

PARLIAMENT OF ROMANIA
THE CHAMBER OF DEPUTIES
THE SENATE

ACT

TO IMPLEMENT THE PROVISIONS OF THE CONVENTION ON THE PROHIBITIONS OF THE DEVELOPMENT, PRODUCTION, STOCKPILING AND USE OF CHEMICAL WEAPONS AND ON THEIR DESTRUCTION

The Parliament of Romania adopts this Act:

CHAPTER 1

General provisions

Art. 1.- Within the meaning of this Act:

1. *Chemical Weapons* means the following, together or separately:
 - a) toxic chemicals and their precursors, except where intended for purposes not prohibited by the Convention on the prohibition of the development, production, stockpiling and use of the chemical weapons and on their destruction, hereinafter referred to as *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;
 - c) any equipment specifically designed for use directly in connection with the employment of the munitions and devices specified in subparagraph b).
2. *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, regardless its origin or of its method of production and regardless of whether it is produced in facilities, in binary munitions or elsewhere.
3. *Precursor* means any chemical reactant which takes part at any stage in production by whatever method, of a toxic chemical, including any key component of a binary or multicomponent chemical system.
4. *Old chemical weapons* means one of the categories below:
 - a) chemical weapons which were produced before 1925;
 - b) chemical weapons produced in the period between 1925 and 1946 that have deteriorated to such extent that they can no longer be used as chemical weapons.

5. *Abandoned chemical weapons* are chemical weapons, including old chemical weapons, abandoned by a State on the territory of another State, without the consent of the latter, after 1 January 1925.

6. *Riot control agent* means any chemical not listed in the Annex I of this Act including Scheduled chemicals and their precursors, which can produce rapidly in humans sensory irritation or disabling physical effects which disappear within a short time following termination of exposure.

7. *Purposes not prohibited* under this *Convention* are:

- a) industrial, agricultural, research, medical, pharmaceutical or other peaceful purposes;
- b) protective purposes, namely those purposes directly related to protection against toxic chemicals and 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;
- d) law enforcement including domestic riot control purposes.

Art. 2.- (1) The toxic chemicals and precursors for which the control regime is established are those listed in Schedules 1, 2 and 3, of Annex I to this Act (hereinafter referred to as *Schedules*).

(2) Other definitions of the technical terms included in this Act are contained in the Annex 2 to this Act.

Art. 3.- (1) It is prohibited for any person, under any circumstance:

- a) to develop, produce, acquire, retain or transfer chemical weapons, directly or indirectly, to other persons;
- b) to use chemical weapons;
- c) to engage, in any way, military preparations to use chemical weapons;
- d) to assist, encourage or induce, in any way, other persons to engage in an activity prohibited under this Act;
- e) to use riot control agents as a method of warfare;

(2) Person means any natural or legal person on the territory of Romania including public authorities.

(3) The provisions of paragraph (1) are applied also to natural Romanian persons, outside the national territory, in accordance with international law.

Art. 4.- (1) The National Agency for the Control of Strategic Exports and of the Prohibition of Chemical Weapons, hereinafter referred to as *Agency*, is the specialised authority of the Government of Romania, which oversees and co-ordinates through the Chemical Weapons Prohibition Control Directorate, all the activities related to implementation of the provisions of the Convention and of this Act.

(2) The Agency provides the control of the production, use, import and export of toxic chemicals and their precursors, so that these activities to be carried out in accordance with the provisions of this Act.

(3) The Agency is the National Authority for the implementation of the provisions of the Convention and of this Act and ensures accordingly, the relations with the Organisation for the Prohibitions of Chemical Weapons located in the Hague (The Netherlands), hereinafter referred to as *Organisation* as well as with similar National Authorities from other countries.

(4) The structure, duties and the endowment of the Agency for the purpose of fulfilling its obligations established by this Act, are settled by Government Decision.

(5) In order to fulfil the functions referred to in paragraph (1)-(3), the Agency has the following duties:

- a) authorises Schedule 1 chemical production facilities and / or laboratories for purposes not prohibited and verifies, systematically through on-site inspections the chemicals and the above mentioned facilities and / or laboratories;
- b) elaborates and submits to the Organisation the national declarations, initial and annual, on Schedule 1 chemicals and the production facilities related to such chemicals, for purposes not prohibited;
- c) verifies systematically compliance with Schedule 2 and Schedule 3 regimes and the production facilities related to these chemicals, on the basis of data provided by the owners of the facilities and through on-site inspections;
- d) elaborates and submits to the Organisation national declarations, initial and annual, on Schedule 2 and Schedule 3 chemicals, as well as on the plant sites which produce, process, consume, import or export such chemicals;
- e) issues the permits required for obtaining import and export licenses for Scheduled chemicals and notifies the Organisation of the transfers of Schedule I chemicals, not less than 30 days prior to the transfers;
- f) issues the end-user certificates for the imports of Scheduled chemicals;
- g) verifies on the basis of data and through on-site inspections the plant sites that produce by synthesis unscheduled discrete organic chemicals; elaborates and submits to the Organisation national declarations, initial and annual, related to such plant sites;
- h) collects from the owners of the objectives referred to in subparagraph a), C) and g), the necessary data for drafting the national declarations and organises the national data base;
- i) submits to the Organisation, not later than 30 days after the Convention enters into force, the declaration regarding riot control agents;
- j) ensures, together with other public authorities involved, the conditions needed for carrying out international verification, in accordance with the provisions of the Convention;
- k) co-operates with the Organisation and national authorities of other states for an efficient implementation of the provisions of the Convention;
- l) informs every six months the Government of Romania on the compliance with the provisions of the Convention and this Act.

