AN ACT TO IMPLEMENT THE CONVENTION ON THE PROHIBITION OF THE DEVELOPMENT, PRODUCTION, STOCKPILING AND USE OF CHEMICAL WEAPONS AND ON THEIR DESTRUCTION TO WHICH LIBERIA IS A PARTY

PREAMBLE

WHEREAS, the Convention of 1993 on the Prohibition of the Development, Production Stockpiling and Use of Chemical Weapons and on their Destruction was ratified and later signed into law on January 14, 2006 and subsequently deposited with the treaty section of the United Nations in New York by Liberia; and

WHEREAS, Article VII of said Convention requires States Parties to undertake activities to implement provisions of the Convention including enacting penal Legislation; further, to designate or establish a National Authority as the national focal point for effective liaison with the Organization and other States Parties; and

NOW, THEREFORE, IT IS HEREBY ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE REPUBLIC OF LIBERIA, IN LEGISLATURE ASSEMBLED:

CHAPTER 1: GENERAL PROVISIONS

- short title: this Act may be cited as the Chemical Weapon Section 1.1 Act of Liberia (CWAL) of 2007.
- Definition: In this Act, unless the context otherwise Section 1.2 requires:
 - "Chemical Weapon" means the following together or 1.2.1 separately:
 - toxic chemicals and their precursors, except where intended (a) for purposes not prohibited under the Convention, as long as the types and quantities are consistent with such purposes;
 - munitions and devices, specifically designed to cause death (b) or other harm through the toxic properties of those toxic chemicals specified in paragraph (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 paragraph (b).
- 1.2.2 "Toxic Chemicals" means-
- (a) any chemical, which through its chemical action on life processes can cause death, temporary incapacitation or permanent harm to humans or animals. This includes all 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; and
- (b) toxic chemical which have been identified for the application of verification measures are listed in the Schedules contained in the Annex on Chemicals to this Act.
- 1.2.3 "Precursor" means-
- (a) 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; and
- (b) precursors which have been identified for the application of verification measures are listed in the Schedules contained in the Annex on Chemicals to this Act.
- 1.2.4 "Convention" means the Convention in the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, signed in PARIS, France, on the 13th January 1993, and ratified by Liberia on January 14, 2006 and as amended from time to time pursuant to Article XV of that Convention.
- 1.2.5 "Organization" means the Organization for the Prohibition of Chemical Weapons (OPCW) established by the Convention.
- 1.2.6 "National Authority" means the National Authority of Liberia responsible for the implementation of the Convention.

- 1.2.7 "Purposes not prohibited under the Convention" means-industrial, agricultural, research, medical, pharmaceutical,
 - or other peaceful purposes,
- (b) Protective purposes namely those 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.
- 1.2.8 "Inspection site" means any facility or area at which an inspection if carried out. Inspections sites of inspections carried out by international inspectors are specifically defined in the respective facility agreement or inspection request or mandate or inspection request as expanded by the alternative or final perimeter.
- 1.2.9 "International Inspector" means an individual designated by the OPCW according to the procedures as set forth in Part II, Section A, of the Verification Annex to the Convention, to carry out an inspection or visit in accordance with the Convention.
- 1.2.10 "Controlled goods" are toxic chemicals and their precursors that are listed in Schedules contained in the Annex on Chemicals to this Act.
- 1.2.11 "Other meanings and interpretations" shall be derived as they are meant in the Convention.

Section 1.3 Application of the Convention:

(a) Unless otherwise stated in this Act or elsewhere in another law, the Convention as approved and published into hand bills on February 1, 2006 shall have the same force and effect as if it had been specifically incorporated herein.

This Act applies to acts done or omitted to be done by any person or persons, citizens and non-citizens, inside or (b) outside of Liberia as well as acts done or omitted to be done on board of Liberian aircraft, vessels, airspace or waters.

