

**Proliferation of weapons of mass destruction**  
**Risks for companies and scientific institutions**

General Intelligence and Security Service (AIVD),  
July 2003



## Foreword

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In this paper you will find information about proliferation risks. The paper is particularly meant for companies and scientific institutions. The AIVD has an active information programme for Dutch companies and scientific institutions in order to make them aware of the risks of becoming involved in the proliferation of weapons of mass destruction. Countries - and also terrorists - seeking to develop such weapons often try to conceal the fact that the goods, technology and knowledge they wish to procure are intended for the production of weapons. This paper presents an overview of frequently used methods and it gives advice on how a company or institution can prevent getting involved in such practices.

The Director General of the General Intelligence and Security Service (AIVD),  
S.J. van Hulst



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# 1 Introduction

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A number of countries in the world are working on the development and production of weapons of mass destruction. Weapons of mass destruction can kill or eliminate large numbers of people in a short time. The main types are nuclear weapons (atomic weapons, radiation weapons), chemical weapons (such as poison gas) and biological weapons (natural toxins and pathogens, like the anthrax bacterium). These countries are usually also developing or trying to procure the means to deliver these weapons, such as ballistic missiles, cruise missiles and unmanned aerial vehicles (UAVs). In common usage the term weapons of mass destruction (WMD) also refers to the means of delivery, which is also the case in this paper.

Not only states, but also terrorists may seek to possess weapons of mass destruction for committing or threatening attacks. For example, the well-known Muslim extremist and founder of Al Qa'ida, Osama Bin Laden, has openly declared himself in favour of this idea.

Proliferation, or the spread of weapons of mass destruction, does not only involve the development or purchase of these weapons and their means of delivery as such, but also buying or otherwise obtaining (procuring) the goods and knowledge required for WMD development. This procurement takes place mainly in industrialised countries where high technology is available. Much of this technology can be used for both military and civilian purposes ('dual use'). Given the high technological level of products and knowledge in the Netherlands, states and terrorists seeking to possess weapons of mass destruction may also see this country as an interesting procurement area.

For this reason it is important that Dutch companies and scientific institutions are aware of the proliferation risks involved in their contacts with organisations and bodies in countries that are suspected of developing weapons of mass destruction. It is also important that Dutch companies and institutions realise that proliferation-related procurement does not always concern direct transactions, but that also agents, front organisations and other roundabout ways are used to that end. Terrorists, too, may use such methods to conceal their real goals.

This paper provides detailed information on weapons of mass destruction and on the Dutch non-proliferation policy. It describes the possible risks for companies and institutions and how these risks can be identified. A list of the relevant bodies in the Netherlands has also been added.





## 2 Proliferation of weapons of mass destruction

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Weapons of mass destruction can kill or eliminate large numbers of people in a short time. International treaties have imposed restraints on the development and use of these weapons<sup>1</sup>. In spite of this, there are still countries and terrorists seeking possession of such weapons. This chapter gives a detailed description of the problem, focusing first of all on the various types of weapons and means of delivery, then on the countries of concern, terrorists and the methods they use to obtain knowledge and goods for their WMD projects.

### 2.1 Weapons of mass destruction

#### Nuclear weapons

In order to produce nuclear weapons (nuclear explosion weapons) it is necessary to have plutonium or highly enriched (weapons-grade) uranium. These fissionable materials are not freely available on the international market. They can only be produced through complicated separation processes, for example in a nuclear reactor or ultracentrifuge system. So if a country or organisation wishes to develop a nuclear weapons programme, it needs nuclear projects for the production of the required fissionable material. Civilian nuclear projects, like nuclear energy projects, usually do not require plutonium or highly enriched uranium.



Nuclear explosion (source: [www.kirschfoundation.org](http://www.kirschfoundation.org))