CHAPTER II

Declarations

Art. 5. -(1) The Ministry of Foreign Affairs, the Ministry of Defence, and the Ministry of Industry and Trade draft, together with the Agency, prior the Convention entries into force and submit for approval of the Government, an official declaration, in which Romania declares whether:

- a) it owns or possesses chemical weapons;
- b) it retains chemical weapons or related production facilities owned by another State on its national territory;
- c) it has transferred or received, directly or indirectly, chemical weapons since 1 January 1946;
- d) it has old or abandoned chemical weapons on its national territory or whether it has abandoned chemical weapons on the territory of other States;
- e) it has or has had any chemical weapons production facilities under its ownership or possession since 1 January 1946;

f) it has transferred or received, directly or indirectly, equipment for the production of chemical weapons since 1 January 1946;

(2) The official declaration referred to in paragraph (1) has to specify the location, the nature and the purpose of the activities of any facilities or objectives, including laboratories and testing sites located on the territory of Romania or owned or possessed by Romania, that has been designed, constructed or used since 1 January 1946, primarily for development of chemical weapons.

(3) The provisions of this Article do not apply to chemical weapons buried on Romanian territory before 1 January 1977, if they remain buried.

(4) The official declaration referred to in paragraph (1) is submitted to the Organisation by the Ministry of Foreign Affairs, not later than 30 days after the Convention enters into force.

Art. 6.- (1) The ministries and other public authorities that possess riot control agents have the obligation to transmit to the Agency before the Convention enters into force, declarations referring to each chemical of this category.

(2) Any change related to the initial declaration, referred to in paragraph (1), is notified to the Agency, not less than 60 days before the change becomes effective.

Art. 7.- (1) The person which possesses the single small - scale facility for Schedule I chemicals production, established in accordance with the provisions of art. 16, as well as the persons which possess Schedule I chemicals and I or related facilities for research, medical, pharmaceutical or protective purposes authorised pursuant to art.17 or art. 18 are obliged to submit to the Agency, before the Convention enters into force, declarations regarding Scheduled chemicals, the name, the location and detailed technical description of the facilities or their relevant parts. The declaration referring to the single small - scale facility has to include an inventory of equipment and detailed diagrams also.

(2) With respect to new facilities which are in compliance with the provisions of paragraph (1) or in case of any changes to the existing ones, the declarations are submitted not less than 210 days before starting the operations or the changes take place.

(3) The persons which possess the facilities referred to in paragraph (1) are obliged to submit yearly to the Agency:

a) detailed annual declarations regarding the activities carried out within the previous calendar year;

b) detailed annual declarations regarding projected activities for the following calendar year.

(4) The persons which are developing programmes for protective purposes, as these are defined in art. 1, paragraph (7), subparagraph b), are obliged to submit to the Agency, yearly, not later than 1 October, information regarding the programmes for the coming year.

Art. 8.- (1) The persons which are importing or exporting Schedule I chemicals, in accordance with the provisions of Chapter IV of this Act, are obliged to notify to the Agency, not less than 60 days before the operation takes place.

(2) The persons referred to in paragraph (1) are obliged to submit, yearly, to the Agency, under the conditions pursuant to art. 13, paragraph (1), subparagraph b) a detailed declaration regarding the operations carried out within the previous year. The declaration has to include quantitative specifications and to specify the end use for each chemical and for each country involved.

Art. 9. - (1) The persons which possess plant sites, comprising one or more facilities that produced, processed or consumed during any of the three previous calendar years or is anticipated to produce, process or consume in the next calendar year Schedule 2 chemicals, have the obligation to submit to the Agency:

a) initial declarations;

- b) annual declarations regarding the activities carried out within the previous calendar year;
 - c) annual declarations regarding projected activities for the following calendar year.
- (2) The quantitative thresholds, for initial and annual declarations regarding Schedule 2 chemicals, are:
- 0,5 kg for BZ (current number 3);
 - 50 kg for amiton (current number 1) and PF1B (current number 2);
 - 500 kg for precursors (current number 4-14).

(3) Initial and annual declarations are submitted, pursuant to art. 13, paragraph (1), subparagraph a) and b) also by the persons which have imported or exported Schedule 2 chemicals. The declarations have to include quantitative specifications and to mention the end use for each chemical and for each country involved.

(4) Initial declaration are submitted, pursuant to art. 13, paragraph (1), subparagraph a) also by the persons which possess or possessed any facility which has produced since 1 January 1946 Schedule 2 chemicals for chemical weapons purposes.

Art. 10- (1) The owners of the plant sites, comprising one or more facilities that produced within the previous calendar year, or are anticipated to produce within the following calendar year more than 20 tonnes of a Schedule 3 chemical, are obliged to submit to the Agency:

- a) initial declarations;
 - b) annual declarations regarding the activities carried out within the previous calendar year;
 - c) annual declarations regarding projected activities for the following calendar year.
- (2) Initial and annual declarations are submitted, pursuant to art. 13, paragraph (1), subparagraph a) and b) also by the persons which have imported or exported Schedule 3 chemicals. The declarations have to include quantitative specifications and to mention the end use for each chemical and for each country involved.
- (3) Initial declarations are submitted, pursuant to art. 13, paragraph (1), subparagraph a) also by the persons which possess or possessed any facility which has produced since 1 January 1946 Schedule 3 chemicals for chemical weapons purposes.

Art. 11. - The persons which possess plant sites which produced by synthesis, during the previous year, more than 200 tonnes of unscheduled discrete organic chemical, except those plant sites that exclusively produce explosives or hydrocarbons, are obliged to submit to the Agency:

- a) initial declarations;
- b) annual declarations regarding the activities carried out within the previous calendar year.

Art. 12. - The persons which possess plant sites, comprising one or more facilities which produced by synthesis during the previous year more than 30 tonnes of unscheduled discrete organic chemical containing the elements phosphor, sulphur or fluorine are obliged to submit to the Agency:

- a) initial declarations;
- b) annual declarations regarding the activities carried out within the previous calendar year.

