

Geneva, 3 - 21 March 1980

DRAFT REPORT OF THE COMMITTEE OF THE WHOLE

1. At its seventh Plenary meeting on 11 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 Mr. Petar Voutov, Ambassador, 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 ... meetings during the period from 11 - 14 March.
6. The statements by States Parties and Signatories 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. Consequently, it was concluded that the provisions of Articles I - IV had been effectively implemented.
8. In this connexion, some Parties also noted with satisfaction that no complaints had been lodged regarding violations of the Convention as provided for in these articles.

9. Furthermore, it was generally considered that the provisions of Article I were sufficiently comprehensive to cover any possible new scientific and technological developments relevant to the Convention. In this context, it was emphasized by a number of Parties, that the technological and scientific development 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.

10. In view of this positive appraisal, one Party 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.

11. In connexion with Article II, several Parties welcomed assurances given by a number of States Parties on their compliance with its provisions, which they saw as a confidence-building measure. One Party, however, noted that some of these declarations were couched in more qualified terms, making no reference to destruction of stocks. It 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 Parties 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.

12. As regards Article III, one Party noted that an additional obligation rested on each individual State Party 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.

13. Concerning Article IV, one Party considered that it would be useful if 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 should invite Parties, on an (entirely) voluntary basis, to supply the relevant information to the UN Centre for Disarmament for appropriate dissemination. Another Party, 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.

14. Another Party, also in connexion with Article IV, considered that it would be advisable to expand that Article with a view to providing that 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 bacteriological agents isolated as a result of the eradication of certain infectious diseases.

Articles V, VI and VII

With regard to these articles, it was generally recognized that no situation had arisen to warrant resorting to the complaints procedure. The opinion was expressed that, nevertheless, it would improve the effectiveness of the Convention if the complaints procedure were strengthened and improved.

16. One Party proposed that an amendment be considered to prevent what, in its view, amounted to unequal treatment of States under the present complaints procedure. In its view 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 confrontations. A Consultative Committee should be established and on-site inspections 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. The following provisions might be contained in an amendment:

(a) A permanent Consultative Committee (CC) should be set up, consisting of representatives from States Parties to the Convention.

(b) When so requested, the CC should arrange fact-finding activities about technical and other matters, including preparations for and execution of on-site visits.

(c) The CC should report its factual findings and expert views to States Parties.

(d) States Parties should undertake to co-operate with the CC.

(e) Reference should be made to a possible Annex to the Convention for the detailed provisions regarding the organization of the work of the CC (composition, procedures, technical resources, etc.).

17. The Party proposed that the amendment should be added as a second paragraph to the present Article V and that an Annex to the Convention could set out the details concerning the functioning of a Consultative Committee. A number of Parties supported the proposal.

18. On the other hand, a number of Parties 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 Parties 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 Parties stated their firm resolve to object to the proposed amendments to the Convention on the grounds that they would weaken it.

19. In connexion with Articles V, VI and VII, one Party, while sharing the concern that the Convention should be capable of adequate verification, nevertheless could not support a move to amend the Convention. The speaker 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 Parties expressed interest in and support for this suggestion.

Articles VIII and IX

20. With regard to Article VIII, concerning the Geneva Protocol of 1925, all 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 Party 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 Parties suggested that the final document should invite all States which had not yet done so to become parties to the 1925 Geneva Protocol.

21. As regards Article IX, containing the commitment of the 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 predominant view was that this provision had not been effectively implemented. Therefore, the conclusion of an agreement on the prohibition of chemical weapons remained an urgent **task as had been** clearly stated in the Final Document of the Tenth Special Session of the General Assembly devoted to Disarmament. A number of Parties 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 on chemical weapons. One Party 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 other Parties, while regretting the lack of agreement, considered that it was important that the ongoing bilateral negotiations between the USSR and the USA on chemical weapons should be allowed to resolve the outstanding issues, in particular that of verification, before full-scale multilateral

negotiations could commence. One Party 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. A number of other Parties 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 Party suggested that the final document could include a statement reading as follows: "The Conference recognizes the urgency and importance of achieving early agreement on effective measures for the prohibition of chemical weapons and for their destruction. The Conference reaffirmed the obligations assumed by States Parties to the Convention in accordance with Article IX to continue negotiations in good faith to that end."

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

Article X

23. In the context of Article X, many speakers urged an increased exchange of information and technical assistance for the use of bacteriological agents for peaceful purposes. 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 generally supported was that information on new scientific and technological developments relevant to the Convention should be channeled through the United Nations Disarmament Centre for dissemination to other States parties to the Convention.

Article XI

24. While the validity of this Article was generally reaffirmed, some expressed the view that its provisions should not be invoked at a review conference, particularly in conjunction with the consideration of Articles V and VI.

Article XII

25. All the Parties 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, in this context, the rapid technological and scientific developments occurring in the field.

Article XIII

26. The Parties reiterated the importance of the provision for the unlimited duration of the Convention, especially since the Bacteriological (Biological) Weapons Convention was the first genuine measure in the field of disarmament. 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

27. In connexion with this article, a large number of Parties emphasized the crucial significance of universal adherence to the Convention. Consequently, many Parties felt strongly that an appeal should be included in the final document urging States Signatories and other States to consider their early adherence to the Convention.

Preamble

28. In addition to the references to the preambular paragraphs relevant to the review of Articles VIII and IX, some speakers referred to the other preambular paragraphs and suggested that the Final Document should reiterate the importance of the purposes and objectives of this Convention.

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

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

30. A number of Parties 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 Parties. One Party 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 parties, not necessarily a majority. Other Parties 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.

31. The Committee of the Whole at its meeting on adopted, by consensus, its report to the Plenary of the Conference.