



OPAQ

Secretaría Técnica

División de Relaciones Externas
Oficina del Asesor Jurídico
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**UN ENFOQUE INTEGRADO DE LA LEGISLACIÓN PARA
LA APLICACIÓN EN EL PLANO NACIONAL**

**LEY MODELO ELABORADA POR LA SECRETARÍA DE LA ORGANIZACIÓN
DE ESTADOS DEL CARIBE ORIENTAL**

1. El concepto de la legislación integrada para la aplicación en el plano nacional

1.1 En 1999, algunos Estados señalaron que estaban procurando redactar textos legislativos destinados a la aplicación simultánea de varios instrumentos multilaterales relacionados con la reglamentación de las sustancias químicas, y que deseaban se les ayudara a adoptar un enfoque integrado. Se preveía que al abordar el tema de la legislación de manera integrada se evitarían contradicciones entre las disposiciones legislativas y se disminuiría la carga administrativa que supone el control de los distintos sistemas por separado. A tales efectos, en junio de 1999, la Secretaría Técnica de la OPAQ (en adelante, la “Secretaría de la OPAQ”) cooperó con el Instituto de las Naciones Unidas para Formación e Investigaciones (UNITAR) en la organización del seminario especializado sobre formulación y fortalecimiento de las legislaciones y políticas de los países para el manejo adecuado de las sustancias químicas (S/127/99, de fecha 1º de julio de 1999). La Secretaría de la Organización de los Estados del Caribe Oriental (OECO) (en adelante, la “Secretaría de la OECO”) también participó en ese seminario.

2. Iniciativa de la Secretaría de la OECO

2.1 Durante varios años, la Secretaría de la OECO, junto con sus Estados Miembros, había estado elaborando una ley modelo con el fin de que en la reglamentación de los plaguicidas aplicada en los países (y administrada por juntas nacionales de control de plaguicidas) se abarcara la reglamentación de plaguicidas y sustancias químicas tóxicas de manera más general. A raíz del seminario de UNITAR, la Secretaría de la OECO estimó conveniente ampliar el alcance de la legislación de modo de recoger también en ella las disposiciones necesarias para aplicar la Convención sobre las Armas Químicas. En septiembre de 1999 solicitó ayuda a la Secretaría de la OPAQ. El consultor jurídico de la Secretaría de la OECO se trasladó a La Haya para participar en una sesión de redacción y, posteriormente, la Secretaría de la OECO

preparó un proyecto de texto. En febrero de 2000 se llevó a cabo un seminario de trabajo destinado a los Estados Miembros de la OECO para tratar de la legislación, copatrocinado por la OPAQ y la OECO. El proyecto de ley y de reglamento sobre control de plaguicidas y sustancias químicas tóxicas resultante fue presentado poco tiempo después por la Secretaría de la OECO en una reunión del Comité de Asuntos Jurídicos (en la que participaron los Procuradores Generales de los Estados Miembros de la OECO).

3. Los resultados

3.1 Este ejercicio presenta cuatro ventajas para la OECO:

- a) gracias a la legislación integrada, los parlamentos de los Estados Miembros de la OECO podrán estudiar en una sola instancia la reglamentación de los plaguicidas y de las sustancias químicas tóxicas (actualmente prioridad nacional para la agricultura) junto con la reglamentación de las sustancias químicas prevista en la Convención sobre las Armas Químicas (lo cual hoy tiene menor prioridad para los Estados Miembros de la OECO ya que no poseen armas químicas ni prevén contar con industria química declarable);
- b) la ratificación de la Convención y la adhesión a ésta se verán facilitadas ya que los Estados Miembros de la OECO habrán cumplido con la obligación de promulgar medidas para aplicar la Convención al convertirse en Estados Partes (sólo un Estado, a saber, Santa Lucía, es actualmente Estado Parte; los otros cinco desean asegurarse de que no se verán afectados por las restricciones comerciales de la Lista 2). Se ha dispuesto que la ley entre en vigor en la fecha o fechas fijadas por decreto del Gobernador General. De este modo se podrá sincronizar la fecha de entrada en vigor de las disposiciones relativas a la Convención con la de la entrada en vigor de la Convención para el Estado en cuestión;
- c) habrá un solo organismo interministerial, a saber, la Junta de control de plaguicidas y sustancias químicas tóxicas, responsable en general de los plaguicidas y las sustancias químicas tóxicas, el cual hará las veces de Autoridad Nacional respecto de la Convención. Dado que los Estados en cuestión no poseen armas químicas ni prevén tener una industria química declarable, se espera que una vez que se presenten a la OPAQ las declaraciones iniciales, la carga administrativa resultante de la Convención sea mínima. Prácticamente todos los recursos humanos asignados a la Junta pueden destinarse a la aplicación del sistema nacional de control de plaguicidas; y
- d) la Convención sobre las Armas Químicas será aplicable en la subregión.

3.2 Se prevé que la ley modelo de control de plaguicidas y sustancias químicas tóxicas será de interés para el gran número de Estados Partes que aún no cuentan con la legislación necesaria para aplicar la Convención. Será también de interés para los Estados no Partes que piensan adherirse a la Convención y son conscientes de los recursos necesarios para aplicarla. La gran mayoría de los Estados Partes no poseen

armas químicas, no tienen industria química declarable, o la tienen en muy pequeña escala. El modelo de la OECO ilustra cómo el régimen de la Convención puede aplicarse en el plano nacional con repercusiones mínimas en los recursos administrativos y presupuestarios.

- 3.3 En los anexos de la presente nota se adjuntan el proyecto de ley y de reglamento. La Secretaría de la OECO ha notificado a la Oficina del Asesor Jurídico que le gustaría recibir observaciones sobre los proyectos que estudia actualmente el Comité de Asuntos Jurídicos. Toda observación que desee formularse puede dirigirse a la Oficina del Asesor Jurídico de la Secretaría de la OPAQ, desde donde se remitirán a la Secretaría de la OECO.

Anexos (en inglés únicamente):

Anexo 1: *Pesticides and Toxic Chemicals Control Act (draft)*

(Ley de control de plaguicidas y sustancias químicas tóxicas) (proyecto)

Anexo 2: *Toxic Chemicals Control (Registration, Licensing and Permit) Regulations (draft)*

(Reglamento de control de sustancias químicas tóxicas - registro, licencias y permisos -) (proyecto)

Annex 1

**PESTICIDES AND TOXIC CHEMICALS
CONTROL ACT**

DRAFT 3

25 February 2000

SUMMARY

General Description

This Act repeals and replaces the *Pesticides Control Act 1975*. It also repeals and amends other related Acts.

The objects are:

- (i) to provide a more comprehensive framework for regulation of not only pesticides but all pesticides and toxic chemicals in general for the purpose of more adequately protecting human and animal health and safety, plant health and the environment; and
- (ii) to implement the *Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (the Convention)*.

The legislation thus embodies an integrated approach to the regulation of pesticides and toxic chemicals in general, including chemical weapons. This approach, integrating domestic pesticides and toxic chemical control and implementation of international obligations under the Chemical Weapons Convention, is intended to reduce the administrative burden. Although administered through an integrated mechanism, the control regimes for both areas remain essentially separate. This gives effect to the differing regulation that is demanded in these two areas.

Elements of the Act and Regulations

The major elements of this Act are as follows:

Administration

1. A Pesticides and Toxic Chemical Control Board is established to replace the existing Pesticides Control Board. Its mandate differs from its predecessor in the first place, because it is now responsible for pesticides and toxic chemicals generally, and secondly, it will serve as the National Authority under the Chemical Weapons Convention.
2. This Board is established as an inter-ministerial Board with a minority of representatives from certain private sector interests. This approach to the regulation of pesticides and toxic chemicals is in recognition of the following:
 - (a) the policy that there be Government regulation (instead of industry regulation) of pesticides and toxic chemicals is pursued – hence the predominance of Government representatives. However, the importance of private sector input dictates that it have representatives; and

- (b) the reality is that the regulation of pesticides and toxic chemicals concerns several disciplines which fall under the portfolio of different ministries, e.g. health, international trade, foreign affairs, agriculture, industry and commerce. However, as pesticides and toxic chemicals are used principally in the field of agriculture, the Board operates under the supervision and direction of the Minister of Agriculture.

Regulation

3. All pesticides and toxic chemicals manufactured or imported will be registered.
4. All permitted activities in pesticides and toxic chemicals will be under licence or permit:

Pest Control Operators are regulated by a licensing scheme (Pest Control Operator Licence).

The sale, including storage and distribution for purposes of sale, of pesticides and toxic chemicals are also regulated by a licensing scheme (Dealer's Licence).

The storage and distribution for use of pesticides and toxic chemicals in activities other than sale, such as research, education, and agriculture are regulated by a licensing scheme (General Licence).

Licences are used to control the import and export of pesticides and toxic chemicals (Import and Export Licences).

Licences are also used to impose standards in premises in which pesticides and toxic chemicals are manufactured (Premises Licences).

The Convention requires that certain premises be subject to the verification measures in the Convention.¹ Those premises are called "facilities" to distinguish them from the other premises. The special requirements of the Convention are imposed on such premises by using a different regulatory scheme (Facilities Permits).

Monitoring Compliance

5. The monitoring function is fulfilled through self-monitoring measures (record keeping and reporting) and on-site inspections.

Provision is made for the designation of public officers as inspectors. These inspectors (called Pesticides and Toxic Chemical Inspectors) are given appropriate powers to monitor compliance with, and investigate breaches of provisions of the Act

¹ These are premises where activities that are not prohibited by the Convention, involving Schedule 1, 2 and 3 chemicals and certain discrete organic chemicals, take place.

and regulations protecting human and animal health and safety, plant life and the environment.

The Pesticides and Toxic Chemical Inspectors also act as national counterparts to persons designated by the OPCW as inspectors under the Convention (called OPCW inspectors). Their role here is complementary to that of the OPCW inspectors: to monitor compliance with, and investigate breaches of the provisions of the Act and Regulations which relate to implementation of the Convention.

Enforcement

6. New offences are created. They relate to breaches of the Act and Regulations or of conditions contained in the licences and permits. The sanctions include fines and imprisonment. More serious penalties are attached to offences related to activities prohibited by the Convention.
7. A ticketing scheme is provided for in respect of certain minor offences, to simplify the procedure and decrease cost of prosecuting those offences.
8. There are also administrative sanctions including suspension or withdrawal of permits and licensing.

An Act to regulate pesticides and toxic chemicals, to implement in the law of [.....], the Chemical Weapons Convention, and for connected purposes.

BE IT ENACTED by the Queen's Most excellent Majesty, by and with the advice and consent of the House of Assembly and the Senate of [.....], and by the authority of the same, as follows:

PART 1 – PRELIMINARY

Short title

Short title and commencement

1. This Act may be cited as the Pesticides and Toxic Chemicals *Control Act 200...* and shall come into force on the date or dates to be fixed by Order of the Governor-General².

Interpretation

Interpretation

Advertise

Agricultural product

Analyst

Antiseptic

Board

Chemical weapon

Consumption

Convention

Dealer's Licence

Disinfectant

2. (1) In this Act,

“advertise” includes promote, directly or indirectly, sale or use of;

“agricultural product” does not include crops that are not separated or extracted from the land;

“analyst” means a person designated under section 60;

“antiseptic” means any substance sold principally for its germicidal or anti-microbial use on the skin of humans or animals;

“Board” means the Pesticides and Toxic Chemicals Control Board established under section 5;

“chemical weapon” has the same meaning as in the Convention;³

“consumption” when used in relation to a Schedule 1, 2, 3 or unscheduled discrete organic chemical, has the same meaning as in the Convention;

“Convention” means the *Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction*, done at Paris on 13 January 1993 (a copy of the English text of which is set out in Schedule 8 of this Act);

“Dealer's Licence” means a licence issued under Part 4 for the purpose of section 28 of this Act;

“Disinfectant” means any substance sold principally for its germicidal or anti-microbial action on inanimate objects;

² The provisions of this legislation implementing the Convention must come into force on or before the date the Chemical Weapons Convention enters into force for the State. This provision enables the coming into force of the provisions of this Act at different times.

³ Note from the OPCW Secretariat: The following definition is recommended instead: “chemical weapon” has the same meaning as in the Convention and, in this context, “toxic chemical” has the same meaning as in the Convention.

