

The seventeenth annual report of  
The South African Council for the  
Non-Proliferation of  
Weapons of Mass Destruction

Report period:  
1 April 2010 to 31 March 2011

## TERMINOLOGY USED IN THIS REPORT



“Weapon of mass destruction” (WMD), as defined in the Act, means any weapon designed to kill, harm or infect people, animals or plants through the effects of a nuclear explosion or the toxic properties of a chemical warfare agent or the infectious or toxic properties of a biological warfare agent, and includes a delivery system exclusively designed, adapted or intended to deliver such weapons.

The term “goods”, when used in this document, includes any technology, data, technical assistance, services, software, processes, activities, facilities, substances, materials, items, equipment, components, assemblies or systems, whether produced in the Republic or imported into the Republic.

“Person(s)”, when used in this document, refers to a natural person who is a citizen of / or is permanently resident in South Africa, a juristic person registered or incorporated in South Africa or any foreign person located in South Africa or otherwise subject to the jurisdiction of South Africa. Groups and other entities are also deemed to be person(s).

Abbreviations: See Annexure 3 for a list of abbreviations used in the Report.

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## EXECUTIVE SUMMARY



This seventeenth annual report of the South African Council for the Non-Proliferation of Weapons of Mass Destruction (the Council) is presented to the Minister of Trade and Industry in terms of Section 25(1) of the Non-Proliferation of Weapons of Mass Destruction Act, 1993 (Act No. 87 of 1993) (Non-Proliferation Act) and covers the period 1 April 2010 to 31 March 2011.

The Council, on behalf of the State, protects the interests, carries out the responsibilities and fulfils the obligations of South Africa with regard to the non-proliferation of weapons of mass destruction.

During the report period, the Council effectively fulfilled its mandate to control the non-proliferation of weapons of mass destruction through the implementation of the Non-Proliferation Act and government policy on non-proliferation. The Council, through the Non-Proliferation Secretariat, achieved its object of controlling, registering and inspecting controlled goods and verified the manufacture, import, export, re-export, transit and end use of controlled goods. The Council also ensured compliance with the international treaties, agreements and conventions to which South Africa is a signatory.

Liaison with industry and the increase in awareness of the controls broadened the scope of control of entities involved in controlled goods and activities. This was especially enhanced through the promulgation of a regulation that prescribes the manner in which persons in possession, custody or control of controlled goods should register with the Council. Additionally, industry was made aware of the new Manufacturing and Services permit requirement for manufacturing and services provision on items that have higher proliferation risk.

The Council continued to envisage that national adherence to the international obligations would be optimised through increased commitment to compliance from industry and enhanced enforcement of the legislation. Efforts to enhance the enforcement of the legislation continued with coordination with the relevant government stakeholders being strengthened through regular engagements on enforcement issues.

The officials of the Non-Proliferation Secretariat continued to participate in international meetings thereby also increasing the capacity of the Secretariat to support the Council in fulfilment of South Africa's international and national non-proliferation and disarmament obligations.



## **POLICY**

### **South Africa's Policy on the Non-Proliferation of Weapons of Mass Destruction**



South Africa's policy on the non-proliferation of weapons of mass destruction was adopted by the Cabinet in 1994, and is regularly reviewed in accordance with national interest, international developments and obligations as well as policy and legislation.

The policy states that South Africa shall:

- adopt positions supporting the non-proliferation of weapons of mass destruction with the goal of promoting international peace and security;
- continue implementing a policy of non-proliferation and arms control and be an active participant in the various non-proliferation regimes and suppliers groups;
- utilise its position as a member of the suppliers regimes and of the Africa Group/NAM to promote the importance of non-proliferation and to ensure that these controls do not become the means whereby the developing countries are prevented from obtaining access to the advanced technologies which they require for their development;
- effectively protect its best interest with regard to the use of technology in nuclear, chemical, biological and missile spheres for civil and peaceful purposes at all times be effectively protected;
- continue in its objective to become a member of all of the non-proliferation regimes and suppliers groups

## **LEGISLATION**

### **South African Legislation on the Non-Proliferation of Weapons of Mass Destruction**



The Non-Proliferation of Weapons of Mass Destruction Act, 1993 (Act No. 87 of 1993) (Non-Proliferation Act), as amended in 1995 and 1996, was promulgated to provide for control over weapons of mass destruction; to establish a Council to control and manage matters relating to the proliferation of such weapons in South Africa; to determine its objects and functions; to prescribe the manner in which it is to be managed and controlled; and to provide for matters connected therewith.

