

The Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Implementation Rules, 2016

CONTENTS

<i>Rules</i>	<i>Pages</i>
1. Short title and commencement	15
2. Definitions	15
CHAPTER I	
APPOINTMENT OF ADVISORY COMMITTEES, THEIR COMPOSITION, POWERS AND DUTIES	
3. Appointment of Advisory Committees	15
4. Composition of Advisory Committee on Weapons of Mass Destruction and their Delivery System	16
5. Composition of the Advisory Committee on Nuclear and Nuclear Related Items	17
6. Composition of Advisory Committee on Chemical Weapons and Related Items	18
7. Composition of the Advisory Committee on Biological Weapons and Related Items	19
8. Composition of the Advisory Committee on Export Control of Dual-Use Items	20
9. Term of office	21
10. Meetings of the Advisory Committee	21
11. Presiding at meetings	21
12. Decision by consensus	21
13. Powers and duties of the Advisory Committee on Weapons of Mass Destruction and their Delivery System	21
14. Powers and duties of the Advisory Committee on Nuclear and Nuclear Related Items	22
15. Powers and duties of the Advisory Committee on Chemical Weapons and Related Items	22
16. Powers and duties of the Advisory Committee on Biological Weapons and Related Items	23

<i>Rules</i>	<i>Pages</i>
17. Powers and duties of the Advisory Committee on Export Control of Dual-use Items	23
CHAPTER II	
18. Identification, Designation, Categorization or Regulation of items related to certain activities	24
19. Licensing Authorities	24



The Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Implementation Rules, 2016¹

In exercise of the powers conferred by Section 26 of the Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005 (21 of 2005) and in supersession of the Weapons of Mass Destruction and their Delivery Systems, Appointment of Advisory Committees and their Powers and Duties Rules, 2006, except as respect things done or omitted to be done before such supersession, the Central Government hereby makes the following rules, namely—

1. Short title and commencement.—(1) These rules may be called the Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Implementation Rules, 2016.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions.—In these rules, unless the context otherwise requires,—

- (a) “Act” means the Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005;
- (b) “Advisory Committee” means the Advisory Committee appointed under Rule 3;
- (c) “member” means a member of the Advisory Committee and includes its Chairperson;
- (d) “notification” means a notification published in the Official Gazette;
- (e) “relevant activity” means any activity as identified under clause (j) of Section 4 of the Act;
- (f) “section” means a section of the Act;
- (g) the words and expressions used in these rules and not defined but defined in the Act shall have the meanings respectively assigned to them in the Act.

CHAPTER I

APPOINTMENT OF ADVISORY COMMITTEES, THEIR COMPOSITION, POWERS AND DUTIES

3. Appointment of Advisory Committees.—The Central Government shall appoint the following Advisory Committees, namely—

- (i) the Advisory Committee on Weapons of Mass Destruction and their Delivery System;
- (ii) the Advisory Committee on Nuclear and Nuclear Related Items;
- (iii) the Advisory Committee on Chemical Weapons and Related Items;
- (iv) the Advisory Committee on Biological Weapons and Related Items; and
- (v) the Advisory Committee on Export Control of Dual-Use Items.

1. Ministry of External Affairs, Noti. No. G.S.R. 672(E), June 18, 2016 published in the Gazette of India, Extra., Part II, Section 3(i), dated 8th July, 2016, pp. 9-15, No. 467.

4. Composition of Advisory Committee on Weapons of Mass Destruction and their Delivery System.—(1) The Advisory Committee on Weapons of Mass Destruction and their Delivery System shall consist the following members, namely—

- (a) Joint Secretary (Disarmament and International Security Affairs) in the Ministry of External Affairs- ex officio Chairperson;
- (b) Scientific Secretary, Department of Space- ex officio member;
- (c) Joint Secretary, National Authority, Chemical Weapons Convention- ex officio member;
- (d) Chief Controller Research and Development (Product Coordination and Service Interaction), Defence Research Development Organisation, Ministry of Defence- ex officio member;
- (e) Commissioner (Revenue Intelligence and Investigation) Department of Revenue, Ministry of Finance- ex officio member;
- (f) Additional Director General, Directorate of Revenue Intelligence, Department of Revenue, Ministry of Finance- ex officio member;
- (g) Joint Secretary, Department of Chemicals and Petrochemicals, Ministry of Chemicals and Fertilizers- ex officio member;
- (h) Joint Secretary (Disaster Management) in the Ministry of Home Affairs- ex officio member;
- (i) Joint Secretary, National Security Council Secretariat- ex officio member;
- (j) Director in the Ministry of Environment and Forests- ex officio member;
- (k) Senior Scientific Officer, Department of Atomic Energy- ex officio member;
- (l) Additional Director General of Foreign Trade, Directorate General of Foreign Trade, Ministry of Commerce and Industry- ex officio member;
- (m) Scientist “G” or Adviser, Department of Biotechnology, Ministry of Science and Technology- ex officio member;

- (n) Director (Chemical, Biological, Radiological and Nuclear), Headquarters, Integrated Defence Staff in the Ministry of Defence- ex officio member;
- (o) Director (Disarmament and International Security Affairs) in the Ministry of External Affairs- ex officio Member Secretary;

(2) The Chairperson and members of the Advisory Committee shall be appointed by a notification.