Art. 13.- (1) The declarations referred to in art. 7-12 are submitted to the Agency observing the following deadline:

- a) the initial declarations, before the Convention enters into force;
 - b) the annual declarations regarding the activities carried out within the previous calendar year, not later than 1 March;
 - c) the annual declarations regarding projected activities for the following calendar year, not later than 1 September;
 - d) the additionally planned activities after the annual declarations have been submitted, pursuant to art. 9, paragraph (1), subparagraph c) and art. 10, paragraph (1), subparagraph c), are notified to The Agency before these activities are to begin, not less, than 25 days.
- (2) Annual declarations referred to in paragraph (1), subparagraphs b) and c), are submitted to the Agency starting with the year 1998.

CHAPTER III

Activities not prohibited under this Act

Art. 14. - Development, production, acquisition, possession, transfer and use of the toxic chemicals and of their precursors are permitted only for purposes not prohibited as they are defined in art. 1, paragraph (7) and only in accordance with the provisions of this Act.

Art. 15.- (1) Schedule I chemicals can not be produced, acquired, possessed, transferred or used unless:

- a) the chemicals are used for research, medical, pharmaceutical or protective purposes;
- b) the types and quantities of such chemicals are strictly limited to those which can be justified for such purposes;
- c) the aggregate amount of Schedule 1 chemicals, existing on the national territory, at any given time, for such purposes does not exceed 1 tonne;
- d) the aggregate amount, produced or acquired by transfer for such purposes, on the national territory during calendar year, does not exceed 1 tonne.

(2) The persons which, under the conditions referred to in art. 16-18 and 22, produce, possess or acquire Schedule I chemicals are required:

- a) to elaborate and to submit for approval to the Agency specific regulations regarding the evidence of the operations carried out with such chemicals and their safety custody;
- b) to ensure the compliance with specific regulations referred to in subparagraph a) in order to exclude any possibilities of diversion or use of Schedule I chemicals for prohibited purposes.

(3) The Agency observes and takes the necessary measures for respecting the global quantities referred to in paragraph (1), subparagraphs C) and d).

Art. 16. - (1) Schedule I chemicals produced for research, medical, pharmaceutical or protective purposes, may be carried out in a single small-scale facility, authorised by the Agency.

(2) The single small - scale facility, as referred to in paragraph (1) has to include reaction vessels in production lines not configured for continuous operation. The volume of such a reaction vessel can not exceed 100 litres and the total volume of all reaction vessels with a volume exceeding 5 litres can not exceed 500 litres.

Art. 17.- Production of Schedule I chemicals for protective purposes in aggregate quantities not exceeding 10 kg per calendar year may be carried out at one facility authorised by the Agency outside the single small-scale facility as referred to art. 16.

Art. 18. - Production of Schedule 1 chemicals may be carried out for research, medical or pharmaceutical purpose outside a single small-scale facility, as referred to paragraph (16), in aggregate quantities not exceeding 10 kg per calendar year and per facility only in facilities and/or laboratories authorised by the Agency.

Art. 19. - (1) Production, processing and consumption of Schedule 2 chemicals and Schedule 3 chemicals may be carried out only for purposes not prohibited as they are defined in art. 1 paragraph (7).

The activities as referred to in paragraph (1), the plant sites that produce, process and consume Schedule 2 chemicals, as well as the plant sites that produce Schedule 3 chemicals are subject to the control of the Agency and international verifications in accordance with the provision of this act.

CHAPTER IV

Import and export operations

Art. 20. - (1) Scheduled chemicals are considered as strategic products, the import and export of this products being subject to a control regime and authorisation on the basis of licenses.

Within the terms of this act, exports and imports include any non-commercial procurement or transfer of such chemicals to or from outside the national territory.

Art. 21. - (1) The issuance of license applications required for the import or export of Scheduled chemicals is conditioned by an import/export authorisation issued by the Agency, presented by the requesting party.

The export authorisation for Schedule 1 chemicals as well as in cases mentioned in art. 23 for Schedule 2 and Schedule 3 chemicals, is also conditioned by the end-user certificate issued by the National Authority designated for this purpose, in the recipient State.

The end-user certificate has to mention, in relation to chemicals subject to export:

That they will only be used for purposes not prohibited under the Convention;

that they will not be re-exported;

their types and quantities;

their end-use;

the name and address of the end-user.

Art. 22. - (1) Import and export operations with Schedule 1 chemicals may be carried out only with States Parties to the Convention and only for research, medical, pharmaceutical or protective purposes.

Chemicals imported in accordance with paragraph (1) can not be re-exported to a third State.

Art. 23. - (1) Import and export operations with Schedule 2 chemicals may be carried out only with States Parties to the Convention. This restriction is applied starting with 29 April 2000.

Schedule 2 chemicals may be exported also to States not Parties to the Convention, in accordance with the provisions of art. 21, only until 28 April 2000.

Schedule 3 chemicals may be exported to States not Parties to the Convention, in accordance with provisions of art. 21.

CHAPTER V

Control system

Art. 24. - The Agency ensures compliance with the provisions of this Act through monitoring the production, processing, and import-export data for Scheduled chemicals, as well as through inspections to the facilities and related objectives.

Art. 25. - (1) In order to exercise its control prerogatives, Agency sets up a Control Body comprising its own specialists and other contracted experts authorised by it.

The Control Body of the Agency has unrestricted access to the objectives, facilities, documents and information necessary to fulfil its control duties, regardless of the owners.

To carry out the chemical analysis necessary for inspection activities, the Agency designates properly equipped chemical laboratories.

During the participation in control activities, the authorised contracted experts have the right to be reimbursed for delegation expenditures and to get an allowance corresponding to the governmental expert position.

