

THE CBW CONVENTIONS BULLETIN

News, Background and Comment on Chemical and Biological Weapons Issues

ISSUE NO. 74

DECEMBER 2006

Quarterly Journal of the Harvard Sussex Program on CBW Armament and Arms Limitation

THE BIOLOGICAL WEAPONS CONVENTION SIXTH REVIEW CONFERENCE

Graham S Pearson, HSP Advisory Board

<i>Opening of the Conference</i>	3
<i>General Debate</i>	4
<i>Committee of the Whole</i>	20
<i>Cross-cutting Issues</i>	21
<i>Informal Consultations</i>	21
<i>Adoption of Final Report</i>	23
<i>Analysis: The Article by Article Review</i>	24
<i>Analysis: The Decisions and Recommendations</i>	28
<i>Reflections</i>	35

The Sixth Review Conference of the Biological and Toxin Weapons Convention (BWC) was held in Geneva from Monday 20 November to Friday 8 December 2006. This followed the Preparatory Committee meeting held in Geneva on Wednesday to Friday 26 to 28 April 2006 (see *Review no 25*, May 2006) which had agreed a provisional agenda, draft rules of procedure and a recommended distribution of the posts of Chairmen and Vice-Chairmen of the subsidiary bodies (the Committee of the Whole, the Drafting Committee and the Credentials Committee) among the three regional groups.

On the opening day of the Review Conference, Ambassador Masood Khan of Pakistan was elected President of the Review Conference, Ambassador Doru-Romulus Costea of Romania as Chairman of the Committee of the Whole, Mr Knut Langeland of Norway as Chairman of the Drafting Committee and Ambassador Maria Nzomo of Kenya as Chairman of the Credentials Committee. The provisional agenda was also adopted with its three substantive items:

- “10. Review of the operation of the Convention as provided for in its Article XII
 - (a) General debate
 - (b) Articles I - XV
 - (c) Preambular paragraphs and purposes of the Convention
11. Consideration of issues identified in the review of the operation of the Convention as provided for in its Article XII and any possible consensus follow-up action
12. Other matters, including the question of future review of the Convention.”

The three week Review Conference was structured so as to commence with two days of General Debate in which representatives of 40 States Parties and one Signatory State (Egypt), six specialized agencies and other international organizations — the Food and Agriculture Organization (FAO), the International Committee of the Red Cross (ICRC), the International Criminal Police Organization (INTERPOL), the Organization for the Prohibition of Chemical Weapons (OPCW), the World Health Organization (WHO) and the World Organization for Animal Health (OIE) — made statements. One Signatory State (Syria) exercised its right to reply. This was then followed by the Committee of the Whole which met on Wednesday 22 November through to Thursday 30 November and carried out an Article by Article review of the Convention producing a report containing language proposed by individual States Parties or groups of States Parties for the Final Declaration. It presented this report on Thursday 30 November. The President then held informal plenaries from Friday 1 December through to Friday 8 December 2006 which focussed on finding consensus language for the Final Declaration.

107 States Parties participated in the Review Conference as follows: Afghanistan, Albania, Algeria, Argentina, Australia, Austria, Azerbaijan, Bahrain, Bangladesh, Belarus, Belgium, Benin, Bhutan, Bosnia and Herzegovina, Botswana, Brazil, Bulgaria, Canada, Chile, China, Colombia, Congo, Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Ecuador, El Salvador, Estonia, Finland, France, Georgia, Germany, Ghana, Greece, Guatemala, Holy See, Honduras, Hungary, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Italy, Jamaica, Japan, Jordan, Kenya, Kuwait, Kyrgyzstan, Latvia, Lebanon, Libyan Arab Jamahiriya, Lithuania, Malaysia, Mali, Malta, Mexico, Moldova, Monaco, Mongolia, Morocco, Netherlands, New Zealand, Nigeria, Norway,

<i>Report from Geneva: Review no.26</i>	1-36
<i>Lisa Tabassi and Erwin van der Borght on chemical warfare as international crime</i>	36-44
<i>News Chronology August-October 2006</i>	45-62
<i>Recent Publications</i>	63-64

Oman, Pakistan, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Romania, Russian Federation, Rwanda, Saudi Arabia, Senegal, Serbia, Singapore, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sudan, Swaziland, Sweden, Switzerland, Thailand, The former Yugoslav Republic of Macedonia, Tunisia, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela (Bolivarian Republic of), Viet Nam, Yemen and Zimbabwe. This was a significant increase on the 91 States Parties who participated at the Fifth Review Conference in 2001: Afghanistan, Azerbaijan, Benin, Bhutan, Bosnia and Herzegovina, Botswana, Congo, Ecuador, El Salvador, Georgia, Ghana, Holy See, Kenya, Kyrgyzstan, Mali, Morocco, Nigeria, Qatar, Rwanda, Serbia, Sudan, Swaziland, The former Yugoslav Republic of Macedonia and Zimbabwe all participated in 2006 whilst Armenia, Bolivia, Brunei Darussalam, Dominican Republic, Ethiopia, Federal Republic of Yugoslavia [which no longer exists: Serbia participated whilst Montenegro has yet to accede], Iceland, Liechtenstein, Luxembourg, Mauritius, Nicaragua and Panama who had participated in 2001 did not do so in 2006.

Ten Signatory States participated: Burundi, Cote d'Ivoire, Egypt, Haiti, Madagascar, Myanmar, Nepal, Syrian Arab Republic, United Arab Emirates and Tanzania. This was six more (Burundi, Cote d'Ivoire, Haiti, Madagascar, Syrian Arab Republic and Tanzania) than in 2001. One State, Israel, was granted Observer status in 2006, one less than in 2001 when both the Holy See and Israel were accorded Observer status. The Holy See has since acceded to the Convention which now has 155 States Parties, 16 Signatory States and 24 States which have neither signed or ratified (BWC/CONF.VI/INF.5 dated 28 September 2006).

The Secretariat prepared six background documents (these and other documents for the Sixth Review Conference are available at <http://www.opbw.org>) in 2006 instead of the previous three such documents. Whilst at first sight the fact that six instead of three papers were produced was a forward step, a more detailed examination of these background papers shows that changes – which were not specifically requested by the Preparatory Committee – were made to past practice with mixed results. Considering the background papers in sequence the following observations can be made:

BWC/CONF.VI/INF.1 Additional Understandings. This is a new background document that provides a summary of the additional understandings and agreements reached by previous Review Conferences. It does not, however, show how these extended understandings have developed over the years as successive Review Conferences have frequently amended the language and these amendments are not necessarily of equal merit nor are they always progressive. Although it would have been a longer document, the *development* of the language over the years is significant and important in considering language at the Sixth Review Conference.

INF.2 Developments in other International Organizations relevant to the Convention. This is a second new background document. This reviews developments in regard to the UN and specialized agencies: 1540 Committee, ECOSOC, FAO, IMO, OCHA, Secretary-General, UNDP, IVI, UNESCO, UNEP, WCO, and WHO. It then considers the international commercial and scientific organizations: IAP, IATA and ICSU.

It concludes with a useful summary table showing which organizations are active in which particular areas. This is an innovative and helpful document that helps to set the BWC in the wider international context.

INF.3. Confidence Building Measures. This is a modified version of the background document provided at previous Review Conferences. INF.3 contains 7 pages of background and introduction, an Annex reproducing in 19 pages the Annex to the Third Review Conference which set out the agreed forms, and then 7 pages indicating which States Parties have submitted CBMs in each year since they were first agreed in 1987. It would have been helpful if the tabulation had indicated when States had become Parties in the years since 1987, as they are not committed to submitting a CBM until they become a State Party. The approach taken in INF.3 is in contrast to previous background papers on CBMs which typically — as in 2001 — had 2½ pages of introduction followed by 13 pages of analysis. INF.3 is less informative in that it only indicates which States Parties have submitted a CBM return, rather than, as previously, a detailed analysis indicating which States Parties had responded to each individual CBM in each of the previous five years.

INF.4 New Scientific and Technological Developments. This is a document distilled from the contributions provided by ten individual States Parties (Argentina, Australia, China, Czech Republic, Netherlands, Portugal, Russia, Sweden, United Kingdom, United States): a welcome increase on the five (Bulgaria, South Africa, Sweden, United States of America and the United Kingdom) who submitted information in 2001. At previous Review Conferences the comparable document was a compilation made up of each individual contribution with no attempt to summarise the whole. Although the website unog.ch/bwc stated that the individual contributions are to be made available as MISC documents, it is now understood that, due to the pressure of official documentation, these will now not appear as MISC documents although electronic advance copies will continue to be available on unog.ch/bwc. INF.4 thus excludes specific recommendations made by individual States Parties such as those by Sweden and the United Kingdom which are only in the individual contributions and are unlikely to be known to many States Parties. As INF.4 is available in all languages and individual contributions submitted by States Parties are only available on unog.ch/bwc and not as MISC documents – and are consequently unlikely to be consulted by many States Parties – it is likely that in the future few States Parties will take the trouble to provide contributions on new scientific and technological developments to Review Conferences unless the retrograde steps taken at the Sixth Review Conference are reversed.

INF.5 Universality. This is a new document which provides a textual account of the changes in the States Parties since the Fifth Review Conference, a comparison with the States Parties to the Chemical Weapons Convention (CWC), and a “non statement” on action to achieve universality, as there has been no coordinated action undertaken by States Parties to encourage wider adherence to the BWC. An Annex lists the States Parties and Signatory States as of September 2006 (which is unchanged from that in BWC/MSP/2005/MX/INF.5 of 21 June 2005). However, the Annex usefully lists the States

not party to the BWC. A second Annex helpfully shows the non-adherence to the Convention by region.

INF.6 Compliance by States Parties. This is closely similar to the background paper prepared prior to previous Review Conferences in that it is compiled from the information submitted by the States Parties with no added material, comment or analysis. Information was provided by 20 States Parties: Argentina, Australia, China, Cuba, Czech Republic, Estonia, Finland, France, Germany, Hungary, Italy, Japan, Netherlands, Nigeria, Portugal, Russia, Serbia, Switzerland, United Kingdom and United States. This was two less than in 2001, when Belarus, Bulgaria, Greece, Latvia, Lebanon, Pakistan, Poland, Republic of Korea, Russian Federation, Uzbekistan, and Yugoslavia all provided information.

39 Working Papers were submitted by States Parties or Groups of States Parties to the Review Conference: 8 by the EU, 5 by the Latin American Group, 4 by NAM, 3 each by Australia and by Iran, 2 each by Canada, Japan, South Africa, Switzerland and the US and 1 each by Germany, New Zealand, Norway, Republic of Korea, Ukraine and the UK.

A useful innovation was the daily provision of one page Review Conference Progress Reports written by Richard Guthrie for the BioWeapons Prevention Project (BWPP) and distributed in hard copies to the delegates as well as by listserv and on the BWPP website (at <http://www.bwpp.org/6RevCon/RevConProgressReports.html>).

Opening of the Conference

The Sixth Review Conference opened with **Nobuaki Tanaka**, Under-Secretary-General for Disarmament Affairs in the chair. In his opening remarks he said *“As you are all aware, the Biological Weapons Convention is the legal embodiment of the international community’s determination to exclude forever the possibility of disease being used as a weapon. As such, it forms one of the three fundamental pillars of our collective struggle against weapons of mass destruction. It is a treaty crucial to our security, and this Conference is crucial to the treaty. You, the States Parties, have three short weeks in which to review all aspects of the operation of the Convention and to decide on what must be done to maintain and strengthen its effectiveness and thus reduce the risk of biological agents and toxins being used as weapons. It is an important and challenging task, and there is no time to waste.”* He then moved on to the election of the President of the Review Conference and Ambassador Masood Khan was elected by acclamation.

Ambassador Khan then took the chair of the meeting and made his introductory remarks. He started by saying that *“Today is a special day and a momentous occasion. This conference is the launching pad for our campaign against biological warfare. This conference is where we confront the threat of biological weapons, and where we must discharge our responsibility to ensure that disease is never used as a weapon.”* He went on to add that *“there is no room for complacency. Biological weapons are a real, potent threat to humanity, not a figment of the imagination. They are weapons of mass destruction that may be as deadly as nuclear weapons, and even deadlier. And the*

threat is growing. We face the disturbing prospect of terrorists acquiring and using biological weapons. The rapid advances in the life sciences mean it has never been easier or cheaper to develop them. New bioweapons will be more virulent, easier to hide, and harder to combat.”

He noted that *“This conference is a vital opportunity to take action against a threat which is too serious to ignore. Thanks to the energy, resourcefulness and commitment of the States Parties over the past months, the time is ripe for success. At this review conference, we will look at the implementation of each article of the Convention, build on the work of the past four years, and take decisions on strategy and activities beyond 2006.”*

He added that *“We must produce a concise and accessible outcome document that records our understandings and commitments in a way that communicates them clearly to a broad audience. We should recapture and reaffirm the norms and core elements of the Convention, and previous understandings reached by States Parties, including on scientific and technological developments and on prohibition of the use of biological weapons. We should step up our efforts to universalize the treaty, and aim to secure universal adherence by 2011.”*

Ambassador Khan concluded by saying that *“We have an opportunity now to change the culture of despondency into collective action for a common cause. We want synergies rather than trade-offs: we should look not for the lowest common denominator, but for creative solutions that link to the common aspirations underlying the differing priorities of States Parties. We all want to stop biological weapons. We all want to ensure that the peaceful applications of the life sciences can safely and securely reach their full potential. We must seek measures that will help us achieve these common goals. I am confident that with creativity and determination, we will succeed.”*

He then invited the Secretary-General, Kofi Annan, to address the Conference.

The **Secretary General** began by recalling that *“In becoming States Parties to the Biological Weapons Convention, you had demonstrated your determination to do your part in preventing disease from being used as a weapon. But when it came to strengthening the Convention through a protocol, years of negotiations had failed to achieve a consensus. Deep and bitter divisions threatened to bring collective efforts against biological weapons to a permanent halt. Yet because of your commitment and resourcefulness, history took a different path.”*

He went on to say that: *“You decided that the threat of biological weapons was too important to be abandoned to political paralysis. And you found a way, if not to resolve your differences, then to work around them. Over the past four years, you have created, developed and carried out an innovative work programme, drawing on the knowledge and experience of legal, scientific, security, public health and law enforcement experts from around the world. This programme has made a modest but practical contribution to the implementation of the Convention, and has reduced the risk of biological weapons being developed, acquired or used.”*

The Secretary-General then set the scene for the Review

Conference: *“Now it is time to build on those results, and take further steps to ensure that the Convention will continue to serve as an effective barrier against biological weapons. In the five years since the last review conference, global circumstances have changed, and risks evolved. We see today a strong focus on preventing terrorism, as well as renewed concern about naturally occurring diseases such as SARS and avian flu. These developments have transformed the environment in which the Convention operates, and altered ideas about its role and potential. Over the same period, advances in biological science and technology continued to accelerate, promising enormous benefits for human development, but also posing potential risks.”*

He then went on to put the Convention into context: *“These changes mean that we can no longer view the Convention in isolation, as simply a treaty prohibiting States from obtaining biological weapons. Rather, we must look at it as part of an interlinked array of tools, designed to deal with an interlinked array of problems. Certainly, we need to deal with disarmament and non-proliferation in the traditional sense. But we must also address terrorism and crime at the non-state and individual levels, with responses encompassing public health, disaster relief and efforts to ensure that the peaceful uses of biological science and technology can safely reach their potential.”*

The Secretary-General urged the States Parties to make progress: *“Distinguished delegates, this review conference can make a major contribution to that effort. I urge you to bring together the capacities of all who are gathered here. Treaties are an essential part of the multilateral system, and can be strengthened by building bridges to different fields. This would also ensure that our actions are complementary and mutually reinforcing.”*

He concluded by saying: *“Your efforts over the past four years have put you in a good position to make further progress. Differences will remain. But I urge you to find, once again, creative and resourceful ways around them. Far more unites you than divides you. The horror of biological weapons is shared by all. As the Convention states, their use would be “repugnant to the conscience of mankind”. I urge you to seize the opportunity presented by this conference.”*

After a short suspension the meeting resumed, adopting the agenda, taking note of the report of the Preparatory Committee and adopting the Rules of Procedure when it was agreed that NGOs would be able to participate in the same way as they had at the Fourth and Fifth Review Conferences. The meeting moved rapidly on to deal with the other procedural items including adoption of the indicative programme of work (BWC/CONF.VI/2) in which it was planned to suspend the formal session at 4.30pm on Tuesday afternoon to hear statements from NGOs in informal session. The Chairman also drew attention to the website at www.unog.ch/bwc saying that it was the Secretariat’s intention to have everything posted there very quickly. Whilst these aspirations were laudable and daily programmes were posted for most days, there were days with no programme, and documents and press releases tended to appear first on the UN ods (official document system) website at <http://documents.un.org/default.asp>.

General Debate

The meeting then moved on into the General Debate. The Chairman encouraged all speakers to be succinct and keep to time with a digital clock counting down for each speaker from their allotted time of 12 minutes for a State speaking on behalf of a ‘group’ and 7 minutes for a State speaking on its own behalf.

Markus Lyra, Under-Secretary of States of Finland spoke on behalf of the **European Union** and associated countries – a total of 36 States Parties. He said that: *“Our common commitment to disarmament and non-proliferation of biological and toxin weapons is the necessary foundation from which we can exploit the potential of biosciences for peaceful purposes. That requires us to manage the risks associated with the inherent dual use nature of biological agents and toxins, materials, equipment, and knowledge under this Convention. The management of those risks in the complex world of today requires a multi-faceted approach. The strengthening of the multilateral regime must be linked with other kinds of governmental and non-governmental, national and international measures.*

“In this context the Biological and Toxin Weapons Convention remains the internationally recognised normative and legal cornerstone of biological disarmament and nonproliferation. Its Review Conferences are the forum for taking decisions to strengthen this ‘cornerstone’, both the Convention itself and its implementation. We should use this opportunity to reaffirm the norm that biological weapons are totally prohibited and to strengthen the effectiveness of the Convention.”

He went on to point out that the strengthening of the Convention is one of the priorities of the EU and that the EU had agreed a Common Position and concrete proposals in the form of EU Working Papers for the Review Conference.

He then set out a number of practical and feasible outcomes to the Review Conference including: *“A full review of the operation of the Convention, ... the universalisation of the Convention, where a common strategy is needed to optimise the efforts of all States Party towards this common goal. ... National implementation is another priority.”*

In addition he urged that: *“The intersessional conclusions should be followed up by concrete action both at the national level and through BTWC meetings. ... a further intersessional work programme, leading to the 7th Review Conference in 2011. The new work programme should not merely repeat the 2003-05 discussions but build on them, extend them where this makes sense while drawing on the lessons we have learned.”*

He also urged that: *“Scientific and technological developments will continue to be relevant to the BTWC. ... Not least, given the rapid pace of progress, the EU would like to see more frequent reassessments of the implications of scientific and technological developments. In this context, efforts must also be made to include other stakeholders in addition to the States Party, such as the scientific and business communities.*

“Confidence Building Measures (CBM) are a valuable tool to enhance transparency of disarmament regimes but, regrettably, the CBM mechanism of the BTWC remains under-utilised. The EU believes that this problem should

be tackled in a comprehensive manner, expanding the country coverage of the CBM mechanism, enhancing its efficiency through technical amendments and exploring the relevance of any possible enhancement of its scope.”

In addition, the EU said that “... the implementation of Review Conference decisions should be facilitated through arrangements for implementation support within the DDA. The EU considers the lack of adequate implementation support to be an impediment to our enhanced and concerted efforts to improve compliance with and effective implementation of the treaty.”

[INF.3 shows that the EU had succeeded in submitting CBMs for every member of the EU in 2006.]

Ambassador Juan Antonio Fernandez Palacios of Cuba then spoke on behalf of the **Non-Aligned Movement and Other States**. He noted that the Heads of State and Government meeting in Havana, Cuba had agreed: “... that the possibility of any use of bacteriological (biological) agents and toxins as weapons should be completely excluded, and the conviction that such use would be repugnant to the conscience of humankind. They recognised the particular importance of strengthening the Convention through multilateral negotiations for a legally binding Protocol and universal adherence to the Convention. They reiterated their call to promote international cooperation for peaceful purposes, including scientific-technical exchange.”

He then went on to say that: “The Group would like to reiterate its deep concern about the potential use and/or threats of use of biological agents and toxins as an instrument of war and terror. In this regard, the Group feels that there is a greater necessity and urgency for the States Parties of the BWC to work towards strengthening and improving the effectiveness and implementation of this Convention so that together we can fully address this concern.”

The importance of a legally-binding agreement was emphasized: “The Group stresses the particular importance of all States Parties pursuing the objectives that were set forth by the Fourth Review Conference in 1996, as we strongly believe that the only sustainable method of strengthening the Convention is through multilateral negotiations aimed at concluding a non-discriminatory, legally binding agreement, dealing with all the Articles of the Convention in a balanced and comprehensive manner.”

He then set out some of the Group’s expectations from the Review Conference: “The Group is of the view that the general thrust of the Review Conference should be directed to the review of the operation and implementation of all the Articles of the Convention and its preamble, including consideration of the work of the 3 intersessional Meetings of Experts and States Parties in 2003, 2004 and 2005 of the ad hoc mechanism.

“The Review Conference will also have the task to consider future measures to further strengthen the effectiveness and improve the implementation of the Convention.”

He ended by saying that: “One of the Group’s priorities for this Review Conference is the evaluation of the implementation of the Article X of the Convention. We reiterate our conviction that facilitation of and participation in the fullest possible exchanges and enhanced inter-

national cooperation in the field of peaceful biotechnological activities, aimed at facilitating economic and social development, is a vital element in strengthening implementation. ... The Group of Non-aligned countries will seek a reaffirmation by this Conference of its commitment to the full and comprehensive implementation of Article X, including through the ways and means already identified by the previous review conferences.”

[INF.3 shows that Cuba has an excellent record in submitting its CBMs.]

Minister Marcelo Valle Fonrouge of Argentina then spoke on behalf of twelve **Latin American States** (Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Mexico, Peru and Uruguay) noting that five Working Papers had been prepared for the Review Conference on “*Universalisation, on the Follow-Up Mechanism, on Confidence-Building Measures, on Scientific Cooperation, and the Transfer of Technology - and the eventual creation of a support unit.*”

He went on to say that: “... on Universalization, we are appealing to all States to withdraw reservations to the 1925 Protocol, and we also call upon them to adopt a Plan of Action in order to facilitate membership of other States in the Convention on Biological Weapons, including the commitment of all Parties to intensify their efforts at the bilateral level, as well as in regional and multilateral meetings. And also work on exchange of experience in the area of legislation. And finally, we invite States to designate a national focal point, someone who will be able to coordinate at the national level all the issues and all of the work being done under the Convention. On the issue of CBMs, we are proposing to improve their application and study the possibility of standard performance that would facilitate compliance and understanding of these issues, and here we are proposing the creation of a Group of Governmental Experts.”

He also said that: “We also are proposing the establishment of a flexible follow-up mechanism for the years from 2006 to 2011, with a possibility to take decisions and identify individual programmes on an annual basis, something that will include the developments in the area of biotechnology, genetic engineering, microbiology, and other related areas. This proposal takes into account the fact that the ad hoc intersessional mechanism adopted in 2002 was very useful in order to keep open channels of communication between States Parties to the Convention. And finally, we are proposing the creation of a Support Unit that will facilitate preparatory activities by countries and provide them with assistance in order to better comply with their commitments under the Convention, especially in the areas of national legislation and the presentation of annual reports.”

[INF.3 shows that El Salvador, Guatemala and Uruguay have never submitted CBMs, whilst Bolivia (1), Colombia (1), Costa Rica (2), Peru (3) have submitted CBMs three times or less.]

Ambassador Paul Meyer of Canada then spoke on behalf of the **JACKSNNZ** group (Japan, Australia, Canada, Republic of Korea, Switzerland, Norway and New Zealand). In a very

short statement he said that "... we have prepared a series of national papers to inform our deliberations at the Sixth Review Conference. The papers that have been developed include: universalization (Australia and the Republic of Korea); confidence building measures (Switzerland); a support unit for the BWC (Norway); national implementation (Japan); and the intersessional process (New Zealand). The papers were drafted and presented on a national basis, in consultation with each other."

He concluded by saying that "We are committed to contributing to a successful outcome at this Review Conference that strengthens the Biological Weapons Convention and addresses the new challenges and opportunities in science and technology."

[INF.3 shows that the JACKSNNZ group have a good record in regard to submitting CBMs.]

This concluded the Group statements.

John C. Rood, Assistant Secretary of States for International Security and Proliferation, then spoke on behalf of the **United States**. He started by saying that: "The United States believes that the BWC today is strong. We reaffirm our commitment to the Convention and underscore that it continues to serve as an important international norm against the use of biology as a weapon.

"Yet the world is a very different place today than in 1972. During the Cold War, countries were concerned mostly about state-run programs. Now we also must recognize the grim prospect of terrorist organizations using biology as a weapon of terror and mass destruction, and we must gird ourselves to respond to new and evolving threats."

He then went on in regard to compliance to say that: "Fundamental to the success of the BWC and its goal of ridding the world of biological weapons is full and effective compliance by all States Parties. Noncompliance with the central obligation of the BWC poses a direct threat to international peace and security, and compliance concerns must be pursued vigorously. For this reason, such concerns must be raised not only at Review Conferences every five years, but addressed by States Parties with urgency as they arise. For our part, since the last review conference, the United States has engaged several states through diplomatic channels on issues of possible non-compliance with Article I and other BWC obligations."

Then, as usual for the US, he went on to name names: "The activities of North Korea, Iran, and Syria are of particular concern given their support for terrorism and lack of compliance with their international obligations. Each of these countries was identified in the most recent edition of the U.S. noncompliance report published in August 2005.

"We believe that the regime in Iran probably has an offensive biological weapons program in violation of the BWC. Similarly, we also believe North Korea has a biological warfare capability and may have developed, produced, and weaponized for use biological weapons, also in violation of the BWC. Finally, we remain seriously concerned that Syria — a signatory but not a party to the BWC — has conducted research and development for

an offensive BW program.

"The US understands that the problem of noncompliance with the BWC is difficult but it must be faced head-on. The international community must always remain vigilant and steadfast, and root out violators that undermine the integrity of the Convention."

He then moved on to address national implementation saying that: "States Parties are obligated to undertake national measures to implement the Convention. Specifically, Article III prohibits States Parties from providing sensitive technologies — either directly or indirectly — to any person, group, or country that might seek to acquire biological weapons. Furthermore, Article IV requires that State Parties vigilantly regulate and monitor biological activities within their own country or in areas under their jurisdiction or control, and aggressively pursue and prosecute those who would seek to use disease as a weapon of terror, destruction, or death. These obligations necessitate that States Parties implement effective export controls."

On universality he said that: "While it is critical that we undertake a dedicated effort under the BWC umbrella to ensure that all BWC States Parties fully implement their obligations, we must also undertake steps to bring into the community of nations foreswearing biological weapons those states that remain outside of the Convention."

He then went to address objectives for the Review Conference saying that: "The United States believes this Review Conference in its final declaration should endorse an "Action Plan on National Implementation" consisting of specific steps to be taken by States Parties, with progress reviewed periodically during the intersessional period before the Seventh Review Conference in 2011.

"A second imperative warranting a dedicated Action Plan is the lack of universal membership in the Biological Weapons Convention.... Given the increased international concerns about the threat of biological weapons, the United States believes that at this Review Conference, States Parties to the BWC should seize the opportunity to launch a strong universality campaign embodied in an agreed Action Plan.

"In addition, we hope that during the Article-by-Article review performed over the coming weeks and in our final declaration, that BWC States Parties will explicitly endorse the importance of national export control measures in fulfilling the obligations under the Convention and fully commit to complying with UN Security Council Resolution 1540."

Support was then expressed for a further intersessional work programme for the years leading up to the Seventh Review Conference. Two areas addressed in 2003 to 2005 were identified for further work by experts — one was disease surveillance and the other biosecurity — "the challenge of keeping dual-use equipment and biological materials secure from theft and misuse, especially with regard to terrorism." Two new topics for work by experts were also identified: enforcement to ensure that "non-state actors who might engage in BWC-prohibited activities are apprehended and prosecuted", and "codes of conduct related to national activities to prevent misuse of biological research".

He went on to address annual Meetings of States Parties: "... the United States proposes that one-week meetings of States Parties be convened annually from 2007 to 2010

to consider progress and follow up for the respective Action Plans on Universality and National Implementation. Political-level discussions could also be held at these annual meetings in connection with the experts' meetings convened that year."

He concluded by encouraging *"those attending this Review Conference to begin work in earnest on a robust, practical and focused program that advances the operation and national implementation of the BWC"*, adding that: *"We must not allow this Review Conference to be sidetracked into ideological debates or hijacked by the destructive agenda of proliferators. There are many practical and positive steps that we can take to strengthen the BWC on all levels, and it is imperative that we continue to cooperate to achieve this goal."*

[INF.3 shows that the US has always submitted its CBMs.]

Ambassador Friedrich Gröning of **Germany** then spoke, pointing out that German national legislation is posted on the website of the UN SCR 1540 website and strongly recommending that other States Parties should work towards improving their national implementation of the BTWC by using the already approved practices available in that database. On CBMs, he said that Germany strongly encouraged all States Parties who have not yet done so to participate in the annual exchange of CBMs and that Germany fully supported the idea that the format of the CBMs should be reviewed in order to improve the process.

On the Secretary-General's mechanism for investigating the alleged use of chemical and biological weapons, Germany welcomed the United Nations Counter-Terrorism Strategy, adopted by the General Assembly on 6 September 2006, which encourages the Secretary-General to update the roster of experts and laboratories, as well as the technical guidelines and procedures.

Finally, on Article X he pointed out the multitude of German activities in this field.

[INF.3 shows that Germany has always submitted its CBMs.]

Ambassador I Gusti Agung Wesaka Puja of **Indonesia** then spoke, saying that it is Indonesia's *"firm conviction that the Convention can only be strengthened if it is equipped by a protocol to verify its implementation and guarantee its adherence. This protocol, which encompasses all aspects of convention, should of course be multilaterally negotiated in a balanced and comprehensive manner."*

He went on to say that: *"Indonesia believes that the slow process in the multilateral negotiation forum should not hinder international cooperation in implementing the provisions of the Convention. International cooperation is an indispensable step in addressing the threat of biological weapons and its related issues such as health and research. Given the nature of the threat, there is no country that can face the problem unilaterally."*

He also noted that Indonesia and Australia had organized two regional workshops which served as a forum in promoting regional awareness, sharing best practices, and also discussing concerted efforts in strengthening the Convention.

[INF.3 shows that Indonesia has yet to submit a CBM.]

Ambassador Jürg Streuli of **Switzerland** then spoke, saying that he wanted to stress *"that the Convention on Biological Weapons, together with the 1925 Geneva Protocol, remains the main pillar of the international regime for the prohibition of biological weapons. This convention is by far the best framework in which to co-ordinate our efforts to confront the deliberate biological threat, whether this threat originates from a State or not. My country calls on all the States that have not yet signed or ratified the BTWC and the 1925 Geneva Protocol to do so as soon as possible."*

He went on to say that: *"The use of biological weapons, which is formally prohibited by the 1925 Geneva Protocol and implicitly prohibited by the BTWC, would not only be contrary to the provisions of these instruments but would also represent a serious violation of humanitarian principles that are established by custom and prohibit notably the use of weapons causing superfluous harm and which by their nature strike indiscriminately. Switzerland believes that the final report of this Review Conference should clearly and firmly state this."*

He then went on to say: *"My country remains convinced that the drafting of an additional, legally binding protocol for the verification of the provisions of the Convention must remain our goal. We are equally convinced that at the moment the basic conditions for the relaunch of negotiations on this subject have not been fulfilled. In this context, Switzerland will not fail to make an active and constructive contribution to the success of this review conference and, in a spirit of pragmatism and of efficiency, it will concentrate its efforts on areas where common ground can be found. This is why we call on all delegations to formulate objectives that are both ambitious but realistic."*

He then said that: *"It is in this spirit that Switzerland has drafted a working document designed to improve and to strengthen confidence-building measures. My country remains convinced that, in the absence of other verification mechanisms, a priority should be given to these measures both in the present Review Conference and in the framework of the follow-up and the process between 2007 and 2011."*

[INF.3 shows that Switzerland has an excellent record in submitting its CBMs.]

Ambassador Yoshiki Mine of **Japan** then spoke, noting that 10 years had elapsed since the Fourth Review Conference when there had been the last Article by Article review of the Convention. He noted that since then the anthrax attacks had taken place in the US and bioterrorism appeared to be a realistic threat. Under these circumstances, Japan believed that tackling the following major issues was crucial: *"... it is vitally important for each state party, with its own capabilities, to diligently execute its responsibilities under the Convention. To be more precise, internally - in addition to the enactment of legislation to implement the prohibitions of the BWC - security and oversight of pathogenic microorganisms and toxins; strengthening preventive and response capabilities, such as infectious disease surveillance and detection; and measures to raise public awareness, including codes of conduct for scientists are*

essential. Externally, strengthening export controls is also necessary.”

A number of particular initiatives were also proposed which included: “... for multilateral cooperation, strengthening preventive and response capabilities such as disease surveillance and detection, not only at the national level, but also at the international level is vital.

“... strengthening confidence building measures (CBMs) is necessary. At present, however, the submission of CBM reports is still in a disappointing state. Accordingly, a concrete study of ways for encouraging and improving the submission of reports is essential.

“Moreover, regarding the issue of the use of biological or toxin weapons, we welcome the adoption this September in the UN General Assembly of the UN Global Counter-Terrorism Strategy’ resolution, which mentions the UN Secretary-General’s investigation mechanism. We could consider revitalizing this investigation mechanism...

“Thirdly, to respond to both traditional and new challenges, further universalization of the Convention is crucial.

“... it is desirable that this Review Conference agree on intersessional activities. Various options are possible for carrying out the intersessional activities, and we would like to concretely discuss them at this Conference.

“In relation to a support mechanism for efficiently and effectively conducting intersessional activities, for the time being an ad hoc system should be examined for use until 2011.”

[INF.3 shows that Japan has an excellent record in submitting its CBMs.]

Mr. Muhammad Shahrul Ikram Yaakob of **Malaysia** then spoke, saying that: “Malaysia believes that only through multilateral approach undertaken within the framework of the BWC can the prohibition of biological and toxin weapons be preserved and strengthened. This BWC review process provides for that multilateral approach.”

He went on to say that: “... the general thrust of this Sixth BWC Review Conference should be on the review of the operation and implementation of all the Articles of the Convention, including consideration of the work of the 3 inter-sessional Meetings of Experts and States Parties in 2003, 2004 and 2005.”

He added that: “Malaysia shares the view that there is a clear need to strengthen the support functions of the Convention, including through the establishment of an interim Secretariat and the convening of annual Meetings of States Parties. The BWC has been in operation for 31 years but unlike the CWC which entered into force less than 10 years ago, the BWC still lacks an organisation or permanent secretariat to support its activities. Establishment of an interim institutional setup in this regard would assist States Parties with respect to national implementation, Confidence Building Measures (CBM) reporting, and promotion of universalisation.”

He went on to say that the framework of the Convention should be strengthened “to formalise the convening of regular annual meetings of the States Parties and other types of inter-sessional work.”

In regard to CBMs, he said that “Malaysia also supports

the call for further improvement of the Confidence Building Measures with a view to enhance submission of national reports. We agree that submission of CBM would enable States Parties to demonstrate their compliance in an open, systematic, and continuous manner.”

[INF.3 shows that Malaysia submitted a CBM for the first time in 2006.]

Ambassador Caroline Millar of **Australia** then spoke, saying that: “In the current, challenging international environment the Biological and Toxin Weapons Convention faces unprecedented challenges.

“The threat of terrorist groups developing or acquiring biological weapons is real. The consequences could be devastating.

“And rapid advances in life sciences and the availability of hazardous materials are increasing the lethal threat of biological weapons.

“Some States Parties to the Convention continue to pursue BW programs, while other States still have not joined the Convention.”

She then said that “Australia, in consultation with partners, had identified five means of strengthening the Convention:

- establishing an action plan to universalise and ensure its full implementation
- as part of this, ensuring coordinated national implementation through appointment of a national BWC focal point
- comprehensively reviewing Confidence Building Measures to improve their value and participation
- convening intersessional work to boost national implementation, and
- establishing a BWC implementation support unit.”

[INF.3 shows that Australia has an excellent record in submitting its CBMs.]

Ambassador John Duncan of the **United Kingdom** then spoke, saying: “The UK considers it essential that we maintain the authority of the Convention. We believe therefore that it is important for this Conference to complete the traditional review of the operation of the Convention. We want to see a final outcome that reaffirms our unity against biological and toxin weapons in all circumstances, and the value and importance of the Convention and its Articles to national and international security. We should reaffirm our agreement that all scientific and technological developments relevant to the Convention and its prohibitions are covered by the Convention as it stands. And we should confirm that we need periodic reviews of the Convention, as we are doing now.”

He then went on to say that: “... the field of Life Sciences is one of the most dynamic areas of research and development in today’s world. The intersessional work programme ensured that a body of officials focussed on how this might effect the BTWC and considered issues relevant to its implementation. The programme established its own identity and rationale and helped to move the debate forward from divisions of the past. Building on this success, the UK firmly believes that a further work

programme is desirable to strengthen and enhance implementation of the Convention by all its States Parties at the national, regional and international levels.”

[INF.3 shows that the UK has always submitted its CBMs.]

Mr. Anatoly Antonov of the **Russian Federation** then spoke, noting that the G8 during the presidency of Russia had paid special attention to the issues of the BWC and that “*The [G8] Statement reaffirmed that the most important task of this meeting is to ensure full compliance by all States Parties with their obligations under the Convention, and its further strengthening and enhancement.*”

He went on to add that “*much has to be done for its universalisation. To achieve that, we call for the early accession to the Convention of all states that have not already done so.*”

He noted the value of SCR 1540 as an effective response to proliferation and the risk of terrorists acquiring weapons of mass destruction. In addition, Russia called upon all countries which have not withdrawn their reservations to the 1925 Geneva Protocol to do so.

In looking at this Review Conference, he identified a number of steps: “*We believe that this Conference after article-by article review of the operation of the Convention has to adopt measures to strengthen it.*”

“*We are convinced that the development and adoption of a legally binding verification mechanism is the most effective way to reinforce the regime on the prohibition of biological and toxin weapons. We support the resumption of work, suspended in 2001, on the Verification Protocol.*”

“*The Russian delegation is convinced that we must carefully examine the situation in the field of compliance with the BWC. We have to find common approaches, standards and criteria.*”

“*In 2003-2005, in accordance with the decision of the V Review Conference we had held the meetings of experts and States Parties to the Convention, where we discussed the issues of strengthening the BWC. ... We believe that it is advisable to pursue such meetings, which proved their worth, for the period until the next Review Conference.*”

“*The Russian delegation pays a lot of attention to the existing confidence building measures under the BWC. ... We believe that the confidence building measures may become one the central topics of the Review Conference.*”

He concluded by saying that: “*the objective of this Conference is to answer a question what we can do together to strengthen the regime of the Convention. We need to have a concrete programme of action for the next five years that would contain clear and effective steps at global, regional and national levels to address issues of disarmament and non-proliferation relevant to this Convention.*”

[INF.3 shows that Russia has always submitted its CBMs.]

Ambassador Dong-Hee Chang of the **Republic of Korea** then spoke, saying that “*... this year’s Review Conference provides us with an excellent opportunity not only to assess how the Convention in its entirety has been operating for the last ten years, but also to cultivate the political will*

necessary to strengthen the Convention.”

