



**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
Act, No.58 of 2007*

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L.D — O. 66/2003

AN ACT TO PROVIDE FOR THE IMPLEMENTATION OF THE CONVENTION ON THE PROHIBITION OF THE DEVELOPMENT, PRODUCTION, STOCKPILING AND USE OF CHEMICAL WEAPONS AND THEIR DESTRUCTION AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

WHEREAS the Convention on the Prohibition of the 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 :

Preamble.

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 Convention Act, No.58 of 2007 and shall come into operation on such date as the Minister may by Order published in the Gazette appoint.

Short title and date of operation.

2. (1) The Provisions of the Act shall apply to acts done or omitted to be done by—

Application of 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) 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 State.

3. This Act binds the State in all its capacities : Provided however, nothing in this Act shall render the State liable to be prosecuted for an offence.

Power to declare that Act shall cease to be in force.

4. (1) The Minister may with the concurrence of the Cabinet of Ministers by Order published in the *Gazette*, declare that the provisions of this Act shall cease to be in 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

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 establish an Authority to be known as the National Authority for Implementation of the Chemical Weapons Convention (hereinafter referred to as "the Authority").

The National
Chemical
Weapons
Authority.

(2) The Authority shall by the name assigned to it by subsection (1) be a body corporate and shall have perpetual 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 charge of the subject of Industries shall be the Chairman of the Authority and shall be charged with the implementation of the Act.

Chairman of the
Authority.

(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 of the Chairman of the Authority and may be altered in such manner as may be determined by the Authority.

The Seal of 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.

(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
Director of the
National
Chemical
Weapons
Authority.

8. (1) The Minister may appoint a person qualified and experienced in work related to the Authority or with similar work experience as the Director of the National Authority for Implementation of the Chemical Weapons Convention (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 charge 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
Steering
Committee.

9. (1) The Authority may establish a Steering Committee (hereinafter referred to as “the Committee”) to advise the Authority on the discharge of its functions.

(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 Institute ;
- (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.

Meeting of the
Committee.

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

11. The functions of the Authority shall be—

(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
Authority.

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

(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

- (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 ;

- (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 received 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 ;

(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 other periodic declarations regarding toxic chemicals or precursors listed in Schedules I, II and III to this Act or any other 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.

Authority to submit declarations to OPCW.

14. The Minister may, from time to time, give directions to the Authority in regard to the general policy on toxic 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 :

Direction by the Minister.

Provided that the Minister shall, in issuing 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 information that the Minister may require regarding its operations.

Authority to give information to Minister.

16. (1) Notwithstanding anything contained in any other law for the time being in force, the Authority may, by general or special order, call upon any importer, exporter, supplier, Government or private institution or organization or person, to furnish periodically or as and when required, any information, declaration or return concerning chemicals or

Power of Authority to call for information, etc.

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
the inspector.

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

18. (1) Subject to any rules made in that behalf, an 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 ;

- (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

(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

PROHIBITION AND REGULATION OF CHEMICAL WEAPONS AND TOXIC
CHEMICALS

Prohibition to
develop,
produce,
acquire, &c.,
chemical
weapons.

19. (1) Any person who—

- (a) uses a chemical weapon ;
- (b) develops or produces a chemical weapon ;
- (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.

(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—

- (a) develop, produce, acquire, retain or use a toxic chemical or precursor listed in Schedule I to this Act outside the territories of State Parties, and shall not 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 permission 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 subparagraph (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 ;

Prohibitions to develop, produce, acquire, &c., toxic chemical or precursor.

- (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 to be made in accordance with the Customs Ordinance (Chapter 235).

21. (1) No person shall export from, or import into Sri Lanka any chemical or precursor listed in Schedules I, II and III to this Act except as approved by the Authority and in 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 forfeiture.

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

23. The High Court of Sri Lanka holden in Colombo or the High Court established by Article 154P of the 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.

High Court to try offences under this Act.

PART IV

REGISTRATION OF PERSONS AS PRODUCERS, USERS &C.,

24. (1) No person, shall after the commencement of this Act, produce, process, acquire, consume, transfer, import, export or use any toxic chemical or precursor listed in Schedules I, II and III to this Act or produce any unscheduled discrete organic chemical unless such person has applied 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, as the case may be, or as a producer of any unscheduled discrete organic chemical.

Registration of persons engaged in production, &c, of any toxic chemical or precursor.