Drug	<p>“Drug” includes any substance or mixture of substances, manufactured, sold or represented for use in</p> <ul style="list-style-type: none"> (a) the diagnosis, treatment, mitigation or prevention of any disease, disorder, abnormal physical or mental state, or their symptoms, in human beings or animals; or (b) the restoration, correction or modification of organic functions in human beings or animals;
Export Licence	<p>“Export Licence” means a licence issued under Part 4 for the purpose of section 31, 34(2), 36, and 38 of this Act;</p>
Facility	<p>“facility” means a particular plant site comprising one or more plants where activities involving Schedule 1, 2, 3 or unscheduled discrete organic chemicals, for purposes not prohibited by the Convention are carried out;</p>
Facility agreement	<p>“facility agreement” means an agreement or arrangement between [...] and the OPCW relating to a specific facility subject to on-site verification pursuant to the Convention;</p>
General Licence	<p>“General Licence” means a licence issued under Part 4 for the purpose of section 29 of this Act;</p>
Import Licence	<p>“Import Licence” means a licence issued under Part 4 for the purpose of section 31, 34(2), 36, and 38 of this Act;</p>
Inspector	<p>“Inspector” when used without qualification refers to both a Pesticides and Toxic Chemicals and an OPCW Inspector;</p>
Manufacture	<p>“manufacture” includes any synthesising, formulating and repackaging of any controlled product;</p>
Medical examiner	<p>“medical examiner” means a person designated as such under section 60;</p>
Minister	<p>“Minister” means the Minister responsible for Agriculture;</p>
Non-sale activity	<p>“non-sale activity” refers to research, education, health industry or agriculture but does not include household use;</p>
Observer	<p>“observer” means a representative of a State Party to the Convention who requested a challenge inspection or a third State Party to the Convention to observe the challenge inspection;</p>
Other chemical production facility	<p>“OCP facility” (other chemical production facility) means any facility consisting of a plant site -</p> <ul style="list-style-type: none"> (a) which <ul style="list-style-type: none"> (i) produced by synthesis during the previous calendar year more than 200 tonnes of unscheduled discrete organic chemicals, or (ii) comprises 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, sulphur or fluorine; and (b) which did not exclusively produce explosives or hydrocarbons.

OPCW

“OPCW” means the Organisation for the Prohibition of Chemical Weapons, established under the Convention;

OPCW inspector

“OPCW inspector” means a person designated by the Technical Secretariat of the OPCW in accordance with Part II, Section A, of the Verification Annex to the Convention, to carry out an inspection or visit pursuant to the Convention and includes any inspection assistant;

Operator

“operator”, in relation to a facility, means the person having ultimate responsibility, as distinct from day-to-day management, in relation to operations carried on at the facility and includes the legal personal representative, administrator and other successor in title of that person.

Packaging

“packaging” means anything in which a pesticide or toxic chemical is wholly or partly contained, placed or packed;

Pest

“pest” means any plant or animal life, including an organic function of a plant any ecto- or endo-parasite of an animal, that is objectionable because of its undesirable effect on plant life or on any chattel [movable property], or which is objectionable from the point of view of public health or hygiene;

Pest control operator

“pest control operator” means a person holding a Pest Control Operator’s Licence;

Pest Control Operator’s Licence

“Pest Control Operator’s Licence” means a licence issued under Part 4 for the purpose of section 33 of this Act;

Pesticides

“pesticides” means any substance, whether a toxic chemical or not, which is sold or used for controlling or destroying pests;

Pesticides and Toxic Chemicals Inspector

“Pesticides and Toxic Chemicals Inspector” means a person appointed as an inspector pursuant to section 57;

Premises

“premises” means any place, and includes a vehicle, a vessel and a conveyance but does not include a facility;

Premises Licence

“Premises Licence” means a licence issued under Part 4 for the purpose of section 32 of this Act;

Prescribed

“prescribed” means prescribed by the Regulations;

Preservative

“preservative” means a substance listed in the Fourth Schedule;

Processing

“processing” when used in relation to a Schedule 1, 2, 3 or unscheduled discrete organic chemical, has the same meaning as in the Convention;

Production

“production” when used in relation to a Schedule 1, 2, 3 or unscheduled discrete organic chemical, has the same meaning as in the Convention;

Production capacity

“production capacity” has the same meaning as in the Convention;

Purposes not prohibited under the Convention

“purposes not prohibited under the Convention” has the same meaning as in the Convention;

Registrar

“Registrar” means the Registrar of Pesticides and Toxic Chemicals under section 23;

Regulations

“Regulations” means regulations made under this Act;

Riot control agent

“riot control agent” has the same meaning as in the Convention;

Schedule 1 chemical	“Schedule 1 chemical” means a chemical contained in Schedule 1 of this Act;
Schedule 1 other facility	“Schedule 1 “Other” Facility” means a facility that is authorised to produce during a year, for research, medical or pharmaceutical purposes, an aggregate quantity not exceeding 10 kilograms of Schedule 1 chemicals;
Schedule 1 single protective facility	“Schedule 1 Single Protective Facility” means a Facility that is authorised to produce during a year, for protective purposes, an aggregate quantity not exceeding 10 kilograms of Schedule 1 chemicals;
Schedule 1 Single Small Scale facility	“Schedule 1 Single Small Scale facility” means a facility that is designated by the Minister as the Schedule 1 single small scale facility authorised to produce Schedule 1 chemicals for research, medical, pharmaceutical or protective purposes.
Schedule 2 chemical	“Schedule 2 chemical” means a chemical contained in Schedule 2 of this Act and includes a mixture containing that chemical unless the mixture contains a concentration of 30% or less of that chemical;
Schedule 3 chemical	“Schedule 3 chemical” means a chemical contained in Schedule 3 of this Act and includes a mixture containing that chemical unless the mixture contains a concentration of 30% or less of that chemical;
Sell	“sell” includes offer for sale, expose for sale, display or advertise, have in possession for sale, and distribute;
Technical Secretariat	“Technical Secretariat” means the Technical Secretariat of the OPCW;
Toxic chemical	“toxic chemical” means any chemical, other than a pesticide, ⁴ which through its chemical action on life processes can cause death, temporary incapacitation or permanent harm to humans or animals. This includes all such chemicals, regardless of their origin or of their method of production, and regardless of whether they are produced in facilities, munitions or elsewhere;
Unscheduled discrete organic chemical	“unscheduled discrete organic chemical” means a discrete organic chemical that is not listed in Schedule 1, 2, or 3 of this Act;
Vehicle	“vehicle” includes a hovercraft;
Other terms	(2) Unless the contrary intention appears, an expression that is used both in this Act and in the Convention but is not defined in subsection (1) (whether or not a particular meaning is assigned to it by the Convention) has, in this Act, the same meaning as in the Convention.
Purpose	<p>Purpose</p> <p>3. The purposes of this Act is to regulate pesticides and toxic chemicals and to implement the obligations of [.....] under the Convention.</p>

⁴ In this act the two regimes (pesticides and Chemical Weapons Convention) are separate thus it was necessary to exclude pesticides from the definition of “toxic chemical”, particularly since “pesticides” are defined to include other substances besides chemicals. In order not to undermine the Chemical Weapons Convention regime, the definition in the Act of “chemical weapon” and in that context “toxic chemical” are linked to the definitions in the Chemical Weapons Convention (Annex 8).

Application

Application

4. (1) The provisions of Part 3 of this Act extend to acts done or omitted to be done outside [.....]
 - (a) by a [.....]n citizen or by any person ordinarily resident in [.....]; or
 - (b) by any other person on board any [.....]n ship or [.....]n aircraft.
- (2) Notwithstanding anything in any other enactment, proceedings in respect of any contravention of Part 3 of this Act anywhere outside [.....] shall not, by virtue only of the provisions of this Act, be instituted in any Court except with the consent of the Attorney-General and on his or her certificate that it is expedient that the proceedings should be instituted.
- (3) Notwithstanding subsection (2) of this section, a person may be arrested, or a warrant for a person's arrest may be issued and executed, and the person may be remanded in custody or on bail, but no further or other proceedings shall be taken until the Attorney-General's consent has been obtained.
- (4) This Act is binding on the Crown.

Binding on the Crown

PART 2 – ADMINISTRATION

Division 1 – Pesticides and Toxic Chemicals Control Board

A. Establishment and Constitution

Establishment

5. There is hereby established a statutory board to be known as the Pesticides and Toxic Chemicals Control Board (hereinafter referred to as the "Board").

Constitution

6. (1) The Board shall comprise not less than 6, nor more than 12, persons appointed by the Minister in accordance with the following:
 - (a) at least 4 members shall be public officers from any one or more of the following sectors of Government
 - (i) Agriculture;
 - (ii) Public Health;
 - (iii) Legal Affairs;
 - (iv) Trade;
 - (v) Customs;
 - (vi) Environment;
 - (b) at least 2 members shall be persons representing private sector interests.
 - (c) members appointed under subsection (a) shall exceed those appointed under subsection (b).

Appointment of Chairperson
Vice-Chairperson and Secretary

- (2) The Minister shall designate one of the members to serve as Chairperson of the Board. The Board shall choose a Vice-Chairperson and Secretary respectively, from among its members.

Publication of list of members

- (3) The names of the initial members, their title, if any, and every change in membership, shall be published in the *Gazette*.

Tenure and removal

7. A member shall hold office for three years during good behaviour but may be removed by the Minister

- (a) for cause;
- (b) if the member becomes incapacitated, mentally or physically, from the due execution of his or her office; or
- (c) if the member is placed, by conduct or otherwise, in a position that is incompatible with the due execution of his or her duties.

Re-appointment

8. A member may be re-appointed as member in the same or another capacity.

Alternate members

9. The Minister may appoint a person to be an alternate member for any member, other than the Chairperson. The alternate member may act temporarily in the place of that member if that member is absent, incapacitated or ineligible to perform the duties of a member.

Vacancy

10. (1) If a vacancy occurs in the membership, the Minister shall appoint a person to fill the vacancy in a manner that respects the requirements in subsection 6(1) for the composition of the Board.

Term of substitutes

- (2) A member appointed to fill a vacancy shall hold office only for the unexpired portion of the term of the former member.

Casting Vote

11. The Chairman has the right to vote at meetings of the Board, and, in the case of an equal division, has also a casting vote.

Meetings

12. The Board shall meet at the times that it considers necessary or expedient for the transaction of business and such meetings shall be held at the place that the Board determines.

Remuneration

13. All documents made by, and all decisions of, the Board shall be signed by the Chairperson or Vice-Chairperson or the Secretary.

14. The members of the Board shall be paid fees set by Order by the Minister.

Functions

B. *Functions, Duties, Powers, etc.*

15. The Functions of the Board shall be

- (a) to serve as regulator in respect of pesticides and toxic chemicals to ensure that they do not pose an undue threat of harm to human nor animal health or safety, plant health nor the environment; and
- (b) to be the National Authority for [...] to serve as the national focal point for effective liaison with the OPCW and other States Parties pursuant to Article VII of the Convention.

Duties as Regulator

16. (1) The duties of the Board in its capacity as regulator shall be
- (a) to administer the licensing scheme established in this Act for the regulation of pesticides and toxic chemicals;
 - (b) to supervise the monitoring and enforcement of this Act and the Regulations;
 - (c) to provide the Minister with any information that the Minister may require;
 - (d) to advise the Minister on matters relevant to the making of regulations under this Act; and
 - (e) to perform any other tasks assigned by the Minister.

Duties as National Authority

- (2) The duties of the Board in its capacity as National Authority shall be
- (a) to supervise domestic implementation of the Convention—this includes
 - (i) administering the permit system established in this Act, and
 - (ii) monitoring and enforcing this Act and the Regulations;
 - (b) to provide the Secretariat and State Parties to the Convention with information in fulfilment of [.....]'s obligations under the Convention;
 - (c) to facilitate the implementation of this Act, particularly Sections 46(d), and 53 to ensure that the time frames stipulated in the Convention are met.
 - (d) facilitate and co-operate in inspections under the Convention including accompanying OPCW inspectors on international routine international inspections and international challenge inspections;
 - (e) to perform any tasks that may be required by the Minister pursuant to the Convention;

Duties of Chairperson

17. (1) The Chairperson is the chief executive officer of the Board and shall supervise and direct its work and preside over its meetings.

