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The Biological Weapons Convention and the Weapons-of-Mass-Destruction-Free Zone in the Middle East

Working paper submitted by the Middle East Treaty Organization to the Fourth Session of the United Nations Conference on the Establishment of a Middle East Zone Free of Nuclear Weapons and Other Weapons of Mass Destruction

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By METO

Executive Summary

This report provides an overview of the key findings from METO's project survey exploring the intersection between the Biological Weapons Convention (BWC) and the future Weapons of Mass Destruction Free Zone in the Middle East (WMDFZME) conducted between July and November 2023. Some of the main findings are the following:

Main Challenges to BWC Compliance: The four main challenges in this area include the lack of verification and institutionalisation, transparency issues, compliance concerns, and geopolitical constraints.

Verification, Confidence Building and Institutionalisation: Challenges to effective verification include the absence of a formal international organisation and the technical complexities of biotechnology. Experts emphasise the importance of achieving consensus on establishing a transparent verification system involving various stakeholders.

Transparency, Information and Compliance: Transparency challenges in the BWC relate to the absence of a central focal point, common definitions of thresholds, and guidelines for new techniques. The need for inclusiveness and shared understandings of key concepts, along with the creation of a scientific advisory board. Compliance concerns include measures such as conflict resolution, consultations, and requests for emergency assistance.

Geopolitics: Geopolitical constraints in a multipolar world, marked by great-power competition, pose significant challenges to the BWC regime. Respondents stressed the need to depoliticise compliance concerns and address conflicting interests.

Biological Component of WMDFZME: The second part of the survey focuses on the overlap between the BWC and the WMDFZME. Respondents highlighted the universalisation of the BWC in the Middle East and capacity building as prerequisites for strengthening the biological component of the WMDFZME. They stress the need for regional expertise on weapons-of-mass-destruction-related topics.

Regional Implementation and Compliance Measures: Respondents propose various approaches, including regional peer review, trial inspections, and joint statements, to strengthen the biological component of the WMDFZME. They emphasise the importance of acknowledging region-specific threat perceptions and developing tools for transparency and confidence-building.

Practicalities: The report concludes by emphasising the benefits of strengthening the biological component of WMDFZME negotiations from an early stage. Regional initiatives, complementing multilateral discussions, are seen as essential, and support from BWC member states for the WMDFZME process is encouraged.

Policy Recommendations:

Enhancing verification of biological weapons and improving transparency: Establishing a transparent verification system with the participation of various stakeholders and seeking consensus on key definitions, including legally binding protocols and incremental confidence-building measures.

Strengthening Compliance Measures: Considering the creation of a regular consultative process and exploring options for independently ascertained evidence in compliance assessments.

Addressing Geopolitical Constraints: Depoliticising compliance concerns and seeking ways to navigate conflicting interests. Raising public awareness

of biological warfare, especially considering the geopolitical constraints in a multipolar world.

Strengthening the Global-Regional Nexus: Advocating for the universalisation of the BWC in the Middle East. Emphasising capacity building and regional expertise on weapons-of-mass-destruction-related topics.

Implementing Regional Compliance Measures for WMDFZME: Considering regional peer review or trial inspections as options. Encouraging coordination among states in drafting joint statements to build confidence. Engaging regional organisations and groups like civil society activists and religious leaders to support compliance measures.

Exploring Creative Approaches for WMDFZME: Investing in education and academic exchange to foster cooperation and build a regional model. Considering joint or unilateral declarations by states in the region regarding the immorality of biological warfare.

Support from the BWC Member States for WMDFZME process: Expressing support for the WMDFZME process through statements by state parties and encouraging reporting on WMDFZME developments at the next BWC Review Conference.

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Rationale and Methodology

This report summarises the main findings of METO's project survey with experts on biological weapons control gathered between July and November 2023. This survey was conceived as a follow-up to our participation in the 2022 Review Conference of the Biological Weapons Convention (BWC), held in Geneva between 28 November and 02 December 2022. The chief aim of this survey was threefold: (1) to shed light on the overlap between the regime regulating biological weapons and the current proposals for a Weapons of Mass Destruction Free Zone in the Middle East (WMDFZME), (2) to draw ways to bridge both processes and (3) to find synergies that enable to open conversations surrounding the biological component of the WMDFZME.

