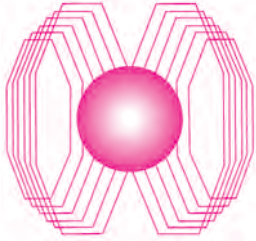


**THE TWENTIETH ANNUAL REPORT OF  
THE SOUTH AFRICAN COUNCIL FOR  
THE NON-PROLIFERATION OF  
WEAPONS OF MASS DESTRUCTION**

**REPORT PERIOD:  
1 APRIL 2013 TO 31 MARCH 2014**





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

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**Dr Rob Davies**

Minister of Trade and Industry  
Department of Trade and Industry  
Private Bag X84  
Pretoria  
0001

Dear Minister

### **ANNUAL REPORT OF THE SOUTH AFRICAN COUNCIL FOR THE NON-PROLIFERATION OF WEAPONS OF MASS DESTRUCTION FOR THE PERIOD 1 APRIL 2013 TO 31 MARCH 2014**

I have the honour of submitting to you the twentieth annual report of the South African Council for the Non-Proliferation of Weapons of Mass Destruction (the Council) in terms of Section 25 of the Non-Proliferation of Weapons of Mass Destruction Act, 1993 (Act No. 87 of 1993) as amended, for the period 1 April 2013 to 31 March 2014.

Yours sincerely

**Mr. T. Maqubela**  
**Chairperson**  
**02-06-2014**

## PREFACE

### Foreword by the Council Chairperson



The South African Council for the Non-Proliferation of Weapons of Mass Destruction (the Council) has continued to fulfil its mandate to control items related to the non-proliferation of weapons of mass destruction and their means of delivery through the implementation of the Government's policy on disarmament and non-proliferation and relevant non-proliferation legislation. In this report period, the Council, ably assisted by its Committees and Secretariat, has ensured that all appropriate non-proliferation controls have been implemented resulting in the required high level of assurance of compliance.

In the year under review, the SARS Customs training on commodities related to the development of weapons of mass destruction was revitalised and the outreach programmes to companies and their related industry associations were intensified. Continued engagement with these stakeholders also made the Council aware of improvements needed in the areas of cooperation and compliance by industry.

The Council was entrusted with the responsibility of being the National Authority to the Comprehensive-Nuclear-Test Ban Treaty.

Modernisation of Council processes, such as company registration and permit applications, continued to be considered by **the dti** Information Technology Unit. In particular, the modernisation of the permit process will allow information to be exported to the SARS system for SARS Customs to be aware of scheduled import, export and transit of non-proliferation controlled items. As such, the clearance of such items will be expedited and the legitimate trade of strategic goods enhanced.

The vigour with which the Council members and the Non-Proliferation Secretariat continued to execute their tasks has been impressive and greatly facilitated my task as a Chairperson. The support from the Ministry of Trade and Industry and other stakeholders is appreciated and has provided encouragement for the next financial year.

Mr T. Maqubela  
*Council Chairperson*

## TERMINOLOGY USED IN THIS REPORT



“Weapon of mass destruction” (WMD), as defined in the Non-Proliferation of Weapons of Mass Destruction Act, 1993 (Act No. 87 of 1993), 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.

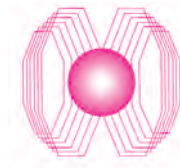
The term “goods”, when used in this document, includes any technology, data, technical assistance, services, software, processes, activities, facilities, substances, materials, items, equipment, components, assemblies or systems, whether produced in the Republic or imported into the Republic.

“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 twentieth 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 2013 to 31 March 2014.

As the State's statutory body on non-proliferation, the Council 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 and their delivery means.

During the report period, the Council fulfilled its mandate to control items related to the non-proliferation of weapons of mass destruction and their delivery means through the implementation of the Government policy on non-proliferation and the non-proliferation legislation.

The Council, through its Committees and the Non-Proliferation Secretariat, achieved its objectives 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 pertaining to international treaties, agreements and conventions to which South Africa is a signatory.

Active liaison with industry and the increase in awareness of the controls broadened the scope of control over entities involved in such goods and activities. This was enhanced and as such more persons in possession, custody or control of controlled goods have been registered with the Council after the promulgation of the registration regulation in 2010.

