Chemical and Biological Weapons in Regional Disarmament in the Middle East and North Africa

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ABSTRACT
In November 2019, a new series of annual one-week meetings began to eliminate non-conventional arms – essentially nuclear weapons, and to a lesser extent chemical and biological weapons (CBW) – from the arsenals in the Middle East. It followed the acceptance of Egypt’s proposal for a new conference by the First Committee of the UN General Assembly on 22 December 2018. The new Conference derives its mandate from the Resolution on the Middle East, adopted at the 1995 Review Conference of the Nuclear Non-Proliferation Treaty. Besides expanding the original idea of a Nuclear Weapon-Free Zone (NWFZ) to one that would also cover CBW, it also requires the regional disarmament initiative to be verifiable. This enlarged scope for regional disarmament in the Middle East presents significant challenges for the negotiating parties. While the NWFZ primarily addressed security relationships with Israel, chemical weapons and their past and present use in the Middle East affect other regional fault lines. This article traces how CBW were inserted into the objective of a NWFZ for the Middle East. It then discusses the legal regimes governing CBW, their status in the region and implications for a regional zone exempt from non-conventional weaponry. The demand for effective verification poses multiple challenges because of the processes in the CBW disarmament treaties. The paper finally discusses steps the Conference could consider for building trust and confidence while negotiating the regional treaty framework.

Introduction
In November 2019, the Conference on the Establishment of a Middle East Zone Free of Nuclear Weapons and Other Weapons of Mass Destruction held its first session. The new series of annual one-week meetings to eliminate non-conventional arms – essentially nuclear weapons (NW), and to a lesser extent chemical and biological weapons (CBW) – followed the acceptance by the First Committee of the UN General Assembly (UNGA) of Egypt’s proposal for a new conference on 22 December 2018 (UN General Assembly 2018). The COVID-19 pandemic forced postponement of the conference’s second meeting until November–December 2021.

The previous initiative had died in 2015 when the review conference of the 1968 Nuclear Non-Proliferation Treaty (NPT) ended without a consensus document. It had its origin in a resolution adopted at the 1995 NPT Review Conference, which

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formed part of the compromise to have the NPT’s duration extended indefinitely (NPT 2010). This resolution expanded the scope of earlier proposals for a nuclear weapon-free zone (NWFZ) for the Middle East to all so-called Weapons of Mass Destruction (WMD). CBW thus entered the discussions. The document also addressed delivery systems – essentially ballistic missiles, a new element seemingly derived from UN Security Council (1991b) requiring Iraq to disclose ballistic missiles with a range greater than 150 km as part of its disarmament obligations after the liberation of Kuwait (UN Security Council 1991b; Delory 2011; Hautecoeur and Mathiot, 2011). Finally, the regional disarmament initiative had to be verifiable. The new conference took the text of the 1995 resolution as its terms of reference.

This enlarged scope for regional disarmament in the Middle East presents significant challenges for the negotiating parties (Zanders 2012, 2015b, 2020; Zanders et al. 2014). First, a treaty aiming for a region exempt from a particular category of weaponry is disarmament, meaning that no party to that accord can develop, possess or stockpile such arms on territory under its control, or use them. In this sense, the goals differ significantly from arms control or non-proliferation. Any verification machinery – as required under the terms of reference – must oversee the destruction of existing stockpiles, ascertain that no residual weapon holdings remain, and prevent future development, production, and stockpiling of the proscribed weaponry. Second, the future treaty must meet those goals for several arms categories. No arms control or disarmament talks have had such an ambition. Even with CBW disarmament, negotiating parties came to accept the separation of biological weapons (BW) from chemical ones (CW). The historical record shows that states prefer distinct agreements for discrete weapon classes, even in pursuing general and complete disarmament as expressed in UN General Assembly (1959). Third, whereas the ambition for an NWFZ primarily addressed security relationships with a presumed nuclear-armed Israel, the distribution of other non-conventional weapon capacities throughout the Middle East is rather different. Moreover, multiple instances of CW use since the Second World War involved regional actors other than Israel. Fourth, chemical, biological, radiological and nuclear (CBRN) weapons all fall under different global or regional legal regimes each with specific types of obligations and arrangements to generate transparency and foster confidence in compliance. Building a zone exempt from non-conventional weaponry based on the global treaties risks creating an unbalanced security infrastructure for the region. Not all states in the Middle East are party to all of them.

Since the 2010 NPT Review Conference, which called for the establishment of a WMD-free zone in the Middle East, and the indefinite postponement of a conference that was to be held no later than 2012, several studies have looked into the implications of a regional disarmament treaty involving three categories of non-conventional weaponry (Kane 2015; Müller, Melamud, and Péczelli 2013; Müller and Müller 2015; Taylor, Camilleri, and Hamel-Green 2013). In addition, several academic initiatives investigated and considered the implications of the proposed zone from political and technical angles, including the different approaches to verification (e.g. Academic Peace Orchestra Middle East, see Kubbig and Weidlich 2015). These works try to conceive of a regional zone free of non-conventional weaponry and delivery systems, an idea unique to the Middle East, look into how such a disarmament
structure and its verification machinery might function, and how a new negotiation process might be initiated. Despite the expansion to BW and CW, the zone continues to be an initiative with its origins in the NPT. The NWFZs, their structure, the ways in which they impose further constraints on the acquisition and possession of NW beyond the NPT, and their relationship to the International Atomic Energy Agency (IAEA) for verification, remains the kernel for future designs. While considered in significant detail, CBW and their control tend to be accommodated rather than integrated in proposed models.

This paper departs from CBW and looks how progress for these two arms categories could be achieved by drawing on experiences with their respective control regimes. The distribution of capabilities to acquire such weapons are different from NW. Global disarmament treaties lie at the heart of the prohibitory regime governing each arms category. However, contrary to NW, especially CW have been used in armed conflicts in the Middle East. Particularly Syria, backed by Russia, Iran and to a lesser extent China, challenges the international norm against chemical warfare. It stalls the verification process under the Chemical Weapons Convention (CWC) and blocks investigations into CW use since the country acceded to the convention in 2013. States party to the CWC suspended in consequence certain rights and privileges of Syria in April 2021.

To understand the implications of adding CBW to the regional disarmament objective, this paper first traces how CBW were inserted into the objective of a NWFZ for the Middle East. It then discusses the legal regimes governing CBW, their status in the region and implications for a holistic CBRN-free zone. The demand for effective verification poses multiple challenges because of the processes under the CBW disarmament treaties. The paper finally considers possible steps for building trust and confidence in the CBW area while negotiating the regional treaty framework.

