

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

## **Internal Compliance Programme for Industry**

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South African Council for the Non-proliferation of Weapons of Mass Destruction

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## **INTERNAL COMPLIANCE PROGRAMME FOR INDUSTRY**

- 1.1. The ICP provides a comprehensive insight to the background of the required non-proliferation controls in the Republic. It offers guidelines to industry for dealing with such controls, as applicable to the industry sector concerned, with the emphasis on practical and relevant measures.
  
- 1.2. The ICP consists of 3 Parts, dealing with the following topics:
  - a) Introduction and Background;
  - b) Information South African Non-Proliferation Policy, Legislation, Mechanisms, Processes and Procedures; and
  - c) ICP Elements.

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# INTERNAL COMPLIANCE PROGRAMME FOR INDUSTRY

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# **PART 1**

## **INTRODUCTION**

Nuclear, biological and chemical weapons, also referred to as Weapons of Mass Destruction (WMD), and their delivery systems nowadays occupy a prominent position in the minds of Governments and the public. At the same time, there is widespread agreement on the need to prevent their proliferation.

The control over WMD is globally pursued through international agreements and arrangements (Treaties, Conventions and Control Regimes) relating to nuclear, chemical and biological weapons and their specific means of delivery. South Africa subscribes to, supports and participates in most of these agreements and arrangements.

In South Africa, due regard has been taken of the gravity of the situation with South Africa committing itself to democracy, sustainable development, social justice and environmental protection since 1994. In keeping with this commitment, the Government adopted a 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 goods and 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 non-proliferation and arms control policy in August 1994, 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.

The enactment of specific legislation in the form of the Non-Proliferation of Weapons of Mass Destruction Act, 1993 (Act No. 87 of 1993) further provides for control over WMD and establishes the Council as the national regulatory body to control and manage matters relating to the proliferation of such weapons.

The Council is a statutory body appointed by the Minister of Trade and Industry. The Department of Trade and Industry therefore provides a Secretariat to the Council to assist with technical, operational and administrative matters.

From the outset, the Council determined that the best elements of international practice concerning control over proliferation, appropriate to the South African situation, would be adopted. Accordingly, the legal basis has been progressively developed through, *inter alia*, the formulation of lists of controlled goods, published by notice in the Government Gazette.

In the best interests of achieving its non-proliferation objectives, the Council remains committed to promote effective compliance with legislation and Government policy. The Council has therefore prepared a Guide document, entitled Guidelines: Internal Compliance Programme for Industry (ICP).

## **PURPOSE OF THE INTERNAL COMPLIANCE PROGRAMME (ICP) FOR INDUSTRY**

1. An ICP for industry is recommended for organisations that wish to introduce fixed procedures for the purpose of ensuring compliance with the South African non-proliferation legislation and supporting regulations. An ICP typically include a set of procedures that an organisation must satisfy before trade in controlled goods and or technology takes place. Therefore, an ICP, which is a voluntary guideline, aims to instil a culture within industry to "think non-proliferation control".
2. The purpose of the guidelines contained in this ICP is to promote effective compliance with legislation and Government policy in respect of the non-proliferation of WMD. The ICP provides principles and guidelines that facilitate and accelerate the implementation of South Africa's policy and legislation on non-proliferation, including South Africa's international obligations and commitments, in a meaningful and sustainable manner.
3. The ICP calls for commitment to compliance by entities whose activities are regulated by the Act and it offers guidelines for dealing with controls. The emphasis is on practical and relevant measures and aspects typical of quality management. By establishing a practical approach to non-proliferation, these guidelines should ease trade procedures, benefit the customer and help the entity involved in controlled activities or with goods that could contribute to WMD programmes, to proceed with confidence.
4. An ICP is a voluntary programme to assist entities involved in controlled activities and goods in complying with South African Non-Proliferation and other related Legislation. A vital part of an ICP is the establishment of mechanisms within the business that provide checks and safeguards at key stages in a secure supply chain, helping to better manage the overall control process. Such checks and safeguards help to ensure that the right questions are being asked to preclude non-compliance.
5. In a nutshell, the purpose of an ICP is to:
  - (a) Ensure compliance with South African non-proliferation legislation and other related legislation;
  - (b) Ensure compliance with international non-proliferation treaties, conventions and control regimes that South Africa is party to;
  - (c) Provide voluntary guidelines to industry in implementing practical and relevant non-proliferation controls;
  - (d) Assist industry in establishing mechanisms within their entities that will enhance due diligence at key stages in a secure supply chain and the overall control process;
  - (e) Establish a practical approach to non-proliferation, thus easing industry trade procedures, benefitting the customer and helping entities involved in controlled activities, goods and technology to proceed with confidence; and
  - (f) Guide industry on how to train and educate their officials on the provisions of the South African non-proliferation legislation and all aspects of its implementation, compliance and due diligence practice.
6. An ICP can be helpful to industry by:
  - (a) Reinforcing company policy to comply with South Africa's non-proliferation policy and

- legislation;
- (b) Providing management structure(s) and organizational processes and procedures for the processing of transactions related to controlled goods and activities;
  - (c) Ensuring accountability for tasks related to controlled goods and activities by identifying who is responsible for performing each aspect of the process and who is responsible for overall effectiveness of the ICP;
  - (d) Providing a map of the order processing flow of the transfer of controlled goods and activities to ensure consistent compliance with South Africa's non-proliferation legislation;
  - (e) Providing personnel with tools to perform their import and export control functions accurately and consistently;
  - (f) Identifying transactions involving goods and activities that could normally be exported without a permit, but because of the intended end-use or end-user, require a permit;
  - (g) Streamlining the process and reduces time spent on compliance activities because employees have written instructions, tools and ongoing training;
  - (h) Providing training and awareness programmes to help employees understand and comply with the ICP;
  - (i) Protecting a company, through implementing an ongoing compliance programme, against violations of South Africa's non-proliferation legislation; and
  - (j) Reduces the risk of inadvertently becoming involved in controlled activities or with goods that could contribute to WMD programmes without being registered with the Council.

## **PART 2**

# **SOUTH AFRICAN NON-PROLIFERATION POLICY, LEGISLATION, MECHANISMS, PROCESSES AND PROCEDURES**

### **1. National Policy on Non-Proliferation, Disarmament and Arms Control**

1. South Africa has committed itself to democracy, sustainable development, social justice and environmental protection since 1994. In keeping with this commitment, the government adopted a 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 goods and 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.
2. In order to implement a clear policy of the non-proliferation of weapons of mass destruction, the South African Cabinet adopted the non-proliferation and arms control policy in August 1994, based on South Africa's national interests, legislation, as well as its international commitments and obligations.
3. The policy states that South Africa shall:
  - (a) be an active participant in the various non-proliferation regimes and suppliers groups;
  - (b) publicly adopt positions supporting the non-proliferation of weapons of mass destruction with the goal of promoting international peace and security; and
  - (c) 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.