5. Composition of the Advisory Committee on Nuclear and Nuclear Related Items.—(1) The Advisory Committee on Nuclear and Nuclear Related Items shall consist of the following members, namely—

- (a) Head, Nuclear Controls and Planning Wing(NCPW), Department of Atomic Energy- ex officio Chairperson;
- (b) Senior Scientific Officer, Department of Atomic Energy- ex officio member;
- (c) Joint Secretary (ER), Department of Atomic Energy- ex officio member;
- (d) Legal Advisor, Department of Atomic Energy- ex officio member;
- (e) Additional or Joint Director General, Directorate of Revenue Intelligence, Department of Revenue, Ministry of Finance- ex officio member;
- (f) Under Secretary (Anti Smuggling Unit), Department of Revenue, Ministry of Finance- ex officio member;
- (g) Joint Director General of Foreign Trade, Directorate General of Foreign Trade, Ministry of Commerce and Industry- ex officio member;
- (h) Scientist 'E' or above, from Defence Research and Development Establishment, Defence Research Development Organisation, Ministry of Defence- ex officio member;
- (i) Director, Disaster Management in the Ministry of Home Affairs- ex officio member;
- (j) Deputy Secretary (Disarmament and International Security Affairs) in the Ministry of External Affairs- ex officio member;

- (k) Director, Policy Planning (Concepts and Training) Army Headquarters, Ministry of Defence- ex officio member;
- (l) Scientific Officer, Nuclear Controls and Planning Wing (NCPW), Department of Atomic Energy- ex officio Member Secretary;

(2) The Chairperson and members of the Advisory Committee shall be appointed by a notification.

6. Composition of Advisory Committee on Chemical Weapons and Related Items.—(1) The Advisory Committee on Chemical Weapons and Related Items shall consist of the following members, namely—

- (a) Joint Secretary, National Authority Chemical Weapons Convention (NACWC)- ex officio Chairperson;
- (b) Director, Department of Chemicals and Petrochemicals, Ministry of Chemicals and Fertilizers- ex officio member;
- (c) Director, Central Revenue Control Laboratory in the Department of Revenue, Ministry of Finance- ex officio member;
- (d) Under Secretary (Anti Smuggling Unit), Department of Revenue, Ministry of Finance- ex officio member;
- (e) Senior Scientific Officer, Department of Atomic Energy- ex officio member;
- (f) Director, Disaster Management in the Ministry of Home Affairs- ex officio member;
- (g) Joint Director General of Foreign Trade, Directorate General of Foreign Trade, Ministry of Commerce and Industry- ex officio member;
- (h) Scientist 'G', Defence Research Development Organisation, Ministry of Defence- ex officio member;
- (i) Director, Army Head Quarters, Ministry of Defence- ex officio member;
- (j) Additional or Joint Director General, Directorate of Revenue Intelligence, Department of Revenue, Ministry of Finance- ex officio member;

- (k) Director (Disarmament and International Security Affairs) in the Ministry of External Affairs- ex officio member;
- (l) Joint Director, National Authority, Chemical Weapons Convention - ex-officio Secretary; Member

(2) The Chairperson and members of the Advisory Committee shall be appointed by a notification.

7. Composition of the Advisory Committee on Biological Weapons and Related Items.—(1) The Advisory Committee on Biological Weapons and Related Items shall consist of the following members, namely —

- (a) Scientist “G” or Adviser, Department of Biotechnology, Ministry of Science and Technology- ex officio Chairperson;
- (b) Director (Hazardous Substances Management Division) in the Ministry of Environment and Forests- ex officio member;
- (c) Director, Central Revenue Control Laboratory in the Department of Revenue, Ministry of Finance- ex officio member;
- (d) Under Secretary (Anti Smuggling Unit), Department of Revenue, Ministry of Finance- ex officio member;
- (e) Senior Scientific Officer, Department of Atomic Energy- ex officio member;
- (f) Director, Department of Chemicals and Petrochemicals, Ministry of Chemicals and Fertilizers- ex officio member;
- (g) Director Disaster Management in the Ministry of Home Affairs- ex officio member;
- (h) Joint Director General of Foreign Trade, Directorate General of Foreign Trade, Ministry of Commerce and Industry- ex officio member;
- (i) Scientist ‘E’ or above, from Defence Research and Development Establishment, Defence Research Development Organisation, Ministry of Defence- ex officio member;
- (j) Director, Policy Planning (Concepts and Training) Army Headquarters, Ministry of Defence- ex officio member;

- (k) Additional or Joint Director General, ex officio member;
Directorate of Revenue Intelligence,
Department of Revenue, Ministry of Finance-
- (l) Deputy Secretary (Disarmament and ex officio Member
International Security Affairs) in the Ministry Secretary;
of External Affairs-

(2) The Chairperson and members of the Advisory Committee shall be appointed by a notification.

