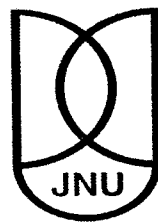


**DIPLOMACY AT THE FIFTH REVIEW CONFERENCE
OF THE BIOLOGICAL AND TOXIN WEAPONS
CONVENTION: AN ANALYSIS**

*Dissertation submitted to Jawaharlal Nehru University
for award of the degree of*

MASTER OF PHILOSOPHY

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Date: 20 July 2006

DECLARATION

I declare that the dissertation entitled "Diplomacy at the Fifth Review Conference of the Biological and Toxin Weapons Convention: An Analysis," submitted by me for the award of the degree of **Master of Philosophy** of Jawaharlal Nehru University is my own work. The dissertation has not been submitted for any other degree of this University or any other university.

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PREFACE

Sir Harold Nicholson opined that of all the branches of human endeavour, diplomacy is the most protean. This maxim rings true in the 21st century as never before as diplomacy has to adapt to the rapid changes in the interaction between countries and societies, and thus leading to greater interdependence on the one hand and a reiteration of national security considerations of many countries on the other. The Biological and Toxin Weapons Convention (BWC), in 2001-2002, served as the grand diplomatic stage for these contending, if not opposing priorities of the need to accord primacy to national security considerations of countries, and the need to forge ahead with an interdependent world based on norms, rules, institutions and regimes.

The BWC seeks to negotiate a legally binding instrument to prohibit and eliminate the development, production and stockpiling of biological weapons. In force since 1975, the BWC kicked into action only in the 1990s. In 1991, at the third BWC review conference, the states-parties decided to strengthen effectiveness and implementation of the BWC by negotiating an additional legally binding agreement or a Verification Protocol. An Ad Hoc Group of Governmental Experts (known as VEREX) was setup to identify and examine potential verification measures from a scientific and technical standpoint. A special conference met in September 1994 to consider VEREX's final report and established another Ad Hoc Group to negotiate a legally binding protocol. This Ad Hoc Group, chaired by Ambassador Tibor Tóth of Hungary, first met in January 1995. In July 1997, the Ad Hoc Group successfully negotiated a Rolling Text of the draft protocol.

The BWC took a definitive turn in 2001-2002 when national security considerations of many countries, especially the US, were reasserted in the form and content of their diplomacy. This led to the rejection of the Composite Text that was evolved out of the Rolling Text to achieve greater consensus. What followed were a series of existential crises that the BWC had ever faced in unique in comparison to its predecessors. Divisive issues like a verification protocol, dual-use technology, replacement of the 'Rolling Text' with a 'Composite Text'; the US' rejection of the Verification Protocol itself in July 2001; the US' rejection of Ad Hoc Group on the last

day of the review conference clearly revealed changes in official state positions and hence the contrasting diplomatic manoeuvres by participants to achieve their objectives. Although the US was the prime mover during the conference, other countries and groupings also played significant roles, which when taken into cognisance, provide a holistic understanding of this conference.

A clearer understanding of this turbulent phase of the BWC can be studied by conducting an analysis of diplomacy at the Fifth Review Conference (RevCon) by identification and explanation of issues, actors and processes at the RevCon and its implications for BWC in general. Clearly, the focus here is on the diplomacy — before and after — at the Fifth RevCon in the context of the international political scenario of the time and its effect on its eventual outcome. This case study of a specific event within a specific timeframe using process tracing method can be clarified to a greater degree with the usage of International Relations theory to study diplomacy of actors, which is based on motivations and objectives — both short- and long-term.

The literature concerning the fifth RevCon is available in the form of both, primary and secondary sources. Primary sources will include formal documents [for e.g. BWC draft] and official papers by governments, and international and national legislations. Primary sources consist of official statements issued by various actors before, during or after the review conference (available at the BWC resource database).

The official working papers presented by various participants are also indicative of positions that an individual participant or participants held. Other sources include progress and occasional reports. Secondary sources pertaining to the subject are books, articles appearing as part of books or journals, working papers presented at conferences, periodicals, etc. Information will also be derived from interviews of participants at the BWC RevCon.

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CHAPTER I

INTRODUCTION

In his seminal book, *The Long Peace*, John Lewis Gaddis (1987), laments a “curious bias” among students of international politics to study what has happened rather than what did not. Research pertaining to the Biological and Toxin Weapons Convention (BWC) has been beset by a problem of a similar nature, and hence as a result research has not been carried out to determine whether national security considerations are the principal dynamics motivating the diplomacy in the BWC. Furthermore, research has not been conducted on as to why the BWC continues to survive today, even long after its obituary had been eloquently delivered. Instead, systemic reasons have been sought for the failure of BWC and its implications for biological weapons disarmament. In twenty years of diplomatic efforts to strengthen the BWC, it faced its toughest challenge during the Fifth Review Conference (RevCon) of the BWC in 2001-2002 and the research objective here is to determine whether national security considerations predicated the participants’ decisions at the negotiations for the fifth review conference of the BWC.

SIGNIFICANCE OF THE STUDY

In 1995, BWC member states began negotiating a supplementary agreement, or “protocol.” Seven years of intensive work yielded a draft with three principal mechanisms:

1. Declarations of national bio-defence programmes and other biological research and production facilities, including commercial ones;
2. Site-check visits to encourage truthful declarations; and
3. Challenge inspections to investigate allegations of non-compliance.

The Clinton administration participated in the negotiations but did not take a leading role as the US Commerce and Defence Departments sought to limit intrusions into pharmaceutical and biotech companies and into the extensive US bio-defence programmes. In another sign of its conflicted and less than energetic approach, the Clinton administration conducted few feasibility tests as to whether the proposed regime would effectively detect biological weapon programmes and adequately protect sensitive information (Henry L. Stimson Center 2001: 3).

On assuming office, and following intensive interagency deliberations, the Bush administration reversed the course taken under Clinton. In July 2001, US negotiator Donald Mahley (US Department of State 2001) announced that the US rejected the draft protocol and would not participate in further negotiations. He explained that it “will not enhance our confidence in compliance and will do little to deter those countries seeking to develop biological weapons, [and] would put national security and confidential business information at risk.” Other countries then declined to go forward with negotiations.

The timeframe of the RevCon is between July/August 2001-November 2002. The fifth RevCon was deadlocked and could not strengthen the BWC, as the Ad Hoc group (multilateral negotiating forum) negotiations could not arrive at a consensus over the text. During the course of the Ad Hoc Group negotiations, the group developed a protocol where states submitting treaty-relevant facilities and activities to an international body. The protocol also had provisions for routine on-site visits to declared facilities and could conduct challenge inspections of suspect facilities (Arms Control Today Fact Sheets 2003). The issues and decisions that led to this deadlock were manifest in the fifth RevCon. The fifth RevCon is unique in comparison to its predecessors for the following reasons:

- Divisive issues like a verification protocol, dual-use technology, replacement of the ‘Rolling Text’ with a ‘Composite Text’, US’ rejection of verification protocol in July 2001, US’ rejection of Ad Hoc Group on 7 December, 2001 and states’ meeting in 2002 posed an existential threat to the BWC.
- It was the only the RevCon to be adjourned due to a deadlock during negotiations over the aforementioned issues. The reconvened RevCon met in November 2002.
- The RevCon clearly revealed changes in official state positions and hence the contrasting diplomatic manoeuvres by participants to achieve their objectives.

The deadlock resulted when the US tabled a last-minute proposal seeking to replace the Ad Hoc Group (multilateral negotiation forum for drawing up verification procedures) with annual meetings of BWC States-Parties. This proposal scuttled the Fifth RevCon.

The negotiations stances of the key players (US, Russia, UK, NAM, Western Group, Eastern Group, EU, Rio Group) during the pre-negotiation and negotiations for the RevCon and the effect of 9/11 on the negotiation stances of the various players can be studied to highlight the contrasting objectives and their rationale in terms of their adherence to IR theories.

International political discourse on biological weapons has sharply focused on the anthrax attacks in the US after the 11 September 2001 attacks, the likely use of biological weapons by non-state actors or rogue nations, and more recently, the invasion of Iraq based on Iraq's alleged possession of weapons of mass destruction (including biological weapons). In a non-proliferation report released by US Senator Richard G. Lugar (2005) in June 2005 titled, "*The Lugar Survey on Proliferation Threats and Responses*," which is based on a survey involving 132 security experts regarding ways to "strengthen non-proliferation efforts, improve safeguards around existing weapons and materials, bolster intelligence gathering and interdiction capabilities, and expand international cooperation in dealing with a threat that should deeply concern all governments and peoples." Of the 132 polled, 85 experts responded to the survey. The survey found that 43 of 83 experts saw the risk of a biological attack in the next five years as between 10 and 30 per cent. Over a 10 year period, 32 of the 79 experts estimated the risk to be 40 per cent or greater. More interestingly, the respondents agreed that greater attention needs being focused on biological and chemical weapons proliferation, terming them as "underrated proliferation risks."

HISTORY OF THE USE OF BIOLOGICAL WEAPONS

The history of biological weapons in the 20th century dates back to World War I (WW I), which saw the use of 'Mustard Gas'. From 1915-1918, Germany indulged in covert biological attack on animals being shipped from neutral countries to the Allies.

A biological arms race was on since, with six countries participating being France (1922), the Soviet Union (1926), Italy (1934), the United Kingdom (1936), Hungary (1936) and Canada (1938). Germany followed in 1940, after the discovery of a French biological warfare facility.

The end of WW I was followed by the enforcement of Geneva Protocol in 1925. In addition, Japan started to prepare for biological warfare in 1932, not so much impressed by Germany's First World War bio-sabotage activities but by the perception that, if the great Western nations believed it necessary to prohibit biological warfare by means of an international agreement (the Geneva Protocol), then the biological weapon must have significant military utility.

During World War II, only Japan was suspected of significant use of biological weapons. The use of human subjects was probably only sporadic when its programme was located in Tokyo, but expanded to a massive scale once the operation moved to Manchuria. It has been estimated that more than 10,000 people were killed or allowed to die after deliberate infection. Ultimately, the biological weapons programme was centred in Ping Fan, and called Unit 731 (Mark Wheelis 2002).

Subsequently, the infamous use of 'Agent Orange' by the US during the Vietnam War, the suspicious outbreaks of anthrax in Russia in 1978-1979 and the use of chemical weapons against the Kurds by Saddam Hussein in the 1980s were reported events that also hastened the process of drawing up of the BWC between the US and USSR. Although, biological weapons have been placed alongside chemical and nuclear weapons as abominable weapons of mass destruction, international political attempts to strengthen the bio-weapons non-proliferation regime has been found wanting. Rapid advances in research in life sciences and its linkages to trade and environment also need to be factored in contemporary times.

In the late 1960s, at about the same time as the first steps were taken to elaborate a ban on the development and production of biological and toxin weapons, the German Democratic Republic (GDR) falsely accused the Federal Republic of Germany of engaging in biological warfare preparations (Mark Wheelis 2002).

The most serious set of false allegations was levelled in 2002–03, when the UK and the US accused then Iraqi President Saddam Hussein of being ready to use chemical and biological weapons and to supply them to terrorists. Saddam's weapons of mass destruction turned out to be, as Michael Duffy of *Time* magazine mocked in the June 2003 issue, calling it 'weapons of mass disappearance' (Michael Duffy 2003).

In 1969, the US supported an international ban on the development and possession of biological arms, asserting that biological weapons posed a significant risk to unprotected civilian populations and were not useful on the battlefield. In 1970, US Ambassador, James Leonard said that biological weapons were "unpredictable" by nature, could not destroy enemy military equipment, and would not affect enemy troops "for days." The US also concluded that germ weapons had limited deterrent value because responding in kind to a biological weapons attack would not be "acceptable or rational." The Convention on the Prohibition and the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and their Destruction came into force on 26 March 1975. Signatory nations had agreed to comply with the 15 Articles enshrined in the convention (Mark Wheelis 2002).

Leading the treaty talks in the United Nations, the US and Soviet Union worked out a draft treaty that other countries eventually endorsed. The BWC does not explicitly ban the use of biological weapons; however, it refers to the prohibition of biological weapons in the Geneva Protocol. Hence, *the treaty permits bio-defence programmes*. To enforce its provisions, the convention specifies that its members can lodge a complaint with the UN Security Council (UNSC) if they believe other States-Parties are violating the convention, and the council can then call for an investigation of complaints it receives.

OBJECTIVES & RESEARCH AGENDA

The aim of the study is to conduct an analysis of diplomacy at the Fifth Review Conference (RevCon) of the Biological and Toxin Weapons Convention (BWC) by identification and explanation of issues, actors and processes at the RevCon and its implications for BWC in general. The focus of the study will be on the diplomacy — before and after — at the Fifth RevCon in the context of the international political scenario of the time and its effect on its eventual outcome. I argue that national security considerations predicated the participants' decisions at the negotiations for the Fifth RevCon of the BWC. The twin objectives of the research are: identifying issues, processes and actors, and testing the veracity of the hypothesis that national security considerations were driving the diplomacy at the RevCon.

The research objectives are:

- 1) Identifying issues, processes and actors and discuss key issues and the negotiating stance of key players regarding these issues.
- 2) Theoretically analyse motivations of specific states or grouping of states during the negotiations.

RESEARCH QUESTIONS:

The research questions that will be addressed are:

- 1) Who and what were the main actors, issues and processes in the Fifth RevCon.
- 2) Is the Fifth RevCon is an instance of failed negotiations or a nuanced trade-off arrived at by the participants?
- 3) What are the reasons for changes in negotiating positions of key participants?
- 4) Has the BWC succeeded or failed as a negotiating forum?
- 5) Which IR theory is best suited to largely explain diplomacy at the Fifth RevCon?

HYPOTHESIS:

Considerations of power and security were the principal dynamics motivating diplomacy at the Fifth Review Conference of the Biological and Toxin Weapons Convention.

RESEARCH METHODOLOGY

The research will be in the form of a '*case study*' of a specific event that occurred within a specific timeframe. Hence, a chronological study of negotiations pertaining to the RevCon will be conducted and the causal links between key events will be traced using the *process tracing method* (Stephen Van Evera 1997). Therefore, by employing a chronological process tracing method, a "thick description" or "deep description" will be narrated and the analysis will be based on the findings of these descriptions.

As this is a case study, the specific aim is to develop a body of work that is empirically grounded and yields contingent but not universal generalisations. The focus is to take into account the variability of diplomatic experience within this period. As Alexander L George (1979) noted, apparently unique developments can and should be described more generally "as a particular value of a general variable that is part of a theoretical framework of independent, intervening, and dependent variables." Therefore, analysis in this dissertation is to adopt a theoretical framework of International Relations viz. Realism and International Regimes to clarify and lend further credence to describe diplomacy at the fifth Review Conference of the BWC.

LIMITATIONS OF THE STUDY

The limitations of the study pertain to two crucial aspects relating to the literature available on the subject. Like in diplomacy, the "content and form" of the literature is of paramount importance here also. First, the content of the literature is based mostly upon secondary and primary sources, in that order. This is due to the secretive nature of the negotiations in large parts. Moreover, not every party articulates its position in public and some may resort to hiding behind another or allowing another party to invest its efforts in attempts to change positions and raise objections. Thus, this study has utilised official

documents such as working papers and interviews to arrive at broad conclusions of States-Parties positions. Secondary sources have been used to gain insights on various other facts and perspectives of experts about relevant issues. Here again, secondary sources are found wanting with regard to a state's position about a particular issue(s). Media records are generally derived from on the record and off the record briefings and hence is subject to interpretation of the interviewer and as well as the reader. The activities of NGOs to glean information from diplomats and delegations is of particular importance, but must be used with a pinch of salt as they address specific issues and may be tailored to suit those issues only.

Secondly, as mentioned earlier, along with the content of the literature, the form is also equally important. The body of work currently available alludes to topics such as verification protocol and various proposals regarding it; structural changes to the BWC; role of science and technology, etc. Hence, literature available focuses on specific issues related to the Fifth RevCon of the BWC and not on the diplomacy at the BWC itself. There is very little literature, on the other hand, focusing on the diplomacy at the RevCon and providing an overall framework of the BWC in a theoretical analysis

CHAPTERISATION

The dissertation is divided into the following chapters:

After this introductory chapter, the second chapter will contextualise diplomacy for the purpose of this study and hence draw up a theoretical framework of analysis for the rest of the dissertation.

The third chapter will focus on the RevCon pre-negotiations, its major players, issues and processes. Therefore, the timeframe for this section focuses on the diplomacy at the pre-negotiations stage is February 2001 to July-August 2001.

The fourth chapter will analyse the diplomatic postures of key players at the time of the RevCon can be analysed with specific focus on the twin crises of the RevCon. The issues, processes and major actors at the RevCon will be the focus of this chapter.

The fifth chapter will concentrate on diplomacy at the rescheduled 2002 RevCon continued there after until 11 November 2002, when the reconvened RevCon met.

Analysis of alternatives that were forwarded by members during the negotiations and analysing them by comparing them to the earlier stands.

The sixth and concluding chapter will elucidate key inferences derived from each of the aforementioned sections and the validity of the hypothesis of the study.

BWC NEGOTIATIONS: A HISTORY

The objective of the BWC is to strengthen the effectiveness and improve the implementation of the BWC by negotiating a legally binding instrument to prohibit and eliminate the development, production and stockpiling of biological weapons. As of 2004, 169 countries have ratified the convention. Article XII of the BWC mandates conducting a review conference every five years to assure compliance of provisions in the convention. Five RevCons of the BWC have been held so far (1979, 1986, 1991, 1996, and 2001-2002).

The BWC bans (Arms Control Today Fact Sheets 2004):

The development, stockpiling, acquisition, retention, and production of:

1. Biological agents and toxins “of types and in quantities that have no justification for prophylactic, protective or other peaceful purposes.”
2. Weapons, equipment, and delivery vehicles “designed to use such agents or toxins for hostile purposes or in armed conflict.”
3. The transfer of or assistance with acquiring the agents, toxins, weapons, equipment, and delivery vehicles described above.

The convention further requires States-Parties to destroy or divert to peaceful purposes the agents, toxins, weapons, equipment, and means of delivery described above within nine months of the convention’s entry into force. The BWC does not ban the use of biological and toxin weapons, but reaffirms the 1925 Geneva Protocol, which prohibits such use. It also does not ban bio-defence programmes.

The second BWC RevCon took place in 1986 and strengthened the BWC by agreeing on politically binding confidence-building measures (CBMs), which were then extended and enhanced in 1991. These measures required States-Parties to annually

declare their maximum containment facilities, bio-defence programmes, past offensive and defensive programmes, human vaccine facilities, information related to the outbreak of disease, and information on national legislation and regulations implementing the BWC. However, only about one-half of all States-Parties have made a single declaration and only 11 have made annual declarations. Moreover, the information provided in these declarations has been patchy and has not contributed to building confidence in compliance.

At the third BWC review conference in 1991, the BWC States-Parties decided to strengthen effectiveness and implementation of the BWC and pinpointed that effective verification could reinforce the BWC. Hence, it decided to establish an Ad Hoc Group of Governmental Experts (known as VEREX) to identify and examine potential verification measures from a scientific and technical standpoint. Under the leadership of Ambassador Tibor Tóth of Hungary, VEREX met twice in 1992 and twice in 1993 and produced a final report evaluating 21 off-site and on-site verification measures. A special conference in September 1994 considered this final report and established another Ad Hoc Group to negotiate a legally binding protocol. This Ad Hoc Group, also chaired by Tóth, first met in January 1995.

In July 1997, the Ad Hoc Group successfully negotiated a Rolling Text of the draft protocol. The 12th version of which was issued in April 2000. The text contained a preamble and 23 articles, together with annexes and appendices. What remained was the need for a display of political will (Graham S. Pearson 2000).

Although constant reference was made to the BWC, the focus of most States-Parties was on the verification protocol itself, not the fact that the protocol was supposed to strengthen the Convention. Jez Littlewood (2005), in his book on the 2001 RevCon titled, *The Biological Weapons Convention: A Failed Revolution* emphasises that the Protocol, it should not be forgotten, was an additional legally-binding agreement intended to supplement the Convention; to rectify some-not all – of the weaknesses in it which had been identified over the last twenty years. In that respect, Sims' (2003) observation from the mid-1980s that state parties must live and work with what they created was pertinent (Sims 2003): “[W]e do not have *tabula rasa*, which would allow us to start drafting a satisfactory treaty from scratch.”

Likewise, the Ad Hoc Group did not have a clean slate to redraft the BWC: rather it was a necessity to build on and improve what actually existed. Any flaws or weakness in the BWC had to be addressed without changing (amending) the formal Treaty itself. This presented certain dangers as Ipsen observed:

“[The] very attempt to improve....[a treaty] may, therefore, lead to the exact opposite, to the total or partial destruction of the compromises which had been achieved by the terms of the.....treaty.”

An important contextual issue was the nature of diplomacy itself. By the time an agreement reaches its final form few States-Parties can say it represents their preferred objectives or means to resolve a certain problem; the question Littlewood (2005) asks is, “Is the agreement still in the national interest of the state party and are its provisions acceptable to the state party?” The outcome may not necessarily be the lowest common denominator, but it certainly will be based on compromises.

Once concluded, an arms control agreement very often reflects a fragile construction of compromises – of a minimum consensus that has been reached with regard to highly controversial issues.

Another contextual factor when assessing the BWC Protocol is the changed international environment. It must be kept in mind that the BWC was a superpower deal. Other States-Parties took it, but many were unsatisfied from the start and sought upon implementation in 1975 to begin rectifying what they perceived as flaws and weaknesses. In 2001, neither the US nor Russia was in a position to present the other States-Parties with a *fait accompli*, not least because of their different approaches. Any state could block consensus and prevent an agreement, but no state was in a position to present a take it or leave it deal to all States-Parties. The US probably could have presented such a deal to the Western Group and, if they took it, a united Western Group would quite likely have been able to build a significant majority in favour of that deal, but this could not assured because of the number of players in the process. The demise of the Cold War superpower hierarchy meant that throughout the 1990s other state parties - and particularly those with visions of being global or regional powers - had asserted their authority and wielded their power of veto on the Protocol (which all had under the

consensus rule) as a means to achieve their objectives. Put simply, the number of States-Parties with real influence had increased between 1971 and 2001.

The Protocol, as it existed, reflected that reality: it was not a treaty with the fingerprints of the US and Russia all over it, but a treaty that reflected a balance of the concerns and objectives of the US, Russia, Canada, France the UK, Germany, Sweden, South Africa, Australia, New Zealand, Japan, China, Iran, India, Pakistan, Cuba, Brazil, and other NAM states, as well as other Western Group and Eastern Group States-Parties.

The text reflected ‘decades of thinking on biological weapons’ verification years of preparation and thousands of hours of consultation and negotiation in the period between 1995 and 2001.’

