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Instrumentalising Biological Weapons-Related Allegations: Russia's Compliance Politics and the Norms Against Biological Weapons

Una Jakob

Peace Research Institute Frankfurt (PRIF)

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Executive Summary

In 2022, Russia invoked the compliance procedures of the Biological Weapons Convention (BWC) over its allegations that the United States and Ukraine were carrying out biological activities in violation of the BWC. At a Formal Consultative Meeting (FCM) held under BWC Article V at Russia's request in September 2022, Russia presented its claims, whereas the United States and Ukraine emphasized the peaceful and cooperative nature of their activities. The 89 states parties to the BWC that participated in the FCM, including Russia, the United States and Ukraine, could not agree on a common assessment of the allegations. A qualitative content analysis of their statements showed, among other things, that some states saw the Russian concerns as not fully resolved and that several others did not take a stand at all, but that the majority of speakers rejected the Russian allegations as unfounded and insincere. No country supported Russia's claim that the United States and Ukraine were in non-compliance with the BWC. Russia then invoked BWC Article VI that provides for the involvement of the UN Security Council. However, a majority of the Council members did not accept a Russian draft resolution aimed at setting an inquiry in motion, for procedural reasons and for lack of credible evidence for the allegations. The Security Council did not address the matter any further.

As critics have pointed out, Russia's conduct in the process raises doubts whether it used the BWC compliance procedures in good faith at all. On a policy level, the Russian approach poses significant challenges for the ongoing efforts to strengthen the BWC. The continuing allegations and disagreement over the way in which they should be treated have stalled progress in other areas of the BWC, and they will likely continue to do so. From a norm theoretical perspective, Russia's policy raises an interesting question: How does it affect the norms against biological weapons, as codified in the BWC, if a state uses the existing compliance procedures as provided for in the treaty, but does so apparently in bad faith? Drawing on social constructivist thinking, international norms are understood here as socially constructed standards for appropriate behaviour whose robustness and resiliency can be determined at a discursive as well as at a practical level – that is, through the way actors speak about a norm and through the way they act. Norm strength in the face of challenges and contestations does in this perspective not necessarily depend on the degree of compliance with the norm. Rather, it is assumed to be influenced by the norm's embeddedness in a larger norm complex and by the reactions to norm violations, among other things.

Seen in this light, the Russian activities may counterintuitively have contributed to strengthening the norms against biological weapons at the discursive level, as no actor has called them into question and as their validity has been reaffirmed repeatedly in the process, including by Russia itself. This stands in contrast, however, to Russia's policy which may contest biological weapons norms at the action level. This discrepancy between the discursive and practical level and its implications for norm strength merit further theoretical attention. On a policy level, it will be important to increase transparency, counter disinformation, and strengthen the means to demonstrate, verify and enhance confidence in compliance with the BWC. This would also strengthen the possibilities to address biological weapons-related allegations, including those made in bad faith, and help sustain the norms against biological weapons comprehensively and in the long term.

1 Introduction: The prohibition norms against biological weapons¹

The notion that the use of poison and disease is reprehensible and unacceptable dates back to ancient times and has been expressed in various forms in different cultures (Zanders 2003; Bentley 2023). Michelle Bentley argues that this notion and related practices amount to a “taboo” against biological weapons (Bentley 2023). The prohibition of biological weapons has been codified in international treaties, namely the 1925 Geneva Protocol and the 1972 Biological Weapons Convention (BWC). The Geneva Protocol proscribes the use of biological and chemical weapons in war, whereas the BWC comprehensively prohibits the development, production, possession, and transfer of biological weapons. The norm against the use of biological weapons has long been recognised as part of international customary law, and research has indicated that the non-possession norm extends beyond the treaty law of the BWC and may even have evolved, or be evolving, into a rule of customary law as well.² Furthermore, biological weapons use could also constitute an offense under international criminal law in the future.³ International humanitarian law prohibits the use of weapons that are indiscriminate and cause superfluous injury and unnecessary suffering, which can also apply to biological weapons. Finally, the norms against biological weapons can be seen in the broader normative context of the non-proliferation of weapons of mass destruction and the laws of warfare. They are thus not only contained in the BWC, but they form part of a principled belief that poison and disease must not be used as weapons.

This complexity notwithstanding, the primary policy forum for biological weapons disarmament is the BWC, and this is also the realm where the norms against biological weapons are elaborated, mostly through the BWC’s five-yearly review conferences and the work in its annual intersessional meetings. The BWC itself codifies norms that are part of the BWC regime and that contribute to the disarmament and non-proliferation of biological weapons as well as the promotion of the use of biology for peaceful purposes. In addition to the non-use, non-possession, non-proliferation and disarmament norms, these include norms related to transparency, consultation, assistance and international cooperation, among others (see e.g. Jakob 2022; Kelle 2014). As of November 2024, the BWC had 187 members. While the basic prohibition of biological weapons is robust and not contested among BWC states parties, there is disagreement over some interpretations and the relative weight of some treaty norms over others. Moreover, the BWC has its operational weaknesses, most notably in the areas of verifying, ensuring and enforcing compliance and reacting to alleged or actual non-compliance.

Currently the BWC offers two procedures to react to compliance concerns.⁴ Under BWC Article V, BWC members can consult among each other, with support from international organisations if they seek it, to address any problems that arise in connection with the implementation of the BWC. Through review conference decisions in 1981 and 1986, BWC members have added and elaborated procedures for multilateral consultative meetings that could be convened under Article V if requested by a BWC member. Article VI allows BWC members to involve the UN Security Council in

¹ This CBWNet Working Paper is a revised and expanded version of a paper presented at the Annual Conference of the International Studies Association (ISA) in San Francisco on April 5, 2024. The author is grateful to Jana Baldus, Elisabeth Hoffberger-Pippan, Alexander Kelle, Veronika Klymova and Ondrej Rosendorf for their helpful comments, and to Henrike Buch for her valuable research assistance.

² This research was carried out by the author in the project “The Prohibition of Biological Weapons – A Norm of International Customary Law?”. The project was funded by the German Foundation for Peace Research (Deutsche Stiftung Friedensforschung, DSF).

³ The use of biological weapons (“weapons which use microbial or other biological agents, or toxins”) was added to the list of war crimes as an amendment to Article 8 of the Rome Statute of the International Criminal Court in 2017, but the amendment has yet to be adopted by most of the ICC members. As of November 2024, only 22 states had accepted or ratified the amendment (<https://asp.icc-cpi.int/RomeStatute>).

⁴ For the text of the BWC and more information see <https://disarmament.unoda.org/biological-weapons>.

case of grave compliance concerns. No procedures exist regarding the exact way in which the UN Security Council would be engaged and how the Council would then address compliance concerns.

