BWC Protocol Talks in Geneva Collapse Following U.S. Rejection

International negotiations in Geneva to conclude a protocol to the 1972 Biological Weapons Convention (BWC) collapsed this summer after the United States rejected the protocol in late July, casting uncertainty over the talks’ future.

BWC states-parties had been meeting since 1995 under a body known as the Ad Hoc Group to negotiate the protocol—a legally binding agreement to strengthen the BWC, which outlaws biological weapons but does not contain verification measures.

In a highly anticipated speech July 25, Ambassador Donald Mahley, the head of the U.S. Ad Hoc Group delegation, said the United States would not support the draft protocol or endorse a continuation of the negotiations because the “current approach” is “not capable of achieving the mandate set forth for the Ad Hoc Group.” The United States would therefore be “unable to support the current text, even with changes,” Mahley said.

Mahley explained Washington’s reasoning in detail, contending that the draft text would “do little” to deter countries from seeking biological weapons and that it would not improve the United States’ ability to verify BWC compliance.

He added that the protocol’s on-site inspection measures could jeopardize U.S. commercial proprietary information while having “almost no chance of discovering anything useful to the BWC” in “less-than-innocent” facilities in other countries. Mahley said the protocol could therefore “serve to misdirect world attention into non-productive channels.”

The ambassador also said that, although the protocol would not “provide sufficient protection” for U.S. biodefense programs, which would also be subject to on-site activity, the draft would still “permit a potential proliferator to conceal significant efforts in legitimately undeclared facilities.”

Mahley also attacked other countries’ efforts to use the negotiations to undermine international export control regimes, such as the Australia Group, of which the United States is a member.

However, Mahley stressed the United States’ continued commitment to the BWC and said that Washington would pursue alternative approaches to strengthening the convention during the next several months.

In a press conference following his speech, Mahley outlined some broad possibilities, such as reinvigorating the Australia Group and pursuing “codes of ethics” that would “remind people of the fact that biological weapons are not things to do.” Mahley said the Bush administration would also explore strengthening the international community’s ability to respond to disease outbreaks, thus lowering the chances of a successful biological weapons attack and reducing the “desirability of biological weapons.”

In his speech, Mahley emphasized that the administration’s position is not new, saying that “many, if not all, of the difficulties” he outlined had been “repeatedly” heard by other delegations over the
course of the negotiations.

Indeed, the negotiations have long been plagued by bitter disagreements between delegations, and reports dating as far back as April have indicated that Washington would not back the latest draft of the protocol. Despite the reports, the United States refused to make its official position known until the Bush administration had completed a review of its protocol policy. During a July 25 briefing in Washington, a senior State Department official said the review had found 37 problems with the draft protocol.

At a July 29 press conference, Secretary of State Colin Powell added, “We didn’t just pull out” of the negotiations. He went on to claim that the Clinton administration “probably would have come to the same conclusion” as the Bush team had.

However, Elisa Harris, who coordinated U.S. biological weapons policy for the Clinton administration’s National Security Council, refuted Powell’s assertion. Writing in The Christian Science Monitor August 24, Harris said the Clinton administration would have “embraced” the protocol and that Powell’s comments “seriously misrepresent the Clinton administration position and the value of the agreement itself.”

Moving Forward

The United States was the only country that did not support the protocol at the recent talks, held July 25 to August 17, according to an official in Geneva close to the negotiations, and its rejection has jeopardized the accord’s future. Negotiators had aimed to complete the protocol before an upcoming BWC review conference in November, but that will now be impossible because no further talks are scheduled before the conference.

Most countries were unwilling to continue talks on the protocol after the U.S. announcement, so the remainder of the negotiating session turned to the task of writing a procedural report describing the Ad Hoc Group’s progress since the 1996 BWC review conference, the last time the group reported to a BWC body.

However, delegations were unable even to negotiate a final report. According to the official in Geneva, although states-parties were able to reach agreement on most items in the report, including the continued validity of the Ad Hoc Group’s mandate, they disagreed over whether the United States should be blamed, even indirectly, for the talks’ collapse.

Without a report, the group’s future is uncertain, and according to the official, “really is in the hands of the states-parties” at the review conference.