“*Through a comprehensive article by article review of the Convention, we should reaffirm and further elaborate upon our current understanding of the provisions of the Convention in the light of new scientific and technological developments. Furthermore, we should also identify the areas in which additional work and cooperation among member states are needed, explore ways to ensure full implementation and discuss how to enhance the effectiveness of the Convention.*”

He went on to say: “*... the Republic of Korea places a high priority on national implementation of the Convention. We believe that enactment and effective enforcement of appropriate national legislative measures are our core obligations under the Convention ... Penal legislation, tightened national export controls and regulations on bio-safety and bio-security are essential elements for enhancing national implementation mechanisms. In addition, raising public awareness through education on the inherent dangers of biological weapons, and development and promulgation of a code of conduct for scientists would also be conducive to creating a favorable domestic environment for effective national implementation.*”

“*Second, we cannot overemphasize importance of universal adherence to the Convention. ... Reinforcing security guarantees through increased transparency, technical assistance in capacity building, and drawing up an Action Plan with specific targets and deadlines are part of the strategy to secure universality of the Convention.*”

“*Third, the intersessional process initiated by the last Review Conference has created a positive momentum that can and should be carried forward. ... [I]t would be even more constructive for the intersessional work to be conducted on a more regular and formal basis. Proceeding in this way would ensure greater continuity and coherence between Review Conferences.*”

[INF.3 shows that the Republic of Korea has an excellent record in submitting its CBMs.]

Ambassador Idriss Jazairi of **Algeria** then spoke, saying that the Convention was an important pillar for international peace and security. He noted that there was no multilateral verification mechanism to establish transparency of the programmes within States Parties and regretted that States Parties had been unable to reach consensus on such a mechanism. It was important for the Convention to reach universality to fight against proliferation and the elimination of biological weapons. Algeria supported the idea of developing regional mechanisms to promote the universality of the Convention. He urged States Parties to take action to encourage States outside the Convention to adhere and noted the value of taking such action in the Middle East.

[INF.3 shows that Algeria has yet to submit a CBM.]

Ambassador Paul Meyer of **Canada** then spoke, saying that “*... the BTWC needs to be strengthened if it is to fulfill its great promise and forever rid the world of biological weapons. Our predecessors recognised this reality at the Third Review Conference in 1991, and initiated a decade-long process to identify, inter alia, ways and means to better*

monitor and ensure compliance. That process did not yield the result that Canada had wanted or expected, but we cannot let that setback deter us from pursuing other avenues for reinforcing the Treaty.

“While none of us here have the ability to alter the Convention’s history, each of us has the ability to shape its future. In this regard, Canada views the 6th Review Conference as an opportunity not just to take stock of what has been, but to lay a solid foundation for what will be, including by making States Parties more accountable to one another in how they implement the provisions of the Convention.... [Canada’s] paper offers practical proposals concerning national implementation, confidence building measures, implementation support and annual meetings, which we believe would strengthen the Convention and its application if adopted by this Review Conference.

“The Convention’s provisions as amplified in subsequent Review Conference agreements represent the core obligations of states. However, much work remains to be done to achieve full compliance with and participation in all these commitments. At the same time as we strive for compliance with existing obligations, we must also collaborate to develop new and innovative ways to uphold and reinforce the Convention.”

[INF.3 shows that Canada has always submitted its CBMs.]

The meeting was then suspended to resume again in the afternoon at three o’clock.

Ambassador Ali Reza Moaiyeri of **Iran** then spoke, saying that Iran attached great importance to multilaterally negotiated instruments such as the BWC which are essential for the maintenance of international and regional peace and security.

He went on to say that: *“We believe that the effective contribution of the Convention to international and regional peace and security would be enhanced through universal adherence to the Convention....*

“We also call upon States Parties to remain committed with their obligations not to transfer equipment, materials (including biological agents and toxins), as well as scientific and technological information to Non-States Parties.”

[*Note:* It should be recalled that the obligations under Article III of the Convention are clear: *“Each State Party to this Convention undertakes not to transfer to any recipient whatsoever, directly or indirectly, and not in any way to assist, encourage, or induce any State, group of States or international organizations ...”* It applies to ‘any recipient whatsoever’ and is not limited to ‘Non-States Parties.’]

He then said that *“Another source of concern for my country is a major loophole in the Convention namely not to prohibit the use of biological weapons explicitly and categorically”* and recalled that Iran had submitted such an amendment in 1996 at the Fourth Review Conference. He went on to say that *“the Islamic Republic of Iran has once more formally requested the Depositories of the Convention to start the amendment process and inform the States Parties of Iran’s proposal based on amending the Article I of the Convention to include the word ‘use’.”*

Iran also called upon all States which continue to have reservations to the 1925 Geneva Protocol to withdraw them.

He went on to regret that the negotiations on a verification protocol could not be finalized. He also categorically rejected what the US delegation said about Iran in their statement and said that these were baseless allegations.

He concluded by saying that *“Lack of proper implementation of Article X prevents the less developed and developing States Parties from fulfilling their plans to control and eradicate infectious diseases”*, and called upon the States Parties to *“undertake to review their national regulations governing international exchanges and transfers in order to ensure its consistency with the objectives of the Convention and specifically the provisions of Article X.”*

[INF.3 shows that Iran has submitted its CBM on four occasions.]

Ms. Talent Dumisile Molaba of **South Africa** then spoke, saying that *“The Sixth Review Conference provides us as States Parties with the first opportunity to do a thorough article-by-article review of the Convention since it was done at the Fourth Review Conference in 1996.”*

She went on to add that *“South Africa has provided ... a Working Paper on the New Intersessional Process ... The aim of this paper is to provide suggestions and to promote discussion on an intersessional process that will be more streamlined, but will contribute to the strengthening of the Convention.*

“In the same way, South Africa has also prepared a Working Paper on Confidence Building Measures. The paper on Confidence Building Measures (CBMs) asks a variety of questions regarding the effectivity of the current CBM format and system and suggests that CBM’s could be the topic of one of the meetings of Experts during the intersessional period.”

She also said that: *“South Africa also considers the investigation of alleged use of biological or toxin weapons an important element of a strengthened Convention. In this regard the need for an effective investigating mechanism available to the United Nations Security Council and the Secretary General of the United Nations is essential. South Africa therefore welcomes the initiative taken by the General Assembly to strengthen the existing investigating mechanism as part of the resolution on the UN Global Counter-Terrorism Strategy. We urge the Secretary General to address this issue urgently.”*

[INF.3 shows that South Africa has a good record in recent years in submitting its CBM returns.]

Ambassador Cheng Jingye of **China** then spoke, saying that: *“Conducting CBMs is an important dimension of States Parties’ implementation of the Convention. At present, the participation rate in CBMs submission is still very low. We would like to call upon more States Parties to submit their CBMs voluntarily and timely. China will actively engage in discussions on how to improve measures on CBMs.*

“It is the basic obligation for States Parties to put legislation in place covering all prohibition provisions of the Convention. At the Meeting of States Parties in 2003, all parties agreed that a State Party should review, promulgate and improve its national legislation. States Parties agreed to adopt comprehensive and specific

national measures and provide international legal and technical assistance among themselves to enhance counter-bioterrorism capability and promote bio-safety. The Chinese side hopes the above-mentioned consensus can provide reference and guidance of action for the relevant work of each State Party."

He then went on to say that: *"Promotion of international exchanges and cooperation in the peaceful uses of biotechnology remains one of the objectives of the Convention. It should go in parallel with bio-arms control and non-proliferation and prevention of bio-terrorism. China calls upon all parties concerned to attach greater importance to it, explore and adopt practical plan, intensify input and enable States Parties, especially developing countries, to truly get benefit from related international cooperation and materialize their legitimate rights enshrined by the Convention, so as to get the Convention implemented in a real comprehensive manner."*

"... China has, keeping in line with such international common practices as licensing and list-control, promulgated and strictly enforced the export control regulations for dual-use biological items and technologies with a view to preventing such items and technologies to be diverted for purposes prohibited by the Convention."

He concluded by saying that: *"In this new security situation, the Convention should and can play a greater role in effectively addressing biological weapons and bio-terrorist threat as well as promoting peace and development. China would like to work with other parties to achieve positive results in the multilateral process aimed at strengthening the effectiveness of the Convention in an open, practical and cooperative spirit."*

[INF.3 shows that China has an excellent record in submitting its CBMs.]

Minister Marcelo Valle Fonrouge of **Argentina** then spoke, saying that Argentina was committed to disarmament and non-proliferation of weapons of mass destruction as shown by the Mendoza Declaration and the declaration of MERCOSUR. Argentina was also committed to the strengthening of this Convention as shown by the statements of a set of Latin American countries in 1998 and again in 2006 as well as by the five Working Papers submitted to the Review Conference.

He went on to say that: *"Argentina firmly and vigorously supports the terms of Security Council Resolution 1540 and takes active part in all the international non-proliferation control mechanisms, and it is in this way that we are convinced that we really must take a very close look at the threat posed by bio-terrorism. There is therefore a need for strict controls on biotechnological capability which could lead to the manufacture of weapons of mass destruction."*

[INF.3 shows that Argentina has an excellent record in submitting its CBMs.]

Minister Tehmina Janjua of **Pakistan** then spoke, saying that: *"The BTWC is a key disarmament treaty that underpins the international security architecture. It reflects the commitment of the international community to non-proliferation and disarmament of biological and toxin*

weapons. The BTWC effectively prohibits the use of biological and toxin weapons. Pakistan is fully committed to these obligations."

She went on to add that: *"The BTWC's intersessional process of meetings has kept the multilateral track alive. But the Convention continues to be challenged by the absence of a mechanism for verification of faithful and effective compliance. A number of States Parties have continuing interest in examining this issue. As we await agreement in this area, we should make national implementation effective and enhance scientific and technical cooperation."*

She then noted a number of outcomes for the Review Conference: *"Universal access of all States to the BTWC is critical to address the challenges to this regime. We should draw up a plan on how to bring nonparty States, within the ambit of the Convention."*

"At this Review Conference, we should agree on measures for enhanced international cooperation in peaceful biotechnological activities. This would facilitate economic and social development and strengthen implementation of the Convention."

"Security and oversight of pathogens and mechanisms for disease surveillance and response are urgently required."

"Codes of conduct should aim at preserving the benign uses and stemming the malign uses of biosciences."

"The BTWC should become a framework for cooperation among nations to eliminate biological weaponization and to fight bio-terrorism."

"This Sixth Review Conference provides us the unique opportunity to undertake a comprehensive article by article review of the BTWC, especially in the context of the new challenges and opportunities offered by the exponential development of life sciences."

"We should use this Review Conference to raise awareness about the Convention and its prohibitions."

"In our view, possible future intersessional work could focus on scientific and technological cooperation and CBMs."

[INF.3 shows that Pakistan has yet to submit a CBM.]

Mr. Knut Langeland of **Norway** then spoke, saying that: *"We must seek a forward-looking consensus which will help the international community to deal with the growing risk of the hostile use of biological materials. We must consolidate the norms set out in the Convention and the 1925 Geneva Protocol. Our goal must be consensus plus."*

He went on to set out Norway's "priorities for the Review Conference:

- *We need an intersessional programme of work, to allow States Parties to address both existing and emerging challenges.*
- *We need to refine and improve the confidence-building measures. ... Reporting should be considered an obligation and not an option, and more countries should provide annual reports.*
- *We must clearly make greater efforts to universalise the BTWC. ... We should agree on a strategy in this area for the next intersessional period.*
- *Likewise, we should draw on CWC experience in*

promoting national implementation, including export controls. The obligation to promote national implementation is also clearly stated in Security Council resolution 1540. National implementation and export controls should be the subject of a work programme for the next intersessional period.

- *We need more dialogue on how to promote implementation of Article X of the BTWC. Further discussion could be scheduled for the upcoming intersessional period. We must foster peaceful scientific cooperation, transparency and the transfer of technology for the benefit of development. Such cooperation must conform with the provisions of the BTWC.*
- *We must develop preventive measures, such as codes of conduct for those involved in the life sciences.*
- *We must further strengthen response and investigation mechanisms for cases of alleged use of biological weapons. One such mechanism is already in place in the UN system. We must ensure that it performs when needed.*
- *We need to ensure that States Parties are adequately served by a well functioning support unit. We greatly appreciate the contribution that the DDA has made so far, but we believe that more resources should be channeled into a support unit."*

He concluded by saying that *"the BTWC must be nourished in order to flourish."*

[INF.3 shows that Norway has always submitted its CBM.]

Monsignor Silvano Tomasi of the **Holy See** then spoke, saying that *"It is everybody's responsibility to strengthen the norms which the Convention continually recalls"* and that *"It is urgent for practical steps to be taken at the national, regional and international levels in order to prevent the irreparable acts being carried out. Bio-terrorism can only be countered by a shared will to act in the fields of security and bio-security."*

He then said that *"Universality for the Convention should be a priority"* and went on to point out that *"... we need to involve all those who take part in research, industry, management or control. Scientists, university people, industrialists, governmental bodies, international agencies must feel collective responsibility for the use of biotechnology for the promotion of life and overall human development, which should benefit all countries through responsible research and industry and, of course, through international cooperation."*

"I would here like to underline the importance of ethics training for students and researchers in the field of life sciences. Codes of conduct should be prepared, disseminated and respected by all those involved. Ethics are a prior condition on top of which you could build laws and control carried out by States and competent international organizations."

He then said that: *"To ensure that the Convention does not remain a dead letter, it is essential for States Parties to emphasize transparency and the adoption of confidence-building measures. ... Transparency is the best means of gradually building confidence. ... States Parties have the duty to develop a number of measures to show their good faith and strict compliance with obligations*

which all Parties have undertaken."

[INF.3 shows that the Holy See has yet to submit a CBM.]

Ambassador Jayant Prasad of **India** then spoke saying that: *"The 6th Review Conference offers a timely opportunity to review the operation of the Convention and to provide the assurance that the purposes and intent of the Convention are being realised. We should strengthen the Convention, mindful of its limitations in that it lacks an institutional capacity to oversee implementation, verify compliance with its obligations, and enforce the norm of non-development, nonproduction, non-possession and non-use of biological warfare agents. The Conference should, therefore, decide on further measures to buttress the Convention to meet the emerging challenges, including measures to ensure full implementation and compliance with its provisions."*

He went on to say that *"... we need to continue initiatives to achieve universal adherence to the Convention, including through the proposed Action Plan, though we are concerned about the follow-up of such a plan in the absence of institutional support."*

And he added that *"India is willing to support the creation of an institutional mechanism, including through possible expansion of the current support unit, which could assist the States Parties in the full and effective implementation of the Convention."*

He said that: *"One of the primary tasks of the Review Conference is to carry out an article-wise review of the operation of the Convention and of its preamble. We would like the Conference to reiterate the additional understandings enunciated in the Final Declarations of previous review conferences, particularly on the scope of the prohibitions contained in the Article I of the Convention, including the understanding that the Convention unequivocally prohibits the use of biological weapons."*

"The 6th Review Conference is mandated to consider the work carried out during the inter-sessional period and take appropriate decisions."

In regard to outcomes from the Review Conference, he said that: *"India will support initiatives that would encourage participation of States Parties in confidence-building measures, which are a useful means for voluntary exchange of information in order to enhance trust in implementation of the Convention. The present scope of the CBMs appears adequate and its possible expansion may not be conducive to enhancing further participation of States Parties due to the greater demand it would make on their limited resources. Also, it would be a mistake to regard CBMs as an alternative to an effective compliance mechanism, including international verification."*

"India strongly supports the launch of a new intersessional process of annual meetings of experts and States Parties. Indeed, this will be an important touchstone for the success of the Review Conference.... We hope to reach consensus on the specific issues that should be dealt with in the annual meeting of experts. As regards the meetings of States Parties, they should have a somewhat broader agenda, which would allow us to consider any issue relevant to implementation of the Convention and to revisit issues discussed in the previous years."

“International cooperation, enjoined by Article X of the Convention, could help bridging this gap. We would welcome an expert meeting devoted to examining the current status of, and suggesting possible measures to enhance, the implementation of this Article.”

[INF.3 shows that India has once, in 1997, submitted a CBM.]

Ambassador Antonio da Rocha Paranhos of **Brazil** then spoke, saying that: *“... the international community, in general, and Brazil, in particular, is concerned about the possible misuses of biological researches. The harmonization between security concerns and access to technological advancements is an issue that should be addressed by the Review Conference.*

“... Brazil proposes the establishment of a working group mandated to elaborate, during the incoming interessional period, a common control list of materials, equipments and technologies as part of the efforts establish control mechanisms in the framework of the Convention. That exercise will also help State Parties to prepare national lists, which is also an obligation we have to fulfill under the 1540 Security Council Resolution.”

In regard to CBMs he said that: *“Brazil also supports the review and the enhancement of the confidence-building measures (CBM) in the BWC. We favor the idea of revising the existing CBM and even, if necessary, to create new ones. To that end, we propose the establishment of an experts working group to analyze the issue and to present a course of action for improving the CBM.”*

In addition, he said that Brazil stressed the importance of universalization of the BTWC and encouraged all States Parties to withdraw any remaining reservations to the 1925 Geneva Protocol. Brazil also favoured a further interessional programme of experts meetings and Meetings of States Parties. In addition, he said that: *“... the needed strengthening of the BTWC should not be complete without moving forward in the direction of its institutionalization. Therefore, we fully endorse the proposal of establishing a ‘support unity’ to the Convention. That ‘support unity’ shall be in charge of administrative as well as functional aspects related [to] the thorough implementation of the BTWC.”*

[INF.3 shows that Brazil has a good record in submitting its CBMs.]

Mr. Mohammed Mansour Elcherif of **Libya** then spoke, saying that Libya is fully committed to the letter and spirit of the provisions of the Convention and worked in full transparency and credibility. He went on to say that *“we feel disappointed that the States Parties have not yet reached a mechanism for the enforcement and implementation of Convention. We had said that we need to go back to the Additional Protocol as it being the best solution”*.

He added that: *“In this respect, we look towards achieving concrete progress in the implementation and universalization of this Convention in order to bring it to universalization and to put an end in a conclusive way to the illegal uses of life sciences.”*

[INF.3 shows that Libya has submitted its CBMs twice, in 2005 and 2006.]

Ambassador Enrique Roman-Morey of **Peru** then spoke, saying: *“... it is very important for us to use this opportunity to strengthen our Convention by supporting all initiatives aimed at promoting the universalization of the Convention. And we would like to call upon all States Parties to withdraw all reservations to the 1925 Geneva Protocol...”*

He went on to say that: *“... my country is ready to consider all measures aimed at strengthening our instrument, especially measures that will guarantee the full and complete implementation of the Convention, exploring innovative ways to ensure in a practical manner full compliance with the commitments. In addition, especially when terrorist organizations wish to acquire weapons of mass destruction, it is in this situation that we have to strengthen mechanisms of control which will ensure that all States Parties participate in the fight against these weapons.”*

He added that: *“... my delegation supports the proposal to create a Support Unit within the Disarmament Office here in Geneva. This Unit will provide assistance that is necessary to States Parties, and I believe that the creation of this Support Unit is an essential element if we wish to fully comply with all the commitments under the Convention.”*

[INF.3 shows that Peru has submitted its CBMs on three occasions, 1991, 1992 and 2002.]

Ambassador Slobodan Vukcevic of **Serbia** then spoke saying that: *“Serbia continues to attach high priority to the strengthening of the Convention as the basis of our common efforts and means to prevent the proliferation of the biological and toxin weapons and counter the threat of the development of biological agents and toxins as weapons. It remains committed to developing measures to verify BTWC compliance.*

“First of all, I would like to underline that we are very much in favour of further strengthening the universality of BTWC membership as well as needed to consolidate the ban of biological weapons. In addition, we fully support the improvement of the process of its implementation on regional and national levels. BTWC universalization is not sufficient in itself and should be accompanied by full national implementation of all its provisions.”

In regard to national implementation, he outlined the actions being taken by Serbia and added that: *“We therefore believe that it would be useful to establish, at the regional level, relevant forms of regional approach, regional workshops, projects and training programmes, as it were, as well as a network or a database as has been established within the United Nations for the implementation of UNSC resolution 1540 (2004). In this way, BTWC States Parties would be provided the possibility to obtain information on the experiences of others regarding the modalities and practices of the implementation process. We expect that, during our present deliberations, the Conference will be able to come up with some practical suggestions or recommendations regarding the further improvement of the national dimension of BTWC implementation.”*

[INF.3 shows that Serbia has submitted CBMs on four occasions (1991, 1992 and 2005, 2006).]

Dr. Lela Bakanidze of **Georgia** then spoke, saying that a three-pronged approach of national, bilateral and multilateral measures was very productive in reaching the goals of the BTWC. She especially stressed the importance of biosafety and biosecurity in regard to national holdings of especially dangerous pathogens. She went on to stress the importance of adoption and enforcement of effective export controls by all States Parties as required by SCR 1540. Georgia saw an increasing role for law enforcement in preventing biocrimes and supported the Interpol initiative in this area.

[INF.3 shows that Georgia has submitted its CBMs in 2000 and each year from 2002 onwards.]

Ambassador Yevhen Bersheda of the **Ukraine** then spoke, noting that the Ukraine had between the Fifth and Sixth Review Conferences become a State Party to the 1925 Geneva Protocol. He added that the Ukraine annually submits information as required by the CBMs and went on to say that: *“At the same time, quite a number of countries remain beyond the frames of this process. The existing confidence-building measures are useful but not sufficient for ensuring the efficient implementation of the Convention. They cannot substitute control mechanism. For this reason Ukraine considers the absence of the BTWC verification regime as a serious obstacle for its full observance.*

“Besides, the necessity to establish unified mechanism for ensuring the effective control over the implementation of the Convention, in our opinion, is caused by the increase of threat of use of biological and toxin weapons, especially with the terrorist purposes. Although Ukraine proceeds from the advisability to establish the international institutional mechanisms for more effective BTWC implementation, we are fully aware of the difficulties of the achieving the consensus over the ways for this idea practical realization.”

He then went on to address outcomes from the Review Conference: *“Universality of the Convention has always been and will remain in the future one of the key prerequisites for its comprehensive implementation.*

“Against the background of growing threat of terrorist activities not only broader BTWC membership is essential, but its stricter national implementation is also crucially important in the international endeavours for a safer world. Unfortunately the present situation with adoption of BTWC implementing legislation at the national level is far from satisfactory. Therefore creation of effective mechanism facilitating introduction by the States Parties of the national implementing legislation and appropriate administrative measures according to the BTWC are very important as well.

“We share the idea that the three-year intersessional work programme had been successful. ... We share the view that there should be further intersessional work programme. In our view important topics for discussion should be found. In particular it could be the following issues:

- *strengthening the effectiveness of the confidence building measures;*
- *development of adequate measures for control over the BTWC - compliance;*

- *introduction of national implementing legislation;*
- *new challenges and threats for the BTWC stemming from the latest scientific and technological developments in the spheres of biology and biotechnology;*
- *countering bio-terrorism.”*

[INF.3 shows that Ukraine has a good record in submitting its CBMs.]

Ambassador Juan Martabit of **Chile** then spoke, saying that *“... this Review Conference ... give[s] us the opportunity, unfortunately once every five years, to review the functioning of this instrument and to guide our future work, and this opportunity should not be missed.”*

He went on to say that *“... it is crucial to reiterate the need to withdraw the reservations to the 1925 Geneva Protocol and increase our efforts in that of achieving the universality of this Convention. We should set as our objectives or as our main objective to ensure that the number of States Parties to the Convention before the next Review Conference in 2011 will be at least equal to the membership of the CWC.*

“... we can only express our concern of the absence of a formal verification regime that will assist in the full compliance of this instrument. My country would like to see a comprehensive strengthening of the Convention. We insist on the need to develop a step-by-step process in order to overcome this unfortunate situation, and the proposals made by Latin American countries today are aimed to achieve this goal. All of these themes are closely interlinked and these issues deal with the following subjects: universalization, follow-up mechanism, confidence-building measures, scientific cooperation and transfer technology, and support units. All of this will lead to the strengthening of our Convention.”

He also noted that *“The adoption of codes of conduct, of best practices, and ethics allied to life sciences in support of national legislation are the necessary tools that should be promoted.”*

[INF.3 shows that Chile has a good record in submitting its CBMs.]

This completed the General Debate for **Monday 20 November** and the meeting was adjourned until the following morning.

On **Tuesday 21 November**, the General Debate continued:

Ambassador Joseph Ayalogu of **Nigeria** emphasised the willingness and determination of Nigeria to vigorously implement the Biological Weapons Convention to ensure that the world is made a safe place for mankind. He went on to note that five topics had been considered in 2003 to 2005 and that the outcome of those deliberations would be considered at this Review Conference. He also said that the Review Conference would afford State Parties the opportunity to take a holistic examination of the implementation efforts on a Convention that has been in operation for over thirty years.

[INF.3 shows that Nigeria has yet to submit a CBM.]

Ms. Charlotte Darlow of **New Zealand** then spoke, saying that New Zealand would be working with all States Parties to strengthen the implementation of the Convention at this Review Conference.

She went on to say that: *“New Zealand welcomes your proposed programme of work that would see this meeting undertake in tandem both an article-by-article review of the Convention, which in my delegation’s view is much needed and long overdue, and the many cross-cutting issues that States Parties will consider will contribute to a stronger biological weapons control regime.*

“... We support efforts to encourage greater universality and national implementation of the Convention. We also support strengthening the implementation support capacity for the Treaty, especially because we must not lose sight of capacity constraints that may hinder small developing countries’ implementation efforts.

“New Zealand remains convinced that achieving a legally binding verification mechanism for the Convention should remain a key goal. Pending the successful conclusion of any verification protocol, confidence building measures have an important role to play in enhancing transparency with respect to States Parties’ compliance with the Convention. New Zealand is committed to working with other States Parties on measures for strengthening the CBMs mechanism.

“New Zealand strongly believes in the value of an intersessional process between Review Conferences, and we have prepared a paper on possible topics for consideration during the next review cycle.”

[INF.3 shows that New Zealand has an excellent record in submitting its CBMs.]

Ms. Michèle Ramis-Plum of **France** then spoke, saying that France had made a number of specific proposals for the Conference, including reinforcing the norms totally prohibiting all biological weapons and supporting universal adherence to the Convention; reinforcing the climate of confidence among States parties to the Biological Weapons Convention by ensuring a better participation in the confidence-building measures; and encouraging a sustained dialogue among States parties, similar to the one developed during the intersessional process launched in 2002. In addition, she noted that France was the depositary state for the 1925 Geneva Protocol and that France, together with Switzerland, called upon all States Parties to lift their remaining reservations to that Protocol.

[INF.3 shows that France has an excellent record in submitting its CBMs.]

Ambassador Oscar Carvallo of **Venezuela** then spoke, saying that efforts to strengthen the effective application of the provisions of the Convention should be supported. He recalled the outcome of the NAM Meeting of Heads of State or Government held in Havana in September 2006 when *“They recognised the particular importance of strengthening the Convention through multilateral negotiations for a legally binding Protocol and universal adherence to the Convention.”*

He went on to say that given the limitations in the effective implementation of the Convention, it was necessary to have

a binding multilateral surveillance mechanism. There was a need for mechanisms for both monitoring and verification, and a legally binding Protocol should be negotiated. States Parties should promote the objectives established by the Fourth Review Conference in 1996, and the Convention should be implemented in a balanced and integral manner in the fields of regulation, integration, and compliance. In regard to technical exchange, Article X provisions should be actively promoted and an intersessional process, as between the Fifth and Sixth Review Conferences, should be continued.

[INF.3 shows that Venezuela has yet to submit a CBM.]

Ambassador Mohammed Loulichki of **Morocco** then spoke, saying that: *“Today, with the new developments in biotechnology and genetic engineering, and the challenges of the potential use and/or threat of use of biological agents and toxins as an instrument of war and terror, there is a greater necessity and urgency for States Parties to the BWC to work towards strengthening and improving the effectiveness and implementation of the Convention.*

“The universal adherence to and further strengthening of the Convention, through multilateral negotiations, will make a significant contribution to the goal of reaching general and complete disarmament under strict international control.

He went on to say in regard to the Review Conference that there was the need for *“... a thorough and full review of the operation of the BWC, including consideration of the work of the three intersessional Meetings of Experts and States Parties in 2003, 2004 and 2005, in order to identify, discuss and agree on the measures to be taken to further strengthen the Convention.*

“... the establishment of a new follow-up mechanism, with a comprehensive and thematically structured mandate, that would provide a needed continuity between Review Conferences.

“On ... the implementation of article X of the Convention, ... the new follow-up mechanism should, notably, include practical steps towards facilitation and participation in the fullest possible exchange ...

“... the improvement of the existing BWC Confidence Building Measures in order to enhance their potential to strengthen compliance with the Convention and to improve transparency. ... help improve the rate of participation in this voluntary exchange of data and information.

“Last but not least, the universality of the Convention is an objective we should all be working for...”

[INF.3 shows that Morocco has submitted CBMs twice, in 2005 and 2006.]

Mr. Nasser Mohamad Al-Ali of **Qatar** then spoke, saying that the Convention was the cornerstone document for the preservation of international peace and security. The Convention was not yet a global one, and it was for that reason that States should be mobilized to ensure universalization, and to underscore its importance, as progress had been very slow. There should be work actively to operationalize the Convention and ensure that it became global and universal.

[INF.3 shows that Qatar has submitted CBMs on five occasions (1991, 1995, 1996, 1998 and 2005).]

Ambassador Mohamed Hassan of **Sudan** then spoke, saying Sudan had acceded to the Biological Weapons Convention in 2002 and that Sudan stressed its commitment to supporting universal adherence to the Convention. He added that Sudan was finalizing national legislation to consolidate its accession to the Convention and that it looked forward to assistance to developing and least developed countries in implementing their obligations under the Convention and establishing national legislation.

[INF.3 shows that Sudan has yet to submit a CBM.]

Ambassador Toufiq Ali of **Bangladesh** then spoke, saying that the threat of biological weapons was no less today than in 1975 or 1925. It was 10 years since there had been an agreed outcome to the Review Conference. He said that he believed that the Review Conference needed to focus on “*a supported campaign, over the next five years, for making the BWC universal.*”

“*Although we want a permanent institutional framework, for verification and implementation, we recognize this may not be feasible at this stage. However, the efficiency and efficacy of the review process could be enhanced. ... We could build on this experience, and have a balanced and effective intersessional process.*”

“*In the interim, the confidence building measures of the Convention need to be strengthened...*” and there should be commitment to “*... the full and effective implementation of Article X of the BWC.*”

[INF.3 shows that Bangladesh has submitted a CBM once, in 1996.]

Ambassador Chaiyong Satjipanon of **Thailand** then spoke, saying that “*the effectiveness of the Convention as a whole can be enhanced if more States become Parties to the BWC. Therefore, a more systematic approach to achieving universalisation of the Convention would be welcomed.*”

He went on to say that: “*It is important to stress that each individual State has an obligation to ensure national implementation and compliance with the BWC. Article IV of the Convention compels States Parties to take necessary measures to implement the Convention in accordance with its constitutional processes.*”

He added that “*Thailand also supports the further strengthening of and compliance with the BWC through multilateral negotiations with the aim of concluding legally binding instrument towards this end.*”

He concluded by noting the importance of the full implementation of Article X.

[INF.3 shows that Thailand has submitted CBMs on two occasions, in 1990 and 1992.]

Syria, a Signatory State, then exercised its right to reply. Mr. Hussein Ali of **Syria** then spoke, saying that on Monday morning the United States delegation had made accusations with regards to Syria. Those accusations were wrong – and the entire world was used to this double standard and selectivity in the reports of the United States State Department. Secondly, if the US was sincere in their concern to put an end to the spread of weapons of mass destruction, they should approve

the draft resolution before the Security Council, which had been submitted by Syria on behalf of the Arab Group in 2003, and which endeavoured to ensure that the Middle East was completely free of weapons of mass destruction. Every one knew the United States of America had vetoed that project. He went on to add that the US would do better to convince Israel to become a member to all the Conventions restricting and banning weapons of mass destruction.

The General Debate then went on to hear statements from the international organizations.

Ms. Brigitte Troyoh of the **International Committee of the Red Cross (ICRC)** spoke, recalling the ultimate objective of this Convention is “*to exclude completely the possibility of biological agents and toxins being used as weapons.*”. Both the urgency and complexity of achieving this objective increases each year as our lives and societies are increasingly shaped by what has been called the ‘age of biotechnology’.

She said that “*The cornerstone of actions by this Review Conference should be an unambiguous reaffirmation in the final declaration of the obligation of States Parties to respect and ensure respect for the absolute prohibition of biological weapons.*”

She added that: “*Given the fantastic advances in life sciences and biotechnology, the importance of the BWC extends beyond the ‘disarmament’ field. It is the best and only basis for building an effective ‘web of prevention’ which may protect humanity from poisoning and the deliberate spread of disease in the future.*”

She went on to urge the States Parties “*to turn their attention to a range of measures aimed at reinforcing the Convention over the coming five years. These include:*”

- *increased efforts to ensure universal adherence to the BWC;*
- *increased engagement of all relevant national actors in implementation and preventive efforts;*
- *the adoption of national implementing legislation, where it does not yet exist;*
- *the establishment of a series of BWC expert meetings and Meetings of States Parties which will consider inter alia recent scientific developments, the strengthening and possible extension of confidence-building measures and the responsibilities of life scientists and industry;*
- *an improved system for ensuring the timely preparation and accessibility of reports on previously agreed confidence-building measures; and lastly*
- *increased administrative support to assist States in implementing their BWC obligations.*”

She concluded by saying that “*The ICRC urges States Parties at this Conference to explicitly call on life scientists, their associations and the entire biotechnology industry to join them as indispensable partners in their efforts to ‘exclude completely’ the possibility of biological agents and toxins being used as weapons.*”

Mr. Adrian Baciu of **International Criminal Police Organization (Interpol)** then spoke, describing the role and activities of Interpol, and pointing out that in 2004 Interpol had established a Bioterrorism Prevention Unit. The current initiatives of this Unit were outlined. He went on to say that:

“All of the relevant professional communities must come together to establish and implement protocols and procedures to share information and cooperate in prevention and detection efforts, to mobilize response resources in the event of an attack or natural outbreak, and to coordinate all of these efforts. This includes law enforcement, first responders, health sciences, bio-safety, bio-security, legal, emergency management, intelligence, environmental management, agricultural authorities, and other relevant private and public resources (local, national, regional, and international).”

Mr. Gideon Brückner of the **World Organization for Animal Health (OIE)** then spoke saying that OIE was committed to working with the BTWC and went on to outline actions initiated by OIE to counteract bioterrorism. These included:

- *“International standards for control of animal diseases and zoonosis and the facilitation of trade in animals and animal products,*
- *Addressing the need of Member Countries to move towards compliance with Standards,*
- *Improving transparency in the reporting and exchange of information on the occurrence of animal disease.”*

He described the Global Early Warning System (GLEWS) which was recently agreed between the OIE, FAO and WHO to set up a procedure to assist stakeholders and the international community to predict and prevent livestock animal disease threats through epidemiological analysis and the integration of additional factors that might have an impact on the occurrence and spread of diseases – such as threats of bio-terrorism, civil unrest, climatic changes, etc. He noted that an important component of the system is the linkage with the human/animal pathogen interface by sharing complimentary information with the WHO on zoonotic diseases and animal diseases that could endanger human health for example in the unfortunate event of deliberate spread of animal pathogens.

He concluded by saying that the OIE is committed to working with its colleagues in the FAO and WHO to enhance the aims and objects of the BTWC.

Mr. Jan Slingenbergh of the **Food and Agriculture Organization of the UN (FAO)** then spoke, saying that the areas of work undertaken by FAO that were relevant to the meeting comprised biosecurity in agriculture, plant protection, food safety, and emergency support to disaster operations. Particular attention was given to the emerging zoonotic diseases, related to globalization and global factors. He added that the World Health Organization (WHO), the World Organization for Animal Health (OIE) and FAO regularly joined forces in facing those challenges.

Mr. Malik Azhar Ellahi of the **Organization for the Prohibition of Chemical Weapons (OPCW)** then spoke, saying that both in their origin and in their objectives, the Biological Weapons Convention and the Chemical Weapons Convention had mutually reinforced complementarity. He then outlined the current situation in regard to the CWC which now had 181 States Parties. He noted that effective domestic implementation of the Convention’s obligations and the promotion of its universal acceptance, represent for the CWC, as they do in the context of the BWC, the challenges to which our Member States attach high priority. He outlined the Action

Plans taken by the OPCW for national implementation and for universality of the Convention, and their results. He concluded by noting the way in which the OPCW and the UNSCR 1540 Committee had worked together and said that *“We similarly stand ready to contribute to the endeavours of States Parties to the Biological Weapons Convention to strengthen the operation and effectiveness of this vital disarmament Treaty.”*

The meeting was then suspended but the President continued to take the chair in an informal session during which representatives of sixteen NGOs made statements.

Mr. Graham S. Pearson of the **University of Bradford, UK** urged the Review Conference to reaffirm that the basic prohibition applies to all relevant advances in science and technology, to set a target towards universality of 180 States Parties by the Seventh Review Conference, to agree a programme to ensure that all States Parties have adopted national legislation, including penal legislation, and to agree a further intersessional programme as well as to agree an interim supportive institution.

Ms. Kathryn Nixdorff of the **International Network of Engineers and Scientists for Global Responsibility (INES)** urged the States Parties in their Final Declaration to reaffirm that their undertaking in regard to Article I applies to any developments in systems biology, synthetic biology and nanotechnology. She also recommended that States Parties should carry out thorough reviews and analyses of the developments in science and technology more frequently than at five year intervals. She also recommended that the States Parties at this Review Conference need to take steps to address effective national implementation of the Convention, and supported the proposal for an ‘implementation support unit.’

Mr. Michael Crowley of the **Verification Research, Training and Information Centre (VERTIC)** set out a series of modular mechanisms to strengthen the implementation of the Convention. These included the establishment of a network of national authorities (or focal points), support implementation staff, networks appointed by States Parties of experts of Convention implementation advisers, scientific and technical advisers and legal advisers, a confidence-building measures unit, and investigation and inspection measures.

Mr. David Atwood of the **Friends World Committee for Consultation** highlighted the need for action under Articles IV, V and X. Under Article IV to translate all the Article I prohibitions into national legislation, with appropriate penalties and effective implementation; under Article V to find better ways to handle questions that may arise in the life of the Convention, such as those regarding compliance, so that suspicions can be allayed and doubts resolved; and under Article X action is needed to promote international cooperation for the prevention of disease, and other peaceful applications of microbiology. He also sought a Final Declaration which brings together and brings up to date, Article by Article, the most relevant understandings and commitments recorded by previous Review Conferences. He concluded by recommending a further intersessional programme supported by interim supporting structures and a support unit.

Ms. Filippa Lentzos of the **London School of Economics of the University of London, UK** firmly supported the calls for action on universalisation and on national implementation. She urged that national implementation means national legislation and that for effective national regimes there must be coherence between the requirements of the legislation, the ways of monitoring and gathering information within the national territory and the ways of enforcing and changing behaviour to meet the legislation requirements. She also pointed out that in parallel to formalising the aims of the BTWC through national implementation, it can also be helpful to acknowledge the very important role informal regulatory measures or 'soft law' can play in furthering the aims of the Convention and in providing oversight of potential misuse of the life sciences.

Mr. Alan Pearson of the **Scientists Working Group on CBW Center for Arms Control and Non-Proliferation** said that establishing a new and active intersessional work program for the next five years is of the utmost importance for building on the accomplishments of the past four years and strengthening efforts to prevent the development and use of biological weapons by any actor, anywhere in the world. He went on to say that a serious effort to improve the status of national implementation of the BWC is long overdue and that this applies to more than legislation and regulatory controls — it applies to all obligations under the Convention, including annual CBM returns. He pointed out that the CBMs are of increased importance in the absence of a legally-binding compliance mechanism. He went on to urge that the States Parties should follow up on the 2004 intersessional meetings and determine how allegations of biological weapons use or non-compliance with the BWC can be investigated. He concluded by pointing out the value of an Article by Article review of the Convention and the importance of a further intersessional process.

