Permanent Mission of Italy
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Working Group on the strengthening of the Biological Weapons Convention

Compliance and verification

Statement delivered by Amb. Leonardo Bencini, Permanent Representative of Italy to the Conference on Disarmament

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Chair,

First of all, let me warmly thank you for organising this morning's panel. I believe it was extremely informative and useful for this group, and it showed that there is a lot to learn from other regimes. Our work does not take place in a vacuum and this, in fact, should make it easier for us instead of the other way round.

Like other speakers before me, I would also like to thank the Friends of the Chair, Ambassador in den Bosch and Mr Martinez, for their work on this very delicate issue and also UNIDIR for its very useful and informative publications on the matter.

The IX Review Conference broke a twenty-one-year deadlock and, for the first time in all these years, we are again discussing the issue of compliance and verification and possible legal instruments to that effect.

The carefully drafted language of the Final Document was the result of many hours of negotiations and it was the best possible landing zone, perhaps not a broad runway but a sufficiently wide lane for our BWC flight to come to destination, hopefully soon enough. In spite of the difficult international context against which the Conference took place and this Working Group is taking place, certain political preconditions have changed and we have a window of opportunity that we should strive to keep open for the entire intersessional period and possibly beyond.

For this window of opportunity to remain open, however, every delegation has to maintain the same constructive spirit of a year ago. We have here a historic opportunity but we have to avoid maximalist positions that would not help concrete progress. The all-or-nothing approach did not work in the past and would not work in the future. We all need a certain level of pragmatism.

Even within the normal exchange of opposing argumentations that is to be expected of negotiation such as ours, we believe it is absolutely necessary to remain flexible and open to new ideas and arguments. While some elements of

the work carried out by VEREX and the ad hoc group until 2001 could be salvaged and reconsidered, we have to avoid making the mistake of turning the clock back and imagining we can start again from where we left off. Biotechnology and life sciences have changed too much, as has the overall geopolitical context. This is a different world that needs different instruments. We need to look at the issue of compliance and verification with a fresh pair of eyes and a new approach.

Chair, you will forgive me if I take a step back and try to frame the issues we are discussing today within the broader process we are engaged in. The IX Review Conference decided to develop two mechanisms, ICA and S&T, and established this working group to discuss the seven issues therein indicated. Let us be clear: the RevCon did not mandate this WG to develop a third mechanism on compliance and verification but to discuss and make recommendations on these measures, including the possibility of legally binding measures.

We believe that all the seven measures included in the Final document should be pursued in parallel; they, together, form a system that is the end goal of this intersessional period and the basis of concrete decisions to be made in order to strengthen the Convention. But within this system, some elements are more mature than others and could form the "early harvest" we envisaged in the Final Document to happen preferably by the end of 2025. For instance, the debate and the negotiations on the two mechanisms have gone quite far and we believe there is a concrete possibility to find consensus on this first, important step towards strengthening the Convention's institutional framework.

Having those two mechanisms in place would enormously improve our chances of developing a compliance and verification regime – why, indeed they would be a part of that regime. For a start, what we have in mind is a compliance and verification regime. Compliance and verification. Compliance is the goal, verification is only a means to an end, that is, a means towards compliance. This distinction is important because, if we can ensure compliance in different ways short of verification, then these ways should also be part of the overall regime.

If we had that ICA mechanism today we could tell it: please, help us ensure compliance of the BWC by finding the best way to help States ensure the safety and security of their biological facilities, to make sure that their laboratories do not fall into the hands of terrorists and rival armed groups, that those laboratories are indeed used to produce vaccines for that State's population, that that State can have access to an international ecosystem of biological research that would help its pharmaceutical industry and life sciences develop. And help us do that through the money that several countries would be willing to put in a Voluntary trust fund. So this is what I would tell an ICA mechanism today.

If we had an S&T mechanism – and, let me repeat, a mechanism where scientists would participate, not diplomats – we could tell it: please help us look at the issue of verification from a scientific point of view; let us know

what is feasible and what is not, what is desirable and what is unnecessary, what a given procedure would consist of, what costs it would have, what level of intrusiveness it would imply, so that then and only then the political decision would be made. It is not for this Group to talk about terminology, list of pathogens, threshold quantities, equipment, modalities of inspections and investigations and so on and so forth. We need sound scientific advice to look into all those technical issues and develop any consistent verification regime. And this is why we believe we should have an S&T mechanism in place as soon as possible as it would guide us through this process. Without one such mechanisms and its science-based advice – and, let me add, without the dialogue with industry that this mechanism could have – no sound and effective political decision can be made on verification.

As I said yesterday, we view compliance and verification as a composite regime comprising a mix of voluntary and legally binding measures, and as a continuum. This continuum can go from fully voluntary measures, including voluntary visits to facilities, especially BSL-4 laboratories, or voluntary transparency exercises, to mandatory CBMS and a mandatory peer-review mechanism; from surveillance networks and assistance to States parties to - further along this continuum - inspections and investigations.

Other measures of this type could be adopted. We regretted that the Review Conference could not include in its final version the reference to the Tianjin Biosecurity Guidelines for Codes of Conduct for scientists. This could have represented an important step towards the establishment of scientific networks mutually informing one another and operating with the same standards and adhering to the same principles and to a transparent conduct of their work. All these measures together would foster a culture of transparency and trust that would be immensely beneficial, and they would help implement the more intrusive, further measures along the compliance and verification continuum.

At some point, though, inspections will have to be carried out. There are useful lessons to be learned from the nuclear and chemical verification regimes, as we heard earlier today. In the case of biological weapons, however, routine inspections might prove to be more challenging. To begin with, there are potentially thousands of dual-use facilities around the world that could be inspected. This would entail enormous costs – and I am still not sure whether there is enough appetite in this room for a drastic, possibly ten-fold or even larger increase in assessed contributions to cover those costs. Besides, this type of inspections might create issues with intellectual property and confidential commercial information in a way that perhaps does not happen in the chemical field. These days many countries have biotechnology and pharmaceutical industries that might be somehow affected by these inspections. Furthermore, routine inspections would have to be mainly random, with the risk of generating a false sense of security, potentially more dangerous than even the absence of this type of inspections.

On the other hand, ad hoc inspections should be envisaged when there is reason to believe a violation of the Convention might occur or has occurred. In this, the main challenge will be to define what would trigger such a procedure,

and this has delicate aspects, from both a technical and a political point of view. Useful lessons could be drawn from other regimes also in this respect. One of the questions to be addressed will be what relation a BTW compliance and verification regime will have with the Secretary General's mechanism.

In conclusion. Mr Chair, we view the compliance and verification regime as a composite system made up of different components and instruments. Many ideas have been put forward at the IX Review Conference on various aspects of the Convention, and some of them are reflected on the Draft Final Document Rev1. Other new ideas are coming. These should be looked at, developed and made into individual components of the composite compliance and verification regime we should aim to build. Let us not get bogged down in the hopeless revival of a long-outdated mandate. Only by being bold, innovative and creative we can hope to be successful in our endevours.