



OPCW

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**REPORT OF THE EXECUTIVE COUNCIL
ON THE PERFORMANCE OF ITS ACTIVITIES
IN THE PERIOD FROM 3 JULY 2004 TO 1 JULY 2005**



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1. ORGANISATIONAL MATTERS

1.1 The Executive Council (hereinafter “the Council”) is the executive organ of the OPCW. The Council promotes the effective implementation of, and compliance with, the Chemical Weapons Convention (hereinafter “the Convention”). It also supervises the activities of the Technical Secretariat (hereinafter “the Secretariat”), cooperates with the National Authority of each State Party, and facilitates consultations and cooperation amongst States Parties at their request.

1.2 The following table shows, by regional grouping, the composition of the Council for the period from 12 May 2004 to 11 May 2005.

Africa	Algeria, Cameroon, Kenya, Morocco, Nigeria, South Africa, Sudan, Tunisia, and Zambia
Asia	China, India, Iran (Islamic Republic of), Japan, Kuwait, Malaysia, Pakistan, Republic of Korea, Saudi Arabia, and Sri Lanka
Eastern Europe	Czech Republic, Russian Federation, Serbia and Montenegro, Slovakia, and Ukraine
Latin America and the Caribbean	Argentina, Brazil, Cuba, Mexico, Panama, Peru, and Uruguay
Western European and Other States	France, Germany, Greece, Italy, Netherlands, New Zealand, Norway, Spain, United Kingdom of Great Britain and Northern Ireland, and United States of America

1.3 The table below lists the composition of the Council for the period from 12 May 2005 to 11 May 2006.

Africa	Algeria, Gabon, Ghana, Kenya, Lesotho, Morocco, South Africa, Sudan, and Tunisia
Asia	China, India, Iran (Islamic Republic of), Japan, Malaysia, Pakistan, Republic of Korea, Saudi Arabia, and Sri Lanka
Eastern Europe	Poland, Romania, Russian Federation, Serbia and Montenegro, and Ukraine
Latin America and the Caribbean	Argentina, Brazil, Colombia, Cuba, Mexico, Panama, Peru, and Uruguay
Western European and Other States	France, Germany, Greece, Italy, Netherlands, New Zealand, Norway, Spain, United Kingdom of Great Britain and Northern Ireland, and United States of America

- 1.4 At its Ninth Session, the Conference of the States Parties (hereinafter “the Conference”) adopted decisions or took action on five matters referred to it by the Council, and referred to the Council one matter requiring its further consideration.

Election of the Chairman and Vice-Chairpersons of the Council

- 1.5 The Council at its Fortieth Session elected Ambassador Alfonso M. Dastis of Spain as its Chairman, and the representatives to the Council of Colombia, Iran (Islamic Republic of), Russian Federation, and South Africa as its Vice-Chairpersons, for the period from 12 May 2005 to 11 May 2006.
- 1.6 The following table lists the dates on which the Council held its regular sessions during the period under review.

DATES OF REGULAR SESSIONS OF THE COUNCIL

Session Number	Date of Session
Thirty-Eighth	12 – 15 October 2004
Thirty-Ninth	14 December 2004
Fortieth	15 – 18 March 2005
Forty-First	28 June – 1 July 2005

- 1.7 The Council held one Meeting, its Twenty-Fourth, on 24 November and 1 December 2004.

Accreditation of representatives to the Council

- 1.8 The most recent examination of credentials, which the Director-General conducted and reported on to the Council at its Forty-First Session in accordance with Rule 4 of its Rules of Procedure (EC-41/DG.17, dated 30 June 2005), established that the credentials of the representatives of 34 members of the Council met the requirements of Rule 3. In accordance with Rule 5, those representatives whose credentials had not yet been presented by the date of the aforementioned report were seated provisionally with the same rights as other representatives.

Application of the Rules of Procedure of the Council

- 1.9 During the period under review, observer States participated actively in all sessions of the Council and in its Twenty-Fourth Meeting, with an average of about 23 observer States present at each session or meeting. Each request by observers to present their views was granted.

Working methods of the Council

- 1.10 During the period under review, the Chairman of the Council, working in consultation with the Vice-Chairpersons and the members of the Council, reviewed and published for each of its sessions a plan of Council activities (EC-38/INF.1, dated 15 September 2004; EC-39/INF.1, dated 2 November 2004; EC-40/INF.1, dated 27 January 2005; and EC-41/INF.1, dated 11 April 2005, and Rev.1, dated 20 June 2005). The first annex to each plan lists clusters of issues under consideration by the Council.
- 1.11 The Chairmen of the Council acted as coordinators for the Open-Ended Working Group on Terrorism and the Working Group on the Implementation of the OPCW Headquarters Agreement. The Vice-Chairpersons of the Council were designated as coordinators for chemical weapons issues, chemical-industry and other Article VI issues, administrative and financial issues, and legal, organisational, and other issues. Facilitators were also named for many of the issues requiring resolution. The second annex to each plan of activities lists all key meetings and consultations during the period under review.

2. STATUS OF IMPLEMENTATION OF THE CONVENTION

Statements and reports by the Director-General

- 2.1 In his opening statement to each session of the Council, the Director-General elaborated, *inter alia*, on aspects of compliance by States Parties with the requirements of the Convention. He also submitted numerous reports to the Council, either in fulfilment of various requirements of the Convention or in response to requests by the Council or the Conference.

Draft report of the OPCW for 2004

- 2.2 The Council at its Forty-First Session considered the draft report of the OPCW for 2004 (EC-41/6 C-10/CRP.1, dated 29 June 2005) and referred it to the Conference for its consideration at its Tenth Session. The Council at this same session requested the Secretariat to post this draft report on the OPCW Website, clearly indicating that the draft will need to be considered and approved by the Conference. It further recommended to the Conference to endorse this practice to be followed in subsequent years.

