

**AGREEMENT BETWEEN THE REPUBLIC OF THE PHILIPPINES AND
THE ORGANISATION FOR THE PROHIBITION OF CHEMICAL
WEAPONS ON THE PRIVILEGES AND IMMUNITIES OF THE OPCW**

Whereas Article VIII, paragraph 48, of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction provides that the OPCW shall enjoy on the territory and in any other place under the jurisdiction or control of a State Party such legal capacity and such privileges and immunities as are necessary for the exercise of its functions;

Whereas Article VIII, paragraph 49, of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction provides that delegates of States Parties, together with their alternates and advisers, representatives and advisers, the Director-General and the staff of the Organisation shall enjoy such privileges and immunities as are necessary in the independent exercise of their functions in connection with the OPCW;

Whereas notwithstanding Article VIII, paragraphs 48 and 49 of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction specifies that such legal capacity, privileges and immunities are to be defined in agreements between the Organisation and the States Parties,

Now, therefore, the Organisation for the Prohibition of Chemical Weapons and the Republic of the Philippines have agreed as follows:

**ARTICLE 1
DEFINITIONS**

In this Agreement:

- (a) "Convention" means the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction of 13 January 1993;
- (b) "OPCW" means the Organisation for the Prohibition of Chemical Weapons established under paragraph 1 of Article VIII of the Convention;
- (c) "Director-General" means the Director-General referred to in paragraph 41 of Article VIII of the Convention, or his absence, the acting Director-General;
- (d) "Officials of the OPCW" means the Director-General and all members of the staff of the Secretariat of the OPCW;
- (e) "State Party" means the State Party to this Agreement;
- (f) "State Parties" means State Parties to the Convention;
- (g) "Representatives of State Parties" means the accredited heads of delegation of State Parties to the Conference of the State Parties and/or

to the Executive Council or the Delegates to other meetings of the OPCW;

(h) "Experts" means persons who, in their personal capacity, are performing missions authorized by the OPCW, are serving on its organs, or who are, in any way, at its request, consulting with the OPCW;

(i) "Meetings convened by the OPCW" means any meeting of any organs or subsidiary organs of the OPCW, or any international conferences or other gatherings convened by the OPCW;

(j) "Property" means all property, assets and funds belonging to the OPCW or held or administered by the OPCW in furtherance of its functions under the Convention and all income of the OPCW;

(k) "Archives of the OPCW" means all records, correspondence, documents, manuscripts, computer and media data, photographs, films, video and sound recordings belonging to or held by the OPCW or any officials of the OPCW in an official function, and any other material which the Director-General and the State Party may agree shall form part of the archives of the OPCW;

(l) "Premises of the OPCW" are the buildings or parts of building, and the land ancillary thereto if applicable, used for the purposes of the OPCW, including those referred to in Part II, subparagraph 11(b), of the Verification Annex to the Convention.

ARTICLE 2 LEGAL PERSONALITY

The OPCW shall possess full legal personality. In particular, it shall have the capacity:

(a) to contract;

(b) to acquire and dispose of movable and immovable property;

(c) to institute and act in legal proceedings.

ARTICLE 3 PRIVILEGES AND IMMUNITIES OF THE OPCW

1. The OPCW and its property, wherever located and by whomsoever held, shall enjoy immunity from every form of legal process, except in so far as in any particular case the OPCW has expressly waived its immunity. It is, however, understood that no waiver of immunity shall extend to any measure of execution.

2. The premises of the OPCW shall be inviolable. The property of the OPCW, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial or legislative action.

3. The archives of the OPCW shall be inviolable, wherever located.

4. Without being restricted by financial controls, regulations or moratoria of any kind:

(a) the OPCW may hold funds, gold or currency of any kind and operate accounts in any currency;

(b) the OPCW may freely transfer its funds, securities, gold and currencies to or from the State Party, to or from any other country, or within the State Party, and may convert any currency held by it into any other currency.

5. The OPCW shall, in exercising its rights under paragraph 4 of this Article, pay due regard to any representations made by the Government of the State Party in so far as it is considered that effect can be given to such representations without detriment to the interests of the OPCW.

6. The OPCW and its property shall be:

(a) exempt from all direct taxes; it is understood, however, that the OPCW will not claim exemption from taxes which are, in fact, no more than charges for public utility services;

(b) exempt from customs duties and prohibitions and restrictions on imports and exports in respect of articles imported or exported by the OPCW for its official use; it is understood, however, that articles imported under such exemption will not be sold in the State Party, except in accordance with conditions agreed upon with the State Party; in full respect of its national laws and regulations;

(c) exempt from duties and prohibitions and restrictions on imports and exports in respect of its publications.

