

TESTIMONY

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Subcommittee on International Security, Proliferation and Federal Services

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I would like to thank the Subcommittee for inviting me to testify this morning about one of the most important security threats to the United States in the post-Cold War period – the proliferation of chemical and biological weapons to national and sub-national i.e., terrorists, groups. In my testimony, I will address three issues: the nature of the chemical and biological weapons (CBW) threat to the United States; the impact of the Biological and Toxin Weapons Convention (BWC) and the Chemical Weapons Convention (CWC) on this threat; and measures for enhancing the ability of these multilateral treaties to prevent the acquisition of chemical and biological weapons by both national and sub-national groups.

The Chemical and Biological Weapons Proliferation Threat

Prior to September 11 and the subsequent anthrax attacks, the threat of national and terrorist acquisition of chemical and biological weapons often were seen as separate problems, requiring separate solutions. Now, however, we must recognize, that these two proliferation problems are closely linked, in that assistance from national programs is likely to be critical to terrorist efforts to acquire and use chemical or biological weapons successfully.

According to U.S. government officials, about a dozen countries are believed to have chemical weapons programs and at least thirteen are said to be pursuing biological weapons. These national chemical and biological weapons programs pose a *direct threat* to U.S. military forces and to our friends and allies in the two regions where most of this proliferation has occurred – Northeast Asia and the Middle East. They also pose an *indirect threat*, because of their potential to serve as a source of chemical and biological weapons expertise or materials to other national or terrorist programs.

In recent days, both President Bush and Secretary of Defense Rumsfeld have called attention to the nexus between proliferation and terrorism, warning that countries that seek weapons of mass destruction and support international terrorism may well assist terrorist networks in obtaining chemical, biological or nuclear weapons. This emphasis is on the mark. And it is borne out by the recent anthrax attacks here in the U.S., in which 5 people were killed and a dozen injured following exposure to highly virulent, weapons-grade anthrax. Although the perpetrator of these attacks has not yet been apprehended, the anthrax itself almost certainly originated in the U.S. biological defense program.

As the GAO concluded in 1999, without assistance from a national program, terrorists would have to overcome significant technical and operational hurdles to successfully weaponize and deliver chemical or biological weapons, especially on a large scale. This

was demonstrated by the Aum Shinrikyo's efforts to use chemical and biological weapons in the early 1990s. Despite \$1 billion in assets and access to university-trained scientists, the Aum's attempt at mass terror had only limited success — only 12 people were killed and 1,000 injured in April 1995 when the doomsday cult released sarin gas on the Tokyo subway at the height of the morning rush hour. The Aum's earlier attempts to use biological agents, including anthrax and botulinum toxin, failed to produce even a single casualty in nine separate attacks.

Absent assistance from a national chemical or biological weapons program, most terrorists are likely to continue to rely upon lower-tech approaches, involving industrial chemicals or common poisons. According to a CIA report to Congress at the end of January: "terrorist groups are most interested in chemicals such as cyanide salts to contaminate food and water supplies or to assassinate individuals. Terrorist groups also have expressed interest in many other toxic industrial chemicals...and traditional chemical agents, including chlorine and phosgene," which are widely used in industry. There is less interest in biological materials, the report said, except for "small-scale poisonings or assassinations." The most well known example of this low-tech approach to CBW terrorism occurred in 1984, when the Rajneeshee cult contaminated salad bars in Oregon with salmonella in an attempt to influence the outcome of a local election. No one died, although 750 people became ill.

One cannot, of course, rule out the possibility that terrorists will acquire chemical or biological weapons on their own. CIA Director Tenet warned last week that al-Qa'ida was working to acquire some of the most dangerous chemical agents and toxins. He also stated that documents recovered from al-Qa'ida facilities in Afghanistan show that Usama bin Ladin was pursuing a sophisticated biological weapons research program. Without further information, it is impossible to know how advanced these efforts really were. To date, at least the three most significant terrorist incidents involving chemical or biological weapons – the recent anthrax attacks, the Aum Shinrikyo CBW attacks, and the Rajneeshee salmonella attack – all suggest that assistance from national programs is likely to be crucial to terrorists efforts to acquire and use chemical or biological weapons.

The Impact of Arms Control Treaties

Given the dangers posed by national chemical and biological weapons programs, both as a threat in and of themselves and as a source of expertise and equipment for terrorist seeking to acquire such weapons, it is worth examining the impact of the Biological and Toxin Weapons Convention and the Chemical Weapons Convention on these national programs. Until now, the record has been mixed.