Duties of Vice-Chairperson

- (2) The Vice-Chairperson shall act if the Chairperson is absent, incapacitated or ineligible to perform his duties.

Directions from the Minister

18. The Minister may give to the Board general policy directions with regard to its functions under this Act that the Minister considers necessary in the public interest, and the Board shall give effect to these directions.

Report by request

19. (1) The Board shall give to the Minister any information that the Minister may require regarding its operations.

Annual Report of operations

- (2) The Board shall submit to the Minister [for tabling in Parliament] an annual report of its operations.

Annual Report of expenditure

(3) The Board shall submit to the Minister for approval, its estimates of revenue and expenditure for a twelve-month period.

Date of submission

(4) The Minister may give directions to the Board regarding the day on or before which reports of operations or expenditure are to be submitted.

Committees

20. (1) The Board may appoint a committee to examine and report to it on any matter relating to any of its functions under this Act.

(2) A committee shall include not less than two members of the Board, and may include persons who are not members.

(3) The Board shall determine the composition and functions of a committee.

21. The Board may delegate, in writing, to a committee or to a member, the exercise of any power or the performance of any duty vested in it by this Act, except the power to delegate under this section.

22. Except in respect of a breach of section 68, no civil liability shall attach to any member of the Board in respect of anything done, or omitted, in good faith under the provisions of this Act.

Division 2 – The Registrar

Appointment

23. (1) The Secretary appointed under section 6 shall be the Registrar of Pesticides and Toxic Chemicals.

Duties

(2) The duties of the Registrar shall be

(a) to keep and maintain the prescribed registers.

(b) to supervise the processing of applications in respect of registration of pesticides and toxic chemicals, licences and permits;

(c) to submit to the Technical Secretariat the initial and annual declarations required under the Convention;

(d) to treat as confidential and afford special handling to information and data that it receives in confidence from the OPCW in connection with the implementation of the Convention

(e) to perform any other duties imposed by the Act, the Regulations, the Minister or the Board.

PART 3 – PROHIBITIONS

Division 1 – Prohibited Substances⁵

- Definition
- Import, produce, store, use
- Amendment of Schedule 4
- Recall Order
24. (1) A substance specified in Schedule 4 is a prohibited substance.
- (2) A person shall not import, produce, store or use a prohibited substance.
- (3) The Minister may, by order, amend Schedule 4 by adding or deleting a substance from the list.
25. (1) If the Minister believes on reasonable grounds that a pesticide or toxic chemical poses a risk to human or animal health or safety, plant health or the environment, the Minister may, by notice to any dealer of the pesticide or toxic chemical, order that the product be recalled or sent to a place designated by the Minister.
- (2) A person shall not be held guilty of contravening a recall order unless the person was notified of it.

Division 2 – Chemical weapons and Riot Control Agents

A. *Chemical Weapons*

- Develop, produce, acquire, stockpile, retain, transfer
- Use
- Military Preparations
- Other
- 26.⁶ A person shall not
- (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, anyone to engage in any activity prohibited to a State Party under the Convention.

B. *Riot Control Agents*

- Warfare
27. A person shall not use a riot control agent as a method of warfare.

Division 3 – Pesticides and Toxic Chemicals

A. *All Pesticides and Toxic Chemicals*

- Sale
28. (1) A person shall not sell in [...] a pesticide or toxic chemical unless a Dealer's Licence is issued to that person.
- (2) The holder of a Dealer's Licence shall comply with

⁵ This may be provided for by amendment of the Customs (Control and Management) Act 1990 in the final draft.

⁶ A separate subsection to Section 26 should be added:
“For the removal of doubt, in the interpretation of “chemical weapon” in this Section, the term “toxic chemical” has the same definition as in the Chemical Weapons Convention (Annex 8).”

- (a) the prescribed requirements for storage, distribution, packaging and labelling of pesticides and toxic chemicals; and
- (b) any conditions that the Board may stipulate in the licence.
- Non-sale activity
29. (1) A person shall not engage in a non-sale activity in respect of a pesticide or toxic chemical unless a General Licence is issued to that person.
- (2) The holder of a General Licence shall comply with
- (a) the prescribed requirements for storage, distribution, packaging and labelling of pesticides and toxic chemicals; and
- (b) any conditions that the Board may stipulate in the licence.
- B. Pesticides and toxic chemicals other than Schedule 1, 2 & 3 chemicals**
- Toxic chemical
30. In sections 31 to 33 “toxic chemical” includes Schedule 5 chemicals but does not include Schedules 1, 2 nor 3 chemicals.
- Importation or Exportation
31. A person shall not import or export a pesticide or toxic chemical unless
- (a) the importation or exportation is authorised by an Import or Export Licence respectively;
- (b) the pesticide or toxic chemical is packaged and labelled as prescribed.
- Manufacture
32. A person shall not operate premises in which any pesticide or toxic chemical is manufactured unless
- (a) the person is so authorised by a Premises Licence issued in respect of the premises;
- (b) the premises complies with the prescribed standards for the construction and operation of the Premises; and
- (c) the person complies with requirements for the storage, distribution, packaging and labelling of pesticides and toxic chemicals and any conditions that the Board may stipulate in the licence.
- Pest Control Operator
33. (1) A person shall not offer pest control services for reward unless that person holds a Pest Control Operator’s Licence.
- (2) The holder of a licence shall comply with
- (a) prescribed requirements relating to the application of pesticides and toxic chemicals; and
- (b) any conditions that the Board may stipulate in the licence.

C. Schedule 1, 2 and 3 Chemicals

Schedule 1 chemicals

Importation and exportation
with State not Party

34. (1) A person shall not export a Schedule 1 chemical to, nor import such a chemical from, a State not Party to the Convention.

Importation and exportation
with State Party

(2) A person shall not import a Schedule 1 chemical from a State Party nor export such a chemical to a State Party unless

(a) the importation or exportation is authorised by an Import or Export Licence respectively; and

(b) the chemical is packaged and labelled as prescribed.

Production, acquisition,
retention, consumption

35. (1) A person shall not operate a facility that produces, acquires, retains, consumes or uses a Schedule 1 chemical unless

(a) the facility is an authorised Schedule 1 facility for that year;

(b) the facility complies with the prescribed standards for the construction and operation of the facility; and

(c) the person complies with requirements for the storage, distribution, packaging and labelling of pesticides and toxic chemicals and any conditions that the Board may stipulate in the licence.

Authorised Schedule 1 facility

(2) A facility is an authorised Schedule 1 facility in a particular year if

(a) it is a laboratory and during that year the aggregate quantity of Schedule 1 chemicals likely to be synthesised for research, medical or pharmaceutical purposes, but not for protective purposes, will not exceed 100 grams ; or

(b) a Schedule 1 Facility Permit is issued in accordance with Part 4 in respect of the facility for that year.

Schedule 2 Chemicals

Importation and Exportation

36. The provisions relating to the import and export of Schedule 1 chemicals set out in section 34 apply to the import and export of Schedule 2 chemicals.

Production, processing or
consumption

37. (1) A person shall not operate a facility that produces, processes or consumes a Schedule 2 chemical unless the facility

(a) the facility is an authorised Schedule 2 facility for that year;

(b) the facility complies with the prescribed standards for the construction and operation of the facility; and

(c) the person complies with requirements for the storage, distribution, packaging and labelling of pesticides and toxic chemicals and any conditions that the Board may stipulate in the licence.

Authorised Schedule 2 facility

- (2) A facility is an authorised Schedule 2 facility in a particular year if
- (a) the amount of Schedule 2 chemical produced, processed or consumed at a plant comprising, or comprising part of, the facility is not expected to exceed, in the aggregate during that year, any of the following thresholds
- (i) if the chemical is listed in Part A of Schedule 2 of this Act and designated with an “*” -- 1 kilogram,
- (ii) if the chemical is listed in Part A of Schedule 2 to this Act but is not designated with an “*” -- 100 Kilograms, or
- (iii) if the chemical is listed in Part B of Schedule 2 of this Act -- 1 tonne; or
- (b) a Schedule 2 Facility Permit is issued in accordance with Part 4 in respect of the facility for that year.

Schedule 3 Chemicals

Importation and Exportation

38. A person may import from, or export to, any other State, a Schedule 3 chemical, if

- (a) the importation or exportation is authorised by an Import or Export Licence respectively; and
- (b) the chemical is packaged and labelled as prescribed.

Production

39. (1) A person shall not own or operate a facility that produces a Schedule 3 chemical unless the facility

- (a) the facility is an authorised Schedule 3 facility for that year;
- (b) the facility complies with the prescribed standards for the construction and operation of the facility; and
- (c) the person complies with requirements for the storage, distribution, packaging and labelling of pesticides and toxic chemicals and any conditions that the Board may stipulate in the licence.

Authorised Schedule 3 facility

- (2) A facility is an authorised Schedule 3 facility in a particular year if
- (a) during that year an amount of Schedule 3 chemical not exceeding, in the aggregate, 30 tonnes of that chemical is likely to be produced at a plant comprising, or comprising part of, the facility; or
- (b) a Schedule 3 Facility Permit is issued in accordance with Part 4 in respect of the facility for that year.

40. A reference in sections 34 to 39 to a year during which chemicals will be produced, acquired, retained or otherwise dealt with (however that dealing is described) includes a reference to a year that occurs in part before the day on which this section commences.

PART 4 – LICENCES AND PERMITS

Division 1 – Licences

Issue of Licences

41. The Board may, on application made in the prescribed manner, issue licences for the purpose of Part 3.

Conditions

42. A licence shall contain any conditions that the Board considers necessary for the purposes of fulfilling the obligations of [.....] under the Convention and for the protection of the human and animal health and safety, plant health and the environment

Division 2 – Permits

Types of Permits

43. (1) On application as prescribed, the Minister may, after consultation with the Board, issue

(a) Schedule 1 Facility Permits for the production, acquisition, retention, consumption or use of or transfer from a facility, during a year, Schedule 1 chemicals for research, medical, pharmaceutical or protective purposes;

(b) Schedule 2 Facility Permits for the production, processing or consumption, during a year, of Schedule 2 chemicals in an amount exceeding, in the aggregate for each facility, the threshold set out in paragraph 47(2)(a) for that chemical;

(c) Schedule 3 Facility Permit for the production of Schedule 3 chemicals in an amount exceeding, in the aggregate, 30 tonnes of that chemical.

Restrictions on Schedule 1
Facility Permits

- (2) In the issue of Schedule 1 Facility Permits the Minister
- (a) shall not grant more than one permit to operate a facility designated as the Schedule 1 Single Small-Scale Facility;
- (b) shall not grant more than one permit to operate a Schedule 1 Single Protective Facility;
- (c) may grant permits to operate more than one Schedule 1 'Other' Facilities; and
- (d) shall only grant permits such that the aggregate amount of Schedule 1 chemicals produced, acquired, retained, consumed or used at, or transferred to or from, all facilities for which a Schedule 1 Facility Permit is issued, during a year, does not exceed one tonne.

Conditions

44. A permit shall contain any conditions that the Minister considers necessary for the purposes of fulfilling the obligations of [.....] under the Convention and for the protection of human and animal health and safety, plant health and the environment including the following conditions:

(a) in respect of all permits, the holder shall

- (i) comply with the terms of any facility agreement in force in respect of that facility; and
 - (ii) ensure that the prohibitions on importation and exportation of a Schedule 1, 2 or 3 chemical contained in Part 3 of this Act are complied with
 - (iii) notify the Minister if the holder will no longer be operating the facilities owing to the fact that the ownership of the facilities is to be transferred or for any other reason;
- (b) in respect of a Schedule 1 Single Small Scale Facility Permit:
- (i) production shall be carried out in reaction vessels in production lines not configured for continuous operation;
 - (ii) the volume of any reaction vessel shall not be more than 100 litres; and
 - (iii) the total volume of all reaction vessels with a volume of more than 5 litres shall not be more than 500 litres.

