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:

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

SUBCHAPTER 1
PRELIMINARY

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

§4002. Findings and Purpose. The Olbiil Era Kelulau finds and declares as follows:

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

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

§4003. Definitions. As used in this Chapter:

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

(1) Toxic chemicals 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;

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

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

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

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

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

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

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

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

(h) "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;

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

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

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

(3) 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

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

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

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

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

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

§4004. Application.

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

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

SUBCHAPTER 2
OFFENSES

§4005. Chemical Weapons.

Every person commits an offense who intentionally or knowingly:

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

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

(c) uses chemical weapons;

(d) engages in any military preparations to use chemical weapons; or
(e) assists, encourages, or induces, in any way, any person to engage in any activity prohibited to the Republic under the Convention.

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

§4006. **Forfeiture and Seizure.**

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

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

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

§4007. **Riot control agents.**

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

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

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

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

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

(b) In determining whether or not to give consent, the Minister shall be guided by the restrictions on transfer set out in Parts VI to VIII of the Verification Annex to the Convention.
(c) Every person commits an offense who intentionally or recklessly imports or exports any chemical or precursor in contravention of subsection (a) of this section, and upon conviction thereof shall be sentenced to a term of imprisonment not exceeding five years, a fine not exceeding $100,000, or both.

SUBCHAPTER 3
INFORMATION AND DOCUMENTS

§4010. Purpose.
(a) The purpose of Subchapter 3 of this Act is to ensure:
   (1) That toxic chemicals and their precursors are only developed, produced, otherwise acquired, retained, transferred, or used for purposes not prohibited under the Convention;
   (2) That the Minister has knowledge of dealings with chemicals that facilitates the making of the Republic's periodic declarations under the Convention; and
   (3) That the Republic is otherwise able to fulfill its obligations under the Convention and to the Organization.
(b) Any power under Subchapter 3 of this Act may be exercised only for that purpose.

§4011. Supply of information.
(a) Any person who produces, acquires, retains, transfers, or uses toxic chemicals or their precursors listed on schedules 1, 2, or 3 must:
   (1) Advise the Minister of such chemicals and, as the case may be, the facility as soon as practicable after this section commences to apply to the chemicals or facility, by giving written notice in a form approved by the Minister, containing such information as is required by the form;
   (2) Keep records in relation to the chemicals and the facility, and the purpose to which the chemicals are put;
   (3) Prepare, from those records, periodic reports relating to the chemicals and the facility in a form approved by the Minister; and
   (4) Send the periodic reports to the Minister at intervals specified by the Minister or by regulation.
(b) The records and reports required under this section must be
sufficient to satisfy the Minister that the Convention and the provisions of this Act and any regulations made under this Act are being complied with.

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

§ 4012. Minister may seek information.

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

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

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

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

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

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

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

§ 4013. False or misleading statements or documents.

Every person commits an offense who, in any document prepared pursuant to this Chapter, makes a statement or omits any matter knowing that,
or being reckless as to whether, the statement or omission makes the document
false or misleading in a material particular, and upon conviction shall be
sentenced to imprisonment for a term not exceeding one year or a fine not
exceeding $100,000, or both.

SUBCHAPTER 4
INSPECTIONS

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

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

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

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

§ 4015. Verification of toxic chemicals.
All toxic chemicals and their precursors listed in Schedules 1, 2, and 3, and
facilities related to such chemicals are hereby declared to be subject to
verification measures as provided in the Convention.

§ 4016. Inspections.
An international inspector shall be permitted to enter any facility
described in Section 4015 hereof and such inspector shall be permitted to inspect
any such facility or place pursuant to the Convention and, in the case of any
facility, an inspector shall be permitted to inspect any applicable facility
agreement; and an international inspector shall be permitted to exercise, in
connection with the inspection, any function contemplated and exercise any
power provided for in the Convention.

§ 4017. Persons who may accompany international inspectors.
In order to facilitate inspections, an international inspector may be
accompanied by:

(a) An observer;

(b) Any person appointed by the Minister under Section 4018 of this
Act; and

(c) Any law enforcement officer.

§ 4018. Appointment of officials of the Republic.

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

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

§ 4020. Use of force.

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

§ 4021. Obligations of persons accompanying international inspectors.

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

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

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

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

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

(3) If there is no person appearing to be in charge of the place at any time between the time of entry and the time the inspection concerned has been completed, must, as soon as is practicable after completing the inspection, give an occupier or person in charge of the place a written notice stating that the place has been entered, and
specifying the time and date of entry, the circumstances and purpose of entry and the name of every person entering; and

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

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

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

§4022. Obstruction of international inspectors.

