

AN ACT

To further amend Title 17 of the Palau National Code by enacting a new chapter, entitled "Prohibitions Against Chemical Weapons," in order to implement the provisions of the "Convention on the Prohibition of the Development, Production, Stockpiling, and Use of Chemical Weapons and on their Destruction."

THE PEOPLE OF PALAU REPRESENTED IN THE OLBIL ERA KELULAU DO ENACT AS FOLLOWS:

1           Section 1. Amendment. Title 17 of the Palau National Code is hereby further  
2 amended by enacting a new Chapter 40 as follows:

3                               SUBCHAPTER 1

4                               PRELIMINARY

5               §4001. Short Title. This Act may be cited as the Chemical Weapons  
6 Prohibition Act.

7               §4002. Findings and Purpose. The Olbil Era Kelulau finds and  
8 declares as follows:

9               (a) The purpose of this Act is to protect the people of the Republic of  
10 Palau and the environment of the Republic of Palau from chemical weapons, and  
11 to implement the Republic's obligations under the "Convention on the  
12 Prohibition of the Development, Production, Stockpiling, and Use of Chemical  
13 Weapons and on their Destruction."

14              (b) Every person exercising power or discretion conferred under this  
15 Act must have regard to the Republic's obligations under the Convention and the  
16 exercise of any power or discretion or the performance of any duty or function  
17 authorized by this Act must not be inconsistent with the Republic's obligations  
18 under the Convention.

19              §4003. Definitions. As used in this Chapter:

20              (a) "Chemical weapons" means the following, together or separately:

21                  (1) Toxic chemicals and their precursors, except where  
22 intended for purposes not prohibited under the Convention, as long as the  
23 types and quantities are consistent with such purposes;

24                  (2) Munitions and devices, specifically designed to cause death  
25 or other harm through the toxic properties of those toxic chemicals  
26 specified in subparagraph (1) hereof, which would be released as a result

1 of the employment of such munitions and devices; and

2 (3) Any equipment specifically designed for use directly in  
3 connection with the employment of munitions and devices specified in  
4 subparagraph (2) hereof.

5 (b) "Convention" means the Convention on the Prohibition of the  
6 Development, Production, Stockpiling, and Use of Chemical Weapons and on  
7 their Destruction, held in Paris on the 13<sup>th</sup> day of January 1993, and includes the  
8 Annexes to the Convention and the Annexes that are, or will become, binding on  
9 the Republic of Palau from time to time;

10 (c) "International Inspector" means an individual designated by the  
11 Technical Secretariat according to the procedures as set forth in Part II, Section  
12 A, of the Verification Annex to the Convention, to carry out an inspection or visit  
13 in accordance with the Convention, and includes any inspection assistant as  
14 defined in the Convention;

15 (d) "Key component of binary or multicomponent chemical systems"  
16 means the precursor which plays the most important role in determining the toxic  
17 properties of the final product and reacts rapidly with other chemicals in the  
18 binary or multicomponent system;

19 (e) "Minister" means the Minister of Justice;

20 (f) "Ministry" means the Ministry of Justice;

21 (g) "Organization" means the Organization for the Prohibition of  
22 Chemical Weapons established pursuant to Article VIII of the Convention.

23 (h) "Precursor" means any chemical reactant which takes part at any  
24 stage in the production by whatever method of a toxic chemical. This includes  
25 any key component of a binary or multi-component chemical system;

26 (i) "Purposes not prohibited under the Convention" means:

27 (1) Industrial, agricultural, research, medical, pharmaceutical  
28 or other peaceful purposes;

29 (2) Protective purposes directly related to protection against  
30 toxic chemicals and to protection against chemical weapons;

31 (3) Military purposes not connected with the use of chemical  
32 weapons and not dependent on the use of the toxic properties of chemicals

1 as a method of warfare; and

2 (4) Law enforcement, including domestic riot control purposes.