According to Oliver Thränert (2002: 343-344), when the BWC entered into force, the preponderant powers of the day viz. the US, Soviet Union and United Kingdom took on the special responsibility as depository powers to:

1. As depositories, all three countries bear a special responsibility with regard to the implementation of the BWC.
2. All three countries have considerable experience with offensive biological warfare programmes, since each pursued such programmes before the BWC entered into force. The former Soviet Union was the only country of the three depositories to the BWC that continued an offensive programme even after 1975, and there are serious claims that parts of that programme continued after the end of the Cold War.
3. In an attempt to clarify the status of the Soviet/Russian biological weapons programme, the US, UK, and Russia established a trilateral process in 1992 and agreed, *inter alia*, to the following procedure: “Visits to any non-military biological site at any time in order to remove ambiguities, subject to the need to respect proprietary information on the basis of agreed principles. Such visits would include unrestricted access, sampling, interviews with personnel, and audio and videotaping. After initial visits to Russian facilities there will be comparable visits to US and UK facilities on the same basis.” In addition, plans were made to set up working groups to create provisions for visits to military facilities. In doing

so, the three depository states made it clear that they were prepared to accept special responsibility for the implementation of the BWC.

4. All three countries continue to conduct extensive biological weapons defensive programmes. Without agreement among the US, UK and Russia as the big players at the Ad Hoc Group negotiations at the BWC, a biological weapons Verification Protocol seems politically inconceivable.

Hence, it must be kept in mind that the BWC is unique in nature as it was primarily drawn up by the Cold War adversaries and then opened up for the international comity of nations. It also reflects the power equations in international politics of the time and continued well into the post-Cold War period, where the US does have a preponderant role in international politics, but does not enjoy unrivalled power. A host of issues, today, besets disarmament diplomacy.

The crux of the matter is that non-proliferation issues have to be addressed at two levels. At the first level, it must be lent genuine political support from governments around the world, and 'quick fix' solutions must not be adopted. At the second level, many of the issues today can be crystallised into technical nitty-gritty such as export controls, denial regimes over dual-use technology, and the raging debate over what actually constitutes weapons of mass destruction.

CHAPTER II

FRAMEWORK OF ANALYSIS

The aim of diplomacy is to resolve the conflicts between competitive individualism and cooperative collectivism (O.J. Bartos 1977), and involve dual and mostly conflicting motivations: the individual (competitive) desire to maximise one's own utility and the collective (cooperative) desire to reach an agreement that can be accepted by the negotiation participants. There are four crucial elements in negotiation: parties, values, outcomes, and movements (I. W. Zartman 1981). Before the negotiation process, it is the task of various other diplomatic processes to determine the negotiation "matters" are identified i.e. the actors, issues and processes are identified and clearly elucidated. Hence, negotiation is a subset of what occurs under the rubric of diplomacy. Therefore, during negotiation, negotiation parties may be fixed, but values are flexible. Value and behaviour are modified to alter divergent positions toward a common convergence of values (B.I. Spector 1977).

Negotiation phase includes three stages:

- Negotiation starts from the point where each party tries to maximize his own pay;
- By exchanging information, two or more parties explore the nature and extent of their differences and the possibilities open to them, and seek to induce or persuade each other to modify their expectations and requirements, and then search for an outcome that is at least satisfactory enough to both parties (P. H. Gulliver 1979);
- Finally, an agreement (or conflicts result) is reached, theoretically, at an equilibrium point where the opposing interests are balanced. Practically, the final result is influenced by many factors associated with diplomacy: the negotiator's personal capabilities, negotiation strategies, time issues, expectations, and the relationship between the parties.

Moving on to a classical definition of diplomacy, in *Politics Among Nations*, Hans Morgenthau dwells on the functional aspects of diplomacy as:

"The means at the disposal of diplomacy are three: persuasion, compromise, and the threat of force. No diplomacy relying only upon the threat of force can claim to be both intelligent and peaceful. No diplomacy that would stake everything on persuasion and compromise deserves to be called intelligent. A diplomat must use persuasion, hold out the advantages of a compromise "and impress the other side with the military strength of his country."

International Relations theories such as Realism and International Regimes are used to study the motivations of individual or collective state parties in negotiations, the causal linkages to related events in the specified timeframe and their effect on the outcome of the negotiations will be the focus of research. These two are apt for the proposed research as they are contrasting theories based on different rationales for analysing international relations.

While Realism assumes that states are unitary players that lay importance to sovereignty, national interests work in an overarching framework of international anarchy, International Regimes focuses on cooperation. It gives precedence to rules and norms. Moreover, a study of negotiations that factor in different diplomatic aims and practices, and the impact of factors like domestic constituencies, linkages of negotiations to specific events occurring during the period under study will broaden the scope for understanding the complex process of negotiations that were held during the Fifth RevCon of the BWC.

Hans Morgenthau's *Politics Among Nations* is a classical text of Realism. Rationality (Hans J. Morgenthau 1944: 185) giving meaning to the social world is the foundation of political realism.

“The rational (understood as a political rationality) anticipation of potential trends, which are detectable via a set of assumptions about the world, provides the key to an approximate solution to a specific social problem.”

The six principles that enunciate classical Realism are follows:

1. Theory is based upon the assumption that human nature and the laws that are the corollary of human nature are immutable.
2. Second principle asserts that the concept of interest expressed as power is the ‘main signpost that helps political realism to find its way.’
3. The third principle of political realism is a further statement on the nature of interest and power. Interest is, according to Morgenthau, ‘an objective category which is universally valid’ but with an *unfixed meaning* (emphasis is mine). The actual interest is determined according to the specific historical and cultural context in which foreign policy is formulated, which includes all possible variations of policies.

4. The relationship between power and morality is the subject of the fourth principle of political realism.
5. The fifth principle denies the equation of the individual morality of a state (or actor) in international affairs with universal moral laws (Hans J. Morgenthau 1982: 3-4). The only true guide to moral action in international politics is an honest awareness of the role played by interest and power in the international arena: by being able to judge our own actions in this light, shorn of ideological or moral pretence, one can begin to appreciate the motives of other actors in the international environment.
6. The sixth principle of political realism concerns the distinctiveness of political realism and the nature of its objectives and the knowledge that it provides.

Morgenthau's approach to the formulation of the six principles is based upon a rational foreign policy being 'good' foreign policy - Morgenthau makes a point of highlighting the inevitable gap between a rational foreign policy and foreign policy as it is actually practised.

The purpose of all political activity is, according to Morgenthau, the pursuit of power. In an attempt to present a wider conception of Realism, he presents a four-point description of the 'Balance Of Power' as:

1. A policy aimed at the achievement of a certain objective, i.e. the preservation of the status quo.
2. The description of an actual state of affairs.
3. A description of the international system in which there is an approximately equal distribution of power.
4. Any distribution of power.

A further reading also shows that the disastrous enforcement of *status quo* that came to being in terms of progress made on enforcing a verifiable protocol will not lead a "balance of power" scenario in the BWC in the long run. Morgenthau also formulated a set of truths (A.G. Noorani 2002) to "forget and remember." He said,

"FORGET the sentimental notion that foreign policy is a struggle between virtue and vice, with virtue bound to win... FORGET the crusading notion that any nation, however virtuous and powerful, can have the mission to make the world

over in its own image... **REMEMBER that diplomacy without power is feeble, and power without diplomacy is destructive and blind...** (Emphasis is mine) REMEMBER that no nation's power is without limits, and hence that its policies must respect the power and interests of others."

The BWC RevCon saw the jettisoning of the "forget and remember" tenets espoused by Morgenthau. In pursuit of certain gains that were identified by many as narrow and short-term in nature.

What is Morgenthau's explanation of "the national interest"? Morgenthau's explanation is:

"Moral considerations go into the concept of the national interest as it is defined by a nation at a particular moment. One might say that the legitimacy of the national interest thus defined depends in large measure upon the moral qualities of the definition... While military strength and political power are the preconditions for lasting national greatness, the substance of that greatness springs from the hidden sources of intellect and morale, from ideas and values."
(A.G. Noorani 2002)

These points have been detailed to provide a clear conceptual framework for understanding the diplomatese at the 2001-2002 RevCon and to theoretically clarify the approaches of different participants.

Furthermore, Sean Lynn-Jones and Steven E. Miller (1995) argue that Realism is composed of both offensive and defensive orientation. In offensive realism, states view security as a fixed pie; unless a state works to increase its own security and resources by coercive means, others will take their portions and use them against the state that surrendered such capabilities in order to obtain more security. In such a circumstance, war and other aggressive military postures are more likely, and international competition will be rampant. At the same time, those states that believe that there is an infinite amount of security in the international system will adopt defensive strategies and view security as non-zero sum, therefore allowing themselves simply to work to retain their own security (Sean Lynn-Jones and Steven E. Miller 1995).

John J. Mearsheimer (2002), in his book, *The Tragedy of Great Power Politics*, refutes the assertion that treats great power wars as outdated. According to the author, that argument holds that "international politics underwent a fundamental transformation with the end of the Cold War," and that "cooperation, not security competition and

conflict, is now the defining feature of relations among the great powers.” The author’s argument is based on his contention that in an “anarchic” world composed of sovereign nation-states, each great state tries to acquire the maximum amount of power feasible under the circumstances. This struggle for power may at times subside, but it never ends. This is so because the first goal of every great power is to survive, and the more power a nation-state has, the greater its chances of survival in this anarchic world. According to Mearsheimer, the only circumstance in which a great power will stop trying to gain more power is when it has achieved global hegemony, a circumstance that has never occurred in world history. Great powers that strive for regional or global hegemony, he argues, inevitably provoke other great and lesser powers to form coalitions designed to counter the potential hegemon. Mearsheimer rejects ‘defensive realism’ (John J. Mearsheimer 2002).

“Given the difficulty of determining how much power is enough for today and tomorrow, great powers recognize that the best way to ensure their security is to achieve hegemony now, thus eliminating any possibility of a challenge by another great power. Only a misguided state would pass up an opportunity to become hegemon in the system because it thought it already had sufficient power to survive.” (John J. Mearsheimer 2002: 35)

These are the premises that base his arguments (John J. Mearsheimer 2002: 37), and state that, “a great power that has a marked power advantage over its rivals is likely to behave more aggressively because it has the capability as well as the incentive to do so.”

REVCON PREDICTIONS BASED ON REALISM

The usage of the Realist theory suggests that in the RevCon, the issues and most importantly, the motivations will be guided by the national interest consideration of the individual States-Parties or groupings of states. Of course, this can be in the form of adoption of stances, which can be based on both – offensive and defensive realism depending on the contingent factors prevailing at the time. These contingent factors may be the international geopolitical scenario, standing in the international political hierarchy, political, economic and military clout, domestic political considerations, and the value —

in terms of political will and economic capital — investment a state or group has put into the RevCon. An overwhelming majority of the actors may adopt a defensive realist approach and may not initiate hostile rhetoric, but will not spare any effort to capitalise on such an eventuality of someone else doing so. As an extension, the preponderant power or hegemon of the day might try to influence the proceedings, and might not succeed all the time, but might still drastically influence the course of the proceedings.

Table 1: Traits Associated with Different Types of Realism

<u>Category of Action</u>	<u>Offensive Realism</u>	<u>Defensive Realism</u>
Crisis	Initiator.	Responds to hostile actions (however, aggressive political rhetoric may aggravate situation).
Military Modernization/Weapons Build-up	Immediate, rapid build-up with a goal of utilizing all resources to maximize power potential.	Goal to modernize to parity or near-parity levels with nearest strategic competitor — aims to create a credible minimum deterrent.
Political Rhetoric	Open, aggressive, unclear intentions.	Clearly defined policies and objectives.
Territory	Blind projection of power to acquire more territory as projection potential permits.	Target area viewed as defensive perimeter within which the state will project its power.
International Organizations (IOs)	Global and/or regional rivalries, cooperation and involvement in IOs difficult as power projection will decrease trust of IO members.	Regional rivalries, large-scale participation in IOs.
Alliance Formation	Offensive alliance possible; after-effect of an offensive realist on its former allies threaten relative gains obtained.	Will only engage in regional alliances if they play into potential for regional hegemony.

(Source: Heller, 2003)

Morgenthau's stress on 'balance of power' is complimentary to 'reciprocity,' as the latter allows states to appreciate each other's power and hence mellows the concept of national interest. This is the initial basis for the subsequent elaboration of International Regimes that follows.

Further, critics of Realism like Quincy Wright state that (Quincy Wright 1952: 116-118):

“Realism’ has ‘been associated by some philosophers with the acceptance of the necessary consequence of necessary assumptions. It is ‘realistic’ to accept Euclid’s axioms as self-evident and not to shrink from any of Euclid’s conclusions, which follow from them by irresistible logic. So the political ‘realists’ insist it is ‘realistic’ to accept the proposition that ‘states seek to enhance power’ as axiomatic and not to shrink from any conclusions which follow from it by irresistible logic. The opposite of ‘realism’ in this sense is to reject assumptions, which, however self-evident, are disliked, and to reject unpalatable results, which logically flow from them. It is difficult to see why such irrationality should be called ‘idealism’. It is obvious, however, that few people are ready to denominate themselves ‘idealists’, when that term is made synonymous with foolishness.”

John Gerard Ruggie introduced the concept of International Regime to International Relations Theory in 1975 (John Gerard Ruggie 1975: 570). He defined it as “a set of mutual expectations, rules and regulations, plans, organizational energies and financial commitments which have been accepted by a group of states.” The concept further clarified in due course of time around the four principal components: principles, norms, rules, and decision-making procedures. Furthermore, with respect to the BWC, Realism is found wanting to accommodate the distinct presence of International Regimes as intervening variables in the international system, and hence not responding to the designs of power-based interests of countries.

Stephen D. Krasner contends that (Stephen D. Krasner 1982: 497-510):

“Change in power distribution does not always imply a change in outcomes because regimes may function as intervening variables. Regimes may assume a life of their own, a life independent of the basic causal factors that led to their creation in the first place. There is not always congruity between power capabilities, regimes, and related behaviour and outcomes. Principles, norms, rules and procedures may not conform with the preferences of the most powerful

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states. Ultimately, state power and interests condition both regime structure and related behaviour, but there may be a wide area of leeway.”

He states that two distinct traditions have developed from structural realist perspectives. First, the billiard ball version focuses purely on interaction among states. Second, the tectonic plates version focuses on the relationship between the distribution of power and various international environments. It is the latter tradition that suggests why regimes may be important for a realist orientation. However, it also opens the possibility for viewing regimes as autonomous, not just as intervening variables. There may be lags between changes in basic causal variables and regime change. There may be feedback from regimes to basic causal variables. Both lags and feedback suggest an importance for regimes that would be rejected by conventional structural arguments. It was concluded that knowledge alone is never enough to explain either the creation or the functioning of a regime. Interests and power cannot be banished. But, knowledge and understanding can affect regimes. A detailed exposition of the basic tenets of International Regimes Theory follows. Krasner’s definition of international regimes seeks (Stephen Haggard and Beth A. Simmons 1987: 491-517):

“The middle ground between ‘order’ and explicit commitments; it stresses the normative dimension of international politics. Krasner defines a regime as ‘implicit or explicit principles, norms, rules and decision-making procedures around which actors’ expectations converge in a given area of international relations. Despite the care with which this complex hierarchy of components is defined, ‘principles’ (which include not only beliefs of fact and causation, but also of ‘rectitude’) shade off into norms, ‘standards of behaviour defined in terms of rights and obligations.’ Norms, in turn, are difficult to distinguish from rules, ‘specific prescriptions or proscriptions for action.’”

““A more restricted definition treats regimes as multilateral agreements among states which aim to regulate national actions within an issue area’. Regimes define the range of permissible state action by outlining *explicit* injunctions. Regimes often contain rules, which govern or specify their own transformation, but explain ‘regime change’ *per se* is to explain why states would agree to modify the codified rights and rules that regulate their behaviour. This approach risks the charge of formalism — a charge which has plagued the study of international law. On the other hand, it focuses attention on the evolution of the texts constituting international agreements; it also clearly separates normative consensus from the definition of regimes, treating it rather as causal or constitutive variable that may be useful in explaining cooperation.”

““This definition also allows a sharper distinction between the concept of regime and several cognates, such as cooperation.’ Regimes are *examples* of cooperative

behaviour, and *facilitate* cooperation, but cooperation can take place in the absence of established regimes. Regimes must be distinguished from the broader concept of 'institutions', the essential feature of which is the 'conjunction of convergent expectations and patterns of behaviour.'"

The four principal components Jervis elucidates (Sean Lynn-Jones and Steven E. Miller 1995:11) are necessary but not sufficient for a regime to function. Regimes must constitute something more than just short-term expressions of rational self-interest. As Krasner states,

"It is the infusion of behaviour with principle and norms that distinguishes regime governed activity in the international system from more conventional activity guided exclusively by narrow calculations of interest." (Krasner 1983: 2)

Seeking alternate definitions, Oran R. Young definition of Regimes is as follows (Young 1982: 227-297):

"Regimes are social institutions governing the actions of those interested in specifiable activities (or accepted sets of activities). Like all social institutions, they are recognised patterns of behaviour or practice around which expectations converge. Accordingly, regimes are social structures; they should not be confused with functions, though the operation of regimes frequently contributes to the fulfilment of certain functions. As with other social institutions, regimes may be more or less formally articulated, and they may or may not be accompanied by explicit organisational arrangements."

He proceeds to classify regime formation as a social institution based on ordering, they are: regimes that arise as *spontaneous* orders (distinguished by the facts that they do not involve conscious coordination among participants, do not require explicit consent on parts of subjects or prospective subjects, and are highly resistant to efforts at social engineering); *negotiated* orders (regimes characterised by conscious efforts to agree on their major provisions, explicit consent on the part of part of individual participants, and formal expectation of the results); and regimes as *imposed* orders (differ from spontaneous orders in the sense that they are fostered deliberately by dominant players). The BWC is clearly moving from the imposed order it was when it came into force into a negotiated order that it is evolving into today.

The conditions under which regimes transform are as follows and are important to analyse the structural flux the BWC is in the throes today (Oran R. Young 1982). Young

also states that “regimes may change over time or vary across cases in at least four ways: strength, organisational form, scope, and allocation mode. Different theoretical approaches address one or more of these variables, but are less useful in explaining others.” (Oran R. Young 1982)

1. **Strength:** The majority of “regime change” studies try to explain why regimes eventually weaken or decay. Strength is measured by the degree of compliance with regime injunctions, particularly in instances where short-term or ‘myopic’ self-interests collide with regime rules.
2. **Organisational Form:** In its quest to move beyond the study of concrete international organisations, recent regimes literature has largely ignored problems of organisational design and operation. Some issues are conducive to decentralised regulation: regime injunctions may only call on states to share information, or refrain from certain actions. Other regimes demand positive interventions by states, but remain largely decentralised. Most regimes, however, are likely to have at least some minimal administrative apparatus for the purpose of dispute settlement, collection and sharing of information, or surveillance. Complex cooperative tasks require more elaborate, and potentially autonomous, organisational structures. If cooperation is already highly institutionalised, theories resting on assumptions of anarchy are highly misleading; black boxing organisational structure and processes will lead to simplistic predictions.
3. **Scope:** Scope refers to the range of issues the regime covers. Though changes in regime scope have attracted little theoretical attention, its neglect can cause misleading characterisations.
4. **Allocational Mode:** Regimes can endorse different social mechanism for the resource allocation.’ A market-oriented regime supports the private allocation of resources, discourages national controls, guarantees property rights, and facilitates private contracting. As Oran Young states, ‘free enterprise systems... are not institutional arrangements operating outside or in the absence of the regime. Such

systems clearly require explicit structures of property or use rights.’ (Oran R. Young 1982)

Critics of International Regimes like Susan Strange question the usefulness of the concept of regimes. The analysis of the usefulness of the concept of regimes is based on the grounds that (Susan Strange 1982: 479-496):

1. It is a fad, ambiguous and imprecise,
2. Value-biased toward order rather than change or equity,
3. Essentially static in its interpretation of the kaleidoscopic reality of international cooperation and conflict, and
4. Rooted in a limiting, state-centric paradigm.

Instead, Strange suggests that one should pay attention to the “overlapping bargaining processes, economic and political, domestic as well as international, by which the outcomes of the interaction of states of authorities with markets and their operators, and of political institutions and economic enterprises, determine between them the ‘who-gets-what’ of the international political economy.” This can be the alternate framework to study negotiations and diplomatic aspects of the fifth RevCon.

REVCON PREDICTIONS BASED ON INTERNATIONAL REGIMES

As stated earlier, Krasner posited two distinct traditions have developed from structural realist perspectives: the billiard ball version and the tectonic plates version. The latter tradition suggests why regimes may be important even within a realist orientation. What distinguishes it; however, is the possibility for viewing regimes as autonomous, not just as intervening variables. There may be lags between changes in basic causal variables and regime change. There may be feedback from regimes to basic causal variables. Thus, once formed, international regimes are hard to put down or sideline as they develop a momentum of their own and hence, a different logic that does not always subsume national interests of even the preponderant powers. However, it does accommodate those national interests of the powers that be and therefore ensure its own

viability. The United Nations system is a prominent example of this explanation. Perhaps the BWC is also shaping up in the same mould.

Young's classification of regime formation as a social institution based on different types of ordering, (spontaneous, negotiated and imposed) explains the *a priori* status of the BWC i.e. that it was a partly negotiated-imposed order that was primarily a creation of the superpowers during the Cold War and thence on the BWC is clearly moving from the imposed order into a negotiated order that it is evolving into today.

The role of those international actors who espouse the tenets of building strong international regimes can be explained by this explanation of the BWC, wherein these actors seek to reorder the power structure within the regime to suit the ends of an overwhelming numerical majority of the States-Parties.

LITERATURE REVIEW

The body of work currently available alludes to topics such as verification protocol and various proposals regarding it; structural changes to the BWC; role of science and technology; civil defence and finally the future of the BWC itself. Hence, the literature available focuses on specific issues related to the Fifth RevCon of the BWC. On the other hand, literature focusing on the overall framework of the BWC does not offer a theoretical analysis of the proceedings that seeks to explain the negotiations of the Fifth RevCon. Moreover, a study of these negotiations as an interaction between approaches that can be explained by different theories viz. Realism and International Regimes has not been conducted. Instead, overarching frameworks like disarmament and multilateralism have been adopted to singularly analyse the proceedings. The objective of the proposed research is a theoretical analysis of the diplomacy at that time and the ensuing negotiations by positing two different International Relations theories (Realism and International Regimes), and the dynamics of the fifth RevCon's negotiations as an interaction between these two theories.

Literature relating to this specific review conference can be broadly categorised into two sections, namely:

- Studies conducted with their focus solely on elements like verification protocols, technology transfers, non-state actors' roles and participation, etc.
- Studies conducted under one overarching framework wherein specific concepts like disarmament, international regimes and multilateralism are used.

