



Security Sensitive Biological Agents Regulatory Scheme

SSBA – Fact sheet 13 – International conventions and agreements

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There are international conventions, domestic laws and initiatives that govern the use, importation and export of biological agents. This fact sheet aims to provide an overview of the relevant international conventions that may have implications for entities handling biological agents. Further details can be found in the links provided below. It is important that entities handling biological agents are aware of these conventions and laws and of their obligations under them, as well as the penalties for breaching them.

The Australian Government supports a variety of global measures designed to eliminate terrorist threats. It has increased its focus on protecting the Australian community from infectious disease outbreaks and threats from biological, chemical or radiological agents. For further information, see *Fact sheet 12 – Domestic Legislation*.

Biological Weapons Convention

The Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, usually referred to as the Biological Weapons Convention (BWC), was the first multilateral disarmament treaty banning an entire category of weapons. It was the result of concerted efforts by the international community to establish a new instrument that would supplement the 1925 Geneva Protocol.

The BWC was opened for signature on 10 April 1972 and entered into force on 26 March 1975. Australia signed the BWC on the day it was opened for signature and ratified it in 1977. The BWC obliges States Parties to prohibit the development, production, stockpiling, acquisition and retention of biological and toxin weapons. The convention also prohibits States Parties from assisting or encouraging others to manufacture or acquire biological weapons or transferring biological weapons to any recipient. Further, the BWC requires States Parties to facilitate technical and scientific cooperation in the use of biotechnology for peaceful purposes.

The BWC does not prohibit biological agents themselves, rather the prohibitions apply to biological agents or toxins that are of types or quantities that have no justification for prophylactic, protective or other peaceful purposes.

The domestic implementation of the prohibitions contained in the BWC are covered in the *Crimes (Biological Weapons) Act 1976*, and the transfer provisions in Article 3 of the

BWC are covered by the *Customs Act 1901* and associated regulations, in particular the *Customs (Prohibited Exports) Regulation 13E*.

The absence of any formal verification regime to monitor compliance has limited the effectiveness of the convention, however, States Parties are required to report annually on specific confidence building measures.

The BWC is a key element in the system of interlocking and mutually-reinforcing parts, which comprise the global non-proliferation and disarmament architecture. Full and effective implementation of the BWC raises barriers to biological weapons proliferation and to bioterrorism. As a strong advocate for the BWC and its objectives, Australia continues to work to strengthen further its implementation both within Australia and internationally, including in the Asia-Pacific region.

For further information refer to the [Department of Foreign Affairs and Trade website](#).

Chemical Weapons Convention

The Chemical Weapons Convention (CWC) is an international treaty that bans the development, production, stockpiling and/or use of chemical weapons (CW) including toxins and requires the complete and verifiable destruction of existing CW stockpiles.

As a party to the CWC, Australia prohibits offensive CW activity. Australia is obliged to declare information on certain chemical activities to the Organization for the Prohibition of Chemical Weapons (OPCW) and permit routine inspection of relevant chemical and defence facilities by the OPCW.

The CWC is principally implemented through the *Chemical Weapons (Prohibition) Act 1994* (the CWP Act) by the Australian Safeguards and Non-Proliferation Office (ASNO) within the Department of Foreign Affairs and Trade.

The CWC distinguishes three different schedules of controlled substances consisting of chemical warfare agents or their precursor chemicals. Schedule 1 chemicals are primarily the blister and more deadly nerve agents, which have no industrial use. Schedule 2 chemicals are generally direct precursors to Schedule 1 chemicals, and these are used legitimately in industry. Schedule 3 chemicals include the choking and blood agents, and precursor chemicals, all with large-scale industrial use. That said, each Schedule is split into Part A, which are toxic chemicals that can be used directly as chemical warfare agents, and Part B, which are precursor chemicals.

Ricin is included in the List of Security Sensitive Biological Agents (SSBAs) and is listed in Schedule 1 – Part A of the CWC toxic chemicals.

The CWP Act establishes a permit and notification system. Permits are required for the regulation of facilities with activities involving CWC-scheduled chemicals. The notification system applies to facilities producing certain discrete organic chemicals. Such activities must be reported to ASNO annually because of the plant capabilities which could potentially be used to make CWC-scheduled chemicals, rather than because of the risk posed by the chemicals themselves.

The Australian Safeguards and Non-Proliferation Office administers Regulation 5J of the *Customs (Prohibited Imports) Regulations 1956* and as such, is the permit issuing

authority for imports of CWC-scheduled chemicals. The [Defence Export Control Office](#) issues export permits for CWC-scheduled chemicals as per Regulation 13E of the *Customs (Prohibited Exports) Regulations 1958*. Regulation 13E also controls pathogens, toxins and dual-use production equipment. For further information refer to the [Department of Foreign Affairs and Trade website](#).

United Nations (UN) Security Council Resolution 1540

UN Security Council Resolution 1540, adopted under Chapter VII of the UN Charter, obliges States, *inter alia*, to refrain from supporting by any means non-State actors from developing, acquiring, manufacturing, possessing, transporting, transferring or using nuclear, chemical or biological weapons and their delivery systems.

Resolution 1540 imposes binding obligations on all States to establish domestic controls to prevent the proliferation of nuclear, chemical and biological weapons, and their means of delivery, in particular for terrorist purposes, including by establishing appropriate controls over related materials, and to adopt legislative measures in that respect. The *National Health Security Act 2007* supports other Australian legislation to fulfil these obligations.

None of these obligations are intended to conflict with or alter the rights and obligations of States Parties to the Nuclear Non-Proliferation Treaty, the CWC and the BWC or alter the responsibilities of the International Atomic Energy Agency (IAEA) or the OPCW.

States are also required to report on steps they have taken, or intend to take, to implement the goals of Resolution 1540. Australia submitted its initial national report to the UN in October 2004, and provided additional information in November 2005 and April 2008. The implementation of best-practice hazardous material control in Australia would add further to its non-proliferation credentials.

The Australia Group

The Australia Group is an informal forum of countries, which through the harmonisation of export controls, seeks to ensure that exports do not contribute to developing chemical or biological weapons. Coordination of national export control measures assists Australia Group participants to fulfil their obligations under the Chemical Weapons Convention (CWC) and the Biological Weapons Convention (BWC) to the fullest extent possible.

Participants in the Australia Group do not undertake legally-binding obligations. The effectiveness of their cooperation depends solely on a shared commitment to chemical and biological weapon non-proliferation goals and the strength of their respective national measures. Key considerations in the formulation of participants' export licensing measures are:

- they should be effective in impeding the production of chemical and biological weapons;
- they should be practical, and reasonably easy to implement; and

- they should not impede the normal trade of materials and equipment used for legitimate purposes.

The Australia Group's activities serve to support the objectives of the CWC and BWC by enhancing the effectiveness of national export licensing measures.

The Australia Group Common Control List contains several biological agents and toxins listed on the List of SSBAs.