In addition, during the reporting period, the Council initiated the amendment of the Government Notices to include new dual use items that are deemed to be of proliferation risk in line with the decisions of the relevant international regimes.

The Council continues to believe that national adherence to international obligations would be optimised through increased commitment to compliance from industry and enhanced enforcement of legislation. Efforts to enhance enforcement continued during the reporting period by strengthening coordination with the relevant Government stakeholders.

The officials of the Non-Proliferation Secretariat continued to participate in international meetings thereby fulfilling the State's obligations and also increasing the capacity of the Secretariat to support the Council.





## PART A: GENERAL INFORMATION

### POLICY

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



Since 1994, South Africa has committed itself to democracy, sustainable development, social justice and environmental protection. In keeping with this commitment, the Government has extended this policy to include the promotion of global peace and security through the elimination and non-proliferation of weapons of mass destruction. A primary goal of this policy is to reinforce and promote South Africa as a responsible producer, possessor and trader of advanced technologies in the nuclear, biological, chemical and missile fields. In doing so, South Africa promotes the benefits which disarmament, non-proliferation and arms control hold for international peace and security.

In order to implement a clear policy of the non-proliferation of weapons of mass destruction, the South African Cabinet adopted the following policy, based on South Africa's national interests, legislation, as well as its international commitments and obligations.

The policy states that South Africa shall:

- be an active participant in the various non-proliferation regimes and suppliers groups;
- publicly adopt positions supporting the non-proliferation of weapons of mass destruction with the goal of promoting international peace and security;
- use its position as a member of the suppliers regimes and of the Africa Group and the Non Aligned Movement to promote the importance of non-proliferation and to ensure that these controls do not deny developing countries access to advanced technologies required for peaceful purposes and their developmental needs.



## 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. Other South African Legislation related to the Non-Proliferation of Weapons of Mass Destruction is listed in Annexure 1.

Due to the changes in the international non-proliferation environment with regard to control requirements and best practices, the Council has regularly undertaken a comprehensive review of its domestic legislation. As such, the Government Notices are being reviewed to ensure continued coherence with international standards.

Outreach efforts and interaction with industry were enhanced to increase awareness of national legislation. Controlled goods and activities have been promulgated in Government Notices based on applicable international legally binding instruments and commitments made in terms of various export control regimes.

## Controlled Goods

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



## PART B: GOVERNANCE

# 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 members of the current Council from 15 September 2012 for a period of 5 years until 14 September 2017. The Council Chairperson was appointed on 16 November 2012 for a period of five years until 15 November 2017.

A list of the members that were appointed to the Council for the period under review is provided in Annexure 2.

## Meetings of the Council

The Council held regular meetings to plan and 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. Regular meetings were held during the report period.

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

The CC considered applications for permits and authorisations, and discussed other related non-proliferation issues which formed 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 Chief Directorate of Conventional Arms Control (CDCAC) 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, Protechnik Laboratories, (a division of Armscor SOC Limited), the NPS, DIRCO, SSA, South African National Defence Force (SANDF): the Office of the Surgeon-General 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 Meetings of Experts and Meetings of the States Parties to the BTWC.

The BWWC consisted of experts from the Council and various stakeholders involved in biological-related controls, production, use and distribution. These included the NPS, South African National Defence Force (SANDF): the Office of the Surgeon-General, Protechnik Laboratories, a division of Armscor SOC Limited, DIRCO, 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, DoE and industry.

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

In 2004, the Council instituted 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. This mandate was assigned to the NPRC.

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 2012-2013 financial year, the NPRC completed the comprehensive review of South Africa's non-proliferation legislation, mechanisms, processes, procedures and structures in order to ensure that the South African non-proliferation controls remained aligned to national interests and international commitments and best practices.

At the conclusion of this report period, the tabling of the updated legislation in Parliament was still being withheld pending the outcomes of the discussions between the Council and other Government departments and institutions that might be affected.

#### **Protechnik Laboratories Programme Management Committee (PL PMC)**

The PL PMC was formed in terms of the Service Level Agreement between the Department of Trade and Industry and Protechnik Laboratories, a division of Armscor SOC Limited. The PMC oversees the implementation of the Service Level Agreement and executed all tasks required to ensure that South Africa fulfilled its obligations in terms of the Chemical Weapons Convention (CWC).

