



# THE CHEMICAL WEAPONS CONVENTION IMPLEMENTATION ORDINANCE, 2000.



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# THE CHEMICAL WEAPONS CONVENTION IMPLEMENTATION ORDINANCE, 2000.

## ORDINANCE No. LIV of 2000.

[11<sup>th</sup> October, 2000]

*An Ordinance to give effect in Pakistan to the Convention on the Prohibition of the Development, Production, Stockpiling and use of Chemical Weapons and on their Destruction signed at Paris on the 13th January, 1993*

**WHEREAS** it is expedient to give effect in Pakistan to the Convention on the Prohibition of the Development, Production, Stockpiling and use of Chemical Weapons, and on their destruction signed at Paris on the 13th January, 1993;

**AND WHEREAS** the National Assembly and the Senate stand suspended in pursuance of the Proclamation of Emergency of the fourteenth day of October, 1999, and the Provisional Constitution Order No.1 of 1999;

**AND WHEREAS** the President is satisfied that circumstances exist which render it necessary to take immediate action;

**NOW, THEREFORE** in pursuance of the Proclamation of Emergency of the fourteenth day of October, 1999, and the Provisional Constitution Order No 1 of 1999, as well as Order No. 9 of 1999, and in exercise of all powers enabling him in that behalf, the President of the Islamic Republic of Pakistan is pleased to make and promulgate the following Ordinance:-

**1. Short title, extent and commencement.**-(1) This Ordinance may be called the Chemical Weapons Convention Implementation Ordinance, 2000.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

**2. Definitions.**—(1) In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) "assistance inspection" means an inspection conducted pursuant to Parts II and XI of the Verification Annex;

(b) "challenge inspection" means an inspection conducted pursuant to Parts II and X of the Verification Annex;

(c) "chemical weapons" means—

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- (i) a toxic chemical and its precursor, except where intended for permitted purposes, as long as types and quantities are consistent with such purposes;
  - (ii) a munition or device, specifically designed to cause death or other harm through the toxic properties of a toxic chemical specified in sub-clause (i), which would be released as a result of the employment of such munition or device; or
  - (iii) any equipment specifically designed for use directly in connection with the employment of a munition or device specified in sub-clause (ii);
- (d) “Convention” means the convention on the Prohibition of the Development, Production, stockpiling and use of Chemical Weapons and on their Destruction signed at Paris on the 13th January, 1993;
- (e) “National Authority” means the National Authority designated as such under section 9;
- (f) permitted purposes" means—
- (i) industrial, agricultural, research, medical, pharmaceutical or other peaceful purposes;
  - (ii) protective purposes, that is such purposes which are directly related to protection against toxic chemicals and to protection against chemical weapons;
  - (iii) 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
  - (iv) law enforcement including domestic riot control purposes;
- (g) “precursor” means any chemical reactant which takes part at any stage in the production by whatever method of a toxic chemical and includes any key component of a binary or multi-component chemical system;
- (h) “prescribed” means prescribed by rules made under this Ordinance;
- (i) “riot control agent” means any chemical which is not a scheduled chemical, which can produce rapidly in humans sensory irritation or disabling physical effects which disappear within a short time following termination of exposure;
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- (j) “routine inspection” means an inspection conducted pursuant to Parts II to IX of the Verification Annex;
- (k) “scheduled chemical” means a chemical listed in Schedules I or, as the case may be, Schedule II or Schedule III to this Ordinance;
- (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 and includes all such chemicals, regardless of their origin or of their method of production, and regardless of whether they are produced in facilities, in munitions or elsewhere; and
- (m) “Verification Annex” means the Verification Annex to the Convention and portions of which are reproduced in Schedule IV to this Ordinance.

**3. Prohibition on development etc; of chemical weapons.—**(1) No person shall—

- (a) develop, produce, otherwise acquire, stockpile or retain a chemical weapon, or transfer, directly or indirectly, a chemical weapon to anyone;
- (b) use a chemical weapon;
- (c) engage in any military preparations to use a chemical weapon;
- (d) assist, encourage or induce, in any way, any other person to engage in any activity prohibited to a State Party under the Convention; or
- (e) use a riot control agent as a method of warfare.

(2) For the purposes of sub-section (1) an object shall not be a chemical weapon if the person uses the object only for permitted purposes and in deciding whether permitted purposes are intended the types and quantities of objects shall be taken into account.

(3) Whoever contravenes the provisions of this section shall be guilty of an offence punishable with imprisonment for a term which may extend to twenty-five years.

**4. Premises or equipment for producing chemical weapons.—**(1) No person shall-

- (a) construct any premises intended to be used for production of chemical weapons;
  - (b) alter any premises with intention to use the same for production of chemical weapons;
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(c) install or construct any equipment intended to be used for production of chemical weapons; and

(d) alter any equipment with intention to use the same for production of chemical weapons.

(2) For the purposes of sub-section (1) an object shall not be a chemical weapon if the object is used for permitted purposes and in deciding whether permitted purposes are intended the types and quantities of objects shall be taken into account.

(3) Whoever contravenes the provisions of this section shall be guilty of an offence punishable with imprisonment for a term which may extend to twenty-five years.

**5. Prohibition on production, etc., of toxic chemicals and precursors.**—(1) No person shall produce, use, acquire, possess, transfer, import or export-

(a) any scheduled chemical;

(b) any discrete organic chemical not being a scheduled chemical ;or

(c) any chemical containing the elements phosphorous, sulfur or fluorine.

except for permitted purposes under this Ordinance.

(2) Whoever contravenes the provisions of this section shall be guilty of an offence punishable with fine which may extend to ten thousand rupees.

**6. Transfer of any scheduled chemical for permitted purposes.**—(1) No person shall transfer to a State Party or as the case may be to a state not party to the Convention any scheduled chemical listed in-

(a) Schedule I except its accordance with the relevant provisions of Part VI of the Verification Annex;

(b) Schedule II except in accordance with the relevant provisions of part VII of the Verification Annex; and

(c) Schedule III except in accordance with the relevant provisions of Part VIII of the Verification Annex.

(2) Whoever contravenes the provisions of this section shall be guilty of an offence punishable with fine which may extend to ten thousand rupees.

**7. Production, etc., for permitted purposes.**—(1) The production, use, acquisition, export or import of a chemical listed in-

- (a) Schedule I shall be subject to the prohibition, acquisition, retention and use as specified in Part VI of the Verification Annex and such chemicals and facilities specified in Part VI of the Verification Annex shall be subject to systematic verification through on-site inspection and monitoring with on-site instruments in accordance with that part of the Verification Annex;
- (b) Schedule II and facilities specified in Part VII of the Verification Annex shall be subject to data monitoring and on-site verification in accordance with that part of the Verification Annex; and
- (c) Schedule III and facilities specified its Part VIII of the Verification Annex shall be subject to data monitoring and on-site verification in accordance with that part of the Verification Annex.

