Questionnaire 1: Establishing a baseline for Viet Nam on implementation of international standards and practices for the non-proliferation of biological and chemical weapons

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### Implementation of the Biological and Toxin Weapons Convention and related requirements in UNSCR 1540

## Does Viet Nam have definitions in a legal instrument*[[1]](#footnote-1)* for the following*[[2]](#footnote-2)*?

|  |  |
| --- | --- |
| Biological weapon {BWC, Article I} | Decree No. 81/2019/ND-CP on preventing and countering proliferation of weapons of mass destruction, Article 4(5) |
| Biological agent {e.g., WHO Laboratory biosafety manual: fourth edition, Glossary of terms page x} |  |
| Toxin {e.g., WHO Laboratory biosecurity guidance, section 4.2 page 16} |  |
| Non-state actor {UNSCR 1540, Preamble} |  |

## Does Viet Nam have offences and penalties in a legal instrument for the following?

|  |  |
| --- | --- |
| Developing biological weapons {BWC, Article IV; UNSCR 1540, Operative Paragraph 2} |  |
| Manufacturing or producing biological weapons {BWC, Article IV; UNSCR 1540, OP 2} |  |
| Acquiring biological weapons {BWC, Article IV; UNSCR 1540, OP 2} |  |
| Stockpiling or storing biological weapons {BWC, Article IV; UNSCR 1540, OP 2} |  |
| Possessing or retaining biological weapons {BWC, Article IV; UNSCR 1540, OP 2} |  |
| Transferring biological weapons {BWC, Article III; UNSCR 1540, OP 2} |  |
| Transporting biological weapons {UNSCR 1540, OP 2} |  |
| Using biological weapons {UNSCR 1540, OP 2} |  |
| Constructing, acquiring or retaining any facility intended for the production of biological weapons |  |
| Engaging in activities involving dangerous biological agents or toxins without authorisation/in violation of the conditions of an authorisation {UNSCR 1540, OP 3(a)} |  |
| Transferring dangerous biological agents or toxins without authorisation/to unauthorised persons {UNSCR 1540, OP 3(d)} |  |
| Transporting dangerous biological agents or toxins without authorisation {UNSCR 1540, OP 3(a)} |  |
| Providing false or misleading information to enforcement authorities/agencies |  |
| Legal persons (corporations, partnerships, associations, etc.) and their responsible officers (directors, managers, etc.) or agents {BWC, Article IV} |  |
| Engaging in preparations to use biological weapons |  |
| Assisting anyone to engage in any activities prohibited above {UNSCR 1540, OP 2} |  |
| Encouraging anyone to engage in any activities prohibited above |  |
| Inducing anyone to engage in any activities prohibited above |  |
| Ordering anyone to engage in any activities prohibited above |  |
| Directing anyone to engage in any activities prohibited above |  |
| Attempting to commit any of the activities prohibited above {UNSCR 1540, OP 2} |  |
| Threatening to commit any of the activities prohibited above |  |
| Acting as an accomplice to any of the activities prohibited above {UNSCR 1540, OP 2} |  |
| Financing any of the activities prohibited above {UNSCR 1540, OP 2} |  |

## Does Viet Nam have jurisdiction over the offences in B as follows in a legal instrument?

|  |  |
| --- | --- |
| Offence committed in the territory of the State or in any other place under its jurisdiction as recognized by international law {BWC, Article IV} |  |
| Alleged offender is a national of the State |  |
| Alleged offender is a resident or stateless person whose habitual residence is in the territory of the State |  |
| Offence was committed with intent to harm the State or its nationals or to compel the State to do or abstain from doing any act |  |
| Victim of the offence was a national of the State |  |
| Offence involved the intentional use of biological weapons against any persons, irrespective of their nationality |  |
| Extraterritorial application |  |

## Does Viet Nam have the following control list measures in a legal instrument to prevent biological weapons proliferation?

|  |  |
| --- | --- |
| Control lists for biological agents and toxins of proliferation concern {UNSCR 1540, OP 3(a), (d) and 6} |  |
| Control lists for dual-use biological equipment and related technology {UNSCR 1540, OP 3(a), (d) and 6} |  |
| A process for updating control lists |  |