The expenditures referred to in paragraph (4) as well as all the pending expenditures necessary to perform, in laboratories designated by the Agency, chemicals analyses needed for the inspection activities are provided from the budgetary credits approved for the General Secretariat of the Romanian Government.

Art. 26. - (1) In the case of carrying out control activities through on-site inspection the inspected persons are subject to the following obligations:

to present to the inspection team the necessary data needed for the inspection, referring to plant site or facility characteristics, the activities carried out, safety, administrative and logistic measures;

to carry out, upon request, to the inspectors disposal documents relevant for inspection purpose;

to provide, upon request, to the inspectors disposal documents relevant for the inspection purpose;

d) to allow the inspectors to request information from the plant site or facility personnel, necessary information for establishing relevant facts in regard to the inspection goal, having the right to object to the questions not relevant to this objective;

e) to provide the protective equipment needed for inspection or to allow the use of the equipment brought in by the inspection team, if appropriate to the specific of the facility;

f) to ensure the installation and functioning of the instruments and systems used for continuous monitoring either provided by them or brought in by the inspection team;

- g) to allow, upon the inspectors request, to take photos and / or video recordings either by their own representatives or by the representatives of the Agency, of some relevant parts of the facility, according to the legal regulations regarding the measures for handling of confidential records;
- h) to ensure, upon request and in the presence of inspectors, collection and analysis of samples if they have appropriate conditions; keep portions of collected samples and allow the transfer of the samples for chemical analysis at laboratories designated by the Agency or by the Organisation;
- i) to participate in the presentation, by the inspection team, of the preliminary findings of the inspection, contribute to the clarification of the possible ambiguities and request to the inspection team to provide, in writing, the preliminary findings, the list of the taken samples and the retained documents.

Art. 27.- (1) Schedule 1 chemical production facilities are subject to verifications through on-site inspections and monitoring with on-site instruments.

(2) The verification activities at the single small-scale facility verify whether:

- a) the declarations regarding the quantities of Scheduled chemicals produced are correct and if is not exceed the quantity specified in the authorisation issued by the Agency, in accordance with art. 16, paragraph (1);
- b) the limits of reaction vessels are consistent with those set forth in art. 16, paragraph (2).

(3) The verification activities at the Scheduled chemicals production facilities, as they are referred to in art. 17 and 18, verify whether:

- a) the facility is used for producing other Schedule 1 chemicals, except for those declared;
- b) the quantities of Scheduled chemicals produced, processed or consumed were correctly declared and are consistent with the declared purposes, mentioned in the authorisation issued by the Agency;
- c) the Scheduled chemicals are diverted or used for other purposes.

Within the verifications carried out by the Control Body of the Agency, the compliance with the provisions of art. 15, paragraph (2) is also verified.

Art. 28. - (1) The plant sites which produce, process or consume Schedule 2 chemicals and have sent declarations in accordance with art. 9, paragraphs (1) and (2) are subject to verifications through on-site inspections.

(2) The main aims of the inspections carried out pursuant to paragraph (1) are to verify:

- a) the absence of any Schedule I chemical, especially production of such chemicals non-complying with the provisions of art. 15-18;
- b) the consistency of the declarations submitted pursuant to art. 9, paragraphs (1) and (2), with the real production, process and consume levels of the Schedule 2 chemicals;
- c) the presence of the diversion cases of Schedule 2 chemicals for prohibited purposes.

Art. 29. - (1) The plant sites which produce Schedule 3 chemicals and have sent declarations in accordance with art. 10, paragraph (1) are subject to the verification through on-sites inspections.

(2) The verification inspections performed pursuant to paragraph (1) verify:

- a) the consistency of the activities at these plant sites with the declarations submitted pursuant to art. 10;
- b) the absence of any Schedule I chemical, especially the production of such chemicals non-complying with the provisions of art. 15-18.

Art.30.-(1) The plant sites declared in accordance with the provisions of art. 11 and art. 12, may be subject to the verification through on site inspections.

(2) The inspections carried out pursuant to paragraph (1) verify:

a) the consistency of the activities at the plant sites with the declarations submitted in accordance with the provision of art. 11 and 12;

b) the absence of any Schedule 1 chemical, especially the production of such chemicals non-complying with the provisions of art. 15-18.

Art. 30. - (1) The plant sites declared in accordance with the provisions of art. 11 and art. 12, may be subject to the verification through on site inspections.

The inspection carried out pursuant to paragraph (1) verify:

the consistency of the activities at the plant sites with the declarations submitted in accordance with the provision of art. 11 and 12;

the absence of any scheduled 1 chemical especially the productions of such chemicals no complying with the provisions of art. 15-18.

Art. 31.- During the on sites inspections the Control Body of the Agency may takes photos and video recordings of the relevant facts, ensuring the compliance with the legal provisions regarding their handling, in accordance with their confidential nature.

Art. 32. - (1) Public authorities designated according to the law to carry out investigation activities in order to prevent and to combat criminal acts are obliged to submit to the Agency the data obtained, regarding the breaches of the provisions of this Act.

(2) Ministry of Finance, upon request of the Agency, carry out specific verifications and informs the Agency on their results.

CHAPTER VI

International verifications

Art. 33.- (1) In order to verify the compliance with the provisions of the Convention, the Organisation carries out initial, routine and challenge inspections using inspection teams composed of inspectors and inspection assistants, assigned by it.

(2) The inspection team of the Organisation are accompanied by an escort team, during the inspection on the territory of Romania, set up in accordance with the provisions of art. 38, subparagraph e).

(3) The provisions of art. 27 - 31 are applied also to the international inspections, in an appropriate manner.

Art. 34.- In order to exercise their official duties effectively, inspectors and inspection assistants accepted pursuant to art. 40, subparagraph b), enjoy the privileges and immunities referred to in Annex 3 to this Act.