The PMC consisted of experts from the Department of Trade and Industry, South African National Defence Force (SANDF): the Office of the Surgeon-General, NPS, Protechnik Laboratories, a division of Armscor SOC Limited.

#### **Non-Proliferation Secretariat/South African Revenue Services Coordinating Committee (NPS/SARS CC)**

The NPS/SARS CC was formed in 2009 in terms of the Memorandum of Understanding (MoU) signed between the Department of Trade and Industry and the South African Revenue Service. The Committee dealt with implementing the MoU, negotiating the Service Level Agreement and the Standard Operating Procedures and facilitating the enforcement non-proliferation legislation related to the movement of controlled goods through South Africa's international trade borders.

The NPS/SARS CC consisted of participants from SARS, NPS, DoE, SSA and DIRCO.

#### **Council for Geosciences Project Management Committee (CGS PMC)**

The CGS PMC was formed in 2013 in terms of the Service Level Agreement between the Department of Trade and Industry and the Council for Geosciences (CGS). The PMC oversees the implementation of the Service Level Agreement and execute all tasks required to ensure that South Africa fulfill its obligations in terms of the Comprehensive Nuclear-Test-Ban Treaty (CTBT).

The PMC consisted of officials from the Department of Trade and Industry, DIRCO and CGS.



## 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 renewal of the Service Level Agreement with Protechnik Laboratories, a division of Armscor SOC Limited, South Africa's Single Small Scale Facility (SSSF), enabled the provision of the above laboratory services. This also ensured CWC compliance and allowed the laboratory to be maintained.

The Service Level Agreement expired in March 2013. The Department of Trade and Industry and Armscor SOC Limited agreed to sign an extension for four years from April 2013 to March 2017.

## Comprehensive Nuclear-Test-Ban Treaty Organisation Related Services

The Department of International Relations and Cooperation has been the National Authority to the Comprehensive Nuclear-Test-Ban Treaty Organisation (CTBTO) since South Africa signed and ratified the Comprehensive Nuclear-Test-Ban Treaty (CTBT). During mid 2013, this responsibility was transferred to the Council.

In order to help in the monitoring of possible treaty violations, such as nuclear explosion/tests after the Comprehensive Nuclear-Test-Ban Treaty comes into force, South Africa hosts several monitoring stations within its territory on behalf of CTBTO.

The Department of Trade and Industry (**the dti**) on behalf of the Council has concluded a Service Level (SLA) Agreement with the Council for Geoscience (CGS) for maintenance of the stations.

The SLA is valid for approximately three years and commenced in July 2013. This SLA between CGS and **the dti** will be reviewed before the end of the term in March 2016.

## Non-Proliferation Control Structure

Due to the multi-faceted nature of non-proliferation controls and the overlapping of non-proliferation legislation in South Africa, the Council continued to depend on the cooperation and collaboration with other Government departments and entities to fulfil its mandate.

An organogram illustrating the organisational structure of the Council is provided in Annexure 4. This further illustrates the relationship with the other Government departments and institutions through the Committees of the Council.



## PART C: PERFORMANCE

### 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 deliberate on the control measures, lists of controlled goods and other issues relating to international implementation of the various obligations:

- The Sixteenth Security and Strategic Trade Management Academy coordinated by the University of Georgia: Centre for International Trade and Security (CITS) that was held from 25 March to 05 April 2013 in Athens, Georgia, United States of America (USA);
- The Third Special Session of the Conference of States Parties to the Chemical Weapons Convention (Third Review Conference) that was held from 08 to 19 April 2013 in The Hague, The Netherlands;
- The Intersessional Technical Experts Meeting of the Missile Technology Control Regime (MTCR) that was held from 12 to 18 May 2013 in Bonn, Germany;
- The Discussion with the United Nations Experts from the Committee on UNSCR 1540 (2004) that was held from 19 to 26 May 2013 in Washington DC, USA;
- The Regional Meeting of National Authorities of States Parties to the Chemical Weapons Convention in Africa that was held from 04 to 06 June 2013 in Brazzaville, The Republic of Congo;
- The Nuclear Suppliers Group Plenary Meeting that was held from 07 to 16 June 2013 in Prague, Czech Republic;