7. While the OPCW will not, as a general rule, claim exemption from excise duties and from taxes on the sale of movable and immovable property which form part of the price to be paid, nevertheless when the OPCW is making important purchases for official use of property on which such duties and taxes have been charged or are chargeable, the State Party will, whenever possible, make appropriate administrative arrangements for the remission or return of the amount of duty or tax.

ARTICLE 4

FACILITIES AND IMMUNITIES IN RESPECT OF COMMUNICATIONS AND PUBLICATIONS

1. For its official communications the OPCW shall enjoy, in the territory of the State Party, and as far as may be compatible with any international conventions, regulations and arrangements to which the State Party adheres, treatment not less favourable than that accorded by the Government of the State Party to any other Government, including the latter's diplomatic mission, in the matter of priorities, rates and taxes for post and telecommunication, and press rates for information to the media.

2. No censorship shall be applied to the official correspondence and other official communications of the OPCW.

The OPCW shall have the right to use codes and to dispatch and receive correspondence and other official communications by courier or in sealed bags, which shall have the same privileges and immunities as diplomatic couriers and bags.

Nothing in this paragraph shall be construed to preclude the adoption of appropriate security precautions to be determined by agreement between the State Party and the OPCW.

3. The State Party recognizes the right of the OPCW to publish and broadcast freely within the territory of the State Party for purposes specified in the Convention.

4. All official communications directed to the OPCW and all outward official communications of the OPCW, by whatever means or whatever form transmitted, shall be inviolable. Such inviolability shall extend, without limitation by reason of this enumeration, to publications, still and moving pictures, videos, films, sound recordings and software.

ARTICLE 5

REPRESENTATIVES OF STATES PARTIES

1. Representatives of States Parties, together with alternates, advisers, technical experts and secretaries of their delegations, at meetings convened by the OPCW, shall, without prejudice to any other privileges and immunities which they may enjoy, while exercising their functions and during their journeys to and from the place of the meeting, enjoy the following privileges and immunities:

(a) immunity from personal arrest or detention;

(b) immunity from legal process of any kind in respect of words spoken or written and all acts done by them, in their official capacity; such immunity shall continue to be accorded, notwithstanding that the persons concerned may no longer be engaged in the performance of such functions;

(c) inviolability for all papers, documents and official material;

(d) the right to use codes and to dispatch or receive papers, correspondence or official material by courier or in sealed bags;

(e) exemption in respect of themselves and their spouses from immigration restrictions, alien registration or national service obligations while they are visiting or passing through the State Party in the exercise of their functions;

(f) the same facilities with respect to currency or exchange restrictions as are accorded to representatives of foreign governments on temporary official missions;

(g) The same immunities and facilities in respect of their personal baggage as are accorded to members of comparable rank of diplomatic missions, in accordance with the Vienna Convention on diplomatic relations.

2. Where the incidence of any form of taxation depends upon residence, periods during which the persons designated in paragraph 1 of this Article may be present in the territory of the State Party for the discharge of their duties shall not be considered as periods of residence.

3. The privileges and immunities are accorded to the persons designated in paragraph 1 of this Article in order to safeguard the independent exercise of their functions in connection with the OPCW and not for the personal benefit of the individuals themselves. It is the duty of all persons enjoying such privileges and immunities to observe in all other respects the laws and regulations of the State Party.

4. The provisions of this Article apply irrespective of whether the State Party maintains or does not maintain diplomatic relations with the State of which the persons designated in paragraph 1 of this Article are nationals and irrespective of whether the State of which that person is a national grants a similar privilege or immunity to the diplomatic envoys or nationals of the State Party.

5. The provisions of paragraphs 1 and 2 of this Article are not applicable in relation to a person who is a national of the State Party.

ARTICLE 6

OFFICIALS OF THE OPCW

1. During the conduct of verification activities, the Director-General and the staff of the Secretariat, including qualified experts during investigations of alleged use of chemical weapons referred to in Part XI, paragraphs 7 and 8 of the Verification Annex to the Convention, enjoy, in accordance with Article VIII, paragraph 51, of the Convention, the privileges and immunities set forth in Part II, Section B, of the Verification Annex to the Convention or, when transiting the territory of non-inspected States Parties, the privileges and immunities referred to in Part II, paragraph 12, of the same Annex.

2. For other activities related to the object and purpose of the Convention, officials of the OPCW shall:

(a) be immune from personal arrest or detention and from seizure of their personal baggage;

(b) be immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity;

(c) enjoy inviolability for all papers, documents and official material, subject to the provisions of the Convention;

(d) enjoy the same exemptions from taxation in respect of salaries and emoluments paid to them by the OPCW and on the same conditions as are enjoyed by officials of the United Nations;

(e) be exempt, together with their spouses from immigration restrictions and alien registration;

(f) be given, together with their spouses, the same repatriation facilities in time of international crises as officials of comparable rank of diplomatic missions;