Agreements on the privileges and immunities of the OPCW

- 2.3 The Council at its Fortieth Session considered and concluded an agreement between the OPCW and the Republic of Cuba on the Privileges and Immunities of the OPCW (EC-40/DEC.12, dated 17 March 2005).
- 2.4 The Council at its Forty-First Session considered and concluded agreements between the OPCW and three member states on the privileges and immunities of the OPCW: the State of Kuwait (EC-41/DEC.3, dated 29 June 2005); the Republic of Poland (EC-41/DEC.4, dated 29 June 2005); and the Swiss Federal Council (EC-41/DEC.5, dated 29 June 2005).

Universality-related activities

- 2.5 The Council at its Twenty-Third Meeting adopted an action plan for the universality of the Convention (EC-M-23/DEC.3, dated 24 October 2003). The plan requested the Director-General, *inter alia*, to submit to the Conference at its regular sessions an annual report on the implementation of the plan, and to keep the Council regularly informed, so that the Conference and the Council might review progress and monitor its implementation effectively. The Council at its Thirty-Eighth Session noted this report, which was then submitted to the Conference at its Ninth Session (C-9/DG.4 EC-38/DG.21, dated 4 October 2004).
- 2.6 This same plan of action for the universality of the Convention (EC-M-23/DEC.3) also requested the Secretariat to consult with States Parties and, based on those consultations, to prepare a comprehensive annual document on planned universality-related activities and to provide information to the Council on proposed initiatives, including on potential synergies with States Parties willing and able to join in universality-related efforts. The Council at its Fortieth Session noted the information the Secretariat provided for the period between 21 February 2004 and 22 February 2005 (EC-40/S/5, dated 22 February 2005).

Verification implementation report

- 2.7 The Council at its Forty-First Session considered and noted the 2004 verification implementation report (EC-41/HP/DG.1, dated 6 April 2005). The Council also noted the comments and views received on the report (EC-41/HP/DG.2, dated 20 June 2005) and the Chairman's summary of the consultations on it (EC-41/4, dated 24 June 2005).

Optimisation of verification activities and their effectiveness

- 2.8 The Council at its Forty-First Session considered and noted the Note by the Secretariat on the optimisation and efficiency of verification activities (EC-41/S/6, dated 29 June 2005).

Implementation of the regime governing the handling of confidential information by the Technical Secretariat

- 2.9 The Council at its Fortieth Session noted the report on the implementation of the regime governing the handling of confidential information by the Secretariat in 2004 (EC-40/DG.5* C-10/DG.1, dated 31 January 2005, and Corr.1, dated 12 April 2005).

Progress reports on the implementation of the plan of action regarding the implementation of Article VII obligations

- 2.10 At its Thirty-Eighth and Fortieth Sessions, having received the Notes by the Director-General submitting the second and third progress reports on the plan of action regarding the implementation of Article VII obligations (EC-38/DG.16, dated 15 September 2004; Corr.1, dated 24 September 2004; and Corr.2, dated 13 October 2004; and EC-40/DG.11, dated 16 February 2005; Add.1, dated 11 March 2005; and Add.1/Corr.1, dated 14 March 2005), the Council:

- (a) reaffirmed the provisions contained in the plan of action;
 - (b) urged States Parties to continue their efforts and progress towards full implementation of the plan of action in order that they be able to complete their obligations under Article VII; and
 - (c) affirmed the need for States Parties and the Secretariat to continue to make available assistance and technical support to States Parties expeditiously and upon request, in order to support their efforts to meet their Article VII obligations and implement the provisions of the plan of action.
- 2.11 The Council considered and approved a recommendation to the Conference at its Ninth Session on further action under the plan of action regarding the implementation of Article VII obligations (EC-M-24/DEC.1, dated 24 November 2004). Following consideration of the Council's recommendation, the Conference at its Ninth Session adopted a decision on further related action needed (C-9/DEC.4, dated 30 November 2004). Following this decision of the Conference (C-9/DEC.4), the Secretariat provided to the Council updated lists of the States Parties that have offered or requested assistance since the adoption of the plan of action, including concrete details both of the assistance requested and the offers made, and of follow-up actions by the Secretariat and/or States Parties (EC-40/DG.11, dated 16 February 2005, EC-40/DG.11/Add.1, dated 11 March 2005; EC-40/DG.11/Add.1/Corr.1, dated 14 March 2005; EC-40/DG.11/Corr.1, dated 21 April 2005. and EC-41/DG.12, dated 15 June 2005, Corr.1, dated 24 June 2005, and Corr.2, dated 30 June 2005).

Reports on the progress made in meeting the revised deadlines for the destruction of chemical weapons

- 2.12 The Conference at its Eighth and Ninth Sessions adopted its decisions on the revised deadlines for the destruction of chemical weapons (C-8/DEC.13, C-8/DEC.14, and C-8/DEC.15, all dated 24 October 2003; and C-9/DEC.7 and C-9/DEC.8, both dated 30 November 2004) on the understanding, *inter alia*, that the States Parties concerned would keep the Council informed, at each alternate regular session and with supporting documentation, of the status of their plans to implement their destruction obligations, and that the Director-General would report periodically to the Council on the progress made by these States Parties in destroying their chemical weapons, in accordance with their obligation under the Convention. These States Parties reported to the Council at its Thirty-Eighth and Fortieth Sessions on the progress they had made in meeting these revised deadlines. During the Forty-First Session of the Council the Russian Federation also submitted information on plans for the destruction of its Category 1 chemical weapons (EC-41/NAT.2, dated 27 June 2005). The Council noted the report submitted by the Director-General in this regard (EC-40/DG.8, dated 2 February 2005).

Detailed plans for verification of the destruction of chemical weapons

- 2.13 Further to its consideration of this issue at its previous sessions, the Council at its Fortieth Session considered and approved the agreed detailed plan for the verification of destruction of chemical weapons at the Aberdeen Chemical Agent Disposal Facility, Aberdeen Proving Ground-Edgewood Area, the United States of America (EC-40/DEC.4, dated 16 March 2005).

- 2.14 The Council at its Fortieth Session also considered and approved the agreed detailed plan for verification of the destruction of chemical weapons at the Explosive Destruction System, Phase 1, Unit 2/3, Pine Bluff Arsenal, Arkansas, the United States of America (EC-40/DEC.5, dated 16 March 2005).

