

SPECIAL 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

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Held at the Palais des Nations, Geneva,
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President: Mr. TOTH (Hungary)

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The meeting was called to order at 3.20 p.m.

CONSIDERATION OF THE REPORT OF THE AD HOC GROUP OF GOVERNMENTAL EXPERTS TO IDENTIFY AND EXAMINE POTENTIAL VERIFICATION MEASURES FROM A SCIENTIFIC AND TECHNICAL STANDPOINT AND DECISION ON ANY FURTHER ACTION WITH A VIEW TO STRENGTHENING THE CONVENTION (agenda item 9) (continued)

1. Mr. SALBER (Germany), speaking on behalf of the European Union, said that the aim of the Special Conference was to provide the Convention with new means for verifying its implementation: the levels of openness and the nature of the compliance procedures in other recent agreements on arms control and disarmament should set the standards for such efforts.
2. During the third Review Conference of the Convention, the States parties had strongly advocated strengthening the Convention and that had been partially achieved by widening existing approaches in the field of confidence-building measures. The task at present was first and foremost to agree on a set of rules allowing the verification of the implementation of the Convention by building on the work of the Ad Hoc Group of Governmental Experts (VEREX) and developing a regime which would enhance the effectiveness of the Convention.
3. Experience had shown that measures that were not legally binding were insufficient. There had been little exchange of data between 1992 and 1994 and, despite the simplified method of reporting, only a few more States had submitted a report than had done so between the second and third Review Conferences.
4. More binding obligations were necessary, like the ones stipulated in other recent conventions in the field of disarmament and arms control. It was not acceptable to leave the Convention without effective mechanisms for ensuring compliance. The European Union therefore welcomed the fact that a majority of States parties had declared themselves in favour of the Special Conference shortly after the conclusion of the work of VEREX.
5. VEREX had drawn up a set of possible verification measures: not all were of equal value for a verification regime, but there were sufficient options that it would be worthwhile to follow up, the most useful being declarations and on-site measures.
6. Some approaches were regarded by the European Union as particularly promising. Mandatory national declarations covering a broad range of relevant activities were a key measure. On-site measures, such as information visits, but in particular short notice inspections, would be of primary importance, especially given the ease with which biological weapons programmes could be concealed. The alleged use of biological weapons had not been dealt with by VEREX and any verification protocol must contain rules for such an eventuality.
7. The European Union was convinced that the VEREX results were an excellent foundation for future work on the verification of the Convention. It therefore proposed that an ad hoc working group on verification open to all States parties should be established as quickly as possible to develop the

details of a verification protocol. The group should work in Geneva on a regular basis and submit its report preferably before the fourth Review Conference in 1996. It would not be able to avoid the question to what extent illustrative lists of potential biological weapons agents were requisite to the reasonable use of verification measures. Binding rules might be difficult to apply without such a reference. The necessary arrangements would have to be examined.

8. The VEREX results had convinced the European Union that verification of the Convention was possible. It therefore called on all States parties to participate constructively in efforts draw to up appropriate verification rules which should ultimately result in the elaboration of a separate protocol.

9. Mr. OJANEN (Finland) said that his country supported the goal of the Special Conference, i.e. to lead the way towards including a verification element in the Convention, and associated itself with the line of thinking described by the German delegation on behalf of the European Union. The report of the Ad Hoc Group of Governmental Experts provided a solid basis for further work by the States parties. The VEREX group had concluded that a number of verification measures could contribute to the strengthening of the Convention. The absence of verification measures had been one of the weaknesses of the Convention. Its implementation had been strengthened through the confidence-building measures agreed at the third Review Conference, but there had proved to be a need to go further.

10. In Finland's opinion, adequate verification was an indispensable element of any arms control agreement. With regard to the Convention, rapid developments in biotechnology highlighted the need to ensure that new scientific and technological possibilities were not utilized for prohibited purposes. Effective verification provisions would also contribute to international cooperation in the field of biotechnology. The verification regime of the Chemical Weapons Convention could, with the proper adaptations, provide guidance for further work in the context of the Biological Weapons Convention.