Methodologically, we conducted an asynchronous written survey that was submitted to a pre-selected list of experts and practitioners on biological weapons control and biosecurity. We selected a preliminary list of experts based on their active participation in the context of the BWC conference; then we expanded that list through a literature review of main publications in the field of biological weapons control, with an emphasis on the Middle East. We also asked contacted experts for suggestions of further names that we could add to our pool. In total, we received thirteen full-length replies to our survey (hereinafter "respondents"), from which 8 men and 4 women, who agreed that we use their answers under Chatham House rules (that is, without attribution). The survey consisted of the following open questions:

1. *What are the main challenges to strengthening compliance measures for the BWC?*
2. *In your view, what constructive efforts (past & present) have been taken to strengthen the BWC? What further efforts would you propose?*
3. *Which of the efforts from above – if any – could be applied at the regional level in a future WMDFZ in the Middle East?*
4. *How feasible is establishing a Biological Weapons Free Zone (BWFZ) in the Middle East as a step toward the BWC universalisation and the eventual WMDFZ?*
5. *How can BWC state parties support the UN Conference on a WMDFZ in the Middle East?*

The rationale behind those questions was to guide a narrative line in which experts were first asked to provide general thoughts about the strengths and weaknesses of the BWC regime, second, they were asked to think about the possibilities of bridging that regime with the WMDFZ process and proposals. This report is divided by following both those narrative lines and ending with a conclusion.

The Biological Weapons Convention Regime: Main Challenges and Constructive Efforts

The BWC was entered in 1975, being the first treaty ever to prohibit the development, production, acquisition, stockpiling, or transfer of an entire category of weapons. At the core of the BWC, Article I - the so-called "general propose criterion", prohibits all types and quantities of biological materials with no justification for peaceful uses. The Convention also provides measures for assistance and cooperation in technical and technological development in the biological field.

Being the oldest of the four key treaties governing WMD non-proliferation and disarmament, the BWC is the least institutionalised of those regimes, with no implementing organisation and no standing verification process.1 It holds, nonetheless, a fair record and has a high adherence number, with 183 state parties (as of January 2022). Its language and endurance also contributed to the development of a global norm against biological warfare, articulated as "a moral taboo", as highlighted by one of the respondents.

The main challenges pointed out by respondents of our survey were (1) the lack of verification and institutionalisation of the BWC regime, (2) the lack of clarity and transparency on how to interpret the different information, (3) concerns associated with compliance and on how to ensure compliance; (4) geopolitical constraints that spill over to the BWC regime. Those four aspects overlapped with each other in damaging the effectiveness of the regime by allowing some violators to continue offensive bioweapon programmes without being detected and by harming proposals on how to improve the BWC regime.

1) Verification, Confidence Building, and Institutionalisation

The BWC was drafted before an "international verification culture" existed. Following the 3rd Review Conference (1991) and the negotiations on the

1 Those treaties are the Biological Weapons Convention, the Chemical Weapons Convention, the Treaty on the Non-Proliferation of Nuclear Weapons, and the Treaty on the Prohibition of Nuclear Weapons.

Chemical Weapons Convention coming to a close, BWC state parties began exploring possible verification measures in 1992. An ad hoc group of governmental experts - whose mandate still exists - was set up in 1994, and suggested, among other issues, the creation of an independent organisation. It was, however, abruptly halted in 2001, and those efforts to negotiate an international disarmament verification protocol from the 1990s did not succeed. Since 2002, however, the state parties established an intersessional process, which a respondent noted as "probably the most consistently effective and influential constructive effort" implemented so far in the BWC context.

In 2006, State parties agreed to establish an Implementation Support Unit (ISU) within the UNODA in Geneva. Nevertheless, the ISU does not have any responsibilities involving transparency and verification aside from collecting and making available annual confidence-building measures (CBMs) in the form of reports. It does not analyse the submissions. Those CBMs, noted a respondent, take the form of a peering ("peer-review") process on national implementation and it provides a useful tool to create confidence and, at the same time, share good practices. There are similar experiences from promoting export controls through projects that involved comparative analyses of the systems used by different countries - that worked well as long as it was managed as a partnership approach rather than a one-sided transfer of methods and approaches.

