When President Nixon unilaterally renounced all biological and toxin weapons, in 1969 and 1970, he also announced US support for the British proposal for an international ban. This led to the completion, in 1972, of the Biological Weapons Convention (BWC). Since that time, under presidents Reagan, Bush Sr and Clinton, there has been bipartisan US support for strengthening the Convention. Under the previous Bush Administration, the United States participated in a study of potential verification measures known as VEREX, carried out by experts from the BWC parties, which issued a positive report. A series of international steps, begun in 1986, have brought us close to the goal of a legally-binding compliance regime for the BWC, as represented by the Chairman’s draft Protocol text presented to the Ad Hoc Group of the BWC States Parties in April.

Throughout the six years of Protocol negotiations, however, virtual deadlock in the inter-agency process prevented US leadership and greatly limited US contributions. With each agency most interested in protecting its own turf, there has been no participant who has had both the vision and the political authority to insist on the public interest. It is one of the weaknesses of US government that such bureaucrats endure regardless of the party in power. Only high-level determination, like that of George Bush Sr to complete and sign the Chemical Weapons Convention (CWC), will override these narrow perspectives. Informed oversight by the legislative branch could also play an important role.

Consequently, at the Protocol negotiations the ball has been carried by US allies, particularly the United Kingdom, which served as Friend of the Chair for Compliance Measures. The UK has devoted great effort to research and develop an effective compliance regime and has subsequently secured the support of the entire European Union. The proposals have been applauded by many outside experts. If the Western Group had stood solidly behind the original British contributions to the rolling text, we would have a much stronger Chairman’s Protocol text now. But US objections forced continual weakening of the text, and the obvious split between the US and the majority of the Western Group prevented the West from negotiating from strength with other Groups.

The Politics of the Chairman’s Protocol Text

US objections to the strong Protocol measures originally advocated by US allies centered around the criteria for declaration of biological defense facilities. This year, new objections were added, including opposition to declaration of non-governmental production facilities. Once US objections were known, it became impossible to reach consensus on anything stronger. Incorporation of US demands in his compromise text left the Chairman in a weakened position to deal with the opposition of other countries to more effective measures. Many US allies consider the Chairman’s text to be the best that can now be achieved. At the same time, they consider it the bottom line and want no further compromises. Moreover, the negotiators are close to the end of their patience and US allies may well see no point in continuing to spar unproductively with the United States.

Endangering the International Norm against Biological Weapons

Unless the remaining four weeks of negotiation in July and August put agreement within reach, there is sure to be a contentious row at the fifth BWC Review Conference in November, with quite likely a lack of agreement on what to do next. The United States is certain to receive most of the blame. It led the chorus in citing the danger posed by such weapons; if the United States turns down an international step toward prevention that is almost within our grasp, it will signal to potential violators that the international community is not prepared to enforce the ban on biological weapons. As citizens of the lone superpower, Americans would be a prime target if these weapons were used either strategically or as an instrument of terror. Even without use, the proliferation of biological weapons entails
a serious risk of escape and the possible establishment of new and uncontrollable diseases in the biosphere. There are no military weapons that can “take out” an emerging disease.

**Bioterrorism Requires State Sponsorship** US military experts and independent studies agree that, for some time to come, terrorist groups are highly unlikely to have sufficient expertise and resources to succeed in a mass attack with biological weapons. Aum Shinrikyo, the Japanese terrorist cult, had plenty of both but is reported to have failed in nine attempts to mount a biological attack. Although the United States has so far concentrated on preparations for mopping up after a bioterrorist disaster, it would be foolhardy to ignore the more important goal of cutting off the source by preventing the development, production and proliferation of biological weapons. That is not something the United States can do unilaterally. The effort must be international, and strengthening the BWC is the available tool.

**What the Protocol Could Do** A verification regime that can proactively provide high confidence that violations of the BWC will be detected is not possible. That is not what the Protocol is about, and not what the negotiators have ever tried to do. Rather the objective is to deter potential violators by posing a significantly increased risk that their noncompliance or coverup will be discovered and, correspondingly, to provide compliant states with increased confidence and security. A further objective is the provision of a credible means to resolve mistaken or malicious accusations of noncompliance.

The Protocol’s compliance regime would effectively complement national intelligence, diplomacy and military capabilities. In serious situations the Protocol would provide a basis, broader than currently, for joint international action.

Much, although not all, of what is needed to develop, test, and produce biological weapons also has peaceful uses. In such “dual-use” situations, the objective is to increase transparency with regard to relevant capabilities. This was an intrinsic premise in the VEREX feasibility study and its positive outcome. Substantial transparency can be achieved by requiring declaration of the most relevant installations and activities and providing means for clarifying any questions that may arise regarding the declarations, including whether there are relevant sites that have not been declared. The Chairman’s Protocol text does this. It requires declaration of the sites and activities of greatest potential threat, and it provides several different means for getting on site (which, if blocked by the party in question, would also yield information). The Chairman’s text provides a variety of on-site measures:

- mandatory randomly-selected visits to declared facilities;
- visits to clarify remaining questions when consultations fail (these may be voluntary or can be pursued through the Executive Council to become mandatory);
- challenge investigations anywhere, including both facility and field investigations.

Douglas MacEachin, former Deputy Director of the CIA and, before that, Director of the CIA Arms Control Intelligence Staff, has made a persuasive case for the deterrent effect of non-challenge visits when combined with a provision for investigations (*Bulletin* no 39, March 1998). He points out that, so long as outsiders are kept out, a potential violator would prefer to use a legitimate facility as a cover to hide a biological weapons programme, thereby minimizing the chance that the proscribed activity would become known for what it really is. But if the facility were subject to random visits by inspectors, the potential violator could no longer be confident that prohibited activities or attempts to cover them up would escape notice. To avoid that risk, the illicit activity could be conducted at an undeclared facility, without benefit of camouflage. But then, a much higher level of secrecy would need to be maintained in order to escape detection—all of the equipment, materials, and activities that ought to have been declared must be kept hidden. Their mere existence, if undeclared, would be a violation. Under a Protocol, evidence of suspicious activity at an undeclared site could lead to intense surveillance, a clarification process, or a challenge investigation.

The Chairman’s Protocol text calls for a 50 per cent vote of Executive Council members present and voting to authorize an investigation at a suspected facility. A study by the Federation of American Scientists recommended this formula as the best means for preventing ill-founded investigations without unduly inhibiting the use of this important measure or impeding its deterrent effect (*Bulletin* no 41, September 1998). Although investigations have political costs and will not be used often, they can provide a way, possibly the only way, to investigate serious concerns such as the present status of the former Soviet BW facilities at Kirov, Sverdlovsk and Zagorsk, or possible future suspicious outbreaks of disease such as that which occurred in Sverdlovsk in 1979. In future, the existence of a Protocol would contribute to the deterrence of prohibited activities.

**The US Critique of the Protocol** The US policy review has reportedly rejected the Chairman’s text on the grounds that (i) it is too weak, (ii) it would unacceptably threaten national security and commercial proprietary information, and (iii) it threatens the Australia Group and its “dual use” export control regime.

**Weakness of the text** The argument of not being able to detect violations with high confidence is frequently invoked. As discussed above, this is not and could not possibly be the purpose of the Protocol. If this were the only criterion of interest to the United States, it should never have participated in the negotiations in the first place.

Moreover, the weaknesses in the Chairman’s text are largely there in compliance with past US demands, including the following:

- The text does not require declaration of all biodefense facilities; only those conducting certain activities, and only those above a certain size.
- The text requires no significant information about production facilities for pharmaceuticals (other than licensed vaccines), and exempts them from visits.
- All on-site activities of inspectors during visits are at the discretion of the host government.
- All visits require at least two weeks notice.

FAA has advocated stronger measures, but we recognize the necessity for compromise and the role played by the United States in shaping those compromises.

**Confidentiality** The Chairman’s text possesses more safeguards for confidential information than the 1993 CWC,
to which the United States is already a party and which covers many of the same facilities — those handling toxins (including facilities in the US biodefense program), for example, fall under both treaties. Most pharmaceuticals are produced by synthesis, and therefore are “discrete organic chemicals”, for which facilities with annual production above specified thresholds must be declared under the CWC. And relevant inspections under the CWC can take place “anytime, anywhere,” as President George Bush Sr insisted.

Unlike the CWC, the Protocol text allows no sampling and analysis in non-challenge visits, and gives control of access to the host country. These aspects of the Protocol text comply with the wishes of US bioworkers, which is particularly concerned about protecting its proprietary microbial strains. There are, in addition, all the protections for confidentiality that were developed for the CWC with the help of the chemical industry. The exemption of certain defense facilities and of most pharmaceutical facilities from declaration under the Protocol, discussed above, provides additional protections for confidential information. The Chairman’s text more than meets all the essential confidentiality concerns of the pharmaceutical and biotech industries. Further safeguards for industry could be incorporated into US Protocol implementing legislation, and, when the time comes, the FAS and its industry colleagues will be happy to work with industry representatives, as we have in the past, to help design appropriate implementation measures.

Export controls: Article 7 of the Chairman’s text sets out suggested guidelines but no mandatory obligations regarding export control. Each state party would retain full discretion over implementation of the suggestions in the text. All in all, the best course now would be to accept the Chairman’s Protocol text for what it is — a compromise that makes reasonable tradeoffs on all of the major issues, providing a sound basis for achieving agreement on an effective protocol to strengthen the BWC and signify the determination of the international community to enforce it.

Based on testimony presented to the Subcommittee on National Security, Veterans Affairs and International Relations of the US House Committee on Government Reform, 5 June 2001.

Progress in The Hague

Developments in the Organization for the Prohibition of Chemical Weapons

On 29 April 2001 the Organization for the Prohibition of Chemical Weapons (OPCW) celebrated the fourth anniversary of entry into force of the Chemical Weapons Convention (CWC). In spite of the administrative and budgetary difficulties that have beset the Organization in recent months, there was much to celebrate in the period surrounding this important benchmark. Ten new states parties have joined the CWC over the last twelve months, bringing the total to 143 states parties and 31 signatories — an impressive record for any multilateral treaty.

The approval of the UN-OPCW relationship agreement by the Conference of the States Parties in its sixth session, to be followed by similar approval in the UN General Assembly in October, can only strengthen the Organization both substantively and politically. The fourth anniversary was also marked by the beginning of OPCW verification of chemical weapons (Category 2 and Category 3) destruction activities in Russia.

The period under review, from early March until the first week of June 2001 included the convening of the sixth session of the Conference of the States Parties (CSP-VI) during 14-19 May, and the twenty-fourth session and the twelfth meetings of the Executive Council. In these forums, the states parties took some decisions on issues of critical importance to the OPCW — the budget and finances, industry verification and conversion of chemical weapon production facilities (CWPFs). The funding to be provided to the OPCW in 2002, while being insufficient for the full implementation of the 2002 programme of work, would barely enable it to cover the “mandatory” functions under the CWC, and would allow it to survive the period of austerity without significant structural changes. With the exception of the 2002 budget, there were few substantive decisions adopted by CSP-VI due to an increasing paralysis in the policy-making organs of the Organization, especially the Council.

Executive Council

The Executive Council convened its twenty-fourth session during 3-6 April. It also met in formal meetings during 3-4 May and on 15 May in order to take decisions prior to and during CSP-VI. The Council also met in an informal session on 2 April to discuss the progress on chemical weapons destruction and the destruction and conversion of chemical weapon production facilities. Informal consultations on numerous issues related to administrative and budgetary matters — with respect to the 2000, 2001, and 2002 budgets — were held throughout the intersessional period preceding the twenty-fourth session and continued through both formal meetings and during the Conference itself.

Before the twenty-fourth session was opened, the Council briefly reconvened its twenty-third session to adopt a report of that session, which it had been unable to do in February. At that time, there had been no consensus in the Council on the language to be included in the report regarding financial and administrative issues. Informal consultations were held during the intersessional period, led by Geoffrey Cole (UK), in order to help bring about a consensus on the issue. The resulting language called for states parties to pay both their annual assessments and any outstanding balances under Articles IV and V. The Council requested the resumption of essential activities, especially verification and international cooperation components of the work of the Organization, but also asked that the Secretariat
continue to pursue economies in the 2001 programme of work. The Council announced its intention to resolve the current financial situation in the course of the twenty-fourth session and therefore asked the Secretariat to provide all relevant data during the intersessional period to enable it to make the required recommendations to the Conference. In addition, the Council tasked the external auditor with a special examination of the financial statements of the Organization and other processes carried out within the OPCW with respect to the budget and finances. The external auditor had been advised of this and was prepared to report his findings to the Council in its twenty-fourth session.

In his opening statement to the Council in its twenty-fourth session, the Director-General attempted to focus attention on issues of universality, verification activities, and the destruction by Russia of its chemical weapons stockpile, as well as on the need to put the Organization on a sound financial footing. The Director-General also emphasised that verification activities had been undertaken during the first three months of 2001 at some CWPFs, one abandoned chemical weapons (ACW) site, and at 16 industrial facilities. He announced that 25 industry inspections would be undertaken before the Conference in May. No chemical weapons storage facility (CWSF), Schedule 3, or discrete organic chemical (DOC/PSF) plant sites had been inspected yet in 2001 due to the limited finances of the Organization.

On the financial situation, the Director-General highlighted the need for an additional EUR 7 million to be provided to the OPCW to allow for the implementation of the full programme of work for the remainder of 2001, particularly in the areas of verification and international cooperation. He noted that in order to make such funds available states parties could either pay the gross assessment or approve a supplementary budget. Furthermore, the Director-General asked the Conference to recommend to the Secretariat to be given the authority to retain the 1999 cash surplus as an exceptional measure to compensate for the 2000 deficit. The Council noted the Director-General’s opening statement.

The Council was, as usual, briefed by the relevant coordinators on the status of the clusters of issues subject to ongoing consultations. Mark Albon (South Africa) reported on the status of consultations on chemical weapons issues and Armin Anderaya (Chile) spoke about those topics included under chemical industry and other Article VI issues; three draft decisions from this cluster were up for consideration by the Council—low concentration limits for Schedule 2A and 2A* chemicals, transfers of Schedule 3 chemicals, and guidelines for boundaries of production. Dorian Mihai (Romania) briefed the Council on administrative and financial issues, and Amir A. Shadani (Pakistan) reported on legal, organizational and other issues, including the status of draft proposals for the implementation of Article XI.

**Status of Implementation of the Convention**

The Council noted the Director-General’s report on national implementation measures. As of 8 March, only 53 states parties had informed the Secretariat of their implementing legislation; furthermore, 64 percent of states parties had yet to respond to the legislation questionnaire first circulated in July 2000. The Council urged these states parties to do so as soon as possible. Furthermore, the Director-General emphasised the role this data would serve, in a comprehensive and complete format, in the course of preparations for the 2003 review conference.

The Director-General made note of the activities undertaken by the Secretariat in this area — integrated legislation for the Organization of Eastern Caribbean States (OECS), the legislation questionnaire, legislative workshops in Spain (October 2000) and Swaziland (November 2000), establishment of a network of legal experts for the Latin American and Caribbean region, and the international legal symposium held in February. Under the revised budget for 2002, only one legislation workshop and one regional legal assistance project would be undertaken in 2002.

Under this agenda item, the Council also received a request from Italy to discuss the issue of declaration requirements for adamsite and a draft decision was tabled. This decision was consistent with the view of the Scientific Advisory Board and the Director-General in recommending that stocks of adamsite that have been weaponised, or are in excess of amounts justified for riot control, research, or protective purposes, would need to be declared and destroyed under CWC provisions for chemical weapons or abandoned chemical weapons. A decision in this matter was deferred to the next regular session of the Council in June.

**Destruction/Conversion of Chemical Weapons and CWPFs**

During the period under review, Russia did not submit a revised comprehensive plan for the destruction of its chemical weapons stockpile, which was originally expected in April. However, some aspects of the destruction programme were outlined by Russia in its statement to the Council meeting in its twenty-third session, most notably the intention to build and utilise only three CWDFs — Gorny, Kambarka, and Shchuch’ye — instead of seven. This decision made international financial assistance to the Russian destruction programme, and especially promised US support for the destruction of Category 1 chemical weapons at Shchuch’ye, absolutely critical. Russia had stated that with US support phase-one construction of the Shchuch’ye facility could be completed by 2004.

During the twenty-fourth session of the Council, Russia announced its plans to begin destruction activities at three sites, including phase one destruction of Category 2 chemical weapons at Shchuch’ye and Category 3 destruction at Leonidovka and Maradykovsky, in April. These destruction activities began as scheduled and with full verification by the OPCW. These were the first cases of continuous monitoring by the OPCW in Russia.

The Russian conversion plans for a facility for the production of aminomercaptan and another for the production of chloroether, both at Novocheboksarsk, were considered by the Council in its twenty-fourth session, and twelfth and thirteenth meetings, but no recommendation was made to the Conference. The demonstrated lack of decisionmaking within the Council extended to other aspects of Russia’s destruction efforts as well. Of the five documents submitted to the Council for approval and/or adoption in this session, only one was adopted: the combined plans for destruction and verification of the CWPF for the filling of sarin, soman, and viscous soman into munitions at Volgograd. With regard to the frequently postponed decision on plans for verification...
of the destruction of Category 2 chemical weapons at a CWDF in Shchuch'ye, the Council considered a draft decision, yet decided to return to the issue at its next session in June. In dispute was the matter of formally declaring a commercial facility at which phosgene removed from munitions was going to be destroyed under continuous monitoring by the OPCW.

The Council noted the general plan for destruction or conversion of the other CWPFs at Volgograd. There are eight facilities at this site, used variously for the production of sarin, soman, DF, and mustard gas and filling them into munitions. Two facilities (mustard gas production and production of sarin, soman and VR, and filling them into munitions) were previously destroyed and their destruction has been certified by the OPCW. For two of the facilities (filling of non-chemical parts of chemical munitions and DF production), conversion requests were previously approved and the buildings were being used for non-prohibited purposes. Another was the subject of the destruction and verification plans recently approved. The remaining three were subject to conversion requests which had not yet come up before the Council.

Industry Verification Issues Over the last year, many of the substantive issues in this category suffered from the Council’s inability to reach consensus decisions. The Council considered a proposal on low concentration limits, which recommended that declarations were not required for mixtures of chemicals containing 0.5 percent or less of Schedule 2A or 2A* chemicals. Although this proposal found much support among delegations, action was deferred to the Council’s twelfth meeting. The same action was taken with respect to a proposal on transfers of Schedule 3 chemicals, which stated that end-use certificates were not required for products containing 30 percent or less of a Schedule 3 chemical and/or products identified as consumer goods packaged for retail sale for personal use. At the twelfth meeting, both proposals were considered, and the Council adopted the decision on Schedule 3 chemicals. This decision was then forwarded to the Conference for its approval. The Council was not able to take a decision with regard to low concentrations of Schedule 2A or 2A* chemicals and reported this lack of consensus to the Conference.

The Council took a similar approach to the draft decision on guidelines regarding boundaries of production, which recommended that declarations be made for plant sites comprising one or more plants producing Schedule 2 or 3 chemicals, provided that the quantity of such chemicals is above the relevant declaration thresholds and that the concentration is above the relevant concentration limits at any point in the production plant or plants. However, it pledged only to return to this item at a future meeting; the issue was not discussed at either the twelfth or thirteenth meetings.

And finally, the Council recommended that the Conference refer the issue of the implementation of section B or Part IX of the Verification Annex (the verification regime for other chemical production facilities) back to the Council. The Council would then submit a recommendation on this matter to the Conference in 2002.

Office of Internal Oversight The Council received the annual report of the Office of Internal Oversight (OIO) for 2000. The report highlighted the need for structural improvements in a number of areas, particularly within the Administrative Division. The OIO also brought attention to the vagueness of its own mandate as well as inadequate staffing, and called for a greater oversight and monitoring role within the Organization. The first priority mentioned in the report was a recommendation to “completely re-organise” the Budget and Finance Branch. This branch was not previously involved in the preparation of the budget and had no separate treasury unit, leading to inefficient oversight of income and expenditures. Deficiencies were noted in the Human Resources and Procurement Branches and the former Security Office. During 1998–99, 78 percent of the recommendations issued by the OIO had been addressed or implemented, while in 2000, only 25 percent of OIO’s recommendations had been implemented.

In response, the Secretariat prepared and submitted a note on the status of implementation of the recommendations contained in the OIO report for 2000. Actions taken included the promulgation of numerous administrative directives on financial and human resources issues. The Budget and Finance Branch was transferred to the jurisdiction of the Special Adviser for Budgetary and Financial Issues and would thus be directly involved in the preparation of the OPCW budget. As well, a treasury function was established within the branch. The Human Resources Branch has been tasked with a comprehensive review of recruitment and appointment procedures. The Procurement Branch would take a stricter approach to planning and monitoring the performance of suppliers. A new Head of Security was appointed and coordination between the Security Office and other key Secretariat bodies had improved significantly. Over 80 percent of the recommendations made in the course of confidentiality audits have been implemented.

Discussion on this report continued during the intersessional period and at the twelfth meeting. At this meeting, the Council made the decision to note the report and forward it to the Conference with comments attached. These comments recognised the considerable efforts undertaken by the Secretariat to implement recommendations of the OIO and requested that the Secretariat report to the Council twice a year on its efforts in this regard.

Reports of the External Auditor The external auditor found that the financial statements of the OPCW, as of 31 December 2000, presented an accurate picture of the financial position of the Organization—99 percent of the monies appropriated in the 2000 budget were expended. Furthermore, there were no “material inconsistencies” found in the financial statements. He did, however, highlight areas in need of improvement, such as: the need to make estimates for miscellaneous income on a more realistic basis—largely dependent on available funds, the need to strengthen the recovery mechanism and pursue invoices more vigorously and systematically — perhaps via a system of quarterly review, the need for more realistic budget estimates in order to reduce the reliance on transfers of funds between programmes, the need to consider the short-term investment of funds, the need to more carefully access requirements for procurement purposes and to make the bidding process open and competitive, and more assiduous follow-up on the recommendations of the OIO.
The Council noted the audited financial statements of the OPCW and the Provident Fund of the OPCW for the period ending 31 December 2000 and the statement of the external auditor containing his recommendations. The Council further considered the external auditor’s recommendations during the period between its twenty-fourth session and the twelfth meeting. At this meeting, the Council noted the external auditor’s report and statement and transmitted the audited financial statements to CSP-VI. The Council also added its own comments, requesting that the Secretariat report biannually on the implementation of both the external auditor and OIO’s recommendations, as well as on the income and expenditures of the Organization, and for the Conference to request the Council to take up as a matter of priority the improvement of the process by which payments under Article IV and V are made. Included in these comments was a request that the Council be charged with decisions in other areas of budgeting and administration and that the Secretariat provide the Council with a report on the decisions in other areas of budgeting and administration and comments was a request that the Council be charged with under Article IV and V are made. Included in these priority the improvement of the process by which payments Conference to request the Council to take up as a matter of priority the improvement of the process by which payments under Article IV and V are made. Included in these comments was a request that the Council be charged with decisions in other areas of budgeting and administration and that the Secretariat provide the Council with a report on the internal financial control mechanisms in place within the Secretariat; this paper was prepared and presented by the Secretariat to the Conference in its sixth session.

2001 Budget and Programme of Work The Council in its twenty-fourth session requested the Secretariat to provide it with an account of the economies being made in the 2001 budget, including specific proposals for the provision of additional funding for the 2001 programme of work, by 17 April. The Council continued to insist that additional funds should be provided on a voluntary basis, and that the austerity measures combined with the 1999 surplus funds should prove adequate to cover the majority of the projected shortfall for 2001, which would also take into account the 2000 deficit.

The Secretariat submitted to the Council on 17 April its latest plan for economies in 2001. Cuts would be made in the areas of training, procurement, hospitality, work on the Central OPCW Analytical Database, meetings of subsidiary bodies, interpretation and translation services, and external relations programmes. Through these measures, the Secretariat could recover about EUR 4.7 million of the current budget shortfall of EUR 7 million, but the remainder would need to be received from the states parties (as voluntary contributions or a supplemental budget) to eliminate the need for cuts in the verification and international cooperation programmes—the programme areas deemed high priority by the states parties.

This issue was discussed further at both the twelfth and thirteenth meetings and throughout the period between the twenty-fourth session of the Council and CSP-VI. A final decision was deferred to CSP-VI.