In 2022, Russia invoked both Article V and Article VI over its allegations that the United States and Ukraine were conducting illegal bioweapons-related activities. The two countries have rejected the allegations as unfounded and have in turn accused Russia of spreading disinformation. Prior to 2022, the consultation procedure under Article V was applied only once, in 1997⁵, and no state party had ever invoked BWC Article VI before.

Drawing on social constructivist approaches to international norms, this Working Paper scrutinises the potential impact that Russia's use of the BWC compliance procedures could have on the norms against biological weapons. In this perspective, norms are shared standards of behaviour that define appropriate ('right') and inappropriate ('wrong') behaviour (Finnemore/Sikkink 1998; Katzenstein 1996). The Working Paper follows theoretical considerations that see norm robustness, resiliency and contestation determined at a discursive and practical level – that is, by how actors speak about a norm and how they act – as well as by the degree to which a norm is embedded in a larger norm cluster or complex (see e.g. Deitelhoff /Zimmermann 2019; Lantis/Wunderlich 2018). In this view, norm strength does not necessarily depend on the degree of (non-)compliance, but rather on the way in which actors react to norm violations (see e.g. Percy/Sandholtz 2022; Price 2019).

The Working Paper applies these theoretical assumptions to Russia's use of the BWC compliance procedures. It argues that while this policy poses considerable problems for the efforts to strengthen the BWC at the practical level, it counterintuitively contributed to reaffirming the norm against biological weapons at the discursive level. It is not the aim of this paper to re-examine and re-evaluate the Russian allegations or discuss compliance concerns related to the BWC more generally. Rather, the focus is on Russia's current allegations against the United States and Ukraine, and the arguments presented here follow the view that these are unsubstantiated and have been convincingly refuted by those targeted in the campaign as well as by observers of the process (see e.g. Zanders 2023; UNODA 2022). The Working Paper first places Russia's current allegations in an historical context of previous Russian allegations of violations of the norms against biological weapons. It then outlines the current campaign against the United States and Ukraine, describes how Russia used the compliance procedures available under the BWC, and analyses how other states positioned themselves in the process. The subsequent section discusses possible norm dynamics related to this case. The Working Paper concludes with some theoretical and policy-oriented reflections on the possible impact of Russia's compliance politics on the norms against biological weapons and on ways to safeguard these norms against negative repercussions from unfounded allegations.

2 Russia's allegations of biological weapons-related activities in other states

2.1 History of biological weapons-related allegations by Russia

Russian allegations of biological weapons-related activities in other countries date back to the middle of the 20th century and were mainly directed against the United States (Leitenberg 2021; Roffey/Tunemalm 2017). According to Milton Leitenberg, examples for major campaigns include allegations that the United States had deliberately disseminated potato beetles ('Amikäfer') in East Germany in the 1950s, had used biological weapons in the Korean war, and was responsible for the emergence of HIV/AIDS in Africa (Leitenberg 2021: 2-7). These allegations subsided after the end of the Cold War and with President Yeltsin's public admission in 1992 of the Soviet Union's

⁵ Cuba invoked Article V in 1997 after it had accused the USA of deliberately having disseminated a plant pest over Cuban territory. The consultative meeting held at Cuba's request could not agree on a definitive conclusion regarding these allegations, and the issue was not pursued any further (see the report contained in BWC/CONS/01, 24 August 1997).

biological weapons programme in violation of the BWC, but they re-emerged in the late 1990s (Leitenberg 2021: 8). This came some years after the United States had established what later came to be known as the Cooperative Threat Reduction programme (CTR), a programme to support Russia in the disarmament of nuclear, chemical and biological weapons, the conversion of related facilities, and the reintegration of scientists formerly involved in the Soviet Union's weapons of mass destruction programmes (Zanders 2023: 2-3). CTR also included activities in former Soviet republics such as Georgia, Kazakhstan and Ukraine, among others. When Russian-US relations deteriorated, and Russia's foreign policy became more confrontational towards some of its neighbouring countries, Russia revived its allegations of illegal biological weapons-related activities (Leitenberg 2021; Zanders 2023). These concerned the United States first and foremost, but also covered other countries in Russia's vicinity in which the United States carried out threat reduction and capacity-building activities (Leitenberg 2021: 9-11; Zanders 2023: 3).

2.2 Russia's current allegations against the USA and Ukraine

While the earlier campaigns were rather low-profile and mostly sustained through Russian-controlled media and through individuals (Zanders 2023), the disinformation campaigns against the United States and Russia's neighbouring countries later intensified and reached a new quality shortly after Russia's invasion of Ukraine in February 2022 (e.g. Jakob et al. 2022; Lentzos/Littlewood 2022; Lentzos/Francesse 2023; Zanders 2023). The campaign directed against the United States and Ukraine was conducted at high political levels and taken into political fora, notably the UN Security Council and the BWC (see Lentzos/Francesse 2023; Zanders 2023). Supported by a large body of documentation supposed to serve as evidence, Russia accused the United States and Ukraine of carrying out illegal offensive biological research in Ukrainian laboratories.⁶ The United States and Ukraine categorically rejected the Russian allegations and emphasised that their activities were peaceful, legitimate and consistent with international cooperation as envisaged under BWC Article X.

In addition to media reports and press releases, Russia presented its case at meetings of the UN Security Council. However, it failed to garner support for its allegations at the UN level and later shifted the focus of its efforts to meetings of the BWC in Geneva (Zanders 2023). In what it described as an effort to consult bilaterally in accordance with BWC Article V, Russia submitted questions to the United States and Ukraine regarding the biological activities concerned. In June 2022, Russia invoked Article V of the BWC and requested a consultative meeting.⁷ Such a meeting was held in September 2022. After this meeting failed to reach a consensual conclusion, in Russia invoked Article VI November 2022 to involve the UN Security Council (see also Littlewood/Lentzos 2022 a, b) and has continued to raise its allegations in the BWC context to this date.

2.3 Russia's use of the BWC compliance procedures

2.3.1 The Formal Consultative Meeting under Article V

The Formal Consultative Meeting (FCM) took place in September 2022 in Geneva.⁸ 89 BWC states parties and Syria, a signatory, participated in the meeting, and 43 states, including Russia, the United States and Ukraine, made statements individually or as part of a group of states. The EU also delivered a statement. Russia repeated its allegations that the United States and Ukraine were conducting bioweapons-related activities, condemned this as a violation of the BWC and presented documentation to support its claims. Among other things, Russia reported again that it had obtained documents in the course of its war against Ukraine which contained details about research on

⁶ For a more detailed description of the Russian allegations see e.g. Jakob et al. 2022; Lentzos/Littlewood 2022; Zanders 2023.

⁷ See Note verbale dated 29 June 2022 from the Russian Federation to the United Kingdom, contained in BWC/CONS/2022/WP.1, 14 September 2022, <https://documents.un.org/doc/undoc/gen/g22/487/59/pdf/g2248759.pdf>.