(2) The production, use, acquisition, export or import of any discrete organic chemical not being a scheduled chemical or any chemical containing the elements phosphorous, sulfur or fluorine and facilities specified in Part IX of the Verification Annex shall be subject to data monitoring and eventual on-side verification in accordance with that part of the Verification Annex unless decided otherwise by the Conference of the States Parties pursuant to paragraph 22 of Part IX of the Verification Annex.

**8. Verification activities.** In conducting verification, activities under the Convention, the Technical Secretariat provided under the Convention shall avoid undue intrusion into the State Party's chemical activities for permitted purposes and, in particular, abide by the provisions of the Annex on the Protection of Confidential Information to the Convention as set out in Schedule V to this Ordinance.

**9. National Authority.** The Secretary, Ministry of Foreign Affairs, Government of Pakistan, shall be the National Authority for the purposes of this Ordinance.

**10. Functions of the Authority.** In particular and without prejudice to the generality of functions under this Ordinance, the functions of the Authority shall be to-

- (a) ensure effective operation of this Ordinance ;
- (b) carry out, on behalf of Pakistan, such obligations which Pakistan has under the Convention;
- (c) facilitate inspections of premises in Pakistan, in case compliance of Pakistan with the Convention is challenged; and
- (d) do anything incidental or conducive to the performance of the aforesaid functions.

**11. Delegation of powers.** The National Authority may, for the purpose of efficient discharge of its functions and duties, delegate to an officer of the Federal Government, subject to such conditions and limitations as may be specified, such of its functions and duties under this Ordinance as it may deem necessary.

**12. Inspections under the Convention.**—(1) If it is proposed to conduct a routine inspection, a challenge inspection or an assistance inspection in Pakistan, the National Authority may, subject to sub-section (2), issue an authorisation under this section in respect of that inspection.

(2) In issuing any authorisation, the National Authority shall ensure that the Convention is not abused to the detriment of the security and economic interests of Pakistan and shall take appropriate measures to protect sensitive installations not related to the Convention.

**13. Particulars of authorisation.** An authorisation under section 12 shall—

- (a) state the names of the members of the inspection team by whom the inspection is to be carried out;
- (b) contain the name of the person in charge of the in-country escorts;
- (c) in the case of a challenge inspection, also state the name of any observer who may accompany the team;
- (d) contain a description of the specified area in which the inspection is to be conducted; and
- (e) specify the type of inspection concerned.

**14. Effect of authorisation.**—(1) An authorisation under section 12 shall have the effect of authorising the inspection team-

- (a) to exercise within the specified area such rights of access, entry and unobstructed inspection as are conferred on them by the Verification Annex;
  - (b) to do such other things within the specified area in connection with the inspection as they are entitled to do by virtue of the Verification Annex including things concerning the maintenance, replacement or adjustment of any instrument or other object relating to open equipment on site;
  - (c) authorising an in-country escort to accompany the inspection team in accordance with the provisions of the Verification Annex; and
  - (d) authorising the police to give such assistance as the in-country escort may request for the purpose of facilitating the conduct of the inspection in accordance with the Verification Annex.
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(2) An authorisation under section 12, in the case of a challenge inspection shall, in addition, have the effect of authorising the observer to exercise within the specified area such rights of access and entry as are conferred on him by the Verification Annex.

(3) Any police officer giving assistance in accordance with clause (d) of sub-section (1) may use such reasonable force as he considers necessary for the purpose of facilitating inspection.

**15. Right of occupier, etc.** The occupier of any premises, or a person acting on his behalf,-

- (a) in relation to which it is proposed to exercise a right of entry on the basis of an authorisation under section 12; or
- (b) on which an inspection is being carried out on the basis of such an authorisation shall be entitled to require a copy of the authorization to be shown to him by a member of the in-country escort.

**16. Bar to jurisdiction.** The validity of an authorisation issued under section 12 in respect of an inspection shall not be called in question in any court.

**17. Proof regarding status of a member of inspection team.** If a question arises whether a person at any time was or was not, in relation to any routine, challenge or assistance inspection, a member of the inspection team or a member of the in-country escort or an observer, a certificate issued by, or on behalf of, the National Authority stating any fact relating to that question shall be conclusive evidence of that fact.

**18. Power to amend authorisation and its effect.**-(1) The National Authority may amend an authorisation issued by it under section 12, varying the specified area mentioned therein, as it may consider necessary from time to time.

(2) In case the National Authority has amended an authorisation under sub-section (1) -

- (a) the provisions of section 14 shall be applicable to such amendment as if the specified area were the area as varied; and
- (b) the provisions of section 16 shall be applicable to such amendment as it shall apply to the authorisation.

**19. Offences in respect of an inspection.**-(1) In case an authorisation has been issued under section 12 in respect of an inspection, a person shall be guilty of an offence if he-

- (a) refuses without reasonable excuse to comply with a request made by a police officer or a member of the in-country escort for the purpose of

facilitating the conduct of that inspection in accordance with the Verification Annex;

- (b) interferes without reasonable excuse with any container, instrument or other object installed in the course of that inspection in accordance with the Verification Annex; or
- (c) wilfully obstructs a member of the inspection team or of the in-country escort, or the observer, in the conduct of that inspection in accordance with the Verification Annex.

(2) The provisions of clause (b) of sub-section (1) shall apply to any interference which may occur at any time while the container, instrument or other object is retained in accordance with the Verification Annex.

(3) A person on conviction of an offence under this section shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

**20. Privileges and immunities of members of inspection team and observers.**-(1) The members of an inspection team and observers shall enjoy the same privileges and immunities as are enjoyed by diplomatic agents in accordance with the following provisions of the Vienna Convention on Diplomatic Relations of 1961, namely:-

- (a) Article 29;
- (b) Paragraphs 1 and 2 of Article 30;
- (c) Paragraphs 1, 2 and 3 of Article 31; and
- (d) Article 34.

(2) The members of an inspection team and observers shall, enjoy the same privileges as are enjoyed by diplomatic agents in accordance with paragraph 1 (b) of Article 36 of the Vienna Convention on Diplomatic Relations of 1961, except in relation to such articles the importing or exporting of which is prohibited by law or controlled by the enactments relating to quarantine.

(3) Samples and approved equipment carried by members of an inspection team shall be inviolable and exempt from payment of customs-duties.