PART 5 – MONITORING COMPLIANCE

Division 1 – Self-Monitoring

Record-keeping and
Reporting

45. (1) Any person who holds a licence or permit issued pursuant to this Act and the Regulations and any person who holds a riot control agent for riot control purposes shall keep and maintain the prescribed documents at the person's place of business or at any other place designated by the Minister.
- (2) These persons shall
- (a) provide the documents to the Board on request by the Minister or the Board, or
 - (b) prepare, from those documents, periodic reports in a form approved by the Board and send those periodic reports to the Registrar at the prescribed intervals.
- (3) The documents and reports in sub-section (2) shall be such that the Minister may be satisfied that the Convention and the provisions of the Act and Regulations are being complied with.

Division 2 – Inspections

"Initial Inspection"

46. A reference in this Division to
- (a) an initial inspection is a reference to an inspection for the purpose of determining whether premises or a facility meets the requirements for the issue of a premises licence or facility permit pursuant to this Act and the Regulations

“Compliance Inspection”

- (b) a compliance inspection is a reference to an inspection for the purpose of:
 - (i) determining whether the provisions of this Act and the Regulations have been or are being complied with on any premises or at a facility;
 - (ii) determining whether the conditions applicable to a licence or permit in force in respect of premises or a facility, respectively, have been or are being complied with by the holder of the licence or permit;

“Routine international compliance inspection”

- (c) a routine international inspection is a reference to an inspection carried out pursuant to Articles IV, V and VI of the Convention;

“International challenge inspection”

- (d) an international challenge inspection is a reference to an inspection carried out pursuant to Article IX of the Convention;

Inspection powers

- 47. (1) A reference in this Division to an inspection power is a reference to a power to
 - (a) search premises or a facility;
 - (b) inspect or examine a matter or thing;
 - (c) take samples of a matter or thing;
 - (d) measure a matter or thing;
 - (e) examine a document (including a record kept in accordance with the requirements of this Act, the Regulations or the condition of a permit);
 - (f) take extracts from, or make copies of, a document (including a record of a kind referred to in paragraph (e)) or make images of any thing by any means; or
 - (g) operate any equipment, including electronic equipment, located at the premises or facility if the inspector believes, on reasonable grounds, that the equipment can be operated without damaging it;
 - (h) take onto premises or a facility any equipment or material that is reasonably required for the purpose of exercising a power under any of the above paragraphs
 - (i) question personnel working on the site for the purposes of this Act;
 - (j) do any other act or thing necessary or convenient to be done to carry out an inspection.

(2) In addition to the powers in subsection (1) a reference to an inspection power includes, in respect of a Pesticides and Toxic Chemical Inspector, a power to seize and detain any substance that the inspector believes on reasonable grounds to be evidential material in relation to an offence against this Act.

(3) A power referred to in paragraph (1) (a), (b), (c), (d), (g) may only be exercised in a manner that the inspector believes, on reasonable grounds, to be in accordance with safety procedures applicable at the premises or facility.

Initial or Compliance
Inspections

48. (1) For the purpose of carrying out an initial inspection or a compliance inspection a Pesticides and Toxic Chemicals Inspector may enter premises or a facility and exercise any inspection powers if

(a) the inspector shows proof of identity and the occupier of the place consents; or

(b) a warrant is issued under section 53 authorising such inspection.

(2) The inspector may be accompanied by any person whose expert knowledge the inspector considers necessary in the carrying out of the inspection.

Facility agreement

49. An owner or operator of a facility shall co-operate with the Board in the negotiation of a facility agreement for the purposes of according rights to inspectors in respect of routine international inspections.

International inspections

50. (1) Without prejudice to the inspection procedures provided under the Convention and relevant provisions in facility agreements, a Pesticides and Toxic Chemicals Inspector and an OPCW inspector may enter a facility and exercise any inspection power for the purpose of conducting a routine international inspection or an international challenge inspection, if

(a) the inspector shows proof of identity and the occupier of the place consents; or

(b) a warrant is issued under section 53 authorising the inspection.

(2) In addition to their inspection powers, the Pesticides and Toxic Chemicals Inspector or the OPCW inspector may install and operate, at the facility, continuous on-site monitoring equipment that is approved by the OPCW, if the inspector believes on reasonable grounds, that this can be done in accordance with safety procedures applicable at the facility.

(3) As soon as practicable after completing the inspection, the Pesticides and Toxic Control Inspector shall give the person in charge of the premises or facility, and if there is none, an occupier of the place, a written notice stating that the place has been entered, and specifying the following:

(a) the time and date of entry;

(b) the circumstances and purpose of entry;

(c) the name of every person who entered.

Observer

51. (1) An observer may, upon production of relevant proof of identity accompany the Pesticides and Toxic Chemicals Inspector and the OPCW inspector during an international challenge inspection, unless the observer receives notice in writing from the Board that the observer is to be excluded.

Division 3 – Investigations

52. (1) If a Pesticides and Toxic Chemicals Inspector has reasonable grounds for suspecting that there may be on any premises or facility particular evidential material in relation to an offence against this Act, the inspector may enter and search the premises or facility and seize any evidential material, if
- (a) the occupier consents; or
 - (b) a warrant is issued authorising such entry, search and seizure.
- (2) The powers of entry, search and seizure powers in subsection (1) may only be exercised in a manner that the Inspector believes, on reasonable grounds, to be in accordance with safety procedures applicable at the premises or facility.
- (3) A Pesticides and Toxic Chemicals Inspector is not entitled to exercise any powers under paragraph (1) if
- (a) the occupier of the facility has required the Inspector to produce relevant proof of identity; and
 - (b) the Inspector fails to comply with the requirement.
- (4) The Inspector may make items seized under a warrant available for the purpose of investigating or prosecuting an offence under another law of the State.

Division 4 – Warrants

53. (1) A Pesticides and Toxic Chemicals Inspector may apply to a magistrate under this section for a warrant to conduct any one of the following
- (a) an initial inspection;
 - (b) a compliance inspection;
 - (c) a routine international inspection;
 - (d) an international challenge inspection;
- (2) A magistrate may issue a warrant for the carrying out of any one of the above inspections if the magistrate is satisfied, by information on oath that such inspection is reasonably necessary.

- (3) A warrant issued under this section shall
- (a) describe the place to which the warrant relates;
 - (b) state the name of the Pesticides and Toxic Chemicals Inspector responsible for executing the warrant;
 - (c) specify the period for which the warrant remains in force, which must not be more than 7 days;
 - (d) state whether entry is authorised to be made at any time of the day or night or during specified hours of the day or night;
 - (e) state the purpose for which the warrant is issued.
- (5) In executing a warrant an inspector shall not use force unless accompanied by a police officer and the use of force is specifically authorised in the warrant.

Division 5 – Detention and Forfeiture of things seized or detained

Detention

Storage

54. (1) An inspector, or any person designated by the inspector may store a thing seized in the place where it was seized or remove it to any other place for storage.
- (2) The costs of storage or removal shall be paid by the owner of the thing or by the person who was in possession of it at the time of its seizure.
- (3) The inspector shall give a written notice to the owner or the person in possession of the thing at the time of seizure indicating the grounds for the seizure.

Release

55. (1) Unless forfeited to the State, or retained pursuant to subsection (3), a thing seized under this Act shall not be detained after either of the following has occurred
- (a) 108 days have passed, or any extension pursuant to subsection (2) has expired, and no proceedings have been instituted in relation to the thing seized;
 - (b) the reason for the seizure of the thing no longer exists or it is decided that it is not to be used in evidence; or
 - (c) proceedings instituted are finally concluded.
- (2) A judicial officer may extend the time limited in this section for a thing seized to be detained before the institution of proceedings in relation to it.

Exception

(3) A thing seized may be retained until the payment of the penalty or fine imposed in proceedings relating to the thing. The thing may also be sold under execution and the proceeds applied to the penalty or fine.

Forfeiture

Forfeiture after conviction

56. (1) If a person is found to have committed a violation or an offence under this Act, the court may order that any thing by means of, or in relation to which, the violation or offence was committed be forfeited to the State, in addition to any penalty or punishment imposed.

Forfeiture without conviction

(2) If the owner person in possession of a thing at the time of its seizure consents, a thing is forfeited to the State.

Disposal of forfeited things

(3) A thing forfeited may be disposed of at the expense of the person from whom it was seized, in accordance with the regulation, unless the Minister directs otherwise.

Division 6 – Inspectors, Analysts and Medical Examiners

A. Pesticides and Toxic Chemicals Inspectors

Appointment

57. The Minister may designate any qualified public officer to be a Pesticides and Toxic Chemicals Inspector for the purposes of this Act.

Identity Card

58. (1) The Minister shall furnish every officer so appointed with a card identifying the holder as a Pesticides and Toxic Chemicals Inspector.

(2) The certificate shall be in a form approved by the Minister and shall incorporate a recent photograph.

Functions

59. The functions of a Pesticides and Toxic Chemicals Inspector are

(a) to perform initial and compliance inspections;

(b) to facilitate or assist with routine international inspections and international challenge inspections; and

(c) to perform any other function, assigned to the Inspector by the Board or the Minister.

B. Analysts, medical examiners and other officers

Designation

60. (1) The Minister may designate any suitably qualified person or class of persons as analyst, medical examiner or other officer, for purposes of enforcement of this Act.

Analysis or examination

(2) An inspector may submit to an analyst or medical examiner, for analysis or examination, any substance or sample detained by the inspector pursuant to this Part.

Certificate

(3) After analysing or examining the substance or sample the analyst or medical examiner shall issue to the inspector a certificate or report setting out the results of the analysis or examination.

Admissibility of certificate

61. (1) A certificate or report issued under subsection 60(3) is admissible in evidence in a prosecution for a contravention of this Act or the

Regulations and in the absence of any evidence to the contrary is proof of the statements contained in the certificate or report without proof of the signature or the official character of the person appearing to have signed the certificate or report.

(2) The party against whom a certificate or report of an analyst is produced may, with leave of the court, require the attendance of the analyst or medical examiner for the purpose of cross-examination.

(3) Unless the court otherwise orders, no certificate or report shall be received in evidence unless the party intending to produce it has given to the party against whom it is intended to be produced reasonable notice of that intention, together with a copy of the certificate or report.

PART 5 – REGULATIONS

62. (1) The Minister may make regulations necessary or convenient to be prescribed for carrying out or giving effect to this Act, including regulations
- (a) respecting
 - (i) the registration of pesticides and toxic chemicals;
 - (ii) the licensing of dealers, pest control operators, premises and the importation and exportation of pesticides and toxic chemicals;
 - (iii) the regulation by permits of Schedule 1, 2, 3 facilities;
 - (iv) notifications required from OCP facilities for the purposes of Part IX of the Verification Annex of the Convention;
 - (b) establishing standards for efficacy and safety of a pesticides and toxic chemical for the purpose of registration;
 - (c) respecting standards for the construction and operations of premises and facilities.
 - (d) respecting the storage and distribution requirements for pesticides and toxic chemicals;
 - (e) respecting the packaging, labelling and advertising of pesticides and toxic chemicals;
 - (f) respecting the records that are to be kept and information that is to be furnished by persons holding a licence or permit pursuant to this Act or holding riot control agents for riot control purposes; the record keeping and reporting obligations may differ among premises and among facilities according to the type of chemical to which it relates;
 - (g) exempting from the operation of any or all of the provisions of this Act other than Division 2 of Part III, a pesticide or toxic chemical that is not a Schedule 1, 2, 3, 4, 5 nor OCP chemical;

Amendment of
Schedules 1, 2 & 3

Incorporation by reference

Indictable or summary
conviction offences

- (h) amending the schedules to this Act other than Schedules 1, 2 and 3;
- (2) The Regulations may
 - (a) contain penalties for offences against the Regulations;
 - (b) impose fees or charges in respect of registration of pesticides and toxic chemicals, licences, permits or for any service performed under this Act or the Regulations.
- (3) The Minister shall, by Order, no later than 180 days after any amendment to Schedules 1, 2 or 3 of the Convention is notified by the Director-General of the OPCW, in accordance with Article XV of the Convention, amend Schedule 1, 2 or 3 respectively of this Act, in like manner.
- (4) Any standards or enactment incorporated by reference by the Minister in the exercise of the Minister's powers under this Part may be incorporated as amended from time to time.

