

Geneva, 3 - 21 March 1980

REPORT OF THE COMMITTEE OF THE WHOLE

1. At its seventh Plenary meeting on 7 March, the Review Conference decided, in accordance with rule 34 of its rules of procedure, to establish a Committee of the Whole, open to each State Party participating in the Conference, to consider in greater detail the substantive issues relevant to the Convention and report to the Plenary not later than 17 March. At its tenth Plenary meeting on 12 March, the Conference agreed that the Committee of the Whole was also open for participation to States Signatories in accordance with rule 43 of the rules of procedure.
2. The Conference at its seventh Plenary meeting elected by acclamation Ambassador Petar Voutov, Permanent Representative of Bulgaria to the United Nations Office at Geneva, Chairman of the Committee of the Whole.
3. At its ninth Plenary meeting on 11 March, on the recommendation of the General Committee, the Conference decided to dispense with the review of the provisions of the Convention under agenda items 10 (b), (c) and 11 in the Plenary and to carry out that function within the framework of the Committee of the Whole.
4. At its second meeting on 11 March, the Committee of the Whole adopted its programme of work by specifying the number of meetings to be allocated to the consideration of the provisions of the Convention and agenda item 11 on the understanding that it would be applied with the necessary flexibility.
5. The Committee held 9 meetings during the period from 11 - 18 March.
6. Statements by the participating States on the Articles of the Convention included the following main points:

Articles I - IV

7. It was a widely held view that the scope of the Convention, as defined in the respective articles, had not given rise to any problems or caused any ambiguities in the process of its application by States Parties. In this connexion, some participants also noted with satisfaction that no complaints had been lodged regarding violations of the obligations as provided for in these articles. On this basis they concluded that the provisions of Articles I - IV had been effectively implemented.
8. Furthermore, it was generally considered that the provisions of Article I were sufficiently comprehensive to have covered, since the entry into force of the Convention, all scientific and technological developments relevant to the Convention. In this context, it was emphasized by a number of participants, that the technological and scientific developments that had taken place subsequently had in no way compromised the validity of the operation of the provisions contained in this Article. Appreciation was also expressed for the paper prepared by the Depositary Governments on the subject. Several participants noted that in view

of the fact that the Parties to the Convention had different levels of technical and scientific capabilities it was necessary to ensure the dissemination, through the United Nations Centre for Disarmament, of information on the new developments relevant to the Convention, as provided by the States Parties.

9. In view of the positive appraisal, one participant appealed to the Review Conference to express approval of and support for the provisions of Articles I, II, III and IV in the form in which they appeared in the Convention.

10. In connexion with Article II, several participants welcomed assurances given by a number of States Parties on their compliance with its provisions, which they saw as a confidence-building measure. Some participants, however, noted that some of these declarations were couched in more qualified terms, making no reference to destruction of stocks. They pointed out that confidence in the Convention could be enhanced if clear and unqualified statements were made to the effect that the States concerned had either never possessed any of the objects prohibited under the Convention, or that they had once possessed them but had now destroyed them. Other participants felt that it was not sufficient to make a declaration on the destruction of stockpiles, but that some verification of the destruction of stockpiles or of their diversion to peaceful uses was also necessary.

11. As regards Article III, one participant noted that an increased responsibility rested with all States Parties to prevent the acquisition and use by individuals, groups or organizations within their respective jurisdiction of such agents and products for the purpose of inflicting harm on other countries.

12. Concerning Article IV, one participant considered that it would be useful if States Parties were to share more widely their experience regarding their domestic legislation or comparable non-legislative or regulatory measures introduced for the implementation of the Convention. It proposed that the Conference in its final document invite States Parties, on a voluntary basis, to supply the relevant information to the United Nations Centre for Disarmament for appropriate dissemination. This view was supported by a number of participants. Other participants, however, felt that the procedure followed in providing information on compliance by States Parties, as contained in the relevant documentation of the Conference, was an adequate method for ensuring the availability of such information.

13. Another participant, also in connexion with Article IV, considered that it would be advisable to expand that Article with a view to providing that States Parties would also be required to prohibit, in accordance with their constitutional processes, the unlawful use of the materials specified in that Article. In addition, it proposed that the final document of the Conference should draw attention to the need to take measures to prevent the unlawful use, first, of advances made in regard to the manipulation of genetic materials and, secondly, of sources for protective purposes of toxins and microbial agents causing infectious diseases, some of which have now been eradicated.

Articles V - VII

14. With regard to these articles, it was widely noted that no State Party had found cause to resort to the complaints procedure. The opinion was shared by several States Parties that, nevertheless, it would improve the effectiveness of the Convention if the complaints procedure were strengthened in accordance with principles of flexibility, objectivity and non-discrimination.