⁸ For the report, publicly available documents and statements see <https://www.unog.ch/bwc>.

dangerous pathogens carried out in Ukraine with support from the US Department of Defense. Russia claimed that this research could not be justified with legitimate purposes; it cited the range of pathogens under scrutiny as evidence for that, as several pathogens were reportedly studied which are also known potential biological warfare agents, but which Russia did not see as corresponding to the most pressing public health concerns in Ukraine.⁹ Russia also complained that neither the United States nor Ukraine had provided appropriate information on these activities, including through the annual CBM submissions required from all BWC states parties.¹⁰ Furthermore, Russia claimed more generally that the United States was using its threat reduction and cooperation activities as a disguise for offensive biological weapons activities abroad and that Russia's national security was threatened by these activities.¹¹

The United States and Ukraine reportedly gave detailed accounts of their activities.¹² According to their statements, the activities in question, several of which are well-documented publicly, serve the purpose of enhancing biosafety and biosecurity¹³ in Ukraine and strengthening the country's capacity to deal with infectious diseases, such as for instance anthrax, cholera, Crimean-Congo haemorrhagic fever, and avian influenza. The causative agents of some of these diseases are indeed known to have been included in past offensive biological weapons programmes, but they are also endemic (naturally occurring) in Ukraine and pose public health risks. Both the USA and Ukraine provided extensive information on their joint projects, and they emphasised the entirely peaceful and legitimate character of these projects in accordance with Article X of the BWC. They also accused Russia of deliberately spreading false information to justify its war against Ukraine, of misusing the Article V procedure and of not being interested in genuine consultation and clarification; the USA moreover accused Russia of being opaque and insincere about its past and present biological weapons activities and of violating the BWC.¹⁴

In addition to the implicated countries, all states parties attending the FCM had the opportunity to make their positions known in the course of the meeting. For this Working Paper, an analysis of 37 statements delivered during the meeting was carried out to scrutinise how other states positioned themselves vis-à-vis the dispute between Russia on one side and the USA and Ukraine on the other, and which other topics they connected it with. The analysis was carried out as a computer-based qualitative content analysis using the software MaxQDA.

⁹ BWC/CONS/2022/WP.7, 6 September 2022, <https://documents.un.org/doc/undoc/gen/g22/480/60/pdf/g2248060.pdf>; BWC/CONS/2022/WP.8, 13 September 2022, <https://documents.un.org/doc/undoc/gen/g22/480/71/pdf/g2248071.pdf>;

¹⁰ Russian Federation, "Reaction to statements of the interested participating States at the Consultative meeting of States Parties to the Biological and Toxin Weapons Convention (BTWC) under Article V of the BTWC", BWC/CONS/2022/WP.47, 9 September 2022, <https://documents.un.org/doc/undoc/gen/g22/483/27/pdf/g2248327.pdf>.

¹¹ Russia's claims and documentation used in the BWC context can be found online at UNODA Meetingplace, https://meetings.unoda.org/meeting/65052/documents?f%5B0%5D=author_documents_%3ARussia_n%20Federation.

¹² For the US position prior to the FCM see e.g. "Response by the United States of America to the request by the Russian Federation for a Consultative Meeting under Article V of the Biological and Toxin Weapons Convention (BWC)", 22 August 2022. <https://www.state.gov/wp-content/uploads/2022/09/Response-of-the-United-States-to-Questions-Posed-by-the-Russian-Federation.pdf#page=2>. See also e.g. U.S. Experts technical Presentation for BWC Article V Consultations, 6 September 2022, BWC/CONS/2022/WP.71, 16 September 2022, <https://documents.un.org/doc/undoc/gen/g22/490/79/pdf/g2249079.pdf>.

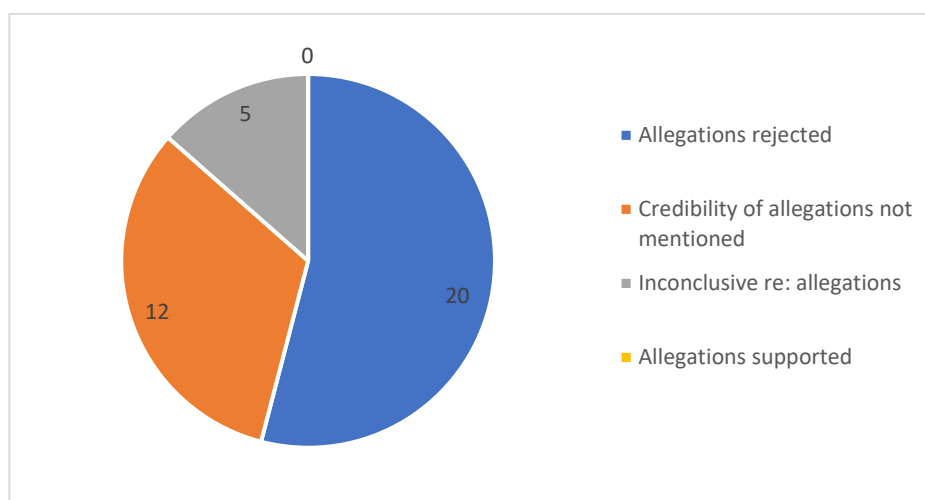
¹³ Biosafety here means protecting against laboratory accidents and the accidental release of pathogens, whereas biosecurity covers protection from unauthorized access to laboratories and pathogens.

¹⁴ BWC/CONS/2022/WP.70, p. 3.

The text sample comprised 34 national statements and three collective statements that were all submitted as working papers to the Formal Consultative Meeting; the sample included all publicly available statements except those made by Russia, Ukraine and the United States. The latter were excluded in order not to distort the analysis. The coding scheme for the content analysis was developed inductively to ensure it captures all relevant topics, and it was refined after a first round of trial coding. All statements were then re-coded using the revised coding scheme.¹⁵ The statements were single-coded. The coding scheme, including explanatory code memos, and a list of the coded statements are attached in the annex of this Working Paper. The list of statements also contains the respective assessments of the Russian allegations. All codings are available from the author upon request. The graphics below give the number of statements that contained at least one reference to the given categories; multiple references to the same category in one statement were counted only once.

The majority of all states that spoke at the FCM, mostly Western states, did not find Russia’s allegations credible. Several states, including India, Türkiye, Uzbekistan and states from Latin America and Africa, commented on other aspects, such as the importance of international cooperation or verification within the BWC framework, but did not provide any views on the Russian allegations. Some of these countries, for example South Africa, apparently did not want to make an assessment before the Formal Consultative Meeting was concluded, whereas others did not refer to the allegations in their statements at all. A small group of states – China, Iran, Nicaragua, Syria and a group of 8 states including Russia – mentioned the allegations in an inconclusive way or considered the Russian concerns yet unresolved. No state repeated Russia’s view that the United States and Ukraine were carrying out illegal activities in violation of the BWC.

