

The New U.S. National Strategy for Countering Biological Threats

Under Secretary of State Ellen Tauscher officially launched the Obama Administration's new U.S. *National Strategy for Countering Biological Threats* on December 9, 2009 in Geneva.¹ The launch was held at the annual Meeting of States Parties to the Biological and Toxin Weapons Convention (BWC) – the global treaty, signed in 1972, that bans biological weapons.² The 23-page *Strategy*, clearly and concisely elaborates the broad spectrum of biological risks and threats, including serious infectious disease outbreaks that affect humans, whether of natural, accidental or deliberate origin, as well as diseases of animals or crops that might threaten food supplies fall within its remit. The solutions suggested to deal with these challenges are not always very specific, but they are of a nature that allows future policy to be adapted in a number of ways. The document also reflects a strong recognition that many issues cut across traditional policy boundaries.

The new U.S. biothreats *Strategy* appears to be aimed at two distinct audiences – domestically it is intended to drive policy development and internationally it seems to be designed to signal a greater engagement with these issues in comparison with the more unilateral attitudes of the previous Administration.

Changing Nature of the Threats and Risks

When the potential to manufacture effective biological weapons was limited to military programs, international controls had to focus on the activities of governments. Once peaceful civilian activities had advanced — both in scale and in technological sophistication — to the extent that it could be possible for non-state actors to use them for hostile purposes, the nature of the problem changed fundamentally. This dual-use nature creates a new frame of reference for WMD security problems — and in particular for biological weapons. The issue is no longer simply about weapons controlled by states, but also about the control of technologies outside of the ownership of governments that have not only peaceful uses, but also economically significant purposes. Too great an emphasis on the possibility of terrorist use in a domestic context, however, could lead to neglect of international efforts to prevent programs by governments.

At the same time as greater awareness was building of the vulnerability of modern societies to disruptions caused by deliberate misuse of the life sciences, such as the 2001 anthrax letters, concerns were also increasing regarding the harm that could result from natural outbreaks of new diseases, such as the spread of Severe Acute Respiratory System (SARS) in 2003 or the possibilities of a Highly Pathogenic Avian Influenza (HPAI or 'bird flu') epidemic. As many of the actions that would need to be taken to counter a deliberate spread of disease are similar to those to counter a natural outbreak, efforts have been increasing around the world to follow an all-hazards approach that would encompass a broad range of biological risks and threats.³

President Obama and his closest advisers have taken an interest in issues of biological threats for some time. In his foreign policy speech in Chicago on July 16, 2008 during the U.S. presidential election, candidate Obama stated, "it's time for a comprehensive effort to tackle bioterror. ... As President, I will launch an effort across our government to stay ahead of this threat. To prevent bioterrorism, we need to invest in our analysis, enhance our information-sharing, and give our intelligence agencies the capacity to identify and interdict dangerous bio-weapons around the world."⁴ A factsheet issued by the Obama campaign noted that the United States should lead "an international effort to diminish impact of major infectious

disease epidemics” and that, if elected, the candidate would “work with the international community to make any use of disease as a weapon declared a crime against humanity.”⁵

A New Policy or Repackaging?

Whenever a new strategy document is introduced by a new U.S. administration the most obvious question to ask is whether the new policy is truly new or is simply a repackaging of what has gone before. On close reading, the *Strategy* does indeed, reflect considerable substance. Some elements are similar to previous policy, but it has to be noted that the broad principles of reduction of biological risks and threats has had strong bipartisan support in the United States for many years. It would be a brave politician who declared that they were not concerned with such issues!

The *Strategy* “is targeted to reduce biological threats by: (1) improving global access to the life sciences to combat infectious disease regardless of its cause; (2) establishing and reinforcing norms against the misuse of the life sciences; and (3) instituting a suite of coordinated activities that collectively will help influence, identify, inhibit, and/or interdict those who seek to misuse the life sciences.”⁶ As none of these statements would have been strongly contested by the Bush Administration, it will be through action and implementation, not declaratory policy, that any measure of difference might become clear.