### **2. Legislation**

#### **The Non-Proliferation of Weapons of Mass Destruction Act, 1993 (Act No. 87 of 1993)**

1. The Non-Proliferation of Weapons of Mass Destruction Act, 1993 (Act No. 87 of 1993) (the Act) was promulgated "To provide for control over weapons of mass destruction; and the establishment of a Council to control and manage matters relating to the proliferation of such weapons in the Republic; to determine its objects and functions; to prescribe the



manner in which it is to be managed and controlled; as well as to provide for matters connected therewith". In terms of Section 4 of the Act, the South African Council for the Non-Proliferation of Weapons of Mass Destruction (the Council) was established.

2. In terms of Section 2 of the Act, the Minister may, by notice in the Government Gazette, determine the general policy to be followed.
3. In terms of Section 6 of the Act, the Council shall; on behalf of the State, protect the interests, carry out the responsibilities and fulfil the obligations of the Republic with regard to non-proliferation, and advise the Minister with regard to any matter which it deems necessary and which falls within the purview of this Act. The Section also states, amongst others, the other functions of the Council:

*(a) Overall responsibility:*

Control and manage all activities relating to non-proliferation, and provide guidance, instructions and information in connection therewith.

*(b) International co-operation and obligations:*

Supervise and implement matters arising from international conventions, treaties and agreements related to proliferation affairs entered into or ratified by the Government of the Republic; and

Obtain the co-operation of, exchange information with, and give assistance to, governments of other states, as well as foreign and international bodies having objects similar to those of the Council, and obtain membership of international bodies with such objects.

*(c) Co-operation with government departments and institutions:*

Obtain or promote the co-operation with government departments and other government institutions.

*(d) Co-operation with commerce and industry:*

Obtain or promote the co-operation of representatives of any branch of commerce and industry and other persons concerned.

*(e) Controlled activities and goods:*

To identify and indicate to the Minister goods to be declared controlled goods and activities including means of transit or re-export, including those relating to goods in bond;

Prohibit the manufacture, procurement in any manner, use, operation, stockpiling, maintenance, import, export, re-export or transit, transport or disposal by any means of specified goods and activities; and

Determine that the manufacture, procurement in any manner, use, operation, stockpiling, maintenance, import, export, re-export, transit, transport or disposal by any means of specified goods may only take place under a permit issued by the Council.

*(f) Registration and Permits*

Administer the registration of 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.

Issue and administer permits.

*(g) Compliance and Enforcement*

Take the necessary steps to prevent the contravention of the provisions of the Act; Ensure that the conditions of permits and end-use requirements are met, and take the necessary regulatory steps in this regard;

Collect all data and samples it may deem necessary from 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, and make declarations as contemplated in the Act;

Institute and co-ordinate investigations, carry out and coordinate inspections and verifications;

Verify that controlled goods, which are subject to end-use conditions and are imported, are delivered, retained and used in accordance with such conditions and for the intended purpose; and

Cause codes of conduct relating to non-proliferation to be framed and issued, and assist any person or government department in the preparation and framing of codes of conduct aimed at non-proliferation.

*(h) Information*

Give assistance to any person or authority so as to ensure that trade and commercial secrets are not compromised during the execution of activities related to non-proliferation;

Provide for the publication of information concerning the activities of the Council.

*(i) General*

Perform any other function with a view to the efficient achievement of the objects of the Council.

### **3. Features and Components of South Africa's Non-Proliferation Control System**

1. South Africa controls all activities relating to the manufacturing, trade and transfer processes as well as the possession and end-use associated with all forms of controlled goods.
2. There is no single blueprint for an effective national non-proliferation, disarmament and arms control system. Best-practice, however, identifies certain elements or features that is common to all effective control systems, these are:

(a) *Sound policies:*

The system makes provision for comprehensive and transparent Government policy and efficient policy-making mechanisms.

(b) *Effective enabling legislation:*

There needs to be a sound legal basis, i.e. there needs to be an Act and its supporting Notices and Regulations in place that addresses current national interests and obligations.

(c) *National control authority:*

An efficient national control authority, with effective inter departmental liaison.

(d) *List of controlled goods and identified activities:*

Credible lists of controlled goods and identified activities, with differentiation being made between sensitive and non-sensitive goods and activities; and

Effective control also entails the control of all activities that could contribute to WMD programmes; from research, development and manufacture to possession and disposal; from trading in and transferring of controlled goods, to providing services, assistance and advice.

(e) *Control mechanisms:*

These involve executive mechanisms to manage/administer an enforceable and efficient system to control all activities that could contribute to the proliferation of WMD, i.e. to control the manufacturing, trade and transfer processes, as well as possession, including the end-use/user and the disposal of controlled goods (including the unwinding of activities).

These include:

- A system to ensure effective management of South Africa's national interests and obligations in terms of international agreements, treaties and conventions;
- An enforceable and efficient permit system;
- A system to ensure stakeholder involvement and cooperation with the Council and its committees;
- Promulgated control processes and procedures;
- A system consisting of control structures and the necessary infrastructure in order to allow the Council to effectively implement and manage South Africa's policy and legislation on non-proliferation; and
- A system that enhances the timely decisions related to the non-proliferation and satisfies the need for consistency and effective interaction between the control authorities and the broad scope of industry.

(f) *Compliance mechanisms:*

The Council administers a compliance enforcement system to ensure that both government and industry comply with national policy and legislation, as well as international obligations. The system identifies possible transgressors and institutes prosecutions, which includes:

- Monitoring international best-practise, trends, agreements, treaties and conventions in order to ensure that South Africa remains abreast of developments;

- Inspections;
  - Verifications;
  - Investigations; and
  - Regular interaction and information exchange programmes with industry, national and international control authorities/agencies, intelligence agencies and law enforcement authorities.
3. The Non-Proliferation Secretariat (NPS) conducts an outreach programme to industry and relevant government departments/agencies in order to promote a good understanding of South Africa's control policy legislation and processes.
- The programme takes the form of:
- Briefings on the latest developments in the non-proliferation control environment emphasising the need for compliance;
  - Visits to persons involved in or intending to become involved in controlled activities;
  - Visits to audit companies on their compliance programmes; and
  - Maintaining a comprehensive database of all persons involved or potentially involved in any activity that could contribute to the proliferation of WMD; and countries and entities (companies and/or non-state actors) of proliferation concern. It is required that industry also exercises self-compliance. Implementing an ICP would assist industry with self-compliance.