The Poisoned Chalice: Widening Regional Disarmament

In 1989 the Communist governments in East Europe collapsed and the lifting of the Iron Curtain heralded the end of the Cold War. Improved relationship between the Soviet Union and the United States cleared the way for the conclusion of negotiations on the CWC, a global disarmament treaty whose draft already foresaw an elaborate verification machinery and the creation of its own international body, the Organisation for the Prohibition of Chemical Weapons (OPCW) to oversee implementation. In the few years before the opening for signature in January 1993, states on several continents took their cue from the US-Soviet Wyoming Memorandum of Understanding signed in 1989 (Union of Soviet Socialist Republics and the Government of the United States of America 1989) and concluded regional or bilateral agreements pledging to renounce CW and join the Future CWC.

Middle Eastern states, however, settled on a different course than the ones adopted in Latin America, Oceania, South Asia and Southeast Asia. While they all professed a stake in the future CWC, events had them pull in different directions. The Iran–Iraq war ended in August 1988. Since 1983 Iraq had been using CW on a scale not seen since the First World War against Iran and its Kurdish population. Neither country emerged victorious, but the eight-year war left both sides economically depleted. While wary of Iraq’s designs,
the Gulf Arab monarchies remained deeply suspicious of Iran’s long-term geopolitical goals. Two years after the cease-fire, Iraq invaded Kuwait and it took the mobilisation of an international coalition, in which Arab states also participated, to evict the occupier in March 1991. The CW threat again loomed large, more so because Iraq was also launching ballistic missiles against Israel (Zanders 1995). UN Security Council Resolution 687 adopted after the cease-fire imposed a stringent disarmament regime on Iraq (UN Security Council 1991a). It created the UN Special Commission to eliminate Iraq’s CBW and missile holdings and tasked the IAEA with the dismantlement of its NW programme.

Just over 6 months after the liberation of Kuwait, regional states convened in the Madrid Middle East Peace Conference (30 October–1 November 1991) and set up five working groups. One of them, the Arms Control and Regional Security working group, met in plenary and intersessional meetings from May 1992 until December 1994, after which it sputtered to an end. While it ultimately provided useful insights into how arms control and disarmament might be structured in the region, it succumbed to three issues that have bedevilled similar initiatives: states invited to and excluded from the process, management of the process by states outside of the region, and a perceived overall bias towards Israel. The setup also suffered from structural problems, notably the separation of the multilateral process aiming at normalising relations between the participating states (Israel, Jordan, Lebanon, the Palestinian Authority as part of the Jordanian delegation, and Syria) and the arms control/disarmament dimension that focussed only on NW (Jones 2011; Rózsa 2018).

Meanwhile, less than 3 weeks after Iraq’s occupation of Kuwait, parties began to review the NPT. The conference, which ran in Geneva from 20 August until 14 September 1990, ultimately failed. The leading Western Powers, the United States and United Kingdom, and members of the Non-Aligned Movement led by Mexico could not find common language on implementing the nuclear disarmament obligation in Article VI. The United States also pushed back against Egypt’s call on states parties to persuade Israel to join the NPT. Discussions on achieving a Comprehensive Test Ban Treaty as a break on NW development proved equally contentious. The review conference also touched upon the question of NWFZs, including ones for Africa and the Middle East (which would partially overlap). Morocco, for instance, endorsed both while Egypt only expressed its support for a Middle Eastern NWFZ (Fischer and Müller 1991).

Egypt was meanwhile exploring a parallel track involving a more comprehensive approach to regional disarmament. On 9 April, 5 months before the NPT review conference, then President Hosni Mubarak floated a trial balloon about a zone free of all non-conventional weaponry whereby all regional states would make equal and reciprocal commitments and accept verification and other modalities to ascertain full compliance by all. At a summit conference in Baghdad on 28–30 May 1990, participants declared that “Focusing on the disarmament of just one type of WMD in the Middle East means basically adopting a selective approach for the region” (UN Institute for Disarmament Research 2004, 119). With this statement other Arab governments thus accepted Mubarak’s linkage of CW disarmament to eliminating BW and especially Israel’s nuclear stockpile.
Against this backdrop of recent CW use, threatened CW use, and an evolving disarmament framework for the Middle East, the League of Arab States (LAS) considered the CWC at its 98th session of the Council on 13 September 1992. Resolution 5232 called for:

2. Implementing the Chemical Weapons Convention in the context of efforts exerted to establish the WMDFZ [Weapon of Mass Destruction-Free Zone] and a positive response from Israel to the international demands to adhere to the NPT and the international control system in accordance with UN Security Council Resolution 487 of 1981 (UN Institute for Disarmament Research 2004, 121).

The paragraph thus made CWC implementation contingent on progress with the zone exempt from non-conventional weaponry and Israel’s adherence to the NPT, including acceptance of placing “its nuclear facilities under the safeguards of the International Atomic Energy Agency”. It also drew on UN Security Council Resolution 487 on 19 June 1981 (UN Security Council 1981) unanimously adopted after the “premeditated Israeli air attack on Iraqi nuclear installations on 7 June 1981”.

In his address to the 47th session of the UNGA on 25 September, Egyptian Foreign Minister Amr Moussa further clarified the LAS position as:

full willingness to deal with all disarmament proposals that would provide security through equal obligations applicable by one standard to all the States of the region; reaffirmation of full support for the elimination of all weapons of mass destruction from the Middle East, including nuclear, chemical and biological weapons, as the best way to achieve security for all the States of the region; and willingness to deal with the Convention on the prohibition of chemical weapons and the framework of efforts aiming at the establishment of the zone to the extent that the excepted State, namely Israel, would respond to international calls to accede to the Treaty on the Non-Proliferation of Nuclear Weapons and to subject its nuclear facilities to the international safeguards system (UN General Assembly 1992).

He further affirmed that the LAS position respecting the CWC is one of support, but within the framework of an integrated disarmament process at the regional level in order to maintain the security of the Middle East States that are threatened by the existence of nuclear weapons in their region without any international control or legal obligation.

These developments laid the foundation for the resolution on the Middle East adopted at the 1995 NPT Review Conference, which makes up the terms of reference for the current Conference. Until today, the LAS has not formally changed its position on the CWC. Egypt holds fast to it while all other members have become party to the disarmament treaty.

**The International Legal Regime Governing CBW**

Egypt’s proposal thus inserted two weapon categories into the regional security deliberations whose codification from customary law into international laws of war had started almost a century before the first use of an atomic weapon. Nobody challenged the ban on the use of poisons and poisoned weapons (a term that covered both toxic substances and infectious disease before the twentieth century). The prohibition reflected ancient and cross-cultural values shared across continents and religions. Today, three global agreements in force determine the illegality of CBW under any and all conditions.
The 1925 Geneva Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare applies to both international and non-international armed conflicts (UN Office for Disarmament Affairs n.d.a). The document belongs to the laws of war (international humanitarian law). Its language shaped the framing of the relevant provisions in the 1998 Statute of Rome that established the International Criminal Court (International Criminal Court 1998). The Geneva Protocol also provided the legal foundation for the UN Secretary-General (UNSG) to set up a Mechanism for Investigation of Alleged Use of Chemical and Biological Weapons during the 1980–88 Iran–Iraq war. The instrument is still being further developed (UNODA n.d.e).

