COMMITEE OF THE WHOLE

SUMMARY RECORD OF THE 3rd MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 12 March 1980, at 11.15 a.m.

Chairman: Mr. VOUTOV (Bulgaria)

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GE.80-60490
The meeting was called to order at 11.15 a.m.

REVIEW OF THE OPERATION OF THE CONVENTION AS PROVIDED FOR IN ITS ARTICLE XII (agenda item 10) (continued)

(b) ARTICLES I-XV (continued)

1. Mr. Lidgard (Sweden) said that, both during and after the negotiating stage, Sweden and other countries had consistently expressed concern over the procedure for complaints in the event of a breach of the Convention. Each State Party undertook to co-operate in carrying out an investigation in case of a violation of the Convention, but that undertaking did not have a binding force. There was, of course, a possibility of ultimately bringing the matter before the Security Council, but what guarantee was there that one of the permanent members of the Security Council would not exercise its right of veto, if it saw fit? It should be established beyond doubt that the lodging of a complaint with the Security Council by a State Party to the Convention on Bacteriological Weapons was a procedural matter and, hence, that permanent members of the Council could not exercise their right of veto on such an occasion.

2. Since it appeared doubtful, as matters stood, that a decision to investigate a complaint would ever be taken against the interests of a permanent member of the Security Council, it appeared equally doubtful that the present procedure could ever make it possible to determine whether or not there had been a violation, and it was necessary to find a way of eliminating the discriminatory elements in the Convention, he proposed the adoption of an approach based on the following fundamental principles:

3. In the first place, there was a need for a flexible procedure. A combination of national and international procedures should be used and problems should be solved at the proper level in order to avoid any political confrontation between States. Secondly, there must be objectivity. A State Party which suspected another Party of having violated the Convention had a right to expect that the procedure followed would lead to objective and speedy results. To that end, a consultative committee should be instituted with a well-defined mandate and sufficient resources to undertake effective investigations with the compulsory participation of all parties. Only after those remedies were exhausted should the matter be referred to the Security Council. Thirdly, the principle of non-discrimination must be applied. The verification procedure would be less discriminatory if the fact-finding stage were clearly separated from the political decision of the Security Council, even if the permanent members of the Council insisted on retaining their veto power as far as questions regarding their compliance with the Convention were concerned.

4. These various principles could be incorporated into the Convention by means of amendments, and his delegation intended to propose such amendments during the next few days, in the hope that they would win the acceptance of a majority of States Parties to the Convention.
5. Mr. IONESCU (Romania), after remarking that it was apparent from the documents submitted by the Secretariat and the depositary States and from the statements made by delegations that no violation of the provisions of the preamble and articles of the Convention had been recorded, drew attention to the inequality in the technical and scientific resources available to States Parties, which resulted in a difference in the level of information regarding developments in biological research. A further result was that the States Parties did not have the same opportunities of verifying compliance with the provisions of the Convention.

6. His delegation believed that a continuing flow of information between the Parties to the Convention on advances in biology and biochemistry would help to build confidence between States and would provide an assurance that the Convention was being strictly observed. Such a system of information should be implemented by better utilization of United Nations structures, in particular the United Nations Centre for Disarmament. In that connexion, the final document of the Conference might stipulate that the Centre should ensure that States Parties were at all times kept informed of new developments coming within the scope of the provisions of the Convention. For that purpose, the Centre might draw upon all available sources, including States Parties themselves, which submitted periodic reports to the Secretariat on compliance with the Convention, and international organizations whose work was connected with research in the biological sciences.

7. Mr. de QUEIROZ DUARTE (Brazil), referring to the complaints procedure, welcomed the Swedish delegation's proposal, which was constructive and worthy of serious consideration. He awaited with interest the wording of the amendments to be submitted and hoped that they would be the subject of constructive discussion with a view to strengthening and improving the Convention.

8. Mr. DUMONT (Argentina), observing that the complaint and verification procedures dealt with in articles V and VI had long caused his country concern, said that he had duly noted the ideas put forward by the representative of Sweden. He hoped that the amendments to which reference had been made would be submitted and that they would win the acceptance of the majority.

9. Mr. DUMEI (Ghana) said that he also found the Swedish delegation's proposal very interesting, and he fully supported it.