More recently, the establishment of intersessional meetings has supported more sustained interaction between state parties and has helped advance more pragmatic and practice-oriented perspectives on some issues. In the most recent BWC Review Conference in 2022, state parties agreed to resume discussions on verification as part of a newly established Working Group. This offers now a particularly good opportunity for experts to present new ideas, in particular NGOs, industry and academia.

Effective verification is, furthermore, hindered by two specific characteristics of the BWC regime. First, due to the absence of a formal international organisation that may conduct inspections and centralise otherwise diffuse inspection and bureaucratic activities. As noted by many respondents, state parties hold fundamentally different views on what verification means and on which is the best way to strengthen the BWC. One respondent, for example, highlighted the difference between an approach based on a legally binding protocol and an incremental approach that would develop confidence-building measures, eventually leading to verification activities. Second, due to the technical specificities of biotechnology, effective disarmament and non-proliferation efforts are more difficult. Those specificities include the fragmentation of the biotechnological industry, the

reproducibility of the samples (like bacteria or viruses), and the existing, but also dual-use new technological developments (could be diverted toward weaponization) like gene editing.

To achieve effective verification, therefore, a minimum consensus should be achieved on how to proceed with establishing a verification system that ensures compliance but also tackles issues such as a balance between freedom of research and technical development. For that, most respondents highlighted the need for a transparent process with the broader participation of multiple actors, including research, academia, civil society, and bioindustry. Another associated measure is to raise awareness among relevant groups, particularly those involved with the bio and pharmaceutical industries. One respondent, for instance, noted that in their lab, no one was even aware that BWC even existed.

2) Transparency and Information

The second big challenge is intrinsically associated with the first, and it is associated with transparency among state parties on how they interpret different information, and on which kind of information they deem important to share. A respondent called transparency the "Achilles' heel of the regime", meaning where most divergence takes place, and where trust and confidence measures should be developed before any further commitment is made.

Since the BWC is a low institutionalised regime, there is no central focal point that can gather information, select what information is worth collecting, and provide guidelines on how to comply with the dispositions of the convention. This means that the state parties rely solely on each other to provide transparency and reliable information about what they are doing in the biological realm, without a mediator nor a common understanding of the language.

The transparency issue is further hampered by missing common definitions on thresholds and by missing guidelines on how to approach new techniques. Defining the threshold for what constitutes a biological weapons program is challenging. A respondent raised, for instance, two fundamental questions: What exactly needs to be verified? Is it the presence of a full-scale or large-scale bioweapons program, or should verification also consider smaller-scale activities? Another respondent stressed the need to discuss and promote shared understandings of key concepts, considering the full range of stakeholders, current threat perceptions and the current state of relevant science and technology. Inclusiveness was also pointed out as a relevant issue and one respondent suggested state parties to move

forward with the creation of a scientific advisory board to support the intersectional work.

3) Compliance

The third challenge is associated with compliance, which ensures that commitments under the BWC are being followed. Compliance measures in the BWC encompass a range of activities, including conflict resolution and consultations (Art. V), formal complaint submissions (Art. VI) and requests for emergency assistance (Arti. VII). Those measures are intrinsically associated with fostering transparency and expanding existing confidence-building approaches among state parties. A respondent divided BWC compliance measures into two categories–first, confidence-building measures in the form of unilateral declarations; second, the option to engage in consultations at the request of another state party. Another respondent suggested the creation of a regular consultative process that is not to compliance processes and would involve a collective review of data as a way to build trust among parties.

Regardless of the form of compliance assessment, more than one participant also highlighted that compliance assessments, whichever form they take, should be grounded on independently ascertained evidence rather than on interpretations of data provided by parties directly involved in a dispute. On that issue, the absence of an international organisation was noted, and suggestions on how to overcome it by including a case-by-case analysis by the UN Secretary-General or the definition of a specific forum or panel that could assess compliance.