The assumptions underlying the *Strategy* have been included in the document and, again, most will be seen as uncontroversial. For example, one listed assumption is: “A biological incident that results in mass casualties anywhere in the world increases the risk to all nations from biological threats.” However, the term ‘biological incident’ is used with many different definitions around the world.⁷ One such ‘biological incident’ that caused fatalities in the United States was the anthrax letters of 2001 – an event that many commentators regard as a criminal event rather than a terrorist one. Given that the case involved five fatalities, it would hardly seem that this counts as causing “mass casualties.” The impact of such events, however, is not simply the casualties caused but also the disruption provoked.

Objectives of the Strategy

There are seven objectives outlined in the *Strategy*:

- Objective One: **P**romote global health security
- Objective Two: **R**einforce norms of safe and responsible conduct
- Objective Three: **O**btain timely and accurate insight on current and emerging risks
- Objective Four: **T**ake reasonable steps to reduce the potential for exploitation
- Objective Five: **E**xpand our capability to prevent, attribute, and apprehend
- Objective Six: **C**ommunicate effectively with all stakeholders
- Objective Seven: **T**ransform the international dialogue on biological threats

The phrasing the objectives of the strategy in this rather tortuous manner is deliberate in order that the initial letters spell ‘protect’. It is important to look beyond this hallmark of spin as the objectives encompass a coherent set of policy goals.

Comparison with Other Domestic Preparedness Activities

As noted above, the biothreats *Strategy* is clearly aimed at both a domestic and an international audience. As a commentator from overseas, it would be foolish to state with confidence how the new Strategy sits within the U.S. political system. However, the issues of biological risks and threats and being dealt with by many governments around the world, and there are comparisons to be drawn with these other efforts.

Across Europe, for example, countries have confronted challenges in reaching suitable liaison or coordinating arrangements between relevant government departments or ministries in dealing with new aspects of countering biological risks and threats.⁸ While a foreign ministry in a country will have routine and regular links with its defense equivalent, it may have few standing arrangements to interact with the departments or ministries dealing with education and health. Yet many of the new initiatives being taken around the world on these issues require just such collaborations – to introduce or promote codes of conduct for scientists, for example.

The issue of coordination can be even more complicated if policies for education or health are the responsibility of government at a more local level than the national government. In the United Kingdom, for example, the responsibility for oversight of security measures for dangerous pathogens is delegated to local police forces; while these forces have received some national guidance, it is too early to determine if oversight and advice is being provided in a consistent manner across the country. Some anecdotal evidence suggests otherwise. A further example is the German system of licensing overseas students with access to certain biological materials and technologies. Standards are set nationally, but it would appear that the individual Laender [regional governments] are implementing the standards in different ways.

The diverse nature of the U.S. governmental system means that to bring the administration, departments, agencies, and Congress together in order to pursue a particular policy line, it is often prudent to package the policy components together as a ‘strategy’ or an ‘initiative.’ As the political systems in other countries do not always need such a high profile initiative to implement policy developments, it is sometimes difficult to spot equivalents to such initiatives overseas. However, there are some comparisons to be made with certain European Union efforts of the last two years.

One such effort is the European Union’s “CBRN Action Plan,” adopted on November 30, 2009. The Action Plan contains 120 actions to fulfill 26 identified goals concerning prevention, detection, preparedness and response to the full spectrum of CBRN challenges.¹⁰ Many of these actions are cross-cutting, but 17 are specific to the biological sphere. The Action Plan is described as ‘a roadmap of intentions for the coming years,’ the elements of which are to be implemented by the EU Member States, the Commission and other EU bodies and agencies. The Action Plan is predominantly focused on implementation within the EU, but it follows on from the ‘CBRN Inventory’ – a compilation of relevant EU instruments and policy tools – that includes a section on ‘Non-Proliferation, Global Disarmament, Arms Control and Customs.’¹¹

The U.S. *Strategy* and the EU Action Plan cover much of the same ground. There are no substantive contradictions between the approaches and each may be able to draw lessons from the other. Both take an all-hazards approach to the spectrum of risks and threats. While the EU Action Plan is more detailed and specific about actions to be taken, it has drawn on work within the EU that has been on-going since 2002. The U.S. *Strategy* is clearly at an earlier stage of development as there still needs to be an allocation of specific roles and responsibilities within the federal government to support the elaborated objectives.¹²

A clear area of difference is the interaction of biosecurity measures with general health

policies. Across EU Member States a considerable consensus exists about the government's role in health policy and healthcare provision. This is clearly not the case in the United States where the question of the government's role in healthcare provision is a highly controversial issue on the current political agenda. The drafters of the U.S. *Strategy* appear to have carefully set limits on what is in the document in order not to become embroiled within the current controversy; however, this may prove to reduce coherence of policy in the event of the outbreak of a new variation of an existing disease, for example.

