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**Before the Subcommittee on National Security, Veterans Affairs and International  
Relations of the House Committee on Government Reform**

**The Biological Weapons Convention: Status and Implications**

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Mr. Chairman, members of the Subcommittee, I appreciate the opportunity to appear before you today to provide Department of Defense (DOD) perspectives on the negotiations to complete an enforcement and compliance protocol for the Biological and Toxin Weapons Convention (BWC). DOD has been an active participant in these negotiations from the beginning. Over the past five years we have worked to help develop a legally-binding instrument to strengthen confidence in BWC compliance by providing greater transparency into relevant programs and activities.

The Department of Defense fully supports the goal of achieving a Protocol that augments our national security. A credible Protocol will provide an additional tool to assist in our larger effort to respond to the proliferation of weapons of mass destruction. However, it is important to acknowledge that biological weapons by their very nature pose a more difficult arms control challenge than other technologies. The items and activities covered by the BWC are nearly all dual-use; they are based on equipment and technology that have legitimate commercial and/or defensive purposes. Moreover, the time needed to convert legitimate production facilities for prohibited uses is often very short, in some cases a matter of hours. Furthermore, unlike chemical weapons, comparatively small amounts of biological weapons can be militarily significant, and can be produced relatively quickly. Thus, unlike chemical weapons, large-scale stockpiles are not required. Taken together, these factors all serve to limit the utility of traditional arms control verification tools.

As Ambassador Mahley has just explained, we do not believe that the Protocol being negotiated will be able to provide the kind of effective verification that exists in other arms control treaties. That is, it will not provide a high degree of confidence that we could detect militarily significant cheating. We therefore recognize that this Protocol will not "solve" the problem of biological weapons proliferation, even among the BWC States Parties who opt to join. But it can contribute to the more limited goal of strengthening confidence in BWC compliance by enhancing international transparency in the biological sphere. We see this as an important and useful contribution to our nonproliferation efforts.

In pursuing the Administration's goals, the Defense Department has worked to ensure that U.S. negotiating positions support a Protocol that would complement the nonproliferation and counterproliferation tools that we already have – and which indeed we are striving to buttress. These existing tools play indispensable roles in impeding proliferation and managing its consequences. Specifically, a BWC Protocol must not undermine our own biodefense programs

or those of our friends and allies. Likewise, we must ensure that it does not in any way weaken the existing system of nationally-based export controls, which continues to serve us well. Finally, we must protect sensitive national security activities that are not at all relevant to biological weapons technology.

Let me stress that the Defense Department is confident that current U.S. negotiating positions adequately protect these vital national security equities. The elements of the negotiations that most directly affect Defense equities are measures being considered on biodefense and related declarations, on-site activities, and export controls.

Let me turn first to this last issue, since in some ways it is the simplest and most straightforward. The national security importance of preserving effective biological weapons-related export controls is obvious. Such nonproliferation tools remain a proven means to impede proliferation. Our position on the potential relationship between a BWC Protocol and export controls is therefore very unambiguous. We would not support a Protocol that proscribes, curtails, or otherwise undercuts national export controls or multilateral political arrangements such as the Australia Group. Such multilateral regimes are vital to facilitate voluntary cooperation among like-minded states. Nor would we support any negotiating outcome that would infringe on States Parties' sovereign right to deny exports on a national basis, as they deem fit.

Recognizing that despite our best efforts, nonproliferation and arms control measures will never completely eradicate the threat of biological weapons proliferation, the Defense Department also places an extremely high priority on the ability to manage the consequences of any biological weapons proliferation or use. We continue to bolster our military preparedness to operate and prevail in a biological weapons environment. As part of our wider Counterproliferation Initiative, the Defense Department is focusing unprecedented resources on improving U.S. biodefense capabilities. Other agencies are involved in closely related efforts. Planned expenditures for defense against chemical and biological weapons total well over \$5 Billion in DOD alone for Fiscal Years 2002-2007 for research, development, testing, and evaluation (RDT&E) and procurement. Our biodefense program focuses on multiple areas including collective and individual protection, detection, treatment, and decontamination, and involves numerous government, contractor, and academic facilities of various sizes.

