First Meeting
Geneva, 10 – 14 November 2003

Meeting of Experts
Geneva, 18 – 29 August 2003
Items 5 and 6 of the provisional agenda

NATIONAL IMPLEMENTATION MEASURES
2003 BWC EXPERTS GROUP

Prepared by the United States of America

Background

1. At the resumed Fifth Review Conference of States Parties to the Biological and Toxin Weapons Convention (BWC), the States Parties decided to meet in 2003 to consider the adoption of necessary national measures to implement the prohibitions set forth in the BWC, including enactment of penal legislation. A meeting of experts will precede this meeting of States Parties.

Overall Approach

2. Experts from each State Party should be provided an opportunity to identify and explain those national implementation measures adopted by that State Party to implement the prohibitions set forth in the BWC. The meeting of experts should consider and recommend national measures that States Parties individually should adopt. The meeting of States Parties would then be in a position to invite States Parties to review any measures that they had already adopted to implement the prohibitions set forth in the BWC and to adopt additional national measures as appropriate.

Elements of National Implementation Measures

3. The Experts Group should, after considering examples of national measures adopted by States Parties as well as the thinking behind, and lessons learned from, these national measures, develop recommendations for consideration by the 2003 meeting of States Parties. These recommendations should include measures for individual States Parties to adopt. These measures should include:

Security of Dangerous Pathogens and Toxins

4. Each State Party should adopt measures to ensure that dangerous pathogens and toxins are utilized only for prophylactic, protective or other peaceful purposes. These measures should

GE.03-62817
be adopted to limit to authorized entities or persons the development, production, stockpiling, acquisition, or retention of these pathogens. Limiting the nature and extent of access to these pathogens should serve to reduce the likelihood that they will be acquired by unauthorized persons or used for biological weapons purposes. Such measures should deal with not just government personnel and facilities but also those in the private sector and academia. This topic will be addressed by the other 2003 group of experts.

Criminal or Other Penal Provisions.

5. A State Party may deter certain action by criminalizing or otherwise penalizing certain conduct related to the development, production, stockpiling, acquisition, or retention of the agents, toxins, weapons, equipment and means of delivery specified in Article I of the Convention. These national criminal or other penal provisions should be adopted to prohibit and prevent the development, production, stockpiling, acquisition, or retention of these items. These national provisions should extend to attempt and conspiracy to engage in the prohibited activities. Each State Party should determine the appropriate combination of national criminal or other penal provisions. Specifically, these national measures could:

- Prohibit the development, production, stockpiling acquisition or retention of the agents, toxins, weapons, equipment and means of delivery specified in Article I of the Convention;

- Prohibit the use of the agents, toxins, weapons, equipment and means of delivery specified in Article I of the Convention;

- Apply to actions committed within the territory of, in any place under the jurisdiction or control of, or by or against the nationals of that States Party;

- Apply to the provision of items that facilitate activity that would be prohibited by the Convention;

- In addition to applying these criminal or penal measures, authorize the government of the State Party to halt suspect activity;

- Require adoption of biosecurity measures by individuals and entities handling certain agents;

- Prohibit provision of dangerous pathogens and toxins to, and access to dangerous pathogens and toxins by, certain individuals who, or entities that, may be deemed to pose a security risk; and

- Require registration of activity involving certain agents with the government of that State Party.

Measures Relating to Foreign Governments and Persons

6. State Party should adopt measures that will ensure that the State Party does not assist foreign states or individuals in activity that would violate the Convention. First, these measures should prohibit State Party assistance in activities that would violate the Convention. Second, these measures should restrict any State Party assistance to states,
groups, institutions or individuals believed to be engaged in activity that would violate the Convention. Additionally, each State Party should adopt measures to ensure that its exports do not assist in the Development or production of the agents, toxins, weapons, equipment and means of delivery specified in Article I of the Convention.