*(g) Law enforcement, border control and intelligence:*

The control system must allow for effective co-operation with all control authorities, law enforcement-, border control and intelligence agencies (national as well as international) in order to ensure that transgressions are identified timely, quickly and effectively brought into the justice system.

#### 4. **International Non-Proliferation Disarmament Treaties, Agreements and Control Regimes**

1. Internationally, non-proliferation control focuses on four specific areas which are nuclear weapons, chemical weapons, biological weapons and their specified means of delivery (missile), including related dual-use technologies, facilities, materials and equipment.
2. South Africa is party to the following international non-proliferation of WMD related treaties, conventions and control regimes:

**(a) Treaty on the Non-Proliferation of Nuclear Weapons (NPT)**

The NPT, which entered into force in 1970, commits the five recognised nuclear-weapon states of that time, namely USA, UK, France, Russia and China to not transferring nuclear weapons or technology to others or assisting, encouraging or inducing their manufacture or acquisition. The other signatories of the NPT, the non-nuclear-weapon states, have undertaken not to acquire nuclear weapons and to accept monitoring of their civil nuclear programmes by the International Atomic Energy Agency (IAEA). 190 countries are signatories of the NPT.

South Africa acceded to the NPT in 1991 and thereafter concluded and ratifies the

Comprehensive Safeguards Agreement.

**(b) Convention on the Prohibition of Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction (BTWC)**

The BTWC entered into force in 1975. The BTWC bans the development, production, stockpiling, acquisition and use of bacteriological (biological) and toxin weapons, and provides for the destruction of such weapons. South Africa ratified the BTWC on 3 November 1975.

**(c) Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (CWC)**

The CWC entered into force in 1997. It bans the possession, development, stockpiling, transfer and use of chemical weapons, and provides for the destruction of existing weapons and their means of production. South Africa ratified the CWC on 13 September 1995.

**(d) Comprehensive Nuclear Test-Ban-Treaty**

The Comprehensive Nuclear Test Ban Treaty bans all nuclear explosions, for both civilian and military purposes, in all environments. The treaty is not yet in force. South Africa signed the CTBT on 24 September 1996 and ratified the Treaty on 30 March 1999.

*(e) To complement these legally binding treaties, like-minded countries have set up informal groups to work together against the threat of the proliferation of WMD. Their work involves drawing up common lists of goods and technology considered relevant to the activity of proliferators and agreeing to control exports of these. These groups include:*

**(i) Zangger Committee**

The Zangger Committee, which was set up in 1971 specifically to interpret obligations set out in the NPT, defines and controls equipment and materials that are especially designed or prepared for nuclear use. South Africa became a member on 21 October 1995.

**(ii) Nuclear Suppliers Group (NSG)**

The NSG was established in 1975 when the international community became concerned that conditions of nuclear supply needed strengthening to better meet nuclear non-proliferation objectives. The NSG agreed on a set of guidelines, published in 1978, for handling nuclear exports to reduce the possibility that such transfers be diverted to nuclear explosive or un-safeguarded nuclear fuel cycle activities. These have been updated at intervals and now include goods specifically designed or prepared for nuclear purposes. The NSG has also produced separate guidelines to cover nuclear-related dual-use goods. South Africa became a member on 5 April 1995.

Although the Zangger Committee and the NSG control similar items specifically designed and prepared for nuclear use, the NSG control lists encompass a wider array of nuclear dual-use equipment, materials and technology.

**(iii) The Missile Technology Control Regime (MTCR)**

Exports of missiles, rockets, related equipment and accessories specially designed for military use have been controlled for many years.

In 1987, guidelines were agreed upon between Canada, France, Germany, Italy, Japan, the United States and the United Kingdom covering the export of missile technology. The number of countries belonging to the Regime became to be known as the MTCR. The MTCR was originally committed to controlling the transfer of equipment and technology able to contribute to a ballistic or cruise missile, which could deliver a 500 kg nuclear warhead to a range of at least 300 km. The MTCR has since become increasingly concerned about the proliferation of missiles capable of carrying chemical or biological payloads, which can be significantly lighter. In January 1993, the Regime therefore agreed to extend its scope to include any missile capable of a range of at least 300 km.

The MTCR is neither an international treaty nor a legally binding agreement. MTCR Partners voluntarily pledge to adopt the regime's export guidelines and to restrict the export of items in the regime's annex. There are no provisions in the regime for the enforcement of its terms or sanctions for violations. Trade of MTCR controlled items between regime partners and with non-partner states that adhere to the guidelines is not absolutely prohibited, but it is constrained by national export control legislation. South Africa became a member in 13 September 1995.

**(iv) The Hague Code of Conduct against Ballistic Missile Proliferation (HCOG)**

On 26 November 2002 South Africa became a Subscribing State to the HCOG. While acknowledging the possession of ballistic missiles by States, the HCOG focuses on the prevention of the proliferation of ballistic missiles capable of delivering weapons of mass destruction.

**(v) Wassenaar Arrangement (WA)**

The Wassenaar Arrangement was agreed upon between 33 co-founding Participating States in July 1996.

The Arrangement aims to contribute to regional and international security and stability, through transparency and responsibility in transfers of conventional arms and other military goods and of dual-use goods and technologies relevant to conventional military capability. It is not directed against any state or group of states, nor does it seek to interfere with the rights of states to acquire legitimate means to defend themselves, as recognised in Article 51 of the United Nations Charter, nor to impede bona fide civil transactions.

The Arrangement maintains agreed control lists of both military and of dual-use items considered relevant to its aims, these lists also include controlled chemicals. On 28 February 2006, South Africa became a Participating State.

(vi) **The Australia Group (AG)**

Controls have been in place for many years on the export of chemical warfare agents and biological agents, which have been adapted to produce casualties in humans and/or animals or damage crops and/or the environment.

Since 1985 a group of like-minded countries known as the Australia Group (because of Australian Chairmanship) has met regularly to exchange information on CBW proliferation and agree common control lists of dual-use chemicals, pathogens, toxins and equipment which are critical for a significant CBW programme. South Africa is not a member of the AG but has based its biological control list as well as additional chemical control list on the AG control list.

