

Sovereign Edict No. 16.382, dated 20 July 2004 relating to the application of The Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, made at Geneva on 3 September 1992.

WE, RAINIER III, BY THE GRACE OF GOD  
SOVEREIGN PRINCE OF MONACO,

In view of the terms of the Constitution, in particular Article 68 thereof;

In view of Sovereign Edict No. 15.760, dated 3 April 2003, which gives obligatory force to the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, signed at Geneva on 3 September 1992;

In view of the deliberations of the Council of Government on 30 June 2004 communicated to us by our Minister of State;

**Have ordered and hereby order as follows:**

## **CHAPTER I**

### *Definitions*

#### Article 1

For the purposes of applying this Edict, the terms and expressions used shall have the meaning assigned to them by the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, signed at Geneva on 3 September 1992; hereinafter referred to as the “Convention”.

## **CHAPTER II**

### *Specification of activities subject to prohibition or declaration*

#### **PART I**

##### *Activities subject to prohibition*

#### Article 2

The use of chemical weapons, and the development, production, stockpiling, possession, preservation, acquisition, transfer, import, export, commerce, and brokering thereof shall be prohibited.

### Article 3

The following are also prohibited:

1. The design, construction or use of:
  - a chemical weapons production facility;
  - a facility for producing unfilled chemical munitions and materials destined for use as chemical weapons;
2. The modification of facilities or materials of any kind with the purpose of carrying out an activity prohibited hereby;
3. The import, export, sale and brokerage of any material for producing chemical weapons or any document or object with a view to allowing or assisting a violation of the provisions hereof;
4. Communication of any information with a view to allowing or permitting a violation of the provisions hereof.

### Article 4

The following are prohibited:

- the production of a total annual quantity of a chemical included in Schedule 1 of the Annex on Chemicals over a threshold determined by ministerial order in accordance with Part VI of the Verification Annex; however, the production of an annual total quantity lower than the threshold is permitted but only for the purposes stated in paragraph 2 of Part VI of that Annex;
- the acquisition, preservation or use of Schedule 1 chemicals for purposes other than those specified in paragraph 2 of Part VI of the Verification Annex; such acquisition may be made only within the territory of the States Parties to the Convention;
- the transfer of Schedule 1 chemicals produced in Monaco to the exterior of the principality of Monaco, except where the destination is a State Party to the Convention and exclusively for the purposes enumerated in paragraph 2 of Part VI of the Verification Annex, as well as the re-transfer of Schedule 1 chemicals;
- the transfer of Schedule 2 chemicals to the exterior of the territory of the principality of Monaco except where destined for a State Party to the Convention and only for purposes not prohibited thereby;
- the import of Schedule 2 chemicals from a State Not Party to the Convention;
- the transfer of Schedule 3 chemicals from a State Not Party to the Convention if that State is not in a position to certify that:
  - the chemicals transferred are used only for purposes not prohibited by the Convention;
  - they are not the subject of new transfers;
  - what the type and quantity of the chemicals transferred are;
  - what the final uses of the transferred chemicals are;
  - what the names and addresses of the final users are.

## Article 5

The prohibitions specified in Article 4 apply equally to any person of Monegasque nationality who is domiciled outside the principality of Monaco.

## **PART II**

### *Activities subject to declaration*

## Article 6

The following are subject to declaration, under conditions laid down by ministerial order:

- installations at which Schedule 1 chemicals are produced, processed, stockpiled or consumed except those facilities at which the synthesis of Schedule 1 chemicals is done for the purposes of research or medical or pharmaceutical purposes, on condition that the quantities produced each year do not exceed the threshold established by ministerial order in accordance with Part VI of the Verification Annex;
- annually, the nature and quantities of Schedule 1 chemicals produced, processed, stockpiled, consumed or transferred outside Monaco destined for a State Party to the Convention, as well as the other information provided in Part VI of the Verification Annex;
- facilities which produce, process or consume Schedule 2 chemicals, if the annual quantities of chemicals produced, processed or consumed are in excess of the threshold established by ministerial order in terms of Part VII of the Verification Annex;
- annually, the nature and quantities of Schedule 2 chemicals produced, processed, stockpiled, consumed, exported or imported, as well as the other information provided for in Part VI of the Verification Annex;
- installations which produce Schedule 3 chemicals if the annual quantities produced are in excess of the threshold established by ministerial order in terms of Part VIII of the Verification Annex;
- annually, the nature and quantities of Schedule 3 chemicals produced as well as the other information provided for in Part VIII of the Verification Annex;
- facilities which synthesise either an annual quantity of DOCs not included in Tables 1, 2 or 3 in excess of a threshold established by ministerial order in terms of Part IX of the Verification Annex or an annual quantity of a DOC not included in Tables 1, 2 or 3 and which contains phosphorus, sulphur and fluoride, in excess of a threshold established by ministerial order in terms of Part IX of the Verification Annex;
- annually, the nature and quantities of DOCs produced in the facilities herein before mentioned, as well as the other information provided for in Part IX of the Verification Annex.