2002 Budget and Programme of Work The Council in its twenty-fourth session approved the report of the facilitator for the cluster of administrative and financial issues on the consultations on the 2002 budget, which expressed the Council’s desire for a revised draft budget. Although the first draft budget had requested growth of 24 per cent and 31 new fixed-term posts, in reality growth was much lower (around 12 per cent) if it were based on the amount required to fully implement the original 2001 programme of work, as opposed to the deficit budget currently being utilised. Moreover, of the 31 fixed term posts requested, all but six already existed as short-term contracts. The Council, however, asked for growth, if any, to be kept to a minimum (preferably a single digit) and to limit growth to the high-priority areas of verification and international cooperation. The Council also called for a review of the budget’s structure with regard to Article IV and V reimbursements, citing the unpredictable and deleterious effects of continuing to rely on the current practice of including estimates of this income in the budget.

The Secretariat’s revised draft programme and budget for 2002, submitted to the Council on 17 April, was based on a 5.9 per cent increase over the 2001 budget. If inflation was taken into account, real growth in this budget amounted to a mere three per cent.

The revisions to the 2002 budget made by the Secretariat included further cuts in training and other personnel resources, an intention to leave 30 fixed-term posts vacant in the coming year, a maintenance of the hiring freeze, and economies in other non-operational areas of the Organization’s activities. The Secretariat requested that the Council forward this revised budget as is to the Conference for its approval, but emphasised that it was an “austerity budget” and did not reflect the real costs of fully implementing the mandate of the OPCW; anticipated growth in the 2003 budget is 24 per cent.

Owing to the recent problems caused by treating Article IV and V reimbursements as “miscellaneous income”, these monies were removed from the budget by the Secretariat in its revision, and the establishment of alternative payment methods (i.e. pre-payment) was encouraged. The level of assessment to states parties would therefore increase at a higher rate (from EUR 54.9 million to 63.1 million). The Director-General urged the chemical weapons possessor states parties to agree to pay the projected reimbursement costs in advance, on the basis of their planned activities for the year. Meanwhile, the Council was keeping the matter of how to treat reimbursements under Article IV and V in the future under consideration and subsequently asked that a portion of these monies be added back into the budget until an alternative solution was found. The income from Article IV and V reimbursements should be estimated as realistically as possible to prevent future budget deficits, and the Secretariat suggested a figure of not more than EUR 2.5 million.

The twelfth and thirteenth meetings of the Council considered the Secretariat’s second revision of the programme and budget for 2002, and after considering the cuts in expenditures already made, requested from the Director-General a third revision that would bring growth down to a bare minimum. A revised programme and budget that reflected growth of only 4.3 per cent (before inflation) was achieved through nearly EUR 1 million in “unallocated cuts”. This budget was then submitted to the Council in its thirteenth meeting, but still proved unacceptable to two states parties. While other Council members were willing to accept 4.3 per cent growth, one state party in particular insisted upon growth of not more than 2.8 per cent, therefore blocking any consensus decision on the budget in the Council. A decision on the exact figures in the 2002 “austerity budget” was left to the Conference in its sixth session. The Council also forwarded to the Conference the draft Medium Term Plan for 2003-2005.
Other Financial and Administrative Issues  The Council in its twenty-fourth session received a report by the facilitator for administrative and financial issues, Mr Doiran Mihai (Romania), detailing the results of consultations on the OPCW financial regulations and rules that took place during the intersessional period. The Council also noted a note by the Director-General on transfers of funds between programmes in 2001. These transfers encompassed nearly 7.2 percent of the regular budget in 2000 and became necessary between budget programmes and sub-programmes as the 2000 programme of work was implemented. The Council decided to consider the recommendations contained in the report and possible amendments to the OPCW financial regulations, along with other budgetary matters, at its twelfth meeting. At this meeting, it was decided that the proposed amendments to the regulations would be taken up again at the next session, in June.

The Advisory Body on Administrative and Financial Matters (ABAF)  The tenth session of the ABAF met during 26–29 March. The report of this session highlighted the necessity to implement a budget monitoring system that functioned on a “day-to-day” basis, to review the budget activity of the Organization on a biannual basis, and for the OIO to review budget activity on a regular basis; as well, the ABAF called for greater cooperation between the OIO and the external auditor. The ABAF suggested overall improvement of the financial control mechanisms of the Organization and made numerous recommendations as to how to address the impact of the 2000 budget deficit, the 2001 cash shortfall, the budget’s structural deficiencies, and how to account for past and future cash surpluses—the four components of the current financial crisis.

The ABAF recommended against making any changes to the current financial rules, citing that they do allow for some flexibility, including granting the Secretariat the right to retain past surpluses (i.e. the 1999 surplus), to compensate for cash shortages in exceptional situations.

The ABAF would meet in the third quarter of 2001 in order to provide a mid-term review of the finances of the Organization.

The Council in its twenty-fourth session noted the ABAF report and approved the appointment of Ms Keiko Yanai (Japan) to the ABAF.

Status of Contributions  It was reported to the Council that as of 31 March, only 76 states parties had paid their contributions for 2001 in full, while 33 states parties were in arrears for two full years and would consequently have no vote in the Organization in 2001. Sixty-seven states parties had yet to make any contribution toward their assessments under the 2001 budget.

As for the reimbursement of verification costs under Article IV and V of the Convention as of 28 February, eight states parties still owed nearly EUR 3.4 million. By 30 April, six states parties owed an outstanding balance of nearly EUR 3.6 million. The Council urged the states parties to pay all outstanding balances promptly and fully.

Fostering of International Cooperation for Peaceful Purposes in the Field of Chemical Activities  The Council considered a draft decision on the implementation of Article XI prepared by the facilitator for legal, organizational, and other issues, Mr A. Shadani (Pakistan). This proposal recommended the establishment of an International Cooperation Committee. Delegations continued to propose amendments to this decision, one of which mandated that the Council prepare a specific proposal for the establishment of this International Cooperation Committee that could then be submitted to the seventh session of the Conference for approval. The Council deferred decision in this matter to its twelfth meeting. In spite of discussion in all its sessions and meetings, the Council was not capable of reaching a decision on this issue, and reported this result to the Conference.

Recommendations of the Scientific Advisory Board  The Council noted the report of the fourth session of the Board. Details of the report can be found below. In a separate note, the Director-General relayed to the Council the SAB’s recommendations with regard to low concentration guidelines for Schedule 2A and 2A* chemicals and the inclusion of unscheduled chemicals into the Central OPCW Analytical Database, as well as informing the Council of other matters under consideration by the SAB—destruction technologies, biomedical samples, inspection equipment and preparations for the First Review Conference.

Use of Official Languages  The Council adopted a decision requiring equal treatment of the six official languages of the OPCW—Arabic, Chinese, English, French, Russian, and Spanish. Actions to be taken included efforts to maintain linguistic balance in the dissemination of information and the simultaneous distribution of some documentation in all languages. This decision was then forwarded to the sixth session of the Conference for its approval.

Status of Implementation of the OPCW Headquarters Agreement  The Secretariat submitted a background paper to the Council on those issues related to the implementation of the Headquarters Agreement that were under discussion with the host country. These include ID cards for entry into the country, driving licences, the employment of domestic help by staff members, the employment of family members in The Netherlands, and municipal tax exemptions. The Council received this report.

Validation Group  The Validation Group met in its ninth session during 13–14 March to consider issues related to the Central OPCW Analytical Database, including the inclusion of new analytical data. The Council in its twenty-third session had requested that the Validation Group discuss the inclusion Chemical Abstracts Service (CAS) numbers in submissions of analytical data. Data cannot be validated and forwarded to the Council for approval without the CAS numbers present.

Other Business  During its twenty-fourth session, the Council approved the Report of the Executive Council on the Performance of its Activities during April 2000–February 2001. Of the seven matters referred to the Council by the fifth session of the Conference, the Council made decisions on two in 2000—the authentication and certification procedure for the Central OPCW Analytical Database and on-site databases and guidelines on the designation of...
laboratories for the analysis of authentic samples. The other five issues were addressed during the first half of 2001, but no consensus decisions could be forwarded to CSP-VI. Thirty-eight issues continued to be under consideration by the Council as of February 2001. The report of the Council was submitted to CSP-VI for its consideration.

The Council deferred a decision on the Draft Report of the Organization for 2000 (the year 2000 Annual Report) to its twelfth meeting in May. At this meeting, the report was approved and referred to the Conference.

The Council in its twenty-fourth session noted the Director-General’s report on the implementation of the regime governing the handling of confidential information by the Secretariat. The Secretariat found that as of 31 December 2001, only 43 of the then 141 states parties were in compliance with the Convention’s requirement to inform the Organization about their procedures for handling confidential information. However, in 2000, only nine incidents of alleged violations of confidentiality procedures were reported and none resulted in the disclosure of confidential information. Recommendations were made by the Confidentiality Commission in 2000 to decrease the number of classification levels for confidential documents in order to prevent the over-classification of documents and lessen the workload of the OPCW in this respect. This recommendation would be submitted to the sixth session of the Conference for its consideration and approval.

After receiving a report by the facilitator on the classification of posts within the Secretariat, Mr Max Gevers (Netherlands), the Council decided to defer the issue for further consideration at a future session.

The members of the Council elected the new Chairman and Vice-chairmen of the Council for the upcoming term of office, which began on 12 May 2001 and would expire on 11 May 2002. The incoming Chairman was H.E. Dr Abdel Haleim Babu Fatih Elrayah (Sudan) with the following states parties serving as vice-Chairmen: Mexico, Republic of Korea, Russia, and Sweden.

Other issues brought to the fore during the 2000 and 2001 Council sessions but not up for discussion during the most recent Council session and meetings include: challenge inspections, guidelines for determining the usability of old chemical weapons produced between 1925 and 1946, and facility agreements.

The Council would convene its twenty-fifth session, intended to address administrative matters, during 27-29 June.

Sixth Session of the Conference

The sixth session of the Conference of the States Parties proved contentious on many levels, most notably the programme and budget for 2002 as well as other budgetary and financial issues. In addition, concern was voiced on behalf of many states parties and by the Secretariat over the lack of progress in Russia’s programme for the destruction of its chemical weapons stockpile, the world’s largest. Russia informed all of those in attendance of its continued efforts in this area and stressed the need for increased international financial assistance. Russia intended to meet the April 2002 deadline for the destruction of Category 2 and Category 3 chemical weapons.

The Conference played host to just over 500 participants, representing 108 states parties, one signatory state (Israel), two non-signatory states (Andorra and Libya), international and non-governmental organizations.

Originally scheduled to run from 14 to 18 May, the Conference spent much of the week in informal consultations and closed sessions and held two additional sessions on 19 May in order to work toward consensus. Substantively, few decisions were made and many issues, including the implementation of Article XI, declaration guidelines for low concentrations of Schedule 2A and 2A* chemicals, and section B, Part IX of the Verification Annex (other chemical production facilities), were referred back to the Council or deferred to the seventh session of the Conference.

On the key budget issues, consensus was reached; an amount totalling EUR 61.9 million was approved for the 2002 programme and budget. The Secretariat had originally submitted to the Council a programme and budget for 2002 amounting to nearly EUR 75 million. The Conference addressed, and took decisions on the critical budgetary issues that lie at the root of Organization’s inability to receive all of its budgeted income in 2000 and 2001. It requested that the Council arrive at a solution for the structural deficiencies in the budget. The Conference also adopted a decision on the guidelines for transferring Schedule 3 chemicals.

Opening of the Session

The outgoing Chairman of the fifth session of the Conference, Ambassador Jaime Lagos (Chile), opened the sixth session on 14 May. Vladimir Petrovsky, Director-General of the United Nations Office in Geneva, delivered a statement from UN Secretary-General Kofi Annan. The Secretary-General stressed the need for states parties to “give the OPCW their full support, in particular by providing the resources necessary for it to function effectively.” In this speech, Mr Petrovsky addressed the need for all disarmament regimes and bodies to work together toward global disarmament and non-proliferation.

In his opening statement, the Director-General highlighted the increasing fragility of the global disarmament regime and therefore the necessity for organizations that contribute to international security, like the OPCW, to remain strong and viable. He spoke of the importance of universality and urged the states parties to play a more proactive role in this respect. He enumerated the achievements of the Organization toward the goal of complete, worldwide destruction of chemical weapons: 143 states parties, a verifiable inspection regime for both chemical weapons-related and industrial facilities, programmes under both Articles X and XI, etc. The Director-General urged Russia to submit its complete programme for destruction to the OPCW as soon as possible. The continued delay on behalf of Russia could encourage other states parties disinclined to fully comply with the Convention’s obligation to destroy completely all stockpiles of chemical weapons and/or its other mandates.

With regard to the industrial verification regime, the Director-General brought the Conference’s attention to the marked increase in inspectable facilities (600 to 4,600), resulting from the beginning of inspections at DOC facilities. This would understandably result in a “crisis of confidence” if the Secretariat could not increase its inspection
activities proportionally. In addition, the continued existence of unilateral export controls, according to the Director-General, worked to undermine implementation of the CWC.

The last two issues addressed by the Director-General included the programme and budget of the Organization and preparations for the 2003 review conference. On the first, he emphasised the importance of addressing the structural deficiencies in the budget that had led to the current financial crisis. Consultations on the 2003 budget, which would necessitate greater growth than previous years, should begin from a clean slate. On the last issue, the Director-General announced that the formal review process would be launched next year and would be inherently a political process culminating in the convening of a review conference in 2003. This review would focus on the scientific developments that impact directly on the industry verification regime and other matters of importance to the scientific foundations of the Convention. In this context, the Director-General informed the states parties that the International Union of Pure and Applied Chemistry (IUPAC) had proposed to him to assist in this scientific review, which he had welcomed and accepted. The importance of mobilising public support for the Convention and for multilateral arms control in general, by addressing confidentiality, transparency, and contacts with all those organizations and individuals working in the field, would also comprise part of this review process. The Director-General concluded his statement with an appeal to the states parties to approach implementation of the Convention with the same political will that made the CWC “the most rapidly-growing multilateral disarmament and non-proliferation treaty in history.” The states parties themselves bore the responsibility for what the Organization would look like in the future and to what degree the OPCW would be able to fulfil its mandate.

General Debate In general debate, 34 states parties made national statements. Sweden spoke on behalf of the European Union, as well as South Africa on behalf of the African Group.

Election of the Chairman and Vice-Chairmen Amb. Heinrich Reimann (Switzerland) was elected as the Chairman of the Conference and would hold office until a chairman is elected at the seventh session. New Vice-Chairmen were elected, two from each regional group: Algeria, Nigeria (Africa), Pakistan, Sri Lanka (Asia), Russia, the Federal Republic of Yugoslavia (Eastern Europe), Chile, Colombia (Latin American and the Caribbean), France, and the United States (Western European and Other).

Organization of Work and Establishment of Subsidiary Bodies The Conference tasked the Committee of the Whole, under the chairmanship of Ambassador Alberto Luis Davèrède (Argentina) to take up the recommendation on declaration guidelines for mixtures containing low concentrations of Schedule 2A and 2A* chemicals and implementation of Article XI (fostering international cooperation for peaceful purposes in the field of chemical activities), as well as all issues related to the revised draft programme and budget for 2002 and the 2002 scale of assessments. The Committee of the Whole subsequently reported its conclusions to the Conference: both the issues of low concentrations and Article XI should be referred back to the Council with the view that the Council would report back to the Conference in its seventh session. On the budgetary issues, discussion in the Committee of the Whole facilitated debate and eventual decisions in the plenary body.

At the end of the Conference, the reports of the subsidiary bodies — The Committee of the Whole, the General Committee, the Credentials Committee, and the Confidentiality Committee — were noted. The report of the Confidentiality Commission was derived from a special session held in January 2001. Regret was expressed that the Confidentiality Commission was not able to hold its annual meeting due to the austerity measures implemented by the Secretariat in response to the 2001 budget shortfall and the current financial crisis in general.

Elections to the Confidentiality Commission were held with four individuals from each regional group elected for two-year terms. Those states represented included Algeria, Argentina, Chile, China, Cuba, Czech Republic, Germany, Hungary, India, Iran, Japan, Mexico, Morocco, Netherlands, Nigeria, Romania, Russian Federation, South Africa, Spain and the United States.

Report of the Organization of the Year 2000 The Conference approved the annual report of the Organization for 2000, which would subsequently be printed and distributed before the end of the summer.

Status of Implementation of the Convention Under this agenda item, CSP-VI noted three reports by the Director-General: implementation of the regime governing the handling of confidential information, status of implementation of the requirement for states parties to provide two-year multiple entry/exit visas to inspectors, and the status of implementation of Article VIII, paragraph 50 (privilege and immunities agreements between the OPCW and the states parties).

The Conference noted the decision of the Council in its twenty-fourth session on the Director-General’s report on national implementation measures and echoed the Council’s concern that only about 40 percent of states parties had implementing legislation in place and/or had informed the Secretariat of this fact. It also urged states parties to respond to the legislation questionnaire circulated in July 2000.

Report of the Executive Council The Conference noted the report of the Executive Council on its performance in the period between April 2000 and February 2001. This report made a series of recommendations to the Conference on which the Conference was then obligated to decide. As a result, the Conference adopted the authentication and certification procedure for the Central OPCW Analytical Database, decided upon by the Council in its twentieth session and implemented provisionally in the interim period. The Conference also adopted a decision approving the UN–OPCW relationship agreement, and agreements on privileges and immunities of the OPCW with Portugal and Panama, as well as the decision of the Council in its twenty-fourth session on the use of the six official languages of the OPCW. The Conference gave approval to the Council to consider and approve privileges and immunities agreements with the Philippines, Austria and Belarus.
Two issues raised in the Council’s report were referred by the Conference back to the Council: implementation of section B of Part IX of the Verification Annex and declarations for mixtures containing low concentrations of Schedule 2A and 2A* chemicals. On the first, which relates to other chemical production facilities, the Council was to consider the issue further and make a recommendation to the Conference in its seventh session. On the issue of low concentrations, the Council was mandated to take a consensus decision and implement it provisionally prior to the seventh session of the Conference.

The Conference approved, upon the recommendation of the Council in its twenty-third session, the conversion of the Russian CWPF at Dzerzhinsk. However, no action was taken on the other two Russian conversion requests for facilities at Novocheboksarsk. In its statement to the Conference, Russia cited conversion as the “only economically justified form of the elimination of the industrial potential of chemical weapons”. It further drew the attention of the Conference to the fact that only one Russian conversion request had been approved in the previous twelve months.

On another important recommendation of the Council to the Conference, concerning transfers of Schedule 3 chemicals to states not party to the Convention, the Conference adopted the decision taken by the Council in its twelfth meeting — a ban on transfers of Schedule 3 chemicals similar to that effecting trade in Schedule 2 chemicals would therefore not be a possibility until after the seventh session of the Conference in the second half of 2002.

The Council also forwarded to the Conference the audited financial statements of the OPCW and the Provident Fund of the OPCW for 2000 and the report of the Office of Internal Oversight for 2000. The Conference noted these reports and endorsed the comments attached by the Council at its twelfth meeting — relating to the implementation of recommendations of the OIO and the external auditor and the internal control of income and expenditures, as well as the payment/reimbursement of verification costs under Article IV and V. The response of the Secretariat, in the form of a note on the internal control measures utilised by the Secretariat, was also noted by the Conference. The Council could therefore expect biannual reports from the Secretariat on expenditures and the implementation of recommendations from the external auditor and the OIO.

Election of Members of the Executive Council
Twenty member states were elected to the Executive Council for two-year terms of office. They included: Algeria, Benin, Morocco, and South Africa from the African Group; Bangladesh, Iran, Pakistan, and Sri Lanka from the Asian Group, Belarus, Hungary, and the Russian Federation from the Eastern European Group; Chile, Colombia, Panama, and Peru from the Latin American and Caribbean Group; and Belgium, Canada, Denmark, Portugal, and Turkey from the Western European and Other Group.

These states were able to first join the Council in its thirteenth meeting on 15 May.

Programme and Budget of the Organization
The issue of the programme and budget of the Organization for 2002 and the expected shortfall in the 2001 budget dominated deliberations in the Conference and had in fact occupied the time and resources of the Secretariat and the Executive Council for much of 2001. The programme and budget for 2002, adopted by the Conference, amounted to EUR 61.9 million and represented 2.8 percent growth over the amount budgeted for 2001. The states parties would be assessed in the amount of EUR 59 million. This figure reflected an increase, requested by the states parties, in estimated miscellaneous income—from EUR 2.5 million to nearly EUR 3.7 million—which would be derived mainly from reimbursements under Articles IV and V. If these monies were not invoiced and collected in full, or constituted an exaggeration of the actual requirements, then the OPCW would find itself in another financial crisis at the end of 2001.

The Conference urged all states parties to pay their assessments for 2002 by the deadline of 1 January 2002 and for all those with balances outstanding with regard to past assessments or invoices for Article IV and/or V expenditures to make payments immediately. As well, states parties should immediately pay their advances to the Working Capital Fund.

With regard to the 2000 deficit (EUR 3.6 million) and the 2001 shortfall (EUR 5.1 million), the Conference requested the Secretariat to implement its proposed cuts or austerity measures that would result in savings of EUR 4.7 million, and agreed to allow the Secretariat to retain the 1999 cash surplus (EUR 2.7 million) as a one-time exceptional measure in order to offset the 2000 deficit. The Conference decided that using part of the Working Capital Fund in conjunction with the interest accrued by special accounts — also an exceptional, one-time measure, could ameliorate the remainder of the shortfall. It also encouraged the states parties to make voluntary contributions to enable the Secretariat to carry out its operational mandate for the coming year.

The Conference noted the draft medium-term plan 2003-2005 and stressed that work on the 2003 programme and budget should begin no later than the summer of 2001.

Scale of Assessments
The scale of assessments adopted by the Conference for the 2002 budget reflected the addition of ten new states parties in the preceding year and the UN scale of assessments, in which the assessment of the United States decreased from 25 to 22 per cent. Changes to this scale were the subject of sharp debate toward the end of the Conference session and debate would continue on this matter in the future. The largest contributors remained the US (22 per cent), Japan (19.7), Germany (9.8), France (6.5), the United Kingdom (5.6), and Italy (5.1). All remaining states parties were assessed at an amount below 5 per cent.

As well, under this agenda item, the Conference noted the report of the Director-General on the status of assessed contributions and reimbursement of verification costs under Articles IV and V. As of 30 April, only 63 states parties had fully paid their assessments for 2001; 20 states parties had made partial payments, and 60 states parties had not paid any portion of their 2001 assessment. From 1993 onwards, the OPCW owed an outstanding balance of EUR 16.9 million — this amount included contributions to the PrepCom. Five states parties—Bosnia and Herzegovina, India, Russian Federation, United States, and the Federal Republic of Yugoslavia — owed EUR 3.6 million in reimbursements for the costs of inspections under Articles IV or V of the Convention. The United States owed the
largest debt (~EUR 2.1 million), followed by Russia (~EUR 0.8 million), which had not paid its invoices since 1998. Both the Secretariat and the states parties concerned were actively exploring alternative methods of payment for these monies.

The Conference also noted that as of 8 May, 31 states parties had lost their right to vote in the OPCW due to being in arrears for an amount in excess of their assessment for two full years. These states were: Armenia, Benin, Bolivia, Burkina Faso, Burundi, Ecuador, El Salvador, Equatorial Guinea, Fiji, Gambia, Georgia, Ghana, Guinea, Guyana, Laos, Malawi, Maldives, Mali, Mauritania, Mongolia, Niger, Papua New Guinea, Paraguay, Moldova, Senegal, Seychelles, Tajikistan, Togo, Trinidad and Tobago, Turkmenistan, and Tanzania. Taken together, the monies owed by these states parties amounted to just over half a million euros.

**Fostering of International Cooperation for Peaceful Purposes in the Field of Chemical Activities** Despite the numerous proposals brought to the negotiating table, no consensus was achieved on this issue relating to the Implementation of Article XI. A proposal submitted on behalf of thirteen developing or newly developed states parties called for promotion of cooperation for purposes not prohibited under the CWC through all available means, including the establishment of an international cooperation committee, which would be tasked with implementing Article XI. The Conference referred this topic back to the Council for further consideration in the hope that a proposal would be submitted to the Conference in its seventh session. This issue had been under consideration since the third session of the Conference in 1998.