3 (j) "Republic" means the Republic of Palau and every part of the  
4 territory of Palau, including the marine space and the territorial sea and the  
5 airspace above the territory of Palau, and also includes all governments of Palau;

6 (k) "Riot control agent" means any chemical which can produce rapidly  
7 in humans sensory irritation or disabling physical effects which disappear within  
8 a short time following termination of exposure;

9 (l) "Toxic chemical" means any chemical which through its chemical  
10 action on life processes can cause death, temporary incapacitation or permanent  
11 harm to humans or animals, including the chemicals listed on Schedules 1, 2, and  
12 3 hereto;

13 (m) Terms and expressions used and not defined in this Act but defined  
14 in the Convention shall, unless the context otherwise requires, have the same  
15 meaning as in the Convention.

16 §4004. Application.

17 (a) This Act applies to all people within the territory or jurisdiction  
18 of the Republic, and to all of the Republic, Republic aircraft, and Republic ships  
19 or vessels.

20 (b) This Act also extends to all acts done or omitted to be done by a  
21 Palauan citizen or national outside of the Republic. This does not relieve the  
22 Palauan citizen or national from any liability to the foreign territory or  
23 jurisdiction, while outside the Republic.

24 SUBCHAPTER 2

25 OFFENSES

26 §4005. Chemical Weapons.

27 Every person commits an offense who intentionally or knowingly:

28 (a) develops, produces, otherwise acquires, stockpiles, or retains  
29 chemical weapons;

30 (b) transfers, directly or indirectly, chemical weapons to another person;

31 (c) uses chemical weapons;

32 (d) engages in any military preparations to use chemical weapons; or

1 (e) assists, encourages, or induces, in any way, any person to engage in  
2 any activity prohibited to the Republic under the Convention.

3 Upon conviction of such offense, the person shall be sentenced up to life  
4 imprisonment or a fine not exceeding \$1,000,000, or both.

5 **§4006. Forfeiture and Seizure.**

6 (a) If any chemical weapon is developed, produced, otherwise  
7 acquired, stockpiled, retained or transferred in contravention of this Act, the  
8 chemical weapon is forfeited to the Republic.

9 (b) Any law enforcement officer of the Republic may, with a warrant,  
10 or without a warrant in exigent circumstances, seize such chemical weapon that  
11 is forfeited or that he or she has reasonable grounds to believe to be forfeited to  
12 the Republic under subsection (a); and

13 (c) The chemical weapon seized shall be stored, until disposed of, at the  
14 discretion of the Minister.

15 **§4007. Riot control agents.**

16 Every person commits an offense who knowingly uses riot control agents  
17 as a method of warfare, and upon conviction thereof shall be sentenced up to life  
18 imprisonment or a fine not exceeding \$1,000,000, or both.

19 **§4008. Schedule 1 Toxic Chemicals.**

20 Every person commits an offense who intentionally or recklessly produces,  
21 acquires, retains, or uses any toxic chemical listed on schedule 1 without the  
22 consent of the Minister, and upon conviction thereof shall be sentenced to a term  
23 of imprisonment not exceeding five years, a fine not exceeding \$100,000, or both.

24 **§4009. Imports and Exports of toxic chemicals and precursors.**

25 (a) Except with the consent of the Minister, the importation into the  
26 Republic, and the exportation from the Republic, of any toxic chemicals or  
27 precursors listed in Schedules 1, 2, and 3 of the Annex on Chemicals is hereby  
28 prohibited.

29 (b) In determining whether or not to give consent, the Minister shall  
30 be guided by the restrictions on transfer set out in Parts VI to VIII of the  
31 Verification Annex to the Convention.  
32

1 (c) Every person commits an offense who intentionally or recklessly  
2 imports or exports any chemical or precursor in contravention of subsection (a)  
3 of this section, and upon conviction thereof shall be sentenced to a term of  
4 imprisonment not exceeding five years, a fine not exceeding \$100,000, or both.

5 SUBCHAPTER 3

6 INFORMATION AND DOCUMENTS

7 §4010. Purpose.