## Does Viet Nam have the following preventative measures to account for, secure and physically protect biological agents and toxins of proliferation concern in a legal instrument?

|  |  |
| --- | --- |
| Measures to account for production {UNSCR 1540, OP 3(a)} |  |
| Measures to account for use {UNSCR 1540, OP 3(a)} |  |
| Measures to account for storage {UNSCR 1540, OP 3(a)} |  |
| Measures to account for transport {UNSCR 1540, OP 3(a)} |  |
| Penalties (criminal/civil/both) for failures to ensure proper accounting |  |
| Measures to secure production {UNSCR 1540, OP 3(a)} |  |
| Measures to secure use {UNSCR 1540, OP 3(a)} |  |
| Measures to secure storage {UNSCR 1540, OP 3(a)} |  |
| Measures to secure transport {UNSCR 1540, OP 3(a)} |  |
| Penalties (criminal/civil/both) for failures to ensure proper security |  |
| Measures for disposal |  |
| Regulations for physical protection of facilities which produce, use or store biological agents or toxins of proliferation concern and related penalties |  |
| Regulations for physical protection of biological agents and toxins of proliferation concern and related penalties {UNSCR 1540, OP 3(b)} |  |
| Regulations for physical protection of facilities and vehicles involved in transporting biological agents or toxins of proliferation concern and related penalties |  |
| Regulations for protection of information (including electronic (cybersecurity)) related to biological agents and toxins of proliferation concern and related penalties |  |
| Authorisation of activities involving biological agents or toxins of proliferation concern (e.g., licensing or registration of facilities and persons, notification of internal transfers) {UNSCR 1540, OP 3(a)} |  |
| Exemptions/revocation/prohibited persons |  |
| National licensing authority |  |
| Interagency review for licenses |  |
| Background checks for personnel undertaking activities involving dangerous biological agents or toxins |  |
| Authorisation of transporters of dangerous biological agents and toxins |  |
| Directions from law enforcement officials requiring security measures and related penalties |  |
| Measures to control funding for activities involving dangerous biological agents and toxins |  |
| Regulations for genetic engineering work |  |

## Does Viet Nam have the following preventative measures for strategic trade control over biological agents and toxins of proliferation concern in a legal instrument?

|  |  |
| --- | --- |
| Authorisation for exports and imports of biological agents and toxins of proliferation concern (e.g., general or single licenses, permits) {UNSCR 1540, OP 3(d)} |  |
| Exemptions from authorisation |  |
| Export/import control authority {UNSCR 1540, OP 3(d)} |  |
| Other relevant enforcement agencies/authorities |  |
| End-user controls for biological agents and toxins of proliferation concern {UNSCR 1540, OP 3(d)} |  |
| Catch-all clause (i.e., covering non-controlled biological agents and toxins suspected of being misused for illegal purposes) |  |
| Intangible transfers (e.g., manuals, software, publications) |  |
| Transit control over biological agents and toxins of proliferation concern {UNSCR 1540, OP 3(d)} |  |
| Trans-shipment control over biological agents and toxins of proliferation concern {UNSCR 1540, OP 3(d)} |  |
| Re-export control over biological agents and toxins of proliferation concern {UNSCR 1540, OP 3(d)} |  |
| Export control over biological agents and toxins of proliferation concern {UNSCR 1540, OP 3(d)} |  |
| Import control over biological agents and toxins of proliferation concern |  |
| Control of brokering, trading in, negotiating, or otherwise assisting in the sale of biological agents and toxins of proliferation concern or dual-use biological equipment and technology {UNSCR 1540, OP 3(c)} |  |