15. One participant, supported by a number of others, proposed that an amendment be considered to prevent what, in their view, amounted to unequal treatment of States Parties under the present complaints procedure. It was proposed that the complaints procedure should be based on a combination of national and international measures, including technical investigations, and provide an intermediate ground for preliminary work to assemble factual data, thereby avoiding unnecessary political confrontation. According to the proposal, a Consultative Committee should be established and on-site inspection should be considered as one means of verifying compliance with the Convention; only after such possibilities had been exhausted should complaints be lodged with the United Nations Security Council. It was, thus, proposed that the following provisions might be contained in an amendment: a permanent Consultative Committee should be set up consisting of representatives from States Parties; when so requested, the Consultative Committee should arrange fact-findings, including preparations and execution of on-site visits; the Consultative Committee should report its factual findings and experts' views to States Parties; States Parties should undertake to co-operate with the Consultative Committee.

16. On the other hand, a number of participants urged that the existing procedure of lodging complaints and verifying compliance with the provisions of the Convention be maintained. They emphasized that the provisions of the Convention were being complied with in good faith and that during the five years the Convention had been in effect, no need had arisen for resorting to the procedure of lodging complaints with regard to violations of the Convention. They felt that the provisions of Article V of the Convention contained extensive possibilities of carrying out necessary measures aimed at solving any problems which might arise in relation to the objective or in the application of the provisions of the Convention. Stressing the importance of the Convention as the first measure of genuine disarmament, those participants saw a danger of undermining it by introducing any amendments to it. It was also stated that verification of compliance with disarmament measures should be commensurate with the subject matter, and that this was confirmed by the current practice in other agreements on limiting the arms race and on disarmament. These participants stated their firm resolve to object to the proposed amendment to the Convention on the grounds that it would weaken it.

17. In connexion with Articles V, VI and VII, one participant, while sharing the concern that the Convention should be capable of adequate verification, nevertheless could not support a move to amend the Convention. It was, however, prepared to examine ways of meeting that concern in a manner which fell short of amendment. One way might be to clarify the meaning of the clause in Article V that co-operation may also be undertaken "through appropriate international procedures within the framework of the United Nations". The automatic establishment of a Consultative Committee of Experts in the event of a complaint might be one possible interpretation of the reference to these "appropriate international procedures". Such a clarification would then be reflected in the final document of this Review Conference. A number of other participants expressed interest in and support for this suggestion.

Article VIII

18. With regard to Article VIII, concerning the Geneva Protocol of 1925, all participants agreed that it was an important international instrument in the field of disarmament, and that its link to the Biological Weapons Convention, and in particular Article IX, should be reflected in the final document of the Review Conference. One participant noted with regret that several Parties to the Biological Weapons Convention were not Parties to the Geneva Protocol and expressed the hope that this Review Conference would prompt them to become Parties to the Protocol. A number of participants suggested that the final document should invite all States which had not yet done so to become Parties to the 1925 Geneva Protocol.

Article IX

19. As regards Article IX, containing the commitment of the States Parties to continue negotiations in good faith with a view to reaching early agreement on effective measures for the prohibition of the development, production and stockpiling of chemical weapons and for their destruction, the view of many participants was that this provision had not been effectively implemented. Others expressed the view that this provision was being implemented. One participant referred to certain reports alleging the use of chemical weapons in certain regions of the world. The view was widely expressed that the conclusion of an agreement on the prohibition of chemical weapons remained one of the most urgent tasks of multilateral negotiations as had been clearly stated in the Final Document of the Tenth Special Session of the General Assembly Devoted to Disarmament. Several participants emphasized that their adherence to the Biological Weapons Convention had been on the explicit understanding that this Convention was but the first step towards the achievement of a comprehensive ban on both biological (bacteriological) and chemical weapons. One participant stated that despite the fact that eight years have already elapsed since the Convention was opened for signature, the "early agreement" referred to in Article IX of the Convention has not yet become a reality and that the Conference should reflect in the final document its deep regret for this and, at the same time, urge all the States members of the Committee on Disarmament, in particular those whose Governments act as Depositaries of the Convention, to take advantage of the establishment by the Committee of an Ad hoc working group on chemical weapons for the prompt negotiation and conclusion of a convention to ensure the total elimination of chemical weapons. A number of participants felt that the Committee on Disarmament should exert all efforts to produce a draft treaty banning chemical weapons and urged that Committee to expedite the establishment of an ad hoc Working Group for that purpose. One participant considered that a convention on that subject should be concluded not later than 1982 when the Second Special Session on Disarmament is scheduled to convene. A number of participants considered that the ongoing bilateral negotiations between the USSR and the USA on chemical weapons should be intensified and thus contribute to multilateral negotiations in the Committee on Disarmament. Other participants took the view that such multilateral negotiations in the Committee on Disarmament need not await the conclusion of the bilateral negotiations. Some participants, while regretting the lack of agreement, considered that it would be better for the on-going bilateral negotiations between the USSR and the USA to take longer, if necessary, to ensure that the level of verification is adequate, than for a draft agreement to be ready sooner, with inadequate controls. One participant urged the two sides engaged in the bilateral negotiations to submit to the Committee on Disarmament, as soon as possible, a further report on the status of their negotiations. The representatives of the States engaged in the bilateral negotiations, the USSR and the USA, declared that they were prepared to continue intensive negotiation on this question. A number of other participants, in reiterating their concern for the prompt implementation of Article IX, pointed out that agreement on the prohibition of chemical weapons was a necessary complement to the Biological Weapons Convention. One participant suggested that the final document could include a statement to the effect that the Conference recognizes the urgency and importance of achieving early agreement on effective measures for the prohibition of chemical weapons and for their destruction and that the Conference reaffirms the obligations assumed by States Parties to the Convention in accordance with Article IX to continue negotiations in good faith to that end.