11. The verification of the Convention's provisions was a particularly challenging task: research on and the handling of biological agents that could be used for prohibited purposes might include perfectly legitimate applications; prohibited activities might encompass very small quantities in small laboratories; in addition, many agents could easily be destroyed before any controls were carried out. Owing to scientific and technological developments, those problems were easier to resolve than they had been 20 years before. Nevertheless, the complexity of the subject matter covered by the Convention had to be taken into account in judging the optimum approach for verification, with the objective being to establish an adequate verification system to deter possible treaty violations. The VEREX work had proved that there were means for achieving that goal at a reasonable cost. It was now for the States parties to continue the work by mandating a working group to prepare verification measures. In his delegation's view, such an open-ended group of States parties should meet in Geneva and provide a substantive package for the next Review Conference, perhaps in the form of a verification protocol.

12. It had become clear during the work of VEREX that the verification of the Convention would require a combination of measures, the main elements being declarations and on-site measures. An effective system would require that inspections could be launched rapidly, covering both declared and undeclared facilities. In addition, the verification provisions should be supplemented by appropriate measures in case of possible treaty violations.

13. Mr. MAHLEY (United States of America) noted that, when the Convention had entered into force nearly 20 years before, it had been considered a disarmament success story, but that, in the intervening years, there had been questions about its effectiveness. The second and third Review Conferences had thus adopted measures to strengthen confidence in treaty compliance. The Ad Hoc Group of Governmental Experts known as the "VEREX Group" had identified measures to strengthen the Convention by helping to differentiate between prohibited and permitted activities, thus reducing ambiguities and, to varying degrees, enhancing confidence that States parties were fulfilling their obligations under the Convention. The Special Conference now had to discuss the findings of the VEREX report and decide on further action.

14. As President Clinton had stated to the United Nations General Assembly in 1993, the United States intended to propose new measures to provide increased transparency and help deter violations of and enhance compliance with the Convention. In his delegation's view, States parties should agree on a mandate to establish an ad hoc committee to draft a legally binding protocol to strengthen the Convention. Since the issues involved in developing the regime were technically complex and politically sensitive, it would not be realistic to begin negotiating specific measures to be included in the protocol. As to the mandate of the proposed ad hoc committee, several items should be taken into account.

15. First, the commitments contained in the Convention, especially the obligations in article I, were fully valid and must remain unchanged. The United States would strongly oppose any effort to amend the Convention, but it fully supported the preparation of a protocol containing a regime to strengthen it. Secondly, as other speakers had pointed out, all measures included in the protocol should be mandatory and legally binding, for the confidence-building measures agreed by the 1986 and 1991 Review Conferences had been relatively disappointing. The measures set forth in the protocol should help strengthen the Convention by establishing an official benchmark for identifying discrepancies or ambiguities pertaining to facilities or activities and for seeking clarification, providing a mechanism for pursuing specific activities of concern and allowing for direct diplomatic engagement to resolve compliance concerns. Thirdly, the ad hoc committee should focus on developing a legally binding regime based on the measures proposed by the VEREX Group and the conclusions as reported to States parties. Fourthly, the selection process should consider both off-site measures, such as mandatory declarations, and on-site measures, such as facility visits, providing a solid foundation for the verification regime.

16. The ad hoc committee should meet as soon as practicable following the Special Conference and should establish a programme of work at its first meeting that would permit completion of the draft protocol and its distribution to all States parties for consideration by the end of 1995 and

for consideration and action by the fourth Review Conference in 1996. In approaching its work, it should assess the relative effectiveness of the various measures, considering in particular the scope of programmes, facilities and activities for which declarations would be required; the question whether on-site measures should include routine informational visits to declared facilities, short-notice visits to declared or undeclared facilities when a suspicion of non-compliance existed or a combination of such measures; the extent of access to be provided during on-site activities; how to protect confidential proprietary information, constitutional rights and other information not related to the Convention; and the organizational structure of the regime, such as whether the implementing body should be free-standing or attached to another international organization.

