

**SIXTH REVIEW 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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Item 10 of the agenda

**Review of the operation of the Convention
as provided for in its Article XII**

**ARTICLE VI AND THE UN SECRETARY-GENERAL'S MECHANISM
FOR INVESTIGATING ALLEGED USE
OF CHEMICAL AND BIOLOGICAL WEAPONS**

Submitted by Germany

1. Article VI provides States Parties to the BTWC with a procedure in cases where compliance of another State Party with the Convention is in doubt. In such cases, States Parties may lodge a complaint with the Security Council of the United Nations, which may then, in accordance with the provisions of the Charter of the United Nations, initiate an investigation on the basis of this complaint.
2. As reaffirmed by the Fourth BTWC Review Conference in 1996, the use of biological or toxin weapons constitutes a violation of the BTWC. Any allegation of such use would therefore fall within the scope of Article VI of the BTWC and would warrant the Security Council's involvement. In accordance with Article 98 of the Charter of the United Nations, the Security Council, having received a complaint of non-compliance by a State Party to the BTWC pursuant to Article VI of the Convention, could ask the United Nations Secretary-General to initiate and carry out an investigation of the matter.
3. In 2004, the States Parties to the BTWC recognised in the Report of the Meeting of States Parties that "the Secretary-General's investigation mechanism, set out in A/44/561 and endorsed by the General Assembly in its resolution A/RES/45/57, represents an international institutional mechanism for investigating cases of alleged use of biological or toxin weapons".
4. This mechanism was established pursuant to United Nations General Assembly Resolution 42/37C (1987), which requested the Secretary-General "to carry out investigations ... concerning the possible use of ... bacteriological (biological) or toxin weapons that may constitute a violation of the 1925 Geneva Protocol or other relevant rules of customary international law ...".

5. The resolution further asked the Secretary-General “with the assistance of qualified experts provided by interested Member States, to develop further technical guidelines and procedures available to him for the timely and efficient investigation of such reports of the possible use of ... bacteriological (biological) or toxin weapons” and “... to compile and maintain lists of qualified experts provided by the Member States whose services could be made available at short notice to undertake such investigations, and of laboratories with the capability to undertake testing of the presence of agents the use of which is prohibited”.

6. In 1988, the Secretary-General was in addition encouraged by United Nations Security Council Resolution S/620 (1988) “to carry out promptly investigations in response to allegations brought to his attention by any Member State concerning the possible use of ... bacteriological (biological) or toxic weapons that may constitute a violation of the 1925 Geneva Protocol or other relevant rules of customary international law ...”.

7. In United Nations document A/44/561 (1989), the group of qualified experts established pursuant to General Assembly Resolution 42/37C compiled technical guidelines and procedures to guide the Secretary-General in carrying out timely and efficient investigations of reports of alleged use of chemical, bacteriological (biological) or toxin weapons. The document also contains the request to the Secretary-General “to periodically review with the assistance of his appointed expert consultants, bearing in mind modifications proposed by Member States, these guidelines and procedures and revise them as necessary for submission to the General Assembly, upon its request”.

8. These guidelines and procedures have not been reviewed since 1989. Consequently, even though efforts have been made in recent years by some Member States to update the lists of qualified experts and laboratories, the mechanism as a whole has not been revised and updated in a consistent manner. Given the rapid progress in biotechnology and the advances in verification and investigation techniques, the mechanism is unlikely to conform to the current standards.

9. Moreover, previous experiences with the Secretary-General’s investigation mechanism are limited to alleged use of chemical weapons; it has never been applied to investigate the possible use of biological weapons. In the present situation, it is therefore unclear whether the existing guidelines and procedures are suitable for the effective investigation of alleged biological weapons use.

10. In order to ensure the effectiveness of this mechanism, Germany considers the following steps important:

- (i) The technical guidelines and procedures should be reviewed in the light of recent technological developments, taking into account the specific characteristics of biological weapons. Where necessary and appropriate, the guidelines and procedures should be adapted to meet the requirements for investigating alleged use of such weapons;
- (ii) The lists of qualified experts and laboratories should be updated and should include state-of-the-art technology. Updates should continue to be made periodically and should take into account any scientific and technological developments relevant to biological warfare materials;

- (iii) An exercise or a series of exercises should be held in order to test the applicability of guidelines, procedures and lists. These exercises would contribute to the training of experts who volunteered for the list as well as staff at the UN Secretariat who might need to put together an investigation team, and would facilitate a timely and effective investigation should a case of alleged biological weapons use occur. The experiences gained in such exercises could be incorporated in the process of reviewing and updating the investigation mechanism.

11. In this regard, Germany attaches great importance to UN General Assembly Resolution A/RES/60/288 (2006) in which Member States encourage the Secretary-General “to update the roster of experts and laboratories, as well as the technical guidelines and procedures, available to him for the timely and efficient investigation of alleged use”.

12. With respect to the tasks set out in paragraph 9, and in order to periodically review and update the guidelines and procedures as well as the lists of qualified experts and laboratories, reference is made to the working paper on “BTWC Implementation: need for a concerted and coordinated approach” prepared by the European Union which proposes a BTWC implementation support unit within the United Nations Department for Disarmament Affairs which could also assist in fulfilling these tasks.

13. Germany suggests that the Review Conference request the United Nations Secretary-General to initiate an update of the lists of qualified experts and laboratories available for the investigation of alleged use of biological weapons. To fulfil this mandate, the Secretary-General could ask Member States to provide or update lists with national experts and laboratories available in the event of an investigation. To this end, EU Member States have agreed in their Action Plan adopted on 27 February 2006 to consider and volunteer expertise to the UN Secretary-General by the end of December 2007 to help him update the lists, and to review and update their information every two years.

14. Germany also suggests that the Review Conference invite the United Nations Secretary-General to review and update, where necessary and appropriate, the existing guidelines and procedures in order to ensure that they conform to the current technological standards and that they allow for a timely and effective investigation of alleged use of biological weapons.

15. Germany proposes that the Review Conference also invite the United Nations Secretary-General to consider holding an exercise or a series of exercises in order to test the applicability of the guidelines and procedures as well as the lists of qualified experts and laboratories. The UN Secretary-General could be asked to include the experiences gained from such exercises in the process of updating, amending and adapting these guidelines, procedures and lists.

16. Finally, Germany suggests that the Review Conference invite the United Nations Secretary-General to inform the States Parties to the BTWC of steps taken with regard to the above at the Seventh BTWC Review Conference or earlier, if possible.