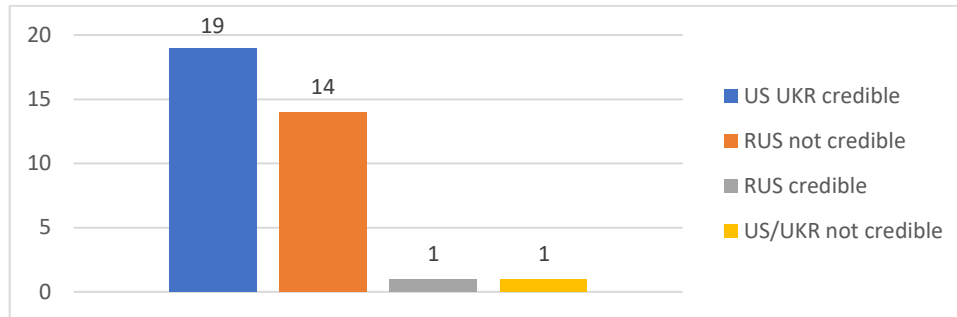
Graph 1: Assessments of the Russian allegations (n=37 statements); coded with MaxQDA



¹⁵ The author is grateful to Almutaser Albalawi and Mónica Chinchilla who coded the Arabic and Spanish statements, respectively.

Of those statements that made references to the credibility of either party to the conflict, only one, Syria, considered Russia credible, while 14 denied Russia any credibility. On the other hand, Syria was the only country that described the United States and Ukraine as not having sufficiently addressed Russia’s concerns, whereas 19 statements found their presentations convincing.

Graph 2: Assessments of the credibility of Russia (n=37 statements, multiple codings of the same statement possible); coded with MaxQDA



Syria and China came closest to supporting Russia. Syria emphasised the professional conduct of Russia and the presentations “which contained comprehensive and transparent information supported by evidence and documents on the military biological activities carried out by the United States and Ukraine [...]”.¹⁶ China said it was “deeply concerned by the questions raised by the Russian Federation regarding the activities of the United States in violation of the BWC” and that the “relevant questions put forward by Russia, as well as the extensive explanatory materials provided by the US and Ukraine, deserve serious study by capitals of the States Parties”.¹⁷ However, neither China nor Syria explicitly accused the United States and Ukraine of violating the BWC.

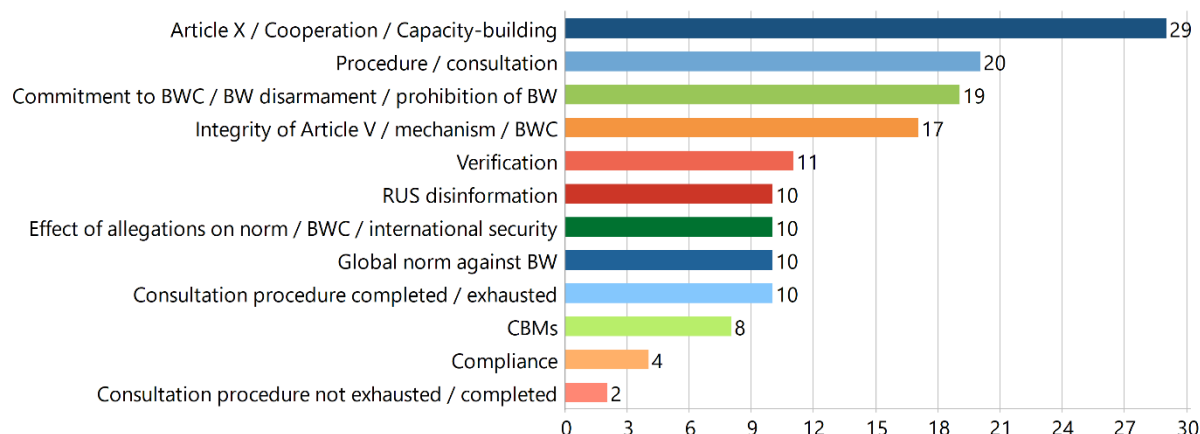
The topics mentioned most frequently were international cooperation under BWC Article X and capacity-building. Most speakers reaffirmed the importance of international exchanges, often citing the cooperation of Ukraine and the United States as an example for such exchanges; some emphasised that allegations such as Russia’s, especially when unfounded, could undermine international cooperation and the implementation of Article X. Many states made some reference to the Article V procedure, with varying content and perspective, but in general expressing support for the consultation procedure, and emphasising the importance of serious and genuine engagement in the process as well as the right of all states parties to invoke Article V. All those statements that discussed the potential normative implication of Russia’s allegations and its perceived abuse of the consultation procedure posited negative repercussions for international peace and security as well as for international cooperation under Article X. Likewise, a number of states that reflected on the integrity of Article V and the BWC either praised it, called for its need to be preserved, or cautioned that actions like Russia’s may threaten to damage this integrity. Only four statements addressed the topic of compliance, and of those, only the United Kingdom explicitly related this to the case at hand, stating that the process had shown that “Ukraine and the United States [are] upholding the provisions of the BTWC, including Article X”.¹⁸

¹⁶ BWC/CONS/2022/WP.42.

¹⁷ BWC/CONS/2022/WP.48/Rev.1.

¹⁸ BWC/CONS/2022/WP.41.

Graph 3: Topics mentioned in statements (n=37 statements), coded with MaxQDA



Several statements explicitly called out the Russian approach as a disinformation campaign, with some of them assuming an intention by Russia to justify and distract from its war against Ukraine. Others emphasised that the consultation process had highlighted the need for a verification system for the BWC to clarify similar suspicions more effectively, or to prevent them from arising in the first place. The proper use and strengthening of the Confidence-Building Measures (CBMs) was discussed in a similar vein.

Finally, 19 speakers explicitly reaffirmed their commitment to the BWC and its goal of biological disarmament. As regards the outcome of the FCM and subsequent action, seven countries, together with Russia, expressed their view in a group statement that the Russian concerns had not been fully resolved, that its questions had not been sufficiently addressed to date, and that consultations should therefore continue.¹⁹ Ten states, all of which rejected the Russian allegations, were of the opinion that the process had been exhausted, that the allegations had been credibly refuted, that consultations on this matter should therefore end and that states parties should move on to other BWC-related issues. Unsurprisingly, the meeting could not agree on a final assessment of the case. The Final Report of the FCM hence simply records the procedural aspects and the fact that no consensus could be reached.²⁰

2.3.2 Involvement of the UN Security Council under BWC Article VI

Russia then formally invoked Article VI of the BWC and submitted a draft resolution to the UN Security Council on 24 October 2022 (see Littlewood/Lentzos 2022a). Had it been accepted, the resolution would have asked the Security Council to set up an investigation commission and carry out and complete an investigation with a deadline of 30 November 2022. As mentioned above, there are no procedures in place for a complaint under BWC Article VI. As Zanders (2023: 10) describes, “Russia’s draft resolution sought to determine the make-up of the investigative commission (experts from the sitting Security Council members, thus including Russia and the USA but excluding Ukraine) and the deadline for the investigative report (30 November 2022)”. A commentary critically observes that Russia’s draft “had not been preceded by the sort of substantive and diplomatic work you would have expected on the text ahead of its introduction”.²¹ In a procedural vote, the United States, the United Kingdom and France rejected the draft

¹⁹ Statements by China, Iran, Nicaragua, Syria, and a group of eight states (Belarus, China, Cuba, Nicaragua, Russia, Syria, Venezuela, Zimbabwe).