8. Composition of the Advisory Committee on Export Control of Dual-Use Items.—(1) The Advisory Committee on Export Control of Dual-Use Items shall consist of the following members, namely—

- (a) Additional Director General of Foreign ex officio Chairperson;
Trade, Directorate General of Foreign Trade,
Ministry of Commerce and Industry-
- (b) Joint Secretary, Industry and Minerals (I&M), ex officio member;
Department of Atomic Energy-
- (c) Director (Disarmament and International ex officio member;
Security Affairs) in the Ministry of External
Affairs-
- (d) Director, Department of Chemicals and ex officio member;
Petrochemicals, Ministry of Chemicals and
Fertilizers-
- (e) Scientist "E" or Scientist "F", Department ex officio member;
of Biotechnology, Ministry of Science and
Technology-
- (f) Joint Director, National Authority, Chemical ex officio member;
Weapons Convention-
- (g) Scientist or Engineer – SG, Indian Space ex officio member;
Research Organisation (ISRO) Headquarters-
- (h) Director (National Disaster Management-II) ex officio member;
in the Ministry of Home Affairs-
- (i) Senior Scientific Officer, Department of ex officio member;
Atomic Energy-
- (j) The Director (International Cooperation), ex officio member;
Defence Research Development
Organisation, Ministry of Defence-

- (k) Director or Deputy Secretary, Department of Defence Production in the Ministry of Defence- ex officio member;
- (l) Joint Director, National Security Council Secretariat- ex officio member;
- (m) Additional or Joint Director General, Directorate of Revenue Intelligence, Department of Revenue, Ministry of Finance- ex officio member;
- (n) Under Secretary (Anti Smuggling Unit), Department of Revenue, Ministry of Finance- ex officio member;
- (o) The Joint Director General of Foreign Trade, Directorate General of Foreign Trade, Ministry of Commerce and Industry- ex officio Member Secretary;



(2) The Chairperson and members of the Advisory Committee shall be appointed by a notification.

9. Term of office.—The term of office of a member shall come to an end as soon as he ceases to hold the office by virtue of which he was so nominated.

10. Meetings of the Advisory Committee.—The Advisory Committee shall meet as and when the Chairperson deems necessary.

11. Presiding at meetings.—The Chairperson shall preside at the meetings of the Advisory Committee.

12. Decision by consensus.—All questions at the meeting of the Advisory Committee shall be decided by a general consensus of the members present.

13. Powers and duties of the Advisory Committee on Weapons of Mass Destruction and their Delivery System.—(1) The powers and duties of the Advisory Committee on Weapons of Mass Destruction and their Delivery System shall be—

- (a) to advise the Central Government regarding the formulation and implementation of a national policy in relation to matters relating to the weapons of mass destruction and their means of Delivery;
- (b) to recommend measures which should be taken for proper implementation and regulation of the provisions relating to the Weapons of Mass Destruction and their means of Delivery;
- (c) to coordinate the activities of other Advisory Committees;
- (d) to give such directions to any other Advisory Committee, as may be necessary or expedient, relating to any matter under the Act;
- (e) to seek assistance from the other Advisory Committees with regard to any matter relating to the Weapons of Mass Destruction and their means of Delivery.

(2) Advisory Committee may invite experts from other Government Departments or Public Sector Institutions in its meeting as per the requirement of agenda.

14. Powers and duties of the Advisory Committee on Nuclear and Nuclear Related Items.—(1) The powers and duties of the Advisory Committee on Nuclear and Nuclear Related Items shall be—

- (a) to make recommendation to the Central Government regarding the steps to be taken to harmonise the provisions of the Atomic Energy Act, 1962 (33 of 1962) with that of the provisions of the Act;
- (b) to make recommendations to the Central Government regarding prosecution of offences relating to nuclear weapons or other nuclear explosive devices and their means of delivery or any other related activity;
- (c) to make recommendations on such matters relating to fissile or radioactive material, nuclear weapons or other nuclear explosive devices and their means of delivery or any other related activity as may be requested by the Advisory Committee on Weapons of Mass Destruction and their means of Delivery;
- (d) to comply with and carry out such directions as may be issued by the Advisory Committee on Weapons of Mass Destruction and their means of Delivery.