We are also working to increase biodefense cooperation with friends and Allies. Within NATO, the high-level Defense Group on Proliferation (DGP) continues to work to expand biodefense cooperation. For example, just this past July, the DGP sponsored a major biodefense seminar in Budapest, drawing together an impressive array of technical experts and policy officials. Additionally, the United States now has over sixty individual cooperative agreements in chemical and biological defense with more than twenty friends and allies around the world. These bilateral agreements span a broad spectrum of biodefense activities.

Because the U.S. biodefense program is so much larger than any other, it is inevitable that the United States will bear the greatest burden under any relevant BWC Protocol declaration requirement, including those that we ourselves are proposing. With that in mind, we have designed our approach to the treatment of biodefense and associated declarations in a BWC Protocol to meet three basic objectives. These are to: (1) allow consistent, accurate

implementation; (2) maximize the likelihood that activities in countries of concern would be captured; and, (3) not reveal gaps and vulnerabilities in U.S. biodefense efforts and those of our Allies. Our proposal seeks to achieve these goals by focusing on those current research and development (R&D) activities that are the most relevant for potential non-compliance (i.e. pathogenicity, virulence, aerobiology, and toxinology), at sites conducting more than a specified "level of effort". Thus, declaration requirements would be based on a combination of the type of work and the amount of work on relevant activities at a given facility. At the same time, we are also seeking to include a minimum declaration requirement, in order to ensure that countries of concern that might have relatively small biodefense programs will nonetheless have to declare them.

Closely related to declarations is the issue of on-site activities, such as visits and investigations. We expect that these will most often involve visits to declared facilities. Such on-site measures are a key element for enhancing transparency. At the same time, it is imperative for us to be able to protect sensitive national security activities that may be located in visited facilities or within investigation areas, but which are not relevant to the BWC. Here too we are confident that current U.S. negotiating positions will allow us to do this.

DOD has long and extensive experience in implementing on-site provisions of modern arms control treaties, including the Intermediate Nuclear Forces (INF) Treaty, the Conventional Forces Europe (CFE) Treaty, the Strategic Arms Reduction Treaty (START), and the Chemical Weapons Convention (CWC). Most of this experience relates to implementation at DOD facilities and protection of national security assets. At the same time, we must recognize that on-site activities for BWC will be very different from other treaties, including CWC. For example, BWC visits will monitor activities that are not prohibited, or even restricted, by the Convention. Nonetheless, that experience, particularly in CWC, offers some useful lessons for BWC regarding our ability to protect sensitive information and the possible costs involved.

Since CWC entered into force, approximately 215 inspectors from the Organization for the Prohibition of Chemical Weapons (OPCW) have participated in on-site activities at DOD facilities. These include more than 270 visits and inspections of typically 3-6 days at 47 chemical weapons storage and 56 former production facilities, as well as continuous monitoring at chemical weapons destruction facilities. The Office of the Secretary of Defense has centrally overseen and managed the preparation for and hosting of CWC inspections, through a DOD Chemical Weapons Agreements Implementation Working Group. The Military Services and various DOD components have individually established implementation support offices which actively participate in this process. In addition to more general treaty familiarization courses, the Defense Threat Reduction Agency's (DTRA) Defense Treaty Inspection Readiness Program (DTIRP) provides training on facility preparation and security countermeasures to government and defense-industry facilities. Although there have been no CWC challenge inspections to date, the Military Services have held exercises to test their preparedness for this possibility, and DOD has developed guidance, exercised procedures, and is organizing a mock challenge inspection for next year with actual OPCW inspectors.