10. With regard to article II, he thought that the Convention would gain in credibility if greater attention were paid to the dangers inherent in possible, scientific and technical advances; machinery for verifying the destruction of the agents and weapons covered by article II should also be strengthened. Too much emphasis was placed on national means of verification and too little on measures which could be taken at the international level. That should not be taken as an indication of systematic mistrust: rather, it was a question of strengthening confidence by rendering the Convention more credible and more effective.
11. Mr. PICTET (Switzerland) said that Switzerland was in favour of anything which could strengthen the effectiveness of the Convention in general and of the verification procedure in particular. A priori, his Government supported the objectives of the Swedish delegation, but the substance of the latter's proposals must be thoroughly examined. With regard to article II of the Convention, the Swiss delegation would like States Parties to provide more precise and detailed information on the way in which they had discharged their undertakings, particularly with regard to measures taken to destroy possible stocks of bacteriological weapons.

12. Mr. McPHAIL (Canada), referring to article II of the Convention, said that if it could be made known that, following their voluntary accession to the Convention, States which had possessed bacteriological weapons had destroyed them, confidence in the Convention would be increased. In its final document, the Conference should ask - or at least suggest - that those States should make a unilateral declaration announcing that they had destroyed their stocks.

13. With regard to article IV of the Convention, his delegation supported the United Kingdom delegation's proposal that States Parties which had adopted laws to ensure compliance with the Convention in their own countries should be invited to share their experience by making the text of such legislation available to other States.

14. On the subject of articles V and VI, the Canadian delegation supported the principles underlying the Swedish representative's proposals. It was essential that a State Party having reason to believe that another State Party had violated the Convention should have the right to expect that the complaints procedure would produce objective and speedy results. The problem was to determine how to achieve that aim. The first principle was that the same treatment should be applied to all States Parties to the Convention. As the Convention stood, any permanent member of the Security Council was in a position to veto the initiation of an investigation to determine whether there had been a violation; yet the States with a right of veto were the very ones presumed to have the capability to produce bacteriological weapons. It was possible, therefore, that they or one of their allies might be the subject of a complaint, in respect of which they might be tempted to exercise that right. With regard to an international instrument which they had freely ratified, all States Parties had an equal responsibility. It was on the basis of that principle that the Convention's provisions should be reviewed. The majority of delegations doubtless agreed that the Convention would be a better instrument if the verification procedure did not permit of the veto, but it would be difficult for the Conference to remove that option. Therefore, a mechanism should be introduced into the verification procedure which would allow an objective investigation to be conducted before the complaint came before the Security Council.

15. Such a measure would derive from the second principle underlying the Swedish proposals - namely, that of effective verification. It could doubtless be argued that the provisions relating to verification were sound, since apparently there
had been no violation. Nevertheless, the Canadian delegation was not convinced that the provisions were stringent enough to withstand pressure which could lead to production of bacteriological weapons. That was why it thought that the creation of a consultative committee - or some other open-ended international body - should be provided for in those articles of the Convention which related to verification.

16. It had been said that any State Party should be able to request and obtain a meeting of all the States Parties to consider any alleged violation of the Convention. Such a procedure might be useful, but it should be asked what exactly the States Parties attending the meeting would be considering; if they did not have before them an objective report from a consultative committee, the meeting would not accomplish much and was liable to degenerate into mutual accusations or allegations. His delegation was ready to consider any proposal which might improve the provisions relating to verification and make them non-discriminatory. Some measures must be taken, and it was for the Conference to work them out.

17. Mrs. RAADI-azorakHichi (Iran) welcomed the Swedish proposal concerning the complaints procedure, and especially the possible creation of a consultative committee. The existing system of verification and the system for considering complaints did not seem fully adequate and were liable to give rise to some discrimination and politicization which could lead to needless confrontation. For that reason, Iran thought that the amendment proposal submitted by Sweden was likely to improve and strengthen the Convention.

18. Mr. MIKULAK (United States of America) said that the United States had taken measures to fulfill its obligations under article IV of the Convention. It welcomed and supported the United Kingdom's suggestion that States Parties which had adopted legislative measures to meet their obligations should communicate the relevant texts to the other States Parties, through the Centre for Disarmament.

19. Mr. MULONGANDUSU (Zaire) referred to the reservations made by his delegation the previous day concerning the various possible interpretations of article II of the Convention. Whilst having the greatest respect for the statements by those States Parties which had affirmed that they no longer possessed bacteriological weapons, his delegation was worried by the merely curative nature of the measures provided for by the Convention, which covered only a situation of non-compliance; a preventive system would go a long way towards ensuring observance of the Convention. Such prevention could be ensured by periodic verification freely accepted by all. His delegation would therefore view favourably any proposal aimed at strengthening observance of the Convention by means of a dependable verification system and an improved procedure for the consideration of complaints. It was persuaded that a study of the Swedish proposals would enable the problem of verification and that of receipt and consideration of complaints to be resolved equitably.
20. **Mr. Summerhayes** (United Kingdom) reminded the Conference that his delegation had indicated its willingness to look at any proposal designed to strengthen the Convention or to increase the prospects of universal adherence to it. It was in that spirit that consideration should be given to whether articles V and VI could and should be strengthened, and how that could be done.