## Does Viet Nam have the following measures for enforcement in a legal instrument?

|  |  |
| --- | --- |
| Measures enabling investigations of suspected misuse of biological agents and toxins of proliferation concern |  |
| Measures enabling inspections in relation to biological agents and toxins of proliferation concern |  |
| Measures enabling surveillance (e.g., electronic, physical) of individuals suspected of misusing biological agents and toxins of proliferation concern |  |
| Measures enabling intelligence gathering on suspected misuse of biological agents and toxins of proliferation concern |  |
| Entry/warrant/seizure procedures related to suspected misuse of biological agents and toxins of proliferation concern |  |
| Evidence: measures to ensure chain of custody and proper collection and sampling techniques; analysts |  |
| Measures enabling prosecutions of offences involving biological agents and toxins of proliferation concern |  |
| Training of law enforcement personnel in investigating biological incidents (including use of PPE, containment, biological hazard assessment, etc.) |  |
| Co-operation and co-ordination with public health officials and other agencies in the event of an incident involving biological agents and toxins of proliferation concern |  |
| Legal co-operation and assistance with other law enforcement agencies in the event of an incident involving biological agents and toxins of proliferation concern {UNSCR 1540, OP 3(c)} |  |
| Protection of confidential information |  |

# Implementation of the Chemical Weapons Convention and related requirements in UNSCR 1540

## Does Viet Nam have definitions in a legal instrument for the following?

|  |  |
| --- | --- |
| Chemical weapon {CWC, Article II (1)} | Decree No. 81/2019/ND-CP on preventing and countering proliferation of weapons of mass destruction, Article 4(5) |
| Toxic chemical {CWC, Article II (2)} |  |
| Precursor {CWC, Article II (3)} |  |
| Purposes not prohibited under the Convention {CWC, Article II (9)} |  |
| Riot control agent {CWC, Article II (7)} |  |
| Chemical weapons production facility {CWC, Article II (8)} |  |
| Schedules 1, 2 and 3 chemicals {CWC, Article II (2), (3); Annex on Chemicals} |  |
| Discrete organic chemical {CWC, Verification Annex (VA), Part I (4)} |  |
| International inspection {CWC, Article VI (9)} |  |
| International inspector {CWC, VA Part I (13), (18)} |  |
| Inspection site {CWC, VA Part I (16)} |  |
| Chemical Weapons Convention, or Convention |  |
| Verification Annex {CWC, VA} |  |
| Organisation for the Prohibition of Chemical Weapons, Organisation, or OPCW {CWC, Article VIII} |  |
| State Party |  |
| Non-state actor {UNSCR 1540, preamble} |  |