## 5. **Controlled Activities and Goods**

1. Section 6 of the Act states amongst others that, in order to achieve its objects, the Council may control and manage all activities relating to non-proliferation, and provide guidance, instructions and information in connection therewith.
2. Section 13 of the Act, states amongst others that the Minister may, on the recommendation of the Council, whenever he deems it necessary or expedient in the public interest, by notice in the Government Gazette declare goods which may contribute to the design, development, production, deployment, maintenance or use of weapons of mass destruction, to be controlled goods. Also 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 the prescribed manner; and if the Council so requests, make a declaration furnishing all information requested by the Council.
3. The Act defines controlled goods as follows: 'goods' 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.
4. The Act defines 'dual purpose capabilities' as those capabilities relating to technology, expertise, service, material, equipment and facilities which can contribute to the proliferation of weapons of mass destruction, but which can also be used for other purposes, including conventional military, commercial or educational use.
5. Controls come into effect whenever a person is involved in or intends to become involved in any activities and or with goods that contributes or could contribute to WMD programmes. Such activities that contribute or could contribute to WMD programmes are referred to as controlled activities and goods. It is important to note that in South Africa, it is prohibited for a person to become involved, anyway, with any activity that *contributes* to WMD programmes.
6. South Africa allows activities related to the design, development, production, acquisition, maintenance, deployment or use of chemicals, biological and nuclear materials and

missiles, provided they are for legitimate commercial or civil application and provided that the necessary assurances and processes are in place to ensure that they will not be diverted and contribute to WMD programmes.

7. Whether activities or transactions are prohibited or allowed under certain conditions depends on the intended use or the risk of the intended activity contributing to WMD programmes:
  - If the intended use, end-use or destination of the activities or goods will contribute to a WMD programme, all such activities, goods and or services (including aid, advice, brokering, technology transfer, etc.) are prohibited.
  - If the intended or actual activities or goods do not contribute to WMD programmes (dual-use), or the risk is low that the activities or goods will end up with or contribute to the proliferation of WMD, the activities and goods can be authorised, but it will be regulated.
8. Most of the non-proliferation treaties, agreements and control regimes have a classification regarding the sensitivity of activities, goods and related level of control, i.e. proliferation risk, that range from critically sensitive (prohibited) to the non-sensitive and dual-use that may require lesser control measures.
9. To ensure that controls are practical and feasible, classification lists of controlled goods and activities are published through Notices in the Government Gazettes. As contemplated in the Act, the Minister of Trade and Industry publishes lists of dual-use goods that are controlled as published on 03 February 2010 and recently updated on 29 March 2019. The Notices are as follows:

(a) *Biological:*

Presidential Proclamation No. R.16 of 26 February 2002 made the BTWC part of South African legislation.

Biological goods, technology and related equipment are declared as controlled goods along with the control measures applicable to such controlled goods technology and related equipment under Government Notice No. 494 of 29 March 2019.

(b) *Chemicals:*

Government Notice No. R. 754 of 02 May 1997 made the CWC part of the South African legislation. The Regulation regarding the Application of Provisions of the CWC was promulgated under Government Notice No. R.17 of 03 February 2010, also known as the Chemical Weapons Regulations.

Various lists of chemicals are declared as controlled goods along with the control measures applicable to such goods under Government Notice No. 495 of 29 March 2019.

(c) *Missiles:*

The MTCR equipment, technology and related items are declared as controlled goods



along with the control measures applicable to such controlled goods under Government Notice No. 491 of 29 March 2019 as listed in the Annex and taking cognisance of the Guidelines referred to in the Notice.

*(d) Nuclear:*

Nuclear-related dual-use equipment, materials and software, and related technology of the Nuclear Suppliers Group (NSG) Part 2 are declared as controlled goods along with the control measures applicable to such controlled goods under Government Notice No. 492 of 29 March 2019 and taking cognisance of the Guidelines and Annex referred to in the Notice.

Furthermore, certain nuclear-related dual-use equipment, materials and software, and related technology for the isotope separation of other elements that could be used for Uranium isotope separation are declared as controlled under Government Notice No. 493 of 29 March 2019 and taking cognisance of the Guidelines referred to in the Notice.

*(e) Catch-All:*

Under Section 13 of the Act, the Council can declare any item of equipment, technology, materials, chemicals, biological agents or toxins, production facilities or components that do not appear on the lists of goods declared to be controlled goods as mentioned above but whose specifications fall outside the range of specifications stipulated in the said list or lists to be controlled goods in terms of section 13(1) of the Act.

This measure can be applied by the Council if it is determined that the item is or may be intended, in its entirety or in part, for use in the development, production, handling, operation, maintenance, storage or dissemination of chemical or biological warfare agents or of nuclear weapons or of systems capable of delivering such agents or weapons. In this instance, the Council can prohibit the import, export, re-export or transit of such an item unless a permit is issued by the Council. Government Notice No. R.75 of 29 January 2004, enables the Council to declare goods, that are mentioned in the controlled lists but do not comply fully with the specifications mentioned in either the Regulations or Notices to be controlled.

## **6. Non-Proliferation Control Processes and Procedures**

1. In terms of the Act, the Council is the national control authority in the Republic for the non-proliferation of weapons of mass destruction. The Council is appointed by the Minister of Trade and Industry in terms of Section 4(2) of the Act, and is comprised of representatives from various government departments directly involved in issues of non-proliferation as well as industry representatives. The Council meets at least every 6 to 8 weeks to deliberate on non-proliferation related issues, to assess the activities of its committees and to consider permit applications received from industry.
  - The Non-Proliferation Secretariat (the Secretariat) to the Council are officials of the Department of Trade and Industry (**the dti**). The Secretariat provides the technical, administrative and secretarial services to the Council and its Committees.

- To ensure effective non-proliferation control, the process of control must be integrated, coordinated and administered amongst the various stakeholders that are involved in the implementation and enforcement of South Africa's legislation on non-proliferation. In this vein, the Council has established a number of working committees which are constituted by representatives from different government departments including in some instances, industry representatives and experts in specific fields related to non-proliferation.
- The Committees include:

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

The CC advises the Council on non-proliferation issues, permit applications and special investigations.

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

The BWWC advises the Council on issues related to the BTWC and the implementation of biological controls.

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

The CWWC advises the Council on issues related to CWC and the implementation of chemical controls.

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

The NMDUC advises the Council on nuclear related dual-use and missile related technical issues.

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

The NPRC advises the NPC on legislative issues such as the amendment of the Non-Proliferation Act.

**Project Management Committees (PMCs):**

The Council has signed Service Level Agreements (SLAs) with various institutions to further enhance South Africa's commitment to non-proliferation obligations. Meetings are held regularly between the Secretariat and these institutions to monitor the implementation of the SLAs.