**Ensuring Universality of the Convention** The Conference noted the report of the Director-General on the activities undertaken by the Secretariat since the fifth session of the Conference toward achieving universality of the CWC. This report detailed the contacts, meetings, workshops, seminars, speeches and other efforts on the behalf of the Secretariat that contributed to the ratification or accession of new states parties to the Convention. Regional workshops for 2001 were planned to convene in both South Korea and Jamaica, and the Secretariat continued to urge states parties to engage states not party to the Convention on both a bilateral and multilateral basis.

The Republic of Korea submitted its traditional draft decision on ensuring universality of the Convention, in which it stressed the importance of universality to all states parties, and especially those with legitimate security concerns. The Conference adopted the decision, which required a report from the Director-General to the seventh session of the Conference on the work undertaken by the Secretariat toward achieving universality. Forty-seven states parties co-sponsored the Korean initiative.

In Sweden’s statement to the Conference, it spoke of recent efforts undertaken by the EU in the capitals of all states not party to the Convention, including signatories, with the goal of promoting universality of the Convention.

**Other Business** Three other matters addressed by the Conference included moving the date of the Conference to the second half of the calendar year, cooperation between the OPCW and other international organizations, and preparations for the first review conference in 2003.

The Conference adopted a decision that would move its annual from the first half of the year, usually April or May, to the second half of the year, between September and November, starting in 2002 with the seventh session of the Conference. This action would address the need to adopt the programme and budget of the Organization closer to the budget year to which it relates. However, if the costs involved in moving the dates of the Conference proved to be prohibitive, then the Conference would convene its seventh session as scheduled in the first half of 2002.

A decision was adopted authorising the Council to conclude cooperation agreements between the OPCW and other international organizations, to the benefit of implementation of the CWC. International organizations with which discussions are currently underway or that have previously been approached include the World Customs Organization (WCO), the Preparatory Commission of the Comprehensive Test Ban Treaty Organization (CTBTO), the International Atomic Energy Agency (IAEA), and the International Narcotics Control Board (INCB), among others.

The Conference also recommended that the Council establish a working group to coordinate, in conjunction with the Secretariat, preparations for the review conference. The review conference was scheduled to be convened in the first half of 2003. Several states parties, and the Director-General in his opening statement, made reference to the review conference as an important opportunity for the states parties and the Secretariat to engage the serious substantive issues of relevance to the current and future implementation of the CWC, such as scientific and technological advances, cooperation with chemical industry, international cooperation and development, and the verification regime overall.

**Actions by Member States**

No states ratified or acceded to the Convention during the period under review; therefore the total number of states parties, as of 1 June, stood at 143, with 31 signatory states.

**Actions by the Secretariat**

**Declaration Processing** As of 3 May, initial declarations had been received from 139 states parties. Four initial declarations were still outstanding, all from those states that most recently became members of the Organization — Kiribati, Mozambique, United Arab Emirates, and Zambia. However, 13 states parties had been informed that their initial declarations were incomplete (i.e., missing declarations under Article VI or III).

The 2000 figures on initial declarations and other obligatory notifications were released during the period under review. As of 31 December 2000, the Secretariat had received 79 notifications of points of entry for inspection teams and 64 notifications concerning standing diplomatic clearance numbers for non-scheduled aircraft. One hundred and six states parties had notified the Secretariat of the designation of their National Authority and 53 states parties had passed the required legislation to implement the Convention at the national level.
At the twenty-fourth session of the Council, the response rate for annual declarations was revealed as being extremely low — only 30 states parties had submitted annual declarations of past activities for 2000 by the deadline (31 March). It remains unclear whether this low rate of submission was the result of problems in national implementation or a result of the fact that no declarable activities had been identified in those states parties that had not submitted an annual declaration. It was further highlighted during the session that only 46 percent of the 88 states parties sent clarification requests by the Secretariat had responded. States parties were encouraged to make their annual declarations as soon as possible and preferably before the annual deadlines.

Inspections and Verification As of 1 June, 985 inspections had been completed or were ongoing at 460 sites in 49 states parties, including inspections of chemical weapons and chemical weapons-related facilities in Bosnia and Herzegovina, China, France, India, Iran, Japan, Russia, UK, US, Federal Republic of Yugoslavia, and one other state party. The breakdown of inspections was: 17 to ACW sites; 223 to CWDFs; 209 to CWPFs; 134 to CWSFs; 51 to DOC plant sites; 34 to OCW sites; 83 to Schedule 1 facilities; 168 to Schedule 2 plant sites; 65 to Schedule 3 plant sites. OPCW inspectors have spent a total of 58,826 days on mission.

Temporary suspension of inspections of CWSFs, CWPFs and industrial sites was enacted during the period under review as part of the Secretariat’s budget austerity measures. Despite this, the Secretariat had completed 52 inspections since the beginning of the year, and an additional 15 were ongoing. Full verification and inspection activities would be reinstated with the resolution of the outstanding budgetary issues.

In March, a joint Chinese–Japanese investigation of ACW resulted in the declaration by Japan of a new CWSF in China. A total of 32 CWSFs have been declared by states parties.

In April, along with the verification of Category 2 destruction at Shchuch’ye, the Secretariat began to verify the destruction of Category 3 chemical weapons at Leonidovksa and Maradykovsky, in accordance with the plans approved by the Council at its twenty-first session. This was the continuation of the previous unilateral actions taken by Russia at these sites.

During the period under review, the Secretariat released a note requesting states parties to assign and use unique codes for Schedule 2 and 3 plant sites. Adherence to the rules and procedures outlined by the Secretariat in this paper would streamline the declaration process with regard to these facilities and reduce inconsistencies. In the past, 32 percent of all declared plant sites were susceptible to identification discrepancies due to small changes or differences in the location, owner, etc. Unique codes for each plant site, used consistently across all the Schedules and all inspection activities, would greatly enhance the efficiency of the OPCW inspection and verification regime. The Secretariat also issued revised templates for preliminary findings during inspections and for the final inspection reports in order to streamline the inspection process further.

At the twenty-fourth session of the Council the states parties expressed their approval of the manner in which the Secretariat has been conducting DOC/PSF inspections.

The period under review included the first instance of sampling and analysis in the course of a Schedule 2 inspection; this activity proceeded without difficulty and with the full cooperation of the state party involved.

Destruction As of 1 May the OPCW had overseen the destruction of 56,121 metric tons of chemical agent (Category 1) and 1,649,086 munitions or containers — out of a declared total of 69,863 metric tons of chemical agent and 8,613,399 munitions or containers.

Out of the 40 CWDFs declared (this includes both those existing facilities and those planned to be built) 5 were currently in operation — 2 in the United States and 3 in Russia. Two CWDFs in the US completed destruction activities and were in the process of being decommissioned. In April, a CWPF in the US received a certificate of destruction from the OPCW. The Director-General had praise for the United States in his opening statement to the CSP-VI for having destroyed nearly one-fifth of its chemical weapons stockpile. The OPCW certified 5 of the 13 CWPFs declared by the US as destroyed. The UK destroyed or converted 6 out of 8 of its CWPFs, and Russia destroyed or converted 8 out of 24 of its CWPFs.

In its statement to the sixth session of the Conference, Russia confirmed that it was currently destroying Category 2 and 3 chemical weapons with OPCW verification at three declared facilities (Shchuch’ye, Maradykovsky, and Leonidovka) and that this work would be completed before the April 2002 deadline. Russia planned to construct facilities at Gorny, Shchuch’ye, and Kambarka in order to begin destruction of its Category 1 chemical weapons. Only aid from international donors and increased allocations by the Russian government would make these projects a reality. Russia stated during CSP-VI that it was complying with the conditions set out by the United States in order that US financial support for Shchuch’ye be reinstated.

Implementation of Article X The fourth CW Chief Instructor Training Programme (CITPRO IV) was undertaken during 22–27 April in Spiez, Switzerland, and also in Spiez, the Emergency Field Laboratory Training Program (SEF-LAB IV) took place from 13 to 18 May. The first programme was designed to aid states in establishing a basic chemical weapons protection capability and included participants from 22 states parties. A more advanced CITPRO course would be held in October of this year, and a CITPRO V was planned for 2002; the Swiss would host both activities.

These programmes were able to proceed as scheduled, despite the financial crisis within the Organization, because they were heavily subsidised by the host state party, in this case Switzerland. Costs incurred by the Secretariat were kept at a minimum. However, in order to meet reduced cost requirements, CITPRO IV was only able to accommodate half the number of participants, compared to previous years.

During 15–19 October, the Secretariat and the government of Austria would jointly host the Fifth Annual Assistance Coordination Workshop in Vienna. The Workshop would enable states parties to review the strategic concept for Article X implementation recently developed by the Secretariat as well as share their own experiences with the provision of assistance. Austria would also demonstrate its offer of assistance under Article X.
Implementation of Article XI Significant discussion on this issue took place at both the Council’s twenty-fourth session and its twelfth meeting, as well as at the sixth session of the Conference. A proposal that would establish an International Cooperation Committee to oversee the implementation of Article XI was put to the Conference but failed to gain a consensus among the states parties. The issue would again be under consideration by the Council in the forthcoming year and by the Conference at its seventh session.

Under the direction of the National Authority of Chile, with some support from the Secretariat, the “Second Regional Meeting of National Authorities of States Parties in the Latin American and Caribbean Region” occurred during 27-29 March in Viña del Mar, Chile. The meeting concentrated primarily on three issues: the status of implementation of the Convention in the region, verification-related issues, and international cooperation projects in the region. Sixteen National Authorities attended and advocated the development of a stronger regional approach to implementation that would, for instance, employ bilateral and regional mechanisms to encourage ratification by those regional states that remain outside of the regime.

A Regional Workshop on the Chemical Weapons Convention for the South Pacific region convened in Melbourne, Australia from 30 April to 3 May. The workshop was hosted jointly by the government of Australia, the Royal Australian Chemical Institute, and the Secretariat and focused on promoting regional cooperation among member states from Southeast Asia and the South Pacific. The representatives from the 14 participating states (including 3 signatory states — Thailand, Cambodia, and the Marshall Islands) emphasised the need for increased support, not only from the Secretariat but also from other states in the region, for the establishment of National Authorities and the preparation of declarations to the OPCW, as well as implementing legislation. Discussion also focused on the importance of education and awareness of the CWC and chemical weapons-related issues. Furthermore, the participants discussed possible regional cooperation projects in such areas as “green chemistry”. A proposal for a regional meeting of national authorities in the region was put forward by Singapore, this meeting would mirror those meetings convened annually in Latin America and the Caribbean. For Eastern Europe, a similar proposal was put forward by the Slovak Republic at the annual meeting of national authorities in The Hague.

The third annual meeting of national authorities took place in The Hague during 11-13 May, and included over 100 representatives from 72 states parties. In addition to a one-day workshop, representatives from national authorities had the opportunity to hold regional meetings and consult with the Secretariat on issues arising from their experiences implementing the CWC. This year, the workshop emphasised the importance of implementing legislation and the regulation of the trade in chemicals.

The 2001 Associate Programme would from 6 August through 12 October. The Director-General issued an appeal in his opening statement to the Council in its twenty-fourth session for greater participation in this programme by the chemical industries in Latin America and Africa.

Eighth Official Proficiency Test The results of the eighth official proficiency test, which began on 8 November and involved 12 laboratories in 10 states parties (Belgium, the Czech Republic, India, Iran, the Netherlands, Poland, Romania, Singapore, Sweden, and the UK), were released during the period under review. A laboratory in the Republic of Korea prepared the samples and a second laboratory in the UK carried out the evaluation. On 5 February, a meeting was held to discuss the preliminary results of the evaluation, which were then released in April. Nine of the twelve participating laboratories (Romania, Belgium, Sweden, the Netherlands, the United Kingdom, the Czech Republic, India, Poland, and Singapore) met the requirements for designation. Two laboratories in India and one in Iran did not pass the test.

The ninth proficiency test began on 2 April with 16 laboratories participating. In order to minimise the costs incurred by the Secretariat, a laboratory in Germany prepared the samples and they would be evaluated by the UK facility at Porton Down at no expense to the Organisation. A meeting would be held in July to discuss the results of the ninth proficiency test. The tenth official proficiency test would take place as scheduled in the fall, only if other states parties volunteered their scientific and technical know-how for the preparation and evaluation of samples.

On 11 April, the OPCW laboratory and the OIO officially received accreditation by the Dutch Accreditation Board. Accreditation was the end result of a three-year effort undertaken by the OPCW laboratory and the OIO and reflects a high standard of quality assurance within the Organization. The accreditation covers many activities within the purview of the OPCW Laboratory, such as the planning and management of proficiency testing for designated laboratories, the organization and management of the Central OPCW Analytical Database, and the testing of inspection equipment. The OIO was accredited for certifying the organization of the Central OPCW Analytical Database, as well as the testing of inspection equipment.

Legal Issues Preliminary analysis of the legislation questionnaire distributed to the member states in July was released in March. As of 22 March, 52 states parties had submitted their responses and the Secretariat urged all remaining states parties to do so as soon as possible. Of those responding, 92 percent had implementing legislation in place, yet 40 percent were in the process of either re-drafting or modifying their existing legislation. These modifications were made necessary by recent Conference decisions regarding low concentrations and Schedule 2 chemicals. Eighteen percent of member states were utilising integrated legislation packages. In the areas of prohibition and enforcement, 13 percent had not prohibited the transfer of Schedule 1 chemicals or their precursors to or from states not party to the CWC and 36 percent had not prohibited the transfer of Schedule 2 chemicals to the same group of states. Sixty-five per cent were enforcing the requirement for end-use certificates. Of particular concern to the Secretariat was the fact that few states parties made adequate provision for the prosecution of violators of the CWC, concentrating instead on licensing and regulatory matters. Other issue areas highlighted by the results of the survey included the identification of declarable industries, variations in concentration thresholds, the role of customs administration, and free-trade zones. All had contributed to the delay experienced by many
states parties in passing implementing legislation and subsequently in enacting all provisions of the CWC. National implementation continued to be an important area of concern and a focus of activities for the Secretariat.

As of 6 June, 88 states parties had yet to respond to the questionnaire and they were encouraged to do so both by the Secretariat and by CSP-VI. The results of the questionnaire would prove integral to the work of the Secretariat in supporting implementation of the Convention as well as in preparing for the 2003 review conference.

The Secretariat prepared and released during the period under review an updated survey of national implementing legislation. This survey examined the different mechanisms that the states parties have established in order to implement the Convention nationally — comprehensive legislation, integrated legislation, amendments to existing laws or statutes, etc. The survey also addressed the issue of legal assistance, which may be required of states parties under Article VII, paragraph 2. The provision of legal assistance would be facilitated by the existence of appropriate national legislation that implements all aspects of the Convention.

Fifty-five states parties had passed implementing legislation as of 1 June.

**Official Visits** Mr. Gareth Evans, former Australian Foreign Minister and current President of the Brussels-based International Crisis Group (ICG), paid a working visit to the OPCW on 28 March.

On 11 April, the OPCW received Russian Foreign Minister Igor Ivanov. The Minister made a short statement, in which he stated that Russia was elaborating upon proposals to reduce the costs of chemical disarmament while at the same time complying with deadlines. Budget allocations for chemical disarmament would be increased, yet the Minister continued to emphasise the importance of external assistance from states parties and the “world community at large”. He also drew attention to the key importance of the conversion requests submitted by Russia to the Organization and the global need for a “strong OPCW”.

On 20 April, members of the delegations to the Ad Hoc Group negotiating a Protocol to the BWC in Geneva were brought to The Hague by the Dutch government, which has bid to host the future Organization, mandated with implementing the Protocol. The delegates visited the OPCW and were briefed on the Organization and its verification regime, as well as its experience being headquartered in The Hague.

The Romanian Minister of Defence, Mr Ioan Mircea Pascu, paid an official visit to the OPCW on 10 May.

**Outreach Activities** The austerity measures have had a disproportionate impact in this area, since the programmes of the External Relations Division were deemed non-operative by the member states. A planned meeting in India had to be postponed due to the financial constraints. Thes usual briefings for Brussels-based delegations have been curtailed in 2001 as a result of the Secretariat’s need to reduce expenditures.

The Secretariat used its participation in the United Nations Asia Pacific Regional Disarmament Conference, held in Wellington, New Zealand during 27-30 March, to encourage ratification of the Convention in the South Pacific region. Three states not party to the CWC were in attendance at this event: Samoa, Tonga, and Vanuatu. All participants stressed the importance of the Convention being implemented regionally — through the cooperative efforts of the Secretariat and states parties in the region.

On 8 May, the Secretariat hosted a one-day meeting with representatives of the chemical industry. This meeting was designed to increase the engagement of the Secretariat with the chemical industry and provided a forum in which views and concerns about the industrial verification regime could be expressed productively.

During the twenty-fourth session of the Council, the South Korean Ambassador supported the Director-General’s call for universality of the CWC in a statement urging those states parties with influence on North Korea to actively work to bring that country into the OPCW. In pursuit of this goal, as well as promoting ratification/accession to the Convention in Northeast Asia and the South Pacific, the Secretariat and the government of South Korea would co-host a regional seminar in Seoul during 17-19 October. The two-day seminar would focus on CW-destruction, non-proliferation, Article XI, and regional security.

A regional seminar focusing on universality in the Caribbean region and Central America was scheduled to take place in Jamaica in November or December 2001. This meeting was supported by financial assistance from Canada.

Earlier plans for additional meetings in 2001 in Africa and possibly in South Pacific, however, seem to be out of reach given the financial situation.

**Staffing** The Council had yet to resume discussion of the results of the second job classification exercise, completed in late 2000. The results of the first classification exercise were incorporated into the 2002 programme and budget, adopted by the Conference in its sixth session.

As of 5 June, 476 of the allotted 507 fixed-term posts in the Secretariat were occupied. The Conference in its sixth session decided to keep the number of fixed-term posts in the Secretariat at 507. Of these, 333 were in the professional and higher category and 143 were in the general service category. Including staff on short-term and temporary assistance contracts and others the total personnel strength was 531 from around 66 different nationalities.

As per the decision of the Conference in its sixth session on the budget and financial situation of the Organizations, 30 fixed-term positions would remain unfilled in 2001 and 2002 and a hiring freeze would remain in place, with the exception of those positions deemed by the Director-General as integral to the functioning of the Organization. This policy would result in significant savings to the 2001 and 2002 budgets. On a provisional basis, staff from the Inspectorate would be delegated to carry out necessary tasks. This would only be possible until 2003, when it is expected that all inspectors would be fully utilised in verification activities.

**Subsidiary Bodies**

**Confidentiality Commission** The Commission was scheduled to meet for its fifth session from 18-20 April, but this meeting was postponed due to budgetary constraints. New members of the Commission were elected to two-year terms during the sixth session of the Conference.
**Scientific Advisory Board** The Council considered the report of the fourth session of the SAB, which was held during 5-6 February, at its twenty-fourth session. The report included recommendations on low concentration limits for Schedule 2A and 2A* chemicals. In regard to analytical procedures, the SAB endorsed the inclusion of non-scheduled chemicals in the Central OPCW Analytical Database. Those substances included non-scheduled degradation products of scheduled chemicals, riot control agents, old abandoned chemical weapons, salts of scheduled chemicals and non-scheduled precursors, and by-products of the synthesis of scheduled chemicals. This data would be useful during challenge inspections and investigations of alleged use. The SAB also reported on the progress of its temporary working groups on inspection equipment, destruction technologies, and biomedical samples—a subject on which the Secretariat sent a questionnaire to states parties in March. The SAB was actively preparing for the 2003 review conference. Among other topics, it planned to examine the future interface between the OPCW and the OPBW and new developments in genomics and biotechnology. Contacts between the SAB and the International Union of Pure and Applied Chemistry (IUPAC) resulted in an offer from IUPAC to contribute to a review of scientific and technical developments in fields relevant to the Convention. The Secretariat welcomed the idea that IUPAC perform an independent scientific review of developments over the last decade: a meeting involving IUPAC, the Secretariat, and the SAB will be held in July 2001 to discuss logistical and substantive details.

The Council in its twenty-fourth session briefly took up the issue of adamsite, which had been under discussion for quite some time in the SAB.

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**Future Work**

In addition to the continuation of its verification activities and a number of projects in the area of international cooperation, the main work of the OPCW in the coming months would focus on universality and the 2003 CWC review conference. Both matters were of key political importance to the Organization and implementation of the Convention in the longterm. There was a necessity to keep up the momentum generated by the ratifications or accessions of ten states parties in the past twelve months, but legitimate political and security concerns on the behalf of many states not party to the Convention would be difficult to overcome. In addition to planned regional seminars focusing on universality in South Korea in October and in Jamaica before the end of the year, the Secretariat would also engage the states parties themselves in this important work, possibly in the form of an informal meeting on universality.

Although the formal review process for the 2003 review conference would not be launched until 2002, work with IUPAC on a scientific review would begin in the summer of 2001 and other preparations within the Secretariat were moving ahead at full speed, including increased communication with chemical industry. The review conference in the first half of 2003, preceded closely by the seventh session of the Conference of the States Parties in the second half of 2002, would be seen as a key watershed in the work of the Organization toward a world free of chemical weapons.

This review was written by Pamela Mills, the HSP researcher in The Hague.

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**Progress in Geneva**

**Strengthening the Biological and Toxin Weapons Convention**

A three week session, the twenty-third, of the Ad Hoc Group to consider a legally binding instrument to strengthen the Biological and Toxin Weapons Convention (BWC) was held in Geneva from Monday 23 April to Friday 11 May 2001. This session saw a distinct change in the pattern of the negotiations because the Chairman had on 30 March provided to capitals, as well as to delegations in Geneva, a composite Protocol text entirely based on the rolling text and containing compromises to bridge the remaining gaps based on the informal conceptual consultations that the Chairman had with delegations and the Friends of the Chair over the previous nine months. The composite text retains the clean parts of the rolling text, while adopting a conservative approach with regard to any new ideas necessary for compromises. Consequently, the Ad Hoc Group met primarily in plenary session during the first two weeks of the session when the Chairman provided a detailed explanation of the composite text on an article-by-article basis. During the third week, the Chairman conducted both formal and informal discussions on the comments and feedback provided both formally and informally on the composite text. The procedural report of the session (BWC/AD HOC GROUP/AHG/56) contains both the composite text (Annex B) and the rolling text (Annex A) and stated:

While recognizing the Rolling Text as the underlying basis for negotiations, the delegations expressed their views with regard to the compromise proposals contained in the Composite Text, both in formal and informal sessions.

In the April/May session, 56 states parties and 2 signatory states participated; two more states parties than in the February session as five states (Bangladesh, Jordan, Slovenia, Thailand and Tunisia) participated in April/May whilst three states (Portugal, Singapore and Yemen) did not. One fewer signatory state (Myanmar) participated than in February.

There was no change to the Friends of the Chair although the list of Friends of the Chair in the procedural report only showed one Friend — that for the Seat of the Organization — as this was the only Friend to hold a meeting. The list of the Facilitators to assist the Ad Hoc Group saw the omission
of the Australian and Pakistan names from the list of those assisting Ambassador Don Mahley as facilitator for the Headquarters Agreement with the Host Country which now read as follows:

The Headquarters Agreement with the Host Country — Ambassador Donald A. Mahley of the USA who will be assisted by Ambassador Krzysztof Jakubowski of Poland, Ms Katarina Rangnitt of Sweden, Sra. Anayansi Rodriguez Camejo of Cuba and Mr Reza Pourmand Tehrani of Iran as well as additional personnel as considered necessary.

There was a slight increase to 10 in the number of new Working Papers (WPs) — up from the 7 in February and the same as the 10 in November/December 2000. Of the 10 WPs (WP.445 to WP.454), 5 related to the Seat of the Organization with 3 being submitted by the Friend of the Chair (WP.445-7) and 2 (WP.448-9) by Switzerland, with single papers by the Netherlands (WP.450), China (WP.453) and Iran (WP.454) and 1 paper (WP.452) by China, Cuba, Iran, Indonesia, Libya, Pakistan and Sri Lanka and another (WP.451) by China, Cuba, India, Indonesia, Iran, Libya, Mexico, Pakistan and Sri Lanka. The latter 5 papers addressed a number of issues — a workshop on the practical aspects of the future organization (WP.450), 2 on export controls (WP.452-3), 1 on entry into force (WP.454) and 1 on the progress of the negotiations (WP.451).