- The Comprehensive Nuclear-Test-Ban Treaty Science and Technology Conference 2013 that was held from 15 to 22 June 2013 in Vienna, Austria;
- The Meeting of Experts to the Biological and Toxin Weapons Convention that was held from 12 to 16 August 2013 in Geneva, Switzerland;
- The Fourth Summer Programme on Disarmament and Non-Proliferation of Weapons of Mass Destruction in a Changing World that was held from 31 August to 07 September 2013 in The Hague, Netherlands;
- The Training Course for National Authorities of States Parties to the Chemical Weapons Convention on Training Escorts for Inspections that was held from 24 to 27 September 2013 in The Hague, Netherlands;
- The Technical Experts Meeting and the Plenary of the Missile Technology Control Regime (MTCR) that was held from 12 to 19 October 2013 in Rome, Italy;
- The Ballistic and Cruise Missile Technology Course for Missile Technology Control Regime (MTCR) Partners that was held from 16 to 24 November 2013 in Shrivenham, United Kingdom;
- The Workshop on Article XI (Technological and Economic Developments) of the Chemical Weapons Convention for the Africa Region that was held from 19 to 21 November 2013 in Nairobi, Kenya;
- The Fifteenth Annual Meeting of National Authorities to the Chemical Weapons Convention (CWC) that was held from 27 to 30 November 2013 and the Eighteenth Session of the Conference of States Parties to the CWC that was held from 02 to 06 December 2013 in The Hague, The Netherlands;
- The Meeting of States Parties to the Biological and Toxin Weapons Convention that was held from 09 to 13 December 2013 in Geneva, Switzerland;
- The African Union Workshop on the implementation of United Nations Security Council Resolution 1540 (2004) that was held from 10 to 11 December 2013 in Addis Ababa, Ethiopia;
- The Kenyan Chemical, Biological, Radiological, Nuclear and Explosives Commodity Identification Training that was held from 10 to 14 February 2014 in Manyani, Kenya;
- The Comprehensive Nuclear-Test-Ban Treaty's Working Group B Meeting 2014 that was held from the 15 February to 02 March 2014 in Vienna, Austria;
- The Fourteenth International Export Control Conference that was held from 16 to 18 March 2014 in Dubai, United Arab Emirates.



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

- The Fifth 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 06 to 17 May 2013 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 Second Assistance and Protection Course for instructors for African States Parties to the CWC in the Southern Region was held from 09 to 20 September 2013 in Tshwane, South Africa. This course was provided for selected specialists from participating countries of the region (Southern Africa). Only participants dealing with the emergency response and protection against chemical weapons and toxic industrial chemicals were invited. The course covered theoretical and practical training on the usage of individual and collective protective clothing, monitoring, detection and decontamination techniques, as well as the handling of casualties after a chemical incident. In addition, a manual on Joint Management of Incidents involving Hazardous Chemical Agents was provided to the participants.
- The Seminar on Chemical Weapons Convention and Chemical Safety and Security for African States Parties was held from 18 to 20 March 2014 in Durban, South Africa. The overall objective of the seminar was to provide an opportunity for participating States Parties to consider and discuss safety and security management issues related to chemical processes that have a direct effect on the successful implementation of the Convention.

## **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 CDCAC 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 the transfer of nuclear materials, equipment and technology and on any matter affecting the proliferation of weapons of mass destruction in terms of Sections 33(2)(e), 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 participated in the Council, the NMDUC, as well as the CC meetings.

## Recommendations for the transfer of nuclear materials

In accordance with Sections 34(2)(a) and 35(2) of the Nuclear Energy Act, 1999 (Act No. 46 of 1999), the Minister of Energy consults with the Council with regards to the transfer of nuclear materials, equipment and technology. This is part of the process when the Minister considers authorisation applications for the transfer of those nuclear materials, equipment and technology.

In terms of the authorisations' applications evaluation, all imports of Scheduled items and exports of Schedule I & II items are considered and recommended by the CC directly to the Council Chairperson for signature. All exports of Schedule III & IV items are considered and recommended to the Council by the CC for further consideration before a recommendation can be issued.

During the reporting period, the Council and the Control Committee:

- Considered 34 import, 33 export authorisation applications and a guidance request.
- Issued 32 import, 33 export authorisation recommendations and 1 guidance.