(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

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
information and
record.

25. (1) Any 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 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

- (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

- (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

(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 the person in control of any premises— International 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 an international inspector, he shall be accompanied by one of the following officers or both :— Persons to accompany international inspectors.

(a) an observer ;

(b) an inspector.

(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 certificate.

29. The Authority shall issue to every inspector and international inspector a certificate identifying him as such inspector or international inspector, as the case may be.

Certain acts. to constitute an offence.

30. Any person who willfully—

- (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 samples.

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

(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 235) shall apply for the purposes of enforcement, and prevention and punishment for any contravention or attempted 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.

Application of
Customs
Ordinance
(Chapter 235).

33. No person shall, whether for himself or any other person, for purpose of—

Prohibition
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.

Refusal and
revocation of
approval &c..

34. (1) Where under this Act or any regulation made thereunder any person has power to grant approval, he may, 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

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 divulges any confidential information obtained by the authority from any declaration or return furnished or any statement made or information supplied to or obtained by, an inspector or an international inspector or a member of the 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.

Punishment for contravention in relation to disclosure of confidential information.

(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 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.

General penalty.

(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.

(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 ;

- (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 preferred 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 purpose of carrying out or giving effect to the principles and provisions of this Act. Regulations.

(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

(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 officers.

40. Any expense incurred by the Authority in any suit 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 Extradition the extradition Law, No. 8 of 1977.

41. The Extradition Law, No. 8 of 1977 is hereby amended by the insertion immediately before Part B of the 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 extradition arrangements with States deemed to provide for offences in the Act.

42. Where there is an extradition arrangement made by the Government of Sri Lanka with any State in force on the date on which this Act comes into operation, such arrangement shall be deemed, for the purposes of the Extradition Law, No. 8 of 1977, to include provision for extradition in respect of the offences specified in this Act.

43. Where there is an extradition arrangement made by the Government of Sri Lanka with any State the Minister may, by Order published in the *Gazette*, treat the Convention, for the purposes of the Extradition Law, No. 8 of 1977, as an extradition arrangement of Sri Lanka with that State, providing for extradition in respect of the offences specified in this Act.

Minister may treat Convention as an extradition arrangement between Sri Lanka and certain States, in respect of offences in the Act.

44. Where a request is made to the Government of Sri Lanka by or on behalf of the Government of a State with whom the Government of Sri Lanka has entered into an agreement for the extradition of any person accused or convicted of an offence described in this Act, the Minister shall, on behalf of the Government of Sri Lanka forthwith notify the Government of the requesting State of the measures the Government of Sri Lanka has taken, or proposes to take, for the prosecution or extradition of that person for that offence.

Duty of Minister to notify requesting State of measures taken against persons for whose extradition a request is made.

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

Assistance to a State.

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

Sinhala text to prevail in case of inconsistency.

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;

- (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.

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-dialkyl (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)
Mustard gas : 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-Chlorovinylchloroarsine	(541-25-3)
Lewisite 2: Bis(2-chlorovinyl)chloroarsine	(40334-69-8)
Lewisite 3: Tris(2-chloroethyl)arsine	(40334-70-1)
(6) Nitrogen mustards :	
HN1: 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)

B. Precursors :

- (1) Alkyl (Me, Et, n-pr or i-Pr) phosphonyldifluorides
e.g. DF: Methylphosphonyldifluoride (676-99-3)
- (2) O-Alkyl (H or \neq C10, incl. cycloalkyl) O-2-dialkyl
(Me, Et, n-Pr or i-Pr)-aminoethyl 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-Isopropyl 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)-
1-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
ethylphosphonothiolothionate (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)

- | | | |
|------|--|--------------------------|
| (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 and corresponding protonated salts
N,N-Diethylaminoethanol | (108-01-0)
(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) | Pionacetyl 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 oxychloride | (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) | Dimethyl phosphite | (868-85-9) |
| (7) | Diethyl phosphite | (762-04-9) |
| (8) | Sulfur monochloride | (10025-67-9) |
| (9) | Sulfur dichloride | (10545-99-0) |
| (10) | Thionyl chloride | (7719-09-7) |
| (11) | Ethyl-diethanolamine | (139-87-7) |
| (12) | Methyl-diethanolamine | (105-59-9) |
| (13) | Triethanolamine | (102-71-6) |

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