Both the composite Protocol text and the rolling text are included as Annexes to the procedural report of the April/May session (BWC/AD HOC GROUP/56 — again issued in two pieces, 56-1 and 56-2, owing to length). This was thus the sixteenth issued version of the rolling text, although virtually identical to that of March 2001.

The April/May session had 13 AHG meetings of which 11 were plenary. There was 1/3 of a meeting on the seat of the organization and there were 1 1/2 meetings on decisions on the establishment of a Preparatory Commission and 1/6 of a meeting on the headquarters agreement with the host country. The remainder of the time available was used for informal consultations. During the three week session, three days (25-27 April) were used for the Preparatory Committee for the Fifth Review Conference.

Coinciding with the opening of the Session was an unprecedentedly high level of activity in Geneva by non-governmental organizations — such as Bradford University Department of Peace Studies, the Federation of American Scientists and the Sunshine Project — and other organs of international civil society. These are described in the News Chronology below at 23–26 April. In addition, representatives of the Stimson Center presented the findings of its latest study on 7 May.

**Political Developments**

As usual, a number of statements were made during the April session. On the opening day, Ambassador Tibor Tóth, Chairman of the Ad Hoc Group, in his opening remarks said that he believed that everyone was aware of the importance of this specific session of the Ad Hoc Group as it was the penultimate session for this year and secondly, all delegations had before them the composite Protocol text (BWC/AD HOC GROUP/CRP.8) in which the Chair had adopted compromises to the outstanding issues. He undertook to walk the delegations through this text in detail explaining the main compromises and pointing out the changes.

Ambassador Tóth then gave his appreciation of the overall status of the negotiations noting that the rolling text had been under negotiation for almost four years since July 1997 and much progress had been made in developing the text with the draft Protocol now well developed with a large part of the text agreed by consensus and therefore free from square brackets. He pointed out that every delegation could point to parts of the rolling text where their specific preferences are reflected and likewise that every delegation could indicate parts of the rolling text where they have already made compromises. However, despite the fact that great progress had been made since mid-1997, quantifiable progress had come to a halt for more than a year even though there are still a number of issues that require resolution.

He recalled that the Ad Hoc Group had sought new ways of addressing the outstanding issues with one of the most visible outcomes being the circulation of building blocks which had, by the end of the February 2001 session, covered most of the draft Protocol. By the end of that session the Ad Hoc Group had become more and more aware that only a composite text to resolve the outstanding issues would help to move the Ad Hoc Group forward as the remaining issues were so interrelated that solutions simply are not possible if attention is focused on one issue at a time, or even on a cluster of issues at a time. Consequently, the challenge that had faced the Chairman was to provide a composite text while at the same time not endangering the efforts and great progress made by the Ad Hoc Group so far. The Ad Hoc Group had recognised that a more holistic approach is needed to complete its work and that it is necessary and timely to take the work of the Ad Hoc Group into its final stage. He had therefore presented both in states’ capitals and to delegations in Geneva a composite text in which he had adopted compromises on the unresolved issues.

Ambassador Tóth pointed out that the composite Protocol text in CRP.8 should look very familiar to delegations “as it is in its entirety based on the rolling text”. In the composite Protocol text he had developed language to bridge the remaining gaps, drawing upon the Chairman’s exploration of these issues in the informal consultations that had been conducted since July 2000 with all delegations and in very close cooperation with the Friends of the Chair and the Facilitators. He said that he had retained the clean parts of the rolling text, while remaining as conservative as possible with any new ideas needed for compromises. The composite text therefore would not contain any great surprises for delegations. It is, however, a composite text that would achieve the mandate of the Ad Hoc Group and will strengthen all the provisions of the Convention. However, the compromises would require compromises by all delegations as the compromises adopted represented a carefully judged balance of the views of all delegations. Consequently, Ambassador Tóth urged all delegations to take a holistic view of the composite text.

He went on to say that in circulating the composite text, his intention was to break the impasse of the negotiations and facilitate the work of the Ad Hoc Group so as to fulfil its mandate in a timely manner. He noted that the Ad Hoc Group had spent quite a number of years and expensive negotiation sessions on the development of a Protocol to the
Constitution and said that “We cannot allow ourselves to now fall short of reaching agreement”.

He called on all delegations to give serious consideration to the composite text with the customary flexibility on the side of all delegations. He expected all delegations to consider and examine the text with a view to what benefits they are gaining. These benefits have two aspects: first, which compromises in the composite text originate from their favoured options; and, secondly, and more importantly, what is to be gained collectively by agreeing and, ultimately, becoming a state party to the Protocol. Conversely, delegations needed to recognise what will be lost if the Ad Hoc Group cannot agree to strengthen the BWC during a period when biological sciences become more and more important each day and important new moral, political and legal barriers have been raised in the way of other types of weapons of mass destruction during the past ten years when there have been negotiations to strengthen the Convention.

In the subsequent plenary session, a number of statements were made. Sweden spoke on behalf of the fifteen member states of the European Union (EU) as well as the Central and Eastern European countries associated with the EU — Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia, Slovenia — and the associated countries Cyprus, Malta and Turkey. It was noted that the negotiations had been ongoing since 1995 and the Ad Hoc Group is now within reach of a Protocol which will strengthen confidence in compliance with the Convention. A successful conclusion of these negotiations would not only strengthen the BWC, but will also be a demonstration that multilateral negotiations are capable of achieving progress towards disarmament and non-proliferation. Sweden went on to say that it was apparent that the negotiations had reached a point where compromises and solutions to critical issues have to be found. In respect of the composite text, the EU was looking forward during this session to the Chairman’s comments and explanations of the composite text to clarify understandings of the compromises. However, the EU already wished to underline that the text does not meet EU expectations. The Chairman’s composite Protocol text constituted a new phase in the negotiations and it was the view of the EU and the associated countries that:

Your text, Mr Chairman, should be the platform for the political decisions that are needed now. Mr Chairman, at this point of the negotiations finalising a Protocol to strengthen the BTWC is within reach.

A further 21 political statements were then made on the first and second days by Switzerland, Iran, Chile, China, Pakistan, Japan, Libya, Cuba, South Africa, the Russian Federation, Australia, Brazil, the Republic of Korea, New Zealand, Argentina, the Netherlands, the Director General of the Agency of the Russian Federation for Munitions, Canada, Poland, Croatia, and the United Kingdom. These statements generally welcomed the Chairman’s composite text and in most cases expressed reservations about specific aspects. [They are reported in more detail in the “Report from Geneva — Friday 27 April 2001” available on the web at http://www.brad.ac.uk/acad/sbtwc.]

In the second week of the Ad Hoc Group session, New Zealand made a statement on behalf of Austria, Brazil, Chile, Guatemala, Ireland, the Netherlands, New Zealand, Norway, Peru and South Africa that acknowledged that the composite text “establishes the basis to conclude the work of our negotiations in accordance with our mandate”. Three particular concerns were noted: entry into force, the visit regime and provisions for declarations. A simple numeric formula was argued for entry into force noting that this is gathering overwhelming support across all regional groups. In respect of the visit regime, randomly selected visits are regarded as an essential component in the toolbox of visits and their purpose, level of access and reporting arrangements should be strengthened. Declarations should encompass all the most relevant facilities, including biodefence with triggers that should apply in a uniform and non-discriminatory way. Finally, New Zealand noted that the wider benefits in capacity building terms of the measures in the composite text will provide an additional incentive for all countries to join the Protocol.

Later in the same week, a statement was made by China, Cuba, Indonesia, Iran, Libya, Pakistan and Sri Lanka which emphasised the great importance attached to the objective of strengthening the effectiveness of the BWC in a comprehensive manner. However, wide differences continue to exist on several issues and with less than 30 working days remaining for the Ad Hoc Group to conclude its negotiations, there was concern that the Ad Hoc Group may not be able to conclude its work as mandated. Accordingly, they firmly believed that the Ad Hoc Group should immediately resume substantive negotiations based on the rolling text to achieve consensus on outstanding issues.

Fifth Review Conference Preparatory Committee

The first week of the Ad Hoc Group session also saw the holding on Wednesday 25 to Friday 27 April of the Preparatory Committee for the Fifth Review Conference. This began on Wednesday morning when the Preparatory Committee elected by acclamation Ambassador Tibor Tóth of Hungary as Chairman of the Committee. The meeting moved rapidly through the substantive business of the Committee in accordance with the draft Provisional Agenda for the Preparatory Committee (BWC/CONF.V/PC/INF.1) unanimously electing Ambassador Munir Akram (Pakistan) and Ambassador Markku Reimaa (Finland) as Vice Chairmen of the Committee, adopting the agenda of the Preparatory Committee, addressing the organization of the work of the Preparatory Committee and then the organization of the Review Conference itself deciding that the Review Conference should take place in Geneva from 19 November to 7 December 2001 and agreed to recommend to the Fifth Review Conference the provisional agenda as contained in BWC/CONF.V/PC/INF.6 which, as expected, contained the following 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) Preambulary paragraphs and purposes of the Convention
11. Consideration of issues identified in the review of Article XII contained in the Final Declaration of the Fourth Review Conference, and possible follow-up action
12. Consideration of the work of the Ad Hoc Group established by the Special Conference in 1994.
The Preparatory Committee then turned to the consideration of the draft Rules of Procedure of the Fifth Review Conference, as in BWC/CONF.V/PC/INF.2, which were the same as those for the Fourth Review Conference. Ambassador Tóth reminded delegations that standard rules of procedure were usually adopted along with oral amendments. Oral amendments were proposed and accepted to Rule 5 so as to elect two Vice-Chairmen for the Drafting Committee and to Rule 8 so that the General Committee would include the two Vice-Chairmen of the Drafting Committee and also the three Regional Group Coordinators and the Depositaries.

The Preparatory Committee also agreed that the Secretariat would be called upon to provide background information documentation on the participation of the states parties in the agreed Confidence-Building Measures. In addition, states parties would be requested to provide information regarding their compliance with all the obligations and provisions of the BWC and the states parties together with the Depositaries would be invited to submit information on new scientific and technological developments of relevance to the Convention. Such background information would be circulated no later than four weeks prior to the opening of the Review Conference. It is to be noted that one of the papers issued for the Preparatory Committee meetings (BWC/CONF.V/PC/INF.5) provides a list of the BWC states parties and signatory states as of March 2001. The numbers of states parties and signatory states are unchanged at 143 and 18 respectively.

**NGO participation in the Review Conference**

In further consideration of the draft Rules of Procedure, Mexico made a proposal that Rule 44, para. 5 which states:

5. Non-governmental organizations

Representatives of non-governmental organizations who attend meetings of the Plenary will be entitled upon request to receive the documents of the Conference.

should be revised as Mexico noted that in fora such as the Committee on Human Rights, NGOs are practically equivalent to states parties. It was important to consider the civil society element and Mexico did not see why participation by NGOs might not be extended and they proposed the oral amendment to add at the end of paragraph 5 the words “and to submit material both orally and in writing”.

Chile then took the floor and supported the proposal made by Mexico. Canada said that they supported the proposal made by Mexico as Canada was in favour of an active role for NGOs referring to the useful role of NGOs in fora such as the NPT Review Conferences and the Small Arms and Light Weapons Conference. New Zealand said that they fully supported the active participation of NGOs and they supported the amendment proposed by Mexico. South Africa joined the support for the Mexican proposal as South Africa favoured stronger participation by NGOs.

The USA then spoke on the proposal by Mexico. The US also agreed that NGOs are very important and need to be taken into account. However, they had doubts about oral participation. A way should be found to allow NGOs to participate but not to speak.

India said that they were not clear about the proposed amendment put forward by Mexico and asked the Chairman to repeat this for clarity. India referred to the very good work done by NGOs during the Protocol negotiations — some documentation, analysis, text — which was all very useful. India agreed that NGOs should attend at Plenary sessions and receive the documents of the Review Conference and wondered if NGOs might speak at a special session of the Review Conference but doubted participation beyond that. India also wondered how many NGOs might be involved — India recalled that there was an NGO Committee on Disarmament and felt that this should be the criterion for NGO participation. India would like to hear the voice of civil society — but there were NGOs and NGOs and NGOs. Given the time constraint on the Review Conference, perhaps one afternoon slot might be used for NGOs who have demonstrated a direct relevance on other occasions to the Biological Weapons Convention.

The Chairman then read out again the proposed Mexican oral amendment. Chile then spoke saying that they had not proposed that NGOs should take part in the making of decisions by the Review Conference. Chile had no problem whatever — like Canada — in listening to NGOs. Chile felt that listening to NGOs express their views was a healthy trend in the multilateral arena. Chile agreed with India that these should be NGOs who have some relevance with the subject matter dealt with by the Review Conference.

France then said that they agreed with the Mexican proposal that NGOs should be given the possibility of contributing in writing or orally within limits. NGOs play an important role as the public media do not appreciate the importance of the BWC and NGOs could be of assistance. Communication was a two way street.

The Chairman then suggested that the Review Conference should rely on practice as at the previous one. He recalled that Ambassador Sir Michael Weston as Chairman of the Fourth Review Conference had developed a solution which allowed NGOs to address delegations when on 27 November 1996 he had suspended the meeting and remained in the Chair whilst NGO statements had been made. Ambassador Tóth’s recommendation was that this practice should be followed.

Mexico said that they had listened carefully to what had been said but felt that the practice as at the Fourth Review Conference was not effective as such a session isn’t given the full attention by delegations — it is a second rate meeting. The thrust of the Mexican proposal was to keep pace with practice regarding NGOs in other multilateral fora. Mexico did not see why NGOs could not make a contribution when invited to do so by the Chairman. Mexico felt that further thought should be given to this issue and an extra effort should be made to progress this.

The Chairman said that the Preparatory Committee should come back to this issue. There would be consultations to see if a proposal could be made on ways and means for NGO participation.

Informal consultations with those NGOs present in regard to NGO participation resulted in the identification of the following: NGOs would ideally like to participate and contribute in the same way as in the environmental treaties, the Land Mine Ban Convention and the Commission on Human Rights; in addition, NGOs would like to be able to be present as observers in all sessions as they would thereby become much more aware of the real issues — rather than
just the fixes presented in Plenary sessions. NGOs were, however, realists and recognised that evolutionary progress was more likely and were keen to contribute more effectively than at the Fourth Review Conference by making oral contributions during a formal session of the Review Conference thereby giving delegations more access to those contributions, and by circulating written submissions by relevant NGOs as CRP documents with the detailed arrangements being coordinated with the relevant NGOs by the NGO Committee on Disarmament.

Following further extensive consultations among the states parties, it was eventually decided that the same approach would be taken to NGO participation at the Fifth Review Conference as had been followed at the Fourth.

**Prospects**

The attention of the April/May Ad Hoc Group session was very much focused on the Chairman’s composite text and the compromises contained therein. It was evident that whilst all states parties had reservations about some of the compromises adopted, a number of states regarded the Chairman’s composite Protocol text as the basis for further negotiation. Consequently, a description and analysis of the composite Protocol text appended to this progress report.

During the final two days of the Ad Hoc Group, a number of delegations made statements which expressed their appreciation for the hard work that the Chairman had put into the detailed explanations of the composite Protocol text. For example, on the final morning, the United States spoke to express thanks to the Chairman for his untiring efforts to guide the work of the Ad Hoc Group to a successful conclusion as most recently reflected in the production of the Chairman’s composite text, CRP.8. The US was particularly appreciative of the hard work that went into the Chairman’s extensive explanations and commentary regarding CRP.8. The US concluded by saying that its positions on the substance of this Protocol are well known and that many of those national positions are not reflected in the Chairman’s text. Nonetheless, the US is carefully studying the text as a whole, recognizing the many views in the Group and that it can help move forward towards our objective of strengthening the BWC. Japan then spoke saying that detailed explanations by the Chairman on the composite text and expressions of views by delegations on the composite text, in both formal and informal meetings, have been very helpful to understand the background to the composite text and to consider it in a very serious manner. Japan went on to say that the interventions made by a number of delegations on the composite text have made it apparent that views still differ on a limited number of issues. However, it should not allow delegations to lose sight of the fact that there is a strong collective will to overcome such differences and conclude the negotiations by the time line set out by the mandate. The Chairman’s text, which includes several innovative suggestions and compromises, is the valuable and practical vehicle which enables delegations to fulfill the mandate. Japan concluded by appealing to all participating governments to demonstrate the political will to have the agreement of the Protocol in time so that delegations can come back in July with the determination to finish the negotiations by the end of the next session.

Although Ambassador Tóth did not make a concluding statement in the Ad Hoc Group session, he summarised the session in the Press Conference on the final day, Friday 11 May 2001, when he said that this session had concentrated on the composite text. During the first two weeks of the session, he had introduced the composite text and had provided explanations on a detailed article-by-article basis in which he had addressed the compromises in the composite text that were significant for the delegations. Delegations had had the chance to comment on the composite text.

Ambassador Tóth said that from the very beginning of the session, the delegations had welcomed this step which was not unusual in multilateral arms control negotiations when the end game was emerging. Delegations had welcomed the fact that it was possible to fulfill the mandate of the Ad Hoc Group, and quite a number of delegations had welcomed the balance of compromises which had been adopted. At the same time, it had to be recognized that a compromise text which was trying to fix 1,400 brackets had left many delegations unhappy. Many delegations had indicated that what was contained in the text was far away from their preferences. There were also a number of delegations which had not been in a position to comment formally on the proposals. These half a dozen delegations were able to share with him in informal meetings their perceptions about the composite text and where problems for them might lie. As a result of the formal comments in the meetings and these informal indications, he had been in a position to carry out focused discussions on a limited number of specific issues in six areas. Those areas were definitions, declarations, visits, investigations, transfer and entry into force.

Ambassador Tóth said that the delegations had ended up with a better understanding of the remaining divisions as a result of the general statements and the formal and informal comments. Numerically, the issues could be limited to half a dozen areas and one or two sub-elements in those areas. In comparison to 1,400 brackets, this was a major step forward in his judgement.

What was emerging as a climate in the negotiations was that the delegations which used to form a silent majority in the negotiations had spoken massively in the course of the session, Ambassador Tóth said. They spoke in favour of the fulfilment of the mandate and concluding the negotiations in the next session. That element would have to be taken into account when delegations assessed the situation. How much flexibility and compromise they had to show in the last session to breach the gaps on those specific issues. Political maturity would be required. The issue was not how to remove certain brackets in a text, but the question was whether delegations and capitals participating in these negotiations for practically seven plus three years would say a yes or no to a protocol, which in his judgement, would respect legitimate bio-defense, industrial and non-proliferation interests while providing for efficient, additional tools to strengthen the BWC. It had been a surprisingly constructive session notwithstanding the complexity.

The programme of work for the twenty-fourth session, the final one scheduled in 2001, to be held on 23 July to 17 August 2001 was agreed with the 40 meetings allocated primarily to the Ad Hoc Group with other meetings allocated to the Ad Hoc Group/informal consultations and to meetings on the Preparatory Commission including its programme.
and budget, on the host country agreement and on the Seat of the Organization as follows:

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<th>Group/Informal</th>
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<tr>
<td>Seat of Organization</td>
<td>1</td>
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<tr>
<td>Preparatory Commission</td>
<td>2</td>
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<td>5</td>
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<tr>
<td>Host Country Agreement</td>
<td>2</td>
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<tr>
<td>Ad Hoc Group/Informal</td>
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<td>Ad Hoc Group</td>
<td>15</td>
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<td><strong>Total</strong></td>
<td><strong>40</strong></td>
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The allocation of essentially all the meetings to the Ad Hoc Group and the Ad Hoc Group/Informal confirms the indication that the Ad Hoc Group is close to the completion of its planned work.

The April/May session thus saw a significant step forward with the introduction of the Chairman’s composite text and the recognition that while the rolling text was the underlying basis for the negotiations, delegations expressed their views with regard to the composite text.

There was a continuing commitment by all delegations in the April/May session to the completion of the negotiations by the Fifth Review Conference in November/December coupled with a recognition that the composite text could provide the basis to achieve this. Consideration of the composite Protocol text as a whole shows that this brings significant benefits to all states parties when compared to the existing regime based on the BWC alone. A comparison of the Protocol regime with that of the CWC shows the two regimes to be closely comparable with several elements elaborated in the Protocol regime that have no explicit counterpart in the CWC. It is evident that the Protocol negotiation can indeed be completed before the Fifth Review Conference and result in an effective and valuable strengthening of the prohibition regime against biological weapons.

**The Composite Protocol Text**

Table 1 provides a comparison between the composite Protocol text (BWC/Ad Hoc Group/AGH/56 (Annex B)) and the latest version of the rolling text (BWC/Ad Hoc Group/AGH/56 (Annex A)).

It should be noted that there have been some editorial changes made in the composite Protocol text such as the replacement of “pursuant to” by “in accordance with” which have not changed the substance. Consequently the composite Protocol text is described as being identical to that in the rolling text any minor editorial changes that have no effect on the substance have been disregarded.

**Preamble** The composite text includes all the paragraphs in the rolling text that were out of overall square brackets and omitted five of the six that were in overall square brackets. The sixth one that had been within overall square brackets is included thus achieving a balance between paragraphs addressing the implementation of Article X of the Convention and a paragraph reaffirming the obligations under Article III of the Convention. There is no diminution in the overall thrust of the Preamble.

**Article 1 General Provisions** The composite text has taken all the paragraphs that were in the rolling text that were out of overall square brackets and omitted all but one of those paragraphs that were within overall square brackets. A new opening paragraph stating the purpose of the Protocol has been added that draws upon some of the concepts within two of the paragraphs within overall square brackets and a new final paragraph has been added which usefully makes it clear that the definitions and objective criteria shall be used solely for the application of specific measures set out in the Protocol. The single paragraph that was within overall square brackets that has been included is the one which requires the states parties and the Director-General, as appropriate, to take into account existing agreements and competencies of other relevant international organisations and agencies in order to avoid duplication and to ensure an effective and co-ordinated use of resources. This paragraph had previously been included within Article VII of the rolling text and its inclusion in Article 1 General Provisions thereby makes it applicable to the entire Protocol.

**Article 2 Definitions** Article 2 is based on the language and definitions in Article II Definitions of the rolling text. The composite Protocol text has rightly concentrated as required by the mandate for the Ad Hoc Group on definitions of terms where relevant for specific measures designed to strengthen the Convention. Three basic definitions have been included in Article 2 for Bacteriological (biological) and toxin weapons. Purposes not prohibited by the Convention, and a new definition of Biological materials which is for use with the transparency threshold levels for facilities involved in national biological defence programmes and/or activities. The first two of these basic definitions are drawn directly from the relevant language in Article I of the Convention thereby ensuring that the definitions used in the Protocol in no way amend the basic prohibitions in the Convention. The compromise is the inclusion of these three basic definitions and the omission of three other basic definitions from the rolling text.

The remaining definitions in Article 2 are all based on the definitions in the rolling text: 15 of these have essentially identical language to that in the rolling text with the removal of square brackets and the adoption of appropriate compromises. The definition of facility has been clarified with one definition for the purposes of declarations and follow-up after declarations and another definition for the purpose of investigations. A useful definition has also been added for national biological defence programmes and/or activities. Three additional definitions are now included in Article 2 for Conference, Director-General and Organisation. The compromises in Article 2 ensure that there are no definitions in the Protocol which have the effect of amending the Convention itself and that the definitions in Article 2 are for the purpose of implementation of the Protocol alone.

**Article 3 Lists and Criteria, Equipment and Thresholds** Article 3 comprises three sections (A–C) based upon language previously contained in Annex A of the rolling text.

**A. List of Agents and Toxins.** This section of Article 3 now contains the chapeau text which had previously appeared in Annex A I, Lists and Criteria (Agents and Toxins) whilst the list of agents and toxins is retained in Annex A of the composite Protocol text. The first paragraph makes it clear that the list of agents is for use with the declaration trigger for work with listed agents and toxins as
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well as for the declaration formats for national biodefence programmes and for declared facilities. The second paragraph usefully emphasises that the list of agents and toxins in Annex A is not exhaustive and does not exclude the relevance of unlisted microbial or other biological agents or toxins. The third and fourth paragraphs set out the procedure for review and modification of the list of agents which requires that the Executive Council shall consider the same criteria which had previously appeared out of square brackets in Annex A.I of the rolling text.