Combined plans for the destruction or conversion and verification of chemical weapons production facilities

- 2.15 The Council at its Thirty-Eighth Session considered the combined plan for conversion and verification of the chemical weapons production facility (CWPF) (DF production), Open Joint Stock Company “Khimprom”, Volgograd, the Russian Federation (Annex to EC-38/DG.4, dated 5 August 2004), and approved it (EC-38/DEC.1, dated 13 October 2004). The detailed plan and the plan for verification of the conversion reflect changes at the facility that the Russian Federation had previously notified to the Council (EC-34/DG.1, dated 4 June 2003).
- 2.16 The Council at this same session considered the combined plan for conversion and verification of the CWPF (preparation for the filling of non-chemical parts of chemical munitions), Open Joint Stock Company “Khimprom”, Volgograd, the Russian Federation (Annex to EC-38/DG.5, dated 5 August 2004), and approved it (EC-38/DEC.2, dated 13 October 2004). The detailed plan and the plan for verification of the conversion reflect changes at the facility that the Russian Federation had previously notified to the Council (EC-34/DG.3*, dated 10 June 2003).
- 2.17 The Council, also at the Thirty-Eighth Session considered and approved the combined plan for destruction and verification of the CWPF DF Production and Fill Facility, Pine Bluff Arsenal, the United States of America (EC-38/DEC.3, dated 13 October 2004).
- 2.18 The Council at its Twenty-Fourth Meeting considered and approved the combined plan for destruction and verification of the CWPF Rabta Pharmaceutical Factory 1 (phase I), Rabta, the Libyan Arab Jamahiriya (EC-M-24/DEC.2, dated 24 November 2004).
- 2.19 The Council at this same meeting also considered and approved the combined plan for destruction and verification of the CWPF Rabta Pharmaceutical Factory 2 (phase I), Rabta, the Libyan Arab Jamahiriya (EC-M-24/DEC.3, dated 24 November 2004).
- 2.20 The Council, also at the Twenty-Fourth Meeting considered and approved the combined plan for destruction and verification of the CWPF Tripoli STO-001 Mobile Units, Tripoli, the Libyan Arab Jamahiriya (EC-M-24/DEC.4, dated 24 November 2004).
- 2.21 The Council at its Thirty-Ninth Session also considered and approved the combined plan for conversion and verification of the CWPFs Rabta Pharmaceutical Factory 1 and Rabta Pharmaceutical Factory 2 (phase II), Rabta, the Libyan Arab Jamahiriya (EC-39/DEC.1, dated 14 December 2004).

Detailed plans for the destruction or conversion of chemical weapons production facilities

- 2.22 The Council at its Thirty-Third Session requested that the Director-General inform it, at its first regular session following the conduct of an annual usual inspection by the Secretariat at those chemical weapons production facilities (CWPFs) where conversion is still in progress, of the progress made at those CWPFs. The Council at its Thirty-Eighth, Thirty-Ninth and Forty-First Sessions noted the information submitted in this regard (EC-38/R/S/1, dated 1 October 2004; EC-39/R/S/1, dated 13 December 2004; and EC-41/R/S/1, dated 27 May 2005).
- 2.23 The Council at its Forty-First Session considered and approved a correction to the detailed plans for destruction for the CWPF (production of a VX-type substance and filling it into munitions), Open Joint Stock Company (OJSC) “Khimprom”, Novocheboksarsk, the Russian Federation (EC-41/S/1, dated 28 April 2005).
- 2.24 The Council at this same session considered and approved corrections to the detailed plans for conversion for the CWPF (production of a VX-type substance and filling it into munitions), OJSC “Khimprom”, Novocheboksarsk, the Russian Federation (EC-41/S/2, dated 28 April 2005).

Conversion of chemical weapons production facilities for purposes not prohibited under the Convention

Proposal for a change to the Verification Annex to the Convention

- 2.25 In a letter to the Director-General dated 16 July 2004, and pursuant to paragraphs 4 and 5 of Article XV of the Convention, the Permanent Representative of the Libyan Arab Jamahiriya proposed a change to Part V of the Verification Annex to the Convention (hereinafter “the Verification Annex”) regarding conditions for the conversion of a CWPF for purposes not prohibited under the Convention (Attachment to EC-38/DG.2, dated 16 July 2004). Following consideration of this proposal, cosponsored by 18 other member states (EC-38/DG.2, and Add.1, dated 8 October 2004), and in accordance with paragraph 5(c) of Article XV of the Convention, the Council at its Thirty-Eighth Session recommended to all States Parties that the proposal be adopted (EC-38/DEC.12, dated 14 October 2004).

Request by the Socialist People’s Libyan Arab Jamahiriya to use CWPFs for purposes not prohibited under the Convention

- 2.26 The Council at its Twenty-Fourth Meeting considered and adopted a recommendation to the Conference at its Ninth Session on the request by the Libyan Arab Jamahiriya to use chemical weapons production facilities Rabta Pharmaceutical Factories 1 and 2, Rabta, the Libyan Arab Jamahiriya, for purposes not prohibited under the Convention (EC-M-24/DEC.5, dated 24 November 2004).