The Non-Proliferation Act is supported by a number of Government Notices and Regulations. There is also other South African Legislation that is related to the Non-Proliferation of Weapons of Mass Destruction. See Annexure 1.

In recognising the changes in the national and international non-proliferation environment with regard to control requirements and international best practice, the Council undertook a comprehensive review of non-proliferation legislation.

The comprehensive review of the secondary legislation in 2009 resulted in the updated regulations and Government Notices promulgated in terms of the Non-Proliferation Act by the Minister of Trade and Industry on 3 February 2010. Outreach efforts and interaction with industry was enhanced to increase awareness of the changes in the legislation. Also, participation in international meetings related to international conventions and treaties continued and the legislation was reviewed to ensure alignment with decisions taken internationally.

### **Controlled Goods**

The Minister of Trade and Industry, through publication of Government Notices and Regulations in Government Gazettes, enables the specific obligations of South Africa regarding non-proliferation to be addressed by imposing controls on certain technology, goods and activities. Through these measures, South Africa complies with the requirements of the various international non-proliferation conventions, treaties and control regimes, which it has ratified or acceded to. Such control lists are regularly updated in accordance with changing national and international requirements and obligations. See Annexure 1 for a complete list of current Government Notices and Regulations defining controlled goods.

## **SOUTH AFRICAN COUNCIL FOR THE NON-PROLIFERATION OF WEAPONS OF MASS DESTRUCTION**

### **Establishment of the Council**



The South African Council for the Non-Proliferation of Weapons of Mass Destruction is established in terms of Section 4 of the Non-Proliferation Act and is accountable to the Minister of Trade and Industry.

### **Objects of the Council**

The objects of the Council are, *inter alia*, to control, register and inspect controlled goods, and to verify the import, export, re-export, transit and end-use of those controlled goods.

### **Functions of the Council**

In terms of Section 6 of the Non-Proliferation Act, the Council shall, *inter alia*:

- protect the interests, carry out the responsibilities and fulfil the obligations of South Africa with regard to non-proliferation, on behalf of the State;
- advise the Minister with regard to any matter which it deems necessary and which falls within the purview of the Non-Proliferation Act; and
- control and manage all activities relating to non-proliferation and provide guidance, instructions and information in connection therewith.

## Membership of the Council

The Minister of Trade and Industry, in terms of Section 4(2) of the Non-Proliferation Act, appoints the members of the Council. The Minister appointed the current Council in September 2009 for a period of three years until 14 September 2012.

See Annexure 2 for a list of the members that were appointed the Council for the period under review.

## Meetings of the Council

The Council held regular meetings to plan and to deliberate on non-proliferation related issues; to assess the activities of its committees and to consider permit applications received from industry.

## Committees of the Council

The Committees of the Council, listed below, were established in terms of Section 10 of the Non-Proliferation Act to assist with specific technical issues and they met regularly during the report period.

### **Non-Proliferation Control Committee (CC)**

The CC considered applications for permits and discussed other non-proliferation issues and special investigations as part of its advice and recommendations to the Council on such matters.

The CC consisted of experts from the Non-Proliferation Secretariat (NPS), the Department of International Relations and Cooperation (DIRCO), the Directorate of Conventional Arms Control (DCAC) of the Secretariat for Defence, the South African Nuclear Energy Corporation (NECSA) Safeguards Division, the State Security Agency (SSA), Defence Intelligence (DI), the Department of Energy (DoE), and the South African Revenue Service (Customs).





### **Chemical Weapons Working Committee (CWWC)**

The CWWC deliberated issues related to the Chemical Weapons Convention (CWC) and advised the Council on the implementation thereof. Guidance was also given to the South African delegation attending the Conference of States Parties to the CWC.

The CWWC consisted of experts from the Council, the NPS, DIRCO, SSA, the Office of the Surgeon-General: South African National Defence Force (SANDF) and industry.

