Act amending the Act on the Approval of Certain Provisions of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction and on its Application

(485/2007)

Unofficial translation; Ministry for Foreign Affairs, Finland

In accordance with the decision of Parliament, the following is enacted:

sections 7 and 13 of the Act on the Approval of Certain Provisions of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction and on its Application (346/1997) of 3 February 1995 shall be *repealed,*

sections 2, 4, 6 and 10 of the Act shall be *amended,* and

new sections 4a–4c and new subsections 5 and 6 of section 5 shall be *added* to the Act as follows:

Section 2 - Authorities

In Finland, the Ministry for Foreign Affairs shall be the supreme authority implementing the Convention, bearing the supreme responsibility for the management of its application and supervision.

The Finnish Institute for Verification of the Chemical Weapons Convention at the University of Helsinki shall, under the guidance of the Ministry for Foreign Affairs, act as the National Authority referred to in Article VII of the Convention for the purpose of cooperation with the Organisation for the Prohibition of Chemical Weapons and the other States Parties to the Convention. The Institute shall provide the Ministry for Foreign Affairs with expert assistance in complying with and implementing the provisions of the Convention, and see to the implementation of certain provisions of the Convention in Finland as provided by this Act.

More detailed provisions on the content and the performance of the Institute's tasks related to the Convention may be issued by a Government decree. Provisions on the administration and possible additional tasks of the Institute shall be laid down in the Regulations of the Institute.

The Ministry for Foreign Affairs shall be responsible for the export supervision required under the Convention. However, the Ministry of Defence shall be responsible for tasks falling within the scope of application of the Act on the Export and Transit of Defence Materiel (242/1990).

The National Agency for Medicines shall function as the licensing authority referred to in section 4.

Section 4 - Activities subject to licence

The production, acquisition, retention and use of chemicals and precursors included in Schedule 1 of the Annex on Chemicals of the Convention shall be allowed in Finland only under a licence issued by the National Agency for Medicines, if the total amount of chemicals included in Schedule 1 per establishment and facility exceeds 100 grams per year. Imports and deliveries of chemicals and precursors included in Schedule 1 to Finnish territory shall, irrespective of amount, be allowed only under a licence issued by the National Agency for Medicines. However, a licence is not required of the Finnish Institute for Verification of the Chemical Weapons Convention and the Finnish Defence Forces Technical Research Centre.

The licence application shall be accompanied with a report on the amount and purpose for use of substances included in Schedule 1 of the Annex on Chemicals of the Convention, and with general information on the facility where they are to be produced, retained or used. The licence application shall be filed at least 45 days before the intended date of the measure subject to licence. More detailed provisions on the content of the licence application and the report to be attached with it may be issued by a Government decree.

Section 4a - Preconditions for and decision on issuing a licence

The National Agency for Medicines shall issue a licence for the production, acquisition, retention, use, import or delivery of chemicals or precursors included in Schedule 1 of the Annex on Chemicals on the condition that:

1) the licence application is made for research purposes, medical or pharmaceutical purposes or protection purposes, and it proves with sufficient certainty that the substance will not be diverted for other purposes;

2) the type and quantity of the substance are precisely delimited to correspond to what is justifiable for the aforementioned purposes;

3) processing of the substance does not jeopardize the safety of people or the environment;

4) the total amount of the substance in Finland does not exceed one ton after the issuance of the licence; and

5) the total amount of the substance produced in Finland and imported into Finland does not exceed one ton after the issuance of the licence, during the year of issuance.

The National Agency for Medicines shall send the licence application to the Finnish Institute for Verification of the Chemical Weapons Convention, which shall give an expert opinion on the fulfilment of the preconditions for issuing a licence.

A decision on issuing a licence shall be made without delay, however not later than 14 days after the date when the National Agency for Medicines received the opinion of the Finnish Institute for Verification of the Chemical Weapons Convention and evidence sufficient for issuing a licence.

The National Agency for Medicines may make a licence subject to conditions, if these are necessary in order to ensure legal and safe use of a chemical or a precursor. The Agency shall inform the applicant about the grounds for making the licence subject to conditions and about the measures required by the Agency. The conditions set on the licence may be changed, if the licence application has contained erroneous information or if, after the issuance of the licence, new information is obtained about the use of the substance mentioned in the licence.

The National Agency for Medicines may revoke the licence, if the establishment has provided essentially false information in the licence application or committed serious violations or failures in the activities referred to in the licence, and admonitions and warnings issued to the establishment have not resulted in correction of the situation.

Section 4b - Obligation of notification

Any establishment shall, annually by the end of January, notify the Finnish Institute for Verification of

the Chemical Weapons Convention of the following information from the previous calendar year:

a) the volumes of production, processing, consumption, export and import of a chemical included in Schedule 2 of the Annex on Chemicals of the Convention; and
b) the volumes of production, export and import of a chemical included in Schedule 3 of the Annex on Chemicals of the Convention.