The list of agents and toxins appears in the composite Protocol text in the Annex on Lists (Annex A) A. Lists of Agents and Toxins. This is essentially identical to the list in Annex A of the rolling text with compromises adopted where there had been agents still within square brackets in the rolling text; in respect of the human and zoonotic pathogens list the composite Protocol text includes Brucella suis but not Brucella abortus, Nagleria fowleri but not Nagleria australiensis. For the animal pathogen list which was less developed in the rolling text, the composite Protocol text has adopted a compromise list of six animal pathogens. The plant pathogen list contains the same eight plant pathogens listed in the rolling text and the list of toxins is also the same as in the rolling text.

B. List of Equipment. This section consists of three paragraphs which set out which declaration triggers and declaration formats apply to the list of equipment and also provides for the use of the list of equipment during a facility investigation. Finally the provisions for the review and amendment of the list are stated.

The list of equipment appears in the composite Protocol text in the Annex on Lists (Annex A) B. Lists of Equipment and is essentially identical to that in Annex A.II of the rolling text which was largely out of square brackets. The requirement in square brackets in the rolling text to provide information on biological safety cabinets Class II has been removed.

C. Annual and Current Transparency Threshold Levels. This section of some nine paragraphs has been developed from Article III. C. Thresholds of the rolling text. The compromise adopted in the composite text recognises the long debate about thresholds during the VEREX process, at the Special Conference which established the mandate for the Ad Hoc Group and during the Ad Hoc Group negotiations. This section makes it clear that the transparency thresholds set out are to provide additional transparency for national biological defence programmes and/or activities through the provision of information on the aggregate quantities, expressed in ranges, for all biological materials, defined as in Article 2, present at such a facility during the previous year. This information is to be provided in the declaration formats for such facilities in Appendix C.

Article 4 Declarations. Article 4 which sets out the declaration triggers is closely based on the language in Article III. D. Declarations I. Submission of Declarations in the rolling text. It is subdivided into three sections (A–C).

A. Submission of Declarations consists of two paragraphs which set out first the requirement for states parties to declare all activities and facilities listed in this Article and for the appropriate declaration format in the Appendices to be submitted not later than 180 days after the entry into force of the Protocol for initial declarations and no later than 30 April each year for annual declarations. This language is essentially identical to that in the two paragraphs out of square brackets in the initial section of Article III. D. I of the rolling text. The other paragraphs which had been in square brackets in the initial section of Article III. D. I are now addressed in Articles 10 and 21 of the composite Protocol text and are therefore removed from Article 4.

B. Initial Declarations requires two initial declarations — first of offensive biological weapons programmes and/or activities conducted in the period between 1 January 1946 and entry into force of the Convention for that state party and secondly of defensive biological weapons programmes and/or activities conducted during the 10 years prior to the entry into force of the Protocol for that state party. These provisions are based on the language in Article III. D. I of the rolling text and have adopted the same date for the start of past offensive programmes and/or activities as in the Confidence-Building Measure F agreed by the states parties at the Third Review Conference in 1991. Any information on past offensive programmes that subsequently comes to light has also to be declared within a specified time period. The information required in these initial declarations is to be provided as specified in the declaration format in Appendix A and seeks additional detail for the 10 years prior to entry into force of the Convention or of the Protocol.

C. Annual Declarations sets out the requirements for annual declarations of national biological defence programmes and/or activities, maximum biological containment facilities, high biological containment facilities which exceed 100 m² and have produced vaccines or other specified production or have carried out genetic modification of any agent or toxin listed in Annex A, plant pathogen containment, specified work with listed agents and toxins and specified production facilities. These provisions are based on the language in Article III. D. I of the rolling text. The compromises adopted in respect of these various declaration triggers ensure that facilities of very little relevance are excluded. Consequently, biodefence programmes/activities involving perhaps a single person monitoring developments in the literature are excluded as are high biological containment facilities with a working area of less than 100 m² and similarly plant pathogen containment facilities with a working area of less than 100 m².

The compromise adopted for biological defence programmes/activities requires a summary of the objectives and elements of the programme — rightly including research and development, testing, evaluation and production — as well as a summary of the research and development carried out in accordance with Appendix B. The requirements for the declaration of national biodefence facilities in accordance with Appendix C strikes a balance between the requirements for states parties with large programmes and many facilities and those states parties with much smaller programmes and fewer facilities.

The requirements in Article 4 for maximum biological containment facilities and for plant pathogen containment facilities are closely similar to those in Article III. D. I of the rolling text. In respect of high biological containment, the requirement in Article 4 has usefully been more sharply focused onto relevant production facilities and facilities in which genetic engineering of listed agents and toxins than the previous language in the rolling text. The requirements
for facilities which have engaged in work with listed agents and/or toxins is based on the language in Article III. D. I of the rolling text with the removal of square brackets and the adoption of reasonable compromises in respect of the various capacities that had previously been in square brackets. The requirement is that a declaration is necessary if work with the listed agent and/or toxin is associated with specified production and recovery features, certain forms of genetic engineering or certain types of aerosolisation activities.

The requirements for the declaration of production facilities have usefully been brought together requiring the declaration of vaccine, microorganism and biological control agent production under specified circumstances. A final paragraph additionally requires general information to be provided on certain facilities producing for public sale microbiologically produced substances. Provision is made for the First Review Conference of the Protocol to consider whether such facilities should become subject to randomly-selected transparency visits in the light of the experience that will then have been gained on the implementation of the Protocol.

It is evident that Article 4 has focused on requiring states parties to declare those facilities and activities of the greatest relevance to the Convention.

**Article 5 Measures to ensure submission of declarations** Article 5 follows closely the language in Article III. D. III. Measures to ensure the submission of declarations in the rolling text. The first three paragraphs are identical to those in the rolling text. In the subsequent six paragraphs, a balance has been struck in relation to the options within square brackets in the rolling text relating to the consequences should a state party not have submitted its initial declarations within one year or its annual declarations within six months after the deadlines specified in Article 4. It has adopted a three tier approach which combines some automatic measures with some conditional measures which have to be considered by the Executive Council:

- If the state party has not submitted its initial declarations within one year or its annual declarations within six months after the Article 4 deadlines then it shall not have access to the declarations of other states parties.
- In addition, the Executive Council shall consider whether to apply one or more of three further measures until the declarations are received.
- If the state party has not submitted its initial declarations within two years or its annual declarations within a year after the deadlines specified in Article 4, then two further measures shall apply until the declarations are received.

**Article 6 Follow-up after submission of declarations** Article 6 is developed from and is based on the provisions and language in Article III. Declarations II. Follow-up after the submission of declarations in the rolling text. Article 6 is subdivided into four sections (A–D).

**A. The role of the Technical Secretariat** starts with paragraphs identical to the first two in Article III. D. II of the rolling text. Its third paragraph states what the Technical Secretariat is to do to promote the fulfilment of the declaration obligations under the Protocol — to process and make a technical analysis of the declarations, conduct a limited number of randomly-selected transparency visits to facilities declared in accordance with certain paragraphs in Article 4, seek clarification should any ambiguity, uncertainty, anomaly or omission be identified in the content of a declaration, provide technical assistance to states parties and help them compile their declarations including a voluntary assistance visit, if requested. The fourth paragraph relates to the procedures whereby a state party may seek a clarification regarding the declaration of another state party; the state party seeking clarification can do so either using the provisions of Article 8 Consultation, Clarification and Cooperation or by using the clarification process in this Article.

The next ten paragraphs relate to the allocation of the different types of visits, the selection of facilities for randomly-selected transparency visits, the limitations on such visits and on voluntary clarification visits, the review of these provisions by the first and subsequent Review Conferences and the annual programme of visits and its review by the Executive Council. The key elements are:

- An overall limit for the total number of all visits in any calendar year of 120 — with provision for the Director-General to conduct less in the light of declarations submitted and visits requested.
- Limits for the number of randomly-selected transparency visits of not more than 75% and not less than 50% of the total number of visits — i.e. between 60 and 90 such visits.
- Limits for the number of voluntary assistance visits of not more than 25% and not less than 5% of the total number of visits — i.e. between 6 and 30 such visits.
- Any clarification visits are deducted successively from the number of randomly-selected transparency visits and the number of voluntary assistance visits whilst ensuring that the minimum numbers of such visits are conducted.

Provision is also made for the first and subsequent Review Conferences to revise the total number of visits and their allocation between the different categories in the light of the experience gained in the implementation of the Protocol.

In addition limits are placed on the numbers of visits so that they are distributed equably among the states parties:

- No state party shall receive more than seven randomly-selected transparency visits in any calendar year.
- Each state party which declares facilities shall receive at least two randomly-selected transparency visits in any five-year period.
- No individual facility shall receive more than three randomly-selected transparency visits in any five year period.
- The probability of a state party receiving a visit shall be proportional to the number of declared facilities in that state party taking into account the limits detailed in the preceding bullets.

Insofar as voluntary clarification visits are concerned, no state party shall receive more than five such visits in any five-year period.

It is thus evident that the composite Protocol text has adopted a number of compromises which together ensure an effective follow-up after the submission of declarations with an equable spread of visits between states parties and across the range of facilities subject to this Article.

**B. Randomly-selected transparency visits** is closely based on the provisions and language in Article III. D. II (A) Randomly-selected Visits in the rolling text. The purpose of randomly-selected transparency visits is clearly set out as:
• Increasing confidence in the consistency of declarations with the activities of the facility and encouraging submission of complete and consistent declarations;
• Enhancing transparency of facilities subject to the provisions of this section;
• Helping the Technical Secretariat to acquire and retain a comprehensive and up-to-date understanding of the facilities and activities declared globally.

In addition, randomly-selected transparency visits can be extended by up to two days if requested in order for the visiting team to provide assistance on any of the subjects or programmes listed in the relevant paragraphs of Article 14.

The detailed provisions for carrying out such randomly-selected transparency visits are essentially the same as in the rolling text. It is made clear that the visited state party shall provide access to the visiting team within the facility sufficient to fulfil its mandate whilst leaving the nature and extent of all access inside the facility, and to the information it contains, to the discretion of the visited state party.

C. Voluntary assistance visits contains essentially the same provisions as in Article III. D. II (A) Voluntary Assistance Visits in the rolling text.

D. Declaration clarification procedures is closely based on the provisions and language in Article III. D. II (A) Declaration Clarification Procedures in the rolling text. The composite Protocol text has adopted a compromise in that it provides an option as to whether such clarification is carried out using the procedures set out in Article 6 or by the consultation, clarification and cooperation procedures set out in Article 8. In the particular case of clarification requests relating to a facility which is believed to meet the criteria for declaration and which has not been declared, then the state party from whom clarification is requested may at its discretion respond either using the procedures in Article 8 or the procedures in Article 6.

Insofar as the Director-General is concerned, a compromise has been adopted under which the Director-General can initiate the declaration clarification procedure in regard to the content of a declaration submitted by a state party but in respect of a facility which is believed to meet the criteria for declaration and which has not been declared, the Director-General may request the state party to submit a declaration for the facility concerned.

The detailed procedures are closely similar to those in the rolling text. However, should the declaration clarification procedure not resolve the issue and if a requested voluntary clarification visit is not offered, then the Director-General shall make a report to the Executive Council. The composite text sets out a range of decisions that might be taken by the Executive Council including the decision initiate a clarification visit. It is clear that the composite text has taken care to strike a balance between the interests of all delegations.

Article 7 Measures to strengthen implementation of Article III of the Convention Article 7 has been developed from Article III. F. Measures to strengthen the implementation of Article III. The title has been modified to make it clear that these are measures related to BWC Article III. Article 7 has been restructured, thereby improving clarity, into five sections (A–E).

A. Implementing Legislation contains language from Article III. F of the rolling text requiring states parties to review, amend or establish any legislation, regulatory or administrative provisions to regulate the transfer of agents, toxins, equipment and technologies relevant to the BWC, providing assistance from the Technical Secretariat in this respect and requiring states parties to report any legislative, regulatory or administrative provisions or other measures it has taken to implement Article III of the Convention.

B. Transfer Guidelines draws upon language from Article III. F of the rolling text and requires states parties to take all measures they deem necessary to ensure that BWC Article III obligations are implemented fully and effectively. Measures are also required to ensure that transfers to any recipient whatsoever of dual-use items are only used for prophylactic, protective or other peaceful purposes; these may include four measures which are set out. Four particular dual-use items are identified to which such measures are to be applied to ensure that their use is only for prophylactic, protective or other peaceful purposes to be taken.

C. Notifications requires states parties to use the reporting format in Appendix I to notify the Director-General annually of aggregate data on exports of the four particular dual-use items identified in Section B.

D. Consultations provides for states parties to consult among themselves on the implementation of the provisions of this Article and also with a view to specifying the context of a request for a transfer. It also provides for a state party, which has a concern that an authorised transfer could be in violation of Article III of the Convention, to consult directly with the transferring state party. Additional supporting information that might be provided during these consultations is elaborated.

E. Review provides for the first Conference of States Parties held after the first Review Conference of the Protocol to review the operation of the provisions of this Article and to consider whether the introduction of restrictions or prohibitions on transfer to states not party to the Protocol or the Convention of the four particular dual-use items identified in Section B would further universal adherence to the Protocol. Subsequent Review Conferences shall keep under review the provisions of this Article.

Article 7 has struck a balance between the range of different views as to how the implementation of Article III of the BWC should be improved. It has addressed the difficult issue of how to improve the implementation of BWC Article III through requiring states parties to take necessary implementing legislation; setting out transfer guidelines; requiring annual notifications of aggregate data for four particular dual-use items; providing for consultations; and requiring the implementation of these provisions to be kept under review.

Article 8 Consultation, Clarification and Cooperation Article 8 sets out the provision that states parties should consult and cooperate directly among themselves on any matter relating to the purpose and objective of the Convention, or the implementation of the provisions of the Protocol, and clarify and resolve any matter which may raise concern about possible non-compliance with the obligations of this Protocol or the Convention. It follows closely the language in Article III. E Consultation, Clarification and Cooperation of the rolling text. Article 8 has in some paragraphs simplified the rolling text by removing unnecessary
Article 9 Investigations  Article 9 is largely based on the provisions and language in Article III. G. Investigations of the rolling text. It is subdivided into nine subsections (A–I).

A. Types of Investigations  sets out the two types of investigation: field and facility investigations using language that is essentially identical to that in the rolling text.

B. Outbreaks of Disease  has language that is essentially identical to that in the rolling text with some small variations in the titles of subheadings and of the language. This section deals with outbreaks of disease and the circumstances under which a field investigation of an outbreak of disease can be requested to address a non-compliance concern. It is also made clear that reports coming exclusively from the mass media cannot be regarded as evidence.

C. Consultation, Clarification and Cooperation  has language that is closely based on that in the rolling text and requires that states parties should, whenever possible, consult between themselves in accordance with Article 8 about any matter that causes concern about compliance with the Convention.

D. Initiation of Investigations  and E. Information to be Submitted with a Request for an Investigation to Address a Concern of Non-compliance with the Convention have language that is essentially identical to that in the rolling text.

F. Follow-up after Submission of an Investigation Request and Executive Council Decision-making  is based upon and developed from the language in the rolling text. Section F has adopted a compromise in respect of the Executive Council decision making in which different decision-making procedures are to be followed depending on the particular circumstances relating to the investigation:

- A request for a field investigation of alleged use of biological weapons on the territory or other place under the control of the requesting state party shall proceed unless a three-quarters majority of members present and voting decide otherwise.
- A request for a field investigation of alleged use of biological weapons on the territory or other place under the control of another state party shall proceed unless a simple majority of members present and voting decide otherwise.
- A request for a field investigation on the territory or other place under the control of a requesting state party where there is a concern that an outbreak of disease is related to prohibited activities shall proceed unless two-thirds of members present and voting decide otherwise.
- A request for a field investigation on the territory or other place under the control of another state party when there is a concern that an outbreak of disease is related to prohibited activities shall proceed only if approved by a simple majority of members present and voting.
- A request for a facility investigation should proceed only if approved by a simple majority of members present and voting.

The key thing is that in all these cases an investigation will take place if the Executive Council so decides thereby providing the Protocol with the essential ultimate measure to address concerns about non-compliance with the BWC.

G. Access and Measures to Guard Against Abuse During the Conduct of Investigations  is closely based on the language in the rolling text. Essentially the receiving state party is obliged to make every reasonable effort to demonstrate its compliance with the Convention and to enable the investigation team complete its mandate. However, the nature and extent of access shall be negotiated between the investigation team and the receiving state party with the receiving state party having the right to make the final decision on the nature and extent of access, taking into account its rights and obligations under the Protocol. The composite Protocol text has thus struck a reasonable balance to ensure that investigations can be carried out effectively whilst safeguarding the interests of the receiving state party.

H. Final Report  is essentially identical to the language in the rolling text.

I. Review and Consideration of the Final Report  is essentially identical to the language in the rolling text with the addition of a new paragraph which usefully specifies that, in the event of non-compliance being determined, the Executive Council shall circulate the final report to all state parties before the meeting of the Conference of State Parties.

Article 10 Additional provisions on declarations, visits and investigations  Article 10, addressing declarations, visits and investigations on the territory of a state party but falling under the control of another state party/party, closely follows the language in Article III H. Additional Provisions of the rolling text. Article 10 has struck a balance between the alternative language in the rolling text and has also introduced a new Appendix G Facilities existing in the territory of a State Party but falling under the control of another State Party/Party which is to be completed by the state party on whose territory the facility exists; this simply requires answers to some yes/no questions. The overall thrust of Article 10 is not substantively different from that in the rolling text: Article 10 provides a useful complement to the regime in regard to declarations, visits and investigations under such circumstances.

Article 11 Confidentiality provisions  The six paragraphs of Article 11 are essentially identical to the first six of Article IV Confidentiality Provisions in the rolling text. The other paragraphs in Article IV which were within square brackets and which reproduced the language of Annex D which was out of square brackets apart from a single paragraph are included in the composite text in the Annex on Confidentiality Provisions (Annex C). The square brackets have been removed from the only paragraph in Annex D which had been within them — this obliges observers and states parties sending observers to an investigation to protect confidential information should such information be disclosed to or acquired by such observers during an investigation.

Article 13 Assistance and protection against bacterial (biological) weapons  Article 13 is largely unchanged from Article VI Assistance and Protection against Biological and Toxin Weapons in the rolling text. There are a number of small changes relating to text that had been within square brackets in the rolling text:
• Paragraph 1. The phrase “including biosensors” which had been in square brackets is included in the composite Protocol text. Given that biosensors are frequently an integral part of detection equipment, the inclusion of the words “including biosensors” provides a useful clarification which does not significantly amend the substance.

• Paragraph 3. This has been simplified by the removal of the clauses in square brackets making it identical to the corresponding paragraph in Article X of the CWC.

• Paragraph 9. The square brackets around the word “serious” have been removed making it identical to the corresponding language in Article X of the CWC.

• Paragraph 10. The rolling text had alternative forms of words within square brackets. The composite text requires requests for assistance when a state party considers that biological or toxin weapons have been used against them to be accompanied, either simultaneously or within 24 hours by a request for an investigation.

• Paragraph 11. The rolling text had various times within square brackets. The composite Protocol text has these square brackets removed and the time during which the Director-General shall initiate an examination of the request has been increased from 12 to 24 hours — the same time as the corresponding requirement in Article X of the CWC. The final sentence of paragraph 11 which had several square bracketed alternatives has been simplified without any change of substance.

• Paragraph 12. The rolling text had various times within square brackets. The composite Protocol text has these brackets removed. The times are identical to those in the corresponding paragraph in Article X of the CWC.

Article 14 Scientific and technological exchange for peaceful purposes and technical co-operation

Article 14 is largely unchanged from Article VII Scientific and Technical Exchange for Peaceful Purposes and Technical Cooperation in the rolling text. Article 14 is subdivided into seven subsections (A–G).

A. General Provisions is closely based on the language in Article VII (A) General Provisions. In paragraph 1 (c) the composite Protocol text has simplified the text and has struck a balance by adopting the word “through” and in the second paragraph it has simplified the language so that the Organization shall provide a forum for the review of the implementation of Article X of the Convention.

B. Measures to Promote Scientific and Technological Exchanges is closely based on that in Article VII (B) Measures to Promote Scientific and Technological Exchanges. The composite Protocol text contains a different formulation in paragraph 3 — and elsewhere in the text — using “microbial and other biological agents” instead of the formulation “bacteriological (biological) agents” in the rolling text. This formulation reflects the language in BWC Article I. In paragraph 4, the composite Protocol text has removed the square brackets around “where appropriate” in the rolling text and has given the names of the various international organizations and agencies in full instead of using their abbreviations as in the rolling text. There are a number of changes to the subparagraphs in paragraph 4:

• (a) — “microbial or other biological agents” replaces the more limited “microorganisms” in the rolling text. This change has also been made in various other paragraphs of this Article. The phrase “prophylactics and protection” has replaced the term “biodefence” which had been in square brackets in the rolling text.

• (c) and (d) — The composite text contains a simpler and broader form of words — “including laboratories” and “including research institutes” — than the more limited language in square brackets in the rolling text.

• (h) — The composite text contains a simpler solution to the alternatives in square brackets in the rolling text.

• (i) — The composite text contains the broader language of “prophylactics and protection” instead of “biodefence” which had resulted in this subparagraph being within square brackets. The broader language makes the subparagraph entirely appropriate to this Article.

• (k) — The composite text has removed the square brackets from this subparagraph in the rolling text thereby making provision for this Article to address whatever future specific measures might be approved by the Conference of the States Parties to improve the implementation of Article X of the BWC and this Article.

C. Measures to Avoid Hampering the Economic and Technological Development of States Parties strikes a balance in paragraph 6 between the different alternatives within square brackets within the rolling text. It also removes the paragraph in the rolling text which had stated the obvious that states parties have the right to seek measures in accordance with Article V of the Protocol.

D. Institutional Mechanisms for International Cooperation and Protocol Implementation Assistance is closely based on the language in Article VII (D) Institutional Mechanisms for International Cooperation and Protocol Implementation Assistance in the rolling text. In respect of the Cooperation Committee, paragraph 7 of the composite text in the first sentence has added a formulation that links this paragraph back to paragraph 2 of this Article. In the second sentence it has removed from square brackets the word “monitor” in the rolling text and removed the additional wording in square brackets in the rolling text. The final sentence has been streamlined through a further reference back to paragraph 2 of this Article. The composite text has in paragraph 8 adopted language on the size of the Cooperation Committee and its distribution amongst the regional groups. The size of 57 is six larger than the Executive Council with each regional group having one more representative than in the Executive Council. The remaining paragraphs relating to the Cooperation Committee set out more clearly the provisions already agreed in the rolling text.

In respect of the role of the Technical Secretariat the composite text in paragraph 21 (a) has adopted a compromise drawing upon language and ideas in the three options in the rolling text. In subparagraphs (h) and (i), the composite text has removed language within square brackets in the rolling text. The composite text then includes at this point a paragraph which occurred later in the rolling text and requires the Technical Secretariat to contain a department devoted to implementation of this Article thereby underlining the importance to the regime of the contribution coming from the implementation of BWC Article X.

E. Review and Consideration of Concerns Related to the Implementation of Article X of the Convention and this Article adopts streamlined language in paragraph 28 which addresses the concepts relating to the actions that may
be taken by the Executive Council in considering concerns about the implementation of Article X of the Convention and this Article which has been contained in two paragraphs within square brackets in the rolling text.

F. Co-operative Relationships with Other International Organizations and Among States Parties. The composite text in paragraph 29 has added an introductory phrase outlining the objectives of such co-operative relationships. It has also given the names of the various international organizations and agencies in full instead of using their abbreviations as in the rolling text. In paragraph 30 it has removed this paragraph from the square brackets in the rolling text thereby including possible ad hoc collaborative arrangements with non-governmental organisations as it is not possible to predict what future NGOs might exist and be appropriate to enter into such arrangements.

G. Declarations is essentially identical to the language in the rolling text apart from the removal of the paragraph within square brackets.

**Article 15 Confidence-building measures** Article 15 has identical language to that previously within overall square brackets in Article VIII of the rolling text.

