

# Transfer Report

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## Effectiveness of International Efforts to Control Biological Weapons: Activities of the European Union and the Limits of Regime Theory

### **Context**

This thesis is an examination of how the regime to control biological weapons is understood to be effective (or not) in the implementation of its aims and objectives.

A basic assumption underlying the work is that all of the member states and the institutions of the European Union agree that reduction of possible threats presented by biological weapons is desirable of itself and is not simply a proxy for achievement of another policy. Nonetheless, policy within the EU regarding biological weapons both benefits from and enhances activities in related policy areas.

The regime to control biological weapons both predates and is much broader than the 1972 Biological Weapons Convention. As the limits of the Convention are easier to define, most authors have deliberately selected the Convention as the focus of their analysis rather than the broader regime as this makes analysis much simpler. However, this focus on the Convention may inadvertently influence the results of research.

So-called 'weapons of mass destruction' (WMD), and the materials and technologies that contribute to them, have long been the subject of control efforts, many of which take the form of (or contribute to) international regimes. The control of WMD and their components

provides an interesting example of the development of EU policies on human security as well as those more obviously in national security. WMD are, by their very nature, political weapons rather than military ones. In the case of biological and chemical weapons, the utility on the modern battlefield is limited against protected military forces, while the potential for harm against unprotected civilian populations is severe. The control of the proliferation of WMD also forms an interesting case study to help understand how EU policy in this field has developed from declarative policies to practical action. However, in selecting practical actions, how did the Member States and institutions of the European Union decide which actions would be effective and by what means could such effectiveness be assessed?

### ***The dual-use nature of the WMD problem***

Many of the materials and technologies that might contribute to development of WMD programmes also have peaceful uses. This 'dual-use' nature can refer to both tangible and intangible features of materials and technologies which enable them to be applied to both hostile and peaceful purposes. An example of a dual-use material is thiodiglycol — a chemical in widespread use in industry, but also a close precursor to sulphur mustard (mustard gas). Dual-use technologies include fermenters and aerosolizers. An example of something intangible is the laboratory skill set a postgraduate microbiology student might acquire. On the nuclear side, this dual-use nature is easier to control as the types of locations that would have peaceful uses of relevant materials is relatively limited.

When the potential to manufacture biological or chemical weapons was limited to military programmes run by governments, international controls had to focus on the activities of governments. Once peaceful civilian activities had advanced — both in scale and in technological development — to the extent that non-state actors could utilize them for hostile purposes, the nature of the problem changed fundamentally. This dual-use nature creates a new frame of reference to the security problems of WMD — and in particular of biological and chemical weapons — the issue is no longer just 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.

The legitimate global trade in dual-use materials and technologies means that controls cannot be implemented on an *ad hoc* basis. Without basic agreement on what should be controlled, there is no chance of harmonization of controls — either on a global basis or for a trading bloc like the EU. This is a fundamental lesson from the activities of Iraq in the 1980s, when that country was able to procure a range of significant inputs into its chemical weapons programmes by selecting exporting countries which had not implemented comprehensive controls. Concerns that dual-use materials may be used for hostile purposes by non-state actors have highlighted needs for controls within as well as between states.

### ***Global WMD controls***

There is a long history of international legal measures to control WMD. The key multilateral instruments are: the 1925 Geneva Protocol; the 1968 [nuclear] Non-Proliferation Treaty (NPT); the 1972 Biological [and Toxin] Weapons Convention (BWC); and the 1993 Chemical Weapons Convention (CWC). However, these measures only form parts of the relevant overall regimes although much of the academic literature is focused on these specific legal instruments rather than the broader regimes that surround them.

A number of concepts for WMD control have emerged over the years, such as ‘non-proliferation’, ‘arms control’ and ‘disarmament’, and each of these have specific meanings, although there is considerable overlap between them. As global controls can contain elements of all these concepts, they are sometimes referred to collectively as ‘non-proliferation, arms control and disarmament’ (NACD) measures.

### ***The early 21st century debate***

The early 21st century policy debate on dual-use issues and related threats have been characterized by certain predominant themes:

- fears of terrorist or criminal use of biological, chemical or nuclear materials, substantially enhanced by the 11 September 2001 attacks in the US and the anthrax letters posted later that year;
- concerns that illicit trade in WMD-related materials and technologies could assist state or non-state actors in acquiring new capabilities;

- concerns regarding the harm that could result from natural outbreaks of disease, such as the spread of Severe Acute Respiratory System (SARS) in 2003 and the possibilities of a Highly Pathogenic Avian Influenza (HPAI or 'bird flu') epidemic; and
- the inability to use traditional methods of arms control following the rise of the Bush Administration in the United States, notably with its announcement it could not accept any result that might have come out of the on-going negotiations for a compliance protocol for the BWC.

Each of these themes created pressures for novel thinking, policies and activities.