- **the dti**, on behalf of the Council, has signed the Memorandum of Understanding (MOU) on the enforcement of the Non-Proliferation Act at national ports of entry with SARS Customs.
- **the dti**, on behalf of the Council, signed a SLA with Protechnik Laboratories, a division of Armscor for the institution to assist in the implementation of the CWC.
- **the dti**, on behalf of the Council, signed an SLA with the Council for Geosciences (CGS) for the institution to assist in the implementation of the Comprehensive Nuclear-Test-Ban Treaty (CTBT).

## **Registration with the Council**

In terms of Government Notice No. R.16 of 03 February 2010, any person who is control of any activity with regard to controlled goods, or who has in his possession, or custody, or under his control, controlled goods must register with the Council.

The registration is done through the Non-Proliferation Council Online System and the registration is valid for a period of two years.

Registered persons shall notify the Council within 14 days of any changes to the information contained in such a person's registration.

## **Permits**

Registered persons who intend to become involved in or are involved in any controlled activity, which includes import, export, re-export, transit, transshipment, manufacturing and provision of services related to the controlled goods, equipment and technology as listed in the various Government Notices, require a permit issued by the Council. Registration for permits is done through the Non-Proliferation Council Online System.

The permits issued by Council, authorise specified activities by persons registered with the Council in accordance with the conditions prescribed in a duly authorised permit. Registered persons must apply for one of the following permits as stipulated in Section 13 of the Act:

### ***(a) Individual Export / Import Permit:***

An Individual permit is issued with the following conditions:

- One or more fixed items;
- Single source / supplier;
- Single destination / end-user or consignor/consignee;
- Single exit / entry point; and
- Validity period of three months.

### ***(b) Individual Export / Import Permit (Issued on Request):***

An Individual permit is issued with the following conditions:

- The Council approves a total quantity but the total quantity is divided into different consignments. Therefore, separate permits are issued on request for each consignment;
- One or more fixed items;
- Single source / supplier;
- Single destination / end-user or consignor/consignee;
- Single exit / entry point; and
- Validity period of three months for each permit issued.

### ***(c) Open Multiple Export / Import Permit:***

An Open Multiple Permit is issued with the following conditions:

- Multiple transactions of one or more fixed items;
- Single source / supplier;
- Single destination / end-user or consignor/consignee;

- Single exit / entry point; and
- Validity period of one year;
- A table is included on the permit for SARS Customs to record quantities of each item transferred per consignment. The actual quantities imported and exported, including the sources and destinations have to be declared to the Council at the end of the validity period.

**(d) Individual Transit Permit:**

An Individual Transit Permit is issued with the following conditions:

- One or more fixed items;
- Single source / supplier;
- Single consignee/ importer
- Single destination / end-user
- Single exit and entry point; and
- Validity period of three months.

**(e) Manufacturing and Services Permit (MSP):**

A Manufacturing and Services Permit is required for the manufacturing and provision of services in relation to the following:

- Missile related controlled goods, equipment and technology listed under Items 1, 2, 19 and 20 of Government Notice No. 491 of 2019 (attach link).
- Nuclear related dual-use equipment, materials and software, and related technology listed under sections 2.E.1, 3.B.5, 3.E.1, 4.B.2 and 4.E.1 of Government Notice No. 492 of 29 March 2019 (attach link).
- Chemical related controlled goods listed in Schedule 1 of the Chemicals Weapons Convention under Annexure A of Government Notice No. 495 of 29 March 2019 (attach link).

A Manufacturing and Services Permit is issued with the following conditions:

- The Council is kept informed of all current and future projects through written declarations;
- Any potential technology transfer is requested through a Provisional Export Guidance Request;
- The Non-Proliferation Secretariat to conduct industry visits to review the company activities as per the declarations; and
- Validity period of two years.

**(f) Provisional Export Guidance (PEG):**

Provisional Export Guidance provided by the Council to industry is a mechanism provided as a means of assistance in deciding whether to trade in certain goods and technologies or with certain companies or individuals in certain regions of the world, especially in instances of uncertainty with specialised technologies or countries of concern.

When considering applications for guidance, the Council assesses a number of factors based on information available at the time of the assessment of the application. It should therefore be noted that guidance is time-bound and is subject to change based on the changing circumstances surrounding the details of the transaction as well as the continually evolving international non-proliferation landscape and circumstances. Therefore, guidance provided is not binding and should not be used as a basis to initiate an export.

Applicants receiving positive guidance are encouraged to carefully consider the conditions of the positive guidance and apply for an export permit before entering into any contractual agreements. Subsequent export permit applications might be subject to additional internal processes depending on additional requirements related to the relevant international Treaties, Conventions and Control Regimes.

The Council assesses each PEG application on a case-by-case basis and considers *inter alia*, the following factors, which may change periodically:

- whether activities or transactions are prohibited or allowed under certain conditions depending on the intended use or the risk of the intended activity contributing to WMD programmes;
- the competency and intention of the applicant to become involved in controlled activities;
- the ultimate end-use of the controlled goods and activities;
- the impact of the application on South Africa's national interests;
- adherence to international law, norms and practices, especially against South Africa's commitments in respect of international Treaties, Conventions and Control Regimes, including United Nations Security Council Resolutions;
- the non-proliferation control system of the recipient country, its ability to implement and enforce international non-proliferation and arms control measures and its record of compliance with end-user certificate undertakings;
- the likelihood of the diversion within the recipient country or re-export by the recipient country contrary to end use requirements;
- the likelihood of diversion during transportation, including transit or transshipment, contrary to the conditions of the permit;
- the capabilities and objectives of the relevant programmes of the recipient country for which the transfer is intended; and
- the significance of the transfer in terms of the potential development of weapons of mass destruction.

PEG is not a permit and is not intended for the actual transfer of goods and technologies across South African borders.

#### **1. General procedures to note with regards to permits:**

- Applications for new permits, including renewals, extensions and amendments of issued permits must be done through the Non-Proliferation Council Online System;
- The Non-Proliferation Council Online System will allow requests for permit extensions and amendments to be processed before the issued permit has expired and deviations of up to 15% of approved quantities may be considered for already used permits;
- Permits approval process takes between 6 to 8 weeks but depending on the complexity of the application, the application may take a longer time and applicants will be notified in such instances through an email from the Non-Proliferation Secretariat;
- Applicants will receive notification in their emails through the Non-Proliferation Council Online System when Council has approved the permits;
- Permits can be collected from the Non-Proliferation Secretariat after notification is received;
- The pink original permit must be returned to the Non-Proliferation Secretariat within 30 days after the expiry of the permit; and

- In order to facilitate and address enquiries from the Non-Proliferation Secretariat, companies are required to keep the endorsed Bill of Entry/Export every time it is used for transfers on an Open Multiple Export/Import Permit.