The Biological and Toxin Weapons Convention: When the BWC was concluded in 1972, it was widely viewed as a milestone in the history of arms control, because it was the first international treaty to outlaw an entire category of weapons of mass destruction. However, the Convention contained no provisions for enforcing compliance with its obligations. At the time, little was known about the biological weapons programs of other countries, including the Soviet Union, which was characterized in a November 1969 report to the National Security Council as having an interest in various potential biological warfare agents and "all the necessary means for developing an offensive capability."

Based on defector and other information, we now know that the Soviet Union breached the BWC from the outset, launching a massive effort in the early 1970s to supplement its

existing work on biological weapons at military facilities with R&D at civilian facilities under the management of an organization known as Biopreparat. Three other countries — North Korea, Egypt, and probably Israel — also had biological weapons programs at the time the BWC was concluded. Iraq began its biological weapons program in the mid-1970s and South Africa in 1981. By the late 1980s, China, Iran, Syria, Libya, and Taiwan had been publicly identified by the U.S. as also having biological weapons programs. Except for Israel, all were either signatories or Parties to the BWC.

Because of concerns about noncompliance, and the failure of politically-binding information exchanges to reverse the deterioration in confidence in the Convention, BWC Parties decided in 1994 to create an Ad Hoc Group to develop new measures, including a legally binding protocol, to strengthen the Convention. In April 2001, following six years of multilateral negotiations, a draft protocol was put forward by the Chairman of the Ad Hoc Group. This text contained a number of critical elements:

§ mandatory declarations of facilities and activities that could most easily be misused to develop biological weapons;

§ consultation procedures to clarify questions that might arise from these declarations, including the possibility of on-site visits;

§ randomly selected transparency visits to promote accurate declarations; and,

§ challenge investigations to pursue concerns that a country is developing, producing or using biological weapons.

Throughout the negotiations, the Clinton Administration recognized that a BWC protocol would not solve the biological weapons problem. It would, however, establish legally binding procedures for pursuing evidence that others were developing or producing biological weapons, something we lack today. It would also provide new data that would enhance the ability of the U.S. to detect and respond to foreign biological weapons programs. Drawing from the procedures developed to protect sensitive information under the Chemical Weapons Convention, the Administration worked to ensure that the protocol could achieve these objectives without jeopardizing U.S. military or commercial interests.

The Bush Administration, however, had a very different position. In July, the Administration announced its opposition not only to the compromise text but also to any subsequent protocol effort, arguing that such an approach was both too weak and too strong — too weak to catch cheaters; too strong to avoid putting at risk U.S. biological defense or trade secrets. At the five-year review conference for the BWC in November, the U.S. emphasized the importance of developing more effective measures to deal with noncompliance, but the proposals it put forward focused largely on voluntary, national efforts. On the last day of the conference, the U.S. stunned and angered its allies by trying to force through a decision to disband the Ad Hoc Group and terminate its mandate. Desperate to avoid a complete collapse of this meeting aimed at bolstering the BWC, Parties agreed to suspend work until November 2002, having done nothing about the noncompliance problem.

The Chemical Weapons Convention: Like the BWC, the CWC was considered another landmark treaty when it was concluded in 1993, because it required not only the elimination of all stocks of chemical weapons but also international monitoring of both government and commercial facilities to verify that Parties were complying with their

obligations. The CWC has been in force for less than five years, and is thus still a very young treaty regime. Nevertheless, progress has been made under the treaty toward reducing the threat from national chemical weapons programs.

During the CWC ratification debate in the U.S. in 1997, U.S. officials stated that about two dozen countries were trying to acquire chemical weapons. In January 2001, the Defense Department reported that about a dozen countries were pursuing chemical weapons programs. Ten of the countries previously identified by the U.S. as proliferation concerns -- Russia, China, Iran, Libya, Ethiopia, South Korea, India, Pakistan, Sudan and Vietnam -- have become Parties to the CWC. Of these, two countries that had not acknowledged possessing chemical weapons, South Korea and India, have now declared chemical weapons stockpiles. Eleven countries, including Russia, China, Iran, South Korea, and India, have also declared current or past chemical weapons production facilities.

In terms of actual destruction activity, some 6,400 metric tons of chemical agent have been eliminated under international verification since the CWC entered into force. All 61 declared chemical weapons production facilities have also been inactivated, 36 of which either have been destroyed or converted to permitted peaceful activities. Finally, over 1,100 inspections have been undertaken at about 500 sites in 49 countries of both military and industrial facilities covered by the Convention.

Numbers, of course, only tell part of the story. The CWC also faces important challenges. First, several key countries, especially in Northeast Asia and the Middle East, remain outside the treaty. Of these, North Korea, Iraq, Syria, Egypt, and Israel are of particular concern, given the likelihood that they retain chemical weapons programs.