The 1972 Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction was the first multilateral legal instrument to prohibit an entire class of weaponry. The Biological and Toxin Weapons Convention (BTWC) belongs to disarmament law: parties commit themselves individually to never under any circumstances develop, produce or otherwise acquire, or stockpile BW. Neither the title nor the first article of the convention containing the core prohibition refer to BW use. As BW discussions had been separated from those on CW, negotiators did not wish to undermine the authority of the Geneva Protocol that covered both arms categories. In response to an Iranian treaty amendment proposal, states parties at the Fourth Review Conference in 1996 adopted language clarifying that the prohibition unambiguously includes BW use too. States parties decided on the establishment of an Implementation Support Unit at the Sixth Review Conference in 2006 (UNODA n.d.b).

The 1993 Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction is by far the most comprehensive weapon control treaty in force. Its core prohibition includes CW use. The treaty provides for a comprehensive verification machinery that foresees oversight for the destruction of existing CW stockpiles and related equipment, sites and infrastructure, on the one hand, and manages, reviews and examines through inspections national declarations on treaty-relevant activities and industry production, on the other hand. A dedicated international body, the OPCW, oversees treaty implementation. It also has the capacity to investigate alleged CW use. It helps to build national capacities in states parties to fully implement the convention, promotes the peaceful uses of chemistry, and can provide emergency assistance in the case of a chemical attack or CW threat (Organisation for the Prohibition of Chemical Weapons n.d.).

The following table summarises the status of the CBW treaties as of June 2022:

|                        | Geneva Protocol | BTWC     | CWC       |
|------------------------|-----------------|----------|-----------|
| Opening for signature  | 17 June 1925    | 10 April 1972 | 13–15 January 1993 |
| Entry into force       | 8 February 1928 | 26 March 1975 | 29 April 1997 |
| Depositary             | France          | Russia, UK, USA | UNSG |
| States parties         | 146             | 184      | 193       |
| Signatory states       | 0               | 4        | 1         |
| Non-signatory states   | 51              | 9        | 3         |
Status of the CBW Treaties in the Middle East

Twenty-four regional states participate in the current Conference\(^1\) Other countries may observe and submit working documents, but they have no negotiating role. Delimiting the Middle East is a sensitive issue. One can raise questions about why a state like Turkey, an active player in the regional security complex, falls outside the stated boundaries and Comoros, an Indian Ocean archipelago in the southern hemisphere, is formally a part of the circumscription. Regional representatives tend to refer to the definition of the Middle East by the IAEA, yet the organisation does not seem to have ever formally determined the geographical space. The IAEA Director General issues annual reports entitled Application of IAEA Safeguards in the Middle East. Ahead of the 2010 NPT Review Conference, the document began listing 23 states in a footnote (IAEA 2011). This list may have had its origins in a 1989 note by the Director General summarising the status of peaceful nuclear activities and safeguards in the 16 Middle Eastern countries that then had nuclear facilities, non-proliferation commitments and safeguards agreements. That list included the then separated Democratic Yemen and Yemen Arab Republic (IAEA 1989). The UNGA accorded Palestine UN non-member observer state status on 29 November 2012. While Palestine signed a safeguards agreement with the IAEA after joining the NPT (IAEA, n.d.), Israeli protestations have prevented it from becoming a member of the international organisation and forced the IAEA to deny that the safeguards agreement entailed recognition of Palestine as a state (Zanders 2020).

From this brief overview, it follows that regional geopolitics and evolving state formation prevent the UN and IAEA from proposing a politically acceptable or durable definition of the Middle East. Moreover, during the final quarter of the twentieth century both organisations presented other documents suggesting an even more limited area for a NWFZ in the Middle East. While diplomatic representatives taking part in the current Conference may dislike the suggestion, from an analytical perspective the only stable circumscription that captures “Middle East” in a regional disarmament framework is membership of the LAS plus Iran and Israel. Using this configuration, called the Middle East and North Africa (MENA), all 24 regional states adhere to the three CBW treaties with these exceptions:

- Six states are not party to the Geneva Protocol: Comoros, Djibouti, Mauritania, Oman, Somalia and the United Arab Emirates.
- Of the six states not party to the BTWC, three are signatories (Egypt, Somalia and Syria) and three are non-signatories (Comoros, Djibouti and Israel).
- Egypt has neither signed nor acceded to the CWC, while Israel still has to ratify the convention.

In consequence, all Middle Eastern states have signed up to at least one international instrument constraining CBW.

Since some debate still continues on who else ought to be part of the disarmament arrangement for the MENA region, it is worth pointing out that all six neighbouring countries to the north and east of the prospective zone (Afghanistan, Lebanon, Libya, Mauritania, Morocco, Oman, Qatar, Saudi Arabia, Somalia, State of Palestine, Sudan, Syrian Arab Republic, Tunisia, United Arab Emirates, and Yemen.

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1Those countries are: Algeria, Bahrain, Comoros, Djibouti, Egypt, Iran (Islamic Republic of), Iraq, Israel, Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, Oman, Qatar, Saudi Arabia, Somalia, State of Palestine, Sudan, Syrian Arab Republic, Tunisia, United Arab Emirates, and Yemen.
Azerbaijan, Georgia, Pakistan, Turkey and Turkmenistan) are party to the BTWC and CWC. Azerbaijan, Georgia and Turkmenistan have yet to accede to the Geneva Protocol.

**Which Weapons Does the Zone Aim to Ban?**

The UNGA Decision 73/546 of 22 December 2018 tasked the newly established conference with elaborating a legally binding treaty establishing a Middle East zone free of nuclear weapons and other weapons of mass destruction, on the basis of arrangements freely arrived at by the States of the region.

The decision also stipulates that the conference shall take as its terms of reference the resolution on the Middle East adopted by the 1995 Review and Extension Conference (UN General Assembly 2018).

This resolution thus sets the goal of establishing an effectively verifiable Middle East zone free of weapons of mass destruction, nuclear, chemical and biological, and their delivery systems (UNODA 1995, para. 5).

What constitutes “effective” is a political question. Regional states will have to determine in concert what they want to see reported and verified to alleviate their security concerns. To this end, the future treaty will have to specify clearly what each state must declare and set the verification parameters (e.g. in case of onsite inspections, how inspectors can proceed and the rights and obligations of both inspectors and the inspected party). At the heart of the declaration and verification processes are definitions of the weapons and their components: what falls under the treaty prohibition and what not? Weapon definitions play a significant role in the reporting of relevant past activities concerning weapon development and production, which are necessary to establish a baseline from which to determine weapon elimination activities and establish present compliance.

While many people tend to equate “disarmament” with weapon destruction, the concept also contains an important forward-looking dimension: the prevention of the emergence or re-emergence of the proscribed weaponry. When all parties are supposed to own zero weapons under international obligation, defection from the treaty with even a modest weapon capacity by one state could have serious security implications for the whole region. Generating confidence in compliance does not cease when all reported stockpiles have been eliminated under international supervision. Knowing which activities and materials government agencies, companies and other institutions are required to report is key to the post-destruction functioning of the regional zone. Because of the zero weapons requisite, disarmament treaties are non-discriminatory. The definitions help to set the same standards for all parties concerned.