A detailed elaboration of these two sections follows.

First, the body of literature, which includes Nicholas A Sims (2003), Malcolm Dando (2001, 2002), Jonathan B. Tucker (2002, 2004), Chari and Rajain (2003), Susan Wright (2002), etc are primarily focused on the larger canvas of the BWC and its verification shortcomings. These writings relate to particular issues besotting the fifth RevCon, especially the verification protocol and the converse effect of the verification protocol negotiations on the BWC. References to negotiations have been made to highlight the positions of key participants of the RevCon and their effect on the outcome of the RevCon. The writings have also been descriptive-prescriptive in nature and therefore tend towards what "ought to be" rather than "what is." Hence, the study of negotiations occupies a secondary place in these works and only serves the purpose of augmenting the authors' primary arguments about problems plaguing the BWC.

Secondly, research has been conducted only under certain exclusive theoretical frameworks and any mention to other theoretical concepts have been only been cited as a reference. Thus, works like Alan P. Zelicoff (2001), Dando (2001, 2002), Marie Isabelle Chevrier (2001), David C. Kelly (2002), P.R. Chari and Arpit Rajain (2003), Raja Menon (2004), Jonathan B. Tucker (2004), and Jez Littlewood (2005) do not study the negotiation process as an interactive process by using different theories to achieve greater insight in its findings. Jez Littlewood (2005) provides a comprehensive account of negotiations by detailing positions of key states, and assesses the outcome of negotiations in the broader context of arms control. Littlewood's classification of states as "reformist" and "minimalist" (Jez Littlewood, 2005) to study the BWC's fifth RevCon negotiations has been adopted. This indeed reflects the "Realist" and "liberal internationalist" foundations they rest on and hence have been criticised for being inadequate. This inadequacy is due to the simplification of complex negotiation processes as being "reformist" or "minimalist." This is because official positions of many states or grouping of states can be placed between these two ends of the spectrum. Moreover, concepts like

“reformist” or “minimalist” can be described by different strands of Realism itself. For example, in Realist parlance, a reformist’s actions and motivations can be described using Defensive Realism, and a minimalist can be categorised under Offensive Realism.

The focus here is purely on the diplomacy during the period, as it is evident that primacy to this objectives *per se* has been secondary. The usage of theories like Realism and International Regimes to study the motivations of individual or collective state parties in negotiations, the causal linkages to related events in the specified timeframe and their effect on the outcome of the negotiations will be the focus of research. These two are apt for the proposed research as they are contrasting theories based on different rationales for analysing international relations.

CHAPTER III

SETTING THE STAGE

The timeframe for this chapter, which primarily focuses on the diplomacy at the pre-negotiations stage, is February 2001 to July-August 2001. The 22nd meeting of the Ad Hoc Group was held in Geneva from 12-23 February 2001 to consider a legally binding instrument to strengthen the BWC; the March meeting of the Ad Hoc Group on 30 March 2001, Ambassador Tibor Tóth provided to States-Parties a Composite Protocol text based on the Rolling Text and adopted compromises; and, in July, the US rejected the Composite Protocol text at the 24th session of the Ad Hoc Group negotiating a Protocol on 23 July 2001. These three chronological events will be the focus here to elucidate the issues, processes and the role played by major actors leading up to the RevCon later in the year.

The research agenda is to study diplomacy before the Fifth RevCon. In addition, the chronology has started from February 2001 because the first signs of deadlock and disagreement appeared at this time, thus leading to a shift in gears in terms of the diplomacy of various actors to buttress their positions and interests as a response to tackle the subtleties of disarmament diplomacy at the BWC. The veracity of the central hypothesis that national security considerations predicated the participants' decisions at the negotiations for the Fifth RevCon of the BWC will also be put under the scanner by identifying the main actors and reasons for changes in negotiating positions of key participants; issues; processes; and trade-offs, if any. The theoretical analysis will be conducted within the parameters laid out in the previous chapter on Framework of Analysis.

This section will focus on the major players, the diplomatic parleys held in evolving the Chairman's Composite text based on the bracketed items in the Rolling text, and the Ad Hoc Group meeting during July 2001 will be analysed by positing International Relations theories to explain actions taken by states. An analysis of the diplomacy involved to address the crisis brought upon due to certain pronouncements, especially by the US, when it rejecting the draft protocol proposal is of importance and it as a sign of the hardening in US' negotiation stance that later got reflected at the RevCon meeting. Further, the role played by domestic lobbies will also be focused upon to highlight the significance of domestic politics on a country's diplomacy. These factors

can be analysed within the context of the prevailing international political scenario of the time and domestic factors on a state's position at a multilateral forum like the BWC.

The Ad Hoc meetings of February, March-April and July 2001, the Ad Hoc Group's chairman's draft protocol, attempting to strike a diplomatic compromise on the disputed issues and the reasons for its rejection in July 2001 — at the Ad Hoc Group's last scheduled meeting — by the US, by claiming that such a protocol could not help strengthen compliance with the BWC and could hurt US national security and commercial interests.

The BWC today, and the Ad Hoc Group during its existence (before 2001), worked at formulating a verification protocol and could not ignore modern day issues such as the decoding of the human genome, advances in the biotechnology sector, globalisation, and changing nature of warfare (complicated by the entry of non-state actors).

Checks and balances in the BWC to stop or control the misuse of such technologies have not kept pace with rapid technological developments. "Checks and balances" consist of not only filters in the form of rules and regulations (where constant technological and legal updates are made to keep them viable and effective), but also in the form of deliberations in the public domain and in the realm of effective diplomacy at the governmental levels of deliberations.

At an elementary level, public level deliberations consist of 'sharing of knowledge' about the questions in focus and 'open debates about its benefits and detriments'. The same debate at its highest level encompasses a larger political arena where states and non-state actors discuss and formulate new policies to address these issues. Not only is there an asymmetry when it comes to access and sharing of information about negotiations relating to biological and toxin weapons (technology transfer and use of dual use technology to be specific), but a clear lack of international political will to address the issue. This was reflected by the deadlocked Fifth RevCon and subsequent lack of interest to address the issues bedevilling the BWC negotiations. These divergent strands are due to numerous factors comprising ideology, national interest, profit-motive, etc.

Can the BWC emerge from its current existential crisis or should the BWC be relegated to history's trash bin? Can the BWC be revamped on the lines of more effective treaties like the Chemical Weapons Convention (CWC)? Should the now defunct Ad Hoc Group of the BWC be recast as a more effective multilateral negotiating forum? Future negotiations on biological weapons non-proliferation must also address the problem of non-state players (MNCs, NGOs, terrorist groups) as significant players in the BWC negotiations; no other WMD category has so high a concentration of non-state players with a direct or indirect interest in its deliberations.

MAJOR PLAYERS:

In the post-Cold War era of 'multilateralism', real, powerful proponents of arms control and disarmament are actually few in number. Most of Latin America and the Caribbean, with the exception of Brazil and Cuba, support efforts but do not forge the agenda at the BWC. Africa is poorly represented in the negotiations and is led by South Africa. In North Africa and West Asia, key states are not represented at the BWC negotiating table simply because they refuse to be bound by the Convention. Egypt, Israel, Syria are the only three who refused to accept the treaty. In Europe, the EU constitutes a block of approximately 30 states with concurrent policies, and most of the former Soviet Union is not active in disarmament negotiations. Littlewood (2005) classifies Asia as a "conundrum" as it is bound in solidarity in most cases by the NAM.

Hence, contrary to the generalized impression that there are no dissenting diplomatic positions within the BWC is untrue. And, this was especially on display during the duration of the RevCon under study here. Therefore, there was a plethora of issues and processes that need to be threaded together. While a set of actors' motivations can be attributed to national interest and hence explained using the Realist theory of International Relations. While the other set of actors' motivations can be attributed to their subscription of shared values in institutions, of which a belief in international regimes is the lowest common denominator. Therefore, International Regimes Theory can be posited here to explain their motivations and positions.

A brief introduction to the key actors, their diplomatic influence at the BWC and their defining characteristic follows.

The Australia Group dates back to 1985 when a group of 15 countries agreed to consult and harmonise their various national export controls on dual-use precursor chemicals to prevent Iraq from obtaining them for the production of chemical weapons (CW), which it was using in the Iraq-Iran war. Later, it included biological weapons under its ambit.

Littlewood states that it may be impossible to secure any further disarmament or arms control agreements multilaterally unless there is a significant shift in the political will of states such as the US, China, Russia, Iran, and India. Likewise, unless states in Latin America, the EU, Africa, and the likes of Canada, Japan, Australia, and New Zealand are willing to break out of the caucus groups and form alliances to pursue solutions to the problems of disarmament and apply real pressure to these states, there is little chance of further development in the multilateral arena. He borrows Alva Myrdal's phrase that, the game of disarmament diplomacy is now even more complicated with a greater number of states adopting the roles and positions formerly taken by the US and the USSR.

The Pharmaceutical Research and Manufacturers of America (PhRMA) represents about 100 of the largest U.S. pharmaceutical and biotechnology companies; PhRMA also includes research associates and international affiliates. The Biotechnology Industry Organization (BIO) represents biotechnology companies.¹ Both industry organisations have taken an active interest in the BWC Protocol negotiations. Therefore, the role of NGOs such as BIO and PhRMA, and many others, is crucial in presenting a comprehensive picture of the diplomacy at the BWC.

¹ BIO has many more members than PhRMA, but its member companies, on average, are much smaller than PhRMA's. Some companies are members of both. Membership information for both companies can be found on their respective websites: www.Phrma.org; www.bio.org.

FEBRUARY MEETING OF THE AD HOC GROUP

The 22nd meeting of the Ad Hoc Group was held in Geneva from 12-23 February 2001 to consider a legally binding instrument to strengthen the BWC. In the previous session in November/December 2000, negotiations took place in a number of forums. The Friends of the Chair (FOCs) continued to hold meetings to develop the text for which they were responsible to explore possible solutions to remove square brackets in the Rolling Text. The Chairman also continued his series of bilateral informal consultations with representatives of States-Parties to address the outstanding key issues in order to explore conceptual approaches to find common ground. The FOCs included actors such as South Africa, European Union, and representatives of the Australia Group. The FOCs' position has all along been to strengthen the institutional framework of the BWC and it has aimed to achieve this with its energetic diplomacy as seen here in the way of being part of the FOCs. This grouping, along with Chairman, Ambassador Tóth, were of the firm opinion that building the international regime of the BWC by means of engaging the Ad Hoc Group regularly over the Verification Protocol was the best way forward for the BWC.

Over 50 informal consultations, ranging from 30 minutes to 3 hours in duration, were held during the two-week session. Overall, the February session saw a further continuation of the change that had begun in the July/August 2000 session to less work being carried out in formal sessions and more "give and take" discussion in informal consultations. This was illustrated by the fact that out of 20 possible meetings during the two-week session, there were actually 11 formal meetings. This enumerative fact is innocuous at face value. But, when read from the larger perspective of the global politics, and more particularly the resurgence of US unilateralism after the election of George W. Bush as the US President, is a clear indicator of that actors like US and Russia were reasserting their national interests at the BWC forum. The reduced number of formal meetings and more "give and take" *informal* consultations are indicative of harder bargaining by the respective delegations to secure their interests, which is nuanced and show subtle changes depending on domestic and national contingencies.

At the opening day of the February session, Ambassador Tibor Tóth, Chairman of the Ad Hoc Group and the fifth RevCon, in his opening remarks recalled that in his remarks at the end of the previous session in November/December 2000, he had put the work of the Ad Hoc Group into context so that all participants could better understand what remains to be done. He had said then that the most difficult work needed to be done in 2001 and, “it was now time to move away from talking about compromises to actually delivering such compromises.” Ambassador Tóth (OPBW 2001: 2) recognised that it was becoming more difficult for the FOC to achieve progress as:

“It is no longer possible to consider the rolling text of the Protocol in its discrete sections, because the remaining areas of difference are linked to progress in other areas of text.”

Here again, the difficulty encountered by Ambassador Tóth and the FOCs was not a one-off event, but reoccurred regularly, leading Tóth to arrive at the conclusion that negotiations based solely on the procedures used so far would not allow the Ad Hoc Group to fulfil its mandate in the timeframe allocated to the work. The stage had been set for those adopting the classical realist posture in their diplomacy as opposed to those who subscribed to common values and hence, their diplomatic resources for the cause of building a viable international regime.

Tóth recalled that he had carried out a series of informal consultations at the 20th and 21st sessions in which he had had approximately 100 bilateral meetings with delegations in each session. He intended to continue these informal consultations at the 22nd session.

Ambassador Tóth also said that in addition to the bilateral consultations, and as a direct result of them, delegations had received a series of written elements related to certain parts of the text. At the last session, written elements addressing conceptual solutions based on the Rolling Text had been circulated related to: Declarations; Follow-up after submission of declarations; Randomly selected transparency visits; Declaration clarification procedures; Transfers; Entry into force; Cooperation; and issues related to the organization.

He noted that there is much to be done in the nine weeks of AHG session available to complete the work as it had to finalise the Rolling Text and a Protocol drawn

up that was acceptable to all. He concluded by saying: “Every single delegation ... here now has to move from its long-standing favoured options towards a middle ground that brings an acceptable compromise to all delegations.”

“That will, I know, be painful.... Let us not forget what the ultimate goal of our endeavours is: it is not about a new treaty, it is about strengthening existing obligations and preventing human beings from being subjected to the wilful infliction of disease. Only with such a bulwark in place will technological progress deliver its benefits to all countries and help make the world a safer place.” (OPBW 2001)

This then set up the stage for the subsequent meetings where the Chairman’s Composite Text became the cynosure of all diplomatic attention, with delegations vying for opportunities to adapt to the Composite Text as well as adopt it, if possible to suit their ends. Here ends may be in the form of pursuing purely state-centric goals or regime-centric goals that a group of states may hold.

DIPLOMATIC IMPLICATIONS OF THE COMPOSITE TEXT

In the March meeting of the Ad Hoc Group on 30 March 2001, Ambassador Tibor Tóth provided to States-Parties a Composite Protocol text based on the Rolling Text and adopted compromises. At the 23rd session of the Ad Hoc Group in Geneva from 23 April to 11 May, Ambassador Tóth provided detailed explanations of the compromises that had been adopted in the Composite Protocol text. The Composite Protocol text was a direct response to the deadlocks that had ensued within the Ad Hoc Group meetings. The deadlock was a direct reflection of the differences arising over the on-site and challenge inspections aspects of the Verification Protocol. Although many actors articulated these differences, they can be broadly classified into those who chose to safeguard their national interests and resist any provisions for inspections, and those who threw their weight behind the Verification Protocol to strengthen the regimental aspects of the BWC. Furthermore, the issuance of the Composite Text is also a paean to Ambassador Tibor Tóth’s diplomatic resourcefulness in forging together a workable solution, which could have paved the way for the successful conclusion of the RevCon.

In a press conference at the end of the Ad Hoc Group 23rd session on 11 May 2001, Tóth said that the States-Parties at the Ad Hoc Group had welcomed the provision of the Chairman's Composite Protocol text (United Nations 2001a). It was demonstrative that it was possible to meet the mandate of the Ad Hoc group to complete the Protocol by the RevCon. Tibor Tóth added that quite a number of delegations had welcomed the balance struck in text. However, *there were delegations who were unhappy with particular aspects*. Evidently, a few feathers were still ruffled at the BWC due to the Chairman's Composite Text, but what is of note here is that the numbers of dissenters had been reduced. The balance of power seemed to have swung shortly to the side of those actors who had subscribed to strengthening the institutional regimes aspect of the BWC. These swings went on to occur periodically until the end of the RevCon. About the number of dissenters against the Composite Text, Tóth himself went on to note that:

“What was emerging as a climate in the negotiations was that the delegations which used to form a silent majority in the negotiations had spoken massively in the course of the session. They spoke in favour of the fulfilment of the mandate and concluding the negotiations in the next session. ... the question was whether delegations and capitals participating in these negotiations for practically seven plus three years would say yes or no to a Protocol, which in his judgement, would respect legitimate bio-defence, industrial and non-proliferation interests while providing for efficient, additional tools to strengthen the Biological Weapons Convention.” (Pearson, Dando and Sims 2001a: 1)

After the April/May Ad Hoc Group session, a technical correction (United Nations 2001b) of the Composite Protocol text had been issued. States-Parties engaged in the negotiations considered the Composite Protocol text and how best to take the negotiations forward, but vested interests adopted critical stances in thwarting the Chairman's text to be a runaway success.

The Chairman's Composite Protocol text is important as it is firmly based on the Rolling Text (over 99 per cent is identical to language in the Rolling Text (United Nations 2001c) – in which compromises have been adopted where necessary). The fact that over 99 per cent of the previous Rolling Text suggests that the Composite Text did not contain anything extraneous that would have given sufficient reason for the 'nay sayers' to reject the Composite Text. A tabular representation of the salient features of

the Composite Text in comparison to the Rolling Text and the benefits of adopting a verification protocol within the BWC follows in the next page. It is also proof of the extensive diplomatic manoeuvring executed by Tóth.

A detailed evaluation (Pearson, Dando and Sims 2001a) of the Chairman's Composite Protocol text distributed to the delegations to the Ad Hoc Group in April 2001 concluded that,

“Whilst these compromises will not satisfy the aspirations of all the delegations to the Ad Hoc Group, they do, in our view, successfully ensure that the composite Protocol text achieves its mandate of strengthening the effectiveness and improving the implementation of the Convention. The composite Protocol text has successfully retained all the essential elements for an effective Protocol ranging from definitions and objective criteria, through compliance measures to measures for scientific and technological exchange for peaceful purposes and technical cooperation.”

The aim of the Protocol was to strengthen the effectiveness and improve the implementation of the Convention. The Protocol makes no changes to the basic prohibitions and obligations. The Protocol regime is supplementary and additional to the Convention. It does not undermine the prohibitions in Article I, but rather the Protocol safeguards Article I - a long-standing objective of many delegations. The key comparison is thus between the BWC Protocol regime and the BWC alone (including the procedures devolved from its provisions). A tabulation of the principal measures in the regime, compared with the procedures of the BWC alone, clearly brings out the significant benefits from the Protocol (Pearson, Dando and Sims 2001a). Tabular representations of the Principal benefits from the BWC and its Protocol Regime compared to the BWC, Costs and Gains from the Composite Protocol, and Comparison of the Convention and its Protocol Regime with the BWC follows.

Table 1. Principal benefits from the BWC and its Protocol Regime compared to the BWC alone

BTWC and its Protocol Regime	BTWC alone
Measures to increase transparency and build confidence	Suspicious not addressed -- and over time reduce international confidence in the regime
Procedures to address non-compliance concerns	Art V consultations (no teeth) Art VI complaints to UN SC (not used)
International cooperation and assistance provisions enhancing infrastructure, transparency and building confidence	No action despite aspirations at successive Review Conferences

(Source: Graham S. Pearson, Malcolm R. Dando & Nicholas A. Sims, 2001)

Table 2. The Costs and Gains from the Composite Protocol

SIGN COMPOSITE PROTOCOL	REJECT COMPOSITE PROTOCOL
GAINS	COSTS
Reinforcement of international norm that biological weapons totally prohibited	No reinforcement of international norm that biological weapons totally prohibited Risk that norm is weakened as State Party seen to have declined opportunity to strengthen
Deterrence of would-be violator significantly enhanced	Perception that biological weapons unimportant Would-be violator encouraged by continued international inaction on BTWC
Increased transparency of activities in other States through mandatory declarations	Confidence-building measure submissions if the State decides to submit
Anomalies, uncertainties and omissions in declarations can be addressed	No means of addressing anomalies, uncertainties and omissions
Mechanisms established to address non-compliance concerns through investigations	Continuing ineffective/unused provisions (take concerns to UN Security Council)
All States required to enact penal legislation -- reduced possibility of bioterrorism	No requirement for penal legislation
All States required to establish transfer controls -- reduced possibility of agent/equipment acquisition by States or by non States actors	No requirement for establishment of transfer controls
COSTS	GAINS
Costs of Protocol implementation -- Modest. International organization half size of OPCW National authority could be colocated with that for CWC -- additional data collection modest compared to that for existing CBMs	Avoidance of cost of Protocol implementation
OVERALL CONCLUSIONS	OVERALL CONCLUSIONS
State Party has taken all possible multilateral steps to prevent biological weapons -- collective security augmented by strengthening effectiveness of the BTWC	State Party lack of interest in multilateral world community -- sets State Party at variance with collective security objectives of the rest of the world
Reduced risk of BW proliferation	Continuing (increased?) BW proliferation risk
Reduced risk of BW use	Continuing (increased?) risk of BW use
State Party security enhanced	Opportunity missed

(Source: Graham S. Pearson, Malcolm R. Dando & Nicholas A. Sims, 2001)

Table 3. Comparison of the Convention and its Protocol Regime with the Convention alone

BTWC and its Protocol Regime	BTWC alone
Mandatory declarations -- measures to ensure submission	Confidence-Building Measures -- patchy and variable (if made)
Declaration follow-up procedures -- analysis of declarations -- randomly-selected transparency visits	None -- none -- none
Declaration clarification procedures -- clarification visits	None -- none
Voluntary assistance visits	None
Non-compliance concerns -- Consultations >>> Investigations	Art V consultation procedures Art VI complaint to UN Security Council
Field investigation	Possible UN Secretary-General investigation if invited by State Party concerned
Facility investigation	None
Transfer procedures	None
Assistance -- provisions detailed	Art VII assistance if UN Security Council decides a Party has been exposed to danger
International Cooperation -- elaborated in detail -- Cooperation Committee	Art X provisions -- no implementation procedures -- none
Organization -- CoSP, ExC & Technical Secretariat	None
National implementation -- Penal legislation required -- National Authority	Art IV National implementation -- No penal legislation requirement -- None

(Source: Graham S. Pearson, Malcolm R. Dando & Nicholas A. Sims, 2001)

The Protocol is also important for its contribution to the “web of deterrence” (Pearson 1993: 145-162; Pearson 1998: 23-31) which comprises:

- A strong international and national prohibition regime reinforcing the norm that biological weapons are totally prohibited,
- Broad international and national controls on the handling, storage, use and transfer of dangerous pathogens,
- Preparedness including both active and passive protective measures and response plans that have been exercised,
- Determined national and international response to any use or threat of use of biological weapons ranging from diplomatic sanctions through to armed intervention,

Which are together mutually reinforcing and lead a would-be possessor, whether a “rogue state” or a non-State actor to judge that acquisition and use of BW would not be valuable, would be detected and incur an unacceptable penalty. Any single element of the web of deterrence alone is insufficient - all elements are vital and all need to be strengthened as they thereby reinforce the deterrent effect.

