

GOVERNMENT NOTICE

DEPARTMENT OF TRADE AND INDUSTRY

No. 704
23 May 1997

NON-PROLIFERATION OF WEAPONS OF MASS DESTRUCTION ACT, 1993
(ACT NO. 87 OF 1993):
DECLARATION OF CERTAIN GOODS TO BE CONTROLLED GOODS AND
THE CONTROL MEASURES
APPLICABLE TO SUCH GOODS

I, Alec Erwin, Minister of Trade and Industry, under section 13 of the Non-Proliferation of Weapons of Mass Destruction Act, 1993 (Act No. 87 of 1993), hereby

(1) declare the following goods to be controlled goods:

(a) The chemicals listed in Schedules 1, 2 and 3 of Annex B of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, hereinafter referred to as "the Convention";

(Footnotes 1) and 2))

1) Copies of Schedule 1,2 and 3 of Annex B of the Convention are attached as Annexure A, B and C respectively for ease of reference.

2) NOTE: Whenever reference is made to groups of di-alkylated chemicals, followed by a list of alkyl groups in parentheses, all chemicals possible by all possible combinations of alkyl groups listed in the parentheses are considered to be listed in the respective Schedule as long as they are not explicitly exempted.

(b) Any chemical plant site, comprising any number of chemical plants, within which was produced by synthesis a total aggregate quantity of 100 tonnes or more of any number of unscheduled discrete organic chemicals (DOCs including PSF chemicals) during the previous calendar year; chemical plants that exclusively produce explosives or hydrocarbons, or compounds containing only carbon and a metal (e.g. tungsten carbide) shall, for the purposes of this paragraph, be excluded; polymeric and oligomeric substances shall furthermore not be regarded as unscheduled discrete organic chemicals for purposes of this paragraph;

(c) any chemical plant site, comprising any number of chemical plants, within which was produced by synthesis more than an aggregate quantity

of 15 tonnes of any single unscheduled discrete organic chemical containing the elements phosphorus, sulfur or fluorine ((PSF chemical); chemical plants that exclusively produce explosives or hydrocarbons or compounds containing only carbon and a metal (e.g. tungsten carbide) shall, for the purposes of this paragraph, be excluded; polymeric and oligomeric substances shall furthermore not be regarded as unscheduled discrete organic chemicals for purposes of this paragraph;

- (d) riot control agents, only when possessed in quantities greater than or equal to an aggregate quantity of 100 kg per calendar year whether in substantially pure form or in a mixture with any other substance;
- (e) toxic chemicals and their precursors, except where intended for purposes not prohibited under the Convention, as long as the types and quantities are consistent with such purposes;
- (f) munitions and devices specifically designed to cause death or other harm through the toxic properties of toxic chemicals which would be released as a result of the employment of such munitions or devices; and
- (g) any equipment specifically designed for use directly in connection with the employment of munitions and devices specified in subparagraph (e) above;

(2) (a) require that in the declaration to the Council in accordance with the provisions of the Convention, read with the Chemical Weapons Regulations published in Government Notice No. R. 705 of 23 May 1997, the following threshold quantities for controlled goods shall apply:

- (i) Schedule 1 chemicals:

All quantities above zero per calendar year, whether in substantially pure form in a mixture with any other substance, with regard to the manufacture, procurement in any manner, use, operation, stockpiling, maintenance, transport, import, export, transit or re-export of such goods;

- (ii) Schedule 2 chemicals:

2A Toxic chemicals:

1 kg per calendar year

exception: BZ:: 3-Quinuclidinyl benzilate:: 10 g per calendar year;

2B Precursors:

10 kg per calendar year with regard to the manufacture, procurement in any manner, processing, consumption, stockpiling, import, export, transit or re-export of such goods;

(iii) Schedule 3 chemicals:

1 tonne per calendar year with regard to the manufacture, import, export, or re-export of such goods;

(b) that for purposes of the interpretation of this paragraph the following criteria shall apply:

(i) All threshold quantities shall be aggregate quantities over an entire calendar year;

(ii) threshold quantities shall include quantities of controlled chemicals generated as by-products or as components of waste or effluent streams in a chemical production process; and

(iii) where schedule 2 chemicals and schedule 3 chemicals occur in a mixture with any other substance(s), the specified threshold quantity of the scheduled chemical in the mixture shall be exceeded and the chemical shall be present in the mixture in a concentration greater than or equal to 30% by weight.

