

**Chemical Weapons (Convention) Bill -
Supplementary information on issues raised
at the fourth meeting of the Bills Committee
held on 24 October 2002**

Clause 6(1)

Members asked whether, and if so how, a permanent resident of the Hong Kong Special Administrative Region (HKSAR) might relinquish his permanent resident status; as well as whether, and if so how, a Hong Kong resident of Chinese nationality might relinquish his Chinese nationality.

2. The Security Bureau has advised that:
 - (a) a person who is within one of the categories listed in paragraph 2 of Schedule 1 to the Immigration Ordinance (Cap. 115) is a permanent resident of the HKSAR. There is no statutory provision for relinquishing permanent resident status; and
 - (b) a Hong Kong resident of Chinese nationality may relinquish his Chinese nationality by making a declaration of change of nationality in accordance with paragraph 5 of the “Explanations of some questions by the Standing Committee of the National People’s Congress concerning the implementation of the Nationality Law of the People’s Republic of China in the Hong Kong Special Administrative Region” (the Explanations), or by applying for renunciation of Chinese nationality under Article 10 of the Chinese Nationality Law. A copy of the Nationality Law and the Explanations are at Annex.

Possession and use of “Scheduled chemicals” for law enforcement including riot control purposes

3. According to the Security Bureau, none of the law enforcement departments has imported or possess “Scheduled chemicals” for law enforcement including riot control purposes. It is also highly unlikely that they will do so in future. In an unlikely event that law enforcement departments need to import “Scheduled chemicals” for law enforcement purposes, the departments would be prepared to consider providing the LegCo Panel on Security with information on the types of chemicals imported.

4. As regards any controlled chemicals possessed and used by the Garrison, the People's Republic of China, as a party to the Chemical Weapons Convention, has an obligation to ensure that the requirements of the Convention are complied with in respect of such chemicals. The CWC Ordinance will not apply to the Garrison.

Commerce, Industry and Technology Bureau
November 2002

Appendix 1

Nationality Law of the People's Republic of China

(Adopted at the Third Session of the Fifth National People's Congress, promulgated by Order No. 8 of the Chairman of the Standing Committee of the National People's Congress and effective as of September 10, 1980)

Article 1 This law is applicable to the acquisition, loss and restoration of nationality of the People's Republic of China.

Article 2 The People's Republic of China is a unitary multinational state; persons belonging to any of the nationalities in China shall have Chinese nationality.

Article 3 The People's Republic of China does not recognize dual nationality for any Chinese national.

Article 4 Any person born in China whose parents are both Chinese nationals or one of whose parents is a Chinese national shall have Chinese nationality.

Article 5 Any person born abroad whose parents are both Chinese nationals or one of whose parents is a Chinese national shall have Chinese nationality. But a person whose parents are both Chinese nationals and have both settled abroad, or one of whose parents is a Chinese national and has settled abroad, and who has acquired foreign nationality at birth shall not have Chinese nationality.

Article 6 Any person born in China whose parents are stateless or of uncertain nationality and have settled in China shall have Chinese nationality.

Article 7 Foreign nationals or stateless persons who are willing to abide by China's Constitution and laws and who meet one of the following conditions may be naturalized upon approval of their applications:

- (1) they are near relatives of Chinese nationals;
- (2) they have settled in China; or

Annex

(3) they have other legitimate reasons.

Article 8 Any person who applies for naturalization as a Chinese national shall acquire Chinese nationality upon approval of his application; a person whose application for naturalization as a Chinese national has been approved shall not retain foreign nationality.

Article 9 Any Chinese national who has settled abroad and who has been naturalized as a foreign national or has acquired foreign nationality of his own free will shall automatically lose Chinese nationality.

Article 10 Chinese nationals who meet one of the following conditions may renounce Chinese nationality upon approval of their applications:

- (1) they are near relatives of foreign nationals;
- (2) they have settled abroad; or
- (3) they have other legitimate reasons.

Article 11 Any person who applies for renunciation of Chinese nationality shall lose Chinese nationality upon approval of his application.

Article 12 State functionaries and military personnel on active service shall not renounce Chinese nationality.

Article 13 Foreign nationals who once held Chinese nationality may apply for restoration of Chinese nationality if they have legitimate reasons; those whose applications for restoration of Chinese nationality have been approved shall not retain foreign nationality.

Article 14 Persons who wish to acquire, renounce or restore Chinese nationality, with the exception of cases provided for in Article 9, shall go through the formalities of application. Applications of persons under the age of 18 may be filed on their behalf by their parents or other legal representatives.

Article 15 Nationality applications at home shall be handled by the public security bureaus of the municipalities or counties where the applicants reside; nationality applications abroad shall be handled by China's diplomatic representative agencies and consular offices.

Article 16 Applications for naturalization as Chinese nationals and for renunciation or restoration of Chinese nationality are subject to examination and approval by the Ministry of Public Security of the People's Republic of China. The Ministry of Public Security shall issue a certificate to any person whose application has been approved.

Article 17 The nationality status of persons who have acquired or lost Chinese nationality before the promulgation of this Law shall remain valid.

Article 18 This Law shall come into force as of the date of its promulgation.

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Appendix 2

Explanations of some questions by the Standing Committee of the National People's Congress concerning the implementation of the Nationality Law of the People's Republic of China in the Hong Kong Special Administrative Region

(Adopted at the 19th meeting of the Standing Committee of the 8th National People's Congress on 15 May 1996)

According to Article 18 and Annex II of the Basic Law of the PRC HKSAR, the Nationality Law of the PRC will be applied in the HKSAR from July 1, 1997. Taking account of the historical background of Hong Kong and its realities, we propose that the PRC Nationality Law should be interpreted as follows when applied in the HKSAR:

1. For those Hong Kong residents who are of Chinese descent and born in Chinese territory (including Hong Kong), and others who satisfy conditions laid down in the Nationality Law of PRC to be eligible for Chinese nationality, they are Chinese nationals.
2. All Hong Kong Chinese compatriots, whether they are holders of the "British Dependent Territories Citizens passport" or "British Nationals (Overseas) passport" or not, are Chinese nationals. With effect from 1 July 1997, Chinese nationals mentioned above can continue to use valid travel documents issued by the government of the United Kingdom for the purpose of travelling to other states and regions. However, they will not be entitled to British consular protection in the HKSAR and other parts of PRC on account of their holding the above-mentioned British travel documents.
3. According to the Nationality Law of PRC, the full British Citizenship obtained by Chinese nationals in Hong Kong

through the "British Nationality Selection Scheme" will not be recognised. These people are still Chinese nationals and will not be entitled to British consular protection in the HKSAR and other parts of PRC.

4. Chinese nationals in the HKSAR with right of abode in foreign countries can use relevant documents issued by foreign governments for the purpose of travelling to other states and regions. However, they will not be entitled to consular protection in the HKSAR and other parts of PRC on account of their holding the above-mentioned documents.
5. In the case of nationality changes for the Chinese nationals in the HKSAR, those concerned can make a declaration with valid documentation to the appropriate authority of the HKSAR responsible for nationality applications.
6. To authorise the HKSAR government to designate the Immigration Department as the authority responsible for nationality applications. The Immigration Department of HKSAR shall handle all nationality applications in accordance with the Nationality Law of PRC and the above-mentioned provisions.