**Article 16 The Organization** Article 16 is essentially identical to the language in Article IX The Organization in the rolling text apart from a few areas where compromises have been adopted. One such area relates to the size of the Executive Council in which the composite Protocol text has a membership of 51 comprising of 11 states parties from Africa, 7 from East Asia and the Pacific, 7 from Eastern Europe, 9 from Latin America and the Caribbean, 12 from the Western European and other States and 5 from West and South Asia. A second area is in Section E. Privileges and Immunities where language providing for the concept of the waiving of the immunity of the Organization or of the Director-General has not been included. This exclusion parallels the situation that applies under the CWC to the Organization for the Prohibition of Chemical Weapons.

**Legal Issues**

The term legal issues is used in this description and analysis to refer to those Articles in the composite text that in the rolling text had been developed by the Friend of the Chair on Legal Issues together with Article 17 National Implementation Measures which in the rolling text had been developed by the Friend of the Chair on national implementation/assistance. As most of these Articles had already reached the stage of clean text, free from square brackets, the composite text is identical in many Articles to that in the rolling text. The following table indicates which Articles have essentially identical text to that in the rolling text.

<table>
<thead>
<tr>
<th>Composite Protocol text (AHG/56 (Annex B))</th>
<th>Rolling text (AHG/56 (Annex A))</th>
</tr>
</thead>
<tbody>
<tr>
<td>Article 12 Measures to redress a situation and to ensure compliance</td>
<td>As Article V Measures to redress a situation and to ensure compliance with removal of brackets from final para so that the issue can be brought to the attention of both the General Assembly and the Security Council.</td>
</tr>
</tbody>
</table>

Those Articles for which there have been changes from the rolling text are considered briefly:

**Article 12 Measures to redress a situation and to ensure compliance** is identical to Article V in the rolling text with the removal of the square brackets from the final paragraph so that the issue can be brought to the attention of both the General Assembly and the Security Council. This provision is identical to the provision in the corresponding Article XII in the Chemical Weapons Convention.

**Article 17 National implementation measures** is identical to Article X in the rolling text with the removal in para 1 (a) of the words within square brackets. The words in square brackets in Article X referred to Article I of the Protocol; no such cross-reference is necessary to the provisions in Article 1 General Provisions of the composite Protocol text. This is because Article 1 does not add further prohibitions. Instead, it reaffirms the obligations already contained in the Convention. Linkage with Article 1 of the Protocol is already ensured by the similarity of Article 1 paragraph 8 with Article 17 paragraph 1.

**Article 19 Settlement of disputes** is identical to Article XII in the rolling text with the removal of overall square brackets from the fifth paragraph which states that this Article is without prejudice to Articles 3 to 12. It is essentially the same as the provisions in the final paragraph of the corresponding Article XIV in the CWC.
**Article 20 Review of the Protocol** is identical to Article XIII in the rolling text with the removal of an explanatory phrase “(hereinafter referred to as a "Review Conference")” from the first paragraph.

**Article 21 Amendments** is identical to Article XIV in the rolling text apart from the second sentence of paragraph 1 which states that any state party may propose changes, in accordance with paragraph 4, to specified parts of this Protocol or its Annexes or its Appendices and the requirement in the second paragraph being for one third or more states to support the holding of an Amendment Conference. This latter provision is identical to the provision in the corresponding Article XV in the CWC.

**Article 27 Entry into Force** consists of three paragraphs; the second and third paragraphs are identical to those in Article XX in the rolling text. The first paragraph contains language stating that:

This Protocol shall enter into force 180 days after the deposit of instruments of ratification by 65 States, which shall include seven States from Africa, four States from East Asia and the Pacific, four States from Eastern Europe, six States from Latin America and the Caribbean, nine States from among Western European and other States and three States from West and South Asia, but not earlier than two years after its opening for signature.

The number of states required to deposit their instruments of ratification broadly reflect the composition of the Executive Council which is specified in Article 16. This formulation avoids the situation in which a single state can effectively veto the entry into force of the Protocol through withholding its instrument of ratification.

Article 27 provides for entry into force to occur 180 days after the deposit of the 65th instrument of ratification — an identical provision to that of Article XXI of the CWC.

**Article 28 Reservations** is developed from Article XXI in the rolling text. The provision in Article 28 is that the Articles and Annexes in the Protocol shall not be subject to reservations and the Appendices shall not be subject to reservations incompatible with the object and purpose of the Protocol. It is essentially the same as the provision in the corresponding Article XXII in the CWC.

**Article 29 Depository** is identical to Article XXII in the rolling text with the UN Secretary-General designated as Depository and the other alternative deleted. This provision is identical to the provision in the corresponding Article XXIII in the CWC. A consequential deletion of the alternative has occurred in Article 22, paragraph 2 and Article 30.

**Article 30 Authentic Texts** is identical to Article XXIII in the rolling text with the UN Secretary-General as depositary and with London shown as the location at which the Protocol is signed. This provision is identical to the provision in the corresponding Article XXIV in the CWC apart from London appearing instead of Paris.

It is thus evident that for these 15 Articles in the Chairman’s composite Protocol text that the language is essentially identical to that in the rolling text; the single Article in which new language has usefully been introduced is in relation to Article 27 Entry into Force. The provisions in the Chairman’s composite Protocol text are essentially identical to those in the corresponding Articles of the CWC.

**Annexes and Appendices** The composite Protocol text has three Annexes:
- Annex on Lists (Annex A)
- Annex on Investigations (Annex B)
- Annex on Confidentiality Provisions (Annex C)

The Annex on Lists (Annex A) is, as already discussed under Article 3, closely related to the language in Annex A Declarations I Lists and Criteria (Agents and Toxins) and Annex A Declarations II List of Equipment of the rolling text. The Annex on Investigations (Annex B) is largely based on the language in Annex C Investigations of the rolling text although compromises have been adopted to resolve issues previously within square brackets in the rolling text. The Annex on Confidentiality Provisions (Annex C) is, as already discussed under Article 11, essentially identical to Annex D Confidentiality Provisions in the rolling text.

The composite Protocol text has nine Appendices:
- Appendix A Declarations of Offensive and/or Defensive Biological and Toxin Programmes and/or Activities Conducted Prior to Entry into Force of the Convention/Protocol for Each State Party
- Appendix B Declaration of Current National Biological Defence Programmes and/or Activities
- Appendix C Declaration Format for Facilities Declared in Accordance with Article 4 (6)
- Appendix D Declaration Format for Facilities Declared in Accordance with Article 4 (8) to (14)
- Appendix E Listing of Facilities in Accordance with Article 4 (7)
- Appendix F Listing of Facilities in Accordance with Article 4 (15)
- Appendix G Facilities Existing on the Territory of a State Party but Falling under the Jurisdiction or Control of Another State Party/State
- Appendix H Information to be provided in the Declarations Required under Article 14 (33)
- Appendix I Format for Reporting International Transfers of Equipment

These provide the formats for the various declarations and listing of facilities required under the Protocol.

**Analysis of the composite Protocol text**

The composite Protocol text is in many areas identical to the language in the rolling text and is firmly based on the agreed language out of square brackets in the rolling text. Compromises have been adopted to address those issues where there continued to be a divergence of views. These compromises have emerged from the bilateral informal consultations held by the Chairman and have been explored through the written elements addressing conceptual solutions based on the rolling text which had been circulated by the Chairman for virtually the whole of the Protocol to all delegations by February 2001. Whilst these compromises will not satisfy the aspirations of all the delegations to the Ad Hoc Group, they do successfully ensure that the composite text achieves its mandate of strengthening the effectiveness and improving the implementation of the Convention. The composite text may be regarded as retaining all the essential elements for an effective Protocol ranging from definitions and objective criteria, through compliance measures to measures for
scientific and technological exchange for peaceful purposes and technical cooperation.

In considering the composite Protocol text, it is important to remember that the BWC with its basic prohibitions and obligations has been in force for over 25 years and that the Protocol is to strengthen the effectiveness and improve the implementation of the Convention. It makes no changes to the basic prohibitions and obligations. The Protocol regime is supplementary and additional to the Convention.

The key comparison is thus between the Protocol regime and the BWC alone, including the procedures devolved from its provisions. A tabulation of the principal measures in the regime, compared with the procedures of the BWC alone, brings out the significant benefits from the Protocol:

<table>
<thead>
<tr>
<th>BWC and its Protocol Regime</th>
<th>BWC alone</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mandatory declarations — measures to ensure submission</td>
<td>Confidence-Building Measures — patchy and variable (if made)</td>
</tr>
<tr>
<td>Declaration follow-up procedures — analysis of declarations — randomly-selected transparency visits</td>
<td>None — none</td>
</tr>
<tr>
<td>Declaration clarification procedures — clarification visits</td>
<td>None — none</td>
</tr>
<tr>
<td>Voluntary assistance visits</td>
<td>None</td>
</tr>
<tr>
<td>Non-compliance concerns — Consultations &gt; &gt; &gt; Investigations</td>
<td>Art V consultation procedures Art VI complaint to UN Security Council</td>
</tr>
<tr>
<td>Field investigation</td>
<td>Possible UN Secretary-General investigation if invited by State Party concerned</td>
</tr>
<tr>
<td>Facility investigation</td>
<td>None</td>
</tr>
<tr>
<td>Transfer procedures</td>
<td>None</td>
</tr>
<tr>
<td>Assistance — provisions detailed</td>
<td>Art VII assistance if UN Security Council decides a Party has been exposed to danger</td>
</tr>
<tr>
<td>International Cooperation — elaborated in detail — Cooperation Committee</td>
<td>Art X provisions — no implementation procedures — none</td>
</tr>
<tr>
<td>Organization — CoSP, ExC &amp; Technical Secretariat</td>
<td>None</td>
</tr>
<tr>
<td>National implementation — Penal legislation required — National Authority</td>
<td>Art IV National implementation — No penal legislation requirement — None</td>
</tr>
</tbody>
</table>

Considering all of the elements of the BWC Protocol regime as a whole, there are overall three particularly significant benefits that will accrue from the BWC Protocol regime and which are not available with the Convention alone:

<table>
<thead>
<tr>
<th>BWC and its Protocol Regime</th>
<th>BWC alone</th>
</tr>
</thead>
<tbody>
<tr>
<td>Measures to increase transparency and build confidence</td>
<td>Suspicions not addressed — and over time reduce international confidence in the regime</td>
</tr>
<tr>
<td>Procedures to address non-compliance concerns</td>
<td>Art V consultations (no teeth) Art VI complaints to UN SC (not used)</td>
</tr>
<tr>
<td>International cooperation and assistance provisions</td>
<td>No action despite aspirations at successive Review Conferences</td>
</tr>
</tbody>
</table>

The Protocol regime thus brings significant and worthwhile benefits to all states parties — both developed and developing — over and above the procedures to uphold the basic prohibitions and obligations of the BWC, which remain unchanged. In addition, the Protocol will be effective, over time, in building confidence between states parties that other states parties are indeed in compliance with the BWC, thereby reinforcing the norm that work on biological weapons, whether directed against humans, animals or plants, is totally prohibited. The Protocol thus brings improved health, safety, security and prosperity to all states parties.

It is also appropriate to compare the BWC Protocol regime with the CWC regime. The CWC regime is of considerable relevance to the BWC Protocol regime for a number of reasons. First, there is a close relationship between chemical and biological weapons with the two regimes overlapping for the materials of biological origin such as toxins. Both regimes address dual-use materials and technology and both have general purpose criteria which embrace all possible agents, past, present and future. Indeed the CWC regime is the one of greatest relevance to the BWC Protocol regime and it is already evident that National Authorities for the two regimes are likely to be colocated in a number of countries.

It is hardly surprising that the BWC Protocol regime has been largely developed from the CWC regime; it is, however, much more elaborated than the CWC and has been finely tailored to address those biological agents and facilities of greatest relevance to the BWC. There are, however, some particular differences between the CWC regime and the BWC Protocol regime largely arising from the fact that the CWC came into force in 1997 with a number of states known to be possessors of chemical weapons and chemical weapon production facilities whilst the BWC came into force over 25 years ago. These differences are summarised in the Table:

<table>
<thead>
<tr>
<th>BWC and its Protocol Regime</th>
<th>CWC Regime</th>
</tr>
</thead>
<tbody>
<tr>
<td>No biological weapon stockpiles</td>
<td>Declaration of chemical weapon (CW) stockpiles</td>
</tr>
<tr>
<td>Declaration of past offensive biological weapon programmes</td>
<td>Declaration of chemical weapon production facilities (CWPFs)</td>
</tr>
<tr>
<td>No destruction of biological weapon stockpiles</td>
<td>Destruction of chemical weapon stockpiles</td>
</tr>
<tr>
<td>No destruction of biological weapon production facilities</td>
<td>Destruction of chemical weapon production facilities</td>
</tr>
<tr>
<td>No tight timeline</td>
<td>Tight timelines for declaration and inspection of CW and CWPFs</td>
</tr>
<tr>
<td>List of agents and toxins — No SSSF equivalent — Declaration trigger</td>
<td>Scheduled chemicals — Single small scale facility (SSSF) — Varying regime according to Schedule</td>
</tr>
</tbody>
</table>

If the CW and CWPF elements of the CWC are ignored, then the basic architecture of the BWC Protocol regime and the CWC regime is the same. The differences between them are in the details. The BWC Protocol regime is built upon the confidence-building measures agreed at the Second Review Conference in 1986, and extended at the Third in 1991, as well as the CWC regime. In respect of the monitoring of dual-purpose materials and facilities, the two regimes are very comparable, with the Protocol regime imposing a less onerous but more focused burden in respect of declarations.
Swiss pharmacologist Dr David Chu was the 131st witness for the State and the first to take the stand on 29 January. He gave evidence for the prosecution about his professional relationship with Dr Basson. Chu met Basson in late 1988, and two years later became managing director of Medchem Forschung, a company specifically set up by Basson to promote Roodeplaat Research Laboratories in Europe as a pharmaceutical contract research facility. During testimony Chu denied that he had known that Roodeplaat Research Laboratories was a biological warfare facility saying that he knew it only as a commercial biological research lab.

According to Chu, Medchem Forschung was unable to promote RRL internationally because of the facility’s failure to become GLP (Good Laboratory Practices) accredited.

The two regimes are compared in the following Table:

<table>
<thead>
<tr>
<th>BWC and its Protocol Regime</th>
<th>CWC Regime</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mandatory declarations</td>
<td>Mandatory declarations</td>
</tr>
<tr>
<td>— range of facilities (BL-4, BL-3, genetic modification, work with listed agents, production)</td>
<td>— focused on production of chemicals</td>
</tr>
<tr>
<td>— requires declaration of biological defence</td>
<td>— no declaration of chemical defence</td>
</tr>
<tr>
<td>— measures to ensure submission</td>
<td>— no measures to ensure submission</td>
</tr>
<tr>
<td>Declaration follow-up procedures</td>
<td>Routine inspections of Scheduled chemical facilities and DOC (discrete organic chemical) facilities</td>
</tr>
<tr>
<td>— analysis of declarations</td>
<td>— explicit not elaborated</td>
</tr>
<tr>
<td>— randomly-selected transparency visits</td>
<td>— implicit not elaborated</td>
</tr>
<tr>
<td>Declaration clarification procedures</td>
<td>No declaration clarification procedures</td>
</tr>
<tr>
<td>— clarification visits</td>
<td>— implicit not elaborated</td>
</tr>
<tr>
<td>Voluntary assistance visits</td>
<td>No provision for voluntary assistance visits</td>
</tr>
<tr>
<td></td>
<td>— implicit not elaborated</td>
</tr>
<tr>
<td>Non-compliance concerns</td>
<td>Non-compliance concerns</td>
</tr>
<tr>
<td>— Consultations &gt;&gt;&gt; Investigations</td>
<td>— Consultations &gt;&gt;&gt; Investigations</td>
</tr>
<tr>
<td>Field investigation</td>
<td>Investigation of alleged use</td>
</tr>
<tr>
<td>— includes investigation of releases</td>
<td>— no investigation of releases</td>
</tr>
<tr>
<td>Facility investigation</td>
<td>Challenge inspection</td>
</tr>
<tr>
<td>— team size and duration limited</td>
<td>— duration limited</td>
</tr>
<tr>
<td>Transfer procedures</td>
<td>Transfer controls</td>
</tr>
<tr>
<td></td>
<td>Assistance</td>
</tr>
<tr>
<td></td>
<td>— provisions similar to CWC</td>
</tr>
<tr>
<td>International Cooperation</td>
<td>International Cooperation</td>
</tr>
<tr>
<td>— elaborated in detail</td>
<td>— not elaborated in detail</td>
</tr>
<tr>
<td>— Cooperation Committee</td>
<td>— no provision for Cooperation Committee</td>
</tr>
<tr>
<td>Organization</td>
<td>Organization</td>
</tr>
<tr>
<td>— CoSP, ExC &amp; Technical Secretariat</td>
<td>— CoSP, ExC &amp; Technical Secretariat</td>
</tr>
<tr>
<td>— TS has role to analyse epidemiological information</td>
<td>— no parallel role</td>
</tr>
</tbody>
</table>

The similarities between the two regimes are apparent. It is evident that the BWC Protocol regime is considerably more elaborated, with limitations on the overall number of visits, team sizes and durations, than the CWC regime. There are, however, de facto limitations within the CWC regime through the annual scrutiny of the OPCW’s programme and budget by the Executive Council and the Conference of the States Parties. On the other hand, there are several areas where the BWC Protocol regime has additional provisions that are not specifically included in the CWC regime.

In making an overall comparison of these two regimes, consideration also has to be given to the intensity of the visits/inspections of the facilities declared under the two regimes (and ignoring the CWC inspection regime for chemical weapon, CWPFs and CW destruction facilities). It needs to be recalled also that the numbers of facilities declared under the BWC Protocol regime has been estimated by several European countries as being of the order of tens of facilities per European country; this can be compared to the UK declaration (Department of Trade and Industry, 1997 Annual Report on the Operation of the Chemical Weapons Act 1996 by the Secretary of State for Trade and Industry, February 1998) under the CWC of over 550 plants at over 150 sites. Consequently, it can be expected that the number of declared facilities under the BWC Protocol regime will be smaller by a factor of ten. The CWC regime has an intensity that varies depending on which Scheduled chemical is produced or used in a facility and reflects the risk to the Convention with Discrete Organic Chemical (DOC) facilities having a much smaller intensity of routine inspection. The BWC Protocol regime has an intensity of visits that is not dependent on the type of declared facility and should therefore ensure that all declared facilities that are subject to randomly-selected visits will over time receive such visits.

This review was written by Graham S Pearson, HSP Advisory Board

Proceedings in South Africa

The Continuing Trial of Wouter Basson

This report covers the period 29 January through 31 May 2001. A detailed account is posted on the HSP website.
Despite not doing the work expected Chu’s company received an amount of 150 000 Swiss francs from Basson. Chu testified to having opened personal bank accounts which were used by Basson. Large sums of cash in British pounds were deposited into the accounts. During cross-examination Chu admitted that these transactions were nothing more than money laundering. 

During cross-examination Cilliers said that Chu had not been completely frank with the court regarding the circumstances under which he met Basson. According to Cilliers, Chu introduced himself to Basson through his association with Jurg Jacomet, who was involved in a variety of sanctions-busting deals. He went on to say that it was because Chu was known to be involved in sanctions busting in East European countries and in money laundering that Basson had wanted to work with him. Chu denied these allegations.

Cilliers also claimed Chu was aware of Basson’s contact with the Libyan Intelligence community. Chu denied this saying that late in his association with Basson, Basson mentioned that Libya was a potential buyer for Roodeplaat Research Laboratories. Chu’s testimony concluded with him denying Cilliers’ allegation that he was aware that the money paid to Medchem Forschungs was of SADF origin. 

During early February prosecutor, Anton Ackerman (SC) called a number of former defence force soldiers to testify about their experiences in the Angolan conflict in the early and mid 1980s. The intention was to show no SADF combat troops deployed in Angola or the Namibian operational area were ever issued with NBC suits. These witnesses confirmed that they had never been issued with protective clothing, nor had they ever seen or heard of such items being available in the operational area.

During the second week of February the prosecutors called Antoinette Erasmus to testify. Erasmus is currently based in Canada. She told the court that in her opinion, Basson, Mijburgh and Swanepole all led luxurious lifestyles, which were not in keeping with their jobs at the time. Erasmus said that gifts bought for her by Basson were indicative that he had access to large amounts of money. These gifts included a Cartier wristwatch and a gold chain bought in England, which he gave her as a Christmas gift. During cross-examination Cilliers challenged Erasmus’s view that Basson had led a luxury lifestyle, saying that his lifestyle was in keeping with his position, perhaps slightly above average.

Former National Intelligence agent Cobus Engelbrecht, who was chief of the counter-intelligence operations section from 1990 to 1994 testified about the National Intelligence Agencies (NIA) surveillance of Basson. Engelbrecht said Basson was never the primary subject of surveillance or observation, but came to NIA’s attention through his association with Sol Pienaar, whose activities were being monitored from late 1991 to 1993 because of his links with Yusuf Murgham, a Libyan living in Harare at the time. Through their surveillance the NIA became aware of a trip Basson and Pienaar undertook to northern Africa.

The flight set off alarm bells at NIA’s counter-intelligence section. Murgham was already under surveillance at the time and there were many questions about his association with Pienaar. NIA strongly suspected Murgham of being involved in covert intelligence work. The flight by Basson and Pienaar served to deepen NIA’s interest in Murgham. Knowing that Basson had been a high-profile SADF officer involved with an ultra-sensitive project, NIA was immediately concerned that his contact with Libya could present a security risk. Some time later Basson met with three NIA agents including Michael Kennedy. Basson told the agents that he had suspected Murgham might previously have been involved in intelligence for Libya. Basson said he understood that Murgham was interested only in trade and “looking after his own interests”, although he had maintained contact with his principals in the intelligence community. Projects mentioned by Basson included the building of a railway line, oil imports and trade in fruit juices and clothing. Basson confirmed that a visit to Libya had already been made by a high level delegation in regard to building of a railway line. Basson assured NIA that his only interest lay in becoming a player in the world of finance, that he wanted to make money from commercial ventures, and to this end, was studying economics part-time.

Of crucial importance to NIA was whether or not Murgham knew who Basson really was, what project he had been involved in, and what his capabilities in the CBW field were. Basson repeatedly assured the NIA agents during the interview that Murgham had no knowledge of his military background, or the project. He knew Basson only as a businessman.

In cross-examination, Adv Jaap Cilliers claimed that the intelligence agency had its sights set on Basson from 1990/91, when they were informed by the American intelligence service that Basson was making regular trips to Libya, and asked what these were about. The trips had been picked up, said Cilliers, through Basson’s flights to Jerba in Tunisia. Engelbrecht denied knowledge of this and said the first flight that drew NIA’s attention to Basson’s Libyan links, was the one with Pienaar in mid-93. Cilliers said that during the first interrogation session with the intelligence agency, Basson had lied. He denied that his Libyan connections had anything to do with CBW – but this was deliberate, said Cilliers, and it was only afterwards that he received orders from former surgeon-general Niel Knobel to put all his cards on the table with NIA and then he provided details of the Libyan CBW programme. Engelbrecht said there were several debriefing sessions following the international demarches, but he cannot remember the Libyan CBW programme ever being brought up. The debriefings dealt with South Africa’s CBW programme.

During the cross-examination Cilliers referred to Basson having been arrested in Libya towards the end of 1994 but gave no details of the incident and Engelbrecht said he was not aware that this had been the case. At the end of February, prosecutor Torie Pretorius made an application to the court to have the transcript of the NIA’s interrogation of Basson submitted as evidence. His application was rejected by the Judge who ruled it inadmissible. The state later called Sol Pienaar. Pienaar is an ANC member who had contact with various high-ranking ANC officials, including Nelson Mandela. Following Mandela’s release, Pienaar was in charge of arranging all his flights and those of other senior ANC officials, and when Mandela flew anywhere, Pienaar accompanied him. Pienaar told the court he first met Basson at the beginning of 1993. At the time, the Libyan government wanted an internal railway line constructed. He was introduced to
Basson as an “international businessman” in South Africa who might be able to help. Pienaar told Basson from the outset that he was involved with the ANC, and close to Mandela. Basson showed great interest in the prospect of international business opportunities.

On 8 May 1992, Pienaar had met Yusuf Murgham in Harare in connection with the railway line project, and this had also been discussed with Mandela in the interim. Murgham was in charge of the visa section at the Libyan embassy in Harare, and it was his specific task to arrange visits to Libya. Asked if Murgham was involved in the Libyan intelligence service, Pienaar said anyone in a Department of Foreign Affairs visa section had intelligence contacts, but any suggestion that Murgham was a high-ranking Libyan intelligence agent was utterly untrue.

