

PARLIAMENT OF THE DEMOCRATIC

SOCIALIST REPUBLIC OF

SRI LANKA

CHEMICAL WEAPONS CONVENTION

ACT, NO. 58 OF 2007

[Certified on 20th November, 2007]

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Chemical Weapons Convention 1

Act, No.58 of 2007

[ Certified on 20th November, 2007]

L.D — O. 66/2003

ANACT TOPROVIDE FOR THE IMPLEMENTATION OF THE CONVENTION ON

THE PROHIBITION OF THE DEVELOPMENT, PRODUCTION, STOCKPILING

AND USE OF CHEMICAL WEAPONS AND THEIR DESTRUCTION AND TO

PROVIDEFORMATTERSCONNECTEDTHEREWITHORINCIDENTALTHERETO.

WHEREAS the Convention on the Prohibition of the Preamble.

Development, Production, Stockpiling and Use of Chemical

Weapons and their Destruction (hereinafter referred to as

the“Convention”) was signed on behalf of the Government

of Sri Lanka on January Fourteenth One Thousand Nine

Hundred and Ninety Three :

AND WHEREAS Sri Lanka, has ratified the said Convention,

and whereas it has become necessary for the Government of

Sri Lanka to make legislative provisions to give effect to

Sri Lanka’s obligation under the aforesaid Convention:

NOW THEREFORE be it enacted by the Parliament of the

Democratic Socialist Republic of Sri Lanka as follows :—

PART I

PRELIMINARY

1. This Act may be cited as the Chemical Weapons Short title and

Convention Act, No.58 of 2007 and shall come into operation date of

operation.

on such date as the Minister may by Order published in the

Gazette appoint.

2. (1) The Provisions of the Act shall apply to acts Application of

done or omitted to be done by— the Act.

(a) any person within Sri Lanka and on board any ship

or aircraft registered in Sri Lanka ; or

(b) any citizen of Sri Lanka, outside Sri Lanka.

2—PL 002325—4,450 (2007/08)

2 Chemical Weapons Convention

Act, No.58 of 2007

(2) Notwithstanding anything in any other written law,

proceedings in respect of any offence under this Act

committed anywhere outside Sri Lanka shall not, by virtue

only of the provision of this Act, be instituted in any Court

except upon the advice of the Attorney-General.

Act binds the 3. This Act binds the State in all its capacities : Provided

State. however, nothing in this Act shall render the State liable to

be prosecuted for an offence.

Power to declare 4. (1) The Minister may with the concurrence of the

that Act shall Cabinet of Ministers by Order published in the Gazette,

cease to be in

declare that the provisions of this Act shall cease to be in

force.

force in the event of the Government of Sri Lanka

withdrawing from the Convention in terms of the provisions

of Article XVI of such Convention.

(2) Notwithstanding the provisions of this Act ceasing to

be in force by virtue of an Order made under subsection (1),

the validity of—

(a) the operation of anything duly done or suffered in

terms of this Act or any regulation, rule or Order

made thereunder prior to the making of such Order,

shall not be affected;

(b) any right, privilege, obligation or liability acquired,

accrued or incurred under the provisions of this Act,

prior to the making of such Order, shall not be

affected;

(c) any penalty, forfeiture or punishment imposed in

respect of any offence under this Act, prior to the

making of such Order, shall not be affected and may

validly be imposed; and

(d) any investigation, legal proceedings or remedy, in

respect of any such right, privilege, obligation or

liability incurred prior to this making of such

order shall not be affected and any investigation

Chemical Weapons Convention 3

Act, No.58 of 2007

or legal proceedings may be instituted or continued

and any remedy, privilege, obligation or liability

may be enforced as if such Order had not been made.

PART II

ESTABLISHMENT OF THE NATIONAL AUTHORITY FOR THE

IMPLEMENTATION OF THE CHEMICAL WEAPON’S CONVENTION

5. (1) For the purposes of this Act, the Minister shall The National

establish an Authority to be known as the National Authority Chemical

Weapons

for Implementation of the Chemical Weapons Convention

Authority.

(hereinafter referred to as “the Authority”).

(2) The Authority shall by the name assigned to it by

subsection (1) be a body corporate and shall have perptual

succession and a common seal and may sue and be sued in

such name.

6. (1) The Secretary to the Ministry of the Minister in Chairman of the

charge of the subject of Industries shall be the Chairman of Authority.

the Authority and shall be charged with the implementation

of the Act.

(2) There shall be a Secretariat to assist the Authority

headed by the Director appointed under section 8. The

Secretary shall appoint to such Secretariat such number of

officers of the Ministry as may be necessary to assist the

Director of the Authority in the exercise, performance and

discharge of the powers, duties and functions assigned to or

conferred on the Director under the Act.

7. (1) The Seal of the Authority shall be in the custody The Seal of the

of the Chairman of the Authority and may be altered in such Authority.

manner as may be determined by the Authority.

(2) The application of the Seal of the Authority shall be

authenticated by the signature of the Chairman of the

Authority, and any other officer of the Authority authorized

to authenticate the application of the Seal.

4 Chemical Weapons Convention

Act, No.58 of 2007

(3) The Seal of the Authority shall not be affixed to any

instrument or document except in the presence of the Chairman

of the Authority, and one other member, both of whom shall

sign the instrument or document in token of their presence :

Provided that where the Chairman is unable to be present

at the time when the Seal of the Authority is affixed to any

instrument or document, any other member authorized in

writing by the Chairman in that behalf, shall be competent to

sign such instrument or document in accordance with the

preceding provisions of this subsection.

(4) The Authority shall maintain a register of the instruments

or documents to which the Seal of the Authority is affixed.

Appointment of 8. (1) The Minister may appoint a person qualified and

Director of the experienced in work related to the Authority or with similar

National

Chemical work experience as the Director of the National Authority for

Weapons Implementation of the Chemical Weapons Convention

Authority. (hereinafter referred to as “the Director”) to whom the

Authority may delegate all or any of its powers and functions.