8 (a) The purpose of Subchapter 3 of this Act is to ensure:

9 (1) That toxic chemicals and their precursors are only  
10 developed, produced, otherwise acquired, retained, transferred, or used  
11 for purposes not prohibited under the Convention;

12 (2) That the Minister has knowledge of dealings with chemicals  
13 that facilitates the making of the Republic's periodic declarations under  
14 the Convention; and

15 (3) That the Republic is otherwise able to fulfill its obligations  
16 under the Convention and to the Organization.

17 (b) Any power under Subchapter 3 of this Act may be exercised only  
18 for that purpose.

19 §4011. Supply of information.

20 (a) Any person who produces, acquires, retains, transfers, or uses toxic  
21 chemicals or their precursors listed on schedules 1, 2, or 3 must:

22 (1) Advise the Minister of such chemicals and, as the case may  
23 be, the facility as soon as practicable after this section commences to apply  
24 to the chemicals or facility, by giving written notice in a form approved by  
25 the Minister, containing such information as is required by the form;

26 (2) Keep records in relation to the chemicals and the facility,  
27 and the purpose to which the chemicals are put;

28 (3) Prepare, from those records, periodic reports relating to the  
29 chemicals and the facility in a form approved by the Minister; and

30 (4) Send the periodic reports to the Minister at intervals  
31 specified by the Minister or by regulation.

32 (b) The records and reports required under this section must be

1 sufficient to satisfy the Minister that the Convention and the provisions of this  
2 Act and any regulations made under this Act are being complied with.

3 (c) Every person who refuses or fails to comply with this section  
4 commits an offense, and upon conviction thereof shall be sentenced to a term of  
5 imprisonment not exceeding one year or a fine not exceeding \$100,000, or both.

6 **§4012. Minister may seek information.**

7 (a) This section applies if the Minister considers that any person is  
8 capable of giving information that is relevant to the implementation of the  
9 Convention or the enforcement of this Act.

10 (b) The Minister may, by written notice given to a person, require the  
11 person to give the type of information described in subsection (a) hereof:

12 (1) If the person is a natural person, by writing signed by the  
13 person; or

14 (2) If the person is a corporation, by writing signed by an  
15 officer authorized to sign on behalf of the corporation, within such  
16 reasonable period and in such manner as is specified in the notice.

17 (c) The Minister may, by written notice given to a person, require the  
18 person to give to the Minister particular documents, or documents of a particular  
19 kind, specified in the notice, within such reasonable period as is specified in the  
20 notice.

21 (d) Every person who, without reasonable excuse, fails to comply with  
22 a notice under this section to the extent that the person is capable of complying  
23 with it commits an offense and upon conviction thereof shall be sentenced to  
24 imprisonment for a term not exceeding one year or a fine not exceeding \$100,000,  
25 or both.

26 (e) The power of the Minister under this section to require a person  
27 to give information or documents to the Minister is in addition to any obligation  
28 to give information or documents that the person may have under Section 4011  
29 of this Act.

30 **§ 4013. False or misleading statements or documents.**

31 Every person commits an offense who, in any document prepared  
32 pursuant to this Chapter, makes a statement or omits any matter knowing that,

1 or being reckless as to whether, the statement or omission makes the document  
2 false or misleading in a material particular, and upon conviction shall be  
3 sentenced to imprisonment for a term not exceeding one year or a fine not  
4 exceeding \$100,000, or both.

1 SUBCHAPTER 4

2 INSPECTIONS

3 § 4014. Purpose. The purpose of Subchapter 4 of this Act is to  
4 facilitate inspections under the Convention by:

5 (a) Confirming the right of international inspectors to inspect facilities  
6 and other places in the Republic in accordance with the Convention and any  
7 facility agreement;

8 (b) Enabling the Republic's law enforcement officers to secure access  
9 for any international inspector where consent cannot be obtained; and

10 (c) Enabling the Republic's law enforcement officers to accompany or  
11 assist any international inspector.

12 § 4015. Verification of toxic chemicals.

