First Meeting
Geneva, 10 – 14 November 2003

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

**LEGISLATIVE ACTION TO IMPLEMENT THE OBLIGATIONS UNDER THE CONVENTION ON THE PROHIBITION OF THE DEVELOPMENT, PRODUCTION AND STOCKPILING OF BACTERIOLOGICAL (BIOLOGICAL) AND TOXIN WEAPONS AND ON THEIR DESTRUCTION**

Prepared by Malaysia

1. Malaysia acceded to the 1925 Geneva Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases and of Bacteriological Methods of Warfare (after this referred to as “the Protocol”) on 10 December 1970. Malaysia also ratified the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction (after this referred to as “the Convention”) on 6 September 1991 and the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (after this referred to as “the Chemical Weapons Convention”) on 20 April 2002.

2. As a State Party to the Convention, Malaysia is obliged under Article III of the Convention to control the manufacture and acquisition of the materials specified in Article I of the Convention (after this referred to as “the prohibited materials”), that is -

   (a) microbial or other biological agents, or toxins whatever their origin or method of production, of types and in quantities that have no justification for prophylactic, protective or other peaceful purposes; and

   (b) weapons, equipment or means of delivery designed to use such agents or toxins for hostile purposes or in armed conflict.

3. Further under Article IV of the Convention Malaysia is obliged to take the necessary measures to prohibit and prevent the development, production, stockpiling, acquisition or retention of the prohibited materials.

4. Malaysia notes that the issue of the national measures, specifically the legal measures, that would be required to implement the prohibitions in the Convention has been discussed at previous Meetings.
5. Malaysia has not found it necessary to enact new specific legislation to implement the obligations under Articles III and IV of the Convention as the existing legislative provisions have been found to be adequate for that purpose. The principal legislative provisions for the purposes of implementing Malaysia’s obligations under the Convention are found in the Penal Code, the Corrosive and Explosive Substances and Offensive Weapons Act 1958, the Arms Act 1960, the Customs Act 1967, the Prevention and Control of Infectious Diseases Act 1988 and the Plant Quarantine Act 1976.

6. The Penal Code criminalizes among others –

(a) any unlawful or negligent or malignant act which is likely to spread the infection of any disease dangerous to life [sections 269 and 270];

(b) any act that vitiates the atmosphere in any place so as to make it noxious to the health of persons [section 278];

(c) murder and culpable homicide [sections 302 and 304]; and

(d) causing grievous hurt by dangerous weapons or means, including by means of any substance that is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal [sections 324 and 326].

7. The Corrosive and Explosive Substances and Offensive Weapons Act 1958 criminalizes the possession of corrosive and explosive substances and the carrying of offensive weapons.

8. The Arms Act 1960 criminalizes among others the possession or use of arms and ammunition without the relevant licences and permits. The expression “arm” is defined widely and encompasses “any weapon of whatever description designed or adapted or which can be adapted for the discharge of any noxious liquid, gas or other thing”.

9. The Customs Act 1967 regulates the importation and exportation of all goods, including the prohibited materials under the Convention. The Act also enables the prohibition of the importation and exportation of the prohibited materials.

10. The Prevention and Control of Infectious Diseases Act 1988 among others regulates the importation and exportation of pathogenic organisms or substances. A “pathogenic organism or substance” is defined to include any animal, noxious insect, living germ, microbe, bacteria or virus, the culture of any germ, microbe, bacteria or virus or the product of any germ, microbe, bacteria or virus”.

11. The Plant Quarantine Act 1976 amends and consolidates the law relating to the control, prevention and eradication of agricultural pests, noxious plants and plant diseases and extends cooperation in the control of the movement of pests in international trade.

12. In addition, the Occupational Safety and Health Act 1994 provides for the safety of employees and the workplace including employees who handle dangerous substances.

13. Malaysia has also enacted the Mutual Legal Assistance Act in 2002 to make provision for mutual assistance in criminal matters between Malaysia and other countries and for matters
connected therewith. The object of this Act is for Malaysia to provide and obtain international assistance in criminal matters, including –

(a) providing and obtaining of evidence;

(b) the making of arrangements for persons to give evidence, or to assist in criminal investigations;

(c) the recovery, forfeiture or confiscation of property in respect of a serious offence or a foreign serious offence;

(d) the execution of requests for search and seizure;

(e) the location and identification of witnesses and suspects;

(f) the identification or tracing of proceeds of crime and property and instrumentalities derived from or used in commission of a serious offence or a foreign serious offence.

14. Malaysia is prepared to enact new legislation or to amend the existing legislative provisions if it is necessary to deal with developments in this area of the law. In fact Malaysia is currently proposing amendments to the Penal Code to specifically criminalize terrorist acts. A “terrorist act” is defined by the Penal Code to include an act that involves the use of any microbial or biological agent or toxin.

15. Malaysia generally supports the proposal for verification measures to be introduced under the Convention and adopted by States Parties for the more effective implementation of the Convention. However Malaysia is of the view that such measures should take into account and reflect the legitimate concerns of all States Parties.

16. Malaysia is committed to its observance and implementation of the obligations under the Convention. In particular, Malaysia undertakes to facilitate and will participate in, the fullest possible exchange of equipment, materials and scientific and technological information for the use of bacteriological (biological) agents and toxins for peaceful purposes as provided under Article X of the Convention. Malaysia is also willing to cooperate in the further development and application of scientific discoveries in the field of bacteriological (biological) agents for prevention of disease or for other peaceful purposes.

17. In conclusion, Malaysia would like to state its commitment to work within the framework of the Convention to achieve the stated objective of the Convention, that is effective progress towards general and complete disarmament, including the prohibition and elimination of all weapons of mass destruction in whatever form. Malaysia is also willing to work with the other States Parties for an early resolution of all outstanding issues on the implementation of the Convention.