PART 6 – OFFENCES

- 63. Every person is guilty of an offence who
 - (a) contravenes any provision of this Act or the regulations;
 - (b) violates a licence or permit;
 - (c) assaults, resists, intimidates or obstructs an inspector in the execution of his duties under this Act or the regulations;
 - (d) knowingly or recklessly makes any false or misleading statement either orally or in writing to any inspector engaged in exercising his powers under this act or the Regulations; or
 - (e) removes, alters or interferes in any way with any article seized under this Act without the authority of the inspector.
- 64. (1) A person guilty of an offence under this Act is liable in the following manner:
 - (a) in respect of a breach of sections 26, 27, 34-40, on indictment to fine of \$500,000 imprisonment for a term not less than five years nor more than fifteen years; and
 - (b) in respect of any other offence
 - (i) on summary conviction to a fine not exceeding fifty thousand dollars (\$50,000) or to imprisonment for a term not exceeding 12 months, or to both; or

- (ii) on conviction upon indictment to a fine not exceeding one hundred thousand dollars (\$100,000) or to imprisonment for a term not exceeding 3 years, or to both.

Civil remedy

- (2) Subsection (1) is in addition to any civil remedy available under any other law.

Ticketing offences

65. (1) The Minister may make regulations designating an offence other than an offence in section 64(1)(a) as an offence with respect to which
- (a) notwithstanding the provisions of the Criminal Code, an inspector may issue and serve a summons by completing a ticket in the prescribed form, signing it and delivering it to the accused; or
 - (b) the summons may be served by mailing it to the accused at the latest known address of the accused.
- (2) Where a person is served with a ticket and does not enter a plea within the prescribed time, a justice shall examine the ticket and
- (a) if the ticket is complete and regular on its face, the justice shall enter a conviction in the person's absence and impose a fine of the prescribed amount; or
 - (b) if the ticket is not complete and regular on its face, the justice shall quash the proceedings.
- (3) The Minister may make regulations for the purposes of applying this section, including regulations prescribing the amount of the fine for any offence and establishing a procedure for entering a plea of guilty and paying the fine.

Liability of officers, etc. of corporation

66. (1) Where a corporation commits an offence under this Act, any officer, director or agent of the corporation who directed, authorised, assented to or acquiesced or participated in the commission of the offence is a party to and guilty of the offence and is liable on conviction to the punishment provided for the offence, whether or not the corporation has been prosecuted or convicted.

Offences by employees

- (2) In any prosecution for an offence under this Act, it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused, whether or not the employee or agent is identified or has been prosecuted for the offence, unless the accused establishes that the offence was committed without the knowledge or consent of the accused and that the accused exercised all due diligence to prevent its commission.

PART 7 – VOLUNTARY COMPLIANCE

Notice of non-compliance

67. (1) An inspector may issue a notice of non-compliance to a person where the inspector believes that the person is not in compliance with this Act, the regulations or a permit, order or direction.

Contents of notice

- (2) The notice shall state
- (a) the nature of the non-compliance;

- (b) a request for voluntary compliance;
- (c) the steps which should be taken to achieve compliance; and
- (d) the date by which compliance should be effected.

No liability if self-correction effected

(3) A person shall not be found guilty of an offence under this Act if compliance is effected before the expiration of the time given in the notice.

PART 8 – MISCELLANEOUS

A. Confidentiality

Privileged Information

68. (1) Information and documents obtained pursuant to this Act or the Convention are privileged.

Exception

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

Prohibition

(3) No person in possession of privileged information or documents 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 to them, except

- (a) for the purpose of the enforcement of this act or of giving effect to the Convention; or
- (b) pursuant to an obligation of the Government of [...] under the Convention.

(4) Notwithstanding any other Act or law, a person shall not be required, in connection with any legal proceedings, to produce any statement or other record containing privileged information or documents, or to give evidence relating to them, unless the proceedings relate to the enforcement of this Act.

B. Appeals

69. (1) Any person who is not satisfied with a decision of the Board in respect of the revocation or suspension or an application for the issue, renewal or transfer of a licence may within sixty (60) days of the decision, by notice in writing appeal to the Minister against such a decision.

(2) The notice shall state the grounds of appeal and shall be lodged with the Registrar.

70. Within twenty-one (21) days of the receipt of the notice the Board shall send to the minister the notice of appeal, the reasons for its decision and any other document that the Minister may require.

71. In reviewing a decision of the Board the minister may consult with any person he considers competent for the purpose and may confirm, amend or reverse the decision.

C. Exercise of Discretion

72. (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 [...]’s obligations under the Convention.
- (2) Where this Act confers a power or discretion on a person, the person shall have regard to [...] obligations under the Convention in exercising that power or discretion.

CONSEQUENTIAL AND RELATED AMENDMENTS

International Organisations and Overseas Countries (Immunities and Privileges) Act 1986

Amendment of section 3

73. Section 3 of the International Organisations and Overseas Countries (Immunities and Privileges) Act 1986, No. 10 is amended in subsection (2) by inserting the following paragraph immediately after paragraph (d) –

“(e) confer upon an OPCW inspector the immunities and privileges set out in PART VI of the Schedule.”.

Amendment of Schedule

74. The Schedule of the principal Act is amended by inserting the contents of Schedule 7 to this Act immediately after Part V.

TRANSITIONAL PROVISIONS

75. Until the expiration of one hundred and twenty days after the coming into force of this Act, the requirement for the licence of persons, premises or facilities in this Act, apply only in respect of persons, premises or facilities, in respect of an application for a licence or permit which has been determined by the Board.

SCHEDULE 1**Schedule 1 Chemicals**

(CAS registry number)

A. Toxic chemicals:

- (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)
- (3) O-Alkyl (H or $\leq C_{10}$, incl. cycloalkyl) S-2-dialkyl
(Me, Et, n-Pr or i-Pr)-aminoethyl alkyl
(Me, Et, n-Pr or i-Pr) phosphonothiolates and
corresponding alkylated or protonated salts
- e.g. VX: O-Ethyl S-2-diisopropylaminoethyl methyl phosphonothiolate (50782-69-9)
- (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 (142868-94-8)
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:
- HN1: 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 $\leq C_{10}$, incl. cycloalkyl) O-2-dialkyl
(Me, Et, n-Pr or i-Pr)-aminoethyl alkyl
(Me, Et, n-Pr or i-Pr) phosphonites and
corresponding alkylated or protonated salts
e.g. QL: O-Ethyl O-2-diisopropylaminoethyl methylphosphonite (57856-11-8)
- (11) Chlorosarin: O-Isopropyl methylphosphonochloridate (1445-76-7)
- (12) Chlorosoman: O-Pinacolyl methylphosphonochloridate (7040-57-5)

SCHEDULE 2**Schedule 2 Chemicals**

(CAS registry number)

A. Toxic chemicals:

- (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:

- (4) 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 (676-97-1)
Dimethyl methylphosphonate (756-79-6)
Exemption: 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)
- (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
- (11) N,N-Dialkyl (Me, Et, n-Pr or i-Pr) aminoethane-2-ols and corresponding protonated salts
Exemptions: 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 3

Schedule 3 Chemicals

(CAS registry number)

A. Toxic chemicals:

- | | | |
|-----|-------------------------------------|------------|
| (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) |

SCHEDULE 4

Prohibited Substances

aldicarb (Temik)
azinphos-ethyl (Gusathion A)
azinphos-methyl (Gusathion M. Guthion)
demeton (Systox)
dicrotophos (Bidrin)
dimefox (Pestox XIV)
DNOC
EPNB
fensulfothion (Dasanit, Terracur P)
fluenetil (Lambrol)
fonofos (Dyfonate)
Gophacide
HCH Lindane
parathion
parathion-methyl
pentachlorophenol ACP
phorate (Thimet)
scjradam
sulfotep
TEPP
thionazin (Nemofos, Zinophos)
Zectran

SCHEDULE 5

Pesticides and toxic chemicals other than Schedule 1, 2, & 3 Chemicals

SCHEDULE 6

[deleted]

SCHEDULE 7

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, [...], 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* 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 paragraph 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 paragraph 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 State, and shall also enjoy immunity from any civil and administrative jurisdiction as specified in Article 31 paragraphs 1, 2 and 3 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 permitted to bring into the territory of [...], without payment of any customs duties or related charges, articles for personal use, unless the import or export of such items is prohibited under [...] law or controlled by quarantine regulations .
 - (i) OPCW inspectors shall be exempt from currency and exchange restrictions to such extent as is accorded to an official of diplomatic mission.
3. Notwithstanding the provisions of paragraph 2, OPCW inspectors shall not engage in 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 [...] shall, while in transit in [...], 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. The 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 paragraphs 2 and 5, except for paragraph 2(e), shall apply to any observers accompanying OPCW inspectors in the course of their inspections.

SCHEDULE 8

[Text of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction]

Annex 2

**PESTICIDES AND TOXIC CHEMICALS
CONTROL (REGISTRATION, LICENSING AND PERMIT)
REGULATIONS**

DRAFT 3

25 February 2000

**PESTICIDES AND TOXIC CHEMICALS CONTROL
(REGISTRATION, LICENSING AND PERMIT) REGULATIONS (DRAFT)**

Short title

Short Title

1. These Regulations may be cited as the Pesticides and Toxic Chemicals Control (Registration, Licensing and Permit) Regulations 2000.

Interpretation

Interpretation

2. In these Regulations,

Act

“Act” means the Pesticides and Toxic Chemicals Control Act 2000;

Approved

“approved” means approved by the Board;

Label

“label” means any legend, work or mark, symbol or design applied or attached to, included in, belonging to or accompanying any pesticide or toxic chemical or package;

PSF -plant

“PSF-plant” means an unscheduled discrete organic chemical containing the elements phosphorus, sulphur or fluorine;

Regulations

“Regulations” means regulations made under the Act;

Schedule 2 permit threshold

“Schedule 2 permit threshold” has the meaning in Section 37(2)(a) of the Act.

PART 1 – REGISTRATION

Required for licence

3. The Board shall not issue a licence or permit in respect of a pesticide or toxic chemical unless the pesticide or toxic chemical is registered under this Part.

**Division 1 – Application for Registration or
Renewal of Registration**

Apply to Board

4. An application for registration, or renewal of registration of a pesticide or toxic chemical shall be in writing and be made to the Board by submitting it to the Registrar.

Form and Content
of Application

5. (1) The application shall contain the information set out in Annex 1 to these Regulations and shall be accompanied by a fee of \$100.
(2) The Board may dispense with
 - (a) any or all of the information if the application is accompanied by proof of registration issued by a competent authority in a Commonwealth Caribbean country and a copy of the conditions imposed on the sale or use in that country of the pesticide or toxic chemical;
 - (b) any information relating to the efficacy and safety of the pesticide and toxic chemical if the pesticide or toxic chemical is registered for the purpose of conducting research on the pesticide or toxic chemical;
 - (c) any or all of the information if such dispensation is necessary for the purposes of an emergency.

Request for further information

6. (1) The Board may, by written notice, request an applicant to give the Board additional information within a period specified in the notice.
- (2) If the applicant does not give the Board the additional information within the period specified in the notice, the application is taken to have been withdrawn.

Division 2 – Determination of Application

Public consultation

7. (1) The Board may invite public comments on the efficacy of the pesticide or toxic chemical or its risk of harm to human and animal health and safety, plant health and the environment by notice in the Gazette and in other Government media.
- (2) The notice shall specify the common name, active ingredients and intended use of the pesticide or toxic chemical.
- (3) All comments shall be made in writing and addressed to the Registrar within the time specified in the notice.
- (4) The Board shall consider all comments received from the public in determining the application.

Time for consideration of application

8. (1) The Board shall consider an application within one hundred and twenty days of its receipt by the Registrar.
- (2) The Minister may, in writing, extend the time for consideration of an application.

Requirements for registration

9. (1) The Board may approve the registration or renewal of the registration of a pesticide or toxic chemical if the Board considers that the use of the pesticide or toxic chemical for the intended purpose
- (a) would not pose an undue threat of harm to human or animal health or safety, plant health or the environment; and
- (b) is not inconsistent with Part III of the Act and with the Regulations.

Sample for analysis

- (2) The Board may require a sample of the pesticide or toxic chemical, its active ingredients, packages and recommended reagents for any analysis that it requires for the purpose of determining the application.