CHAPTER II THE NATIONAL AUTHORITY

- Establishment: There is established for the purposes of implementing the Convention on the Prohibition of the Section 2.1 Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction and this Act the Liberian National Authority.
- Composition: The National Authority shall consist of-Section 2.2
 - a representative from the Ministry of Justice- Chairperson i.
 - a representative from the Ministry of Commerce and 11. Industry - Co-Chairperson
 - a representative from the Ministry of Foreign Affairs iii.
 - a representative from the Ministry of Health and Social iV. Welfare
 - a representative from the Environmental Protection Agency V.
 - a representative from the Ministry of Finance (Customs) VL.
 - a representative from the National Port Authority vii.
 - a representative from the Liberia Chamber of Commerce VIII
 - a representative from the Ministry of Lands, Mines and iX. Energy
 - a representative from the University of Liberia (Chemistry Χ. Department)
 - a representative from the Ministry of Defense XI.
 - a representative from the Ministry of Agriculture xii.
 - representative from the Ministry of State for Economic, X111. Finance & Legal
 - Functions and duties: The National Authority shall perform the following functions and duties so as to effectively and Section 2.3 efficiently attain the objectives of this Act, in particular-

- serve as the national focal point for effective liaison with (a) the OPCW and other States Parties;
- supervise and monitor the enforcement of this Act through the regime established by this Act and the regulations (b) issued thereto:
- gather data to be reported in the initial and annual declarations to the OPCW and to report such data to the (c) OPCW:
- supervise the implementation and enforcement of the (d) Convention:
- provide the OPCW and other States Parties with relevant data and information in fulfillment of Liberia's obligation (c) under the Convention;
- facilitate and cooperate with inspections under the Convention, including accompanying OPCW inspectors on (f) international routine inspections and challenge inspections. as well as investigations of alleged use of Chemical Weapons:
- approve facility agreements turther to this Act; (g)
- to establish a register of producers, importers, exporters, brokers, and traders of chemicals of relevance to the (h) Convention.
- advise the President on matters relevant to this Act and the Convention and to provide any information, which the (i) President or other appropriate authorities may require; and
- perform any other tasks assigned to it by appropriate authorities relative to Liberia's obligations under the (j) Convention.
- Advisory body: The National Authority may appoint a body, from time to time, to advise it on any matter relating Section 2.4 to this Act or the Convention if the need arises.

- Section 2.5 Technical secretariat: The National Authority shall appoint a Technical Secretariat. This organ shall be responsible for implementing decisions of the National Authority. It shall be headed by a Coordinator. The National Authority shall determine the size, composition, terms of reference and the location of the Technical Secretariat.
- Section 2.6 Compensation: The salaries and allowances payable to, and other terms and conditions of service of members of an advisory body and the Technical Secretariat shall be set forth by the National Authority in regulations issued further to this Act. All such salaries, allowances and terms and conditions of service shall be covered by public funds through the national budget.
- Collaboration with other state and international bodies:
 The National Authority or its agent(s) for crime prevention, criminal proceedings and implementation of the Convention shall collaborate, with other State authorities and international organizations and entities and coordinate their actions to the extent required for the effective implementation of the Convention and of this Act.
 - 2.7.1 Request and receipt of information and data: The National Authority or its agent(s) may request other State authorities and international organizations or entities, under section 2.7, to provide it relevant data or information. The National Authority or its agent is authorized to receive data or information concerning implementation of this Act, including-
 - (a) the nature, quantity, and utilization of scheduled chemicals or their precursors and related technologies and the places of consignment and consignees for such scheduled chemicals, precursors, or related technologies, or
 - (b) persons taking part in the production, delivery, or brokerage of the scheduled chemicals, precursors or related technologies.

- 2.7.2 Assurance of proper Information and data utilization: If a State has entered into the appropriate reciprocity agreement with Liberia, the competent authorities of Liberia may provide, on their own initiative or on request, the data or information described in 2.7.1 to that State so long as the other competent State Authority provides assurances that such data or information shall-
- (a) only be utilized for purposes consistent with this Act, and
- (b) only be used in criminal proceedings on the condition that they are obtained in accordance with provisions governing international judicial cooperation.
- 2.7.3 Provision of information and data: The National Authority or its agent(s) may provide the data or information described in section 2.7.1 to international organizations or entities if the conditions set forth in section 2.7.2 (a) and (b) are fulfilled in which case the requirements for reciprocity agreement is waved.
- Section 2.8 Authority to make regulations: The National Authority may make regulations for carrying out and giving effect to the provisions of this Act and the Convention.