### **Biological Weapons Working Committee (BWWC)**

The BWWC advised the Council on issues related to the implementation of the Biological and Toxin Weapons Convention (BTWC). Guidance was also given to the South African delegation attending the Technical Expert meetings of the States Parties to the BTWC. The preparation of the working paper for the Seventh Review Conference of the BTWC was initiated.

The BWWC consisted of experts from the Council and various stakeholders involved in biological-related controls, production, use and distribution. These included the NPS, the Office of the Surgeon-General: SANDF, DIRCO, Agricultural Research Council, National Institute for Communicable Diseases, the Industrial Biotechnology Association of South Africa, Department of Agriculture, Department of Health and industry.

### **Nuclear and Missile Dual-Use Committee (NMDUC)**

The NMDUC advised the Council on nuclear related dual-use and missile related issues, with emphasis on import, export and transit of nuclear dual-use and missile dual-use goods across South African borders. Technical issues, as requested by the Council, were discussed. Delegations to international meetings of the Nuclear Suppliers Group (NSG) and the Missile Technology Control Regime (MTCR) were advised on negotiation positions.

The NMDUC consisted of experts from the Council and various governmental stakeholders involved in nuclear dual-use and missile delivery systems. These included the NPS, DI, DIRCO, SSA, NECSA Safeguards Division and DoE.

### **Non-Proliferation Review Committee (NPRC)**

In 2004, the Council decided to institute a comprehensive review of all non-proliferation policy, guidelines, legislation, control mechanisms, processes and procedures, infrastructure and human resources in order to maintain alignment of South African controls with national interests and international obligations and best-practice.



The work undertaken by the NPRC was subsequently guided by an Inter-Departmental Non-Proliferation, Disarmament and Arms Control Workshop, convened by DIRCO in February 2005. It was integrated with the work of the Non-Proliferation and Arms Control Working Committee, convened by DIRCO, that continued to be responsible for South Africa's obligations in terms of the United Nations Security Council Resolution 1540 adopted in April 2004.

During the period of this report, the NPRC made considerable progress in the ongoing review of current non-proliferation related legislation to position it appropriately with international best practice and developments in the control guidelines.

## The Council Secretariat

The Chief Directorate: Non-Proliferation of the Department of Trade and Industry (**the dti**), also known as the Non-Proliferation Secretariat (NPS), provided the administrative and secretarial services as required for the proper performance of the Council's and committees' functions. The NPS is part of the International Trade and Economic Development Division of **the dti**.

The NPS also undertook the daily workload and supported other functions of the Council and its committees i.e. the registration and the processing of permit applications from persons trading in goods of a proliferation risk, and the interpretation and implementation of the requirements of national legislation and the various international agreements, treaties and conventions.

Members of the NPS and the Committees of the Council represented the Council at various international forums of the international treaties, conventions and regimes to which South Africa is a signatory.

## Chemical Weapons Related Analytical Laboratory Services

In order to discharge effectively its obligations under the CWC, South Africa continued to utilise the services of a specialised laboratory capable of performing advanced analytical procedures to enable detection and identification of chemical weapons-related chemicals and their degradation products.

The maintenance of the Service Level Agreement with Protechnik Laboratories, a division of Armscor Defence Institutes (Pty) Ltd, South Africa's Single Small Scale Facility (SSSF), enabled the provision of the above laboratory services. This also ensured CWC compliance and allowed South African National Accreditation Services (SANAS) accreditation to be maintained. The current Service Level Agreement is valid until April 2013.



## Budget and Expenditure Report

Whilst the Council is appointed as a statutory body by the Minister of Trade and Industry in terms of the Non-Proliferation Act, the budget for the Council and NPS as well as general administrative services is provided by **the dti**. All expenditure incurred is through the NPS, which is allocated a budget through the International Trade and Economic Development Division in **the dti**. Audited Financial Statements of the NPS and the Council are therefore not contained in this report.

The budget and expenditure of the NPS and the Council is included in the audited financial statements of **the dti** and is reported in the annual report of **the dti**.

The following is a brief summary of the budget and expenditure of the NPS and the Council for the 2010/2011 financial year ending 31 March 2011.