Mr. Trevor Griffiths of **Pax Christi International** strongly recommended that the States Parties adopt a Final Declaration that builds upon the 2003, 2004 and 2005 meetings, and further strengthens the regime totally prohibiting biological weapons. He went on to urge the establishment of a dedicated standing secretariat to nurture and sustain the Convention. He pointed out the importance of addressing the impact of scientific developments in biotechnology, nanotechnology, information technology and cognitive sciences. He also noted that the States Parties need to take concrete steps now for education, outreach and codes of conduct. He concluded by emphasizing the vital importance of transparency about national activities in the life sciences.

Mr. Jean Pascal Zanders then presented a statement on behalf of the **Arms Control Association** saying that uniform and binding guidelines are needed to manage dual-use technologies, closing loopholes that could be exploited by those seeking to use biotechnology for hostile purposes. Transparency must be increased on the basis of universal rules, so that trust in the compliance of all relevant actors is increased. Such universal rules must be legally binding on States Parties, so that those countries in breach of their obligations can be singled out. He went on to urge a new intersessional process which should be empowered to address

all issues of importance to the Convention and to take decisions binding on all States Parties. He also said that it is time to establish a new dialogue among scientific and political experts on the verifiability of the Convention as the Convention lacks instruments to address compliance concerns. He concluded by noting that establishing universal biosafety and biosecurity standards is a worthwhile and achievable goal and recognizing that an institutional support unit is a long overdue step that should be taken at this Conference.

Ambassador Sergey Batsanov of the **Pugwash Conferences on Science and World Affairs** urged that the States Parties should emphasize the importance of comprehensive and proper implementation and of full compliance with the obligations of the Convention. They should endorse the core elements of the outcome of the annual Meetings of States Parties held during the last intersessional period, take appropriate decisions thereon, and agree a further series of intersessional meetings together with a supportive structure. They should agree to set an objective of achieving at least 180 States Parties to the BWC by the Seventh Review Conference as a stage towards universality, and should take action to enhance national implementation in all States Parties. They should reaffirm that the undertaking in Article I applies to all advances in microbiology, genetic engineering and biotechnology. They should hold intersessional meetings to revise the CBMs, to consider specific measures for the implementation of Article X, and to address education and outreach to all engaged in the life sciences. He concluded by urging that the remaining reservations to the 1925 Geneva Protocol should be lifted.

Mr. Paolo Fontana of the **Landau Network - Centro Volta** recommended that a new approach be adopted, with two essential elements that must be recognised, pursued and implemented: one is a switch in focus towards a long-term science and technology partnership (as part of a strategy linking security, disarmament and development) to prevent misuse; the other is the potential involvement of a wider range of actors — not just defence and foreign policy authorities but other government departments, representative bodies, international organisations, industries, academia, private concerns and NGOs — which requires new policy approaches and cooperative networks. A multifaceted approach is mandatory: improving international disease control, establishing national oversight mechanisms for security and genetic engineering of pathogenic organisms, developing a universally recognised framework or code of ethical conduct, and promoting responsible conduct in the study, use, modification and shipment of pathogenic organisms.

Ms. Loulena Miles of **TriValley CAREs (Communities Against a Radioactive Environment), California, USA** urged that advanced bio-warfare agent research should not be collocated with nuclear weapons research. She recommended that nuclear weapons states should pledge to geographically segregate advanced bio-defense research from nuclear weapons programmes and that non-nuclear weapons states should discuss the issue with nuclear weapons states.

At the end of the morning, the informal session was concluded so that in the afternoon further States Parties might speak in

the General Debate, followed by the remaining international organization, the WHO, and then a further informal session would be held to hear the remaining NGO statements.

In the afternoon, the General Debate resumed:

Ambassador Pablo Macedo of **Mexico** spoke, saying that Mexico had hoped that a compliance monitoring mechanism could have been agreed five years ago, but instead the intersessional process had commenced. In consequence, Mexico considered that this Review Conference should not miss the opportunity to try, based on the results already achieved, to agree on a follow-up mechanism that should be much more ambitious and able to address the challenges that States Parties were facing in the context of the application of the Convention. He added that progress should be continued in regard to CBMs where the current mechanism should be evaluated, an institutional support unit should be agreed, an Action Plan should be agreed for universality, national focal points should be established, and an accountability mechanism established. There should be a thorough Article by Article review of the whole Convention including Article X.

[INF.3 shows that Mexico has submitted CBMs on four occasions in 1990, 1992, 1994 & 2004.]

A Signatory State, Egypt, then spoke. Ambassador Sameh Shoukry of **Egypt** said that although Egypt had signed the Convention on 10 April 1972 and was committed to the humanitarian and moral objectives of the BWC, Egypt was deeply troubled by certain deficiencies regarding the implementation of the treaty as well as the continuing conditions in the Middle East. He pointed out that Israel not only sits on an arsenal of nuclear weapons, but has consistently refused to sign the Biological Weapons Convention, thereby once again obstructing international efforts towards the elimination of the threat of the proliferation of WMD. He concluded by urging the international community to address this issue in an effective and practical manner so as to achieve this objective universally and in a non-discriminatory manner.

Mr. Mike Ryan of the **World Health Organization (WHO)** then spoke, providing an update on WHO activities related to global health security. WHO had developed a strategic response to deal with emerging and re-emerging infectious diseases, including through establishing close collaboration with WHO Member States within the framework of the revised International Health Regulations, and had instituted a decentralized structure to strengthen its ability to act at a regional and global level, with regional offices and 142 country offices. He said that the International Health Regulations, revised in 2005, represented a major step forward in international cooperation and collective action in the fight against the spread of epidemics and pandemics. He added that compliance with these revised Regulations would help ensure that the world was not taken by surprise when outbreaks — whether natural or deliberate — occurred, and that disruptions to trade, commerce, and business continuity would be minimized. He concluded by pointing out that laboratory biosecurity complemented laboratory biosafety and that WHO guidance for public health preparedness was being further developed.

The informal session then resumed:

Ms. Susi Snyder of the **Women's International League for Peace and Freedom** urged States Parties to adopt a plan of action to achieve universality before the commencement of the next Review Conference. She went on to express concern about 'defensive research' and the difficulty of discriminating between offensive and defensive research. She urged States Parties to expand the treaty to include an absolute ban on genetic engineering of new strains of deadly pathogens. She concluded by recommending the continuation of regular meetings of experts, as well as annual meetings of States Parties which should have enough flexibility to address emerging issues and should have some decision-making powers.

Mr. Nicolas Isla of the **Research Group for Biological Arms Control, Hamburg University** urged that progress must and can be made to increase transparency and promoting politically and legally binding measures. It was necessary and possible to strengthen the Convention in three areas: the CBMs, trade monitoring of dual-use items and bio-security measures in life sciences research. The CBMs should be reviewed and decisions taken thereon during the intersessional period. He concluded by saying that multilateral verification is indispensable for long-term sustainable national and global security and should, therefore, be the aim of any BWC evolution.

Mr. Jean Pascal Zanders of the **BioWeapons Prevention Project (BWPP)** urged that the Sixth Review Conference formally conclude a full review of the articles of the BTWC and assessment of the scientific and technological challenges to the objectives and purpose of the Convention. He pointed out that at the heart of the BTWC is a very strong norm against the weaponisation and use for hostile purposes of disease. He welcomed the willingness of the States Parties to consider a further cycle of annual meetings. He concluded by saying that the BWPP website would be issuing almost daily reports on the progress of the Review Conference.

Ms. Gigi Kwik Gronvall of the **Center for Biosecurity of University of Pittsburgh Medical Center (UPMC)** said that a code of conduct for scientists would be a positive development. Scientists can and should be made aware that the same research that holds promise for human health and understanding of the living world can also be misused for harm. She went on to say that a meeting in the next intersessional period should address the global scientific response to a biological attack. As scientific expertise will be critical in mitigating the consequences of an attack, so the responsibilities of scientists should be defined now for policymakers and for the public. She concluded by saying that scientists can do more than simply be aware of the dual-use problem, and they should do more than merely adhere to the norm against biological weapons development and use. Their expertise is a critical resource, and the BWC should start planning now how to use that resource, to mitigate the consequences of a biological attack.

Mr. Noel Stott of the **Institute for Security Studies, South Africa** expressed concern about the increase in secret biodefence activities of certain States Parties over the past

five years. He pointed out that a lack of transparency in biodefence activities has the potential of increasing suspicion that may in turn result in the proliferation of biological and toxin weapons. Reasonable transparency with regard to biodefence activities is essential to preventing proliferation. He went on to urge that the Review Conference will agree a further intersessional programme including these issues: Confidence Building Measures, peaceful technology transfers to enhance national health care systems and to respond to disease outbreaks, and universalisation of the Convention. He noted that eleven of the twenty-four states that have not yet signed the Convention and nine of the sixteen who have signed but not yet ratified are African. He concluded by saying that the requirements for capacity building in Africa should be evident from the three areas highlighted above.

Two more statements were made by States Parties in a short resumption of the General Debate on the **afternoon of Friday 24 November 2006**.

Mr. Naif Ben Bandar Al Sudairy of **Saudi Arabia** said that the Government of the Kingdom of Saudi Arabia was committed to the Convention, and in particular to the need for Article X to be fully consistent with the aims and provisions thereof. He went on to say that all members of the international community should respect and diligently pursue the principles and purposes, including primarily the maintenance of international peace and security, as stipulated in the United Nations Charter. The discussions, deliberations and outcome of this important Conference would undoubtedly make a substantial and useful contribution in this field. The Conference should have a useful and constructive outcome for the States Parties.

[INF.3 shows that Saudi Arabia has submitted CBMs twice, in 1996 & 1997.]

Ambassador Carlo Trezza of **Italy** said that next week the Review Conference should enter into a more operational mode. He noted that the Secretary-General had referred in his address to the issue of bio-terrorism, as had many other delegations. He went on to say that bio-terrorism deserved attention by the Sixth Review Conference of the Biological Weapons Convention. He added that Italy considered that appropriate control of materials, and law enforcement efforts to detect biological agents should be undertaken. The General Assembly A/RES/60/288 of 20 September 2006 set out a counter-terrorism strategy, including the fight against bio-terrorism. He concluded by saying that Italy thought that States Parties had the opportunity to address bio-terrorism and include it in their plans of work for the period 2007-2010, and also to look into strengthening current measures and develop new ones if necessary.

[INF.3 shows that Italy has an excellent record in submitting its CBMs.]

Committee of the Whole

The informal session was then closed and the Review Conference continued in closed session on the **afternoon of Tuesday 21 November 2006** with meetings of the Committee of the Whole under the Chairmanship of Ambassador

Doru Costea (Romania) considering in detail the substantive issues relevant to the Convention. The Committee of the Whole held eleven meetings between 21 and 30 November. At its final meeting on 30 November, the Committee adopted its final report (BWC/CONF.VI/3) which included as Annex I an outline of the draft final document of the Conference, whilst Annex II provided a compilation of the proposals presented by States Parties on language for the various Articles of the Convention as well as for Action Plans on Universality, National Implementation and Article X, an Implementation Support Unit, a further Intersessional Programme, and CBMs.

Compared with the Fifth Review Conference, at the Sixth Review Conference there were some 23 more proposals for Articles submitted by individual States Parties, or by groups of States Parties, to the Committee of the Whole. An analysis of the numbers of proposals by Article is shown in the tabulation on the facing page.

Thus, at the Sixth Review Conference, there were 10 proposals for Article X (technical cooperation), closely followed by 9 for Article IV (legislation), followed by 8 for Article V (consultation), 7 for Articles III (non-transfer), VII (assistance), and IX (prohibition of chemical weapons) and then by 6 for Articles I (basic prohibition), VI (complaints), and VIII (Geneva Protocol). This was different from the spread of proposals at the Fifth Review Conference, when there were 9 proposals for Article I (basic prohibition), followed closely by 8 proposals for both Article III (non-transfer) and Article X (technical cooperation), followed by 6 proposals for both Article IV (legislation) and Article V (consultation) and then by 5 proposals each for Article VII (assistance), Article VIII (Geneva Protocol) and Article IX (prohibition of chemical weapons).

A further analysis of the 94 proposals made for the Articles by 10 individual States Parties or by 4 groups of two or more States Parties showing how many proposals were submitted by an individual State Party or a group of States Parties is also provided: 15 by Iran, 14 each by India, Pakistan and the USA, 12 by the EU, 6 each by China and Japan, 3 by the Ukraine, 2 each by Canada, the Latin American Group and the NAM, and 1 each by Brazil, Croatia, New Zealand and the three codepositary States. This is a different distribution from that at the Fifth Review Conference when 12 proposals were submitted by the USA, 11 by Iran, 10 by the EU, 8 by Mexico, 5 by Libya, 4 by China and 4 by the NAM and Other States, 3 by Brazil and 3 by China and six other States.

State Party/Group	Number of proposals
Islamic Republic of Iran	15
India	14
Pakistan	14
United States	14
European Union	12
China	6
Japan	6
Ukraine	3
Canada	2
Latin American Group	2
NAM	2

Unlike previous Review Conferences, proposed language for the Committee of the Whole was not distributed as COW Working Papers, but as Review Conference Working Papers.

Article	Number of paras submitted to COW 6th RevCon	Number of submissions 6th RevCon	Number of submissions 5th RevCon	Number of submissions 4th RevCon
Solemn Declaration)	12	1	3	2
Preamble)			2	1
Article I - basic prohibition	25	6	9	6
Article II - destruction	11	5	1	3
Article III - non-transfer	22	7	8	3
Article IV - legislation	49	9	6	1
Article V - consultation	28	8	6	2
Article VI - complaints	26	6	4	3
Article VII - assistance	18	7	4	2
Article VIII - Geneva Protocol	26	6	5	3
Article IX - chemical weapons	15	7	5	2
Article X - technical cooperation	66	10	8	4
Article XI - amendments	6	3	1	1
Article XII - reviews	21	6	2	1
Article XIII - withdrawal	4	4	--	--
Article XIV - accession	7	6	2	1
Article XV - languages	3	3	2	1
Subtotal	349	94	71	38
Action Plan Universality	6	3		
Action Plan Natl Implement	3	1		
Action Plan Article X	2	1		
Implementn Support Unit	5	3		
Intersessional Programme	17	5		
CBMs	6	2		
Total	388	109		

There were consequently 39 Working Papers submitted at the Sixth Review Conference which should be compared with the 31 COW/WPs and the other seven papers circulated as CONF.V papers at the Fifth Review Conference.

Cross-Cutting Issues

In parallel with the sessions of the Committee of the Whole, there were plenary sessions in which cross-cutting issues that did not fit easily into the Article by Article review were addressed. These included consideration of how any follow-on intersessional process might be carried out during 2007 to 2010, the results of the 2003 to 2005 intersessional process, confidence-building measures, national implementation, universalisation, and implementation support. In addition, an informal list of possible topics for the 2007 to 2010 intersessional meetings was circulated for consideration. Argentina coordinated consideration of possible text on an implementation support unit, whilst Norway coordinated consideration of possible text on the outcome of the 2003-2005 meetings.

Thematic discussions continued to focus on topics such as the intersessional process for 2007 to 2010, possible action plans and confidence-building measures. At one stage, the list of possible topics for consideration in 2007 to 2010 was twelve, with four possible recurring topics on universality, national implementation, scientific and technological developments, and coordination with other international bodies.

Draft action plans were proposed for universality, national implementation and Article X implementation. The first two appeared to have wide support and had been referred to in many of the statements made in the General Debate. Language had been proposed in the Committee of the Whole for a universality Action Plan by the Latin American group, Australia and the EU, and for the national implementation Action Plan by the EU. The proposal for an Action Plan on Article X implementation was the subject of language proposed by the NAM to the COW – and the identical language was also proposed in a Working Paper by the NAM (WP. 39).

Informal Consultations

Following the completion of the work of the Committee of the Whole, the President conducted a series of informal consultations in which he was assisted by a number of Facilitators as follows:

Solemn Declaration: Amb. Paul Meyer (Canada);
 Articles I-IV and XII: Amb. Doru Costea (Romania)
 Articles V-VII and XI: Mr. Knut Langeland (Norway)
 Articles VIII-IX: Mr. Muhammad Shahrul Ikram Yaakob (Malaysia)
 Article X: Mr. Ben Steyn (South Africa)
 Implementation Support Unit (ISU): Mr. Marcelo Valle

Fonrouge (Argentina)
 Work of the 2003-2005 Meetings: Mr. Knut Langeland (Norway)
 Universalisation: Mr. Enrique Ochoa (Mexico)
 National Implementation: Mr. Craig MacLachlan (Australia)
 2007-2010 Intersessional Topics: Amb. Jayant Prasad (India)
 Confidence-building Measures (CBMs): Amb. Jean-François Dobbelle (France)
 Cross-cutting Issues: Amb. John Duncan (United Kingdom)

Unlike at previous Review Conferences, the Drafting Committee did not meet, and the Chairman (Knut Langeland of Norway) and Vice-Chairmen (Vladimir Bundin of the Russian Federation and Mr. Pedro Luiz Dalcero of Brazil) met and decided to assist the President in his informal consultations.

In effect, the President in his informal consultations and in informal plenary meetings carried out the drafting of the Final Declaration of the Review Conference. A number of drafts were circulated:

- The earliest one was a President's Room Paper No. 4 circulated on 24 November 2006 – at the end of the first week before the COW had completed its work.
- This was then followed by a draft circulated by the Chairman of the COW as Room Paper 1 on 29 November 2006 which became Annex I to the report of the COW (BWC/CONF.VI/3) adopted on 30 November 2006.
- The next draft was President's Room Paper DOD-1 issued on 1 December 2006 showing agreed language in normal text and language yet to be agreed in bold.
- This was replaced by a revised and corrected version as President's Room Paper DFD-1 [Draft Final Declaration] on 1 December 2006. This included draft language for the Solemn Declaration and Preamble through to Article XV and then in a Decisions and Recommendations section language on Work of the 2003-2005 Meetings of States Parties, Implementation Support Unit, Intersessional Programme 2007-2010, Confidence-Building Measures, Universalisation, and National Implementation.
- The next version was President's Room Paper DFD-2 dated 5 December 2006, the Tuesday of the third week. Much of the text was now in normal text showing that it was agreed with some still in bold yet to be agreed. In the Decisions and Recommendations section there was again language on Work of the 2003-2005 Meetings of States Parties, Implementation Support Unit, Intersessional Programme 2007-2010, Confidence-Building Measures, Universalisation, and National Implementation. Much of this section was agreed apart from the language on National Implementation.
- A further draft appeared on Wednesday 6 December as President's Room Paper DFD-3. In the Decisions and Recommendations section there was largely agreed language on Work of the 2003-2005 Meetings of States Parties, Implementation Support Unit, Intersessional Programme 2007-2010, Confidence-Building Measures, and Action Plan on Universalisation, and language yet to be agreed for an Action Plan for Comprehensive Implementation of the Convention. This latter section had replaced the previous section on National Implementation.
- The next draft appeared on Thursday 7 December as President's Room Paper DFD-4 which now contained

largely agreed language throughout although there were still chunks of language yet to be agreed. The headings in the Decisions and Recommendations section were the same as in DFD-3.

- The final draft appeared on the afternoon of Thursday 7 December as President's Room Paper DFD-5 with further reductions in the text yet to be agreed.

Negotiations continued late into the night of Thursday 7 December between the President and the two States Parties, Iran and the United States, who had the most difficulty with the remaining text yet to be agreed. Largely by deleting what could not be agreed, a final version was created which appeared in Part II: Final Declaration and Part III: Decisions and Recommendations of BWC/CONF.VI/CRP.4 on Friday 8 December 2004. This, in the Decisions and Recommendations section, had lost the language on an Action Plan for Comprehensive Implementation of the Convention, and what had been 'Action Plan for Universality' had become 'Promotion of Universality'. The language in CRP.4 was subject to oral amendments which reflected the final agreements reached with Iran and the United States as they were specifically thanked by the President in the final Plenary session for agreeing them. These oral amendments included the following: in the Solemn Declaration the deletion of the word "*chemical*" from sub-item (ii) which had previously said "*and their conviction that the prohibition of the development, production and stockpiling of chemical and bacteriological (biological) weapons*" and the addition of a final sub-item (xi) that read:

"(xi) Their recognition of their consideration of the issues identified in reviewing the operation of the Convention as provided for in Article XII, as well as their consensus on the follow-up actions contained herein."

This new sub-item replaced the language in DFD-5 that had said:

"— Their recognition of the importance of the Review Conference process and their outcomes"

"The States Parties recognize the important principles contained in the declarations of previous Review Conferences/this Final Document can also serve as the basis for the further strengthening of the Convention."

The new sub-item (xi) thus attempted to resolve the unwillingness of the United States to see language referring back to the outcomes of previous Review Conferences.

Another oral amendment related to the language in III. Decisions and Recommendations relating to the Implementation Support Unit, which was amended so as to read "*providing administrative support to meetings agreed by the Review Conference as well as comprehensive implementation and universalisation of the Convention*" instead of the previous version that read "*providing administrative support to meetings agreed by the Review Conference as well as national implementation and universalisation of the Convention*". This amendment slightly broadened the terms of reference of the Implementation Support Unit whilst, as already noted above, the Action Plan for Comprehensive Implementation of the Convention had been deleted.

Final Plenary Session

The final Plenary session opened at 1655 on the afternoon of **Friday 8 December 2006**. The President referred delegations to CRP.4 and said that there were certain oral amendments that needed to be made to CRP.4. He also drew the attention of the meeting to the cost estimates contained in BWC/CONF.VI/4 which included the implementation support unit. The cost estimates were formally accepted. The UK on behalf of the Depositaries said that dates had been identified for 2007 for a Meeting of Experts from 20 to 24 August 2007 and a Meeting of States Parties from 10 to 14 December 2007. These were formally accepted. CRP.4 together with its oral amendments was then considered. Australia on behalf of the Western Group spoke proposing that the first intersessional meetings in 2007 should be chaired by the NAM, the second by the Eastern Group, the third by the Western Group and the fourth by the NAM based on the principles that the President of the Review Conference should chair the first intersessional meetings and that the Chairman of the last intersessional meetings should not be from the same Group that chairs the next Review Conference. Cuba on behalf of the NAM and Hungary on behalf of the Eastern Group agreed. Cuba on behalf of the NAM then proposed Ambassador Masood Khan as Chairman of the intersessional meetings in 2007 and this was endorsed by Hungary and Australia and formally so decided. The Final Document CRP.4 and its oral amendments were then formally adopted.

The President then made his closing remarks. He started by saying that: *"We have succeeded. I think we can say, without any exaggeration, that this is an historic moment, both for the Biological Weapons Convention and for multi-lateral security and disarmament. Over the past months, as we worked to prepare for this Conference, I spoke often of the need to transcend the past. We have done this. At times over the past three weeks, the shadow of the past has stalked us, but we have been nimble-footed, and we have quickly moved into the brighter lights of the future."*

He went on to note that the Convention was more important than ever and that 103 States Parties had participated, more than in any previous Conference, and two-thirds of the total membership of the Convention. He also noted that a record number, 33, of NGOs had attended and that there had been a full schedule of lunchtime seminars. He then looked at exactly what had been achieved at the Review Conference saying that:

"After a gap of ten years, we have thoroughly and comprehensively reviewed all articles of the Convention, and agreed on a declaration setting out our shared vision of the Convention and its implementation. This in itself is a strong message to the international community that the Convention is alive and well, and remains effective as the fundamental legal norm against biological weapons."

"We have unequivocally reaffirmed that the Convention applies to all relevant scientific and technological developments, and effectively prohibits the use of biological weapons."

"We have emphasized the need for effective national implementation of the Convention, and for measures to promote the development of the peaceful uses of biological agents and toxins."

"We have adopted a specific and detailed plan to

promote universal adherence to the Convention."

"We have streamlined and updated the procedures for the submission and distribution of the Confidence-building Measures, and taken practical steps to increase the level of participation."

"We have adopted a full and comprehensive intersessional programme for 2007 to 2010, where we will address the important topics of national implementation, regional cooperation, biosafety and biosecurity, oversight and awareness-raising, enhancement of international cooperation and exchange in biological science and technology, and assistance in the case of alleged use of biological weapons."

"And perhaps most historically of all, we have agreed to establish an Implementation Support Unit to assist us in implementing the decisions of this Conference. For many years, the States Parties have debated the need for institutional support for the Convention. Now we have it, built not on a political argument, nor on a perception that 'something is better than nothing', but on the solid basis of the positive and practical contribution the temporary secretariat has made over the past three years. We know we will be getting a professional, efficient and dedicated unit that will make a significant contribution to our important work over the next four years."

He concluded by pointing out that *"The documents that we have are not an empty, cosmetic consensus. They are a win-win result for all."* and thanking all delegations and all those that have worked so hard to prepare for and support our Conference.

A number of delegations then spoke. These included Mr Hamid Baeidi Nejad of **Iran** who paid a tribute to the President's leadership and the compromise that had been necessary to achieve the objective. Ambassador Kari Kahiluoto of Finland spoke on behalf of the **EU**, welcoming the Final Document *"which broadly meets the objectives we have set for the Conference."* He said that the EU would like to have seen a more ambitious outcome on CBMs and was ready to work on further improvement thereof. He noted that *"The now ending review cycle has helped States Parties to focus their efforts and develop a sense of ownership of the Convention, and more importantly, national responsibility among the States Parties for actual implementation of obligations and compliance with the Convention."* Mr Anatoliy Antonov of **Russia** spoke, saying that a lot of useful work had been done and the Final Document strengthens the Convention in a balanced and sensitive way. Ambassador Jürg Streuli of **Switzerland** spoke on behalf of the JACKSNNZ countries, saying that the outcome would meet the overarching objective of strengthening and enhancing the regime step by step by practical measures. He regretted the loss of the Action Plan on comprehensive implementation but noted that key elements were in other parts of the Final Document. Ambassador Yoshiaki Mine of **Japan** encouraged all States Parties to engage in implementing the decisions reached by the Review Conference. Ambassador Jayant Prasad of **India** said that he was very satisfied with the outcome and noted that the promotional aspects of Article X and Article VII had been recognized in the intersessional programme. He regretted the loss of the Action Plan on Comprehensive Implementation. Mme Anayansi Rodríguez Camejo of Cuba on behalf of the **NAM** said that a successful

result had been achieved that sent a clear signal that the States Parties to the BTWC are committed to compliance and full application as well as strengthening of the Convention. Mr. Gustavo Senechal of Brazil on behalf of the **Latin American Group** of countries welcomed the outcome, saying that it demonstrated that multilateralism works and can be effective. Ambassador Christina Rocca of the **US** said that the Final Document was an important accomplishment and one that the Seventh Review Conference will find valuable. Mr. Craig Maclachlan of Australia on behalf of the **Western Group** thanked the President for his very fast approach and intellectual muscle which had led to a successful conclusion. Ambassador Johannes C. Landman of **the Netherlands** said that the success was very largely due to the President and his neutrality, openness and very firm hand. He commended the professionalism and flexibility shown by the NAM and, in particular, by the NAM coordinator, Cuba. Mr. Balázs Rátkai of Hungary on behalf of the **Eastern Group** wished the President good luck next year in the first meetings of the intersessional process. Mr. Hamza Khelif of **Algeria** regretted the loss of the Action Plan on Comprehensive Implementation. They thanked the President for removing obstacles and the Conference for adopting Arabic as an official language in Article XV. The final Plenary session was then closed.

Analysis of the Article by Article Review

Overall, the outcome is a very satisfactory one with the comprehensive Final Declaration and the Decisions and Recommendations relating to the language on Work of the 2003-2005 Meetings of States Parties, Implementation Support Unit, Intersessional Programme 2007-2010, Confidence-Building Measures, and Promotion of Universalisation. It is, however, apparent that the final few days saw the loss of what had earlier been largely agreed Action Plans on Universality and on Implementation. This loss stemmed from the fairly late proposal by the NAM of an Action Plan on Article X Implementation and despite the attempt of the President to develop language for an Action Plan on Comprehensive Implementation of the Convention, agreement on this was not possible. The Action Plan on Universality

was consequently transformed into a decision on ‘*Promotion of Universality*’.

The final Article by Article Declaration comprised some 67 paragraphs compared to the 88 paragraphs in the comparable part of the Fourth Review Conference Final Declaration (see table below).

This reduction in length reflected the exhortation by the President that the Review Conference must produce “*a concise and accessible outcome document*”. It is certainly evident that the opportunity was taken to consider new language rather than developing the previously agreed language of previous Final Declarations. The new language is welcomed, but the failure, because of US opposition, to obtain a more explicit recognition of the value of previous Final Declarations, is regretted.

An analysis is provided below of what is different in the Final Declaration of the Sixth Review Conference.

Solemn Declaration [and Preamble].

There are eleven sub-items to the Solemn Declaration compared to the nine in 1996. The fourth sub-item (iv) is new and addresses compliance, saying:

“(iv) Their determination to comply with all their obligations undertaken pursuant to the Convention and their recognition that States Parties not in compliance with their Convention obligations pose fundamental challenges to the Convention’s viability, as would use of bacteriological (biological) weapons by anyone at any time;”

The seventh sub-item (vii) is also new and addresses terrorism, saying:

“(vii) Their conviction that terrorism in all its forms and manifestations and whatever its motivation, is abhorrent and unacceptable to the international community, and that terrorists must be prevented from developing, producing, stockpiling, or otherwise acquiring or retaining, and using under any circumstances, biological agents and toxins, equipment, or means of delivery of agents or toxins for nonpeaceful purposes, and their recognition of the contribution of full and effective implementation of UNSC Resolution

Article	No. of paras in 2006	No. of paras in 1996
Solemn Declaration	1	1
Preamble	-	1
Article I - basic prohibition	4	9
Article II - destruction	3	4
Article III - non-transfer	3	4
Article IV - legislation	9	7
Article V - consultation	6	8
Article VI - complaints	6	7
Article VII - assistance	7	5
Article VIII - Geneva Protocol	5	7
Article IX - chemical weapons	2	5
Article X - technical cooperation	11	17
Article XI - amendments	3	3
Article XII - reviews	2	3
Article XIII - withdrawal	1	1
Article XIV - accession	3	5
Article XV - languages	1	1
Total	67	88

1540 by all States to assist in achieving the objectives of this Convention.”

The tenth sub-item (x) is also new and addresses public awareness, saying;

“(x) *Their recognition that achieving the objectives of the Convention will be more effectively realized through greater public awareness of its contribution, and through collaboration with relevant regional and international organizations, in keeping within their respective mandates, and their commitment to promote this;*”

The final sentence in previous Solemn Declarations stating “*The States Parties recognize that the important principles contained in this Solemn Declaration can also serve as a basis for further strengthening of the Convention*” and the Preamble have been removed, and replaced by the new sub-item (xi) already mentioned above:

“(xi) *Their recognition of their consideration of the issues identified in reviewing the operation of the Convention as provided for in Article XII, as well as their consensus on the follow-up actions contained herein.*”

The other sub-items are largely similar to those in previous Final Declarations although with some rewording.

Article I

This comprises 4 paragraphs instead of the 9 in 1996. The language in paragraph 1 is new, stronger and more emphatic:

“*1. The Conference reaffirms the importance of Article I, as it defines the scope of the Convention. The Conference declares that the Convention is comprehensive in its scope and that all naturally or artificially created or altered microbial and other biological agents and toxins, as well as their components, regardless of their origin and method of production and whether they affect humans, animals or plants, of types and in quantities that have no justification for prophylactic, protective or other peaceful purposes, are unequivocally covered by Article I.*”

The declaration that the Convention is comprehensive in its scope is welcomed, as is the clarification that “*all naturally or artificially created or altered microbial and other biological agents and toxins, as well as their components, regardless of their origin and method of production and whether they affect humans, animals or plants.*”

Paragraph 2 replaces the previous paragraph 6, which had listed apprehensions *inter alia* in a number of fields, with a shorter simpler formulation:

“*2. The Conference reaffirms that Article I applies to all scientific and technological developments in the life sciences and in other fields of science relevant to the Convention.*”

Paragraph 3 is based on the previous paragraphs 3 and 4, but has a new final sentence regarding use:

“*The Conference affirms the determination of States Parties to condemn any use of biological agents or toxins for other than peaceful purposes, by anyone at any time.*”

Paragraph 4 is the same as the previous paragraph 7. The previous emphasis on compliance (previous paragraph 9) is now in the Solemn Declaration (iv), and the previous appeal to the scientific communities (previous paragraph 8) is now referred to in the ‘*relevant professionals*’ in paragraph 15 of Article IV.

Article II

This comprises 3 paragraphs instead of the 4 in 1996. Paragraphs 5 and 7 are essentially versions of the previous paragraphs 1 and 2. Paragraph 6 is a modified version of the second sentence of previous paragraph 1 with a new sentence stressing the importance of providing information under CBM‘F’:

“*The Conference also stresses that these States Parties should provide appropriate information to all States Parties via the exchange of information (confidence-building measures form F).*”

This new sentence states more clearly what was previously stated in previous paragraph 3.

Article III

This comprises 3 paragraphs instead of the 4 in 1996. Paragraphs 8 and 10 are modified from previous paragraphs 2, 3 and 4. Paragraph 8 in its first sentence reaffirms that Article III is sufficiently comprehensive “*to cover any recipient whatsoever at the international, national and sub-national levels.*” It then in its second sentence has a clearer and stronger statement of the action to be taken by States Parties:

“*The Conference calls for appropriate measures, including effective national export controls, by all States Parties to implement this article, in order to ensure that direct and indirect transfers relevant to the Convention, to any recipient whatsoever, are authorized only when the intended use is for purposes not prohibited under the Convention.*”

Paragraph 9 is essentially new, calling for the safeguarding of biological agents and toxins:

“*9. The Conference calls for appropriate measures by all States Parties to ensure that biological agents and toxins relevant to the Convention are protected and safeguarded, including through measures to control access to and handling of such agents and toxins;*”

Article IV

This comprises 9 paragraphs instead of the 7 in 1996. Paragraph 11 is a much clearer and stronger version of what had appeared previously, as it includes the requirement for “including penal legislation”:

“*11. The Conference reaffirms the commitment of States Parties to take the necessary national measures under this Article. The Conference also reaffirms that the enactment and implementation of necessary national measures under this Article would strengthen the effectiveness of the Convention. In this context, the Conference calls upon States Parties to adopt, in accordance with their constitutional processes, legislative, administrative, judicial and other measures, including penal legislation, designed to:*

- (i) *enhance domestic implementation of the Convention and ensure the prohibition and prevention of the development, production, stockpiling, acquisition or retention of the agents, toxins, weapons, equipments and means of delivery as specified in Article I of the Convention;*
- (ii) *apply within their territory, under their jurisdiction or under their control anywhere and apply, if constitutionally possible and in conformity with*

international law, to actions taken anywhere by natural or legal persons possessing its nationality;

(iii) ensure the safety and security of microbial or other biological agents or toxins in laboratories, facilities, and during transportation, to prevent unauthorized access to and removal of such agents or toxins.”

Paragraph 13 is also new, calling for measures for surveillance of outbreaks of disease:

“13. The Conference reaffirms the commitment of States Parties to take the necessary national measures to strengthen methods and capacities for surveillance and detection of outbreaks of disease at the national, regional and international levels.”

Paragraph 14 has a first sentence which reflects the previous paragraph 3, but then has a new second sentence which addresses training and education:

“14. The Conference urges States Parties to promote the development of training and education programmes for those granted access to biological agents and toxins relevant to the Convention and for those with the knowledge or capacity to modify such agents and toxins, in order to raise awareness of the risks, as well as of the obligations of States Parties under the Convention.”

Paragraph 15, also new, takes this message further to call for professionals to report activities conducted in breach of the Convention and also to recognize the importance of codes of conduct:

“15. The Conference encourages States Parties to take necessary measures to promote awareness amongst relevant professionals of the need to report activities conducted within their territory or under their jurisdiction or under their control that could constitute a violation of the Convention or related national criminal law. In this context, the Conference recognises the importance of codes of conduct and self-regulatory mechanisms in raising awareness, and calls upon States Parties to support and encourage their development, promulgation and adoption.”

Paragraphs 16, 17 and 18 are all new, addressing provision of assistance, SCR 1540, and designation of a national focal point respectively:

“16. The Conference urges States Parties with relevant experience in legal and administrative measures for the implementation of the provisions of the Convention, to provide assistance on request to other States Parties. The Conference also encourages such initiatives on a regional basis.

17. The Conference recalls UN Security Council Resolution 1540 (2004) that places obligations on all states and is consistent with the provisions of the Convention. The Conference notes that Resolution 1540 affirms support for the multilateral treaties whose aim is to eliminate or prevent proliferation of nuclear, chemical or biological weapons and the importance for all States Parties to these treaties to implement them fully in order to promote international stability. The Conference also notes that information provided to the United Nations by states in accordance with Resolution 1540 may provide a useful resource for States Parties in fulfilling their obligations under this Article.

18. The Conference encourages States Parties to

designate a national focal point for coordinating national implementation of the Convention and communicating with other States Parties and relevant international organizations.”

Article V

This comprises 6 paragraphs instead of the 8 in 1996. Paragraph 20 is based on, but is clearer than, the previous paragraph 1. Paragraph 21 is based on the previous paragraphs 2 and 3. Paragraph 22 is based on the previous paragraph 8. Paragraphs 23, 24 and 25 address Confidence-Building Measures. Paragraph 24 refers to the fact that in regard to transmission of CBM information, ‘the Conference has agreed on several measures.’ These are detailed in paragraph 8 of Part III; Decisions and Recommendations. Paragraph 25 includes as its last sentence language proposed by the three Depositaries:

“The information supplied by a State Party must not be further circulated or made available without the express permission of that State Party.”

Article VI

This comprises 6 paragraphs instead of the 7 in 1996. They are largely developed from the language in 1996. Paragraph 28 is a clearer and stronger expression of what had been said previously in paragraphs 3, 4 and 5:

“28. The Conference invites the Security Council:

- (i) to consider immediately any complaint lodged under this Article and to initiate any measures it considers necessary for the investigation of the complaint in accordance with the Charter;
- (ii) to request, if it deems necessary and in accordance with its resolution 620 of 1988, the United Nations Secretary-General to investigate the allegation of use, using the technical guidelines and procedures contained in Annex I of United Nations Document A/44/561;
- (iii) to inform each State Party of the results of any investigation initiated under this Article and to consider promptly any appropriate further action which may be necessary.”

Paragraph 29 is based on the penultimate sentence of the previous paragraph 4, but with the Security Council instead of the Secretary-General.

“29. The Conference reaffirms the agreement of States Parties to consult, at the request of any States Party, regarding allegations of use or threat of use of biological or toxin weapons. The Conference reaffirms the undertaking of each State Party to cooperate in carrying out any investigations which the Security Council initiates.”

Article VII

This comprises 7 paragraphs instead of the 5 in 1996. They are largely developed from the language in 1996. Paragraph 34 is developed from the previous paragraph 5 but with the useful explicit addition of OIE, FAO and the IPPC:

“34. The Conference considers that in the event that this Article might be invoked, the United Nations could play a coordinating role in providing assistance, with the help of States Parties as well as the appropriate intergovernmental organizations such as the World

Health Organization (WHO), World Organization for Animal Health (OIE), the Food and Agriculture Organization of the United Nations (FAO), and the International Plant Protection Convention (IPPC)."

Paragraph 35 is new, pointing out that national preparedness contributes to international capabilities:

"35. The Conference notes that State Parties' national preparedness contributes to international capabilities for response, investigation and mitigation of outbreaks of disease, including those due to alleged use of biological or toxin weapons."

