

NETHERLANDS

1972 Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction (BWC)

The Kingdom of the Netherlands 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.

The Biological Weapons Convention (Implementation) Act (*Uitvoeringswet verdrag biologische wapens*) prohibits the manufacture, acquisition, possession, development and transfer of biological weapons (Sections 3-4). The use of biological weapons is prohibited by the provisions of the Criminal Code relating to the creation of hazards (*Wetboek van strafrecht*, Sections 172, 173, 173a, 173b, 287 and 289). The prohibition to possess biological weapons means that the transport of biological weapons is prohibited as well.

With respect to the means of delivery, the Biological Weapons Convention (Implementation) Act (*Uitvoeringswet verdrag biologische wapens*) prohibits the manufacture, acquisition, possession, development and transfer of the means of delivery of biological weapons (Section 4). The Weapons and Ammunition Act (*Wet Wapens en munitie*) prohibits the manufacture, possession and transfer of hazardous substances. This includes biological and chemical agents and nuclear material (Section 2, category II sub b in combination with sections 9, 14, 26, 27).

The involvement of non-state actors in activities mentioned in operative paragraph 2 for terrorist purposes is an aggravating circumstance under the Terrorist Crimes Act (*Wet terroristische misdrijven*). The imposition of higher penalties is envisaged if a terrorist purpose is established in case of a violation of the above-mentioned provisions of the Implementing Act of the Biological Weapons Convention and the Implementing Act of the Chemical Weapons Convention (see Section 83 of the Criminal Code in combination with Section 6.4 of the Economic Offences Act) (*Wet op de economische delicten*) or the Nuclear Energy Act (see Section 83 of the Criminal Code in combination with 79 and 80.2 of the Nuclear Energy Act).

Attempts by non-state actors to engage in any of the activities mentioned in operative paragraph 2 prohibited under the above-mentioned provisions of the Biological Weapons Convention (Implementation) Act, the Chemical Weapons Convention (Implementation) Act or the Nuclear Energy Act, to participate in them as an accomplice, or to assist or to finance them qualify as criminal offences. The relevant provisions can be found in the Criminal Code with respect to attempt (Section 45), participation, subornation and material support (Section 47), complicity (Section 48), participation in a criminal organisation (Sections 140 and 140a) and in the Nuclear Energy Act with respect to conspiracy (Section 80.3).

The Biological Weapons Convention (Implementation) Act provides the framework for the prohibition of the development, production, stockpiling, acquisition and retention of biological agents not justified for peaceful purposes within the meaning of the BWC (Section 2).

Domestic law requires the physical protection of dangerous goods, including biological agents, chemical agents and nuclear material, during transport and requires transport companies to develop and maintain a security plan. With respect to nuclear material, the Fissionable Materials, Ores and Radioactive Substances (Transport) Decree (*Besluit vervoer splijtstoffen, ertsen en radioactieve stoffen*) secures implementation of the provisions of the CPPNM (Section 4a). Pursuant to this provision, a nuclear security management program must be implemented for every nuclear transport.

The Strategic Goods (Import and Export) Decree introduced a system of import, export and transit controls.

These include checks on end-users, military materials, including military technology, and dual-use items. EC Dual-Use Export Control Regulation No. 1334/2000 applies to dual-use items whereas national legislation (i.e. the Strategic Goods ((Import and Export)) Decree) provides for additional measures regarding the imposition of penalties for infringements, and gives national authorities powers to carry out controls and to investigate and prosecute criminal offences. Furthermore, the Foreign Financial Relations Act 1994 (*Wet financiële betrekkingen buitenland 1994*) requires a license for financial transactions involving the transit and brokering of war materials.

The Netherlands will continue to promote universal adoption and full implementation and, where necessary, to strengthen multilateral treaties designed to prevent the proliferation of nuclear, biological or chemical weapons.

Biological and Toxin Weapons Convention (BWC)

The Netherlands has sent teams of experts to the BWC meetings in 2003 and 2004 and actively participated in the discussions on the agreed work programme. In doing so, it contributed to the promotion of common understanding and effective action. These discussions will be followed up at the 2006 Review Conference. At present, the Netherlands is funding a study on possible ways to strengthen the BWC in 2006. The Netherlands will send a team of experts to the BWC Meetings in 2005 to contribute to the discussion on the possible content, promulgation, adoption and enforcement of codes of conduct for scientists.