#### Article 7

No declaration is required in the case of compounds containing a weak concentration of a Schedule 2 or 3 chemical. The appropriate thresholds for concentrations shall be established by ministerial order in terms of the guidelines examined and approved by the Conference of the States Parties.

#### Article 8

The methods of applying Articles 4, 6 and 7 shall be determined by ministerial order.

### CHAPTER III

#### *Monitoring observance of the provisions of the Convention*

#### Article 9

International monitoring of compliance with the provisions of the Convention shall be carried out in the forms and under the conditions set out in the Verification Annex.

This monitoring shall be exercised independently of that provided for either by the Inspector of Pharmacies and the Inspector of the Pharmaceutical Industries or by the Technical Commission for the fight against pollution and the safeguard of security, hygiene, health and public peace in terms of the provisions of laws or regulations in force.

#### Article 10

The Minister of State shall deliver to any inspector empowered by the Organisation for the Prohibition of Chemical Weapons established by the Convention, a certificate which shall:

- a) specify the name of the inspector and confirm his status and his authorisation to carry out his mission;
- b) state that the inspector enjoys the privileges and immunities provided for by the Convention;
- c) specify the place to be inspected.

#### Article 11

One or more agents of the State, duly appointed under conditions specified in ministerial order, shall accompany the inspectors and facilitate the completion of the mission.

The inspectors and escort groups shall be subject to an obligation of confidentiality as regards information which comes to their knowledge during the conduct of their mission.

## Article 12

The inspectors and the escort groups shall have free access to any place under the jurisdiction of the State and likely to shelter activities prohibited by the Convention.

If the place to be inspected belongs to a public agent other than the State, the inspectors and escort groups may enter such place only with the consent of the Mayor of the commune or of the director of the public establishment concerned.

## Article 13

If the place to be inspected belongs to an individual or a juridical person subject to private law, the inspectors and escort groups may enter only with the consent of the occupant.

## Article 14

If the occupant refuses and if there are reasonable grounds for believing that the place shelters activities prohibited by the Convention, the president of the tribunal in first instance, or a judge appointed by him, having before him the request of the Ministry of State and giving an urgent verdict, may by order authorise the visit, having first verified that the request conforms with the provisions of the Convention and the authorisation of the persons for whom access is requested.

## Article 15

The visit specified in the preceding Article shall take place in the presence of the proprietor or the occupant or the representative or by default an officer of the judicial police assigned at the request of the inspectors.

After the visit, a report shall be drawn up and signed by the inspectors. The original shall be addressed to the magistrate specified in the preceding Article, a copy sent to the person with the right to open access to the place, and a copy shall be kept by the inspectors.

## Article 16

The inspectors and the escort groups may, having regard solely to the needs of their mission, examine anything in the said place, reproduce by any means any information or document, take photographs, question any person present and remove for analysis samples of any substance there.

The analysis of samples may be done on site with the aid of materials supplied by the operator or in laboratories appointed by the OPCW.

## Article 17

Articles 9 to 15 shall operate without prejudice to the application of the provisions of the code of penal procedure regarding the investigation and prosecution of offences.

## Article 18

Any person, public or private, shall be bound to provide, under the conditions specified by ministerial order, such information as shall allow the State to respond to requests for information by the OPCW.

Collaboration between the principality of Monaco and the OPCW shall be facilitated by the National Authority.

## CHAPTER IV

### *Sanctions*

## Article 19

Any person who, on the territory of the principality of Monaco, shall be guilty of one or more of the acts specified in Articles 2, 3 and 4 shall be punished with deprivation of liberty for a period of from 10 to 20 years and a fine as provided for in No. 4 of Article 26 of the Penal Code, without prejudice to heavier penalties if these acts constitute other crimes also.