Paragraph 38 is also new, addressing the provision of assistance should a State Party be exposed to danger as a result of an attack by anyone other than States Parties:

"38. The Conference takes note of the willingness of States Parties, where appropriate, to provide or support assistance to any State Party which so requests, when that State Party has been exposed to danger or damage as a result of the use of bacteriological (biological) agents and toxins as weapons by anyone other than States Parties."

Article VIII

This comprises 5 paragraphs instead of the 7 in 1996. They are similar to the language in 1996. Paragraph 39 is a clearer call to all States not yet Parties to the 1925 Geneva Protocol to ratify or accede to it without delay:

"39. The Conference appeals to all States Parties to the 1925 Geneva Protocol to fulfill their obligations assumed under that Protocol and urges all States not yet Parties to the Protocol to ratify or accede to it without delay."

Paragraph 40 is a combination of the previous paragraphs 2 and 3. Paragraphs 41, 42 and 43 are identical to the previous paragraphs 5, 6 and 7.

Article IX

This comprises 2 paragraphs instead of the 5 in 1996. The reduced language reflects the entry into force in 1997 – since 1996 – of the Chemical Weapons Convention. Paragraph 44 is essentially identical to the first sentence of the previous paragraph 1. Paragraph 45 is new:

"45. The Conference welcomes the fact that the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction entered into force on 29 April 1997 and that 181 instruments of ratification or accession have now been deposited with the United Nations. The Conference calls upon all states that have not yet done so to accede to that Convention without delay."

It is to be regretted that the final sentence failed to include an exhortation for the six Signatory States who have yet to ratify the CWC to do so. This could have been easily achieved by insertion of the words "or ratify" after the words "to accede to" in the last line.

Article X

This comprises 11 paragraphs instead of the 17 in 1996. This is largely new clearer language that reflects what was in the language in 1996. Paragraphs 45 and 46 emphasise the importance of implementation of Article X in language that is new:

"46. The Conference stresses the importance of implementation of this Article and recalls that the States Parties have a legal obligation to facilitate and have the right to participate in the fullest possible exchange of equipment, materials and scientific and technological information for the use of bacteriological (biological) agents and toxins for peaceful purposes and not to hamper the economic and technological development of States Parties."

47. The Conference reaffirms the commitment to the full and comprehensive implementation of this Article by all States Parties. The Conference recognises that while recent scientific and technological developments in the field of biotechnology, would increase the potential for cooperation among States Parties and thereby strengthen the Convention, they could also increase the potential for the misuse of both science and technology. Therefore, this Conference urges all States Parties possessing advanced biotechnology to adopt positive measures to promote technology transfer and international cooperation on an equal and non-discriminatory basis, particularly with countries less advanced in this field while promoting the basic objectives of the Convention, as well as ensuring that the promulgation of science and technology is fully consistent with the peaceful object and purpose of the Convention."

Paragraph 48 is similar to the previous paragraph 5 and paragraph 49 and 50 are developed from previous paragraph 11. Paragraph 51 is developed from the previous paragraph 4. Paragraphs 52 and 53 are largely new:

"52. The Conference recognises the need to effectively implement national measures in order to further implementation of Article X. In this regard, the Conference urges States Parties to undertake to review their national regulations governing international exchanges and transfers in order to ensure their consistency with the objectives and provisions of all the articles of the Convention."

53. The Conference urges States Parties to develop frameworks for disease surveillance in humans, animals and plants, and to support programmes for effective responses at the national, bilateral, regional and multilateral levels, including through the conclusion of appropriate agreements that would promote the regular exchange of scientific and technical information in these fields."

Paragraph 54 is a clearer and more explicit version of previous paragraph 14. Paragraph 55 is new with its listing of six sub-items that the Conference calls upon or urges the States Parties to do in regard to measures related to Article X. Paragraph 56 is also new with its reference to the role of the private sector:

"56. The Conference recognises the important role of the private sector in the transfer of technology and information and the wide range of organisations within the United Nations system that are already engaged in international cooperation relevant to this Convention."

Article XI

This comprises 3 paragraphs instead of the 4 in 1996. As in 1996, Iran had again formally presented a proposal to amend Article I and the title of the Convention to explicitly include

the prohibition of use. The need to resubmit such a proposal in 2006 is far from clear, as the Final Declaration in 1996 had in several Articles recorded explicitly that use was prohibited. Paragraph 57 is thus identical to the previous paragraph 1 and paragraph 58 is similar to the previous paragraph 2. Paragraph 59 is developed from the second sentence of the previous paragraph 4.

Article XII

This comprises 2 paragraphs instead of the 3 in 1996. Paragraph 60 has a new first sentence whilst the second sentence is based on the previous paragraph 3:

“60. The Conference reaffirms that Review Conferences constitute an effective method of reviewing the operation of the Convention with a view to assuring that the purposes of the Preamble and the provisions of the Convention are being realized. The Conference therefore recommends that Review Conferences should continue to be held at least every five years.”

Paragraph 61 is a clearer statement, with new sub-items (ii) and (iii), of what was previously in paragraphs 1 and 2:

“61. The Conference decides that the Seventh Review Conference shall be held in Geneva not later than 2011 and should review the operation of the Convention, taking into account, inter alia:

- (i) new scientific and technological developments relevant to the Convention;*
- (ii) the progress made by States Parties on the implementation of the obligations under the Convention;*
- (iii) progress of the implementation of the decisions and recommendations agreed upon at the Sixth Review Conference.”*

Article XIII

This comprises 1 paragraph as in 1996. It is a clearer expression of the previous language.

Article XIV

This comprises 3 paragraphs instead of the 5 in 1996. Paragraph 63 is similar to the previous paragraph 1 and paragraph 64 is developed from the previous paragraph 2. Paragraph 65 is based on previous paragraphs 3 and 4.

The fifth paragraph in 1996 had in error omitted the word “not” and therefore, unlike at previous Review Conferences, it failed to call upon those States Parties which had **not** participated in the Review Conference to participate in the implementation of the Final Declaration. Although India had proposed a comparable paragraph for Article XIV to the COW it had not corrected the error and had omitted the “not”. This paragraph is not in the adopted Final Declaration.

Article XV

This comprises 1 paragraph as in 1996. Paragraph 66 is new and states that Arabic should be considered an official language in addition to the five languages mentioned in Article XV:

“66. The Conference decides that as well as the five languages listed in this Article, Arabic shall be considered an official language for the purposes of any meetings of the States Parties and other formal communications concerning the operation of the Convention.”

Analysis of ‘Decisions and Recommendations’

This is a new part of the Final Document which had no counterpart in previous Final Documents. This analysis considers in turn each of the topics: Work of the 2003-2005 Meetings of States Parties, Implementation Support Unit, Intersessional Programme 2007-2010, Confidence-Building Measures, and Promotion of Universalisation.

Work of the 2003-2005 Meetings of States Parties

This comprises four paragraphs. Paragraph 1 simply recalls what the arrangements and topics were in 2003-2005. Paragraphs 2 and 3 note how the Meetings of States Parties and Meetings of Experts functioned and the contributions made by international organizations as well as scientific and academic institutions and non-governmental organizations. Paragraph 4 provides a concise yet comprehensive endorsement of the consensus outcome documents:

“4. The Conference endorses the consensus outcome documents from the Meeting of States Parties (BWC/MSP/2003/4, BWC/MSP/2004/3, BWC/MSP/2005/3).”

Implementation Support Unit

This comprises two paragraphs establishing an Implementation Support Unit and setting out its responsibilities in the areas of “administrative support” and “Confidence Building Measures”. Paragraph 5 sets out its role, and that it will consist of three full time staff members in DDA in Geneva:

“5. Taking into account the importance of providing administrative support to meetings agreed by the Review Conference as well as comprehensive implementation and universalisation of the Convention and the exchange of Confidence-Building Measures, the Conference decides that an ‘Implementation Support Unit’ (ISU) shall be established and will consist of three full time staff members within the DDA Branch in Geneva, funded by States Parties for the period from 2007-2011 to perform the following tasks:

Administrative support:

- (i) Providing administrative support to and preparing documentation for meetings agreed by the Review Conference;*
- (ii) Facilitating communication among States Parties and, upon request, with international organizations;*
- (iii) Facilitating, upon request, States Parties’ contacts with scientific and academic institutions, as well as non-governmental organizations;*
- (iv) Serving as a focal point for submission of information by and to States Parties related to the Convention.*
- (v) Supporting, as appropriate, the implementation by the States Parties of the decisions and recommendations of this Review Conference.*

Confidence Building Measures:

- (i) Receiving and distributing Confidence Building Measures to/from States Parties.*
- (ii) Sending information notices to States Parties regarding their annual submissions;*
- (iii) Compiling and distributing data on CBMs and to inform on participation at each Meeting of States Parties;*
- (iv) Developing and maintaining a secure website on*

- CBMs to be accessible only to States Parties;*
 (v) *Serving as an information exchange point for assistance related to preparation of CBMs;*
 (vi) *Facilitating activities to promote participation in the CBM process, as agreed by the States Parties.*”

Paragraph 6 effectively limits the activities of the ISU to the tasks detailed in paragraph 5 and calls for an annual report to States Parties:

“6. *The unit’s mandate will be limited to the above mentioned tasks. The unit will submit a concise annual written report to all States Parties on its activities to implement this mandate. The unit’s performance will be evaluated and its mandate will be reviewed by States Parties at the Seventh Review Conference.*”

Intersessional Programme 2007-2010

This comprises a single paragraph 7 that sets out the topics to be considered by the four annual Meetings of States Parties to be held in 2007 to 2010. Of the six topics, two are to be addressed in 2007, two in 2008, one in 2009, and one in 2010. Each Meeting of States Parties will be prepared by a one week Meeting of Experts – a regrettable reduction from the two week Meetings of Experts in 2003 to 2005. Otherwise the arrangements are the same as in 2003 to 2005 with consideration of the work and decisions on any further action being put off until the Seventh Review Conference. The topics to be addressed are:

- (i) *Ways and means to enhance national implementation, including enforcement of national legislation, strengthening of national institutions and coordination among national law enforcement institutions.*
- (ii) *Regional and sub-regional cooperation on BWC implementation.*
- (iii) *National, regional and international measures to improve biosafety and biosecurity, including laboratory safety and security of pathogens and toxins.*
- (iv) *Oversight, education, awareness raising, and adoption and/or development of codes of conduct with the aim to prevent misuse in the context of advances in bio-science and bio-technology research with the potential of use for purposes prohibited by the Convention.*
- (v) *With a view to enhancing international cooperation, assistance and exchange in biological sciences and technology for peaceful purposes, promoting capacity building in the fields of disease surveillance, detection, diagnosis, and containment of infectious diseases: (1) for States Parties in need of assistance, identifying requirements and requests for capacity enhancement, and (2) from States Parties in a position to do so, and international organizations, opportunities for providing assistance related to these fields.*
- (vi) *Provision of assistance and coordination with relevant organizations upon request by any State Party in the case of alleged use of biological or toxin weapons, including improving national capabilities for disease surveillance, detection and diagnosis and public health systems.*”

It is interesting to compare the finally agreed list of six topics above with the earlier list of topics which also included

proposals for recurring topics. Thus, in an early list circulated on 24 November at the end of the first week there were nine topics:

- “i. *Ways and means to enhance national implementation; enforcement of national legislation and strengthening of national institutions, including cooperation between courts, police and customs.*
- ii. *Regional and sub-regional cooperation on BWC implementation.*
- iii. *Education, awareness-raising, scientific oversight and codes of conduct.*
- iv. *International, regional and national measures to improve biosafety, and biosecurity, including laboratory safety and security of pathogens and toxins.*
- v. *Advances in science and technology, relevant to the Convention, including the implementation of Article I. Prevention of research and/or use of the bio-sciences for malign purposes.*
- vi. *Facilitation of scientific and technological cooperation and exchange, including in the field of biotechnology, for peaceful purposes in pursuance of Article X.*
- vii. *Disease surveillance, including international cooperation in improving primary healthcare systems and improving detection and diagnostic capabilities.*
- viii. *Preparedness and response in case of alleged use of biological and toxin weapons, whether by state or non-state actors, including provision of assistance and coordination with relevant organizations, in accordance with Article VII.*
- ix. *Improving confidence-building measures, including provision of assistance to States Parties on request.*”

In addition, it was suggested that the Meetings of States Parties could also consider recurring topics such as universality, national implementation, CBM participation, scientific and technological developments, and cooperation and assistance.

The next version of the list of topics circulated on 29 November had added two additional items:

- “x. *Terms and definitions relevant to the Convention, and*
- xi. *Bioterrorism and non-state actors.*”

The possible “recurring” topics were now listed as:

- “i. *Universality.*
- ii. *National implementation*
- iii. *Scientific and technological developments*
- iv. *Coordination with other organizations dealing with natural, accidental or deliberate outbreaks of disease, or with terrorism.*”

In the version of the draft final declaration issued as DFD-1 on 1 December, the topics for consideration had been reduced to 10 and the first 4 already had agreed language:

- “i. *Ways and means to enhance national implementation, including enforcement of national legislation, strengthening of national institutions and coordination among national law enforcement institutions.*
- ii. *Regional and sub-regional cooperation on BWC implementation.*
- iii. *National, regional and international measures to*

- improve biosafety and biosecurity, including laboratory safety and security of pathogens and toxins.
- iv. Oversight to prevent use of research and advances in science and technology for purposes prohibited by the Convention through education, awareness-raising and adoption of codes of conduct.
- v. **Advances in science and technology relevant to the Convention**
- vi. **Facilitation of, and removal of restrictions or limitations on, scientific and technological cooperation and exchange, including in the field of biotechnology, for peaceful purposes in pursuance of Article X.**
- vii. **Disease surveillance, including international cooperation in improving primary healthcare systems and improving detection and diagnostic capabilities. International cooperation for improving national capabilities for disease surveillance, detection and diagnosis.**
- viii. **Preparedness and response in case of alleged use of biological and toxin weapons, whether by state or non-state actors, including provision of assistance and coordination with relevant organizations. Provision of assistance and coordination with relevant organizations upon request by any State Party in the case of alleged use of biological or toxin weapons.**
- ix. **Confidence-building measures, including provision of assistance to States Parties on request.**
- x. **Terms and definitions relevant to the Convention.”**

The question of recurring topics was addressed in the same draft as follows:

“The meetings of States Parties will consider the work of the meetings of experts as well as recurring topics such as universality, national implementation, scientific and technological development, confidence building measures and coordination with other organizations dealing with natural, accidental or deliberate outbreaks of disease, or with terrorism. The meetings of States Parties will take any decisions or make recommendations by consensus.”

The situation was unchanged in the language included in DFD-2 on 5 December. The situation developed with the topics being reduced to 8 with further agreed language in DFD-3 on 6 December. The list of topics was then:

- i. *Ways and means to enhance national implementation, including enforcement of national legislation, strengthening of national institutions and coordination among national law enforcement institutions.*
- ii. *Regional and sub-regional cooperation on BWC implementation.*
- iii. *National, regional and international measures to improve biosafety and biosecurity, including laboratory safety and security of pathogens and toxins.*
- iv. *Oversight to prevent use of research and advances in science and technology for purposes prohibited by the Convention through education, awareness-raising and adoption of codes of conduct.*
- v. **Advances in science and technology relevant to the Convention**
- vi. **Facilitation of, and removal of restrictions or limitations on, scientific and technological cooperation**

and exchange, including in the field of biotechnology, for peaceful purposes in pursuance of Article X. Facilitation of, and participation in, exchange of equipment, materials and information for application of scientific discoveries in the field of bacteriology (biology) for prevention of disease, or for other peaceful purposes.

- vii. *Provision of assistance and coordination with relevant organizations upon request by any State Party in the case of alleged use of biological or toxin weapons, including international cooperation for improving national capabilities for disease surveillance, detection and diagnosis, and public healthcare systems. (to be discussed further)*

ix. **Terms and definitions relevant to the Convention.”**
The language relating to recurring topics and decisions was unchanged and still in bold.

The next version in DFD-4 on 7 December showed a reduction in topics to 7 as follows:

- i. *Ways and means to enhance national implementation, including enforcement of national legislation, strengthening of national institutions and coordination among national law enforcement institutions.*
- ii. *Regional and sub-regional cooperation on BWC implementation.*
- iii. *National, regional and international measures to improve biosafety and biosecurity, including laboratory safety and security of pathogens and toxins.*
- iv. *Oversight to prevent use of research and advances in science and technology for purposes prohibited by the Convention through education, awareness-raising and adoption of codes of conduct.*
- v. **Advances in science and technology relevant to the Convention**
- vi. **Facilitation of, and participation in, exchange of equipment, materials and information for application of scientific discoveries in the field of bacteriology (biology) for prevention of disease, or for other peaceful purposes.**
- vii. *Provision of assistance and coordination with relevant organizations upon request by any State Party in the case of alleged use of biological or toxin weapons, including international cooperation for improving national capabilities for disease surveillance, detection and diagnosis, and public healthcare systems.”*

The language relating to recurring topics had been further developed with some agreed language:

“The meetings of States Parties will consider the work of the meetings of experts as well as recurring topics such as action plan on universality, the action plan on comprehensive implementation, scientific and technological development, confidence building measures and coordination with the relevant organizations dealing with topics relevant to the Convention. The Meetings of States Parties will take any decisions by consensus.”

The final draft DFD-5 on 7 December afternoon showed no change to the list of topics although an alternative formulation was now included for topic iv.:

“iv bis. Oversight, education, awareness raising and adoption/development of codes of conduct with the aim to prevent misuse in the context of research and advances in science and technology with the potential of use for purposes prohibited by the Convention.”

There were also changes to the paragraph addressing recurring topics – which no longer used the word ‘recurring’:

“The meetings of States Parties will consider the work of the meetings of experts as well as the topics of universalisation and comprehensive implementation of the Convention.”

The final version adopted by the Conference saw changes to reduce the number of topics to 6. The first three topics i. to iii. and the last topic vii. (which became vi.) were unchanged from those in DFD-5. A slightly tidied up alternative wording was adopted for iv. The previous v. in DFD-5 on advances in science and technology was lost and the previous vi. was considerably modified to become the v. adopted, which read as follows:

“v. With a view to enhancing international cooperation, assistance and exchange in biological sciences and technology for peaceful purposes, promoting capacity building in the fields of disease surveillance, detection, diagnosis, and containment of infectious diseases: (1) for States Parties in need of assistance, identifying requirements and requests for capacity enhancement, and (2) from States Parties in a position to do so, and international organizations, opportunities for providing assistance related to these fields.”

There were also changes in regard to what the Meeting of States Parties would address, with the removal of anything other than the assigned topics:

“The topics for consideration at each annual meeting of States Parties will be as follows: items i and ii will be considered in 2007; items iii and iv in 2008; item v in 2009; and item vi in 2010.”

Consequently, the proposals to enable the annual Meeting of States Parties to consider recurring topics and to take decisions failed, and the outcome in this respect was the same as in 2002.

Confidence-building measures

This comprises 2 paragraphs. The first sets out the decisions taken to enhance the participation of States Parties in the CBM process and the second records that *“the issue requires further and comprehensive attention at the Seventh Review Conference.”* The enhanced participation is primarily about development of an electronic format for the existing CBM forms, and provision for electronic submission of the CBMs which shall then, should the State Party submitting them consent, be displayed on a secure website. The ISU shall provide statistics on the level of participation in the CBMs to the annual Meetings of States Parties and States Parties shall designate a national point of contact in charge of preparation of CBMs and provide contact details to the ISU.

The language on confidence-building measures was essentially unchanged between the Draft Final Declaration DFD-1 issued on 1 December and the final adopted version. One change was the loss of a sentence: *“Additional notice shall be issued to concerned States Parties by the Implementation Support Unit within the United Nations*

Department for Disarmament Affairs one month after the deadline has passed if no data has been forwarded by these States Parties.” It is understood that this could not be agreed because Algeria, which INF.3 shows has never submitted a CBM, argued that the CBMs were not legally binding and thus reminders should not be issued. As the CBMs are politically binding, the logic behind Algeria’s position is unclear and unhelpful, given the consensus that participation in the CBM process should be enhanced. The other change was in the removal of the words *“including possible modification along the lines in the annex of this final declaration”* from the second paragraph.

The Sixth Review Conference gave no consideration to modification, improvement or introduction of new CBMs even though sound proposals that merited consideration had been put forward for the Fifth Review Conference. Although the Third Review Conference in 1991 had been able to agree significant changes to the CBMs, this was at a time when there was a greater unity among States Parties to make progress. The situation during the Sixth Review Conference was good, but it is probable that the attention given to CBMs suffered from their being considered during the Sixth Review Conference and consequently time not being made available for an in depth exchange of ideas and consideration. It would have been better if, as in 1986, the matter had been deferred to a subsequent separate meeting empowered to make decisions on the CBMs.

A less welcome development saw a move away from enhancing transparency and building confidence to make CBMs less available with the adoption in the Article by Article review of the language proposed by the three Depositaries that *“The information supplied by a State Party must not be further circulated or made available without the express permission of that State Party.”* This reflected the realisation from the background Secretariat paper (INF.3) that the States Parties at their meeting in 1987 had agreed that the CBM information should be made available to the WHO – a point that was little known by States Parties. It also probably reflected the irritation expressed by some States Parties as a result of a recent NGO analysis of certain CBM responses which had criticized the quality of the information provided in those CBM responses, rather than, as earlier NGO analyses had done, focussing on how the CBM process might be enhanced and improved. The decision records that *“Once completed, the electronic forms shall, with the consent of the State Party submitting them, be posted on a secure Internet site and made available for the use of States Parties,…”*

Promotion of Universalisation

This comprises two paragraphs:

“10. The Conference notes that although the Convention is a cornerstone of international security, with only 155 States Parties, membership of the Convention falls behind other major multilateral arms control, disarmament and non-proliferation treaties. The Conference agrees that a concerted effort by States Parties is needed to persuade States not Parties to join the Convention.

11. The Sixth Review Conference calls upon signatories to ratify the Convention and other States not Party to accede to it without delay. The States Parties reaffirm

their commitment to ensuring the universalisation of the Convention. To this end, the Conference:

(a) Requests States Parties to:

- (i) promote universalisation of the Convention through bilateral contacts with States not Parties,*
- (ii) promote universalisation of the Convention through regional and multilateral fora and activities,*
- (iii) inform the Implementation Support Unit (ISU) of their designated national point of contact for facilitating information exchange of universalisation efforts,*
- (iv) report, as appropriate, on their activities at annual meetings of States Parties*
- (v) provide, as appropriate, the ISU with relevant information on activities related to the promotion of universalisation of the Convention.*

(b) Agrees that:

- (i) The Chairs of Meetings of States Parties shall co-ordinate universalisation activities, address States not Party to the Convention, provide an annual report on universalisation activities at meetings of States Parties, and provide a progress report to the Seventh Review Conference, bearing in mind the primary responsibility of the States Parties on the implementation of this decision.*

(c) Tasks the ISU to:

- (i) support the President of the Review Conference and subsequent Chairs of Meetings of States Parties in the implementation of this decision.*
- (ii) support States Parties by maintaining a list of national points of contact,*
- (iii) consolidate and make available information on progress made by States not Parties towards ratification.”*

Proposals were made to the COW for an Action Plan on Universalisation, by the Latin American group of States Parties, by Australia, and by Finland on behalf of the EU. The eventual ‘Promotion of universalisation’ evolved from what began in DFD-1 on 1 December as a section entitled ‘Universalisation’ and had become in DFD-3 on 6 December, with unchanged text, an ‘Action Plan on Universalisation’. The only language not agreed from DFD-1 onwards was a heading ‘Provide assistance to new states parties’ which was deleted in DFD-4 on 7 December. Although there had been suggestions during the General Debate that a target should be set for universalisation, and the EU proposal to the COW included “*The Conference agreed on an Action Plan on Universality with the goal of achieving universal membership to the BTWC by the time of the Seventh Review Conference in 2011*”, there was no target in the DFD or final language. The ‘Promotion of universalisation’ activity can be compared to the OPCW Universality Action Plan reproduced and described by Scott Spence in April 2005¹.

Proposals Not Agreed

For completeness, it is useful to consider two proposals which failed to attract consensus. Proposals were made to the COW by Finland on behalf of the EU for an Action Plan on Implementation, and by Cuba on behalf of the NAM for a

Plan of Action on Implementation of Article X. There was language in DFD-1 on 1 December related to National Implementation which, in DFD-3 on 6 December, became language on Comprehensive Implementation of the Convention, reflecting an attempt to merge the proposals relating to National Implementation and to the Article X Implementation.

The language proposed for National Implementation in DFD-1 was as follows:

“National Implementation

Recognizing the importance of full and effective implementation of the Convention, the Sixth Review Conference:

1) Calls on all States Parties to

- i. enact and, where necessary, update and strengthen, in accordance with their national constitutional processes, appropriate legislative, penal, administrative, security and policy measures to ensure full implementation of the Convention.*
- ii. fully and effectively implement the above national measures and ensure their continued effectiveness in meeting the obligations under the Convention.*
- iii. designate a national focal point or appropriate national authority to coordinate national implementation of the Convention.*
- iv. provide, where in a position to do so, assistance if requested to those states seeking help with national implementation of the Convention.*

2) Encourages all States Parties to

- i. within the framework of CBMs or other means, provide to the ISU established within the UN DDA information on measures taken to implement the Convention.*
- ii. inform the ISU of any assistance that it may require to ensure full and effective implementation of the Convention.*
- iii. inform the ISU of any assistance that it is able to provide to states seeking help to implement the Convention.*
- iv. keep the ISU informed of bilateral, regional or multilateral activities to implement the Convention, as appropriate, including assistance in this regard.*

3) Requests the ISU established with the UN DDA to

- i. compile and disseminate information provided by States Parties, within the framework of CBMs or other means, on measures they have taken to implement the Convention.*
- ii. inform States Parties on assistance requested, offered and provided pursuant to national implementation of the Convention.*
- iii. advise requesting states on developing and strengthening, as appropriate, national legislation implementing BWC obligations.*

OR

serve as an information exchange point for offers and requests for cooperation and assistance.

- iv. compile and post information on planned workshops, seminars and other events related*

- to national implementation on its website.*
- v. *report annually to States Parties on activities undertaken under this action plan.*”

The language proposed by Cuba on behalf of the NAM to the COW for a Plan of Action for Implementation of Article X was as follows:

“The Sixth Review Conference:

(i) Calls on States Parties:

- (a) To actively seek, nationally, bilaterally, multilaterally or through regional mechanisms, the full implementation of the decisions adopted in previous review conferences regarding Article X;*
- (b) To submit to the Implementation Support Unit established within the UNDDA a national report on implementation of Article X, including offers and requests for assistance in different areas under the scope of Article X. These reports may be published on the BWC Web site, with the approval of the State Party concerned;*
- (c) To utilise the point of contact designated by States Parties to the Implementation Support Unit established within the UN-DDA to facilitate coordination among States Parties;*
- (d) To undertake to review their national regulations governing international exchanges and transfers in order to ensure their consistency with the objectives and the provisions of Article X;*
- (e) To adopt positive measures to promote technology transfer and international cooperation, in particular to the developing countries, for the benefit of all mankind;*
- (f) To provide upon request, where in a position to do so, assistance to other States Parties in enacting and enhancing national legislation to implement the Convention;*
- (g) To facilitate cooperation, where in position to do so, in particular capacity building, as well as technology transfer in the areas of custom control to facilitate the implementation of relevant provisions of the Convention;*
- (h) To ensure scientific cooperation and technology transfer, as well as exchange of information, concerning research programmes in biosciences and greater cooperation in public health, detection, diagnosis, and containment of infectious diseases, and agriculture;*
- (i) To provide, where in a position to do so, financial and technical support, directly as well as through international organizations and relevant international institutions, with the view to building capacities in States Parties in need of assistance in the fields of surveillance, detection, diagnosis and containment of infectious diseases and related research;*
- (j) To promote, where in a position to do so, development and production of vaccine and drugs to prevent and treat infectious diseases through international cooperation and, as appropriate, public-private partnerships;*
- (k) To promote and facilitate regional workshops on scientific and technological cooperation and*

exchanges for peaceful purposes in pursuance of Article X;

(l) To promote, where appropriate, the development of efficient coordination mechanism between the United Nations and its relevant specialized agencies and relevant international and regional organizations to facilitate specific measures to promote scientific cooperation and technology transfer;

(m) To support the adoption of measures to create networks between scientific communities and academic institutions regarding the peaceful use of biotechnology, genetic engineering, microbiology and other areas related to the Biological Weapons Convention;

(n) To assist the Implementation Support Unit established with the UN-DDA in the development of a database containing information on opportunities for international cooperation and technology transfers;

(ii) Requests the Secretary-General of the United Nations to propose the inclusion in the agenda of the relevant United Nations specialised agencies a discussion and examination of the means of improving institutional mechanisms in order to facilitate the fullest possible exchange of equipment, materials, and scientific and technological information regarding the use of biological agents and toxins for peaceful purposes;

(iii) Requests the Implementation Support Unit established within the UN-DDA:

(a) To receive from and distribute among States Parties, on an annual basis, information on the implementation of Article X of the Convention and on decisions adopted by the Sixth Review Conference;

(b) To disseminate information on needs conveyed by States Parties to enhance their capabilities to eradicate infectious diseases and to promote biological and biotechnological research and development for peaceful purposes;

(c) To develop, with the assistance of States Parties, and maintain a database containing information on opportunities for international cooperation and technology transfers;

(d) To maintain regular contact with the national points of contact of States Parties;

(e) To provide to States Parties at their annual meetings a progress report on activities undertaken by it under this Plan of Action.

360. The Sixth Review Conference decides that a full review of the progress made in the implementation of the provisions set out in this Action Plan be carried out at the Seventh Review Conference.”

This language reflects much of what has been included in the Final Declarations of previous Review Conferences. It was not, however, language which had been refined and sharpened so as to focus on activities of particular relevance to the Convention.

As already noted, the proposed language on National Implementation in DFD-1 was merged with language from the Article X proposal into language for an Action Plan on Comprehensive Implementation of the Convention in DFD-3 on 6 December as follows:

“1. Recognising the importance of full and comprehensive implementation of the Convention for international security and for the development of the peaceful uses of bacteriological (biological) agents and toxins, the Sixth Review Conference calls on all States Parties to:

- i. designate a national focal point or appropriate national authority to coordinate full and comprehensive implementation of all the obligations of the Convention;*
- ii. enact and, where necessary, update and strengthen, in accordance with their national constitutional processes, appropriate legislative, penal, administrative, security and policy measures to ensure full and comprehensive implementation of the Convention;*
- iii. fully and effectively implement the above national measures and ensure their continued effectiveness in meeting the obligations under the Convention;*
- iv. undertake to review their national regulations governing international exchanges and transfers in order to ensure their consistency with the objectives and provisions of the Convention;*
- v. provide upon request, where in a position to do so, assistance to other States Parties seeking help with national implementation of the Convention, including enacting and enhancing national legislation;*
- vi. facilitate cooperation, where in a position to do so, in particular capacity building, as well as technology transfer in the areas of customs control to facilitate the implementation of the relevant provisions of the Convention;*
- vii. within the framework of CBMs or other means, provide to the implementation support unit established within the UN DDA information on measures taken to implement the Convention;*
- viii. submit to the ISU a national report on the implementation of this action plan and any other measures to promote international cooperation in the field of peaceful use of bacteriological (biological) agents and toxins. The report may include offers and requests for assistance in different areas related to the Convention. These reports may be published on the BWC Web site, with the approval of the State Party concerned;*
- ix. inform the ISU of any assistance they may require, or are able to provide to States Parties, to ensure full and effective implementation of the Convention;*
- x. keep the ISU informed of bilateral, regional or multilateral activities to implement the Convention, as appropriate, including assistance in this regard;*
- xi. promote and facilitate regional workshops on scientific and technological cooperation and exchanges for peaceful purposes;*
- xii. assist the ISU in the development of a database containing offers of and requests for assistance, information on legislative, penal, administrative, security and policy measures, and information on opportunities for international cooperation in the field of peaceful use of bacteriological (biological) agents and toxins;*

- xiii. provide, where in a position to do so, financial and technical support, directly as well as through international organizations and relevant international institutions, with a view to building capacities in States Parties in need of assistance in the fields of surveillance, detection, diagnosis and containment of infectious diseases and related research;*
 - xiv. promote, where in a position to do so, development and production of vaccine and drugs to prevent and treat infectious diseases through international cooperation and, as appropriate, public-private partnerships;*
 - xv. promote, where appropriate, the development of efficient coordination mechanism between the United Nations and its relevant specialized agencies and relevant international and regional organizations to facilitate international cooperation in the field of peaceful use of bacteriological (biological) agents and toxins;*
- 2. The Conference requests the implementation support unit established with the UN DDA to:*
- i. compile and disseminate information provided by States Parties, within the framework of CBMs or other means, on measures they have taken to implement the Convention.*
 - ii. receive from and distribute among States Parties, on an annual basis, information on measures to implement this action plan and any other measures to promote international cooperation in the field of peaceful use of bacteriological (biological) agents and toxins;*
 - iii. inform States Parties on assistance requested, offered and provided pursuant to comprehensive implementation of the Convention.*
 - iv. disseminate information on needs conveyed by States Parties to enhance their capabilities to eradicate infectious diseases and to promote biological and biotechnological research and development for peaceful purposes;*
 - v. compile and post on its website information on planned workshops, seminars and other events related to comprehensive implementation of the Convention;*
 - vi. develop, with the assistance of States Parties, and maintain a database containing offers of and requests for assistance, information on legislative, penal, administrative, security and policy measures, and information on opportunities for international cooperation in the field of peaceful use of bacteriological (biological) agents and toxins;*
 - vii. provide to States Parties at their annual meetings a progress report on the activities it has undertaken under this action plan;*
- 3. The Conference decides that a full review of the progress made in the implementation of the provisions set out in this action plan be carried out at the Seventh Review Conference.”*

This language developed further in DFD-4 and DFD-5 on 7 December, with some consensus being reached in some sub-items. However, there was still much text that had yet to be agreed in the version in DFD-5, and effectively the Review Conference ran out of time to negotiate consensus language.

There were, however, also remaining fundamental disagreements over some of the proposed elements.

Reflections

The Sixth Review Conference was very successful in its agreement of a Final Declaration, with its Article by Article review, and in the Decisions and Recommendations section with its elements on the topics: Work of the 2003-2005 Meetings of States Parties, Implementation Support Unit, Intersessional Programme 2007-2010, Confidence-Building Measures, and Promotion of Universalisation. Much of the credit for this success goes to the President, Masood Khan of Pakistan, who successfully kept the Review Conference moving forward rapidly considering both a draft final document and language for the cross-cutting issues.

More could have been achieved if there had been earlier provision of proposals from the NAM group of States Parties. Cuba was an effective coordinator of the NAM group but it was evident throughout much of the Review Conference that the NAM was having to run to catch up – for example, their nominations for the various Review Conference positions were generally late. Earlier submission of proposals in advance copies of Working Papers, especially by the groups of States, would have enabled compromises to be explored informally prior to the Review Conference.

It is worth noting that the proposals put forward prior to the actual Review Conference in advance copies of Working Papers had the best chance of finding consensus, as they could be considered by States Parties in preparing for the Review Conference. Proposals put forward during the Review Conference were generally too late for reflection and consideration.

The Latin American group and the EU functioned well in putting forward their ideas prior to the Review Conference enabling them to be given due consideration. The JACKSNNZ group (Japan, Australia, Canada, Republic of Korea, Switzerland, Norway and New Zealand) made a good start with a group statement in the General Debate and again in the closing remarks. It is to be hoped that for the Seventh Review Conference, the JACKSNNZ group will propose JACKSNNZ language to the COW, and will consider whether to have JACKSNNZ Working Papers available prior to the Review Conference.

The Article by Article Final Declaration was successful in that much of the language was stronger and clearer than it had been in previous Final Declarations. Nevertheless, the US unwillingness to allow a clear reference to the value of the previous Final Declarations was a mistake, in that far more was potentially lost by failing to explicitly endorse the previous extended understandings as a set than would have been put at risk by adopting language endorsing such understandings. After all, all States Parties want to be perceived as being in support of strengthening the effectiveness and improving the implementation of the Convention.

The Implementation Support Unit is a long overdue step forward even though its mandate has been so tightly constrained. Nevertheless, there is a real opportunity to move forward and show how valuable such a unit can be. However, care does need to be taken to avoid retrograde steps as mentioned above in regard to the preparation of the background documents for the Review Conference.

The progress on CBMs was less than had been hoped for. As already noted, this reflected the inability of States Parties to concentrate on the details of CBMs, due to time pressure during the Review Conference, and this hindered the development of a consensus as to how the CBMs should be modified and extended. It is much to be regretted that CBMs were not chosen to be the subject of an intersessional Meeting of States Parties prepared for by a two week Meeting of Experts as this would have resulted in a thorough review of the CBMs themselves and of the process. It is also regretted that instead of encouraging wider dissemination of the CBM returns, the Review Conference chose to make them more secretive and less available, so defeating the aim of increasing transparency and building confidence.

The intersessional programme for 2007 to 2010 is welcomed. However, it is regretted that the Meeting of Experts has been reduced to one week – in a year when two topics are being considered this will effectively limit consideration of each topic to a single day, once time is allowed for the opening of the Meeting of Experts and for agreement of the report of the meeting. It is also regretted that explicit language was not adopted on the ‘recurring’ topics and that decisions are once again put off until the Review Conference in 2011. It should have been possible to find language that would enable the annual Meeting of States Parties to consider particular recurring topics — such as the promotion of universality, the confidence-building measures and developments in science and technology — and to take decisions, as appropriate, on these specific topics, as well as on the topics being considered in depth each year. After all, such decisions can only be taken by consensus, so there is no sense in which the annual Meetings of States Parties would have been given a blank cheque.

The promotion of universalisation is also welcomed, even though it lacks any real sense of urgency as it has no specified targets, and, although there is a requirement for annual reports, it is not explicit that the States Parties will be monitoring progress closely each year and taking further decisions thereon as appropriate. This is really rather short of what could and should have been agreed in a year when it was evident that all those States which have become States Parties to the CWC – which has currently 181 States Parties compared to the 155 States Parties to the BWC – should also be relatively easily persuaded to adhere to the BWC.

The failure to agree an Action Plan on National Implementation is to be regretted. This largely was due to the rather late proposal by the NAM of a Plan of Action on Implementation of Article X, and the insufficient time during the Review Conference to reach agreement on what to agree. Although the NAM draft Action Plan needed to be refined and focused onto activities of particular relevance to the Convention, there appeared to be nothing particularly contentious in the concepts underlying either of the Action Plans, and it might have been wiser to keep them apart rather than trying to combine them into an Action Plan on Comprehensive Implementation. Indeed, it could have been advantageous to keep them separate as it would then have become evident to the States Parties — from the progress reports on the individual Action Plans — what further action was needed in each area. It is evident that there is a real need for action to be taken on national implementation, as there is no basis for any consideration that the situation in regard to national implementation of the BWC is better than

that for the CWC. In regard to the proposed Plan of Action on Implementation of Article X, it is likely that the progress reports would have demonstrated that Article X is already being implemented very effectively by many States Parties especially in the developed world.

Nevertheless, although the Review Conference could have made even more progress than it did, the President in his concluding remarks rightly commended the States Parties for

their achievements in the outcomes that they had agreed at the Review Conference.