(2) The Director appointed under subsection (1) shall be

remunerated in such manner and at such rates as may be

determined by the Minister with the concurrence of the

Minister in charage of the subject of Finance and shall be

subject to such terms and conditions of service as may be

specified by the Minister on the recommendation of the

Authority.

(3) The Director shall be responsible for the performance

of the administrative functions of the Secretariat and the

implementation of the decisions of the Authority.

Appointment of 9. (1) The Authority may establish a Steering Committee

Steering

(hereinafter referred to as “the Committee”) to advise the

Committee.

Authority on the discharge of its functions.

Chemical Weapons Convention 5

Act, No.58 of 2007

(2) The Committee shall consist of the following

members appointed by the Authority:—

(a) the Director-General of the Multilateral Affairs

Division of the Ministry of the Minister in charge of

the subject of Foreign Affairs or a representative

nominated by the Secretary, to such Ministry ;

(b) the Director-General of Customs or a representative

nominated by him from the Customs Department ;

(c) the Controller of Imports and Exports (Control) or a

representative nominated by him from the

Department of Imports and Exports (Control) ;

(d) the Government Analyst or a representative

nominated by him from the Government Analyst’s

Department;

(e) Registrar of Pesticides, Department of Agriculture ;

(f) Director-General of the Central Environment

Authority or a representative nominated by him from

the Central Environment Authority ;

(g) Director, Chemical and Environmental Technology

Division of the Industrial Technology Instititute ;

(h) A Senior member of the University staff who has

acquired proven knowledge in chemicals specified

in the Schedules to this Act ; and

(i) A person who is in chemical industry engaged in

the production, processing and consumption of any

of the chemicals specified in the Schedules to this

Act.

(3) The members of the Committee may receive such

remuneration or allowances for each sitting, as may be

determined by the Minister.

6 Chemical Weapons Convention

Act, No.58 of 2007

Meeting of the 10. (1) The meetings of the Committee shall be held

Committee. once at least in every two months.

(2) The quorum for any meeting of the Committee shall be

as determined by the Committee by rules made in that behalf.

(3) The Secretary, or in his absence an officer chosen by

the members present, shall preside at every meeting of the

Committee.

Functions of the 11. The functions of the Authority shall be—

Authority.

(a) to implement a regulatory regime within the scope

of the Convention in respect of the toxic chemicals

specified in Schedules I, II and III to this Act ;

(b) to seek advice or services of specialists and experts

from within outside Sri Lanka ;

(c) to fulfill on behalf of the Government of Sri Lanka

the obligations under the Convention ; and

(d) to serve as the national focal point for effective

liaison with the Organization for the Prohibition of

Chemical Weapons (hereinafter referred to as “the

OPCW”) and other States Parties pursuant to Article

VII of the Convention.

Powers of the 12. (1) The powers of the Authority shall be—

Authority.

(a) to co-ordinate with other relevant government

departments and institutions with a view to—

(i) administering the licensing and permit scheme

for the regulation of toxic chemicals or their

precursors specified in Schedules I, II and III

to this Act, and unscheduled discrete organic

chemicals or the facilities used to produce

them ; and

Chemical Weapons Convention 7

Act, No.58 of 2007

(ii) assisting the relevant authorities in

developing a national protection programme

and appraising the OPCW periodically of its

progress ;

(b) to monitor the implementation of the provisions of

this Act and the regulations made thereunder ;

(c) to facilitate routine industry inspections ;

(d) to interact with other relevant Government entities

and carry out such functions and duties as are

assigned to the Authority under this Act or any

regulation made thereunder ;

(e) to advise the Minister on matters relevant to the

making of regulations under this Act ;

(f) to perform any other tasks assigned to it by the

Minister ; and

(g) to do anything incidental or conducive to the

performance of any of the functions referred to in

paragraphs (a) to (d).

(2) Subject to the provisions of subsection (1), the

Authority shall—

(a) monitor compliance with the provisions of the

Convention ;

(b) regulate and monitor the development, production,

processing, consumption, transfer, import, export or

use of chemicals and their precursors specified in

Schedules I, II and III to this Act ;

(c) make a request to, or grant a request of, a State Party

for assistance and protection under Article X, against

the use or threat of use of chemical weapons ;

8 Chemical Weapons Convention

Act, No.58 of 2007

(d) make periodic inspections or challenge inspections

or investigate, into the use of chemical weapons or

riot control agents as a method of warfare;

(e) conduct inspections for the purposes of this Act ;

(f) interact with the OPCW with a view to ensuring the

acceptance of Sri Lanka’s request for challenge

inspections or to counter any frivolous or defamatory

request made by any State Party against Sri Lanka

to the OPCW ;

(g) scrutinize and if satisfied, accept the list of OPCW

inspectors and verify the approved equipment

brought by an inspection team on to the inspection

site ;

(h) ensure confidentiality and maintain secrecy of

confidential information and technology collected

or receivied by the Authority under the Act;

(i) call for such information from any person where the

Authority has reasonable cause to believe that such

information may be required for complying with

the provisions of the Convention;

(j) provide training to inspectors appointed under

section 17 ;

(k) co-ordinate the exchange of scientific and

technological information among laboratories

handling toxic chemicals or precursors ;

(i) facilitate international exchange of scientific and

technical information, chemicals and equipment for

the production, processing or use of chemicals for

purposes not prohibited under the Convention ;

Chemical Weapons Convention 9

Act, No.58 of 2007

(m) determine, from time to time, the quantum of any

chemical or precursor listed in Schedules I, II and III

to this Act that a person at any time may produce,

acquire, retain, transfer or use for purposes not

prohibited under the Convention ; and

(n) carry out such other functions as may be prescribed.

(3) In the exercise of its powers and performance of its

functions under this Act, the Authority shall be subject to the

general direction of the Minister.

