



Resolution 64/38

Measures to prevent terrorists from acquiring weapons of mass destruction

Kingdom of the Netherlands

2010

The Kingdom of the Netherlands took the following measures to prevent terrorists from acquiring weapons of mass destruction, their means of delivery and materials and technologies related to their manufacture.

1. The Netherlands has a comprehensive legislative framework to help prevent terrorists from accessing WMD's and related materials. The policy of the Netherlands on the export of dual-use items is determined by the European Union and multilateral agreements on the prevention of the proliferation of weapons of mass destruction and their means of delivery. Regulation (EC) No. 428/2009 of the Council of the European Union dated 5 May 2009 sets up a community regime for the control of exports, transfer, brokering and transit of dual-use items. This Regulation, '*the dual use regulation*' introduced a common system for the control of exports of dual use items at the level of the European Union.

The Regulation includes the list of dual-use goods for which an export licence is required. The Regulation entails international obligations which EU Member States have to take into consideration when deciding on whether or not to grant a licence. Furthermore, the Regulation provides the competent authorities with the possibility to impose, under certain conditions, a licence requirement for goods not covered in the annexes to the Regulation. This Regulation replaces the former dual-use regulation (EC) No. 1334/2000 (Pb. 2000 L 159).

In general terms, the Dutch government opposes the export of dual-use goods if there are indications that the goods may contribute to or be utilised for the development or production of weapons of mass destruction or for application in missile programmes.

2. The Netherlands actively seeks to prevent non-State actors from trying to develop, acquire, manufacture, possess, transport, transfer or use nuclear,

chemical or biological weapons and their means of delivery. To this end, legislation has been enacted. Details can be found in the Netherlands' submission to the Security Council Committee established pursuant to resolution 1540 (2004).

The involvement of non-state actors in terrorist activities is an aggravating circumstance under the Terrorist Crimes Act (*Wet terroristische misdrijven*). The imposition of higher penalties is envisaged if a terrorist purpose is established in case of a violation of the Implementing Act of the Biological Weapons Convention and the Implementing Act of the Chemical Weapons Convention or the Nuclear Energy Act. Attempts by non-state actors to participate in terrorist acts as an accomplice, or to assist or to finance them, qualify as criminal offences. The relevant provisions can be found in the Criminal Code with respect to attempt (Section 45), participation, subornation and material support (Section 47), complicity (Section 48), participation in a criminal organisation (Sections 140 and 140a) and in the Nuclear Energy Act with respect to conspiracy (Section 80.3).

3. Next to legislative measures aimed at the terrorist act, the Netherlands has implemented several physical protection laws. These require the physical protection of dangerous goods, including biological agents, chemical agents and nuclear material, during transport, and require transport companies to develop and maintain a security plan. With respect to nuclear material, the Fissionable Materials, Ores and Radioactive Substances (Transport) Decree (*Besluit vervoer splijtstoffen, ertsen en radioactieve stoffen*) secures implementation of the provisions of the Convention on the Physical Protection of Nuclear Material. Pursuant to this provision, a nuclear security management program must be implemented for every nuclear transport.

The Nuclear Installations, Fissionable Materials and Ores Decree (*Besluit kerninstallaties, splijtstoffen en ertsen*) provides a framework for requiring physical protection measures in respect of nuclear installations. These require that every nuclear facility implement a nuclear security management program and submit an annual internal security audit report on what has been done.

4. These physical protection laws have culminated in the establishment of several measures. In June 2003, the Minister of Finance of the Netherlands decided to install up-to-date technical equipment in the Port of Rotterdam which makes it possible to monitor large numbers of containers for radioactive material. The monitors are used to oversee the flow of incoming and outgoing containers, irrespective of the country of origin or destination. This decision substantially improves the possibility of detecting and interdicting illicit trafficking in radioactive material.

Already in August 2003 the Netherlands and the United States of America signed a mutual Declaration of Principles concerning the installation of special equipment on an interim basis at the Port of Rotterdam to facilitate a quick start. The initial equipment became operational in March 2004. About 90% of all containers passing through the Port of Rotterdam will ultimately be monitored. Dutch customs in the Port of Rotterdam also has two advanced X-ray container scanners.

5. The Netherlands is an active member of several non-proliferation, disarmament and export control regimes. As international city of peace and justice, The Hague has been the host of several meetings.

The 5th plenary meeting of the Global Initiative to Combat Nuclear Terrorism (GICNT) was hosted by the Netherlands in The Hague from June 16-18, 2009. It focused on nuclear forensics and the development of a new framework to enhance operational cooperation between partners investigating illicit uses of nuclear material. GICNT is an international partnership of (status: June 2010) eighty-one nations and four official observers who are committed to working individually and collectively to implement a set of shared nuclear security principles. The mission of GICNT is to strengthen global capacity to prevent, detect, and respond to nuclear terrorism by conducting multilateral activities that strengthen the plans, policies, procedures, and interoperability of partner nations. The United States and the Russian Federation serve as Co-Chairs of GICNT.

6. From the November 24-26, 2009 the Netherlands hosted International GICNT Exercise *Cobalt* in the city of Utrecht. This exercise examined the arrangements for international cooperation and information sharing in case of a planned coordinated nuclear attack on several countries. In total a number of thirty-six countries and five international organisations such as Interpol and IAEA participated in this event, organised by the Dutch National Coordinator for Counter-Terrorism (NCTb).
7. Forty-three countries and four international organisations attended the Sherpa and Sous-sherpa meeting of the Nuclear Security Summit (NSS), hosted by the Netherlands and initiated by the United States, in The Hague from February 9-11, 2010. During this meeting participants discussed the Workplan and Communiqué for the NSS that was held in Washington in April 2010.
8. Other treaties, export control regimes and initiatives aiming to prevent worldwide proliferation of sensitive goods the Netherlands actively participates in are:
 - Non-Proliferation Treaty (NPT)
 - The Chemical Weapons Convention (CW)
 - Treaty on Biological Weapons (BW)
 - Wassenaar Arrangement (WA)
 - Nuclear Suppliers Group (NSG)
 - Missile Technology Control Regime (MTCR)
 - Australia Group (AG)
 - Zangger Committee
 - G8 Global Partnership
 - Proliferation Security Initiative (PSI)