To the best of our knowledge, none of these CWC activities has resulted in the disclosure of sensitive information, inadvertent or otherwise. At the same time, the costs involved have

proved less than might have been expected when the negotiations began. Between CWC entry into force in April 1997 and June 1999 (the most recent figures available), DOD spent approximately \$26 Million directly related to supporting CWC inspections. This money was spent escorting inspectors while they conduct inspections at DOD facilities, including dispatching advance teams to the facilities and providing transportation and accommodation for inspectors and DOD escorts. All told, total DOD costs for preparation and execution of the CWC, including from before entry into force through today, amount to some \$518 Million (excluding relatively low-cost site preparation costs by special programs offices and DTIRP). This total includes all DOD activities to meet our CWC requirements, such as determining declarable items and facilities, assembling declarations, developing implementation plans for routine inspections and challenge inspections, conducting practice routine and challenge inspections, and conducting research and development for improving verification and compliance activities and reducing impacts of those activities on DOD facilities. (It does not include relatively low-cost cross treaty preparation costs by special programs offices and DTIRP.)

Under the current U.S. negotiating position, a BWC Protocol would afford to us the same or greater ability compared to the CWC to protect sensitive national security information, with lower associated costs.

Compared to CWC, the on-site activities that the United States is arguing for in a BWC Protocol would be less intrusive, far fewer in number, smaller in scale, shorter, and diffused among a dramatically larger universe of facilities. We are proposing visits to a limited number of BWC-relevant facilities to increase transparency, promote fulfillment of declaration obligations, and familiarize a BWC Technical Secretariat with a country's biotechnology and biodefense infrastructure – not inspections at declared facilities to validate declarations that last up to a week. All visits and investigations would allow the United States to manage access through provisions equivalent to or even more protective than in CWC. Additionally, as in CWC, the U.S. is insisting that a Protocol include sufficient timelines between notification and commencement of visits or investigations, in order to allow time for site preparation. The U.S. is also seeking a distribution formula that would ensure that no State Party receives more than 20 non-challenge visits per five years, with no more than two of these at any one facility. Finally, in contrast to CWC, a Protocol would involve no continuous monitoring requirements.

I must reiterate that, while CWC offers an interesting basis for comparison with the planned BWC Protocol, there are likely to be as many differences as similarities. We therefore have endeavored to understand the implications of these differences, both to assist in developing our negotiating positions, and to prepare for eventual implementation. Early in the negotiations, in October 1995, DOD conducted a trial visit at a vaccine production facility. This trial underscored for us the unique challenges posed in dealing with dual-use, cutting edge technologies. Lessons learned included the importance of setting achievable objectives and the need for clearly articulated procedures. Currently, DOD is preparing to participate in National Trial Visits and Inspections as mandated by HR 3427. We are well along in our planning, including identifying funding, appropriate facilities, and both on-site and analytic personnel. We are working with other agencies to integrate DOD activities into the Administration's wider

National Trial Visit/Inspection effort, with the goal of conducting an initial "transparency visit" exercise later this year or early next year at a DOD facility.

In addition to differences between CWC and BWC inspection modalities, BWC measures will for the most part focus on a different universe of facilities. We therefore have worked to ensure that facilities that are likely to be affected are fully apprised of negotiating developments. For example, over the past two years my staff has provided classified quarterly briefings to relevant DOD elements and defense industry, soliciting reactions to various proposals under consideration at the Protocol negotiations in Geneva. This feedback has helped to shape USG positions on issues such as visits and declaration triggers and formats.

There is no question that there will be a steep learning curve in implementing the on-site provisions of a BWC Protocol, as is always the case whenever a new arms control treaty enters into force. That said, our prior experience and continual consultation with concerned DOD, other USG, and defense industry elements reinforces our conviction that, under the provisions envisioned in the current U.S. negotiating position, we can effectively protect national security assets.

Mr. Chairman, this is a complex negotiation, and I have only addressed some of the many negotiating issues, that are of particular concern to the Department of Defense. I would be pleased to answer any questions that you or other members of the Subcommittee may wish to pose. Thank you, Mr. Chairman.