13. The Authority shall prepare such initial, annual and Authority to

other periodic declarations regarding toxic chemicals or submit

declarations to

precursors listed in Schedules I, II and III to this Act or any

OPCW.

orher declaration required to be made under the Convention

and shall submit such declarations to the OPCW at such time

or times as may be specified under the Convention.

14. The Minister may, from time to time, give directions Direction by the

to the Authority in regard to the general policy on toxic Minister.

chemicals specified in Schedules I, II and III to this Act and

such other matters as he may deem appropriate and it shall be

the duty of the Authority to comply with such directions :

Provided that the Minister shall, in issueing directions

under this section with regard to any matter affecting the

subjects or functions assigned to any other Minister, act in

consultation with that Minister.

15. The Authority shall give to the Minister any Authority to give

information that the Minister may require regarding its information to

Minister.

operations.

16. (1) Notwithstanding anything contained in any other Power of

law for the time being in force, the Authority may, by general Authority to call

for information,

or special order, call upon any importer, exporter, supplier, etc.

Government or private institution or organization or person,

to furnish periodically or as and when required, any

information, declaration or return concerning chemicals or

10 Chemical Weapons Convention

Act, No.58 of 2007

precursors listed in Schedules I, II and III to this Act and

any unscheduled discrete organic chemical, chemical

weapon, chemical weapons production facility and riot

control agent with such other particulars as may be

prescribed by the Authority.

(2) No person, institution or organization shall, when

complying with any requirement made under subsection (1),

give any information or furnish any declaration, return or

statement which such person, institution or organisation

knows, or has reasonable cause to believe to be false or

incorrect in any material particular.

Appointment of 17. (1) The Authority may appoint any officer or servant

the inspector. of the Authority by name or by office, to be an inspector for

the purposes of this Act.

(2) The Authority may, from time to time appoint in writing

any other Government officer to function as an inspector.

(3) The Authority shall furnish every inspector appointed

under subsections (1) or (2) with a Certificate of Appointment

as an inspector. Such Certificate shall be in such form as may

be provided by rules made under this Act, and shall, if so

required, within any establishment, be produced by the

Inspector to the occupier or person holding a responsible

position of management at the establishment.

Powers of the 18. (1) Subject to any rules made in that behalf, an

inspector. Inspector shall have the power for the purposes of this Act, to

do all or any of the following acts :—

(a) to enter and search any premises or a facility at all

reasonable times by day or night ;

(b) inspect or examine a matter or thing found in any

premises or facility ;

(c) take samples of a matter or thing found in any

premises or facility ;

Chemical Weapons Convention 11

Act, No.58 of 2007

(d) measure a matter or thing found in any premises

or facility ;

(e) examine a document including a record kept in

accordance with the requirements of this Act, the

regulations made thereunder or the conditions of a

permit ;

(f) take extracts from, or make copies of, a document

(including a record of a kind referred to in paragraph

(e)) or make images of any matter or thing by any

means whatsoever ;

(g) operate any equipment, including electronic

equipment, located at the premises or facility if

the inspector believes, on reasonable grounds, that

the equipment can be operated without causing

damage thereto ;

(h) take into any premises or facility any equipment or

material that is reasonably required for the purpose

of exercising a power under any of the above

paragraphs ;

(i) question personnel working on the site ; and

(j) do any other act or thing necessary or convenient to

be done to carry out an inspection.

(2) In addition to the powers under subsection (1) a

reference to an inspection power shall include, in respect of

an Inspector, a power to seize and detain any substance that

the Inspector believes on reasonable grounds to be evidential

material in relation to an offence committed under this Act.

(3) The powers referred to in paragraphs (a), (b), (c), (d)

and (g) of subsection (1) may, on reasonable grounds, be

exercised by an Inspector under paragraph (a) of subsection

(1) of section 25, only—

(a) with the approval of the Chairman or the Director of

the Authority ; and

12 Chemical Weapons Convention

Act, No.58 of 2007

(b) in accordance with any safety procedures

applicable at the premises or facility.

(4) The owner or occupier of any premises or facility, his

agents and servants shall at all times furnish the means or

facilities required by and Inspector as are necessary for the

purpose of exercising his powers under subsection (1).

Part III

PROHIBTITION AND REGULATION OF CHEMICALWEAPONS AND TOXIC

CHEMICALS

Prohibition to 19. (1) Any person who—

develop,

produce, (a) uses a chemical weapon ;

acquire, &c,.

chemical (b) develops or produces a chemical weapon ;

weapons.

(c) acquires, stockpiles or retains a chemical weapon ;

(d) transfers, directly or indirectly, any chemical weapon

to another person ;

(e) engages in any military preparations to use a

chemical weapon ;

(f) knowingly assists, encourages or induces, any

prohibited activity ; or

(g) uses any riot control agent as a method of warfare,

shall be guilty of an offence under this Act and be punished

with imprisonment of either description for a period not

exceeding twenty years and a fine not exceeding one million

rupees.

(2) The prohibition contained in subsection (1) shall not

apply to the retention or possession of chemical weapons by

an inspector appointed under section 17 or an international

inspector, pending destruction of such weapons under the

authority of this Act or any regulation made thereunder or

any other written law.

Chemical Weapons Convention 13

Act, No.58 of 2007

(3) In proceedings for an offence under paragraphs (a),

(b), (c), (d), (e), (f) or (g) of subsection (1) relating to an

object, it is a defence for the accused to prove that—

(a) he neither knew nor suspected or had reason to

suspect that the object was a chemical weapon or

riot control agent, as the case may be ; or

(b) as soon as reasonably practicable after he first knew

or suspected it to be a chemical weapon or riot

control agent, as the case may be, he took all

reasonable steps to inform an authorized officer of

his knowledge or suspicion.

(4) Nothing in subsection (3) shall prejudice any defence,

which is open to a person charged with an offence under this

section.

