

Ireland

Ireland has a wide range of legislative measures in place to prevent the proliferation of WMD, including the Pathogenic Agents Order 1997

The Department of Enterprise, Trade and Employment is Ireland's Export Licensing Authority. However, the Revenue Commissioners (the tax collecting authority of the State) are responsible for the physical control of import and export of dual-use and military goods, investigating suspected offences, and taking appropriate action, including prosecution of offenders, where required.

Traders exporting such goods from Ireland are obliged to produce an export licence, issued by the national licensing authority, the Department of Enterprise, Trade and Employment, to Customs, if requested, and export consignments are subject to risk analysis checks at the point of export. The scale and level of such checks are determined locally and may be conducted randomly, but are more likely to be based on intelligence information.

In keeping with the overall theme of effective multilateralism and the emphasis on the United Nations in the EU Strategy, démarches were carried out by the EU to promote key treaties and agreements, in several cases with positive results. Démarches were carried out in order to promote accession to the Comprehensive Test Ban Treaty (CTBT), the Hague Code of Conduct on Ballistic Missiles (HCOG), the Chemical Weapons Convention (CWC) and the Biological Toxin Weapons Convention (BTWC).

Ireland is a party to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), as well as the Chemical Weapons Convention (CWC), and the Biological and Toxin Weapons Convention (BTWC).

Ireland does not provide any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery. In relation to nuclear material, export and import of radioactive material and nuclear devices to/from countries outside the European Union is also prohibited save under licence.

Ireland has given effect in its national laws to obligations it has assumed as a state party to the Biological and Toxin Weapons Convention, The following is a summary of the principal laws and their provisions:

The export of dual-use goods falls within the ambit of the Common Commercial Policy of the European Community and therefore within the latter's legislative competence. In general it is for the European Community to adopt measures to regulate trade in these goods with third countries, although, given the national defence aspects of this matter, a regulatory role for the Member States remains. Council Regulation (EC) No 1334/2000 of 22 June 2000 establishes a Community regime for the control of exports of dual-use items and technology. The Regulation, which has direct effect in all Member States of the Community, defines dual-use items as "items, including software and technology, which can be used for both civil and military purposes" and includes "all goods which can be used for both non-explosive uses and assisting in any way in the manufacture of nuclear weapons or other nuclear explosive devices" (Article 2 (a)).

The Council Regulation establishes a regime under which the export of dual-use goods is subject to authorisation by the relevant designated national authority (the Department of Enterprise, Trade and Employment in Ireland). Dual-use

items subject to export authorisation are set out in Annex I to the Council Regulation and fall into 10 broad categories, including Nuclear Materials, Facilities, and Equipment (Category 0), Materials, Chemicals, Micro-organisms and Toxins (Category 1), Navigation and Avionics (Category 7) and Propulsion Systems, Space Vehicles and Related Equipment (Category 9). The export of software or technology which is required for the development, production or use of the goods listed in Annex I, including the transmission of such software or technology by electronic media, fax or telephone (intangible transfers), is also subject to export authorisation. The Council Regulation further provides (Article 4, paragraph 1) that an "authorisation shall be required for the export of dual-use items not listed in Annex I if the exporter has been informed by the competent authorities of the Member State in which he is established that the items in question are or may be intended, in their entirety or in part, for use in connection with the development, production, handling, operation, maintenance, storage, detection, identification or dissemination of chemical, biological or nuclear weapons or other nuclear explosive devices or the development, production, maintenance or storage of missiles capable of delivering such weapons." The list of dual-use items set out in Council Regulation 1334/2000 has been updated by Council Regulation 1504/2004.

EU Council Regulation 1334/2000 and the Control of Exports Order 2000 give effect to the Wassenaar Arrangement's List of Dual-Use Goods and Technologies and Munitions List (scheduled to the Control of Exports order 2000), the Australia Group's Common Control Lists and the MTCR Equipment, Technology and Software Annex.

The following national legislation is in place in Ireland:

- Customs Consolidation Act 1876;
- Harbours Act 1946 to 1996;
- Customs Act 1956; Customs, Inland Revenue and Savings Bank Act 1877;
- Reg. 14 European Communities Regulations, 1992; and
- Finance Act 1936.