4) Geopolitics

The fourth and biggest challenge consists of geopolitical constraints that spill over to the BWC regime. In a multipolar world still - and ever more - influenced by great-power competition and with multiple emerging actors, access to biotechnology has been made much easier, and the risk of development and use of bioweapons is much higher. Even if biological weapons are not to be developed, geopolitical constraints and changing political relations contribute to making their control harder and even less effective. On that note, a respondent noted the need to "depoliticise" issues like compliance concerns and another pointed to the "many conflicting interests" that hinder agreements on implementation issues. Besides the general issues at the global level, some respondents also highlighted the loss of attention among societal actors. In spite of the COVID-19 Pandemic, biological warfare has not reached the necessary level of public awareness–and most likely, this lack of awareness also includes those in government and policy circles.

The Biological Component of a WMD Free Zone in the Middle East

The second part of the survey focused on the overlap and interrelations between the BWC and the Weapons of Mass Destruction Free Zone in the Middle East (WMDFZME). The idea of a WMDFZME is decades old and was first proposed by Egypt in 1990 with support from Iran. Such a zone aims to eradicate chemical, biological, and nuclear weapons from all 22 Arab countries in the Middle East and North Africa, as well as Iran and Israel. The notion of establishing a WMDFZ in the Middle East resurfaced during the 1995 Nuclear Nonproliferation Treaty (NPT) Review and Extension Conference and since then, it has become an ever-present topic both within the nuclear non-proliferation community and the United Nations.

Other avenues to convene the conference outside the NPT process were then explored and, in 2018, the UN General Assembly issued a resolution calling for a "Conference on the Establishment of a Middle East Zone Free of Nuclear Weapons and Other Weapons of Mass Destruction" (the November Conference). This annual conference will be held until a legally binding treaty establishing a WMDFZME has been negotiated on the basis of arrangements freely arrived at by the states of the region. The first conference took place in November 2019 at the United Nations Headquarters in New York. All 22 Arab states and Iran participated, as well as four nuclear-weapon states (China, France, Russia, and the United Kingdom). The United States and Israel did not participate–nevertheless, they continue to be invited to participate in future annual sessions of the conference. The second conference in November 2021 led to the establishment of a working committee, facilitating ongoing intersessional meetings coordinated by the UN Office for Disarmament Affairs. The most recent session in November 2022 saw the adoption of an outcome document through consensus, paving the way for continued discussions on thematic areas in both technical and political aspects.

The eventual establishment of a verifiable WMDFZME will require regional countries to join all WMD-related conventions and treaties. This, in turn, will contribute to the universalisation of such treaties and conventions, including the Nuclear Non-proliferation Treaty (NPT), Chemical Weapons Convention (CWC), the Biological Weapons Conventions (BWC), Treaty on the Prohibition of Nuclear Weapons (TPNW) and the Comprehensive Nuclear Test Ban Treaty (CTBT). Within this context, respondents were asked to think broadly about which efforts from the general BWC regime could advance negotiations, about the feasibility of a biological-weapon-free zone in the Middle East, and about steps that BWC state parties could make to support the WMDFZME process.

Most respondents emphasised that any progress concerning the biological component of the negotiations should also be accompanied by broader trust-building measures that tackle the broader security environment in the Middle East. The common points in the main replies focus on (1) the pre-requirements for advancing the biological weapons components of the WMDFZ in the Middle East; (2) ideas on how to implement compliance measures regarding biological weapons non-proliferation; (3) practicalities and the way forward.

1) Pre-Requirements

When thinking about the pre-requirements that could strengthen the biological component of the WMDFZME process, most respondents highlighted two aspects, namely, the universalisation of the BWC regime in the region and capacity building. All states in the MENA region, with the exception of Egypt, Somalia and Syria (signatory states), and Israel, Comoros, and Djibouti (non-signatory state), are party to the BWC, therefore, "all of the measures" cited in the first part of this report would also "be available to them, even though their implementation on the national level may be uneven".

A region-wide participation in the BWC, however, would provide a forum of meetings and discussions where minimum agreements would be possible. Despite the lack of institutionalisation, the BWC provides good examples "on how expert discussions on concrete practical measures may facilitate common understandings in less politicised areas." Examples from the biological realm "that may also be useful in the Middle East context could include, among other things, cooperation to enhance preparedness, assistance, prevention and mitigation measures in the case of biological incidents, including but not limited to biological weapons-related incidents'', as noted by one respondent.