The U.S. *Strategy* also identifies five groups of stakeholders who have responsibilities and roles to play in addressing biological threats – the Federal Government, States and Localities, the Private Sector, Individuals and Families, and International Partners. However, no direct mention is made of academia and civil society.¹³ As a number of academic institutions carry out research work with pathogens and are active in investigating countermeasures this omission is somewhat bizarre.

International Perspectives

With the official launch of the new *Strategy* at a BWC Meeting, it was natural that the focus of international commentators and officials was on its implications for U.S. engagement with the Convention. That the launch was delivered by someone of the political standing of Under Secretary of State Tauscher was seen by representatives in Geneva as a positive move. The last time a policy statement was made by a U.S. official at such a senior level to a BWC meeting it was provided by John Bolton in November 2001. Under Secretary Tauscher indicated in her speech that she hoped to make another visit to the BWC for the Review Conference in 2011.

That one of the objectives is to “Transform the international dialogue on biological threats” is a recognition that the United States has not made best use of all the possibilities for international engagement in recent years. When the biothreats *Strategy* was launched, few diplomats were willing to go on the record with their reactions. Ambassador Magnus Hellgren of Sweden (representing the EU), however, was quoted by the Associated Press as calling the launch a “welcome contribution.” Nevertheless, he also indicated that he would be reserving his final verdict until 2011, the date of the next BWC Review Conference.¹⁴ A common response of delegates at the BWC Meeting was that the new *Strategy* was very inward looking, even though it was being launched on an international stage.¹⁵

A specific section in the discussion of the objective to transform the global dialogue on biological challenges focused specifically on international action related to ‘revitalizing’ the BWC. This contains little new of substance although it is written in much more positive terms than many U.S. statements of the past decade. Although it is not clear what is meant by this term, many officials and commentators around the world will welcome the suggestion by the United States that the BWC should be revitalized. It should be noted, however, that many of these officials and commentators also feel it was Washington's actions in the first place that led to the BWC being in the doldrums before its reinvigoration in 2006.

There are also some conflicting comments in the *Strategy* about the meaning of the BWC. While recognizing the BWC as an important international treaty expressing norms and obligations, the document also describes the BWC variously as a ‘venue’ and a ‘forum.’ The current arrangements for annual Meetings of States Parties (preceded earlier each year by a Meeting of Experts) often referred to as the ‘inter-sessional process’ could be described in these terms. Many countries, however, have wanted to move beyond the inter-sessional

process toward more substantive activities after the 2011 Review Conference. The most modest of these measures which has so far been suggested is a re-examination of the Convention's current system of annual Confidence-Building Measure (CBM) returns. The use of the venue/forum terminology implies that the United States is looking only at a continuation of the inter-sessional process. If so, it is difficult to see in what way the BWC might be 'revitalized' with this significant limitation placed upon it.

Verification Issues

A key area over which many countries disagree with the United States is the issue of verification. The Under Secretary included an unambiguous statement in her speech that Washington "will not seek to revive negotiations on a verification protocol to the Convention. We have carefully reviewed previous efforts to develop a verification protocol and have determined that a legally binding protocol would not achieve meaningful verification or greater security." While such language will not have pleased those who are in favor of a protocol, there are benefits in having this policy explicitly stated; any ambiguity may have led to the raising of false hopes for some BWC States Parties or outside experts as the Review Conference approached. However, the words stand in contrast to those of President Obama barely a week later in Copenhagen in relation to possible moves for an agreement on carbon emissions: "I don't know how you have an international agreement where we all are not sharing information and ensuring that we are meeting our commitments. That doesn't make sense. It would be a hollow victory."¹⁶ Nevertheless, the Under Secretary announced the United States would promote information sharing and 'work towards' the public posting of future U.S. CBM returns.