(3) determine that the import, export, re-export or transit of goods shall take place under a permit issued by the Council;

(4) control the import, export, re-export or transit of goods-

(a) by authorizing the Council to demand, on behalf of the Republic-

(i) an end-use certificate for controlled goods to be transferred to the territory of any other country; and

(ii) a State-to-State assurance from the government of the recipient country stating that government undertakes to ensure the goods are not used for purposes prohibited under the Convention or in any other way for the proliferation of weapons of mass destruction;

(b) by requiring the end-use certificate contemplated in sub-paragraph (a) to provide the information and assurance to the Council as determined by the Council from time to time, reflecting the provisions of section C of Part VII and section C of Part VIII of the Verification Annex of the Convention;

(c) by requiring that where an end-use certificate is demanded by the Council as contemplated in sub-paragraph (a), it shall be obtained by the applicant from the end-user(s) in the country of destination of the transferred goods;

(d) by requiring the applicant to take all reasonable steps to cooperate with the Council to prove the authenticity of the said end-use certificate; and

(e) by requiring any person in control of any facility in which any Schedule chemical, in any amount, is produced, consumed, processed, acquired or retained, or from which such a Schedule 1 chemical may be transferred, to operate under a permit issued specifically for that purpose by the Council.

A. ERWIN
MINISTER OF TRADE AND INDUSTRY

ANNEXURE A

(a) Schedule 1

((CAB registry number)

A. Toxic chemicals

(1) O-Alkyl (< (102-71-6) Triethanolamine (17) (105-59-9) Methyldiethanolamine (16) (139-87-7) Ethyldiethanolamine (15) (7719-09-7) chloride Thionyl (14) (10545-99-0) dichloride Sulfur (13) (10025-67-9) monochloride (12) (762-04-9) phosphite Diethyl (11) (868-85-9) Dimethyl (10) (122-52-1) Triethyl (9) (121-45-9) Trimethyl (8) (10026-13-8) pentachloride Phosphorus (7) (7719-12-2) bichloride (6) (10025-87-3) oxychloride (5) Precursors: B. (76-06-2) Trichloronitromethane Chloropicrin: (4) (74-90-8) cyanide Hydrogen (3) (506-77-4) Cyanogen (2) (75-44-5) Carbonyl Phosgene: (1) chemicals: Toxic A. 3 Schedule (c) C ANNEXURE (464-07-3) 3,3-Dimethylbutan-2-ol alcohol: Pinacolyl (111-48-8) Bis(2-hydroxyethyl)sulfide Thiodiglycol:: salts protonated corresponding and aminoethane-2-thiols l-Pr) or n-Pr Et, (Me, N-Dialkyl N, (100-37-8) N-Diethylaminoethanol (108-01-0) N,N-Dimethylaminoethanol Exemptions: aminoethane-2-ols N,N-Dialkyl aminoethyl-2-chlorides Pr) l- (1619-34-7) Quinuclidin-3-ol (76-93-7) acid 2,2-Diphenyl-2-hydroxyacetic (7784-34-1) Arsenic l-Pr)-phosphoramidates N,N-dialkyl Dialkyl dihalides phosphoramidic i-Pr) (944-22-9) ethylphosphonothiothionate S-phenyl O-Ethyl Fonofos:: Exemption: (756-79-6) methylphosphonate (676-97-1) Methylphosphonyl eg.. atoms. carbon further not but group iso)) (normal propyl ethyl methyl, one bonded is which to atom phosphorus a containing 1, in listed those for except Chemicals, (6581-06-2) benzilate 3-Quinuclidinyl BZ: (382-21-8) (trifluoromethyl)-1-propene 1,1,3,3,3-Pentafluoro-2-PFIB: alkylated (78-53-5) phosphorothiolate ethyl] S-[2-(diethylamino) O,O-Diethyl Amiton:: chemicals 2 (b) B (7040-57-5) chloridate methylphosphono- O-Pinacolyl Chlorosoman: (1445-76-7) O-Isopropyl Chlorosarin: (57856-11-8) methylphosphonite 0-2-diisopropylaminoethyl QL: eg. phosphonites alkyl l-Pr)-aminoethyl - cycloalkyl)O-2-dialkyl Incl. < (96-64-0) methylphosphonofluoridate Soman:: (107-44-8) Sarin: l-Pr)-phosphonofluoridates incl.>