WMD may be a popular concept among analysts and the public, but it lacks an internationally accepted legal definition. Because of the fluidity of what people label WMD, the final document of the 1995 NPT usefully limits the scope to NW and CBW and their delivery systems. Yet, it does not clarify its understanding of each weapon category. The different treaties establishing a regional NWFZ (UNODA, Nuclear-
Weapon Free Zones, n.d.d) each contain a definition (with some slight nuances) for NW, but as those texts make clear, their use is limited to the purposes of the respective agreements. They have no universal application. Neither the NPT nor the 2017 Treaty on the Prohibition of Nuclear Weapons (TPNW), which ambitions global disarmament, define a NW. While scientific or so-called “common sense” definitions of NW may exist, they do not represent a consensus denotation that can serve as foundation for a disarmament (as opposed to a non-proliferation) verification regime. This need for definitions also goes for delivery systems.

In contrast, as a global agreement, the BTWC lays out a definition for BW in its first article. Since its entry into force in 1975, states parties have assessed and expanded their understanding of BW, given scientific and technological advances and registered them in the common understandings and agreements reached at the five-yearly review conferences. At the time of the 1995 Review and Extension Conference of the NPT, the CWC had not yet entered into force. Meanwhile, this accord functions on a sophisticated definition of CW (OPCW, Chemical Weapons Convention, Article II, n.d.) that rests on several sub-definitions covering underlying or ancillary technologies. Despite having global legal application, the definitions of weaponry in both disarmament treaties – just like in the regional NWFZ agreements – only serve the purposes of the BTWC and CWC. They do not necessarily cover everything that governments, the military or the public have considered a BW or CW over the past century and more. For example, the CWC notably mentions humans and animals only, whereas the BTWC also includes antiplant agents in its definition.

States participating in the Conference will at one stage have to find common ground on the scope of the future treaty. They have the option to delimit and thus define themselves the types of weapons the treaty will address. Alternatively, they can draw on existing legal definitions. Whatever advantages the latter choice may have, the resulting scope of the future treaty may be vast:

- NW have no global legal definition. The devices have ranged from the US recoilless rifle projectile and soldier-portable atomic demolition munition with a minimum yield of 10 tonnes of TNT to the 58-megaton Tsar bomb the Soviet Union tested in October 1961. The absence of a definition also raises the question of the place of radiological weapons in the future treaty, another weapon category without international legal definition.
- BW and toxins are defined in the BTWC. They range from incapacitating agents like salmonella bacteria (used by the Rajneesh religious cult in 1984 in an effort to influence local elections in Oregon, USA) to the lethal anthrax bacteria or smallpox virus. Toxins, poisons produced by living organisms (microbial agents, plants or animals), are among the most toxic substances known to humankind. They range from lachrymatory agents (e.g. oleoresin capsicum, also known as pepper spray) to ricin, used in assassination attempts. The BTWC does not distinguish between whether the agents are obtained naturally or produced synthetically. The convention also covers any possible future agent, including ones that might result from the convergence between chemistry and biology.
• CW (including toxins) is defined in the CWC. They range from lachrymatory agents (e.g. CS or “tear gas”) to the highly toxic nerve agents, including sarin and the so-called Novichoks. The method of agent production is irrelevant for the purposes of the CWC. The convention also covers any possible future agent, including ones that might result from the convergence between chemistry and biology. Toxins also fall under the CWC, thereby avoiding a potential legal gap with the BTWC for a discrete arms (sub)category.

With no sense of irony, the regional treaty as currently outlined could embrace three major categories of weaponry ranging from salmonella and tear gas to the Tsar bomba. The range also lays bare that concerning CBW, the “WMD” concept covers only part of that spectrum. The regional treaty could conceivably focus on a more limited range of biological or chemical agents and impose more stringent reporting requirements than in the CWC or BTWC (especially the latter, since it lacks a verification regime). However, the respective definitions in the regional treaty cannot undermine those in the global conventions lest regional states might face confusing, if not contradictory obligations. For example, the use of lachrymatory agent or an industrial chemical like chlorine as a method of warfare must remain unambiguously covered by the regional ban.

At the present stage of deliberations, it is unclear whether the MENA countries will aim for a single integrated regional treaty for all three arms categories; a chapeau treaty laying out the overarching principles and prohibition combined with a protocol for each type of weaponry; or a general treaty analogous to the NWFZs that bans all three arms classes from the region and relies on the NPT (and IAEA), BTWC and CWC for oversight and any technical implementation.

Looking at arms control and disarmament since the end of the Second World War, weapon definitions in treaties fall into one of three types:

• All-embracing definitions that focus on purpose for which a technology may be applied (e.g. BTWC and CWC). Technical sub-definitions for underlying or ancillary technologies may supplement the general definition.
• Descriptions of how particular weapon technologies function (e.g. the NWFZs), or
• Detailed specifications of particular features, functions or capacities (e.g. size, payload capacity, throw weight, radius of action, etc.) of weapon system components to serve verification provisions, as in the bilateral NW arms control agreements between the United States and the Soviet Union or Russia.

As seen in the NWFZs, the BTWC and CWC, treaty definitions can also mark three sub-components of the weapon system under consideration, namely

• Payload (the agent or explosive device) and their ways of obtainment or production (e.g. binary chemical munitions in which the final reaction took place inside the bomb or shell while the munition was on its way to the target);
• Delivery systems (e.g. warheads, rockets, artillery shell, spray tanks, etc.); and
• Other special equipment related to weapon use (e.g. installations and tools to fill agent into a delivery system).
Especially if weapon elimination and destruction, and prevention of future armament or rearmament with the proscribed arms are to be verified, the future regional treaty must define each weapon category to establish boundaries, identify any precursor or underlying technologies (what is included; what is excluded), cover different possible production methods, and so on. Furthermore, sub-definitions must characterise additional treaty terms to remove any ambiguity from the core definition.

The Demand for Verification

The terms of reference for the Conference call for a zone that is “effectively verifiable”. How the region would organise “effective verification” regarding CBW nobody has ever explicated. Just like the scope of the future treaty, the participating states will need to elucidate this requirement.

If their ambition had not extended beyond a NWFZ, then the MENA countries could have contented themselves with the IAEA safeguard agreements and activities. This system functions as a confidence-building measure (CBM), an early warning mechanism, and the trigger that sets in motion other responses by the international community if the need arises (International Atomic Energy Agency n.d.). The treaties of Rarotonga (1985), Bangkok (1995), Pelindaba (1996) and Semipalatinsk (2006) all rely on the safeguards system for compliance monitoring and assurance. The Treaty of Tlatelolco (1967), which preceded the negotiation of the NPT, is the only NWFZ to have set up its own dedicated international organisation to oversee its implementation. It relied on the IAEA for safeguards implementation, but in August 1992 parties to the NWFZ accord amended several articles to strengthen the verification system and designate the IAEA as the agency to carry out special inspections requested by states parties (IAEA 1993). The TPNW also relies on the IAEA safeguards system to monitor compliance with its disarmament obligations. However, the IAEA safeguards system was not designed to oversee NW destruction and certifying non-possessoin of NW.

