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THE BTWC PROTOCOL : AN OVERALL EVALUATION

by Graham S. Pearson

Introduction

1. The Ad Hoc Group (AHG) is now in its fourth year of negotiation of the Biological and Toxin Weapons Convention (BTWC) Protocol and in its second year of developing the text of the draft Protocol. The past year has seen a clear political will to see the negotiation of the Protocol completed as soon as possible before the Fifth Review Conference in 2001.
2. It is now clear that several Articles in the draft Protocol are now largely agreed and will not develop significantly from their current form although a certain amount of restructuring may be agreed at a later stage. The series of Briefing Papers produced by the University of Bradford have addressed many of the key issues being considered by the AHG in their negotiations; by July 1999, some 22 Briefing Papers have been presented and distributed¹.
3. As the negotiations enter the endgame, our intention is to provide to the States Parties a comprehensive evaluation of the Protocol, Article by Article, in a similar way to the treatment that we provided for prior to the Fourth Review Conference for each Article of the Convention in the Briefing Book "Key Points for the Fourth Review Conference"². Our aim would be to provide such a comprehensive evaluation to delegations for the Chairman's first text. This would then be revised subsequently to provide a similar evaluation for the final Protocol text.
4. This Evaluation Paper is the first in a new series of University of Bradford papers which will evaluate the individual Articles and Annexes of the Protocol as they reach the stage at which they are largely agreed. These individual evaluations, updated as appropriate, will be reissued in a collated volume when the Chairman's first text appears.
5. This first evaluation paper examines the current state of play of the Protocol as a whole so as to identify both which Articles are ready for individual evaluation and also where the AHG needs to focus its future attention.

The Overall Protocol

6. The March/April 1999 session of the Ad Hoc Group saw further progress in the areas of the draft Protocol addressed in the meeting with particular progress being made in Article VII. A revised version of the Protocol was produced.³ This was the eighth version of the rolling text – previous versions having been produced in June 1997 (#35), July 1997(#36),

¹Graham S Pearson & Malcolm R Dando (Series eds), University of Bradford, Department of Peace Studies, *Strengthening the Biological Weapons Convention*, Briefing Papers. Available at <http://www.brad.ac.uk/acad/sbtwc>

²Graham S Pearson & Malcolm R Dando (eds), *Strengthening the Biological Weapons Convention Key Points for the Fourth Review Conference*, Department of Peace Studies, University of Bradford, November 1996. Available at <http://www.brad.ac.uk/acad/sbtwc>

³United Nations, *Procedural Report of the Ad Hoc Group of the States Parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction*, BWC/AD HOC GROUP/45, 14 April 1999, Geneva.

October 1997 (#38), February 1998 (#39) and June/July 1998 (#41), September/October 1998 (#43) and January 1999 (#44).

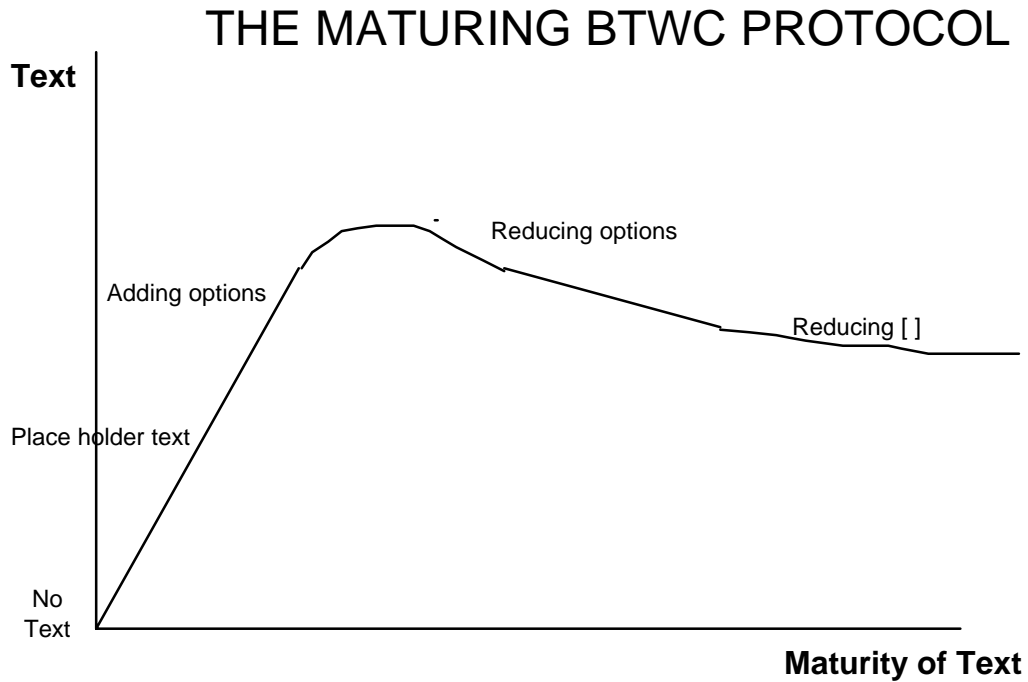
7. In most areas of the Protocol, the FOCs have had three or four complete readings of the part of the rolling text for which they have responsibility. The last six months has seen the engagement of all delegations in serious negotiation which is making steady although slow progress. An overall appreciation of the current state of progress of the Protocol is summarised in the table below in which page numbers are taken from the April 1999 draft (AHG/45).