²⁰ Final Report of the Formal Consultative Meeting of the States Parties, 19 September 2022, BWC/CONS/2022/3.

²¹ Security Council Report, “Ukraine: Vote on Draft Resolution”, 2 November 2022, <https://www.securitycouncilreport.org/whatsinblue/2022/11/ukraine-vote-on-draft-resolution-2.php>.

resolution, China voted alongside Russia in favour of it, and all ten non-permanent Council members abstained.²² The resolution was hence not adopted, and the UN Security Council did not pursue the matter any further. All non-permanent members except Gabon explained their abstention after the vote. Many of them indicated that they did not consider the material presented by Russia sufficient to initiate Council action and/or expressed concerns about the proposed procedure; some moreover pointed to the importance of international cooperation under Article X of the BWC and its potential interrelation with the allegations. All speakers emphasised their continued commitment to upholding the BWC.²³

2.3.3 The 9th BWC Review Conference in 2022 and beyond

In the wake of this process, Russia continued to level biological weapons-related accusations against the USA and Ukraine during BWC meetings. In November and December 2022, shortly after the Article VI episode at the UN Security Council, BWC members held the 9th BWC Review Conference in Geneva. Review conferences serve to give states parties a chance to ‘review the operation of the Convention’, as provided for in Article XII of the BWC and in previous review conference reports. In the BWC, this is usually done through an article-by-article review during which states parties express their views on the working of the articles and on any new interpretations and common understandings or other additional elements that may have emerged since the last review. The outcome is usually recorded in a Final Declaration. Prior to 2022, all but one review conferences had agreed on such a Final Declaration.²⁴ In 2022, however, this proved impossible mostly because no consensus could be found on how to reflect on the FCM and its outcome in the section pertaining to Article V (Jakob 2023).²⁵ As before, Russia insisted that the consultation process was not concluded since it did not see its concerns resolved, whereas the United States and many other states considered the process as closed, since Russia had presented its evidence and the United States and Ukraine had responded with information on the activities in question at the FCM, and since the procedures for formal consultations had been followed. Russia repeated its allegations and position regarding the consultation process at subsequent BWC meetings in August and December 2023²⁶, and it seems currently highly likely that this controversy will continue to have a negative impact on the BWC proceedings in Geneva and on efforts to strengthen the treaty including in the area of verification and compliance. It is less clear, however, to what extent and in which way the Russian allegations and the country’s compliance politics under the BWC might impact on the norms against biological weapons.

3 Norm dynamics and Russia’s policy

3.1 Theoretical assumptions about norm robustness, resiliency, and change

To scrutinise the possible impact on these norms, this Working Paper turns to research on international norms that is rooted in social constructivist theoretical traditions. These approaches assume, among other things, that ideational factors – such as ideas, norms and identities – play a role in shaping international relations and states’ behaviour.

²² UN Security Council, S/PV.9180, 2 November 2022, p. 2.

²³ UN Security Council, S/PV.9180, 2 November 2022, p. 2.

²⁴ The 5th Review Conference failed to reach consensus. This was due to a controversy over the future of the negotiations to conclude a Protocol to the BWC, which was supposed to establish a verification system, among other things.

²⁵ The author participated in this review conference as well as in previous and subsequent BWC meetings as a member of the German delegation. Any views expressed in relation to these meetings are the author’s personal views.

²⁶ See the following working papers submitted by Russia to the meetings of the BWC Working Group in August and December 2023 as well as in August 2024: BWC/WG/2/WP.25 (18 August 2023); BWC/WG/3/WP.3 (28 November 2023); see also Jakob/Lentzos 2024: 442-443; Zanders 2023: 15.

In this theoretical perspective, international norms are socially constructed standards for appropriate behaviour that can guide and impact on states' actions and on political dynamics.²⁷ They can form prescriptions for behaviour, thus helping to distinguish 'right' from 'wrong' behaviour, and they can help constitute actors' roles and identities. Despite being socially constructed, international norms can be very stable (e.g. Finnemore/Sikkink 1998: 904), but they can also undergo changes (e.g. Sandholtz/Stiles 2009). There are different views on what induces norm change and under what circumstances norms spread, grow stronger, weaken or decay, and over the past few years, research on international norms has increasingly focused on this question. This Working Paper draws on ideas about norm contestation, robustness and resiliency to shed light on the possible impact of Russia's allegations on the norms against biological weapons.²⁸

Antje Wiener defines contestation as “the range of social practices which discursively express disapproval of norms” that “may be performed either explicitly (by contention, objection, questioning, or deliberation) or implicitly (through neglect, negation, or disregard)” (Wiener 2019, 1-2). Wiener's definition suggests that norms can be contested at the levels of rhetoric and of action, that is, through the way actors communicate about the norm and through the way they act with regard to it. This duality can also be found in conceptions of norm robustness. For Deitelhoff and Zimmermann, this is a multi-dimensional concept “encompassing a norm's validity and facticity; norm robustness is said to be “high” when its claims are widely accepted by norm addressees (validity) and generally guide the actions of these addressees (facticity)” (Deitelhoff/Zimmermann 2019: 3).

In this research perspective, the degree of (non-)compliance is not “the primary indicator of a norm's durability”; rather, “norms can survive even high levels of non-compliance” and “norm strength does not reduce to compliance” (Percy/Sandholtz 2022: 935-936). In this view, violations of a norm or other norm contestation do not automatically render the norm weakened or damaged (see Deitelhoff/Zimmermann 2019: 4-5, 12). Reactions to norm violations are more relevant for a norm's strength than the actual violations (Percy/Sandholtz 2022: 948-949; see also Price 2019). On one hand, the reactions of norm violators themselves can be considered instructive if, for example, they justify or deny their non-compliant behaviour (Price 2019: 4). After all, there would be no need to do so unless the norm violators recognised the existence of a norm, even if they do not respect this norm themselves. On the other hand, reactions by third parties can be just as relevant for a norm's robustness, if not even more so, as they are indicators for the commitment and relevance accorded to the norm in question (see Deitelhoff/Zimmermann 2019: 8; Price 2019: 5-6). Such reactions could take the form of political or even military action. They can, however, also occur at a discursive level, for instance in the form of “pro-norm” or “anti-norm” arguments: “[...], pro-norm arguments identify the act in question as a violation [...]”, while “anti-norm arguments challenge the existence or validity of the norm itself” (Percy/Sandholtz 2022: 948).