No similar singular model exists in the sphere of CBW. The BTWC lacks verification tools. Through decision-making at review conferences, states parties have set up an annual CBM self-reporting mechanism as a functional substitute for verification. Negotiation of a legally-binding protocol that would have added verification tools to the convention and created an international implementation agency collapsed after 5 years in 2001, and has not resumed since under either the still open or a fresh mandate. The CWC has the most sophisticated verification system based on state party declarations. Part of that system focusses on certifying weapon destruction (a national responsibility for CW possessors) under international supervision. The other part aims at preventing future emergence or re-emergence of CW and organises routine verification of the chemical industrial facilities that meet certain treaty-specified requirements (which follow from the definition of a CW).

Because of the inclusion of CBW in the future zone for the MENA, the relatively straightforward approach to compliance monitoring based on the IAEA safeguards system adopted for the NWFZs is not an option. Actually, the negotiators will have to examine what “disarmament” and “verification” mean to them. Taking the CWC as the most developed disarmament treaty as a departure point, a (non-limitative) outline of possible issues they may have to address looks as follows:
What Does “Disarmament” Entail?

- Comprehensive prohibition on the (research?), development, acquisition, possession and use of a discrete weapon category
- Zero: no residual stockpiles allowed (e.g. for deterrence)
- Backward dimension: destruction of existing weapon holdings
- Forward dimension: prevention of future armament
  - Equal rights and obligations for all States Parties
- Balance between disarmament and development? This is an important dimension of global disarmament (e.g. for universalisation by offering states not possessing this weaponry or facing a tangible threat with the weapon in question tangible absolute gains in return for joining the prohibition). The inclusion of articles on cooperation and technology transfers for peaceful purposes and emergency assistance in case of a threat with or use of CBW has played a significant role in the universalisation of the BTWC and CWC (Zanders and French 1999). Today, these provisions lay at the basis of international activities relating to biological and chemical security and safety under the respective conventions. The question must be raised whether this dimension has any utility in the Middle East context, and if so, in what areas proposed measures could be the most useful.
- Security guarantees (defence, protection, assistance). In the CWC framework this is a right for all states parties, and the assistance is offered and delivered by other states parties via the international organisation or through bilateral cooperation arrangements. In the Middle East setting, arrangements must ensure that no party feels discriminated against. Negotiators will also have to explore to what extent they can incorporate extra-regional guarantees into the regional disarmament framework. Once again, one must remain conscious of the fact that in this domain the CWC is far more advanced than either the BTWC or NPT, and that the guarantees must cover all weapon categories and be extended to all MENA states signing up to the regional disarmament agreement.
  - Mechanisms to enhance transparency and ensure compliance with treaty provisions
- International, treaty-specific organisation with its own inspectorate.
- Shared responsibilities between international organisation and states parties (national authority).
- Domestic legislation for verification implementation.
- Confidence and security-building measures; voluntary transparency measures.

What Does One Wish to Verify?

- Weapon destruction
- Warheads, bombs, shells and other means of dissemination + their payload
- Delivery systems? This will require demarcation of what is specific to the weapon. For instance, will verification apply only to the munition, or will it also cover the artillery piece, missile or warplane? (The definitions of CBW and NW in the NWFZ treaties do not cover the latter.)
• Other specifically designed equipment for use with the weapons (e.g. filling equipment for chemical munitions)
  o Facilities and installations
• Storage and launch sites
• Research & production facilities
• Testing sites
• Any other elements to ensure termination of the weapon programmes
  o Conversion of facilities to peaceful uses?
• May require special verification provisions
  o Non-military weapon-relevant activities worldwide
• Essential to prevent future armament
• Universalisation principle
• Not just transfer of dual-use materials

Because each category of non-conventional weaponry has different arrangements for monitoring treaty implementation and providing confidence in compliance, delegates from the MENA countries will eventually face several challenging questions that will shape their understanding of the “effective verification” requirement. However, beyond verification mechanics lie four fundamental questions: what do the MENA states wish to verify, for which purposes do they wish to verify those aspects, what security expectations do they have from verification, and how do they envisage restoring compliance after determination of a treaty breach? These are profoundly region-specific political issues to which no clear-cut answers exist.

The Elephant in the Room: CW Use in the Middle East

Whether couched in diplomatic euphemisms or left unsaid, Israel and its all but officially confirmed nuclear arsenal are normally at the heart of regional security discussions. Egypt does not hide that its central ambition is to have its neighbour accede to the NPT. When President Mubarak proposed in 9 April 1990 to expand the idea of a NWFZ for the Middle East to a zone that would also exclude CBW, he sought to persuade Israel with an offer that would remove a direct threat to its security. With that move, however, he let an elephant into the room.

There is a long history of chemical warfare in the region. After the Second World War, all major CW use happened in the Middle East except for the Indochina wars in the 1960s and 1970s. Such attacks took place during Egypt’s intervention in the Yemen civil war (1960s), the Iran–Iraq war (1980–1988), Libya’s incursions into Chad (1987, but not independently confirmed), and the Syrian civil war (2011 until present). Terrorist entities in Iraq and Syria used toxic chemicals as a method of warfare during insurgencies, notably al Qaeda in Iraq (AQI) between October 2006 and June 2007, and the Islamic State in Iraq and the Levant (ISIL) in both Iraq and Syria in 2014 and 2015 (Zanders 2014, 2015a, 2016).

In contrast to the nuclear dossier, no instance of chemical warfare concerned the fault line with Israel. CW use occurred in wars between Arab societies, in Arab countries targeting their own citizens (Iraqi Kurds, Syria), or in wars targeting fellow Muslim societies (Iraq and Iran). Likewise, AQI and ISIL directed uncompromising combat operations with toxic chemicals against Muslims and non-Muslims alike. People from
the MENA region are sensitive to the characterisation of such CW operations as “Arab” or “Muslim”. They tend to view the observation as a stigmatising, especially if someone from outside the region makes the point (Kemal 2014). Yet it is a historical reality that governments and citizens from the MENA are disinclined to confront.

The Syrian civil war and the repeated and independently confirmed CW use by government forces against insurgents and civilians challenges the very premises of the proposed zone. Especially the chlorine and sarin attacks after Syria’s accession to the CWC on 14 October 2013 and the OPCW’s ongoing inability to close the dossier on Syria’s past CW programmes raise doubts about the country’s commitment to international norms and legal obligations. ISIL’s use of chlorine and mustard agent raised the spectre of military-types of CW outside governmental control. Some of those attacks it directed against the Kurdish forces operating in the north of Syria. From an international legal perspective this created the unique situation of CW use by a non-state actor against another non-state actor on the territory of a state party to the CWC over which that state party had no control. For the OPCW, the development caused new challenges for investigating and responding to such allegations because of the need to obtain the government’s authorisation to enter the territory over which it has no control and the government’s obligation to provide security and protection to OPCW investigators during the mission.