Facility Agreements

- 2.27 The Council at its Thirty-Eighth Session considered and approved facility arrangements between the OPCW and Italy regarding on-site inspections at six Schedule 2 plant sites:

- (a) Dow Italia S.P.A., in Correggio (RE), Italy (EC-38/DEC.4, dated 13 October 2004);
 - (b) Cambrex Profarmaco S.P.A., in Paullo, Milan, Italy (EC-38/DEC.5, dated 13 October 2004);
 - (c) Sifavitor S.P.A., in Casaletto Lodigiano, Lodi, Italy (EC-38/DEC.6, dated 13 October 2004);
 - (d) Solvay Solexis S.P.A., in Spinetta Marengo, Alessandria, Italy (EC-38/DEC.7, dated 13 October 2004);
 - (e) Procos S.P.A., in Cameri, Novara, Italy (EC-38/DEC.8, dated 13 October 2004); and
 - (f) Solmag S.P.A., in Garbagnate, Milan, Italy (EC-38/DEC.9, dated 13 October 2004).
- 2.28 The Council at its Thirty-Ninth Session considered and approved four facility agreements between the OPCW and the Socialist People's Libyan Arab Jamahiriya regarding on-site inspections at:
- (a) the Category 2 Al-Jufra CWDF (Al-Jufra CWDF-001), Al-Jufra Province (EC-39/DEC.2, dated 14 December 2004).
 - (b) the Ruwagha chemical weapons storage facility (EC-39/DEC.3, dated 14 December 2004).
 - (c) the CWPF Tripoli STO-001 (EC-39/DEC.4, dated 14 December 2004).
 - (d) the CWPFs Rabta Pharmaceutical Factory 1 and Rabta Pharmaceutical Factory 2, Rabta (EC-39/DEC.5, dated 14 December 2004).
- 2.29 The Council at its Thirty-Ninth Session also noted the agreed changes to the facility agreement with the United States of America regarding on-site inspections at the Umatilla Chemical Agent Disposal Facility at Umatilla Chemical Depot, Oregon, the United States of America (EC-39/S/1, dated 2 November 2004).
- 2.30 The Council at its Fortieth Session considered and approved a facility arrangement between the OPCW and France regarding on-site inspections at a single small-scale facility (EC-40/DEC.1, dated 16 March 2005). In accordance with a decision of the Council at its Eleventh Session (EC-XI/DEC.4, dated 4 September 1998), the Secretariat indicated, in a separate document, the differences between the model facility agreements and this facility arrangement (EC-40/R/DEC/CRP.1/Add.1, dated 20 January 2005).
- 2.31 Further to its consideration of this issue at previous sessions, the Council at its Fortieth Session considered and approved a facility agreement between the OPCW and the United States of America regarding on-site inspections at the Aberdeen Chemical Agent Disposal Facility, Aberdeen Proving Ground-Edgewood Area, Maryland (EC-40/DEC.6, dated 16 March 2005).

- 2.32 The Council at its Fortieth Session also considered and approved a facility agreement between the OPCW and the United States of America regarding on-site inspections at the Explosive Destruction System, located at Pine Bluff Arsenal, Arkansas, the United States of America (EC-40/DEC.7, dated 16 March 2005).
- 2.33 The Council at this same session also considered and approved a decision regarding an amendment to the facility agreement with the United States of America regarding on-site inspections at the Chemical Transfer Facility, Aberdeen Proving Ground, Maryland (EC-40/DEC.8, dated 16 March 2005).
- 2.34 The Council at this same session also noted the Note by the Secretariat on amendment and agreed changes to the facility agreement between the OPCW and the United States of America for the Chemical Transfer Facility, Aberdeen Proving Ground, Maryland, the United States of America (EC-40/S/1/Rev.1, dated 15 March 2005).
- 2.35 The Council at its Forty-First Session noted the agreed changes to the facility agreement between the OPCW and the Libyan Arab Jamahiriya for the CWPFs Rabta Pharmaceutical Factory 1 and Pharmaceutical Factory 2 (EC-41/S/3, dated 3 May 2005).
- 2.36 The Council at this same session considered and approved a facility agreement with China regarding on-site inspections at a single small-scale facility (EC-41/DEC.1, dated 29 June 2005).
- 2.37 The Council at this same session also considered and approved a facility agreement with China regarding on-site inspections at a Schedule 1 facility for protective purposes (EC-41/DEC.2, dated 29 June 2005).

OPCW Central Analytical Database

- 2.38 The Council at its Thirty-Eighth Session considered the Note by the Director-General on the lists of new validated data for inclusion in the OPCW Central Analytical Database (EC-38/DG.13, dated 10 September 2004), and in the light of it approved said lists (EC-38/DEC.10, dated 13 October 2004).
- 2.39 The Council at its Fortieth Session considered the Note by the Director-General on further lists of new validated data for approval by the Council for inclusion in the OPCW Central Analytical Database (EC-40/DG.7, dated 31 January 2005, and Corr.1, dated 9 February 2005), and in the light of it approved said lists (EC-40/DEC.9, dated 16 March 2005).
- 2.40 The Council at this same session also considered the Note by the Director-General on the list of approved data proposed for removal from the OPCW Central Analytical Database (EC-40/DG.4, dated 31 January 2005, and Corr.1, dated 9 February 2005), and in the light of it approved the removal of said data from the Database (EC-40/DEC.10, dated 16 March 2005).

Chemical industry issues

- 2.41 At its Thirty-Seventh Session the Council recommended that the Secretariat consider carefully the need for each Schedule 2 facility agreement in a consistent and non-discriminatory manner, based on the information available through its verification activities (declaration and inspection), and that the Secretariat give due consideration to the opinion of the State Party involved. The Council at its Forty-First Session considered and noted the report by the Secretariat on its review of this issue (EC-41/DG.7, dated 23 May 2005).

Readiness for a challenge inspection

- 2.42 The First Review Conference requested the Secretariat to “continue maintaining a high standard of readiness to conduct a challenge inspection in accordance with the provisions of the Convention, to keep the Council informed about its readiness, and to report any problems that might arise in relation to maintaining the necessary level of readiness to conduct a challenge inspection” (paragraph 7.91 of RC-1/5). It also requested the Council to continue deliberations on a number of issues related to challenge inspections that had yet to be resolved, in order to expeditiously resolve them. In response, the Council at its Forty-First Session reaffirmed these requests of the First Review Conference and noted a report by the Director-General submitted to it on the readiness of the Secretariat to conduct a challenge inspection (EC-41/DG.10, dated 2 June 2005).

Status of implementation of Articles X and XI

- 2.43 The Council at its Forty-First Session considered and noted the report by the Director-General on the status of implementation of Articles X and XI of the Convention as at 31 December 2004 (EC-41/DG.1, dated 16 March 2005, Add.1, dated 27 June 2005, Corr.1, dated 20 June 2005, Corr.2, dated 27 June 2005, and Add.1/Corr.1, dated 30 June 2005).