**Table 1: Budget and Expenditure for 2010/2011**

Description	Budget	Expenditure	
		Amount	Percentage
<b>Compensation of Employees</b>	R 3 611 000.00	R 2 688 921.00	74.46%
<b>Goods and Services</b>	R 1 564 000.00	R 1 553 972.38	99.36%
Remuneration of the non governmental Council members	R 330 000.00	R 228 960.44	69.38%
Travel and Subsistence	R 970 000.00	R 990 213.85	102.08%
Other Operational Expenditure	R 264 000.00	R 186 368.00	72.97%
<b>Sub Fees: OPCW</b>	R 3 400 000.00	R 2 313 349.03	68.04%
<b>Protechnik Laboratories Current</b>	R 2 250 000.00	R 2 246 502.66	99.84%
<b>Protechnik Laboratories Capital</b>	R 1 000 000.00	R 1 000 000.00	100%
<b>Total</b>	R 11 825 000.00	R 9 802 745.00	82.9%

## COUNCIL ACTIVITIES RELATED TO ITS ROLE AS NATIONAL CONTROL AUTHORITY



### Council Activities related to International Cooperation

As part of South Africa's obligations in terms of the international conventions, treaties and regimes, officials from the NPS participated in the following international meetings, in order to participate in the deliberations on the control measures, lists of controlled goods and other issues relating to international implementation of the various obligations:

- The Missile Technology Control Regime Technical Experts Meeting that was held from 6 to 12 June 2010 in London, United Kingdom;
- The Nuclear Suppliers Group Plenary Meeting that was held from 20 to 26 June 2010 in Christchurch, New Zealand;
- The Biological and Toxin Weapons Convention Meeting of Experts that was held from 23 to 27 August 2010 in Geneva, Switzerland;
- Sixth Regional Assistance and Protection course for African States Parties that was held in South Africa from 6 to 10 September 2010;
- The Eighth Regional Meeting of National Authorities of Chemical Weapons Convention States Parties in Africa that was held from 27 to 29 September 2010 in Windhoek, Namibia;
- The Wassenaar Arrangement Experts Group Meeting that was held from 19 September to 2 October 2010 in Vienna, Austria;
- The Third OPCW Regional Basic Training Course for Representatives of National Authorities of States Parties in Africa involved in the implementation of the CWC was held from 8 to 12 November 2010 in Addis Ababa, Ethiopia;
- An introduction to Ballistic and Cruise Missile Technology Course for officials of MTCR Partners that was held from 22 to 26 November 2010 in Shrivenham, United Kingdom;

- The OPCW Workshop on Article XI (Economic and Technological Development) that was held from 24 to 25 November 2010 in The Hague, The Netherlands;
- The Twelfth Annual Meeting of National Authorities of CWC States Parties that was held from 26 to 28 November 2010 in The Hague, The Netherlands;
- The Fifteenth Conference of CWC States Parties that was held from 29 November to 3 December 2010 in The Hague, The Netherlands;
- The Electronic Commodity Identification Training (eCIT) Content Manager Training that was held from 7 to 10 February 2011 in Chicago, United States of America;
- The Nuclear Suppliers Group Dedicated Meeting of Technical Experts that was held from 20 to 25 February 2011 in Vienna, Austria;
- The Export Control Seminar that was held from 6 to 10 March 2011 in Dubai, United Arab Emirates;
- The South Africa/United States of America Non Proliferation Bilateral that was held from 12 to 19 March 2011 in the United States of America.

Various training courses were held in conjunction with the OPCW in order to enhance capacity in Africa with regard to implementation of the Chemical Weapons Convention. The following training courses were held during the report period:

- The Second Basic Analytical Chemistry Course for African States Parties to the Chemical Weapons Convention under the OPCW Programme to strengthen cooperation in Africa was held from 13 to 23 September 2010 at Protechnik Laboratories in Centurion. Participants were trained in sample preparation, basic analytical techniques and the use of certain laboratory equipment required for the analysis of toxic chemicals.
- The Sixth OPCW Regional Assistance and Protection Course for African States Parties to the CWC was held from 6 to 10 September 2010 in Tshwane. This course aimed to build capacity in Africa with regard to responding to incidents involving toxic chemicals. Participants are trained in the detection, identification, decontamination, and evacuation of contaminated sites.

