

Thesis

Ambivalent multilateralism

The United States and the Biological Weapons Convention Protocol

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Based on a tradition of “American exceptionalism”, the US is often reluctant in its attitude toward broad multilateral organizations, regardless of which party controls the presidency. This article is a summary of the winning MA thesis of the Dwight D. Eisenhower Thesis Prize 2013-2014, installed by the Netherlands Atlantic Association. The thesis analyzed the history of the Biological Weapons Convention (BWC). It argues that, contrary to popular beliefs, the “unilateralist turn” of George W. Bush is *not* a clear break from previous American foreign policy, at least in the case of the BWC.

The Biological Weapons Convention (BWC), established in 1972, was the first multilateral disarmament treaty banning the production of an entire category of weapons. Biological weapons, together with chemical and nuclear weapons, are classified as weapons of mass destruction. Using toxins or pathogens — viruses, bacteria, and other disease-causing biological agents — biological weapons are designed to cause death and suffering on a large scale. The BWC is a multilateral agreement that prohibits all members to “develop, produce, stockpile or otherwise acquire or retain” biological agents and toxins for the use of “hostile purposes or in armed conflict.”

Despite the fact that 169 countries are now States-Parties to the BWC, gross violations of the convention have occurred. Notable examples include the biological weapons program of signatory state Iraq, discovered by the UN Special Commission on Iraq after the 1990 invasion of Kuwait; or the extensive offensive biological weapons program maintained by the Soviet Union after it became a State Party. The reason these violations could — and still can — occur is that the BWC lacks formal compliance measures. Contrary to the Chemical Weapons Convention, which is administered by the Organization for the Prohibition of Chemical Weapons (OPCW), verifying adherence to the convention, the BWC lacks such an organization. Several BWC review conferences have been held since 1980 in order to strengthen the convention, but a number of countries have proven reluctant to supplement the BWC with legally binding compliance measures. From 1997 an ad hoc group started to negotiate a draft Protocol that would allow the BWC some investigation procedures. However, on July 25, 2001, US Ambassador Donald Mahley announced that the new administration of President George W. Bush would reject the draft Protocol.

Complete rejection of institutionalized verification measures for the BWC by the United States does seem paradoxical, considering its strong emphasis on national security. President Bush frequently expressed his concerns about biological weapons, which were seen as a serious threat to the United States. One of the principal arguments behind the invasion of Iraq was the supposed belief that Saddam Hussein possessed weapons of mass destruction. Furthermore, America experienced first-handedly the terror of biological weapons during the 2001 anthrax attacks, which killed five people and infected seventeen others. Moreover, the United States has taken the initiative on many issues of non-

proliferation. It was President Nixon who in 1969 unilaterally abandoned America's extensive biological weapons program — an unprecedented step that paved the way for the negotiation of the BWC in 1972. Most strikingly, the United States did sign and ratify the Chemical Weapons Convention, including its OPCW inspection regime. How, then, can we explain the Bush administration pulling out of the BWC verification Protocol negotiations?

Bush's "unilateralist turn"

Many scholars and commentators imply that the ideology of the George W. Bush administration significantly contributed to the failure of the BWC Protocol.¹ During his first year in office Bush rejected a series of important international treaties and agreements, including the Kyoto Protocol on Climate Change, the Rome Statute of the International Criminal Court, the Anti-Ballistic Missile Treaty, the International Landmine Ban Treaty, and a pact to combat the illicit trade in small arms. After the BWC Protocol was turned down as well, Barbara Rosenberg, chair of the Federation of American Scientists' Working Group on Biological Weapons, stated that the main reason for the rejection was an ideological one: "It is obvious the Bush administration doesn't like treaties of any kind and has been junking them or refusing to participate in them left and right."² Contrasting Bush's approach to the BWC with that of his predecessor Clinton, former White House staffer Elisa Harris emphasized the Clinton Administration would have "embraced" the Protocol. The Bush administration, she argues on the other hand, made an early decision that the treaty "doesn't conform to their larger view," which meant this administration tried to "avoid being encumbered by multilateral, legally binding arms control treaties".³

There exists a widespread idea that the Bush administration's foreign policy marked a sharp break — a "unilateralist turn" — with the supposedly longstanding multilateral tradition that dominated American foreign policy since the end of World War II. As Stewart Patrick puts it: "from the moment it assumed office the Bush administration signaled its desire to escape these historical constraints, portending a departure from fifty-five years of US diplomacy dating from World War II."⁴ This assumes that the BWC Protocol was doomed by the aberrational philosophy of the George W. Bush administration, and that previous US administrations — especially that of Bill Clinton — would likely have supported the Protocol.