As at 31 March 2014, 2 import authorisation applications were pending.

## 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 or her possession or custody, or under his or her control, controlled goods shall register with the Council.

Furthermore, 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.

Outreach visits were maintained 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, 31 persons applied for new registration and 62 applied for registration renewal. This brought the total number of persons registered with the Council under the new registration format to 250 as at 31 March 2014.



## 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 the 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 was issued. The system can be used for a client who requires an Open Multiple Permit but is not aware or sure of the exact date of commencement of the approved shipments.

The Provisional Export Guidance Request Process 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.

The Manufacturing and Services permit is for certain goods and technology, which have a higher proliferation risk compared to other controlled items. Since 3 February 2010, persons in possession or custody or control or manufacturing certain controlled goods had to apply to the Council for Manufacturing and Services permits.

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 reporting period, the Council:

- Received 117 import and 215 export permit applications
- Issued 103 import permits and 194 export permits
- Received 3 provisional export guidance requests and provided guidance on 3 potential exports in terms of the provisional export guidance system
- Received 3 applications and issued 2 permits for Manufacturing and Services

Three import and two export permit applications were for items that were not controlled under the non-proliferation legislation. One export permit application was denied by the Council. As at 31 March 2014, 11 import applications, 18 export applications and 1 Manufacturing and Services application were pending.

## Border Control and Law Enforcement

The South African Revenue Service (Customs), South African National Defence Force and the South African Police Service (Border Police) are responsible for the control of borders, ports of entry/exit and borderlines.

During the reporting period, efforts to ensure compliance with and enforcement of the non-proliferation legislation were maintained through the Coordination Committee between the Council and the South African Revenue Service (SARS) (Customs). A Memorandum of Understanding (MoU) was implemented with SARS to continue the relationship and ensure effective and efficient enforcement of the provisions of the Non-Proliferation Act.

A Service Level Agreement (SLA) expanding on the implementation of the MoU as well as Standard Operating Procedures (SOP) continued to be discussed with the appropriate role-players.

Items controlled by the Council have been included into the Prohibited and Restricted list for ease of identification by the SARS risk engine and updates of the list are conducted in-conjunction with SARS as the need arises.

The training of Customs and Border Control officials in the identification of controlled goods was also continued to assist in the enforcement efforts. Two Commodity Identification Training (CIT) programmes have successfully been concluded. Further training engagements will be conducted as part of the nationwide CIT rollout plan by SARS. An electronic CIT named Strategic Commodity Reference (SCORE), has been commissioned and will be provided to Customs officials for self-study.

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



## Declarations

Council required persons involved in the transfer or production of controlled 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 2013, Annual Declarations of Anticipated Activities for South Africa's Single Small Scale Facility (SSSF) and Schedule 3 facilities were submitted to the OPCW in terms of the requirements of the CWC.

During March 2014, Annual Declarations of Past Activities for the SSSF, Schedule 3 and Other Chemical Production Facilities (OCPF), as well as import and export data of scheduled chemicals were submitted to the OPCW.

As part of the conditions of the Manufacturing and Services Permits issued, companies submitted written reports of activities during the reporting period. The NPS has since developed a standard declaration form for companies to complete. The completed document will be used as a reference during inspections.

## Inspections and Verifications

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

During the report period, three OPCW inspections took place in South Africa. There were two (sequential) inspections held at OCPF producing Discrete Organic Chemicals and one Schedule 1 inspection at South Africa's SSSF. The three inspections confirmed South Africa's adherence to the provisions of the CWC.

Furthermore, international verification exercises were undertaken to ensure that certain conditions attached to sensitive items exported from South Africa were adhered to. The verification exercises were undertaken in conjunction with the NCACC Inspectorate.

Locally, an inspection was undertaken at a nuclear related company in terms of the Manufacturing and Services Permit conditions to verify the company's declarations' contents. The inspection confirmed the company's adherence to the permit conditions.



## 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 and to encourage industry to adopt the voluntary Internal Compliance Programme.

The Compliance and Enforcement Unit in the NPS organised 12 industry visits at individual companies and 4 outreach visits hosted by associations. The visits were undertaken in conjunction with the Scientific Support Unit of the Non-Proliferation Secretariat to assist with technical issues.