When analysing norm dynamics, and particularly the impact of suspected, alleged or actual cases of non-compliance, it is thus important to consider the discursive level as well as the action level, that is, how states act with regard to a norm, but also how they speak about it. Depending on the circumstances, discursive reaffirmation of a norm and condemnation of its violation may in this perspective contribute to strengthening, rather than weakening, the norm in question even in the face of actual non-compliance. Other factors contribute to the robustness and resiliency of norms, including the degree of institutionalisation and legalisation, and particularly the degree of a norm's embeddedness in a larger normative complex or cluster (e.g. Deitelhoff/Zimmermann 2019: 3;

²⁷ For classic definitions of international norms in this theoretical perspective, see e.g. Finnemore 1996; Katzenstein 1996; Klotz 1995.

²⁸ This section does not provide a comprehensive discussion of the state of the art of the research in this area, but draws on the works of Nicole Deitelhoff and Lisbeth Zimmermann (2019, 2018), Jeffrey Lantier and Carmen Wunderlich (2018), Sarah Percy and Wayne Sandholtz (2022), Richard Price (2019), and Antje Wiener (2019) as a basis for analysis.

Lantis/Wunderlich 2018; Percy/Sandholtz 2022: 936).²⁹ When norms do not stand alone but are embedded in a wider web of distinct but related norms, this reinforces their resiliency against external challenges (Lantis/Wunderlich 2018: 7-8), and it renders the norm in question more robust (Deitelhoff/Zimmermann 2019).

3.2 Robustness and resiliency of the norms against biological weapons

The BWC comprises a set of treaty norms, including against development and possession of biological weapons. While the BWC is at the core of the biological weapons prohibition regime and the primary point of reference, it is not the only repository for the norms against biological weapons. As described in the introduction of this Working Paper, the norms against biological weapons are integrated into a larger complex of written and customary norms of humanitarian law and other international law as well as of norms pertaining to the non-proliferation and disarmament of weapons of mass destruction. Thus, they should be considerably robust and resilient even when challenged.

At the discursive level, the norm against the development and possession of biological weapons is indeed robust and not contested at all. While there are deep political divisions and a strongly confrontational discourse around Russia's allegations of norm violations, no actor has used 'anti-norm' arguments to question the validity of the norm. To the contrary, all parties to the dispute, including Russia, consistently use pro-norm arguments affirming the validity of the prohibition of biological weapons and calling out alleged biological weapons-related activities as violations of this norm.

Contestation may happen in this dispute at the action level in the form of disregard for the general expectation that actions under the BWC should be carried out in good faith and in line with the spirit of the treaty. Russia appears to be using the compliance procedures to advance its own national interests and not out of a genuine desire to resolve compliance concerns. Moreover, according to some sources, the status of Russia's own compliance with the norms against development and possession of biological weapons is questionable (Carus 2017; Poor Toulabi 2021). While, as argued above, even proven non-compliance would not automatically render the norm against biological weapons possession weakened or damaged, the implications of this discrepancy between the discursive and action level merit further consideration.

3.3 Effects of Russia's policy at the discursive and practical level

Russia's biological weapons-related allegations present an interesting case from a theoretical viewpoint. At the policy level, some states and observers have pointed out how the unfounded allegations could have repercussions on states' interaction as they reduce trust and may undermine international cooperation in the field of biology in general, and in biosafety and biosecurity in particular.³⁰ This could happen for example when a state ceases to cooperate with another country out of concerns for its reputation, or for security reasons if tensions exacerbate or if there are fears that bioweapons-related allegations could be a pretext for some form of aggression. Some have moreover concluded that allegations such as these, especially as they are assumed to be spurious, will damage the norm against biological weapons, as they over-emphasise the utility of biological weapons and may induce other states to pursue these weapons, too (Lentzos and Meselson quoted

²⁹ Deitelhoff and Zimmermann (2019) speak of norm complexes, whereas Lantis and Wunderlich (2018) use the idea of norm clusters in their conceptualization of norm resiliency. These terms are considered as interchangeable for the purposes of this Working Paper.

³⁰ See e.g. the statements made to the FCM by Australia (BWC/CONS/2022/WP.56, p. 2); European Union (BWC/CONS/2022/WP.27, p. 2); France (BWC/CONS/2022/WP.31, p. 3); Ireland (BWC/CONS/2022/WP.33, p. 2); Republic of Korea (BWC/CONS/2022/WP.72, p. 1); Slovakia (BWC/CONS/2022/WP.50, p. 1); Sweden (BWC/CONS/2022/WP.43, p. 1).

in Leitenberg 2021: 10). However, based on the preliminary theoretical considerations sketched above, the picture appears less clear-cut.

In accusing the United States and Ukraine of violating the BWC, as Russia has done repeatedly, Russia implicitly reaffirms the prohibition of biological weapons activities as a valid standard for acceptable and legal behaviour. On a discursive level, this hence reaffirms the norm against biological weapons development and possession. Moreover, applying the very procedures foreseen in the BWC to address compliance concerns *prima facie* supports the institutional mechanisms put in place to uphold and protect these norms. By taking this process seriously and addressing the Russian allegations in a sincere and transparent manner, the United States, Ukraine and other states also reinforced the procedure. Finally, the FCM and Security Council proceedings induced many states to reaffirm the validity of the biological weapons prohibition and the relevance of the BWC, which bolsters the norms against biological weapons at the discursive level.

Scrutinising Russia's actions, however, reveals a tension between the discursive and the practical level: Rhetorically, Russia (and many other states) affirmed the validity of the norms against biological weapons, while Russia's actions may be seen as a form of norm contestation by possibly using the BWC compliance procedures in bad faith. Russia invoked the consultation procedure under BWC Article V, but it kept submitting new material as evidence even when previous allegations had already been addressed by the United States and Ukraine (Zanders 2023: 9). Moreover, observers stated that there did not seem to be a genuine effort at consultation and clarification of the concerns (Zanders 2023: 8), so that Russia's policy could be read as seeking a platform for its accusations rather than a genuine attempt at resolving concerns. Similarly, when it invoked Article VI to involve the Security Council, Russia chose a path that would have dictated the set-up of an investigative committee rather than having the Council itself determine the most appropriate mode of action, and that would have set a narrow and unrealistic timeframe for the investigation rather than allowing for an open-ended process that could thoroughly scrutinise the case (see Zanders 2023: 10). This, again, calls into question Russia's genuine interest in resolving concerns. This reading of Russia's actions is supported when considered in combination with Russia's policy at BWC meetings in general where it has been seen to stall substantive work intended to strengthen specific elements of the BWC (see e.g. Jakob/Lentzos 2024: 451-452).