The effectiveness of the negotiated protocol, and hence the convention, would depend on mandatory declarations, the declaration follow-up procedures and the provisions for investigations. These provisions ran counter to what another set of participants, led by the US and Russia, had in mind as they raised their national interests on the altar and effected concerted attempts to defend and impose that position as the underlying tenet of the BWC negotiations.

Those who examined the Protocol and the details of the prohibition regime contended that the Protocol bought significant benefits to the multilateral regime to prevent biological weapons. Their conclusion (Pearson 2001a) being, “The Protocol to the Biological and Toxin Weapons Convention in the form of the Chairman’s Composite Protocol text provides another opportunity to make the world a safer, more secure place. Without a Protocol to the Convention, biological weapons will continue to present the greatest danger of all weapons of mass destruction – a point that is well recognised around the world.” According to Graham S. Pearson, Malcolm R. Dando and Nicholas A. Sims:

“Any country which doesn’t sign and ratify the Protocol will become more and more isolated in many ways. All States-Parties need this Protocol. A failure to accept the Protocol sends the message that States do not care about the danger from biological weapons, and are not prepared to make the very modest commitments called for by the Protocol. Any State Party that takes steps that result in the failure of the Ad Hoc Group negotiations will rightly attract widespread condemnation from the international community.”

At this juncture, an analysis of diplomacy before the BWC RevCon in terms of the issues, processes and the role played by major actors showed that the momentum of events (such as the presentation of the Composite Text) placed those actors — espousing the Verification Protocol and hence they can be bracketed under the International Regimes supporters — at an advantage. As mentioned earlier, the February meeting of the Ad Hoc Group, which was dominated by actors who laid emphasis on their national interests and hence there were lesser number of meetings held and there was no considerable progress in the Ad Hoc Group meetings. In stark contrast, this meeting swung in the favour of the International Regimes supporters in the form of the Chairman’s Composite Text and the marked reduction in the number of countries who had objections to it. Thus, the events leading up to the RevCon can be clearly explained by positing IR theories of Realism (as it was dominant in the February meeting) and International Regimes (as evident in this meeting).

Nevertheless, the Composite Text was not met with the same optimism as that of the aforementioned experts. Contrary to held belief, it was not just the US that reacted adversely to the Composite Text. Many commentators from the signatory parties too also expressed doubt about the Protocol. However, the following sections will examine the merits and demerits of the US position.

PREPARATORY COMMITTEE FOR THE REVIEW CONFERENCE

Meanwhile, preparations for the fifth RevCon continued with the constitution of a Preparatory Committee during the Ad Hoc Group session from 25-27 April 2001. The Preparatory Committee elected by acclamation Ambassador Tibor Tóth of Hungary as Chairman of the Committee. The meeting moved rapidly through the substantive business of the Committee in accordance with the draft Provisional Agenda for the Preparatory Committee (BWC/CONF.V/PC/INF.1) unanimously electing Ambassador Munir Akram of Pakistan (and the Chairman for the forthcoming December 2006 RevCon) and Ambassador Markku Reimaa (Finland) as Vice-Chairmen of the Committee, adopting the agenda of the Preparatory Committee, addressing the organization of the work of the Preparatory Committee and then the organization of the Review Conference itself deciding that the Review Conference should take place in Geneva from 19 November to 7 December 2001 and agreed to recommend to the Fifth Review Conference the provisional agenda as contained in BWC/CONF.V/PC/INF.6 which, as expected, contained the following substantive items (Pearson, Dando and Sims 2001c):

- Review of the operation of the Convention as provided for in its article XII,
- General Debate,
- (b) Articles 1 – XV,
- Preambular paragraphs and purposes of the Convention.

THE REJECTION OF THE COMPOSITE PROTOCOL BY THE US

The first of the two major existential crises that the BWC faced in 2001 were in July, and later at the RevCon itself in November-December 2001. In July, the US rejected the Composite Protocol text at the 24th session of the Ad Hoc Group negotiating a Protocol on 23 July 2001.

Coincidentally, this was just days after the G8 Foreign Ministers had announced in their communiqué on Thursday 19 July 2001 that specifically stated in regard to the BWC that (Pearson, Dando and Sims 2001c):

“We welcome efforts to agree on measures, including potential enforcement and compliance measures to strengthen the BTWC. We remain fully committed to

pursue efforts to ensure that the BTWC is an effective instrument to counter the growing threat of biological weapons.”

However, on 25 July 2001, the US representative Ambassador Don Mahley (Pearson, Dando and Sims 2001c) said that:

“After extensive deliberation, the United States has concluded that the current approach to a Protocol to the Biological Weapons Convention...is not, in our view, capable of achieving the mandate set forth for the Ad Hoc Group, strengthening confidence in compliance with the Biological Weapons Convention.”

He went on to say that (Pearson, Dando and Sims 2001c):

“We believe the objective of the mandate was and is important to international security, we will therefore be unable to support the current text, even with changes, as an appropriate outcome of the Ad Hoc Group efforts.”

That detailed 10-page statement contained seven sections, among which was a section on “Disturbing Negotiation Positions.” That section of the statement says that:

“the mandate of the Ad Hoc Group clearly states that any Protocol must not abridge, diminish or otherwise weaken the Biological Weapons Convention.....We must wonder, though, when we are asked to consider provisions that would constrict the potential scope of the prohibitions in the Convention by fixing the meaning of terms in the Convention itself.”

It must however be made clear that the US has is not alone in insisting that the provisions in the Protocol do not amend the prohibitions in the Convention and that view has been incorporated into the Composite Protocol text. As there were no definitions in the Composite Protocol text that fix the meaning of terms in the Convention itself, the US was once again expressing concern about negotiating positions - not about what was actually in the Composite Protocol. Hence, Graham S. Pearson, Malcolm R. Dando and Nicholas A. Sims emphasise that the US objection on this count is not relevant. The statement goes on to say that:

“We have long held that seeing the actual effects of a biological weapons program would be one of the less ambiguous issues in evaluating potential threat. While less ambiguous, such efforts are not unambiguous. It therefore seems to us that being able to examine such effects, including disease outbreaks, was an important capability for any Protocol regime. Attempts to restrict such investigations do not seem in the best interests of all parties.”

Again, it has been pointed out that this aspect of the statement is in direct contradiction to the proposals made by the US in two of its working papers in February 2001, when the US proposed that in the Annex on 'Field Investigations', the investigation team should be restricted to an ability to observe visually areas external to buildings or other structures and in relation to sampling and analysis, the US proposed restricting the right of the investigation team to analyse samples taken during a field investigation by language that the receiving state party shall have the right to take measures...such as requiring the use of specific tests or analysis using locally available resources or, if necessary, refuse a sample.

Further, many parts of its statements were in direct variance and contradictory to its previously stated claims and stands during other Ad Hoc meetings and RevCons (Pearson, Dando and Sims 2001c). This was a clear indicator of US' offensive posture in practice, wherein it was the initiator of the sudden route change in the diplomacy at the BWC and its political rhetoric was open and aggressive. In this fashion, the US had thrown a spanner in the works by resorting to self-contradicting stands to defend the US' unilateral policies after the inauguration of the Bush Administration into the White House in 2001. It was mentioned earlier that if the Composite Text was a minor diplomatic victory of sorts to those actors supporting the Verification Protocol and the Composite Text, then this stand taken by the US was a negation of the hard progress that was achieved until then. Those championing the cause of the BWC as an international regime with teeth were now faced with another challenge to grapple with. The US pronouncements, purely predicated by its unilateral foreign policy and a heightened sense of protecting domestic pharmaceutical and biotechnology companies had opened the Pandora's Box, which let forth a deluge of complaints that other actors had against the Composite Text. Once again, taking this significant diplomatic development as a cue, all the innate grievances nurtured by other actors, who until now were silent or grudgingly approving the Composite Text, were now voiced and with that, the prospect of the approval of the Composite Text at the fifth RevCon diminished. Some of the reactions of the other parties are given below.

Pharmaceutical & Biotechnology Industry's Position

The pharmaceutical and biotechnology industry's position has been discussed here since they are significant players in the BWC due to their dual participation at the forum in the form of both domestic interests of specific or group of actors. Secondly, as actors in their own right by virtue of being multinational companies with the influence to affect decisions of actors from around the world. Thus, at the aforementioned series of meetings that have been discussed in this chapter, industry representatives were not convinced over the proceedings of the BWC. It was not the case that industry's views were ignored. Many States-Parties undertook detailed consultations with their own industry representatives. However, unlike during the CWC negotiations industry played no useful role in the BWC Protocol. Its professional organisations distributed their 'industry positions' in Geneva but undertook little outreach to the States-Parties in Geneva itself. Western industry organizations such as PhRMA claimed that 'our input to date has fallen on deaf ears' but that belied the role such organizations had adopted. Indicative of the professional organizations' approach was the redistribution of a 1998 European, Japanese, and PhRMA position paper in late 2000 that failed to reflect any of the developments in the text of the Protocol from 1998. The view was that these bodies had not even attempted to keep themselves up to date with developments and as a consequence, if industry was not going to take the Protocol seriously many delegations were not going to take 'industry position papers' seriously. The professional organisations were considered obstructive having offered a position that identified their concerns, but making no move after that to offer solutions. The industry, or more particularly PhRMA, debate was also viewed as an internal US contest played out on the international stage.

US opposition to inspections on short notice is based on the pharmaceutical industry's opposition to non-challenge visits. Yet, PhRMA opposes all mandatory non-challenge visits, including clarification visits, which the US government supported and promoted.

PhRMA had a strong ally in the then US Secretary of Commerce, William Daley. In a letter (US Commerce Department 1999) to the then US Secretary of State, Madeleine

Albright, the Commerce Department rejected the State Department's apparent proposition to support transparency visits. Instead, Daley argued that transparency visits would offer no national security benefits." Daley reached this conclusion because inspections have virtually no chance of discovering biological weapons activities. The letter he does not indicate that he has even considered that there may be non-proliferation benefits to on-site visits.

OTHER PARTIES' POSITIONS:

Although it has been viewed that the US scuttled the negotiations in 2001, it must be remembered that the rest of the state parties had their own misgivings about the Composite Text.

The US was rumoured to have 38 substantive problems with the text, which, if correct was the longest list but not by a long way. At the end of 24 July 2001, nearly 300 comments, views, and requests for changes on individual paragraphs and provisions had been recorded. A total of 28 States-Parties explicitly requested changes to the Composite Text: Australia, Austria, Austria, Brazil, Canada, Chile, China, Cuba, France, Germany, Guatemala, India, Ireland, Iran, Italy, Japan, Libya, Mexico, Netherlands, New Zealand, Norway, Pakistan, Peru, Republic of Korea, Russia, South Africa, Spain, UK, and the US. The total number of required changes was eighty-seven.

Most of these were in the areas such as general provisions (Article 1), definitions of terms (Article 2); lists and criteria (Article 3); declarations (Article 4); visits (Article 6); non-proliferation (Article 7); consultations (Article 8); investigations (Article 9); the Organization (Article 16); the entry into force criteria (Article 27); and, reservations to the Protocol (Article 28). The list, however, was expected to increase, not diminish.

A lot was still to be decided and few realize that 28 States-Parties made known very specific requirements for certain changes, most of which were diametrically opposed to each other. For example, the argument over the declaration of all bio-defence facilities or just a sub-set of them still raged; and even if that had been resolved, one state party claimed that information required in the appendices related to bio-defence was far too detailed and required the deletion of appendices B, C, and D (which would have left

virtually nothing to declare). The declaration on high biological containment was still unresolved, and if two States-Parties had their way, there would have been no declarations on production facilities except for production using high biological containment. None of the above examples involved directly requests from the US (although the US had strong views on the outcome of those debates).

The comments and objections that can be derived from the public domain are detailed below.

IRAN

Iran demanded, “[A]ny parallel export control regimes have to be dissolved after the Protocol enters into force.”

INDIA

India identified that the declarations related to bio-defence, high biological containment, and production facilities’ need to be rectified.

RUSSIA

The deputy of the US delegation claimed that Russia “was deeply dissatisfied” with the Composite Text. Russia demanded that the mechanism for investigating suspicious outbreak of disease be eliminated, thus leaving only investigation of alleged use, and China also joined Russia in insisting that it be stricken from the text. Russia admitted that the text contained some reasonable compromises, but also retained some elements unacceptable to it.

Russia (albeit not publicly) preferred a limited bio-defence declaration but took a different approach to its specific concerns through the definitions of terms and the issue of threshold quantities, its approach to the actual declaration formats, and its objections to one-site activity. As Ward observed, “Russia’s efforts to reinterpret the convention and prevent international scrutiny were so obvious that it was not difficult to infer a direct link between its negotiating position and its suspected offensive BW activities.” Russia position can be explained under the rubric of realism which is defensive in nature, wherein it displayed all signs of realism that was defensive in nature, i.e. it always responds to hostile actions, but does not initiate hostile rhetoric and strives to achieve parity or near-parity levels with nearest strategic competitor (in Russia’s case, achieve the same levels of insularity to its bio-defence laboratories like those in the US).

IRAN, PAKISTAN, CHINA, AND INDIA

Iran, Pakistan, China, and India strongly emphasized the failure of the Chairman's Text to provide for mandatory consultations before a request for a challenge investigation could be acted upon.

PAKISTAN

Pakistan stated that its support for the protocol was dependent on the incorporation of its proposal allowing a state to refuse a challenge investigation on national security grounds.

EUROPEAN UNION

The EU and its constituent states, never submitted requests in writing, but many of their problem areas were well known. According to the EU, the weaknesses in the Protocol included clarification visits to undeclared facilities and the initiation of investigation procedures.

Substantive disputes in the Rolling text were unresolved and subject to divergent opinions. These were not insurmountable problems, but given that China, Cuba, Iran, Indonesia, Libya, Pakistan, and Sri Lanka called for a return to negotiations based on the Rolling Text in May 2001 (effectively attempting to reject the Composite Text) the political will of all except the US to complete the Protocol in August 2001 could not, and cannot be taken for granted. In fact, in addition to the US, the political will of the above States-Parties was under very serious question. Of course, there was grandstanding, playing to the public gallery, endgame politics, and brinkmanship, but the fact remained that every substantive difficulty in the Rolling Text phase of the negotiations was still a point of contention in the Composite Text and the US was not the only problem.

China had not yet accepted the text as a basis for further negotiations. **Pakistan** was not too positive and **Iran** not satisfied with the provisions on international cooperation and entry into force.

With the exception of the **Western Group** (minus the US), the **Eastern Group state in NATO** and soon to be members of the **EU**, and the likes of **South Africa, Chile, and Brazil**, most active States-Parties were seeking further concessions. Achieving anything stronger than the Composite Text as it stood was not possible.

Noted biological weapons expert, Marie Isabelle Chevrier (2002) has noted, “Everyone, whether they are with national delegation, international organization, private companies, or nongovernmental organizations, had his own pet peeve regarding the protocol. Most observes focused on the weaknesses, and in particular picked up the bio-defence declaration.” Yet, it was a necessary compromise as “it was simply not feasible to seek agreement on a declaration that required all bio-defence facilities to be declared.” However, Chevrier’s opinion had few takers at the time and as the various statements elucidate that a majority of the actors had reservations about the Composite Text and Tóth’s earlier relatively successful attempts to bring all the State-Parties under the Chairman’s umbrella was unravelling due to the US’ pronouncements. This brilliant move by the US achieved two objectives: first, it firmly put forth its entrenched notion of protecting, and not compromising its national interests, and secondly, it managed to trigger the critical will of other State-Parties to boldly make their own reservations known about the Composite Text. This inevitably slowed down the progress of the negotiations and the set the stage for another round of diplomatic roulette between those who subscribed to the realist notion of national interests and those who subscribed to international regimes as their fundamental tenet. As for then, the balance of power favoured those actors espousing national interests as supreme.

CHAPTER IV

DIPLOMACY AT THE REVIEW CONFERENCE

This chapter will focus on chronological events that occurred after the end of the Ad Hoc meetings in 2001 (covered in the previous chapter) until the suspension of the fifth RevCon on 7 December 2001. A more detailed sequencing of the events are: reactions to the 11 September 2001 and anthrax attacks in the US, the effect of these attacks on the US' position at the BWC RevCon, and finally, the international community's reaction to these events and in turn, the changes, if any, in their own diplomatic aim and methods at the RevCon. In addition, a more nuanced study of the diplomacy during the actual RevCon can be conducted by analysing the diplomatic initiatives and positions of various state parties to the contentious issue surrounding the Ad Hoc Group and the Verification Protocol.

The Fifth RevCon was held from Monday 19 November to Friday 7 December 2001 and governed by the same statement of purpose of the 1996 the Final Declaration of the Fourth Review Conference (United Nations 1996) included under Article XII, laid out four principles that provided the contours for the Fifth RevCon. The last two points pertained to a "legally-binding instrument" to strengthen the BWC and the request for additional staff to operate the various sub-institutions of the BWC were the most important factors and these sections will be handled in this chapter. The four principles were:

"The Conference decides that the Fifth Review Conference shall consider, *inter alia*, the impact of scientific and technological developments relating to the Convention;

— The relevance of the provisions of, and the implementation of the Chemical Weapons Convention on the effective implementation of the Biological and Toxin Weapons Convention, duly taking into account the degree of universality attained by such conventions at the time of the Fifth Review Conference;

— The effectiveness of confidence-building measures as agreed at the Second and Third Review Conferences;

— The conclusions of a Special Conference, to which the Ad Hoc Group shall submit its report, including a legally-binding instrument to strengthen the Biological and Toxin Weapons Convention, which shall be adopted by consensus, to be held as soon as possible before the commencement of the Fifth Review Conference; and further action as appropriate;

— The requirement for, and the operation of, the requested allocation by the United Nations Secretary-General of staff resources and other requirements to assist the effective implementation of the relevant decisions of the Fourth Review Conference."

Yet again, the last two points were emphasised and were part of the diplomatic agenda of Ambassador Tibor Tóth, who attempted, after being elected President, to draw light upon. Speaking on 19 November 2001, he said (Pearson 2001b):

“the negotiations on the compliance protocol came to an abrupt halt in August and that the Fifth Review Conference ‘will have to chart the course for future action that will determine the state of the whole of the biological weapons prohibition regime for a much longer period of time than just the next five years ahead. That time scale altogether is close to a generation; the potential ramifications could transcend even further into the future.’”

As per Oran Young’s description of international regimes, Tóth was emphasising on the BWC’s “strengths, organisational form, scope, and its allocational mode” capabilities. This taken along with Krasner’s definition of regimes where there is a possibility to view regimes as autonomous because of which there may be lags between changes in basic causal variables and regime change. As a result, there may be feedback from regimes to basic causal variables. Thus, once formed, international regimes are hard to put down. These were clear indicators of efforts made to salvage the BWC’s viability as an international regime. Hence, the ‘battle lines’ were drawn and anybody who pleaded ignorance of the nervous diplomatic atmosphere among the delegations were feigning it, since this particular statement by Tóth had taken into account the inertia that had set into the proceedings at the Ad Hoc meetings. Hence this statement was supposed to act as a wakeup call to the convention and also serve as a warning against the perils the BWC would be plunged into if the task at hand (i.e. drawing up a Verification Protocol) was not completed.

EVENTS LEADING UP TO THE REVCON

REACTIONS TO THE 11 SEPTEMBER 2001 & ANTHRAX ATTACKS

A series of events even before the 11 September 2001 attacks in the US portended the fate of the forthcoming RevCon. On 4 September 2001, *The New York Times* reported three previously unknown US government bio-defence projects that were allegedly in violation of the BWC (Judith Miller, Stephen Engelberg and William Broad 2001a: A1). Three secret projects involving the building, construction and testing of a model of a Soviet-designed anthrax bomblet, the construction of a mock germ factory and plans to reproduce a genetically modified, allegedly vaccine-resistant strain of anthrax that had been produced by Russian scientists in the early 1990s (Judith Miller, Stephen Engelberg and William Broad 2001b and Peter Eisler 2002). The US Defence Department defended its work as being consistent with treaty obligations because it was defensive in nature. However, the US had not reported the work in the annual confidence-building measure (CBM) declarations to the UN. Analysts like Jenni Rissanen (2002) suggest that the news appeared to give insight into why the US wanted to diplomatically block the Verification Protocol¹ i.e. to avoid international scrutiny of its bio-defence work (CBW Conventions Bulletin 2001: 34).

Four weeks after the 9/11 attacks, a set of events attracted attention with reports of threats about possible chemical or biological terrorist attacks and a death of a man in Florida, US due to anthrax (CBW Conventions Bulletin 2001: 44).

It was a bioterrorist attack using the mail as a delivery system. More than 20 cases and five deaths were reported. These attacks evaporated any hopes about the US changing its mind on the protocol.

Another significant development in the meantime was the attacks on the World Trade Centre and Pentagon in New York and Washington on 11 September 2001 by Al Qaeda terrorists. International relations discourse took a definitive turn after the 9/11 attacks and issues such as terrorism came into the forefront of international debate. Non-

¹ On the US bio-defence programmes see SIPRI Yearbook (2002), *Armaments, Disarmament and International Security*, Oxford: Oxford University Press, pp. 678–683.

proliferation of weapons of mass destruction too made a comeback, but albeit as a convenient platform to propagate the geopolitical interests of countries such as the US, which upped its diplomatic ante and later, went onto make non-existent connections between its 'War on Terrorism' to proliferation of WMDs. The current Iraq quagmire is a result of actions taken based on this very logic, and a thread of the current conflict can be traced to this particular RevCon wherein Iraq stood accused of contravening the BWC's provisions. In the process, the mandate of international fora such as the BWC was diluted and its real purpose relegated to the backburner due to geo-political compulsions. This serves as an ideal example of how 'perceived national interests' of certain countries can be used to further its diplomatic objectives even at fora where it is not necessarily suited for discussion; partly out of the lack of evidence and more importantly, the destructive consequences these issues entail for the particular forum where it is being raised in this case, it was the BWC RevCon.

Furthermore, the immediate aftermath of the 9/11 attacks were also characterized by anthrax attacks in the US subsequently. This was further reason for substantiate work to be done at the BWC RevCon to address such threats that might arise in the future. In fact, the November-December meetings of the RevCon were held under this prevailing sense of outrage and shock after the 9/11 events and the subsequent anthrax attacks in the US, and this was reflected at the meetings and the diplomacy at the BWC was tempered by the contingent situation which would change the political and security discourse in the years to follow.

The Bush Administration confirmed this logic when on 1 November 2001, US President George W. Bush proposed seven alternative measures, ranging from investigations of treaty violations to a code of conduct for scientists (Judith Miller, Stephen Engelberg and William Broad 2001a: A1). The measures were:

- Procedures for addressing compliance concerns;
- Enactment of national criminal legislation with extradition requirements;
- Improvement of international disease control and, in the event of a disease outbreak, the dispatch of expert response teams;
- Establishment of national oversight mechanisms for the security and genetic engineering of pathogenic organisms; and

- Promotion of responsible conduct in the study, use, modification and shipment of pathogenic organisms.

