



Ministry of  
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# Survey report of Mongolia's National Implementation Measures for the 1972 Biological Weapons Convention and related requirements of UN Security Council Resolution 1540

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## SURVEY FRAMEWORK

- Survey done July 20, 2017 – February 25, 2018
  - Working group consists from 5 key experts with consultation of ISTC legal experts (90 laws etc)
  - Draft report improved based on the recommendations provided by Extended working group meeting held on March 2, 2018



## SURVEY FRAMEWORK

- 90 Laws and regulations included in the survey
- The relevant provisions generated from laws and regulations
- Draft of BWC survey report and overview of document prepared and submitted to ISTC on March 2018.
- Survey document finalized by ISTC legal expert on early July 2018.

# DEFINITIONS

- The “*Instruction of the regime for biosafety and protection against infection during zoonotic infectious diseases*” provides for a definition of biological agent. Definition is too restrictive to fully implement the BWC and scope of the instruction is limited to biosafety and protection against infection during zoonotic diseases.
- No definitions for toxin, non-State actor, or biological weapon in Mongolia’s legislation.
- **Recommendation:** to adopt definitions in line with the BWC for the terms listed above.

## OFFENCES AND PENALTIES

- The *Criminal Law (Revised version – 2017)* prohibits the development, production, manufacture, acquisition, storage, possession, transfer, use and sale of biological weapons in Mongolia. However, the transportation of biological weapons and the construction, acquisition or retention of facilities intended for the production of biological weapons not clear addressed in Mongolia's legislation.
- There are provisions prohibiting terrorist activities, does not fully address to implement the Convention

# OFFENCES AND PENALTIES

- **Recommendation:** to adopt criminal provisions on the transportation of biological weapons and the construction, acquisition or retention of facilities intended for the production of biological weapons.
- to adopt criminal provisions for transferring or transporting dangerous biological agents or toxin an issue.
- All prohibitions should be assorted with penalties targeting both legal and natural persons.

# PREPARATIONS/ALTERNATIVE CRIMINAL LIABILITY

- The *Criminal Law (Revised version – 2017)* covers some preparatory offences that would be applicable to activities prohibited in the previous section. However, certain modes of liability (i.e. financing – except terrorism financing –, act as an accomplice, assisting, inducing, directing, attempting, threatening, ordering or encouraging to commit) not well addressed.
- **Recommendation:** to adopt necessary provisions.

# JURISDICTION

- Mongolia's legislation provides for the establishment of jurisdiction for offences relating to biological weapons on the bases of territoriality, active personality (offender is a national), residency, protection (of the State's interests) and extraterritorial application.
- **Recommendation:** amendment to jurisdiction with the passive personality, and universality (offence does not have a direct link with the State but involves the use of biological weapons).



## PREVENTIVE MEASURES: CONTROL LISTS

- The *Instruction of the regime for biosafety and protection against infection during zoonotic infectious diseases* provides a list of “infectious diseases of the zoonosis, commonly occurring in Mongolia biochemical hazardous microorganisms”. However, it is a list of diseases for the purpose of controlling their spread and consequences rather than a list of agents for the purpose of controlling any activity with such agents. There is no list of human, plant and animal biological agents and toxins.
- **Recommendation:** to adopt control lists in national legislation or regulations.

## Preventative measures: Accounting for, securing and physically protecting biological agents (biosecurity)

- Several laws provide for measures to account for, dispose of, physically protect and authorize activities with dangerous biological agents and toxins in Mongolia, including the *Law on License on Special Activities*, the *Law on Violation (revised version)*, the *Law on Labor Safety and Health*, the *Law on Waste (revised version)* and the *Instruction of the regime for biosafety and protection against infection during zoonotic infectious diseases*.
- No comprehensive measures designed to account for and secure the production, or transport of dangerous biological agents and toxins.

## Preventative measures: Accounting for, securing and physically protecting biological agents (biosecurity)

- Lack of a specific national licensing authority or interagency review process for licenses related to all dangerous biological agents and toxins.
- **Recommendation:** to adopt comprehensive preventive measures to account for, secure and physically protect all dangerous biological agents and toxins.

# PREVENTIVE MEASURES TO CONTROL TRANSFERS

- The *Instruction of the regime for biosafety and protection against infection during zoonotic infectious diseases* and the *Law on License on Special Activities* provide for an authorization regime for exports and imports of dangerous biological agents and toxins.
- Lack of authorizations, as well as measures establishing end-user control, as well as control over trans-shipment and re-export of dangerous biological agents and toxins.
- **Recommendation:** to set up responsible authority for export/import control, and adopting a catch-all clause (i.e. covering non-controlled biological agents and toxins suspected of being misused for illegal purposes), as well as intangible transfers controls provisions.

# ENFORCEMENT MEASURES

- The *Criminal Procedure Law (Revised version – 2017)* and the “*Instruction of the regime for biosafety and protection against infection during zoonotic infectious diseases*” enable investigations, inspections, intelligence gathering and prosecution in relation to biological agents and toxins. It also provides for collection of evidence, entry warrant and seizure procedures related to suspected misuse of biological agents and toxins.
- **Recommendation:** Amendment to the existing framework with measures enabling the surveillance of individuals suspected of misusing dangerous biological agents and toxins, and improve institutional coordination.

## OTHER RECOMMENDATIONS

- The BWC was one of the first conventions Mongolia ratified. However, and in contrast with other international conventions that Mongolia joined since its independence, a specific legal environment for its national implementation is still missing.
- It is necessary to update older rules and further detail regulations in line with the BWC.
- It is required address all biological incidents, whether naturally occurring or deliberate in nature, as apprehended by BWC.

## OTHER RECOMMENDATIONS

- In order to improve a legal environment consistent with BWC, Mongolia need a technical advice and assistance from international specialized organizations and donors.
- Demand to develop independent law on the control of biological agents and toxins, action plan for biosafety.
- Strengthening technical and human capacity an issue.
- Joining international organizations specialized in this filed such as ISTC, and specialized organizations of the UN need to be taken into consideration.

*Thank you for your attention!*