Art. 35.- (1) The objectives for which declarations have been submitted pursuant to art. 7 and art. 9 - 12, may be verified by the Organisation through initial and routine inspections.

(2) Within the initial inspection the Agency, together with representatives of the Scheduled chemical producing facilities, negotiates with the inspection team of the Organisation, facility agreements which establish detailed inspection procedures applicable to the future inspections at the mentioned facilities.

Art. 36.- (1) The Organisation may carry out, upon request of another State Party to the Convention, a challenge inspection notified to the Agency not less than 12 hours before the planned arrival of the international inspection team at the point of entry. The inspection team may be accompanied by an observer designated by the requesting State.

(2) For the purpose of clarifying and removing all concerns about possible non-compliance with the provisions of the Convention, the inspection team designated pursuant to paragraph (1), has access at any facility or site as well as at any place on the national territory, specified in the inspection mandate as relevant for the inspection purpose.

(3) The Agency and inspected persons have the right and responsibility to undertake all efforts to facilitate to the inspection team to fulfil its mandate and to clarify all the aspects regarding the compliance with the Convention.

(4) The inspected persons are obliged to take measures to protect the facilities, confidential data and information, not related to the inspection purpose.

Art. 37.- The persons inspected by the inspection team of the Organisation have in addition to those referred to in art. 26, the following obligations:

a) to provide the amenities necessary for the inspection team: local transportation, communication with the Organisation, interpretation, working space, accommodation, meals, medical care and other services, demanding for payment;

b) to ensure the prevention of disclosure of the confidential information or data not related to the inspection objective;

c) to ensure maps, layouts or schemes drawn to scale showing relevant objectives of the final perimeter;

d) to allow the application of vehicular traffic monitoring procedures by the inspection team both through using video recordings and sensors and by the inspection and keeping traffic logs on the vehicular traffic out of the perimeter.

Art. 38.- In order to implement the provisions of the Convention referring to the conducting of international inspections, the Agency takes the following measures:

a) establishes, together with the Ministry of Home Affairs - General Directorate for Frontier Police, Foreigners, Immigration issues and Passports and with the Ministry of Finance - Directorate General of Customs, the points of entry / exit in / out of the country of the inspection team and transmit their location to the Organisation not later than 30 days after entry into force of the Convention;

b) transmits in due time to the Ministry of Finance- Directorate General of Customs, the list of the equipment approved by the Organisation as well as any updating of this list. Whenever an inspection takes place, also communicates the list of the samples taken by the inspection team for which the transfer is permitted, pursuant to art. 26, subparagraph h);

c) transmits to the Ministry of Transport-Department of Civil Aviation, the data necessary for issuing the standing diplomatic clearance number for non-scheduled aircraft, owned or chartered by the Organisation;

d) transmits to the Ministry of Transport-Department of Civil Aviation, not less than 5 hours before the scheduled departure time from the last airfield prior to entering the airspace of Romania, the necessary data for approval of the plan flight for non-scheduled aircraft, owned or chartered by the Organisation;

e) sets up the escort team consisting of members of the Control Body, representatives of inspected site and of the competent public authorities.

Art. 39.- The escort - team ensures, during the inspection, that the inspected person is in compliance with the obligations and exercising the rights stipulated by the provisions of the Convention. To this purpose:

a) inspects, at the point of entry, the equipment and the instruments brought in by the inspection team and accepts or rejects them on the basis of the list issued by the Organisation and of the documents attached;

b) provides transportation of inspection team to the inspected objective within 12 hours after the arrival at the point of entry; in case of challenge inspections, when the final perimeter is negotiated, the inspected site has to be reached not later than 36 hours;

c) negotiates with the inspection team the detailed conditions for conduct of the inspection;

d) participates in verification activities carried out by the inspection team, observes strict compliance with its mandate, issued by the Organisation, and observes that the inspection team disturb to the least possible the activities at the facility or inspected perimeter;

e) verifies, after concluding the inspection, the equipment and instruments as well as the samples removed from the country by the inspection team and participates in fulfilling the required custom formalities for these.

Art. 40.- In order to implement the provisions of the Convention related to organising and carrying out international inspections by the Organisation, the Ministry of Foreign Affairs has the following obligations:

a) confirms immediately to the Organisation the receipt of list of the inspectors and inspection assistants;

b) transmits to the Organisation, not later than 30 days after the confirmation date referred to in subparagraph a), the list of the accepted inspectors and inspection assistants;

c) takes the necessary measures to provide, through the diplomatic missions and consular offices of Romania, not later than 30 days after the confirmation date referred to in subparagraph a), the multiple entry / exit and / or transit visas, valid at least 2 years, enabling each accepted inspector or inspection assistant to fulfil its mandate.

Art. 41.- Ministry of Finance:

a) ensures the bringing of the equipment, instruments and samples transported by the inspection team, as well as articles of personal use, with the exception of articles the import or export of which is prohibited by law or controlled by quarantine regulations, without payment of any customs duties under the condition of their remove out the country, when the inspection is complete. The custom formalities for the equipment, instruments and samples are carried out in the same time with their inspection by the escort team, in a place agreed both by the Agency and Directorate General of Customs;

informs in due time the Agency on the transit operations of the Scheduled chemicals performed on the national territory accordingly with the customs legislation.

Art. 42- The Ministry of Transport takes the following measures related to the aircraft- owned or chartered by the Organisation, transporting the inspection teams and equipment necessary for inspection activities:

- a) approves the issue of standing diplomatic clearance number for non - scheduled aircraft so that the number of this permit be transmitted to the Organisation not later than 30 days after entry into force of the Convention;
- b) orders, upon request of the Agency, the prior approval for the aircraft overfly Romanian airspace or landing / take - off on / from the Romanian airports, provided for international airtraffic;
- c) orders prior providing with servicing, security protection and fuel, demanding for payment,
- d) orders that aircraft be exempted for payment of navigation and aerial control services, landing fees, enlightening and parking, RNAC route and terminal airport control services.