## Does Viet Nam have offences and penalties in a legal instrument for the following?

|  |  |
| --- | --- |
| Developing chemical weapons; penalties {CWC, Article I (1)(a); Article VII (1)} |  |
| Manufacturing or producing chemical weapons; penalties {CWC, Article I (1)(a); Article VII (1)} |  |
| Acquiring chemical weapons; penalties {CWC, Article I (1)(a); Article VII (1)} |  |
| Stockpiling or storing chemical weapons; penalties {CWC, Article I (1)(a); Article VII (1)} |  |
| Possessing or retaining chemical weapons; penalties {CWC, Article I (1)(a); Article VII (1)} |  |
| Transferring, directly or indirectly, a chemical weapon to any other person; penalties {CWC, Article I (1)(a); Article VII (1)} |  |
| Transporting chemical weapons; penalties {UNSCR 1540 OP 2} |  |
| Using chemical weapons; penalties {CWC, Article I (1)(b); Article VII (1)} |  |
| Engaging in any military preparations to use chemical weapons; penalties {CWC, Article I (1)(c); Article VII (1)} |  |
| Using riot control agents as a method of warfare; penalties {CWC, Article I (5); Article VII (1)} |  |
| Producing, acquiring, retaining, transferring or using Schedule 1 chemicals outside the territory of the State unless such production, acquisition, retention, transfer or use takes place within the territory of another State Party; penalties {CWC, VA Part VI (1); Article VI (2), (3); Article VII (1)} |  |
| Producing, acquiring, retaining, transferring or using Schedule 1 chemicals without authorization; penalties {CWC, VA Part VI (1); Article VI (2), (3); Article VII (1)} |  |
| Transferring Schedule 1 chemicals to another State Party without prior notification to the National Authority; penalties {CWC, VA Part VI (3), (5); Article VI (2), (3); Article VII (1)} |  |
| Transferring Schedule 1 chemicals to or from a State not Party; penalties {CWC, VA Part VI (1), (3); Article VI (2), (3); Article VII (1)} |  |
| Retransferring Schedule 1 chemicals to third States; penalties {CWC, VA Part VI (4); Article VI (2), (3); Article VII (1)} |  |
| Transferring Schedule 2 chemicals to or from a State not Party, unless an exemption applies; penalties {CWC, VA Part VII (31); Article VI (2), (4); Article VII (1); C-V/DEC.16} |  |
| Transferring Schedule 3 chemicals to a State not Party, unless the transferor is in possession of a license and end-use certificate or an exemption applies; penalties {CWC, VA Part VIII (26); Article VI (2), (5); Article VII (1); C-VI/DEC.10; C-III/DEC.6; C-III/DEC.7} |  |
| Owning or possessing a chemical weapons production facility, constructing a new chemical weapons production facility or modifying any existing facility for the purpose of transforming it into a chemical weapons production facility; penalties {CWC, Article I (4); Article V (5); Article VII (1)} |  |
| Obstructing verification or enforcement measures under the Convention or national law and regulations; penalties {CWC, VA Part II (45); Article VI (9); Article VII (1)} |  |
| Failing to comply with the licensing or declaration regime including record-keeping or any other requirement to provide information established by national law and its implementing regulations; penalties {CWC, Article III; Article VI (8); Article VII (1)} |  |
| Failing to protect confidential information as required by national law and regulations; penalties {CWC, Article VI (10); Article VII (1), (6); Confidentiality Annex} |  |
| Penalties for providing false or misleading information to the National Authority or other enforcement authorities or agencies {CWC, VA Part II (46); Article VII (1)} |  |
| Penalties for legal persons (corporations, partnerships, associations, etc.) and their responsible officers (directors, managers, etc.) or agents {CWC, Article VII (1) (a)} |  |
| Assisting anyone to engage in any of the activities prohibited above; penalties {CWC, Article I (1)(d); Article VII (1)} |  |
| Encouraging anyone to engage in any of the activities prohibited above; penalties {CWC, Article I (1)(d); Article VII (1)} |  |
| Inducing anyone to engage in any of the activities prohibited above; penalties {CWC, Article I (1)(d); Article VII (1)} |  |
| Conspiring to engage in any of the activities prohibited above; penalties |  |
| Attempt to commit any of the activities prohibited above; penalties {UNSCR 1540 OP 2} |  |
| Directing anyone to engage in any of the activities prohibited above; penalties |  |
| Ordering anyone to engage in any of the activities prohibited in (B); penalties |  |
| Threatening to commit any of the activities prohibited in (B); penalties |  |
| Acting as an accomplice to any of the activities prohibited in (B); penalties {UNSCR 1540 OP 2} |  |
| Finance any of the activities prohibited in (B); penalties {UNSCR 1540 OP 2} |  |

## Does Viet Nam have jurisdiction over the offences in B in a legal instrument as follows?

|  |  |
| --- | --- |
| Offence committed in the territory of the State or in any other place under its jurisdiction as recognized by international law {CWC, Article VII (1)(a)} |  |
| Alleged offender is a national of the State {CWC, Article VII (1)(c)} |  |
| Alleged offender is a resident or stateless person whose habitual residence is in the territory of the State |  |
| Offence was committed with intent to harm the State or its nationals or to compel the State to do or abstain from doing any act |  |
| Victim of the offence was a national of the State |  |
| Offence involved the intentional use of chemical weapons against any persons, irrespective of their nationality |  |
| Extraterritorial application (if the person is a national of the State or the place is under the control of the State) {CWC, Article VII (1)(b), (c)} |  |

## Does Viet Nam list scheduled chemicals in a legal instrument as follows?

|  |  |
| --- | --- |
| Schedules 1, 2 and 3 chemicals listed in national law or regulation {CWC, Article VI (2), (3), (4), (5); Annex on Chemicals} |  |
| A control list in national law or regulation of dual-use chemical manufacturing facilities and equipment and related technology and software {UNSCR 1540 OP 3(d), (6)} |  |
| A measure for the updating of scheduled chemicals and control lists {CWC, Annex on Chemicals} |  |