20. No person shall— Prohibitions to

develop,

(a) develop, produce, acquire, retain or use a toxic produce,

chemical or precursor listed in Schedule I to this Act acquire, &c,. toxic

chemical or

outside the territories of State Parties, and shall not

precursor.

transfer such chemical or precursor outside the

territory of Sri Lanka except to another State Party ;

(b) produce, acquire, retain, transfer or use any toxic

chemical or precursor listed in Schedule I to this Act

without obtaining persmission from the Authority

and unless—

(i) the toxic chemicals or precursors listed in

Schedule I to this Act are to be applied in

research, medical, pharmaceutical or

protective purposes ; and

(ii) the types of toxic chemicals or precursors are

strictly limited to those that can be justified

with reference to the purposes specified in sub-

paragraph (i) and the quantities of such toxic

chemicals or precursors for such purposes at

any time do not exceed the limits as

determined by the Authority ;

14 Chemical Weapons Convention

Act, No.58 of 2007

(c) transfer the toxic chemicals or precursors listed

in Schedule I to this Act to another State Party

outside Sri Lanka except—

(i) for the purposes specified in sub-paragraph

(i) of paragraph (b) ; and

(ii) in accordance with the procedure set out in

Part VI of the Verification Annex to the

Convention :

Provided that no toxic chemicals or precursors

referred to in this paragraph shall be re-transferred

to any third State.

(d) transfer a toxic chemical or precursor specified in

Schedule II to this Act to or from any entity in a

State which is not a party to the Convention.

Export or import 21. (1) No person shall export from, or import into Sri

to be made in

accordance with Lanka any chemical or precursor listed in Schedules I, II and

the Customs III to this Act except as approved by the Authority and in

Ordinance

(Chapter 235). accordance with the provisions of the Customs Ordinance

(Chapter 235).

(2) An application for a permit to import or export any

chemical or precursor listed in Schedules I, II, and III to this

Act shall, when made to the Controller of Imports and Exports,

be referred by him to the Authority for necessary approval

with or without conditions attached.

Seizure and 22. If there shall be any contravention of or attempt to

forfeiture. contravene any provision of this Act or any regulation made

thereunder in respect of a scheduled chemical, such chemical

shall be liable to seizure and forfeiture under the Customs

Ordinance (Chapter 235) as if it were a prohibited import

unlawfully imported into Sri Lanka.

Chemical Weapons Convention 15

Act, No.58 of 2007

23. The High Court of Sri Lanka holden in Colombo High Court to try

or the High Court established by Article 154P of the offences under

this Act.

Constitution for the Western Province holden in Colombo,

shall notwithstanding anything in any other law, have

exclusive jurisdiction to hear, try and punish the offences

under this Act.

PART IV

REGISTRATION OF PERSONS ASPRODUCERS, USERS &C,.

24. (1) No person, shall after the commencement of this Registration of

Act, produce, process, acquire, consume, transfer, import, persons engaged

in production,

export or use any toxic chemical or precursor listed in

&c, of any toxic

Schedules I, II and III to this Act or produce any unscheduled chemical or

discrete organic chemical unless such person has applied to precursor.

the Authority for registration of his name as a producer,

processor, acquirer, consumer, transferor, importer, exporter

or user of any toxic chemical or precursor, as the case may be,

or as a producer of any unscheduled discrete organic

chemical.

(2) Notwithstanding the provisions of the Board of

Investment Law, No. 4 of 1978, every person who is engaged

in the development, production, processing, acquisition,

consumption, transfer, import, export or use of any toxic

chemical or precursor listed in Schedules I, II and III to this

Act or engaged in the production of any unscheduled discrete

organic chemical, shall, make within thirty days from the

commencement of this Act, make an application to the

Authority for registration of his name, as a producer,

processor, acquirer, consumer, transferor, importer, exporter

or user of any toxic chemical or precursor or, as the case may

be, or as a producer of any unscheduled discrete organic

chemical.

(3) The form of application to be made to the Authority

under subsection (1) or subsection (2), the particulars to be

contained in such application form, the manner in which

16 Chemical Weapons Convention

Act, No.58 of 2007

such application shall be made, the fee payable on such

application, the form of Certificate of Registration and the

procedure to be followed in granting or cancelling a

Certificate of Registration shall be as prescribed.

(4) On receipt of the application referred to in subsection

(1) or subsection (2) the Authority shall, if the application is

in the prescribed form, register the name of the applicant and

grant him a Certificate of Registration.

(5) The Certificate of Registration granted in terms of

this section shall be valid for the period specified therein

and may be renewed from time to time for such further

period and on payment of such fee, as may be prescribed.

Providing 25. (1) Any person who is engaged in the development,

information and production, processing, acquisition, consumption, transfer,

record.

import, export or use of any toxic chemical or precursor, listed

in Schedules, I, II and III to this Act or is engaged in the

production of any unscheduled discrete organic chemical

and who is registered with the Authority in terms of Section

24 shall—

(a) send to the Authority such particulars in such form

and at such intervals as are prescribed in relation

to—

(i) the chemicals and the facility, as the case may

be ;

(ii) the purposes for which the chemicals are to be

used; and

(iii) matters relevant for a declaration required to

be made under the Convention by Sri Lanka

to the OPCW ;

(b) keep such records in relation to the chemicals and

facility referred to in paragraph (a), as are required

by regulations made under this Act ; and

Chemical Weapons Convention 17

Act, No.58 of 2007

(c) prepare and give to the Authority from such

records, such periodic reports and such special

reports relating to the chemicals and facility

referred to in paragraph (a) as are required by

regulations made under this Act.

(2) Any person who fails or refused, without reasonable

cause, to comply with subsection (1) or prepares, keeps or

sends false or misleading records or reports shall be guilty of

an offence under this section and shall on conviction, be

liable to a fine not exceeding one hundred thousand rupees

or to imprisonment for a term not exceeding six months or

both.

