

## Poland

Poland is determined to meet its obligations under this resolution and is prepared to assist other states in doing the same. Poland has undertaken actions, where necessary, to strengthen and enforce effective laws to prohibit the manufacture, acquisition, possession, development, transport, or transfer of weapons of mass destruction (WMD) by non-state actors.

In addition, by implementing the European Union Strategy against Proliferation of Weapons of Mass Destruction and its Action Plan, Poland has further supported the full implementation of the UNSC resolution 1540 (2004). Poland will also continue to enforce domestic controls to prevent proliferation, including physical protection, border, and export, and transshipment controls.

Poland will aim at fostering the role of the UN Security Council and UNSC Resolution 1540 (2004). Poland's actions will include political and diplomatic activities in support of the full and timely implementation of the resolution.

Poland is ready to host, by the end of 2005, an international conference on the resolution.

The conference aims shall include promoting dialogue and co-operation on non-proliferation and providing overall support to UNSCR 1540 (2004)

implementation. Poland is a party or member of all treaties and arrangements in the sphere of nonproliferation, including Non-Proliferation Treaty, Comprehensive Test Ban Treaty, Biological and Toxin Weapons Convention, and Chemical Weapons Convention.

Protocol for the prohibition of the use in war of asphyxiating, poisonous or other gases, and of bacteriological methods of warfare (Geneva Protocol) Convention on the prohibition of the development, production and stockpiling of bacteriological (biological) and toxin weapons and on their destruction (BW Convention) With an aim to promote and implement the Initiative's provisions Poland has also hosted a regional conference for the countries of Central and Eastern Europe (January 2004) and organized a first ground interdiction exercise in Wroclaw (April 2004).

General provisions related to the activities prohibited under international law, including penalties for the use, production, acquiring, selling, storage and transport of weapons of mass destruction are envisaged by the Penal Code of 6 June 1997 (Journal of Laws of the Republic of Poland of 1997, No. 88, item 553). Text of the relevant provisions: .Chapter XVI. Crimes against peace, humanity and war crimes Art. 120. A person, who uses the weapon of mass destruction prohibited by international law, shall be sentenced to imprisonment for the time not shorter than 10 years, for 25 years or for life.

Art. 121. 1. A person, who in contradiction to the prohibitions of the international law or provisions of law (statute), manufactures, collects, acquires, sells, stores, transports or transmits the weapons of mass destruction or develops them with the view to their manufacturing or use, shall be sentenced to imprisonment for 1 year up to 10 years. 2. The same penalty shall be applicable to a person, who allows the commitment of the act referred to in paragraph 1.

Detailed procedures with respect to export control of weapons of mass destruction, related materials and technologies are covered by the Law on external trade in goods, technologies and services of strategic importance for the state security and for the maintenance of international peace and security, adopted on 29 November 2000, with amendments adopted on 2 July 2004.

According to Article 5 of The Internal Security Agency and Foreign Intelligence Agency Act of May 24, 2002,\ the tasks of the Internal Security Agency include

identifying, preventing and detecting the crimes of illegal production, possession and trade in weapons, ammunition and explosives, weapons of mass destruction, narcotics and psychotropic agents in international trade (subparagraph 2 of the present Article) within the scope of their tasks, the officers of the Internal Security Agency perform

(Art. 21 of the Act):

- criminal intelligence and investigation/inquiry activities in order to identify, prevent and detect crimes and pursue their perpetrators,
- criminal intelligence and analytic/informative activities in order to acquire and process information vital to the protection of state security and its constitutional order. The Internal Security Agency officers perform the activities only within the scope of competence of the Agency and in this scope they have the powers in criminal proceedings of policemen vested in them, stemming from the provisions of the Code of Criminal Procedure.

According to the Act (art. 23), the Internal Security Agency officers are authorized to detain persons under the circumstances and in the cases defined in the provisions of the Code of Criminal Procedure, to search persons and premises, perform body checks or search through luggage and inspect cargo in the means of land, air and water transport, in case of a well-grounded suspicion that a forbidden act subject to penalty has been committed. With regard to punishing the cases of transfer of weapons of mass destruction or their elements, Art. 121 of the Penal Code is relevant. According to it, the person producing, amassing, purchasing, selling, storing, transferring or sending the means of mass destruction or means of combat, or conducting research aiming at the production or application of such means, is liable to a penalty of imprisonment of duration between one year and ten years.

A person who allows for the above-mentioned acts to be committed is liable to the same penalty. According to the Act on foreign trade in goods, technologies, and services of strategic importance to the state's security and to the maintenance of international peace and security, and on the amendments to certain acts of November 29, 2000, the trade in the relevant goods and technologies without an appropriate permit or against the principles laid out in the permit is penalized in imprisonment of a duration of between one year and ten years (Art. 33 item 1 of the Act).

The list of goods and technologies of strategic importance is included in the Ordinance of the Minister of Economy on the list of goods of strategic importance of October 2, 2002. With regard to weapons of mass destruction, Annex no. 3 contains the list of toxicological agents, tear gasses., adequate equipment, components, materials and technologies (among others biological agents and radioactive materials adjusted to the use at war to cause casualties in humans and animals, damage to equipment, destruction of plots or natural environment and combat toxic means).