The period in question saw the further rise of the EU as a global power. For 50-odd years, global efforts to control 'weapons of mass destruction' had been led by the superpowers, although the UK had a notable role in the negotiation of the BWC. With the remaining superpower no longer interested in traditional arms control and its former adversary now focused on other issues, the stage was set for the EU to play a substantially greater role than before. The emphasis by the EU on 'soft power' and its greater responsiveness to issues such as technical cooperation and assistance were seen as particular advantages in securing progress with less developed countries in tackling global problems.

There was also a difference in transatlantic perspectives on levels of threat, with much of the debate in the US focusing on a perception of increasing overall threats.

### **Selection of the regime to control biological weapons after 2001 as a case study**

Of the three areas of so-called WMD that are covered by international regimes, biological weapons have pertinent features that make them noteworthy and particularly suitable for a case study. The regimes to control chemical and nuclear weapons both have global inter-governmental organizations connected with them and the EU efforts in these fields went primarily into strengthening these existing bodies, their interaction with states and implementation of the relevant treaties within states. As there was no inter-governmental organization for the BWC, a number of issues had to be reconsidered from first principles by EU governments.

The BWC was in something akin to a crisis in the period following the arrival of the Bush Administration in the US in 2001. In the middle of that year, negotiations that would have strengthened the Convention — through the adoption of a protocol that would have included formal verification arrangements and an international organization — were brought to a halt when the US announced it could not agree to anything that might result from those negotiations. The scheduled five-yearly Review Conference for the Convention at the end of the year had to be suspended as no consensus could be reached – the first time a WMD treaty review had ever been suspended in such a manner. The Review Conference resumed at the end of 2002 and agreed a limited statement focused on a work programme for the following years that became known as the ‘inter-sessional process’.

While the protocol negotiations were on-going, the focus of the potential effectiveness of the regime to control biological weapons was on what might result from the negotiations. With the negotiations halted, how should effectiveness of the regime be assessed?

The arrival of the Bush Administration may be regarded as the start of a ‘harsh winter’ in multilateral NACD issues. At the same time as there was a greater awareness of the threat biological weapons posed — prompted in many cases through fears of terror attacks — there was also no coherent or cohesive thinking internationally on what was the best way to make progress on the subject. Moreover, political hostility from the US froze most multilateral NACD processes as well as there being some hostility towards the US the way it had introduced its new policies.

In the background, behind much of the thinking of the period, was a simple, but rarely explicitly raised, question with a complicated answer — *what should effectiveness mean in the context of the regime to control biological weapons?*

### **The Research Problem and Research Questions**

The Research Problem and the Research Questions are elaborated in detail in Chapter 2, but are summarized here for convenience. The Research Problem that this thesis seeks to resolve can be defined in the following terms:

In considering its policies regarding the regime to control biological weapons, what were the understandings of the European Union relating to the effectiveness of this regime and how did these understandings affect the policy choices adopted?

The first Research Question tackled in this thesis is:

How should success or failure in a regime such as that to control biological weapons be measured or categorised?

This Research Question has three sub-questions:

Should success/failure be measured on more than one axis?

Can the possible benchmarks or criteria used within assessment of regime effectiveness be related to principles, norms and rules (i.e., obligations) within the regime?

How much of the evaluation can be related to the *disaggregated regime* as well as the *overall regime*?

The second Research Question tackled in this thesis is:

As the EU focused on the regime to control biological weapons following the events of 2001, how did it understand the effectiveness of the regime?

This Research Question has three sub-questions:

What was the impact of overarching political influences, such as the EU WMD Strategy, on perceptions of and interactions with the regime to control biological weapons?

In translating broad policy guidance into detailed actions, what decision making mechanisms were used and how did these take into account any aspects of perceived effectiveness of the regime to control biological weapons?

How much of this evaluation can be related effectiveness of the *disaggregated regime* as well as the *overall regime*?

## **Overview of the structure of the thesis**

This thesis is organized in six chapters.

Chapter 1 'Introduction', provides a description of the context and background of the subject matter of the thesis in order to provide a broad illustration of why this area of study is of particular interest and to outline what this work seeks to achieve and where this work will add value to existing understandings.

Chapter 2 'Theoretical Framework, Research Questions and Methodology' presents the background to the theory relevant to investigating the research problem and related research questions. This chapter includes a review of literature in relation to Regime Theory as well as other theories of international relations and international governance. The concept of regime

effectiveness and the different understandings that have been developed in this area are explored.

Chapter 3 ‘The regime to control biological weapons’ examines the regime and includes a review of how this regime has been understood in the literature. Other documents in relation to the developments within the regime to control biological weapons. The chapter examines components of the regime as well as implementation of the regime. Principles, norms and rules (summarized as obligations) within the regime to control biological weapons are identified and discussed. Further details of some of the regime elements are provided in Appendix I.