However, as was the case with the FCM, the states involved took the UNSC process seriously and considered their reaction in terms of their potential effect for future situations – the non-permanent members consulted and coordinated their policies to protect the Council's role and to avoid setting a negative precedent for future investigations (see Zanders 2023: 11). While it is generally concerning that a depositary state of the BWC and permanent member of the Security Council would resort to such tactics, the procedures proved to be robust enough to be applied under tense circumstances and to withstand destructive efforts. In terms of results, the procedures related to BWC Article V and VI also showed some (known) weaknesses that should be addressed and, ideally, remedied. However, this requires a political process and is not immediately related to the norm's robustness.

4 Conclusion

While Russia's actions certainly have a direct negative impact on the practical work to strengthen the BWC, it is less obvious how they impact on the norms against biological weapons. At the action level, Russia's approach disrupts the work of the BWC states parties and damages the prospects for the treaty being strengthened in various areas. If this disruption were to extend, as is to be expected, to efforts to strengthen the compliance procedures and eventually devise verification measures for the BWC, this would prevent states parties from strengthening the treaty's capacities to detect and react to real cases of non-compliance. Since such reactions are an important element

of a norm's robustness, as described above, this could be seen as an indirect and long-term negative effect of the Russian campaign on the norm complex of biological weapons disarmament and non-proliferation. In the short to medium term, however, the norms against biological weapons appear to be robust and intact.

From a policy perspective, the case shows how important it is in the biological realm – with its strong intersection with legitimate health-related activities – to carry out relevant work as transparent as possible to reduce the scope for disinformation and for the instrumentalization of spurious allegations for political gains. It also shows, as many states have pointed out, that the BWC would benefit from enhanced transparency, confidence-building, verification and investigation capacities to address ambiguous activities, alleviate suspicions and concerns, deflect spurious allegations and disinformation, and enhance overall confidence in compliance with the BWC. Several steps could be taken to this end: Based on a thorough analysis of the current CBM system, states parties could revise it to adapt the CBMs to current requirements arising from technological and political developments, and they could add follow-up steps, e.g. to generate statistical data from the CBM submissions, identify inconsistencies, and provide for cooperative clarification procedures in peer review or other formats. The current BWC Working Group does not allocate much time for the consideration of confidence-building and transparency, but it could still be used to prepare a revision process for the next review conference.

The Working Group also offers the unique opportunity for BWC states parties to discuss the topics of verification and compliance with a view to strengthening these areas of the BWC. While it would be premature to expect the start of actual negotiations any time soon, the Working Group meetings should be utilised to intensify the discussion about verification needs, concepts and technologies that could work well for the BWC. This should include the topic of investigations of alleged biological weapons use as well as of alleged violations of BWC Article I which prohibits the development and possession of biological weapons, alongside with other possible means to enhance confidence in compliance. Adding a suitable verification and compliance system to the BWC will be a difficult and lengthy process, but it would be important to enable states parties to react to alleged and actual norm violations collectively and in a way that prevents damage to the norms against biological weapons in the long run.

From a norm perspective, the case of Russia's allegations shows that even actions presumably carried out in bad faith may counterintuitively contribute to reinforcing the norm in question, depending on how they are addressed at the discursive level.³¹ The norms against biological weapons also exist outside the treaty framework of the BWC and can be assumed to be robust and resilient, given their wide acceptance, their embeddedness in a broader norm complex, the almost uniform compliant state practice, and universal discursive affirmation of the norms' validity. However, given the fact that norms are socially constructed and in principle dynamic, actors still need to carefully watch out for and counter policies that potentially impact on the norms themselves in the longer run. Prematurely proclaiming damage to and weakening of the norms is, however, counterproductive, as this could contribute to calling the validity of the norms into question. Rather, it is important to reaffirm the norms' universal validity and strength in statements whenever possible, and to ensure adequate reactions to any policies that could undermine them at the practical or discursive level.

³¹ For similar conclusions regarding the robustness of the norms against chemical weapons and chemical weapons use in Syria see Price (2019).

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Annex I: List of statements to the FCM included in the qualitative content analysis

	State or groups of states	Document number	Assessment of allegations
1	Argentina	BWC/CONS/2022/WP.53	Credibility not mentioned
2	Armenia	BWC/CONS/2022/WP.40	Credibility not mentioned
3	Australia	BWC/CONS/2022/WP.29	rejected
4	Austria	BWC/CONS/2022/WP.56	rejected
5	Belarus, China, Cuba, Nicaragua, Russia, Syria, Venezuela, Zimbabwe	BWC/CONS/2022/WP.63	Inconclusive
6	Belgium	BWC/CONS/2022/WP.57	rejected
7	Brazil	BWC/CONS/2022/WP.61	Credibility not mentioned
8	Canada	BWC/CONS/2022/WP.34	rejected
9	Chile	BWC/CONS/2022/WP.60	Credibility not mentioned
10	China	BWC/CONS/2022/WP.48 Rev.1	inconclusive
11	Estonia, Lithuania, Latvia	BWC/CONS/2022/WP.36	rejected
12	EU	BWC/CONS/2022/WP.27	rejected
13	France	BWC/CONS/2022/WP.31	rejected
14	Georgia	BWC/CONS/2022/WP.39	rejected
15	Germany	BWC/CONS/2022/WP.28	rejected
16	India	BWC/CONS/2022/WP.69	Credibility not mentioned
17	Iran	BWC/CONS/2022/WP.65	inconclusive
18	Ireland	BWC/CONS/2022/WP.33	rejected
19	Japan	BWC/CONS/2022/WP.52	rejected
20	Kazakhstan	BWC/CONS/2022/WP.67	Credibility not mentioned
21	Mexico	BWC/CONS/2022/WP.58	Credibility not mentioned
22	Nicaragua	BWC/CONS/2022/WP.59	inconclusive
23	Nigeria	BWC/CONS/2022/WP.35	Credibility not mentioned
24	Norway	BWC/CONS/2022/WP.55	rejected
25	Peru	BWC/CONS/2022/WP.45	Credibility not mentioned
26	Poland	BWC/CONS/2022/WP.49	rejected
27	Portugal	BWC/CONS/2022/WP.68	rejected
28	Republic of Korea	BWC/CONS/2022/WP.72	rejected
29	Slovakia	BWC/CONS/2022/WP.50	rejected
30	South Africa	BWC/CONS/2022/WP.54	Credibility not mentioned
31	Spain	BWC/CONS/2022/WP.66	rejected
32	Sweden	BWC/CONS/2022/WP.43	rejected
33	Switzerland	BWC/CONS/2022/WP.44	rejected
34	Syria	BWC/CONS/2022/WP.42	inconclusive
35	Türkiye	BWC/CONS/2022/WP.32	Credibility not mentioned
36	United Kingdom	BWC/CONS/2022/WP.41	rejected
37	Uzbekistan	BWC/CONS/2022/WP.30	Credibility not mentioned