According to the provisions of the Act, trade consists in any transfer across the border of the Republic of Poland of goods of strategic importance, in particular through exportation, importation, transit or conclusion of the contract of leasing, donation, loan agreement, lending for use contract or company contribution, as well as the services of mediation, commercial counseling, assistance in the conclusion of contracts and participation in any form of the above-mentioned activities, including beyond the borders of the Republic of Poland. In case of measures to prohibit offences related to recruitment to terrorist groups the key provision is contained in Art. 258 of the Penal Code:  
Chapter XXXII. Crimes against public order **Art. 258.**

1. A person who participates in organized group or association, which aim is to commit crimes shall be sentenced to imprisonment for up to 3 years.
2. If the group or association referred to in para. 1 is of military nature the perpetrator shall be sentenced to imprisonment for 3 months up to 5 years.
3. A person who establishes the group or association referred to in para. 1 or 2 or manages such a group or association shall be sentenced to imprisonment from 6 months up to 8 years. Mechanisms and procedures of control of trade in strategic goods, technologies and services relevant to national security, as well as to the maintenance of international peace and security are also applicable to the issue of the supply of weapons to terrorists. Detailed information including translation of Law of 22 June 2001 on the implementation of the Convention on the prohibition of the development, production, stockpiling and use of chemical weapons and their destruction and Law of 29 November 2000 on external trade in goods, technologies and services of strategic importance both for state security and for the maintenance of international peace and security and amending certain laws are attached to the present report.

The Republic of Poland is a party to the Geneva Protocol of 1925 and has also ratified the 1972 Convention on the Prohibition of the Development, Production, Stockpiling of Bacteriological (Biological) and Toxin Weapons and their Destruction. Poland has always respected the relevant legal provisions, and in consequence has never produced or stockpiled such weapons on its territory. Polish legislation addresses biological threats primarily in the context of management of infectious disease epidemics and poisonings, either being the result of natural causes or intentionally perpetrated by terrorist acts or military hostilities. The Ordinance of the Minister of the Environment of 29th November 2002 concerning the list of pathogenic organisms and their classification, and also the measures required for the respective degrees of containment (Journal of Laws of 16th December 2002).

It contains a listing of pathogenic organisms and their classification in accordance with their ability to cause disease in humans, plants and animals, and also defines the measures required for the respective degrees of containment during execution of procedures in laboratories, greenhouses, animal enclosures, and other procedures during closed use of genetically modified organisms. The Ordinance of the Minister of Health of 11th July 2002 (Journal of Laws No. 140, item 1173) on the marking of packaging of hazardous substances and hazardous preparations. The Ordinance contains specimens of warning markings, formulations defining conditions of safe use of hazardous substances (preparations) and ways of marking the packaging of such substances. The Ordinance does not refer to hazardous biological substances. Upon modification it would constitute a good basis for regulating this issue with regard to biological substances.

The Law (.gene law.) of 22nd June 2001 (Journal of Laws No. 76, item 811, and of 2002, No. 25 item 253, No. 41. item 365) The Law institutes control of closed use and release into the environment of genetically modified organisms (GMO). The Ordinance of the Minister of the Environment of 6th June 2002 concerning applications for permits to conduct activity involving GMOs. The Ordinance contains detailed regulations dealing with the closed use of GMOs, intended release of GMOs into the environment, trade in GMOs, their export and transit across national territory.

These regulations primarily focus on the protection of health and environment, permitting the penalization of prohibited forms of development, production and release into the environment of genetically modified micro-organisms. The issue of intentional development of harmful genetically modified micro-organisms for the purpose of causing harm to the health of humans, animals and plants is not directly addressed.

The Law of 11th May 2001 on the health requirements for food and feeding. On the basis of this Law, the Minister of Health determines the requirements with respect to internal control of the health quality and internal control of adherence to hygienic rules, incorporating the system of Hazard Analysis and Critical Control Point (HACCP). It is a system which includes procedures designed to ensure the safety of food through the identification and assessment of hazards from the point of view of the health quality of food and the risk of hazards during all stages of the production and handling of food.

The Minister of Health determines the qualifications required for persons involved in the process of production. Knowledge of production safety measures to prevent intentional biological contamination is not required yet. In accordance with the Law on infectious diseases of 6th September 2001 (Journal of Laws of 2001 No. 126, item 1384) the national reference centers for microbiological and serological diagnostics are those entities which have obtained accreditation on the basis of the Law of 28th April 2000 on the system of compatibility, accreditation and amendment of certain laws (Journal of Laws No. 43, item 489, and of 2001 No. 63, item 636), and with which the Health Minister has concluded contracts. So far, the contracts do not incorporate clauses on the storage and monitoring of pathogenic micro-organisms and toxins. The Ordinance of the Minister of Health of 2nd June 2003 (Journal of Laws No. 116, item 1103) on the criteria to be met by organizational units conducting tests on chemical substances and preparations, and on control of the fulfillment of those criteria.