The National authority shall make, without limiting the generality of the above mentioned authority, regulations that:

- (a) establish rules as provided for in chapter V
- (b) provide for the procedures to be followed by representatives of the National Authority in exercising their functions under this Act; and
- (c) provide more details for the provisions of this Act as required for its implementation.

CHAPTER III GENERAL AND SPECIFIC PROHIBITIONS

Section 3.1 General Prohibitions: A person commits an offense who-

- (a) develops, produces, otherwise acquires, stockpiles or retains a chemical weapon;
- (b) transfers directly or indirectly, a chemical weapon to any other person;
- (c) uses a chemical weapon;
- (d) engages in any military preparations to use a chemical weapon;
- (e) uses a riot control agent as a method of warfare;
- (f) engages in any other activity prohibited to a State Party under the Convention; and
- (g) assists, encourages or induces, in any way, a person to engage in any activity prohibited under this Act or by a State Party under the Convention.
- Section 3.2 Schedule 1 chemicals' prohibitions: A person commits an offence who:
 - (a) produces, acquires, retains, transfers or uses Schedule 1 chemicals which is attached as Appendix A of this Act unless fully licensed by the National Authority under the licensing scheme for Schedule 1 chemicals:
 - (b) transfers Schedule 1 chemicals outside the territory of Liberia to a person in a State not Party to the Convention;
 - (c) imports a Schedule 1 chemical or transfers a Schedule 1 chemical within Liberia unless in accordance with a license issued by the National Authority under the licensing scheme for Schedule 1 chemicals:
 - (d) re-transfers to a Person in a third State Schedule I chemicals transferred to Liberia.

Section 3.3 Schedule 2 chemicals' prohibitions: A person commits an offence who transfers to or receives from a person in a State not Party to the Convention Schedule 2 Chemicals which is attached as Appendix B, except as stipulated by regulations made under this Act that are in conformity with the Convention.

Also a person commits an offence who, transfers to or receives from a person in another State Schedule 2 chemicals unless in accordance with a permit issued by the National Authority under the permitting scheme for Schedule 2 chemicals.

Section 3.4 Schedule 3 chemicals' prohibitions: A person commits an offence who, transfers to a person in a State not Party to the Convention Schedule 3 chemicals which is attached as Appendix C without first receiving and end-user certificate from the competent government authority of the State not Party to the Convention.

Also a person commits an offence who, transfer to or receives from a person in another State Schedule 3 chemicals unless in accordance with a permit issued by the National Authority under the permitting scheme for Schedule 3 chemicals.

- Section 3.5 End-user certificate: An end-user certificate shall contain, at a minimum-
 - (a) a statement that the Schedule 3 chemicals will only be used for purposes not prohibited under the Convention;
 - (b) a statement that the Schedule 3 chemicals will not be re-transferred to other states;
 - (c) the types and quantities of the Schedule 3 chemicals to be transferred;
 - (d) the end-use(s) of the Schedule 3 chemicals to be transferred;

- the name(s) and address(es) of the Schedule 3 (e) chemical end-user(s).
- Further importer requirement: With regard to section 3.5 (d)-(e), in the event that the Schedule 3 chemical transfer is Section 3.6 to an importer in a State not Party to the Convention and such importer is not the actual end-user, the importer shall be obliged to specify the name(s) and address(es) of the end-user(s) for the purposes of section 3.4 and 3.5.

