

MEMORANDUM ON THE OBJECTS OF THE NON-PROLIFERA-  
TION OF WEAPONS OF MASS DESTRUCTION BILL, 1993

1. The Republic is in possession of valuable and advanced technology, capabilities and products, some of which are considered by the international community to be of a sensitive nature because they could be used or misused for the manufacture of weapons of mass destruction or for delivery systems for such weapons. The Republic, like other responsible states, should exercise control over such technology, capabilities and products in order to limit the proliferation of weapons of mass destruction and their delivery systems.

2. Several international conventions, treaties and agreements already have the prohibition of the proliferation of weapons of mass destruction in view. Compliance with the principles of these conventions, treaties and agreements is increasingly becoming a prerequisite for international free trade. The following obligations are placed on participants by the conventions, treaties and agreements, namely—

- (a) to promulgate non-proliferation legislation;
- (b) to establish a national authority which must ensure that there is compliance with the provisions of the said legislation;
- (c) to make the industry subject to international inspection and verification.

3. The Bill results from the conventions and treaties covering nuclear, chemical and biological weapons and the missile systems necessary for the delivery thereof. The Republic is already a subscriber to some of these conventions and treaties and intends extending its involvement to others in the near future. The relevant conventions and treaties include the Geneva Protocol (subscribed to since 1930), the Biological Weapons Convention of 1972, the Nuclear Non-proliferation Treaty (assented to in 1991) and the Chemical Weapons Convention. The remaining treaties of importance are the Nuclear Suppliers Group and the Missile Technology Control Regime (MTCR), for both of which the Republic has indicated its support.

4. It is in the interests of the Republic to adopt the necessary legislation and to create control structures relating to weapons of mass destruction and their delivery systems as soon as possible. The Bill proposes this.

5. The object of the Bill is further to promote and ensure free trade with the international community, and especially with the Republic's major trading partners. At the same time the Republic should comply with the requirements set by the international community to prevent the proliferation of weapons of mass destruction and their delivery systems. In general the Bill requires that specified dual-use technology, materials, chemicals, components, products, capabilities and facilities which could be used in the manufacture of weapons of mass destruction or their delivery systems, must be registered and controlled.

6. The Bill covers the following four areas, namely—
- specified dual-use technology and equipment that could be used in nuclear weapons;
  - scheduled toxic chemicals, chemical precursors (including related dual-use technology), materials, equipment and facilities;
  - scheduled biological materials and toxins, including related dual-use technology, materials, equipment and facilities;
  - unmanned delivery systems specifically designed or intended for the delivery of weapons of mass destruction, as well as related dual-use technology, materials, equipment and facilities.

Nuclear materials, technology, equipment and facilities are already controlled by the Atomic Energy Corporation in terms of the Safeguards Agreement (concluded with the IAEA in connection with the Nuclear Non-Proliferation Treaty), and in terms of the Nuclear Energy Act, 1982 (Act No. 92 of 1982).

7. The detailed description of the activities, capabilities and goods which are to be controlled in terms of this Bill, will be set out in the regulations. These regulations will be based on the guidelines set out in the international conventions

and non-proliferation agreements and they will adhere to the principle of minimum compliance.

The intention is to involve knowledgeable persons from industry in the drafting of the regulations.

8. The implementation and administration of the provisions of the Bill will be vested in a Council. The Bill defines the structure, functions, powers, and activities of the proposed body.

9. The Republic cannot afford a large Council. It is therefore planned to establish a competent core group and thereafter to make use of committees consisting of personnel and knowledgeable persons from departments of State, industry and other organizations that can make a contribution.

10. The approach proposed by the Bill will be—

- (a) that control may be exercised through self-regulation by way of declarations made by industry (where allowable, applicable and effective);
- (b) supplemented by active control by the Council by means of—
  - (i) the registration of facilities, processes and products;
  - (ii) the granting of permits for the operation of processes for the manufacture of specified quantities of scheduled materials;
  - (iii) the verification of end-use and end-user restrictions that may be imposed.

Wherever applicable and effective, permits may be issued in terms of the Bill for a process, a plant, premises or a series of products or activities.

11. The Bill was published for comment in the *Gazette*.