(3) Regulations may be made under subsection (1) relating

to—

(a) the forms and content of such records ;

(b) the period for which such records are to be kept ;

(c) the form and content of periodic reports to be

provided ;

(d) the circumstances in which special reports are

required and the form and content of such special

reports ;

(e) the time within which such periodic reports and

special reports are to be made ; and

(f) the persons who are to sign such periodic reports

and special reports.

Part V

INSPECTION, SEARCH AND FORFEITURE

26. (1) An inspector appointed under section 17, may— Inspection.

(a) with the consent of the person in control of any

premises ; or

18 Chemical Weapons Convention

Act, No.58 of 2007

(b) under a warrant issued under section 35 in respect

of any premises,

enter the premises and inspect—

(i) any person who is engaged in the production,

processing, acquisition, consumption, transfer,

import, export or use of any toxic chemical or

precursor listed in Schedules I, II and III to this Act

or the production of any unscheduled discrete

organic chemical ;

(ii) any place where any chemical weapon is located or

chemical weapon production facility exists, for the

purposes specified in the Verification Annex to the

Convention.

(2) Every inspector or inspection team shall, upon being

authorized in writing by the Chairman or the Authority have—

(a) the right to interview any facility personnel for the

purpose of establishing relevant facts ;

(b) the right to request clarifications in connection with

ambiguities that may arise during inspection;

(c) the right to demand production of such

documentation and records which are relevant and

necessary for the purpose of inspection ;

(d) the right to take photographs of an object or a

building located within the inspection site if the

question relating to the object or building is not

resolved ;

(e) the right to draw samples and perform on-site

analysis of such samples ; and

Chemical Weapons Convention 19

Act, No.58 of 2007

(f) such other rights as are provided under the

Convention.

(3) An inspector or inspection team shall, during the

conduct of verification activities enjoy the privilege and

immunities referred to in Part II of the Verification Annex to

the Convention.

27. An international inspector may, with the consent of International

the person in control of any premises— inspection.

(a) in respect of which any provision of Part VI to IX

of the Verification Annex to the Convention

applies; or

(b) that are subject to an on-site challenge inspection

referred to in paragraph 8 of Article IX of the

Convention; or

(c) in respect of which an investigation under paragraph

9 of Article X of the Convention has been initiated,

under a warrant issued under section 35 in respect of any

such premises—

(i) enter the premises ;

(ii) inspect the premises pursuant to the

Convention and, in the case of any facility,

any applicable facility agreement ; and

(iii) exercise in connection with the inspection,

any function contemplated, and power

provided for, in the Convention and, in the

case of any facility, inspect any applicable

facility agreement.

28. (1) For the purpose of facilitating an inspection by Persons to

an international inspector, he shall be accompanied by one accompany

international

of the following officers or both :—

inspectors.

(a) an observer ;

(b) an inspector.

20 Chemical Weapons Convention

Act, No.58 of 2007

(2) An inspector may exercise any power of inspection

for the purposes of facilitating an inspection, referred to

in section 18.

(3) “Observer” in this section means an observer referred

to in paragraph 12 of Article IX of the Convention, and

includes any person authorized by the Authority to observe

the inspection.

Identification 29. The Authority shall issue to every inspector and

certificate. international inspector a certificate identifying him as such

inspector or international inspector, as the case may be.

Certain acts. to 30. Any person who willfully—

constitute an

offence. (a) refuses without reasonable excuse to comply with

the request made by the inspector or inspection team

for the purpose of facilitating the conduct of an

inspection in accordance with the Verification Annex

to the Convention ;

(b) delays or obstructs any member of the inspection

team, inspector, or the observer in the conduct of an

inspection ; or

(c) removes or tampers with any on-site instrument or

approved equipment installed by the inspector or

inspection team with the intention of adversely

affecting the operation of such instrument or

equipment,

shall be guilty of an offence under this Act.

Analysis of 31. (1) An inspector or an inspection team on obtaining

samples. a sample of a chemical shall forthwith inform the person in

control of any premises of his or its intention to have the

same analyzed by an authorized analyst and shall forthwith

divide the sample into two equal parts and cause each part to

be marked and sealed in such manner as its nature will permit

and shall deliver one part each to the person in control of the

premises and the authorized analyst.

Chemical Weapons Convention 21

Act, No.58 of 2007

(2) Where an authorized analyst has made an analysis

or examination of the chemical submitted to him under

subsection (1), he shall issue a certificate or report to the

Authority setting out in that certificate or report the results of

his examination or analysis.

(3) In any proceedings under this Act the production of a

certificate or report signed by an authorized analyst with

regard to any sample procured for analysis under this section

shall be prima facie evidence of the facts stated therein.

PART VI

SUPPLEMENTARY

32. The provisions of the Customs Ordinance (Chapter Application of

235) shall apply for the purposes of enforcement, and Customs

prevention and punishment for any contravention or attempted Ordinance

(Chapter 235).

contravention of the provisions of this Act or any regulation

made thereunder relating to chemicals the importation of which

is prohibited or restricted by this Act and such chemical shall

be deemed to be included in the table of prohibitions and

restrictions inwards in Schedule B to the Customs Ordinance.

The chemicals, the exportation of which is prohibited or

restricted by this Act shall be deemed to be included in the

table of prohibitions and restrictions outwards in that Schedule.

33. No person shall, whether for himself or any other Prohibition

person, for purpose of— against false

declarations.

(a) the issue, grant, delivery, alteration, or renewal of

any permit, authority, authorization, or certificate

under this Act or any regulation made thereunder ;

or

(b) registration as an importer, exporter and dealer of

chemicals,

make any declaration or statement, whether oral or in writing,

which is false in any particular, or knowingly utter, produce,

or make use of any such declaration or statement or any

document containing the same.

22 Chemical Weapons Convention

Act, No.58 of 2007

Refusal and 34. (1) Where under this Act or any regulation made

revocation of thereunder any person has power to grant approval, he may,

approval &c,.

in his discretion—

(a) insert such conditions therein as he may consider

expedient;

(b) refuse to grant or revoke the approval.