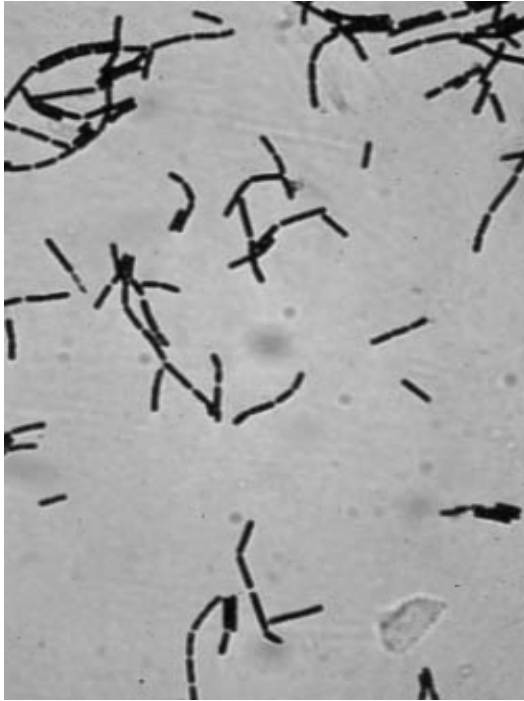
#### Radiological weapons

In addition to nuclear explosive weapons, there is a second type of nuclear weapon: the radiation weapon or radiological weapon. This type of weapon disperses radiation or - by means of conventional explosives - radioactive material over a certain area (so-called 'dirty bomb'). Radiation from such a weapon may kill immediately, but it can also have long-term effects the nature and/or scope of which are comparable to those resulting from a nuclear reactor accident (the Chernobyl effect). Plutonium or highly enriched uranium is not required for radiation weapons; in principle any radioactive material can be used.

#### Biological weapons

There are two types of biological weapons. The first one consists of living micro organisms like viruses, bacteria and fungi that can cause disease and death, i.e. pathogens. The best-known examples are the anthrax bacterium and the smallpox virus. The second type are toxins produced by biological organisms, such as the well-known botulin, which is produced by the bacterium *Clostridium botulinum* (causing botulism in water). Dispersion of pathogens may lead to epidemics. During the Gulf War in 1990-1991, Iraq developed such agents, but did not deploy

them. Even small-scale infections, such as caused by the anthrax letters in the United States in 2001-2002, may lead to panic and social disruption.



Anthrax bacteria (Source: Texas Department of Health)

### **Chemical weapons**

Chemical weapons have a longer history. In World War I, for example, mustard gas was used, a blistering agent that can be lethal or cause chronic lung problems. During and after World War II, nerve gases with a paralysing effect were developed. More recently, in the 1980s, Iraq deployed chemical weapons in its war with Iran and against the Kurdish population in Iraq. In order to develop chemical weapons it is necessary to have expert knowledge, raw material (also called precursors), corrosion-proof production equipment and safe laboratories and storage facilities. Apart from this, however, in general the production of chemical weapons is not very difficult. They have even been described as 'the poor man's nuclear bomb'. Much knowledge and many goods relating to chemical weapons can be used for both civilian and military purposes (dual-use goods and technology). Chemical weapons are also attractive to terrorists. The best-known incident has so far been the nerve gas attack in the Tokyo underground by the Japanese Aum Shinrikyo sect in 1995.

### **Means of delivery**

Countries producing weapons of mass destruction also try to procure and develop the means of delivery for these weapons, such as ballistic missiles, but also cruise missiles or unmanned aerial vehicles (UAVs). Means of delivery are necessary to deploy the weapons effectively. The production of these means requires a technological level which has not yet been achieved by all countries of proliferation concern. A cause for concern, however, is the fact that some countries that do have this technology have shown themselves prepared to sell it or to render technical assistance. For example, North Korea supplies missile technology to countries in the Middle East and to Pakistan.

## 2.2 Countries of concern

As has been mentioned, despite various relevant treaties there are still countries that seek to possess weapons of mass destruction. These countries of concern usually seem to be motivated by a perceived imbalance of power in their region, especially where countries in the Middle East, North Africa, South and Southeast Asia are concerned. For example, at certain points in time, the interrelations between Israel, Egypt, Syria, Libya, Iraq and Iran spurred all these countries to engage in the development of weapons of mass destruction. Not all countries in the aforementioned regions are party to the present non-proliferation treaties<sup>1</sup>. The following states are the principal countries of concern.

### Iran

Iran is a member of the relevant non-proliferation treaties for nuclear, chemical and biological weapons. In spite of this, there are suspicions that Iran is working on a nuclear weapons programme. The country certainly possesses a ballistic missiles programme that is believed to be suitable for the delivery of nuclear, biological or chemical weapons. In 1998 and 2000 Iran tested a missile with a range of 1,500 kilometres. The Iranian press called the tests 'successful'.

### Libya

Libya is suspected of working on the development of programmes for nuclear weapons, chemical weapons and ballistic missiles. In the past the US bombed a chemical weapons factory at Rabta, Libya. Around the millennium change, the country attracted public attention on a couple of occasions when goods were intercepted that were believed to be intended for the development of the Libyan ballistic missiles programme. One of the shipments contained thirty-two crates of missile parts<sup>2</sup>.