Second, questions remain about whether some Parties have made incomplete declarations or are continuing offensive activities. Russia, Iran, China, India, Pakistan and Sudan have been mentioned specifically by the U.S. as having not divulged the full extent of their chemical weapons programs. Third, although all four declared possessors are moving forward with their destruction efforts, both Russia and the United States have informed the CWC treaty organization -- the OPCW -- that they will be unable to meet the April 2007 deadline for destroying their chemical weapons stockpiles. Finally, the OPCW is in the second year of a financial crisis, resulting in serious cutbacks in verification activities. During 2001, only 67% of the planned inspections were carried out; further cuts in inspections are expected in 2002. All of these issues -- universality, noncompliance, CW destruction, and the budget -- must be addressed.

Policy Recommendations

Clearly, both the BWC and the CWC have the potential to make a much greater contribution to international efforts to prevent the proliferation of chemical and biological weapons to national and sub-national groups. Steps can and should be taken to enhance the effectiveness of and reinforce the prohibitions in each of these treaties.

With respect to the BWC, we should:

Resume multilateral discussions on measures to strengthen the BWC: The Bush Administration's determination to kill both the BWC Protocol and the Ad Hoc Group last December blocked agreement on a process whereby the Administration's own BWC proposals could be considered by the international community. The U.S. should abandon its opposition to multilateral discussions and agree at the November 2002 meeting on a

process that will allow both the U.S. and other proposals for strengthening the BWC to be explored.

Expand the UN Secretary General's authority to investigate illicit BW activity: In 1982 and again in 1987, the UN General Assembly gave the Secretary General the authority to investigate allegations that chemical or biological weapons had been used. Pending international agreement on legally-binding enforcement measures for the BWC, the U.S. should support efforts to expand the Secretary General's authority to include allegations of the development, production or possession of biological weapons.

Strengthen controls over dangerous pathogens: The FBI's investigation of the anthrax attacks has revealed serious gaps in the controls over pathogens that could be used for biological weapons purposes. The U.S. should take the lead in securing tighter international controls on culture collections and other repositories of biological materials. We should also work with other countries to strengthen oversight of laboratories to prevent deliberate or inadvertent misapplications of biotechnology for destructive purposes.

Enhance oversight of the U.S. biological defense program: Revelations that the U.S. has produced weapons-grade anthrax and replicated a Soviet-era biological bomblet as part of its biological defense program have raised questions both here and abroad about the nature and scope of U.S. activities in this area. Until now, there has been no comprehensive review of these secret U.S biological defense activities, individually or in combination. The U.S. Congress should hold oversight hearings on the biological defense program to ensure that its scientific, legal and foreign policy impact are consistent with U.S. nonproliferation interests.

With respect to the CWC, we should:

Make adherence to the CWC an explicit foreign policy goal: Libya's recent decision to join the CWC demonstrates that even in a complicated region such as the Middle East, there are opportunities for expanding membership in the treaty. It is not unimaginable that North Korea might agree to abandon its chemical weapons program and join the CWC as part of a broader security arrangement on the Korean peninsula. The U.S. should ensure that CWC adherence is a prominent issue in its foreign policy toward the remaining holdout countries.

Use challenge inspections to pursue noncompliance concerns: In the initial years after entry into force of the CWC, the U.S. used the treaty's consultation provisions to try to resolve questions and concerns about a number of other Parties' declarations. Last month, Under Secretary of State Bolton described challenge inspections as a "flexible and indispensable tool" that can be instrumental in achieving the treaty's goals. The U.S. should be prepared to use challenge inspections to address serious compliance concerns, especially in countries where consultations were unsuccessful or not appropriate.

Devote the resources necessary to meet the treaty's destruction deadlines: By the end of last year, both Russia and the U.S. had submitted documentation to the OPCW concerning their inability to meet the April 2007 deadline for destroying their chemical weapons. The U.S. should ensure that its technology and funding decisions allow it to complete destruction operations safely, and in time to meet the 2012 CWC extension deadline. The U.S. should also take the lead in creating an international consortium to assist Russia in meeting its CWC destruction obligations.

Rectify the OPCW's budget problems: Partly because of the zero growth budget imposed on the OPCW over the past five years, the OPCW has begun another year millions of dollars short of what is required to carry out its implementation responsibilities. The U.S. should work with the OPCW and other Parties to ensure that there are sufficient funds to carry out all planned verification activities.

Finally, we can further strengthen the BWC and the CWC by making it an international crime for individuals to develop, possess or use chemical or biological weapons. Both treaties impose legally-binding obligations on governments, but not on individuals, not to engage in prohibited activities. The U.S. should support the negotiation of a treaty like that proposed by the Harvard-Sussex Program that would make it a crime under international law for individuals to acquire or use chemical or biological weapons or to knowingly assist others in doing so.

This concludes my prepared statement.

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