On the political level, the situation in Syria has reinforced Israel’s deep-rooted pessimism about the ability of international weapon control treaties to guarantee its national security. The Israeli government never believed the Syrian regime had given up its full CW capacity after joining the CWC. In 1915 chlorine was the first toxic agent released on a large scale in modern warfare. Today, it has widespread legitimate uses in industry, pharmaceuticals and agriculture, including water purification in the Middle East. Annual worldwide production reached 60–65 million metric tonnes in 2018 (Essential Chemical Industry – Online 2018; World Chlorine Council 2018, 9). With such volumes and widespread availability, it is impossible to determine whether the Syrian government resorted to opportunistic use of commercial stocks or acquired the chemical – own production or international purchase – for military use on the battlefields. This recent use of a common toxic chemical as a CW exposes the verification challenges the MENA zone may have to face.

No similar uncertainty exists regarding the provenance of the sarin used against the town of Khan Shaykhun on 4 April 2017. The OPCW–UN Joint Investigative Mechanism, set up by the UN Security Council in 2015 to identify possible perpetrators of CW attacks in Syria, determined that the identification of three marker chemicals is “a strong indicator that the sarin disseminated in Khan Shaykhun was produced from DF from the Syrian Arab Republic stockpile” (UN Security Council 2017, 32)\(^2\) The conclusion meant that Syria had not declared all of its DF, which has no legitimate commercial use, to the OPCW. As such, CW use in the Syrian civil war has undermined President Mubarak’s initiative to entice Israel to the negotiating table with the promise of also eliminating other non-conventional arms besides NW.

\(^2\)Methylphosphonyl difluoride or DF is a key precursor chemical in the production of sarin.
Beyond the actions by the Syrian government, the responses and positions adopted by
the other states in the MENA region are equally important. Some states like Iran (and
permanent Security Council members Russia and China) have buttressed the Syrian regime
militarily and politically, even to the point of systematically denying involvement in the
CW attacks. In November 2011, the LAS suspended Syria’s membership and imposed
sanctions for the government’s violent crackdown on pro-democracy protests (Batty and
Shenker 2011). In 2021 and 2022 expectations have grown that Arab states led by Egypt and
the United Arab Emirates may normalise diplomatic relationships and readmit Damascus
to the LAS, even though Qatari and Saudi Arabian reservations may still block the move.
Cooperation with Syria is increasing and may eventually affect how the country’s neigh-
bours will assess its violations of the CWC (Gomaa 2021; Makki 2022).

Passivity may be another word that describes attitudes towards CW disarmament in
Syria. Because of the fighting, normal procedures for securing and destroying CW inside
the possessor country could not apply, upon which the OPCW decided to evacuate
chemical warfare agents and most precursors from Syria’s territory, have them neutral-
lised at sea, and then incinerated in several European countries and the United States
(OPCW 2013). The UN Security Council endorsed the decision, and the OPCW-UN
Joint Mission oversaw the elimination of the arsenal between mid-October 2013 and the
end of September 2014. Given the high cost of operations and Syria’s notification it could
not pay for the destruction operations, the OPCW and UN set up trust funds inviting
members to contribute financially or in kind. According to the final status of contribu-
tions to the OPCW-UN Joint Mission in Syria issued on 31 July 2014, not a single party to
the CWC from the MENA region even made a token contribution to the removal and
destruction of Syria’s CW (OPCW 2014).

Global Disarmament Treaties: Not the Expected low-hanging Fruit

Diplomats and analysts involved in discussions on security in the Middle East will
occasionally posit that the nuclear dossier is the hard nut to crack and CBW make up
the low-hanging fruit because of the BTWC and the CWC. Left unexplained is whether
the “low-hanging fruit” refers to the negotiation of the regional accord or implementa-
tion of the treaty provisions. Equally open is the question what happens after the harvest
of that low-hanging fruit. As the previous section described, implementation of disarma-
ment may be both technically and politically challenging. Compliance concerns do not
necessarily lead to a resolution that satisfies all parties concerned.

Just like with the concepts of “disarmament” and “verification”, states participating in
the Conference on the Establishment of a Middle East Zone Free of Nuclear Weapons
and Other Weapons of Mass Destruction will have to interrogate themselves on how they
envisage the future treaty will function, especially regarding conflict resolution. They
have to consider whether the existing weapon control treaties can generate sufficient
confidence that other regional partners fulfil their obligations or not.

- Do they intend to design and undertake any verification, transparency or confi-
dence-enhancing activities supporting confidence in treaty compliance?
• If not, how do they envisage engendering a dynamic whereby regional states constructively engage with each other to resolve security concerns and set up collaborative initiatives that benefit from the peaceful uses of the technologies underlying the development and production of CBRN? Or deploy these technologies collectively to address shared challenges of climate change (including energy and droughts), emerging and re-emerging diseases, food security, etc.? Disarmament is not just about weapon destruction; it is also about long-term cooperation – and hence active engagement by all parties concerned – to prevent future armament or re-armament with the proscribed weapons. Weapon control treaties languish without verification; they wither away fast once the verification provisions expire.

• Do states participating in the Conference envisage conflict resolution mechanisms if concerns about treaty compliance were to arise?
  o If negative, do they envisage utilising the tools to resolve compliance concerns available in the global treaties?
  o If affirmative, how do they envisage addressing region-specific matters that may cut across different treaties?

• Given that regional ownership is a key consideration for setting up the Conference in its current format, are participating states comfortable with the thought that if zone members referred region-specific verification or compliance issues to the bodies governing the CWC and the NPT, the outcomes might be determined by the global membership of the supporting international organisations? (And what would they do with BW-related concerns absent an international organisation?)

• Under the option of relying on global treaties, how would Conference participants define “regional ownership”? How would they define “constructive regional engagement”?

Intimately connected with these questions is whether the zone will set up its own regional structures. If the negotiating parties were to opt for reliance on external treaties – NPT and IAEA, BTWC, and CWC – to meet their objectives, then the need for a regional organisation becomes less clear. A form of governing board representing all participating states with decision-making authority might still be necessary, but a technical secretariat responsible for preparing and implementing decisions may become less obvious. The MENA states would still have to consider whether to build lateral connections with the other international organisations, including the question of what types of confidentiality arrangements have to be in place to authorise data exchanges supporting the objectives of the zone.