US President George W. Bush (2001) described these measures as “part of a comprehensive strategy for combating the complex threats of weapons of mass destruction and terrorism.” This served as an earliest indicator of the position the US would adopt — based on its reading of the situation and taking into cognizance of its ‘national interests’ — and push for at the BWC, both at the immediate RevCon that was to follow and well into future at the BWC’s agenda-setting meetings.

UN Under-Secretary-General for Disarmament Affairs, Jayanatha Dhanapala, articulated the concern of the international community over the 9/11 and anthrax attacks. He presented a statement (Pearson 2001b) from United Nations Secretary-General, Kofi Annan that said that,

“Preventing the use or threat of use of biological agents and toxins is more important than ever the horrific attacks of 11 September in the United States could have been far worse if weapons of mass destruction had been used. The challenge for the international community is clear: to implement, to the fullest extent possible, the prohibition regime offered by the Convention.”

The statement noted that “‘the world has seen the use of biological agents to create chaos and terror, violating the international norm.’ Consequently, ‘Full implementation of the Biological Weapons Convention must be given higher priority. Relevant national legislation needs to be tightened, and the acquisition or use of these weapons needs to be criminalized. The international community also has to be prepared to assist Member States should prevention fail. The United Nations, for its part, stands ready to play a coordination role in this regard.’ The statement concluded by saying that, ‘The renewed global focus on terrorism has brought concerns about biological and toxin weapons to the fore. Missing this opportunity, given difficulties in negotiations on other weapons of mass destruction, would only exacerbate the current crisis in multilateral disarmament diplomacy in general. I urge you to come together, overcome your differences, and take these next crucial steps in the history of this landmark Convention.’”

It was clear that institution such as the UN saw a strict Verification Protocol, which strengthened the hands of institutional mechanism like the protocol, and as a result strengthen the international regimental powers of the BWC. Thus, the same set of events had led to two different and opposing conclusions, and which would be the cause of disagreement at the BWC negotiations.

Tibor Tóth, too, made allusions to the challenges posed by anthrax attacks in the US (Pearson 2001b). While stressing on the notion that the use of biological weapons is becoming a de facto part of everyday life and that,

“Such a notion is slowly eroding all the prohibition layers, both politically and legally binding, as contained in the consensus final declarations of all the previous Review Conferences and in the Biological Weapons Convention itself.”

With respect to this challenge, Tibor Tóth (Pearson 2001b) stated that, the convention was facing perhaps the greatest challenges in its 26-year history and hence marks it in a different category as it faces a situation “profoundly different to that faced by previous review conferences.” As expected, he too pitched for negotiating and adopting a strict verification protocol, as he saw it as the only remedy to tackle this threat. His solution was not based on the imposed self-restraint on scientists and working of governments at the national levels, but his focus was higher, Tóth therefore, called for moving beyond the safety net of national mechanisms and suggested the formulation of an internationally enforceable Verification Protocol.

The attacks in the US — both 9/11 and the anthrax attacks — received widespread condemnation. Apart from the UN, the UK and EU, Belgium, South Africa, Japan, Pakistan, China, New Zealand, Brazil, Croatia, India, etc. unequivocally condemned the attacks as well as attempted to refocus the debate to address the immediate measures that needed to be adopted to stop such attacks in the future. There was lamentation over the fact that progressive measures of the BWC — such as the formation and functioning of the Ad Hoc Group and the negotiations over the Verification Protocol — that would address such dangers were being undercut by certain states, especially the US.

SUMMARY OF FORMAL POSITIONS OF VARIOUS COUNTRIES AND GROUPINGS

The statements made by the following countries or groupings have been highlighted to clarify their respective positions at the RevCon. They are: Belgium (representing the Eastern European countries and EU), UK, Chile (representing the Rio

Group), Indonesia and Egypt (representing NAM), Russia, and finally Canada and Australia (representing the Western Group). A roundup of the different positions and the issues foremost on each actor's mind is provided at the end of this section.

EUROPEAN UNION

Ambassador Jean Lint of Belgium made a statement (Pearson 2001b) on behalf of the EU and the Central and Eastern European countries associated with the EU (Bulgaria, the Czech Republic, Estonia, Hungary, Lithuania, Poland, Romania, Slovakia, and Slovenia) and the associated countries such as Cyprus, Malta and Turkey. The statement, on behalf of this 27 States-Parties grouping had the following salient features.

It noted the importance of events that had taken place which are directly relevant to the BWC (such as 9/11 and anthrax attacks) and hence the EU grouping believed that disarmament and non-proliferation on a general and multilateral basis were essential to thwart terrorist designs. The EU appealed to the States-Parties to adopt concrete measures in the fight against biological weapons. It regretted the failure to agree an instrument to reinforce the Convention, however, the statement urged that the Review Conference must be the opportunity to give a new impulse to our work by defining a series of commitments and additional measures that States-Parties should adopt in order to strengthen the implementation of the Convention in all of its provisions, such as:

- Compliance with the fundamental norm in Article I, non-proliferation and export controls,
- Measures to address concerns over compliance with the Convention (e.g. investigation measures), technical assistance and international cooperation,
- In respect of the agreed confidence-building measures, the EU desired regular exchange of information. It noted that modifications could be made to some CBMs to ease their implementation from a technical point of view.
- In addition, the EU proposed that some of the confidence-building measures be made *legally binding* (emphasis is mine).

The statement notes, however, that these CBMs will be successful only in the wider context of legally binding measures aimed at strengthening the Convention in a multilateral framework. The statement (Pearson 2001b) concluded by saying that, "It is

essential that the Conference agree to a regular follow-up to the work to enable the States-Parties to strengthen the Convention comprehensively.” Therefore, on the eve of the RevCon, groupings like the EU reposed its faith in a multilateral and drawing up of solutions in compliance with the BWC’s prescriptions. This was the officially prescribed diplomatic stance of the EU for the RevCon and it had made its stand known on the eve of the RevCon.

UNITED KINGDOM

The Ambassador of the United Kingdom, David Broucher, clearly elucidated his government’s disappointment due to the failure to agree upon a Verification Protocol. Addressing the three issues of relevant scientific and technological developments, compliance questions and future measures, Broucher mooted the thought of whether it would be prudent to maintain a five-year gap between assessments under the convention. This was because of the accelerating pace in science and technology. Instead, the UK suggested that the RevCon establish a mechanism for “States-Parties to work together on a more frequent basis to conduct such scientific and technical reviews and to consider any implications at the necessary level of expertise.”

Concerning the compliance questions and the failure of the 24th Session of the Ad Hoc Group to agree on a report, he stated, the UK believed a multilateral negotiating body was imperative for drawing up any corrective measures for the future. These measures, according to the UK, had to be legally binding rather than voluntary or bidden by declaratory exhortations. It believed that “legally binding international norms increase the chances that governments will take the right decisions, while helping to isolate potential wrong-doers. In an imperfect world, they can never give a complete assurance, and they should never be allowed to create a false sense of security.” The statement clearly stood at variance with US President Bush’s proposals made earlier on 1 November 2001. Therefore, the UK too, the US’ closest ally, had adopted a diametrically opposite stand. However, it did internalise certain aspects of Bush’s proposals such as monitoring scientific and technological developments. This was possibly to refrain from excessively alienating the US, and to be used as a bargaining chip in the subsequent RevCon.

To this effect, the UK did suggest some measures, such as:

- *A revived and expanded mechanism for investigations into alleged use and to include facility investigations for alleged violations of the Convention* (emphasis is mine to highlight its variance with subsequent US proposals);
- Additional CBMs;
- Making some of the existing measures mandatory;
- A consultation process whereby States-Parties could engage in dialogue on the annual returns submitted by others;
- Increased levels of spending and coordination on disease surveillance, detection and diagnosis;
- A Scientific Advisory Panel to monitor scientific and technological developments relevant to the Convention. This might meet annually (or more frequently) and report to States-Parties.

CHILE

The Ambassador of Chile, Juan Enrique Vega, spoke on behalf of the Rio Group (comprising Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, the Dominican Republic, Uruguay, Venezuela and Guyana, representing the Caribbean States). Vega reiterated the Rio Group's statement on 8 October 2001 to the First Committee of the General Assembly in which they had said,

“We do regret that no progress has been achieved towards the conclusions of a Protocol on verification of the Convention of the Prohibition of Biological Weapons and hope that in the following Review Conference of the Convention the mandate of the ‘Ad Hoc’ Working Group will be reiterated, in order to continue the negotiations for finalisation of the said international legal instrument.” (Emphasis is mine to differentiate the Rio Group's stance and hence, its complete backing to the BWC as an international regime)

He reaffirmed these points once again at the RevCon, while insisting on the fact that only the multilateral format will provide a true reinforcement of the BWC that satisfies both the requirements of efficiency and legitimacy.

INDONESIA & EGYPT

Statements made by Ambassador Nugroho Wisnumurti of Indonesia and Mohamed Tawfik of Egypt can be taken as the collective voice of the NAM grouping as these two countries have been at the forefront of leading and articulating the stand of NAM countries at various international fora, including the BWC.

Expectedly, Ambassador Nugroho Wisnumurti expressed concern over the failure of the Ad Hoc group at its last meeting failed to complete negotiations on a Verification Protocol before this Fifth Review Conference. Stressing on the immediacy of the situation after the 9/11 and anthrax attacks in the US; he focussed on the appalling “threat of bacteriological warfare out of the realm of the abstract and into everyday reality.”

Therefore, he opined that that the absence of a workable verification regime weakens the Convention by making it ineffective and hence represents an incitement for either under-motivated or ill-intentioned States-Parties to breach their obligations. Therefore, the NAM group also made its stance known in public on the eve of the RevCon. It is of significance as the NAM represents predominantly developing countries that have been denied the use of dual-use technologies to develop and sustain their incipient medical infrastructure for protection against epidemics and natural calamities. Therefore, they did have a huge stake in a functional BWC, which could cater to their legitimate needs and demands (Pearson 2001b). The Verification Protocol would have seized the initiative away from the Western Group (which acts as a cartel for technology exports along with the Australia Group) and handed it over to the multilateral and hence a more equitable BWC that would have a fair balance in granting or denying dual-use technologies.

Mohamed Tawfik of Egypt (a signatory state), drew attention to its attempts to establish a zone free of weapons of mass destruction in West Asia. This was another example for an attempt to draw attention to other geo-political issues that dogged international politics of the day. Tawfik also highlighted the continual source that Israel proved to be in the region due to its nuclear capability. Such concerns, Egypt argued, must be addressed within the context of various non-proliferation regimes. Therefore, Egypt called for a strengthened BWC that would attract further adherents to the Convention. It underscored three essential aspects:

- The need to fill gaps in prohibition of the use of biological weapons as provided in the Final Declaration of the Fourth Review Conference;
- The need for a compliance mechanism; and
- Implementation of all provisions of the Convention for use of biology for peaceful purposes.

RUSSIA

The Russian ambassador, Leonid A. Skotnikov, regretted the outcome of the last round of negotiations of the Ad Hoc Group in 2001 and expressed Russian concern over the future course of action (Pearson 2001b). For any delay in action would, according to Russian analysis, leads to a greater threat of spreading of biological weapons, and ending up in the hands of terrorists. Thus, Russia's main fears for the safety of its own biological weapons laboratories and its dubious safety records were on display.

He expressed Russia's preparedness to consider in the Ad Hoc Group any additional measures designed to strengthen the Convention and more importantly, added that States with the most developed biotechnological industry should participate in such negotiations. This call for the private biotechnology companies to participate is reflective of not just the US position, but also a growing realisation amongst other States-Parties about the need to engage with this powerful group at the earliest. The aim being to co-opt the industry into the decision-making loop of the BWC, which intended to emerge as the foremost diplomatic forum for discussing issues related to biological weapons and related issues.

CANADA & AUSTRALIA

Canada and Australia are the foremost members of the Western Group, which has devised elaborate export control mechanisms to prohibit and deny the transfer of dual use technologies. Their respective statement (Pearson 2001b) at the RevCon are reflective of the Western Group's overall position, but was nuanced to accommodate the US position to hold annual meetings and look beyond the mandate of the Ad Hoc Group. This can either be attributed to the evolution of the Western Group's diplomatic stand as per the prevailing situation at the RevCon, i.e. a stalemate or this nuanced enunciation of its

position may be as a result of the group falling in line with the US — albeit in a clumsy fashion in complete divergence with its long held views — with which it had substantiate economic and industrial ties in the pharmaceutical and biotechnology sectors.

Ambassadors Chris Westdal of Canada and Ambassador Les Luck of Australia articulated views that are in accordance with the Western Group's previous positions. Ambassador Chris Westdal of Canada noted that although the Ad Hoc Group "didn't quite make it, but we came close, as close as we've ever come to a consensus on legal enforcement." He continued by saying that (Pearson 2001b) although there is talk of

"We cannot return to the protocol," and the need to "move on," yet, there was a need to do so with full access to "our memories, our files, our papers, our conference records and all the research and creative policy development of the AHG. All these elements are still available for our review and our consideration, recalibration and rebalancing in new effort. No discrete element in any of these sources is banished, *ultra vires*. In sum, we have an ample box of tools in mind, should we choose to make and use them."

Thus, the nuanced stand of the Western Group in acquiescing to the US stand began to emerge here itself when the group decided not to diplomatically fight the US position, but instead to work with it.

Ambassador Les Luck of Australia also struck a similar chord, saying that the main threat still came from covert state programmes, which in turn may/may not support terrorist groups. Thus, it drew attention to a legal instrument (like that espoused by the Western Group's export control mechanisms), which bans, without exception, the development, production and stockpiling of biological weapons, the BWC is the centrepiece of any international response. He added that Australia would like to join others in suggesting that States-Parties agree to hold annual meetings that focussed on the "implementation of Review Conference commitments, encourage universality, and work to preserve the vitality of the BWC regime between Review Conferences." This would also lead to sharing of information about relevant issues such as the latest trends in biotechnology and allow international community to work together to fight the threat of biological weapons. The tangential allusion to US proposals (detailed in the next section) to hold only annual meetings is glaringly evident.

Of the different statements that have been detailed, it is clear that Belgium (representing the Eastern European countries and EU), UK, Chile (representing the Rio Group), and Indonesia and Egypt (representing NAM) were clearly backing the successful completion of negotiating a Verification Protocol and had taken public stands reaffirming that stand. Of course, there were different aspects they emphasised on, but the overall diplomatic thrust of each of these groups was clearly spelt out. Canada and Australia (representing the Western Group, minus the UK and EU) provided the earliest indicator of the subtle changes being adopted to be synchronous with the US position. The Western Group's stand reveals the nuances that determine an actor(s) stand. This is because although it is a grouping of countries, it reflected the national interests of not just its foremost member, the US, but also of the individual collective national interests of the other members. Therefore, here you have a group that adopts a diplomatic stand based on the least common denominator binding it i.e. the national interests of its members. Therefore, this is an example of a nuanced expression of national interests which does not necessarily mean it must get reflected in an individual stand a country takes, but can also be reflected by a grouping of states.

Only Russia chose to hold onto its own counsel. In a muted fashion, it called for a multilateral mechanism, albeit to address its own areas of concern and this was a clear reflection of a realist posture — that was defensive — it had adopted at the RevCon.

UNITED STATES' DEMANDS & PROPOSALS DURING THE CONFERENCE

The US made two substantial statements during the RevCon, and these statements sent the RevCon into turmoil on both the occasions that they were made. These statements are also indicative of the US' diplomatic posture in terms of both "content and form." As it will be shown below, the "form" of the US stand took all the limelight, and sadly, the "content" was only not given the attention it deserved, and thereby lead to the stalemate that was to ensue. The first statement was delivered by US Under-Secretary of State for Arms Control and International Security, John Bolton, on 19 November 2001. The second statement was delivered by Bolton again, on 7 December 2001.

Starting with the 19 November 2001 statement, Bolton, on behalf of the US, systematically laid out the US' rationale. His statement can be divided into distinct parts, they are:

- the reasons for the US' rejection of the BWC draft protocol;
- US concerns over terrorist groups (such as the Al Qaeda) acquiring WMDs, especially biological weapons;
- Indulging in what has been referred to "naming names" in semantics concerning diplomacy i.e. pointed and indicting references to other countries such as Cuba, Iran, Iraq, Libya, North Korea, Sudan and Syria over their alleged biological weapons programmes; and
- Finally, submitting a nine-point prescription to set the BWC's house in order and make it a functioning forum to thwart the spread and use of biological weapons.

US' Rejection Of The BWC Protocol

Bolton went on to clearly elucidate these points. Starting with the US' rejection of the BWC protocol, Bolton stated the start statement (Pearson 2001b). He said,

"Before we consider new ways to strengthen the Biological Weapons Convention, however, we must first confront the failure of many States to abide by that very document. Too many States are Parties to the BWC but have not lived up to their commitments. Any nation ready to violate one agreement is perfectly capable of violating another, denying its actual behaviour all the while."

The "form and content" of US diplomacy at the meeting is of particular importance here. The "form" of its diplomacy did not differ an iota from a belligerent posture that it adopted at the beginning of the conference itself. Subsequently, Bolton went on to state that,

"The United States will simply not enter into agreements that allow rogue states or others to develop and deploy biological weapons. We will continue to reject flawed texts like the BWC draft Protocol, recommended to us simply because they are the product of lengthy negotiations or arbitrary deadlines, if such texts are not in the best interests of the United States and many other countries represented here today." (Emphasis is mine)

The reasons for the US rejection were based on its reading of the BWC Verification Protocol Text to be detrimental to US interests. Further, the effort to link up the recent tragedies that befell the US to its search for the perpetrators of those crimes at a forum such as the BWC is evident. It exercised its diplomatic prowess to exhibit this constant refrain to hold accountable those responsible for the dastardly attacks of 9/11.

Another reason elucidated was the BWC loopholes or inadequacies. Bolton stated that while many of the BWC's parties had met commitments stipulated under the treaty, however, there were countries, which according to the US were engaged in biological weapons activities that violated the convention. This continuous engagement in developing biological weapons by these countries had the potential to facilitate the "use of biological weapons by terrorist groups, and states that support them."

To tackle terrorist groups like the Osama bin Laden-headed Al Qaeda, the US rejected multilateral efforts to "rely alone on treaties or international organizations to deal with such terrorist groups or the states that support them." To this effect, Bolton delivered the US verdict (Pearson 2001b) that, "Neither the BWC nor the former draft BWC Protocol would stop biological terrorism by groups like Al Qaeda or restrain their rogue-state patrons."

Picking up the thread of "rogue-state patrons," Iraq was a serious concern for the US as it suspected that, "Iraq has taken advantage of three years of no UN inspections to improve all phases of its offensive biological weapons programme." The US was certain of Iraq's programme "beyond dispute," and in complete "contravention of the BWC. The BWC Protocol would have neither hindered nor stopped it." North Korea was next on the US list and Bolton expressed that the US believed that North Korea has a "dedicated, national-level effort to achieve a BW capability and that it has developed and produced, and may have weaponized, BW agents in violation of the Convention." Next in the roll call came Iran. The US suspected that Iran had produced and weaponized BW agents in violation of the Convention, and that Libya had an offensive programme in the research and development stage. The US also named Syria in the same breath as Libya. Finally, the US stated its growing concern over of Sudan, as it was developing a BW programme.

As a retort to the US accusations, the reply of Iraq, Iran and Libya are of particular importance. Ambassador Samir K. K. Al-Nima of Iraq accused the US of using

“double standards” in “naming countries” that had allegedly violated the provisions of the Convention. The US stood accused of mentioning only “Arab Muslim countries and had disregarded the violations of some other countries, namely Israel.”

While a part of the above statement might have been self-serving rhetoric, Al-Nima did go on to clarify that Iraq had fulfilled its obligations under Section C, Resolution 987 of the UNSC, to not to acquire weapons of mass destruction. He also stated that Iraq had destroyed all WMDs and further elaborated on its compliance with UNSCOM² measures.

Next, Ambassador Ali-Ashgar Soltanieh of the Islamic Republic of Iran, (who is now involved in lengthy negotiations with the EU+3 over Iran’s nuclear programme) categorically called for an international legally binding instrument, for strengthening the BWC and to follow it up with the establishment of an organisation in order to implement its provisions. Soltanieh, thus concluded that only a multilateral approach adopting a “legally-binding instrument would, to a great extent, limit the access of bioterrorists.”

He condemned the “unjustified position” of the US-led the 24th Session to a total failure” and went on to say that “any proposal on opening new avenue and announcing the active fruitful cooperation of all States-Parties during past seven years in the Ad Hoc Group as meaningless, and time wasting process is a humiliation and an insult to all States-Parties involved in a multilateral negotiation with a good intention of strengthening the Convention.”

Soltanieh also categorically rejected allegations by the US, describing the US accusations as “baseless.” He, instead, blamed the US for thwarting multilateral efforts to negotiate treaties related to weapons of mass destruction. Iran added substance into this argument by stating that the US was not in favour of multilateralism and was to blame for the failure of the 24th session of the Ad Hoc Group at the BWC; the “unfortunate” fate of the Comprehensive Nuclear Test Ban Treaty; the Anti-Ballistic Missiles Treaty; and the Kyoto Protocol.

Tajouri Shradi Tajouri of Libya, speaking in a right of reply to US accusations against his country, stated that Libya had no biological weapon programme and like Iraq, accused the US of exercising “selective and double standards approach.”

² UNSCOM had withdrawn on the advice of the US before bombing attacks on Iraq in 1998.

In the final analysis, this episode of usage of acrimonious language led to the souring of relations in the BWC RevCon and in the process entrenched certain states' positions and forced the hand of others to fall in line with the now infamous "with us-against us" dyad that the US used after the 9/11 attacks. In addition, the "form" of US diplomacy i.e. the exercise of "naming names" resulted in a severely vitiated atmosphere not conducive to fruitful diplomacy or negotiations as good faith had been squandered away. This significantly contributed in the shrinkage of diplomatic space to complete negotiations for a Verification Protocol.

US PROPOSALS

To counter the aforementioned threats according to US perceptions, John Bolton unveiled the US' diplomatic measures that "look beyond traditional arms control measures to deal with the complex and dangerous threats posed by biological weapons."

These contours of these US proposals consisted of "a full range of measures," including tightened export controls, an intensified non-proliferation dialogue, increased domestic preparedness and controls, enhanced bio-defence and counter-bioterrorism capabilities, and innovative measures against disease outbreaks. Strict compliance by all Parties with the BWC is also critical.