Second, experts highlighted the need to develop regional expertise and know-how on weapons-of-mass-destruction-related topics, particularly in the biological sphere. This includes not only building regional expertise on biosecurity and biotechnology, but also reaching out "to all relevant stakeholders and making them aware of the risks of proliferation, dual use, and technology transfer", as one respondent pointed out. Such a community could, moreover, support early cooperation "at a technical level in limited areas" that may gradually build up "as effectiveness is demonstrated and trust grows". In a nutshell, one respondent noted that "political stakes start out small, so failures can be shrugged off and alternative ideas tried instead".

2) Regional Implementation and Compliance Measures

When asked about how to apply the BWC proposals to the WMDFZME process, respondents followed different paths. While noting that the BWC does not "exactly provide usable blueprints" for the region, most experts expressed different options on how to strengthen the biological component of the WMDFZME. Such ideas can either complement broader multilateral efforts or become forerunners for broader multilateral mechanisms. They could also help create confidence in new security systems among parties in a particular regional context that has its own security dimension that might not be easily addressed in a broader multilateral global framework.

Some respondents took a traditional approach by arguing that "regional peer review or trial inspections could be one option". Others suggested a less intrusive and gradualist approach, starting with the coordination among states from the region towards drafting joint statements in the BWC context and pursuing broader dialogue around biotechnology, biosecurity, and biosafety issues. A respondent argued that initiatives focused on education and academic exchange could turn the region into a "model of cooperation". By investing in security education and raising awareness about biological weapons threats, states can work together to mitigate risks. This is where there is an opportunity for the Middle Eastern states to take the lead on such initiatives rather than be dictated by "the United States and usual European states". In that process, a suggestion was also made to include existing regional organisations like the League of Arab States and broader groups like "civil society activists and religious leaders" who may support in highlighting the "immorality" of biological warfare. One expert also pointed out the relevance of joint or unilateral declarations by states in the region "that biological weapons are not" and should not be "part of military doctrine in any form."

Other respondents proposed more creative approaches that considered "regional specifics", including the need to acknowledge region-specific threat perceptions and "develop tools to enhance transparency and confidence to alleviate security concerns". One such idea centred on identifying a set of procedures on how compliance concerns could be addressed at the regional level before (or instead of) creating any kind of new bureaucracy. A respondent suggested that WMDFZME state parties establish a panel of experts with a mandate to receive non-compliance complaints and provide options and suggestions to states involved in those complaints. Such suggestions could include "interaction and cooperation, consultation, peer reviews, appointment of special investigators, bilateral visits, or even inspections". In a similar tone, another respondent argued that "Given the overall political difficulties in the region that would likely persist

even if a WMDFZME were established, ongoing confidence-building and regular, structured interaction between the parties would remain important. Regular submission of confidence-building measures tailored to WMDFZME-relevant information as well as regular meetings with a set agenda, but also with room for ad hoc exchanges, might be a useful approach".

Another expert pointed out that the biological component could be a good starting point to negotiate a broader WMDFZME - "a [biological-weapon-free zone (BWFZ) in the Middle East] would certainly represent a significant step towards universalisation of the BWC. Demonstrating the feasibility of security cooperation in the region might also be an important step on the road to a WMDFZME". There was also an acknowledgement that a BWFZ, even though verification would remain a significant hurdle to overcome, could be more feasible than a nuclear-weapon-free or a chemical-weapon-free zone. The primary reasoning for this has been that biological weapons are currently viewed as having a lower security concern than nuclear or chemical weapons. There are also additional incentives that could be derived from the interconnection of biological weapons defence and preparedness with public health issues. There was, however, some caution that the feasibility of a BWFZ is intertwined and dependent on existing political linkages between all three weapons categories under discussion in the context of an eventual WMDFZME. On that latter point, another expert pont out a counter-perspective by arguing that "either the efforts to non-conventional weapon elimination limit themselves to nuclear weapons (after all, it is an NPT initiative) or all four categories of weaponry [that is, biological, chemical, and nuclear weapons, as well as delivery systems] are included in the discussions." Similarly, another expert pointed out that the "WMDFZME concept is a package approach that will help balance different perceptions and priorities in regional security and that formally creating a zone dealing with only one of the elements would be counterproductive."