Pienaar told the court he had contacts within the Libyan intelligence service. He said that Murgham was never a high-ranking intelligence officer in that country. Pienaar said he had not been aware of Basson’s links with the Defence Force or the National party government and would not have done business with him had he known this. Pienaar was asked about the claim by Basson’s defence counsel that he had accompanied Basson on a trip to Libya to fetch cash for payment of Winnie Madikizela-Mandela’s legal fees. Pienaar denied this saying that the trial took place in the early 1990s, and it was not until 1993 that he first took Basson to Libya – and that was the only time they made the trip together. He also said that whilst he would have been prepared to undertake the task, he was never asked to do so.

In cross-examination, Cilliers challenged Pienaar’s statement that Basson had not met Murgham before he introduced the two men, and said that Basson had known Murgham for years before Pienaar introduced them. Pienaar denied this categorically. Cilliers claimed that Murgham was an important person in Libyan politics.

On 20 February, Rear-Admiral Paul Murray testified for the state. Murray was the SADF’s Chief of Staff Finance until his retirement in November 1993. Murray said that while he held this position the SADF annual budget was about R12 billion.

Murray was a member of the Co-ordinating Management Committee of Project Coast from 1992. Asked to comment on claims before the court that the CMC operated in terms of its own rules and regulations governing Coast finances, Murray confirmed that the was subject to Treasury rules and procedures.

said this was not true.

Murray confirmed that the was subject to Treasury rules and procedures. Unless the CMC had made special application Murray was unable to get copies of the minutes of CMC meetings prior to 1992.

Murray was the SADF’s Chief of Staff Finance. He was also unhappy with the way Coast finances had been run. His files contained no contracts for Coast acquisitions, as they ought to have, since all contracts entered into on behalf of the SADF should have been signed by the Chief of Staff Finance. Murray’s department was expected to make payments in terms of Coast contracts of which there was no record. He received a response from Basson who listed the outstanding contracts without providing copies of the contracts themselves. Murray never received copies of any contracts related to Project Coast. He was also unable to get copies of the minutes of CMC meetings prior to 1992.

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Special Forces in interrogation techniques. Among the students on this course was Dr Phil Meyer. She testified to having discussed chemical interrogation techniques with Basson. During cross-examination Cilliers said Basson had no recollection of the discussion.

The state closed its case against Basson on 1 March. The court was not in session between 2 and 12 March, proceedings resumed on 14 March 2001. Argument was presented by the defence team and prosecution team with regard to the dropping of charges against Basson. The state argued that none of the charges against Basson should be dropped at this stage of proceedings. Adv. Cilliers argued that the state’s case against Basson on the human rights violation charges was based on contradictory evidence and said that the state had failed to show that Basson was involved in a conspiracy to murder individuals in South Africa. The judge is expected to give a verbal ruling by mid-June whereafter the defence will present their case.

\[This review was written by Chandré Gould and Marlene Burger of The Chemical and Biological Warfare Research Project at the Centre for Conflict Resolution, an independent institute associated with the University of Cape Town.\]

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### News Chronology

**February through April 2001**

What follows is taken from issue 52 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 hard copy 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 Perry Robinson.

1 **February** The US National Institute of Justice, in collaboration with the Federal Bureau of Investigation and the Technical Support Working Group, is funding a threat-assessment study to define the chemical and biological agents that, in the words of an article from the NIJ in the newsletter of the National Domestic Preparedness Office [see 11 Dec 98], “domestic first responders are most likely to encounter and that terrorists are most likely to use”.

1 **February** In Geneva, at the Conference on Disarmament, the UK representative, Ambassador Soutar, speaks as follows: “Throughout the year, here in Geneva, 52 States Parties to the Biological Weapons Convention of 1972 continued to refine the text of a protocol to ensure compliance with the Convention. As a friend of the chair of the Ad Hoc Group, I can testify from personal experience to the intensification of work within the Group which occurred during the latter part of the year. By year end, the General Assembly had adopted, by consensus, a resolution calling for the convening of the Fifth Review Conference in December 2001. The United Kingdom believes that the negotiations can, and should, be completed before that deadline.”

1 **February** The European Parliament adopts a resolution opposing the use of chemical or biological agents to counter the cultivation of illicit crops [see 4 Jan]. Resolution B5-0087/2001, adopted by vote of 474-1, states that the European Union “must take the necessary steps to secure an end to the large-scale use of chemical herbicides and prevent the introduction of biological agents such as Fusarium oxysporum, given the dangers of their use to human health and the environment alike”.

2 **February** Iraq’s biological-weapons programme included production of Brucella bacteria, so a former UNSCOM inspector, Rod Barton of Australia [see 29 Jan], tells a briefing in Washington organised by the Monterey Institute Center for Nonproliferation Studies. He says: “Iraq claims they never worked on, never weaponized [Brucella]. We believe from the evidence we have there could be 2,000 litres. […] That’s based on the bacterial growth media that we know we have documentation for, arrived in the country and cannot still be accounted for.” He explains that the reason why there had been no mention of Brucella in any UN or UNSCOM report was because the evidence only emerged, from old records, in 1999. On the subject of whether Iraq has resumed production since the departure of UNSCOM inspectors in late 1998, Barton says: “They could have produced something but it is not likely that they have. They can produce BW indigenously, so if they wish, they could do it. But they probably did not do much because if the only motivation to acquire BW is to deter their enemies, they probably have enough. I don’t think they want large-scale production. They don’t need it to deter enemies, and they have other priorities.” A summary of the meeting is later posted on the Monterey Institute website.

2 **February** In Russia, the director-general of the Munitions Agency, Zinovy Pak, is quoted by the Moscow Izvestia on the major changes that are now taking place in the chemical weapons destruction programme [see 19 Jan] following the intervention of President Putin. Funding has increased sixfold, and the programme has been amended so that only three, not seven, full-scale chemdemil facilities will be built – at Gorny [see 21 Oct 00], Shchuch’ye and Kambarka [see 17 Dec 99 and 25 Oct 00]. At the other four stockpile locations, chemdemil activities are to be limited to the preliminary stages of dismantlement only, with agent-neutralization being conducted at the main plants after transportation there. This decision satisfies US preconditions for restoring assistance [see 30 Oct 00], and the US government has now, according to Pak, unfrozen its financial aid for the Shchuch’ye facility. Pak says, further, that all the prerequisites are now in place for his agency to meet its chemdemil obligations by 2007.

Shortly afterwards, on 5 February, the government, in resolution no. 87, approves the statute of the Federal Directorate for Safe Storage and Elimination of Chemical Weapons that is being established within the Munitions Agency [see 19 Jan]. The directorate is to be financed out of the Agency’s own budget. Its mandate is to implement the safe storage, transportation and elimination of chemical weapons. It is to be responsible for letting contracts, the accounting of munitions, custody of CW storage sites, and research and development on
chemdemil technologies. According to one analyst, “the status of a Federal Directorate is higher than that of an ordinary directorate and has few analogues in modern Russia.”

2 February At United Nations headquarters in New York, the Secretary-General’s Advisory Board on Disarmament Matters concludes its 36th session. The final summary statement by the chairman, Ambassador Nabil Fahmy of Egypt, includes this: “The fourth issue we addressed in detail concerned international regimes set to prevent the proliferation of weapons of mass destruction. While we agreed on the fundamental need for measures to prevent proliferation, many of us expressed the view that some of these controls were discriminatory in nature, especially to the extent that non-proliferation was being practised by some states as a policy totally divorced from the issue of disarmament. All of us agreed that these regimes should be dynamic in function and that they must respond to changing international environments, including specifically the deeper roots of the underlying conflicts that can lead to proliferation. Concern was raised about possible ramifications of some regimes on civilian development. All of us see such regimes and global disarmament obligations as twin — and inseparable — means of serving the interests of international peace and security. They should not be viewed as ends in themselves. We agreed on the need for these regimes to increase their transparency and to promote greater consultation between regime members and with non-members.”

4 February North Korean CBW weapons facilities are described in the Seoul Tong-a Ilbo. Quoting an article in the latest issue of a Chinese quarterly by Han Peishi, a researcher at Unit 87027, Shenyang Military Region, the newspaper reports: “North Korea has nine facilities, such as the Aoji Chemical Depot, the Ch’ongjin Chemical Depot and the Hamhung 28 Vynalon Factory, that produce chemical weapons. The Central Biological Research Institute, the Military Prevention Medical Unit, and Chongju No. 225 Factory are equipped with facilities to produce biological weapons. [...] In particular, they can annually produce more than 5,000 tonnes of chemical weapons, including hematic, tear-gas and blister agents. It has also been revealed that about 1 tonne of biological weapons of 13 types, such as cholera, typhus and anthrax germs, can be annually produced and preserved.”

4 February In Britain, the London Sunday Times prints an excerpt from The Big Breach: From Top Secret to Maximum Security, the book by Richard Tomlinson [see 20 Aug 99], a former CBWCB 52 Page 34 June 2001
described in the Seoul Tong-a Ilbo. Quoting an article in the latest issue of a Chinese quarterly by Han Peishi, a researcher at Unit 87027, Shenyang Military Region, the newspaper reports: “North Korea has nine facilities, such as the Aoji Chemical Depot, the Ch’ongjin Chemical Depot and the Hamhung 28 Vynalon Factory, that produce chemical weapons. The Central Biological Research Institute, the Military Prevention Medical Unit, and Chongju No. 225 Factory are equipped with facilities to produce biological weapons. [...] In particular, they can annually produce more than 5,000 tonnes of chemical weapons, including hematic, tear-gas and blister agents. It has also been revealed that about 1 tonne of biological weapons of 13 types, such as cholera, typhus and anthrax germs, can be annually produced and preserved.”

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5-8 February In Moscow, OPCW Director-General José Bustani holds meetings with senior officials on the implementation of the chemical demilitarization programme in Russia [see 2 Feb]. Among the officials with whom he meets are the foreign minister, Igor Ivanov, the deputy prime minister, Ilya Klebanov, the speaker of the State Duma, Gennadiy Seleznyov, the chairman of the State Commission for Chemical Disarmament, Sergei Kiriyenko [see 19 Jan], and the Director-General of the Munitions Agency, Zinoviy Pak. During his meeting with Seleznyov, Bustani emphasizes the ‘possessor pays’ principle of the CWC: “I hope there will be progress with the funding issue in Russia. The international community should have confidence in Russia’s commitment to destruction of chemical weapons.” According to an Izvestia report, Bustani stressed that the OPCW was not merely a technical body and could “take unusual political measures” in cases of non-compliance. During their meeting, Pak informs Bustani that a new chemdemil programme will be submitted to President Putin in March, according to which Russia will begin to destroy chemical weapons “in the second half of the year”, so a Munitions Agency spokesman is reported as saying. The weapons to be destroyed are shells filled with phosgene, considered to be Category 2 weapons under the CWC. They will be destroyed at the Shchuch’ye storage facility. According to a Munitions Agency expert, Alexander Ivanov, “destroying phosgene is relatively easy and cheap compared to more deadly chemical weapons. We would need more American help to build more complex disposal facilities in Shchuchye.” Pak also tells Bustani that under the new plan mobile equipment would be used to neutralize the contents of 400 tons of nerve gas shells, thereby fulfilling the first intermediate destruction deadline for Category 1 chemicals for which Russia was granted an extension.

6 February In Manhattan, in the US District Court where the trial began the day previously of four men accused of involvement in the 1998 bombings of two US embassies in East Africa, prosecution witness Jamal Ahmed al-Fadi, hitherto known in public only as Confidential Source 1, takes the witness stand to suppress. The excerpt notes the attention of SIS to the proliferating of weapons of mass destruction.

5 February Canada is to spend Can $250 million over the next eight years on its largest-ever programme to procure NBC defence equipment for Canadian Forces. The spending reverses budget cuts in the early 1990s. The purchases, which are to be in seven main areas, will include 10,000 Hot Weather Chemical Warfare Garments, decontamination systems, portable collective protection, detection, identification and warning systems for biological and chemical agents, and research into a lightweight chemical defence garment and next generation respiratory protection. The improvements are expected not only at enhancing battlefield protection but also at upgrading Canadian Forces ability to deal with incidents of CBW terrorism.

6 February In Tokyo District Court, the 20th hearing takes place in the lawsuit filed in 1987 by the group of 180 Chinese plaintiffs who are seeking governmental apology and compensation for deaths of relatives during biological experimentation in China by Unit 731 of the Imperial Japanese Army [see 24 Jan]. There is testimony for the plaintiffs from Takao Matsunaga, professor of history at Keio University, and from writer Shojo Kondo, both of whom speak of ways in which the activities of Unit 731 have been covered up since 1945.

6 February In Washington, US Secretary of State Colin Powell and UK Foreign Secretary Robin Cook hold a joint press conference. Secretary Cook says: “Finally, we both agreed that it is vital for security in the Gulf that Saddam Hussain is defeated in his ambitions to develop nuclear, chemical or biological weapons with which to threaten his neighbours and his own people. We agreed that our officials should meet over the coming weeks to ensure that our policy in Iraq is focused on that clear priority”. During the discussions, Powell and Cook also consider ways in which to target UN sanctions more specifically on Saddam and his regime, rather than the general population. According to reports, Powell signalled that less attention should be focused on trying to get UN inspectors back into Iraq, rather a system of inspections at points of import on Iraq’s borders should be established.
7 February The UK Defence Ministry publishes a paper, *The Future Strategic Context for Defence*, outlining the implications for UK defence policy of recent events and emerging trends. The assessment extends to 2030 with the caveat that “the further one looks ahead, the less confident it is possible to be in the robustness of the analysis.” Developments and trends are divided into the following seven broad ‘dimensions’: physical; technological; economic; social and cultural; legal, moral and ethical; political; and military. On the technological dimension, the paper includes the following on genetics: “Our understanding of the function of specific genes will improve dramatically. It is possible that some might attempt to harness this for genetic warfare or biogenetic terrorism, such as targeting food sources, against which we would need to develop defensive measures. It is also possible that new antibiotic-resistant diseases could develop or be developed, increasing levels of sickness and likelihood of death.”

Three paragraphs of the ‘military dimensions’ section address the proliferation of weapons of mass destruction:

“(88) We can expect some states to continue to pursue programmes to develop nuclear, biological and chemical (NBC) weapons, and associated delivery systems, particularly missile delivery systems, in the face of international condemnation. The relative cheapness and simplicity of initiating biological warfare (BW) and chemical warfare (CW) programmes may prompt others to follow suit. Where states develop such weapons, this is likely to be primarily with a view to limited regional or internal use. Detection and prevention of trade in WMD-related technologies, particularly those relevant to CW and BW, has proved difficult. The expansion of electronic communications and the Internet and continuing growth in the volume of international trade will make it increasingly difficult to contain the spread of relevant technology and know-how. The likelihood of non-state actors, including terrorist and criminal groups, having access to CW or BW will increase. Developments in BW may make them more deployable, whilst better systems for dispersal of CWB are likely to be developed.

“(89) At present the UK remains out of the range of missiles and aircraft from proliferating states. At current rates of progress, it seems likely that, well before 2030, one or more of these states will have ballistic missiles capable of reaching the UK carrying chemical or biological payloads and, potentially, nuclear weapons. … The risk of air-launched WMD attacks will remain very low. The possibility of terrorist use of WMD over the 30 year period is less easy to assess.

“(90) Deterrence policies may not prove effective against small scale use of CW or BW, especially attacks on deployed troops or ‘untraceable’ terrorist attacks. Proliferation of WMD and missile-related technologies will be difficult to prevent, especially as for some regimes they represent a rare opportunity to generate foreign income. We should also be aware that some states may not respond to deterrence as we might expect, and that technological developments will affect both offensive capabilities and the active and passive counter measures available.”

On the subject of arms control, the paper states that “the overall effects of arms control agreements on our national security will almost invariably be positive, although they place some restrictions on the activity of UK forces and may thus increase risks.” The paper goes on to say that “ingenuity will be required to improve the effectiveness of arms control and export control agreements, including through compliance monitoring and verification, in a world where advanced dual-use technologies are increasingly accessible.”

7 February The US Energy Department’s Inspector General publishes a report critical of safety conditions and oversight procedures in several US nuclear-weapons laboratories where bioweapons materials are being studied. The work is part of a $90 million programme to improve the detection of biological warfare agents and to develop countermeasures against potential attacks. The Inspector General’s report finds that “the Department’s biological select agent activities lacked organization, coordination and direction. Specifically, the Department’s activities lacked appropriate Federal oversight, consistent policy, and standardized implementing procedures, resulting in the potential for greater risk to workers and possibly others from exposure to biological select agents and select agent materials.” Responding to the report, a spokesman for the Department’s National Nuclear Security Agency says that most of the deficiencies are “procedural” and that many had either already been fixed or were in the process of being corrected.

The agents being used in DoE laboratories include *Bacillus anthracis*, *Yersinia pestis*, *Brucella abortus*. DNA of select agents and toxins such as botulinum toxin and ricin. The report adds that “most of the Department’s activities to date have involved select agent toxins, DNA of biological select agents, and nonviable (attenuated or dead) forms of biological select agents. However, activities by DoE laboratories, including those managed by the NNSA, are beginning to involve infectious (potentially lethal) forms of biological select agents that pose a greater risk to employees. For example, two of the Department’s laboratories are currently receiving intact botulinum toxin for experimentation, while another laboratory has initiated experiments with the infectious form of *Y. pestis* and *B. anthracis*.” Laboratories identified by the report as conducting experiments with biological select agents include: Brookhaven National Laboratory; Idaho National Engineering and Environmental Laboratory; Lawrence Berkeley National Laboratory; Lawrence Livermore National Laboratory; Los Alamos National Laboratory; Oak Ridge National Laboratory; Sandia National Laboratory (at both New Mexico and California).

7 February In the US Senate, the Select Committee on Intelligence holds its annual hearings on *The Worldwide Threat*. Testifying are Director of Central Intelligence George Tenet, the director of the Defense Intelligence Agency, Admiral Thomas Wilson, and Acting Assistant Secretary of State for Intelligence and Research Thomas Fingar.

In the open session, Tenet addresses a range of transnational and regional issues. Among the former is terrorism, on which he says “terrorist groups are actively searching the Internet to acquire information and capabilities for chemical, biological, radiological, and even nuclear attacks. Many of the 29 officially designated terrorist organizations have an interest in unconventional weapons, and Osama bin Laden [see 6 Feb] in 1998 even declared their acquisition a ‘religious duty.’” Tenet also addresses proliferation as a transnational issue generally: “the missile and WMD proliferation problem continues to change in ways that make it harder to monitor and control, increasing the risk of substantial surprise. Among these developments are greater proficiency in the use of denial and deception and the growing availability of dual-use technologies—not just for missiles, but for chemical and biological agents as well”, and specifically: “Russian entities are a significant source of dual-use biotechnology, chemicals, production technology, and equipment for Iran. Russian biological and chemical expertise is sought by Iranians and others seeking information and training on CW and BW-agent production processes.” On Iraq, Tenet says “the Iraqis have rebuilt key portions of their chemical production infrastructure for industrial and commercial use. The plants (Saddam Hussein) is rebuilding were used to make chemical weapons precursors before the Gulf War and their capacity exceeds Iraq’s needs to satisfy its civilian requirements.”

On the question of the CBW threat to the US, Fingar says the following: “Chemical weapons are more of a tactical threat to US forces and allies than a strategic threat to the homeland.
8 February


8 February

In Paris, a breakfast meeting devoted to a presentation on the Chemical Weapons Convention and Biological Weapons Convention, the dual-use nature of the relevant technologies, modest technological prerequisites for development, and the low profile of illicit activities suggest that the potential threat from both state and non-state actors will continue to grow.”

Wilson echoes many of Tenet’s assessments and states that the diffusion of technology and information related to weapons of mass destruction “will increasingly accord smaller states, groups, and individuals destructive capabilities previously limited to major world powers.” Addressing the terrorist threat to the United States, Wilson predicts, within the next two years, a “major terrorist attack against United States interests, either here or abroad, perhaps with a weapon designed to produce mass casualties.”

7–9 February

In The Hague, the OPCW hosts an International Symposium on Cooperation and Legal Assistance for Effective Implementation of International Agreements. The purpose of the symposium is to study ways in which the undertaking in paragraph 2 of OPCW Article VII can be implemented. A background note by the OPCW Secretariat observes that “there is no customary practice of international legal cooperation and assistance in criminal matters.” Therefore, over three days, the symposium seeks to tackle a range of issues including the exchange of information between states parties, the imparting of experience from other international regimes, the presentation of case studies from actual investigations, arrests, transfers of prisoners, evidence-gathering and extraditions, and the legal issues raised by the CW/CCW confidentiality regime.

The symposium is attended by approximately 200 individuals from OPCW delegations, governments, international organizations, research institutes, universities and industry. The parallel working sessions are divided among three main themes: jurisdictional issues; modalities of international cooperation; and challenges to international cooperation. There are two papers by HSP, one by Matthew Meselson on “A draft convention to prohibit biological and chemical weapons under international criminal law” and one by Daniel Feakes on “Challenges in the implementation of CW export controls.” HSP associate Tresa Dunworth presents a paper on “Confidentiality obligations of states parties to the Chemical Weapons Convention and national implementation: the New Zealand experience.” The proceedings will eventually be published.

8 February

In Paris, a breakfast meeting devoted to a presentation on the US programme for combating major terrorism is convened by the Haut Comité français pour la Défense civile. The presentation is given by US Justice Department official Theodore Macklin, State Department official Clyde Brinkley and Community Research Associates Inc vice-president Kyle Olson.

8 February

In the US House of Representatives, Wayne Gilchrest introduces a bill, the Preparedness Against Domestic Terrorism Act of 2001, HR 525, that would provide for improved federal efforts to prepare for and respond to terrorist attacks. The bill is similar to one which passed the House with bipartisan support in its last session (The Preparedness Against Terrorism Act of 2000, HR 4210 [see 4 May 00 and 25 Jul 00]) and is based on the recommendations of the Advisory Panel to Assess Domestic Response Capabilities for Terrorism Involving Weapons of Mass Destruction [see 15 Dec 99 and 15 Dec 00].

Among the key features of HR 525 is the provision for the establishment of the President’s Council on Domestic Terrorism Preparedness within the Executive Office of the President. The Council, chaired by an executive chairman, would consist of the President, the director of FEMA, the Attorney-General, the Secretary for Defense, the National Security Adviser, the Secretary of Health and Human Services, the director of the Centres for Disease Control and Prevention and the Secretary of Veterans Affairs. One of the Council’s main tasks would be the development of a five-year Domestic Terrorism Preparedness Plan and an annual implementation strategy for carrying out the plan.

The bill is referred to the House Committee on Transportation and Infrastructure. The House Committee on Transportation and Infrastructure, which is scheduled to hold a hearing on 12 May.

8 February

In Washington, a meeting on The United Nations and Regime Compliance: Prospects and Challenges in the 21st Century is held, organized by the Monterey Institute Center for Nonproliferation Studies [see 2 Feb] and addressed by Jayantha Dhanapala, UN Under Secretary-General for Disarmament Affairs. Dhanapala’s comments on the international criminalization of WMD are summarized as follows: “There is also a question of individual culpability in the case of non-compliance with WMD regimes. The international criminal court might be looked at as possible means to enhance compliance with WMD treaties. There are talks about the criminalization of biological weapons. It can have a deterrent value in terms of ensuring compliance. Similarly, we can take it one step further with regard to other regimes and make non-compliance a culpable offense. In order to make individuals responsible for their actions, nation states will have to translate non-compliance of international law into an offense. Although in the case of export controls, the penalties have not always matched the offenses and detection was not always very efficient, some exploration of individual culpability may help with compliance. This may be the case especially with regard to sub-national groups acting without the knowledge of states. It will give a stronger control internationally on violations of WMD treaties.”

