

L.N. 52 of 2012

**International Organizations (Privileges and Immunities)
(Convention on the Prohibition of the Development,
Production, Stockpiling and Use of Chemical
Weapons and on their Destruction) Order**

(Made by the Chief Executive in Council under section 3 of the International Organizations (Privileges and Immunities) Ordinance (Cap. 558))

1. Commencement

This Order comes into operation on 8 June 2012.

2. Interpretation

In this Order—

Convention (《公約》) has the meaning given by section 2(1) of the Chemical Weapons (Convention) Ordinance (Cap. 578);

Verification Annex (《核查附件》) means the Annex on Implementation and Verification to the Convention.

3. Provisions of Convention having force of law in Hong Kong

(1) It is declared that the provisions of paragraphs 11, 12, 13 (from “Without prejudice” to “the internal affairs of that State.”), 14 and 15 of Part II of the Verification Annex as specified in the Schedule have the force of law in Hong Kong and for that purpose are to be construed in accordance with subsections (2) and (3).

(2) In applying the following paragraphs of Part II of the Verification Annex, the references to the following expressions are to be construed as meaning Hong Kong—

(a) in paragraph 11, “the territory of the inspected State Party or Host State”;

-
- (b) in paragraph 11(g), “the territory of the inspected State Party or Host State Party”;
 - (c) in paragraph 11(i), “the territory of the inspected State Party or the Host State”;
 - (d) in paragraph 12, “the territory of non-inspected States Parties”; and
 - (e) in paragraph 13, “the inspected State Party or Host State”.
- (3) In applying paragraph 11(d) of Part II of the Verification Annex, the reference to “relevant regulations” is to be construed as meaning the laws of Hong Kong relating to the handling and transport of hazardous goods.
-

Schedule [s. 3]

**Provisions of Convention Having Force of
Law in Hong Kong**

Part II of Verification Annex

...

B. PRIVILEGES AND IMMUNITIES

...

11. To exercise their functions effectively, inspectors and inspection assistants shall be accorded privileges and immunities as set forth in subparagraphs (a) to (i). Privileges and immunities shall be granted to members of the inspection team for the sake of this Convention and not for the personal benefit of the individuals themselves. Such privileges and immunities shall be accorded to them for the entire period between arrival on and departure from the territory of the inspected State Party or Host State, and thereafter with respect to acts previously performed in the exercise of their official functions.
- (a) The members of the inspection team shall be accorded the inviolability enjoyed by diplomatic agents pursuant to Article 29 of the Vienna Convention on Diplomatic Relations of 18 April 1961.
 - (b) The living quarters and office premises occupied by the inspection team carrying out inspection activities pursuant to this Convention shall be accorded the inviolability and protection accorded to the 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 the inspection team shall enjoy the inviolability accorded to all papers and correspondence of diplomatic agents pursuant to Article 30, paragraph 2, of the Vienna Convention on Diplomatic Relations. The inspection team shall have the right to use codes for their communications with the Technical Secretariat.
- (d) Samples and approved equipment carried by members of the inspection team shall be inviolable subject to provisions contained in this Convention and exempt from all customs duties. Hazardous samples shall be transported in accordance with relevant regulations.
- (e) The members of the inspection team shall be accorded the immunities accorded to diplomatic agents pursuant to Article 31, paragraphs 1, 2 and 3, of the Vienna Convention on Diplomatic Relations.
- (f) The members of the inspection team carrying out prescribed activities pursuant to this Convention shall be accorded the exemption from dues and taxes accorded to diplomatic agents pursuant to Article 34 of the Vienna Convention on Diplomatic Relations.
- (g) The members of the inspection team shall be permitted to bring into the territory of the inspected State Party or Host State Party, without payment of any customs duties or related charges, articles for personal use, with the exception of articles the import or export of which is prohibited by law or controlled by quarantine regulations.
- (h) The members of the inspection team shall be accorded the same currency and exchange facilities as are accorded to representatives of foreign Governments on temporary official missions.
- (i) The members of the inspection team shall not engage in any professional or commercial activity for personal profit on the territory of the inspected State Party or the Host State.

12. When transiting the territory of non-inspected States Parties, the members of the inspection team shall be accorded the privileges and immunities enjoyed by diplomatic agents pursuant to Article 40, paragraph 1, of the Vienna Convention on Diplomatic Relations. Papers and correspondence, including records, and samples and approved equipment, carried by them, shall be accorded the privileges and immunities set forth in paragraph 11(c) and (d).
13. Without prejudice to their privileges and immunities the members of the inspection team shall be obliged to respect the laws and regulations of the inspected State Party or Host State and, to the extent that is consistent with the inspection mandate, shall be obliged not to interfere in the internal affairs of that State. ...
14. The immunity from jurisdiction of members of the inspection team may be waived by the Director-General in those cases when the Director-General is of the opinion that immunity would impede the course of justice and that it can be waived without prejudice to the implementation of the provisions of this Convention. Waiver must always be express.
15. Observers shall be accorded the same privileges and immunities accorded to inspectors pursuant to this section, except for those accorded pursuant to paragraph 11(d).

...

International Organizations (Privileges and Immunities) (Convention on the
Prohibition of the Development, Production, Stockpiling and Use of Chemical
Weapons and on their Destruction) Order

L.N. 52 of 2012

B1705

Manda CHAN
Clerk to the Executive Council

COUNCIL CHAMBER

27 March 2012

Explanatory Note

The Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, signed at Paris on 13 January 1993 (*the Convention*) has been extended to Hong Kong as from 1 July 1997. Through the enactment of the Chemical Weapons (Convention) Ordinance (Cap. 578), the relevant provisions of the Convention are implemented in Hong Kong. The principal object of this Order is to give effect to the privileges and immunities accorded to members of the inspection teams and observers under the Convention, for the acts they perform in Hong Kong in the exercise of their official functions.