CHAPTER IV INFORMATION, DOCUMENTS, AND MANDATORY REPORTING

Supply of information: A person who-Section 4.1

- produces, acquires, retains, or transfers or uses Schedule 1 (a) Chemicals:
- produces, processes, consumes, exports, or imports a (b) Schedule 2 chemical;
- produces, exports or imports a Schedule 3 chemical; (c)
- produces a discrete organic chemical; or (d)
- holds a riot control agent for riot control purposes. (e)

Shall-

- Provide information in accordance with the regulations (i)under this Act; and
- keep and maintain all relevant documents in accordance (ii) with the regulations under this Act.

A person who fails to comply with obligations under this section commits an offence.

Reporting on other chemicals: Any person who develops, produces, otherwise acquires, retains, or uses within the Section 4.2 territory of Liberia or imports into the territory of Liberia other toxic chemicals or precursors than those specified in Schedules 1, 2 and 3 shall provide sufficient information to the National Authority so that it is enable to establish that these activities are not prohibited under the Convention. A person who fails to comply with obligations under this section commits an offence.

- Sufficiency of reports: The records and reports under Section 4.3 section 4.2 (a) must be sufficient to satisfy the National Authority that the Convention and the provisions of this Act and any regulations made under this Act are being complied with.
- Inspections: An international inspector may at any Section 4.4 reasonable time and consistent with the provisions of the Convention and any relevant facility agreement:
 - enter any place in Liberia; (a)
 - inspect the place; (b)
 - install, use and maintain monitoring instructions, (c) systems and seals; and
 - carry out any other activity as provided for in the (d) Verification Annex to the Convention.

A representative of the National Authority or an international inspector may not enter any place, which is property of a natural or legal person other than Liberia without the consent of this person, if that place is not part of the inspection site.

- Short notice inspections: Also on short notice, inspector(s) Section 4.5 designated under the Convention shall be permitted to enter the country to carry on an inspection consistent with the provisions of the Convention and this Act.
- Observation of Inspections: While carrying out an Section 4.6 inspection, an international inspector may be accompanied by an observer for the purposes of making effective paragraph 12 of Article IX of the Convention.
- Cooperation of Proprietors: A representative of the Section 4.6 National Authority or an international inspector may not enter a place referred to in section 4.4 above without the consent of the proprietor except under the authority of a warrant issued under section 4.7 below.
- Court orders: Where, on an ex-parte application, a judge of Section 4.7 a court of competent jurisdiction is satisfied by information under oath that-

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- (a) a place referred to in section 4.4 meets the conditions for entry set out in this section.
- (b) entry to the place is necessary for a purpose relating to the administration of this Act or the regulations made there-
- (c) entry to the place has been refused or there are reasonable grounds to believe that entry will be refused:

The Judge shall issue an order authorizing the representatives of the National Authority and international inspectors it to enter the place for the purpose of the inspection, subject to such conditions as may be specified in the order.

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- Section 4.8 Exigent Circumstances: An order authorizing entry into a place is not required if the conditions for obtaining the order exist but, by reason of exigent circumstances, it would not be practicable to obtain the order.
- Section 4.9 Use of force: In executing an order issued under section (4.7) a representative of the National Authority or an international inspector shall not use force unless the officer and use for force is accompanied by a police order.
- Section 4.10 Toleration of inspections: The proprietor or whoever shall be in charge of locations or premises of any kind and all employees shall tolerate and support inspections conducted pursuant to CWC and this Act.
- Section 4.11 Deferment of inspection expenses: A person referred to in section (4.10) shall meet the expenses arising from the conduct of inspection or investigations unless such expenses are refundable by the Organization in accordance with the provisions of the Convention.
- Section 4:12 Refund of expenses: An application for refund of expenses referred to in section (4.11) shall be filed with the National Authority which shall consider the application and submit in to the Organization.

- Section 4:13 Obstruction of inspections: While an international or national inspector is conducting an inspection under this Act, no person shall-
 - (a) knowingly make a false or misleading statement to the inspector or to any representative of the National Authority accompanying the inspector with regard to any information that is necessary for the conduct of the inspection; or
 - (b) willful, obstruct the inspection, by either an act or omission of an act.
- Section 4.14 Inspection obstruction offence: A person who fails to comply with obligations under this section 4.13 commits an offence.