21. It might first be asked whether the complaints or verification procedures set forth in articles V and VI should be strengthened, since their scope was less extensive than that of procedures laid down in other arms control treaties, which provided for the establishment of a consultative committee in the event of a complaint. His delegation respected the intentions of delegations which felt concern about the effectiveness of the provisions of the Convention that related to verification and complaints; however, since those provisions had not been invoked, they could not be said to have proved deficient. Nevertheless, his delegation was prepared to consider any proposal which might dispel such anxieties. It agreed with the Swedish delegation in thinking that any arms control measure should be capable of verification.

22. The second question concerned the manner of strengthening the verification and complaints procedures. An amendment procedure was provided for in article XI of the Convention, but it was extremely elaborate: for a State Party accepting the amendment, the latter did not enter into force until it had been accepted by a majority of States Parties; thereafter, in the case of a State Party which had not accepted the amendment, the latter entered into force only on the date of its acceptance by that State. To amend the Convention would therefore introduce an element of uncertainty and confusion, since some States Parties would accept the amendment and others would not. The effect would not be to reinforce the Convention, but the contrary, and the chances of universal ratification would be diminished. For that reason, his delegation would not support proposals aimed at amending the Convention.

23. On the other hand, it was ready to examine ways of dispelling the misgivings of certain States Parties. One way of doing so would be to clarify the meaning of co-operation "through appropriate international procedures within the framework of the United Nations" (article V). The automatic establishment of a consultative committee in the event of a complaint was one possible interpretation of that part of article V. If the Conference reached an understanding to that effect, it should record in its final document that the procedure would be followed either in the event of a complaint being made or at the request of any State Party to the Convention.

24. **Mr. Berg** (Belgium), referring to article II of the Convention, endorsed the view that the States concerned should have provided further details. He welcomed the United Kingdom proposal relating to article IV, to the effect that countries which had taken legislative measures should communicate the text of such measures to the Centre for Disarmament. Apart from their documentary interest, such texts could serve as a reference source for States which did not yet have legislation on the subject. Belgium, for its part, had published in its official journal (the *Moniteur belge*) the text of the law relating to the Convention, and that text was reproduced on pages 17 and 18 of document BM/C/CONF.I/4.
25. Mr. LAIGLESIA (Spain) said that articles V, VI and VII of the Convention were not sufficiently effective, since the mechanism provided for in the case of a possible violation of the Convention failed to place all States Parties on an equal footing. Certain States could obstruct the initiation of an investigation. The need to prove the validity of complaints lodged with the Security Council could make it very difficult to supervise compliance with the Convention. Article VI of the Convention in no way obliged the Security Council to take account of a complaint brought before it. His delegation considered it desirable to strengthen the verification procedure and to base any modification of the delicate balance achieved in the Convention on a broad consensus. The Swedish delegation's suggestions were extremely interesting, and the Spanish delegation hoped that the Conference would study them closely.

26. Mr. IONESCU (Romania) supported the Swedish delegation's suggestions, which could strengthen the operation of the Convention and place States Parties on an equal footing.

27. Mr. PERELLE (Union of Soviet Socialist Republics) said that, while he understood the desire of delegations to ensure the fulfilment of all the conditions needed to enable the Convention to operate as effectively as possible in the future, many delegations appeared to be dramatizing the situation unduly. There was no reason to worry about problems which did not exist, for in the view of all concerned, the Convention was operating admirably. The Conference was meeting, in pursuance of article XII, precisely in order to review the operation of the Convention and to ensure that the purposes of the Convention — including the provisions concerning negotiations on chemical weapons — were being realized.

28. Reviewing the operation of the Convention did not mean reviewing the text, as certain delegations had somewhat hastily asserted. Moreover, the present situation gave grounds for an optimistic view of the future; the complaints and investigation procedure had thus far given every satisfaction, and to seek to establish more effective procedures in case of a hypothetical violation of the Convention was an exercise in speculation; all concerned recognized that States Parties were applying the Convention in a spirit of good-will; there was therefore no reason to question their sincerity.

29. The concern expressed by certain countries over the Security Council's internal procedures was all the less justified in that, under article V, States Parties were to consult one another and to co-operate in solving any problems which might arise by means which they themselves would have chosen; the article stated that such consultation and co-operation "may" also be undertaken through appropriate international procedures within the framework of the United Nations. Care should be taken not to give excessive importance to the consideration by the Security Council of questions arising from the application of the Convention: that would be contrary to the very spirit of the Convention. Moreover, the functioning of the Security Council was regulated by the Charter of the United Nations and it in no way came within the competence of the Conference.