| Article | Pages | | Last amended |
|-----------------------------------|-------|----------------|---|
| Preamble | 5 | | Revised April 1999 |
| I General Provisions | 0 | No text | |
| II [Definitions] | 11 | | Revised January 1999 |
| III Compliance Measures | 71 | | III D II Declaration Clarification Procedures revised April 1999 |
| IV Confidentiality Provisions | 3 | 40 pairs [] | Revised January 1999 |
| V Measures to redress a situation | 1 | 6 pairs [] | Revised January 1999 |
| VI Assistance | 3 | 31 pairs [] | Revised January 1999 |
| VII Technical Cooperation | 13 | | Revised April 1999 |
| VII CBMs | 0 | No text | |
| IX The Organization | 16 | | Revised January 1999 |
| X National Implementation | 1 | 10 pairs [] | Revised January 1999 |
| XI - XXIII (Legal Issues) | 14 | 48 pairs [] | Largely agreed. Some revised January 1999 |
| Annex A Declarations | 22 | | Section II revised January 1999 |
| Annex B Visits | 31 | | Revised January 1999. Not discussed. |
| Annex C Article III measures | 0 | No text | |
| Annex D Investigations | 38 | | Largely agreed. Some revised April 1999 No text for Art III investigations |
| Annex E Confidentiality | 10 | | Largely agreed. Revised January 1999 |
| Annex F Technical cooperation | 0 | No text | |
| Annex G CBMs | 17 | | Unchanged since January 1998 |
| Appendices A to F | 49 | | A to D concerned with declaration formats |

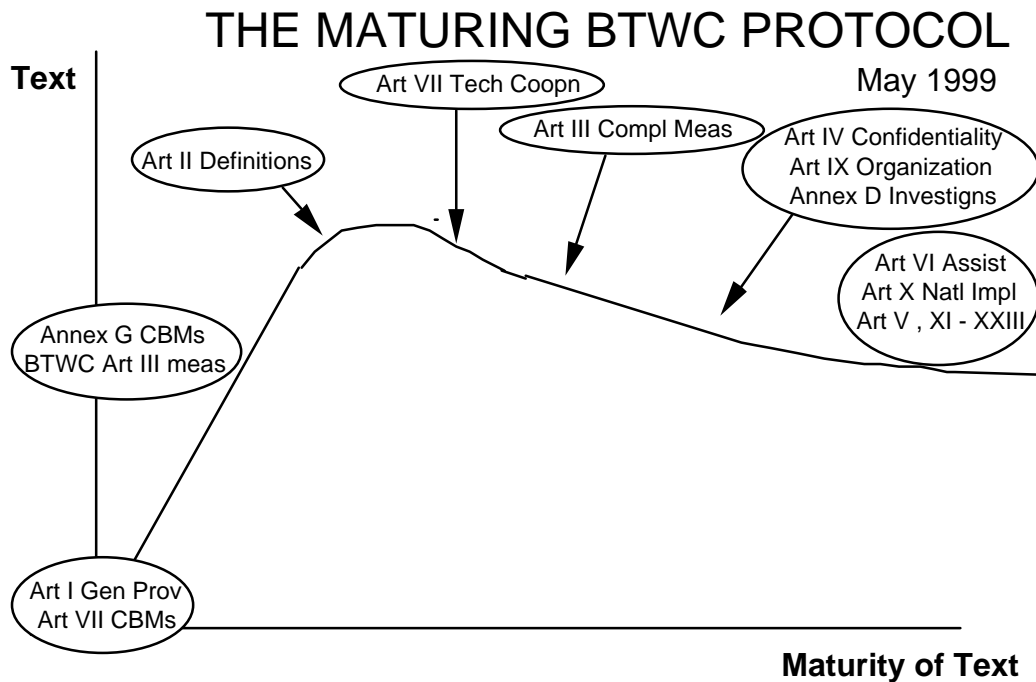
8. The overall assessment that emerges is that in a number of areas such as legal issues, confidentiality, organization, national implementation, assistance and Annex D Investigations the text for the Protocol is well developed. There are three principal areas -- Article III Compliance Measures (and its associated Annexes and Appendices) , Article VII Technical Cooperation and Article II [Definitions] -- where more work remains to be done. Article III Compliance Measures (and its Annexes and Appendices) comprises well over 100 pages of the draft Protocol and thus is much the largest task faced by any of the FOCs. Article VII has started to make progress in January and again in April 1999 with the recognition that measures to implement Article X of the Convention also contribute to strengthening confidence in compliance. Article II on [Definitions] is the only Article with its title in square brackets and much time and energy has been devoted to arguments about the potential implications of definitions on the Convention. There is much to be said in this area of

definitions for the AHG focussing first and foremost on the definitions **needed** to ensure that the measures such as declarations in the Protocol are unambiguous and hence that the information provided to the future BTWC Organization is comparable.

9. The development of the protocol can also be shown graphically by considering first the phases through which the text for the individual Articles and the Annexes proceed as they mature. This is shown below:



10. The actual development of the various elements of the Protocol can then be shown against the same graph.



11. This shows that a great deal has already been achieved especially in respect of Article VI Assistance, Article X National Implementation and the various legal issues Articles V and XI through XXIII. The Articles on Confidentiality (IV), Organization (IX) and the Annex D on Investigations are also well advanced. Progress is being made on Article III Compliance Measures and, in the last two sessions, on Article VII Technical Cooperation. Overall, it is evident that an effective Protocol can be achieved.

Conclusions

12. It is evident that the majority of the Articles in the draft Protocol have now reached the stage when they have had multiple readings and are unlikely to change significantly during the coming months as the negotiations enter the end-game. It is therefore timely to commence the production of a series of Evaluation Papers which will consider Article by Article the current state of each Article of the Protocol. These will subsequently be revised and updated to provide a Briefing Book for the complete Protocol when the Chairman's text appears. Evaluation Paper No 2 addressing Article X National Implementation Measures is the first in this series.