17. States parties would also need to consider a situation in which some States parties to the Convention had ratified the protocol and were therefore subject to its additional obligations while other States parties were bound by the Convention, but not by the protocol. The United States believed that, for States parties that did not ratify the protocol, the existing confidence-building measures should remain in effect and that, for States parties that did ratify the protocol, the confidence-building measures that did not become legally binding should continue to apply. The ultimate objective was to strengthen the Convention through the negotiation of a legally binding regime that provided for a reasonable, effective and mutually reinforcing set of mandatory measures.

18. Mr. NORBERG (Sweden) said that, from the beginning, his country had considered the provisions for verification of the Biological and Toxin Weapons Convention to be insufficient and that the Swedish Government had for years given the highest priority to the establishment of a verification regime of the type existing for the principal non-proliferation treaties. Rapid technological developments, in particular in biotechnology and genetic engineering, had underlined the need for such a regime.

19. The Ad Hoc Group of Governmental Experts had identified and examined 21 different verification measures, divided into on-site and off-site measures and grouped in seven categories. After evaluating those measures, the Group had concluded that, even if reliance could not be placed on any single measure to differentiate conclusively between prohibited and permitted activities and to resolve ambiguities about compliance, some of the potential verification measures would contribute to strengthening the effectiveness and improving the implementation of the Convention.

20. Sweden thus concluded that it was possible to elaborate a verification regime for the Convention. It considered the successful conclusion of VEREX and the adoption of a consensus report to be a significant step towards further strengthening the Convention. To continue such efforts, the Special Conference should establish an ad hoc committee open to all States parties to develop a legally binding verification protocol to the Convention, for presentation and, if possible adoption, at the Review Conference to be convened in 1996. To that end, the committee should draw on the VEREX report, which dealt with different stages of potential biological and toxin warfare activities, including the development, production, stockpiling and utilization of biological and toxin weapons.

21. A verification regime should include mandatory declarations, visits to facilities, procedures for investigating allegations of use and short notice on-site inspections of both declared and undeclared facilities. The ad hoc committee might also draw on the experience gained from the work on verification measures in the framework of the Chemical Weapons Convention.

22. The number of States parties to the Biological and Toxin Weapons Convention had continued to increase at a steady rate and there were now over 130 States parties. Information exchange as a confidence-building measure had for some time been established within the framework of the Convention. However, the results to date were not encouraging and the number of contributing States remained far too low. While awaiting a legally binding verification protocol, Sweden urged States parties that had not yet done so fully to participate in the information exchange to increase transparency and called on all States parties to participate actively and constructively in efforts to create a verification protocol.

23. Mr. STARR (Australia) expressed Australia's satisfaction at the progress made since the third Review Conference in 1991 towards the goal of strengthening the Biological Weapons Convention. The very convening of the Special Conference, at the request of a majority of States parties, was testimony to the progress made in the course of the work of the Ad Hoc Group of Governmental Experts. Before the Group had begun its work, it had been unclear whether seeking to provide the Convention with some means of verification was the right path to take. There now appeared to be general acceptance that the VEREX final report made it clear that significant strengthening of the Convention was possible and even necessary to maintain the credibility of the Convention into the future.

24. The historic opportunity provided by the Special Conference should thus be seized to initiate further efforts to develop verification arrangements for the Convention. The Special Conference should seek to draft a mandate for a working group to negotiate a draft verification protocol for the Convention. In his delegation's view, that was an essential condition for capitalizing on the highly productive work of the VEREX experts. The working group should be free to consider and draw on any of the measures identified by VEREX and choose to incorporate them into a protocol.