13 All toxic chemicals and their precursors listed in Schedules 1, 2, and 3, and  
14 facilities related to such chemicals are hereby declared to be subject to  
15 verification measures as provided in the Convention.

16 § 4016. Inspections.

17 An international inspector shall be permitted to enter any facility  
18 described in Section 4015 hereof and such inspector shall be permitted to inspect  
19 any such facility or place pursuant to the Convention and, in the case of any  
20 facility, an inspector shall be permitted to inspect any applicable facility  
21 agreement; and an international inspector shall be permitted to exercise, in  
22 connection with the inspection, any function contemplated and exercise any  
23 power provided for in the Convention.

24 § 4017. Persons who may accompany international inspectors.

25 In order to facilitate inspections, an international inspector may be  
26 accompanied by:

27 (a) An observer;

28 (b) Any person appointed by the Minister under Section 4018 of this

1 Act; and

2 (c) Any law enforcement officer.

3 § 4018. Appointment of officials of the Republic.

4 The Minister may appoint any person to accompany or assist any national  
5 or international inspector.

6 §4019. Search Warrants. In order to facilitate enforcement of this  
7 Act, any member of the Bureau of Public Safety, or other person appointed under  
8 Section 4018 of this Act, may apply for a search warrant where the consent of the  
9 person who is in control of any place cannot be obtained or as otherwise provided  
10 for by law.

11 §4020. Use of force.

12 If force is required to enter and inspect any place specified in a warrant  
13 (whether by breaking down a door or otherwise), or in breaking open anything  
14 in the place, a member of the Bureau of Public Safety, or other person appointed  
15 under Section 4018 of this Act, who accompanies an international inspector, may  
16 use such force as is reasonable in the circumstances.

17 §4021. Obligations of persons accompanying international inspectors.

18 Every member of the Bureau of Public Safety, or other person appointed  
19 under Section 4018 of this Act, who accompanies an international inspector on  
20 any inspection shall:

21 (a) carry his or her identification or badge; and

22 (b) produce the identification or badge to any person appearing to be in  
23 charge of the place entered:

24 (1) On entering the place, if such person appearing to be in  
25 charge is then present;

26 (2) At any reasonable time thereafter, if asked to do so by the  
27 person; or

28 (3) If there is no person appearing to be in charge of the place  
29 at any time between the time of entry and the time the inspection  
30 concerned has been completed, must, as soon as is practicable after  
31 completing the inspection, give an occupier or person in charge of the  
32 place a written notice stating that the place has been entered, and



1 specifying the time and date of entry, the circumstances and purpose of  
2 entry and the name of every person entering; and

3 (i) Must have any warrant with him or her and produce  
4 it if required to do so;

5 (ii) Where any thing is seized, must give an occupier or  
6 person in charge of the place a written inventory of all things so  
7 seized; and

8 (iii) Must report any offense or suspected offense to the  
9 Bureau of Public Safety as soon as practicable.

10 §4022. Obstruction of international inspectors.

11 (a) Every person commits an offense, and upon conviction shall be  
12 sentenced to imprisonment for a term not exceeding six (6) months or a fine not  
13 exceeding \$20,000, or both, who willfully obstructs, hinders, resists, or deceives  
14 any international inspector who is exercising in the Republic any function  
15 contemplated, or any power provided for, in this Act or through the Convention.

16 (b) Nothing in this section applies to a refusal to give consent to entry  
17 by an international inspector who is not acting pursuant to a search warrant.

18 SUBPART V

19 MISCELLANEOUS PROVISIONS

20 §4023. Confidentiality.

21 (a) Every person must keep confidential any information that is given  
22 pursuant to this Act or the Convention concerning the affairs of another person.

23 (b) Such information may be disclosed only with the consent of the  
24 person to whose affairs it relates or for the purpose of:

25 (1) Enabling the Republic to fulfill its obligations under the  
26 Convention;

27 (2) The enforcement of this Act; or

28 (3) Dealing with an emergency involving public safety.