20. In expressing their views on the articles under consideration most participants also made references to the relevant preambular paragraphs.

21. In the context of Article X, many participants urged an increased exchange of information amongst States, and technical assistance to the developing countries for the use of toxins and microbial agents for peaceful purposes, and the promotion of the fullest possible international co-operation in this field. Parties to the Convention, in a position to do so, should co-operate in contributing, individually or collectively, with other States and international organizations, to the further development of these applications, with due consideration for the needs of the developing countries. In this connexion, one participant noted that since the entry into force of the Convention, the international community had devoted increased attention to the relationship between disarmament and development, and proposed, with the support of other participants, that for future reviews of the Convention a document, for the information of States Parties, should be prepared on the implementation of the provisions of Article X, particularly with a view to promoting economic and social development. The developed countries, it was suggested, should share their knowledge in this field to a greater extent and in a more systematic manner. One way would be the organization of seminars. Another proposal, which was supported by a number of participants, was that information on new scientific and technological developments relevant to the Convention should be channeled through the United Nations Centre for Disarmament for dissemination to other States Parties to the Convention. Some other participants felt that the specific modalities involved in channelling such information should not be determined at the present stage.

Article XI

22. While the validity of this Article was generally reaffirmed, some expressed the view, particularly in conjunction with the consideration of Articles V and VI, that its provisions should not be invoked at a review conference. Others maintained that possible amendments were relevant to the work of the Review Conference and were within its purview. A number of other participants proposed that the Conference note that the provision for amendments contained in Article XI had not been invoked during the period of operation of the Convention.

Article XII

23. All the participants who referred to this Article reiterated its importance and noted that the current Review Conference had, in fact, confirmed the relevance of including such a provision in the Convention because of the necessity to assess, inter alia, the rapid technological and scientific developments occurring in the field.

Article XIII

24. The participants reiterated the importance of the provision for the unlimited duration of the Convention, especially since the Bacteriological (Biological) Weapons Convention was the first and only genuine disarmament measure in force, so far. Satisfaction was expressed that no State Party had found it necessary to invoke the provision under this article permitting withdrawal from the Convention, although it was noted that this provision was a useful safeguard for ensuring the protection of the supreme interests of States Parties.

Article XIV

25. In connexion with this article, States Parties emphasized the crucial significance of universal adherence to the Convention. Consequently, they felt strongly that an appeal should be included in the final document urging States Signatories and other States to consider their early ratification or adherence to the Convention. Several

participants proposed that this appeal should be addressed in particular to the scientifically and technically advanced States as well as nuclear weapons States which had not yet done so, to ratify or adhere at the earliest possible date to the Convention. Some participants emphasized that meaningful progress in other disarmament negotiations especially for the prohibition of the production, manufacture and stockpiling of chemical weapons, would encourage universal adherence to the Convention.

Preamble

26. Several participants referred to the preambular paragraphs relevant to the purposes and objectives of the Convention and suggested that the final document of the Conference should reiterate their importance.

Other matters, including the question of future review of the Convention

27. On the question of a future review of the Convention, there was general agreement that a review procedure was an important mechanism for assessing the implementation of international agreements. Different suggestions were made, however, with regard to a review mechanism for the Biological Weapons Convention.

28. The view was expressed that developments in science and technology make the future review of the Biological Weapons Convention necessary. The view was also expressed that parallel negotiations on conventional weapons should be borne in mind with a view to providing mechanisms for improving the implementation of the Biological Weapons Convention.

29. A number of participants were in favour of including in the final document a provision for the holding of another review conference after a certain period of time had elapsed. Five to seven years was proposed by some participants. One participant felt, however, that no automaticity should be instituted in this respect; it proposed that another review conference could be held, for instance, after five years if the majority of States Parties so requested. Otherwise, a review conference could be convened after ten years upon the request of a specified number of States Parties, not necessarily a majority. Other participants suggested that a review conference should be held in future only if its necessity became evident and only if the majority of States Parties to the Convention so decided.

30. The Committee of the Whole at its 9th meeting on 18 March adopted, by consensus, its report to the Plenary of the Conference.