Art. 43.- Ministry of Communications shall authorise the inspection team to utilise the telecommunications owned by the Organisation to communicate with the Organisation or other members of the inspection team.

CHAPTER VII

Other provisions

Art. 44.- (1) The Agency staff is obliged to protect confidential information coming to its knowledge in the performance of its duties.

(2) The Agency shall establish, selectively, on the basis of an agreement signed with the Organisation, the level of sensitivity of confidential data transmitted to it.

Art. 45.- The Ministry of Foreign Affairs forwards in due time the declarations and other documents circulating between the Agency and the Organisation.

Art. 46.- (1) On the basis of a permit issued by the President of the Agency the access is granted for the specialists of Agency Control Body to the objectives and facilities subject to this Act.

(2) Access of the international inspection team to the objectives and facilities subject to this Act is granted only alongside members of the escort team on the basis of a note issued by the Agency.

Art. 47.- (1) The Agency provides, upon request, consultancy to the economic agents and to other persons interested in the implementation of the toxic chemicals and precursors control regime.

(2) The Agency edits and distributes documentaries and organise training courses, seminars, symposiums and other training forms for economic agents public authorities and for Control Body also in order to implement correctly and efficiently the provisions of the Convention

CHAPTER VIII

Criminal acts and offences

Art. 48.- The violation of the provisions of this Act induce, case by case, civil, material, disciplinary, contraventional and penal responsibility.

Art. 49.-The leaders of legal persons are obliged to ensure the compliance with the provisions of this Act and to establish, in this respect, the duties for subordinated staff.

Art. 50.- (1) The act of using chemical weapons is considered a criminal act and is punished by imprisonment, not less than 5 years and not exceeding 15 years and prohibition of certain rights.

(2) In the case of an act with very serious consequences, the penalty is imprisonment not less than 10 years and not exceeding 20 years and prohibition of certain rights and if it caused the death of one or more persons, the penalty is life imprisonment or imprisonment not less than 15 years and not exceeding 25 years and prohibition of certain rights.

(3) Attempt is punished.

Art. 51.- (1) Development, production, acquisition, possession or transfer, directly or indirectly, of chemical weapons are criminal acts and are punished by imprisonment not less than 3 years and not exceeding 10 years and prohibition of certain rights.

(2) Diversion of toxic chemicals or precursors for using them for the chemical weapons purposes is a criminal act and is punished by imprisonment not less than 3 years and not exceeding 10 years and prohibition of certain rights.

(3) Attempt is punished.

Art. 52.- (1) Threatening a State, an international organisation or a natural or legal person with the use of chemical weapons in order to cause death, temporary incapacity or harm to some persons is a criminal act and is punished by imprisonment not less than 3 years and not exceeding 12 years and prohibition of certain rights.

(2) If the act referred to in paragraph (1) is conditioned by the fulfilling or unfulfilling of an act or when, by threatening, in any way, is pretending to give or to deliver chemical weapons with the purpose of causing death, temporary incapacity or permanent harm to some persons, the penalty is imprisonment not less than 5 years and not exceeding 15 years and prohibition of some rights.

(3) Attempt is punished.

Art. 53.- (1) Producing Schedule I chemicals in quantities exceeding the thresholds and in other conditions than those referred to in art. 15 - 18 as well as import, export, possession or using them non-complying the provision of art. 15, paragraph (1) and art. 22 is criminal act and is punished by imprisonment not less than 3 years and not exceeding 12 years and prohibition of some rights.

(2) Imports and exports of Schedule 2 and 3 chemicals performed contravening the provisions of art. 23, are criminal acts and punished by imprisonment not less than 3 months and not exceeding 1 year.

(3) Attempt is punished.

Art. 54.- (1) The prosecution in the case of the offences pursuant to this Act is compulsory to be performed by the public prosecutor.

(2) The first instance that has the competence to judge the offences are the courts.

Art. 55.- The following acts are offences and are punished, if they were not committed in such conditions to be considered, according to the penal law, as criminal acts:

- a) avoiding the obligation of submitting the declarations pursuant to the provisions of art. 7-13 as well as the delay with more than 30 days in their transmission, by a fine not less than 500.000 lei and not exceeding 10.000.000 lei;
- b) the refuse to permit the access of Control Body of the Agency and inspection teams of the Organisation, in the conditions referred to in art. 46, at the objectives and facilities subject to this Act, obstructing them in any way to exercise their legal duties as well as hiding of certain elements or relevant data related to these, by a fine not less than 500.000 lei and not exceeding 10.000.000 lei;
- c) unfulfilling the obligation established according to the provisions of art. 15, paragraph (2), regarding elaboration of specific regulations on the completed operations evidence with such chemicals and their safety stockpiling as well as the violation of these regulations, by a fine not less than 500.000 lei and not exceeding 2.000.000 lei;
- d) submitting of the declarations pursuant to art. 6-13 with a delay up to 30 days as well as submitting incomplete data, by a fine not less than 500.000 lei and not exceeding 2.000.000 lei.

Art. 56.- (1) The punishment of the offences may be applied to legal persons also.

(2) The offences, as they are referred to in art. 55 of this Act are established and the fine is applied by the Control Body of the Agency.

(3) The offences, as they are referred to in art. 55 of this Act are subject to the Act no 32/ 1968 on the establishing and punishment of the offences except the provisions of art. 25-2 7.

CHAPTER IX

Final provisions

Art. 57.- (1) The Agency drafts, on the basis of the provisions of this Act regulations regarding the technical procedures for implementing its stipulations as well as explanatory notes and details regarding the implementation of the Convention, which will be adopted in the future by the Conference of the States Parties.