The Ordinance was issued on the basis of the Law of 11th January 2001 on chemical substances and preparations (Journal of Laws No. 11, item 84 with subsequent amendments). The Ordinance elaborates the criteria that have to be met by organizational units which conduct as required by the Law, tests of the physicochemical properties, toxicity and eco-toxicity of chemical substances and preparations. The criteria, contained in Attachment 1, constitute the principles of Good Laboratory Practice. The Ordinance also determines which unit is responsible for the control of adherence by the research units to the principles of food Laboratory Practice, and the procedure for granting and withdrawing the authorization to conduct such research.

The Ordinance needs to be amended with provisions relating to biological agents and toxins. Despite the absence of specialist legal regulations concerning safety issues connected with pathogens and toxins, there are general regulations in force dealing with the storage and handling of hazardous materials. The Polish penal law (Penal Code of the Republic of Poland of 6th June 1997) **penalizes individual terrorist acts on the basis of general criminal provisions** (i.e. crimes against peace, humanity and war crimes, crimes against the Republic of Poland, crimes against defense, crimes against life and health, crimes against public security, crimes against safety of transportation, crimes against public order etc.) The provisions of the law prohibit actions of such a character, and sanctions are envisaged reflecting the seriousness of such acts. Article 115 (20) of the Penal Code of the Republic of Poland contains the definition of an **offence of terrorist character**. It is a criminal act subject to the penalty up to 5 years or more of imprisonment, committed with an aim to seriously intimidate the

population or to force the public authority of Poland or other country or international organization to act or not to act, or to cause considerable interference in the economy or constitutional structure of Poland other country or international organization.

The above mentioned definition provides for a possibility to introduce more severe sanctions for the perpetrator of an offence of terrorist character (Article 65 (1) of the Penal Code) and to apply the Polish Penal Code to Polish nationals, Polish organizational entities and aliens who committed offence of a terrorist character abroad (Article 110 (1) of the Penal Code). Article 258 of the Penal Code contains provisions concerning terrorist organization. It stipulates that whoever participates in an organization which objective is to commit an offence of terrorist character, shall be punished with 6 months up to 8 years of imprisonment. Whoever forms or leads such an organization is subject to imprisonment for no less than 3 years.

The Polish Penal Code incorporates penal sanctions against any persons who - in violation of international law produce, stockpile, acquire, sell, or transport weapons of mass destruction or other means of combat, or conduct research aimed at producing or using such weapons. According to **the Penal Code** (Journal of Laws No. 88, item 553), Chapter XVI. Crimes against peace, humanity and war crimes, Art. 120 **states that:** A person, who uses the weapon of mass destruction prohibited by international law, shall be sentenced to imprisonment or the time not shorter than 10 years, for 25 years or for life. In Art. 121.1. A person, who in contradiction to the prohibitions of the international law or provisions of law (statute), manufactures, collects, acquires, sells, stores, transports or transmits the weapons of mass destruction or develops them with the view to their manufacturing or use, shall be sentenced to imprisonment for 1 year up to 10 years. The same penalty shall be applicable to a person, who allows the commitment of the act referred to in paragraph 1. **Domestic controls in the biological sphere** is based on various legal acts, including Penal Code, Law of 29 November 2000 on external trade in goods, technologies and services of strategic importance both for state security and for the keeping international peace and security, and others.

### **Border Guard**

In order to protect from illegal entry (transit) of radioactive sources and substances, nuclear, chemical, biological materials constituting a potential threat to human life and health, in October of 1990 chemical and radiometric ecological control of individuals and goods was introduced in all border crossing points. The system of this control is being systematically expanded. BG officers (specialists in radiation control) undertake this control in border crossing points based on the following documents presented by the carrier or forwarding agent: bill of lading, permit for transportation or export, export declaration, customs application, SAD form, etc. The officers also undertake external inspection of vehicle and freight, its sign-shields according to binding patterns and check the level of contamination with technical equipment. According to the Act on Border Guard of October 12, 1990 (Journal of Laws no. 78, item 462 with later amendments), one of the tasks carried into effect by the BG is .preventing transportation, without the permit required in accordance with separate regulations, through the state border of waste, harmful chemical substances also nuclear and radioactive materials, as well as polluting border waters. Furthermore BG organizational border units share action plans and cooperation plans with bodies and institutions functioning in border crossing points in event of employment of mass

destruction weapon, threat to human life and health or natural environment within the territorial range of the border crossing point. These plans include:

- types of threats
- principles of conduct in threat situations
- utilization of own forces and resources
- notification and communication system.

Installation of stationary equipment for contamination control begun in the year 1990 by placing so-called radiometric gates in border crossing points. With time radiometric gates were modernized or adapted to specific conditions e.g. in airports and sea ports. Currently the total number of stationary equipment for contamination control of persons and vehicles on the state border totals 182 sets, including 8 devices of the new PM 500 type construction that can detect neutrons. These tools have been manufactured in Poland. Poland has begun a study to review its obligations under BTWC with an aim to revise and if necessary to adopt new, regulations on implementation the BTWC provisions, accordingly to the review process conducted in Geneva.