Annex II: Coding scheme with explanatory memos

List of Codes	Memo
Allegations supported	<ul style="list-style-type: none"> - Russian allegations considered convincing / credible - support for Russian policy - Russian position shared / endorsed - speaker aligns themselves with Russian position
Allegations rejected	<ul style="list-style-type: none"> - Russia's allegations are rejected - speaker is not convinced of Russia's claims - speaker is convinced of the peaceful nature of US / UKR activities
Inconclusive re: allegations	<ul style="list-style-type: none"> - it is unclear whether Russia's allegations are accepted or not - Russia's concerns are mentioned, but are neither rejected nor supported - speaker sees Russia's concerns as not resolved - speaker is uncertain whether or not allegations are substantiated
Credibility of allegations not mentioned	<ul style="list-style-type: none"> - statement does not mention allegations - statement does not assess credibility of allegations
RUS concerns not resolved / not sufficiently addressed	<ul style="list-style-type: none"> - Russia's concerns have not been resolved in the FCM - Russia's concerns remain unresolved - US and UKR did not fully dispel Russia's suspicions - US and UKR did not address Russia's allegations sufficiently / comprehensively
RUS concerns resolved / sufficiently addressed	<ul style="list-style-type: none"> - Russia's concerns are considered resolved / clarified - Russia's allegations have been fully / sufficiently addressed - US / UKR have provided sufficient explanation for activities in question
RUS credible	<ul style="list-style-type: none"> - Russian preparations and presentations are professional - Russia behaves sincere in the process - Russia has acted professionally and convincing in process - Russia's allegations are credible
RUS not credible	<ul style="list-style-type: none"> - Russia's presentation of evidence for its allegations is not convincing - Russia's behaviour is not convincing or credible / is insincere - Russia has not been credible in presenting its concerns
US UKR credible	<ul style="list-style-type: none"> - US and UKR have presented credible / convincing arguments regarding the legitimacy of their work - information provided by US and UKR regarding peaceful nature of their activities is credible / convincing
US UKR not credible	<ul style="list-style-type: none"> - US / UKR explanations for activities in question are not credible - US / UKR have not provided credible explanations - US / UKR have not acted credibly in process
Integrity of Article V / mechanism / BWC	<ul style="list-style-type: none"> - need to preserve the integrity of Article V / the consultative mechanism / the BWC - need to engage seriously in consultation to uphold integrity of procedure / Article V / BWC - use of Article V procedure helps maintain integrity of Article V / BWC - use of Article V procedure in bad faith damages integrity of Article V / the BWC
Effect of allegations on norm / BWC / international security	<ul style="list-style-type: none"> - spurious allegations could undermine BWC / international peace and security - false allegations could undermine international cooperation / Article X
RUS disinformation	<ul style="list-style-type: none"> - RUS allegations classified as disinformation - RUS accused of using disinformation in this process

Procedure / consultation	<ul style="list-style-type: none"> - importance / need to follow procedures for consultations under Article V - procedures have been followed properly - procedures have not been followed properly - benefit of having consultation procedures in place - need / recommendation to strengthen consultation procedures - consultation procedures have shown to be ineffective / deficient / weak / not useful - consultation procedures have proven to be effective / useful
Consultation procedure completed / exhausted	<ul style="list-style-type: none"> - consultation process is considered to be completed - consultation process has been exhausted - no need to continue consultations on this matter - no willingness to continue consultations on this matter
Consultation procedure not exhausted / completed	<ul style="list-style-type: none"> - allegations not sufficiently addressed - consultation process has not been exhausted - consultation process is not considered to be concluded - consultation process should continue
Norm against BW	<ul style="list-style-type: none"> - reference to norm against biological weapons - commitment to norm expressed - need to uphold / strengthen / defend the norm
Commitment to BWC / BW disarmament / prohibition of BW	<ul style="list-style-type: none"> - commitment to honouring the prohibition of BW - need to uphold BW prohibition / BWC
Verification	<ul style="list-style-type: none"> - lack of verification system under BWC mentioned - current situation / allegations / dispute seen as proof for need of verification system under BWC - lack of verification causally connected with current situation / dispute about RUS allegations - call for verification system of BWC (unrelated to FCM) - call for verification system with reference to current problems / difficulties to resolve situation
Compliance	<ul style="list-style-type: none"> - reference to compliance with BWC - importance of compliance with BWC - compliance concerns - connection of FCM with compliance
CBMs	<ul style="list-style-type: none"> - need to strengthen and expand CBMs to enhance transparency - US / UKR did not share relevant information in CBMS - US / UKR did share relevant information in CBMs - CBMs should be used to enhance transparency in general / in this particular case
Article X / Cooperation / Capacity-building	<ul style="list-style-type: none"> - importance of / need for cooperation under Article X - US / UKS activities as case of cooperation under Article X - spurious allegations as damaging cooperation under Article X - connection between FCM and cooperation under Article X - general reference to international cooperation and capacity-building (without mentioning Article X) - reference to capacity building, including in biosafety and biosecurity

The CBW network for the comprehensive strengthening of norms against chemical and biological weapons (CBWNet)

The research project CBWNet is carried out jointly by the Berlin office of the Institute for Peace Research and Security Policy at the University of Hamburg (IFSH), the Chair for Public Law and International Law at the University of Gießen, the Peace Research Institute Frankfurt (PRIF) and the Carl Friedrich Weizsäcker-Centre for Science and Peace Research (ZNF) at the University of Hamburg. The joint project aims to identify options to comprehensively strengthen the norms against chemical and biological weapons (CBW).

These norms have increasingly been challenged in recent years, *inter alia* by the repeated use of chemical weapons in Syria. The project scrutinizes the forms and consequences of norm contestations within the CBW prohibition regimes from an interdisciplinary perspective. This includes a comprehensive analysis of the normative order of the regimes as well as an investigation of the possible consequences which technological developments, international security dynamics or terrorist threats might yield for the CBW prohibition regimes. Wherever research results point to challenges for or a weakening of CBW norms, the project partners will develop options and proposals to uphold or strengthen these norms and to enhance their resilience.

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About the Author

Dr **Una Jakob** is a Senior Researcher at the Peace Research Institute Frankfurt (PRIF) in the Research Department "International Security". Her research focuses on the nonproliferation and disarmament of biological and chemical weapons as well as on biosecurity issues.

Contact

Responsible for Content §55, Abs.2 RStV:

Dr Alexander Kelle, IFSH

Reinhardtstraße 7, 10117 Berlin

E-Mail: CBWNet@ifsh.de

www.cbwnet.org

twitter.com/CBWNet

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