Twelfth special session
AD HOC COMMITTEE OF THE TWELFTH
SPECIAL SESSION
Agenda item 9

REVIEW OF THE IMPLEMENTATION OF THE RECOMMENDATIONS AND DECISIONS
ADOPTED BY THE GENERAL ASSEMBLY AT ITS TENTH SPECIAL SESSION

Note verbale dated 24 June 1982 from the Permanent Mission
of the Federal Republic of Germany to the United Nations
addressed to the Secretariat

The Permanent Mission of the Federal Republic of Germany to the United Nations presents its compliments to the Secretariat of the United Nations and has the honour to transmit annexed hereto a document entitled "Principles and rules for verifying compliance with a chemical weapons convention", submitted by the Federal Republic of Germany, for circulation as an official document of the twelfth special session of the General Assembly, under agenda item 9, and substantive consideration in the Ad Hoc Committee.
ANNEX

Principles and rules for verifying compliance with a chemical weapons convention

1. The Final Document of the Tenth Special Session (para. 75) states that a convention prohibiting the development, production, and stockpiling of chemical weapons and providing for the destruction of existing stocks and production units is "one of the most urgent measures of disarmament". Although this objective has unfortunately not been completely achieved yet, the negotiations to this end have already resulted in substantial progress towards such a convention.

2. In the Committee on Disarmament, some considerable approximation of views has been reached on a number of important questions, such as the scope of the future convention, definitions of chemical weapons, and toxicity criteria, as well as on the need for States to declare their chemical weapon stocks and production units and agree to a fixed time-table for their destruction. In particular, it should be noted that consensus exists on establishing an international consultative committee open to experts from all States which will have the task of monitoring compliance with the principal obligations under a chemical weapons convention. Thus, States have once more recognized the significance and feasibility of this comparatively recent achievement of the multilateral disarmament process, as first enshrined in the ENMOD Treaty and thereafter in the elements of a radiological weapons convention currently being negotiated in the Committee on Disarmament. In the chemical weapons context, the main assets of a consultative committee as an instrument of international concertation are:

   (a) It enhances the effectiveness of a chemical weapons convention, it offers a forum for the factual and constructive discussion of difficulties, misunderstandings and doubts which may arise in the application of the convention;

   (b) Its co-operative character increases confidence among all contracting parties;

   (c) Once its operability is proved, the prospects for progress on disarmament in other fields will improve.

In fact, it would be worthwhile considering whether the creation of a consultative committee could also improve the effectiveness of existing arms control agreements which lack such a monitoring mechanism (biological weapons convention, Geneva Protocol).

3. Thus, the consultative committee should play a central role in the complex, yet indispensable, task of ensuring proper verification of a chemical weapons convention. Its work in this field should be guided by the following principles:

   (a) Confidentiality of its deliberations in order to prevent public controversy while the deliberations are still going on;
(b) Readiness of all contracting parties to co-operate fully with the consultative committee, which includes supplying reliable information and permitting investigations, if necessary on-site inspections;

(c) General restraint and moderation, which means that the consultative committee should be called in only after serious attempts at bilateral consultation have failed. Rules should be worked out which protect States against evidently unfounded allegations and which, at the same time, provide for a mechanism ensuring that the consultative committee is not impeded in its task by the non-participation of a party. It seems appropriate in this context that the committee should adopt - as an exception to the principle of unanimity - a qualified majority voting procedure for certain important questions;

(d) Strict impartiality and non-discrimination of all contracting parties. This implies that a representative of the State whose observance of the convention is under enquiry must have the right to participate in a monitoring measure from the very outset, thus ensuring that any action decided on is carried out precisely according to the agreed rules;