## Article 20

The same penalties shall be applied to any person who, on the territory of the Principality of Monaco, shall undertake preparations with a view to carrying out any of the acts specified in Articles 2, 3 and 4.

## Article 21

The same penalties shall be applied to any person who shall direct or organise, on the territory of the Principality of Monaco, a group the object of which is to carry out, any of the acts specified in Articles 2, 3 and 4.

## Article 22

Any person who omits to sign any of the declarations provided for in Article 6, or who knowingly signs a false declaration, shall be punished with imprisonment for a period of from 3 months to 1 year and a fine as provided for in No. 4 of Article 26 of the Penal Code.

## Article 23

The same penalties as provided for in the preceding Article shall be applied to any person who shall impede national or international verification as provided for in Article 9.

## Article 24

The penalties provided for in Articles 19 to 21 shall, depending on the circumstances, be applied to any person who, on the territory of the Principality of Monaco, encourage, assist or incite any person in any way whatsoever to undertake or carry out, in any place, any activity forbidden hereby.

#### Article 25

The penalties provided in the preceding Article shall be applied to any Monegasque who, living abroad, shall participate in acts prohibited hereby.

#### Article 26

In any case, the tribunal may additionally order the confiscation of any object which has served in, or given rise to, the offence and may order the destruction thereof.

It may also order the confiscation of any money or thing procured by the offence.

#### Article 27

Any person who refuses to give information as specified in Article 18 or who gives false information shall be punished with a fine as provided under No. 1 of Article 26 of the penal code.

#### Article 28

Our Secretary of State, our Director of Judicial Services, and our Minister of State are hereby charged, each within his own jurisdiction, with the execution of this edict.

Ministerial Order No. 2004-390, dated 20 July 2004 in application of the Sovereign Edict relating to the application of the United Nations Convention of 3 September 1992 on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction.

WE, Minister of State of the Principality,

In view of the terms of the Constitution, in particular Article 68 thereof;

In view of Sovereign Edict No. 15.760 dated 3 April 2003, applying the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, given at Geneva on 3 September 1992;

In view of the terms of Sovereign Edict No. 16.382 dated 20 July 2004, relating to the application of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, given at Geneva on 3 September 1992;

In view of the deliberations of the Council of Government, dated 30 June 2004;

**Hereby order:**

Article 1

The schedules 1, 2 and 3 mentioned herein are respectively schedules 1, 2 and 3 of the Annex on Chemicals to the CWC.

Article 2

The threshold specified in Article 4 of Sovereign Edict No. 16.382 dated 20 July 2004 in respect of Schedule 1 chemicals is hereby fixed at 10 kg per year per facility.

Article 3

The threshold specified in paragraph 1 of Article 6 of Sovereign Edict No. 16.382 dated 20 July 2004 for Schedule 1 chemicals is hereby fixed at 100 g per year per facility.

Article 4

The thresholds specified in paragraph 3 of Article 6 of Sovereign Edict No. 16.382 dated 20 July 2004 are hereby fixed at:

- a) 1 kg for chemicals followed by the sign “\*” in Part A of Table 2;
- b) 100 kg for any other chemical mentioned in Part A of Schedule 2;
- c) 1 tonne for chemicals specified in Part 2 of Schedule B.

The above thresholds are expressed by year and by facility.

## Article 5

The threshold specified in paragraph 5 of Article 6 of Sovereign Edict No. 16.382 dated 20 July 2004 in respect of Schedule 3 chemicals is fixed at 30 tonnes per year per facility.

## Article 6

The thresholds specified in paragraph 7 of the said Article 6 are hereby fixed at:

- a) 200 tonnes of DOCs not covered by Schedules 1, 2 and 3;
- b) 30 tonnes of a DOC not mentioned in Schedules 1, 2 and 3 and which contains phosphorus, sulphur or fluorine.

The above thresholds are expressed by year and by facility.