(2) Regulations referred to in paragraph (1) are approved by a decision of the President of the Agency and are published in Monitorul Oficial al Romaniei.

Art. 58.- (1) The Act enters into force on the date when the Convention enters into force excepting the articles referred to in paragraph (3).

(2) The date when the Convention enters into force, established in accordance with art. XXI of it, is 29 April 1997.

(3) The provisions of art. 1, art. 2, art. 4, art. 5, art. 6, art. 7, paragraph (1), art. 9, paragraph (1) subparagraph a) and paragraph (2), (3) and (4), art. 10, paragraph (1), subparagraph a), art. 10, paragraph (2) and (3), art. 11, subparagraph a), art. 12, subparagraph a), art. 13, paragraph (1), subparagraph a), art. 24, art. 44, art. 46, paragraph (1), art. 47 - 49, art. 55, subparagraph a) and d) and art. 56 - 59 are applied on the date of publishing this Act in Monitorul Oficial al Romartiei.

(4) On the data of entry into force of this Act any contrary regulation is to be cancelled.

Art. 59.- The Annexes 1 3 form an integral part of this Act.

This Act was adopted by the House of Deputies in its meeting held on 24 March 1997, observing the provisions of art. 74 of the Constitution of Romania.

FOR PRESIDENT OF THE CHAMBER OF DEPUTIES

ANDREI IOAN CHILIMAN

This Act was adopted by the Senate in its meeting held on 24 March 1997, observing the provisions of art. 74 of the Constitution of Romania.

FOR PRESIDENT OF THE SENATE

CRISTIAN DUMITRESCU

BUCHAREST, 16 April 1997

No 56

This Act was published in Monitorul Oficial al Romaniei (Official Gazette of Romania) on 17 April 1997

ANNEX 1

		(CAS registry number)
	<u>Schedule 1</u>	
	A. Toxic chemicals:	
	O-Alkyl (#C ₁₀ , incl. cycloalkyl)alkyl (Me, Et, n-Pr or i-Pr)-phosphonofluoridates e.g. Sarin: O-Isopropyl methylphosphonofluoridate Soman: O-Pinacolyl methylphosphonofluoridate	(107-44-8) (96-64-0)
	O-Alkyl (#C ₁₀ , 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)
	O-Alkyl (H or #C ₁₀ , 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)
	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	(2625-76-5) (505-60-2) (63869-13-6) (3563-36-8) (63905-10-2) (142868-93-7) (142868-94-8) (63918-90-1) (63918-89-8)
	Lewisites: Lewisite 1: 2-Chlorovinyl dichloroarsine Lewisite 2: Bis(2-chlorovinyl)chloroarsine Lewisite 3: Tris(2-chlorovinyl)arsine	(541-25-3) (40334-69-8) (40334-70-1)

	Nitrogen mustards: HN1: Bis(2-chloroethyl)ethylamine HN2 Bis(2-chloroethyl)methylamine HN3 Tris(2-chloroethyl)amine	(538-07-8) (51 75-2) (555-77-1)
	Saxitoxin	(35523-89-8)
	Ricin	(9009-86-3)
	B. Precursors:	
	Alkyl (Me, Et, n-Pr or i-Pr) phosphonyldifluorides e.g. DF: Methylphosphonyldifluoride	(676-99-3)
	O-Alkyl (H or #C ₁₀ , 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)
	Chlorosarin: O-Isopropyl methylphosphonochloridate	(1445-76-7)
	Chlorosoman: O-Pinacolyl methylphosphonochloridate	(7040-57-5)

	<u>Schedule 2</u>	
	A. Toxic chemicals:	
	Amiton: O,O-Diethyl S-[2-(diethylamino)ethyl] phosphorothiolate and corresponding alkylated or protonated salts	(78-5 3-5)
	PFIB: 1,1,3,3,3-Pentafluoro-2-(trifluoromethyl)-1-propene	(382-21-8)
	BZ: 3-Quinuclidinyl benzilate (*)	(6581-06-2)
	B. Precursors:	
	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	(676-97- 1) (756-79-6)

		(944-2 2-9)
	N,N-Dialkyl (Me, Et, n-Pr or i-Pr) phosphoramidic dihalides	
	Dialkyl (Me, Et, n-Pr or i-Pr) N,N-dialkyl (Me, Et, n-Pr or i-Pr)-phosphoramidates	
	Arsenic trichloride	(7784-34-1)
	2,2-Diphenyl-2-hydroxyacetic acid	(76-93-7)
	Quinuclidin-3-ol	(1619-34-7)
	N,N-Dialkyl (Me, Et, n-Pr or i-Pr) aminoethyl-2-chlorides and corresponding protonated salts	
	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 and corresponding protonated salts	(108-01-0) (100-37-8)
	N N-Dialkyl (Me, Et, n-Pr or i-Pr) aminoethane-2 thiols and corresponding protonated salts	
	Thiodiglycol Bis(2-hydroxyethyl)sulfide	(111-48-8)
	Pinacolyl alkohol: 3,3-Dimethylbutan-2-ol	(464-07-3)

	<u>Scheduled 3</u>	
	A. Toxic chemicals:	
	Phosgene Carbonyl dichloride	(75-44-5)
	Cyanogenchloride	(506-77-4)
	Hydrogen cyanide	(74-90-8)
	Chloropicrin Trichloronitromethane	(76-06-2)
	B Precursors:	
	Phosphorus oxychloride	(10025-87-3)
	Phosphorus trichloride	(7719-12-2)
	Phosphorus pentachloride	(10026-13-8)
	Trimethyl phosphite	(121-45-9)
	Triethyl phosphate	(122-52-1)

	Dimethyl phosphate	(868-85-9)
	Diethyl phosphite	(762-04-9)
	Sulfur monochloride	(10025-67-9)
	Sulphur dichloride	(10545-99-0)
	Thionyl chloride	(7719-09-7)
	Ethyldiethanolamine	(138-87-7)
	Methyldiethanolamine	(105-59-9)
	Triethanolamine	(102-71-6)

DEFINITIONS

of the technical terms

Production of a chemical means its formation through a chemical reaction.