4. The Federal Republic of Germany, aware of the advantages which a consultative committee offers and taking into account the specific experience that it has acquired as the only country to have renounced the production of chemical weapons and accepted international controls including on-site inspections to this effect, has elaborated in the Committee on Disarmament (CD/265) basic principles and rules for a chemical weapons monitoring system to be operated by the consultative committee. The Federal Republic of Germany therefore invites all Member States of the United Nations to give careful consideration to the suggested system which is intended to be an equitable proposal for resolving the crucial issue of verification. Until now this question has in fact proved to be the major obstacle to progress in reaching a total chemical weapons ban. In the following the motives underlying the proposed verification system are set out. The military significance of chemical weapons, in particular the threat to the civilian population, and the intricacies of the chemical weapons production process require, as an integral part of a chemical weapons ban, sound verification regulations consisting not only of domestic legislation and national technical means, but, to a great extent, also of international control measures. In fact, there is hardly any other topic on the agenda of disarmament negotiations where the need for a reliable verification system, including systematic international on-site inspection, is as imperative as in the case of chemical weapons, as has rightly been pointed out in recent proposals made from the rostrum of the General Assembly during the second special session devoted to disarmament. In these proposals, the need for systematic on-site inspections was recognized, however only to a limited extent and without firm commitments. For the confidence of the contracting parties international verification is the most important part of a verification system. Rules must therefore be devised so as to assure the contracting parties that the convention is being fully complied with. The model advocated by the Federal Republic of Germany for this purpose is based on two pillars: it contains rules for verification on challenge and regular checks. On-challenge verification would be necessary if a party to the convention had well-founded grounds for believing that another party had violated the convention. For the maintenance of confidence among the
contracting parties regular checks are even more important. It should be borne in mind that regular checks - unlike on-challenge investigations which take place when there are specific suspicions and allegations - are a businesslike procedure conducive to co-operation and understanding. In this field the Federal Republic of Germany disposes of more than 25 years of fruitful experience showing, inter alia, that effective on-site inspection can be carried out without detriment to the legitimate interest in safeguarding commercial and scientific secrets.

5. Regular checks are limited to the most important fields of a chemical weapons convention, i.e., those items and activities which States have to declare under the convention. These comprise:

(a) Existing chemical weapons stocks and the production units which have to be destroyed in accordance with the convention;

(b) Industrial plants which could potentially produce supertoxic agents, i.e., the manufacturing installations of organo-phosphorous substances;

(c) The production facilities of those quantities of supertoxic agents allowed under the terms of the convention. The concept of regular checks proposed by the Federal Republic of Germany deliberately excludes so-called dual purpose agents, such as hydrocyanic acid or cyanogen chloride, which are widely used for civilian purposes.

6. In order to obtain a system of regular checks which are as practicable and cost-effective as possible, regular checks in the sense of this paper do not call for a permanent or periodical investigation into all of the installations mentioned under 5. Rather, the regular checks would be based on a system of random selection of installations described under 5 by casting lots. It would be the task of the consultative committee to decide on the percentage of the installations under 5 to be checked. In accordance with the chosen percentage lots would be cast. The percentage may vary from year to year - according to the number of parties to the convention. States which do not possess any installations as mentioned under 5 and make declarations to that effect would, of course, not be subject to this system at all. In the event that a State concealed some installations, it would be subject to the on-challenge procedure as soon as the facts became known.

7. It should be noted that the regular checks also take account of binary weapons. To verify that binaries are not being produced, a sample would have to be taken during an on-site inspection, but this would be done by employees of the production unit inspected. No samples would be taken out of the country and the analysis, carried out on the spot, would be conducted in such a way that the precise composition of the sample could not be detected, since there is only a limited number of chemical substances that indicate whether the convention has been breached.

8. The present paper shows that reliable and effective verification of a chemical weapons convention through a consultative committee is possible. The concept described above is realistic, as it will involve only comparatively limited financial and personnel resources. On the other hand, it would still have the /...
decisive advantage of creating a high risk of being detected for any State intending to violate the convention.

9. The Federal Republic of Germany presents this paper in the desire that all States will join efforts to work out further details of a reliable monitoring system. The conclusion of a comprehensive chemical weapons convention, which mankind has been awaiting ever since the Geneva Protocol, would then be within reach.