Note

¹ Scott Spence, *Achieving Effective Action on Universality and National Implementation: The CWC Experience*, University of Bradford, Department of Peace Studies, Review Conference Paper No. 13, April 2005. Available at <http://www.brad.ac.uk/acad/sbtwc>

Chemical Warfare as Genocide and Crimes Against Humanity

*Lisa Tabassi and Erwin van der Borgh*¹

“... Recalling that it is the duty of every State to exercise its criminal jurisdiction over those responsible for international crimes ...”²

1. Introduction

Two national courts are currently examining the use of chemical weapons as a means of genocide, and one of them is additionally examining their use as a crime against humanity. Both genocide and crimes against humanity are international crimes. As we are reminded in the preamble of the Rome Statute of the International Criminal Court, every State is under the duty to prosecute such crimes, for which there should be no impunity.

For those who seek no impunity for all acts involving chemical weapons these cases are significant because, lamentably, only the *use in international armed conflict* has been included in the list of crimes falling within the jurisdiction of the International Criminal Court.³ Of course an increasing number of national justice systems are in a position to prosecute *any* activities related to chemical weapons. By the end of 2006, 62% of the 181 States Parties to the Chemical Weapons Convention⁴ had adopted national implementing legislation criminalising acts prohibited by the Convention and 40% of them had criminalised *all* acts related to chemical weapons except, of course, destruction.⁵ For crimes that fall within the jurisdiction of the International Criminal Court there would be a certain amount of pressure to prosecute since the Court can seize jurisdiction if, *inter alia*, the national court is unwilling or genuinely unable to carry out the investigation or prosecution of the case.⁶

The two cases that are currently under consideration are, respectively, one by the Netherlands Court of Appeals and another by the Iraqi High Tribunal. Both cases concern, *inter alia*, the use of chemical weapons by Iraq in Iraqi Kurdistan in the 1980s. In the Netherlands case, charges of complicity in genocide and complicity in war crimes were brought against the defendant. In the Iraqi case, charges of genocide were brought against two defendants and charges of war crimes and crimes against humanity were brought against all seven defendants.

The use of chemical weapons in international armed conflict has long been considered to be a war crime under customary and conventional international law.⁷ The scope of the present comment will be confined to discussing prosecution

for the use of chemical weapons as a means of committing the international crimes of genocide and crimes against humanity – an unprecedented event. The definitions of the crimes will first be presented, followed by the facts of the two cases, the substantive law being applied to them and, finally, particular aspects of prosecuting international crimes in national courts. It will conclude by recommending that all States update their penal codes to incorporate international crimes, whether or not they have become party to the Rome Statute of the International Criminal Court.

2. Definitions

The internationally accepted definition of “genocide” has been codified in the Genocide Convention⁸:

“...[G]enocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group”⁹

Both the Netherlands and Iraq are party to the Genocide Convention. The Netherlands incorporated the definition into national law in its Genocide Convention Implementation Act.¹⁰ The Iraqi High Tribunal is applying the definition by virtue of its Statute and its adherence to the Genocide Convention.¹¹

The internationally accepted definition of “Crime against Humanity” was originally codified in the Charter of the International Military Tribunal in 1945 and appears as follows in the Rome Statute of the International Criminal Court:

“[C]rime against humanity” means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:

- (a) Murder;
- (b) Extermination; ...
- (h) Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender ... or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court; ...
- (k) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health...¹²

The Iraqi High Tribunal is applying this definition by virtue of Article 12 of its Statute.

Genocide has been described as “the crime of crimes” and is considered to be the most difficult crime to prove due to the special intent that must be established in order to convict a perpetrator. For crimes against humanity the difficulty will fall in proving that the act(s) at issue fell within a broader pattern of attack. Both these crimes are “system crimes” for which “it is usually necessary to carefully reconstruct the functioning of the ‘criminal system’ in which the individual acted. The scale of criminal conduct implied in crimes such as crimes against humanity usually means that the ‘underlying acts’ of the crime – mass killing, forced displacement, mass arrests – will be difficult to deny. However, attributing individual criminal responsibility for these acts further up the chain of political and military responsibility can be complicated...¹³ “System crimes ... are generally characterised by a division of labour between planners and executants, as well as arrangements in structure and execution that tend to make connections between these two levels difficult to establish. They are complicated by the fact that they are often (though not always) committed by official entities and frequently with the involvement of people who were, or may remain, politically powerful. The crimes usually affect large numbers of victims, and these issues of scale and context make investigations logistically more difficult.”¹⁴ In other words, establishing the knowledge and intent of the commanders will be more difficult than establishing the knowledge and intent of the low-level perpetrators who carried the orders out.

3. The Netherlands: the van Anraat case

The Netherlands case concerns the criminal prosecution of Mr Frans van Anraat, a Netherlands businessman, who was charged with complicity in war crimes and complicity in genocide for his contribution towards realising the production and use of chemical weapons by Saddam Hussein and others during the period 1985-1988. The prosecution accused Mr van Anraat of supplying, to Iraqi State organisations, chemicals which were used to produce chemical weapons used by the former Iraqi regime to attack Iraqi Kurdistan and the Islamic Republic of Iran.

The Netherlands could be commended for the fact that criminal proceedings were initiated against a businessman for complicity in war crimes and genocide. Generally economic actors have been largely shielded from such criminal charges, even though their role with regard to gross violations of international human rights and humanitarian law has been raised repeatedly.¹⁵ The van Anraat case has many similarities with the Zyklon B case in which German industrialists were charged, and convicted, for war crimes during World War II

for the supply of poison gas, used for the extermination of allied nationals interned in concentration camps, knowing that the gas was to be used for that purpose.¹⁶

3.1 The indictment

The amended indictment charged the accused with a violation of Article 1 of the Genocide Convention Implementation Act as well as violations of the laws and customs of war under Article 8 of the Wartime Offences Act, both in conjunction with Article 48 of the Netherlands Criminal Code (complicity).¹⁷

Before Mr van Anraat’s complicity in genocide could be examined, the Prosecutor first had to prove that a genocidal campaign had occurred. The indictment declared that Saddam Hussein, Ali Hassan Al-Majid, Hussein Kamal Hassan Al-Majid and/or other person(s) who so far have remained unknown¹⁸ repeatedly acted in conspiracy in Zewa, Halabja, Goktapa and Birginni in Iraq during 1986-1988 with the view to completely or partially wiping out a national or ethnic group as such, by intentionally using chemical weapons against persons belonging to part of the Kurdish population group in northern Iraq. As a result persons died or suffered grievous bodily or mental harm, among other things, and the population group found itself in a permanent state of serious fear.

Mr van Anraat was accused of intentionally providing opportunity, information, or means to do so by supplying thiodiglycol and/or phosphorochloride and other precursors intended for the production of chemical weapons to Iraq and by supplying materials to Iraq in order to construct a chemical weapons production facility.

3.2 The judgement

On 23 December 2005, the District Court of The Hague handed down the judgement in the case.¹⁹ In the judgement the court distinguished genocide from other international crimes because of the special intent that must be established. It described genocide as a unique crime, the “crime of crimes”, as distinct from crimes against humanity, war crimes and other international crimes. In order to establish whether a genocidal campaign occurred, the court examined whether prohibited acts took place, whether the acts were directed against a protected group and whether there was a specific intent to destroy, in whole or in part, the protected group. After examining documentary evidence and testimony, the court:

- established that Kurds constituted an ethnic group on the basis that they shared a common language and culture, members of the group consider themselves to be a distinct ethnic group, and that others, including those who would commit genocide, perceived the Kurds as an ethnic group.²⁰
- considered that the prohibited acts of killing members of a group as well as causing serious bodily harm to a group took place between 1985 and 1988.²¹

In the absence of direct evidence such as a confession by the alleged perpetrators, the Court relied upon case law of the International Criminal Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda to find that the special intent of the alleged perpetrators could be deduced from a number of facts:

- the general framework in which the acts were committed;
- the fact that the protected group systematically became

- the victim of other wrongful acts;
- the scale on which the criminal offences were committed;
- the systematic strike against victims because of their membership in a special group;
- the repetition of destructive and discriminating acts;
- the number of victims;
- the way in which the criminal offences were committed;
- the territory where the perpetrator was operating;
- the obvious intent of the perpetrator to take the life of his victims;
- the seriousness of the committed genocidal acts;
- the frequency of the genocidal acts in a certain region;
- the general political framework in which the crimes were committed;
- comments made by the perpetrator with respect to the position or fate of the protected group.²²

For the judicial finding of genocidal intent, the Court made a distinction between the systematic oppression and discrimination of the Kurdish population in Iraq and the systematic “campaign of violence” of the Iraqi government against the Kurds in northern Iraq.²³ As evidence, the Court relied on reports prepared by the Special Rapporteur of the Commission on Human Rights in 1993 and 1994, which provided an historical account of the human rights situation there. It also considered testimony taken from former Iraqi senior government officials and military commanders who testified that Saddam Hussein either ordered or was aware of and approved the use of chemical weapons against the civilian population.

As a result, the Court held that there had been the intention to partially destroy the Kurdish population in northern Iraq based on:

- the systematic oppression;
- the large number of deaths, estimated in the tens of thousands, due to attacks and mass executions;
- the large-scale use of chemical weapons which make no distinction between civilians and combatants, which cause severe suffering and spread terror and render villages uninhabitable for a prolonged period of time;
- the large-scale destruction of villages in northern Iraq and the subsequent deportations of the civilian population; and
- statements by representatives of the former Iraqi government which indicated a contempt for the Kurdish population.

The court referred to the ruling that the specific intent to partially destroy a group can be inferred from the circumstances.²⁴ However, the judgment only provided a short reasoning on the ruling of the Court that genocide had been committed against the Kurdish population in northern Iraq. Although the evidence established the result – that horrendous crimes were committed against the Kurdish population — the Court could have elaborated more on why it considered that a special intent existed to (partially) destroy the Kurdish population, and not be satisfied by merely referring to the evidence used to reach that conclusion. Even though the evidence presented before the Court included official correspondence from the Iraqi (military) authorities with regard to the Anfal campaign,²⁵ it is not so conclusive with regard to the intent to commit genocide that it would not merit a further analysis or reasoning by the Court. Some of the testimonies of victims and witnesses indeed referred to the intent to destroy the Kurdish

population, although one of the witnesses also mentioned that he was of the opinion that “the object of the chemical attack was to punish and frighten the Kurdish population, which was regarded by Saddam Hussein as allies of Iran.”²⁶

The Court also held that the genocide was not directed against the whole Kurdish population but against part of it, and stated that this was a substantial part of the group as demonstrated by the numbers of victims as well as the impact of certain elements of the genocidal campaign on the Kurdish group as a whole.²⁷ The defence argued that the attacks did not target the Kurdish population as such but were part of a military campaign against Kurdish armed opposition groups. However, this was disregarded as the Court stated that the campaign of violence largely surpassed what would have been required by military necessity.

The Court found the need to interpret “complicity in genocide”. The requirement of the *mens rea* (the mental element) with regard to complicity in genocide has been a point of discussion, both among legal scholars and before the international criminal tribunals. It has been widely held that complicity in genocide does not require specific intent (*dolus specialis*) and that mere knowledge of the intent is sufficient. For example the Trial Chamber in the Rwanda Tribunal ruled that:

“As far as genocide is concerned, the intent of the accomplice is thus to knowingly aid or abet one or more persons to commit the crime of genocide. Therefore, the Chamber is of the opinion that an accomplice to genocide need not necessarily possess the *dolus specialis* of genocide, namely the specific intent to destroy, in whole or in part, a national, ethnic, racial or religious group, as such.”²⁸

Under municipal law in the Netherlands, complicity in a crime is regulated by Article 48 of the Criminal Code. If that provision had been applied, it would have resulted in a much broader criminal responsibility for Mr van Anraat, since, in contrast to the rulings of the international criminal tribunals, there is no requirement that the accused know that there was intent to commit genocide. Under Article 48 it would have been sufficient, in order to secure a conviction for complicity to genocide under the domestic criminal code, “if the accomplice had been aware of the considerable chance that the principal would plan to commit genocide and that his assistance would be helpful in accomplishing this dismal goal,” implying that *dolus eventualis* would have been sufficient as intent.²⁹ There is therefore a speculative element which is generally considered to be absent with regard to actual knowledge. To avoid such a broader criminal responsibility, and in line with the government directives to adhere to the *actus reus* and *mens rea* as established under international criminal law if there is a significant difference with municipal law, the court followed the definition of complicity as generally established before the international criminal tribunals.³⁰

Consequently, the Court acquitted Mr van Anraat of the charge of complicity in genocide, as it had not been sufficiently proven that he had knowledge of the perpetrators’ intent to commit genocide. The supply of chemicals to the former Iraqi government by Mr van Anraat took place prior to the attack against the Kurds in Halabja in March 1988. The Court considered that it was only after that attack took place, due to the widespread media coverage, that the desperate situation of the Kurds in Iraq became widely known.

The question whether Mr van Anraat would have been convicted of complicity in genocide if deliveries had continued after the attack against Kurdish civilians in Halabja remains unanswered. Neither is it clear from the trial whether Mr van Anraat consciously stopped supplying chemicals after he had learned of the attack against the Kurdish population in Halabja. In this respect the Court pointed to evidence that Mr van Anraat was present in Iraq in July 1988, several months after the widely publicized attacks against Halabja, which could have indicated his intention to continue supplying chemicals.

The Court did, however, find Mr van Anraat guilty of complicity in war crimes and sentenced him, under Netherlands law, to 15 years imprisonment.³¹ Mr van Anraat is appealing that conviction. The Netherlands Prosecutor is appealing the acquittal of the charge of complicity in genocide. The defence requested the Court to call for the testimony of former Iraqi president Saddam Hussein,³² which the Court did, requesting an examining judge to find out whether it would be possible to take the testimony of Saddam Hussein and a number of other witnesses, including two former government officials, two former ambassadors to Iraq, a United Nations human rights official, and a senior figure from Iraq's former chemical weapons programme. The examining judge had determined that it would not be possible to question five witnesses.³³ Regarding testimony from Saddam Hussein, in view of the normally lengthy procedural process to obtain the cooperation of a foreign judiciary with a prosecution, it is unlikely that much progress had been made on the request before his execution was carried out on 30 December 2006. The most recent speculation was that the Appeals Court will render its decision in the spring of 2007.

4. Iraq: the Anfal case

In April 2006, the Iraqi High Tribunal announced the referral of the second case to the trial chamber, charging seven defendants³⁴ with crimes against humanity and war crimes, and two of them (former Iraqi president Saddam Hussein and his cousin and former military commander in the region, Ali Hassan Al-Majid) with the additional charge of genocide.³⁵ The case concerns the Iraqi military campaign, called the Anfal Operation, which took place during February through September 1988 in Iraqi Kurdistan, in the final phase of the Iran-Iraq war. Investigative judge Raid Juhi indicated that the Halabja gas attack would be prosecuted separately and was not considered part of the charges.³⁶

The Iraqi High Tribunal was originally created by the Coalition Provisional Authority in December 2003, as the Iraqi Special Tribunal. Following the handover to the transitional government of Iraq, the amended statute of the Tribunal (among other things renaming the Tribunal) was promulgated by the presidency Council.³⁷ The Tribunal is an internationalised national court, limited in jurisdiction. It can only try Iraqi nationals or residents for specific crimes (genocide, crimes against humanity, war crimes and, under certain circumstances, violations of other Iraqi laws) committed during the period 17 July 1968 to 1 May 2003. Its Rules of Procedure and Evidence were appended to the statute. The defences of immunity and superior orders are explicitly ruled out, and command responsibility will be incurred even though the crimes were committed by a subordinate. Specific penal codes of Iraq are to be applied in the event of any lacunae in the Stat-

ute and the statutory crimes can be interpreted by reference to relevant decisions of the international criminal courts, thus internationalising this national court.

The legitimacy of the Tribunal, its administration and the question of whether international standards of due process are being met to the extent that it can be said that the accused are receiving a fair trial by the Tribunal have been raised by various observers.³⁸ The publication of the Tribunal's lengthy (300 page), detailed and reasoned Opinion³⁹ in the first trial, the *Dujail* case, put to rest many of the concerns about substantive aspects of the proceedings. However, the relatively swift decision by the Appeals Chamber on 26 December to uphold the death sentences of three of the convicted and the commencement of the executions on 30 December raised fresh criticism.

The *Anfal* trial opened on 21 August 2006. The prosecution began setting out its case, stating that 182,000 people lost their lives in the Anfal campaign, entire villages were razed, mass executions were carried out and the dead buried in mass graves, survivors were forcibly relocated to detention camps elsewhere, and chemical weapons were used repeatedly. The testimony of numerous witnesses and victims of the chemical attacks were heard.⁴⁰ The Chief Judge then indicated that the oral testimony of over 70 state witnesses was concluded. The prosecution's presentation of the documentary evidence and film footage linking the defendants to the chemical weapons attacks began on 19 December.⁴¹

In defence, both Saddam Hussein and his cousin asserted that the Anfal Operation was a counter-insurgency campaign aimed at rebels siding with the Islamic Republic of Iran during the Iran-Iraq war.⁴² Deciding that issue is key to a conviction for genocide – if the defence can establish that the Anfal campaign was purely political in nature (to quell an insurgency or address treason) or of military necessity (to clear the border areas as defensive moves in the Iran-Iraq war) the charge of genocide must fail. The drafters of the Genocide Convention, negotiating during the Cold War period, deliberately excluded acts directed against “political groups” or “opponents of the regime”.⁴³ If, however, only the underlying motives were political and the intent was to (partially) destroy a people, the charge must succeed. The test is subjective, not objective, as it is the perpetrator who defines or identifies the group for destruction.⁴⁴ If the special intent cannot be proven, the more general charge of crimes against humanity may succeed given that there would appear to be ample documentation of the breadth of the attacks⁴⁵ and the evidence may also be sufficient to prove the systematicity.

Iraq's legal system follows the civil law tradition, with the presiding judge playing a leading role in questioning and drawing out the evidence in the case. Although the Tribunal's Statute (Article 118) requires that the indictment be issued prior to the trial commencing, if the *Dujail* trial serves as the example, the detailed report of the charges and the roles of the defendants in relation to those charges (“the charging document”) will only be issued once the prosecution rests its case. The defence will have the opportunity to examine that report before addressing the charges and evidence presented.⁴⁶

At this stage it is of course unclear what effect, if any, the Netherlands court finding in *van Anraat* that a genocidal campaign had occurred in Iraq may have on the *Anfal* case. The body of evidence gathered by the Netherlands prosecutor from at least eight countries, and police investigations in 15

countries,⁴⁷ could be valuable to the *Anfal* proceedings. It is not publicly known whether the Iraqi authorities have made a request to the Netherlands to cooperate in the prosecution of the *Anfal* case. However, in view of the possibility of the death penalty being applied in the event of a conviction, the Netherlands would be barred from cooperating on the case. In any event, by the nature of instituting proceedings in national courts, it is even possible that the courts from different jurisdictions could come to different conclusions on whether genocide has occurred against the Kurdish population.

The execution of Saddam Hussein on 30 December 2006 means that proceedings against him in the *Anfal* trial were discontinued. The Tribunal's proceedings concerning the charge of genocide against his cousin has continued, as has its consideration of the charges of crimes against humanity and war crimes against all six remaining defendants.

5. Prosecuting international crimes in national courts

'International crimes are breaches of international rules entailing the personal criminal liability of the individuals concerned'.⁴⁸ Some of the crimes under international law are considered to be violations of *jus cogens*, peremptory norms that 'have a rank and status superior to those of all the other rules of the international community' and which cannot be set aside by states, through for example a treaty.⁴⁹ Although there is not necessarily a consensus on a definite list of crimes under international law, it is widely accepted that it would certainly include genocide and crimes against humanity.

5.1 Jurisdiction

Individuals responsible for crimes under international law can be prosecuted once the jurisdiction of the state, which initiates the prosecution, has been asserted. A number of principles exist under international law to determine the legal grounds for jurisdiction. These include primarily the principle of territoriality (the crime has been committed on the territory of the state which intends to prosecute); the principle of active nationality (the perpetrator of the crime is a national of the state which is initiating prosecution); the principle of passive nationality (the victim of the crime is a national of the state which is initiating prosecution); the principle of protection (fundamental (security) interests of the state are affected) and the universality principle (no specific connection exists between the state which is initiating the prosecution and the offender).

In the Netherlands case, none of the crimes were committed in the Netherlands as Mr van Anraat was living and working abroad. The Netherlands exercised jurisdiction in the case under the principle of active nationality, based on the Netherlands nationality of the accused.

Mr van Anraat challenged the jurisdiction of the court for a number of reasons, namely that as the court had no jurisdiction to prosecute the principle offences it could not prosecute accomplices to those crimes; that the court would provide an opinion with regard to the culpability of the government of another country; and that Iraq would be the most suitable jurisdiction to prosecute the war crimes and genocide charges. The court rejected all of these challenges to its jurisdiction and stated that complicity to a crime constitutes an independent criminal act and that the Netherlands court

had jurisdiction under the active personality principle as stated in article 5 of the Criminal Code. Moreover, with regard to international crimes, the court mentioned that it would often happen that different jurisdictions are involved in the prosecution of the various defendants. Although the court would indeed provide an opinion on the acts of a foreign government it would not be involved in holding government officials criminally responsible and therefore the question of immunity was not an issue. In addition the court re-iterated the fact that former government officials could not invoke immunity under international law for crimes committed during the performance of their duties. Finally, the court held that under international law Iraq did not have exclusive jurisdiction and that therefore the accused could be tried in the Netherlands. The accused also challenged the admissibility of the case before the Netherlands court on different grounds, but these were also dismissed by the court.

The exercise of jurisdiction by the Iraqi High Tribunal is limited to that stipulated in its statute: to Iraqi nationals or residents of Iraq, for acts committed in Iraq or elsewhere between 17 July 1968 and 1 May 2003, whether or not committed in armed conflict.

5.2 Applicable law and internationalised interpretation

The Netherlands government, in its Explanatory Memorandum to the International Crimes Act, confirmed that general principles of criminal law, as stipulated in the Rome Statute, would be applicable if these principles were significantly different from what exists under municipal law.⁵⁰ In the same Memorandum the government clearly indicated that courts in the Netherlands should base themselves, with regard to the *actus reus* and *mens rea* of the crimes, on international law and jurisprudence.⁵¹ The court therefore referred extensively to the jurisprudence of the International Criminal Tribunal for Rwanda (ICTR) and the International Criminal Tribunal for the former Yugoslavia (ICTY), once more underlining the importance of the jurisprudence of both International Criminal Tribunals in relation to (international) criminal law.

The Iraqi High Tribunal, by virtue of its Statute, may also have recourse to criteria and reasoning enunciated in relevant decisions of international criminal courts in interpreting the statutory crimes. If there is a lacuna in the Statute, general principles of Iraqi criminal law are to be applied.⁵² In the *Dujail* trial opinion, numerous references are made to decisions of the ICTR and the ICTY.

5.3 The principle of legality

Of primary importance is the principle of legality, based on the maxims *nullum crimen sine lege* and *nulla poena sine lege*: that no one can be punished for a crime that was not proscribed by law at the time it was committed, or punished unless a penalty was established by law at that time for the crime. Criminal law cannot be applied retroactively. The principle of legality was enshrined in the 1948 Universal Declaration of Human Rights (Article 11) and the 1966 International Covenant on Civil and Political Rights (Article 15).

In some States ascribing to the monist legal tradition, international law is directly applicable in the State's jurisdiction and generally does not need to be adopted in the form of a domestic law. Although genocide and crimes against humanity are prohibited by customary international law, the nature of the formation of custom (the practice of States coupled

with *opinio juris*) would ordinarily not meet the criteria to constitute law applicable in criminal proceedings. The Netherlands Supreme Court recently overturned a Court of Appeal decision in this regard. "Despite the country's monist legal tradition, the Dutch Supreme court was not willing to accept that customary international law could serve as an independent basis for criminal prosecution in the Netherlands. Instead, the application of such norms remains dependent on implementing legislation." This hesitant approach to customary law in the context of criminal law is based on the assumption that customary international law is too imprecise and unknown for direct application in criminal proceedings and that this imprecision could result in a violation of the principles of legality and non-retroactivity.⁵³

The crime of genocide was codified by the 1948 Genocide Convention, which requires that States Parties enact the necessary legislation to give effect to the provisions of the Convention, in particular to provide effective penalties. The Netherlands has done so. Iraq did not, until it adopted the 2003 Statute of the Tribunal with its limited jurisdiction.

The 1945 Charter of the Nuremberg Tribunal codified "crimes against humanity" to describe a concept that only concretely emerged in reaction to acts committed during World War II. In rejecting the assertion that it was applying law retroactively, the Tribunal declared:

"In the first place, it is to be observed that the maxim *nullum crimen sine lege* is not a limitation of sovereignty, but is in general a principle of justice. To assert that it is unjust to punish those who in defiance of treaties and assurances have attacked neighbouring states without warning is obviously untrue, for in such circumstances the attacker must know that he is doing wrong, and so far from it being unjust to punish him, it would be unjust if his wrong were allowed to go unpunished."⁵⁴

In deciding the van Anraat case, provisions of the Genocide Convention Implementation Act, the Criminal Law in Wartime Act, in conjunction with Article 48 Penal Code, and the Penal Code, were applied by the Court, all of which were in force at the time the acts were committed. The Court had recourse to decisions of the international criminal tribunals only when international criminal law was significantly different than the domestic criminal law. In explaining this, it referred to the Netherlands government's Explanatory Memorandum to the International Crimes Act, and declared that:

"A proper application of important rules of international criminal law by the national criminal court judge serves two purposes. In the first place he has to meet with the requirements and expectations of international criminal law regarding the penalization and prosecution of international crimes, which entails that liability under Dutch law should not fall short as opposed to liability under international law. Apart from that however, the Dutch judge must also respect the limits of liability according to international law. The court considers both elements to be of importance."

With respect to the second element the public prosecution service holds the view that conventional-law obligations to penalization represent minimum obligations and therefore the Netherlands are always allowed to go beyond those limits and exceed the bounds of international liability. In the opinion of the court the prosecution service does not acknowledge the place of these conventions and

crimes within an international system of standards of criminal law. By assuming a larger liability under national law than customary under international law, in some cases based on national law a crime could be considered as an offence pertaining to international law, whereas the international community does not consider it as such. In this respect an important argument for the court concerning international crimes to give preference to the bounds of international liability instead of national liability, refers to universal jurisdiction connected with international crimes.

Exceeding the liability limits of international criminal law, when a case is brought to trial under national law, could cancel the international basis for universal jurisdiction, while the latter can only be applied to practices that are indictable as criminal offences under international law. In relation to this subject the prosecution argued that in the present proceedings there is no question of excessive jurisdiction from an international law point of view, seen that the accused is prosecuted based on the active nationality principle. The necessary consequence resulting from these considerations that, within the framework of starting proceedings against international crimes committed abroad, different standards of liability can be applied to Dutch nationals and foreign nationals, is considered by the court to be unacceptable, in any event when it concerns the crime of committing genocide."⁵⁵

In deciding the *Anfal* case, the Iraqi High Tribunal is applying its Statute, supplemented by the 1969 Penal law no. 111 and the 1940 Military Penal Law no.13. In the *Dujail* trial opinion, the Tribunal dismissed the assertion that it was applying law retroactively. It referred to Iraq's obligations under international law, in particular Iraq's adherence to the Genocide Convention in 1956, as well as the reasoning of the Nuremberg Tribunal. It recognised that "crimes against humanity" did not exist as an independent offence in an Iraqi statute at the time the acts were committed, nevertheless, it pointed out that the underlying acts which form "crimes against humanity" already existed as criminal offences in Iraq at the time. In this respect the Tribunal reasoned:

"...whereas the accusations attributed to the accused in the case are categorised as crimes against humanity, the Court is satisfied that most if not all of the acts or omissions forming crimes against humanity are nothing but ordinary crimes subject to conviction and punishment in all countries such as Iraq. In this respect there wasn't any modification except to transfer them from internal scope to international scope, with the necessity of additional elements for establishing them due to the generality and quality and protected interests therein not limited to life, safety, freedom, dignity or property etc. in a specific country.

However this protection comprises all the mentioned elements of each individual in all countries forming the international community worldwide. These are crimes against humans and humanity in every part of this universe ...

Whoever is convicted of an international crime, whether genocide or crimes against humanity or war crimes, [such] as the crime of murder or torture or unlawful confinement or rape or theft or sabotage or destruction of property or hostile acts against prisoners, the wounded or dead, also commits a crime under Iraqi law and is convicted only

additionally under international customary or conventional law.

In fact most convictions for international crimes are in parallel convictions under the national laws of most, if not all, countries of the world since there is no country in which the penal code doesn't proscribe the crime of murder or torture or kidnapping or unlawful imprisonment.

The actions attributed to the accused in the Dujail case, upon conviction, are simultaneously international and internal crimes. The commission of such crimes is considered to be a violation of international criminal law, international humanitarian law, Iraqi law (1969 Penal Code no. 111 and 1940 Military Penal Code no. 13) as well as a violation of the Statute of the Iraqi High Tribunal.⁵⁶

In this respect, consideration could also be given to the distinction made between "retroactivity" and "retrospectivity" made by the Canadian High Court in 1989:

"The distinction between a 'retroactive' statute, as opposed to one with a 'retrospective' application, is significant. According to the definition contained in 44 Hals., 4th ed., p. 572, a retroactive penal statute is one which is 'intended to render criminal an act which was innocent when it was committed.' Justice Doherty ... defines both 'retroactive' and 'retrospective' statutes as follows: ...

A retroactive statute is one which is proclaimed to have effect as of a time prior to its enactment. The statute operates backward and changes the law as of some date prior to proclamation ...

A retrospective statute is one which proclaims that the consequences of an act done prior to proclamation are to be given a different legal effect after proclamation as a result of the enactment of the statute. It operates only in the future, after proclamation, but changes the legal effect of an event which occurred prior to proclamation.

Keeping these definitions in mind, there is clearly a difference between a retroactive and a retrospective application. A retroactive application takes an act or omission that was not previously criminal, and retroactively deems that act or omission to be criminal as at a later date. A retrospective statute, on the other hand, does not create new offences. Rather, as in this case, it merely operates to retrospectively give Canadian courts jurisdiction over criminal offences committed outside of Canada.⁵⁷

Due to the fact that the acts underlying the crime of genocide and crimes against humanity already clearly constituted offences under the Iraqi Penal Code, the assertion that the principle of legality is being violated in case of a conviction is hardly valid. Such an assertion would be important and would warrant further examination in the *Anfal* trial if it comes to light that the war crimes charges are being brought for the use of chemical weapons in the Kurdish villages or if, in an eventual trial concerning the use of chemical weapons in Halabja in 1988, charges of war crimes are brought. One court has considered the Halabja chemical weapons attack, by way of *obiter dictum*, as crystallisation of the customary international law ban on the use of chemical weapons in non-

international armed conflict.⁵⁸ It would be difficult to argue that the persons responsible for that attack could be held criminally liable *now* under a rule which was in formation up until the moment the attack was committed.

It is noted that the definition of "war crimes" contained in Article 13 of the Statute of the Iraqi High Tribunal is limited to use in *international* armed conflict. Thus, to convict the persons responsible for the chemical weapons attacks in Iraqi Kurdistan of war crimes, the Tribunal would need to determine that the conflict there had acquired the character of an international armed conflict in order to act retrospectively, not retroactively. To classify that conflict as international it would have to be established (all of which would be difficult to argue) that:

- there was a sufficient degree of cross-border intervention by Iranian forces in that conflict; or
- it was internationalised by a state of dependency and effective control constituting an agency relationship between the Kurdish insurgents and the Iranian government; or
- there was at least an adequate degree of external support of the Kurdish insurgents; or
- it was internationalised as a struggle against a racist regime in order to exercise the right of self-determination.⁵⁹

6. Conclusion

It is with a sense of relief that charges of genocide and crimes against humanity have been formally instituted for the use of chemical weapons and that trials are underway. This is a landmark event in the development of jurisprudence related to chemical weapons. It also diminishes the question mark that was hovering over the Rome Statute on how such an event, should it arise, might be treated by the prosecutor of that court.

Recalling the finding of the Netherlands Supreme Court in the *Bouterse* case in 2001, and reviewing the various criticism published by observers of the Iraqi trials, the importance of appropriately and comprehensively creating the offences in domestic law cannot be overemphasized. Regardless of whether a State is party to the Rome Statute or not, it is the duty of every State to prosecute international crimes so as to prevent impunity for such crimes. Adequately defining the crime in domestic law will preclude any criticism being raised concerning violations of the principle of legality or retroactive application of the law.

Regrettably, as it stands now, the only international crime explicitly related to chemical weapons which has been recognised by the international community is the war crime of the use of asphyxiating, poisonous or other gases and all analogous liquids, materials or devices in international armed conflict. Given the nearly universal adherence to the 1993 Chemical Weapons Convention, this limitation, which dates back to the 1925 Geneva Protocol, needs to be addressed. Both the jurisprudence of the International Tribunal for the former Yugoslavia⁶⁰ and the comprehensive study published by the International Committee of the Red Cross⁶¹ have concluded that the customary international law prohibition, binding on all States, on the use of chemical weapons in international armed conflict now extends to the use in non-international armed conflict as well. There is an opportunity to formally address this issue if timely action is taken. Article 123 of the Rome Statute of the International Criminal Court provides that seven

years after entry into force of the Statute (i.e., in July 2009) a Review Conference will be convened to consider any amendments to the Statute, including the list of crimes. It would certainly seem appropriate to add the crime of the use of chemical weapons in non-international armed conflict, if not the crime of developing, producing, stockpiling and transferring chemical weapons as well.

As States Parties to the Chemical Weapons Convention pursue their fulfilment of their action plan on national implementation, the full gamut of criminal offences relating to chemical weapons are being proscribed by national law. It would serve the goal of enforcement to have these categorised as international crimes in order to more vigorously underscore the need to prevent impunity for such crimes and to meet the object and purpose of eliminating this category of weapon entirely and universally.

Notes

¹ The authors are, respectively, Legal Officer in the Technical Secretariat of the Organisation for the Prohibition of Chemical Weapons (OPCW), and Project Manager with an international humanitarian non-governmental organisation. The views expressed are the authors' own and cannot be attributed to the OPCW or its members.

² Preambular paragraph 7 of the Rome Statute of the International Criminal Court. As of 1 January 2007, there are 104 parties to the Statute which entered into force on 1 July 2002. The text, as corrected, is available at www.icc-cpi.int.

³ Article 8(2)(b) of the Rome Statute. Paragraph 1 of Article 8 specifies that "The Court shall have jurisdiction in respect of war crimes in particular when committed as part of a plan or policy or as part of a large-scale commission of such crimes", which further limits the cases which could meet the criteria to be heard by the Court.

⁴ Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction. As of 1 January 2007, there are 181 parties to the Convention which entered into force on 29 April 1997. The text, as corrected and amended, is available at www.opcw.org.

⁵ OPCW document C-11/DG.6, dated 23 November 2006. Available at www.opcw.org/documents/C-11. The OPCW is continuing to vigorously pursue the adoption of comprehensive implementing legislation by all States Parties, as required by the Convention. See most recently the decision of the OPCW Conference of the States Parties on "Sustaining Follow-up to the Plan of Action Regarding Implementation of Article VII Obligations," decision C-11/DEC.4, dated 6 December 2006, available at www.opcw.org/documents/C-11.

⁶ Article 17(1) of the Rome Statute.

⁷ See L. Tabassi, 'Impact of the CWC: Progressive Development of Customary International Law and Evolution of the Customary Norm against Chemical Weapons,' *The CBW Conventions Bulletin* (March 2004) pp. 1-7.

⁸ Convention on the Prevention and Punishment of the Crime of Genocide, approved by the United Nations General Assembly resolution 260A (III) of 9 December 1948; entry into force 12 January 1951. As of 31 December 2006, there are 140 parties to the Convention. Text available at www.un.org.

⁹ Article 2 of the Genocide Convention.

¹⁰ Article 1 of the Genocide Convention Implementation Act.

¹¹ Article 11 of the Statute of the Iraqi Special Tribunal, issued 10 December 2003 by the Coalition Provisional Authority of

Iraq and promulgated, as amended, as Law No. (10) 2005 by the presidency Council, Official Gazette of the Republic of Iraq, no. 4006 dated 18 October 2005.

¹² Article 7(1) of the Rome Statute.

¹³ Office of the High Commissioner for Human Rights, *Rule of Law Tools for Post-Conflict States: Prosecution Initiatives*, United Nations (2006) 12. Available at www.ohchr.org.

¹⁴ Human Rights Watch, *Judging Dujail: The First Trial before the Iraqi High Tribunal* (November 2006) at 73. Available at www.hrw.org.

¹⁵ United Nations 'Commentary on the Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights' (26 August 2003) UN Doc E/CN.4/Sub.2/2003/38/Rev.2 ("Transnational corporations and other business enterprises shall not engage in nor benefit from war crimes, crimes against humanity, genocide, torture, forced disappearance, forced or compulsory labour, hostage-taking, extrajudicial, summary or arbitrary executions, other violations of humanitarian law and other international crimes against the human person as defined by international law, in particular human rights and humanitarian law.').

¹⁶ *Zyklon B* Trial of Bruno Tesch *et al.* British Military Court Hamburg. March 1946. Law Reports of Trials of War Criminals, The United Nations War Crimes Commission, Vol I London HMSO (1947) at 93.

¹⁷ The Genocide Convention Implementation Act (1964) Staatsblad No 243. The Wartime Offences Act (1952) Staatsblad No 408. Criminal Code (as Amended) (1881).

¹⁸ The indictment refers to Saddam Hussein Al-Tikriti (former President of Iraq), Ali Hasan Al-Majid Al-Tikriti (member of the revolutionary council and leader of the Anfal operations against the Kurds), Hussein Kamal Hassan Al-Majid (son-in-law of the former President of Iraq and senior military leader) and others as the principal offenders of genocide. These persons were not indicted by the Netherlands Court and the Court would in any event not have jurisdiction under the Genocide Convention Implementation Act which restricted jurisdiction to the active personality principle in terms of its extraterritorial application.

¹⁹ Judgement LJN: AX6406, Rechtbank 's-Gravenhage, 09/751003-04 English Translation, available at <http://zoeken.rechtspraak.nl> ("Judgement").

²⁰ The court used both objective and subjective elements to determine the group and based itself on criteria enunciated by the International Criminal Tribunal for Rwanda in *Kayishema et al* (Judgment) ICTR-95-1-T (21 May 1999) at 98. The court did not consider the Kurds a national group but provided no additional arguments for this determination.

²¹ Judgement, subparagraphs 6.5.1 to 7.2.

²² Judgement, subparagraph 7.2(3)

²³ *Ibid.*

²⁴ See the International Criminal Tribunal for Rwanda, *Akayesu* (Judgment) ICTR-96-4-T (2 September 1998) at 522-523.

²⁵ See further, Section 4 *infra*.

²⁶ Judgment, subparagraph 7.3 (g).

²⁷ See the International Criminal Tribunal for the former Yugoslavia, *Krstic* (Judgment) IT-98-33-A (19 April 2004) at 12.

²⁸ *Akayesu* (Judgment), *ibid.* at 539.