Chapter 4 ‘Success and failure (“effectiveness”) in NACD regimes’ develops understandings of aspects of success or failure within the regime which might contribute to or diminish regime effectiveness, including examining whether more than one axis of success/failure should be considered. Identified potential benchmarks or criteria used within assessment of regime effectiveness are examined in relation to principles, norms and rules (i.e., obligations) within the regime to control biological weapons. An understanding of interactions between regimes and other governance systems allows for a more informed understanding of how regimes may be considered to be effective. These understandings also form a benchmark against which the activities of the EU institutions and Member States can be compared.

Chapter 5 ‘The EU and the regime to control biological weapons’ examines the activities under the umbrella of the EU in the regime to control biological weapons. The chapter starts with a brief overview of the development of policy at a high political level within the EU focusing in particular on the development of the WMD Strategy in the context of the EU’s Common Foreign and Security Policy. The chapter examines the impact of overarching political influences, such as the EU WMD Strategy, on perceptions of and interactions with the regime to control biological weapons. The EU institutions and Member States had to translate broad policy guidance into detailed actions, this chapter examines what decision making mechanisms were used and how these took into account any aspects of perceived effectiveness of the regime to control biological weapons.

Chapter 6 'Conclusions' draws together the themes developed within the thesis. A key issue examined in this chapter is whether the results of evaluations can be related to the *disaggregated regime* — that is the co-operative elements of the overall regime without including contributions to the overall regime that would have taken place if the regime had not existed — as well as the *overall regime*, including all national, sub-national, multinational and supranational contributions, irrespective of the motivation or derivation of the contributions?

Both Chapters 4 and 5 may be split into two if circumstances warrant it. One logical split for the Chapter 5 material may be to create an appendix with details of the sequences of particular EU activities.

### **Progress to Date**

The key task has been to build upon previous experience in the field of study and combine this with a more academic approach. Such an academic approach needs to draw upon relevant literature that the present author had not previously engaged with.

Literature relating to the understandings of regimes has been studied extensively, together with that relating to the regime to control biological weapons itself. It became very clear that the majority of literature on understandings of effectiveness of regimes, and of activities that contribute to regimes, was limited in its application to the regime to control biological weapons. Nevertheless, there is much written that assumes that such literature is applicable. This limitation to Regime Theory as it currently stands requires a response.

The key methodological challenge that arises from this thesis is therefore this lack of a previously tested method for understanding effectiveness of a regime such as that to control biological weapons. While the existing methods that have been used to understand effectiveness that have been identified within the thesis provide lessons and some tools for application in the chosen area, none are suitable in their entirety for the task required here.

A significant quantity of documentary data has been collected. Copies of all identified public statements (for which a written version was circulated) and working papers within formal meetings of the Biological Weapons Convention have been acquired. Significant progress has been made towards acquiring a full set of the unclassified papers circulated

amongst the EU Member States that relate to WMD policy in general and the regime to control biological weapons in particular. This has also required posting applications to have previously unpublished papers released, a process that has, thus far, achieved a 100 per cent success rate although it should be noted that papers likely to contain more controversial aspects of the developing policies are currently having their release status being reviewed. Further documentation has been acquired from EU Member States as well as some expert commentaries.

This acquired documentation has been collated within a searchable electronic database which allows for highlighting and coding of text.

It is possible to identify a relatively clear document trail outlining most of the major development in EU policy in this area. Taken together with other documentary sources from EU Member States and some academic commentary this provides a skeleton that of analysis that can be fleshed out through the use of interviews with officials involved in policy development and with those present at critical meetings.

### **Work Remaining**

The work that remains on this thesis can be broken down into the following categories.

#### ***Chapter 4/RQ 1 issues***

Substantial progress has already been made in identification and elaboration of success/failure axes. Once finalized, these have to be triangulated against the past documentary record and with previously identified obligations.

With this information compiled, it is possible to use this as a basis for interviews to examine how these compare with experiences of practitioners.

#### ***Chapter 5/RQ 2 issues***

The draft of the description, based on documentary evidence, of EU policy processes that have led to the policies outlined below needs to be fleshed out. Some of the documentation gives a sense of perspectives of what is understood by the concept of effectiveness, although his is

often couched in very vague language. Understandings of the development of following overlapping policies are sought:

- EU collective positions for BWC meetings;
- the 2002 concrete measures document; and
- the 2003 EU WMD Strategy.

Two other processes had potential to have been followed, but are now unlikely to be owing to constraints. However, they might be followed if time and/or circumstances allow:

- the New Lines for Action follow-up to the WMD Strategy; and
- the CBRN Inventory, leading to the CBRN Action Plan

Once the draft of this description has been completed, this can then be triangulated against previous understandings in the literature on EU policy processes.

It is then possible to carry out interviews with practitioners in order to draw out, as far as is possible, what their own understandings of effectiveness within the regime are.

### ***Drawing the thesis to a conclusion***

Current estimates of the time taken to complete the work outlined above for Chapters 4 and 5 are three months and five months respectively, although these will not be carried out in a strict sequence. Most interviews will contribute to both of these chapters.

Digesting the results, preparing the conclusions and finishing up writing up the thesis ensuring it forms a coherent whole is estimated at an additional three months.