3) Practicalities and the way forward

In general, most respondents emphasised the need to strengthen the biological component of the WMDFZ negotiations from an early stage and stressed that, if progress is achieved, the Middle Eastern success will spill over globally. An expert noted that "we have some experience with this interplay between regional and global negotiations, from the [Chemical Weapons Convention (CWC)]: there were in the late 1980s trilateral consultations about a possible CW free zone in the Middle of Europe, involving [East Germany, West Germany and Czechoslovakia]. They were conducted in parallel to the [Conference on Disarmament (CD)] negotiations and although it is difficult to ascertain what particular effect they had on the global outcome or between those countries, they certainly supported

the global process." Regional initiatives can, therefore, build trust and "test certain procedures that are being discussed in the broader global context or additional safeguards approaches could be developed."

As the BWC is now entering a process of multilateral discussions on compliance and verification, this is good timing for complementary regional initiatives. In that regard, member states of the BWC should express support for the WMDFZ in the Middle East process and consider that it would strengthen the BWC with all its prohibitions. The next BWC Review Conference could, for example, include "a statement in support of the BWFZ in the Middle East". Likewise, state parties of the WMDFZ in the Middle East negotiations could report on their developments to "the OPCW and the BWC parties", similar to the reporting done in the NPT framework.

Since the biological component is the "least problematic of the three categories", it may be a good starting point to reach a minimum consensus. At the same time, as noted by a respondent, the "BWC may offer a framework that might make it relatively easy for States with particular interests in the Middle East to cooperate on practical issues that would come up in the zone discussions. In other words, the BWC community could encourage the Middle East zone process to develop and test practical measures both with regard to regional compliance management and the development of regional cooperation structures and mechanisms that would, in turn, support BWC implementation."

Policy Recommendations

The following policy recommendations aim to address challenges in biological weapons control, enhance transparency, and contribute to the establishment of a Weapons of Mass Destruction Free Zone in the Middle East.

Enhance BWC Verification:

- Establish a transparent verification system with the participation of various stakeholders.
- Seek consensus on the definition of verification and explore different approaches, including legally binding protocols and incremental confidence-building measures.

Improve Transparency in BWC:

- Address the "Achilles' heel" of the regime by fostering transparency

among state parties.

- Develop common definitions and guidelines for interpreting information, especially concerning thresholds and new techniques.
- Create a scientific advisory board to enhance inclusiveness and shared understandings.

Strengthen BWC Compliance Measures:

- Consider the creation of a regular consultative process and explore options for independently ascertained evidence in compliance assessments.
- Explore the establishment of an international organisation or a dedicated forum to address compliance concerns effectively.

Address Geopolitical Constraints

- Depoliticize compliance concerns and seek ways to navigate conflicting interests.
- Raise public awareness of biological warfare, especially considering the geopolitical constraints in a multipolar world.

Pre-Requirements for WMDFZME

- Advocate for the universalisation of the BWC in the Middle East.
- Emphasize capacity building and regional expertise on weapons-of-mass-destruction-related topics.

Implement Regional Compliance Measures for WMDFZME

- Consider regional peer review or trial inspections as options.
- Encourage coordination among states in drafting joint statements to build confidence.
- Engage regional organisations and groups like civil society activists and religious leaders to support compliance measures.

Explore Creative Approaches for WMDFZME

- Invest in education and academic exchange to foster cooperation and build a regional model.
- Identify region-specific threat perceptions and develop tools for

transparency and confidence-building.

- Consider joint or unilateral declarations by states in the region regarding the immorality of biological warfare.

Emphasise Early Strengthening of Biological Component in WMDFZME Negotiations

- Stress the importance of early attention to the biological component in WMDFZME negotiations.
- Recognize that progress in the Middle East could have global implications.

Support from BWC Member States for WMDFZME

- Express support for the WMDFZME process, potentially through statements at the next BWC Review Conference.
- Encourage reporting on WMDFZME developments to international bodies like the Organization for the Prohibition of Chemical Weapons (OPCW) and BWC parties.

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