

Fourth Meeting
Geneva, 10-14 December 2007

Meeting of Experts
Geneva, 20-24 August 2007

Items 5 of the provisional agenda

**Consideration of ways and means to enhance
national implementation, including enforcement
of national legislation, strengthening of
national institutions and coordination among
national law enforcement institutions**

THE GERMAN LEGISLATIVE FRAMEWORK IMPLEMENTING THE BTWC

Submitted by the Federal Republic of Germany

1. The implementation of prohibitive and preventive measures related to biological weapons in German law has a history going back beyond the date of signature of the Biological Weapons Convention.
2. The War Weapons Control Act of 20 April 1961 (Kriegswaffenkontrollgesetz)¹ is the primary piece of legislation implementing the prohibitions of and penalties for development, production, acquisition, transfer, import, export, transport through or otherwise bring into or out of the federal territory of biological weapons or otherwise exercise actual control over such weapons. The act also prohibits the inducement of another person to commit or encouragement of any aforementioned activity. Annexed to the Act is the War Weapons List. The list comprises items, substances and organisms which for the purposes of the act are weapons intended for warfare if they do not serve specified civil purposes.
3. In the context of formation of terrorist organizations, the Criminal Code, Section 129a (Strafgesetzbuch)² comprises specific penal regulations linked to the War Weapons Control Act.
4. The Foreign Trade and Payments Act of 28 April 1961 (Aussenwirtschaftsgesetz)³ regulates the export, *inter alia*, of BW-related dual-use agents, toxins, equipment and technology. An annex to the Act contains a list of dual-use goods, including biological agents, toxins and equipment. Both, the act and the annex, have been amended several times so as to

¹ <http://www.gesetze-im-internet.de/krwaffkontrg/index.html>.

² <http://www.gesetze-im-internet.de/stgb>.

³ <http://www.gesetze-im-internet.de/awg/index.html>.

meet the requirements of EU regulations setting up a Community regime for the control of exports of dual-use items and technology. The Federal Office of Economics and Export Control (Bundesamt für Wirtschaft und Ausfuhrkontrolle – BAFA)⁴ is entrusted with administrative tasks in export control and acts as licensing authority, working in close co-operation with other federal agencies. The Customs Administration⁵ enforces the controls.

5. By adopting the Act to the Convention of 10 April 1972 on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction of 21 February 1983 (Gesetz zu dem Übereinkommen vom 10. April 1972 über das Verbot der Entwicklung, Herstellung und Lagerung von bakteriologischen (biologischen) Waffen und von Toxinwaffen sowie über die Vernichtung solcher Waffen)⁶ Germany ratified the BTWC. The Act enacts the prohibitions of Article I of the Convention and refers to legislation already in place regulating the obligations under the Convention as well as the penalization of offences.

6. The possession, handling and transfer of BW-related materials for peaceful purposes are regulated in a set of different laws and regulations covering public health, occupational health, animal diseases, plant protection and genetic engineering work. These laws and regulations under the responsibilities of the Federal Ministry of Health, Federal Ministry of Labour and Social Affairs, and Federal Ministry of Food, Agriculture and Consumer Protection as well as respective Federal States Ministries are based on the same principle: minimizing the risk for human, animal and plant health and the environment by applying physical and organizational measures and controls. Basic common principles are, *inter alia*,:

- (i) licensing requirement for handling dangerous biological materials,
- (ii) complying with specific requirements for gaining a license, i.e. professional knowledge and
- (iii) personal reliability,
- (iv) classification of organisms and experiments according to risk assessment,
- (v) availability of safe and secure infrastructure according to risk classification,
- (vi) transfer of biological materials only between licensees,
- (vii) regulations for safe rail, road, air and waterway/sea transport,
- (viii) control of licensees, experiments and facilities by respective medical, veterinary,
- (ix) phytohygiene and plant/facility safety agencies of the Federal States.

7. The Protection against Infection Act of 20 July 2000 (Infektionsschutzgesetz)⁷, the Biological Agents Ordinance of 27 January 1999 (Biostoff-Verordnung)⁸, the Animal Diseases

⁴ <http://www.bafa.de/bafa/en/index.html>.