## PART D: HUMAN RESOURCES MANAGEMENT

### 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 support as required for the proper performance of the Council and its committees' functions. The NPS remained located as a Chief Directorate within the International Trade and Economic Development Division of **the dti**.

The NPS also undertook the daily operations and supported other functions of the Council and its committees i.e. the registration and 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 remained a party.





## PART E: FINANCIAL INFORMATION

### Budget and Expenditure Report



Whilst the Council is established 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 are included in the audited financial statements of **the dti** and 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 2013/2014 financial year ending 31 March 2014.

**Table 1: Budget and Expenditure for 2013/2014**

Description	Budget	Expenditure	
		Amount	Percentage
<b>Compensation of Employees</b>	R 5 628 000.00	R 5 749 669.02	102.16%
<b>Goods and Services</b>	R 2 688 000.00	R 2 243 818.18	83.48%
Council members not in full time employment of the State	R 300 000.00	R 231 389.46	77.13%
Operational Expenditure including Travel and Subsistence	R 2 238 000.00	R 1 866 429.52	82.48% <sup>a</sup>
Hiring and Rental	R 150 000.00	R 145 999.20	97.33%
<b>Sub Fees: OPCW</b>	R 4 220 000.00	R 3 642 159.02	86.31%
<b>Protechnik Laboratories Current</b>	R 2 832 000.00	R 2 832 000.00	100.00%
<b>Protechnik Laboratories Capital</b>	R 1 855 000.00	R 1 855 000.00	100.00%
<b>Council for Geoscience Current</b>	R 836 000.00	R 835 307.52	99.92%
<b>Total</b>	R 18 059 000.00	R 17 157 953.74	95.01%

<sup>a</sup> Travel and Subsistence contribute 76.14% of the total.



# ANNEXURE 1

## LEGISLATION RELATED TO CONTROLLED GOODS



The control over goods, services and technology related to weapons of mass destruction and their means of delivery 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 has 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 National Legislation that also has a bearing on the implementation and the enforcement of the national policy on Non-Proliferation. The following are prominent:
- 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 Amendment Act, 2008 (Act No. 73 of 2008)

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 NON-PROLIFERATION OF WEAPONS OF MASS DESTRUCTION



The members of the Council were appointed in terms of Section 4(2) of the Non-Proliferation Act by the Minister of Trade and Industry for a period of five years. The following persons were appointed and serve as members of the Council from 15 September 2012 until 14 September 2017 and Chairperson from 16 November 2012 until 15 November 2017:

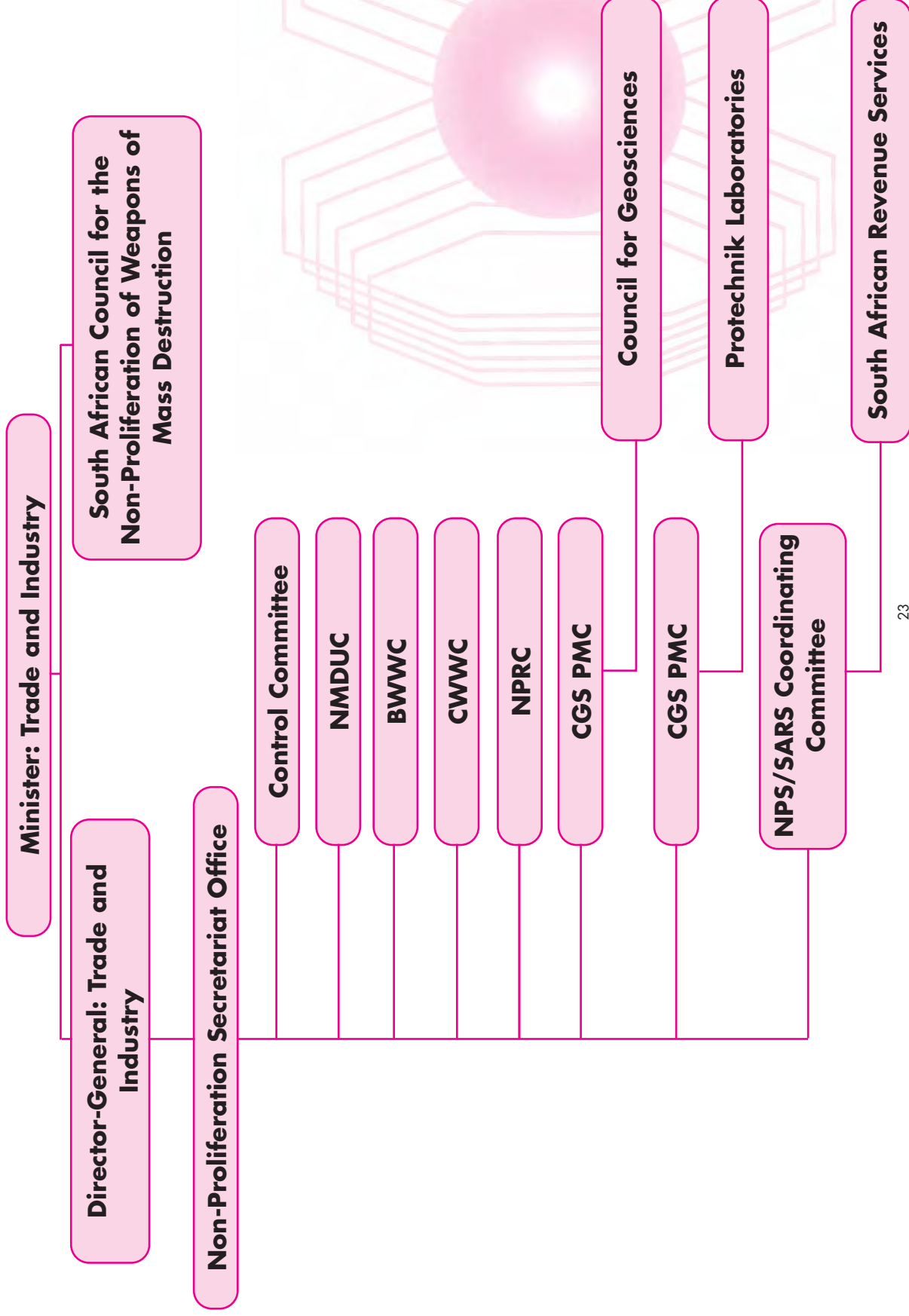
<b>COUNCIL MEMBER</b>	
MR T MAQUBELA	Chairperson
Vacant	Vice-Chairperson
MR L S HAMILTON	Aerospace Industry
MR J KELLERMAN	Department of International Relations and Cooperation
MR J LEAVER	Nuclear Industry
MS S LUTSEKE	Chemical Industry
MS E MONALE	Additional member from the Department of Energy
MR G NAPIER	Biological Industry
MS M RASWESWE	South African Nuclear Energy Corporation
MS J SCHOLTZ	Department of Trade and Industry
LT. GEN. A P SEDIBE	Department of Defence and Military Veterans
MR (DR) K SIZIBA	Additional member from the State Security Agency
COL (DR) B STEYN (RET)	Department of Defence and Military Veterans

## 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>CGS</b>	Council for Geosciences
<b>CIT</b>	Commodity Identification Training
<b>CTBTO</b>	Comprehensive Nuclear-Test-Ban Treaty Organisation
<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>CDCAC</b>	Chief 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>PL PMC</b>	Protechnik Laboratories Programme Management Committee
<b>CGS PMC</b>	Council for Geosciences Project Management Committee
<b>SACU</b>	Southern African Customs Union
<b>SANAS</b>	South African National Accreditation System
<b>SANDF</b>	South African National Defence Force
<b>SCORE</b>	Strategic Commodity Reference
<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

# ANNEXURE 4 NON-PROLIFERATION CONTROL STRUCTURE



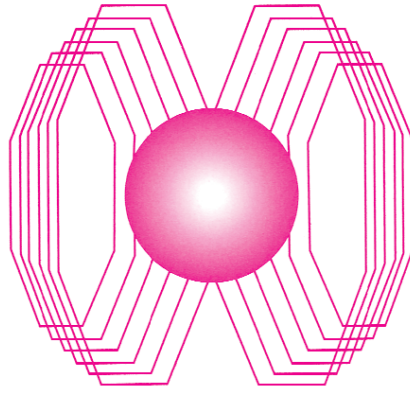












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