Annual reporting of information on national programmes for protection against chemical weapons under Article X of the Convention

- 2.44 The First Review Conference had requested the Council to expeditiously develop and submit for adoption the procedures called for by the Convention regarding the annual submission by each State Party of information on its national programme related to protective purposes (paragraph 7.94 of RC-1/5). The Council at its Twenty-Fourth Meeting considered and adopted a recommendation to the Conference at its Ninth Session on submission of information regarding national programmes related to protective purposes pursuant to Article X, paragraph 4 of the Convention (EC-M-24/DEC.6, dated 24 November 2004).

Proposal to increase the number of members of the Scientific Advisory Board

- 2.45 In the light of the proposal submitted by the Director-General (EC-38/DG.18, dated 16 September 2004), the Council at its Thirty-Eighth Session considered and approved a recommendation that the Conference decide at its Ninth Session to amend the terms of reference of the Scientific Advisory Board to increase the number of members from 20 to 25 (EC-38/DEC.11, dated 14 October 2004).

Administrative and financial matters

OPCW income and expenditure

- 2.46 In accordance with a request of the Council at its Twenty-Sixth Session, the Director-General kept the Council informed at each regular session through monthly updates on the financial and budgetary situation of the OPCW and on the use of the Working Capital Fund (EC-38/DG.1, dated 21 July 2004; EC-38/DG.7, dated 26 August 2004; EC-38/DG.22, dated 7 October 2004; EC-39/DG.1, dated 11 November 2004; EC-39/DG.3, dated 8 December 2004; EC-40/DG.2, dated 13 January 2005; EC-40/DG.10, dated 15 February 2005, and Corr.1, dated 14 March 2005; EC-40/DG.15, dated 14 March 2005, and Corr.1, dated 18 March 2005; EC-41/DG.4, dated 2 May 2005; EC-41/DG.5, dated 3 May 2005; EC-41/DG.9, dated 1 June 2005; EC-41/DG.13, dated 20 June 2005).
- 2.47 The Council at its Forty-First Session noted the report by the Director-General on the methodology of calculating arrears (EC-41/S/4, dated 2 June 2005).

Information-security management system

- 2.48 The Council at its Fortieth Session noted the Note by the Director-General on the adoption of the ISO 17799 standard on information-security management (EC-40/DG.1, dated 10 January 2005, and Corr.1, dated 17 January 2005).
- 2.49 The Council at its Fortieth and Forty-First Sessions noted the Notes by the Director-General on the reports of the Security Audit Team IV (EC-40/DG.3, dated 28 January 2005; EC-41/DG.6, dated 9 May 2005, and EC-41/DG.15, dated 27 June 2005).

Transfers from and replenishments to the Working Capital Fund

- 2.50 In accordance with a request of the Conference at its Eighth Session (C-8/DEC.17, dated 24 October 2003), the Council at its Thirty-Eighth Session considered a report by the Director-General on details concerning transfers from and replenishments to the Working Capital Fund (EC-38/DG.20, dated 21 September 2004), and forwarded it to the Conference at its Ninth Session.

Claims for the Provident Fund Losses

- 2.51 The Council at its Forty-First Session received the note by the Secretariat on claims for Provident Fund losses (EC-41/S/5, dated 28 June 2005).

Adjustment to the Director-General's salary

- 2.52 In accordance with a decision of the Conference at its First Special Session (C-SS-1/DEC.4, dated 25 July 2002) stipulating that the terms of appointment of the Director-General shall be subject to adjustments by the Council to keep the terms in line with those of other executive heads within the United Nations system, the Council at its Fortieth Session adopted a decision adjusting the Director-General's salary (EC-40/DEC.11, dated 16 March 2005).

Request to classify posts

- 2.53 OPCW Staff Regulation 2 states that, in conformity with principles laid down by the Conference, with due regard to the Programme and Budget and the OPCW Financial Regulations and Rules, and taking into consideration the master standards of job classification as developed by the International Civil Service Commission, the Director-General shall prepare and submit to the Council, for its consideration and approval, proposals for the classification of posts according to the nature of the duties and responsibilities required. The objective of the classification of posts is to ensure that those carrying equivalent responsibilities and duties are classified in the same category and at the same grade.
- 2.54 The Director-General submitted to the Council at its Fortieth Session a request to classify the posts of security sergeant, security guard, and receptionist (EC-40/DG.12, dated 1 March 2005 and Corr.1, dated 3 March 2005). The Council approved the classification of these posts.

Amendments to the OPCW Staff Regulations

- 2.55 The Council at its Forty-First Session considered the amendments, submitted by the Director-General, to the OPCW Staff Regulations (EC-41/DG.11, dated 9 June 2005), and decided to continue consultations on this issue during the intersessional period, and consider them further at its next session.

3. MATTERS REFERRED TO THE COUNCIL BY THE CONFERENCE AT ITS NINTH SESSION

- 3.1 The Conference at its Ninth Session referred the matter of the full implementation of Article XI to the Council for its consideration, with a view to the Council's forwarding a proposal to the Conference at its Tenth Session for its consideration.

Establishment of specific deadlines for the destruction of Category 1 chemical weapons by the Libyan Arab Jamahiriya and Albania

- 3.2 The Conference at its Ninth Session granted, in principle, extensions of the intermediate phase 1, 2, and 3 deadlines for the destruction by the Libyan Arab Jamahiriya and Albania (C-9/DEC.7 and C-9/DEC.8, respectively) of 1%, 20%, and 45% of their Category 1 chemical weapons stockpiles, on the understanding, inter alia, that both States Parties would submit to the Council detailed information supplementing their general plans for the destruction of their Category 1 chemical weapons stockpiles, including the proposal of specific dates for each of the aforementioned intermediate deadlines.
- 3.3 The Conference at this same session also authorised the Council to establish specific dates for these 1%, 20%, and 45% deadlines, with a view to the Council's taking a decision at its next regular session following the submission of detailed information by those States Parties

- 3.4 The Council at its Fortieth Session considered the detailed information submitted by the Libyan Arab Jamahiriya (EC-40/NAT.1, dated 19 January 2005), and adopted a decision establishing the specific deadlines for the destruction of 1%, 20%, and 45% of its Category 1 chemical weapons stockpiles (EC-40/DEC.2, dated 16 March 2005).
- 3.5 The Council at this same Session considered the detailed information submitted by Albania (EC-40/NAT.3, dated 15 February 2005), and adopted a decision establishing the specific deadlines for the destruction of 1%, 20%, and 45% of its Category 1 chemical weapons stockpiles (EC-40/DEC.3, dated 16 March 2005).