29 (c) Every person who violates this section commits an offense, and  
30 upon conviction shall be sentenced to imprisonment for a term not exceeding six  
31 (6) months or a fine not exceeding \$20,000, or both.

32 §4024. Transfers to States not Party to the Convention.

1                   When transferring Schedule 3 chemicals to States not a Party to the  
2 Convention, the Republic shall require from the recipient State a certificate  
3 stating, in relation to the transferred chemicals:

4                   (a) That they will only be used for the purposes not prohibited under  
5 this Convention;

6                   (b) That they will not be re-transferred;

7                   (c) Their types and quantities;

8                   (d) Their end-use(s); and

9                   (e) The name(s) and address(es) of the end-user(s).

10                  §4025. Regulations. The Minister may from time to time make  
11 regulations:

12                  (a) Providing for any matter that is necessary or desirable for the  
13 purpose of implementing the Convention or any agreement that is concluded  
14 between the Republic and the Organization pursuant to the Convention; and

15                  (b) Providing for such other matters as are contemplated by or  
16 necessary for giving full effect to this Act and for its due administration.

17                  §4026. Designations. The Minister of State shall, by notice in writing,  
18 designate and constitute within the Ministry of State, a Chemical Weapons  
19 Convention Officer as the National Authority of the Republic to serve as the focal  
20 point for effective liaison with the Organization and with other State Parties to  
21 the Convention. The Attorney General shall be designated as the legal expert for  
22 the Republic with respect to the Organization.

23                  §4027. Schedule 1. The following substances are included in Schedule  
24 1:

25                  (a) Toxic chemicals:

26                   (1) O-Alkyl ( $\leq C_{10}$ , incl. cycloalkyl) alkyl

27                               (Me, Et, n-Pr or i-Pr)-phosphonofluoridates

28                               e.g. Sarin: O-Isopropyl methylphosphonofluoridate

29                               Soman;; O-Pinacolyl methylphosphonofluoridate

30                   (2) O-Alkyl ( $\leq C_{10}$ , incl. cycloalkyl) N,N-dialkyl

31                               (Me, Et, n-Pr or i-Pr)- phosphoramidocyanidates

32                               e.g. Tabun;; O-Ethyl N,N-dimethyl

- 1 phosphoramidocyanidate
- 2 (3) O-Alkyl (H or  $\leq$ C10, incl. cycloalkyl) S-2-dialkyl
- 3 (Me, Et, n-Pr or i-Pr)-aminoethyl alkyl
- 4 (Me, Et, n-Pr or i-Pr) phosphonothiolates and
- 5 corresponding alkylated or protonated salts
- 6 e.g. VX.; O-Ethyl S-2-diisopropylaminoethyl
- 7 methyl phosphonothiolate
- 8 (4) Sulfur mustards:
- 9 2-Chloroethylchloromethylsulfide
- 10 Mustard gas: Bis(2-chloroethyl)sulfide
- 11 Bis(2-chloroethylthio)methane
- 12 Sesquimustard: 1,2-Bis(2-chloroethylthio)ethane
- 13 1,3-Bis(2-chloroethylthio)-n-propane
- 14 1,4-Bis(2-chloroethylthio)-n-butane
- 15 1,5-Bis(2-chloroethylthio)-n-pentane
- 16 Bis(2-chloroethylthiomethyl)éther
- 17 O-Mustard: Bis(2-chloroethylthioethyl)ether
- 18 (5) Lewisites:
- 19 Lewisite 1: 2-Chlorovinylchloroarsine
- 20 Lewisite 2: Bis(2-chlorovinyl)chloroarsine
- 21 Lewisite 3: Tris(2-chlorovinyl)arsine
- 22 (6) Nitrogen mustards:
- 23 HN1: Bis(2-chloroethyl)ethylamine
- 24 HN2: Bis(2-chloroethyl)methylamine
- 25 HN3: Tris(2-chloroethyl)amine
- 26 (7) Saxitoxin
- 27 (8) Ricin
- 28 (b) Precursors:
- 29 (1) Alkyl (Me, Et, n-Pr or i-Pr) phosphonyldifluorides
- 30 e.g. DF: Methylphosphonyldifluoride
- 31 (2) O-Alkyl (H or  $\leq$ C10, incl. cycloalkyl) O-2-dialkyl
- 32 (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