## **2. Compliance Visits by the Non-Proliferation Secretariat**

In accordance with Section 6 of the Act, the Council may provide guidance, instructions and information in connection with the control and management of activities related to non-proliferation; obtain or promote the cooperation of representatives of any branch of commerce and industry and other persons concerned; and take the necessary steps to prevent the contravention of the provisions of the Act.

The Secretariat supports and assists the Council by, on a regular basis, carrying out visits and enter into discussions with Industry (persons/entities) involved in or intending to become involved in any controlled activities and or with controlled goods in order to promote a better understanding of South Africa's non-proliferation policy, legislation, structures and control processes and procedures.

*Communication with industry can take the form of:*

- Telephonic and written communication;
- Compliance visits to individual businesses;
- Outreaches to brief Industry;
- Information sharing through meetings of the various working committees of the Council;
- Notices in the Government Gazette;
- The Council website; and
- Inspections.

The objective of compliance visits is to visit companies in South Africa, involved or intending to become involved in any activity with controlled goods, with a view to establish whether the business:

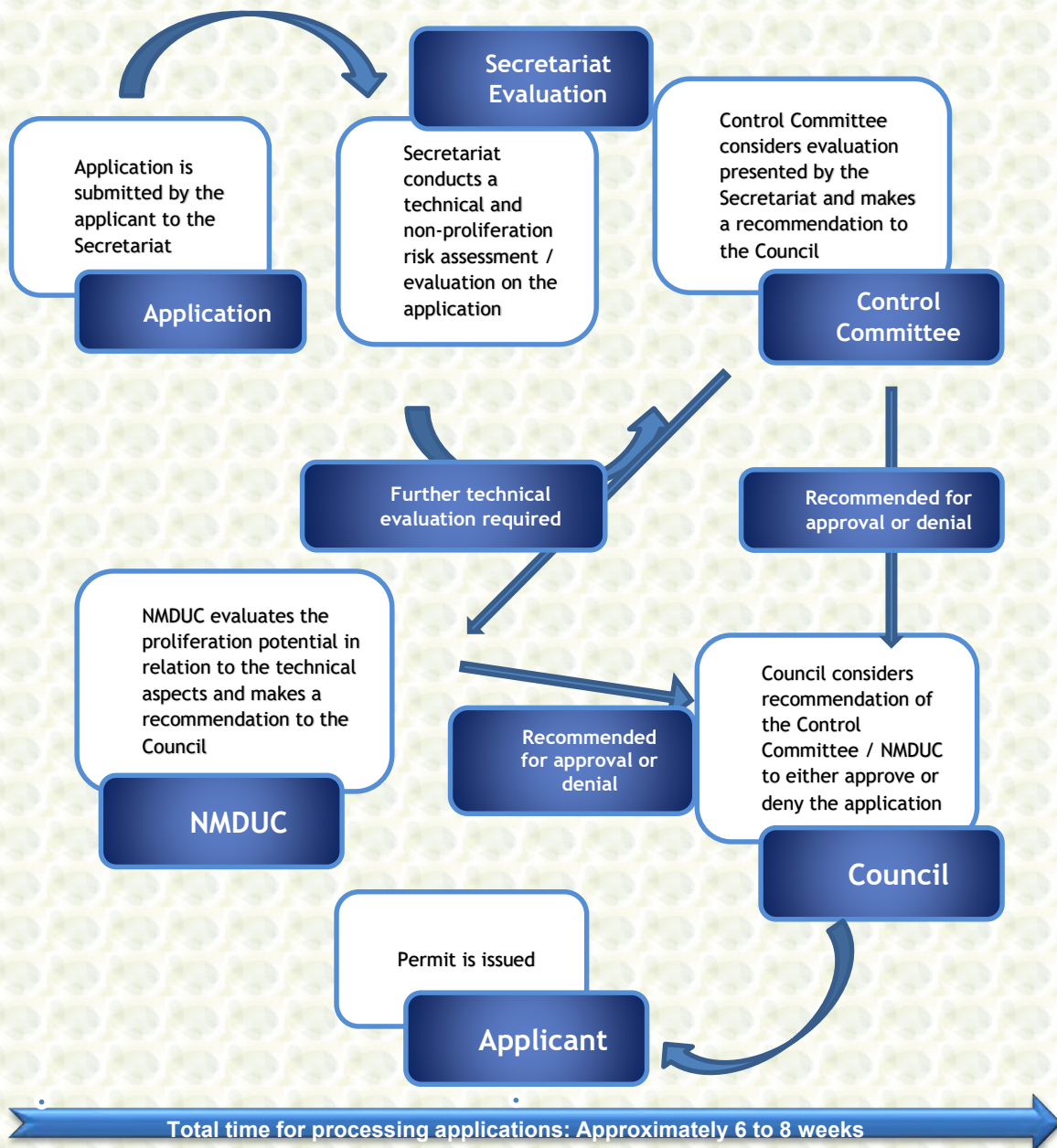
- Complies with South African non-proliferation policy and legislation;
- Is registered with the Council and, where relevant, other appropriate control authorities in South Africa;
- Has introduced appropriate compliance programmes and monitors the implementation thereof;
- Has the necessary and valid permits to conduct controlled activities related to controlled goods;
- Uses Permits correctly and that the terms and conditions are being met;
- Has assessed all its controlled goods and activities against current Council controls; and
- Has a clear understanding of South Africa's non-proliferation legislation and South Africa's international obligations in terms non-proliferation treaties, agreements and control regimes, particularly with regard to end use and end-user concerns.

During such a visit, the NPS may:

- Evaluate the applicability of your business' activities vis- a- vis the Act and its supporting Government Notices;
- Scrutinise the documentation trail to determine applications and permits are received and

processed, and how records are maintained;

- Enquire how suspicious enquiries/orders are identified and handled;
- Enquire who is your business' freight forwarders / agents / transporters, brokers are;
- Enquire who is your business' other sub-contractors are who provide you with controlled activities or goods;
- Enquire how the whether the abovementioned service providers are registered with the Council;
- Establish whether your business has met all the terms and conditions of Council permits; and
- Request a tour of your business' premises, if necessary, in order to see the facilities and meet any of the relevant personnel not involved in the main discussion.



**Figure 1: Permit Processing**

## **PART 3**

### **Internal Compliance Programme (ICP) for Industry**

#### **1. Introduction**

Information so far provided in this Guide aims to promote effective compliance with legislation and Government policy in respect of the non-proliferation of weapons of mass destruction and their means of delivery. The guidance for Industry compliance, given in this section, provides principles and guidelines that facilitate and accelerate the implementation of South Africa's policy and legislation on non-proliferation, including South Africa's international obligations and commitments in a meaningful and sustainable manner.