It is clear that the Obama Administration position on verification is more closely aligned with the policy of the Bush Administration than that of the Clinton administration which preceded it (the administration under which protocol negotiations were initiated). Under Secretary Tauscher stated: "It is extraordinarily difficult to verify compliance. The ease with which a biological weapons program could be disguised within legitimate activities and the rapid advances in biological research make it very difficult to detect violations. We believe that a protocol would not be able to keep pace with the rapidly changing nature of the biological weapons threat. Instead, we believe that confidence in BWC compliance should be promoted by enhanced transparency about activities and pursuing compliance diplomacy to address concerns. I know there are some that may disagree with this decision. Instead, I would urge you to join us in implementing the more robust BWC activities already underway."

Disagreements on this issue are overt. For example, the opening plenary statement by Sweden, representing the European Union, at the beginning of the BWC Meeting of States Parties stated: "the European Union recalls its commitment to the development of measures to verify compliance with the Convention." In its statement, The Group of Non-Aligned Countries and other States Parties to the Biological Weapons Convention¹⁷ said: "Our Group recognizes the particular importance of strengthening the Convention through multilateral negotiations for a legally binding Protocol." These two statements were made two days before Under Secretary Tauscher addressed the Meeting.

Compliance DDiplomacy

One phrase in the new *Strategy* that attracted particular attention from delegates at the Meeting of States Parties was "compliance diplomacy." Many people associate this phrase with the efforts of Paula de Sutter, Assistant Secretary of State for Verification and Intelligence in the Bush Administration (although its first use by the United States dates back

to the 1970s and bilateral superpower arms control issues). During the Sixth BWC Review Conference in 2006, the United States submitted a Working Paper that included the following section on 'Compliance Diplomacy': "The United States continues to consult with other states to help them build capacity for the type of work needed to assess and confront noncompliance effectively, not just in the BWC context, but in other treaty regimes as well. In 2004, the United States launched an initiative focused on what states can do, nationally, to assess the compliance of other States Parties with arms control, nonproliferation, and disarmament agreements and commitments. Since that time, the United States has held useful and productive discussions with officials from over seventy countries from throughout the world.

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Conclusions

The new U.S. *National Strategy for Countering Biothreats* is a milestone of some significance in the development of U.S. policy relating to the biological challenge, even though it contains little in specific detail that differentiates it from what has gone previously. That it was launched on the international stage by a political figure at the level of Under Secretary of State and later referred to by the President himself in his State of the Union address¹⁹ indicates that this policy has some traction at the highest levels of government. On the domestic front, it constitutes a coherent justification for obtaining supporting funds through the appropriate budgetary channels in Congress. The new *Strategy* will only retain any significance, however, if it is part of an on-going development. If the U.S. political focus moves elsewhere, and there is a sense that the biothreats issue has been somehow 'dealt with,' the ability of the United States to counter such risks and threats might be compromised.

Internationally, while the *Strategy* and the speech are expressed in positive language towards the BWC, the answer to whether this represents a significant step change in U.S. policy or is simply a repackaging of the existing situation will only be provided once the *Strategy* begins to be implemented. The *Strategy* notes: "The tone, tenor, and quality of the United States Government's efforts and that of our international partners will be important to determine our mutual success." This is probably the best summary of what might constitute a significant change in US involvement in multilateral processes such as the BWC.

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¹ The speech, and a link to the Strategy document, can be found at <<http://www.state.gov/t/us/133335.htm>>.

² Richard Guthrie has been writing daily reports from all of the BWC meetings starting with the 2006 Review Conference; these can be found at <<http://www.bwpp.org/reports.html>>.

³ Many governments similarly recognise this wide risk/threat spectrum. For example, the Russian opening plenary statement to the 2009 BWC Meeting of States Parties noted: 'A wide spectrum of biological risks includes emerging infectious diseases, industrial accidents and hostile use of dangerous biological agents and toxins'.

