Biological Weapons Breakdown

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Nearly four years have passed since the Bush administration’s dramatic rejection of a draft protocol for the Biological Weapons Convention (BWC), leading to the collapse of a decade-long effort to supplement the BWC with formal compliance measures. In his valuable insider account of the ill-fated negotiations, Jez Littlewood of the University of Southampton in the United Kingdom challenges the conventional wisdom about this debacle. The BWC protocol, he writes, “was not as close to completion as some post-collapse assessments actually claim, not as strong as some of its proponents have intimated, and not as weak as many of its detractors have sought to portray.” Moreover, although the United States was “the principal cause” of the failure of the talks, there was plenty of blame to go around.

*The Biological Weapons Convention: A Failed Revolution* is based on Littlewood’s doctoral dissertation but fortunately does not suffer from the dry, jargon-filled prose that afflicts much academic writing. Instead, the book is written in a clear, forceful, and at times passionate style that reflects the author’s familiarity with the subject and his deep commitment to disarmament. Between 1998 and 2002, Littlewood worked for the secretariat of the protocol negotiations at the UN office in Geneva, initially as an intern and later as a contract staff member. As a result, he had a “ringside seat” at all of the official negotiating sessions from July 1998 to August 2001, as well as the two sessions of the fifth BWC review conference in 2001-2002.

Because multilateral negotiations are normally off limits to outside observers, Littlewood enjoyed extraordinary access, and he has made good use of it to write a definitive account of the protocol negotiations that corrects a number of errors in the scholarly literature. After two introductory chapters that review the history of the BWC up to the protocol negotiations, the core of the book consists of six chapters devoted to the basic elements of the draft treaty: declarations, on-site visits and clarification procedures, investigations, export controls, peaceful cooperation, and the proposed Organization for the Prohibition of Biological Weapons. Although these chapters provide a useful service for future arms control historians, the level of detail is probably excessive for all but hardcore specialists. The book’s final two chapters are of greatest interest for the general reader and include a thoughtful analysis of why the protocol negotiations went awry and the enduring consequences of failure.

The BWC was controversial from the start. Although based on a British draft convention of 1969, the final version of the treaty, which opened for signature in 1972, was essentially a bilateral agreement between the United States and the Soviet Union that was then imposed on the other participating states as a fait accompli. By the time the Cold War superpowers finished reworking the BWC, they had dropped all formal verification provisions and assigned sole responsibility for investigating noncompliance to the UN Security Council, enabling Moscow and Washington to use their veto power to block inquiries into their own activities or those of their allies.

These changes reduced the BWC to little more than a gentleman’s agreement, with no agreed set of procedures for states-parties to demonstrate their compliance and to monitor and, if necessary, compel the compliance of others. Four years after the treaty entered into force, a suspicious
outbreak of human anthrax in the Soviet city of Sverdlovsk in 1979 suggested that Moscow was violating the BWC—a suspicion later confirmed by senior defectors—clearly demonstrating the need for stronger measures to check compliance. During the 1980s and early 1990s, the member states made modest, incremental steps to strengthen the convention, such as introducing politically binding confidence-building measures (CBMs) involving annual exchanges of data on maximum-containment labs, outbreaks of infectious disease, and other relevant topics. Yet, only a minority of BWC members submitted the CBM declarations on a regular basis.

By the third BWC review conference in 1991, it was becoming increasingly clear that the incremental approach to strengthening the treaty could not cope with the growing list of challenges to the regime, including the biotechnology revolution, economic globalization, Soviet noncompliance, and the proliferation of biological weapons to additional states. Although some countries favored supplementing the BWC with legally binding compliance measures, the administration of President George H. W. Bush insisted that the treaty was not “verifiable” for several reasons: dual-use facilities made it difficult to distinguish prohibited from legitimate activities; a negotiated agreement could never be intrusive enough to detect clandestine programs, creating false confidence in compliance; and on-site inspections would expose U.S. government and commercial facilities to foreign espionage. The first Bush administration’s rigid position on BWC verification was in sharp contrast to its pragmatic support for the Chemical Weapons Convention, which has extensive verification measures that are also incapable of providing absolute confidence in compliance.