²⁹ HG Van der Wilt, "Genocide, Complicity in Genocide and International v. Domestic Jurisdiction," 4 Journal of Interna-

- tional Criminal Justice (2006) 239 at 249.
- ³⁰ *Ibid* 239. The author considers that the *mens rea* in complicity in genocide is not clearly defined and therefore argues that “[i]n situations of ambiguity where international case law offers insufficient guidance, domestic courts would better resort to their own criminal law.”
- ³¹ See further, S. Oñate, B. Exterkate, L. Tabassi, and E. van den Borgh, “Lessons Learned: Chemicals Trade Convicted of War Crimes”, 4 *Chemical Disarmament Quarterly* (December 2006) pp 19-31.
- ³² ‘Dutch Businessman Seeks Saddam Hussein’s Testimony in Appeal of War Crimes Conviction,’ Associated Press (9 October 2006).
- ³³ ‘Dutch Court Seeks Saddam Testimony on Chemical Sale,’ Reuters (23 October 2006).
- ³⁴ Saddam Hussein Majid Al-Tikriti, Ali Hassan Al-Majid Al-Tikriti, Sultan Hashem Ahmed, Sabir Abdul-Aziz Al-Douri, Hussein Rashid Al-Tikriti, Tahir Tawfiq Al-A’ni, Farhan Mutlak Al-Joubori.
- ³⁵ Press releases of the Iraqi High Tribunal, available at www.iraq-ihl.org; ‘Saddam Accused of Genocide in New Charges’, Associated Press (4 April 2006); ‘Saddam to Face Genocide Charges’, BBC News (4 April 2006) available at http://news.bbc.co.uk/2/hi/middle_east/4875678.stm.
- ³⁶ *Ibid*.
- ³⁷ Article 11 of the Statute of the Iraqi Special Tribunal, issued 10 December 2003 by the Coalition Provisional Authority of Iraq and promulgated, as amended, as Law No. (10) 2005 by the presidency Council, Official Gazette of the Republic of Iraq, no. 4006 dated 18 October 2005.
- ³⁸ See, notably, Human Rights Watch, *Judging Dujail: The First Trial before the Iraqi High Tribunal*, (November 2006) www.hrw.org; Amnesty International, *Iraq: Iraqi Special Tribunal – Fair Trials Not Guaranteed* (14 July 2005) <http://web.amnesty.org/library/Index/ENGMDE140072005?open&of=ENG-IRQ>; International Center for Transitional Justice, *Briefing Paper: Dujail: Trial and Error?* (November 2006) <http://www.ictj.org/static/MENA/Iraq/ICTJDujailBrief.eng.pdf>; M Scharf and M Newton, *ASIL Insight: The Iraq High Tribunal’s Dujail Trial Opinion*, www.asil.org/insights/2006/12/insights061218.html; R Clark and C Doebbler, *The Iraqi Special Tribunal: A Corruption of Justice* (13 September 2006) www.justiceonline.org/site/Pageserver?pagename=IST
- ³⁹ English translation available at http://law.case.edu/saddamtrial/documents/dujail_opinion_pt1.pdf
- ⁴⁰ ‘Timeline: Saddam Hussein Anfal Trial’, BBC News (21 August to 4 December 2006) http://news.bbc.co.uk/2/hi/middle_east/5272224.stm
- ⁴¹ ‘Saddam Trial Sees Graphic Footage’, BBC News (19 December 2006), www.news.bbc.co.uk/2/hi/middle_east/6193863.stm
- ⁴² R. Colvin, “Saddam Accuser Targets Foreign Arms Merchants,” Reuters (11 September 2006).
- ⁴³ M. Scharf, ‘An Ambitious but Risky Move’, Grotian Moment Blog: Anfal Issue #1 – the Significance of the Anfal Campaign Indictment, Case Western University School of Law, www.law.case.edu/saddamtrial
- ⁴⁴ W. Schabas, ‘The Genocide Convention at Fifty’, United States Institute of Peace (7 January 1999) www.usip.org
- ⁴⁵ Human Rights Watch, ‘Genocide in Iraq: the Anfal Campaign Against the Kurds’, (July 1993) <http://www.hrw.org/reports/1993/iraqanfal>
- ⁴⁶ Human Rights Watch, *Judging Dujail: The First Trial before the Iraqi High Tribunal*, (November 2006) 44-48.
- ⁴⁷ See S. Oñate, B. Exterkate, L. Tabassi, and E. van den Borgh, “Lessons Learned: Chemicals Trade Convicted of War Crimes”, 4 *Chemical Disarmament Quarterly* (December 2006) pp 19-31 at 30.
- ⁴⁸ A Cassese. *International Criminal Law* (Oxford University Press Oxford 2003) 23.
- ⁴⁹ A Cassese. *International Law* (2nd edn Oxford University Press Oxford 2005) 199. Article 53 of the 1969 Vienna Convention on the Laws of Treaties.
- ⁵⁰ Tweede Kamer der Staten Generaal ‘Explanatory Memorandum to the International Crimes Act’ (2001-2002) 28337 No 3 at 29.
- ⁵¹ *Ibid* at 27.
- ⁵² Statute, Articles 17 (1) and (2).
- ⁵³ *In Re Bouterse*, 18 September 2001, LJN No. AB1471, Case No. 00749/01 CW 2323, at paras 4.4-4.6 and 6.4, cited in E. de Wet, “The Prohibition of Torture as an International Norm of *Jus Cogens* and its Implications for National and Customary Law,” 15 *European Journal of International Law* (2004) 71-96 at 117-118.
- ⁵⁴ Trials of War Criminals before the Nuernberg Tribunals under Control Council Law No. 10, Volume III, USGPO (April 1949) section 974, <http://www.iraq-ihl.org/en/doc/nuernberg/imtrialsowarcriminals2.pdf>
- ⁵⁵ *Van Anraat* Judgement, subparagraph 6.3.
- ⁵⁶ *Dujail* Trial Opinion, Part I, page 41.
- ⁵⁷ *Regina v. Finta*, Decision of the High Court of Canada (10 July 1989), 82 *International Law Reports* 425 at 432-433.
- ⁵⁸ International Criminal Tribunal for the former Yugoslavia. *Prosecutor v. Tadic*, Case no. IT-94-1-AR72. Appeals Chamber Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, (2 October 1995), para. 124.
- ⁵⁹ See the criteria contained in Article I of the Additional Protocol I to the Geneva Conventions of 12 August 1949 and Relating to the Protection of Victims of International Armed Conflicts; the tests considered by respective courts: the International Criminal Tribunal for the former Yugoslavia in the *Tadic* Appeals Chamber Decision (*ibid*, para. 72. and the International Court of Justice in the *Case Concerning Military and Paramilitary Activities in and against Nicaragua* (*Nicaragua v USA*, 27 June 1986, ICJ Reports 1986, paras. 115, 116, 219) and the *Case Concerning United States Diplomatic and Consular Staff in Tehran* (*USA v Iran*), 24 May 1980, ICJ Reports 1980, para. 58). See also, A-L Sjölund, “Criteria for Establishing an International Armed Conflict in Bosnia and Herzegovina: An Analysis of the *Tadic* Judgment in the International Criminal Tribunal for the Former Yugoslavia,” VIII *The Finnish Yearbook of International Law* (1997) 285-306.
- ⁶⁰ *Prosecutor v. Tadic*, Case no. IT-94-1-AR72, Appeals Chamber Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, (2 October 1995), para. 124.
- ⁶¹ J Henckaerts and L Doswald-Beck, *Customary International Humanitarian Law*, Volume I: Rule 74, Cambridge University Press (2005) 261-263.

What follows is taken from issue 74 of the Harvard Sussex Program CBW Chronicle, which provides a fuller coverage of events during the period under report here, and also identifies the sources of information used for each record. All such sources are held in the Sussex Harvard Information Bank which is open to visitors by prior arrangement. For access to the Chronicle, or to the electronic CBW Events Database compiled from it, please apply to Julian Pery Robinson.

August In Brussels, the Research and Technology Organisation of the North Atlantic Treaty Organisation releases a technical report on *The Human Effects of Non-Lethal Technologies*, which refers to chemical incapacitants. The report addresses the conclusions and recommendations of the Human Factors and Medicine Panel that was established in 2000 under the Defence Capabilities Initiative (DCI). It states: "It is conceivable that riot control agents may be justified as non-lethal weapons in low-key law enforcement operations, but violate the CWC if the operations become more aggressive. The definition of whether law enforcement equates to peacekeeping is a crucial grey area requiring international clarification if chemicals are to be considered as NLT [Non-Lethal Technologies]... [Article 1 of the CWC] places a number of potential limitations upon chemical NLT. Any use, or threat to use chemical NLT as an antiriot agent, could be challenged as use as a method of warfare. Any NLT chemical, not regarded as an antiriot agent could be viewed as a chemical weapon and therefore a contravention of the Convention. Any chemical NLT programme would require a development programme, which would need to be distinguishable in character from that required for a chemical weapons programme, which is forbidden by the CWC. Attempts to justify chemical NLT development could create opportunities for CW proliferators to justify their actions and make the task of implementing the CWC virtually impossible... Finally, the employment of chemicals as NLT has to be compatible with use, thus demonstrating intent. For example, whereas CS in hand or baton round sized canisters would be considered legitimate law enforcement equipment, 155mm shells filled with CS would clearly be considered as preparation to use riot control agent in waging war, prohibited under the CWC. Research and development of novel incapacitants could be open to misinterpretation under the CWC. Non-lethal incapacitating chemicals for riot control are legitimate whereas those for military purposes are not. It is significant that use of chemical incapacitants in hostage rescue situations appears to be acceptable, but only when there is a potential lethal threat to the hostages and the situation is very limited in time, location, and number of people involved."

Annexed to the report is an analysis of the *Medical Aspects of the Moscow Theatre Hostage Incident* [see 26 Oct 02], which contains a discussion of possible substances used and the characteristics of each as well as the technical means for administering the agent. It concludes thus: "Given the large number of explosives in the hands of the hostage takers, a conventional assault or the use of more toxic chemical agents would probably have significantly increased the number of casualties in a destroyed theatre... In an attempt to subdue the rebels and to rescue the hostages, the Russian authorities inserted an 'incapacitant'. The intent was likely to win control of the theatre with as little loss of life as possible. This was achieved! Although it may seem excessive that 16 per cent of the 800 hostages died from the 'gas' exposure, still 84 per cent survived. We do not know that a different tactic would have provided a better outcome. The use of a 'sleeping gas' or 'calmative' or 'incapacitant' agent in this setting is a novel courageous attempt at saving the most lives. This counter-

terrorist action showed on the other hand that chemical 'non-lethal' weapons are not always non-lethal."

August In the USA, researchers have concluded that low-level exposure to sarin and cyclosarin is associated with less proficient neurobehavioral functioning with certain tasks four to five years after exposure, so reports the journal *NeuroToxicology*. The team, led by Susan Proctor from Boston University and the Army Research Institute of Environmental Medicine, compared data collected in a study conducted between 1994 and 1996 [see Nov 05] relating to the destruction of a munitions dump at Khamisiyah, Iraq [see 24 Mar 92] and with the findings observed in follow-up studies of persons exposed to sarin during the 1995 terrorist attacks in Japan.

1 August The US Department of Agriculture Office of the Inspector General Northeast Region releases *Audit Report: Agricultural Research Service Accountability Over the Former Soviet Union Scientific Cooperation Program*. The report states: "We determined that ARS [the Agricultural Research Service] did not provide adequate accountability over program funds and that improved oversight of the research projects in the FSU Scientific Cooperation Program is needed... ARS did not ensure that site visits were conducted annually for the 11 projects we selected for review... ARS did not ensure that ISTC performed on-site monitoring reviews annually for our 11 selected projects, as recommended... ARS program officials did not ensure that all required quarterly technical reports were submitted by the FSU collaborators... ARS had not fully developed and implemented management controls for ensuring the accountability of funds transferred from DOS."

2 August An Australian governmental "briefing paper" states that "the academic research environment offers state and nonstate actors a significant range of opportunities, which could be exploited to help them develop chemical biological, radiological and nuclear weapons", so reports United Press International. It adds that terrorist organizations such as al-Qai'da "recognize and respect scientific expertise as the means by which they are most likely to be successful in developing weapons". To counter this threat, the paper suggests that hiring practices should be implemented "to reduce the possibility of disgruntled employees using knowledge and facilities with malicious intent" and that "researchers should be willing to share the findings of their work with government before publishing to manage the risk of the proliferation of critical knowledge".

2 August Iranian civilians exposed to high-intensity warfare and chemical weapons are experiencing significantly higher levels of psychological distress compared to those exposed only to conventional low-intensity warfare, according to research published in the *Journal of the American Medical Association*. A team of researchers from the Yale School of Medicine, led by Farnoosh Hashemian, examined war-related mental health problems of 153 civilians from three towns bor-

dering Iraq in July 2004. One town was exposed to conventional low-intensity warfare, another was exposed to high-intensity warfare and the third, Sardasht, was exposed to both high intensity warfare and chemical warfare. A significantly higher number of those who were exposed to both high-intensity warfare and chemical weapons suffered from mental health disorders, compared to residents of the other two towns. A study of residents of Sardasht found that 59 per cent experienced post-traumatic stress disorder (PTSD) in their lifetime; 33 per cent were currently suffering from PTSD; 65 per cent reported major anxiety symptoms; and 41 per cent had severe depressive symptoms. The study shows that depression, anxiety and PTSD are also prevalent among residents in the high-intensity warfare town: 31 per cent had lifetime PTSD; 8 per cent had current PTSD; 25 per cent had major anxiety symptoms and 12 per cent had severe depressive symptoms. The study was supported by Janbazan Medical and Engineering Research Center, which is primarily responsible for providing health and human services and co-ordinating government activities affecting war veterans and Iranian victims of chemical weapons.

2 August From Quantico, Virginia, Douglas Beecher of the Hazardous Materials Response Unit, Federal Bureau of Investigation (FBI) Laboratory, publishes an article in *Applied and Environmental Microbiology* that presents, for the first time in the open scientific literature, an authoritative description of the process in which the FBI detected and retrieved from a very large number of letters one that contained spores of *Bacillus anthracis*; it was the 'anthrax letter' addressed to Senator Patrick Leahy [see 16 Nov 01]. In addition, the article states that "a widely circulated misconception is that the spores were produced using additives and sophisticated engineering supposedly akin to military weapon production". The article continues: "This idea is usually the basis for implying that the powders were inordinately dangerous compared to spores alone. The persistent credence given to this impression fosters erroneous preconceptions, which may misguide research and preparedness efforts and generally detract from the magnitude of hazards posed by simple spore preparations." Prior publications conveying that implication are cited, including "Anthrax powder: state of the Art?" by Gary Matsumoto in the 28 November 2003 issue of *Science*.

Subsequent investigative reporting includes this in the *Washington Post*: "The FBI would not allow Beecher to be interviewed about his article. But other scientists familiar with the forensic investigation echoed his description. Whoever made the powder produced a deadly project of exceptional purity and quality — up to a trillion spores per gram — but used none of the tricks known to military bioweapons scientists to increase the lethality of the product. Officials stressed that the terrorist would have had to have considerable skills in microbiology and access to equipment. 'It wasn't weaponized. It was just nicely cleaned up,' said one knowledgeable scientist who spoke on the condition he not be identified by name because the investigation is continuing. 'Whoever did it was proud of their biology. They grew the spores, spun them down, cleaned up the debris. But there were no additives.'"

2 August The US Chemical Materials Agency announces that officials from the OPCW have completed a "closeout inspection" of the site of the former VX production facility at Newport. "This is a historic day not only for the local community, but for the entire nation", says the facility's compliance officer, Doug Stroud.

3 August The Indian army has trained specialist units in responding to attacks involving biological, chemical

or nuclear weapons, according to the Calcutta *Telegraph*. The paper refers to a parliamentary committee as having called on medical services in the Indian armed forces to "relook into our special preparedness and take all steps" for preparing for a WMD incident.

3 August Off the Danish island of Bornholm, an international team of scientists onboard a Russian research ship have found at least ten sites that might contain chemical munitions dumped following the end of the Second World War, according to the director of the Russian Academy of Sciences' Shirshov Oceanic Studies Institute. Speaking to Interfax news agency Vadim Paka, who earlier this year announced that the expedition would take place [see 2 Mar], says an atypical chemical composition of seabed waters was discovered in the area concerned, which suggests that chemical munitions could exist at the site. Having completed their research off Bornholm the team will now move on to the Gotland Hollow in the territorial waters of Latvia; and then the Strait of Skagerrak, in the territorial waters of Sweden. The expedition is being funded by the European Union.

4 August In Geneva, there is the launch of a new section of the United Nations website devoted to the BWC, <www.unog.ch/bwc>. It has been developed by the BWC Meetings Secretariat as a primary information resource for national delegations, international organizations, NGOs and the media on the BWC and biological weapons in general and on the impending Sixth BWC Review Conference in particular. The webposted information resources include a detailed background on the review conference and a text of the BWC annotated with all the understandings about its scope that states parties have agreed at earlier review conferences. Speaking at the launch are the UNOG Director-General Sergei Ordzhonikidze and the President-designate of the Review Conference, Ambassador Masood Khan of Pakistan.

4 August The US State Department announces the imposition of sanctions on seven companies, from four countries, for having allegedly violated the Iran Nonproliferation Act 2000, the purpose of which is to prevent the possibility of Iran acquiring weapons of mass destruction. Included among the companies sanctioned are two Indian chemical manufacturers, Balaji Amines Limited and Prachi Poly Products Limited, the latter of which the Department says sold precursor chemicals to Iran that could have been used for chemical weapons. The other companies concerned are one from Cuba, two from North Korea and two from Russia. [See also 27 Dec 05]

7 August In Ramallah, in the office of Prime Minister of the Palestinian Authority Ismail Haniyeh, seven employees faint, and are briefly admitted to hospital, after possibly being exposed to a toxic substance when an envelope addressed to Haniyeh was opened by one of his office employees, so reports *al-Quds al-Arabi*. According to the *Jerusalem Post*, those present when the envelope was opened variously report a foul smelling white substance, while other sources describe seeing a small yellow cloth. Doctors say that those affected had "breathing difficulties and eye and nose irritations", according to *Gulf News*. A statement issued by Ramallah General Hospital states: "It's too early to tell whether the envelope contained toxic material... We are trying to establish why some of the workers lost consciousness."

9 August In Oregon, the Umatilla chemdemil facility destroys the last of its 91,442 sarin-filled M55 rockets and warheads having commenced destruction thereof two years previously [see 16 Aug 04]. According to a Chemical Materi-

als Agency press release, all sarin-filled munitions should be destroyed by mid-2007. This will be followed by the destruction of munitions containing VX, followed by the destruction of mustard agent stored in bulk containers.

Seven weeks later, following a changeover of plant equipment and procedures, the facility commences the destruction of its approximately 62,000 8-inch and 155mm sarin-filled projectiles. [See also 9 Jun]

9-10 August In Kathmandu, there is a sub-regional workshop for south Asian customs authorities on the technical aspects of implementing the transfer regime under CWC. More than fifty participants attend, including seventeen from nine CWC parties (Bangladesh, China, India, Iran, Maldives, Nepal, Pakistan, Singapore and Sri Lanka) and one not party (Myanmar), as well as a representative from the European Union. The workshop, which is organized jointly by the government of Nepal and the OPCW, provides an opportunity for participants to discuss both the most efficient methods for monitoring scheduled chemicals, and the identification of, and issues relating to, relevant chemicals.

10 August In Yamaguchi, Japan, police arrest the former president of a Tokyo-based trading company, Kim Young-gun, on the grounds that the company had violated the Foreign Exchange and Foreign Trade Control Law by illegally exporting a freeze dryer to North Korea in September 2002. Kyodo news agency reports that the company, Meisho Yoko, is believed to have placed an order for the product with a Taiwan trading house via a Tokyo-based business partner. According to the *Daily Yomiuri*, Kim is quoted by the police as saying: "I knew the trade was illegal, but I thought it might help my firm survive if we treated a North Korean state-run firm favorably." United Press International quotes him as telling the police that he believed the device was intended for medical use at a clinic in Ponghwa, where Kim Jong Il and other members of North Korean government are treated.

10 August In Pune, India, there is a workshop on Chemical Hazards and Industrial Safety, the purpose of which is to train the personnel of the NBC battalion of the Pune police force in handling NBC-related incidents. The State Department of Industrial Safety and Health organized the workshop in co-operation with Hindustan Petroleum Corporation Limited.

15 August The UK could bring under control a small-pox outbreak started by bioterrorists by using quarantine and targeted inoculation, rather than a programme of mass vaccination, according to research published in the *Proceedings of the National Academy of Sciences*. Neil Ferguson of Imperial College London, and Steven Riley of the University of Hong Kong say that, since vaccine causes serious side effects in one in 1,000 people and would kill an estimated one in 35,000, widespread inoculation would almost certainly result in more deaths than lives saved. They say that the only scenario in which mass vaccination would be justified would be a small-pox attack abroad, which would lead to a steady trickle of infected persons arriving to the UK, thus making containment by quarantine and targeted jabs harder to achieve. [See also 13 May 04]

16 August Canada is to contribute C\$100 million towards the completion of work at the Shchuch'ye chemdemil facility [see 12 Jan] and to support the construction of the facility at Kizner [see 18 Jul], both in Russia, according to an OPCW press release. In addition, some of the proceeds will be used for the operation of a Green Cross Public Outreach Office, to keep the civilian population informed on the progress

made with chemdemil activities. Canada will make the contribution as part of its commitment to contribute \$1 billion over ten years under the G8 Global Partnership Against the Spread of Weapons and Materials of Mass Destruction [see 26-27 Jun 02].

17 August Swedish Prime Minister Goeran Persson says that a plan by Russia and Germany to construct a gas pipeline under the Baltic Sea could damage the environment and disturb, *inter alia*, chemical munitions dumped there following the end of the Second World War [see also 12 Jan]. Swedish news agency TT quotes Persson as saying: "There is every reason to warn against the pipeline stretch that the construction consortium has proposed... When you build a gas pipeline this big on the bottom of the Baltic Sea, you're going to dislodge a lot of sediment on the seabed, where there are mines, toxins and other stuff [...] in addition to all the environmental problems the Baltic Sea already has." Serguei Kuprianov, a spokesman for Gazprom which is the controlling partner in the project says, however, that the route has been "corrected [so as to avoid] certain ecologically sensitive zones, sites where chemical weapons and munitions are buried, military zones, or important maritime routes". Kuprianov's comments are also repeated by Irina Vasilyeva, a spokeswoman for the consortium.

18 August The Tokyo High Court upholds the death sentence passed on a former senior member of Aum Shinrikyo for, amongst other things, having been involved in making the sarin that the cult used on the Tokyo underground rail network [see 20 Mar 95] and for its attack in Matsumoto, Nagano Prefecture [see 28 Jun 94]. Previously, the Tokyo District Court sentenced Masami Tsuchiya to death after finding him guilty of murder and other charges that involved the deaths of twenty people [see 30 Jan 04]. In his appeal, Tsuchiya claimed he had not been informed of specific plans to attack the underground and so did not intend to kill anyone. He also claimed that Aum unilaterally took advantage of his scientific knowledge.

18 August The Comoros deposits its instrument of ratification of the CWC with the UN Secretary-General. In thirty days it will become the 179th [see 23 Feb] party to the Convention.

18 August In Tooele, Utah, the Deseret chemdemil facility commences the final phase of its operations by draining and incinerating the first of its stockpile of around 6,200 tons of mustard gas which is stored in thousands of containers and munitions. According to *The Salt Lake Tribune* the operation is expected to last six to ten years. The facility commenced its chemdemil operations ten years ago [see also 3 Jun 05].

21 August In Australia, Federal Police documents are released concerning an investigation of a Queensland company, Alkaloids of Australia, that had exported 100 kilograms of scopolamine salt to Syria in 2001. There had been suspicions that the export might have been intended for the Iraqi chemical-weapons programme, possibly as an incapacitating agent.

21 August In Baghdad, the second trial commences of former Iraqi President Saddam Hussein on charges of genocide, which include ordering the gassing of Iraqi Kurds during the 1987-1988 Anfal campaign. As was the case during his first trial – where he was charged with the killing of 148 Shias in Dujail in 1982 [see 1 Jul 04] – the defendant refuses to

enter a plea. Chief Judge Abdullah al-Amiri orders that a plea of innocent be filed on his behalf. An innocent plea is also ordered for Ali Hassan al-Majid, also known as "Chemical Ali" [see 19 Dec 04]. In the courtroom, the prosecution refers to a large map of northern Iraq with stickers showing villages that it says were targeted with mustard gas and nerve agents. The attack on Halabja [see 18 Mar 88] will not be considered during the present trial, but will be considered at a later one. [See, further, the Tabassi & van der Borgh article in this issue of the *Bulletin*, pp 36-44 above.]

21-22 August In Santiago, Chile, there is a course on the medical aspects of chemical defence, which is attended by approximately thirty medical and emergency-response personnel from the Latin American and Caribbean region. The course, which was organized by the OPCW at the request of the Chilean CWC national authority, has been scheduled to precede a three-day national seminar on toxicology and chemical security that will commence the next day.

22 August In Tehran, the Islamic Republic of Iran, by diplomatic note to at least one of their embassies, "officially requests the depositaries of the [Biological Weapons] Convention to inform the States Parties of Iran's proposal with regard to making amendments to the title of the Convention and to Article I, inserting in them a provision concerning the prohibition of the use of bacteriological (biological) weapons".

23 August The US Army Chemical Materials Agency completes the destruction of six World War I-era 75mm shells containing mustard agent that were found this year at a Delaware seafood processing plant. The mobile Explosive Destruction System, which was used to destroy the shells, has now been used on four occasions in Delaware, and has also been deployed to Colorado, Maryland, Utah and Washington D.C.

25 August The US Congressional Research Service releases a report on *Agroterrorism: Threats and Preparedness*. It analyses congressional responses relating to the direct or indirect use by terrorists of biological weapons against agriculture, as opposed to agricultural products or equipment being used to attack non-agricultural targets.

28-29 August In Lima, there is a technical meeting for national authorities in Latin America and the Caribbean on customs-related aspects of the CWC transfer regime. The meeting, which is jointly organized by the Peruvian government and the OPCW, offers participants the opportunity to familiarize themselves with the import and export declarations requirements under the CWC. In total, sixty-eight representatives from eighteen CWC parties, including Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Nigeria, Paraguay, Peru, Uruguay, and Venezuela attend the meeting. In addition, representatives from the European Chemical Industry Council, the World Customs Organization, the European Union and an expert from the Network of Legal Experts also contribute to the proceedings.

28-29 August In Washington, D.C, a meeting of the National Academies Committee on Methodological Improvements to the Department of Homeland Security's Biological Agent Risk Analysis is scheduled to take place.

29 August At Wiston House, UK, there is an emergency preparedness and response exercise for military personnel, armed police, firefighters and medics, the purpose of

which is to see how they would deal with a terrorist attack involving sarin nerve agent against staff and guests at the Foreign Office conference centre.

29 August In the USA, a team of researchers have determined that galantamine – a reversible and centrally acting acetylcholinesterase inhibitor approved for treatment of mild to moderate Alzheimer's disease – protects guinea pigs from the acute toxicity of lethal doses of the nerve agents soman and sarin, and of paraoxon, the active metabolite of the insecticide parathion. Writing in the *Proceedings of the National Academy of Sciences*, the team, led by Edson X. Albuquerque from the University of Maryland School of Medicine, conclude that galantamine is an effective and safe countermeasure against organophosphorus poisoning, since it is considerably more effective than pyridostigmine, a peripherally acting acetylcholinesterase inhibitor, and is less toxic than huperzine, a centrally acting acetylcholinesterase inhibitor.

29 August The US-German Sunshine Project publishes *China: The Forgotten Victims of Biological Warfare*. The report, which includes photographs, details a recent visit made by Jan van Aken, of the Sunshine Project, to villages in the province of Zhejiang, eastern China. During his visit van Aken interviewed victims, and their relatives, about the use by the Japanese Imperial Army of, amongst other things, plague, glanders and anthrax, in the 1940s. [See also 15 Jun 05]

30 August In the USA, the Chemical Materials Agency announces that, since it commenced operations in 1990, it has undertaken the chemdemil of more than 1.7 million munitions, amounting to fifty per cent of the country's stockpile of "bombs, rockets, mortars, projectiles, land mines and spray tanks filled with nerve agents GB (sarin) and VX, plus blister agents H, HD and HT (mustard)". The total destroyed to date represents thirty-nine per cent of the entire US chemical weapons stockpile by weight.

31 August In Australia, former Deputy Director-General of the OPCW Technical Secretariat, and former member of the Iraq Survey Group, John Gee discloses his letter of resignation from the Iraq Survey Group in 2004 in which he warns the Australian government that the search for WMD was "fundamentally flawed". The six-page letter had also stated that there was a "distinct reluctance on the part of many here and in Washington to face the facts" that Iraq had no WMD. According to AAP news agency, Gee subsequently recorded in an email that Australian Foreign Minister Alexander Downer "has issued instructions it (my letter) is not to be distributed to anyone". The Foreign Ministry dismisses the claim as a "conspiracy theory". Responding to the allegations, Downer says; "I personally gave no instructions that it was to be or wasn't to be distributed to anyone... As far as I knew, people around the government were very well aware of Dr Gee's concerns... We had no reason not to want to hear what he had to say." [See also 14 Feb 05]

September The World Health Organization releases *Biorisk Management: Laboratory Biosecurity Guidance*, which "aims to expand the laboratory biosecurity concepts introduced in [*Laboratory Biosafety Manual* (LBM3) of 2004], and to strike a balance between the long-known biosafety procedures and practices described in LBM3 and the more recently introduced and broader biosecurity concepts". Furthermore, it "introduces the overarching 'biorisk management' approach that has resulted from careful thinking, comprehensive study of prevailing practices and recommendations, review of international norms and standards, and relevant ethical considerations."

The document is intended for use by relevant national regulatory authorities, and by laboratory staff.

1-4 September In Geneva, the International Executive Committee of the Women's International League for Peace and Freedom (WILPF) adopts a number of resolutions, including one relating to the BWC. The resolution states: "The WILPF calls on the Bio-weapons Review Conference for renewed negotiations on the inspection and monitoring protocol... The WILPF also urges expansion of the treaty to include an absolute ban on genetic engineering of new strains of deadly pathogens, not present in nature, for any purpose whatsoever... The WILPF also repeats its long standing call for a complete ban on all forms of bio-weapons research, including both offensive and allegedly defensive... In the meantime, in the absence of transparency, monitoring or inspection, and with the burgeoning of questionable bio-defense research, the WILPF International Executive Committee encourages all Sections [national bodies]: to be aware of possible violations of the existing Biological Weapons convention in their own or other countries, and to cooperate with other NGOs in the collection of evidence; to promote transparency and open discussion of possible violations of the Bio-weapons treaty. This should include encouragement of investigative journalism and public investigation by parliamentarians or citizen groups; to report all such apparent violations to the to the UN Bioweapons Treaty committee meetings in November 2005 and Bioweapons Treaty Review Conference in 2006; to remind all scientists, and especially those in countries with active bio-weapons research, of the precautionary principle, and urge them to 'do no harm' and, on the other hand, to reveal what they know of such programs and refuse to participate in them; to explore whether their own or another country might be willing to receive evidence of violation of the Convention by any nation, and if the evidence is sufficient, report possible violation to the Security Council for investigation and suitable action, as provided in the Convention; to propose suitable sanctions or other actions which might be taken that could effectively cause culpable nations to restrain [*sic*] from biological weapons research without unduly harming or restricting citizens of those countries; if the evidence warrants, also investigate possibilities of international or domestic court action against high government officials responsible for violating a ratified treaty, or for criminal human rights abuses." The resolution was originally drawn up by the US national WILPF body, approved by the WILPF board, and then approved by the International Executive Committee in 2005. It now provides the framework for the current policy decisions and actions of the WILPF in this area. WILPF first began calling for the elimination of biological weapons in 1949.

4 September The Japanese Supreme Court dismisses a final appeal against a life sentence by a former member of Aum Shinrikyo who was involved in the sarin attack in Matsumoto that resulted in seven deaths [see 28 Jun 94]. As well being convicted for his involvement in the attack in Matsumoto, Noboru Nakamura was also convicted of killing two people and helping with construction of the cult's sarin production plant [see 25 Sep 03].

4-8 September In Helsinki, the fourth [see 5-9 Sep 05] workshop on the analysis of chemicals related to the CWC (CW-LABEX) is scheduled to take place at the Finnish Institute for Verification of the CWC (VERIFIN), University of Helsinki. The workshop, which is jointly organized by VERIFIN and the OPCW, is aimed at laboratories that are active or plan to become active in the analysis of chemicals under the CWC, and for those that are participating or intend to participate in

OPCW proficiency testing.

5 September The British Mycological Society journal, *Mycological Research*, publishes research that analyses the potential of fungi and fungal toxins to be used as weapons and concludes that, though fungi are perhaps not a significant threat, some toxins from them are. Russell M. Patterson, of Micoteca da Universidade do Minho, Braga, Portugal, who undertook the research, says that low molecular weight toxins from fungi need to be recognized as the greatest threat and that T-2 toxin is a significant threat.

5 September In London, lawyers for 350 former volunteers who participated in tests involving chemical warfare agents at Porton Down from the 1940s to the 1970s announce the launch of a group action against the Ministry of Defence. The claimants say that at the time of volunteering they were not informed of the risks involved. The filing of the lawsuit follows a recent report that found a number of experiments conducted at Porton Down to have been unethical [see 14 Jul]. [See also 12 Jun]

5-7 September In Jakarta, Indonesia, the fourth [see 6-8 Sep 05] regional meeting of Asian CWC national authorities takes place. In total, 73 participants from 28 CWC parties – and Myanmar, which has signed but not ratified the Convention – attend the meeting, which is organized jointly by the government of Indonesia and the OPCW. It provides representatives of participating national authorities the opportunity to request, and offer, assistance to other authorities. Topics discussed include the transfer regime under the CWC and the implementation of provisions relating to the import and export of scheduled chemicals.

6 September In Moscow, during a meeting of the Russian export control commission, where strengthening of the BWC is among the subjects discussed, Russian Deputy Prime Minister and Defence Minister Sergei Ivanov makes the following comments on Russia's role regarding the non-proliferation of WMD: "If we want Russia to be seen as a reliable and predictable trade partner, it is necessary to conduct a dialogue on export control with other countries, agree on common standards taking into account our interests... Such an approach is not about respecting the latest fashion. This is a vital necessity dictated by the international market... Our common goal is to erect a reliable barrier to the proliferation of weapons of mass destruction and related technologies." One of the topics discussed at the meeting, says Ivanov, is the strengthening of the BWC "taking into account the significance of the problem of counteracting biological threats in the interests of Russia's security".

6 September San Francisco is using bluegill fish as an early warning system to detect potential terrorist contamination of the city's water supply, so reports the *San Francisco Chronicle*. In April the 'Aquatic BioMonitoring System' was installed at a water-treatment plant that monitors the behaviour of eight to twelve fish that live in a tank at the facility. John McCosker, previously of the Steinhart Aquarium at the California Academy of Sciences, says that bluegill "can tolerate a wide range of temperatures, and they eat just about anything" and that if a bluegill is "breathing fast, if it's changing its behavior, then something is wrong in the ecosystem". Jeff Goodrich, president of the manufacturer, Intelligent Automation, says the new system would best be used for the detection of non-biological materials such as pesticides, mercury, cyanide, heavy metals, fuel and phosphates. "The Army [which holds the patent] tested this system against 27

toxicants, and it spotted them all”, says Bill Lawler, co-founder of the company. According to the *Chronicle*, two other water-treatment plants are expected to install the equipment.

7-8 September In Montreux, Switzerland, there is an international bioterrorism co-ordination exercise, which is organized jointly by the Swiss Foreign Ministry and the US Department of State. ‘Black ICE’ is a tabletop exercise that uses the scenario of a smallpox attack as a means of exploring the issues of coordination across borders and among a variety of public and international institutions, etc. The overall purpose of the exercise is to increase the participants’ awareness of the capabilities and resources of the international community as well as to identify gaps and overlaps with regard to responding to a potential bioterrorist attack. Participating organizations include NATO, INTERPOL, the International Civil Aviation Organization, the International Maritime Organization, the International Organization for Migration, the Organization for Security and Co-operation in Europe, the UN Department for Disarmament Affairs, the World Customs Organization, the World Food Program, and the World Health Organization.

8 September In Maradykovsky, Russia’s third chemdemil facility – the others being the facilities at Gorny and Kambarka – commences operations. RIA Novosti quotes Deputy-Head of the Federal Industrial Agency Viktor Kholstov as saying that construction of the facility should be completed in two years’ time. An OPCW press release states: “The [facility] holds a total stockpile of over 6,900 metric tons of chemical weapons agent, or approximately 17 per cent of the total stockpile declared by the Russian Federation. [It] will destroy chemical weapons filled with several types of chemical warfare agents, including VX and other ‘nerve agents’. All of the stockpiles of chemical warfare agent currently stored at the Maradykovsky storage facility are expected to be destroyed by April 2012.”

8 September At UN headquarters, the General Assembly adopts *The United Nations Global Counter-Terrorism Strategy*, the purpose of which is to build upon the commitment made by states at the World Summit [see 14-16 Sep 05] and the report of the UN Secretary-General on *Uniting Against Terrorism* [see 2 May]. Annexed to the resolution is a plan of action, which states: “We resolve to [...] strengthen coordination and cooperation among States in combating crimes that might be connected with terrorism, including drug trafficking in all its aspects, illicit arms trade, in particular of small arms and light weapons, including man-portable air defence systems, money laundering and smuggling of nuclear, chemical, biological, radiological and other potentially deadly materials... [We resolve to] step-up national efforts and bilateral, sub-regional, regional and international co-operation, as appropriate, to improve border and customs controls, in order to prevent and detect the movement of terrorists and to prevent and detect the illicit traffic in, *inter alia*, small arms and light weapons, conventional ammunition and explosives, nuclear, chemical, biological or radiological weapons and materials, while recognizing that States may require assistance to that effect... [We resolve to] invite the United Nations to improve co-ordination in planning a response to a terrorist attack using nuclear, chemical, biological or radiological weapons or materials, in particular by reviewing and improving the effectiveness of the existing inter-agency co-ordination mechanisms for assistance delivery, relief operations and victim support, so that all States can receive adequate assistance. In this regard, we invite the General Assembly and the Security Council to develop guidelines for the necessary co-operation and assistance in the event of a terrorist attack using weapons of

mass destruction... [We resolve to] encourage the International Atomic Energy Agency and the Organization for the Prohibition of Chemical Weapons to continue their efforts, within their respective mandates, in helping States to build capacity to prevent terrorists from accessing nuclear, chemical or radiological materials, to ensure security at related facilities, and to respond effectively in the event of an attack using such materials... [We resolve to] encourage the World Health Organization to step up its technical assistance to help States improve their public health systems to prevent and prepare for biological attacks by terrorists.”

8 September The US Select Committee on Intelligence releases two of the five chapters of its as yet uncompleted report that compares the public statements made by the US administration about the threat posed by Iraqi WMD prior to the US-led invasion of the country [see 20 Mar 03] with the evidence senior officials reviewed in private. The Committee decided to conduct its investigation into the matter in February 2004.

Postwar Findings About Iraq’s WMD Programs and Links to Terrorism and How They Compare with Pre-War Assessments, amongst other things, concludes thus: “Postwar findings do not support the 2002 National Intelligence Estimate (NIE) assessment [see 1 Oct 02 and 18 Jul 03] that ‘Iraq has biological weapons’ and that ‘all key aspects of Iraq’s offensive biological weapons (BW) program are larger and more advanced than before the Gulf war’ [or] that Iraq possessed, or ever developed, mobile facilities for producing biological warfare (BW) agents... The Committee has no information that [concerns existing within the CIA Directorate of Operations prior to the war regarding the credibility of the source known as CURVEBALL {see 25 Jun}] were conveyed to policymakers, including members of the US Congress, prior to the war. The Committee is continuing to investigate issues regarding prewar concerns about CURVEBALL’s credibility... Postwar findings do not support the [NIE] assessments that Iraq ‘has chemical weapons’ or ‘is expanding its chemical industry to support chemical weapons (CW) production... Postwar findings do not support the [NIE] assessments that Iraq had a developmental program for an Unmanned Aerial Vehicle (UAV) ‘probably intended to deliver biological agents’... Prewar Intelligence Community assessments were inconsistent regarding the likelihood that Saddam Hussein provided chemical and biological (CBW) training to al-Qa’ida. Postwar findings support the Defense Intelligence Agency (DIA) February 2002 assessment [see 4 Nov 05] that Ibn al-Shaykh al-Libi was likely intentionally misleading his debriefers when he said that Iraq provided two al-Qa’ida associates with chemical and biological weapons (CBW) training in 2000. The Central Intelligence Agency’s January 2003 assessment said the al-Libi claim was credible, but included the statement that al-Libi was not in a position to know whether the training had taken place. Postwar findings do not support the CIA’s assessment that his reporting was credible. No postwar information has been found that indicates CBW training occurred and the detainee who provided the key prewar reporting about this training recanted his claims after the war... Postwar findings indicate that analysts misjudged the impact of sanctions and inspections on Saddam’s weapons of mass destruction (WMD) goals. Analysts accurately assessed that Saddam Hussein wanted WMD, but in assessing that Iraq had WMD, misjudged Saddam’s ability or desire to pursue such programs while sanctions were in place... Postwar findings support the [NIE] assessment that Saddam’s goal of making Iraq a predominant regional power and his need to deter neighbouring countries, in particular Iran and Israel, were key drivers behind his thinking about weapons of mass destruction.”

