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SPECIFIC MEASURES FOR IMPLEMENTATION OF ARTICLE X
IN THE CONTEXT OF A COMPLIANCE REGIME FOR THE BWC

Working Paper submitted by Brazil

1. The mandate of the Ad Hoc Group, as set out by the 1994 Special Conference, is “to consider appropriate measures, including possible verification measures, and draft proposals to strengthen the Convention”. Among these measures, some are referred to as “measures to promote compliance with the Convention” and others are specified as measures “designed to ensure full and effective implementation of Article X”. Both sets of measures should be mutually reinforcing and should form a coherent regime, to be implemented through appropriate organizational arrangements (see BWC/SPCONF/WP.4).

2. In designing a compliance regime for the biological area, the following factors should be taken into account:

- The relative simplicity and worldwide diffusion of several technologies potentially relevant for biological warfare (BW);
- The important civilian applications of most of the relevant equipments, technologies and agents;
- The large number of facilities, activities and equipment which have potential BW application and which probably could not be excluded from the scope of the compliance measures;
- The fact that, for a great number of countries, biological disarmament and non-proliferation are considered low-priority issues, especially if compared with public health problems, which sometimes compete for the same scarce resources.

3. All these factors pose considerable problems for the organization or centre in charge of implementing the compliance regime in an efficient and cost-effective way. Such problems could be overcome through a synergistic approach including:

- Cooperative measures adopted by the organization in conjunction with national authorities (such as: helping in establishing and updating national biological databases, and in preparing declarations and reports; collecting and disseminating information on relevant biotechnological progress; making recommendations and providing technical

assistance for the improvement of national biological safety practices; cooperating in identifying and controlling outbreaks of new and emerging diseases; providing incentives for the development and diffusion of vaccines);

- The full exploration of existing multilateral resources (through the establishment of working relationships with multilateral organizations such as the WHO, OIE, FAO, and regional bodies which already possess considerable expertise in the surveillance, prevention and control of infectious diseases);

- The provision of a framework through which donor countries could provide voluntary contributions and assistance (in areas such as the training of national authorities, biosafety, diagnosis, identification of agents, development and production of vaccines).

4. Some of the cooperative measures could be implemented in connection with validation or information visits, during which the organization would also collect relevant information on biotechnological activities at one or several geographically close facilities (through the use, as appropriate, of interviewing, visual inspections and identification of key equipment). Validation or information visits, especially if they reach several facilities in a short period of time, would be less intrusive than inspections. One could envisage the possibility of preceding such visits with regional or national seminars (on implementation of the BWC, conduct of inspections, biosafety, identification of agents, diagnostics, vaccine production etc.) and of organizing them in conjunction with other multilateral organizations. By this means, one could involve a large number of companies in the private sector, as well as local research and production institutions, with compliance activities, while keeping to a minimum the element of intrusion and minimizing the risk of breach of CPI or of national security requirements.

5. Cooperative measures such as those outlined above would present several benefits. They would increase transparency and help the organization draw a picture of national biological activities. They would have a multiplier effect on the resources available for compliance, since they would make use of the existing capabilities of national authorities and other multilateral organizations. They would provide an element of deterrence against possible violation, by raising the possibility of follow-up inspections. They would provide a strong incentive for active participation in the compliance regime by those countries for which biological warfare is not a pressing concern. And they would be useful for strengthening compliance at the same time with Articles I and X of the BWC.

6. Of course, the cooperative approach outlined above would not constitute the only pillar of the compliance regime. Regional or national seminars, together with validation or information visits, would help the organization identify the more sensitive sites and facilities, about which more information is required and in which more intrusive, short-notice inspections could be applied. Such measures would be useful only if applied in the context of a coherent regime, which could include declarations, notifications, short-notice inspections, challenge inspections and investigation of alleged use. The efficiency and cost effectiveness of the whole compliance regime, as well as its effect of the protection of confidential proprietary information and national security, would have to be carefully assessed before the Ad Hoc Group is in a position to make concrete recommendations to States Parties.