Specific proposals in the US statement (Pearson 2001b) included the following:

1. Parties agree to enact national criminal legislation to enhance their bilateral extradition agreements with respect to BW offences and to make it a criminal offence for any person to engage in activities prohibited by the BWC.
2. Parties should have strict standards for the security of pathogenic microorganisms and: (a) adopt and implement strict regulations for access to particularly dangerous microorganisms, including regulations governing domestic and international transfers; and (b) report internationally any releases or adverse events that could affect other countries.
3. Sensitizing scientists to the risks of genetic engineering, and exploring national oversight of high-risk experiments, is critical and timely, as is a professional code of conduct for scientists working with pathogenic microorganisms.

4. Establish a mechanism for international investigations of suspicious disease outbreaks and/or alleged biological weapons incidents.
5. Setting up a voluntary cooperative mechanism for clarifying and resolving compliance concerns by mutual consent, to include exchanges of information, voluntary visits, or other procedures to clarify and resolve doubts about compliance.
6. Parties adopt and implement strict bio-safety procedures, based on WHO or equivalent national guidelines.
7. Enhance support of WHO's global disease surveillance and response capabilities.
8. Parties could agree to provide rapid emergency medical and investigative assistance, if requested, in the event of a serious outbreak of infectious disease, and to indicate in advance what types of assistance they would be prepared to provide.
9. Restricting access and enhancing safety procedures for use of dangerous pathogens.

It has already been mentioned that the “form” of US diplomatic manoeuvres throughout Bolton’s statement was highly critical of the Protocol. However, the “content” of the US diplomatic stand was not in variance with the Chairman’s Composite Text (Pearson 2001b). Although none of these measures mentioned by the US, apart from the one providing the assurance of help in the event of a serious disease outbreak, was contemplated in the Protocol, all were actually in the Chairman’s Composite Text. However, the RevCon was thrown into turmoil over the open accusations that the US made and the remaining attention was directed towards its critical words about the BWC itself. The other State-Parties had as much a role to play in this episode as many states and groupings of states continually reverted upon inherently dead issues like the mandate of the Ad Hoc Group, etc, which had already been rejected by the US. Adequate attention was not paid to the US proposals, which according to Gramham S. Pearson was in accordance with the Chairman’s Composite Text. The second US proposal came at the end of the three-week long RevCon meeting and is detailed after the next section.

DOMESTIC ELEMENT IN US' POSITION

The Bush Administration had taken this antipathetic stand to multilateral treaties even before Bolton took charge from his predecessor, Donald Mahley, who had already given a sign of things to come at the Ad Hoc Group's meetings or the Geneva negotiations in July 2001. In July 2001, Donald Mahley had also conducted a review of the Draft Protocol and had apparently found 38 substantive problems with the Draft Protocol and recommended that the US oppose it. The details of the critique have not been made public, yet. According to Congressman Henry Waxman, a Democrat, a congressional hearing in July 2001 had asked the US State Department to submit its evaluation. However, the subcommittee had not received it until November 2001.

Three basic reasons cited for rejecting the Draft Protocol:

1. It is too weak;
2. It would threaten national security and commercial proprietary information; and,
3. It would threaten the dual-use export control regime of the Western Group.

Therefore, the US administration argued that the Protocol could not be relied upon to detect with certainty violations. Mahley himself acknowledged this in a congressional testimony in September 2000, he said:

“The US has never judged that the Protocol would produce what is to the US an effectively verifiable BWC. What we have sought in the negotiations is greater transparency. This could, in our view, complicate the efforts of countries to cheat on their BWC obligations.”

Barbara Rosenberg (Ramachandran, 2002), the head of the Federation of American Scientists' (FAS) Working Group on Biological Weapons pointed out that it was the US that insisted on declaration of bio-defence facilities and production facilities was limited. However, US officials later complained that the Draft Protocol did not cover the relevant facilities. Rosenberg also states that the US is also responsible for provisions that “prohibit sampling during visits and those that substitute host-state control of access for more stringent rules of ‘managed access.’” (Ramachandran, 2002)

The US' argument that the Draft Protocol measures do not protect proprietary of information is also flawed according to experts because the Draft Protocol complies with

the wishes of the US bio-industry. This is because the Draft Protocol has more safeguards for confidential information than the Chemical Weapons Convention (CWC) and is less intrusive. A US Government Accounting Office (GAO) report (Ramachandran, 2002) of September 2000 on CWC inspections noted that, “the US industry was generally able to protect proprietary information in part because of the Convention and the US law.” Furthermore, the Draft Protocol covered many of the facilities already covered by the CWC and the US is a party to the CWC since 1997.

Seth Brugger, managing editor of Arms Control Today (Ramachandran, 2002), has commented that the US proposals cannot be a substitute for the Draft Protocol even if these were incorporated into the Conference’s final declaration, as they would only be politically binding and not have the force of international law.

PROCEEDINGS OF THE THREE-WEEK CONFERENCE

The observer notes of Gramham S. Pearson (2005) of the three-week conference clearly indicates that although the US fired a diplomatic salvo at the start of the RevCon, there was considerable progress that was achieved in negotiations over the final draft of the final declaration. This is partly due to the space that always existed for discussions purely focused on the BWC and not the acrimonious political situation that prevailed at the RevCon at that time. Once again, the earlier comment on the “form and content” of diplomacy is a rejoinder to this section. President Tóth — focused on the “content” of the diplomatic task of drawing up a declaration — stated that by the final day of the conference on 7 December 2001, *75 per cent of the final declaration had been consolidated* and that the outstanding critical issues were:

- Non-Compliance with the Convention,
- Follow-Up to the Review Conference, and
- The question of the Ad Hoc Group and whether or not this should resume its work.

Yet, all was not well at the discussions as the contentious and divisive issues such as non-compliance and the mandate of the Ad Hoc Group were still unresolved and needed extensive negotiations to bridge the gap that was characterised by the diplomatic

impasse due to the political atmosphere and as a result the entrenched positions on the very same issues by States-Parties. By late afternoon of 7 December 2001, an agreement had been reached on the language in the final declaration relating to the first eleven articles of the convention. It was also made known that 'consensus language' was available for Articles XIII, XIV and XV. The draft language (Pearson 2005) for Article XII was as follows:

1. The Conference decides that a Sixth Review Conference shall be held in Geneva at the request of the majority of States-Parties, or in any case, not later than 2006.
2. The Conference decides that the Sixth Review Conference shall consider, *inter alia*,
 - The impact of scientific and technological developments relating to the Convention;
 - The relevance of the provisions of, and the implementation of the Chemical Weapons Convention on the effective implementation of the Biological and Toxin Weapons Convention, duly taking into account the degree of universality attained by such conventions at the time of the Fifth Review Conference;
 - The effectiveness of confidence-building measures as agreed at the Second and Third Review Conferences;
 - The requirement for, and the operation of, the requested allocation by the United Nations Secretary-General of staff resources and other requirements to assist the effective implementation of the relevant decisions of the Fourth Review Conference.
3. The Review Conference reaffirms that conferences of States-Parties to review the operation of the Convention should be held at least every five years.

THE US DRAFT PROPOSAL ON ARTICLE XII: AN ASSESSMENT

The US draft for Article XII, without prior consultation with any of the other States-Parties, sounded the definitive death knell to the RevCon (Pearson 2001b). It was as follows:

1. The Conference decides, beginning in November 2002 that States-Parties will meet annually between the Fifth Review Conference and the Sixth Review Conference to (a) consider and assess progress by States-Parties in implementing the new measures adopted at the Fifth Review Conference; and (b) consider new measures or mechanisms for effectively strengthening the BWC.
2. The Conference decides that an Expert Group may meet, following each annual meeting of the States-Parties if agreed at the annual meeting. The Experts group will examine matters as directed by the States-Parties at the preceding annual meeting. *The Experts Group will not negotiate measures*, but may provide a report, adopted by consensus, to the States-Parties on matters examined.
3. The Conference takes note of the work of the Ad Hoc Group, and *decided that the Ad Hoc Group and its mandate are hereby terminated* and replaced with the process elaborated in paragraphs 1 and 2. [Emphasis added]
4. The Conference decides that the Sixth Review Conference will be held in November 2006.

This US proposal shocked and angered the participants as it not only proposed termination of the Ad Hoc group and its mandate, but also because of its unexpected introduction less than two hours before the RevCon was scheduled to end. This necessarily jeopardized the RevCon and the progress towards agreement of a Final Declaration.

President Tóth, in order to avoid complete failure of the RevCon, adjourned the RevCon until 11-22 November 2002. He later noted at a media press conference that the RevCon had been quite close to finishing its work, “both in terms of the volume of the elements which were consolidated and in terms of the understandings which had been reached,” and added that, “*the draft Final Declaration was 95 per cent ready,*”

(emphasis is mine) although “*there seemed to be a serious absence of understanding concerning the issue of the Ad Hoc Group where the differences between positions appeared to be irreconcilable,*” (emphasis is mine) at least in the time remaining at the Review Conference.

The blame for the debacle of the fifth RevCon can be placed on the US for the following reasons.

First, at the outset of the RevCon, it adopted a confrontationist approach by “naming names.” However, as Pearson (2001c) points out, it was not the first time that a State-Party pointed fingers at another for not being in compliance with the Convention, as this was not without precedent as at the Third Review Conference in 1991, both the US and United Kingdom had named the Soviet Union and Iraq as being non-compliant. And at the Fourth Review Conference in 1996, Australia, France, the US and UK named the former Soviet Union and Iraq as States-Parties considered not to be in compliance with the Convention. The difference in 1996 was that in respect of both the former Soviet Union and Iraq “there were ongoing mechanisms (the trilateral process and UNSCOM) which sought to address the compliance concerns.”

Secondly, John Bolton’s press conference in Geneva was marked with deliberate stonewalling of repeated questions related to “whether the US intended to use the procedures (Bolton 2001) set out at previous Review Conferences,” and used by Cuba in 1997 to address compliance concerns.

Thirdly, it became evident that even though the US called for national measures, it would not consent to any language, which required multilateral action or sought to arrive at legally binding measures to strengthen the regime. Pearson also highlights the importance of the US’ apparent difficulty in accepting language referring to other international treaties such as the Convention on Biological Diversity or the Cartagena Protocol on Biosafety (to which the US is not a party) even though such language had been agreed at previous review conferences.

Fourthly, the tabling of US proposals within two hours of the end of the RevCon and as mentioned earlier, *without any prior consultation even with close allies* (emphasis is mine), and proposing the termination of the Ad Hoc Group’s mandate showed a serious misreading of the widespread desire of all the other States-Parties to

strengthen the effectiveness and improve the implementation of the Convention. The US stand was in wide variance with many states. Only 6 December 2001, Bolton had told the RevCon that the US would allow the continuation of negotiations for a new enforcement mechanism for the Convention. Hence, the US reversal came as a rude shock to delegates, especially to EU delegates. “In decades of multilateral negotiations, we have never experienced this kind of insulting behaviour,” one EU representative said (Pearson 2001b). Miffed, EU representatives did not attend a meeting of the Western Group held soon after the adjournment.

The US’ delegations drastic new language on follow-up action, apparently conceded fresh ground as the proposal suggested that the conference decide to hold annual meetings to “consider and assess progress by States-Parties in implementing the new measures adopted at the Fifth Review Conference” and to “consider new measures or mechanisms for effectively strengthening the BWC.” In exchange, the US demanded the termination of the Ad Hoc Group’s mandate (Jenni Rissanen 2002).³ This was the closest the US got to in earnestly aiming for a diplomatic trade-off. However, there was no equilibrium and the US proposals were skewed unfairly and unabashedly in its own favour without even a modicum of concessions being offered. Instead, it was more of a “take it or leave it” gesture.

All regional groups expressed “dismay and disappointment” at the US attempt to bury the Ad Hoc Group. The heated corridor discussions revealed that the US action was a deliberate last-minute attempt to derail the conference. One theory is that it was the US Defence Department that had insisted that the follow-up mechanism could only be offered in return for the scrapping of the Ad Hoc Group and the irretrievable collapse of the protocol negotiations (Jenni Rissanen 2002).

Thirty-six States-Parties, on whose behalf Brazil had spoken in support of the Chairman’s composite text in July 2001 (Argentina, Australia, Austria, Belize, Brazil, Bulgaria, Canada, Chile, Croatia, Cyprus, the Czech Republic, Denmark, Ecuador, Greece, Guatemala, Hungary, Iceland, Ireland, Italy, Luxembourg, Malta, Mexico, the Netherlands, New Zealand, Nicaragua, Norway, Peru, Republic of Korea, Romania, Slovakia, Slovenia, South Africa, Spain, Sweden, Turkey and Ukraine) together with the

³ Informal in-room paper on Article XII of the United States, 7 December 2001.

other members and associated countries of the European Union (Belgium, Estonia, Finland, France, Germany, Liechtenstein, Lithuania, Poland, Portugal, and United Kingdom) as well as States-Parties such as Jamaica, Japan, Latvia, Monaco, Singapore, and Switzerland which together would come to over 50 States-Parties, consulted together to agree on how to have proceeded in November 2002 should the US still not recognised the importance to collective security of a multilaterally strengthened BWC regime.

After the suspension of the RevCon, initially, the US did not agree even to the resumption of the session in November but was prevailed upon by other Western Group countries. The RevCon failed to adopt a final declaration. President Tibor Tóth said, “It looked impossible to overcome the difficulties that we were facing.” He further added, “There was a decision about practically adjourning instead of bringing the Conference to an unsuccessful end.”

According to an analysis of the US delegation’s comments (Pearson 2001b) by the Federation of American Scientists (FAS), until 25 July 2001, when it delivered the first blow to the negotiations, the US had not expressed difficulty with the overall protocol approach. In fact, in June-July and September-October 1998, it had subscribed to the Draft Protocol elements including declarations, visits, investigations and an implementing organisation. In January-February 2000, the US proposed random visits, implying thereby its acceptance of the Verification Protocol concept. In November-December 2000, it had expressed the wish to have a protocol and applauded the AHG for the work it had done until then.

Moving on to the specifics of the Ad Hoc Group, analysts contend that since a formal declaration by the parties, withdrawing the original 1994 decision, had not been made, technically the Ad Hoc Group and the mandate are still valid. They were, however, in a “comatose” state and can be resurrected only at the Conference of Parties in November 2002. The agenda for the November conference, according to the official press release, was the continuation of the work on a final declaration. The declaration might take note of the US proposal to terminate the AHG and the mandate. A decision to terminate the Ad Hoc Group would have also signified the death of the Draft Protocol.

From here, the BWC caravan did not move on, but awaited the commencement of the resumed RevCon in November 2002 at the same venue. However, the diplomatic tone

and tenor of that resumed RevCon would be set in the governmental and organisational drawing rooms of Washington, London, Brussels and Geneva respectively, and that would determine the outcome of the BWC's fifth RevCon.

CHAPTER V

DIPLOMACY AFTER THE REVIEW

CONFERENCE

Diplomatic moves for the resumed RevCon (slated for 11-22 November 2002) started immediately after the suspension of the fifth RevCon in December 2001. As stated in the preceding chapter, much of the action for the resumed conference preceded the actual resumed conference held in 2002. This chapter will elaborate on the diplomatic parleys for the rescheduled 2002 RevCon. Analysis of alternatives that were forwarded by members during the negotiations (for e.g. the EU proposals in December 2001, UK Green Paper in April 2002), the US' continued espousal of its stand at the suspended RevCon, and the actions of the BWC's very own crisis mechanism and response structure will be the main thrust of the chapter. An analysis of actor(s) positions and the contingent rationale for those decisions will be compared to the earlier stand taken by participants, and a determination will be made whether there were any subsequent compromises compared to the 2001 negotiations.

DIPLOMACY BEFORE THE RESUMED REVCON

For an overall analysis of the resumed RevCon, it will be pertinent to date back to proceedings of the hectic diplomatic parleys that were conducted by Tóth and the policy statements of other countries such as the US, UK and the EU. And this clock for this chronological timeline starts ticking at the end of the suspended RevCon in 2001 itself.

Immediately after the suspension of the 2001 RevCon, the EU swung into action to sustain the momentum of the BWC (Jenni Rissanen 2002) by "preparing the ground for the resumption of RevCon." On 10 December 2001, the EU launched a new initiative (Council of the European Union 2001: 2-6) exploring "the implications of the terrorist threat on the non-proliferation, disarmament and arms control policy of the US." The initiative resulted in a list of 42 'concrete measures'. The EU adopted it on 15 April 2002 (Council of the European Union 2002). The salient features of the list (Daniel Feakes 2002) were "steps in the development of an EU arms control, disarmament and non-proliferation agenda."

In May 2002, the EU, along with Latin American and Caribbean leaders issued a political declaration (European Union-Latin America and Caribbean Summit 2002) that underlined their "conviction that the BWC is best enhanced by the adoption of a legally

binding instrument to oversee the BWC prohibition.” It must be kept in mind that the EU did not take kindly to the US actions at the suspended RevCon in December 2001 and these early attempts were its earnest attempts to keep the diplomatic momentum of the BWC from flagging.

UK’S GREEN PAPER

In April 2002, the UK issued a “Green Paper,” describing “workable measures” to strengthen the BWC (Ramachandran 2003) and many measures were similar to those put forward by the US. The Green Paper was on 29 April 2002 (United Kingdom Foreign and Commonwealth Affairs 2002). The paper proposed 11 measures to be pursued at both the national and the international levels.

Referring to the protocol itself, the paper offered no proposals, stating only that “Given the failure of the BWC to reach consensus . . . and the failure of the 2001 Review Conference to identify a way forward, it is important to remain flexible on how the international community might best tackle the pressing need to strengthen the Convention.”

The 11 measures proposed were:

1. Investigations of possible non-compliance;
2. Assistance in the event of a threat of the use or the actual use of biological weapons;
3. National criminal legislation;
4. Setting up of a Scientific Advisory Panel;
5. Revised CBMs;
6. A new convention on the physical protection of dangerous pathogens;
7. A new convention criminalising the violation by individuals in the prohibitions of the CWC and the BWC;
8. Increased disease surveillance efforts;
9. Codes of conduct;
10. Universal membership of the BWC; and
11. The withdrawal of the 1925 Geneva Protocol reservations.

Many of the proposals were familiar from the 2001 Review Conference and overlapped with other countries' proposals, including that of the US.¹ In terms of verification, it is interesting to note that the proposals for revised CBMs and investigations. The Green Paper proposed revisiting the CBMs to see whether there is "room for improving their scope or level of detail to ensure more useful annual returns." There had been several proposals on CBMs at the 2001 RevCon by South Africa (South Africa's Working Paper, 2001). In this connection, the UK raised the possibility of voluntary visits to facilities agreed between participating States-Parties. In general, the UK Green Paper was well received. It did not offer new ideas, but it was an honest attempt to propose ways to strengthen the BWC. In the end, it did not have any diplomatic teeth as it's was a parallel draft which had a different 'substance' but reflected the 'spirit' of the US proposals made in December 2001. It also did not have political mileage amongst the States-Parties, as it did not exercise influence over them to the degree that the US did.

STEPS TAKEN BY THE US

Meanwhile, the US made it clear that it was not going to compromise on its stand over the protocol or the BWC. It did try to convince other State-Parties to drop the talks and focus on enforcing compliance (Greig Seigle 2002). John Bolton (2002) returned to the Conference on Disarmament in January 2002 and reiterated that his government would "flatly oppose flawed diplomatic arrangements that purport to strengthen the BWC, but actually increase the spectre of biological warfare by not effectively confronting the serious problem."

The ante was upped days later when the compliance issue was tackled at the highest level when US President Bush accused Iran, Iraq and North Korea of attempting

¹ For an analysis of the UK Green Paper, see Graham S. Pearson (2002), "Return to Geneva: The United Kingdom Green Paper", Strengthening of the Biological Weapons Convention, Review Conference Paper No. 6, University of Bradford, June 2002 For an analysis of the UK Green Paper, states parties' statements and working papers submitted at the Review Conference, see "Return to Geneva: A Comprehensive List Of Measures", Strengthening of the Biological Weapons Convention, Review Conference Paper no. 6, University of Bradford, August 2002. Both papers are available at URL:<http://www.brad.ac.uk/acad/sbtwc/>.

to acquire weapons of mass destruction (Bush 2002) and called them and their terrorist allies the “Axis of Evil.”

The US also targeted Russia. In April 2002, the US administration decided against certifying that Russia was in compliance with its obligations under the BWC, thus hampering the implementation of the US Defence Department’s Cooperative Threat Reduction (CTR) programme aimed at reducing the threat from Russia’s weapons of mass destruction complex (CBW Conventions Bulletin (2002) and Bleek 2002: 22).

In August 2001, delivering a speech in Tokyo, John Bolton reiterated what he had said earlier at the 2001 RevCon and went on to “name names” of countries such as Iran, Libya, Syria, and North Korea (which allegedly had offensive biological weapons programmes) and Cuba, (which allegedly had “at least a limited” biological warfare R&D programme). He once again, called for a formal end to the Ad Hoc Group and its mandate.

On the question of whether follow-up meetings should take place prior to the Sixth RevCon, the US did not support any meetings within the context of the BWC. However, it appeared to be “flexible” on holding informal meetings of experts on biological arms control, outside the purview of the BWC. The consensus rule for the follow-up meetings during the new 2003-05 process would be subject to interpretations and veto, especially that of the US. Here too, any pretence of a diplomatic concession or trade-off was cloaked in US’ self-interests.

Furthermore, the US, while participating at a Western Group meeting on 2 September 2002 titled, “Talking points on the BWC,” said that it reiterated its demand for the termination of the Ad Hoc Group and its mandate. The US also called for a “very short” conference “with the sole purpose and outcome of agreeing to hold a RevCon in 2006,” and not addresses any other issue.

US Assistant Secretary of State for Arms Control, Stephen Rademaker, even proposed 10-minute meetings. According to the “talking points,” the US warned that if the conference took up any issue beyond the subject of the 2006 Conference, it would name the countries that it believes are engaged in covert bio-weapons programmes. In the same month, the Western Group made clear to the US that it could not accept its new proposal (Littlewood 2003). It sought a satisfactory and convincing answer to the

question why the US had abandoned even its minimal position of November 2001. States committed to the BWC were not quite ready to give up; the president of the conference, Tibor Tóth was willing, and able to outline some ideas around which a compromise might be formed. Feasible ideas for taking the BWC forward that had emerged during the last quarter of 2001 and the first half of 2002 were issued by Tóth. The outcome of that exercise was released to States-Parties at the end of October.

RESUMED REVCON NEGOTIATIONS

The resumption of the RevCon in 2002 was set off on 17 October 2002 (Pearson 2002). Ambassador Tibor Tóth introduced a draft resolution² A/C.1/57/L.22 requesting the:

“UN Secretary-General to continue to render the necessary assistance to implement the decisions and recommendations of the Review Conferences, of the Special Conference of September 1994 and to support the resumed Fifth Review Conference.”

The resolution was adopted without a vote on 22 October 2002. Ambassador Tóth’s introduction pointed out that during the past year or so, “a *new realism* (emphasis is mine) has been emerging about deliberate disease.”