25. His delegation believed that there was a common desire to allow negotiations to proceed, after the Special Conference, towards the development of a verification arrangement. However, he advised caution against becoming immersed in a debate on issues that were inappropriately technical because that might lead to a draft mandate that was poorly balanced and too complex to serve its purpose efficiently. It was also necessary to avoid being side-tracked by issues which, although they might be important, could not be dealt with in the little time available to the Special Conference.

26. The central issue was how best to proceed with examining and developing means for verifying the Convention. The mandate given to the Special Conference by the 1991 third Review Conference was unambiguous in that regard. It was overwhelmingly apparent that gaining agreement on the issue of verification was the key to the future health of the Convention. Repeatedly over the years, the credibility of the Convention had been questioned on the

grounds that there had been no adequate arrangements in place to check compliance. The Special Conference offered an opportunity to strengthen the Convention that should not be lost, for there might not be another for many years.

27. Mr. JAGUARIBE (Brazil) noted that the Biological Weapons Convention was the first multilateral, non-discriminatory disarmament treaty that banned completely an entire category of existing weapons of mass destruction. It had set an important precedent which had been followed some 20 years later by the Chemical Weapons Convention and he hoped that it would be followed by a treaty on the complete prohibition of nuclear weapons.

28. Brazil repudiated all weapons of mass destruction and therefore approached the process of strengthening the Biological Weapons Convention with a constructive spirit. It had supported the Convention from the start and had been among the first States to ratify it. Unfortunately, it had not been possible also to ban chemical weapons during the cold war, as Brazil had advocated. Until recently, therefore, the ban on weapons of mass destruction had affected only biological weapons, the category considered technically less feasible and strategically less effective than others and effective verification provisions, being considered too difficult, had not been adopted.

29. In recent years, however, those conditions had changed. The biotechnological revolution had opened up new possibilities for the development and mass production of modified agents. States parties and public opinion were understandably concerned about the consequences of technological developments, in particular genetic manipulation techniques, which might enhance the potential military value of biological weapons. On the other hand, the improvement in the international atmosphere had made it possible to achieve the Chemical Weapons Convention, which had reinvigorated the faith of many in multilateralism, and it could be assumed that the Complete Test-Ban Treaty would be negotiated in a more democratic manner than could have been conceived during the cold war.

30. As a long-standing supporter of multilateralism, Brazil welcomed those changes. It should be stressed that the democratization of disarmament negotiations was a necessary consequence of the current international structure, which tended towards multipolarization. In the new environment, no disarmament and non-proliferation rule could be enhanced unless it attracted the support of a strong majority of States. In fact, the disarmament movement could prosper only in a framework of cooperative international relations, of benefit to both developed and developing countries.

31. However, caution was advisable when dealing with issues that were related to disarmament, but might also affect other important areas of international cooperation. The idea put forward that, in order to prevent the proliferation of weapons of mass destruction, it would be necessary to impede the proliferation of dual-use technologies that could possibly be used for such weapons was very dangerous. It was neither possible nor desirable to stop the spread of technology, for that might jeopardize the industrialization of the countries of the South and destroy the basis of that cooperative international framework that was required for the achievement of disarmament and non-proliferation objectives.

32. At the same time, all countries should have the means to ensure that their goods and technologies were not being used anywhere to build weapons of mass destruction. Brazil was striving to improve its export controls and it encouraged all countries to do the same. However, the purpose of export controls must be straightforward: to prevent the proliferation of weapons of mass destruction, and not to obstruct trade for peaceful purposes. It was true that distinctions in that field were often difficult to establish, and that was where treaties such as the Biological Weapons Convention and the Chemical Weapons Convention had an important role to play.

33. The international community had accepted the verification regime of the Chemical Weapons Convention because it perceived it as a means to achieve valuable objectives. The same should be true for the Biological Weapons Convention, which aimed at two mutually reinforcing objectives: first, the prevention of an arms race in the biological area and the elimination of the possibility of use of biological weapons and, secondly, the facilitation of a free interchange of biological technology for peaceful purposes, with all the benefits such an interchange might bring for international trade and development.