### Syria

Syria has programmes for the development of chemical weapons and ballistic missiles. The country sees these weapons as an indispensable deterrent in case of, for example, rising regional tensions. Syria is no party to the Chemical Weapons Treaty.



Nuclear test site at Rajasthan, India (Source: [www.fas.org](http://www.fas.org))

### Pakistan and India

The neighbouring states Pakistan and India are involved in an arms race for which both countries have developed their own nuclear weapons and ballistic missiles. In the past India also developed chemical weapons, but in the 1990s it joined the Chemical Weapons Convention (CWC) and thus

1. See annex 4 and 5.

2. The Middle East, maart 2000, 'Has the Leopard changed its spots?'

committed itself to destroy its chemical weapons. Pakistan, too, is a member of the CWC. Neither India nor Pakistan have joined the Nuclear Non-Proliferation Treaty<sup>1</sup>, and so far both countries have refused to sign the Comprehensive Test Ban Treaty. Meanwhile they are continuing the development of their respective nuclear weapons programmes. In May 1998 both countries carried out nuclear tests; in 1999 and 2002 they both tested medium-range and long-range missiles.



Pakistani test of the Ghauri missile in April 1999 (Source: www.fas.org)

#### **North Korea**

North Korea has an extensive ballistic missiles programme and sells goods and technology relating to this programme to other countries of concern. North Korea has also frequently been accused of not completely having abandoned the idea of a nuclear weapons programme, despite its agreement<sup>2</sup> with the US on that subject, signed in 1994. North Korea tested a medium-range missile in 1998. By the end of 2002, North Korea openly admitted to have pursued the possession of nuclear weapons, and early 2003 the country announced its decision to withdraw from the Nuclear Non-Proliferation Treaty. By now the country has restarted one of its nuclear reactors that were closed under the 1994 treaty.



A North Korean Taepo-Dong missile (Source: www.checkpoint-online.ch)

1. See annex 4.

2. The Agreed Framework. Under this agreement the Korean Peninsula Energy Development Organization (KEDO) is developing alternative energy supply sources for North Korea, such as light water reactors that cannot be used for the production of enriched uranium or plutonium. In addition to North Korea and the US, several other countries are party to KEDO, including South Korea, Japan and the EU.

## 2.3 Terrorists

Not only countries, but also terrorists (both terrorist organisations and individuals) may seek to possess non-conventional weapons. We deliberately do not use the term weapons of mass destruction in a military sense, because the terrorist context does not completely fit the definition. The AIVD uses the term NBC terrorism, referring to nuclear, biological and chemical means. The AIVD defines NBC terrorism as 'committing or threatening violence aimed at human lives, or inflicting serious damage with a disruptive effect on society, by the dispersal or release of nuclear, biological or chemical material, with the aim to enforce social changes or to influence political decision-making'.

Although in the attacks on 11 September 2001 no non-conventional weapons were used, after these indiscriminate and unscrupulous attacks it is considered more likely than before that terrorists might also take up these means. Pragmatic and psychological barriers like public disapproval or disapproval among part of the supporters, or an aversion to the use of lethal diseases and agents, seem largely to have faded away. The distribution of anthrax letters in the US late in 2001 confirmed this perception.

### Organisations

Although it is impossible to make an accurate assessment of which terrorist organisations might be capable of and willing to use NBC weapons, some relevant examples can be given.

The Japanese Aum Shinrikyo sect committed an attack with the nerve gas sarin in the Tokyo underground in March 1995. The attack caused about five thousand casualties, twelve of whom died. If the attack had been carried out more adequately, a considerably larger number of people might have been seriously wounded or killed. Aum had produced the sarin gas unaided.

In 1998 the founder and leader of the radical Islamic Al Qa'ida organisation, Osama bin Laden, stated that the procurement of nuclear and chemical weapons was a 'religious duty'. 'How we will use these weapons is our business,' he added. Persistent rumours are going round that the Al Qa'ida network carried out research on chemical and biological agents in camps in Afghanistan and that they hired NBC experts.

## 2.4 Procurement methods

This chapter describes the methods used by countries of concern and terrorists to conceal the fact that the goods or technology they wish to procure are intended for a weapons programme.