This guidance for Industry calls for commitment to compliance by entities whose activities are regulated by Non-Proliferation Legislation, and guidelines are offered for dealing with controls. The emphasis is on practical and relevant measures and aspects typical of quality management.

This Guide should ease trade procedures, benefit the customer and help the exporter to proceed with confidence, in the knowledge that he is not contributing to proliferation.

An ICP is recommended for entities that wish to introduce fixed procedures for the purpose of ensuring compliance with the South African non-proliferation legislation and supporting regulations. An ICP typically include a set of procedures that an organisation must satisfy before trade in controlled goods and or technology takes place. Therefore, an ICP which is a voluntary guideline, aims to instil a culture within industry to "think non-proliferation control".

#### **2. Key Elements of an ICP**

There is no simple and clear formula for creating a successful internal compliance program since each entity has different sizes, risks and needs. However, there are key elements which are deemed to be core to an effective implementation of an internal compliance program. The proposed elements are not exhaustive and are for guidance only, therefore organisations should adapt them according to their specific needs and uniqueness. For each element, the guidance describes the relevant objectives that organisations must expect and the steps involved to reach these objectives.



## ELEMENT 1

### TOP-LEVEL MANAGEMENT COMMITMENT TO COMPLIANCE

*It is recommended by the Council that every person (business) involved in controlled activities make a written commitment to comply with South African Non-Proliferation Legislation. This commitment to comply could be captured in a Statement or Declaration of Intent by the chairperson or chief executive of the entity, involved in or intending to become involved in any activity that is controlled by the Act. This Statement should be submitted to the Council and should also be made visible to all employees, especially those affected by the control measures.*

The objective of this commitment is to clarify the policy of the business on non-proliferation issues and to underline the importance of effective compliance procedures. Senior management can raise awareness, at all levels, by summarising briefly the business requirements, the strategic environment and the principles of non-proliferation controls.

This is achieved through management “walking the talk” by being actively involved in fostering a compliance oriented culture and providing clear, strong, and continuous support to compliance. A great way to demonstrate strong management support and commitment with the South African non-proliferation controls is to have the Chief Executive Officer or another senior executive, personally signing the Compliance Commitment Statement.

This written formal statement communicates to all employees the importance of non-proliferation compliance and the commitment to adhere to the requirements of the South African non-proliferation legislation and its supporting regulations. Persons that issue such a statement should circulate it widely to all staff, partners and associates and any sub-contractors that are involved in or intending to become involved in any controlled activity.

An example of a **Compliance Commitment Statement** is provided on page 31 under Annexure A.

## ELEMENT 2

### NOMINATION OF RESPONSIBLE PERSON

*Every person (business) involved in controlled activities should nominate a staff member responsible for ensuring compliance with non-proliferation policy and legislation, within the business.*

The objective of this element is to ensure a clear line and definition of responsibilities within the business in terms of its compliance with legislation and policy. It is therefore, recommended that entities appoint a dedicated official with a clear mandate to focus on non-proliferation compliance.

The official should be knowledgeable concerning the applicable national legislation and regulations; and have a good understanding of the organisation's products, services, technologies, suppliers and customer base.

The chairperson or chief executive officer or equivalent within the business must appoint a staff member to be responsible for compliance. All employees should be aware of the organisation's control policy, mechanisms and procedures. All the entity's partners / associates and sub-contractors should be made aware of the appointment.

The Compliance Commitment Statement should include the name of the responsible official and where appropriate, the individual's job descriptions could specify such responsibilities. Those responsibilities might include but not limited to:

- develop, implement and maintain the organisation's compliance policy and procedures
- ensure that employees are aware of the organisation's compliance policy and procedures including their responsibilities;
- provide regular compliance training to employees and keep record of such training;
- remain informed of any changes to domestic legislation and regulations and communicate such updates to employees;
- attend the outreach sessions arranged by the Non-Proliferation Secretariat and encourage employees to attend such sessions as well;
- establish a regular audit system to confirm adherence to the compliance policy and procedures; as well as to ensure that they are implemented in compliant with the South African non-proliferation legislation and regulations, including record-keeping requirements;
- report non-compliance to management for corrective action;
- institute procedures to identify and manage suspected non-compliance; and
- educate employees on how to identify and manage suspicious enquiries/ orders.

## ELEMENT 3

### INFORMATION AND TRAINING AWARENESS

*Each person (business) involved in controlled activities should establish clear procedures for acquiring, keeping and disseminating information on such activities. The training needs of staff at all levels in relation to non-proliferation controls should be assessed and fulfilled. The Council will, from time to time, present training sessions for persons involved in controlled activities or who are responsible for compliance programmes or who are involved in internal control processes and procedures. Entities involved in controlled activities or goods should develop awareness among business' employees of the necessity for compliance with non-proliferation policy and legislation.*

It is essential that the entire organisation is aware of export control requirements and a good training program is critical to an effective internal compliance programme. Companies involved in controlled activities or goods should develop awareness among their employees of the necessity for compliance with non-proliferation legislation. The objective of this element is to ensure that employees are aware of all information relating to non-proliferation controls and depending on the knowledge and skills needed to perform their job, employees should receive different levels of non-proliferation controls training.

For instance, training on the basics of non-proliferation controls could be provided to all employees and given as an annual refresher course to those with little exposure to controls. The next level could include employees such as inter alia, technical or engineering personnel, employees who have access to controlled technology in the organisation, shipping personnel, sales staff. The other level could be aimed at the Compliance Manager and the supporting team, and would be extremely detailed and include amongst others the organisation's export compliance processes and training on all non-proliferation control legislation and regulations that could impact the organisation's activities.

It is advisable that all employees receive on an annual basis (or more frequent if required) a general update on the general provisions of the company's ICP, in order to keep up to date with relevant legislation and guidelines; and all amendments as soon as they are made public by the regulatory authority. Procedures should be in place for acquiring details of changes/updates to legislation and distributing it to relevant personnel. Industry can also consider, whenever appropriate, to make use of the outreach and information sessions organised by the Council. A record should be kept of the attendance of these training sessions for all staff members.

## ELEMENT 4

### INTERNAL COMPLIANCE PROCEDURES

*Persons (businesses) involved in a controlled activity and or with controlled goods should draw up and operate effective non-proliferation control compliance procedures that are applicable to the entity concerned and reflect as far as possible the best practices illustrated in this guide.*

The objective of internal compliance procedures is to promote effective and appropriate procedures for processing enquiries/orders in accordance with relevant control requirements.

This ICP encompasses guidelines for internal procedures, based on existing best practice. It highlights the issues that need to be addressed by means of a checklist.