If they were to decide on an autochthonous verification system, then the answer is straightforward: verification responsibilities require a technical secretariat besides standard political decision-making bodies. Verification cannot be frozen in the time when negotiators designed the tools. While the treaty will inevitably reflect their shared assumptions about threats and means of alleviating them, the zone must adapt to emerging challenges and seize opportunities to enhance its effectiveness to retain long-term relevancy, including:

• Collecting and processing data, especially if advances affect the reporting parameters;
• Addressing technical or implementation issues without them having to become the subject of (potentially divisive) political consideration or decision-making;
• Offering a capacity to monitor scientific and technical and other contextual developments that may be relevant for the treaty and its ongoing effectiveness;
• Having the ability for offering technical assistance to regional parties, which contributes to equivalent treaty implementation while considering the specific circumstances of each country (e.g. types of economic activities, industry, or research and development programmes) relevant to the treaty objectives; and
• Preparing decision-making, especially regarding emerging or longer-term challenges.

A Possible Structure for the Treaty

As already noted, the whole history of having a zone exempt of non-conventional weaponry turns around NW and is rooted in the NPT review conferences. Regional actors consider CBW of lesser importance, even though especially CW have been used almost exclusively in the Middle East after the Second World War. Toxin agents and incapacitants (many of which comprise central nervous system-acting agents that lie in the grey zone between CW and BW) have also seen occasional application in assassination operations or crowd control. The question therefore addresses the far more profound matter of an equivalent approach to the different weapon categories. If the existing global treaties, and especially the BTWC and CWC, can meet those challenges and differing security expectations, then why do all MENA states not simply join them? However, if they cannot rely on one or more of the existing treaties to achieve their regional disarmament and security objectives, then how can three non-conventional weapon categories be addressed in a single legally binding instrument?

There seem to be two basic alternatives for a comprehensive regional treaty. The first option integrates all weapon categories into a single document. It may be the most difficult one to negotiate, but its comprehensiveness could eventually yield the greatest security and assurance rewards. Arguing against that option is that, so far, no disarmament or arms control treaty (one allowing parties to retain residual weapon capacities within specific numerical or qualitative parameters) has covered more than one discrete arms (sub) category. The reason – straightforward, but not so simple to explain – is that the factor creating the preconditions for successful weapon control is the role the arms play in the military doctrines of the different negotiating partners, rather than their technological characteristics or consequences of their use in war (Zanders and French 1999, 64–69). This goes a long way to explaining why BW got separated from CW in the late 1960s, for example, or why the ambition of General and Complete Disarmament never took off.

The second approach would resemble the Certain Conventional Weapons Convention. A chapeau treaty presents the overall framework and separate protocols address-specific issues of concern, including the one on incendiary weapons, such as white phosphorus (UNODA n.d.c). This agreement belongs more to humanitarian law than weapon control, but its structural setup may add greater flexibility for the MENA zone than the integrated alternative.

First, the approach could allow for developing adequate and effective arrangements tailored to the specific challenges each weapon category poses to regional security. Second, specific expert (sub)committees could focus on a single arms category. Third, once the treaty has entered into force, parties could easily update their understandings, reach common agreements, or even amend provisions because of issues affecting a single arms class without opening the other treaty parts to review. Modifications are good only
if such understandings, agreements or amendments correspond with the overall principles in the chapeau treaty. This approach may be highly relevant because of scientific and technological developments affecting a single class of weaponry.

Negotiators must ensure that the articles in the chapeau treaty cover all the basic obligations in the global treaties because not all states in the Middle East are party to the BTWC, CWC, NPT or TPNW and these are not likely to do so anytime soon in view of their political statements on regional security and security guarantees. Failing to include those requirements would create unequal obligations under international law.

Towards Building Confidence, Trust and Shared Goals

No weapon-free zones exist for CBW, but certain initiatives advanced the negotiation of the CWC. In 1989 the Soviet Union and the United States signed a memorandum of understanding on a bilateral verification experiment and data exchange at Jackson Hole, Wyoming in 1989 (Union of Soviet Socialist Republics and the Government of the United States of America 1989). Its goal was to build trust between the cold war adversaries and explore whether the envisaged treaty could offer the required security guarantees through CW-related data exchanges, exchange visits, and a limited number of challenge inspections. The document was crucial to the finalisation of the CWC. When a couple of years later the negotiations were progressing with a reasonable anticipation of imminent success, states in different parts of the world began considering the security implications of joining the future convention and looked for treaty-relevant security guarantees from potential competitors. The outcome was regional or sub-regional pledges not to use CW against each other, not to acquire or retain CW, and to join the CWC.

- On 5 September 1991 Argentina, Brazil and Chile signed the Joint Declaration on the Complete Prohibition of Chemical and Biological Weapons in Mendoza, Argentina. Bolivia, Ecuador, Paraguay and Uruguay later also signed it (Argentine and Chile 1991).
- On 4 December 1991 the five Andean countries – Bolivia, Colombia, Ecuador, Peru and Venezuela – signed the Declaration on the Renunciation of Weapons of Mass Destruction in Cartagena de Indias, Columbia (Andean Group 1991).
- A Statement by states in Southeast Asia and Oceania at conclusion of the Third Chemical Weapons Regional Seminar in Sydney (21–23 June 1992) noted that the signatories did not possess CW and had no intention of acquiring them. They also expressed their abhorrence of CW, their use or threat of use. They called upon states in the region to mutually exchange statements based on the types of declarations envisaged under the future CWC as an exercise in building confidence. The 22 states endorsing the statement were: Australia, Brunei Darussalam, the Cook Islands, Fiji, Indonesia, Kiribati, Laos, Malaysia, the Federated States of Micronesia, Myanmar, Nauru, New Zealand, Papua New Guinea, the Philippines, Singapore, the Solomon Islands, Thailand, Tonga, Tuvalu, Vanuatu, Vietnam and Western Samoa (Chemical Weapons Regional Initiative 1992).
- With the Joint Declaration on Complete Prohibition of Chemical Weapons of 19 August 1992, India and Pakistan committed themselves not to use CW or engage in the development or production of such weapons, and not to assist, encourage or induce, in any way, anyone to engage in development, production, acquisition, stockpiling or use of CW (Pakistan and India 1992).
The following table summarises the pledges in those regional agreements.

| Agreement         | No use | No retention | No acquisition | Transfer prevention | Data exchange | Verify | Join CWC |
|-------------------|--------|--------------|----------------|---------------------|---------------|--------|----------|
| Wyoming           | x      | x            | x              | x                   | x             | x      | x        |
| Mendoza           |        | x            | x              |                     | x             | x      |          |
| Cartagena         | x      | x            | x              | x                   |               | x      |          |
| SE Asia & Oceania | x      | x            | x              |                     | x             | x      |          |
| India – Pakistan  | x      |              | x              |                     |               |        |          |

The documents varied in their objectives and ranged from a legal framework to set up declaration and verification experiments (Wyoming memorandum) to politically binding statements of intent. Taken together, however, they offer a menu of gradual steps that could place the Conference on track towards identifying shared goals and building confidence and trust in the MENA region. The Joint Declaration by India and Pakistan best illustrates the value of such commitments. India ratified the CWC on 3 September 1996 and declared its possession of CW upon the convention’s entry into force in April 1997. This declaration provoked shockwaves in view of India’s prior consistent statements on non-possession of such arms. Notwithstanding a sense of betrayal, Pakistan’s ratification followed on 28 October 1997. India ultimately destroyed its CW under international supervision in line with its CWC obligations. These agreements and declarations demonstrate the possibility of adversaries finding common ground to eliminate a weaponry category. However, they came into being when a successful conclusion of the global disarmament treaty was in sight.