The Irish Air Corps and the Naval Service, as appropriate and at the request of the Irish Coast Guard, are responsible for monitoring dangerous shipments traversing through Ireland's 200 nautical mile Exclusive Fisheries and Pollution Response Zones. Even in the event of no such request, the Naval Service, as the principal seagoing agency of the State, monitors maritime activity in the 200 n.m. Zone. Under the Maritime Security Act 2003, the Defence Forces have powers of detention, search and arrest at the request of the Irish police authorities of persons engaged in any activity which may, inter alia, put shipping or offshore platforms at risk. This role assists in the prevention of terrorism in the marine or offshore environment. The Defence Forces can and are called upon by the Irish police authorities to provide escorts in relation to certain movement of explosives. This option would also be available in the event that dangerous materials were being moved within the jurisdiction, although such a request is unlikely to arise. Planned action:

A planned re-development of the Irish Customs "Automated Entry Processing system" will incorporate enhanced risk assessment capabilities and allow Customs officials increased scope to target the movements of high-risk and suspicious transactions. In addition, the intended purchase of mobile scanner equipment will provide improved detection capabilities.

On an EU level, legislation governing the Export of Dual-use Goods Council Regulation (EC) No. 1334/2000, as amended, sets up a Community regime for

the control of exports of dual-use items; and Council regulation (EC) No.1504/2004 provides the updated list of items classified as "Dual-Use" items. On a national level in Ireland, the European Communities (Control of Exports of Dual-Use Items) Regulations 2000, as amended, gives effect in national law to the provisions of Council Regulation (EC) No.1334/2000, as amended. In particular, a Statutory Instrument designates the Minister for Enterprise, Trade and Employment as the appropriate competent authority for the issue of licences for the export of dual-use items. The Irish Customs Service implements controls and measures required under Council Regulation No. 1334/2000, as amended, in respect of the export from Ireland of dual-use items and technologies. Community Customs Code (EC Regulation 2913/92) is also implemented.

An independent review of Ireland's export control system was published in July, 2004. The review proposes a number of areas in which the Irish Export Licensing System can be modernised and strengthened, including:

- Introduction of new primary legislation to govern Irish military exports, and filling a number of gaps in the Irish regime;
- Enhanced co-operation between the Department of Enterprise, Trade and Employment and other agencies with a role in the export control area, including the Department of Foreign Affairs and Customs;
- Better use of new technology, including introduction of web-based export licence applications;
- Greater preventative enforcement through information provision to all actual and potential exporters about the requirements of export licenses, particularly in the case of Dual-use Goods where exporters might be unaware of their obligations;
- Ensuring that relevant exporters have good in-company compliance procedures rather than detailed item auditing by the authorities; and
- Publication of an annual report on export licensing activity, including an aggregate value of military exports, with this annual report laid before Parliament.

Ireland is a state party to the Nuclear Non-Proliferation Treaty (NPT); the Chemical Weapons Convention (CWC); and the Biological and Toxin Weapons Convention (BTWC). Ireland is also an active member of the IAEA and OPCW, and is active in the continuing work by States Parties to strengthen implementation of the BTWC. Ireland supports an effective compliance and verification instrument for the Biological and Toxin Weapons Convention. We recognise the work which has been undertaken by the meetings of State Parties last year and welcomes the focus on effective national measures to ensure full implementation of the provisions of the Treaty. As part of the EU Strategy on Weapons of Mass Destruction, we are working with our partners to secure the universalisation of the Treaty; it was in this context that, during Ireland's Presidency of the EU, démarches to achieve that goal were carried out.

A comprehensive review of the present provision in domestic law for the State's international legal obligations in relation to the proliferation of weapons of mass destruction and their means of delivery, including under UN Security Council Resolution 1540, is almost complete. Where that review reveals that legislative provision is considered deficient or requires to be updated proposals for new legislation will be brought forward. Already gaps in the criminalisation of certain acts, as required by the Biological and Toxin Weapons Convention, have been identified and these will be the subject of legislative action in the near future.