## **Council Activities related to National Cooperation in respect of Non-Proliferation**

Inter-Governmental cooperation was achieved through the representation of the relevant stakeholder Departments and Agencies on the Council and the various Committees of Council.

Certain exports, imports and transit of goods required the approval of both the Council as well as the National Conventional Arms Control Committee (NCACC). The NPS actively participated in the meetings of the committees of the NCACC, while the DCAC also participated in meetings of the CC.

The Nuclear Energy Act, 1999 (Act No. 46 of 1999) requires that the Minister of Energy should consult with the Council on any matter affecting proliferation of weapons of mass destruction in terms of Sections 34(2)(a) and 35(2). The coordinating structure to ensure consultation between the Council and the Minister of Energy with regard to nuclear exports and imports was maintained. Representatives from the DoE attended the Council, the NMDUC, as well as the CC meetings.

## **Registration of persons involved in activities related to Non-Proliferation**

Section 13(3) of the Non-Proliferation Act requires that any person who is in control of any activity with regard to controlled goods or who has in his possession or custody, or under his control, controlled goods shall register with the Council.

In addition, the Government Notice No. R.16 of 3 February 2010 prescribes the manner in which persons in control of any activity with regard to controlled goods or who have controlled goods in their possession or custody or under their control should register with the Council. Subsequently, outreach visits were undertaken to make industry aware of the need to register or re-register as prescribed. The information on all registered persons was recorded and the necessary security measures were maintained to protect the confidentiality of the information contained in the Register.

During the period of the report, 96 persons applied for registration bringing the total number of persons registered with the Council under the new registration format to 107.

## **Permits**

Control over the transfer (import, export, re-export or transit) of controlled goods is regulated through a permit system. Persons wishing to transfer controlled goods apply to the Council for authority to do so.



The permit system allows for persons to apply for three different types of permits to be issued as follows:

- Individual Permits;
- Open Multiple Permits;
- Issue on Request Permits

These different types of permits allow for the person transferring the controlled goods to choose the type that suits the operational requirements of the applicant.

An Individual permit allows for a single consignment to a single destination / end user for fixed quantity of items with a validity period of three months.

An Open Multiple Permit allows for multiple consignments to a single destination / end user for a fixed total quantity of items with a validity period of one year. This type of permit allows the applicant more flexibility in terms of dates of shipments and dividing the total quantity approved over multiple consignments. Open Multiple Permits are the preferred option for transactions such as maintenance and supply of goods that are subject to a pre-approved contractual agreement.

An Issue on Request Permit allows for an applicant to obtain approval for a total quantity of items and subsequently individual permit requests may be sent to the NPS each time the applicant wishes to transfer a consignment of the approved export or import. An individual permit is then issued for a single consignment, to a single destination / end user for a portion of the total quantity of items with a validity period of three months. This type of permit is also used by the Council to control the export of sensitive items as the applicant would have to inform the NPS of each intended transfer before a permit is issued.

The Provisional Export Guidance Request Process, which was introduced in June 2001, continued to be widely utilised by persons to obtain guidance from the Council on whether an export could be considered at a later stage, before contracts or agreements were concluded with potential customers abroad.

After the review of the Government Notices and Regulations, the requirement for a Manufacturing and Services permit, for certain goods and technology, having a higher proliferation risk compared to other controlled items, was introduced in certain Government Notices. As a result, certain persons in possession or custody or control or manufacturing certain controlled goods have to apply to the Council for Manufacturing and Services permit after 3 February 2010.

All permit applications received during the period of the report were, on receipt, registered by the NPS. The CC considered all permit applications. The CC, after evaluation, made recommendations to Council, which then decided whether to approve the application, to request further information or to deny the application.

During the period of the report the Council:

- Received 117 import and 143 export permit applications
- Issued 104 import permits and 132 export permits
- Received and provided guidance on 5 potential exports in terms of the provisional export guidance system
- Received 5 Manufacturing and Services permit applications.
- Issued 5 Manufacturing and Services permits.

Two permit applications were for items that are not controlled in terms of the non-proliferation legislation. One permit application was withdrawn by the applicant. As at 31 March 2011, 12 import applications and 9 export applications were pending.

## **Border Control and Law Enforcement**

The South African Revenue Service (Customs) and the South African Police Service (Border Police) are responsible for control of borders and borderlines.