(2) The Advisory Committee may invite experts from other Government Departments or Public Sector Institutions in its meeting as per the requirement of agenda.

15. Powers and duties of the Advisory Committee on Chemical Weapons and Related Items.—(1) The powers and duties of the Advisory Committee on Chemical Weapons and Related Items shall be—

- (a) to make recommendation to the Central Government regarding the steps to be taken to harmonise the provisions of the Chemical Weapons Convention Act, 2000 (34 of 2000) with that of the provisions of the Act;
- (b) to make recommendations to the Central Government regarding prosecution of offences relating to chemical weapons and their means of delivery or any other related activity;
- (c) to make recommendations on such matters relating to chemical weapons and their means of delivery or any other related activity as may be requested by the Advisory Committee on Weapons of Mass Destruction and their means of Delivery;
- (d) to comply with and carry out such directions as may be issued by the Advisory Committee on Weapons of Mass Destruction and their means of Delivery.

(2) The Advisory Committee may invite experts from other Government Departments or Public Sector Institutions in its meeting as per the requirement of agenda.

16. Powers and duties of the Advisory Committee on Biological Weapons and Related Items.—(1) The powers and duties of the Advisory Committee on Biological Weapons and Related Items shall be—

- (a) to make recommendation to the Central Government regarding the steps to be taken to harmonise the provisions of the Environment Protection Act, 1986 (29 of 1986) with that of the provisions of the Act;
- (b) to make recommendations to the Central Government regarding prosecution of offences relating to biological weapons and their means of delivery or any other related activities;
- (c) to make recommendations on such matters relating to biological weapons and their means of delivery or any other related activity as may be requested by the Advisory Committee on Weapons of Mass Destruction and their means of Delivery;
- (d) to comply with and carry out such directions as may be issued by the Advisory Committee on Weapons of Mass Destruction and their means of Delivery.

(2) The Advisory Committee may invite experts from other Government Departments or Public Sector Institutions in its meeting as per the requirement of agenda.

17. Powers and duties of the Advisory Committee on Export Control of Dual-use Items.—(1) The powers and duties of the Advisory Committee on Export Control of Dual-use Items shall be—

- (a) to make recommendation to the Central Government regarding the steps to be taken to harmonise the provisions of the Foreign Trade (Development and Regulation Act, 1992 (22 of 1992)) with that of the provisions of the Act;
- (b) to make recommendations to the Central Government regarding prosecution of offences relating to export controls of dual-use items or any other related activities;
- (c) to make recommendations on such matters relating to export controls of dual-use items or any other related activities as may be requested by the Advisory Committee on Weapons of Mass Destruction and their means of Delivery;
- (d) to comply with and carry out such directions as may be issued by the Advisory Committee on Weapons of Mass Destruction and their means of Delivery.
- (e) to recommend reforms in Special Chemicals, Organisms, Materials, Equipment and Technologies (SCOMET) regulations outlined in Foreign Trade Policy and Hand Book of Procedures from time to

time, without compromising on global security and non-proliferation objective.

(2) The Advisory Committee may invite experts from other Government Departments or Public Sector Institutions in its meeting as per the requirement of agenda.

CHAPTER II

18. Identification, Designation, Categorization or Regulation of items related to certain activities.—For the purpose of identification, designation, categorization or regulation of the export, transfer, re-transfer, trans-shipment or transit of the items related to relevant activity under sub-section (1) of Section 5 of the Act, the following items shall be regulated, namely—

- (a) Items falling under the Special Chemicals Organisms Materials Equipment Technology (SCOMET) list as appearing in Appendix 3 of Schedule 2 of Indian Trade Clarification based on Harmonized System of Coding [ITC (HS)] Classification as notified under the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992) by the Director General of Foreign Trade.
- (b) Items falling under the Schedule of Prescribed Materials, Prescribed Equipment and Technology, notified under the Atomic Energy Act, 1962 (33 of 1962) by the Department of Atomic Energy.

19. Licensing Authorities.—For the purpose specified under sub-section (2) of Section 7 of the Act—

- (a) The Director General of Foreign Trade or an officer authorized by him shall be the Licensing Authority for the purpose of export of items falling under Category 1 to 7 of the SCOMET (Special Chemicals Organisms Materials Equipment and Technologies) list as appearing in Appendix 3 of Schedule 2 of Indian Trade Clarification based on Harmonized System of Coding (ITC (HS)) Classification.
 - (b) Joint Secretary, Industry and Minerals (I&M) in Department of Atomic Energy shall be the licensing authority for the purpose of export of the items falling under the Schedule of Prescribed Materials, Prescribed Equipment and Technology under the Atomic Energy Act, 1962 (33 of 1962).
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