9 February

In the United Kingdom, Salisbury District Hospital issues an apology to surgical patients from whom skin had been taken and, without their express consent, supplied to DERA/CBD Porton Down for experimental purposes, in fulfilment of a £17,000 per year contract. According to the hospital, skin had been taken from around 240 patients who had breast and abdominal reduction surgery between 1995 and early 2001. While some tissue had been used within the hospital for research into wound healing and burn treatment, the rest had been supplied to Porton Down. There, the tissue was used in a “chemical absorption study” to examine the rate at which the skin absorbed chemicals, in a project to develop a barrier cream to prevent chemical agents penetrating the skin, and also in studies of percutaneous drug delivery. According to a Ministry of Defence spokeswoman “the tests were solely for defensive purposes—we stopped developing chemicals for attack at Porton Down in the 1950s [sic]. Most of the chemical tests done were for the benefit of civilians. They were with corrosive chemicals that are used in the home and work place, to see how the skin would be affected.”

A few days later, the Edmonton Sunday Sun reports from Canada that the Defence Research Establishment at Suffield has been using the foreskins of newborn boys in experiments to develop antidotes to chemical weapons. Over the past ten years, a hospital in Medicine Hat has supplied hundreds of foreskins to the facility, at which 20 to 100 are used every year. The parents of the babies are only told of the fate of the foreskins if they actually inquire and few, if any, have ever objected. The provision of the foreskins was originally approved by the ethics
committees of both the hospital and Suffield. However, the publicity means that the arrangement will now be reviewed in the light of new guidelines on human tissue use and parental consent. The foreskins themselves are not used in the experiments but skin cells are scraped off to create cell cultures which are then used to test the effects of various chemical agents.

9 February In New York, the Association of Chief Police Officers [see 18 Jan 96] has asked the Home Office for help in its search for a new police weapon less lethal than a gun but able to operate over distances greater than the CS spray weapon, so Police Review reports. An ACPO spokesman is quoted as saying “Between CS spray and firearms there’s a huge gap in the operational requirements for the police. It would be enormously helpful for the protection of officers if we could find a device to fill this gap—this is why we have asked for research to be done.” ACPO members see CS spray and batons as close-range weapons and, although firearms have a longer range, the police service wishes to remain generally unarmed and to adhere to its traditional use of “minimum force”. According to a former ACPO policy officer, Inspector Haynes, “less-lethal is used because we see it as a comparative lethality because although we have got to accept that there are very few things that are totally non-lethal … what we want is something where lethality is extremely unlikely and minimised.” The request, from ACPO’s self-defence, arrest and restraint and firearms subcommittees, has been submitted to the Police Scientific Development Branch of the Home Office. Inspector Haynes says that weapons under consideration include chemical ones as well as kinetic-energy instruments, guns firing sticky foam or nets, and electrical impulse devices. Weapons will be assessed by the PSDB and by DERA.

9 February Zambia deposits its instrument of ratification of the CWC. In 30 days time, on 11 March, it will thus become the 142nd state party to the treaty.

9–11 February In England, at Wiston House in Sussex, there is a Wilton Park conference on International Cooperation to Prevent CBW Terrorism. The conference is attended by a range of experts reflecting the number of different agencies concerned with CBW terrorism. Participants are from governments, police forces, academia, scientific and medical fields, and civil defence. Concluding his assessment of the meeting, one participants writes that “despite the judgement that a CBW terrorist event has a low probability, it would carry high consequences even if it were done on a small scale and caused few casualties. The imperative for policy is to devise a prevention and consequence management program that steers between panic and complacency.”

11 February In Sudan, the bomb-site in Khartoum where the Al-Shifa pharmaceutical factory used to be before US cruise missiles destroyed it in August 1998 [see 25 Sep 00] has become a tourist attraction. The factory, which is said to have been the biggest pharmaceutical plant in Africa, has been left untouched since the bombing. A security guard is quoted as saying that “every day people ask to look around. We are going to leave the factory as a museum so that the whole world can see what the Americans did.”

12 February In New York, the government is being pressed by the Vietnam Veterans’ Association of New Zealand to investigate the allegation that precursors for the Agent Orange used during the Vietnam War had been manufactured in the country. An unidentified former employee of a New Plymouth chemicals company had alleged that he and the company supplied precursor chemicals for Agent Orange in the belief that the chemical was safe and would only be used to defoliate jungle in war zones. According to the official, the chemicals were shipped via Mexico to avoid detection. Vietnam Veterans’ Association president John Moller wrote to the Prime Minister, the Attorney-General and the Police Minister at the beginning of January asking them to investigate what the Association describes as a violation of the Geneva Protocol and to request that the former employee be granted immunity from prosecution. According to Moller: “As we have brought to the attention of the Prime Minister the possibility of a breach of the Geneva Protocol, she is obliged under international law to investigate the matter thoroughly and with some urgency.” If the allegations are true, the governments could be faced with massive compensation payments for surviving veterans and their families.

12 February Israel begins to use “internationally banned weapons” in the form of “black gases”, so Palestinian President Yasir Arafat next day tells Tunisian President Zine El Abidine Ben Ali.

Speaking two days later on Jordanian radio, Arafat says that the gas had been used in the Khan Yunis refugee camp and also in Bayt Jala, Bethlehem and Bayt Sahur. Further use in Khan Yunis is reported on 18 February. Palestinian health minister Riadh al Za`anoun says that Palestinian doctors have been unable to determine the exact type of gas used and could therefore not administer the proper antidote to the victims. He does say: “We have established that the gas used against our people by the Israeli occupation army is not the standard tear gas used around the world to disperse demonstrators, it is a nerve agent, maybe phosgene or another variety of nerve gas.” Al Za`anoun notes that the gas is certainly fatal when used in enclosed areas and causes a variety of symptoms not normally associated with tear gas: “It causes acute shortness of breath, disorientation, hallucination, fainting, vomiting with stains of blood, and nervous breakdown.” Another Palestinian description says that the weapon is called “black gas” because, upon exposure in the air, it leaves a black trail; victims do not exhibit symptoms immediately following exposure, but shortly afterwards. The symptoms come in waves, beginning with a sugary taste in the mouth, and also include spasm, stomach cramps, vomiting and fainting.

The Israeli army denies that it is using nerve gas against the Palestinians but an army spokesman does acknowledge that the gas being used against the Palestinians in Gaza “would never be used against Jewish demonstrators.” According to the Israeli army, their troops have used “standard tear gas” and smoke bombs to drive snipers out of hiding. In contrast, deputy defence minister Ephraim Sneh tells the Knesset that Israeli troops are not using gas of any kind, except for standard smoke grenades, and calls the allegations “false and contemptible.” However, a Medecins sans Frontieres doctor, Yves Lallinec, says: “It seems it’s a new type of gas. People are shaking, are excited and they have convulsions.”

The allegations are referred to by OPCW Director-General José Bustani on 20 February, during his opening address to the twenty-third session of the Executive Council: “[L]ate last week we heard allegations that ‘poison gas’ may have been recently used in the Middle East. In spite of my numerous attempts to call attention to this problem in various forums, the OPCW’s policy-making organs have yet to commence a meaningful discussion of the Organisation’s strategy to prevent the possible
use of chemical weapons in regions of tension by taking effective steps to bring into its fold countries in such regions which still remain outside the Convention.”

12 February In Geneva, the Ad Hoc Group of states parties to the BWC reconvenes for its twenty-second session [see 20 Nov 00]. Participating are 54 states parties (the same as those that participated in the twenty-first session, but with Bolivia, Guatemala, Iraq, Panama, Singapore and Yemen participating instead of Cyprus, Jamaica, Thailand and Viet Nam) and the same 3 signatory states (Morocco, Egypt and Myanmar) as before. The session is due to end on 23 February.

12 February Dominica deposits its instrument of ratification of the CWC. In 30 days time, on 14 March, it will thus become the 143rd state party to the treaty.

12–23 February At UN headquarters in New York, the Ad Hoc Committee on Assembly Resolution 51/210, which is to elaborate a comprehensive legal framework of conventions dealing with international terrorism, convenes for its fifth session. The committee continues its consideration of a draft comprehensive convention first submitted to the General Assembly by India in 1996 and its consideration of a draft international convention on nuclear terrorism. The latter draft covers the use or threat of use of nuclear material, nuclear fuel, radioactive products or waste or any other radioactive substances with toxic, explosive or other dangerous properties. It defines nuclear terrorism as the use or threat of use of any nuclear installation, nuclear explosion or radiation dissemination devices — to kill or injure persons, to damage property or the environment, or to compel persons, states or global organizations to do or refrain from doing any act.

13 February In Poland, the Katowice-based Organization of Lao Students for Independence and Democracy have arranged for partisan leader General Moua Kounsmith to meet with senior parliamentarians. Upon his arrival in the country, the general says: “A civil war is going on in Laos, innocent people are dying every day, and chemical weapons are being used against them. We want the world to know about the efforts for democracy in our country. We are hoping that Poland, having been in the same situation not long ago, and who today has friends all over the world, will help us.”

13 February In Washington, the George C Marshall Institute devotes one of its roundtables on science and public policy to The Threat of Biological Warfare, the presenter being William C Patrick III [see 13 Nov 00]. His presentation concentrates on “the four components that are required for successful biological warfare: the agent, the munition, the delivery systems, and (for outside targets) the meteorological conditions.” He says: “I don’t think terrorists today in our country have that capability. But a rogue country like Iran or Iraq certainly does, as does a group like Japan’s Aum Shinrikyo.” On the former Soviet programme, Patrick says: “They had three organisms loaded on their warheads aimed at our major cities, plague, smallpox and anthrax, all three lethal agents. ... They had armed their ICBMs with plague in a liquid form and because of the non-stability of the plague agent in liquid, they had to recycle that material every sixty days — that is, pull it out of the ICBM and fill another ICBM entry vehicle with it. Can you imagine the dangerous activity associated with that procedure? This was in 1991.” Patrick also says that Ken Alibek has told him that the Soviets could produce 4,500 metric tons of dry anthrax per year, mainly because they used a vacuum drum dryer rather than freeze-drying. When questioned on the “brain drain” of scientists from the former Soviet BW programme to third world nations, Patrick re-

plies that “the last report I heard is that you couldn’t account for about 200 scientists who were in the former Soviet Union program. They don’t know where they went.”

13 February In Norfolk, Virginia, during an address at NATO’s Atlantic headquarters, President George W Bush speaks of new dangers confronting the Alliance. His speech includes the following: “First, we must prepare our nations against the dangers of a new era. The grave threat from nuclear, biological and chemical weapons has not gone away with the Cold War. It has evolved into many separate threats, some of them harder to see and harder to answer. And the adversaries seeking these tools of terror are less predictable, more diverse. With advance technology, we must confront the threats that come on a missile. With shared intelligence and enforcement, we must confront the threats that come in a shipping container or in a suitcase.” He announces that the FY 2002 Defense Department budget will include an increase of $2.6 billion as “a down-payment on the research and development effort that lies ahead.”

13 February President Bush issues a memorandum on Organization of the National Security Council System as what is to be the first in a series of National Security Presidential Directives replacing two previous series (the Presidential Decision Directives and the Presidential Review Directives). Approved for public release on 13 March, this new directive appears to revive a National Security Council that had fallen into disuse under the previous presidency, and also radically to reorganise the NSC staff. NSC Policy Coordination Committees are to become “the main day-to-day fora for interagency coordination of national security policy” in place of the previous system of Interagency Working Groups. The directive establishes seventeen such NSC/PCCs, six of them regional, eleven functional. Of the latter, seven are to be chaired by the Assistant to the President for National Security Affairs, including the PCC on Arms Control, the PCC on Counter-Terrorism and National Preparedness, and the PCC on Proliferation, Counterproliferation and Homeland Defense.

13–14 February At the UN in New York, representatives of interested member states and staff of UNMOVIC hold consultations on the suggested revisions to the lists of chemical and biological dual-use items and material to which the export/import mechanism for Iraq applies [see 1 Oct 96]. The revision and updating of the lists has been called for by resolution 1330 (2000), which requires the task to be completed by 5 June [see 5 Dec 00]. The results of the consultations are to be discussed at the forthcoming meeting of the UNMOVIC college of commissioners.

15 February In Iraq, factories near Fallujah that were destroyed by UK/US bombing in December 1998 have now been restored to production of castor oil and chlorine [see 22 Jan] according to an internal UN document now quoted in the Glasgow Herald. The document states that the castor-oil plant is able to produce a “significant amount” of ricin, while “huge imports” of chlorine, financed under the oil-for-food programme supposedly for purifying water supplies, are probably being diverted for use as precursors in weapons production. The newspaper quotes CIA director George Tenet as follows: “Iraq has rebuilt key portions of its chemical infrastructure for industrial and commercial use. But the capacity far exceeds civilian requirements. We have similar concerns about other dual-purpose research, development and production in the biological weapons and ballistic missile fields.”
**15 February** In Germany, a study by the Federal Intelligence Service, the BND, is reported by Frankfurter Allgemeine Zeitung as saying that Iraq is once again close to achieving its aim of producing a missile with a 3000-kilometre range. By 2005, the newspaper says, Iraq should be able to launch such a missile containing at least a kilogram of anthrax bacteria, and it reports the BND as stating: “if such a payload would be dropped on a German town it would kill between 70 and 80 per cent of the inhabitants within a few days.” There is media speculation that the timing of the leak has been chosen to influence public opinion on the issue of the National Missile Defense system proposed by the US.

According to the newspaper, the BND estimates that the number of known chemical production projects in Iraq has risen to 80 since the departure of UNSCOM inspectors, and almost a quarter of them are working specifically on weapons production. The report, and another in the German weekly Der Spiegel, also alleges that Indian companies have been active at all levels of this rearmament. These allegations are apparently the subject of discussions between Indian government officials and the German defence minister Rudolf Scharping, who is currently in New Delhi.

Later, on 24 February, Die Welt reports that Iraq is actively rearming with CBW weapons. The report is based on information provided by the BND to a select group of journalists the day previously. Since mid-1999, the BND has observed increased activity in both the chemical and biological weapons programmes in Iraq, according to the newspaper. The agency estimates that Iraq will soon be able to produce large quantities of chemical weapons. Die Welt also describes Iraq’s BW programme as advanced and active and says that production could be begun within days, or could already be underway. The newspaper also reports on Iraq’s efforts to develop ballistic missiles which could target European cities with chemical and biological warheads.

**15–19 February** In Brussels, NATO conducts its annual crisis management exercise, CMX 2001. The exercise, which is only a command post exercise conducted within NATO headquarters, involves a border dispute on the island of ‘Nog’. Also in the scenario is a threat of chemical warfare. It is reported that next year’s CMX will involve a “strong element” of weapons of mass destruction.

**15–20 February** In San Francisco, the American Association for the Advancement of Science convenes its annual meeting, during which there are two symposia on CBW topics. The first, on 16 February, is on Arms Control and Proliferation Concerns from Former Soviet Weapons Facilities. There are presentations by George Parshall of the National Academy of Sciences, Fred Wheling of the Monterey Institute of International Studies, Reynolds Salerno of Sandia National Laboratories, Kathleen Vogel of Cornell University, and Sonia Ben Ouagrham of the Monterey Institute of International Studies. The next day, there is a symposium on Bio-Technology and Bio-weapons: Weapons of the 21st Century? Speaking are Matthew Meselson of the Harvard Sussex Program, Margaret Hamburg of the Department of Health and Human Services, Edward Eliten of the US Army Research Institute of Infectious Diseases, Craig Venter of Celera Genomics, and Stephen Morse of Columbia University. During another symposium, Ethical and Policy Implications of Synthesizing ‘Minimal Genomes’, there is a presentation on the “Biological Weapons and Policy Implications of Synthesized Genomes” by Jonathan Moreno of the University of Virginia.

**16 February** In Iraq, five air-defence installations to the south of Baghdad are attacked by US and British aircraft using stand-off weapons from south of the 33rd Parallel, which is the northern limit of the no-fly-zone being enforced over southern Iraq by Britain and the United States [see 8 Oct 99]. Some 50 warplanes are involved, about half of them strike aircraft. The US Defense Department portrays the attack as a routine response to an increasing Iraqi effort to attack US and British aircraft patrolling the zone. Fibre-optic communication links were being installed (apparently by Chinese workers) to connect Iraqi command-bunkers with anti-aircraft radars, an upgrade that would have prevented communication-intercepts from US satellites. Also, in the words of British junior defence minister Baroness Symons: “January saw more [Iraqi] surface-to-air missile firing than were effected in the whole of 2000”. As to the results of the attack, the US Defense Department later says that fewer than half of the missiles fired at Iraqi radar installations hit their targets. The Iraqi Health Ministry later states that two civilians had been killed in the air-raid and more than 20 wounded.

**16 February** In Geneva, during the twenty-second session [see 12 Feb] of the BWC Ad Hoc Group, a further [see 12 Nov 00] briefing is provided by the Quaker United Nations Office in conjunction with the University of Bradford Department of Peace Studies. At the briefing a new Bradford briefing paper on Strengthening the Biological Weapons Convention is presented by the two editors of the series, Graham Pearson and Malcolm Dando: no 33, Improving the Implementation of Article III of the Convention: Pragmatic Considerations by Graham Pearson. The briefing is attended by 45 people from 26 delegations.

**16 February** In the US, four anti-nuclear organizations (the Los Alamos Study Group, the Natural Resources Defense Council, the Tri-Valley CAREs and the Western States Legal Foundation) join in launching an initiative for a “Scientists and engineers pledge to renounce weapons of mass destruction”. The pledge reads “I pledge to never participate in: the design, development, testing, production, maintenance, targeting, or use of nuclear, biological, or chemical weapons or their means of delivery; or in research or engineering that I have reason to believe will be used by others to do so.” Among the initial signers of the pledge is Joseph Rotblat, the Nobel Peace Laureate [see 13 Oct 95].

Summing up the moral responsibility of scientists and engineers, Julian Borelli from the Department of Energy’s Lawrence Berkeley National Laboratory says: “As scientists and engineers, we are in a unique position to bring about the demise of weapons of mass destruction. These weapons cannot exist without us — we design them, we manufacture them, we test them, we maintain them and we deploy them. We make them possible, and, if we choose, we can make them impossible …”.

**17 February** In Italy, the president signs into law legislation ratifying the agreement between Russia and Italy on assistance in the destruction of Russian chemical weapons, for which Italy is providing Lire 15 billion during 2000-02 [see 20 Jan 00].

**17 February** In London, six Algerians appear in court charged, under the 1973 Prevention of Terrorism Act, with possession of articles for suspected terrorist purposes, and are remanded in custody until 22 February. Officers from the Anti-Terrorist Branch, Special Branch and MI5 had earlier raided addresses in London and arrested ten men, of whom four were subsequently released. Unidentified police sources are quoted as saying that, among the articles found were “detailed instructions on how to manufacture and deploy sarin”. Some papers report this as “a plot to release the nerve gas sarin on the London Underground”. The arrests are apparently linked to the arrests on 26 December 2000 of four men in Frankfurt, also on terrorism charges. The telephone number of one of the Algerian...
ans was found on the chip card of a mobile phone seized in Frankfurt. Newspaper reports link both the Frankfurt and London arrests to the al-Qaeda group, headed by Osama Bin Laden [see 7 Feb] and to increased US pressure on European countries to act against groups and individuals suspected of involvement with Bin Laden.

18 February In the United States, a senior counterintelligence officer of the Federal Bureau of Investigation, Robert Hanssen, is arrested on charges of espionage and conspiracy to commit espionage. He is said to have passed 6,000 pages of secret US documents to Russia over a 15-year period in return for some $1.4 million. The arrest affidavit states that among those documents was a very highly classified paper setting out recommendations on how MASINT (Measurement and Signature Intelligence) information should be collected and used into the 21st Century. This “highly specific and technical” document disclosed, according to the affidavit, “the Intelligence Community’s consensus on specific MASINT objectives and studies leading to needed capabilities”. According to subsequent press speculation, the document may have extended to MASINT on chemical and biological weapons.

19 February In Moscow, the Defence Committee of the State Duma rejects an amendment to the Federal Law On the Destruction of Chemical Weapons [see 25 Apr 97]. Deputies Pyotr Rogonov, Ivan Fedotkin, Vasily Shandybin and Alexander Shulga had sponsored the amendment to article 2 of the chemdemil legislation which would have allowed for the transportation of chemical weapons from storage sites to destruction facilities in other regions of the country. The amendment receives ten comments from the regions — five supporting the transportation of chemical weapons through their territory, albeit with strict safety measures, and five strongly opposing the proposal. The Ministry of Railways commented that transportation could cost about 270 million rubles. Committee chairman Andrei Nikoleyev said the amendment was rejected because it was neither based on environmental examination by the regions nor on a financial and economic assessment.

19 February–23 March In Austria, the third UNMOVIC training course is underway, supported by the governments of Austria, Germany and Sweden. Participating are 52 people of 24 nationalities.

20 February In Israel, civil-defence depots are reporting a 100-percent increase in the number of people bringing in their gas masks for servicing and refurbishment. The increase is attributed to Iraq’s threat to retaliate against the recent UK/US bombing [see 16 Feb], although Prime Minister Barak has said that he does not believe that Iraq poses any immediate threat to Israel.

It is later reported in the Tel Aviv Ma’ariv that the Home Front Command and the Tel Aviv Municipality are working on a plan to turn the city’s underground car parks into public shelters in the event of a CBW attack. It is estimated that around 80,000 people currently lack access to a shelter.

20–23 February In The Hague, the OPCW Executive Council convenes for its twenty-third formal session.

21 February The American-German Sunshine Project circulates a civil society resolution on the BWC to be presented at the preparatory committee for the Fifth BWC Review Conference during 25-27 April in Geneva. Regarding the negotiations on the BWC Protocol, the resolution calls on “all governments to undertake every effort to reach consensus on a strong Protocol, including broad criteria for facility declarations, random visits to all declared facilities, clarification procedures, challenge investigations and an export monitoring system.” The resolution also asks the Fifth BWC Review Conference to: “reiterate the broad prohibition of all non-peaceful applications of living organisms and toxins, regardless of whether they target humans, animals, plants or materials; reaffirm in [its] Final Declaration that there is no exemption in the BTWC for law enforcement and; state that any use of biological agents against a nation, a regional group or individuals against their will is not a peaceful purpose and thus banned by the BTWC.” The resolution concludes by calling on all governments to “undertake every step necessary to reinforce the global ban on biological weapons.” The original signatories of the resolution are Ecoropa, GeneWatch, the Institute for Agriculture and Trade Policy, the Sunshine Project and the Women’s International League for Peace and Freedom.

21 February President Bush announces his intention of nominating John Bolton as Undersecretary of State for Arms Control and International Security Affairs, the post held by John Holum in the Clinton Administration. Bolton held a number of posts in the Reagan and Bush Sr Administrations, and is currently at the American Enterprise Institute.

21 February In the United States, the Advisory Committee on Immunization Practices produces new draft guidelines on the use of smallpox vaccine in the event of an outbreak of the disease and in preparedness for bioterrorism. The guidelines replace recommendations dating from 1991 with the biggest change being the inclusion of advice on how to use the vaccine in the case of bioterrorist use of smallpox. Vaccination before an attack in not recommended for anyone except laboratory or medical staff working with the types of viruses that cause smallpox. In the case of a smallpox attack, vaccination is recommended for those exposed to the initial release, people with whom they come into contact, and health care and laboratory workers treating exposed individuals. Other recommendations include the development and evaluation of a new smallpox vaccine to replenish stocks of the current vaccine, which has not been produced since 1981.

21–22 February In Vienna, at the International Centre, the UNMOVIC college of commissioners reconvenes [see 27-28 Nov 00] for its fourth meeting. As at the previous sessions, IAEA and OPCW staff attend as observers. The commissioners are briefed on the progress of UNMOVIC staff with the compilation of an inventory of “unresolved disarmament issues”. Staff present the college with selected case studies to illustrate the manner of their selection and the methodologies and sources that had been used. The commissioners request that further work be undertaken on the inventory, addressing in particular the significance of unresolved issues and indicating how these issues might be resolved. According to a BBC report, the work undertaken so far has showed that Iraq could still have stocks of mustard gas and that it may have produced a greater quantity of anthrax spores than previously suspected. The college is also briefed on progress with the Security-Council-requested revision and updating of the list of dual-use items and material to which the export-import mechanism applies [see 13-14 Feb]. The commissioners exchange views on the draft UNMOVIC handbook and encourage UNMOVIC staff to complete it in time for the start of operations in Iraq. UNMOVIC staff then brief the commissioners on the planned use of overhead imagery and the college expresses its view that imagery is “a complement to on-site inspections and a fundamental component of the instruments available to UNMOVIC for its work”. The commissioners welcome further exploration of how the Commission can benefit from the increasing availability of overhead imagery from differ-