With two sets of meetings completed, the Conference has just started its work. Successful conclusion of a regional treaty may still take several years. While slow progress may frustrate many, the longer time frame may be advantageous to the process because it allows the incremental construction of trust and initiation of bilateral or plurilateral activities that can prepare and test verification ideas in a regional context. In the area of CBW, steps towards enhanced confidence and cooperation could move through three phases.

Phase 1 comprises several possible unilateral steps aiming at sharing information on intentions and activities to help establish a baseline for future follow-on actions. They are:

- A unilateral renunciation of CBW use under any circumstances.
- A unilateral pledge not to engage in the development, production or any other form of acquisition and retention of CBW.

Both promises, separately or together, basically take CBW out of the regional security equation. MENA states could be encouraged to issue them unilaterally, but the Conference could also decide in its early stages on a resolution to the same effect. In the latter case, it would be very important to (i) leave the document open for states to sign up later if they cannot do so immediately for whatever reason, and (ii) not to link the text to other weapon categories or regional political or security issues. The resolution should be seen not as an end goal but rather as an early trust-building measure with a low threshold from which the negotiating parties can craft follow-on steps.
• A national statement on whether a country has had past offensive CBW development and production activities and stockpiles, and if so, when it ceased those programmes or destroyed any weapons.
• A similar type of national statement a country could make on chemical and biological research and development activities, and specifically related to CW, on production and consumption of dual-use toxic chemicals and their precursors for peaceful purposes.

Both types of statements could be modelled after CWC declaration requirements or CBMs under the BTWC. In the early deliberation stages those unilateral statements would not be verifiable, but as delegates make progress, governments could be invited to progressively offer more detail as part of information exchange exercises. Again, the primary purpose of these statements is to establish trust and confidence in the disarmament process among the regional partners. These early exchanges could also briefly describe past CBW activities as a CBM.

• A national statement on biological and chemical defence activities, which are allowed under the BTWC and CWC.
• National statements on existing or updated national legislation that prohibits any natural or legal person operating on its territory from engaging in any form of activity that could contribute towards CBW development and production, as well as assisting anybody else inside or outside the country with CW acquisition.

All MENA states, whether party to the BTWC or CWC or not, must already supply this information under UN Security Council (UNSC) Resolution 1540. Again, while the data exchange in the MENA context may appear duplication of work, the activity is primarily to have government offices in different capitals engage in constructing reciprocal trust and confidence on the regional level.

In Phase 2 each state could conduct some national transparency-enhancing visits (inspections) in line with CWC procedures (and for BW, possibly measures described in BTWC protocol negotiation documents as a starting point) and publish or share exercise results with the negotiation partners. These exercises aim to familiarise national agencies with the conduct of various types of reporting and verification activities necessary to operationalise the regional zone. This would not only be important for the states not party to the BTWC and CWC, but experience gained could also assist national agencies responsible for other weapon categories, including NW, to lay out verification expectations and requirements.

In Phase 3 MENA states might engage in transparency-enhancement processes and verification experiments like the steps in the Wyoming memorandum. This would consolidate the verification proposals under consideration by the Conference and help to establish baselines for the future verification system. In addition, the exercises would add significantly to transparency and confidence in the negotiation end stage. Perhaps these steps could be preceded by so-called peer review exercises of the type
considered and tested over the past few years in the BTWC context whereby experts from a select number of states are invited to participate in a voluntary onsite transparency activity.

**Conclusion: Reframing the Debate**

Disarmament means going to zero for a discrete weapon category. Disarmament has a backward-looking dimension, namely the elimination of all weapon capacities, including munition and equipment destruction and the demolition or conversion to peaceful purposes of facilities. Disarmament is also forward-looking because it aims to prevent future emergence or re-emergence of the proscribed weaponry in whichever form (including new products and processes resulting from scientific and technological innovation). The forward-looking dimension also brings into existence a new starting point for a collective endeavour to preserve regional peace and security by alternative, non-military means.

The MENA countries have chosen a holistic approach to regional disarmament, which besides NW also includes CBW. However, the Conference should avoid linking the three arms categories or make everything dependent on progress in the nuclear area. The security threats as well as the disarmament and verification demands vary considerably for each weapon class. The respective international legal regimes are also different.

Experiences with CW disarmament may inspire a roadmap. Regional pre-agreements overcame distrust and security fears. They drew on the draft CWC whose final shape was coming into increasingly sharp focus. None of the commitments or expectations reached beyond the treaty text. The same principles could apply to the MENA as almost all states already implement the BTWC and CWC. Given that zone negotiations will take time to complete successfully, participating states should engage in activities that progressively build prior trust. Especially regarding CW, the entire MENA region would benefit from coming to terms with the past. One way to overcome such obstacles could include scientific cooperation in the areas of long-term victim assistance (especially because of the transgenerational consequences of exposure to toxic agents), enhancing biological and chemical security and safety, or environmental protection and remediation. Both the BTWC and CWC foresee in exchanges and cooperation for peaceful purposes.

Still, Syria’s CW use after it became a party to the CWC and the country’s current unwillingness to cooperate with the OPCW Technical Secretariat concerning its past CW activities and investigations of alleged CW use must be a matter of grave concern for the MENA states. They will have to confront this challenge if ever they want to have confidence in compliance by other participants in the regional disarmament setup. How they will do this is a matter for them to resolve. However, CW threats and use cannot be part of the region’s future. Syria must ultimately be brought into full CWC compliance.

The suggestions for structuring the future treaty and organising the first stages of the deliberations are meant to stimulate discussion and point out possible ways forward. They do not represent a fully-fledged proposal. For that, the MENA states must first build confidence and trust, and develop a shared sense of purpose in the project. This would imply that some regional states reduce the saliency of long-standing preconceptions. Only then, the CWC and its negotiation experiences can serve as a guiding light. Still,
treaties such as the BTWC and CWC are not low-hanging fruit just awaiting plucking. They are regimes: a totality of rules and rights, a sum of interactions among partners who need trust and confidence. That requires investment even before treaty negotiations can be finalised, let alone implemented.

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He has participated as an expert to the Belgian and EU Delegations in the BTWC and CWC meetings since 2009. He was a member of the Advisory Board on Education and Outreach (ABEO) of the Organisation for the Prohibition of Chemical Weapons (OPCW) from January 2016 until December 2021 and served as inaugural ABEO chair from 2016 until 2019.

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