In the view of this author, the widely accepted explanation outlined above is problematic in two respects. First, it assumes that the foreign policy of George W. Bush, especially regarding multilateral institutions, marked a radical break with the attitudes and practices of previous administrations. And second, it overlooks the longstanding substantial concerns the United States has had regarding BWC verification.

BWC verification: longstanding US opposition

One could discern strong patterns of continuity in the American attitude towards the Biological Weapons Convention. From the beginning the United States has taken a highly critical position towards this treaty. It consistently obstructed initiatives to reform the BWC and equip the treaty with meaningful verification provisions — a position that put the United States at odds with a majority of States Parties, and certainly with its Western allies. When the Bush administration rejected the BWC Protocol in 2001, it did so on the basis of substantial objections formed under its predecessors: a BWC Protocol would not improve

US abilities to verify BWC compliance and would put US biodefense programs and propriety information at risk.

Over the past decades US administrations have been highly skeptical about the possibilities of BWC verification. From the beginning of the treaty's existence, the United States has held the view that the existence of a biological weapons program could not be effectively verified through multilateral means. This already became clear during the first BWC negotiations under Nixon. Rather than picking the draft-convention submitted by the United Kingdom, which included procedures to investigate States Parties' adherence to the treaty, the United States supported the proposal drafted by the Soviet Union, which lacked meaningful verification provisions. Although this curious move was partly motivated by a fear that the Soviet Union would otherwise block the BWC and other arms control initiatives, policy documents suggest that the United States did not mourn the lack of a verification system. Inspections of pharmaceutical and biodefense facilities, that would also have targeted the US, would most likely have a high level of intrusiveness, while at the same time there would still be a chance that "real violators" would not be caught. Instead, the United States could be seriously harmed by such a regime, as inspections could reveal proprietary and national security information.

This skeptical attitude towards verification of bioweapons stems partly from the fact that certain characteristics of biological weapons make them incredibly difficult to detect. This is caused for a large part by the dual-use nature of these weapons — meaning that almost all the technology, materials, and equipment needed to produce biological weapons also have important civilian applications, such as the production of medicine. Therefore, it is hard to determine whether a facility is producing biological agents for illegitimate or for peaceful purposes. Moreover, it is relatively easy to produce a biological weapon — allegedly, this could take place in a kitchen or garage — and even a small quantity of agent could generate a high level of destruction. Consequently, even an extensive regime of inspections would not guarantee that no biological weapons were being produced. As a result, a verification regime would give the world a false sense of security.

Despite these technical difficulties, most US allies called for the creation of a verification regime, which ultimately led to the negotiations of the BWC verification Protocol. These states argued that some verification is better than none and stressed that adding meaningful verification provisions would improve the BWC's deterrence value and strengthen the international norm against biological weapons. By contrast, subsequent US administrations — from Ronald Reagan to George W. Bush — stuck to the position that some verification was worse than none. This difference between the US and its allies was caused by a distinct US political expectation that an arms control treaty should not only detect acts of military noncompliance that seriously threatened US security, but also the intent of a state to violate the treaty. Even under President Clinton, who had signaled a positive intent to strengthen the BWC, the majority of his administration — including various key-players — opposed a verification Protocol. Lacking the political will to equip the BWC with meaningful verification provisions, the Clinton administration brought little change to the traditional BWC policies. The position of the United States remained far apart from those of its European allies and an agreement was not easily within reach. During the negotiations in October 2000 foreign diplomats already complained about the unilateralist attitude displayed by the United States. As was reported by the United States Institute of

Peace: “many around the world perceive the United States as dictatorial at times, as in ‘What’s mine, is mine. What’s yours is negotiable’. They would like to see the role of the hegemon played with more grace and humility.”⁵

When the Bush administration announced in 2001 that it would not support the BWC Protocol it actually continued the policies of previous administrations. It was the timing of the Fifth Review Conference — States Parties had to decide in 2001 whether or not they would support the draft Protocol — and the strong unilateralist rhetoric of Undersecretary John Bolton that made the Bush administration receive much of the blame for the collapse of the negotiations. However, the critiques presented by Ambassador Mahley during the announcement of the US rejection of the Protocol were all developed and agreed upon in October 2000, during an interagency review of the “Chairman’s Text,” months before Bush got into office.