(4) The privileges and immunities accorded to the members of an inspection team and observers by virtue of this section shall be enjoyed by them at any time when they are in Pakistan-

- (a) in connection with the carrying out a routine inspection, a challenge inspection or an assistance inspection; or
- (b) while in transit to or from the territory of another State Party to the Convention in connection with the carrying out of such inspection.

(5) If-

- (a) immunity from jurisdiction of a member of an inspection team is waived in accordance with the Verification Annex; and
- (b) a notice made by the National Authority and informing the member of the waiver is delivered to him in person.

then, from the time the notice is so delivered, this section shall not have effect to confer that immunity on the member.

**Explanation.**—In this section "approved equipment" and "samples" shall be construed in accordance with the Verification Annex.

**21. Disclosure of information.**—(1) Any person who produces, possesses, consumes, transfers, exports or imports any scheduled chemical or who produces a discrete organic chemical not being a scheduled chemical or a chemical containing the elements phosphorus, sulfur or fluorine or who holds a riot control agent for riot control purposes shall—

- (a) provide the prescribed information, at the prescribed time and in the prescribed form, to the National Authority; and
- (b) keep and maintain the prescribed documents in Pakistan, at his place of business or at such other place as may be specified by the National Authority, in the prescribed manner and for the prescribed period; and
- (c) on request, provide the documents to the National Authority.

(2) Whoever contravenes the provisions of this section shall be guilty of an offence punishable with imprisonment for a term which may extend to two years or with fine or with both.

**22. Privileged information and documents.**—(1) Any information or document obtained pursuant to this Ordinance or the Convention shall be privileged.

(2) Information and documents shall not be privileged to the extent that these are required to be disclosed or communicated for the purposes of an emergency involving public safety.

(3) No person in possession of privileged information or document shall knowingly, without the written consent of the person from whom they were obtained communicate them or allow them to be communicated to any person, or allow any person to have access thereto, except-

(a) for the purpose of the enforcement of this Ordinance or of giving effect to the Convention; or

(b) pursuant to an obligation of the Federal Government under the Convention.

(4) Notwithstanding anything contained in any law no person shall be required in connection with any legal proceedings, to produce any statement or other record containing any privileged information or document, or to give evidence relating to them, unless the proceedings relate to the enforcement of this Ordinance.

(5) Whoever contravenes the provisions of sub-section (3) shall be guilty of an offence punishable with imprisonment for a term which may extend to six months or with fine which may extend to ten thousand rupees or with both.

**23. Registration.**—(1) The National Authority may directly or through notice require an individual or organisation involved in production, processing, consumption, transfer, import or export of any scheduled chemical or any discrete organic chemical not being a schedule chemical, or a chemical containing elements of phosphorus, sulfur, or fluorine, to register themselves with the National Authority or any other office as may be prescribed within a specified time period.

(2) Whoever contravenes the provisions of this section shall be guilty of an offence punishable with imprisonment for a term which may extent to two years or with fine or with both.

**24. Power to enter a premises and search, remove or immobilise objects.**—(1) If the National Authority has reasonable cause to believe that-

(a) an object is on a premises to which the public has access or which are occupied by a person who consents to action being taken under this sub-section; and

(b) the object is a chemical weapon,

the National Authority may authorise any person to enter the premises and to search them.

(2) If a magistrate is satisfied on information on oath that there is reasonable cause to believe that an object is on premises and that it is a chemical weapon he may issue a warrant in writing authorising a person acting under the authority of the National Authority to enter the premises, if necessary, by force at any time within one month from the time of the issue of the warrant and to search them.

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(3) A person who acts under an authorisation given under sub-section (1) or sub-section (2) may take with him such other persons and such equipment as appear to him to be necessary.

(4) If a person enters premises under an authorisation given under sub-section (1) or sub-section (2), and the object is found then he may make the object safe and-

(a) he may seize and remove it, if it is reasonably practicable to do so; or

(b) he may, in any other case, affix a warning on the object or on something in conspicuous position near the object, stating that the object is not to be moved or interfered with before a date specified in the warning.

**25. Extension to external territories.** The Provisions of this Ordinance shall also apply to any offence committed by—

(a) any citizen of Pakistan or any person in the service of Pakistan in any place without and beyond Pakistan; and

(b) any person on any ship or aircraft registered in Pakistan wherever it may be.

**26. Power to make rules.** The National Authority may, with approval of the Federal Government, make rules for carrying out the purposes of this Ordinance.

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## SCHEDULE I

[See section 2(k)]

(Scheduled Chemicals)

### A. Toxic Chemicals: (CAS registry number)

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

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

e.g. Sarin: O-Isopropyl methylphosphonofluoridate (107-44-8)

Soman: O-Pinacolyl methylphosphonofluoridate (96-64-0)

(2) O-Alkyl ( $\leq C_{10}$ , 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)

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(3) O-Alkyl (H or $\leq$ C10, incl. cycloalkyl) S-2-dialkyl (Me, Et, n-Pr or i-Pr)-aminoethyl alkyl (Me, Et, n-Pr or i-Pr) phosphonothiolates and corresponding alkylated or protonated salts e.g. VX: O-Ethyl S-2-diisopropylaminoethyl methyl phosphonothiolate	(50782-69-9)
(4) Sulfur mustards:	
2-Chloroethylchloromethylsulfide	(2625-76-5)
Mustard gas: Bis(2-chloroethyl sulfide	(505-60-2)
Bis (2-chloroethylthio) methane	(63869-13-6)
Sesquimustard: 1,2-Bis(2-chloroethylthio) ethane	(3563-36-8)
1,3-Bis(2-chloroethylthio)-n-propane	(63905-10-2)
1,4-Bis(2-chloroethylthio)-n-butane	(142868-93-7)
1,5-Bis(2-chloroethylthio)-n-pentane	(142888-94-8)
Bis(2-chloroethylthiomethyl)ether	(63918-90-1 )
O-Mustard: Bis(2-chloroethylthioethyl) ether	(63918-89-8)
(5) Lewisites:	
Lewisite 1: 2-Chlorovinylchloroarsine	(541-25-3)
Lewisite 2: Bis(2-chlorovinyl) chloroarsine	(40334-69-8)
Lewisite 3: Tris(2-chlorovinyl) arsine	(40334-70-1)
(6) Nitrogen mustards:	
HNI: Bis(2-chloroethyl) ethylamine	(538-07-8)
HN2: Bis(2-chloroethyl)methylamine	(51-75-2)
HN3: Tris(2-chloroethyl)amine	(555-77-1)
(7) Saxitoxin	(35523-89-8)
(8) Ricin	(9009-86-3)