The stages detailed could include:

- Establishing whether the entities' activities and or goods are controlled, and if so, whether the entity is registered with the Council;
- Establishing what type of permit would be required in regard to the abovementioned activities;
- Registration of an entity/person and/or contractors or sub-contractors, as well as establishing the control status of goods;
- End-use/ End-User obligations;
- The vetting of customers (to detect suspicious enquiries/orders);
- The process of permit applications; and
- Keeping of records.

Key features of best practice are:

- A considered plan of what is needed for compliance;
- Clear and simple procedures appropriate to the business' structure and integrated with the business' functions;
- Comprehensive coverage, detailing requirements of all relevant activities related to controlled activities and or controlled goods; and
- Adequate documentation in place (in line with other quality management initiatives).

Each of the control areas has unique requirements and therefore unique processes and procedures. See attached proposed generic model.

## ELEMENT 5

### TRANSACTION SCREENING PROCEDURES

*Persons (businesses) involved in controlled activities should develop awareness among employees to help in identifying suspicious enquiries/orders. Where there is doubt about the bona fides of an enquiry/order; the entity should consult with the Secretariat.*

The objective of this element is to promote effective and appropriate procedures for processing enquiries/orders in accordance with relevant control requirements. Industry should establish a process to evaluate and determine whether or not a transaction for items or technology is subject to non-proliferation controls, and to develop and maintain a standard of care for handling suspicious orders.

This element also enables industry to protect themselves by avoiding involvement in activities that may be against the South African non-proliferation legislation. Indicators are made available to help in assessing customers and orders that may be unusual and carry possible risks, for example:

- The diversion from the stated end-user to another end-user, possibly in another country, who may be engaged in a programme to acquire weapons of mass destruction;
- The diversion from the stated end-use(r) to another end-use(r); and
- The diversion to a destination subject to a United Nations arms embargo.

As part of internal measures to ensure that transactions do not violate the non-proliferation legislation, it is important that companies perform the following:

- Determine the whether the item, technology or activity are controlled as well as establishing the item and technology's control classification;
- Identifying and fulfilling permit requirements by applying for a permit to be issued by the Council for export, import, re-export and transit;
- Assess the item's transaction risk, such as end-use and end-user obligations that might be required; and
- Ensure that permit authorisations conditions are complied with.

## **ELEMENT 6**

### **AUDITS AND REPORTING**

*Persons (businesses) should establish a programme of regular audits of the system in order to ensure compliance with non-proliferation control measures.*

Companies should ensure that the ICP is regularly reviewed and revised in order to assess the level of compliance. The aim of the audits is to confirm correct ICP implementation; and to check whether non-proliferation controls are implemented according to the ICP. This audit will enable for early detection of non-compliance and follow-up measures for damage control thus reducing risks for the company.

The audit procedures should be systematic, targeted and documented to confirm that the ICP is correctly implemented. These audits can be performed internally or by an independent auditor, if resources allow, to provide for an unbiased, third-party evaluation and validation. Should it be established from an audit that aspects of the ICP have been insufficiently or incorrectly implemented, the company must launch an improvement process. The process itself and its outcome should be reported to the top level management.

Reporting is a set of procedures that are put into place in order for employees to notify and escalate matters in the event of suspicious orders/ enquiries or known incidents of non-compliance by means voluntary disclosures to the regulatory authority. A set of corrective or remedial actions can also be put into place to guarantee the proper implementation of the ICP and the elimination of identified vulnerabilities in the compliance procedures.

## ELEMENT 7

### RECORD KEEPING

*Persons (businesses) involved in controlled activities, are required by legislation (Act, regulations and Notices) to maintain records of all controlled activities.*

The objective of record keeping is to ensure that legal document storage, record management and traceability of activities and goods are maintained for a period of at least five years so that queries about any activity or goods subject to controls may be readily checked and an adequate audit trail maintained.

To facilitate record keeping, companies should consider establishing a policy for maintaining and storage of records. This policy or operational procedure should address the following:

- The minimum time that records should be kept,
- The method of safe keeping, and
- Where records will be kept.

Comprehensive record-keeping systems are crucial in contributing to effective audits, compliance with national document retention requirements (minimum document retention period of five years) and facilitating cooperation with regulatory authorities.

## ANNEXURE A

### Example of a Compliance Commitment Statement by Management:

**Compliance Commitment Statement by (Company Name) with regard to the South African Government Non-Proliferation Controls**

The management of (Name of company) located at (physical address of the company),

UNDERTAKE to fully understand the controls of the South African Government with regard to the Non-Proliferation of Weapons of Mass Destruction,

RECOGNISE the responsibility of entities involved in activities that are controlled in terms of the Non-Proliferation of Weapons of Mass Destruction Act, 1993 (Act No. 87 of 1993) (Non-Proliferation Act),

ACKNOWLEDGE the South African Council for the Non-Proliferation of Weapons of Mass Destruction as the regulatory body responsible for all matters relating to implementation of the international non-proliferation obligations,

DETERMINE to uphold compliance with the Republic's non-proliferation legislation, in its quest to ensure national and international peace and security; and to comply with its obligations regarding non-proliferation International Treaties, Conventions and Control Regimes,

UNDERTAKE to not be involved in activities or transfer of controlled goods/ technology that could contribute to weapons of mass destruction programmes, not to transfer controlled goods/ technology or render services in relation to controlled activities to countries/entities under the United Nations Security Council sanctions,

UNDERTAKE not to be involved, support or allow controlled activities or transfer of controlled goods/ technology without being registered with the Council and without the required and valid permits issued by the Council,

UNDERTAKE not to trade, acquire, use, manufacture, possess, transfer or offer services relating to controlled goods without the required permits or authorisations by the Council,

UNDERTAKE to 'know' who our customers are and confirm the end-use of the controlled goods before applying for the necessary permits from the Council,

UNDERTAKE to account for all controlled activities and goods/ technology at all times during use, possession, manufacturing, trade and transfer,

ACKNOWLEDGE that non-compliance to the Republic's non-proliferation legislation will result in severe penalties against our business and could also negatively impact the Republic as a whole,

HEREBY nominate (Name of Company Official & Designation) to be the designated official with the overall responsibility regarding our company's compliance with the South African Non-Proliferation Legislation and for the management, implementation and monitoring of the company's Internal Compliance Programme,

UNDERTAKE that the management of (Company Name) and all its officials will avail themselves of their roles regarding the successful implementation of this ICP.

SIGNED AT.....(Place) ON THIS.....DAY OF.....20.....

ON BEHALF OF (Company Name)

.....(Full Name)

.....(Designation)