(2) Every decision under this section shall be subject

to an appeal to the Minister.

(3) This section applies to a permit, authority,

authorization or certificate in like manner as it applies to a

license, and applies to any entity in like manner as it applies

to a person.

Search warrants. 35. (1) Where a Magistrate is satisfied by information

on oath that there is reason to suspect that any thing or

document is, in contravention of the provision of this Act or

any regulation made thereunder, kept, possessed, sold, or

manufactured in any place or premises, or that any document

directly or indirectly relating to or connected with any

transaction or dealing which was, or any intended transaction

or dealing which, if carried out, would be an offence under

this Act, is in any place or premises, he may grant a search

warrant authorizing any officer or person named in the

warrant, at any time or times within one month from the date

of the warrant, to enter, with or without his assistants, if need

be by force, the place or premises named in the warrant, and

to search the place or premises and any person found therein,

and, if there is reason to suspect that an offence under this Act

has been committed in relation to any thing found in the

place or premises or in the possession of any such person or

that any document so found is such a document as aforesaid,

to seize and detain such thing or document.

(2) For the purposes of any search under subsection (1), all

such measures may be taken and such devices and such force

used as may be necessary to stop any vessel, boat, animal or

Chemical Weapons Convention 23

Act, No.58 of 2007

vehicle, which is not brought to a halt by the person in

charge thereof in compliance with any order, direction or

signal given in that behalf by any of the officers or persons

mentioned in that subsection.

36. (1) Subject to subsection (2), any person who Punishment for

divulges any confidential information obtained by the contravention in

relation to

authority from any declaration or return furnished or any disclosure of

statement made or information supplied to or obtained by, an confidential

inspector or an international inspector or a member of the information.

inspection team during the course of any inspection carried

out under the provision of this Act or from the OPCW or any

State Party, to any other person shall be guilty of an offence

under this Act and shall, upon conviction after summary trial

before a Magistrate, be liable to imprisonment for a term not

exceeding two years or to a fine not exceeding one hundred

thousand rupees or to both such imprisonment and fine.

(2) Any information specified in subsection (1) may be

disclosed only with the written consent of the person to whose

affairs it relates or for the purpose of—

(a) enabling Sri Lanka to fulfill its obligations under

the Convention; or

(b) the implementation of these provisions of this Act.

37. (1) Every person who contravenes or fails to comply General penalty.

with any provisions of this Act or any regulation made

thereunder, or any order or direction lawfully given under

this Act or any regulation made thereunder, or any condition

or provision contained in any licence, authorization, permit,

or authority granted under this Act or any regulation made

thereunder shall be guilty of an offence under this Act.

(2) Every person who attempts to commit or abets the

commission of an offence under this Act or any regulation

made thereunder shall himself be guilty of the same offence.

24 Chemical Weapons Convention

Act, No.58 of 2007

(3) Where an offence under this Act or any regulation

made thereunder is committed by a body of persons then—

(a) if the body of persons is a body corporate, every

person who at the time of commission of the offence

was a director, general manager, secretary or other

similar officer of that body; or

(b) if that body of persons is not a body corporate every

person who at the time of commission of the offence

was a member of that body,

shall be deemed to be guilty of that offence, unless the act

constituting the offence took place without his knowledge

or consent.

(4) Every person guilty of an offence under this Act or any

regulation made thereunder shall , for each such offence, be

liable on conviction to a fine not exceeding five hundred

thousand rupees or to imprisonment of either description for

a period not exceeding two years or to both such fine and

imprisonment.

Forfeiture. 38. (1) A Court which convicts any person of an offence

under this Act, may impose any of the penalties hereinbefore

specified and may, if it thinks fit, order that all or any articles

in respect of which the offence was committed, and any thing

used for the conveyance of such article be confiscated and

forfeited to the State.

(2) An Order for forfeiture imposed under subsection (1)

shall take effect—

(a) where no appeal is preferred to the Court of Appeal

against the Order of forfeiture, on the expiration of

the period within which an appeal may be preferred

to the Court of Appeal against such Order of

forfeiture;

Chemical Weapons Convention 25

Act, No.58 of 2007

(b) where an appeal had been preferred to the Court

of Appeal against such Order of forfeiture, and no

Appeal is preferred to the Supreme Court against

the Order of the Court of Appeal affirming or

upholding such Order of forfeiture, on the

expiration of the period within which an Appeal

may be perferred to the Supreme Court from such

Order of the Court of Appeal;

(c) where an Appeal had been preferred, to the Court of

Appeal against such Order of forfeiture, and an

appeal has been preferred to the Supreme Court from

the determination of the Court of Appeal on the first

mentioned appeal, upon the determination of the

Supreme Court affirming or upholding the Order of

forfeiture.

39. (1) The Minister may make regulations for the Regulations.

purpose of carrying out or giving effect to the principles and

provisions of this Act.

(2) In particular and without prejudice to the generality of

the powers conferred by subsection (1), the Minister

may make regulations for all or any of the following

purposes:—

(a) for prescribing the terms, conditions, limits of any

restrictions imposed in respect of any matter for

which regulations are required or authorized to be

made by this Act;

(b) for adding any item to, or deleting any item from, or

altering, varying or amending in any other manner

any of the Schedules;

(c) for specifying—

(i) the persons to whom, the circumstances in

which, and the terms and conditions subject

to which, approval under this Act may be

granted or refused; and

26 Chemical Weapons Convention

Act, No.58 of 2007

(ii) the manner and the form in which a request

for approval under this Act may be made and

dealt with;

(d) generally for all matters incidental to or connected

with the matters or subjects mentioned in this

subsection.

(3) Every regulation made by the Minister shall be

published in the Gazette and shall come into operation on

the date of such publication or on such later date as may be

specified in such regulation.

