



# OPCW

Organisation for the Prohibition of Chemical Weapons

## Prohibition and Criminalization - Chemical Weapons Convention

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# “Initial measures”

*A set of criteria agreed on by States Parties in 2013, to be used by OPCW to monitor the status of implementation of the Convention.*



1. Definition
2. National Authority
3. Prohibitions and penalties
4. Extraterritorial application
5. Control regime and reporting on transfers
6. Basis for implementing regulations



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# Status of national implementing legislation

- Out of 56 States Parties in Asia -

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**Covering only some of the initial measures**

Bahrain, Brunei Darussalam, Bhutan, Iraq, Kuwait, Kyrgyzstan, Maldives, Mongolia, Myanmar, the Philippines, Nepal, **Samoa**, State of Palestine and **Timor-Leste**

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**Yet to have legislation in place**

Afghanistan, Lebanon, **the Marshall Islands, Nauru, Papua New Guinea, Solomon Islands**, the Syrian Arab Republic, **Tonga, Tuvalu, and Vanuatu**



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# Manual on National Implementing Legislation on the Chemical Weapons Convention

State practice

Model language

Sample legislation

Commentary

Tools for self-assessment



# Chemicals regulated by CWC

## Schedule 1

- High risk to the object & purpose of Chemical Weapons Convention
- Little or no use for purposes not prohibited

## Schedule 2

- Significant risk
- Not produced in large quantities for purposes not prohibited

## Schedule 3

- Risk
- May be produced in large quantities for purposes not prohibited

## “Other Chemical Production Facilities” producing large quantities of “discrete organic chemicals (DOCs)”

- Engineering capability of the facility is important, rather than DOCs produced



# Prohibitions – chemical weapons

## **Sample: Chemical Weapons Convention Act 2007 (Sri Lanka)**

### Section 19

(1) Any person who –

- (a) uses a chemical weapon;
- (b) develops or produces a chemical weapon;
- (c) acquires, stockpiles or retains a chemical weapon;
- (d) transfers, directly or indirectly, any chemical weapon to another person;
- (e) engages in any military preparations to use a chemical weapon;
- (f) knowingly assists, encourages or induces, any prohibited activity; or
- (g) uses any riot control agent as a method of warfare,

shall be guilty of an offence under this Act and be punished with imprisonment of either description for a period not exceeding twenty years and a fine not exceeding one million rupees.



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# Prohibitions– scheduled chemicals

## **Sample: Chemical Weapons (Prohibition) Act 2007 (Cook Islands)**

### Section 7 – Schedule 2 chemicals

1) Subject to subsection (2), every person who transfers to or receives from a State not Party to the Convention Schedule 2 chemicals, commits an offence and is liable on conviction to the penalties stated in Section 5.

2) Paragraph (1) shall not apply to those products containing Schedule 2 chemicals in which -

- a. the product contains one percent or less of a Schedule 2A or 2A chemical; or
- b. the product contains 10 percent or less of a Schedule 2B chemical; or
- c. the product is identified as a consumer good packaged for retail sale for personal use or packaged for individual use.



# Penalties – chemical weapons

## **Sample: National Code**

### **‘Prohibitions Against Chemical Weapons’ 2005 (Palau)**

#### Section 4005

Every person commits an offense who intentionally or knowingly:

- a) develops, produces, otherwise acquires, stockpiles or retains chemical weapons;
- b) transfers, directly or indirectly, chemical weapons to another person;
- c) uses chemical weapons;
- d) engages in any military preparations to use chemical weapons; or
- e) assists, encourages, or induces, in any way, any person to engage in any activity prohibited to the Republic under the Convention.

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





# Extraterritoriality

## **Sample:**

### **Chemical Weapons (Prohibition) Act 1994 (Australia)**

#### Section 5

1. Subject to this Act, this Act extends to acts done or omitted to be done by an Australian citizen outside Australia and the external Territories or to acts done on board Australian ships and aircraft.

2. In subsection (1):

Australian ships and aircraft means ships and aircraft registered in Australia or belonging to, or in the possession of, the Commonwealth or a State.



# Extraterritorial application

What happens if a national of a State Party commits a crime in the territory of...

- a non-State Party?
- a State Party but without an implementing legislation?
- a State Party but its Government is unable or unwilling to pursue the prosecution?



# Available support – legal drafters programme





# Available support – influential visitors programme





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منظمة حظر الأسلحة الكيميائية

禁止化学武器组织

Organisation for the Prohibition of Chemical Weapons

Organisation pour l'Interdiction des Armes Chimiques

Организация по запрещению химического оружия

Organización para la Prohibición de las Armas Químicas