Under strong pressure from its European allies, the United States reluctantly agreed in 1991 to create an Ad Hoc Group of Verification Experts (VEREX) to identify and evaluate potential on-site and off-site verification measures for the BWC. After meeting four times in 1992-1993, the VEREX group concluded that some combinations of verification measures “would,” rather than “might,” contribute to strengthening the convention. The incoming administration of President Bill Clinton also took a more positive view of verification, tipping the balance of power in favor of those member states that favored legally binding measures to strengthen the BWC, including Australia, Canada, New Zealand, South Africa, and the countries of the European Union, particularly the United Kingdom. This change in U.S. policy left the main opponents of BWC verification—China, India, Iran, and Russia—isolated and open to criticism if they tried to obstruct progress.

A special conference in 1994 agreed to establish a new ad hoc group open to all BWC states-parties, with the mandate to consider several issues, including possible verification measures, and incorporate them as appropriate into a “legally binding instrument,” presumably a protocol to the BWC. The United States insisted, however, that the word “verification” be banned from the negotiations. Instead, the protocol would aim to strengthen the BWC by helping to identify discrepancies or ambiguities pertaining to facilities or activities, providing measures to pursue specific compliance concerns, and allowing for direct diplomatic engagement to resolve them.

The ad hoc group started its work in 1995 and, after two years of preliminary discussions, began in 1997 to negotiate a draft of the BWC protocol, known as the “rolling text.” Significant compromises were required to accommodate conflicting national interests, inevitably diluting the intrusiveness of the regime. The talks were particularly complex because the post-Cold War era was no longer dominated by two superpowers, opening the way for what Littlewood calls “true multilateralism,” in which middle powers and groups of developing countries could exert greater influence. The consensus rule of the ad hoc group allowed any participating state to block agreement if it had a serious objection. Accordingly, the draft protocol came to reflect a delicate balance of the concerns and objectives of a wide variety of countries. Whereas industrialized states viewed the BWC primarily as a security agreement and saw its economic aspects as secondary, many developing countries discounted the security benefits unless trade and technology transfer issues were given equal prominence. North-South differences also emerged with respect to the targeted export controls on biotechnology materials and equipment coordinated by the Australia Group.

In an effort to bridge the remaining points of contention, on March 30, 2001, ad hoc group chairman Ambassador Tibor Tóth of Hungary issued a 200-page “composite text” that replaced the nonagreed sections of the rolling text with compromise language. According to Littlewood, the chairman’s draft “reflected what was thought to be possible” given the requirement for consensus. Despite weak provisions on routine visits to treaty-relevant facilities and declarations of national biodefense
programs, the draft protocol had surprisingly robust procedures for investigating the suspected production or use of biological weapons. The chairman’s draft also called for creating a lean but effective international organization to monitor bioweapons threats and carry out inspections. In Littlewood’s view, the proposed compliance regime, although far from ideal, was a substantial improvement over the CBMs and the existing provisions of the BWC.

When the ad hoc group convened in July 2001 to consider the chairman’s composite text, no delegation endorsed the draft in its entirety, but none rejected it either. The chairman’s text, therefore, became the de facto basis for the “endgame” phase of protocol negotiations. Even so, 28 states-parties requested 87 specific changes to the composite text, some of which were contradictory, and threatened to block consensus unless their concerns were addressed. For this reason, the draft protocol “was not a done deal waiting for U.S. approval,” Littlewood writes. “To suggest otherwise is to misunderstand the negotiations and to ignore the reluctance of more than one state-party to see even a limited protocol enter into force.” Given the large number of unresolved issues, whether or not the negotiations could have been concluded successfully in August 2001 is an open question.

That question became moot on July 25, 2001, however, when U.S. Ambassador Donald Mahley announced that the new administration of President George W. Bush had decided to reject the draft protocol and the entire “approach” it represented. He also declared that the United States could not conceive of any changes that would improve the draft text to make it acceptable. The main U.S. objection was that the BWC was not “verifiable” by international means, an objective that the protocol had never been intended to satisfy. Indeed, the sudden reappearance of the word “verification,” which had been banned from the protocol at Washington’s request, was galling to many countries. Moreover, whatever weaknesses existed in the protocol’s investigation procedures were due in part to U.S. negotiating demands.

The Bush administration’s other rationales for rejecting the protocol also failed to hold water, namely the need to protect export controls, proprietary information, and biodefense activities. Despite resistance from developing countries, the protocol ended up legitimating export controls, and the U.S. claim that on-site visits would cause “unacceptable risks to proprietary or national security information” was a clear overstatement. The “threat” posed by a maximum of seven on-site visits per year in the United States was surely exaggerated, given that access was subject to the approval of the host country and could be limited further through managed-access procedures.