The Use by the Intelligence Community of Information Provided by the Iraqi National Congress concludes: "False information from the Iraqi National Congress (INC)-affiliated sources was used to support key Intelligence Community assessments on Iraq and was widely distributed in intelligence products prior to the war... Information provided by these sources was used by the Intelligence Community to support key judgments about Iraq's nuclear and biological weapons programs in the [NIE], the CIA's 2002 and 2003 widely-distributed assessments about Iraq's support for terrorism and alleged links to al-Qa'ida, and Secretary of State Powell's [...] speech before the United Nations Security Council [see 5 Feb 03]... The Iraqi National Congress attempted to influence United States policy on Iraq by providing false information through defectors directed at convincing the United States that Iraq possessed weapons of mass destruction and had links to terrorists. According to INC officials interviewed by the Committee, the INC had an aggressive 'publicity campaign' prior to the war to bring defectors to the attention of 'anyone who would listen,' which included the media, the Congress, members of the Intelligence Community, and other US government agencies... The Intelligence Community's use in intelligence assessments of information provided by [INC]-affiliated defector [...] Source Two information [which was used *inter alia* to corroborate reporting from other sources on Iraq's mobile biological weapons program] came after three Intelligence Community assessments raised questions about his reliability as a source and the Defense Intelligence Agency (DIA) issued a fabrication notice... There is insufficient basis to determine whether or not CURVEBALL, the Intelligence Community's primary source of intelligence about Iraq's alleged biological weapons program, provided his information at the behest of the [INC]... While the Committee believes the CIA should have asked him, in the end [whether he had been coached or directed by the INC], an admission or denial in this regard would not have been dispositive... Given that the Intelligence Community does not understand why CURVEBALL provided false information and only has a superficial understanding of CURVEBALL's contacts with his close relative and other INC officials, the Committee believes the question of whether he was provided his information at the behest of the INC remains open." White House spokesman Tony Snow describes the report as "nothing new". [See also 31 Mar 05]

9 September In Helsinki, a joint statement issued by China and the European Union following the conclusion of the ninth EU-China summit includes the following reference to the non-proliferation of WMD: "Leaders reiterated their willingness to develop their cooperation in the fields of non-proliferation and disarmament, in particular in the preparation for a successful review conference on [the BWC] in November 2006... The two sides noted with great satisfaction their ongoing practical cooperation in the area of export control."

11 September In Geneva, the President-designate of the Sixth BWC Review Conference, Ambassador Masood Khan of Pakistan, begins a round of meetings with the three regional groups – the Western Group, the Eastern European Group and finally the Group of NAM and Other States – to present and discuss his expectations for the Review Conference. His speaking notes are posted on the new BWC website [see 4 Aug Geneva].

11-16 September In Havana there is the 14th Summit Conference of Heads of State or Government of the Non-Aligned Movement. The Final Document includes the following: "Global peace and security continue to elude humankind as a result of, *inter alia*, increasing tendency by certain States

to resort to unilateralism and unilaterally imposed measures, non-fulfilment of the commitments and obligations assumed under the relevant international legally binding instruments especially on weapons of mass destruction and conventional weapons treaties, terrorism, conflicts, violations of human rights and international humanitarian law, the use of double standards in international relations, and the failure by developed countries to fulfil their commitments in the economic and social fields... [The Heads of State or Government] expressed their disappointment at the inability of the World Summit [see 14-16 Sep 05] to agree on the issue of disarmament and non-proliferation of weapons of mass destruction... The Heads of State or Government reiterated their support for the establishment in the Middle East of a zone free of all weapons of mass destruction. To this end, they reaffirmed the need for the speedy establishment of a NWFZ in the Middle East in accordance with the Security Council Resolution 487 (1981) and paragraph 14 of the Security Council Resolution 687 (1991) and the relevant General Assembly resolutions adopted by consensus. ... The Heads of State or Government regretted unsubstantiated allegations of non-compliance with relevant instruments on weapons of mass destruction and called on States Parties to such instruments that make such allegations to follow procedures set out in those instruments and to provide necessary substantiation for their allegations... [The Heads of State or Government] cautioned against the continuing practice of the Security Council to utilize its authority to define the legislative requirements for Member States in implementing Security Council decisions. In this regard, the Heads of State or Government stressed the importance of the issue of non-state actors acquiring weapons of mass destruction to be addressed in an inclusive manner by the General Assembly, taking into account the views of all Member States..." On the BWC and the CWC specifically, the Final Declaration states:

"The Heads of State or Government of the States Parties to the Biological and Toxin Weapons Convention (BWC) reaffirmed that the possibility of any use of bacteriological (biological) agents and toxins as weapons should be completely excluded, and the conviction that such use would be repugnant to the conscience of humankind. They recognised the particular importance of strengthening the Convention through multilateral negotiations for a legally binding Protocol and universal adherence to the Convention. They reiterated their call to promote international cooperation for peaceful purposes, including scientific-technical exchange. They underlined the need to coordinate among the NAM States Parties to the Convention and expressed their commitment to work towards a successful outcome of the forthcoming Sixth Review Conference, to be held in Geneva, from 20 November to 8 December 2006.

"The Heads of State or Government of the States Parties to the Chemical Weapons Convention (CWC) invited all States that have not yet signed or ratified the Convention to do so as soon as possible with a view to its universality. They reiterated their call on the developed countries to promote international cooperation through the transfer of technology, material and equipment for peaceful purposes in the chemical field and the removal of all and any discriminatory restrictions that are contrary to the letter and spirit of the Convention. They recalled that the full, effective and non-discriminatory implementation of the provisions of international cooperation contribute to the universality of the Convention. They also called upon States having declared possession of chemical weapons to bring about the destruction of their chemical weapons at the earliest possible date. While recognizing the financial and technical challenges for some possessors, they called upon those States Parties in a position to do so, and where

requested, to assist such possessor States in the achievement of the total elimination of chemical weapons.”

12 September In Edgewood, Maryland, members of the US and South Korean armed forces conduct a joint exercise involving the survey, sampling and decontamination of a site suspected of holding biological and/or chemical weapons. A similar exercise was last held in South Korea six years ago, but follow-up training was suspended after the 11 September terrorist attacks in the US.

Four days later, the North Korean Uriminjokkkiri website denounces the exercise as assuming that North Korea is to be the target and proving that the USA is “devising a wicked plan to use not only nuclear weapons, but also biochemical weapons in an emergency on the Korean Peninsula”.

12 September The US Institute of Medicine releases *Gulf War And Health, Volume 4: Health Effects of Serving In The Gulf War*. In undertaking the study, which was sponsored by the Department of Veterans Affairs, the Committee on Gulf War and Health was required to “review, evaluate, and summarize peer-reviewed scientific medical literature addressing the health status of Gulf War veterans”. The Committee reviewed 850 relevant studies, some of which relied on self-reporting of symptoms from veterans, and others that used objective measures of symptoms and exposures. The cumulative evidence from studies that relied on veterans’ self-reports indicates that almost 30 per cent of Gulf War veterans have experienced a multisymptom illness compared with 16 per cent of non-deployed personnel. This was true not only for US veterans, but also service members from other countries who served in the Persian Gulf. The report concludes that although veterans of the first Gulf War report significantly more symptoms of illness than soldiers of the same period who were not deployed, studies have found no cluster of symptoms that constitute a syndrome unique to Gulf War veterans. However, evidence shows that service in the Persian Gulf during the 1990-1991 conflict places veterans at increased risk of developing anxiety disorders, depression, and substance-abuse problems, said the committee that wrote the report. In addition, the committee found evidence that suggests there may be an elevated rate of amyotrophic lateral sclerosis (ALS) among Gulf War veterans. The report offers the following recommendations: “The Committee noted that several health outcomes seemed to be appearing with higher incidence or prevalence in the Gulf War-deployed veterans for those outcomes, the committee recommends continued surveillance to determine whether there is actually a higher risk in Gulf War veterans. Those outcomes are cancer (particularly brain and testicular), ALS, birth defects (including Goldenhar syndrome and urinary tract abnormalities) and other adverse pregnancy outcomes (such as spontaneous abortion and ectopic pregnancy), and postdeployment psychiatric conditions. The committee also recommends that cause-specific mortality in Gulf War veterans continue to be monitored. Although there was an increase in mortality in the first few years after the Gulf War, the deaths appear to have been related to transportation injuries.”

13 September In Lebanon, during their recent offensive against Hezbollah [see 14 Jul], the Israel Defense Forces (IDF) fired shells containing white phosphorus with the purpose of starting fires, so reports *Haaretz*, quoting an unidentified “artillery commander”. The commander says he saw trucks with phosphorus shells en route to artillery batteries in the north of the country.

Five weeks later, the Israeli minister in charge of government-Knesset relations, Jacob Edery, acknowledges

that the Israeli Defense Forces did indeed use shells containing white phosphorus. “The IDF holds phosphorus munitions in different forms... The IDF made use of phosphorus shells during the war against Hezbollah in attacks against military targets in open ground... [T]he IDF used this type of munitions according to the rules of international law.” [See also 8 Nov 05]

13 September In South Africa, Wouter Basson, the former head of South Africa’s biological weapons programme, is continuing to receive a monthly salary of around \$6,800, seven years after having been suspended from the South African Defence Force, so reports the (Johannesburg) *Mail and Guardian*, quoting unidentified government “officials”. The announcement comes the day after members of the government met to discuss the issue. In response, Basson says: “I have not suspended myself, I have no reason to resign. I have made a career in the defense force for 18 years until I was fired by [then-President F.W.] DeKlerk, which was eventually proved to be a wrongful dismissal. I was reinstated by [then-President Nelson] Mandela... If I had a choice, I would be back working and doing my thing. I have no moral or other obligation to resign from the post.” [See also 9 Sep 05]

13 September In Havana, on the third day of the NAM Summit Conference [see 11-16 Sep], a Cuban scientist states that the Cuban Centre for Genetic Engineering and Biotechnology is not developing biological or chemical weapons. The Associated Press quotes the director of the Centre, Luis Herrera Martinez, as saying: “We have no ties to anything related to biological weapons, it has nothing to do with what we focus on... We don’t have the money to be dedicated to that, and we are not interested... We would have to be stupid to be doing what these accusations imply, we wouldn’t even be able to do anything like that. It doesn’t make any sense, it does not go with our work ethic or interests.” Previously, former US Undersecretary of State John Bolton had asserted that Cuba possessed “at least a limited offensive biological warfare” system [see 6 May 02]. [See also 30 Aug 05]

13-15 September In Heidelberg, Germany, a tabletop exercise takes place, that is based on the scenario of an anthrax attack in the Netherlands, Belgium and Luxembourg. The aim of exercise ‘Guardian Shield 06’, which is sponsored by the US Defense Threat Reduction Agency and the US Army, provides a forum to evaluate the consequence-management resources of US military units in Europe. Colonel Dean A. Nowowiejski, the commander of the US Army Garrison in the Benelux, says that the Benelux area has almost 11,000 servicemembers who mostly fall under the Benelux command – with garrisons scattered across six countries – which, he says, gives rise to the likelihood of poor communication.

14 September In Tokyo, a block of flats in the Toyama district now stands on the site of an army hospital where victims of biological experiments conducted by the Japanese Imperial Army were buried, so reports the Associated Press, quoting a former nurse at the hospital. Toyo Ishii says that during the weeks following Japan’s surrender on 15 August 1945, she and her colleagues were ordered to undertake burials. Ishii says the hospital had three mortuaries, where bodies with numbered tags around their necks floated in a formalin-filled pool, awaiting dissection; body parts were preserved in bottles. After the surrender, she says, workers piled the bodies and bottles in carts and brought them to empty lots in the compound. In a statement to the government in June she wrote: “We took the samples out of the glass containers and dumped them into the hole... We were going to be in

trouble, I was told, if American soldiers asked us about the specimens.” She also says that she had later been informed by a hospital official that a public housing complex for the families of senior doctors and hospital officials was built at the site to cover up the mass grave. A block of flats, Toyama 5, has since replaced that structure. Keiichi Tsuneishi, a professor of history at Kanagawa University, says: “If the bones are actually there, they are likely related to Unit 731 itself, because the facility that used to stand in that part of the compound was closely linked to the unit [see also 21 Jul].” In July 1989, the remains of more than a hundred individuals were uncovered in the same district during the construction of the National Institute of Infectious Diseases, on the former site of the National Institute of Health. Forensic experts determined that the individuals were not all of Japanese descent and the remains of some showed signs of having been tampered with by saws and drills.

14 September In the US Senate, testifying before the US-China Economic and Security Review Commission, Assistant Secretary of State for Verification and Compliance Paula DeSutter says that China is violating its obligations not to engage in the proliferation of WMD. She says: “We [...] continue to believe that China maintains some elements of an offensive BW capability in violation of its commitments [under the BWC]... [and its research activities raise] the possibility that sophisticated BW and CW work could be underway... [W]e remain deeply concerned about the Chinese government’s commitment towards its nonproliferation obligations.”

Four days later, Chinese Foreign Ministry spokesman Qin Gang refutes the allegation thus: “The accusations made by a handful of American officials are groundless and irresponsible. The Chinese Government firmly opposes the proliferation of mass destructive weapons and their vehicles of transport and prohibits any company or individual of engaging in proliferation activities in any form. China has conducted significant fruitful work for non-proliferation in the aspects of the legislation, enforcement, the education campaign for enterprises as well as international cooperation. The remarkable achievements are obvious for all to see. China is a victim of bio-chemical weapons. We always firmly uphold the comprehensive prohibition and complete destruction of all mass destructive weapons including bio-chemical weapons and oppose the proliferation of biochemical weapons. Since joining the [BWC and CWC], China has always been honoring all commitments of the conventions in a complete and strict manner. We have never engaged in any activity prohibited by the conventions.”

Six weeks later, the Commission releases a report which, *inter alia*, expresses concern that China is conducting biological and chemical weapons research in violation of the BWC and CWC.

15 September The Japanese Supreme Court dismisses the final appeal of the former leader of the Aum Shinrikyo cult, Chizuo Matsumoto, who was sentenced to death more than two years ago [see 27 Feb 04] for masterminding a number of atrocities, including an attack using sarin gas in Matsumoto [see 28 Jun 1994] and on the Tokyo underground rail network [see 20 Mar 95]. The lawyers for Matsumoto, also known as Shoko Asahara, had argued that he was mentally unfit to stand trial since they had been unable to conduct a coherent conversation with him [see 20 Dec 04 and 30 May]. Last month, however, a court-appointed psychiatrist determined that Asahara was *compos mentis* and likely faking his mental illness. As regards the appeal against a previous rejection of an appeal on the grounds of it not having been submitted before the deadline of 31 August 2005 [see 27 Mar], Judge Yukio Horigome says: “The defendant

has not tried to communicate with his lawyers, and that caused this situation. The defendant as well as the lawyers are responsible [for the delay].”

The next day, around 250 Japanese officials from the Public Security Intelligence Agency raid 25 locations connected with the Aleph cult, formerly known as Aum Shinrikyo, as a precaution against any unlawful reaction to the decision of the court.

15 September The US Government Accountability Office transmits to congressional requesters *Mail Security: Incidents at DoD Mail Facilities Exposed Problems That Require Further Actions*. The report examines the events relating to the suspected anthrax contamination that occurred last year at the Pentagon and a postal sorting office in Virginia, and the response of the Department of Defense (DoD) [see 14 Mar 05]. It sets out the following recommendations: “To help prepare DoD to effectively respond to future incidents involving the suspicion of biological substances in the mail, we recommend that the Secretary of Defense take the following four actions: Ensure that any future medical decisions reached during potential or actual acts of bioterrorism at the Pentagon Reservation result from the participatory decision-making framework specified in the [National Response Plan] and [National Incident Management System]; ensure that appropriate officials at all of DoD’s mail facilities develop effective mail security plans in accordance with [General Services Administration’s] mail management regulation and guidance and DoD’s mail manual; ensure that a competent DoD authority conducts a DoD-wide review of all of its mail security plans; [and] determine (1) whether biosafety cabinets are being used at mail facilities within DoD-leased space in the national capital region and, if so, (2) whether the equipment is being operated within the context of a comprehensive mail-screening program. If the use of biosafety cabinets does not comply with the criteria specified in the Director of Administration and Management’s January 2006 directive, ensure that the equipment will not be operated.”

18-20 September In Tashkent, Uzbekistan, twenty-eight representatives from Azerbaijan, Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan convene to discuss the lessons learned from the three-year OPCW national capacity-building project for the Central Asian republics. The project, which was conducted from 2003 to 2005 [see 28 Mar – 1 Apr 05], was financially supported by the government of Norway; Switzerland supported the project by providing experts and training.

18-29 September In Helsinki, a course on the enhancement of analytical skills (CW-LSE) is scheduled to take place at the Finnish Institute for Verification of the CWC (VERIFIN), University of Helsinki. It is jointly organized by VERIFIN and the OPCW, and is aimed at laboratories that are active or plan to become active in the analysis of chemicals under the CWC, and for those that are participating or intend to participate in OPCW proficiency testing. [See also 4-8 Sep]

19 September In Wales, UK, a team from the OPCW conducts an inspection of the former chemical weapon production facility at the Rhydymwyn Valley Site (RVS). The RVS website later carries a remarkably detailed report of the OPCW inspection. The previous inspection of the site had taken place in April 2003 when the complete destruction of nearly all of the facility’s related buildings down to ground level was verified, except for the tunnel complex, which is the only remaining structure and which is the subject of the current inspection.

19-21 September In Moscow, a delegation from the NATO Parliamentary Assembly Science and Technology Committee and members of the Russian State Duma meet to discuss the non-proliferation of weapons of mass destruction, Iran's nuclear policy, antiterrorism, the redirection of former weapons scientists, and other such subjects. Among the presentations made is one by Daniil Kobayakov of the PIR Centre on the achievements and flaws of the G8 Global Partnership [see 26-27 Jun 02]. According to the subsequent report posted on the NATO-PA website, he states that, because Russia had so far destroyed only three percent of its holdings of CW agents, it was "very uncertain" that Russia could destroy its entire stockpile in time for the CWC deadline of 2012. He observes: "Russia is somewhat disappointed in its GP partners in this respect as the contributions of international donors are far less significant than initially pledged."

20 September The Central African Republic deposits its instrument of ratification of the CWC with the UN Secretary-General. In thirty days it will become the 180th [see 18 Aug] party to the Convention.

20 September In the US House of Representatives, the Energy and Commerce Committee adopts a bill to promote countermeasures to bioterrorism and other public health threats. The Biodefense and Pandemic Vaccine and Drug Development Act of 2006, expands on Project BioShield [see 21 Jul 04]. Under the bill, the Biomedical Advanced Research and Development Authority would coordinate and facilitate efforts to develop countermeasures for bioterrorism or pandemic infectious diseases. It also authorizes \$160 million in FY 2007 and 2008 for advanced research and development.

20-22 September In Moscow, a workshop on biosecurity, organized by the Organization for Economic Co-Operation and Development, is scheduled to take place. Its purpose is to review a broad scope of issues relating to biosecurity programmes and to define means for further international collaboration in this area.

21 September Retired US Central Intelligence Agency operations officer Merle L Pribbenow publishes in *International Journal of Intelligence and CounterIntelligence* his recollections of the Yellow Rain episode [see Oct 05] from two decades previously when he had been "working on the Indochina target [...] out of a remote Southeast Asia hardship post" from 1981-83 and then on the Indochina desk at CIA headquarters. He opens his account thus: "While the 'yellow rain' debate may still be unresolved in academic and policy circles, my colleagues and I, working-level CIA Directorate of Operations (DO) case officers assigned to collect information on this subject in Southeast Asia, thought the question had been settled years ago. Unfortunately our Directorate of Intelligence (DI) analysts and senior administration policy-makers did not like the answer we gave them." The article then describes in detail the failure of CIA/DO to find evidence substantiating the reported use of mycotoxin weapons despite minute inquiry, including the debriefing of a defecting "Soviet-trained Vietnamese chemical officer who had worked for several years at the highest levels of the Vietnamese Army's Chemical Branch Headquarters, also called the Chemical Command". The article ends thus: "The DO reports from the defector remain buried to this day, still wrapped in secrecy. The DO officers involved in the case soldiered on in obscurity. They received no official awards or commendations for their accomplishments, and their only reward was another reminder of an old lesson: that the political impact of an intelligence report can sometimes be more important than its accuracy."

21-22 September In Bologna, the Scientific Advisory Board of the OPCW and the International Union of Pure and Applied Chemistry (IUPAC) convene a seminar on the OPCW-IUPAC chemical education and outreach project [see 9-12 Jul 05]. The project seeks to establish general ethical principles and codes of conduct for the scientific community dealing with chemistry.

25 September In Dunhua, in north-eastern China's Jilin province, a team of Japanese chemical weapons experts ends a tour of operations having completed the retrieval of 418 chemical shells that are later confirmed as having been abandoned by the Japanese Imperial Army. The disposal project was the third of its kind in Dunhua, the previous two having resulted in the retrieval of 605 munitions [see 8 Nov 04 and 12 Oct 05]. Two years ago, two children were injured by a chemical shell while playing by a river in the city [see 23 Jul 04].

25 September In Paris, the EU Institute for Security Studies hosts a conference on *Implementing the BTWC: Challenges and Prospects*. The conference has been organized in the context of the preparation for the Sixth BWC Review Conference as specified in EU Council Joint Action 2006/184/CFSP [see 27 Feb]. The speakers include the President-designate of the Review Conference, Ambassador Masood Khan, and Annalisa Giannella representing the EU High Representative for Common Foreign and Security Policy. Some sixty people participate, including EU and governmental officials, the latter from both member and non-member states, diplomats and specialists from civil-society institutions. There are concurrent working groups on national implementation of the BWC, on confidence-building measures, and on the projected intersessional work programme. The seven EU papers thus far finalized by member states for the Review Conference are distributed.

25 September The *Washington Post* quotes a number of anonymous sources involved in the investigation of the anthrax attacks that occurred five years ago [see 15 Oct 01], as disclosing previously unreported details. The *Post* says that after the public focus on government scientists as the likely source of the attacks, the FBI is now looking further afield, including outside the USA. An unidentified "scientist" is quoted as saying that there is "no significant signature in the powder that points to a domestic source" [see also 2 Aug Quantico]. The *Post* also reports that at a press conference earlier this month Secretary for the Department of Homeland Security Michael Chertoff declined to say whether there is a "person of interest" in the investigation. Chertoff is quoted as saying: "I'm not telling you that right now the bureau is focused on someone or not focused on someone... There are in my experience a lot of instances where we might know or have a good reason to believe who committed a criminal act, but we may not be able to prove it. So when you say something is not solved, you should not assume from the fact that there is no criminal prosecution we don't have a good idea of what we think happened."

One month later, in a letter to Attorney General Alberto R. Gonzales, member of the Senate Judiciary Charles E. Grassley, says: "The FBI's refusal to brief Congress [on the progress of the investigation into the anthrax attacks] over the last several years is an outrageous response to reasonable requests at getting to the bottom of the attacks."

25-26 September In London, there is a Proliferation Security Initiative (PSI) workshop on the maritime industry, the purpose of which is to analyse how to prevent the spread

of WMD, delivery systems and related equipment through cooperation with the shipping industry. Attending the workshop, which is hosted by the UK Ministry of Defence, are government and industry representatives from twenty countries: Argentina, Australia, Canada, Denmark, France, Germany, Greece, Italy, Japan, the Netherlands, New Zealand, Norway, Poland, Portugal, Russia, Singapore, Spain, Turkey, the UK and the USA. Topics of discussion include port governance, the roles of freight forwarders and shipping line owners and operators, the disposition of cargo, implications of the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, the government decision-making process, and how industry can further participate with PSI supportive nations. It is the third PSI government-industry workshop: the first was on the container line industry in Copenhagen [see 3-4 Aug 04]; the second, on air cargo in Los Angeles [14 Sep 05] [See also 23 Jun].

26 September In Hanoi, OPCW Director-General Rogelio Pflinter says: "We believe Vietnam is in a position to exercise positive influence on some countries in this region which are still not members [...] namely Myanmar and of course North Korea." Making his remarks during a meeting with Vietnamese Deputy Prime Minister and Foreign Minister Pham Gia Khiem on the second day of a three-day visit to Vietnam, Pflinter says that Vietnam has become a regional symbol with regard to implementation of the CWC.

26 September In Moscow, a new book by Lev Aleksandrovich Fedorov, president of the Union of Chemical Safety [see also 3 Oct 05 and 6 Mar 02], describing the history of the Soviet biological weapons programme has been published by the International Social-Ecological Union, so reports RussianBW Monitor. *Sovetskoe biologicheskoe oruzhie: Istoriya, ekologiya, politika* [Soviet Biological Weapons: History, Ecology, Politics] runs to 302 pages and contains 262 references.

26 September The US White House releases extracts of the latest classified National Intelligence Estimate, *Trends in Global Terrorism: Implications for the United States*, which includes the statement that "chemical, biological, radiological and nuclear weapon capabilities will continue to be sought by jihadist groups". According to *The New York Times*, the estimate, which was completed in April, is the first formal appraisal of global terrorism by the intelligence agencies since the US-led invasion of Iraq [see 20 Mar 03], and represents a consensus view of the sixteen disparate spy services inside government. Rejecting calls by members of the Senate to declassify the document, Frances Townsend, the White House domestic security adviser, says: "What we don't want to do is tell them what we know so they know how to operate around that."

27 September In the US Senate, Acting Principal Deputy Assistant Secretary of Defense for International Security Policy Joseph Benkert testifies before the Committee on Armed Services Subcommittee on Readiness and Management Support on the policy and practice of the USA with respect to the use by its military of riot control agents. In his statement Benkert says: "The Administration agrees with the policy statement in the National Defense Authorization Act for FY2006, section 1232 (the 'Ensign Amendment') [see 8 Nov 05]... The Department of Defense has issued regulations, doctrine, and training materials providing guidance as to when riot control agents may be used... [T]he primary legal bases for these materials are Executive Order 11850 [...] and the [CWC]... The Military Departments have

established requirements that personnel receive training on riot control agents before they are authorized to carry or employ them... Annual training of service members also provides an opportunity for supplemental training in the use of riot control agents. For example, in accordance with the Geneva Conventions of 1949 and the Hague Convention of 1907, military personnel who may employ riot control agents, such as Military Police, are required to receive annual instruction on the law of armed conflict, which includes the subject of the permissible use of riot control agents, when relevant to operational duties... Before U.S. military personnel may use riot control agents, they must have the proper authorization. Pursuant to Executive Order 11850, Presidential approval is required prior to riot control agent use in war in defensive military modes to save lives. Separate regulations delegate to the Secretary of Defense advance authority to authorize the use of riot control agents in peacetime. However, certain peacetime uses of riot control agents have been delegated to the Combatant Commands and Chiefs of Services such as uses at US facilities and installations for riot control, installation security, civil disturbance operations training, and noncombatant emergency evacuation operations... In conjunction with the preparation of the report required by the Ensign Amendment, we initiated a review of the authorities applicable to the use of riot control agents under various circumstances in light of the changing environment in which armed conflicts are taking place. In such a dynamic environment, the peacekeeping, law enforcement, and traditional battlefield roles of deployed units may be present at different times within the same theater of operations. The use of riot control agents will be evaluated based on the particular unit or mission involved and the particular facts and circumstances of the mission at the requested time... I would like to conclude by highlighting the continuing validity of Executive Order 11850. Executive Order 11850, which has not been modified or rescinded since it was issued, remains in effect."

27-29 September In Chok-Tal, Kyrgyzstan, the fourth [see 29-31 Aug 05] regional workshop for national authorities of CWC parties in Central Asia on the practical implementation of the CWC takes place. The purpose of the workshop, which is jointly organized by the government of Kyrgyzstan and the OPCW, is to provide a framework within which national authority representatives can review and discuss issues related to the practical implementation of the CWC, including: legislative and administrative measures to be taken to implement the Convention in CWC parties, such as the drafting, enactment, and enforcement of implementing legislation and of privilege and immunity agreements.

28 September In Iraq, a website that in the past has aired al-Qaeda messages carries a twenty-minute audio recording of the assumed leader of al-Qaeda in Iraq urging, amongst other things, scientists and other weapons experts to join the jihad against the West. According to the Associated Press, Abu Hamza al-Muhajir also known as Abu Ayyub al-Masri – who is believed to have succeeded Abu Musab al-Zarqawi [see 7 Jun] – says: "Support is needed from people who work in chemistry, physics, electronics, media and all other sciences especially nuclear scientists and explosives experts... We are in dire need of you... The field of jihad can satisfy your scientific ambitions, and the large American bases (in Iraq) are good places to test your unconventional weapons, whether biological or dirty, as they call them."

28-29 September In Como, Italy, there is a workshop on *Cooperation on Bio-Initiatives in Russia and the NIS: Toward a True Partnership*, which is the third in a series of workshops

organized by the Landau Network-Centro Volta (LNCV) – International Working Group (IWG) and the Russian American Nuclear Security Advisory Council (RANSAC). The workshop comprises ten working sessions on themes including: promoting and developing partnership programmes in the former Soviet Union; enforcing biosecurity and biosafety: toward an international policy and action agenda; natural outbreaks of disease: improving surveillance and response, and creating an international partnership; biotechnology partnership: promoting research and development, and commercialization; and enhancing the role of the biotechnology industry, and meeting public health challenges. Around fifty representatives from government, academia, industry, and non-governmental organizations, mainly from the former Soviet Union, the USA and the European Union, attend the event.

Two weeks later, the Center of New Medical Technologies (TEMPO), Moscow, which was one of seven other organizations supporting the event, releases a report setting out the proceedings of the workshop.

29 September At OPCW headquarters, the open-ended working group for the Second Review Conference of the CWC convenes for its second [see 7 Jul] session. Representatives of forty-nine CWC parties attend the session. The OPCW press release on the session reports that “States Parties made general statements about the substance of the review and discussed the contribution of civil society to the review process”.

29 September In The Hague, the seventh [see also 1 Oct 04] OPCW associate programme concludes. The purpose of the ten-week course, which was organized by the OPCW, was to facilitate the application of the CWC in the chemical industry and to increase the pool of qualified personnel that national authorities and the OPCW can call on in the future. It was attended by twenty-four participants from the following OPCW parties: Algeria, Belarus, Brazil, Cambodia, Croatia, Eritrea, Ethiopia, Gambia, Ghana, India, Indonesia, Jordan, Malawi, Nigeria, Panama, Philippines, Rwanda, Sri Lanka, Tajikistan, Tunisia, Turkey, Uganda, Uruguay and Zambia.

October The British American Security Information Council, the Harvard Sussex Program, and the Verification Research, Training and Information Centre release a ‘briefing book’ on the *BWC Sixth Review Conference 2006*. It comprises a compilation of reference documents relevant for the Review Conference and has as its purpose “to assist delegates to the Sixth Review Conference of the BWC in their work and thus to contribute to a successful and constructive outcome to the Conference”.

October The Israeli military have been using a new type of irritant-agent projectile against Palestinian and Israeli citizens demonstrating against the ‘separation wall’ on the West Bank. A team of investigators led by Professor Alastair Hay of the University of Leeds now publishes its findings in *Medicine, Conflict and Survival*. The team describes its analysis of the agent in a sample of the projectiles, identifying the agent as N-vanillyl-10-undecenamamide (otherwise known as PAVA, which has been declared to the OPCW as a ‘riot control agent’ by a small number of CWC states parties) with an inert carrier and a dispersal agent. The projectile, which the team says corresponds to the commercially available ‘Pepperball Tactical Powder’, is a small red ball that weighs just over three grams and consists of a thin rigid plastic casing (diameter 17.2 mm) containing about 2.45g of white powder. The article states: “The ‘Pepperball tactical powder’ pellets are clearly designed to irritate the skin. However, the skin injuries that

occurred in the two individuals [examined during the investigation] are far more severe than the effects that the material safety data sheet for the product suggests may occur. [...] A good reason for the Israeli military’s refusal to identify the ‘Pepperball’ could be the possible perception of its use in the context of the conflict between Israel and the Palestinian territories. Riot control agents are forbidden in warfare under the terms of the [CWC].”

1 October The *London Mail on Sunday* reports the Ministry of Defence as saying that nearly 2,000 conventional and chemical munitions are washed up along the Scottish coastline annually from nearby ocean munitions dumps. “A lot of these munitions are now unstable. Our team are being called out on a daily basis to deal with explosive devices, mainly World War II bombs, shells and mines, that are discovered either inland, washed up on beaches or found underwater,” an unidentified spokesman for the Royal Navy is quoted as saying. According to the *Mail on Sunday*, the Ministry’s records show that Scotland’s biggest munitions dump, a trench called Beaufort’s Dyke off the south-west coast, contains nearly two million tons of conventional munitions, 120,000 tons of mustard and phosgene gas, 25,000 tons of nerve gas, 330 tons of arsenic compound and 1,890 tons of waste gases, as well as chemical munitions containing sarin, tabun, cyanide and anthrax.

2 October The US Department of Defense releases an ‘Instruction’ on *DoD Antiterrorism Standards*, which *inter alia*, “expands protection of DoD installations to recognize the importance of defending against terrorist use of chemical, biological, radiological, nuclear and high explosive (CBRNE) weapons according to [the DoD Instruction, dated 4 December 2002, on *DoD Installation Chemical, Biological, Radiological, Nuclear, and High-Yield Explosive Emergency Response Guidelines*]”.

2 October In the USA, the Chairman of the Joint Chiefs of Staff of the Departments of the Army, Navy Marine Corps, Navy, Air Force, and the Coastguard releases *Chemical, Biological, Radiological, Nuclear, and High-Yield Explosives Consequence Management*. The document provides military guidance for the exercise of authority by combatant commanders and other joint force commanders and prescribes joint doctrine for operations and training. It therefore gives military guidance for use by the armed forces in preparing appropriate response-plans. The document discusses the chemical, biological, radiological, nuclear, and high-yield explosives consequence management environment in both the domestic and foreign contexts, and also identifies planning considerations.

2 October In Phoenix, Arizona, a federal court sentences a man to more than seven years imprisonment for, amongst other things, attempting to make ricin, having been convicted for the offence four months previously [see 30 Jun]. Paul Charlton, for the prosecution, says Denys Rays Hughes was “a home-grown threat who tried to create a homemade toxin for use as a weapon”. “We may never know his motive”, he says, “but his intent was clear”. Announcing the sentence, District Judge Earl Carroll says the case was among the most serious he had yet presided over.

3 October From India, TimesNow.Tv reports that the Central Industrial Security Force (CISF) has conducted a study which concludes thus: “In the present security scenario, where radioactive substances are floating in the world market and where chemical and biological weapons can be made with little difficulty, it may also be assumed that the next level of

threat perception will come from nuclear, biological weaponry, and that the installations must be guarded against them.” The CISF guards India’s most sensitive installations such as the Taj Mahal, government offices, nuclear plants, airports, etc.

3 October The US television channel PBS broadcasts a documentary, ‘Umbrella Assassin’, as part of its series on ‘Secrets of the Dead’, which retraces the murder of the Bulgarian defector and dissident, Georgi Markov, in London in 1978. [See also 21 Sep 00 and 5 Jun 05].

3-5 October In Obolensk, Russia, there is a conference on *Emergency Situations of International Significance in Public Health and the Sanitary Protection of the CIS* at the State Scientific Centre of Applied Microbiology and Biotechnology. Among the topics discussed is training and improving the qualification of personnel engaged in the prevention and elimination of the consequences of emergency epidemic situations resulting from the use of biological weapons.

4 October US President George Bush signs the FY 2007 Department of Homeland Security Appropriations Act, a \$34 billion package that includes funds for improved chemical plant security measures. At the signing ceremony in Scottsdale, Arizona, Bush says: “This is a good bill. It will help us deploy nuclear detection equipment at our ports of entry, raise security standards at the nation’s chemical plants, safeguard American cities against weapons of mass destruction, and stop terrorists seeking to enter our country.”

5 October The US Congressional Research Service releases a report on *Globalizing Cooperative Threat Reduction: A Survey of Options*, which analyses the range of possible applications of CTR funds, the kinds of assistance that might be supplied, and describes legal, financial, technical, and political constraints on possible assistance.

5 October In the USA, a team of scientists have discovered that mice infected with a reconstructed version of the 1918 flu virus suffer a severe immune system reaction, according to research published in the journal *Nature*. The team – which included John Kash and Michael Katze from the University of Washington, and Jeffery Taubenberger from the Armed Forces Institute of Pathology in Maryland – believe the extreme immune response could have provoked the body to begin killing its own cells, making the virus even deadlier. They add that the immune response in mice is very similar to humans. Kash, the lead author of the study, says that all of the eight genes in the complete 1918 virus somehow work synergistically to make the infection much more severe than would be expected from analyzing it gene by gene. Earlier studies undertaken by, amongst others, the Centers for Disease Control and Prevention and the National Institutes of Health, both of which supported the current research, suggested that the virus may have evolved from a type of bird flu. Taubenberger was one of the lead scientists on a team that recently resurrected the 1918 flu virus using tissue recovered from those killed by the pandemic in Alaska [see 6 Oct 05].

7 October In Moscow, Anna Politkovskaya, a reporter for *Novaya Gazeta*, is shot dead at her apartment block. Politkovskaya, an outspoken critic of President Putin, had in the past alleged she was unable to cover the siege of a school at Beslan [see 1 Sep 04] because she was poisoned en route from Moscow and had to be hospitalized. Reuters news agency quotes an unidentified “police source” as saying: “According to initial information she was killed by two shots when leaving

the lift. Neighbours found her body.” Police found a pistol and four rounds in the lift. Speaking to reporters, Moscow chief prosecutor Yuri Syominthat says he is treating the death as murder.

8 October In Numaniya, Iraq, hundreds of Iraqi policemen, from the mainly Shiite fourth (‘Karrar’) division of the national police, have fallen sick from food poisoning at a military base. The Associated Press quotes “an official with the Environment Ministry” as saying that eleven policemen have died, but also quotes the governor of Wasit province, where the poisoning took place, as denying anyone has died, while acknowledging that some of the victims were in critical condition. Some of the policemen began bleeding from the ears and nose after the meal, says Jassim al-Atwan, an inspector for the Environment Ministry. According to al-Atwan, between 600-700 policemen have been affected to varying degrees, and eleven, who consumed the most food, have died. He says that some of the soldiers collapsed as soon as they stood up from the meal while others fell “one after the other” as they headed out to the yard in the base to line up in formation. Meanwhile, at a press conference, spokesman for the force Qasim al-Musawi says that “350 to 400 people were poisoned, they were given medical treatment instantly and four were taken to a nearby hospital and everyone has returned to normal.” However, Reuters news agency quotes Lieutenant-Colonel Hasan Nima from the base as saying that the policemen became ill only minutes after the meal and insisted at least 1,350 of the 2,000 at the base had been hospitalized. BBC News Online on the other hand quotes the “US military” as saying that around 200-300 policemen were affected, of whom 89 required medical treatment, and quotes “Iraqi and US officials” as denying reports that some had died. The BBC reports that Iraqi “health ministry officials” say that infected water is the most likely cause of illness. The next day, Reuters news agency reports the arrest of four cooks suspected of having tampered with the food.