⁴ For a transcript of Barack Obama's remarks at Purdue University on 16 July 2008 see <http://www.cfr.org/publication/16807/barack_obamas_speech_at_the_university_of_purdue.html>.

⁵ Available as a PDF file from <<http://tinyurl.com/C21-threats-pdf>>.

⁶ US 'National Strategy for Countering Biological Threats', November 2009 [released 9 December 2009], p. 3.

⁷ Some users of the term 'biological incident' include events deriving from deliberate accidental and natural origins, whereas others include only deliberate events. Other definitions have referred specifically to threats from micro-organisms, and toxins derived from them, which would exclude events involving ricin (derived from castor beans) or other toxins such as snake venom. Other definitions of 'biological incident' have included hoax events which has sometimes led to confusion into the number of real incidents that have occurred.

⁸ Efforts within the European Union countries to identify which departments were responsible for activities relevant to the BWC are referred to in a Working Paper submitted by France and the United Kingdom (on behalf of the EU) to the Sixth BWC Review Conference: 'The Intersessional Programme of Work: its Utility and Contribution to Fulfilling the Object and Purpose of the Convention Between 2003-2005 and a Case for Further Intersessional Work After 2006', document ref. BWC/CONF.VI/WP.8, dated 20 October 2006, available via <<http://documents.un.org>>. The document notes the following questions asked, amongst others, within EU Member States: 'Could implementation mechanisms be improved?'; 'Were gaps in actual implementation identifiable?'; and 'Which government departments, agencies, and non-governmental entities had responsibility for implementing the Convention nationally?'

¹⁰ The draft plan, identical to that adopted on 30 November, is contained in: Council of the European Union, *Council conclusions on strengthening chemical, biological, radiological and nuclear (CBRN) security in the European Union - an EU CBRN Action Plan - Adoption*, document ref. 15505/1/09, dated 12 November 2009, 83 pp., available via <<http://register.consilium.europa.eu/>>. Note: two minor corrections have been published for this document.

¹¹ Council of the European Union, *Inventory of EU instruments relevant for addressing Chemical, Biological, Radiological and Nuclear risks ("CBRN Inventory")*, document ref. 10382/08, dated 5 June 2008, 100pp., available via <<http://register.consilium.europa.eu/>>.

¹² The Strategy document notes: 'While this Strategy provides strategic guidance for the departments and agencies of the United States Government, it does not articulate or assign specific responsibilities to Federal Departments and Agencies. The implementation of this Strategy, specific actions to be taken by Federal entities, and their specific measures of performance and effectiveness will be directed separately.'

¹³ ***THE ONLY OTHER PERSON I KNOW OF THAT HAS NOTICED THIS IS MARIE CHEVRIER. I HAVE SENT HER A MESSAGE ASKING IF SHE HAS PUBLISHED ANYTHING ON THIS.***

¹⁴ Elaine Engeler, Associated Press, as in: 'US wants tough bioweapons ban, but no verification', *Boston Globe*, 10 December 2009, <http://www.boston.com/news/nation/washington/articles/2009/12/10/us_wants_tough_bioweapons_ban_but_no_verification/>

¹⁵ This view was held by many delegates from EU Member States notwithstanding that the equivalent EU activities – the Action Plan and the Inventory – would be capable of being described in exactly the same manner.

¹⁶ Barack Obama, *Remarks at a Plenary Session of the United Nations Climate Change Conference in Copenhagen, Denmark*, 18 December 2009, <<http://www.gpoaccess.gov/presdocs/2009/DCPD-200901002.htm>>.

¹⁷ This group is often known as the NAM group for short, and includes all of the BWC member states which are not in either the Western Group or the Group of Eastern European States.

18 USA, 'Confronting Noncompliance with the Biological Weapons Convention', document ref. BWC/CONF.VI/WP.27*, dated 24 November 2006, available via <<http://documents.un.org>>.

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The President stated: 'we are launching a new initiative that will give us the capacity to respond faster and more effectively to bioterrorism or an infectious disease – a plan that will counter threats at home and strengthen public health abroad'. President Barack Obama, State of the Union Address, 27 January 2010, <<http://www.whitehouse.gov/the-press-office/remarks-president-state-union-address>>.