34. With regard to the first objective, it was not sufficient to try to contain the spread of weapons of mass destruction in general and biological weapons in particular. It was also necessary to work towards their complete elimination. As long as weapons of mass destruction were considered useful by some States, which kept arsenals of such weapons, other States would be tempted to emulate them. Conversely, if the present drive towards complete disarmament was maintained and accelerated, it would become increasingly difficult to justify the acquisition and possession of such weapons. In that respect, it was essential for the process of strengthening the Convention to dispel any doubts about the comprehensive scope of the prohibitions contained in article I. Increased confidence resulting from an effective verification regime would remove concerns about defensive military biological programmes, which had so far generally been pursued in secrecy. The second objective was important for the proper functioning of the biological disarmament regime. It was enshrined in article X of the Convention and constituted a central element of the balance which had made it possible to achieve broad support for the Convention.

35. With those objectives in mind, States parties should answer five specific questions. First, was the time ripe for strengthening the Convention through the implementation of new measures? Secondly, was a verification regime for the Convention politically desirable and technically feasible in present circumstances? Thirdly, how would a possible verification regime be related to the technological development clauses of the Convention, notably of article X? Fourthly, what should be the characteristics of the verification regime and, more specifically, was it possible to identify a package of measures to compose such a regime, taking into account the work of VEREX? Fifthly, what mechanisms were required to implement a verification regime for the Convention?

36. In Brazil's view, a verification regime that was non-discriminatory, reasonably effective, multilaterally negotiated and implemented and intrusive only as far as strictly necessary would help achieve the goals of the

Convention and thus serve the interests of all States parties. No verification regime by itself could be foolproof and a reasonable degree of political judgement must always be required when States parties proceeded to a mutual assessment of compliance. In Brazil's view, it was already possible to envisage a verification regime which would strengthen the Convention by introducing a significant element of deterrence and provide a clear set of rules for the investigation and elucidation of doubts about compliance.

37. According to its agenda, the Special Conference must carry out two main tasks, i.e. consider the report of VEREX, which had identified, examined and evaluated 21 potential verification measures, and take a decision on any further action with a view to strengthening the Convention. Strengthening the Convention was part of the process of the revitalization of multilateral institutions in the post-cold-war world. The main challenge for the international community was the gradual definition of the institutions of an equitable, democratic and cooperative international order, which should bring benefits to all States. There was still much to be done in that field. States must ensure that the Special Conference reached a consensus on the definition of a mechanism that would make it possible to negotiate appropriate measures for strengthening the Convention. Brazil stood ready to cooperate with all States, in the Special Conference and other fora, for the construction of the cooperative international order needed for the twenty-first century.

38. Mr. ROSU (Romania) said that the non-proliferation of weapons of mass destruction had for many years been a paramount concern of the international community. Treaties on weapons of mass destruction and export control regimes were complementary, interlocking parts of international security. Export control regimes were meant to enable recipient States to acquire whatever technology they needed for their peaceful development. That was why Romania actively participated in a number of groups and regimes aimed at avoiding the proliferation of weapons of mass destruction and joined in the promotion of new measures and initiatives to refine non-proliferation strategy. In that spirit, the Government of Romania had recently issued an ordinance on the regime of imports and exports of strategic goods that had dual use or were related to nuclear, chemical and biological weapons or missiles carrying such weapons.

39. The Biological Weapons Convention had been the first international document since the Second World War to provide for the actual elimination of an entire class of abhorrent weapons. Romania continued to believe strongly in the objectives of the Convention and its contribution to international peace and security. It therefore re-emphasized the importance of full implementation by all parties and the need to make every effort to secure universal accession to the Convention.

40. The Convention was the only treaty covering weapons of mass destruction which did not have a verification regime. The objectives of such a regime were to enhance the national capability of parties to monitor compliance with and detect violations of disarmament treaties. To be effective, it would rely on a number of interwoven measures such as data exchange, export controls, analysis of data to determine consistency, national technical means and routine as well as challenge inspections. Verification measures should above

all provide confidence that the States parties were complying with treaty provisions. They should also deter violations by increasing the risk of detection and enable States parties to detect any significant violation in a timely fashion.