#### **B. Precursors:**

(9) Alkyl (Me, Et, n-Pr or i-Pr) phosphonyldifluorides e.g. DF: Methylphosphonyldifluoride	(676-99-3)
(10) O-Alkyl (H or $\leq$ C10, incl. cycloalkyl) O-2-dialkyl (Me, Et, n-Pr or i-Pr)-aminoethyl alkyl (Me, Et, n-Pr or i-Pr) phosphonites and corresponding alkylated or protonated salts e.g. QL: O-Ethyl O-2-diisopropylaminoethyl methylphosphonite	(57856-11-8)

(11) Chlorosarin: O-Isopropyl methylphosphonochloridate	(1445-76-7)
(12) Chlorosoman: O-Pinacolyl methylphosphonochloridate	(7040-57-5)

## SCHEDULE II

### [See section 2(k)]

### (Scheduled Chemicals)

#### A. Toxic chemicals: (CAS registry number)

(1) Amiton: O,O-Diethyl S-[2-(diethylamino) ethyl] phosphorothiolate and corresponding alkylated or protonated salts	(78-53-5)
(2) PFIB: 1,1,3,3,3-Pentafluoro-2-(trifluoromethyl)-1-propene	(382-21-8)
(3) BZ: 3-Quinuclidinyl benzilate (*)	(6581-06-2)

#### B. Precursors:

(1) Chemicals, except for those listed in Schedule 1, containing a phosphorus atom to which is bonded one methyl, ethyl or propyl (normal or iso) group but not further carbon atoms, e.g. Methylphosphonyl dichloride Dimethyl methylphosphonate	(676-97-1) (756-79-6)
<b>Exemption:</b> Fonofos: O-Ethyl S-phenyl Ethylphosphonothiolothionate	(944-22-9)
(5) N,N-Dialkyl (Me, Et, n-Pr or i-Pr) phosphoramidic dihalides	
(6) Dialkyl (Me, Et, n-Pr or i-Pr) N,N-dialkyl (Me, Et, n-Pr or i-Pr)-phosphoramidates	
(7) Arsenic trichloride	(7784-34-1)

## Schedule III

(8) 2,2-Diphenyl-2-hydroxyacetic acid	(76-93-7)
(9) Quinuclidin-3-ol	(1619-34-7)
(10) N,N-Dialkyl (Me, Et, n-Pr or i-Pr) aminoethyl-2-chlorides and corresponding protonated salts	

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(11) N,N-Dialkyl (Me, Et, n-Pr or i-Pr) aminoethane-2-ols and corresponding protonated salts	
<b>Exemptions:</b> N,N-Dimethylaminoethanol	(108-01-0)
and corresponding protonated salts	
N,N-Diethylaminoethanol	(100-37-8)
and corresponding protonated salts	
(12) N,N-Dialkyl (Me, Et, n-Pr or i-Pr) aminoethane-2-thiols and corresponding protonated salts	
(13) Thiodiglycol: Bis(2-hydroxyethyl) sulfide	(111-48-8)
(14) Pinacolyl alcohol: 3,3-Dimethylbutan-2-ol	(464-07-3)

**SCHEDULE III**  
**[See section 2(k)]**  
**(Scheduled Chemicals)**

**A: Toxic chemicals: (CAS registry number)**

(1) Phosgene: Carbonyl dichloride	(75-44-5)
(2) Cyanogen chloride	(506-77-4)
(3) Hydrogen cyanide	(74-90-8)
(4) Chloropicrin: Trichloronitromethane	(76-06-2)

**B. Precursors:**

(5) Phosphorus oxychloride	(10025-87-3)
(6) Phosphorus trichloride	(7719-12-2)
(7) Phosphorus pentachloride	(10026-13-8)
(8) Trimethyl phosphite	(121-45-9)
(9) Triethyl phosphite	(122-52-1)
(10) Dimethyl phosphite	(868-85-9)
(11) Diethyl phosphite	(762-04-9)
(12) Sulfur monochloride	(10025-67-9)
(13) Sulfur dichloride	(10545-99-0)
(14) Thionyl chloride	(7719-09-7)
(15) Ethyldiethanolamine	(139-87-7)
(16) Methyldiethanolamine	(105-59-9)
(17) Triethanolamine	(102-71-6)

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## **Schedule IV**

**[See section 2(m)]**

### **(Portions of the Verification Annex)**

## **REGIME FOR SCHEDULE 1 CHEMICALS AND FACILITIES RELATED TO SUCH CHEMICALS**

### **A. General Provisions**

1. A State Party shall not produce, acquire, retain or use Schedule 1 chemicals outside the territories of States Parties and shall not transfer such chemicals outside its territory except to another State Party.

2. A State Party shall not produce, acquire, retain, transfer or use Schedule 1 chemicals unless:

- (a) The chemicals are applied to research, medical, pharmaceutical or protective purposes;
- (b) The types and quantities of chemicals are strictly limited to those which can be justified for such purposes;
- (c) The aggregate amount of such chemicals at any given time for such purposes is equal to or less than 1 tonne; and
- (d) The aggregate amount for such purposes acquired by a State Party in any year through production, withdrawal from chemical weapons stocks and transfer is equal to or less than 1 tonne.

### **B. Transfers**

3. A State Party may transfer Schedule 1 chemicals outside its territory only to another State Party and only for research, medical, pharmaceutical or protective purposes in accordance with paragraph 2.

4. Chemicals transferred shall not be retransferred to a third state.

5. Not less than 30 days before any transfer to another State Party both States Parties shall notify the Technical Secretariat of the transfer.

6. Each State Party shall make a detailed annual declaration regarding transfers during the previous year. The declaration shall be submitted not later than 90 days after the end of that year and shall for each Schedule 1 chemical that has been transferred include the following information:-

- (a) The chemical name, structural formula and Chemical Abstracts Service registry number, if assigned;
- (b) The quantity acquired from other States or transferred to other States Parties. For each transfer the quantity, recipient and purpose shall be included.

### **C. Production:**

#### *General principles for production:*

7. Each State Party, during production under paragraphs 8 to 12, shall assign the highest priority to ensuring the safety of people and to protecting the environment. Each State Party shall conduct such production in accordance with its national standards for safety and emissions.

#### *Single small-scale facility:*

8. Each State Party that produces Schedule 1 chemicals for research, medical, pharmaceutical or protective purposes shall carry out the production at a single small-scale facility approved by the State Party, except as set forth in paragraphs 10, 11 and 12.

9. The production at a single small-scale facility shall be carried out in reaction vessels in production lines not configured for continuous operation. The volume of such a reaction vessel shall not exceed 100 litres, and the total volume of all reaction vessels with a volume exceeding 5 litres shall not be more than 500 litres.

#### *Other facilities:*

10. Production of Schedule 1 chemicals in aggregate quantities not exceeding 10 kg per year may be carried out for protective purposes at one facility outside a single small-scale facility. This facility shall be approved by the State Party.

11. Production of Schedule 1 chemicals in quantities of more than 100 g per year may be carried out for research, medical or pharmaceutical purposes outside a single small-scale facility in aggregate quantities not exceeding 10 kg per year per facility. These facilities shall be approved by the State Party.

12. Synthesis of Schedule 1 chemicals for research, medical or pharmaceutical purposes, but not for protective purposes, may be carried out at laboratories in aggregate quantities less than 100 g per year per facility. These facilities shall not be subject to any obligation relating to declaration as specified in Sections D.

## **D. Declarations**

### *Single small-scale facility:*

13. Each State Party that plans to operate a single small-scale facility shall provide the Technical Secretariat with the precise location and a detailed technical description of the facility including an inventory of equipment and detailed diagrams. For existing facilities, this initial declaration shall be provided not later than 30 days after this Convention enters into force for the State Party. Initial declarations on new facilities shall be provided not less than 180 days before operations are to begin.

14. Each State Party shall give advance notification to the Technical Secretariat of planned changes related to the initial declaration. The notification shall be submitted not less than 180 days before the changes are to take place.

15. A State Party producing Schedule 1 chemicals at a single small-scale facility shall make a detailed annual declaration regarding the activities of the facility for the previous year. The declaration shall be submitted not later than 90 days after the end of that year and shall include:-

- (a)** Identification of the facility;
  - (b)** For each Schedule 1 chemical produced, acquired, consumed or stored at the facility, the following information:-
    - (i)** The chemical name, structural formula and Chemical Abstracts Service registry number, if assigned;
    - (ii)** The methods employed and quantity produced;
    - (iii)** The name and quantity of precursors listed in Schedules 1,2 or 3 used for production of Schedule 1 chemicals;
    - (iv)** The quantity consumed at the facility and the purpose(s) of the consumption;
    - (v)** The quantity received from or shipped to other facilities in the State Party for each shipment the quantity, recipient and purpose should be included;
    - (vi)** The maximum quantity stored at any time during the year; and
    - (vii)** The quantity stored at the end of the year; and
  - (c)** Information on any changes at the facility during the year compared to previously submitted detailed technical descriptions of the facility including inventories of equipment and detailed diagrams.
-

16. Each State Party producing Schedule 1 chemicals at a single small-scale facility shall make a detailed annual declaration regarding the projected activities and the anticipated production at the facility for the coming year. The declaration shall be submitted not less than 90 days before the beginning of that year and shall include.

- (a) Identification of the facility;
- (b) For each Schedule 1 chemical anticipated to be produced, consumed or stored at the facility, the following information:
  - (i) The chemical name, structural formula and Chemical Abstracts Service registry number, if assigned;
  - (ii) The quantity anticipated to be produced and the purpose of the production; and
- (c) Information on any anticipated changes at the facility during the year compared to previously submitted detailed technical descriptions of the facility including inventories of equipment and detailed diagrams.

*Other facilities referred to in paragraphs 10 and 11:*

17. For each facility, a State Party shall provide the technical Secretariat with the name, location and a detailed technical description of the facility or its relevant part(s) as requested by the Technical secretariat. The facility producing Schedule 1 chemicals for protective purposes shall be specifically identified. For existing facilities, this initial declaration shall be provided not later than 30 days after this Convention enters into force for the State Party. Initial declarations on new facilities shall be provided not less than 180 days before operations are to begin.

18. Each State Party shall give advance notification to the Technical Secretariat of planned changes related to the initial declaration. The notification shall be submitted not less than 180 days before the changes are to take place.

19. Each State Party shall, for each facility, make a detailed annual declaration regarding the activities of the facility for the previous year. The declaration shall be submitted not later than 90 days after the end of that year and shall include:

- (a) Identification of the facility;
  - (b) For each Schedule 1 chemical the following information:
    - (i) The chemical name, structural formula and Chemical Abstracts Service registry number, if assigned;
-

- (ii)** The quantity produced and, in case of production for protective purposes, methods employed;
  - (iii)** The name and quantity of precursors listed in Schedules 1, 2, or 3, used for production of Schedule 1 chemicals;
  - (iv)** The quantity consumed at the facility and the purpose of the consumption;
  - (v)** The quantity transferred to other facilities within the State Party. For each transfer the quantity, recipient and purpose should be included;
  - (vi)** The maximum quantity stored at any time during the year; and
  - (vii)** The quantity stored at the end of the year; and
- (c)** Information on any changes at the facility or its relevant parts during the year compared to previously submitted detailed technical description of the facility.

20. Each State Party shall, for each facility, make a detailed annual declaration regarding the projected activities and the anticipated production at the facility for the coming year. The declaration shall be submitted not less than 90 days before the beginning of that year and shall include:

- (a)** Identification of the facility;
  - (b)** For each Schedule 1 chemical the following information:
    - (i)** The chemical name, structural formula and Chemical Abstracts Service registry number, if assigned;
    - (ii)** The quantity anticipated to be produced, the time periods when the production is anticipated to take place and the purposes of the production; and
  - (c)** Information on any anticipated changes at the facility or its relevant parts, during the year compared to previously submitted detailed technical descriptions of the facility.
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## **REGIME FOR SCHEDULE 2 CHEMICALS AND FACILITIES RELATED TO SUCH CHEMICALS**

### **A. Declarations**

#### *Declarations of aggregate national data:*

1. The initial and annual declarations to be provided by each State Party pursuant to article VI, paragraphs 7 and 8, shall include aggregate national data for the previous calendar year on the quantities produced, processed, consumed, imported and exported of each Schedule 2 chemical, as well as a quantitative specification of import and export for each country involved.

2. Each State Party shall submit:

- (a) Initial declarations pursuant to paragraph 1 not later than 30 days after this Convention enters into force for it; and, starting in the following calendar year,
- (b) Annual declarations not later than 90 days after the end of the previous calendar year .

#### *Declarations of plant sites producing, processing or consuming Schedule 2 chemicals:*

3. Initial and annual declarations are required for all plant sites that comprise one or more plant(s) which produced, processed or consumed during any of the previous three calendar years or is anticipated to produce, process or consume in the next calendar year more than:

- (a) 1 kg of a chemical designated "\*" in Schedule 2, part A;
- (b) 100 kg of any other chemical listed in Schedule 2, party A; or
- (c) 1 tonne of a chemical listed in Schedule 2, part B.