CHAPITER V LICENSES AND PERMITS

- Section 5.1 Application procedures: The National Authority make regulations to prescribe the manner of application for a license or permit to any of the acts permissible under this Act; the form and duration of a license or permit; the teams and conditions upon which a license or permit may be granted, held, suspended, cancelled, extended, renewed or replaced; and the cost payable in respect thereof.
- Section 5.2 Application processing: An application for a license or permit to do any of the acts permissible under this law shall be made to the National Authority through the office of coordinator in such a manner or form as the National Authority may determine and shall be accompanied by the prescribed fee.
- Section 5.3 Grant of licenses: The Technical Secretariat of the National Authority grants licenses in accordance with section 5.1 and the regulation established under this Acts.
- Section 5.4 Grant of Permits: The Technical Secretariat of the National Authority grants permit in accordance with section 5.1 and the regulations established under this Act.

CHAPTER VI CONFIDENTIAL INFORMATION, IMMUNITIES, AND NON-LIABILITY

- Section 6.1 Confidentiality of information: Every person shall keep confidential any information that is given pursuant to this Act or the convention concerning the affairs of another person.
- Section 6.2 Disclosure of confidential of information: Such information may be disclosed only with the consent of person to whose affairs it relates or for the purpose of -
 - (a) enabling Liberia to fulfill its obligations under the convention
 - (b) the enforcement of this Act, or

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- (c) dealing with an emergency involving public safety.
- Section 6.3 Privileges and immunities: A person who, according to the convention, is entitled to receive immunity and privileges shall, without hindrance of the laws of the Republic of Liberia, receive such immunity and privileges in accordance with the provisions of the Convention and of the Privileges and Immunities Agreement that will be negotiated.
- Section 6.4 Disclaimer of liability: Nothing in this Act shall render the Government of the Republic of Liberia liable for an act or omission on the part of the organization.
- Section 6.5 Breach of confidentiality: A person who fails to comply with obligations under this part commits an offence.

CHAPTER VII SEIZURE AND FORFEITURE

- Section 7.1 Seizure authority: The Nation Authority or its agents(s) may seize or cause to be sized-
 - (a) controlled goods for which a license pursuant to regulations made under this Act is needed, in respect of which no license has been granted;
 - (b) controlled goods when a license has been granted but the license holder does not comply with the conditions of the license;
 - (c) any quantity of a chemical that may offer evidence of an offence in terms of this Act; and
 - (d) any book, document, data or thing which may offer evidence of an offence in terms of this Act.

If the National Authority or its agent(s) deems it necessary to leave the controlled good, chemical, book, document, data or thing on the premises, an identification mark or seal can be affixed to such things or their container,

Controlled goods and toxic chemicals and their precursors that are not controlled goods shall be seized if it is highly probable that they are not exclusively used for purposes not prohibited under the Convention.

- Section 7.2 Safekeeping of goods seized: Pending a decision regarding the disposal of controlled goods under this section, the National Authority may remove or cause to be moved such goods, books, documents, data or things seized under section 7.1 to a place of safekeeping.
- Receipt of goods seized: The National Authority shall furnish the owner or person in control of or who has in his or her custody, anything seized in terms of section 7.1, with a receipt.

Section 7.4 Forfeiture of goods seized: Where a person has been convicted of an offence under this Act anything seized in respect of which the offence was committed shall be forfeited to the Government of the Republic of Liberia and shall be disposed in accordance with the Criminal Procedure Laws of Liberia and the provisions of the Convention.

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CHAPTER VIII PENALTIES

- Section 8.1 A person, who contravenes the provisions of section 3.1, commits a felony of the first degree and shall be punished upon conviction in accordance with the Penal Law of Liberia.
- Section 8.2 A person, who contravenes the provisions of section 3.2, commits a felony of the second degree and shall be punished upon conviction in accordance with the Penal Law of Liberia.
- Section 8.3 A person, who contravenes the provisions of section 3.3, commits a felony of the second degree and shall be punished upon conviction in accordance with the Penal Law of Liberia.
- Section 8.4 A person, who contravenes the provisions of section 3.4, commits a felony of the first degree and shall be punished upon conviction in accordance with the Penal Law of Liberia.
- Section 8.5 A person, who contravenes the provisions of section 4.1. and 4.2, commits a felony of the third degree and shall be punished upon conviction in accordance with the Penal Law of Liberia.

