



Fifth Report
of the
Foreign Affairs Committee

Session 2002-03

The Biological Weapons Green Paper

Response of the Secretary of State for
Foreign and Commonwealth Affairs

*Presented to Parliament
by the Secretary of State for
Foreign and Commonwealth Affairs
By Command of Her Majesty
July 2003*

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**FIFTH REPORT OF THE FOREIGN AFFAIRS COMMITTEE
SESSION 2002-03**

THE BIOLOGICAL WEAPONS GREEN PAPER

**RESPONSE OF THE SECRETARY OF STATE FOR FOREIGN AND
COMMONWEALTH AFFAIRS**

1. The Government welcomes the continuing interest shown by the Foreign Affairs Committee on biological weapons issues and notes that it was pleased with the tone and content of the Government's response on 25 February.¹ In particular, the Committee welcomed the Government's review of the Voluntary Vetting Scheme (VVS) and commitment to keep the Committee informed of its progress. However, the Government believes that from a practical and policy perspective it is now perhaps more important to focus on the new Biological Weapons Convention (BWC) follow-up work programme, which begins in August (18-29 August 2003), rather than on the issues surrounding the failed draft verification Protocol of 2001. This programme has the support of all States Parties – agreed by consensus at last year's reconvened Fifth Review Conference - and the United Kingdom is playing a pro-active part in the preparations.

Recommendations

We recommend that in its response to this report the Government list the “some 50” countries to which it was referring and state clearly whether or not those countries included the United Kingdom.

2. The following States Parties, *including the United Kingdom*, indicated at the 24th Ad Hoc Group (AHG) session in July 2001 (either individually or as part of a group such as the European Union) that they supported (some with varying degrees of enthusiasm) the Chairman's composite text - the *draft* of a Protocol - as the basis for concluding the AHG's work:²

- | | | | |
|--------------|--------------------|-----------------|-----------------------|
| 1. Argentina | 13. Czech Republic | 25. Japan | 37. Portugal |
| 2. Australia | 14. Denmark | 26. Latvia | 38. Republic of Korea |
| 3. Austria | 15. Estonia | 27. Lithuania | 39. Romania |
| 4. Belgium | 16. Finland | 28. Luxembourg | 40. Slovakia |
| 5. Belize | 17. France | 29. Malta | 41. Slovenia |
| 6. Brazil | 18. Germany | 30. Mexico | 42. South Africa |
| 7. Bulgaria | 19. Greece | 31. Netherlands | 43. Spain |
| 8. Canada | 20. Guatemala | 32. New Zealand | 44. Sweden |
| 9. Chile | 21. Hungary | 33. Nicaragua | 45. Thailand |
| 10. Croatia | 22. Iceland | 34. Norway | 46. Turkey |
| 11. Cuba | 23. Ireland | 35. Peru | 47. United Kingdom |
| 12. Cyprus | 24. Italy | 36. Poland | 48. Ukraine |

¹ Foreign and Commonwealth Office, *First Report of the Foreign Affairs Committee, Session 2002-03, the Biological Weapons Green Paper: Response of the Secretary of State for Foreign Affairs*, CM 5713

² Of these States Parties: twenty-four belong to the Western Group; twelve to the Eastern Group; and twelve to the Non Aligned and Other States

3. Accepting the Chairman's composite text as a basis for concluding the AHG's work did not mean that a State Party was necessarily content with all aspects of the text. We must remember that a final Chairman's text was never put to delegations. It was the UK's expectation that, had it not been for the negative US decision, further consultations on the Chairman's composite text would have continued in the 24th AHG session in July/August 2001. Had there then been consensus in the AHG to make changes to the Chairman's composite text, they would have been incorporated into a final text for States Parties to consider. However, the United States' statement on 25 July 2001 made quite clear that it rejected the Protocol and that no amendments could be expected to make it acceptable. For the US the very concept was fatally flawed. This statement effectively brought to an end any further debate or negotiations on the composite text in the AHG, which then spent the remainder of the 24th session trying to decide how it could report its work to the Fifth BWC Review Conference in November 2001.

We recommend that the Government in its response to this report clarifies whether or not it will support the addition of a verification Protocol to the Biological and Toxin Weapons Convention only if the Protocol in question is agreed by the US.

4. The Government explained in *Strengthening the Biological and Toxin Weapons Convention: Countering the Threat from Biological Weapons*³ why it was not possible to proceed with a Protocol without the US. There was a widespread view amongst delegations at the 24th AHG session that, without US participation, it was not worth pursuing a Protocol. This was due to the relative size and scope of the US biodefence programme and pharmaceutical industry (both the largest in the world), and the belief that certain other key countries would not agree to be bound by the terms of the Protocol if the US was not. Without the US therefore, there would have been a significant gap in global transparency. This assessment has not changed. For the Protocol to be meaningful, it would have to ensure the participation of other States Parties that are important in global and regional terms, or in the scale of their biodefence or industrial activities. These include Brazil, Cuba, China, France, Germany, India, Iran, Japan, Pakistan, the Russian Federation and South Africa. It is the Government's view that, in order to achieve a broad based agreement on such a Protocol, US support remains critical.