Littlewood contends that the real reason Washington rejected the draft protocol was not because the agreement was flawed but because of a major shift in the political criteria by which it was judged. Bush administration policymakers refused to accept the basic premise of multilateral diplomacy—that all states-parties must be treated equally—and shifted the political goalposts to return to the paradigm of the early 1990s: imperfect verification was worse than none. The U.S. rejection of the draft protocol provoked a great deal of resentment because it was unconditional, with no serious effort to find solutions to the stated concerns. Following this act of willful destruction, the Bush administration found itself totally isolated, abandoned even by its closest allies.

Although Littlewood assigns the United States primary blame for the collapse of the protocol negotiations, he implicates several other nations as well. China, India, Iran, Pakistan, and Russia all paid lip service to the protocol, but they actually had no desire to be subjected to intrusive verification and used every opportunity to slow the progress of the negotiations, weaken provisions, and sideline important issues. Thus, despite their public condemnation of the United States, these countries secretly welcomed the U.S. action. Ironically, if the Bush administration had decided to support the protocol, the opponents would have been unable to block its adoption outright. The U.S. rejection, therefore, let several states of biological weapons proliferation off the hook.

The collapse of the BWC protocol negotiations erased 10 years of hard work and left unresolved the problems that had bedeviled the convention for decades. Betraying his personal anger and disillusionment over the wasted effort, Littlewood concludes that the protocol “foundered in the face of intransigence, prevarication, and sophistry” by a powerful group of countries opposed to creating an effective compliance regime. With the demise of the protocol, the leading advocates of a strengthened BWC were not only defeated but bereft of new ideas. Moreover, despite the triumph of
the protocol’s opponents, it soon became clear that they too lacked a coherent strategy. In November 2001, the United States proposed nine “innovative” measures as alternatives to the protocol, but this package turned out to be a major disappointment, as every measure had already been proposed or attempted without significant results.

In November 2002, BWC member-states agreed to a “new process” of annual expert and political meetings in 2003-2005 to discuss voluntary national biosecurity measures such as restrictions on access to dangerous pathogens, penal legislation, disease surveillance, and scientific codes of conduct. Yet, the Bush administration remains so hostile to any multilateral effort to strengthen the BWC that it has sharply curtailed the annual meetings to preclude negotiations or any substantive agreements. Whatever recommendations ultimately emerge from the “new process” will be discussed at the sixth review conference in 2006, which may or may not decide to take further action.

Littlewood notes that the primary aim of the BWC protocol was to “aggregate” the various strengthening measures under a single organization. With the collapse of the talks, the future will most likely consist of “disaggregated” approaches: national biosecurity measures and activities by coalitions of like-minded states such as the Australia Group and the Proliferation Security Initiative. Littlewood contends, however, that these efforts are too modest and fragmented to offer a real solution to the problem of noncompliance. He bemoans the “pervasive lack of ambition at precisely the period when the threat of biological weapons development, and possibly use, is increasing.”

Despite its considerable strengths, Littlewood’s book has a few limitations. The analytical framework of “reformist” and “minimalist” states, although perhaps suitable for a doctoral dissertation, does little to clarify the dynamics of the negotiation. Moreover, from his perch in Geneva, Littlewood was able to glean few insights into what drove the pendulum-swings in U.S. policy toward the BWC, namely why the United States tipped the balance in favor of the protocol talks in 1994 but played a central role in their demise in 2001. Explaining these changes requires a deep understanding of the U.S. interagency policymaking process, including the parochial interests of the Departments of Defense, State, and Commerce. Littlewood also neglects the pivotal role of senior U.S. officials such as John Bolton, a hard-liner who in 2001 was serving as undersecretary of state for arms control and international security. Indeed, the U.S. rejection of the BWC protocol may be one of Bolton’s more enduring legacies.

Hovering over Littlewood’s book is an almost elegiac sense of loss, not only for the years of wasted effort but for the ideals that inspired them. One can empathize with his disillusionment as he watched the doomed negotiations from the sidelines. Yet, despite that sobering experience, he remains convinced that the various measures now being pursued must eventually be linked back to the BWC. Biological disarmament can never be definitive because of the dual-use nature of the knowledge, materials, and equipment needed to develop, produce, stockpile, and use biological weapons. For this reason, the biological disarmament regime will require continual oversight, management, and enforcement. Littlewood contends that there is no single solution to the problem of biological warfare and that containing the threat demands a range of policies at the individual, national, regional, and global levels. The linchpin, however, will remain the BWC, which provides the legal, normative, and moral authority for all efforts to prevent the hostile use of disease.

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