## Article 7

Any juridical or natural person operating a facility covered by paragraph 1 of the said Article 6 shall submit to the Minister of State before 1 February each year a declaration containing:

- a) particulars of the facility: company name and address;
- b) detailed technical description of the facility in the case of an initial declaration;
- c) the following information relating to the past calendar year for each Schedule 1 chemical:
  1. chemical name, formula and CAS registry number (if assigned);
  2. quantity produced, and, in the case of production for purposes of protection, methods employed;
  3. name and quantity of Schedule 1, 2 or 3 precursors used to produce the Schedule 1 chemical;
  4. quantity consumed in the facility and the purpose of such consumption;
  5. quantity imported from a State Party to the CWC;
  6. quantity transferred to other facilities on the territory of the Principality of Monaco as well as the identity of the consignee and the purpose of each transfer;
  7. maximum quantity stockpiled at any point in the year;
  8. quantity stockpiled at the end of the year;
- d) information on any changes made to a facility during the past calendar year by reference to the detailed technical descriptions of the facility previously submitted.

The same juridical or natural person shall also submit to the Minister of State before 1 August of each year a declaration containing:

- a) particulars of the facility: company name and address;
- b) the following information for every Schedule 1 chemical:
  - 1) chemical name, formula and CAS registry number (if assigned);

- 2) quantity which it is anticipated to produce during the coming calendar year, periods when production will take place and the purposes of the production;
- c) Information on all changes which it is envisaged will be made to the facility during the coming calendar year by a reference to the detailed technical descriptions of the facility previously submitted. Anticipated changes shall be notified by the National Authority to the Technical Secretariat of the OPCW. Such changes may be made only after 80 days have passed from the date of that notification.

The same obligation shall apply to any new installation specified in paragraph 1 of the said Article VI.

#### Article 8

Any juridical or natural person operating a facility covered by Article 1 of the said Article 6 who transfers a Schedule 1 chemical outside the principality of Monaco to a State Party to the CWC shall submit to the Minister of State at least 90 days before the date of the transfer a declaration which shall contain:

- a) particulars of the facility: company name and address;
- b) the following information for every Schedule 1 chemical:
  - 1) chemical name, formula and CAS registry number (if assigned);
  - 2) quantity which it is anticipated to transfer, the date of the transfer, designation of the consignee and the purpose of the transfer.

The same obligation shall apply to any juridical or natural person importing a Schedule 1 chemical from a State Party to the CWC.

The declarations relative to transfers of saxatoxin (Schedule 1 chemical) shall not be subject to the time limit of 90 days specified in the first paragraph of this Article if the quantities transferred are equal to, or less than, 5 mg, and if the transfers of this substance are being carried out for medical or diagnostic purposes. The National Authority shall however notify the transfer to the Secretariat of the OPCW before the transfer is affected.

#### Article 9

Any juridical or natural person operating an installation covered by paragraph 3 of said Article 6 shall submit to the Minister of State before 1 February of each year a declaration which shall contain:

- a) specification of the plant in which the facility is located: company name and address;
- b) a description of the principle activities of the plant;
- c) type of plant:
  1. plant which produces, processes or consumes the Schedule 2 chemical(s) which has/have been declared;

2. a plant which specifies in these activities or a multipurpose plant;
  3. a plant carrying out other activities in connection with the Schedule 2 chemical(s) which has/have been declared. The nature of these other activities shall be specified, notably stockpiling;
- d) the plant's production capacity for each Schedule 2 chemical declared;
- e) the following information for the past calendar year in respect of each Schedule 2 chemical declared:
1. chemical name, common or commercial name used in the facility, formula and CAS number (if attributed);
  2. in the case of an initial declaration, the total quantity produced, processed, consumed, imported and exported by the plant during each of the 3 preceding calendar years;
  3. in the case of an annual declaration of past activities: the total quantity produced, processed, consumed, imported and exported by the plant during the previous calendar years;
  4. purposes for which the chemical has been produced, processed or consumed:
    - on-site processing and consumption: the types of chemicals shall be specified;
    - sale or transfer on the territory of the principality of Monaco and identity of the acquirer or consignee;
    - direct export: various importing states shall be indicated;
    - other purposes: these must be specified.

The same juridical or natural person shall also submit to the Minister of State before 1 September of each year a declaration which shall contain:

- a) the identification of the plant in which the facility is located: company name and address;
- b) the following information for each Schedule 2 chemical declared:
  1. chemical name, common or commercial denomination used in the facility, chemical formula and CAS registry number (if assigned);
  2. total quantity which it is anticipated to produce, process or consume in the plant during the coming calendar year, including the anticipated periods of production, processing or consumption;
  3. purposes for which the chemical will be produced, processed or consumed:
    - on-site processing and consumption: the types of chemicals shall be specified;
    - sale or transfer on the territory of the principality of Monaco and identity of the acquirer or consignee;
    - direct export: the importing states must be indicated;
    - other purposes: these must be specified.