5. There would be no security or non-proliferation advantages if a Protocol were to be adopted by a handful of largely Western and Eastern European States Parties. A Protocol with a narrowly based membership would risk inducing a false sense of security and leave the more immediate proliferation threats entirely to one side, since there would be little political pressure on states of concern to join a coalition of the virtuous. At the same time, an implementing organisation would start to monitor Western facilities, bringing additional regulatory burden and costs on Western (less the US) industry and biodefence facilities, for very little gain.⁴ British industrial facilities would be subject to declaration and visit obligations, without the same provision applying to US facilities. The Government was not prepared to place additional regulatory obligations on the UK pharmaceutical industry without there being a clear prospect that the same obligations would apply to others. Industry has repeatedly stressed to the Government the importance that it attaches to a level playing field in this context. This was also an important issue for the European and Japanese pharmaceutical industry.

³ Cm 5484, April 2002 para 43

⁴ See breakdown of regional groups' support as indicated in the table in paragraph 2 and footnote 2.

6. The UK continues to support the principle of the need to strengthen the BWC through detailed implementation/verification arrangements, but as long as there is no prospect of the US Administration accepting the need for such a Protocol, the UK will not support its establishment; such a Protocol would be meaningless, create a false sense of security and impose an unfair burden on our industry and biodefence programmes which would not be borne elsewhere.

We recommend that the Government sets out fully in its response to this Report why the Government believes that no verification Protocol to the BTWC is better than having one in place and agreed by a significant number of States Parties to the Convention.

7. While the UK still believes that it could have been an important tool in combating BW proliferation, we and other Western Allies assessed that without US participation, key countries whose participation was critical to the universality and effectiveness of the Protocol, would not continue to support work on the draft text. It was also clear to the Government in 2001, that there was no constituency in favour of resurrecting the verification Protocol. That remains the case now.

8. The Government does not believe that the circumstances surrounding the Ottawa Convention (Landmine Convention) and the International Criminal Court (ICC) are comparable to the situation facing the BWC in July/August 2001 or in Spring 2003. In the case of the Ottawa Convention, the security calculations, industrial implications and balance of risk were such that a Convention without US participation could be much more readily contemplated. Anti-personnel landmines are not in the same category as weapons of mass destruction such as biological weapons whose use could have potentially devastating and long-term consequences for humans and agriculture. The Ottawa Convention, even without the US, plays a positive humanitarian role in promoting and facilitating de-mining activities.

9. In the case of the ICC, the UK and US were both signatories to the Statute, whereas in the Protocol context no final text was ever agreed or opened for signature. The ICC Statute required 60 states to ratify before it entered into force. The UK moved quickly towards ratification because it was keen to be amongst the original States Parties so that it could constructively influence the Court's early development. Furthermore, accession was an agreed objective of all EU partners, whereas for the BWC Protocol, EU and other Western partners shared the UK's view that pursuing the Protocol without the US was not an option. The ICC Statute, with 89 States Parties and a further 53 signatories (as of April 03), already has a much higher and more broadly based level of support than was ever indicated for the *draft* BWC Protocol.

We recommend that the Government redouble its efforts to secure the international consensus necessary to allow a verification Protocol to be agreed, with or without the support of the United States.

10. The Government understands, and shares, the Committee's evident disappointment that it was not possible to reach agreement on the BWC Protocol in 2001; a Protocol would have been the Government's preferred outcome. The Government's judgement remains, however, that it is not politically feasible to resurrect the Protocol given the strong opposition in Washington, as well as the continuing reluctance of many others to move forward without the US.

11. For these reasons it would not be a productive use of time and effort to work for such an unlikely outcome. Expending effort here could well prejudice the chances of a successful outcome of the August Experts' meeting by provoking the US to reassess its policy, and by taking the pressure off other States Parties to meet their obligations to implement legislation and biosecurity. Instead the Government believes that its efforts and political capital are better targeted towards securing a productive outcome in the BWC Review Conference's work programme for 2003-2005, which will involve all State Parties. Both the UK and US are already playing an active role in the preparations for this first Experts' meeting in August. Incremental efforts in the areas identified by the work programme will, in the Government's view, lead to a re-engagement by the international community in cooperative efforts to combat BW proliferation. If, as a result of this work, the climate of international opinion were to indicate a readiness to move towards a re-examination of the types of measures covered by the Protocol, then the Government would be more than ready, and keen, to take an active role in such work.

12. The Committee concludes that the absence of a verification Protocol will perpetuate the highly dangerous position which has existed for many years, whereby biological weapons programmes continue to be developed in certain countries, and regime change may be left as the only certain means of ending such programmes. Whilst the Government strongly supported a verification Protocol, it does not believe that its absence alone could support this conclusion of the Committee. Not all states of concern are States Parties to the BWC. It cannot be assumed that all States Parties would automatically have ratified the Protocol. And even if there had been agreement on the Protocol, it would have been unlikely to enter into force for some years. The Government does not believe that full cooperation and compliance with the BWC would necessarily have been automatic and enduring even if a verification Protocol had been agreed and entered into force. The Protocol would have served as a deterrent and provided better machinery for dealing with non-compliance concerns, and would therefore have limited the ability of States Parties to pursue BW programmes.



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