Tóth highlighted the “new realism” that was emerging in the BWC regime as well in light of the events occurring in the previous 18 months of 2001-2002. This new realism entailed the following: “a less ambitious, but still meaningful role to be assigned to the regime.” Only an effort at “working together in a synergistic manner with other tools,” was necessary to “reach the critical mass of decision for such a complementary role,” he opined. In polite diplomatese, this statement indicated the “scaling down” of ambitions at the BWC. Therefore, he posed the following questions to the diplomats who would be meeting in 11-22 November 2002 at the resumed RevCon³:

1. Beyond norm setting, is there any real-life, functional requirement for the BWC regime?
2. Could all the other containment and mitigation means, such as export-controls, non-proliferation, defence, civilian defence, preparedness, vaccination, and

² Full text of the draft available at URL:<http://www.reachingcriticalwill.org>.

³ Ibid.

disease control, individual or collectively, handle the whole spectrum of the threat without any margin of error, thus making complementary tools, like the BWC regime, redundant?

3. Is there a premium on preventive measures, such identifying and rectifying implementation deficiencies, compared to those measures, which are to mitigate the consequences of deliberate or accidental disease?

Tóth hoped that the diplomats would also remember that considering the challenges the BWC faced, it also provided an opportunity “to unfold in a realistic and incremental manner the unused potentials of the BWC regime.” This was also an attempt to reconcile the regime, however throttled, the BWC came to represent and sustain its viability for the future. Tóth had held extensive negotiations throughout the summer of 2002 and presented his views about his interactions with various delegations. He said that, “there had been a widening support for focusing in the resumed review conference specifically on the follow-up and wrap up its work swiftly.” He opined that follow-up mechanism would enable the BWC members to meet annually and consider measures to strengthen the BWC. These meetings could be aided by experts meetings for enhancing the effectiveness of the measures forwarded by consensus.

Thus, Tóth systematically picked and highlighted those issues that would meet minimal opposition. This was as much an attempt to stave off another bout of entrenched stalemate at the BWC, as it was an attempt to save the BWC from its existential dilemma it was in the throes of for the past year.

TÓTH’S DRAFT PROPOSAL OF THE FINAL DOCUMENT

Tóth’s draft proposal for preparation and adoption of the final document shelved allusions to reintroducing debate on contentious issues like the Verification Protocol and the mandate of the Ad Hoc Group. Therefore, Tóth concluded by noting that a follow-up mechanism that he had recommended earlier in October 2002 would represent a qualitatively “new” product, which had achieved an agreement on both the ways and the means of enhancing the implementation of measures to strengthen the BWC. This was

“unique” compared to all previous review RevCons. This emerging “new realism,” according to Tóth’s assessment,

“Should be based on what is a shared aspiration for all of us: joining efforts in countering deliberate disease. Once that goal is taken seriously, we cannot afford being bogged down on the methodological differences of how to attain that goal. Let us concentrate on what we can agree now, let us do it, and as a result of measurable progress, let us create new ground for further joint action.”⁴

A UN press release issued on 6 November 2002 noted that the resumed session of the fifth RevCon would be held in Geneva from 11-22 November 2002. Once again, the press release noted the significance of holding such RevCons. They were:

1. To reach agreement and conclude the work of the Conference, the initial session of which was held from 19 November to 7 December 2001, and
2. The RevCon were especially important in the context of rapid progress being made in the bio-sciences, progress which as well as delivering important benefits also makes it potentially easier to develop biological weapons.

The press release also noted the diplomatic legwork done since the time the 2001 RevCon was noteworthy. Under Tóth’s supervision, delegations had been working on possible solutions that would allow them to reach an agreement concerning future work to strengthen the BWC. The RevCon was to focus on issues such as “the specific question of follow-up work, although the other main issues remain to be formally resolved.”

The resumed RevCon was held on 11-22 November 2002. After wide consultations throughout 2002, Tibor Tóth presented his proposed draft decision establishing follow-up meetings over the next three years. This decision reflected that Tóth had acted in this fashion to realistically hope to ensure a continued multilateral approach to the implementation and strengthening of the Convention in a way that involved all States-Parties. In his draft declaration, Tóth called for a one-week annual meeting of States-Parties each year until 2006, with each such meeting to be preceded by a two-week meeting of experts.

Before outlining the way forward, Tóth reminded delegations that this was still the same RevCon, and that the agenda, which had been adopted in November 2001,

⁴ Ibid.

remained valid. He noted that during the three-week session in November-December 2001, most of this agenda had been addressed at the plenary and the various subsidiary bodies as recommended by the General Committee. This was the closest he came to acknowledging that the mandate of the Ad Hoc Group was still valid, as it had not been formally dismissed; it was for all practical purposes in a state of coma until the diplomats worked up the will to discuss it again. Therefore, Tóth went on to say that unless the resumed RevCon determined otherwise, he did not intend to return to the completed agenda items. Thus, consequently, Agenda Items 15 [Report of the Drafting Committee] and 16 [Preparation and adoption of the final document(s)] were mentioned to highlight that they were “still to be completed” and then, Tóth went on to outline his suggestions to deal with these items, starting with the latter. It is interesting to note that he did broach upon the former at all with the intention to practice the “new realism” he espoused earlier and hence, avoid a deadlock, again, like the previously suspended 2001 RevCon.

According to observers, Tóth decided against a final declaration because any such attempt could be counter-productive. Tóth preferred an outcome with “a non-amendable rescue plan” — the Final Document incorporating the decision on follow-up — rather than issue a declaration. However, the decision adopted was drawn from the US proposals contained in President Bush’s statement on the BWC on 1 November 2001, which goes to show that the US had its way.

Tóth thus presented his proposal for the final product of the resumed RevCon, which was circulated as a document titled BWC/CONF.V/CRP.3.⁵ The draft was a result of “his sustained efforts over the past year to bridge the formidable differences among delegations on the outcome of the RevCon.”

The salient proposals in CRP.3 were to

“Establish follow-up meetings and calls for a one-week annual meeting of States Parties each year until 2006, with each such meeting to be preceded by a two-week meeting of experts. Five topics are set out for consideration by these meetings, with a timetable for which topic will be considered in which year.”

The five topics in CRP.3 were:

⁵ Complete draft available at www.opbw.org.

1. The adoption of necessary, national measures to implement the prohibitions set forth in the Convention, including the enactment of penal legislation;
2. National mechanisms to establish and maintain the security and oversight of pathogenic microorganisms and toxins;
3. Enhancing international capabilities for responding to, investigating and mitigating the effects of cases of alleged use of biological or toxin weapons or suspicious outbreaks of disease;
4. Strengthening and broadening national and international institutional efforts and existing mechanisms for the surveillance, detection, diagnosis and combating of infectious diseases affecting humans, animal, and plants;
5. The content, promulgation, and adoption of codes of conduct for scientists.

Items 1 and 2 were to be addressed in 2003, 3 and 4 in 2004 and 5 in 2005. Flexibility would be achieved by keeping a fluid structure to the framework of discussions of the topics as per the convenience of the State Parties. Furthermore, a consensus rule would also be followed to maintain flexibility. The intention here was to protect the interests of participants, and the fact that the whole process would be reviewed in 2006.

More importantly, no State-Party would be forced into anything it did not expect or does not want by this process; similarly the process will ensure that a forum exists for States-Parties to continue to explore many and varied ways of addressing the growing challenges facing the Convention.

Tóth also reminded the delegations to acknowledge the fact that serious political differences persisted in the BWC. However, the intention then was to not let those differences thwart the work of this multilateral forum, “*until at least 2006*” (The Sixth RevCon of the BWC is scheduled to be held in December 2006).

APPRIASAL OF TÓTH’S PROPOSED DRAFT

By Tóth’s own admission, his proposal was not a traditional RevCon product. He called it a “qualitatively different step into the future, dealing only with what is strictly

necessary for us to be able move forward with protecting, maintaining and enhancing the BWC.” Diplomatically, it was a face-saver product, yet, it held out the potential for contentious issues to be broached upon in the future when there would be sufficient diplomatic and political will. Although the resumed RevCon State Parties accepted the draft proposal, Tóth did acknowledge that the proposal would not “satisfy many or even any” delegation. Nevertheless, given the circumstances, this was the only way forward in Tóth’s view to break the diplomatic deadlock.

In a subsequent press conference on 11 November 2002, Tóth said that in December 2001, an extreme significant division of ideas had forced suspension of the RevCon. He called his draft proposal to be “rescue operation,” (as the RevCon would not focus on reaching agreement on a Final Declaration as it had occurred at the previous RevCons) meant to use the limited time available to attempt to achieve consensus on the proposals he had tabled.

In a later discussion, he noted that the CRP.3 did not include two particular measures that would upset the developing and the developed world. They were:

- Measure related to cooperation in implementation of the Convention was excluded to accommodate the developing countries, and
- The draft did not include measures such as those related to compliance, which were opposed by the ‘developed’ countries (read the US).

For this proposal to be acceptable at the resumed RevCon, it was important that the US and other countries be engaged in a “proactive way.” Tóth’s wide-ranging consultations in the preceding one year paid off when there was no opposition from any national delegation, especially the US delegation. The US is believed to have expressed satisfaction over the fact that the decision did not refer to the issues of export controls and technology transfer (Ramachandran 2003).

A failure then would have definitely meant a certain foreclosure of any prospects of future progress at the BWC and what was infinitesimally worse, the demise of the BWC as a multilateral negotiating forum. Therefore, this was the “new realism” that Tóth eulogised about was a “rescue mission” to save the BWC from the deal-breaker that the Verification Protocol had come to signify, except by this time the “deal” had gone on to comprise larger connotations i.e. it had come to represent the future of the BWC itself.

STATEMENTS BY OTHER ACTORS

Commenting about the on goings of the resumed RevCon, the UN Under-Secretary-General for Disarmament Affairs, Jayantha Dhanapala, termed the proposal before the RevCon as a “modest achievement” and proved that the “BWC was a viable treaty that could be further developed.” Dhanapala recommended that the States-Parties adopt Tóth’s proposals.

The Fifth RevCon formally concluded with a plenary session on 14 November 2002. The States-Parties adopted Tóth’s proposals; setting out a fresh approach to combat the deliberate use of disease as a weapon whereby States-Parties would meet annually in the lead-up to the next Review Conference in 2006.

NON-ALIGNED MOVEMENT (NAM) GROUP’S STATEMENT

Following the agreement on the proposals in CRP.3, the NAM Group issued a statement expressing its “deep disappointed at the inability that has been demonstrated in the endeavours of the States-Parties to successfully undertake initiatives to strengthen the implementation of the Convention.” The NAM had relied on the prospect of a successful negotiation of the verification Draft Protocol. The main reasons for NAM’s reservations were:

- It saw itself as being prevented from achieving a successful conclusion due to the limited nature of the decision that was finally taken, thereby squandering an opportunity to strengthen the BWC.
- The NAM Group noted that the language of the decision included “ambiguities.” It contended that only a practical approach would produce the desired results.
- The NAM Group noted that the **time** set to reach a decision over the final report had been extremely limited.

However, the group did acknowledge that the RevCon had succeeded in preserving “multilateralism” as the only sustainable vehicle for preventing the use of

disease as instruments of terror and war. This group had all along supported the international consolidation of the verification powers of the BWC and stood by its initial stance.

WESTERN GROUP

The Western Group's statement **welcomed** the adoption of the CPR.3, calling it "a qualitatively different outcome to that found in the final products of previous Review Conferences." It also felt that this decision balanced the views of all concerned; was clear and self-explanatory; and strengthened the effective implementation of the BWC. It must be kept in mind that the Western Group was not impressed with the US actions in 2001 and had asked for explanations through diplomatic channels as well as fora such as seminars and group meetings that were held before the resumed RevCon. Finally, by welcoming the CPR.3, it had tacitly acquiesced with the US stand. Therefore, along with the UK, the Western Group and the export-controlling Australia Group had turned against its own popular refrain in the BWC i.e. the enforcement of a compliance protocol.

FINAL PLENARY

The final plenary was held on 15 November 2003. Ambassador Tóth's concluding remarks were as follows:

1. He noted that a process had been agreed that allows the BWC to continue to be strengthened and this proposal had resulted from sustained efforts over the past year to bridge the formidable differences among delegations on the outcome of the RevCon.
2. It offered hope for renewed efforts to build this vital barrier against a type of weapon, which the BWC describes as "repugnant to the conscience of mankind."
3. Tóth called for "innovative thinking and diplomatic skill" to make the new process work, and this could be done by States-Parties rising over their expectations.

4. Tóth called upon States-Parties for realistic and concrete proposals for moving the BWC forward. Any worthwhile suggestions on the five topics that were detailed in the CPR.3 would be welcomed.
5. He opined that many NGOs would be not only making their own proposals, but would also be watching closely what the States-Parties discuss and decide. To this end, he encouraged all delegations to be open to the ideas.

Informal Consultations

After the formal completion of the Fifth RevCon on 15 November 2002, informal consultations were held to discuss the new approach to be adopted. These informal consultations ended on 22 November 2002. Tóth held 36 meetings with delegations about organisational and procedural issues relating to the future annual expert and States-Parties meetings. Work continued at these informal sessions, but were largely constrained to the conduction of future meetings from 2002-2005. Any diplomatic procedures — issues or processes — were on a low burn during these meetings.

AFTERWORD

For an assessment of diplomacy at the resumed RevCon, it would suffice to state that national interest considerations of certain actor(s), especially the US, had managed to redraw the diplomatic agenda at the RevCon, at least for the near future until the next review conference in 2006. Nevertheless, this cannot be called a “victory” for those actors who subscribed to the US rationale for opposing the Verification Protocol. Although the US belligerently questioned the mandate of the Ad Hoc Group (which still has not been suspended, but lies comatose) and the need for the BWC itself, this was done only to instil a sense of urgency and grave danger to the BWC during the RevCon. The rhetoric, however, was subsumed by the BWC due to its innate strengths as an evolving international regime. Perhaps an already established regime with set rules and norms might have crumbled by this sort of systemic upheavals due to their inadequacies at adapting quickly due to the presence of monolithic structures in the organisation. These

ossified structures are found wanting in executing the very functions, they are supposed to carry out due to the regime's now defunct ability to factor in the rapid changes of international politics and diplomacy. The BWC, in contrast, is a relatively new organisation, which still has an element of flexibility. This flexibility allowed it to withstand the systemic flux it underwent in 2001, and hence it could survive the barrage of political and diplomatic criticism it received.

Ironically, the BWC is exactly striving to achieve the ends of building a systemic organisation that will allow it to take on the form of a viable and fully functional international regime in the future. This was the exact aim of Ambassador Tóth in toning down the aims of the resumed RevCon and settling for a trade-off that would allow it's continue functioning. Hence, a heady dose of 'new realism' pervaded in its governors' decisions to continue its survival. In the final analysis, the incipient promise of building a viable international regime in the future and the contingent steps taken in the short-term survived the onslaught on that was characterised by classical realist thinking of self-interests predicating an actor(s) decision-making.

CHAPTER VI

CONCLUSIONS

At the introduction, John Lewis Gaddis' (1987) lament on a "curious bias" among students of international politics to study 'what has happened rather than what did not' was mentioned to highlight the inadequacy in research pertaining to the BWC with respect to whether national security considerations are the principal dynamics motivating the diplomacy of the parties in the BWC.

To achieve the purpose of filling this particular gap in research, the aim was to conduct an analysis of diplomacy at the Fifth RevCon of the BWC by identification and explanation of issues, actors and processes at the RevCon and its implications for BWC by analysing motivations of specific states or grouping of states during the negotiations, using Realism and International Regime theories as lenses to analyse diplomacy. In the process, testing the veracity of the hypothesis that national security considerations predicated the participants' decisions at the negotiations for the Fifth RevCon of the BWC. Therefore, this chapter will provide specific conclusions based on the study's assessment of the following research questions that were initially chalked out.

First, who and what were the main actors, issues and processes in the Fifth RevCon. Is the Fifth RevCon an instance of failed diplomacy or a nuanced trade-off? What are the reasons for changes in negotiating positions of key participants? Has the BWC succeeded or failed as a negotiating forum? Finally, which IR theory is best suited to explain diplomacy at the Fifth RevCon? In a separate section, the relevance of these BWC negotiations for India is also provided.

Addressing the last research questions first, it is consistently observable throughout the study that the Realism theory of International Relations broadly explains the behaviour of most actors and hence validating the hypothesis of national security considerations predicated the participants' decisions at the negotiations for the Fifth RevCon of the BWC. The predictions based on this theory in the second chapter were that issues and most importantly, the motivations at the RevCon will be guided by the national interest consideration of the individual States-Parties or groupings of states and an overwhelming majority of the actors adopted a defensive approach and did not initiate hostile rhetoric, but did not spare any effort to capitalise on such an eventuality as a result of some other actor or actors' actions. As an extension, the preponderant power or hegemon of the day — solely driven by national security considerations — might try to

influence the proceedings, and might not succeed all the time, but might still drastically influence the course of the diplomatic proceedings.

This lack of complete dominance of national security considerations to dominate the RevCon was due to the possibility of viewing regimes as autonomous, and not just as intervening variables. Thus, once formed, international regimes are hard to put down or sideline as they develop a momentum of their own and hence, a logic that does not always subsume national interests of even the preponderant powers. However, it does accommodate those national interests of the powers that be, and therefore ensures its own viability. Here too, the national security considerations of a group of countries sustaining the regime is another reason why motivations can be further located in Realism.

However, the regime is not sustained by the traditional view of national interest because the definition of national interest has undergone evolution to factor in the increasingly interdependent nature of world politics and security. Regime formation as a social institution based on different types of ordering also explains the *a priori* status of the BWC, a status that is now evolving wherein actors seek to reorder the power structure within the regime to suit the ends of an overwhelming majority of the States-Parties.

The specific conclusions to the other research questions are addressed in individual sections in the following sections:

Main Actors, Issues & Processes

The main actors were the US, UK, EU, Russia, Iran and the NAM group. Other groups such as the Australia Group, Western Group and Rio Group also made their presence felt at the RevCon in terms of actively participating in the diplomacy at the RevCon. The role of Ambassador Tibor Tóth, Chairman of the Ad Hoc Group and the fifth RevCon, also cannot be downplayed as he played a pivotal diplomatic role in setting the agenda (as he did at the beginning of the RevCon) as well as in breaching diplomatic deadlocks on at least on three occasions, namely the replacing of the contentious Rolling Text with the Chairman's Composite Text, damage control at the RevCon and the wise move to suspending it until 2002, and finally producing the toned down agenda for the resumed 2002 RevCon after exhaustive deliberations during the interregnum period. That considerations of power and security were the principal dynamics motivating diplomacy

of key participants is evident because while replacing the contentious Rolling Text with the Chairman's Composite Text can be benignly explained as the usual "give and take" of diplomacy, however, the damage control at the RevCon due to the twin crises, and finally the toned down agenda for the resumed 2002 RevCon makes it clear that national security considerations were clearly driving motivations of most actors at the RevCon.

While Tóth strived to preserve the mandate and the very existence of the BWC as a regime during this turbulent period, the Friends of the Chair (FOCs) — among whose members were the EU, NAM, Rio Group and the UK — ably supported him. Hence, this set of actors, their motivations and behaviour is consistent with their past stand, which is to strengthen the BWC. International Regime theory is best suited to explain these set of actors, events, and the processes they initiated. Other actors, especially the US, Western Group, Russia, etc. were serving their self-interests, even if it meant putting the BWC at great peril.

The pharmaceutical and biotechnology industry were significant players in the BWC due to their dual participation at the forum in the form of both domestic interests of specific or group of actors. Many states parties undertook detailed consultations with their own industry representatives. The role of this group as a lobbying domestic interest to mould the stance adopted by states such as the US was particularly responsible for the diplomatic impasse at the RevCon.

Each of the events and processes at the RevCon can be explained using Realist or International Regime theories. The main issues and processes at the RevCon whose diplomatic proceedings were of importance and note were: termination of negotiations for a Verification Protocol, and later the debate over the mandate of the Ad Hoc Group; reactions to the 11 September 2001 and anthrax attacks; the US' demands and proposals during the RevCon, US' rejection of the BWC Protocol and naming "names" of countries with alleged biological weapons; the US' proposals to overhaul the 'BWC' and the adverse reactions to these proposals; alternatives forwarded by members in the aftermath of the RevCon (for e.g. the EU proposals in December 2001, UK Green Paper in April 2002); the US' continued espousal of its stand at the suspended RevCon; and, finally the actions of the BWC's very own crisis mechanism and response structure. At each of these specific instances, there was a clear display of the dynamics of national security

considerations of actor(s) pitted against the determination of other actor(s) to strengthen the BWC as an international regime. At the outset of the RevCon, the atmosphere was thick with distrust because of the 9/11 attacks. However, these attacks must not be confused as the fulcrum of events to tailspin at the BWC. The process had started much before in the Ad Hoc meetings in early- and mid-2001 itself when hereto cooperative actors voicing their reservations about certain processes (like the scope of the Verification Protocol) in the open by increasingly weighing in their national security considerations.

Yet, space was available for diplomacy at the RevCon as the actors had articulated their positions over pertinent issues well in advance and this gave ample time for their counterparts to prepare their responses. As Tóth had explained, the RevCon functioned in a satisfactory manner despite the vitiated political atmosphere and rhetoric at the RevCon, and the process was scuttled only on the last day when delegations were close to agreeing on a draft declaration. The diplomacy at this RevCon — held in a staggered fashion with two conferences over a period of two years — does show continuity in terms of the issues that were in focus. As stated earlier, even in the issues that were addressed and sometimes forced to be addressed, it is clear that national security considerations was the primary motive force for the States Parties.

Longevity of the BWC is secondary to an actor's considerations of power and security, and this study shows that actors were willing to truncate further proceedings of the BWC itself and considering continuation of the forum in an emaciated format. In this context, these actors wanted to protect their biological weapons programmes (if any) in their countries from inspections, protect 'industrial secrets' of private industries in the pharmaceutical and biotechnology sectors, and finally using the BWC for power projection on the world stage to strengthen their positions in the anarchic calculus of world politics.

It can be summarised that although the Realist nature of actors did not browbeat its opposition into submission or acquiescence, but rather there was a constant interplay and a set equilibrium in place between national security considerations and the need to build a regime, and the equilibrium favoured the former at more instances than it did to the latter.

An Instance of Failure of Diplomacy?

The RevCon was not an instance where diplomacy failed, but a trade-off was arrived at and it consisted of subtle changes in positions that accommodated the possibility for a trade-off. That the RevCon was not an instance of failure of diplomacy will be validated first, followed by the conclusion that there was a trade-off. Apart from the diplomatic tightrope this RevCon turned out to be, a clearer picture begins to emerge when the diplomacy is viewed as a constant interplay between contending theories viz. Realism and International Regime. A set equilibrium was in place between national security considerations and the need to build a regime, and as mentioned in the earlier section the equilibrium favoured the former at more instances than it did to the latter because any further tipping of the scale to either side would have definitely scuttled the RevCon.