4. MATTERS REQUIRING CONSIDERATION OR ACTION BY THE CONFERENCE AT ITS TENTH SESSION

- 4.1 For ease of reference, this section presents material that also appears elsewhere in the present report.

Draft report of the OPCW for 2004

- 4.2 The Council at its Forty-First Session considered the draft report of the OPCW for 2004 (EC-41/6 C-10/CRP.1, dated 29 June 2005), and referred it to the Conference for consideration at its Tenth Session.

Other recommendations of the Council

- 4.3 During the reporting period, the Council held consultations on the Draft Programme and Budget of the OPCW for 2006, among other matters, with a view to their consideration at its Forty-Second Session. The Council will submit recommendations for consideration or action by the Conference on these matters.

5. OTHER DECISIONS OR ACTIONS OF THE COUNCIL

Reports on the implementation in 2004 of the recommendations of the Office of Internal Oversight and of the External Auditor

- 5.1 The Council at its Thirty-Eighth and Fortieth Sessions considered and noted reports on the implementation in 2004 of the recommendations contained in the annual reports for 2003 of the External Auditor (EC-38/S/2, dated 4 August 2004; and EC-40/S/3, dated 8 February 2005, and Corr.1, dated 11 February 2005) and of the Office of Internal Oversight (EC-38/DG.8, dated 26 August 2004; and EC-40/DG.9, dated 4 February 2005).

Implementation of the Headquarters Agreement

- 5.2 The Council at its Fortieth Session mandated the Chairman of the Council to establish a Working Group that, together with the Secretariat and the Host Country, will work to find mutually satisfying solutions to pending matters regarding the full implementation of the Headquarters Agreement. At its Forty-First Session, the Chairman reported orally on the activities of the Working Group. The Council will be kept informed by its Chairman of the developments on this issue.

6. MATTERS UNDER CONSIDERATION BY THE COUNCIL

- 6.1 The Council's Open-ended Working Group on Terrorism continued its work.
- 6.2 The Chairman of the Council's Working Group on the Implementation of the Headquarters Agreement was established and initiated its work.
- 6.3 The following is a list of other matters that were still under consideration by the Council at the end of the reporting period:

Chemical weapons issues:

- (a) general and annual plans for the destruction of CWPFs and annual reports on destruction, and detailed and combined plans for the conversion of CWPFs;
- (b) the meaning of "primarily for the development of chemical weapons"; declaration criteria for former chemical weapons development facilities (facilities designed, constructed or used since 1 January 1946 primarily for the development of chemical weapons);
- (c) old and abandoned chemical weapons (OACWs):
 - (i) guidelines for determining the usability of chemical weapons produced between 1925 and 1946;
 - (ii) destruction and verification requirements for OACWs;
 - (iii) draft section E of the Declarations Handbook, "Old Chemical Weapons before 1925";
 - (iv) draft section G of the Declarations Handbook, "Abandoned Chemical Weapons"; and
 - (v) the attribution of costs related to inspections of old chemical weapons;
- (d) general and annual plans for the destruction of chemical weapons, and annual reports on destruction;
- (e) reports on progress in meeting revised deadlines for the destruction of chemical weapons;
- (f) assistance and protection against chemical weapons;
- (g) deadlines for the submission of information on CWDFs;
- (h) guidelines for determining the frequency of systematic on-site inspections of CWSFs and CWPFs;
- (i) criteria for toxicity and corrosiveness, and, if applicable, other technical factors to be taken into account in regard to the conversion of CWPFs;

- (j) developments in relation to additional chemicals that may be relevant to the Convention, and the assessment, *inter alia*, of whether these compounds should be considered in the context of the schedules of chemicals;
- (k) optimisation of verification activities at chemical weapons stockpiles, as well as of their destruction and its effectiveness;
- (l) the status of conversion of former CWPFs for purposes not prohibited under the Convention, and a concept for verification measures for such converted facilities;

Chemical industry and other Article VI issues:

- (m) recommendations of the Scientific Advisory Board;
- (n) industry issues:
 - (i) harmonisation of the reporting of aggregate national data on the production of Schedule 3 chemicals;
 - (ii) the issue of the captive use of Schedule 1 chemicals;
 - (iii) transfer discrepancies;
 - (iv) past Schedule 1 production above 1 tonne per annum for purposes not prohibited under the Convention;
 - (v) the implementation of section B of Part IX of the Verification Annex, including the methodology for selecting other chemical production facilities;
 - (vi) understandings on access to records during Schedule 2 and Schedule 3 inspections, and inspections of plant sites producing discrete organic chemicals containing phosphorus, sulfur, or fluorine;
 - (vii) assessment of the risk posed by Schedule 2 plant sites to the object and purpose of the Convention;
 - (viii) the frequency of inspections at Schedule 1 facilities and Schedule 2 plant sites;
 - (ix) verification at Schedule 1 facilities;
 - (x) consideration of the need to establish other measures regarding transfers of Schedule 3 chemicals to States not Party under paragraph 27 of Part VIII of the Verification Annex;
 - (xi) applicable concentration limits for mixtures of chemicals containing Schedule 2A and 2A* chemicals;