American exceptionalism and the BWC

The reluctance of the United States to reform the BWC derived to a large extent from US cultural perceptions of itself and the world. US attitudes and practices regarding multilateral organizations are partly informed by ideas of American exceptionalism. Historically, American foreign policy has been shaped by a deep-rooted belief in *Manifest Destiny* — the idea that the United States is an exemplary nation with a divine duty to spread its morally enlightened society.⁶ At the same time, this notion installed in Americans an urge to defend their nation from a corrupt outside world, and to restrict the influence of international bodies on the United States. Dealing with the threat of biological weapons, US administrations made policy on the premise that America was more moral than other states — especially its enemies. From the George H.W. Bush presidency onwards these cultural notions were reflected in the “rogue doctrine,” which linked US enemies to weapons of mass destruction. Rogue states were countries deemed so immoral that they would try to acquire WMD and use it against the United States and its allies. These countries would also most likely opt for biological weapons, which were not only the most “immoral” but also the easiest category of WMD. By contrast, the United States was indeed moral enough to handle nuclear weapons.

As multilateral organizations strongly rely on the principle of sovereign equality, which implies that all states are morally equivalent, Americans — and especially those with more conservative views — tend to be rather skeptical about the value of such organizations.⁷ The fact that states that are considered highly immoral and undemocratic by the United States, such as Iran or North Korea, could have leverage over American policies is unacceptable to many US politicians. Americans fear that such countries would use multilateral regimes to undermine US power by tying the United States into dubitable legal obligations. As the prominent neo-conservative commentator Charles Krauthammer put it, for many Americans “a fisheries treaty with Canada is something real. An Agreed Framework on plutonium processing with the likes of North Korea is not worth the paper it is written on.”⁸ Too much reliance on multilateralism, then, would be dangerous, because constraining multilateral commitments would divert attention away from important security challenges, and limit American freedom of action to combat WMD threats unilaterally when necessary.⁹

This “moral division” formed one of the most important underlying reasons that the US was reluctant to create a verification regime for the BWC. Seeing that the United States has the biggest pharmaceutical industry and the most advanced biological defense program in the world, a significant portion of the inspections would focus on US national facilities. The United States believed that rogue states were inevitably going to violate the convention just as America’s Cold War enemy, the Soviet Union, had done. It was therefore unacceptable to the United States that a large part of the inspections would be devoted to America, a “good state”, rather than to the “bad guys”. One can imagine the prospects of 2/3 of the US Senate voting to ratify a document that would have US defense facilities and bio-industrial production capabilities being examined by an Iranian “OPBW-inspector”.

Preventing the use of biological weapons

The rejection of the BWC Protocol was not a consequence of a unilateral turn taken under the Bush administration, but rather the result of longstanding political, security, and cultural concerns that the United States had maintained towards BWC verification. As such, US exceptionalist behavior towards the BWC fits within a tradition of American ambivalence towards multilateral institutions. As Obama’s unchanged policies towards the BWC show, one must be careful not to label the presidency of George W. Bush as an aberration to America’s preference for multilateralism. The meager US record of treaty ratifications over the past decades shows that the United States has hardly been the everlasting “champion of multilateralism” as some suggest. Even the “assertively multilateralist” Clinton administration found itself drawn to unilateralist actions, as reflected in the meager record with respect to US participation in international treaty initiatives during the 1990s.¹⁰

The prospects for a radical multilateralist reorientation of US foreign policy look grim, and the BWC verification Protocol is unlikely to be revived in the near future. However, the threat posed by biological weapons is real and can only be effectively countered through strong international cooperation among all states. It is now up to all States Parties to make sure that the Biological Weapons Convention remains relevant, and, *together*, find alternative ways to prevent that these weapons will ever be used again.

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