41. Data exchange was important for providing transparency and building confidence. That process had begun in the framework of the confidence-building measures adopted at the second and third Review Conferences and might lead to the setting up of a new generation of confidence-building measures based on transparency and aimed at the improvement of compliance with the international regime of biological weapons. In the last three years, Romania had submitted the required data in accordance with both the letter and spirit of those new confidence-building measures.

42. There was, however, a clear distinction between confidence building and verification, the purpose of which was to clarify requirements for compliance with the Convention, deter non-compliance and provide all States parties with equal rights and adequate incentives for accession to and compliance with the Convention. Verification measures should contribute to strengthening the biological weapons regime, promote non-proliferation of those weapons and at the same time take account of the need for extensive international exchanges and broad international cooperation to facilitate research for peaceful purposes and scientific exchanges not prohibited by the Convention.

43. Romania had therefore supported the decision taken by the 1991 third Review Conference of the Convention to establish an Ad Hoc Group of Governmental Experts. The Romanian experts had taken an active part in the VEREX work, which had led to the adoption of a consensus report. The Special Conference had been convened to take a decision on further steps to strengthen the Convention verification machinery and close another loophole in the broader regime for weapons of mass destruction. It provided the opportunity to begin a process that would finally lead to a verification regime for the Convention, on the basis of the valuable report of the Ad Hoc Group of Governmental Experts. His delegation was convinced that the Conference would give thorough consideration to that important document and establish a cost-effective negotiating body in Geneva, open to all States parties to the Convention and aimed at laying the foundations for a future verification mechanism, such as a protocol.

44. Mr. MOSER (Switzerland) said that Switzerland had always considered the lack of verification provisions to be the most serious shortcoming of the Biological Weapons Convention. Recent developments both in the area of proliferation of biological weapons and science and technology reaffirmed Switzerland's view that measures to strengthen the Convention were important and urgent. The report of the Ad Hoc Group of Governmental Experts provided an excellent basis in that regard.

45. Perhaps more than any other disarmament or arms control agreement, the Convention contained elements of ambiguity, although the scope of prohibition was very clear. Some found it useful to define that prohibition by identifying types and quantities of agents or toxins that had no justification for prophylactic, protective or peaceful purposes. His delegation did not feel that such an approach was a wise one, for it could lead to too limitative

an interpretation of the Convention that would not take account of technological developments, which were extremely rapid in the areas under consideration. Such an interpretation would be neither useful nor realistic and his delegation proposed the formulation of transparency measures and fact-finding procedures leading to reliable conclusions on whether or not the Convention was being violated. The verification of the Convention should be considered a common task of the States parties themselves and not that of a technical body established for that purpose. The States parties themselves should participate actively and to the largest extent possible in a future verification regime.

46. A new working group should be asked to negotiate measures for strengthening the Convention. The group should in particular address three basic elements. The first was a mandatory transparency regime that could be elaborated on the basis of the existing confidence-building measures and the findings of the Ad Hoc Governmental Group of Experts. It should be flexible enough to cope with new risks emerging from rapid scientific and technological developments. The second concerned a fact-finding procedure that might be activated in cases of doubt regarding the compliance of a State party under the Convention. The third related to an appropriate body open to all States parties to address, clarify and, if possible, resolve issues of dissent with regard to ensuring compliance under the Convention.

47. The working group should discuss the question of infrastructure, equipment and personnel. It was also necessary to define measures for protecting confidential information in the area of industry, science and national security, as far as they were legitimate under the Convention. In Switzerland's view, the set of measures for strengthening the Convention should be flexible, low-cost, but sufficiently dissuasive. The Conference of States parties should establish the working group in question and the group should complete its task rapidly for the submission, if possible, of substantive results before the 1996 Review Conference.

The meeting rose at 4.35 p.m.