- (xii) guidelines for the number, intensity, duration, timing, and mode of inspections of single small-scale Schedule 1 facilities;
 - (xiii) guidelines for the number, intensity, duration, timing, and mode of inspections for other Schedule 1 facilities;
 - (xiv) consideration of whether to require submissions of information when plants or plant sites that have been declared as undertaking activities in relation to Schedule 2 or Schedule 3 cease to do so;
 - (xv) consideration of a *de minimis* rule for the notification of transfers of Schedule 1 chemicals;
 - (xvi) improvements in the submission and handling of industry declarations;
 - (xvii) refinements in the conduct of inspections to improve the consistency, effectiveness, and efficiency of industry inspections; and
 - (xviii) study the need for a recommendation about the future treatment of salts of Schedule 1 chemicals that are not explicitly mentioned in Schedule 1;
 - (xix) late submission of declarations
- (o) industrial-facility agreements;

Administrative and financial issues:

- (p) confidentiality issues:
- (i) possible national jurisdiction after national immunity is waived;
 - (ii) the application of national jurisdiction;
 - (iii) compensation for losses caused by breaches of confidentiality;
 - (iv) guidelines regarding the long-term handling of confidential information;
 - (v) the situation in relation to the classification of information held by the OPCW; and
 - (vi) recommendation to adopt the ISO-17799 information-security management standard for the Secure Critical Network;
- (q) the Draft OPCW Programme and Budget for 2006;
- (r) the Draft Medium-Term Plan for the period from 2006 to 2008;
- (s) the OPCW Interim Staff Rules and amendments to Staff Regulation 3.3;

- (t) classification of posts;
- (u) the OPCW Draft Financial Rules;
- (v) reports on the implementation of the recommendations of the OIO and of the External Auditor;
- (w) amendments to the OPOC;

Legal, organisational, and other issues:

- (x) the full implementation of Article XI of the Convention;
- (y) the fostering of international cooperation for peaceful purposes in the field of chemical activities;
- (z) challenge inspections:
 - (i) further operational requirements for equipment in challenge inspections;
 - (ii) costs associated with the abuse of challenge inspections;
 - (iii) the timing of notifications in connection with challenge inspections;
 - (iv) lists of activities and elements of preliminary findings and final inspection reports; and
 - (v) consequences of abusing the right to a challenge inspection;
- (aa) the indication of specific types of equipment for certain types of inspection;
- (bb) sampling procedures;
- (cc) requirements for reporting information to the Council on verification activities, including inspection results;
- (dd) the effectiveness of verification activities and their optimisation;
- (ee) proposal for amendments to Rules 12 and 14 of the Rules of Procedure of the Council;
- (ff) agreements on privileges and immunities, and agreements with international organisations; a draft memorandum of understanding between the OPCW and the World Customs Organization;
- (gg) the report of the Council on the performance of its activities;
- (hh) verification implementation reports;
- (ii) guidelines for on-site monitoring instruments;

- (jj) the progress report on the implementation of the plan of action regarding the implementation of Article VII obligations;
- (kk) guidelines on international-cooperation programmes, to be applied during the evaluation of reports by the Secretariat on existing programmes, as well as proposals for new cooperation programmes; and
- (ll) the progress report on the implementation of the action plan for the universality of the Convention.

7. REPORTS TO THE COUNCIL

Reports of the Advisory Body on Administrative and Financial Matters

- 7.1 The Council at its Thirty-Eighth Session noted the information submitted by the Director-General on the implementation of recommendations made by the Advisory Body on Administrative and Financial Matters (ABAF) at its Sixteenth Session (EC-38/DG.19, dated 17 September 2004).
- 7.2 The Council at this same session also noted the report of the Seventeenth Session of the ABAF (ABAF-17/1, dated 29 September 2004). The Council also noted the information submitted by the Director-General on the implementation of the recommendations made by the ABAF at its Seventeenth Session (EC-38/DG.23, dated 11 October 2004).
- 7.3 The Council at its Forty-First Session noted the report of the Eighteenth Session of the ABAF (ABAF-18/1, dated 13 May 2005) together with the related Note by the Director-General (EC-41/DG.14, dated 20 June 2005, and Corr.1, dated 24 June 2005).

Appointments to the Advisory Body on Administrative and Financial Matters

- 7.4 The Council at its Thirty-Eighth Session noted the resignations from the ABAF of Mr Sang-Soo Lee, Mr R. Poornalingam, and Mr Bernhard Brasack, and approved the appointments of Mr Young-Kyu Park, Mr P.I. Suvrathan, and Mr Peter Beerwerth retroactive to the dates of their letters of nomination (26 August 2004, 26 August 2004, and 10 September 2004, respectively).
- 7.5 The Council at its Thirty-Ninth Session noted the resignation of Mr Yu Dunhai from the ABAF, and approved the appointment of Mr Zhang Shen retroactive to the date of the letter of nomination (13 December 2004).
- 7.6 The Council at its Fortieth Session noted the resignation of Mr John Fox, Mrs Anna Hynková, and Mr Sajjad Kamran from the ABAF, and approved the appointment of Mrs Libuše Pechatá and Mr Malik Azhar Ellahi retroactive to the dates of their letters of nomination (4 and 16 March 2005, respectively).
- 7.7 The Council at its Forty-First Session noted the resignation of Mr P. I. Suvrathan from the ABAF, and approved the appointments of Mr Pradeep Singh and Ms Emily W. Spencer retroactive to the dates of their letters of nomination (21 March and 29 April 2005, respectively).

Report of the Scientific Advisory Board

- 7.8 The Council at its Forty-First Session received the Report of the Seventh Session of the Scientific Advisory Board (SAB-7/1, dated 11 March 2005). The Council also received and considered the Note by the Director-General on the Report (EC-41/DG.8, dated 25 May 2005, and Corr.1, dated 29 June 2005).

Report of the Office of Internal Oversight for 2004

- 7.9 The Council at its Forty-First Session considered the Annual Report of the OIO for the period from 1 January to 31 December 2004 (EC-41/DG.3, dated 27 April 2005, and Corr.1, dated 9 May 2005), which had been submitted to it by the Director-General in accordance with Regulation 12.5 of the OPCW Financial Regulations.
- 7.10 The Council at this same session received an oral report from the facilitator on the informal consultations during the intersessional period on the report of the OIO for the period from 1 January to 31 December 2004 and on the accompanying Note by the Director-General (EC-41/DG.3, and Corr.1). The Council transmitted this report, together with its comments, to the Conference at its Tenth Session.