During the report period, efforts to ensure compliance and enforcement of the non-proliferation legislation were enhanced through the maintenance of a coordination committee between the Council and South African Revenue Service (Customs). A memorandum of understanding was concluded with South African Revenue Service to formalise the relationship and ensure effective and efficient enforcement of the provisions of the Non-Proliferation Act.

A Service Level Agreement to implement the memorandum of understanding as well as Standard Operating Procedures to ensure effective implementation is under discussion with the appropriate role-players.

The training of Customs and Border Control officials in the identification of controlled goods is also being undertaken to assist in the enforcement efforts. Customised training programmes are currently being developed in conjunction with South African Revenue Service in order to provide appropriate training.

Furthermore, the training will be extended to Southern African Customs Union (SACU) upon conclusion of discussions between SARS Customs and fellow SACU members.





## Declarations

Council required persons involved in transfer of controlled chemicals or the production of discrete organic chemicals, to declare their activities, in accordance with the legislation and international obligations. This information was collated in accordance with national and international requirements.

During September and October 2010, Annual Declarations of Anticipated Activities for South Africa's SSSF and Schedule 3 facilities were submitted to the OPCW in terms of the requirements of the CWC.

During March 2011, Annual Declarations of Past Activities for the SSSF, Schedule 2 and 3 OCPF facilities as well as import and export data of scheduled chemicals were submitted to the OPCW.

## International Inspections

In terms of the CWC, the OPCW can verify activities relating to toxic chemicals and their precursors and facilities producing such chemicals from the information provided in the declarations.

During the report period, two OPCW inspections were held at a Schedule 1 facility and two OPCW inspections were held at 'Other Chemical Production Facility' (OCPF) producing Discrete Organic Chemicals (DOCs). The four inspections confirmed South Africa's adherence to the provisions of the CWC.

## Awareness and Outreach Programmes

In order to improve the operational efficiency of the NPS, the development of an on-line system for permit applications continued. Positive feedback continued to be received from industry on the information supplied on the website of the Council.

The NPS undertook a series of awareness visits to businesses involved in controlled goods and activities in terms of national and international obligations. These visits and awareness raising sessions aimed to increase the knowledge of industry and relevant stakeholders of the legislation and control processes and procedures.

## ANNEXURE 1 LEGISLATION RELATED TO CONTROLLED GOODS



The control, including safety measures, over goods, services and technology related to weapons of mass destruction are addressed in various Acts, Regulations and Notices as follows:

1. Weapons of Mass Destruction: The Non-Proliferation of Weapons of Mass Destruction Act, 1993 (Act No. 87 of 1993) (Non-Proliferation Act), as amended and supported by Regulations and Notices.
  - 1.1 The Missile Technology Control Regime Equipment and Technology are declared as controlled goods in terms of Section 13 of the Non-Proliferation Act. Government Notice No. 22 of 3 February 2010 declares certain Missile Technology and Related Items as controlled goods and control measures applicable to such goods. Previous Government Notices listing these items, which have now been repealed, are Government Notice No. R.1789 of 14 October 1994; Government Notice No. 429 of 10 April 2002 and Government Notice No. 311 of 11 April 2007.
  - 1.2 The Nuclear Dual-use Goods and related items of the Nuclear Suppliers Group are declared as controlled goods in terms of Section 13 of the Non-Proliferation Act. Government Notice No. 20 of 3 February 2010 declares certain dual-use Equipment, Materials and Related Technology Items (Nuclear Suppliers Group Part 2) as controlled goods and control measures applicable to such goods. Government Notice No. 21 of 3 February 2010 declares certain Nuclear-related dual-use Equipment, Materials and Related Technology Items (Stable Isotopes Separation Technology) as controlled goods and control measures applicable to such goods. Previous Government Notices listing these items, which have now been repealed, are Government Notice No. R.1790 of 14 October 1994; Government Notice No. 430 of 10 April 2002; and Government Notice No. 310 of 11 April 2007.
  - 1.3 The Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (Chemical Weapons Convention) was included in South African legislation through the promulgation of Government Notice No. 754 of 2 May 1997.