8 October *The (London) Times* reports that the suicide bombers who attacked London in July last year had initially received instruction from al-Qaeda to poison the England and Australia cricket teams during the 2005 Ashes. According to Ahmed Hafiz – a pseudonym used when passing information on to the police – a “family friend” of Hasib Hussain, who detonated a bomb on a bus killing thirteen people, Mohammad Sidique Khan and Shehzad Tanweer were allegedly instructed to get jobs as stewards at the Edgbaston cricket ground and to spray sarin gas inside the changing rooms. However, when Tanweer refused because he enjoyed cricket, ‘Hafiz’ claims militants affiliated to Al-Qaeda instructed them to bomb the London Underground instead. “It was always there, as Plan B,” says Hafiz.

9-10 October In Almaty, Kazakhstan, there is seminar on *Implementing UN Security Council Resolution 1540* [see 28 Apr 04] in *Central Asia and the Caucasus*, which is organized by the Center for Nonproliferation Studies in cooperation with the Ministry of Foreign Affairs of Kazakhstan. The main objective of the seminar is to consider ways in which states from inside and outside the region, as well as relevant international organizations, can cooperate with the full and timely implementation of resolution 1540. Attending the seminar are more than thirty-five experts and officials from, amongst other places, Armenia, Azerbaijan, Canada, China, Germany, Georgia, Japan, Kazakhstan, Kyrgyzstan, Norway, Russia, Sweden, Tajikistan, the USA and Uzbekistan. Officials from the European Union and the International Atomic Energy Agency also attend.

10 October In Viet Nam, 57 people, including 45 schoolchildren, are now in Hue Central Hospital suffering from skin blisters following exposure to liquids in drums that had been displaced by flood waters. Apparently reporting a local military authority, *Thanh Nien News* describes the liquids as “chemical agent left behind from the American War”, specifically the vesicant agent HT

10 October In Strasbourg, The European Parliament’s environment committee vote in favour of a legislation that would force companies to replace harmful chemicals where safer and economically viable alternative exists. Last year ministers from EU nations voted for a weaker version of Registration, Evaluation and Authorisation of Chemicals (REACH), which “encouraged” substitution [see 13 Dec 05]. The committee’s decision must next be endorsed by the European Parliament.

10 October In the UK House of Commons, responding to a written question addressed to the Secretary of State for Environment, Food and Rural Affairs (DEFRA) as to what precautionary measures have been taken by the government to secure food stocks against agro-terrorist attack, Parliamentary Under-Secretary for DEFRA Barry Gardiner says: “It is not Government policy to publicise the detail of such measures. However, I can confirm that DEFRA works closely with the food industry, the Food Standards Agency and other parts of the Government to anticipate threats, and to assist the food industry in taking measures to reduce the risk from agro-terrorism.”

Two days later, the Secretary is asked, by way of another written question, how much DEFRA has spent on food security measures, and research on priority threat agents against terrorist action, in each year since 2000. Gardiner responds thus: “It is not possible to disaggregate the Department’s spend in this area from other ‘business as usual’ activities. In the past year, DEFRA has commissioned a report from Cranfield University about the resilience of the food chain, but the costs involved are commercially sensitive. It is not Government policy to publicise the detail of precautions against terrorism, but I can confirm that such work is being done.”

11 October In South Korea, the head of a trading company is arrested on charges of smuggling 15 tons of potassium bifluoride into an undisclosed Middle Eastern country that is suspected of trying to develop nuclear weapons. The chemical can be used as a source of fluorine for uranium enrichment. It can also be used as a nerve-gas precursor, and is for that reason on the Australia Group precursor control list.

11 October At UN headquarters, the First Committee of the General Assembly holds a thematic debate on “other weapons of mass destruction”. The Committee approves without a vote a draft resolution sponsored by Indonesia to uphold the authority of the 1925 Geneva Protocol, a draft resolution sponsored by Poland regarding the implementation of the CWC, and a draft resolution sponsored by Hungary regarding the BWC. A draft resolution sponsored by twenty-four countries on measures to prevent terrorists from acquiring weapons of mass destruction calls upon all Member States to support international efforts to prevent terrorists from acquiring weapons of mass destruction and their means of delivery [see 28 Apr 04].

12 October In Milan, an International Conference on the Challenges of Disarmament and Nonproliferation takes place at the Istituto per gli Studi di Politica Internazionale. The Conference – which is attended, amongst others, by governmental officials and representatives of civil society –

considers the current status of the global infrastructure of laws and agreements that limit the spread of weapons of mass destruction and call for their elimination. Among those making presentations is OPCW Director-General Rogelio Pfirter.

12 October In Arkansas, less than a year after commencing the process, the Pine Bluff chemdemil facility has now completed the neutralization of its stockpile of binary chemical precursors QL and DF, according to the Chemical Materials Agency [see 6 Apr 06]. The neutralized binary material will be destroyed at a commercial treatment, storage and disposal facility in Texas by December 2007.

14 October At UN headquarters, following the confirmed testing by North Korea of a nuclear weapon, the Security Council passes a resolution that refers to “other weapons of mass destruction”. Under resolution 1718 the General Assembly:

7. “Decides also that the DPRK shall abandon all other existing weapons of mass destruction and ballistic missile programmes in a complete, verifiable and irreversible manner...
8. “Decides that ... All Member States shall prevent the direct or indirect supply, sale or transfer to the DPRK, through their territories or by their nationals, or using their flag vessels or aircraft, and whether or not originating in their territories, of ... [a]ll items, materials, equipment, goods and technology as set out in the lists in documents [S/2006/814, S/2006/815 and S/2006/816] [...] as well as other items, materials, equipment, goods and technology, determined by the Security Council or the Committee, which could contribute to DPRK’s nuclear-related, ballistic missile-related or other weapons of mass destruction related programmes... The DPRK shall cease the export of all items [covered] above and [...] all Member States shall prohibit the procurement of such items from the DPRK by their nationals, or using their flagged vessels or aircraft, and whether or not originating in the territory of the DPRK... All Member States shall prevent any transfers to the DPRK by their nationals or from their territories, or from the DPRK by its nationals or from its territory, of technical training, advice, services or assistance related to the provision, manufacture, maintenance or use of the items [covered] above... In order to ensure compliance with the requirements of this paragraph, and thereby preventing illicit trafficking in nuclear, chemical or biological weapons, their means of delivery and related materials, all Member States are called upon to take, in accordance with their national authorities and legislation, and consistent with international law, cooperative action including through inspection of cargo to and from the DPRK, as necessary.”

16 October The US Department of Defense (DoD) announces its intention, within the next thirty to sixty days, to resume mandatory anthrax inoculations for military personnel and defence contractors deployed to Afghanistan, Iraq and South Korea, and a small number of military personnel assigned to homeland defence units. The move follows the lifting last year of a court order, issued two years previously, that prevented the mandatory administration of anthrax vaccinations owing to problems with the approval process of the Food and Drug Administration (FDA) [see 27 Oct 04]. The lifting of the order came after a ruling by the FDA that the existing anthrax vaccine is safe and effective [see 19 Dec 05]. Last year, the DoD commenced offering the vaccination on a voluntary basis [see 1 Apr 05]. While the vaccination programme is mandatory for those being deployed to threat areas, it will be voluntary for military personnel and civilians who started their vaccine series but had to stop as a result of

the court order. Announcing the move, Assistant Secretary of Defense for Health Affairs says: "The anthrax vaccine is safe; it is effective for all forms of anthrax spore exposure... Time and again (this vaccine) has been looked at by experts ... and each time the conclusion is the vaccine is safe and it is effective... Our adversaries continue to remind us that they are determined to obtain nuclear, chemical and biological weapons... We do not yet know who perpetrated the attacks of October 2001."

16 October In San Francisco, the 9th Circuit Court of Appeals blocks the opening by Lawrence Livermore National Laboratory of a Biosafety Level-3 laboratory until the Department of Energy (DoE) considers whether terrorists could attack the laboratory, and whether the possible consequences warrant a full environmental review. The DoE had previously concluded that the possibility of pathogens – such as anthrax, plague, brucellosis and Q fever – being released into the general population was too remote to require a full environmental review. The court bases its ruling on a decision by the same court in June, which required the DoE to consider the possibility of a terrorist attack before allowing construction of a nuclear waste storage site at the Diablo Canyon power plant near San Luis Obispo. The lawsuit, filed by Nuclear Watch and Tri-Valley Communities Against a Radioactive Environment (CARE) three years ago [see 26 Aug 03], also contended that the Las Positas fault zone near the laboratory posed an unacceptable risk. On this point, the court says that the DoE had made a "minimal assessment of earthquake risks despite the presence of known, active faults that run directly under nearby Berkeley". However, despite "some substantial questions about the validity of [its] substantive conclusions", the court was legally required to accept the DoE's conclusions under this assessment, as the DoE had examined the environmental concerns and made a "fully informed" decision.

16 October In the USA, researchers have concluded that a major act of bioterrorism involving release of the smallpox virus could be contained through the implementation of a mass vaccination strategy. Writing in the *International Journal of Infectious Diseases*, the team – which included Ira Longhi and Elizabeth Halloran from the Fred Hutchinson Cancer Center in Seattle – say that to make containment efforts effective it would be necessary to move quickly to contain and vaccinate victims. Lead author Ira Longini says that moving to contain the outbreak within two days of detection of the first case would contain a "large attack if up to 500 people were infected". The team concludes that undertaking mass vaccinations, on the other hand, would only slightly reduce deaths in the case of a smallpox attack and that the rate of adverse reactions to the vaccine would undo any real benefit, i.e. one person in 10,000 would have a severe reaction and one in a million would die. Other authors of the paper included researchers from Emory University, Harvard University, Johns Hopkins University, the Brookings Institution and the Santa Fe Institute. The research was funded by the Fogarty International Center, the National Institute of Allergy and Infectious Disease and the Models of Infectious Disease Agent Study of the National Institute of General Medical Sciences. [See also 15 Aug]

16-17 October In Dar-Es-Salaam, Tanzania, there is the fourth [see 20-21 Oct 05] regional meeting of national authorities of CWC parties in Africa, which is jointly organized by the Tanzanian government and the OPCW. In total, 82 participants from 33 CWC parties attend, as well a representative from the Central African Republic, which has signed but not ratified the Convention. The meeting provides participants the opportunity to review the CWC's legislative and administra-

tive requirements; national requests and offers of implementation support in establishing and operating an effective national authority, as well as drafting implementing legislation; means to enhance declaration accuracy; the international chemical transfer regime; efforts to create an integrated system of chemicals classification; and the training of customs officials.

16-18 October In Almaty, Kazakhstan, there is a seminar on *Proliferation Awareness Training* for Tajik customs officials, which is organized by the Center for Nonproliferation Studies in cooperation with the US State Department. It is the first in a series of seminars designed to provide border guards and customs officials in Central Asia with the opportunity to develop their capacity and skills for responding to the threat of the proliferation of weapons of mass destruction in the region and in the world generally. Over twenty border guards and customs officials from Tajikistan shared their experiences and concerns with NGO policy and technical experts, customs and licensing officers as well as other government officials from France, Kazakhstan, Russia, Switzerland, Tajikistan, and the USA. [See also 9-10 Oct]

16-26 October In Paris, the fourth [see 13-23 Mar] basic training course for personnel of CWC national authorities takes place. The French government and the OPCW organize the event with the support of the French Training Centre for the Prohibition of Chemical Weapons (CEFFIAC). The course analyses the CWC's effective national implementation, including a detailed review of the CWC and the functioning of the OPCW, the establishment and operation of national authorities, the legal rights and obligations of parties under the CWC, and the objectives of the national implementation action plan. Attending are representatives from the following CWC parties: Algeria, Antigua and Barbuda, Australia, Azerbaijan, Benin, Bosnia and Herzegovina, Cameroon, China, Côte d'Ivoire, Croatia, Equatorial Guinea, India, Iran, Ireland, Jordan, Kyrgyzstan, Libya, Madagascar, Malaysia, Morocco, Qatar, Sweden and Zambia. In addition, a representative from Montenegro, which is not a party, also attends.

17 October US President George Bush signs the FY 2007 Defense Authorization Act that, amongst other things, requires the Army to inspect chemical and conventional munitions dumps off the US coast, and to note their locations on nautical charts as a warning to mariners, and where possible to remove the offending munitions. Last year, the *Newport News Daily Press* reported that the Army disposed of 64 million pounds of mustard and nerve gas munitions between 1940 and 1972 off the coasts of at least eleven states, including Virginia, New Jersey, North Carolina, Hawaii, Alaska and Florida [see 30 Oct 05]. The legislation, however, does not require any action to be taken with regard to the chemical munitions identified in a 2001 Army report as having been dumped by the Army at thirty sites off the coasts of at least eleven countries, including Italy, France, India, Australia, the Philippines, Japan, Denmark and Norway [see 30 Oct 05]. According to the *Daily Press*, the legislation came about as a result of a number of members of Congress reading the newspaper's report last year and subsequently demanding that the Army do more than check records for undisclosed dumpsites.

18-20 October In Kiev, a workshop organized by the OPCW takes place, on the coordination of assistance and protection under Article X of the CWC. The workshop, the ninth of its kind, provides participants with the opportunity to review the activities related to assistance and protection that the OPCW has engaged in over the last two years, as well as the progress made during the period in implementing Article X

and related decisions of the Conference of the States Parties at its ninth and tenth sessions. In addition, representatives from a number of countries and organizations that participated in 'Joint Assistance 2005', a chemical terrorism protection and assistance field exercise, discuss the lessons learned [see 9-13 Oct 05].

19 October In Rome, a roundtable discussion on *Current Global Partnership Initiatives and Italian Programs: Submarine Dismantlement, Chemical Weapons Destruction, and Plutonium Disposition in Russia* is scheduled to take place. The purpose of the discussion is to find how Italy can most effectively meet its commitments under the Global Partnership [see 26-27 Jun 02] through more active participation and cooperation with other Global Partnership countries. The event is intended for Italian government officials, members of parliament, non-proliferation experts, and foreign embassy officials. It is sponsored by President of the Italian Senate Franco Marini, and organized by the Center for Nonproliferation Studies, in collaboration with the Italian International Affairs Institute, Green Cross International and its affiliates, Green Cross Italy, Green Cross Switzerland, Green Cross Russia, and Global Green USA.

19 October In the UK House of Commons, Parliamentary Under-Secretary of State for Defence Derek Twigg makes the following written ministerial statement on the subject of Gulf veterans' illnesses between 1990-91: "A central principle of the Government's approach to addressing the health concerns of veterans of the 1990-91 Gulf Conflict is that there should be appropriate research into veterans' illnesses and factors that may have a bearing on these... As a key part of that research, the Ministry of Defence has sponsored a Vaccines Interactions Research Programme into the possible adverse health effects of the combination of vaccines and tablets given to troops to protect them against the threat of biological and chemical warfare. The programme, which has been overseen by an independent panel of experts and veterans representatives, consisted of three main studies. The first examined the interaction of certain vaccines in mice and reported last year [see 14 Jul 05]... The second, and main, study has been undertaken at Dstl Porton Down and involved monitoring marmosets for up to 18 months following the administration of vaccines and/or pyridostigmine bromide (the active ingredient in nerve agent pre-treatment tablets) [see 14 Nov 05]. [The study determined] that the immune system had not been compromised by any of the treatments and that there was no evidence of adverse health effects due to the administration of vaccines and/or pyridostigmine bromide. The study findings have been independently endorsed... The final study examined whether staff from Dstl Porton Down who received multiple vaccinations during their employment have higher levels of sick leave than their unvaccinated colleagues. The findings, which are being made available today on the MoD website, show that staff at Porton Down who had received multiple vaccinations suffered no excess sick absence... The overwhelming evidence from the programme is that the combination of vaccines and tablets that were offered to UK Forces at the time of the 1990-91 Gulf Conflict would not have had adverse health effects. This has been a key area of concern among Gulf veterans and the results of the research should be reassuring to those veterans who have been concerned about the safety of the medical countermeasures that they were given. I hope too that it will reinforce confidence in the counter-measures that are offered today and in the future."

19-20 October In London, at St Thomas' Hospital, the Health Protection Agency and the Environment Agency jointly

fund a seminar on *Risk Communication on Chemical Terrorism: From Theory through to Practice*. The seminar is jointly organised by the London Medical Toxicology Unit and the International Policy Institute of King's College London.

20 October The Sarajevo *Dnevni Avaz* reports that during the previous week the US military conducted WMD response training exercises with the Bosnian police. During the two-day event, Steven Ayers, attaché of the US military in Bosnia-Herzegovina, says that the \$400,000 worth of equipment supplied by the USA for the exercises would remain in Bosnia and Herzegovina and be made available for use by its various agencies. "We want to see Bosnia-Herzegovina and its security forces prepared to face this kind of threat", says Ayers. Though the Bosnian military was not involved in the training, Defence Minister Nikola Radovanovic attended and says: "The B-H armed forces include one battalion and two companies trained to combat WMD. I hope that we will soon be able to get hold of this kind of equipment and increase our preparedness to counter such threats."

20 October At UN headquarters, OPCW Director General Rogelio Pflirter says that North Korea and key countries in the Middle East – Egypt, Israel, Lebanon and Syria – form a "hard core" of nations resisting moves towards joining the CWC. Addressing the General Assembly, Pflirter says, in relation to North Korea's failure to respond to repeated attempts by the OPCW "to attract their attention and to encourage them to join", that it "is a concern because there have been allegations about the potential existence of stockpiles in that part of the world". He continues: "It is very unfair to other countries if a few countries retain for themselves the privilege of producing chemical weapons when all the others are transparent in this field... [T]here could be no moral, strategic or legal excuse to remain outside the convention ... Having even a single state outside the convention provided a major loophole that allowed the manufacture of very deadly weapons at the expense of humanity." [See also 14 Oct]

20 October In Boston, a federal court rules that that Boston University can proceed with building a Biosafety Level-4 laboratory on the understanding that the University and the National Institutes of Health conduct an additional risk assessment of the project. District Judge Patti Saris rules that the assessment should study the public health consequences of an accidental release of Category A agents, e.g. plague, Ebola and botulism, and the possibility of constructing the facility in a less populated location. The decision follows a ruling earlier this year that the university must conduct an additional environmental review of the laboratory. [See also 16 Oct]

20 October In New Jersey, Deputy Assistant Secretary of State, and head of the US delegation for BWC related matters, Donald Mahley says "the threat [from biological weapons] today is not necessarily states". Making his comments during a conference at Princeton University, he says: "The threat is nonstate actors, and nonstate actors don't have the same inhibitions that states do about the prospect of using biological weapons." As regards the upcoming BWC Review Conference next month, Mahley rejects the idea that action needs to be taken to verify compliance with Article 1 of the Convention. "One of the things we want out of this review conference is to kill that myth", he says.

20 October In Virginia, a federal judge Liam O'Grady orders Nicholas Kristof, journalist for *The New York Times*, to disclose to Steven Hatfill the identities of three confidential sources whom Kristof relied on when writing articles about the

investigation of the anthrax mailings [see 15 Oct 01]. Hatfill has sued the newspaper for defamation [see 29 Nov 04]. Catherine Mathis, a spokeswoman for *The Times*, says the newspaper would appeal the ruling. At a deposition hearing in July, Kristof declined to name five of his sources for the columns, but two have subsequently agreed to release him from his pledge of confidentiality. The court's ruling identifies the remaining unnamed sources as two Federal Bureau of Investigation agents and a former colleague or friend of Hatfill at Fort Detrick. O'Grady rules that under the laws of Virginia reporters have only a qualified privilege to decline to name their sources, and the privilege may be outweighed by other factors. O'Grady says that in order for Hatfill to have a chance of meeting his burden of demonstrating that he was defamed by the paper, he "needs an opportunity to question the confidential sources and determine if Mr Kristof accurately reported information the sources provided". The lawsuit was originally dismissed by a federal judge in Virginia [see 29 Nov 04], but was then reinstated by a federal appeals court [see 28 Jul 05], a decision that was upheld on appeal [see 18 Oct 05]. Thereafter, the Supreme Court declined to intervene [see 27 Mar].

Two weeks later, Judge Claude M Hilton, sitting in the same court, upholds the ruling on the grounds that it was "not clearly erroneous or contrary to law."

22 October In Sudan, the National Redemption Front issues a statement attacking the government's expulsion of UN envoy Jan Pronk that includes the following: "It is not a simple coincidence that this decision has been made at the very moment when the new offensive of the Khartoum regime in Darfur has been launched. Following successive defeats of its forces at the hands of NRF, the Regime in Khartoum is now resorting to the use of chemical warfare to reverse its luck. Few days ago, a Janjaweed led battalion moved out of Alfahir heading towards Tina. The force consists of over 60 vehicles armed with chemical weapons. In line with his cruel habit of sending poorly trained troops to their early graves, Albashir's new militias are to use chemical weapons that they have never seen before. This is what explained the rush to drive Mr. Pronk out of Sudan. Having neutralized the AU, the Government is now determined to render the people of Darfur totally voiceless. Mr. Pronk's departure will enable the Regime in Khartoum to carry out its genocidal acts behind a thick curtain."

23 October Montenegro deposits its instrument of succession to the CWC with the UN Secretary-General. The Convention will enter into force for Montenegro as of 3 June 2006, the date of the nation's independence [see 3 Jun]. Montenegro is now the 181st [see 20 Sep] party to the Convention.

24 October In Athens, government spokesman Theodoros Roussopoulos states that the government is evaluating recent press reports that Turkey had been using Greek and Greek Cypriot prisoners captured in 1974 as 'guinea pigs' in biochemical experiments at an army laboratory outside Ankara supervised by the Gulhane Military Medical Academy. The Greek Cypriot newspaper *Phileleftheros* had been the first to publicize the allegation, which originated in a private-circulation report, *Defence and Foreign Affairs Strategic Policy*, from the Washington-based International Strategic Studies Association. The *Cyprus Mail* quotes ISSA president Gregory Copley as saying that increasing amounts of information were now emerging about Turkish biological and chemical weapons programmes, which in his opinion were in support of a "big military enterprise against Kurds from the PKK". He attributes his information to people in Turkey, including the in-

telligence services there. Copley later says he has "no concrete evidence" that the allegations are true, but he refuses to withdraw them. In an interview with the *Cyprus Mail*, he expresses regret that the report had been "leaked" to the press. "I blame the Greek and Greek Cypriot press", says Copley.

24 October In the USA, scientists have developed a vaccine that protects mice against the 1918 influenza virus, and have created a technique for identifying antibodies that neutralize the virus, according to research published in the *Proceedings of the National Academy of Sciences*. The team, led by Gary Nabel, director of the Vaccine Research Center at the National Institute of Allergy and Infectious Diseases, used genetic sequence information for the 1918 flu virus to create two different strands of DNA designed to express specific characteristics: one to reflect the hemagglutinin protein found in the original 1918 flu virus; the other an altered form of the protein designed to attenuate the virus. The mice were then injected with both forms in order to determine whether they would generate immune responses. [See also 5 Oct]

25 October In Washington, D.C., a working group of the US National Science Advisory Board for Biosecurity (NSABB) meets to consider biosecurity rules to govern the new field of synthetic biology.

25-27 October In Rome, the third [see 13-15 Jun 05] workshop on the universality of the CWC takes place, having been jointly organized by the government of Italy and the OPCW, with the financial support of the European Union. Its purpose is to promote the universality of the CWC, as well as to contribute to its full and effective implementation in the region, among states in the Mediterranean Basin, the Middle East, and neighbouring regions. Attending the workshop are government representatives from Lebanon, Iraq, Israel, and Syria, as well as a representative from Cairo University, Egypt, all countries which have yet to join the CWC.

28 October In Richmond, Kentucky, a ceremony takes place to mark the beginning of the construction of a \$2 billion chemdemil facility at the Blue Grass Army Depot. In his speech, Senator for Kentucky Mitch McConnell says: "This is the day we break ground on the disposal of heinous chemical weapons that have threatened this community for as long as they have been stored at the Blue Grass Army Depot... It has been a hard road to get where we are today. We have had to push the Pentagon every step of the way." According to the Lexington *Herald-Leader*, completion of the design of the facility is expected in 2007; with adequate and continued funding, weapons disposal could commence in 2012.

30 October In Maryland, the Army commences the demolition of the 'process neutralization building' at the Aberdeen Proving Ground chemdemil facility. The building had been used to neutralize mustard agent stored in 1,817 bulk containers, the last one having been destroyed early last year [see 11 Mar 05]. It is the last building left standing at Aberdeen involved in the actual disposal of chemical agent. Acting Site Project Manager Brian O'Donnell says that once demolition of the building is completed all structures used in the neutralization process will have been cleared. According to the Chemical Materials Agency, demolition of "non-agent" buildings is now more than seventy per cent complete and is expected to be fully completed by next spring.

30-31 October In the Persian Gulf, in international waters off the north-eastern coast of Bahrain, the twenty-fifth [see also 24-26 May] Proliferation Security Initiative (PSI) inter-

diction exercise takes place, which is the third of its kind in the region. It involves teams on ships from Australia, Bahrain, France, Italy, and the USA boarding a UK ship simulating a commercial merchant vessel suspected of carrying WMD-related items. Participating in exercise 'Leading Edge' are the following twenty-five countries: Australia, Bahrain, Canada, Denmark, France, Germany, Greece, Iraq, Italy, Japan, Kuwait, the Netherlands, New Zealand, Norway, Pakistan, Poland, Portugal, Qatar, Russia, Singapore, South Korea, Spain, the United Arab Emirates, the UK and the USA. Australia, Bahrain, France, Italy, the UK and the USA provide operational assets for the exercise, including ships, aircraft, etc.

30 October-2 November In Tshwane, South Africa, a national implementation workshop for South African national authorities is scheduled to take place.

31 October North Korea declares that there would be "catastrophic consequences" should South Korea join the US-led Proliferation Security Initiative (PSI), so reports the Associated Press. Though South Korea has not yet joined the PSI, it has acted as an observer at PSI exercises [see 30-31 Oct, but see 25-27 Oct 04]. KCNA news agency quotes an unidentified spokesman for the North Korean Committee for the Peaceful Reunification of the Fatherland as saying: "The South Korean authorities would be well advised to stop their reckless action, pondering over the catastrophic consequences to be entailed by its participation in the above-said brigandish PSI for aggression... The (South Korean) authorities' dispatch of the (observer) group intended to support the US in its noisy racket of sanctions and blockade against (North Korea) is another shameless act of treachery little short of involving themselves in the US moves for a war of aggression."

Two weeks earlier, during a visit to South Korea, US Secretary of State Condoleezza Rice pushed the South Korean government to sign up to the PSI with a view to enforcing UN Security Council resolution 1718 [see 14 Oct].

31 October In the UK House of Commons, responding to a written question addressed to the Secretary of State for Environment, Food and Rural Affairs as to whether there have been cases reported of UK fishing vessels catching chemical weapons and their component parts in either their nets or trawlers in the last twenty years, Ministry of Defence Parliamentary Under-Secretary for Veterans Derek Twigg responds thus: "Reports of encounters with munitions in the marine environment are generally made to the Maritime and Coastguard Agency (MCA), which is part of the Department for Transport. MCA staff have advised that they are not aware of any reports of UK fishing vessels having caught chemical weapons or their component parts in either their nets or trawl-

ers in the last 20 years. The Ministry of Defence has no record of any reported cases of UK fishing vessels having caught chemical weapons or their component parts in either their nets or trawlers in the last 20 years."

31 October In the UK House of Commons, replying to a written question addressed to the Secretary of State for Defence – pursuant to a reply given some months previously [see 8 May] – as to why the number of mice used in procedures has increased since 2000, and why non-human primates used in procedures has increased since 2003, Minister of State for the Armed Forces Adam Ingram says: "The increase in the numbers of procedures involving both mice and non-human primates is directly related to the size and maturity of the ongoing medical countermeasures research programme. Mice are used mainly in studies to identify and assess candidate pre-treatments and therapies against biological warfare agents. Non-human primates are involved in studies to develop advanced animal models for efficacy assessment of post exposure therapies for biological and chemical warfare agents, and studies to assess the visual effects resulting from exposure to very low levels of nerve agents. Recent products from the Defence research programme include a therapy to treat those suffering from botulism. This is now available to treat UK servicemen, should botulinum toxin ever be used as a weapon against them, and has already been used to treat patients in both UK and Thailand who were subject to naturally occurring cases."

31 October The *Washington Post* reports that the USA has been forced to suspend the investigation of a Pakistani national believed to have sought to produce weaponized anthrax for al-Qa'ida. According to the *Post*, the Pakistani authorities say they have no basis on which to arrest Abdur Rauf, a microbiologist, and the FBI has designated its investigation as inactive. The paper reports that in December 2001 coalition forces in Afghanistan discovered documents that recorded Abdur Rauf's movement through Europe in search of anthrax spores and technology that would turn the spores into weapons. His stops appear to have included a 1999 conference at the UK government's defence laboratory at Porton Down and another "high-containment laboratory that housed anthrax and other pathogens". The report quotes an unidentified "US intelligence official" as saying: "We will never close the door, but the chances of getting him into the United States are slim to none."

This Chronology was compiled by Nicholas Dragffy from information supplied through HSP's network of correspondents and literature scanners.

Recent Publications

- Albuquerque, Edson, Edna Pereira, Tasco Aracava, William Fawcett, Maristela Oliveira, William Randall, Tracey Hamilton, Robert Kan, James Romano, and Michael Alder. "Effective countermeasure against poisoning by organophosphorus insecticides and nerve agents", *Proceedings - National Academy of Sciences USA*, vol 103 no 35 (29 August 2006), pp 13220-25.
- Arms Control Association. *The 2006 Biological Weapons Convention Review Conference: Articles and Interviews on Tackling the Threats Posed by Biological Weapons*, Washington DC, November 2006 [an Arms Control Today Reader] 61pp.
- Borrie, John. "The limits of modest progress: the rise, fall and return of efforts to strengthen the biological weapons convention", *Arms Control Today*, vol 36 no 8 (October 2006), pp 18-22.
- Choffnes, Eileen, Stanley Lemon, and David Relman. "[A brave new world in the life of sciences] The breadth of biological threats is much broader than commonly thought and will continue to expand", *Bulletin of the Atomic Scientists*, vol 62 no 5 (September/October 2006), pp 26-33.
- Chyba, Christopher. "Biotechnology and the challenge to arms control", *Arms Control Today*, vol 36 no 8 (October 2006), pp 11-17.
- Clarke, Lee, Caron Chess, Rachel Holms, and Karen O'Neill. "Speaking with one voice: risk communication lessons from the US anthrax attacks", *Journal of Contingencies and Crisis Management*, vol 14 no 3 (September 2006), pp 160-69.
- Edwards, Donna, Phillip Price, Susanna Gordon, and Ashok Gadgil. *Guidelines to Improve Airport Preparedness against Chemical and Biological Terrorism* (Unlimited Release Version), Albuquerque New Mexico: Sandia National Laboratories, (May 2005), 24 pp.
- Enemark, Christian. "Ethics in the time of anthrax: biological threat assessment in the United States", in Christian Enemark (ed) *Ethics of War in a Time of Terror*, [Canberra Papers on Strategy and Defense, CP163], Canberra: Australian National University, 2005, pp.55-70.
- Feakes, Daniel, and Caitriona McLeish, with Michael Crowley, Ian Davis and Angela Woodward. *Briefing Book: BWC Sixth Review Conference 2006*, Geneva: BASIC, HSP and VERTIC, October 2006, 577 pp, ISBN 1-903721-03-2.
- Findlay, Trevor. "Verification and the BWC: last gasp or signs of life?", *Arms Control Today*, vol 36 no 7 (September 2006), pp 12-16.
- Gupta, A K, D K Dubey, and M P Kaushik. "A simple and economical chemical neutralization method for the destruction of sulfur mustard and its analogues", *Journal of Hazardous Materials*, vol 39 no 1 (January 2007), pp 154-59.
- Hamilton, Murray, and Paul Lundy. "Medical countermeasures to WMDs: defence research for civilian and military use", *Toxicology*, (article in press, available online 1 September 2006), 5 pp.
- Hay, Alastair, Rita Giacaman, Ramzi Sansur, and Steven Rose. "Skin injuries cause by new riot control agent used against civilians on the West Bank", *Medicine, Conflict and Survival*, vol 22 no 4 (October-December 2006), pp 283-91.
- Hefazi, Mehrdad, Masoud Maleki, Mahmoud Mahmoudi, Abbas Tabatabaee, and Mahdi Balali-Mood. "Delayed complications of sulfur mustard poisoning in the skin and the immune system of Iranian veterans 16-20 years after exposure", *The International Society of Dermatology*, vol 45 no 9 (September 2006), pp 1025-31.
- Holdstock, Douglas. "Chemical and biological warfare: some ethical dilemmas", *Cambridge Quarterly of Healthcare Ethics*, vol 15 no 4 (30 October 2006), pp 356-65.
- Isla, Nicolas. "Strengthening the confidence building measure regime: a catalogue of recommendations", University of Hamburg [Research Group for Biological Arms Control] *Occasional Paper*, October 2006, 60 pp.
- Jeremias, Gunnar. "A global trade monitoring regime for bioweapons related items", University of Hamburg [Research Group for Biological Arms Control] *Occasional Paper*, December 2006, 7 pp.
- Kress, Moshe. "Policies for biodefense revisited: the prioritized vaccination process for smallpox", *Annals of Operations Research*, vol 148 no 1, (22 August 2006), pp 5-23.
- Lightstone, Sandra, Charles Swencionis, and Hillel Cohen. "The effect of bioterrorism messages on anxiety levels", *International Quarterly of Community Health Education*, vol 24 no 2 (2005-2006), pp 111-22.
- Littlewood, Jez. "Investigating allegations of CBW use: reviving the UN Secretary-General's mechanism", *Compliance Chronicles (Research from the Canadian Centre for Treaty Compliance)*, no 3 (December 2006), 36 pp.
- Manley, Ron. "Options for the destruction of chemical weapons and management of the associated risks", *Annals of the New York Academy of Science*, vol 1076 (September 2006), pp 540-48.
- McCamley, N.J. *The Secret History of Chemical Warfare*, Barnsley, UK: Pen & Sword Books Ltd, 2006, 188 pp.
- McLendon, Molly, Michael Apicella, and Lee-Ann Allen. "Francisella tularensis: taxonomy, genetics, and immunopathogenesis of a potential agent of biowarfare", *Annual Review of Microbiology*, vol 60 (2006), pp 167-85.
- Meier, Oliver. "Aerial surveillance and BWC compliance monitoring", University of Hamburg [Research Group for Biological Arms Control] *Occasional Paper* November 2006, 4 pp.
- Patocka, Jiri, Kamil Kuca, and Daniel Jun. "Botulinum toxin: bioterror and biomedical agent", *Defence Science Journal*, vol 56 no 2 (April 2006), pp 189-97.

- Paterson, R R M. "Fungi and fungal toxins as weapons", *Mycological Research*, vol 110 no 9 (September 2006), pp 1003-10.
- Pearson, Alan. "Incapacitating biochemical weapons. Science, technology, and policy for the 21st Century", *Nonproliferation Review*, vol 13, no 2 (2 July 2006), pp 153-88.
- Pearson, Graham, and Peter Mahaffy. "Education, outreach, and codes of conduct to further the norms and obligations of the Chemical Weapons Convention", *Pure and Applied Chemistry*, vol 78 no 11 (November 2006) pp 2169-92.
- Powell, Tia. "Cultural context in medical ethics: lessons from Japan", *Philosophy, Ethics, and Humanities in Medicine*, vol 1 no 4 (3 April 2006), 7 pp
- Roffey, Roger, John Hart, and Frida Kuhlau. "Crucial guidance: a code of conduct for biodefence scientists", *Arms Control Today*, vol 36 no 7 (September 2006), pp 17-20.
- Sartin, Jeffrey S. "Gulf war syndrome: the final chapter?", *Mayo Clinic Proceedings*, vol 81 no 11 (November 2006), pp 1425-1426.
- Sharp, Richard, and Allen Roberts. "Anthrax: the challenges for challenges for decontamination", *Journal of Chemical Technology and Biotechnology*, vol 81 no 10 (30 October 2006), pp 1612-25.
- Sheppard, Ben, James Rubin, Jamie Wardman, and Simon Wessely. "Terrorism and dispelling the myth of a panic prone public", *Journal of Public Health Policy*, vol 27 no 3 (September 2006), pp 219-45.
- Smithson, Amy. *The Biological Weapons Threat and Nonproliferation Options: A Survey of Senior US Decision Makers and Policy Shapers*, Washington DC: Center for Strategic and International Studies [CSIS], November 2006, 43 pp.
- Squassoni, Sharon. *Globalizing cooperative threat reduction: a survey of options*, [CRS Report for Congress RL32359], Washington DC: The Library of Congress, 5 October 2006, 43 pp.
- Trapp, Ralf. "Worldwide governmental efforts to locate and destroy chemical weapons and weapons materials", *Annals of the New York Academy of Science*, vol 1076 (September 2006), pp 527-39.
- Tong, James and Jeffrey Geoghegan. "Chemical warfare agents", *Continuing Education in Anaesthesia Critical Care & Pain*, vol 6 no 6 (December 2006), pp 230-34
- Tucker, Jonathan. "Preventing the misuse of biology. Lessons from the oversight of smallpox virus research", *International Security*, vol 31 no 2 (Fall 2006), pp 116-50.
- Turns, David. "Weapons in the ICRC study on customary international humanitarian law", *Journal of Conflict and Security Law*, vol 11 no 2 (Summer 2006), pp 201-37.
- Verification Research, Training and Information Center (VERTIC). "A new strategy: strengthening the biological weapons regime through modular mechanisms", *VERTIC Research Reports*, no.6 (October 2006), 88 pp. [available online at <http://www.vertic.org/publications/MM6.pdf>]

The *CBW Conventions Bulletin* (formerly the *Chemical Weapons Convention Bulletin*) (ISSN 1060-8095) is edited and published quarterly by the Harvard Sussex Program on CBW Armament and Arms Limitation. The goal is to provide information and analysis towards an effective multilateral treaty regime which will eliminate chemical and biological weapons and help prevent the exploitation of biomedical technologies for hostile purposes. The Harvard Sussex Program is supported by the John D and Catherine T MacArthur Foundation, the Carnegie Corporation of New York, the UK Economic and Social Research Council, and the Sixth Framework Programme of the European Commission.

Editors

Matthew Meselson
Department of Molecular and Cellular Biology
Harvard University
7 Divinity Avenue
Cambridge, Massachusetts, 02138
United States of America
[Tel: 617-495-2264. Fax: 617-496-2444]

Julian Perry Robinson
SPRU - Science and Technology Policy Research
University of Sussex
Brighton BN1 9QE
England
[Tel: 01273-678172. Fax: 01273-685865]

Advisory Board

Will Carpenter, USA
Jonathan Dean, USA
Shirley Freeman, Australia
Ian Kenyon, UK
James Leonard, USA
Jan Medema, The Netherlands
Graham Pearson, UK
Abdullah Toukan, Jordan

Managing Editor

Carolyn Sansbury, University of Sussex

Website

<http://www.sussex.ac.uk/Units/spru/hsp>

Subscription enquiries should be addressed to Iain Forster at the University of Sussex address above.