U.S. Presents Alternatives to BWC Protocol at Review Conference

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In a November 19 statement at the fifth Biological Weapons Convention (BWC) review conference in Geneva, the United States formally presented proposals to strengthen the convention, which outlaws germ weapons but lacks verification measures.

The Bush administration promised to develop its plan in July after it opposed a draft of—and any future negotiations on—an internationally negotiated protocol to strengthen the treaty’s enforcement. The United States was the only country to oppose the draft, which had been over six years in the making, provoking international criticism.

Perhaps the biggest difference between the draft protocol and the U.S. plan concerns legal status. The protocol would be legally binding, while the administration simply plans to incorporate its ideas in the review conference’s final document, which will be politically binding but will not have the force of international law.

Washington’s package also leaves out some of the protocol’s most significant provisions. Absent from the proposal is the protocol’s plan to establish an international implementing body that would have the power to conduct challenge investigations of suspicious facilities, collect declarations of treaty-relevant facilities, and perform routine, nonintrusive “visits” to declared facilities.

However, the U.S. package does retain some of the protocol’s measures. For instance, the plan would require BWC member states to enact domestic legislation criminalizing treaty-prohibited activities. According to a European official, about half of the BWC’s member states do not have such laws.

The U.S. package would also expand the UN secretary-general’s mandate to investigate suspected biological weapons use by allowing the secretary-general to also examine suspicious disease outbreaks, an idea contained in the protocol. Furthermore, Washington’s proposals would elaborate vague BWC provisions for clarifying and resolving compliance concerns. This would involve voluntary exchanges of information or visits to sites in question. The protocol included similar measures that, unlike the U.S. plan, allowed for obligatory on-site visits.

Like the protocol, the Bush administration’s proposals also envision states supporting World Health Organization efforts to monitor and respond to global disease and contributing to an international team that would provide assistance “in the event of a serious outbreak of infectious disease.” In addition, the U.S. plan would require states to “report internationally” biological releases or “adverse events that could impact other countries,” a suggestion similar to measures resulting from past review conferences and contained in the protocol.

A number of the U.S. suggestions go beyond what the protocol would have included. For instance, Washington would like to make it easier to extradite criminals involved in biological weapons crimes. It also wants to require states-parties to adopt and implement “strict regulations for access to particularly dangerous microorganisms.”
The U.S. plan also calls for states to “sensitize scientists to the risks of genetic engineering” and to “explore national oversight of high-risk experiments.” In addition, states would adopt a code of conduct for scientists working with pathogenic microorganisms and implement “strict biosafety procedures.”

The United States has said that BWC member states could meet after the review conference to discuss implementing the measures it has suggested and to consider other proposals to strengthen the convention. However, the United States is not willing to continue meetings of the Ad Hoc Group, the international body that negotiated the protocol, according to an administration official.

The official said that, although talks on implementation would include the same participants as the Ad Hoc Group had, Washington would consider the two separate processes. Starting “afresh” with new talks would be more productive, the official said.

Initial International Response

The United States is having difficulty obtaining support for its proposals at the review conference, which began November 19 and ends December 7. According to a source in Geneva, most of the delegations at the conference would like to conclude a multilaterally agreed, legally binding measure that would enhance compliance with the convention. Many countries would also like to take time to review the U.S. proposals and then discuss them, and other suggestions, at a later time.

“These things are generally difficult to agree on at a review conference because of the short, short time period,” the source said, adding that, if the U.S. proposals were agreed to at the conference, then it would be difficult for other countries to pressure Washington to accept other ideas.

Prior to the conference, Washington had briefed its allies and World Health Organization officials on its proposals. According to the Bush administration official, Washington received a favorable general reaction. Some countries wanted to go beyond U.S. recommendations in some areas, the official said, but there was a “general acceptance” that the protocol negotiations are “not a basis for further work.”

However, other diplomatic sources say that these favorable reactions to the U.S. plan were contingent on Washington remaining open to the Ad Hoc Group’s continuation, even if the group does not conduct negotiations on the protocol.