30. Article XII assigned to the Conference the far more constructive task of seeking to identify the positive elements which had characterized the application of the Convention thus far, with a view to developing them in the future. For the sake of international public opinion, and particularly public opinion in countries which had not yet acceded to the Convention, it was important to bring out the more satisfactory aspects of the Convention's operation rather than to focus on points of detail which were considered unsatisfactory by a particular State Party but which were actually without significance.
31. With regard to verification measures, comparison of the provisions of the Convention with those of other disarmament agreements was unjustified. The Soviet Union had always declared itself in favour of disarmament measures under appropriate international control, since, in its view, any disarmament measure taken by the international community should be accompanied by such control. In the case of the present Convention, the verification provisions had been formulated by a large number of States for the purpose of that Convention alone; provisions on the subject in other disarmament agreements would differ from them. It might also be pointed out that the 1925 Protocol, which made no provision for a verification procedure, was operating satisfactorily. That meant that no single system valid for all agreements could be applied in that field.

32. He therefore supported the view of the United Kingdom representative that it would serve no useful purpose to review the text of the Convention. The Conference should strengthen the structure of the Convention, not undermine it. The best means of doing so was to try to obtain universal accession. To seek to reshape the Convention would be to waste valuable time that the international community could use to work out further disarmament agreements.

33. Mr. EL BARADEI (Egypt) said that although no violation of the provisions of the Convention had been reported, that did not necessarily mean that the verification system was effective; on the contrary, the discussions had shown that the system could usefully be strengthened. That was not an imaginary problem undeserving of attention, as the Soviet Union representative appeared to be saying, but a very real difficulty, since one of the stumbling blocks for all too many States which had not yet acceded to the Convention was precisely the possible inadequacy of the complaint and verification procedures. Egypt therefore supported the Swedish proposal to amend those procedures with a view to ensuring greater equality between all States Parties. It was true that it was not for the Conference to consider questions which were the concern of the Security Council; it was for that very reason that the Swedish proposal endeavoured to separate the operation of the Convention from that of the Security Council which, while satisfactory from the point of view of the Charter, was not necessarily so as far as the Convention was concerned.

34. Article XII did not preclude the possibility that the Conference might amend the text of the Convention if it considered that to be necessary in order to achieve the purposes of the Convention and if it deemed the present text to be inadequate. The United Kingdom had expressed concern that the introduction of amendments into the Convention might lead to the establishment of a dual system under which some countries would be bound by the original text and others by the amended one; that was a problem common to all international instruments, yet they were subject to amendment. If the Conference adopted any amendments, they should be done by consensus. He would, in any event, be interested in any other procedure which the United Kingdom might have to propose in that connexion.

35. Mr. AKRAM (Pakistan) reminded the Conference that, at the time of adoption of the Convention, his country and other non-aligned countries had expressed misgivings regarding the effectiveness of the complaints and verification system; their doubts had not been dispelled since then. With regard, firstly, to principles, the control and verification procedure appeared discriminatory, since it failed to offer the same opportunities to all States in the matter of lodging complaints. Moreover, from the practical standpoint, the existing control procedures did appear to be inadequate. Is the first disarmament agreement comprising truly specific provisions, the Convention should provide for a control and verification system that could serve as a good precedent. The Soviet representative had stated that the Conference should take no
account of other disarmament agreements; on the contrary, what was decided on in the matter of control and verification in the case of the present Convention would serve as a reference for other instruments, and particularly for the future convention on chemical weapons. The Soviet representative had cited the example of the 1925 Protocol which, although providing for no verification procedure, was still in force; that was a very poor example, since it was precisely the lack of such a procedure that prevented verification of the validity of recent complaints concerning the use of chemical weapons in certain areas of the world. An effective verification procedure was therefore essential, and he attached great importance to the Swedish representative's proposals, which appeared capable of allaying the anxieties of many States.

36. Mr. KEISALO (Finland) supported the United Kingdom proposal that States should communicate to the United Nations Centre for Disarmament the texts of legal provisions adopted by them in fulfilment of their obligations under article IV. Any proposal capable of strengthening the Convention and commanding the approval of all States Parties was welcome. The Swedish delegation's proposals appeared to meet legitimate concerns, and the Conference was perfectly competent to consider them. The United Kingdom suggestion deserved consideration, since it might offer a means of eliminating differences.

The meeting rose at 1 p.m.