## Does Viet Nam have the following measures to control scheduled chemicals and unscheduled discrete organic chemicals in a legal instrument?

|  |  |
| --- | --- |
| Measures for the establishment of a National Authority (or competent authority) {CWC, Article VII (4)} |  |
| Measures to ensure that Schedule 1 chemicals are only acquired, retained, transferred or used for research, medical, pharmaceutical or protective purposes in types and quantities which can be justified for such purposes {CWC, VA Part VI (1), (2) (a)- (b); Article VI (2), (3)} |  |
| Measures requiring prior declaration to or licensing by the National Authority of activities involving Schedule 1 chemicals, and to ensure that the National Authority can prohibit or limit such activities {CWC, VA Part VI (5), (6); Article VI (2), (3), (7), (8)} |  |
| Licensing by the National Authority of facilities which produce Schedule 1 chemicals for research, medical, pharmaceutical or protective purposes {CWC, VA Part VI (8); Article VI (2)(3)} |  |
| Measures for exemptions from any Schedule 1 licensing requirements {CWC, VA Part VI (12); Article VI (2) (3)} |  |
| Measures requiring declarations by any persons having performed any activity involving Schedule 1 chemicals, or having operated a facility in which such activity was carried out, or anticipating carrying out such an activity in the future {CWC, VA Part VI (1), (2), (6), (13)-(20); Article VI (2), (3), (7), (8)} |  |
| Measures requiring declarations to or licensing by the National Authority for any activity involving Schedule 2 chemicals {CWC, VA Part VII (1)-(11), (31); Article VI (2), (4), (7), (8)} |  |
| Measures requiring declarations to the National Authority by any persons having performed an activity involving the production, processing or consumption of Schedule 2 chemicals, or having operated a facility in which such activity was carried out, or anticipating carrying out such an activity in the future {CWC, VA Part VII (1)-(12); Article VI (2), (4), (7), (8)} |  |
| Measures requiring declarations or licensing of transfers of Schedule 2 chemicals to or from the territory of another State Party or, in the case of an applicable exemption, a State not Party {CWC, VA Part VII (1), (2), (31); Article VI (2), (4), (7), (8); C-V/DEC.16} |  |
| Measures requiring declarations to or licensing by the National Authority for any activity involving Schedule 3 chemicals {CWC, VA Part VIII (1)-(11); Article VI (2), (5), (7), (8)} |  |
| Measures requiring declarations to the National Authority by any person who has produced Schedule 3 chemicals, or who operates a facility in which such an activity was carried out, or who anticipates carrying out this activity in the future {CWC, VA Part VIII (1)-(11); Article VI (2), (5), (7), (8)} |  |
| Measures requiring declarations or licensing of transfers of Schedule 3 chemicals {CWC, VA Part VIII (1), (2), (26); Article VI (2), (5), (7), (8)} |  |
| Measures requiring a license from the National Authority and an end-use certificate for transfers of Schedule 3 chemicals to States not Party {CWC, VA Part VIII (1), (2), (26); Article VI (2), (5), (7), (8)} and exemptions {C-VI/DEC.10} |  |
| Measures requiring declarations or licenses from the National Authority by any person operating a facility producing unscheduled discrete organic chemicals {CWC, VA Part IX (1)-(6); Article VI (2), (6), (7), (8); C-I/DEC.39} |  |
| Measures requiring any person carrying out an activity referred to above, or operating a facility where such activity is carried out, to keep records {CWC, Article VI (8)} |  |
| Measures requiring any person to report without delay any loss or theft of scheduled chemicals to the National Authority {UNSCR 1540 OP 3(a)} |  |
| Measures requiring any person who discovers scheduled chemicals anywhere in the territory of the State to inform, without delay, the law enforcement authorities or the National Authority {UNSCR 1540 OP 3(a)} |  |
| Measures enabling the National Authority to issue regulations for the control of scheduled chemicals and unscheduled discrete organic chemicals, including for licences and declarations {CWC, Article VII (4)} |  |
| Measures enabling international inspections in the State by international inspectors from the OPCW as provided for in the Chemical Weapons Convention and its Verification Annex {CWC, VA Part II (10)-(15), (38)-(60); VA Part VI (21)-(32); VA Part VII (12)-(30); VA Part VIII (12)-(25); VA Part IX (9)-(21); Article VI (9)} |  |
| Measures for the appointment and duties of an escort team for international inspections {CWC, VA Part I (9); VA Part II (35), (41); Article VI (9)} |  |
| Measures to ensure that inspected persons and their personnel facilitate an international inspection and co-operate with the international inspectors and escort team during the preparation and performance of, and follow-up to, an inspection {CWC, VA Part II (37)-(52); Article VI (9)} |  |
| Measures for notification of an international inspection to an inspected person, and for a search warrant in the event an inspected person does not consent to an international inspection {CWC, VA Part II (31)-(33), (37); Article VI (9)} |  |
| Measures enabling national inspections in relation to toxic chemicals or their precursors, including scheduled chemicals {CWC, Article VI (9)} |  |
| Measures to ensure physical protection of facilities where toxic chemicals or their precursors, including scheduled chemicals, are handled {UNSCR 1540 OP 3(b)} |  |
| Measures to ensure physical protection of facilities and vehicles involved in transporting toxic chemicals or their precursors, including scheduled chemicals {UNSCR 1540 OP 3(b)} |  |
| A measure (catch-all clause) requiring notification to the National Authority of transfers of any toxic chemicals or their precursors that may be intended for purposes other than those not prohibited under the CWC {UNSCR 1540 OP 3(d)} |  |
| Measures to control transfers of intangible sensitive items such as manuals, publications, software or electronic information {UNSCR 1540 OP 3(d), footnote regarding ‘related materials’} |  |
| Measures for the protection of confidential information related to toxic chemicals or their precursors, including scheduled chemicals {CWC, Article VI (10); Article VII (6); Confidentiality Annex; C-I/DEC.13/Rev.1} |  |