(3) Chlorosarin: O-Isopropyl methylphosphonochloridate

(4) Chlorosoman: O-Pinacolyl methylphosphonochloridate

§4028. Schedule 2. The following substances are included in Schedule  
2:

(a) Toxic chemicals:

(1) Amiton: O,O-Diethyl S-[2-(diethylamino)ethyl]  
phosphorothiolate and corresponding alkylated or  
protonated salts

(2) PFIB: 1,1,3,3,3-Pentafluoro-2-(trifluoromethyl)-1-propene

(3) BZ: 3-Quinuclidinyl benzilate (\*)

(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

Dimethyl methylphosphonate

Exemption: Fonofos: O-Ethyl S-phenyl  
ethylphosphonothiolothionate

(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

(5) 2,2-Diphenyl-2-hydroxyacetic acid

(6) Quinuclidine-3-ol

(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

1 Exemptions: N,N-Dimethylaminoethanol and  
2 corresponding protonated salts; and

3 N,N-Diethylaminoethanol and corresponding protonated  
4 salts

5 (9) N,N-Dialkyl (Me, Et, n-Pr or i-Pr) aminoethane-2-thiols and  
6 corresponding protonated salts

7 (10) Thiodiglycol: Bis(2-hydroxyethyl)sulfide

8 (11) Pinacolyl alcohol: 3,3-Dimethylbutane-2-ol

9 §4029. Schedule 3. The following substances are included in Schedule  
10 3:

11 (a) Toxic chemicals:

12 (1) Phosgene: Carbonyl dichloride

13 (2) Cyanogen chloride

14 (3) Hydrogen cyanide

15 (4) Chloropicrin: Trichloronitromethane

16 (b) Precursors:

17 (1) Phosphorus oxychloride

18 (2) Phosphorus trichloride

19 (3) Phosphorus pentachloride

20 (4) Trimethyl phosphite

21 (5) Triethyl phosphite

22 (6) Dimethyl phosphite

23 (7) Diethyl phosphite

24 (8) Sulfur monochloride

25 (9) Sulfur dichloride

26 (10) Thionyl chloride

27 (11) Ethyldiethanolamine

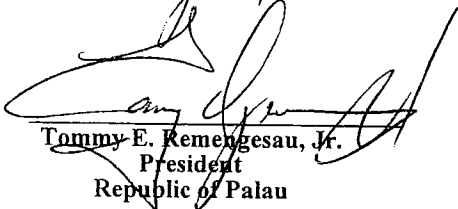
28 (12) Methyldiethanolamine

29 (13) Triethanolamine

30 Section 2. Effective Date. This Act shall take effect upon its approval by the  
31 President, or upon its becoming law without such approval, except as otherwise provided  
32 by law.

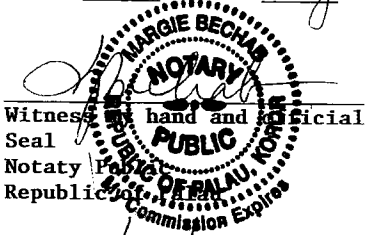
PASSED: July 22, 2005

Approved this 3<sup>rd</sup> day of August, 2005.

  
Tommy E. Remengesau, Jr.  
President  
Republic of Palau

I hereby certify that the foregoing is a true and correct copy of the original document, called "Chemical Weapons Prohibition Act", as enacted, which I personally have examined.

Sworn to this 10<sup>th</sup> day of Aug, 2005

  
MARGIE BECHAS  
NOTARY  
PUBLIC  
REPUBLIC OF PALAU  
Commission Expires

Witness my hand and official Seal  
Notary Public  
Republic of Palau  
1/05/2007  
My Commission Expires:

