

CHEMICAL WEAPONS CONVENTION ACT**

An Act relating to the prohibition of the development, production, stockpiling and use of chemical weapons and for the verification of their non-production.

Be it enacted ... as follows:

PART I: PRELIMINARY

1. This Act may be cited as the *Chemical Weapons Convention Act*.
2. This Act shall come into operation on [the day on which this Act receives the Royal Assent / upon Proclamation].

Interpretation

3.(1) In this Act unless the contrary intention appears, -

"Australian aircraft" means -

- (a) an aircraft registered or required to be registered in accordance with the Air Navigation Regulations as an Australian aircraft;
- (b) an aircraft that is owned by or in the possession or control of the Commonwealth or an authority of the Commonwealth; or
- (c) an aircraft of any part of the Australian Defence Force.

"Australian ship or vessel" means -

- (a) a ship or vessel registered in Australia; or
- (b) an unregistered ship or vessel that has Australian nationality;

"Constable" means a member of the Commonwealth Police Force or of the Police Force of a State or Territory.

"Convention" means the Convention on the Prohibition on the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, signed on behalf of Australia on 13 January 1993 being a Convention a copy of the English text of which is set out in Schedule A of this Act;

"Director" means the Director of the National Authority for the purposes of this Act;

"Director-General" means the Director-General of the Technical Secretariat;

"National Authority" means the person(s) or body designated or established by the Minister to act as the Australian National Authority in accordance with Article VII of the Convention, (no legislative provision necessary for this):

"National Authority inspector" means a person declared pursuant to section 15 to be a National Authority inspector for the purposes of this Act;

"OPCW" means the Organisation for the Prohibition of Chemical Weapons established pursuant to Article of the Convention, and its constituent bodies;

"OPCW Inspector" means a person designated pursuant to the Convention as a inspector or inspection assistant;

"Technical Secretariat" means the Technical Secretariat of the OPCW established pursuant to Article VII of the Convention.

(2) Any other term or expression used in this Act and in the Convention has in this Act the same meaning as in the Convention.

Objects of Act

4. The principal object of this Act is to give effect to certain obligations that Australia has as a Party to the Convention.

Application

5. This Act extends to every external Territory, Australian aircraft, and Australian ship or vessel.

6. This Act extends to acts done or omitted to be done by Australian citizens outside Australia and the external Territories.

PART II: PENAL PROVISIONS

Offences

7. It is unlawful to -

- (1) develop, produce, otherwise acquire, stockpile or retain chemical weapons;
- (2) transfer, directly or indirectly, chemical weapons to anyone;
- (3) use chemical weapons;
- (4) engage in any military preparations to use chemical weapons; or
- (5) assist, encourage or induce, in any way, any person to engage in
 - (a) the use of riot control agents as a method of warfare; or
 - (b) any other activity prohibited to a State Party under the Convention.

Penalties

8. A corporation that, or a natural person who, does any act or thing declared by section 7 to be unlawful is guilty of an offence and is punishable, on conviction

- (1) in the case of a corporation - by a fine; and
- (2) in the case of a natural person - by a fine or by imprisonment for a specified period or for life, or both.

Conduct by directors, servants or agents of a corporation

9.(1) Where it is necessary for the purpose of this Act to establish the state of mind of a corporation in respect of conduct engaged in or deemed to be by sub-section (2) to have been engaged in, by a corporation, it is sufficient to show that a director, servant or agent of the corporation (being a director, servant or agent by whom the conduct was engaged in within the scope of his or her actual or apparent authority) had that state of mind.

(2) Any conduct engaged in or on behalf of a corporation

- (a) by a director, servant or agent of the corporation within the scope of his or her actual or apparent authority; or

- (b) by any other person at the direction or with the consent or agreement (whether express or implied) of a director, servant or agent of the capture, where the giving of the direction, consent or agreement is within the scope of the actual or apparent authority of the director, servant or agent,

shall be deemed, for the purposes of this Act, to have been engaged in by the corporation.

- (3) A reference in this section to the state of mind of a person includes a reference to the knowledge, intention, opinion or belief of the person.

Forfeiture and seizure

10.(1) Where any substance or article is developed, produced, stockpiled, otherwise acquired or retained in contravention of section 7, the substance or article is forfeited to the Commonwealth.

- (2) A constable may, without a warrant, seize any substance or article that is forfeited or that he has reasonable grounds to believe to be forfeited, to the Commonwealth under sub-section (1), and may retain the substance or article until the expiration of a period of 60 days after the seizure, or, if a prosecution for an offence referred to in section 7 in relation to the substance or article is instituted before the expiration of that period, until the prosecution is terminated.

- (3) Any substance or article seized in pursuance of sub-section (2) shall be stored in accordance with the procedures to be prescribed by Regulation.

Prosecution

11.(1) All offences against this Act are indictable offences and shall not be triable summary.

- (2) Proceedings for the commitment of a person for trial or indictment for an offence referred to in sub-section (1) shall not be instituted except with the consent in writing of the Attorney-General or of a person authorised by the Attorney-General, by writing signed by him, to give such consents.

- (3) Notwithstanding that a consent in accordance with sub-section (2) has not been given in relation to an offence referred to in sub-section (1) -

- (a) a person may be charged with the offence;
- (b) a person may be arrested for the offence, and a warrant for such an arrest may be issued and executed; and
- (c) a person so charged may be remanded in custody or on bail,

but no further step in proceedings for the offence shall be taken until such a consent has been given.

Evidence of analyst

12.(1) The Minister may appoint an analyst for the purposes of this Act.

- (2) A certificate of an analyst appointed under sub-section (1) stating that he has analysed or examined a substance and stating the result of his analysis or examination, is admissible evidence in a proceeding for an offence under this Act and is *prima facie* evidence of the facts stated in the certificate and of the correctness of the results of the analysis or examination.

Explanatory Note: The appointment of an analyst in Section 12 relates to national verification measures and consequential legal proceedings and not to analysis of samples taken by OPCW Inspectors during routine or challenge inspections.

Old chemical weapons

13.(1) Any person knowingly in possession of old chemical weapons shall inform the National Authority of such possession and the precise location of such old chemical weapons.

(2) Failure to comply with subsection (1) is an offence punishable by a fine.

(3) For the purposes of this section, old chemical weapons has the same meaning as in the Convention.

(4) The Governor-General may make regulations for the purpose of this section.

PART III: VERIFICATION

DIVISION 1: GENERAL

Definitions

14. For the purposes of this Division, any reference to Schedule 1, Schedule 2 or Schedule 3 is a reference to Schedule 1, Schedule 2 or Schedule 3 of the Convention.

Inspectors

15(1). The Minister may, in writing, appoint a person as -

- (a) the Director of the National Authority; and/or
- (b) a National Authority inspector

for the purposes of this Act.

(2) Any person who has, in accordance with the Convention, been designated by the Technical Secretariat to carry out, or assist in, inspections or visits as inspectors or inspection assistants, shall be an OPCW inspector for the purposes of this Act.

(3) The Minister may, at the Minister's discretion -

- (a) determine any terms and conditions of appointment, including remuneration and allowances, of a person appointed under sub-section (1); and
- (b) at any time, terminate such an appointment.

16. OPCW inspectors shall, for the purposes of this Act, enjoy such privileges and immunities as set out in Schedule B of this Act.

Identity Cards

17.(1) The Director may issue to relevant persons identity cards in a form to be approved by the Director.

(2) For the purposes of this section, "relevant persons" includes -

- (a) a National Authority inspector;
- (b) the Director;

- (c) OPCW inspectors; and
- (d) any other class of persons prescribed by regulation.

Tampering with instruments

18. A person who interferes with any -

- (1) on-site instrument; or
- (2) approved equipment

with the intention of adversely affecting the operation of the on-site instrument or approved equipment is guilty of an offence against this section, punishable, upon conviction, by -

- (3) if the offender is a natural person - a fine or imprisonment or both; or
- (4) if the offender is a corporation - a fine.

False or misleading statements

19. A person who -

- (1) makes to the Director, a National Authority inspector, an OPCW inspector or another person exercising a power, or performing a function or duty in relation to this Act, a statement either orally or in writing that is to the knowledge of the person false or misleading in a material particular; or
- (2) presents to the Director, a National Authority inspector, an OPCW inspector or another person exercising a power, or performing a function or duty in relation to this Act a book, document or other record that is to the knowledge of the person false or misleading in a material particular, is guilty of an offence against this Section punishable upon conviction by -
- (3) if the offender is a natural person - a fine or imprisonment or both; or
- (4) if the offender is a corporation - a fine.

Obstruction of inspectors

20. A person who obstructs or hinders a National Authority inspector or an OPCW inspector in the performance of a duty or function in accordance with the Verification Annex of the Convention or the exercise of a power under this Act or the Regulations, is guilty of an offence against this section punishable upon conviction by

- (1) if the offender is a natural person - a fine or imprisonment or both; or
- (2) if the offender is a corporation - a fine.

Confidentiality

21. A person shall not, either directly or indirectly (except for the purposes of the Act or for the purposes of, or pursuant to, the Convention) -

- (1) produce to any person a classified document -
 - (a) given to the National Authority, an OPCW inspector or National Authority inspector;

- (b) given to the Australian Government or the National Authority pursuant to the Convention and under which it is to be treated as confidential; or
 - (c) given to the Australian Government, the National Authority or an inspector by or on behalf of the government of a foreign country with the stipulation that the document is to be treated as confidential.
- (2) make a record of, or divulge or communicate to any person the contents of a document referred to in sub-section (1); or
- (3) make a record of, or divulge or communicate to any person, any information -
- (a) given to the National Authority or an inspector pursuant to this Act or the Convention; or
 - (b) given to the Australian Government, the National Authority or an inspector pursuant to the Convention under which the information is to be treated as confidential.

Penalty: Fine or imprisonment, or both.

DIVISION 2: CHALLENGE INSPECTIONS

22. For the purposes of this Division,

- (1) "challenge inspection" has the same meaning as in the Convention;
- (2) "relevant power" means a power to -
 - (a) search a facility, premises, site, land or other location, ship, vessel, aircraft or vehicle;
 - (b) inspect or examine a matter or thing;
 - (c) take samples of a matter or thing;
 - (d) examine a document (including a record kept pursuant to this Act or the regulations);
 - (e) take extracts from, or make copies of, a document (including a record of the kind referred to in para. (d));
 - (f) measure any quantity of material;
 - (g) verify the proper functioning or calibration of any instrument (including any instrument that forms part of an on-site monitoring device);
 - (h) install or operate an on-site monitoring device;
 - (i) interview personnel; or
 - (j) do any other act or thing necessary or convenient to be done in order to achieve a relevant challenge inspection purpose.
- (3) "relevant challenge inspection purpose" shall be read as a reference to a purpose of ascertaining whether the purposes of the Convention or this Act and its regulations have been or are being complied with.

23. An OPCW inspector or a team of OPCW inspectors and accompanying National Authority inspectors may

- (1) with the consent of the occupier or owner of any facility, premise, site, land or other location; or
- (2) pursuant to a warrant issued under section 26 in respect of any facility, premise, site, land or other location

enter upon or into any facility, premise, site, land or other location, and exercise any relevant power for a relevant challenge inspection purpose.

24. An OPCW inspector or team of OPCW inspectors may -

- (1) with the consent of the person in control of any ship, vessel, aircraft or vehicle; or
- (2) pursuant to a warrant issued under section 26 in respect of any ship, vessel, aircraft or vehicle;

enter the ship, vessel, aircraft or vehicle and exercise any relevant power for a relevant challenge inspection purpose.

25. Where an OPCW inspector or OPCW inspection team and accompanying National Authority inspectors enter the ship, vessel, aircraft or vehicle under section 24, he or they may for that purpose and for the purpose of exercising any relevant power for a relevant challenge inspection purpose, stop and detain the ship, vessel, aircraft or vehicle.

Explanatory Note: During challenge inspections, the extent of access to the inspection site and records necessary to demonstrate compliance with the provisions of the Convention will need to be negotiated by the OPCW inspection team and the inspected State Party on a "case-by-case" basis. This power of access will be exercised in accordance with international obligations, as outlined in Section 49.

Warrants

26. Subject to section 27, where an information or oath is laid before a magistrate alleging that access to -

- (1) any facility, premise, site, land or other location within Australia or its external Territories; or
- (2) any Australian ship or vessel, aircraft or vehicle

is necessary for the purpose of fulfilling Australia's obligation under the Convention by the exercise of a relevant challenge inspection purpose, the magistrate shall issue a warrant for the purpose of this section authorising relevant persons named in the warrant, with such assistance as necessary, and if necessary by force -

- (3) to enter upon or into the said facility, premise, site, land, other location, ship or vessel, aircraft or vehicle; and
- (4) to exercise relevant powers in relation to the said facility, premise, site, land, other location, ship or vessel, aircraft or vehicle.

27. Where, by reason of circumstances of urgency, a Director or the Minister considers it necessary to do so, may make an application for a warrant under section 26 by telephone.

28. A warrant issued under section 26 shall state

- (1) whether entry is authorised to be made at any time of the day or night; and
- (2) a day not being later than one month after the day of issue of the warrant, upon which the warrant ceases to have effect.

DIVISION 3: INDUSTRY VERIFICATION

Schedule 1

29. It is unlawful to:

- (1) produce, acquire, retain or use a Schedule 1 chemical outside Australia unless such production, acquisition, retention or use takes place within the territory of another State Party to the Convention or is undertaken for the purposes of lawfully transporting such chemicals to another State Party;
- (2) export, or conspire to export, a Schedule 1 chemical unless to another State Party for research, medical, pharmaceutical or protective purposes; or
- (3) own or operate a facility which produces, acquires, retains or uses a Schedule 1 chemical unless the facility is a
 - (a) prescribed single small scale facility;
 - (b) prescribed other facility; or
 - (c) laboratory synthesising Schedule 1 chemicals for research, medical or pharmaceutical purpose in aggregate quantities of less than 100 grams per year.
- (4) The National Authority shall be notified of any export of a Schedule 1 chemical pursuant to sub-section (2) before such export.
- (5) A reference in this section to a prescribed facility is a reference to a facility prescribed by regulation.

Penalties

30. A Corporation that, or a natural person who, does any act or thing declared by Section 29 to be unlawful is guilty of an offence and is punishable, on conviction

- (1) in the case of a corporation - by a fine; and
- (2) in the case of a natural person - by a fine, or by imprisonment for a specified period or for life, or both.

Declarations

31. Any operator or owner of a prescribed single small scale facility or prescribed other facility shall provide to the National Authority -

- (1) in the case of a prescribed single small scale facility - the information required by Schedule C of the Act;
- (2) in the case of a prescribed other facility - the information required by Schedule D of the Act; and
- (3) such other information as prescribed by Regulation.

Verification

32.(1) An operator or owner of a prescribed single small scale facility or prescribed other facility shall allow National Authority Inspectors or OPCW Authority Inspectors

- (a) access to any part of the declared facility;

- (b) access to any records or other documentation relating to the operation of the facility;
- (c) the right to have samples taken of any matter or thing (including on-site analysis of such matter or thing) in accordance with the existing safety regulations in force at the facility;
- (d) to install or operate on-site monitoring instruments; and
- (e) to operate on-site analytical instruments.

(2) An operator or owner of a prescribed single small scale facility or prescribed other facility shall co-operate with the National Authority in the negotiation of a facility agreement for the purposes of this Sub-section (1) in the form to be prescribed by the Director-General.

Schedule 2

33. For the purposes of this Division, a "Schedule 2 facility" means any facility consisting of a plant site which comprises one or more plants which 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 more than

- (1) 1 kg of a chemical listed in Schedule 2, Part A and designated "*";
- (2) 100kg of any other chemical listed in Schedule 2, Part A; or
- (3) 1 ton of a chemical listed in Schedule 2, Part B.

34. Any operator or owner of a Schedule 2 facility shall provide to the National Authority -

- (1) the information required by Schedule E of the Act; and
- (2) such other information as prescribed by Regulation.

35. Any operator or owner of a facility which has produced at any time since 1 January 1946 a Schedule 2 chemical for chemical weapons purposes shall provide to the National Authority -

- (1) the information required by Schedule F of the Act, and
- (2) such other information as prescribed by Regulation.

36.(1) A Schedule 2 facility will be subject to inspection if one or more plants within it produced, processed or consumed during any of the previous three calendar years or are anticipated to produce, process or consume in the next calendar year more than:

- (a) 10kg of a chemical designated "*" in Schedule 2, Part A;
- (b) 1 ton of any other chemical listed in Schedule 2, Part A; or
- (c) 10 tons of a chemical listed in Schedule 2, Part B.

(2) An operator or owner of a Schedule 2 facility which is subject to inspection shall allow National Authority Inspectors and OPCW Inspectors

- (a) access to any declared plant within the plant site, and the elements of common infrastructure of the plant site associated with the declared activities;
- (b) access to records or other documentation relating to the declared Schedule 2 chemical;

- (c) the right to have samples taken of any matter or thing (including on-site analysis of such matter or thing) in accordance with the existing safety regulations in force at the facility; and
- (d) to operate on-site analytical instruments.

(3) An operator or owner of a Schedule 2 facility which is subject to inspection shall co-operate with the National Authority in the negotiation of a facility agreement for the purposes of this Section in the form to be prescribed by the Director-General, unless the OPCW and the National Authority agree that a facility agreement is not needed.

Explanatory Note: For Schedule 2 facilities, the extent of access to the plant site and records necessary to demonstrate compliance with the provisions of the Convention will need to be negotiated by the OPCW inspection team and the inspected State Party on a "case-by-case" basis. This power of access granted to the OPCW Inspectors will be exercised in accordance with international obligations, as outlined in Section 49.

37. The information required pursuant to section 34 shall be provided on an annual basis in respect of past and anticipated activities in the form requested by the Director.

Schedule 3

38. For the purposes of this Division, a "Schedule 3 facility" means any facility consisting of a plant site which comprises one or more plants which produced during the previous calendar year or is anticipated to produce in the next calendar year more than 30 tons of a Schedule 3 chemical.

39. Any operator or owner of a Schedule 3 facility shall provide to the National Authority -

- (1) the information required by Schedule G of the Act; and
- (2) such other information as prescribed by Regulation.

40. Any operator or owner of a facility which has produced at any time since 1 January 1946 a Schedule 3 chemical for chemical weapons purposes shall provide to the National Authority

- (1) the information required by Schedule H of the Act; and
- (2) such other information as prescribed by Regulation.

41.(1) A Schedule 3 facility will be subject to inspection if the declared plant site produced during the previous calendar year more than 200 tons aggregate of any Schedule 3 chemical above the declaration threshold of 30 tons.

(2) An operator or owner of a Schedule 3 facility which is subject to inspection shall allow National Authority Inspectors and OPCW Inspectors

- (a) access to any declared plant within the plant site, and the elements of common infrastructure of the plant site associated with the declared production;
- (b) access to records or other documentation relating to the declared Schedule 3 chemical;
- (c) the right to have samples taken of any matter or thing (including on-site analysis of such matter or thing) in accordance with the existing safety regulations in force at the facility; and
- (d) to operate on-site analytical instruments.

Explanatory Note: For Schedule 3 facilities, the extent of access to the plant site and records necessary to demonstrate compliance with the provisions of the Convention will need to be negotiated by the OPCW inspection team and the inspected State Party on a "case-by-case" basis. This power of access granted to the OPCW Inspectors will be exercised in accordance with international obligations, as outlined in Section 49.

42. The information required pursuant to section 39 shall be provided on an annual basis in respect of past and anticipated activities in the form requested by the Director.

Other Chemical Production Facilities

43. For the purposes of this Division -

- (1) "Other Chemical Production Facility" means any facility consisting of a plant site which -
 - (a) produced by synthesis during the previous calendar year more than 200 tons of unscheduled discrete organic chemicals; or
 - (b) comprises one or more plants which produced by synthesis during the previous calendar year more than 30 tons of an unscheduled discrete organic chemical containing the elements phosphorus, sulphur or fluorine (hereinafter referred to as "PSF-plants" and "PSF-chemical"),

unless such facility exclusively produced explosives or hydrocarbons.

(2) "Discrete organic chemical" has the same meaning in this Division as in the Convention.

(3) "Unscheduled discrete organic chemical" means a discrete organic chemical not listed in Schedules 1,2 or 3 of the Convention.

44. Any operator or owner of an Other Chemical Production Facility shall provide to the National Authority -

- (1) the information required by Schedule J of the Act; and
- (2) such other information as prescribed by Regulation.

45.(1) The following Other Chemical Production Facilities will be subject to inspection:

- (a) plant sites listed pursuant to Section 43(1)(a);
- (b) plant sites listed pursuant to Section 43(1)(b) that comprise one or more PSF-plants which produced more than 200 tons of a PSF-chemical.

(2) An operator or owner of an Other Chemical Production Facility which is subject to inspection shall allow National Authority Inspectors and OPCW Inspectors

- (a) access to any plant within the plant site which is involved in the production of chemicals specified in Section 43(1)(a) and (b), and the elements of common infrastructure of the plant site associated with these activities;
- (b) access to records or other documentation relating to the production of chemicals specified in Section 43(1)(a) and (b);
- (c) the right to have samples taken of any matter or thing (including on-site analysis of such matter or thing) in accordance with the existing safety regulations in force at the facility; and
- (d) to operate on-site analytical instruments.

Explanatory Note: Section 45 would only be activated (by proclamation) after the Conference of States Parties at its regular session in the third year after entry into force of the Convention or at some later date, decided to proceed with inspections of Other Chemical Production Facilities. For Other Chemical Production Facilities, the extent of access to the plant site and records necessary to demonstrate compliance with the provisions of the Convention will need to be negotiated by the OPCW inspection team and the inspected State Party on a "case-by-case" basis. This power of access granted to the OPCW Inspectors will be exercised in accordance with international obligations, as outlined in Section 49.

46. The information required pursuant to Section 44 shall be provided on an annual basis in respect of past and anticipated activities in the form requested by the Director.

Routine Inspections

Explanatory Note: A State Party may wish to pass legislation to enable the National Authority to conduct routine inspections of facilities, including facilities which have not made declarations under Sections 32(1), 36(1), 41 and 45, to ensure observation of the national legislation, independent of the international inspections conducted by the OPCW. States Parties may wish to consider this option in the development of the CWC enabling legislation. One such example could be a situation where the State Party had grounds for suspecting that a particular facility may not be complying with the CWC or the legislation.

PART IV: MISCELLANEOUS

Delegation

47.(1) The Minister may either generally or as otherwise provided by the instrument of delegation, by writing signed by the Minister, delegate to an officer of the National Authority all or any of the Minister's powers under this Act or the regulations, other than this power of delegation.

(2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Act or the Regulations, be deemed to have been exercised by the Minister.

(3) A delegation under this section does not prevent the exercise of a power by the Minister.

Regulations

48. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular, making provision for, or with respect to

- (1) the prohibition of possession of old chemical weapons by virtue of section 13;
- (2) the imposition of penalties for offences against the Regulations;
- (3) the transportation of any toxic chemicals listed in Schedules 1, 2 and 3;
- (4) prescribing designated Schedule 1 single small scale facilities and other facilities under Section 29;
- (5) prescribing additional information to be provided to the National Authority; and
- (6) the storage of material or articles seized under Section 10.

Powers to be exercised in accordance with international obligations

49.(1) Where this Act confers a power, discretion, duty or function on a person, the exercise of the power or discretion or the performance of the duty or function is authorised by this Act only to the extent that the exercise or performance is not inconsistent with Australia's obligations under the relevant international agreements.

(2) Where this Act confers a power or discretion on a person that person shall have regard to Australia's obligations under the relevant international agreements in exercising that power or discretion.

(3) A reference in this section to a relevant international agreement is a reference to an agreement that is, by virtue of sub-section (4), a relevant international agreement for the purposes of this section.

(4) The Chemical Weapons Convention is a relevant international agreement for the purposes of this section.

SCHEDULE A

(incorporate text of the CWC including the Annexes)

SCHEDULE B

Privileges and immunities of OPCW inspectors

1. OPCW inspectors shall be accorded the privileges and immunities set out in paragraph 2 below. These privileges and immunities shall be accorded to OPCW inspectors for the entire period between their arrival in, and departure from, Australia, and thereafter with respect to acts previously performed in the exercise of their official functions.

2. Subject to paragraph (1), OPCW inspectors shall, in the exercise of their functions pursuant to the Convention, enjoy the following privileges and immunities:

- (a) OPCW inspectors shall be accorded the inviolability enjoyed by diplomatic agents pursuant to Article 29 of the *Vienna Convention on Diplomatic Relations* of 18 April 1961. He or she shall not be liable to any form of arrest or detention, and shall be treated with due respect.
- (b) the living quarters and office premises occupied by OPCW inspectors carrying out inspection activities pursuant to the Convention shall be accorded the inviolability and protection accorded to premises of diplomatic agents pursuant to Article 30 (1) of the *Vienna Convention on Diplomatic Relations*.
- (c) the papers and correspondence, including records, of OPCW inspectors shall enjoy the inviolability and protection accorded to all papers and correspondence of diplomatic agents pursuant to Article 30(2) of the *Vienna Convention on Diplomatic Relations*.
- (d) OPCW inspectors shall have the right to use code for communications with the Technical Secretariat.
- (e) samples and approved equipment carried by OPCW inspectors shall be inviolable, subject to paragraph 4 and relevant provisions contained in the Convention, and shall be exempt from all customs duties.

- (f) OPCW inspectors shall enjoy immunity from the criminal jurisdiction of the Commonwealth and of every State of the Commonwealth and external Territory, and shall also enjoy immunity from any civil and administrative jurisdiction as specified in Article 31(13) of the *Vienna Convention on Diplomatic Relations*.
 - (g) OPCW inspectors shall be exempt from dues or taxes in the same manner as diplomatic agents pursuant to the *Vienna Convention on Diplomatic Relations*.
 - (h) OPCW inspectors shall be exempt from the payment of customs and related charges in respect of articles for personal use, unless the import or export of such items is prohibited under Australian law.
 - (i) OPCW inspectors shall be exempt from currency and exchange restrictions to such extent as is accorded to an official of a diplomatic mission.
3. Notwithstanding the provisions of paragraph 2, OPCW inspectors shall not engage in any professional or commercial activity for personal profit in the conduct of their work.
4. Hazardous samples carried by OPCW inspectors shall be transported in accordance with prescribed Regulations, taking into account such international IMO and IATA obligations as may be applicable to such transportation.
5. OPCW inspectors whose destination is a country other than Australia shall, whilst in transit in Australia, be accorded the privileges and immunities enjoyed by diplomatic agents pursuant to Article 40 (1) of the *Vienna Convention on Diplomatic Relations*. In particular the papers and correspondence (including records) and samples approved by them shall be accorded the privileges and immunities set forth in paragraphs 2(c) and (e).
6. These provisions of paragraphs 2 and 5 relating to immunity from jurisdiction may be expressly waived by the Director-General of the Technical Secretariat.
7. The provisions of sub-paragraphs 2 (a), (b), (c), (e), (f), (g) (h and (i) shall apply to any observers accompanying OPCW inspectors in the course of their inspections.
8. For the purposes of paragraph 7, "observer" has the same meaning as in the Convention.

SCHEDULE C

Declarations for Other Chemical Production Facilities

The following information shall be provided to the National Authority:

1. The precise location and a detailed technical description of the facility, including:
 - (a) equipment inventory;
 - (b) detailed diagrams; and
 - (c) the volume of the reaction vessels in the production lines for the Schedule 1 chemicals.
2. Annual declarations for the previous year in respect of activities at the facility, including:
 - (a) identification of the facility;
 - (b) for each Schedule 1 chemical produced, acquired, consumed or stored at the facility

- (i) the chemical name, structural formula and Chemical Abstracts Service registry number, if assigned;
- (ii) the methods employed and the quantity produced;
- (iii) the name and quantity of precursors listed in Schedules 1, 2 and 3 used for the production of Schedule 1 chemicals;
- (iv) the quantity consumed at the facility and the purpose or purposes of the consumption;
- (v) the quantity received from or shipped to other facilities in Australia, specifying the quantity, recipient and purpose of each shipment;
- (vi) the maximum quantity stored at the end of 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.

3. Annual declarations in respect of projected activities and anticipated production at the facility for the coming calendar year, including

- (a) identification of the facility;
- (b) for each Schedule 1 chemical anticipated to be produced, consumed or stored at the facility
 - (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 concerning 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.

SCHEDULE D

Declarations for prescribed other facilities

The following information shall be provided to the National Authority pursuant to Section 31:

1. The name, location and a detailed technical description of the facility or its relevant parts in the form requested by the Technical Secretariat. A facility producing Schedule 1 chemicals for protective purposes shall be specifically identified.
2. Annual declarations for the previous year in respect of activities at the facility, including:
 - (a) identification of the facility;
 - (b) for each Schedule 1 chemical

- (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 and 3, used for the production of Schedule 1 chemicals;
 - (v) the quantity consumed at the facility and the purpose of the consumption;
 - (vi) the quantity transferred to other facilities in Australia, specifying the quantity, recipient and purpose of each transfer; the maximum quantity stored at any time during the calendar year; and
 - (vii) the quantity stored at the end of the year; and
 - (c) information of any changes at the facility or its relevant parts during the year compared to previously submitted detailed technical description of the facility.
3. Annual declarations in respect of projected activities and anticipated production at the facility for the coming calendar year, including
- (a) identification of the facility;
 - (b) for each Schedule 1 chemical anticipated to be produced, consumed or stored at the facility
 - (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 concerning any anticipated changes at the facility during the year compared to previously submitted detailed technical descriptions of the facility.

SCHEDULE E

Declarations for Schedule 2 facilities

The following information shall be provided to the National Authority pursuant to section 34

1. For each Schedule 2 facility -
- (a) the name of the plant site, and name of the owner, company or enterprise operating it;
 - (b) the precise location including address of the plant site;
 - (c) the number of plants within the plant site declared pursuant to section 40 (Schedule 3); and

(d) for each plant located within the plant site which produced or is anticipated to produce, consume or process Schedule 2 chemicals in such quantities as set out in Section 33 -

- (i) the name of the plant, and name of the owner, company or enterprise operating it;
- (ii) the precise location of the plant within the plant site including the specific building or structure number, if any
- (iii) its main activities;
- (iv) whether the plant -
 - produces, processes or consumes the declared Schedule 2 chemical(s);
 - is dedicated to such activities or is multipurpose; or
 - performs others activities with regard to the declared Schedule 2 chemicals and, if so, the nature of the activity.
- (v) the production capacity of the plant for each declared Schedule 2 chemical.
- (vi) the number of plants within the plant-site which are declared pursuant to Sections 38 and 40 of the Act.

2. The following information shall be provided for each Schedule 2 chemical above the threshold set out in section 33 -

- (i) the chemical name, common or trade name used by the facility, structural formula, and chemical Abstracts Service number, if assigned;
- (ii) the total amount produced, processed consumed imported and exported by the plant site
 - in the case of the initial declaration, in the three previous years
 - in the case of annual declarations, in the previous calendar year.
 - in the case of anticipated activities, in the following year.
- (iii) the purpose for which the chemical was or will be produced, processed consumed, including -
 - processing and consumption on site with a specification of the product types;
 - sale or transfer within Australia, with a specification as to destination (other industry, trade or other destination, and final product type (if known).

SCHEDULE F

Declarations for Schedule 2 chemical weapons production facilities

The following information shall be provided to the National Authority pursuant to section 35 in respect of each plant site

- (a) the name of the plant site and name of the owner, company or enterprise which operated or is operating the plant site;

- (b) the precise location of the plant site;
- (c) for each plant located within the plant-site which has been involved in the production of Schedule 2 chemicals for chemical weapons purposes -
 - (i) the name of the plant site and name of the owner, company or enterprise which operated or is operating the plant site;
 - (ii) the precise location of the plant site;
- (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 Abstract services number;
 - (ii) the dates when the chemical was produced and the quantity produced; and
 - (iii) the location to which the chemical was delivered and, if known, the final product produced there.

SCHEDULE G

Declarations for Schedule 3 facilities

The following information shall be provided to the National Authority pursuant to Section 39:

1. For each Schedule 3 facility -

- (a) the name of the plant site, and name of the owner, company or enterprise operating it;
- (b) the precise location including address of the plant site;
- (c) the number of plants within the plant site declared pursuant to Section 33 and 35 of the Act (Schedule 2); and
- (d) for each plant located within the plant site which produced or is anticipated to produce Schedule 3 chemicals in such quantities as set out in Section 38, including
 - (i) the name of the plant, and name of the owner, company or enterprise operating it;
 - (ii) the precise location of the plant within the plant site including the specific building or structure number, if any
 - (iii) its main activities;

2. The following information shall be provided for each schedule 3 chemical above the threshold set out in Section 38 -

- (a) the chemical name, common or trade name used by the facility, structural formula, and chemical Abstracts Service number, if assigned;
- (b) the approximate amount of production of the chemical -

- (i) in the case of annual declarations, in the previous calendar year; and
- (ii) in the case of anticipated activities, for the next following year in ranges of 30-200 tonnes, 200-1000 tonnes, 1000-10,000 tonnes, 10,000-100,000 tonnes, and greater than 100,000 tonnes; and
- (c) the purposes for which the chemical was or will be produced.

SCHEDULE H

Declarations for Schedule 3 Chemical Weapons production facilities

The following information shall be provided to the National Authority pursuant to Section 40 in respect of each plant site -

- (a) the name of the plant site and name of the owner, company or enterprise which operated or is operating the plant site;
- (b) the precise location of the plant site;
- (c) for each plant located within the plant site which has been involved in the production of Schedule 3 chemicals for chemical weapons purposes -
 - (i) the name of the plant, and name of the owner, company or enterprise operating it;
 - (ii) the precise location of the plant within the plant site including the specific building or structure number, if any
 - (iii) its main activities;
- (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 Abstract Services number;
 - (ii) the dates when the chemical was produced and the quantity produced
 - (iii) the location to which the chemical was delivered and, if known, the final product produced there.

SCHEDULE I

Declarations for Other Chemical Production Facilities

The following information shall be provided to the National Authority pursuant to Section 44:

- (a) the name of the plant site, and name of the owner, company or enterprise operating it;
- (b) the precise location including address of the plant site;
- (c) its main activities;

- (d) the approximate number of plants producing the chemicals listed in section 43;
- (e) in the case of a plant site producing by synthesis during the previous calendar year more than 200 tonnes of unscheduled discrete organic chemicals, the appropriate aggregate amount of production of unscheduled discrete organic chemicals in the previous calendar year expressed in the ranges 100 - 10,000 tonnes and above 10,000 tonnes;
- (f) the number of PSF-plants within the plant site;
- (g) 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 - 1000 tonnes, 1000 - 10,000 tonnes and above 10,000 tonnes.