Annex:

Actions taken by the Conference of the States Parties at its Ninth Session in response to recommendations made by the Executive Council at its Thirty-Eighth Session and its Twenty-Fourth Meeting

Annex

ACTIONS TAKEN BY THE CONFERENCE OF THE STATES PARTIES AT ITS NINTH SESSION IN RESPONSE TO RECOMMENDATIONS MADE BY THE EXECUTIVE COUNCIL AT ITS THIRTY-EIGHTH SESSION AND ITS TWENTY-FOURTH MEETING

Report of the Executive Council on the performance of its activities

- 1.1 The Conference noted the report of the Council on the performance of its activities in the period from 28 June 2003 to 2 July 2004 (EC-38/3 C-9/3, dated 12 October 2004), which the Council at its Thirty-Eighth Session had submitted to it. The report was introduced by the Chairman of the Council, Ambassador José Antonio Arróspide of Peru, who also elaborated on the recommendations of the Council that required the attention of the Conference, including those made after the cut-off date for the above report.

Recommendation to the Conference concerning the implementation of the plan of action regarding the implementation of Article VII obligations

- 1.2 The Conference at its Eighth Session approved a plan of action regarding the implementation of Article VII of the Convention (C-8/DEC.16, dated 24 October 2003). It also requested the Secretariat, *inter alia*, to report to it at its Ninth Session on the progress made in implementing the plan of action (C-9/DG.7, dated 23 November 2004). The Conference at its Eighth Session also undertook to review at its Ninth the progress made in implementing this plan of action (paragraph 19 of C-8/DEC.16). The Conference at its Ninth Session considered the Secretariat's report, and on the basis of a recommendation of the Council at its Twenty-Fourth Meeting adopted a decision on further related action needed (C-9/DEC.4, dated 30 November 2004).

OPCW Programme and Budget for 2005, and all items pertaining to it

- 1.3 In accordance with Article VIII, paragraph 21(a), of the Convention, and with Financial Regulation 3.6(a), the Conference considered and adopted the OPCW Programme and Budget for 2005, which the Council at its Twenty-Fourth Meeting had submitted to it (C-9/DEC.14, dated 2 December 2004).

Request for conversion of chemical weapons production facilities for purposes not prohibited under the Convention

- 1.4 Following a request by the Libyan Arab Jamahiriya to use the chemical weapons production facilities (CWPFs) Rabta Pharmaceutical Factories 1 and 2, Rabta, the Libyan Arab Jamahiriya, for purposes not prohibited under the Convention, the Director-General submitted a report to the Council at its Thirty-Eighth Session on the request (EC-38/DG.10, dated 10 September 2004; Corr.1, dated 8 October 2004; Corr.2, dated 12 October 2004; and Corr.3, dated 23 November 2004). In accordance with paragraph 75 of Part V of the Verification Annex, as soon as possible after

receiving the report of the Director-General, the Conference, upon the recommendation of the Council, shall decide, taking into account the report and any views expressed by States Parties, whether to approve the request, and shall establish the conditions upon which approval is contingent. The Council considered this request at its Twenty-Fourth Meeting, and recommended that the Conference approve this request and establish a deadline for the completion of this conversion. The Conference considered the request, and adopted a decision approving it and establishing the deadline for the completion of the conversion (C-9/DEC.9, dated 30 November 2004).

Submission of information regarding national programmes related to protective purposes, pursuant to Article X, paragraph 4 of the Convention

- 1.5 The First Review Conference had requested the Council to expeditiously develop and submit for adoption the procedures called for by the Convention regarding the annual submission by each State Party of information on its national programme related to protective purposes (paragraph 7.94 of RC-1/5). The Council at its Twenty-Fourth Meeting considered and adopted a recommendation to the Conference at its Ninth Session on submission of information regarding national programmes related to protective purposes pursuant to Article X, paragraph 4 of the Convention (EC-M-24/DEC.6, dated 24 November 2004). The Conference considered and adopted a decision on this issue (C-9/DEC.10, dated 30 November 2004).

Action plan for the universality of the Chemical Weapons Convention

- 1.6 The Conference considered and noted the report by the Director-General on the implementation of the action plan for the universality of the Convention which had been brought to its attention by the Council (C-9/DG.4 EC-38/DG.21, dated 4 October 2004).

Report of the External Auditor and the audited financial statements of the OPCW for 2003

- 1.7 In accordance with Regulation 13.10 of the OPCW Financial Regulations, the Council at its Thirty-Eighth Session forwarded to the Conference the report of the External Auditor on the audit of the OPCW's accounts and those of its Provident Fund for the period ended 31 December 2003 (EC-38/DG.3 C-9/DG.3, dated 22 July 2004). This report was introduced by the External Auditor, Mr Muhammad Yunis Khan of Pakistan. The Conference considered and noted this report, as well as the Council's comments on it, which appear in the report of its Thirty-Eighth Session (EC-38/2, dated 15 October 2004).

Medium-term plan for 2005 to 2007

- 1.8 The Conference noted the medium-term plan for 2005 to 2007 (C-9/S/1, dated 2 December 2004).

Transfers from and replenishments to the Working Capital Fund

- 1.9 The Conference at its Eighth Session requested the Director-General to report to its Ninth, through the Council, on details of transfers from and replenishments to the Working Capital Fund (C-8/DEC.17, dated 24 October 2003). The Council had forwarded a Note by the Director-General (EC-38/DG.20, dated 21 September 2004) to the Conference, which noted it.

Amendments to the terms of reference of the Scientific Advisory Board

- 1.10 In the light of the proposal submitted by the Director-General to the Council at its Thirty-Eighth Session to increase the number of seats on the Scientific Advisory Board from 20 to 25 (EC-38/DG.18, dated 16 September 2004), and of the Council's recommendation that the Conference amend the terms of reference of the Scientific Advisory Board (EC-38/DEC.11, dated 14 October 2004), the Conference considered and approved these amendments (C-9/DEC.13, dated 2 December 2004).

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