If, during a calendar year, the establishment has produced in total more than 200 tons of a separate organic chemical referred to in the Verification Annex of the Convention or more than 30 tons of a separate organic chemical containing phosphorus, sulphur or fluoride, it shall notify the Institute thereof by the end of January following the expiry of the calendar year.

Any establishment shall, annually by 15 September, notify the Finnish Institute for Verification of the Chemical Weapons Convention of the following information concerning the next calendar year:

a) the estimated volumes of production, processing and consumption of a chemical included in Schedule 1 or 2 of the Annex on Chemicals of the Convention; and
b) the estimated volumes of production of a chemical included in Schedule 3 of the Annex on Chemicals of the Convention.

Provisions on the content of the notifications to be made to the Finnish Institute for Verification of the Chemical Weapons Convention and the documentation to be attached therewith may be issued by a Government decree.

Section 4c - Obligation to give information

Any establishment shall provide the Finnish Institute for Verification of the Chemical Weapons Convention with other information that may be necessary for the supervision of compliance with the obligations laid down in the Convention. The Institute shall request the information referred to in this section in writing, reserve a reasonable time for providing the information, and mention in its request the provision of the Convention on which the request is based.

Section 5 - Inspection and monitoring rights

The Finnish Institute for Verification of the Chemical Weapons Convention shall have background checks conducted for the inspection staff of the Organisation for the Prohibition of Chemical Weapons, approve the inspection staff proposed by the Organisation for inspections carried out in Finland, represent the Ministry for Foreign Affairs in inspections referred to in Article VI of the Convention and attend, in addition to a representative of the Ministry for Foreign Affairs, inspections referred to in Article IX and propose, if necessary, to the Ministry for Foreign Affairs that inspections be conducted in cases where non-compliance with the Convention is suspected.

If the Institute considers that it cannot approve the inspection staff proposed by the Organisation or a background check, it shall refer the matter to the Ministry for Foreign Affairs for decision. The Act on Background Checks (177/2002) shall apply to the conducting of background checks for inspection staff.

Section 6 - Executive assistance

The police, the supervising authorities referred to in the Chemicals Act (744/1989), the Safety Technology Authority and, in respect of imports and exports of chemicals, the Customs and the Border Guard shall provide executive assistance for the supervision of compliance with this Act and the provisions issued by virtue thereof and for the implementation thereof.

Section 10 - Imports and exports of chemicals

Chemicals and precursors included in Schedule 1 or 2 of the Annex on Chemicals of the Convention must not be imported from States not party to the Convention. This prohibition does not, however, concern samples that the Finnish Institute for Verification of the Chemical Weapons Convention or the Finnish Defence Forces Technical Research Centre, after consulting the Ministry for Foreign Affairs in advance, receive for the purpose of examinations related to the verification of chemicals falling under the Convention. Chemicals included in Schedule 1 of the Annex on Chemicals must not be exported or delivered to States not party to the Convention. Chemicals and precursors included in Schedule 2 of the Annex on Chemicals may be exported or delivered to States not party to the Convention only in exceptional cases provided for in the Act on the Control of Exports of Dual-Use Goods (562/1996) and in Council Regulation (EC) No 1334/2000 setting up a Community regime for the control of exports of dual-use items and technology.

Chemicals and precursors included in Schedule 1 of the Annex on Chemicals of the Convention may be exported outside the European Community and delivered to other Member States of the European Union only for research purposes, medical or pharmaceutical purposes or protection purposes, under an export licence issued by the Ministry of Defence. However, an export licence issued by the Ministry for Foreign Affairs is required for exports and deliveries of ricin and saxitoxin. The export licences shall be applied for at least 45 days before the intended date of export or delivery.

Exports and Community deliveries of chemicals and precursors included in Schedule 2 or 3 of the Annex on Chemicals of the Convention are allowed only under a licence issued by the European Union or the Ministry for Foreign Affairs. When exporting chemicals and precursors included in Schedule 3 of the Annex on Chemicals of the Convention outside the territories of the States Parties to the Convention, exporters shall present to the Ministry for Foreign Affairs an international import certificate issued by the recipient country in respect of chemical mixtures containing a low concentration, consumer goods packages and packages intended for personal sale other than those referred to in the Decision of the Organisation for the Prohibition of Chemical Weapons on chemical mixtures containing a low concentration.

The provisions of the Act on the Export and Transit of Defence Materiel and the Act on the Control of Exports of Dual-Use Goods and the provisions issued by virtue thereof shall, where applicable, apply to the licensing procedure and the related supervision.

This Act shall enter into force on 30 April 2007.