4. Each State Party shall submit:-

- (a) Initial declarations pursuant to paragraph 3 not later than 30 days after this Convention enters into force for it; and, starting in the following calendar year;
- (b) Annual declarations on past activities not later than 90 days after the end of the previous calendar year; and
- (c) Annual declarations on anticipated activities not later than 60 days before the beginning of the following calendar year. Any such activity additionally planned after the annual declaration has been submitted shall be declared not later than five days before this activity begins.

5. Declarations pursuant to paragraph 3 are generally not required for mixtures containing a low concentration of a Schedule 2 chemical. They are only required, in accordance with guidelines, in cases where the case of recovery from the mixture of the Schedule 2 chemical and its total weight are deemed to pose a risk to the object and purpose of this Convention. These guidelines shall be considered and approved by the Conference of the States Parties pursuant to Article VIII, paragraph 21(i).

6. Declarations of a plant site pursuant to paragraph 3 shall include:-

- (a)** The name of the plant site and the name of the owner, company, or enterprise operating it;
- (b)** Its precise location including the address; and
- (c)** The number of plants within the plant site which are declared.

7. Declarations of a plant site pursuant to paragraph 3 shall also include, for each plant which is located within the plant site and which falls under the specifications set forth in paragraph 3 the following information:-

- (a)** The name of the plant and the name of the owner, company, or enterprise operating it'
- (b)** Its precise location within the plant site including the specific building or structure number, if any;
- (c)** Its main activities;
- (d)** Whether the plant:-
  - (i)** Produces, processes, or consumes the declared Schedule 2 chemical(s);
  - (ii)** Is dedicated to such activities or multi-purpose; and
  - (iii)** Performs other activities with regard to the declared Schedule 2 chemical(s), including a specification of that other activity (e.g. storage); and
- (e)** The production capacity of the plant for each declared Schedule 2 chemical.

8. Declarations of a plant site pursuant to paragraph 3 shall also include the following information on each Schedule 2 chemical above the declaration threshold:-

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- (a) The chemical name, common or trade name used by the facility, structural formula, and Chemical Abstracts Service registry number, if assigned;
- (b) In the case of the initial declaration the total amount produced, processed, consumed, imported and exported by the plant site in each of the three previous calendar years;
- (c) In the case of the annual declaration on past activities the total amount produced, processed, consumed, imported and exported by the plant site in the previous calendar year;
- (d) In the case of the annual declaration on anticipated activities: the total amount anticipated to be produced, processed or consumed by the plant site in the following calendar year, including the anticipated time periods for production, processing or consumption; and
- (e) The purposes for which the chemical was or will be produced, processed or consumed:
  - (i) Processing and consumption on site with a specification of the product types;
  - (ii) Sale or transfer within the territory or to any other place under the jurisdiction or control of the State Party, with a specification whether to other industry, trade or other destination and, if possible, of final product types;
  - (iii) Direct export with a specification of the States involved; or
  - (iv) Other including a specification of these other purposes.

*Declarations on past production of Schedule 2 chemicals for chemical weapons purposes;*

9. Each State Party shall, not later than 30 days after this Convention enters into force for it, declare all plant sites comprising plants that produced at any time since 1 January 1946 a Schedule 2 chemical for chemical weapons purposes.

10. Declarations of a plant site pursuant to paragraph 9 shall include:

- (a) The name of the plant site and the name of the owner, company, or enterprise operating it;
  - (b) Its precise location including the address;
  - (c) For each plant which is located within the plant site, and which falls under the specifications set forth in paragraph 9, the same information as required under paragraph 7, subparagraphs (a) to (e); and
  - (d) For each Schedule 2 chemical produced for chemical weapons purposes:
-



- (i) The chemical name, common or trade name used by the plant site for chemical weapons production purposes, structural formula, and Chemical Abstracts Service registry number, if assigned;
- (ii) The dates when the chemical was produced and the quantity produced; and
- (iii) The location to which the chemical was delivered and the final product produced there, if known.

*Information to States Parties:*

11. A list of plant sites declared under this Section together with the information provided under paragraphs 6, 7 (a), 7 (c) 7 (d) (i), 7 (d) (iii), 8 (a) and 10 shall be transmitted by the Technical Secretariat to States Parties upon request.

C. Transfers to states not Party to this Convention

12. Schedule 2 chemicals shall only be transferred to or received from states Parties. This obligation shall take effect three years after entry into force of this Convention.

13. During this interim three-year period, each State Party shall require an end-use certificate, as specified below, for transfers of Schedule 2 chemicals to States not Party to this Convention. For such transfers, each State Party shall adopt the necessary measures to ensure that the transferred chemicals shall only be used for purposes not prohibited under this Convention. *Inter alia*, the State Party shall require from the recipient state a certificate stating, in relation to the transferred chemicals:-

- (a) That they will only be used for 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).
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## **REGIME FOR SCHEDULE 3 CHEMICALS AND FACILITIES RELATED TO SUCH CHEMICALS**

### **A. Declarations**

#### *Declarations of aggregate national data:*

1. The initial and annual declarations to be provided by a State Party, shall include aggregate national data for the previous calendar year on the quantities produced, imported and exported of each Schedule 3 chemical, as well as a quantitative specification of import and export for each country involved.

2. Each State Party shall submit:-

- (a) Initial declarations pursuant to paragraph 1 not later than 30 days after this Convention enters into force for it; and, starting in the following calendar year; and
- (b) Annual declarations not later than 90 days after the end of the previous calendar year .

#### *Declarations of plant sites producing Schedule 3 chemicals:*

3. Initial and annual declarations are required for all plant sites that comprise one or more plants which produced during the previous calendar year or are anticipated to produce in the next calendar year more than 30 tonnes of a Schedule 3 chemical.

4. Each State Party shall submit:-

- (a) Initial declarations pursuant to paragraph 3 not later than 30 days after this Convention enters into force for it; and, starting in the following calendar year;
- (b) Annual declarations on past activities not later than 90 days after the end of the previous calendar year; and
- (c) Annual declarations on anticipated activities not later than 60 days before the beginning of the following calendar year. Any such activity additionally planned after the annual declaration has been submitted shall be declared not later than five days before this activity begins.

5. Declarations pursuant to paragraph 3 are generally not required for mixtures containing a low concentration of a Schedule 3 chemical. They are only required, in accordance with guidelines, in such cases where the case of recovery from the mixture of the Schedule 3 chemical and its total weight are deemed to pose a risk to the object and purpose of this Convention. These guidelines shall be considered and approved by the Conference pursuant to article VIII. paragraph 21 (i).

6. Declarations of a plant site pursuant to paragraph 3 shall include:-

- (a) The name of the plant site and the name of the owner, company, or enterprise operating it;
- (b) Its precise location including the address; and
- (c) The number of plants within the plant site which are declared pursuant to this Annex.