(4) Every regulation made by the Minister, shall as soon

as convenient after its publication in the Gazette, be brought

before Parliament for approval. Any regulation which is not

so approved, shall be deemed to be rescinded as from the

date of such disapproval, but without prejudice to anything

previously done thereunder.

(5) A Notification of the date of disapproval shall be

published in the Gazette.

Protection of public 40. Any expense incurred by the Authority in any suit

officers. or prosecution brought by or against the Authority before

any court shall be paid out of the Consolidated Fund, and

any costs paid to, or recovered by, the Authority in any such

or prosecution shall be credited to the Consolidated Fund.

Amendment to the 41. The Extradition Law, No. 8 of 1977 is hereby

Extradition the amended by the insertion immediately before Part B of the

extradition Law,

No. 8 of 1977. Schedule to that Law, of the following item:—

“(51) An offence within the meaning of the Chemical

Weapons Convention Act, No. 58 of 2007.”.

Existing 42. Where there is an extradition arrangement made by

extradition the Government of Sri Lanka with any State in force on the

arrangements

with States date on which this Act comes into operation, such arrangement

deemed to shall be deemed, for the purposes of the Extradition Law, No.

provide for 8 of 1977, to include provision for extradition in respect of

offences in the

Act. the offences specified in this Act.

Chemical Weapons Convention 27

Act, No.58 of 2007

43. Where there is an extradition arrangement made Minister may

treat Convention

by the Government of Sri Lanka with any State the

as an extradition

Minister may, by Order published in the Gazette, treat the arrangement

Convention, for the purposes of the Extradition Law, No. between Sri

Lanka and

8 of 1977, as an extradition arrangement of Sri Lanka with certain States, in

that State, providing for extradition in respect of the respect of

offences specified in this Act. offences in the

Act.

44. Where a request is made to the Government of Sri Duty of Minister

Lanka by or on behalf of the Government of a State with to notify

requesting State

whom the Government of Sri Lanka has entered into an of measures

agreement for the extradition of any person accused or taken against

persons for

convicted of an offence described in this Act, the Minister

whose

shall, on behalf of the Government of Sri Lanka forthwith extradition a

notify the Government of the requesting State of the measures request is made.

the Government of Sri Lanka has taken, or proposes to take,

for the prosecution or extradition of that person for that

offence.

45. (1) The provisions of the Mutual Assistance in Assistance to a

State.

Criminal Matters Act, No. 25 of 2002 shall, wherever it is

necessary for the investigation and prosecution of an offence

under Part III of this Act, be applicable in respect of providing

assistance as between the Government of Sri Lanka and other

States which are either Commonwealth countries specified

by the Minister by Order under section 2 of the aforesaid Act

or Non-Commonwealth countries with which the

Government of Sri Lanka has entered into an agreement in

terms of the aforesaid Act.

(2) The grant of assistance to a State may be made subject

to such terms and conditions as the Minister thinks fit.

46. In the event of any inconsistency between the Sinhala Sinhala text to

and Tamil texts of this Act, the Sinhala text shall prevail. prevail in case of

inconsistency.

28 Chemical Weapons Convention

Act, No.58 of 2007

Interpretation. 47. In this Act unless the context otherwise requires—

“authorized analyst” means the Government Analyst, the

Additional Government Analyst, a Deputy

Government Analyst, a Senior Assistant Government

Analyst and an Assistant Government Analyst;

“chemicals” means the chemicals to which this Act

applies specified in Schedules I, II and III to this

Act;

“chemical weapon” means the following, together or

separately:—

(a) toxic chemical and their precursors, except

where intended for purposes not prohibited

under the Convention, as long as the types

and quantities are consistent with such

purposes;

(b) munitions and devices, specifically designed

to cause death or other harm through the

toxic properties of those toxic chemicals

specified in subparagraph (a), which would

be released as a result of the employment of

such munitions and devices; and

(c) Any equipment specifically designed for

use directly in connection with the

employment of munitions and devices

specified in subparagraph (b);

“precursor” means any chemical reactant which takes

part at any stage in the production by whatever

method of a toxic chemical. This includes any key

component of a binary or multi-component

chemical system;

“purpose not prohibited under this Convention” means:

(a) industrial, agricultural, research, medical,

pharmaceutical or other peaceful

purposes;

Chemical Weapons Convention 29

Act, No.58 of 2007

(b) protective purposes, namely those purposes

directly related to protection against toxic

chemicals and to protection against

chemical weapons;

(c) military purposes not connected with the use

of chemical weapons and not dependent on

the use of the toxic properties of chemicals as

a method of warfare; and

(d) law enforcement including domestic riot

control purposes;

“riot control agent” means any chemical not listed in a

Schedule, which can produce rapidly in humans

sensory irritation or disabling physical effects which

disappear within a short time following termination

of exposure;

“toxic chemical” means any toxic chemical specified in

Schedules I, II and III to this Act, which through its

chemical action on life processes can cause death,

temporary incapacitation or permanent harm to

humans or animals and includes such chemicals,

regardless of their origin or of their method of

production, and regardless of whether they are

produced in facilities, in munitions or elsewhere;

“unscheduled discrete organic chemical” means any

chemical belonging to the class of chemical

compounds consisting of all compounds of carbon

except for its oxides, sulfides and metal carbonates,

identifiable by chemical name, by structural formula,

if known, and by chemical abstracts service registry

number, if assigned.

30 Chemical Weapons Convention

Act, No.58 of 2007

SCHEDULE I

(CAS registry

number)

A.Toxic chemicals:

(1) O-Alkyl (£C10, incl. cycloalkyl) Alkyl

(Me, Et, n-Pr or i-Pr)-phosphonofluoridates

e.g. Sarin : O-Isopropyl methylphosphonofluoridate (107-44-8)

Somon : O-Pinacolyl methylphosphonofluoridate (96-64-0)

(2) O-Alkyl (£C10, incl, cycloalkyl) N, N-dilkyl

(Me, Et, n-Pr or I-Pr) phosphoramidocyanidates

e.g. Tabun : O-Ethyl N,N-dimethyl

phosphoramidocyanidate (77-81-6)

(3) O-Alkyl (H or £C10, incl. cycloalkyl) S-2-dialkyl

(Me, Et, n-Pr or i-Pr)-aminoethyl alkyl

(Me, Et, n-Pr or i-Pr) phosphonothiolates and

corresponding alkylated or protonated salts

e.g. VX : O-Ethyl S-2-diisopropylaminoethyl

methyl phosphonothiolate (50782-69-9)

(4) Sulfur mustards:

2-Chloroethylchloromethylsulfide (2625-76-5)

Mustardgas : Bis(2-chloroethyl) sulfide (505-60-2)

Bis(2-chloroethylthio) methane (63869-13-6)

Sesquimustard: 1, 2-Bis(2-chloroethylthio) ethane (3563-36-8)

1,3-Bis(2-chloroethylthio)-n-propane (63905-10-2)

1,4-Bis(2-chloroethylthio)-n-butane (142868-93-7)

1,5-Bis(2-chloroethylthio)-n-pentane (142868-94-8)

Bis(2-chloroethylthiomethyl) ether (63918-90-1)

O-Mustard: Bis(2-chloroethylthioethyl) ether (63918-89-8)

(5) Lewisites:

Lewisite 1: 2-Chlorovinyldichloroarsine (541-25-3)

Lewisite 2: Bis(2-chlorovinyl)chloroarsine (40334-69-8)

Lewisite 3: Tris(2-chloroethyl)arsine (40334-70-1)

(6) Nitrogen mustards :

HNI : Bis(2-chloroethyl)ethylamine (538-07-8)

HN2 : Bis(2-chloroethyl) methylamine (51-75-2)

HN3 : Tris(2-chloroethyl) amine (555-77-1)

(7) Saxitoxin (35523-89-8)

(8) Ricin (9009-86-3)

Chemical Weapons Convention 31

Act, No.58 of 2007

B. Precursors :

(1) Alkyl (Me, Et, n-pr or i-Pr) phosphonyldifluorides

e.g. DF : Methylphosphonyldifluoride (676-99-3)

(2) O-Alkyl (H or £C10, incl. cycloalkyl) O-2-dialkyl

(Me, Et, n-Pr or i-Pr)-aminoethly alkyl

(Me, Et, n-Pr or i-Pr) phosphonites and

corresponding alkylated or protonated salts

e.g. QL : O-Ethyl O-2-diisopropylaminoethyl

methylphosphonite (57856-11-8)

(3) Chlorosarin:

O-Isoprophyl methylphosphonochloridate (1445-76-7)

(4) Chlorosoman:

O-Pinacolyl methylphosphonochloridate (7040-57-5)

SCHEDULE II

A. Toxic chemicals:

(1) Amtion :

O, O-Diethyl S-[2-diethylamino) ethyl]

phosphorothiolate (78-53-5)

and corresponding alkylated or protonated salts

(2) PFIB: 1,1,3,3,3-Pentafluoro-2-(trifluoromethyl)-

l-propene (382-21-8)

(3) BZ: 3-Quinuclidinyl benzilate (\*) (6581-06-2)

B. Precursors:

(1) Chemicals, except for those listed in Schedule 1,

containing a phosphorus atom to which is bonded

one methyl, ethyl or propyl (normal or iso) group

but not further carbon atoms,

e.g. Methylphosphonyl dichloride (676-97-1)

Dimethyl methylphosphonate (756-79-6)

Exemption: Fonofos: O-Ethyl S-phenyl

ethlphosphonothiolothionate (944-22-9)

(2) N, N-Dialkyl (Me, Et, n-Pr or i-Pr) phosphoramidic

dihalides

(3) Dialkyl (Me, Et, n-Pr or i-Pr) N, N-dialkyl

(Me, Et, n-Pr or i-Pr)-phosphoramidates

(4) Arsenic trichloride (7784-34-1)

(5) 2,2-Diphenyl-2-hydroxyacetic acid (76-93-7)

32 Chemical Weapons Convention

Act, No.58 of 2007

(6) Quinuclidin-3-ol (1619-34-7)

(7) N, N-Dialkyl (Me, Et, n-Pr- or i-Pr) aminoethyl-

2-chlorides and corresponding protonated salts

(8) N, N-Dialkyl (Me, Et, n-Pr or i-Pr)

aminoethane-2-ols and corresponding

protonated salts

Exemptions: N,N-Dimethylaminoethanol (108-01-0)

and corresponding protonated salts

N,N-Diethlyaminoethanol (100-37-8)

(9) N, N-Dialkyl (Me, Et, n-Pr or i-Pr) aminoethane-

thiols and corresponding protonated salts

(10) Thiodiglycol: Bis(2-hydroxyethyl) sulfide (111-48-8)

(11) Pionacolyl alcohol: 3,3-Dimethylbutan-2-ol (464-07-3)

SCHEDULE III

A. Toxic Chemicals :

(1) Phosgene : Carbonyl dichloride (75-44-5)

(2) Cyanogen chloride (506-77-4)

(3) Hydrogen cyanide (74-90-8)

(4) Chloropicrin: Trichloronitromethane (76-06-2)

B. Precursors:

(1) Phosphorus oxyichloride (10025-87-3)

(2) Phosphorus trichloride (7719-12-2)

(3) Phosphorus penta chloride (10026-13-8)

(4) Trimethyl phosphite (121-45-9)

(5) Triethyl phosphite (122-52-1)

(6) Dimethly phosphite (868-85-9)

(7) Diethly phosphite (762-04-9)

(8) Sulfur monochloride (10025-67-9)

(9) Sulfur dichloride (10545-99-0)

(10) Thionyl chloride (7719-09-7)

(11) Ethyldiethanolamie (139-87-7)

(12) Methyldiethanolamine (105-59-9)

(13) Triethanolamine (102-71-6)

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