Approval

10. If the application is approved, the Board shall
- (a) inform the applicant by Notice of Registration; and
- (b) direct the Registrar to register the pesticide or toxic chemical in the Register of Pesticides and Toxic Chemicals in accordance with sections 13 and 14, or renew the registration in accordance with section 15.

Refusal

11. If the application is not approved, the Board shall inform the applicant in writing.

Reasons for refusal

12. Before the expiration of 30 days from the day on which the Board makes a decision to refuse an application for registration, the Board shall give written notice of its decision and the reasons for the decision to the applicant.

Division 3 – Inscription and Renewal

Limitations on use of
pesticide or toxic chemical

13. (1) The Registrar shall register a pesticide or toxic chemical for a specific purpose in any one or more of the following areas
- (a) agriculture;
 - (b) industry;
 - (c) medical;
 - (d) pharmaceutical;
 - (e) research;
 - (f) pedagogy;
 - (g) protection;
 - (h) any other area specified by the Board.

Limitations on Schedule
1, 2 & 3 chemicals

- (2) The Registrar may register
- (a) a Schedule 1 chemical only for research, medical, pharmaceutical or protective purposes; and
 - (b) a Schedule 2 and Schedule 3 chemicals only for purposes not prohibited by the Convention.

Content of Register

14. The Registrar shall include in the Register of Pesticides and Toxic Chemicals
- (a) the information provided in accordance with sections 5 and 6;
 - (b) the specifications for each pesticide and toxic chemical;
 - (c) the label for each pesticide and toxic chemical;
 - (d) the registration number;
 - (e) the authorised purpose(s) of the pesticide or toxic chemical;
 - (f) the physical form in which the pesticide or toxic chemical may be imported or stored;
 - (g) any other conditions imposed on use of the pesticide or toxic chemical;
 - (h) the date that the registration expires; and
 - (i) any other information that the Board considers necessary.

Renewal

15. Registration is renewed subject to the conditions attaching to registration before renewal, unless the Board provides otherwise upon renewal.

Validity

16. Registration is valid for three years.

Division 3 – Amendment and Cancellation

Amendment

17. (1) A person shall notify the Registrar within one month of the following
- (a) a change in the trade name of a registered pesticide or toxic chemical;
 - (b) a change in the names and addresses of the manufacturer or the manufacturer's agent;
 - (c) an error in the registration.
- (2) The Board may, by written notice, amend registration in accordance with a notification received under this section.

Cancellation

18. The Board may, in writing, cancel or amend the registration of a pesticide or toxic chemical if
- (a) the Board no longer considers that the requirements for registration in section 9 are satisfied; or
 - (b) registration was obtained by fraud or misrepresentation, whether negligent or not.

Reasons for cancellation or amendment

19. Before the expiration of 30 days from the day on which the Board makes a decision to cancel or amend registration of a pesticide or toxic chemical, the Board shall inform the public of its decision and the reasons for the decision by notice in the Gazette and other Government media. The Board shall send a copy of the notice to every person holding a licence in respect of the pesticide and toxic chemical.

Division 4 – Amendment of Annex 1

By written notice

20. The Board may, by notice published in the Gazette, amend Annex 1.

PART 2 – LICENCES

Division 1 – Application for a Licence

Apply to Board

21. An application for a licence, or to vary a licence, shall be in writing and be made to the Board by submitting it to the Registrar.

Form and Content of Application

22. The application shall contain the information set out in Annex 2 to these Regulations and shall be accompanied by the processing fee of \$--.

Request for further information

23. (1) The Board may, by written notice, request an applicant to give the Board additional information within a period specified in the notice.
- (2) If the applicant does not give the Board the additional information within the period specified in the notice, the application is taken to have been withdrawn.

Division 2 – Issue of Licence

	A. Procedure
Time for consideration of application	24. (1) The Board shall consider an application within one hundred and twenty days of its receipt by the Registrar. (2) The Minister may, in writing, extend the time for consideration of an application.
Approval	25. If the application is approved, the Board shall (a) inform the applicant in writing; and (b) direct the Registrar to issue to the applicant, or amend, the licence on payment by the applicant of the registration fee of \$...
Register of Licence	26. (1) When a licence is issued, the Registrar shall record the following particulars in the register for that licence: (a) the name and address of the person to whom the licence is issued; (b) the date on which the licence is issued and the date of its expiration; (c) the registration number of the pesticide or toxic chemical; (d) the date of each renewal of the licence, if any; (e) any other particulars that the Minister or the Board require. (2) When an Import or Export Licence is issued in respect of a Schedule 1 chemical the Registrar shall notify the Technical Secretariat of the import or export not less than 30 days before the arrival of the chemicals.
Notification to Technical Secretariat	
Refusal	27. If the application is not approved, the Board shall inform the applicant in writing.
Reasons for refusal	28. Before the expiration of 30 days from the day on which the Board makes a decision to refuse an application for the issue or of a licence, the Board shall give written notice of its decision and the reasons for the decision to the applicant.
	B. Requirements for approval
General requirement	29. The Board may approve the issue of a licence if (a) the Board considers that the issue of the licence would not pose an undue threat of harm to human or animal health or safety, plant health or the environment and is not inconsistent with Part III of the Act or with the Regulations; and (b) the purpose to which the pesticide or toxic chemical is to be used is consistent with the purpose authorised by registration.

- Dealer's Licence
30. The Board shall not approve the issue of a Dealer's Licence to sell a pesticide or toxic chemical if the Board considers that, having regard to the applicant's training and experience, the applicant is not competent to sell such chemicals.
- General Licence
31. The Board shall not approve the issue of a General Licence to engage in a non-sale activity in respect of a pesticide or toxic chemical if the Board considers that, having regard to the applicant's training and experience, the applicant is not competent to engage in such activity.
- Pest Control Operator's Licence
32. The Board shall not approve the issue of a Pest Control Operator's Licence if the Board considers that, having regard to the experience or training of the applicant, the applicant is not qualified to properly discharge the functions of a Pest Control Operator.
- Premises Licence
33. The Board shall not approve the issue of a Premises Licence
- (a) unless an inspector certifies by written report, after having inspected the premises, that the premises meets the prescribed standards for such premises; and
- (b) if a facility permit is required pursuant to Part 3 of these Regulations;
- Import Licence
34. (1) The Board shall not issue an Import licence if
- (a) the application is in respect of the importation of pesticide or toxic chemical for the purpose of sale or non-sale activity and the applicant is not the holder of a Dealer's Licence or General Licence respectively;
- (b) the application is in respect of a Schedule 1 chemical and is submitted to the Registrar less than 45 days before the chemical is due to arrive;
- (c) the application is in respect of a Schedule 1 or Schedule 2 chemical and
- (i) the importation is from a State which is not a State Party to the Convention,
- (ii) the types and quantities of the chemicals exceed that which is justified for the purposes authorised by registration, or
- (iii) the importation is in respect of a Schedule 1 chemical and the importation would cause the national aggregate amount to exceed 1 tonne in that year; or
- (d) The application is in respect of the importation of a Schedule 3 chemical and the types and quantities of pesticides and toxic chemicals exceed that which can be justified for purposes authorised by registration.
- (2) In determining whether the importation is for the purpose of sale or a non-sale activity the Board may have regard to the types and quantities of the pesticides and toxic chemicals in respect of which licence is sought.

Export Licence

35. The Board shall not issue an Export Licence if
- (a) the application is in respect of a Schedule 1 or Schedule 2 chemical and
 - (i) the exportation is to a State which is not a State Party to the Convention,
 - (ii) the types and quantities of the chemicals exceed that which is justified for the purposes authorised by registration, or
 - (iii) the exportation is in respect of a Schedule 1 chemical which was not produced in [...]; or
 - (b) The application is in respect of the exportation of a Schedule 3 chemical to a State which is not a State Party to the Convention and the end user certificate issued by the importing State does not state any one or more of the following:
 - (i) that the chemical will only be used for purposes not prohibited under the Convention
 - (ii) that the chemical will not be re-transferred
 - (iii) the type(s) and quantit(ies) of the chemical(s)
 - (iv) the end-use of the chemical(s)
 - (v) the name(s) and address(es) of the end-user(s)
 - (vi) the name of State which issuing the certificate

C. Form and Content

Form and Content

36. (1) Subject to this section, a licence shall be signed by the Registrar or the Chairman of the Board and shall contain the information, and be in the form, approved by the Minister.

Conditions

- (2) A licence shall stipulate the conditions subject to which the licence is issued, which shall include the purposes, in accordance with section 13, which the licence authorises.

Special form for Premises Licence

- (3) (a) A Premises Licence
- (i) of Type A, authorising manufacture of all Schedule 5 chemicals, or in Schedule 1, 2, 3 or discrete organic chemical shall be in Form A
 - (ii) of Type B, authorising manufacture of Classes II, III and unclassified pesticides and toxic chemicals shall be in Form B
 - (iii) of Type C, authorising manufacture of Class III and unclassified pesticides and toxic chemicals shall be in Form C
 - (iv) of Type D, authorising manufacture of Class unclassified pesticides and toxic chemicals shall be in Form D
- (b) In addition to any other conditions pursuant to subsection (1), a premises licence shall include conditions requiring
- (i) the holder to display in a conspicuous place
 - a. outside of the premises a notice in Form E1.
 - b. inside the premises the licence, in Form E2.

Special conditions for premises licence

- (ii) the holder to notify the Minister if the holder will no longer be operating the premises owing to the fact that the possession of the premises is to be transferred or for any other reason.

Division 3 – Validity, Renewal and Variation

	A. Validity
Dealer's, General Pest Control Operator	37. (1) A Dealer's Licence, a General Licence and a Pest Control Operator's Licence are valid for three years from December 31 st next following the date of its issue.
Premises	(2) A Premises Licence is valid for one year from December 31 st next following the date of its issue.
Import or Export	(3) An Import licence an Export Licence are valid in respect of one importation.
	B. Renewal
Application	38. (1) The holder of a licence may apply to the Board to renew the licence by submitting an application in the approved form to the Registrar, before the licence expires.
Further information	(2) The application shall be accompanied by the processing fee of \$....
	39. (1) The Board may, by written notice, request the holder to give the Board additional information within a period specified in the notice.
	(2) If the licence holder does not give the Board the additional information within the period specified in the notice, the application is taken to have been withdrawn.
Conditions	40. The procedure and conditions for approval in Division 2 of this Part apply in relation to an application for renewal.
Validity	41. A licence renewed under this section is renewed subject to the conditions attaching to the licence before renewal unless the Board provides otherwise.
Amendment	42. Upon renewal a licence is valid for the period specified in section 37.
	43. (1) The holder of a licence shall notify the Registrar within one month of a change in the following
	(a) the trade name of a pesticide or toxic chemical to which the licence relates;
	(b) the names and addresses of the manufacturer and his agent;
	(c) an error in the licence.
	(2) The Board may, by written notice, amend a licence pursuant to a notification received under this section.
No transfer	44. (1) A licence other than a premises licence cannot be transferred.

Exception

(2) A person may apply to the Board for the transfer of a premises licence to that person if

- (a) possession of premises is to be transferred; or
- (b) for any other reason

Form and Content
of Application

45. The application for transfer shall be in the approved form, containing the information set out in Annex 2 to these Regulations and shall be accompanied by the fee of \$....

Request for further information

46. (1) The Board may, by written notice, request an applicant to give the Board additional information within a period specified in the notice.

(2) If the applicant does not give the Board the additional information within the period specified in the notice, the application is taken to have been withdrawn.

Procedure and requirements
for approval

47. Sections 24, 27, 28 and 29 apply in respect of applications for transfer.

Consequences and effect
of approval

48. (1) If an application for transfer is granted,

- (a) the relevant register is amended and a new premises licence is issued to the applicant on payment of the fee of \$...; and
- (b) the Act and the Regulations have effect as if all dealings with chemicals by the previous licence holder were dealings with chemicals by the new licence holder.

(2) However, a breach of the Act or the Regulations or the conditions of the permit by the previous holder will not be taken to be a breach by the new permit holder.

Division 4 – Cancellation, Amendment, Revocation and Suspension of Licences

Cancellation or amendment

49. The Board may, in writing, cancel or amend the registration of a pesticide or toxic chemical if the Board no longer considers that the requirement in section C of this Part are satisfied.

Revocation or suspension

50. The Board may, in writing, revoke or suspend a licence

- (a) if the holder of the licence
 - (i) obtained it by fraud or misrepresentation whether negligent or not;
 - (ii) breaches any of the conditions of the licence;
 - (iii) breaches any provision of the Act of the Regulations;
 - (iv) requests that the licence be revoked.
- (b) if the registration of the pesticide or toxic chemical has been cancelled.

Reasons for decision

51. Before the expiration of 30 days from the day on which the Board makes a decision to revoke or suspend a licence, the Board shall give written notice of its decision and the reasons for the decision to the holder of the licence.

Publication of revocation or suspension

52. The Board shall inform the public of a revocation or suspension of a licence by notice published in the Gazette.

Restriction on reapplication

53. A person shall not submit a new application upon the refusal of a previous application for the same licence unless two years has expired since the most recent refusal.

Division 5 – Premises Standards and Operation Requirements

Annex 3

54. The holder Premises Licence of the type identified in Column 1 of Annex 3 shall comply with

(a) the requirements for the standards and operation requirements contained in Column 2 of that Annex; and

(b) any other requirements that the Board stipulates in the licence.

Division 6 – Storage, Distribution, Packaging, Labelling and Application Requirements

Annex 4

55. (1) The holder of a licence, other than a Pest Control Operator's licence, shall comply with the requirements for storage, distribution, packaging and labelling of pesticides and toxic chemicals contained in Annex 4.

Application Requirements

(2) The holder of a Pest Control Operator's Licence shall comply with the requirements relating to application of pesticides and toxic chemicals that the Board establishes by Notice published in the Gazette.

Division 7 – Amendment of Annexes 2, 3 and 4

By Written Notice

56. (1) The Board may, by Notice published in the Gazette, amend Annexes 2, 3 and 4.

(2) In exercising its powers under subsection (2) the Board may incorporate by reference standards or requirements as amended from time to time.

PART 3 – PERMITS

57. In this Part, approved means approved by the Minister.

Division 1 – When Permits are required

A. Schedule 1 Facility Permit

Required for production etc.

58. (1) The operator of a facility requires a Schedule 1 Facility Permit if Schedule 1 chemicals are likely to be produced, acquired, retained, consumed or used at, or transferred from the facility during the year.

Exception

(2) However, such a permit is not required if, the facility is a laboratory and during that year, the total amount of Schedule 1 chemicals likely to be synthesised at the facility does not exceed 100 grams.

B. Schedule 2 Facility Permit

Required for production etc.

59. The operator of a facility requires a Schedule 2 Facility Permit to operate the facility during a particular year if, during the year, Schedule 2 chemical is likely to be produced, processed or consumed at the facility in an amount exceeding, in the aggregate, the Schedule 2 permit threshold for that chemical.

C. Schedule 3 Facility Permit

Required for production etc.

60. The operator of a facility requires a Schedule 3 Facility Permit to operate the facility during a particular year if an amount of a Schedule 3 chemical exceeding, in the aggregate, 30 tonnes of that chemical is likely to be produced the facility during the year.

Division 2 – Applications for a Permit

Apply to Registrar

61. A person who is a licensed dealer and who, pursuant to Division 1, requires a permit to operate a facility during a year shall apply to the Registrar for the permit.

Form and Content
of Application

62. The application shall be in the approved form, containing the information set out in Annex 1 to these Regulations and shall be submitted to the Registrar accompanied by the processing fee of \$....

Request for further information

63. (1) The Registrar may, by written notice, request an applicant to give the Registrar additional information within a period specified in the notice.

Deemed withdrawn

(2) If the applicant does not give the Registrar the additional information within the period specified in the notice, the application is taken to have been withdrawn.

Division 3 – Issue of Permit

A. Procedure

Time for consideration

64. The Registrar, within one hundred and twenty days of receiving the application, shall approve or refuse the application as directed by the Minister, who shall consult with the Board.

Approval

65. If the application is approved, the Registrar shall

- (a) inform the applicant in writing; and
- (b) issue to the applicant the relevant permit and record the following particulars in the register of facilities
 - (i) the name and address of the person to whom the permit is issued;
 - (ii) the date on which the permit is issued and the date of its expiration;
 - (iii) the date of each renewal;
 - (iv) any other particulars that the Minister requires.

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| Refusal | 66. | If the application is not approved, the Registrar shall inform the applicant in writing. |
| Reasons for refusal | 67. | Before the expiration of 30 days from the day on which the Registrar, on the advice of the Minister, refuses an application for the issue or of a permit, the Registrar shall give written notice of the refusal and the reasons for it to the applicant. |
| Restriction on reapplication | 68. | The Board may refuse to consider a new application if a previous application by the same applicant in respect of the same toxic substance was rejected by the Board, or on appeal to the Minister, if the new application is made within two years of the date of the decision by the Board or confirmation by the Minister, whichever is the later. |
| B. Form and Content | | |
| Form and Content | 69. | (1) A permit shall contain the information required by, and be in, the approved form.

(2) The permit shall contain the conditions subject to which it is issued, including <ul style="list-style-type: none"> (a) the purposes, in accordance with section 13 above, for which activity in the Schedule 1, 2, 3 or OCP chemical is authorised; and (b) the conditions set out in section 44(a) and (b) of the Act and 36(3)(b) above. |

Division 4 – Validity, Renewal and Variation

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| Permits | A. Validity | 70. | A permit is valid until December 31 st next following the date of issue. |
| Application | B. Renewal | 71. | (1) If the holder of a permit requires a permit pursuant to section 58, 59 or 60 for the year following the expiration of the permit, the holder may apply to the Registrar to renew the permit by submitting an application in the approved form to the Registrar, before the permit expires.

(2) The application shall be accompanied by the processing fee of \$... |
| Further information | | 72. | (1) The Registrar may, by written notice, request the holder to give the Registrar additional information within a period specified in the notice.

(2) If the permit holder does not give the Registrar the additional information within the period specified in the notice, the application is taken to have been withdrawn. |
| Conditions | | 73. | A permit renewed under this section is renewed subject to the conditions attaching to the permit before renewal or to any other conditions that the Registrar specifies upon renewal. |

Validity	74.	Upon renewal, a permit is valid until December 31 st next following the date of renewal.
Variation	75.	The Minister may by notice in writing vary a permit.
Transfer	76.	A person may apply to the Board for the transfer of a permit to that person (a) if possession of facilities is to be transferred; or (b) for any other reason.
Form and Content of Application	77.	The application shall be in the approved form, containing the information set out in Annex 2 to these Regulations and shall be accompanied by the prescribed processing fee.
Request for further information	78.	(1) The Minister may, by written notice, request an applicant to give the Minister additional information within a period specified in the notice. (2) If the applicant does not give the Minister the additional information within the period specified in the notice, the application is taken to have been withdrawn.
Procedure and requirements for approval	79.	Sections 64, 66, 67, 68 and 69 apply in respect of applications for transfer.
Consequences and effect of approval	80.	(1) If an application for transfer is granted, (a) the relevant register is amended and a new facilities permit is issued to the applicant on payment of the fee of \$...; and (b) the Act and the Regulations have effect as if all dealings with chemicals by the previous licence holder were dealings with chemicals by the new licence holder. (2) However, a breach of the Act or the Regulations or the conditions of the permit by the previous holder will not be taken to be a breach by the new permit holder.
		Division 5 – Revocation and Suspension of Permits
Revocation	81.	On the direction of the Minister, the Registrar may, in writing, revoke a permit if, as a result of information concerning the efficacy of the pesticide or toxic chemical or the danger to human or animal health or safety, plant health or the environment that it poses, the Minister no longer considers that the issue of the permit (a) does not pose an undue threat of harm to human or animal health or safety, plant health or the environment, and (b) is not contrary to any of the restrictions in Part III of the Act or to the Regulations.
Suspension	82.	The Registrar may, in writing, revoke or suspend a permit if the holder of the permit breaches

- Reasons for decision
- (a) any of the conditions of the permit; or
 - (b) any provision of the Act of the Regulations.
83. Before the expiration of 30 days from the day on which the Registrar revokes or suspends a permit, the Registrar shall give written notice of such revocation or suspension and the reasons for it to the holder of the permit.

Division 6 – Facilities Standards and Operation Requirements

Annex 3

84. The holder of a permit shall comply with
- (a) the standards and requirements for Type A premises contained in Column 2 of Annex 3; and
 - (b) any other requirements that the Board specifies in the permit.

PART 4 – RECORD KEEPING, DECLARATIONS AND NOTIFICATIONS

Record keeping

85. (1) The holder of a licence to import shall keep records showing
- (a) the quantity and registration number of pesticides and toxic chemicals that he has imported;
 - (b) the date(s) of importation;
 - (c) the name and address of the producer/manufacturer of the pesticide or toxic chemical;
 - (d) any other information that the Board requires.

Declarations

- (2) The owner or operator of a facility identified in Column 1 of Annex 5 shall submit to the Registrar
- (a) the corresponding initial and annual declarations described in Column 2 of that Annex; and
 - (b) any other information that the Board directs or the Minister prescribes by Regulation.

Notifications

86. Before 1 March of each year, the operator of premises or a facility shall, unless the facility exclusively produced explosives or hydrocarbons, notify the premises to the Registrar if the amount of unscheduled discrete organic chemicals produced by synthesis at the facility during the year before the notification was:
- (a) more than 200 tonnes; or
 - (b) more than 30 tonnes of an unscheduled discrete organic chemical containing the elements phosphorus, sulphur or fluorine

ANNEX 1

Content of Applications for Registration

The following is the information that is required to be included in an application under section 5.

- a. the existing or proposed trade name of the pesticide or toxic chemical;
- b. the common names and chemicals names of the active ingredients present in the pesticide or toxic chemical and the percentage of each;
- c. the chemical name, type and percentage of any other ingredients present in the pesticide or toxic chemical;
- d. the names and addresses of the manufacturer, the agent and the importer;
- e. the information on the stability in storage of the pesticide or toxic chemical;
- f. the recommended conditions of storage and form of package;
- g. information on the oral, dermal and inhalation toxicity of the pesticide or toxic chemical and any active ingredient present therein;
- h. information on hazards to persons using or handling the pesticide or toxic chemical, and precautions, equipment, protective clothing and facilities recommended to prevent the exposure measures to guard against flammable pesticide or toxic chemicals;
- i. information on the proposed uses of the pesticide or toxic chemical, the pests that may be controlled by it, and the recommended method of use, for example, the number of times, the period over which, the quantity in which the pesticide or toxic chemical may be applied;
- j. information on the efficacy of the pesticide or toxic chemical, when it is used as recommended, in climatic conditions similar to that of Saint Lucia;
- k. a statement indicating the physical form of the pesticide or toxic chemical and information relative to each physical form;
- l. full details of first aid and medical treatment which may effectively be used in cases of suspected poisoning by the pesticide or toxic chemical;
- m. a copy or draft of the labels and any accompanying instructions which are to be used in connection with the pesticide or toxic chemical;
- n. recommended methods of analysis for the pesticide or toxic chemical and for any residues thereof in or on crops or animals, or both, and data regarding the persistence of such;
- o. evidence to show that residues of the pesticide or toxic chemical, when used on food crops or animals, or on crops which may be used as food for animals in accordance with information given under paragraphs (i) and (j), would not exceed the levels recognised as safe by International Organisations if the crop or animal is used as food;
- p. information on hazards which the pesticide or toxic chemical may pose to domestic animal, bees, fishes, birds and other wild life and adverse effects on soil, air and water;
- q. such samples of the pesticide or toxic chemical, its active ingredients, packages and recommended reagents for analysis as may be specified by the Board from time to time;

- r. information on methods of safe disposal of waste pesticide or toxic chemical and any containers in which the pesticide or toxic chemical was stored;
- s. proof of registration of the pesticide or toxic chemical issued by a competent authority in the country of origin of the pesticide or toxic chemical acceptable to the Board, and certified copies of the labels and accompanying instructions used in that country together with certified English translations thereof, where necessary, and if the pesticide or toxic chemical is not sold in that country, the reason for it not being sold there shall be stated; and
- t. other such particular as the Board may require.

ANNEX 2 Content of Applications for a Licence

The following is the information that is required to be included in an application under section 22.