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

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

SUBPART V

MISCELLANEOUS PROVISIONS

§4023. Confidentiality.

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

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

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

(2) The enforcement of this Act; or

(3) Dealing with an emergency involving public safety.

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

§4024. Transfers to States not Party to the Convention.
When transferring Schedule 3 chemicals to States not a Party to the Convention, the Republic shall require from the recipient State a certificate
stating, in relation to the transferred chemicals:

(a) That they will only be used for the purposes not prohibited under this Convention;
(b) That they will not be re-transferred;
(c) Their types and quantities;
(d) Their end-use(s); and
(e) The name(s) and address(es) of the end-user(s).

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

(a) Providing for any matter that is necessary or desirable for the purpose of implementing the Convention or any agreement that is concluded between the Republic and the Organization pursuant to the Convention; and
(b) Providing for such other matters as are contemplated by or necessary for giving full effect to this Act and for its due administration.

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

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

(a) Toxic chemicals:

(1) O-alkyl (≤C10, incl. cycloalkyl) alkyl
(Me, Et, n-Pr or i-Pr) phosphonofluoridates
  e.g. Sarin: O-Isopropyl methylphosphonofluoridate
  Soman:; O-Pinacolyl methylphosphonofluoridate
(2) O-Alkyl (≤C10, incl. cycloalkyl) N,N-diaryl
(Me, Et, n-Pr or i-Pr)- phosphoramidocyanidates
  e.g. Tabun; O-Ethyl N,N-dimethyl
(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

(4) Sulfur mustards:
2-Chloroethylchloromethylsulfide
Mustard gas: Bis(2-chloroethyl)sulfide
Bis(2-chloroethylthio)methane
Sesquimustard: 1,2-Bis(2-chloroethylthio)ethane
1,3-Bis(2-chloroethylthio)-n-propane
1,4-Bis(2-chloroethylthio)-n-butane
1,5-Bis(2-chloroethylthio)-n-pentane
Bis(2-chloroethylthiomethyl)ether
O-Mustard: Bis(2-chloroethylthioethyl)ether

(5) Lewisites:
Lewisite 1: 2-Chlorovinylidichloroarsine
Lewisite 2: Bis(2-chlorovinyl)chloroarsine
Lewisite 3: Tris(2-chlorovinyl)arsine

(6) Nitrogen mustards:
HN1: Bis(2-chloroethyl)ethylamine
HN2: Bis(2-chloroethyl)methylamine
HN3: Tris(2-chloroethyl)amine

(7) Saxitoxin

(8) Ricin

(b) Precursors:

(1) Alkyl (Me, Et, n-Pr or i-Pr) phosphonyldifluorides
e.g. DF: Methylphosphonyldifluoride

(2) O-Alkyl (H or ≤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
(3) Chlorosarin: O-Isopropyl methylphosphonochloridate
(4) Chlorosoman: O-Pinanoyl 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
Exemptions: N,N-Dimethylaminoethanol and corresponding protonated salts; and
N,N-Diethylaminoethanol and corresponding protonated salts
(9) N,N-Dialkyl (Me, Et, n-Pr or i-Pr) amineethane-2-thiols and corresponding protonated salts
(10) Thiodiglycol: Bis(2-hydroxyethyl)sulfide
(11) Pinacolyl alcohol: 3,3-Dimethylbutan-2-ol

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

(a) Toxic chemicals:
(1) Phosgene: Carbonyl dichloride
(2) Cyanogen chloride
(3) Hydrogen cyanide
(4) Chloropicrin: Trichloronitromethane

(b) Precursors:
(1) Phosphorus oxychloride
(2) Phosphorus trichloride
(3) Phosphorus pentachloride
(4) Trimethyl phosphite
(5) Triethyl phosphite
(6) Dimethyl phosphite
(7) Diethyl phosphite
(8) Sulfur monochloride
(9) Sulfur dichloride
(10) Thionyl chloride
(11) Ethyldiethanolamine
(12) Methyl diethanolamine
(13) Triethanolamine

Section 2. Effective Date. This Act shall take effect upon its approval by the President, or upon its becoming law without such approval, except as otherwise provided by law.
PASSED: July 22, 2005

Approved this 3rd 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 10th day of Aug, 2005

[Stamp: Notary Public]

Witness: [Signature]

My Commission Expires: 10/31/2007