In the past the attempts by countries of concern to find and buy goods in Europe or other countries with much high technology used to have a rather overt character. After the Gulf War against Iraq in 1990 - 1991, it turned out that Iraqi government institutions had not only procured dual use goods<sup>1</sup> in the West, but also that Iraqi technicians and scientists had followed part of their training in western Europe and North America, while usually the companies and scientific institutions concerned were unaware of the fact that they thus contributed to the Iraqi programmes for weapons of mass destruction. The purchases included, for example, goods for the Iraqi Science Research Council.

Meanwhile, however, the increased alertness of governments to possible procurement activities

and the refinement of export control mechanisms have made an overt procurement of proliferation-sensitive goods and knowledge practically impossible. As a consequence, countries of concern are increasingly trying to cover up their purchase attempts. Terrorists can be expected to use the same strategy. Below an overview has been given of the main procurement methods, which may be used both separately and in combination.

### **Methods used by countries of concern**

In order to conceal the fact that dual-use goods are destined for a country of concern procurement organisations often decide not to ship them directly to that country. Instead they use intermediate stations in one or more other countries while pretending that these are the countries of destination. In the case of the Libyan missile parts<sup>1</sup> three intermediate destinations were used. In 1999 a shipment of chemicals was seized in the United Kingdom which came from Asia and was destined for Syria.

Another strategy is the method of the false end-user. Procurement organisations for WMD programmes are using front companies, agents and other false end-users (some of whom exist only on paper) in order to cover up the organisation for which the goods are actually intended. In some cases they use agents in countries where the shipment itself will never arrive. They also often state a false end use. For example, chemicals are often intended for the 'pharmaceutical industry', 'cosmetics' or the 'production of pesticides'.

In the past it also happened that (the names of) existing and mostly bona fide universities and scientific institutions were used in order to acquire knowledge.

Procurement organisations do not hesitate to commit document fraud in order to disguise the fact that goods are intended for a programme for weapons of mass destruction. The AIVD saw, for instance, cases in which the bills of lading stated 'spare parts', while the shipment actually contained raw material for a nuclear weapons programme.

Countries of proliferation concern are not only trying to obtain equipment, but also the know-how for their programmes for weapons of mass destruction. To that end students and post-graduate researchers enrol at European universities and academies. They search the Internet, and through web-sites and discussion groups they contact persons and organisations that may help them to get information and know-how. For example, in 1999 a Dutch company was approached via the Internet by a scientist from a country of concern who was looking for proliferation-relevant software. The scientist's employer was suspected of being involved in a weapons programme.

### **Methods used by terrorists**

Persons or organisations trying to establish contact with companies or scientific institutions in the Netherlands for the procurement of goods or technology for the production of NBC weapons may also be motivated by terrorist purposes. Like countries of concern, they, too, may use cover methods as we described above.

An additional problem is the fact that terrorists do not always need to export the goods from the Netherlands or from the EU, and that, consequently, they do not need any export licences. Terrorists may, for example, collect material for an attack in the target country itself. Or they may buy rather small amounts of goods, amounts that, from a military perspective, would be irrelevant.

Where the acquisition of knowledge is concerned, terrorists may be interested in unusual parts of studies or training courses. The best-known example is the case of one of the persons involved in the 11 September 2001 attacks in the US - which, however, were not committed with NBC weapons - this man took flying lessons, but showed remarkably little interest in take-off and landing techniques.

Terrorists may also use illegal methods (such as burglary and theft) to obtain the required equipment and technology.

Finally, it is also possible that terrorists use methods such as sabotage of industrial processes (leading to explosions, poison gas leaks, etc.) or attacks on transports or storage depots of NBC material in order to reach their goals.





## 3 Non-proliferation policy and AIVD tasks

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This chapter describes the Dutch non-proliferation policy, its backgrounds and frameworks, and the bodies involved. Finally, it gives an explanation of the tasks of the AIVD in this area.

### 3.1 Policy

After World Wars I and II, when the impact had become visible of the use of combat gases and nuclear bombs respectively, international treaties were concluded in order to restrict the use of such weapons of mass destruction<sup>1</sup>.

In addition to these treaties, several agreements were concluded between industrialised countries in order to control the export of goods that can be used for the production of weapons of mass destruction, the so-called Export Control Regimes<sup>2</sup>. The Netherlands has joined all these treaties and regimes. The Dutch - and also the European - laws and regulations reflect the ensuing commitments and agreements.

In 1989-1991 it turned out that a number of European companies and scientific institutions had - largely unintentionally and unconsciously - contributed to the Libyan and Iraqi programmes for weapons of mass destruction. In addition, even earlier, Pakistan had based its nuclear weapons programme on knowledge that had been stolen in the Netherlands<sup>3</sup>. In the early 1990s the Dutch government therefore decided to pursue a powerful and active non-proliferation policy. This policy is aimed at preventing the Netherlands, or Dutch companies and institutions, from becoming involved in such programmes in any way. The Dutch laws and regulations relating to import and export<sup>4</sup> were amended in accordance with this policy.

### 3.2 Responsible government bodies

The Ministry of Foreign Affairs (international treaties and export control regimes) and the Ministry of Economic Affairs (implementation of export control policy) are the ministries responsible for non-proliferation policy.

The implementation of the export policy comes under the competence of the Tax Department of the Ministry of Finance, in particular under the following three services:

Customs/Central Import and Export Service (CDIU) is responsible for issuing all export licences, except those relating to agriculture. These licences mainly concern:

- military goods.
- dual-use goods.
- embargoed and UN-sanctioned goods.

Customs is responsible for controlling all cross-border movement. Customs officers are authorised to check and, if necessary, seize shipments.

The Economic Surveillance Department (FIOD/ECD) has been charged with the investigation of economic offences, including breaches of the Import and Export Act and the European Dual-Use Regulation (EU 1334/2000).

1. See annex 4.

2. See annex 4.

3. See also paragraph 4.2

4. See annex 3.

### 3.3 AIVD tasks

The AIVD's task has been laid down by law as 'conducting investigations in relation to organisations that, and persons who, because of the objectives they pursue or through their activities give cause for serious suspicion that they are a danger to (...) the security or other vital interests of the state', and 'promoting measures for the protection of these interests'<sup>1</sup>.

This implies that the AIVD is actively involved in the prevention and combat of procurement for weapons of mass destruction in this country. AIVD's task consists primarily of identifying and thwarting procurement attempts in the Netherlands made by, or on behalf of, countries of concern or terrorist organisations. We investigate possible procurement cases and report offences to the Ministry of Justice. The AIVD also gives the Ministry of Economic Affairs advice when applications are made for export licences concerning export to countries of concern. Finally, on the basis of its reported findings and resulting recommendations, the AIVD contributes to the policy development of the Ministries of Foreign Affairs and Economic Affairs in the field of non-proliferation and export control.

The AIVD co-operates closely with competent national authorities like the Economic Surveillance Department, Customs and the Customs/Central Import and Export Service. The AIVD also regularly exchanges non-proliferation-related information and experience with foreign intelligence and security services.

As part of its preventive task, the AIVD has been working with an awareness-raising programme, focused on proliferation risks, for companies and institutions since the early 1990s. Within the context of this programme we visit companies and institutions that might run the risk of becoming unintentionally involved in procurement attempts by proliferant countries of concern or terrorist organisations. The present paper was also brought out as part of this awareness-raising programme.

## 4 Risks for companies and scientific institutions

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### 4.1 Risks for companies

Contributing to the development of weapons of mass destruction by the provision of knowledge or goods is a punishable offence if it involves a breach of the Dutch or European export laws. The principal laws in this area are the Import and Export Act, the Weapons and Ammunition Act, the Financial Transactions Act and the European Dual-Use Regulation<sup>1</sup>. In addition to a breach of the law, contributing to the development of weapons of mass destruction also tarnishes the reputation of the Netherlands as a party to non-proliferation treaties, and it may have substantial political consequences.

However, the main risk for individual companies and institutions supplying proliferation-relevant goods or technology is the fact that their reputation as a reliable trading partner and ethically and legally sound organisation may be tarnished. It may also lead to financial damage: a considerable fine may be imposed upon the company, and/or the goods may be confiscated.

In 1989 the German company Imhausen Chemie was approached on behalf of the Libyan chemical weapons factory in Rabta under the pretence of setting up of a pharmaceutical plant. When the truth had come to light and American bombs had destroyed the plant, the German company was also publicly called to account. The incident tarnished the reputation of Imhausen Chemie to such an extent that it eventually led to bankruptcy.

Even companies that enter into business transactions without being aware of the fact that their client is a procurement organisation may suffer damage. In 1998 the Dutch authorities intercepted a shipment of isopropyl alcohol for Syria, ordered by an alleged agent of a pharmaceutical company. The agent turned out to be a purchasing agent for Syria's chemical weapons programme. The Dutch company that supplied the chemicals in good faith suffered considerable financial damage.

### 4.2 Risks for scientific institutions

Proliferant countries of concern are not only trying to obtain goods, but also to acquire knowledge for their programmes of weapons of mass destruction. In the 1980s Iraqi scientists acquired much knowledge for developing the Iraqi weapons of mass destruction in Western countries, simply by doing a study in these countries. The Netherlands also had such painful experiences: Dr A.Q. Khan, the man who calls himself 'the father of the Pakistani atomic bomb', largely acquired his knowledge through a study and a trainee project in the Netherlands. He concluded his traineeship by stealing technology from his employer.

The method of knowledge acquisition is still in use. Students, post-graduates and scientific researchers frequently enrol on studies and research projects at European universities. Sometimes the Internet is used as a means, via web-sites and discussion groups, to contact persons and institutions that may provide information and knowledge. And, although the majority of the students and scientists approaching European - and Dutch - universities, academies and scientific institutions qualify as bona fide, it cannot be ruled out that also in this country certain persons are trying to acquire knowledge for programmes of weapons of mass destruction and their means of delivery.

Acquisition of knowledge has internationally been identified as a proliferation-relevant method. One of the reasons is the fact that it has become increasingly difficult for countries and

organisations of concern to obtain goods for weapons of mass destruction. They therefore often decide to produce these goods by themselves, but first they need to have the required knowledge. This may be acquired in various ways. World-wide, there is, for example, an increase in the number of applications for studies and training projects by students and scientists from countries of concern (working for institutions associated with WMD development<sup>1</sup>), as well as a growing interest from these countries in conferences and seminars that present an opportunity to contact other interesting scientists. It is very well possible that the Netherlands, too, will increasingly be faced with this phenomenon. After all, Dutch knowledge development has a high level.

It is for this reason that the AIVD advises universities, academies and scientific institutions to be more alert to the possibility that students or researchers are not only focusing on purely scientific work, but also on a hidden goal, i.e. the production of weapons. Relevant indications are, for example:

- an unexpected increase in the inflow of students from a country of concern,
- a trainee or temporary project member who shows an extraordinary interest in certain aspects of his - or somebody else's - field of study,
- a student or trainee who is less than normally familiar with - parts of - his subject,
- an unusual change of study subject,
- or other, similar matters.

#### **4.3 How to avoid risks**

In order to prevent companies and institutions from suffering damage in procurement attempts for WMD programmes, they should be able to identify possible risk factors. Below a number of indications have been listed which may help to identify such factors, followed by the names of bodies responsible for export control which, in case of doubts, can tell whether a licence is required for certain goods and if so, how to apply for such a licence.

If in doubt about the intentions of persons who or organisations that are trying to obtain goods, knowledge or technology, a company or institution may also, obviously, ask the AIVD for advice.

##### **Indications**

A transaction may involve a proliferation risk if one or more of the following factors is involved:

- The transaction concerns dual-use goods or military goods, whether a licence is required or not, and
- the goods are destined for a country of concern, and/or
- the final destination and end use are not clear, and/or
- the client has unusual wishes or conditions in relation to payment, delivery or servicing.

Transfer of knowledge may involve a proliferation risk if one or more of the following factors is involved:

- The subject of a study, or parts of it, may be useful in the development of weapons of mass destruction, and/or
- students/scientists come from a country of concern, and/or
- a student is just or specifically interested in specific parts of the subject.

A more detailed checklist can be found in annex 1.

#### 4.4 Which bodies can give advice?

Below follows a brief description of the bodies that can give companies advice if they suspect that a licence may be required for a transaction or that a transaction may involve a proliferation risk. The addresses have been listed in annex 2.

##### **Customs/ CDIU**

The Central Import and Export Service (Centrale Dienst In- en Uitvoer, CDIU), a Customs division under the authority of the Ministry of Finance, is responsible for issuing all export licences, except those relating to agriculture. Licences are mainly required for:

- Military goods.
- Dual-use goods.
- Embargoed goods and UN-sanctioned goods.

The CDIU knows whether a licence is required for goods or technology to be exported or shipped in transit or whether such a licence may be required if the destination is a country of concern. The CDIU can also explain what type of licence is required. A company or institution can apply for a licence with the CDIU or submit a so-called sondage (exploratory question about licences).

##### **The Ministry of Economic Affairs**

This Ministry is responsible for import and export legislation and for deciding on the actual granting of export licences. When the occasion arises, the CDIU may pass applications for licences or sondages to the export control department of the Ministry of Economic Affairs for a final decision about granting a licence. Applications for licences for military goods destined for non-NATO countries and applications for licences for dual-use goods that may be used for WMD programmes are always submitted to the Ministry of Economic Affairs.

##### **The AIVD**

The AIVD gives the Ministry of Economic Affairs advice on granting export licences, both on request and unasked (when the AIVD has information about a transaction possibly involving a proliferation risk). If the AIVD suspects that certain dual-use goods not falling under the standard licence obligation of the relevant laws are intended for a WMD programme, the AIVD may recommend the Ministry of Economic Affairs to apply the so-called 'catch-all' provisions. Under these provisions a licence is then required for the transaction. The AIVD reports breaches to the competent authorities (the Economic Affairs or Justice Ministry).

The AIVD gives companies and institutions advice on possibly proliferation-relevant suspicious transactions at their request, but also unasked-for, on the basis of its own information. The AIVD also gives scientific institutions and universities advice about risks involved in the transfer of knowledge. The AIVD's recommendations have no binding effect.

The AIVD may ask a company or institution to provide information about the progress of a transaction and its possible follow-up in order to gain more insight into the wishes, needs, methods and identity of persons and organisations interested in proliferation-relevant goods and knowledge.



**1a Checklist for goods transactions**

If a transaction meets two or more of the following conditions, a proliferation risk might be involved.

- The transaction concerns dual-use or military goods, whether licensable or not.
- The goods are destined for one of the aforementioned countries of concern. This does not apply, however, to terrorist groups, who do not necessarily operate in or from a country of concern.
- The goods are destined for a transit port that is probably not the end-use location.
- The client is unknown and not prepared to reveal his identity through references.
- The client is not familiar with the civilian use of the goods to be delivered.
- The client is vague about end user and end use.
- The client is not or insufficiently prepared to reveal the nature and location of the plant where the goods are to be used or processed.
- The client evades answers to normal technical or commercial questions.
- The client is working for or in contact with the defence machinery of a country of concern.
- The client demands extraordinary discretion in relation to the order.
- The client offers unusual, favourable terms of payment in proportion to the situation in the country of destination.
- The client demands unusual terms of guarantee.
- The client is not interested in after-sales service, such as training, installation and maintenance at the end-use location.
- The client initially agrees to a normal maintenance contract or local inspection arrangement, but dodges it later on.
- The client insists on unconventional conditions for transport and packing.
- The quantity of the ordered goods differs from a regular civilian use (the quantity may either be unusually big or unusually small).
- The nature of the client's organisation and/or end user does not correspond to the ordered goods.

## **1b Checklist for transfer of knowledge and technology**

In order to protect the transfer of knowledge other proliferation-relevant issues should be taken into account:

- A study, or parts of a study, is/are relevant to programmes for weapons of mass destruction.
- Students/scientists come from the aforementioned countries of concern.
- Students/scientists are sponsored or otherwise supported by their home country.
- A student is only interested in specific, remarkable parts of a study or training (cf. the example of the flying schools in the US where students were not interested in take-off and landing techniques).



## CDIU:

Belastingdienst/Douane Centrale Dienst voor In- en Uitvoer  
(Tax Department/Customs Central Import and Export Service)  
Engelsekamp 2, 9722 AX Groningen  
Tel.: (050) 5239250  
Fax: (050) 5239246

## Ministry of Economic Affairs

Bezuidenhoutseweg 30. 2594 AV The Hague  
P.O. Box 20101, 2500 EC The Hague  
Internet site: <http://www.exportcontrole.ez.nl>  
Tel.: (070) 3798911  
Fax: (070) 3797392

## General Intelligence and Security Service (AIVD)

Dokter Van der Stamstraat 1, 2265 BC Leidschendam  
P.O. Box 20010, 2500 EA The Hague  
Internet site: <http://www.aivd.nl>  
Tel.: (070) 3178610  
Fax: (070) 3200733



**Laws and regulations**

International agreements and treaties relating to non-proliferation have led to the following laws and regulations in the Netherlands and the European Union:

- Import and Export Act.
- Strategic Goods (Export) Decree, providing for rules governing the export and re-export of military goods under the Import and Export Act.
- Council Regulation (EC) No. 1334/2000 and accompanying Decree with regard to the control of exports of dual-use items from the Community.
- Decree on Financial Transactions for Strategic Goods 1996.
- Biological Weapons Convention (Implementation) Act 1981.
- Chemical Weapons Convention (Implementation) Act 1995.
- Chemical Weapons Convention (Implementation) Decree 1997.

In general, breach of the provisions laid down in these Acts and Decrees constitutes an economic offence. In the event that the breach is committed intentionally, it is a criminal offence, punishable by a fine and/or prison sentence. It is also possible that, as an additional sanction, a business will temporarily be closed down.



When the effects of the use of combat gases and nuclear bombs in World Wars I and II respectively had become visible, several international treaties were concluded in order to restrict the use of such weapons of mass destruction. The Netherlands has joined all these treaties. An international code of conduct against the proliferation of means of delivery was agreed upon in The Hague in 2002.

In addition to the treaties, there are also agreements between industrialised countries to control the export of goods that can be used for the production of weapons of mass destruction. These are the so-called Export Control Regimes. The Netherlands is a member of these Export Control Regimes. Under the Dutch Import and Export Act, it is obligatory to have a licence for the export of goods mentioned on Export Control Regime lists of proliferation-sensitive items (so-called listed goods). A similar provision has also been included in the European export regulations.

#### **4a International treaties**

The Geneva Protocol (1925) prohibits the use of chemical and bacteriological weapons against other states.

The Non-Proliferation Treaty (NPT, 1968) seeks to prevent the proliferation of nuclear weapons outside the five nuclear-weapon states (the United States of America, the Russian Federation, the United Kingdom, France and the People's Republic of China). The treaty prohibits the development or procurement of nuclear weapons by non-nuclear-weapon-state parties. This treaty was renewed for an indefinite period of time in 1995. The International Atomic Energy Agency (IAEA) is responsible for the implementation of the treaty.

The Biological Weapons Convention (BWC, 1972) prohibits the parties to develop, possess and produce biological and toxic weapons and to transport these weapons to third countries. The Convention has been signed by 144 countries.

The Chemical Weapons Convention (CWC, 1993) prohibits the development, production, stockpiling, transfer and use of chemical weapons. The Chemical Weapons Convention came into effect on 29 April 1997. At present it has 146 Member States. The ratifiers are entitled to verify each other's compliance with the Convention's rules for development, production, stockpiling and transfer of chemical weapons. The Hague-based Organisation for the Prohibition of Chemical Weapons (OPCW) is responsible for the implementation of the Chemical Weapons Convention. The OPCW deploys multinational inspection teams and, if the occasion arises, it can also carry out unannounced inspections.

The Hague Code of Conduct (HCOC, 26 November 2002) is an international code of conduct that commits subscribing states to prevent and curb the proliferation of ballistic missile systems capable of delivering weapons of mass destruction. 104 States have now signed the Code.

## **4b Export Control Regimes**

### **Nuclear Suppliers Group**

In 1976 a number of big industrialised countries started a consultative group under the name of Nuclear Suppliers Group (NSG), focused on additional export control measures to prevent the proliferation of nuclear goods and technology for nuclear and radiological weapons.

### **Australia Group**

In 1985 Australia initiated discussions between industrialised countries about preventing the proliferation of chemical and biological weapons through export control. The resulting export control regime is called Australia Group (AG).

### **Missile Technology Control Regime**

In 1987 some industrialised countries made a number of agreements on the export of equipment, components and technology for systems to be used for the delivery of chemical, biological and nuclear weapons. This regime is called the Missile Technology Control Regime (MTCR). 'Means of delivery' are understood to mean launch systems such as ballistic missiles, cruise missiles, unmanned aerial vehicles, etc.

### **The Wassenaar Arrangement**

In 1995 a number of agreements were made on conventional weapons between the NATO Member States, Russia and a number of eastern European countries with the principal aim to gain insight into arms transports and to prevent accumulations of weapons in trouble spots. This export control regime is called Wassenaar Arrangement (WA), after the place where it was set up.

Annex 5: List of countries in the Middle East and Asia that are no party to the aforementioned non-proliferation treaties.

**Non-proliferation Treaty**Middle East

Israel

Asia

India

Pakistan

North Korea (resignation announced in 2003)

**Biological Weapons Convention**Middle East

Egypt

Israel

Syria

United Arab Emirates

Asia

Kirgizstan

Myanmar (formerly Burma)

Azerbaijan

Kazakhstan

Nepal

Tajikistan

**Chemical Weapons Convention**Middle East

Egypt

Iraq

Israel

Lebanon

Libya

Syria

Asia

Cambodia

Myanmar

Thailand

Afghanistan

Bhutan

Kirgizstan

North Korea