## **Does Viet Nam have the following measures for enforcement?**

|  |  |
| --- | --- |
| Measures enabling investigations of suspected chemical weapons activities or misuse of toxic chemicals or their precursors, including scheduled chemicals {CWC, Article VI (2); Article VII (1)} |  |
| Measures enabling physical or electronic surveillance of individuals suspected of chemical weapons activities or of misusing toxic chemicals or their precursors, including scheduled chemicals {CWC, Article VI (2); Article VII (1)} |  |
| Measures enabling intelligence gathering on suspected chemical weapon activities or misuse of toxic chemicals or their precursors, including scheduled chemicals {CWC, Article VI (2); Article VII (1)} |  |
| Entry/warrant/forfeiture/seizure procedures related to suspected chemical weapons activities or misuse of toxic chemicals or their precursors, including scheduled chemicals {CWC, Article VI (2); Article VII (1)} |  |
| Evidence: measures to ensure chain of custody of evidence and proper collection and sampling techniques {Article VI (2); Article VII (1)} |  |
| Measures enabling prosecutions of offences involving chemical weapons or toxic chemicals or their precursors, including scheduled chemicals {CWC, Article VI (2); Article VII (1)} |  |
| Measures facilitating training of law enforcement personnel in investigating incidents involving chemical weapons or toxic chemicals or their precursors, including use of PPE, containment and risk assessment {CWC, Article VI (2); Article VII (1)} |  |
| Measures enabling co-operation and co-ordination with public health officials and other agencies in the event of an incident involving chemical weapons or toxic chemicals or their precursors, including scheduled chemicals {CWC, Article VI (2); Article VII (1); UNSCR 1540 OP 3(c)} |  |
| Measures enabling legal co-operation and assistance with other law enforcement agencies in the event of an incident involving chemical weapons or toxic chemicals or their precursors, including scheduled chemicals {Article VII (2); UNSCR 1540 OP 3(c)} |  |

1. This could be a law, regulation, decree, etc. [↑](#footnote-ref-1)
2. The right column is where the applicable law, regulation or other measure can be identified, along with a section or article number. For example: Penal Code, Article 2. [↑](#footnote-ref-2)