



Office of the Legal Adviser
S/308/2002
6 June 2002
ENGLISH only

LEGISLATION QUESTIONNAIRE

PENAL ENFORCEMENT OF THE CHEMICAL WEAPONS CONVENTION

1. The Executive Council recently drew the attention of States Parties to their obligations concerning national implementation measures under Article VII, paragraphs 1 and 5, of the Chemical Weapons Convention (EC-28/DEC.5, dated 21 March 2002). This followed from the Council's recognition of the priority role played by "full implementation of the legislative measures required by Article VII" in the OPCW's contribution to global anti-terrorist efforts (subparagraph 2(b) of EC-XXVII/DEC.5, dated 7 December 2001). To gain insight into the extent to which the Convention is being implemented in national jurisdictions, a new questionnaire is being addressed to States Parties. In contrast to the first legislation questionnaire which concerned activities under Article VI (S/194/2000, dated 8 June 2000), the scope of the new questionnaire covers enforcement of the Chemical Weapons Convention as a whole.
2. The results of the survey will also be indicative to States Parties of the extent to which Article VII, paragraph 2, can be implemented. If violations of the fundamental provisions of the Chemical Weapons Convention are not legally defined as criminal acts in the jurisdiction of a given State Party, it is unlikely that the State Party in question will be able to cooperate with, and provide legal assistance to, another State Party in investigating or prosecuting that violation.
3. States Parties are requested to return the completed questionnaire annexed to this document to the Secretariat **before 31 August 2002**. The results of the questionnaire will be reported to the Council at its thirtieth session (10 to 13 September 2002). Requests for assistance in completing the questionnaire may be addressed to: Office of the Legal Adviser, OPCW Secretariat, Johan de Wittlaan 32, NL-2517 JR The Hague, the Netherlands, telephone: +31 (0)70 416 3708 or 416 3732; fax: +31 (0)70 306 3535; email: legal@opcw.org.

Annex:

Legislation Questionnaire: Penal Enforcement of the Chemical Weapons Convention

Annex
LEGISLATION QUESTIONNAIRE:
PENAL ENFORCEMENT OF THE CHEMICAL WEAPONS CONVENTION

State Party:	_____
Date:	_____
Person whom the Secretariat may contact to discuss this questionnaire:	
Name:	_____
Telephone:	_____
Fax:	_____
E-mail:	_____

Chemical weapons prohibitions (Article VII, paragraph 1, of the Convention)

1. Can natural and legal persons violating Article I of the Convention be prosecuted and punished in the jurisdiction of your State Party?

- Yes, natural and legal persons can be prosecuted for violations involving:
- Article I, subparagraph 1(a), prohibitions
 - Article I, subparagraph 1(b), prohibitions
 - Article I, subparagraph 1(c), prohibitions
 - Article I, subparagraph 1(d), prohibitions
 - Article I, paragraph 2, prohibitions
 - Article I, paragraph 3, prohibitions
 - Article I, paragraph 4, prohibitions
 - Article I, paragraph 5, prohibitions
- Yes, there are sanctions for violations. Penalties consist of:
- Criminal penalties. Range: _____
 - Administrative penalties. Range: _____
- No

2. Is the law applicable extraterritorially to natural persons possessing the nationality of your State Party?

- Yes
 No

General purpose criterion (Article II, paragraphs 1 and 2, and Article VI, paragraph 2, of the Convention)

3. All toxic chemicals and precursors, including unscheduled ones: can natural and legal persons acquiring, retaining, transferring or using toxic chemicals or precursors for purposes other than purposes not prohibited under the Convention be prosecuted and punished in the jurisdiction of your State Party?

- Yes, penalties consist of:
- Criminal penalties. Range: _____
 - Administrative penalties. Range: _____
- No

Export/import controls (Article VI, paragraph 2, and Parts VI, VII and VIII of the Verification Annex to the Convention)

4. **Schedule 1:** Can natural and legal persons violating Part VI, paragraph 1, of the Verification Annex to the Convention be prosecuted and punished in the jurisdiction of your State Party?

- Yes, penalties consist of:
- Criminal penalties. Range: _____
 - Administrative penalties. Range: _____
- No

5. **Schedule 2:** Can natural and legal persons violating Part VII, paragraph 31, of the Verification Annex to the Convention be prosecuted and punished in the jurisdiction of your State Party?

- Yes, penalties consist of:
- Criminal penalties. Range: _____
 - Administrative penalties. Range: _____
- No

6. **Schedule 3:** Can natural and legal persons violating Part VIII, paragraph 26, of the Verification Annex to the Convention be prosecuted and punished in the jurisdiction of your State Party?

- Yes, penalties consist of:
- Criminal penalties. Range: _____
 - Administrative penalties. Range: _____

No

7. **Schedule 3:** is the end-user certificate under Part VIII, paragraph 26, of the Verification Annex to the Convention required by law in your State Party?

Yes, penalties for violations consist of:

Criminal penalties. Range: _____

Administrative penalties. Range: _____

No, but it is required by policy (for example, it is enforced by the National Authority when issuing a permit for an export)

No

Declarable activities (Articles III and VI, paragraph 7 and 8; Parts VI, VII, VIII and IX of the Verification Annex to the Convention)

8. **Reporting declarable activities:** Is the failure to report declarable activities by natural and legal persons punishable in the jurisdiction of your State Party?

Yes, penalties consist of:

Criminal penalties. Range: _____

Administrative penalties. Range: _____

No

Cooperation and legal assistance under Article VII, paragraph 2

9. In the event that your State Party receives, or needs to make, a request for cooperation and legal assistance in connection with a prosecution, are there any legal obstacles in your system which would prevent such assistance being provided or requested?

Yes

No