

Preventing Terrorist Use of CBW

The role of international disarmament treaties

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Terrorist Use of WMD

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Sources of the norm against CBW

- **International treaties**
 - 1925 Geneva Protocol
 - Bans the use of CBW in war
 - 1972 Biological and Toxin Weapons Convention (BTWC)
 - Totally bans development, production and stockpiling of BW and toxins
 - Ban on use explicitly referred to at 4th Review Conference (1996)
 - 1993 Chemical Weapons Convention (CWC)
 - Totally bans development, production, stockpiling and use of CW and toxins
- **UN Security Council resolutions**
 - UNSC Resolution 1540 (2004)
- **National laws**
- **Professional and scientific codes of ethics and conduct**
- **Industry standards and best practices**

CWC and Prevention of Terrorism

- **Status**
 - In force since 1997
 - As good as universal
 - 192 States Parties
 - 4 non-States Parties: DPRK, Egypt, Israel, South Sudan (+ Palestine)
- **International organisation**
 - OPCW = community of states parties
 - Technical Secretariat of OPCW: assists with treaty implementation
- **Division of labour between OPCW and States Parties**
 - OPCW verifies declarations and monitors & assists with compliance
 - States Parties
 - Required to adopt and implement national legislation – Article VII
 - Responsible for all treaty-relevant activities on its territory and by its nationals anywhere (extraterritoriality) – Article VII, §1
 - Cannot allow the domestic or international transfer of CW or their components *to anyone* – Article I, §1(a) and (d)

BTWC and Prevention of Terrorism

- **Status**
 - In force since 1975
 - Third most successful weapon control treaty after CWC & NPT
 - 174 States Parties
 - 22 non-States Parties (most in Africa)
- **No international organisation**
 - Implementation Support Unit (ISU)
 - 3 persons
 - Facilitates interactions among States Parties
 - Includes offers and requests for assistance
 - Focus on bilateral, intra- or interregional State Party interactions
- **Emphasis on responsibilities by States Parties**
 - No formal compliance verification; reliance on national reporting
 - States Parties nevertheless
 - Are responsible for all treaty-relevant activities on its territory and by its nationals anywhere (extraterritoriality)
 - Are required to adopt and implement national legislation (Article IV)
 - Cannot allow the domestic or international transfer of CW or their components *to anyone* (Article III)

Domestic treaty implementation

- **Domestic implementation legislation is key to prevention**
 - International treaty obligations became applicable to
 - Any natural or legal person (e.g., companies) operating on the territory of the state party or territories under its control
 - Any national entity operating abroad, irrespective of location
 - Three steps are required:
 - Criminalisation of acts prohibited under the BTWC and CWC
 - Penalisation of violations
 - Effective enforcement
- **Types of acts that should fall under national legislation**
 - Any form of acquisition, possession, storage and use of any items that fall under the definition of a biological and toxin weapon under the BTWC and chemical (and toxin) weapon under the CWC
 - Any assistance given to another entity with regard to previous point
 - Relevant technology transfers (exports and domestic transfers)
- **Other tools that may contribute to prevention**
 - Professional codes, codes of conduct and promotion of ethical standards
 - Biosecurity and –safety measures
 - Chemical security and safety measures (including infrastructure protection)
 - Education: introduction of issues in curricula

General Purpose Criterion (GPC)

- **Pillar of prohibition in BTWC and CWC**
 - Article I of BTWC
 - Article II of CWC (and referred to in other parts of the convention)
- **Addresses the problem of dual-use technologies**
 - Not the technology as such is banned, but the purpose to which that technology will be applied
 - Addresses for instance many toxic chemicals, pathogens and toxins used industrially or commercially
 - Rules are applicable to any past, present and future toxic chemical, pathogen or toxin, irrespective of its mode of production
 - Not to any specific list!
- **Contribution of GPC to prevention**
 - If included in domestic legislation, then law enforcement agencies do not have to wait until a crime has been committed to act
 - If there is no legitimate purpose for the possession of certain technologies (agents, equipment, etc.), then a violation against the national implementation legislation has been committed

Assistance

- **Under the BTWC**
 - May be requested by a state party
 - Offers of assistance by other state parties
 - Coordination / matching via the ISU
- **Under the CWC**
 - Part of the tasks undertaken by the Technical Secretariat of the OPCW
 - Direct assistance
 - (Regional) Training courses
- **UNSC Resolution 1540 (2004)**
 - Language covers Article IV of BTWC and Article VII of CWC
 - Applies to all UN Member States, not just parties to BTWC and CWC
 - Assistance offers available, coordinated by 1540 Committee.

Bear in mind ...

**... that the best regulatory
framework is of no use without
*effective enforcement***



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