The very fact that the BWC managed to survive multiple existential crises during the RevCon — due to the overriding exertion of national security considerations of the US — was due to the damage control exercise conducted by means of continuous diplomacy by both actors and individuals like Tibor Tóth. It must be admitted here that the ostensible aim at the beginning of the RevCon to facilitate the final round of talks to arrive at a Verification Protocol. But this must not be read as a failure of diplomacy as the lines of communication between the major actors did not break down and nor did the continuous efforts to break the impasse. The alternatives forwarded by members in the aftermath of the RevCon, the actions of the BWC's very own crisis mechanism and response structure in the face of the US' continued espousal of its stand at the suspended RevCon are testimony to this fact. The failure of diplomacy would be a definitive touchstone that would falsify the conclusion of this study that although realist considerations of national security was the foremost motivation of the actors, it was not the only school of thought (as opposed to International Regimes) that managed to dominate the proceedings at all times. The fact that facets of International Regime (such as Tibor Tóth and the FOCs actions) can be identified in this RevCon proves that national security considerations did not rule the roost at all times, for had it done so, then the RevCon, and hence the BWC would have terminated in December 2001 itself instead of resuming again in 2002. This dynamics of contending theories of Realism and

International Regime also made it possible for a possibility of an eventual trade-off at the BWC.

Despite the vitriolic political rhetoric, trade-offs were very much a part of this RevCon. First, when just the technical aspects of the RevCon is considered, it is observable that the Chairman's attempt to evolve a Composite Text instead of continuing negotiations over the Rolling Text was an attempt to accommodate all the actors' interests and concerns. The very fact that there were difficulties encountered by Ambassador Tóth and the FOCs was not a one-off event, but reoccurred regularly, leading Tóth to arrive at the conclusion that negotiations based solely on the procedures used so far would not allow the Ad Hoc Group to fulfil its mandate in the timeframe allocated to the work. This constant reoccurrence was because considerations of power and security were the principal dynamics and the actors pursuing those objectives through their diplomacy were not willing to concede their concerns and demands. Hence, the BWC was forced to take notice and draw up other ways for the successful conduction of the BWC. Hence, the Composite Protocol text was a direct response to the deadlocks that had ensued within the Ad Hoc Group meetings. The fact that over 99 per cent of the previous Rolling Text was incorporated into the Composite Text and this suggests that the Composite Text did not contain anything extraneous that would have given sufficient reason for the rejection of the Composite Text.

The issuance of the Composite Text is also a paean to Ambassador Tibor Tóth's diplomatic resourcefulness in forging together a workable solution, which could have paved the way for the successful conduction of the RevCon. Here again, the 'unequal equilibrium'¹ between the realist approach and the need for international regimes was maintained by the continued active presence of the latter. However, due to the nature of power politics, actors espousing the cause of the BWC's Verification Protocol could not provide results commiserate to their efforts. The converse holds true for those espousing national security considerations.

Another surprising facet of trade-offs at the RevCon was that the US did try to extend an olive branch — albeit a very short branch — to those actors who were opposed

¹ An 'unequal equilibrium' here refers to the consistent advantage enjoyed by actors espousing national security and, considerations of power and security over those actors whose motivations can be explained using International Regime theory.

to all the measures that the US had proposed. With regard to the US' proposal on follow-up action, it apparently conceded fresh ground as the proposal suggested that the conference decide to hold annual meetings to "consider and assess progress by states parties in implementing the new measures adopted at the Fifth Review Conference" and to "consider new measures or mechanisms for effectively strengthening the BWC." In exchange, the US demanded the termination of the Ad Hoc Group's mandate. This was the closest the US got to in earnestly aiming for a diplomatic trade-off.

The US proposals were skewed in its own favour and it was more of a "take it or leave it" gesture. Later, during the lead up to the resumed RevCon in 2002, the US again attempted to reach a trade-off, again it was cloaked in its self-interests, but it was an offer to make some kind of progress. This instance was in August 2001, when the US tried to address the question of whether follow-up meetings should take place prior to the Sixth RevCon. The US did not support any meetings within the context of the BWC. However, it appeared to be "flexible" on holding informal meetings of experts on biological arms control outside the purview of the BWC. Therefore, in its attempt to arrive at a trade-off, the US continued to mould the trade-off in accordance with its national interests and power considerations. It is also validation of the hypothesis that national security considerations shaped the diplomacy of key players such as the US until the very completion of the Fifth RevCon. But, the view that this reduced any common ground for negotiations have been put paid to by the actions of both actors, like the US as well as the EU and NAM, which proves that diplomacy at the RevCon was not a failure.

The continued engagement of the key players, led by Tóth himself at the BWC, the proposals put forward by the EU and UK were indicators of the continued diplomatic parleys that dotted throughout 2002 with the explicit aim of saving the resumed RevCon from a similar fate as its predecessor could be judged as an exercise of successful trade-off. Especially, when in the end the decision to adopt annual meetings until the sixth RevCon took place in December 2006 and Tóth's draft proposal on the final resolution at the RevCon was a clear indicator, in his own words of, "what ought to be" and "what the BWC is" in the present circumstances and hence the trade-off that was achieved due to those contingent reasons.

Reasons for Changes in Negotiating Positions of Key Participants

At its very inception and the BWC, treaty talks at the UN, the US and Soviet Union worked out a draft treaty that prohibits offensive biological weapons programmes. Hence, its States-Parties could lodge a complaint with the UN Security Council (UNSC) if they believed other States-Parties are violating the convention, and the council can then call for an investigation of complaints it receives. This implicitly meant eventual provisions for on-site inspections. A lot of water has passed under the bridge since 1975, when the BWC treaty came into force with that implicit spirit of inspections, and there has been a sea change in the stances adopted by the various actors, including the main depository powers. They have based their changes in position on their respective interests — self-interests or interests favouring the global community — based on the fluid nature of international politics and rapid advances made in science and technology. Hence, the contending theories of Realism and International Regime are apt to explain those changing positions and hence, as a result, changing diplomatic objectives and practices of the actors.

An overwhelming quantum of analysis for the reasons surrounding the BWC crises have predominantly focused on the radical shift in the US stand. For a more balanced analysis of the diplomacy at the fifth RevCon, it is mandatory to examine the ever-changing shifts in the positions of the other members, especially the other two depository powers (the UK and Russia), and other important actors like the EU and Western Group.

The reasons for the change in the US stand can be traced to two sources, which in turn fed the conception of national security considerations. They are ideological-political and domestic reasons such as protection of the commercial interests of the pharmaceuticals and biotechnology industries in the US. The ideological-political aspects include the neoconservative and unilateral foreign policy initiatives that has come to characterise the current Bush dispensation at the White House. Until 25 July 2001, the US had not expressed difficulty with the overall protocol approach. In June-July and September-October 1998, it had subscribed to the Draft Protocol. In January-February 2000, the US proposed random visits, implying thereby its acceptance of the Verification Protocol concept. The commercial interests of the pharmaceuticals and biotechnology

industries in the US were finally stated as the ostensible reasons by the US in its official statements explaining its stance. US opposition to inspections on short notice is based on the pharmaceutical industry's opposition to non-challenge visits. In the final analysis, the US changed its earlier position that supported the strengthening of the international regimental nature of the BWC because of its perception of its overriding national security considerations.

Moving onto the other players it is interesting to note that all the important actors with high stakes continuously modulated their positions to maximise their returns from the forum. For example, the UK's Green Paper overlapped with other countries' proposals, including that of the US. In terms of verification, it is interesting to note that the proposals for revised CBMs and investigations and proposed revisiting the CBMs. The Green Paper did not offer new ideas, but it was an honest attempt to propose ways to strengthen the BWC. In the end, it did not have any diplomatic teeth as it's was a parallel draft which had a different 'substance' but reflected the 'spirit' of the US proposals made in December 2001. Before the 2001 RevCon, the UK had proposed to revive and expand the mechanism for investigations into alleged use and to include facility investigations for alleged violations of the Convention. By the end of the 2002 RevCon, the UK downplayed this aspect. Hence, the UK had made nuanced shifts in its earlier positions in light of the developments at the suspended RevCon.

Canada and Australia, representing the Western Group (minus the UK and EU), also nuanced their stand by acquiescing to the US stand as it began to emerge here itself when the group decided not to diplomatically fight the US position, but instead to work with it. Australia supported the suggestion that States-Parties agree to hold annual meetings. As mentioned before, the tangential allusion to US proposals to hold only annual meetings is glaringly evident.

Canada and Australia provided the earliest indicator of the subtle changes being adopted to be synchronous with the US position. The Western Group's stand reveals the nuances that determine an actor(s) stand. This is because although it is a grouping of countries, it reflected the national interests of not just its foremost member, the US, but also of the individual collective national interests of the other members. Therefore, here you have a group that adopts a diplomatic stand based on the least common denominator

binding it i.e. the national interests of its members. Therefore, this is an example of a nuanced expression of national interests which does not necessarily mean it must get reflected in an individual stand a country takes, but can also be reflected by a grouping of states.

The eventual shift in the stands taken by the UK and Western Group to match that of the US can be traced to two reasons. First, both actors wanted to maintain the viability of the BWC by not assuming intractable positions that would antagonise their close ally, the US. This can be read as an attempt to avoid a split down the ranks amongst Western countries, which have been the driving force of the BWC since it came into force due to their preponderant position in world politics as well as their technological superiority. Without their active involvement, the BWC would collapse. Secondly, actors such as the UK and Western Group also have a stake in protecting their own national interests — whether it is national or aggrandised in nature — in a forum that is driven as much by technology politics as it is by classical geopolitics. The Third World has been actively voicing not just for negotiating the Verification Protocol, but also for greater access to dual-use technologies as a solution for their pressing concerns.

The EU (an ardent supporter of the Verification Protocol and reposed its faith in a multilateral framework), immediately swung into action to sustain the momentum after the suspension of the 2001 RevCon. It prepared the ground for the resumption of RevCon and launched a new initiative resulting in a list of 42 ‘concrete measures’. The EU did not take kindly to the US actions at the suspended RevCon in December 2001 and these early attempts were its earnest attempts to keep the diplomatic momentum of the BWC from flagging.

While the EU, Chile (representing the Rio Group), and Indonesia and Egypt (representing NAM) were clearly backing the successful completion of negotiating a Verification Protocol and had taken public stands reaffirming that stand. Of course, there were different aspects they emphasised on, but the overall diplomatic thrust of each of these groups was clearly spelt out.

RELEVANCE FOR INDIA

India is particularly susceptible to bio-terror attacks and has stated as much at official fora like Conference on Disarmament, Geneva and in the media. The Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005, came into force in India in June, and this legislation places WMD technology-transfer under stringent regulations. Arundathi Ghose, former permanent representative to the UN in Geneva and the Conference on Disarmament, is of the view that India is a potential victim of biological attacks or blackmail by sub-national groups, acting either alone, at the behest of a hostile country or a mafia (IPCS 2005). She opines that the threat to India is real and action needs to be taken urgently, if we are to prevent any incident that might have disastrous consequences for the country as a whole. Ms Ghose is also of the view that, "India will not be party to any treaty that demands foreign inspection with regard to chemical and biological weapons." This cautionary note regarding a verification regime is the dominant thought among many nations party to the BTWC. Herein lays the biggest obstacle to making the BTWC effective.

Focus from international safeguards shifted onto national safeguards after the Fifth Review Conference (RevCon) of the Biological Weapons Convention in 2001/2002. The final document of the fifth RevCon's recommended focus on national safeguards & legislations; code of ethics for scientists; "enhancing international capabilities for responding to, investigating and mitigating the effects of cases of alleged use of biological or toxin weapons or suspicious outbreaks of disease"; and "strengthening and broadening national and international institutional efforts and existing mechanisms for the surveillance, detection, diagnosis and combating of infectious diseases affecting humans, animals, and plants." Primacy to measures emanating from the respective 'national' realms is clearly discernible here.

As mentioned earlier, India has actively participated in all the experts' meetings. The statement delivered by Jayant Prasad, India's representative at the Conference of Disarmament in December 2004 serves as an apt reference point to chart the future course of diplomacy at the BWC.

He opined that,

“The purpose of the present process is to promote common understanding and effective action and not to seek or agree upon or arrive at any new common understandings. Since both aspects are interconnected and we are treading a fine line here...Promoting effective action does indeed imply making the implementation of BWC more precise, effective and operational. One way of so doing would be to assist States Parties to undertake full and effective implementation of their obligations under the Convention, including in relation to the two agenda items before us, but it must be left to their own national decision-making processes.”

The transformation of ‘common understanding’ into ‘effective action’ on an international scale is indeed the need of the hour. The fine line that Prasad mentioned is the main contentious issue, with many state parties, including India, favouring national safeguards.

This also sheds light on the rationale behind India’s posture, which is based on securing its national interests and considerations of power and security were the principal dynamics motivating its diplomacy at the RevCon. Deciphering India’s stand through the prism of Realism also explains why India did not support the stand taken by NAM, which has been consistently pushing for the negotiation of a Verification Protocol. This puts paid to any notions that India will be in the NAM camp at the cost of furthering its national self-interests and power considerations. Therefore, this logic is also a retort to critics of India’s vote at the IAEA against Iran over its nuclear programme. In that forum too, NAM voted against the resolution that was passed. Clearly, India’s non-alignment must not be mistaken for its permanent identification with the NAM Group.

Prasad acknowledged the importance of the BWC’s mandate to approach the UN to “appropriate international procedures, including investigation of the allegations and provision of assistance in such cases...” The fact that this option to investigate an erring party (sanctioned under VI and VII Article of the BWC) has not been exercised lead him to question the efficacy of hereto-untested “international capabilities for responding to, investigating and mitigating the effects of cases of alleged use of biological or toxin weapons or suspicious outbreak of diseases.” The contradictions that the BWC faces today and that India faces too are reflected in Prasad’s statement. The argument that, “...in the present circumstances, common understanding and effective action can best be

promoted through an exchange of views and learning from each others national experiences and best practices” accords a consultative role to the international community and emasculates the evolution of the BWC. If this rationale is accepted then it must be based on the most broad based of platforms for the collection, analysis and sharing of information. Is this an option that can be operationalised?

A study of recent initiatives in the field of non-proliferation in the form of the Proliferation Security Initiative (PSI) and climate change (New Asia-Pacific Partnership on Clean Development and Climate) indicate the fragmentation of the monolith of a common international effort addressing these respective issues at the level of global nuclear non-proliferation efforts and the Kyoto Protocol. While India debates the prospect of joining the PSI, it is already a part of the New Asia-Pacific Partnership on Clean Development and Climate. Similarly, a fragmentation in the biological weapons discourse is a distinct possibility and may further paralyse the effectiveness of the BWC. The bottom line therefore is the ‘fine line’ prevalent in a different context. It is the political will to strengthen the BWC, and it seems to be at its lowest ebb in its 30-year history.

As the 2006 RevCon approaches, key lessons from the failure and success of the BWC can be derived from negotiations held before and during the Fifth RevCon of the BWC (2001-2002) and can be used to derive inferences about the future of the BWC.

APPENDIX

APPENDIX

Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction

Signed at London, Moscow and Washington on 10 April 1972.

Entered into force on 26 March 1975.

Depositaries: UK, US and Soviet governments.

The States Parties to this Convention,

Determined to act with a view to achieving effective progress towards general and complete disarmament, including the prohibition and elimination of all types of weapons of mass destruction, and convinced that the prohibition of the development, production and stockpiling of chemical and bacteriological (biological) weapons and their elimination, through effective measures, will facilitate the achievement of general and complete disarmament under strict and effective international control,

Recognizing the important significance of the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, signed at Geneva on June 17, 1925, and conscious also of the contribution which the said Protocol has already made, and continues to make, to mitigating the horrors of war,

Reaffirming their adherence to the principles and objectives of that Protocol and calling upon all States to comply strictly with them,

Recalling that the General Assembly of the United Nations has repeatedly condemned all actions contrary to the principles and objectives of the Geneva Protocol of June 17, 1925,

Desiring to contribute to the strengthening of confidence between peoples and the general improvement of the international atmosphere,

Desiring also to contribute to the realization of the purposes and principles of the United Nations,

Convinced of the importance and urgency of eliminating from the arsenals of States, through effective measures, such dangerous weapons of mass destruction as those using chemical or bacteriological (biological) agents,

Recognizing that an agreement on the prohibition of bacteriological (biological) and toxin weapons represents a first possible step towards the achievement of agreement on effective measures also for the prohibition of the development, production and stockpiling of chemical weapons, and determined to continue negotiations to that end, .

Determined for the sake of all mankind, to exclude completely the possibility of bacteriological (biological) agents and toxins being used as weapons,

Convinced that such use would be repugnant to the conscience of mankind and that no effort should be spared to minimize this risk,

Have agreed as follows:

Article I

Each State Party to this Convention undertakes never in any circumstances to develop, produce, stockpile or otherwise acquire or retain:

1. Microbial or other biological agents, or toxins whatever their origin or method of production, of types and in quantities that have no justification for prophylactic, protective or other peaceful purposes;
2. Weapons, equipment or means of delivery designed to use such agents or toxins for hostile purposes or in armed conflict.

Article II

Each State Party to this Convention undertakes to destroy, or to divert to peaceful purposes, as soon as possible but not later than nine months after entry into force of the Convention, all agents, toxins, weapons, equipment and means of delivery specified in article I of the Convention, which are in its possession or under its jurisdiction or control. In implementing the provisions of this article all necessary safety precautions shall be observed to protect populations and the environment.

Article III

Each State Party to this Convention undertakes not to transfer to any recipient whatsoever, directly or indirectly, and not in any way to assist, encourage, or induce any State, group of States or international organizations to manufacture or otherwise acquire any of the agents, toxins, weapons, equipment or means of delivery specified in article I of this Convention.

Article IV

Each State Party to this Convention shall, in accordance with its constitutional processes, take any necessary measures to prohibit and prevent the development, production, stockpiling, acquisition, or retention of the agents, toxins, weapons, equipment and means of delivery specified in article I of the Convention, within the territory of such State, under its jurisdiction or under its control anywhere.

Article V

The States Parties to this Convention undertake to consult one another and to cooperate in solving any problems which may arise in relation to the objective of, or in the application of the provisions of, the Convention. Consultation and Cooperation pursuant to this article may also be undertaken through appropriate international procedures within the framework of the United Nations and in accordance with its Charter.

Article VI

1. Any State Party to this convention which finds that any other State Party is acting in breach of obligations deriving from the provisions of the Convention may lodge a complaint with the Security Council of the United Nations. Such a complaint should include all possible evidence confirming its validity, as well as a request for its consideration by the Security Council.
2. Each State Party to this Convention undertakes to cooperate in carrying out any investigation which the Security Council may initiate, in accordance with the provisions of the Charter of the United Nations, on the basis of the complaint

received by the Council. The Security Council shall inform the States Parties to the Convention of the results of the investigation.

Article VII

Each State Party to this Convention undertakes to provide or support assistance, in accordance with the United Nations Charter, to any Party to the Convention which so requests, if the Security Council decides that such Party has been exposed to danger as a result of violation of the Convention.

Article VIII

Nothing in this Convention shall be interpreted as in any way limiting or detracting from the obligations assumed by any State under the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, signed at Geneva on June 17, 1925.

Article IX

Each State Party to this Convention affirms the recognized objective of effective prohibition of chemical weapons and, to this end, undertakes to continue negotiations in good faith with a view to reaching early agreement on effective measures for the prohibition of their development, production and stockpiling and for their destruction, and on appropriate measures concerning equipment and means of delivery specifically designed for the production nor use of chemical agents for weapons purposes.

Article X

1. The States Parties to this Convention undertake to facilitate, and have the right to participate in, the fullest possible exchange of equipment, materials and scientific and technological information for the use of bacteriological (biological) agents and toxins for peaceful purposes. Parties to the Convention in a position to do so shall also cooperate in contributing individually or together with other States or international organizations to the further development and application of scientific

discoveries in the field of bacteriology (biology) for prevention of disease, or for other peaceful purposes.

2. This Convention shall be implemented in a manner designed to avoid hampering the economic or technological development of States Parties to the Convention or international cooperation in the field of peaceful bacteriological (biological) activities, including the international exchange of bacteriological (biological) and toxins and equipment for the processing, use or production of bacteriological (biological) agents and toxins for peaceful purposes in accordance with the provisions of the Convention.

Article XI

Any State Party may propose amendments to this Convention. Amendments shall enter into force for each State Party accepting the amendments upon their acceptance by a majority of the States Parties to the Convention and thereafter for each remaining State Party on the date of acceptance by it.

Article XII

Five years after the entry into force of this Convention, or earlier if it is requested by a majority of Parties to the Convention by submitting a proposal to this effect to the Depositary Governments, a conference of States Parties to the Convention shall be held at Geneva, Switzerland, to review the operation of the Convention, with a view to assuring that the purposes of the preamble and the provisions of the Convention, including the provisions concerning negotiations on chemical weapons, are being realized. Such review shall take into account any new scientific and technological developments relevant to the Convention.

Article XIII

1. This Convention shall be of unlimited duration.
2. Each State Party to this Convention shall in exercising its national sovereignty have the right to withdraw from the Convention if it decides that extraordinary events, related to the subject matter of the Convention, have jeopardized the

supreme interests of its country. It shall give notice of such withdrawal to all other States Parties to the Convention and to the United Nations Security Council three months in advance. Such notice shall include a statement of the extraordinary events it regards as having jeopardized its supreme interests.

Article XIV

1. This Convention shall be open to all States for signature. Any State which does not sign the Convention before its entry into force in accordance with paragraph (3) of this Article may accede to it at any time.
2. This Convention shall be subject to ratification by signatory States. Instruments of ratification and instruments of accession shall be deposited with the Governments of the United States of America, the United Kingdom of Great Britain and Northern Ireland and the Union of Soviet Socialist Republics, which are hereby designated the Depositary Governments.
3. This Convention shall enter into force after the deposit of instruments of ratification by twenty-two Governments, including the Governments designated as Depositaries of the Convention.
4. For States whose instruments of ratification or accession are deposited subsequent to the entry into force of this Convention, it shall enter into force on the date of the deposit of their instruments of ratification or accession.
5. The Depositary Governments shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification or of accession and the date of entry into force of this Convention, and of the receipt of other notices.

This Convention shall be registered by the Depositary Governments pursuant to Article 102 of the Charter of the United Nations.

Article XV

This Convention, the English, Russian, French, Spanish and Chinese texts of which are equally authentic, shall be deposited in the archives of the Depositary Governments. Duly certified copies of the Convention shall be transmitted by the Depositary Governments to the Governments of the signatory and acceding states.

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