

### *The ill-fated BWC protocol*

The AHG commenced its work in 1995 and moved into negotiating mode in 1997, producing an unwieldy compilation of 'measures to promote compliance'. At the behest of the US the word verification was avoided, even though the draft contained many of the verification measures that proponents wanted. The chief advocates were Australia, Brazil, Canada, South Africa and the members of the European Union (EU), especially the UK. Sceptics included China, Iran, Pakistan and the US, and on particular issues, Japan, Germany and Russia. Negotiations on the draft took place between 1997 and 2001 and intensified as the deadline of the Fifth BWC Review Conference approached in November 2001. In April 2001 the Chairman of the AHG, Ambassador Tibor Tóth of Hungary, tabled a 200-page compromise draft text.<sup>37</sup>

The draft envisaged the establishment of an international Organization for the Prohibition of Biological Weapons (OPBW), on a lesser scale than the OPCW, but which would nonetheless be charged with monitoring and verifying compliance with the BWC. States parties would be required to declare certain facilities, such as commercial research and production plants and larger bio-defence establishments. 'Triggers' for such declarations would include the facility's bio-safety level, as well as whether it worked with specified agents that could be used to develop biological weapons. Declared facilities would be subject to non-challenge 'visits' to enhance transparency and to increase confidence in the accuracy of the declarations. Consultations could be held to clarify ambiguous or suspicious information. Field investigations could be instigated in the event of an unusual outbreak of disease or suspected use of BW, while facility investigations could be launched to assess whether production of biological weapons was occurring. The draft also envisaged measures to strengthen technical cooperation and to increase scientific exchanges among states parties.

Although no delegation endorsed Tóth's draft in its entirety, no delegation rejected it either and de facto it became the negotiating text. While less than perfect, the protocol would at the very least have:

- created greater transparency than currently exists;
- increased the possibility of challenge OSIs in the case of suspected manufacture or use of BW;
- provided a standing international forum for any state party to air its compliance concerns; and
- established a relatively cheap verification organisation tasked with keeping global attention focused on the BW threat.

At the July 2001 meeting of the AHG, the last scheduled gathering, the US delegation rejected both the draft protocol and the entire 'approach' that it represented.<sup>38</sup> It announced, moreover, that it could not conceive of any changes that would improve the draft text to make it acceptable. It was both too strong and too weak. Paradoxically, the relative weakness of the verification regime was of the United States' own making: it had continuously sought to water down the draft on the grounds that it regarded the BWC as inherently unverifiable.

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<sup>37</sup> See Oliver Meier, 'A biological weapons protocol: verification lite?', *Trust & Verify*, no. 97, May-June 2001, pp. 1-2.

<sup>38</sup> See Trevor Findlay, 'Bush ditches the BW protocol', *Trust & Verify*, no. 98, July-August 2001, pp. 1-3.