7. Declarations of a plant site pursuant to paragraph 3 shall also include, for each plant which is located within the plant site and which falls under the specifications set forth in paragraph 3, the following information:

- (a) The name of the plant and the name of the owner, company, or enterprise operating it;
- (b) Its precise location within the plant site, including the specific building or structure number, if any; and
- (c) Its main activities.

8. Declarations of a plant site pursuant to paragraph 3 shall also include the following information on each Schedule 3 chemical above the declaration threshold:-

- (a) The chemical name, common or trade name used by the facility, structural formula, and Chemical Abstracts Service registry number, if assigned;
- (b) The approximate amount of production of the chemical in the previous calendar year, or, in case of declarations on anticipated activities, anticipated for the next calendar year, expressed in the ranges: 30 to 200 tonnes, 200 to 1,000 tonnes, 1,000 to 10,000 tonnes, 10,000 to 100,000 tonnes, and above 100,000 tonnes; and
- (c) The purposes for which the chemical was or will be produced.

*Declarations on past production of Schedule 3 chemicals for chemical weapons purposes*

9. Each State Party shall, not later than 30 days after this Convention enters into force for it, declare all plant sites comprising plants that produced at any time since 1st January 1946 a Schedule 3 chemical for chemical weapons purposes.

10. Declarations of a plant site pursuant to paragraph 9 shall include:-

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- (a) The name of the plant site and the name of the owner, company, or enterprise operating it;
- (b) Its precise location including the address;
- (c) For each plant which is located within the plant site, and which falls under the specifications set forth in paragraph 9, the same information as required under paragraph 7, sub-paragraphs (a) to (c); and
- (d) For each Schedule 3 chemical produced for chemical weapons purposes:-
  - (i) The chemical name, common or trade name used by the plant site for chemical weapons production purposes, structural formula, and Chemical Abstracts Service registry number, if assigned;
  - (ii) The dates when the chemical was produced and the quantity produced; and
  - (iii) The location to which the chemical was delivered and the final product produced there, if known.

#### *Information to States Parties*

11. A list of plant sites declared under this Section together with the information provided under paragraphs 6, 7 (a), 7(c), 8 (a) and 10 shall be transmitted by the Technical Secretariat to States Parties upon request.

### **C. Transfers to States not Party to this Convention**

12. When transferring Schedule 3 chemicals to states not party to this Convention, each State Party shall adopt the necessary measures to ensure that the transferred chemicals shall only be used for purposes not prohibited under this Convention. *Inter alia*, the State Party shall require from the recipient state a certificate stating, in relation to the transferred chemicals:-

- (a) That they will only be used for 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).
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13. Five years after entry into force of this Convention, the Conference shall consider the need to establish other measures regarding transfers of Schedule 3 chemicals to states not Party to this Convention.

## **REGIME FOR OTHER CHEMICAL PRODUCTION FACILITIES**

### **A. Declarations**

#### *List of other chemical production facilities*

1. The initial declaration to be provided by each State Party pursuant to Article VI, paragraph 7, shall include a list of all plant sites that:

- (a) produced by synthesis during the previous calendar year more than 200 tonnes of unscheduled discrete organic chemicals; or
- (b) comprise one or more plants which produced by synthesis during the previous calendar year more than 30 tonnes of an unscheduled discrete organic chemical containing the elements phosphorus, sulfur or fluorine (hereinafter referred to as "PSF-plants" and "PSF-chemical").

2. The list of other chemical production facilities to be submitted pursuant to paragraph 1 shall not include plant sites that exclusively produced explosives or hydrocarbons.

3. Each State Party shall submit its list of other chemical production facilities pursuant to paragraph 1 as part of its initial declaration not later than 30 days after this Convention enters into force for it. Each State Party shall, not later than 90 days after the beginning of each following calendar year, provide annually the information necessary to update the list.

4. The list of other chemical production facilities to be submitted pursuant to paragraph 1 shall include the following information on each plant site:-

- (a) The name of the plant site and the name of the owner, company, or enterprise operating it;
- (b) The precise location of the plant site including its address;
- (c) Its main activities; and
- (d) The approximate number of plants producing the chemicals specified in paragraph 1 in the plant site.

5. With regard to plant sites listed pursuant to paragraph 1 (a), the list shall also include information on the approximate aggregate amount of production of the unscheduled discrete organic chemicals in the previous calendar year expressed in the ranges: under 1,000 tonnes, 1,000 to 10,000 tonnes and above 10,000 tonnes.

6. With regard to plant sites listed pursuant to paragraph 1 (b), the list shall also specify the number of PSF-plants within the plant site and include information on the approximate aggregate amount of production of PSF-chemicals produced by each PSF-plant in the previous calendar year expressed in the ranges: under 200 tonnes, 200 to 1,000 tonnes, 1,000 to 10,000 tonnes and above 10,000 tonnes.

## **SCHEDULE V**

**[See section 8]**

### **(Confidentiality Annex)**

#### **A. General Principles for the Handling of Confidential Information**

**1.** The obligation to protect confidential information shall pertain to the verification of both civil and military activities and facilities. Pursuant to the general obligations set forth in Article VIII, the Organization shall:—

- (a)** Require only the minimum amount of information and data necessary for the timely and efficient carrying out of its responsibilities under the Convention;
- (b)** Take the necessary measures to ensure that inspectors and other staff members of the Technical secretariat meet the highest standards of efficiency, competence, and integrity; and
- (c)** Develop agreements and regulations to implement the provisions of the Convention and shall specify as precisely as possible the information to which the Organization shall be given access by a State Party.

**2.** The Director-General shall have the primary responsibility for ensuring the protection of confidential information. The Director-General shall establish a stringent regime governing the handling of confidential information by the Technical Secretariat, and in doing so, shall observe the following guidelines:-