Any changes after the declaration of anticipated activities during the coming calendar year shall be declared to the Minister of State. The National Authority shall notify the Technical Secretariat of the OPCW, and the change may not be made until 5 days after that notification.

## Article 10

Any juridical or natural person operating a factory as described in paragraph 5 of the said Article 6 shall submit to the Minister of State, before 1 February each year a declaration which shall contain:

- a) identification of the plant in which the facility is located: company name and address;
- b) a description of the principle activities of the plant;
- c) the following information for each Schedule 3 chemical declared:
  1. chemical name, common or commercial name used in the facility, chemical formula and CAS registry number (if assigned);
  2. quantity of chemical produced, imported or exported during the past calendar year;
  3. purposes for which the chemical is produced imported or exported.

The same juridical or natural person shall also submit to the Minister of State before 1 September of each year a declaration which shall contain:

- a) identification of the plant in which the facility is located: company name and address;
- b) the following information for each Schedule 3 chemical declared:
  1. chemical name, commercial name used in the facility, chemical formula and CAS registry number (if assigned);
  2. total quantity anticipated to be produced in the plant during the coming calendar year;
  3. purposes for which the chemical will be used.

All changes after the declaration of anticipated activities during the coming calendar year shall be declared to the Minister of State. The National Authority shall notify the Technical Secretariat of the OPCW, and the change may not be made until 5 days after that notification.

## Article 11

Any juridical or natural person operating a facility as specified in paragraph 5 of the said Article 6 who transfers a Schedule 3 chemical outside the principality of Monaco to a state which is not a party to the CWC shall submit to the Minister of State, before the transfer takes place, a declaration containing:

- a) identification of the facility: company name and address;
- b) a certificate drawn up by the competent National Authority of the importing state in respect of the Schedule 3 chemicals which it has planned to transfer. This certificate shall specify:
  1. that the chemicals transferred shall not be used except for purposes not prohibited by the CWC;

2. that they shall not be the object of further transfers;
3. what the type and quantity of the chemicals transferred are;
4. what the final use(s) is/are;
5. what the name(s) and address(es) of the final user(s) is/are.

#### Article 12

Any juridical or natural person operating a factory as described in paragraph 7 of the said Article 6 shall submit to the Minister of State, before 1 February each year a declaration which shall contain:

- a) identification of the plant in which the facility is located: company name and address;
- b) a description of the principle activities of the plant;
- c) the nature and quantity of the DOCs containing phosphorous, sulphur or fluorine fabricated during the past calendar year;
- d) the nature and quantity of other DOCs produced during the past calendar year.

Plants producing only hydrocarbons or explosives shall not be liable to make this declaration.

#### Article 13

The Minister of State shall acknowledge receipt of declarations received under Articles 7 to 12 hereof.

#### Article 14

Information contained in the declaration specified in Article 13 shall be transmitted by the National Authority to the Technical Secretariat of the OPCW. Such transmission shall take place within the deadlines provided for by the CWC and by the Annexes thereto.

#### Article 15

Schedules 1, 2 and 3 of the Annex on Chemicals to the CWC are reproduced in the Annex hereto.

#### Article 16

The Councillor of Government for the Interior and the Councillor of Government for Public Works and Social Matters are charged, each within his sphere of activity, with the execution of this order.

Given at Monaco, the powers of Government, 20 July 2004

Signed  
P L'ECLERCQ  
Minister of State

## ANNEX

*To Ministerial Order No. 2004-390 dated 20 July 2004 applying the Sovereign Edict relating to the application of the United Nations Convention of 3 September 1992 on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction.*

The schedules hereunder list the chemicals and their precursors which are covered by this order.

Whenever mention is made of dialkylated chemicals, followed by a list of alkyl groups in parenthesis, all chemicals which may be derived by all possible combinations of alkyl groups listed in the parenthesis are considered as listed in the schedule, as long as they are not explicitly exempted. A chemical marked “\*” in Schedule 2 Part A is subject to special thresholds for declaration (see Article 4).