Dealer's Licence

- (a) the name and address of the applicant;
- (b) the name and address of the producer (and agent);
- (c) the name and brand, if any, of the pesticide or toxic chemical;
- (d) the registration number of the chemical;
- (e) any other information that the Board considers necessary.

General Licence

- (a) the name and address of the applicant;
- (b) the name and address of the producer (and agent);
- (c) the name and brand, if any, of the pesticide or toxic chemical;
- (d) the registration number of the chemical;
- (e) the purpose for which the licence is required;
- (f) any other information that the Board considers necessary.

Premises or Facilities Licence

- (a) the name and address of the applicant;
- (b) the address of the premises in respect of which the application is made;
- (c) the name(s) of the owner and the operator of the premises/facility;
- (d) the name and brand, if any, of the pesticide or toxic chemical(s) in relation to which the licence or permit is required;
- (e) the registration number of the chemical(s) in relation to which the licence or permit is required;
- (f) the amount of the pesticide or toxic chemical(s) to be manufactured or produced;
- (g) the purpose to which the pesticide or toxic chemical is to be applied; and
- (h) any other information that the Board considers necessary.

Import or Export Licence

- (a) the name, place of business and nature of business of the applicant;
- (b) the name and address of the manufacturer/producer;
- (c) the name and brand, if any, of the pesticide or toxic chemical;
- (d) the registration number of the chemical;
- (e) the amount of the pesticide or toxic chemical to be imported or exported respectively;
- (f) in the case of importation—the purpose of the importation, that is to say, whether the pesticides or toxic chemical is imported for sale, or other purpose under section 13; or, in the case of exportation—the end use of the pesticide or toxic chemical; and
- (g) any other information that the Board considers necessary.

ANNEX 3
Standards and Operation Requirements

Type of Premises Licence	Requirements
All Types	<p>The premises shall be constructed as follows:</p> <ul style="list-style-type: none"> (a) the site shall not be such as to cause or allow entry to run-off and liquid effluent into adjoining or adjacent property; (b) facilities for run-off from the premises, especially from the storage areas, shall be constructed so as to avoid contamination of public waterways, and such run-off shall not enter septic tanks; (c) areas and sections of the premises used for the storage or the exposure for the sale of Class 1A, 1B, II or III products shall be clearly defined and shall be separated from other areas and sections of the premises and shall be identifiable by permanent signs, together with the appropriate warning mark contained in the Second Annex fixed above their entrances; (d) buildings shall be of sound materials and shall be constructed in such a way as to minimise contamination of adjacent premises; (e) floors shall be capable of being easily cleaned; (f) the sales area shall be separated from areas used for mixing, formulating or repackaging pesticides and toxic chemicals so as to minimise the movement of dusts or vapours into the sales area when customers have access; (g) natural or artificial lighting shall be adequate to ensure easy reading of labels, instructions and for identification of materials; (h) electrical wiring shall comply with the National wiring code of [.....]; (i) filament lamps shall be placed or guarded so as to prevent ignition of any flammable materials, and any guard or shade used for this purpose shall be suitable to withstand the heat from the lamp; (j) switchgear, switches and powerpoints such as socket outlets) shall be approved for use in hazardous situations and shall not be placed where flammable dusts and vapours accumulate; (k) an adequate supply of water shall be readily available on the premises at all times for the purpose of washing of the body and washing away spillages into sumps; (l) eye fountains with a regular supply of clear water shall be available at all times. <p>2. (1) Facilities for the disposal of empty packages and containers and spilled waste pesticides and toxic chemicals shall be such as to avoid contamination of the environment.</p> <p>(2) Covered dustbins and other receptacles for waste and spillages shall be made of materials able to resist corrosion by the pesticide and toxic chemical and shall be made sufficiently secure to discourage the removal of waste material by unauthorised persons and to prevent spillage of toxic substances.</p>

Type of Premises Licence	Requirements
	<p>3. (1) First Aid facilities shall be readily available on premises to assist in countering the adverse effects of pesticides and toxic chemicals in intimate contact with humans through cuts, wounds, nostrils and otherwise.</p> <p>(2) Advice on antidotes and instructions will be provided to the owner or occupier by the Minister responsible for the subject of Health.</p>
Type A	<p>In addition to the requirements in paragraph 1 above, the following standards for construction shall be met:</p> <p>(a) areas and sections of the premises used for the storage or the display for sale of Classes 1A and 1B pesticides and toxic chemicals shall be</p> <ul style="list-style-type: none">(i) protected from excessive damp heat, ventilated for removing the fumes of volatile pesticides and toxic chemicals and dust and exhaust ventilation systems shall be provided;(ii) provided with an adequate supply of water (at a pressure considered suitable by the Fire Service) suitable fire extinguishers and sand buckets, which shall be easily available at all times for fighting fires and for washing away absorbed material used for absorbing waste and spillages from the storage area;(iii) securely enclosed, and capable of being locked to prevent theft or unauthorised removal of toxic substances; <p>(b) storage areas shall be separated from living areas, sleeping areas, cooking and eating areas and offices;</p> <p>(c) equipment shall be available for maintaining records, for controlling stock movement and transfers and up-to-date record or receipts and sales shall be kept.</p>

ANNEX 4
Storage, Distribution, Packaging and Labelling Requirements

ANNEX 5
Declarations by Facilities required pursuant to section 85

The following information shall be provided to the Board:

<i>Column 1:</i> Facilities	<i>Column 2:</i> Declarations required
Schedule 1 single small- scale facility	<ol style="list-style-type: none"> 1. An initial declaration of the precise location and a detailed technical description of the facility, which includes: <ol style="list-style-type: none"> (a) equipment inventory; (b) detailed diagrams; and (c) the volume of the reaction vessels in the production lines for the Schedule 1 chemicals. 2. On or before March 1 of each year, annual declarations for the previous year in respect of activities at the facility, which includes: <ol style="list-style-type: none"> (a) in respect of the facility <ol style="list-style-type: none"> (i) its identification, and (ii) 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; and (b) in respect of each Schedule 1 chemical produced, processed, acquired, consumed, used or stored at, or transferred from, the facility <ol style="list-style-type: none"> (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 productions 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 [.....], specifying the quantity, recipient and purpose of each shipment, (vi) the maximum quantity stored at any time during the year; and (vii) the quantity stored at the end of the year. 3. On or before September 1 of each year, annual declarations in respect of projected activities and anticipated production at the facility for the next calendar year, which includes: <ol style="list-style-type: none"> (a) in respect of the facility <ol style="list-style-type: none"> (i) its identification, and (ii) 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; and (b) in respect of each Schedule 1 chemical anticipated to be produced, consumed, used or stored at, or transferred from the facility <ol style="list-style-type: none"> (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.

<i>Column 1:</i> Facilities	<i>Column 2:</i> Declarations required
Schedule 1 Facilities (other than Schedule 1 single small-scale facility)	<ol style="list-style-type: none"> 1. An initial declaration containing 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. On or before March 1 of each year, annual declarations for the previous year in respect of activities at the facility, which includes <ol style="list-style-type: none"> (a) in respect of the facility <ol style="list-style-type: none"> (i) its identification, and (ii) information on any changes at the facility or its relevant parts during the year, compared to previously submitted detailed technical descriptions of the facility including inventories of equipment and detailed diagrams; and (b) in respect of each Schedule 1 chemical produced, acquired, consumed, used, stored at, or transferred from the facility <ol style="list-style-type: none"> (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 productions of Schedule 1 chemicals, (iv) the quantity consumed at the facility and the purpose of the consumption, (v) the quantity transferred to other facilities in [...], specifying the quantity, recipient and purpose of each transfer, (vi) the maximum quantity stored at any time during the year; and (vii) the quantity stored at the end of the year. 3. On or before September 1 of each year, annual declarations in respect of projected activities and anticipated production at the facility for the next calendar year, which includes <ol style="list-style-type: none"> (a) in respect of the facility <ol style="list-style-type: none"> (i) its identification, and (ii) 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 including inventories of equipment and detailed diagrams; and (b) in respect of each Schedule 1 chemical produced, acquired, consumed, used, stored at, or transferred from the facility <ol style="list-style-type: none"> (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 purpose of the production.
Scheduled facilities 2	<ol style="list-style-type: none"> 1. For each Schedule 2 facility – <ol style="list-style-type: none"> (a) the name of the facility, and the name of the owner, company or enterprise operating it; (b) the precise location including address of the facility; and (c) the number of Schedule 3 plants within the facility that are declared pursuant to the Convention. 2. The following additional information is required for each plant located within the facility which produced or is anticipated to produce, consume or process Schedule 2 chemicals above the Schedule 2 permit threshold <ol style="list-style-type: none"> (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 facility including the specific

<i>Column 1:</i> Facilities	<i>Column 2:</i> Declarations required
	<p>building or structure number, if any;</p> <p>(iii) its main activities;</p> <p>(iv) whether the plant</p> <ul style="list-style-type: none"> • produces, processes or consumes the declared Schedule 2 chemical(s); • is dedicated to such activities or is multipurpose; or • performs other activities with regard to the declared Schedule 2 chemicals and, if so, the nature of the activity; <p>(v) the production capacity of the plant for each declared Schedule 2 chemical;</p> <p>(vi) the number of plants within the plant-site in respect of which a Schedule 2 Facility Permit is issued.</p> <p>3. The following additional information is required for each Schedule 2 chemical above the Schedule 2 permit threshold</p> <p>(a) the chemical name, common or trade name used by the facility, structural formula, and chemical Abstracts Service number, if assigned;</p> <p>(b) the total amount produced, processed, consumed, imported and exported by the facility</p> <p>(i) in the case of the initial declaration, in the three previous years</p> <p>(ii) in the case of annual declarations, in the previous calendar year;</p> <p>(iii) in the case of anticipated activities, in the following year;</p> <p>(c) the purpose for which the chemical was or will be produced, processed or consumed, including</p> <p>(i) processing and consumption on site with a specification of the product types</p> <p>(ii) sale or transfer within [.....], with a specification as to destination (other industry, trade or other destination, and final product type (if known)</p> <p>(d) annual declarations in respect of sub-paragraph (b)(ii) shall be made on or before March 1 of each year; and annual declarations in respect of sub-paragraph (b)(iii) shall be made on or before October 1 of each year.</p>
Schedule 3 facility in respect of which a permit is issued	<p>For each Schedule 3 facility</p> <p>(a) the name of the facility, and name of the owner, company or enterprise operating it;</p> <p>(b) the precise location including address of facility;</p> <p>(c) the number of declared Schedule 2 plants within the facility that are declared pursuant to the Convention</p> <p>Within the facility, for each plant which itself produced or is anticipated to produce Schedule 3 chemicals exceeding, in the aggregate for each chemical, 30 tonnes, the following information shall be provided:</p> <p>(a) the chemical name, common or trade name used by the facility, structural formula, and chemical Abstracts Service number, if assigned;</p> <p>(b) the approximate amount of production of the chemical:</p> <p>(i) in the case of annual declarations, in the previous calendar year; or</p> <p>(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</p> <p>(c) the purposes for which the chemical was or will be produced.</p> <p>(d) the deadlines for the submission of the information in paragraph (b) (i) and (b) (ii) are March 1 and October 1 respectively, of each year.</p>
OCP Facilities	<p>(1) For each facility</p> <p>(a) the name of the facility, and the name of the owner, company or enterprise operating it;</p> <p>(b) the precise location including address of the facility;</p> <p>(c) its main activities;</p> <p>(d) the approximate number of plants producing the chemicals referred to in the</p>

<i>Column 1:</i> Facilities	<i>Column 2:</i> Declarations required
	<p>definition of OCP Facility in the Act;</p> <p>(e) in the case of a plant site covered by paragraph (a)(i) of the definition of “OCP facility”, the approximate aggregate amount of production of unscheduled discrete organic chemicals in the previous calendar year expressed in the ranges: under 1,000 tonnes; 1000-10,000 tonnes and above 10,000 tonnes;</p> <p>(f) in the case of plant sites covered by paragraph (a)(ii) of the definition of “OCP facility”, the number of PSF-plants within the facility; and 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, 100010,000 tonnes, and above 10,000 tonnes; and</p> <p>(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 and above 10,000 tonnes.</p> <p>(2) The deadline for submission of this information is March 1 of each year.</p>