- (a)** information shall be considered confidential if:-
    - (i)** it is so designated by the State Party from which the information was obtained and to which the information refers; or
    - (ii)** in the judgement of the Director-General, its unauthorized disclosure could reasonably be expected to cause damage to the State Party to which it refers or to the mechanisms for implementation of the Convention;
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- (b)** All data and documents obtained by the Technical secretariat shall be evaluated by the appropriate unit of the technical secretariat in order to establish whether they contain confidential information. Data required by States Parties to be assured of the continued compliance with the Convention by other States Parties shall be routinely provided to them. Such data shall encompass:
- (i)** The initial and annual reports and declarations provided by States Parties under Articles III, IV, V and VI, in accordance with the provisions set forth in the Verification Annex;
  - (ii)** General reports on the results and effectiveness of verification activities; and
  - (iii)** Information to be supplied to all States Parties in accordance with the provisions of the Convention;
- (c)** No information obtained by the Organization in connection with the implementation of the Convention shall be published or otherwise released, except, as follows:
- (i)** General information on the implementation of this Convention may be compiled and released publicly in accordance with the decisions of the Conference or the Executive Council;
  - (ii)** Any information may be released with the express consent of the State Party to which the information refers;
  - (iii)** Information classified as confidential shall be released by the Organization only through procedures which ensure that the release of information only occurs in strict conformity with the needs of the Convention. Such procedures shall be considered and approved by the Conference pursuant to Article VIII, paragraph 21 (i);
- (d)** The level of sensitivity of confidential data or documents shall be established, based on criteria to be applied uniformly in order to ensure their appropriate handling and protection. For this purpose, a classification system shall be introduced, which by taking account of relevant work undertaken in the preparation of the Convention shall provide for clear criteria ensuring the inclusion of information into appropriate categories of confidentiality and the justified durability of the confidential nature of information. While providing for the necessary flexibility in its implementation the classification system shall protect the rights of States Parties providing confidential information. A classification system shall be considered and approved by the Conference pursuant to Article VIII, paragraph 21 (i);
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- (e) Confidential information shall be stored securely at the premises of the Organization. Some data or documents may also be stored with the National Authority of a State Party. Sensitive information, including, *inter alia*, photographs, plans and other documents required only for the inspection of a specific facility may be kept under lock and key at this facility;
- (f) To the greatest extent consistent with the effective implementation of the verification provisions of the Convention, information shall be handled and stored by the Technical Secretariat in a form that precludes direct identification of the facility to which it pertains;
- (g) The amount of confidential information removed from a facility shall be kept to the minimum necessary for the timely and effective implementation of the verification provisions of the Convention; and
- (h) Access to confidential information shall be regulated in accordance with its classification. The dissemination of confidential information within the Organization shall be strictly on a need-to-know basis.

3. The Director-General shall report annually to the Conference on the implementation of the regime governing the handling of confidential information by the Technical Secretariat.

4. Each State Party shall treat information, which it receives from the Organization, in accordance with the level of confidentiality established for that information. Upon request, a State Party shall provide details on the handling of information provided to it by the Organization.

#### **B. Employment and Conduct of Personnel in the Technical Secretariat**

5. Conditions of staff employment shall be such as to ensure that access to and handling of confidential information shall be in conformity with the procedures established by the Director-General in accordance with Section A.

6. Each position in the Technical Secretariat shall be governed by a formal position description that specifies the scope of access to confidential information, if any needed in that position.

7. The Director-General, the inspectors and the other members of the staff shall not disclose even after termination of their functions to any unauthorized persons any confidential information coming to their knowledge in the performance of their official duties. They shall not communicate to any state, organization or person outside the Technical Secretariat any information to which they have access in connection with their activities in relation to any State Party.



8. In the discharge of their functions inspectors shall only request the information and data which are necessary to fulfill their mandate. They shall not make any records of information collected incidentally and not related to verification of compliance with the Convention.

9. The staff shall enter into individual secrecy agreements with the technical secretariat covering their period of employment and a period of five years after it is terminated.

10. In order to avoid improper disclosures, inspectors and staff members shall be appropriately advised and reminded about security considerations and of the possible penalties that they would incur in the event of improper disclosure.

11. Not less than 30 days before an employee is given clearance for access to confidential information that refers to activities on the territory or in any other place under the jurisdiction or control of a State Party, the State Party concerned shall be notified of the proposed clearance. For inspectors the notification of a proposed designation shall fulfil this requirement.

12. In evaluating the performance of inspectors and any other employees of the Technical Secretariat, specific attention shall be given to the employee's record regarding protection of confidential information.

### **C. Measures to protect sensitive Installations and Prevent Disclosure of Confidential data in the Course of on-site Verification Activities.**

13. States Parties may take such measures as they deem necessary to protect confidentiality, provided that they fulfill their obligations to demonstrate compliance in accordance with the relevant Articles and the verification Annex. When receiving an inspection the State Party may indicate to the inspection team the equipment, documentation or areas that it considers sensitive and not related to the purpose of the inspection.

14. Inspection teams shall be guided by the principle of conducting on-site inspections in the least intrusive manner possible consistent with the effective and timely accomplishment of their mission. They shall take into consideration proposals which may be made by the State Party receiving the inspection, at whatever stage of the inspections to ensure that sensitive equipment or information not related to chemical weapons, is protected.

15. Inspection teams shall strictly abide by the provisions set forth in the relevant Articles and Annexes governing the conduct of inspections. They shall fully respect the procedures designed to protect sensitive installations and to prevent the disclosure of confidential data.

16. In the elaboration of arrangements and facility agreements, due regard shall be paid to the requirement of protecting confidential information. Agreements on inspection procedures for individual facilities shall also include specific and detailed arrangements with regard to the determination of those areas of the facility to which inspectors are granted access the storage of confidential information on-site, the scope of the inspection effort in agreed areas the taking of samples and their analysis, the access to records and the use of instruments and continuous monitoring equipment.

17. The report to be prepared after each inspection shall only contain facts relevant to compliance with the Convention. The report shall be handled in accordance with the regulations established by the Organization governing the handling of confidential information. If necessary, the information contained in the report shall be processed into less sensitive forms before it is transmitted outside the Technical Secretariat and the inspected State Party.

#### **D. Procedures in case of Breaches or Alleged Breaches of Confidentiality.**

18. The Director-General shall establish necessary procedures to be followed in case of breaches or alleged breaches of confidentiality, taking into account recommendations to be considered and approved by the Conference pursuant to Article VIII, paragraph 21 (i).

19. The Director-General shall oversee the implementation of individual secrecy agreements. The Director-General shall promptly initiate an investigation if, in his judgement, there is sufficient indication that obligations concerning the protection of confidential information have been violated. The Director-General shall also promptly initiate an investigation if an allegation concerning a breach of confidentiality is made by a State Party.

20. The Director-General shall impose appropriate punitive and disciplinary measures on staff members who have violated their obligations to protect confidential information. In cases of serious breaches, the immunity from jurisdiction may be waived by the Director-General.

21. States Parties shall, to the extent possible, cooperate and support the Director-General in investigating any breach or alleged breach of confidentiality and in taking appropriate action in case a breach has been established.

22. The Organization shall not be held liable for any breach of confidentiality committed by members of the Technical Secretariat.

23. For breaches involving both a State Party and the Organization, a "Commission for the settlement of disputes related to confidentiality", set up as a subsidiary organ of the Conference, shall consider the case. This Commission shall be appointed by the Conference. Rules governing its composition and operating procedures shall be adopted by the Conference at its first session.

