



Permanent Mission of Italy  
UN - Geneva

## **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**

*Geneva, 7 December 2023*

Chair,

Thank you for giving me the floor a second time on the issue of compliance and verification. It is evident from the way this debate is shaping up that the issue remains a complex and challenging one. And we have not discussed this for twenty-two years. This is why we view these first three days of debate as a beginning – as a new beginning.

The reality is that we cannot simply wipe the dust off old speaking point or instructions and use them again. I believe no-one can deny that this is not 2001, biotechnology and science have dramatically evolved, the people in the room have changed or at least most of them, the general political context has changed, and not necessarily for the better, we have now over twenty years of verification experience from other regimes that we can draw useful lessons from, surveillance methods have drastically evolved, we have had Covid-19. This is a different world from the one in which VEREX or the ad hoc working group met and discussed and we have to realise that. Which is why we feel we have to finally get over that old process and move on. We do not see much merit in looking back. A clean slate is what we need, one that surely takes into account whatever lessons we might have learned from that experience, whatever ideas that might still be applicable today, but with a forward, not backward looking approach.

Let's face it, there probably is no silver bullet, no all-encompassing solution for BWC verification, or, if there is, it will take us time to find it and agree on it. In the meantime we have to improve the BWC. We cannot leave things as they are now, especially when you compare the BWC system with the other two, much more developed WMD's regimes and corresponding budgets. Our priority for the immediate future should be to develop the ICA and S&T mechanism while charting the way ahead on compliance and verification. We believe that eventually there will be two ways to strengthen the Convention: the first one is to strengthen its institutional framework and pave the way for a future implementing agency, such as the IAEA for the NPT and the OPCW for the CWC. The second way is a legally binding instrument on compliance and verification.

Those should be the end goals but we can get there incrementally, step by step, focusing first on the two mechanisms, improving the Convention with what is possible to achieve now, within this intersessional period, and even by 2025 as decide to try to do, without further delaying any improvement by simply aiming for the best possible solution, which might never be within reach. This is what I call a maximalist position and I think we need pragmatism, not maximalism.

This working group should clarify some key issues on compliance and verification. For instance, compliance with what exactly? We think we should not necessarily consider all the provisions of the Convention but that we should instead clearly focus on the BWC core obligation, or obligations, those contained in articles I, III and IV not to develop, produce, stockpile or transfer biological weapons, and to prevent all of this from happening in a State party's territory. While the obligations contained in articles I and III are negative obligations, requiring the concerned State to abstain from conducting such activities, in other words to abstain from developing biological weapon programmes, the obligation in article IV is a positive obligation, requiring that same State to take any necessary measures to prevent anyone from doing the above in its territory.

This difference has clear implications in terms of verification. Verification of compliance of article I could perhaps require a whole range of measures and procedures, while verification of article III – the obligation not to transfer or help develop biological weapons – would require also a different type of measures of procedures, as it would involve not just one but at least two States parties.

On the other hand, compliance with article IV could perhaps be accomplished with less intrusive means and in fact in full cooperation with the concerned State. This obligation is very much relevant to the issue of bioterrorism or to that of unintentional leaks from a laboratory and compliance would be determined primarily by the capacity or lack thereof of certain States parties to guarantee the safety and security of those laboratories, and not necessarily, or not at all, by their unwillingness to do so. Verification of compliance with article IV, therefore, might not need complex and intrusive procedures but could probably mainly rely on, for instance, the International and Cooperation Assistance Mechanism we are working to develop.

This is to say that the nature of obligation involves a different type of instrument. That is why we have to remain flexible when discussing verification.

An S&T mechanism could also be part, broadly speaking, of a general compliance and verification regime in that it would provide States parties the necessary scientific and technological grounds on which to base certain decisions on issues of compliance. Eventually, this body could be tasked with specific oversight functions of verification procedures or of specific verification instances.

In my previous statements I mentioned the possibility of a composite compliance and verification regime made up of both voluntary and legally binding measures. As legally binding, and that could be elements of a future Treaty, I indicated mandatory CBMs and a mandatory peer-review process. This process would have some elements of the consultative procedure envisaged in article V but it would make this procedure universal and periodic and not necessarily related to specific instances.

Another one of the legally binding components of a composite compliance and verification regime could be that of a list of indicators of compliance issues. These indicators could be of an essentially technical or of a more, so to speak, political nature. One indicator or a combination of indicators together could point the way to a possible breach of the Convention and therefore to the need for inspections.

As far as inspections are concerned, we have heard today and the past couple of days that today's technology offers us possibilities that in 2001 we could not even imagine. All the more reason not to look back to an old, obsolete mandate but forward, to something that we can put together here now, together.

One thing is certain: a verification regime should not be too detailed or specific as it would take years to negotiate and would be rendered obsolete within a few years by the fast pace of technology. The BWC has remained valid after fifty years because it was originally drafted in the most general and all-encompassing way and therefore it stood the test of time perfectly. A legally binding verification instrument should be the same, broad and flexible, if we want it to be an investment in the future.

There is one last point I would like to make. It concerns an issue that we should discuss sooner rather than later. It should be clear to all that, if our goal is a compliance and verification regime, then we must be aware from the beginning that this will cost money. Now the BWC budget is 2.1 million USD, and this covers only the ISU and the meetings that we hold. We heard yesterday from the AIEA and OPCW how much a verification regime costs. Any verification regime, even a light verification system, would cost significantly more than the current budget - fifteen times more if we take the OPCW as yardstick. I remember how difficult it was during the IX Review Conference to agree on one additional staff member for the ISU - one additional staff member. Any significant increase in the BWC assessed contributions would fall on all States parties but especially on the BWC main contributors. It is especially up to those countries to make sure from day one, that is from today, that it is worth embarking on this enterprise because we will put our money where our mouth is.

I thank you Chair