Government Notice No. R.17 of 3 February 2010 relates to the implementation and administration of the Chemical Weapons Convention in the Republic. A previous Government Notice listing these regulations, which have now been repealed, is Government Notice No. R. 705 of 23 May 1997 as amended by Government Notice No. R. 77 of 29 January 2004.

The various Schedules of chemicals of the Chemical Weapons Convention are declared as controlled goods in terms of Section 13 of the Non-Proliferation Act. Government Notice No. 18 of 3 February 2010 declares certain chemical goods to be controlled goods and control measures applicable to such goods. Previous Government Notices listing these items, which have now been repealed, are Government Notice No. 704 of 23 May 1997; and Government Notice No. 152 of 29 January 2003.

- 1.4 The *Catch-All* mechanism allows the Council to declare goods that are mentioned in the controlled lists, but do not comply fully with the specifications mentioned, or do not appear nominally on a list or lists, to be controlled goods. Government Notice No. R. 75 of 29 January 2004 enables this mechanism to be effected.
- 1.5 The Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and their Destruction was included in South African legislation through Presidential Proclamation No. R. 16 of 26 February 2002.
- 1.6 Biological goods and technology are declared as controlled goods in terms of Section 13 of the Non-Proliferation Act. Government Notice No. 19 of 3 February 2010 declares certain biological goods and technologies to be controlled goods and control measures applicable to such goods. Previous Government Notices listing these items, which have now been repealed, are Government Notice No. 428 of 10 April 2002; and Government Notice No. 712 of 8 June 2004.
- 1.7 The manner in which persons in possession or custody or control of controlled goods should register with the Council has been prescribed in Government Notice No. R.16 of 3 February 2010.



2. There is other National Legislation that also has a bearing on the implementation and the enforcement of the national policy on Non-Proliferation. Prominent among those are:

2.1. Nuclear materials:

- Nuclear Energy Act, 1999 (Act No. 46 of 1999): The possession, use, disposal and processing of nuclear material and Especially Designed and Prepared (EDP) items are controlled by the Department of Energy in terms of the Nuclear Energy Act, 1999 (Act No. 46 of 1999) and its supporting Regulations and Notices. Government Notice No. 207 of 27 February 2009 declared those items listed in the Zangger list of items as controlled.
- National Nuclear Regulator Act, 1999 (Act No. 47 of 1999). This Act provides for the establishment of a National Nuclear Regulator to provide for safety standards and regulatory practices for the protection of persons, property and the environment against nuclear damage and to regulate nuclear activities.
- Hazardous Substances Act, 1973 (Act No. 15 of 1973). This act covers radioactive materials outside a nuclear installation, which are classified as Group IV hazardous substances.

2.2. Chemical and biological agents: Safety, security and accountability requirements during the manufacturing process, storage, stockpiling, as well as transfer and transport of toxins and pathogens:

- Agricultural Pest Act, 1983 (Act No. 36 of 1983), for plant pathogens
- Animal Diseases Act, 1984 (Act No. 35 of 1984) replaced by the Animal Health Act, 2002 (Act No. 7 of 2002)
- Fertilizers, Farm feed, Agricultural Remedies and Stock Remedies Act, 1947 (Act No. 36 of 1947)
- Genetically Modified Organisms Act, 1997 (Act No. 15 of 1997); Government Notice No. R. 1420 of 1999
- National Conventional Arms Control Act, 2002 (Act No. 41 of 2002)
- National Health Act, 2003 (Act No. 61 of 2003)
- Occupational Health and Safety Act, 1993 (Act No. 85 of 1993), for human and zoonotic pathogens and chemicals. Regulation on Biosafety Standards for Microbiological Laboratories.

2.3 Missile related goods and technology:

- National Conventional Arms Control Act, 2002 (Act No. 41 of 2002)

3. South Africa has other legislative frameworks related to the Non-Proliferation of Weapons of Mass Destruction, also with specific reference to non-State actors, acts of terrorism and the safety and security aspects of materials, services and technology. Some of the major ones are:

- Aviation Act, 1962 (Act No. 74 of 1962)
- Criminal Law Second Amendment Act, 1992 (Act No. 126 of 1992)
- Cross-Border Road Transport Act, 1998 (Act No. 4 of 1998)
- Customs and Excise Act, 1964 (Act No. 91 of 1964)
- Defence Act, 2002 (Act No. 42 of 2002)
- Explosives Act, 2003 (Act No. 15 of 2003)
- Interception and Monitoring Prohibition Act, 1992 (Act No. 127 of 1992)
- Internal Security Act, 1982 (Act No. 74 of 1982)
- International Trade Administration Act, 2002 (Act No. 71 of 2002)
- Maritime Zones Act, 1994 (Act No.15 of 1994)
- National Environmental Management Act, 1998 (Act No. 107 of 1998)
- National Road Traffic Act, 1996 (Act No. 93 of 1996)
- Prohibition of Mercenary Activities and Regulation of Certain Activities in Country of Armed Conflict Act, 2006 (Act No. 27 of 2006)
- Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004 (Act No. 33 of 2004)
- Protection of Information Act, 1982 (Act No. 84 of 1982)
- Space Affairs Act, 1993 (Act No. 84 of 1993)
- The Prohibition of Certain Conventional Weapons Act, 2008 (Act No. 18 of 2008)
- Anti-Personnel Mines Prohibition Act, 2003 (Act No. 36 of 2003)



## ANNEXURE 2

### MEMBERS OF THE SOUTH AFRICAN COUNCIL FOR THE NON-PROLIFERATION OF WEAPONS OF MASS DESTRUCTION



The Council was appointed in terms of Section 4(2) of the Act. The Minister of Trade and Industry, appointed the Council for a period of three years, from 15 September 2009 until 14 September 2012. The Chairperson and the Vice-Chairperson were appointed until 14 November 2012. The following persons serve as members of the Council:

COUNCIL MEMBER	
AMB A S MINTY	Chairperson
MR T MAQUBELA	Vice-Chairperson
AMB L GUMBI	Department of International Relations and Cooperation
MS J SCHOLTZ	Department of Trade and Industry
Vacant (Two positions)	Ministry of Defence and Military Veterans
MS (DR) L LOTTER	Chemical Industry
MS S LUTSEKE	Additional member from the Chemical Industry
MR G NAPIER	Biological Industry
MAJ-GEN (RET) J KRIEL	Aerospace Industry
MR L S HAMILTON	Additional member from the Aerospace Industry
MR J LEAVER	Nuclear Industry
ADV B MKHIZE	Additional member from the Nuclear Industry
MR L J SHAYI	South African Nuclear Energy Corporation
MS E MONALE	Department of Energy
MR (DR) K SIZIBA	Additional member from the State Security Agency

## ANNEXURE 3 LIST OF ABBREVIATIONS



<b>BTWC</b>	Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction (Biological and Toxin Weapons Convention)
<b>BWWC</b>	Biological Weapons Working Committee
<b>CC</b>	Non-Proliferation Control Committee
<b>CWC</b>	Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (Chemical Weapons Convention)
<b>CWWC</b>	Chemical Weapons Working Committee
<b>DCAC</b>	Directorate of Conventional Arms Control
<b>DIRCO</b>	Department of International Relations and Cooperation
<b>DI</b>	Defence Intelligence
<b>DoE</b>	Department of Energy
<b>DOC</b>	Discrete Organic Chemical
<b>EDP</b>	Especially Designed and Prepared
<b>MTCR</b>	Missile Technology Control Regime
<b>NCACC</b>	National Conventional Arms Control Committee
<b>NECSA</b>	South African Nuclear Energy Corporation
<b>SSA</b>	State Security Agency
<b>NMDUC</b>	Nuclear and Missile Dual-Use Committee
<b>NPRC</b>	Non-Proliferation Review Committee
<b>NPS</b>	Non-Proliferation Secretariat
<b>NSG</b>	Nuclear Suppliers Group
<b>OCPF</b>	Other Chemical Production Facility
<b>OPCW</b>	Organisation for the Prohibition of Chemical Weapons
<b>SACU</b>	Southern African Customs Union
<b>SANAS</b>	South African National Accreditation Services
<b>SANDF</b>	South African National Defence Force
<b>SSSF</b>	Single Small Scale Facility
<b>TEM</b>	Technical Expert Meeting
<b>the Council</b>	South African Council for the Non-Proliferation of Weapons of Mass Destruction
<b>the dti</b>	Department of Trade and Industry
<b>WMD</b>	Weapons of Mass Destruction