Processing of a chemical means a physical process such as: formulation, extraction or purification, in which a chemical is not converted into another chemical.

Consumption of a chemical means its conversion into another chemical, via a chemical reaction

CAS registry number means the number from Chemical Abstracts Service, for each chemical identifiable through chemical name and structural formula.

Discrete organic chemical means any chemical belonging to the class of chemical compounds consisting of all the compounds of carbon except for its oxides sulphides and, metal carbonates, identifiable by Chemical name, by structural formula (if known) and by CAS registry number (if assigned).

Inspection mandate means the instructions issued by the Organisation to the inspection team for the conduct of a particular inspection.

Inspection assistant means a individual designated. by the Organisation to assist inspectors in an inspection or a visit, such as: medical, security, administrative personnel or interpreters.

Facility means any industrial sites, as defined bellow:

Plant site (works, factory) means a local integration of one or more plants with any intermediate levels, which are under one operational control, and includes a common infrastructure, such as:

administration and other offices;

repair and maintenance shops;

medical centre;

utilities;

central analytical laboratory;
research and development laboratories;
central effluent and waste, treatment area;
warehouse storage.

Plant (production facility, workshop) means a relatively self-contained area, structure or building containing one or more units with auxiliary and associated infrastructure, such as:

small administrative section;
storage and handling areas for feedstock and products;
effluent and waste treatment area;
control analytical laboratory;
first aid service / related medical section

records associated with the movement into around and from the site of declared chemicals and their feedstock or product chemicals formed from them, as appropriate.

Unit (production unit, process unit) means the combination of those items of equipment including reaction vessels set up, necessary for the production, processing or consumption of a chemical.

Acquire means the import operation including non-commercial procurement from outside the national territory as well as from a person on the national territory.

10 Transfer means the export operation including non-commercial transfer to outside the national territory as well as to a person on the national territory.

ANNEX 3

PRIVILEGES AND IMMUNITIES

accorded to inspectors and Inspection assistants

1. To exercise their functions effectively, inspectors and inspection assistants shall be accorded privileges and immunities set forth in subparagraph a) to 1). Privileges and immunities shall be granted to members of the inspection team, for the sake of the Convention and not for the personal benefit of the individuals themselves. Such privileges and immunities shall be accorded to them for the entire period between arrival on and departure from the territory of Romania and thereafter with respect to acts previously performed in the exercise of their official functions.

a) The members of the inspection team shall be accorded the inviolability enjoyed by diplomatic agents pursuant to art. 29 of the Vienna Convention on Diplomatic Relations of 18 April, 1961

b) The living quarters and office premises occupied by the inspection team carrying out inspection activities pursuant to this Convention shall be accorded the inviolability and protection accorded to the premises of diplomatic agents pursuant to art. 30, paragraph 1, of the Vienna Convention on Diplomatic Relations.

c) The paper and correspondence, including records of the inspection team shall enjoy the inviolability accorded to all papers and correspondence of diplomatic agents pursuant to art. 30, paragraph 2, of the Vienna Convention on Diplomatic Relations. The inspection team shall have the right to use the codes for their communications with the Technical Secretariat.

d) Samples and approved equipment carried by members of the inspection team shall be inviolable subject to provisions contained in this Convention and exempt from all customs duties. Hazardous samples shall be transported in accordance with relevant regulations.

e) The members of the inspection team shall be accorded the immunities accorded to diplomatic agents pursuant to art. 31, paragraph 1, 2 and 3, of the Vienna Convention on Diplomatic Relations.

f) The members of the inspection team carrying out prescribed activities pursuant to this Convention shall be accorded the exemption from dues and taxes accorded to diplomatic agents pursuant to art. 34 of the Vienna Convention on Diplomatic Relations.

g) The members of the inspection team shall be permitted to bring into the territory of Romania without payment of any customs duties or related charges, articles for personal use, with the exception of articles the import or export which is prohibited by law or controlled by quarantine regulations.

The members of the inspection team shall be accorded the same currency and exchange facilities as are accorded to representatives of foreign Governments on temporary official missions.

The members of the inspection team shall not engage in any professional or commercial activity for personal profit on the territory of Romania.

2. When transiting the territory of Romania, the members of the inspection team shall be accorded the privileges and immunities enjoyed by diplomatic agents pursuant to art. 40, paragraph 1, of the Vienna Convention on Diplomatic Relations. Papers and correspondence, including records and samples and approved equipment, carried by them, shall be accorded the privileges and immunities referred to in paragraph 1, subparagraph c) and d).

3. Without prejudice to their privileges and immunities the members of the inspection team shall be obliged to respect the laws and the regulations of Romania and to the extent that is consistent with the inspection mandate shall be obliged not to interfere in the internal affairs of the Romanian State. If the Romanian authorities consider that there has been an abuse of the privileges and immunities specified in this Annex, consultations shall be held between the Agency and the Director - General of the Organisation to establish whether such an abuse has occurred and, if so determined, to prevent a repetition of such an abuse.

4. The Director - General can renounce the immunity of jurisdiction of members of the inspection team, in those cases when considered that the immunity would impede the course of justice and it can be waived without prejudice to the implementation of the provisions of this Convention. Waiver must always be express.

5. Observers shall be accorded the same privilege and immunities accorded to inspectors pursuant to this section, except for those accorded pursuant to paragraph 1, subparagraph d).