- Section 8.6 Any person, who refuses or fails to comply with the provisions of section 4.2 or makes a false or misleading statement pursuant to this section commits a misdemeanor of the first degree and shall be punished upon conviction in accordance with the Penal Law of Liberia.
- Section 8.7 Any person, who refuses or fails to comply with the provisions of section 5.3 or and or 5.4 of this Act commits a misdemeanor of the first degree and shall be punished upon conviction in accordance with the Penal Law of Liberia.
- Section 8.8 A person, who contravenes any other provision of this Act not specifically named herein, commits a misdemeanor of the second degree and shall be punished upon conviction in accordance with the Penal Law of Liberia.
- Where an offence under this Act is committed on more than one day, the person who committed the offence is liable to be convicted for a separate offence for each day on which the offence is committed or continued.
- Section 8.10 A person who commits, outside Liberia an act or omission that would, if committed inside Liberia, be an offence under this Act, shall be deemed to have committed that act or omission in Liberia and is punishable under the laws of Liberia.

CHAPTER IX

PRIMACY OF THE CONVENTION AND REPRESENTATION OF S

- Section 9.1 Primacy of the convention: Where there is any inconsistency between any other Liberian law and this Act or the Convention, this Act and the Convention shall prevail.
- Section 9.2 Representative of Liberia to organization: The Ministry of Foreign Affairs shall be entrusted with the representation of the Republic of Liberia to the Organization in the Hague, Netherlands.
- Effective date of Act: This ACT shall take effect Section 10 immediately upon publication into hand-bills.

ANY LAW TO THE CONTRARY NOTWITHSTANDING.

SENATE'S ENDORSEMENT TO HOUSE'S ENGROSSED BILL NO. 11 ENTITLED: THIRD SESSION OF THE FIFTY-SECOND LEGISLATURE OF THE REPUBLIC OF LIBERIA

first reading and sent to Committee 2008 @ 11:55 A.M.

On motion, Bill taken from the Committee Room for its second reading. On motion, under the suspension of the rule, the constituted the third reading and the

> HOUSE'S ENGROSSED BILL NO.11 ENTITLED TO IMPLEMENT THE CONVENTION ON TON OF THE DEVELOPMENT, PRODUCT ING AND USE OF CHEMICAL WEAPONS

first reading and sent to Comp September 27, 2007 (a) 12:30 GMT On motion, Bill read. On motion, the Bill was, adopted on thirst reading and sent to Committee Room on Faesday

second reading of the Bill constituted the third reading On motion, Bill taken from the Committee Room for its second On motion,

SECOND SESSION OF THE FIFTY-SECOND LEGISLATURE OF THE REPUBLIC OF LIBERIA



Republic of Liberia The Honorable House of Representatives

Capitol Building P**2008**x Monrovia, Liberia

THIRD SESSION OF THE FIFTY-SECOND LEGISLATURE OF THE REPUBLIC OF LIBERIA

SCHEDULE OF THE HOUSE'S ENROLLED BILL NO. 11 ENTITLED

"AN ACT TO IMPLEMENT THE CONVENTION ON THE PROHIBITION OF THE DEVELOPMENT, PRODUCTION, STOCKPILING AND USE OF CHEMICAL WEAPONS AND ON THEIR DESTRUCTION TO WHICH LIBERIA IS A PARTY."

PRESENTED TO THE PRESIDENT OF THE REPUBLIC OF LIBERIA

RECEIVED THIS 2008

DAY OF July

AD 2008

AT THE HOUR OF 5.35 PA.

THE PRESIDENT OF THE REPUBLIC OF LIBERIA