⁵ http://www.zoll.de/e0_downloads/d0_veroeffentlichungen/the_federal_customs_administration.pdf.

⁶ <http://www.auswaertiges-amt.de/diplo/de/Aussenpolitik/Abruestung/Downloads/BWUE-Gesetz.pdf>.

⁷ <http://www.gesetze-im-internet.de/ifsg/index.html>.

⁸ <http://www.gesetze-im-internet.de/biostoffv/index.html>.

Act of 20 June 1909 (Tierseuchengesetz)⁹, the Plant Protection Act of 15 September 1986 (Pflanzenschutzgesetz)¹⁰ and the Genetic Engineering Act of 20 June 1990 (Gentechnikgesetz)¹¹ are the basic laws for regulating aforementioned activities. Based on these acts a number of specific ordinances, regulations and technical guidelines provide detailed legislative and administrative measures.

8. More detailed information on national implementation of the BTWC, including information on Internet access to source documents, is available from the working papers presented by Germany at the 2003 Meeting of Experts¹² as well as the working paper titled “Implementation of the BTWC in EU Member States” presented by Portugal on behalf of the European Union.

9. Working papers WP.35¹³ of the 2003 Meeting of Experts, WP.2¹⁴ of the 2003 Meeting of States Parties and WP.3¹⁵ of the Sixth Review Conference provide Germany’s view on the need and comprehensiveness of national implementation of the BTWC.

10. It is Germany’s view that national implementation of the BTWC does not only mean to transform legally binding BTWC obligations into legislative and administrative measures. It also includes the full implementation of measures agreed at BTWC Review Conferences. In this context Germany reminds of working paper WP.4¹⁶ of the 2003 Meeting of States Parties in which Germany offered technical advice to other States on national implementation. Germany is active in this area by providing expertise to outreach activities under the EU Joint Action in support of the BTWC as well as by conduction regional and bilateral export control workshops. Germany has participated in the annual exchange of Confidence Building Measures (CBMs) since their introduction. To increase the transparency of the CBMs, Germany decided to make its annual CBM report publicly available – beginning with the report provided this year. The report is posted on the website of the Federal Foreign Office¹⁷. And last but not least, Germany named a national BTWC point of contact¹⁸ to facilitate cooperation with the Implementation Support Unit as well as other States Parties.

⁹ <http://www.gesetze-im-internet.de/viehseuchg/index.html>.

¹⁰ http://www.gesetze-im-internet.de/pflschg_1986/index.html.

¹¹ <http://www.gesetze-im-internet.de/gentg/>.

¹² BWC/MSP.2003/MX/WP.12; WP.21, WP.24, WP.37, and WP.62 (<http://disarmament2.un.org/wmd/bwc/annualmeetings/listofdocs-experts.html>).

¹³ BWC/MSP.2003/MX/WP.35 (<http://disarmament2.un.org/wmd/bwc/annualmeetings/listofdocs-experts.html>).

¹⁴ BWC/MSP/2003/WP.2 (<http://disarmament2.un.org/wmd/bwc/annualmeetings/listofdocs-experts.html>).

¹⁵ BWC/CONF.VI/WP.3 ([http://documents-dds-](http://documents-dds-ny.un.org/doc/UNDOC/GEN/G06/646/41/doc/G0664641.DOC?OpenElement)

[ny.un.org/doc/UNDOC/GEN/G06/646/41/doc/G0664641.DOC?OpenElement](http://documents-dds-ny.un.org/doc/UNDOC/GEN/G06/646/41/doc/G0664641.DOC?OpenElement)).

¹⁶ BWC/MSP/2003/WP.4 (<http://disarmament2.un.org/wmd/bwc/annualmeetings/bwc-msp2003-wp4.pdf>).

¹⁷ <http://www.auswaertiges-amt.de/diplo/de/Aussenpolitik/Abruestung/BioChemie/VerbotBioWaffen-dt-Jahresmeldg06.pdf>.

¹⁸ see www.unog.ch – restricted area for States Parties.