status to any regime not now recognized by any other Party.

I believe that this Convention represents a major advance in arms control. Its broad acceptance will enhance the security of all countries. It will help to eliminate biological and toxin weapons from the arsenals of States, and help to ensure that advances in the field of biology, now being made at an impressive pace, will be devoted to the benefit and not to the destruction of mankind. I hope that the United States, whose ratification is required to bring the Convention into force, will become a Party in the near future.

Respectfully submitted.

William P. Rogers