

SENATE

S. B. No. 2871

(In Substitution of Senate Bill No. 2723 taking into consideration House Bill No. 9571)

Prepared and submitted by the Committee on National Defense and Security, Peace, Unification and Reconciliation with Senator Jinggoy Ejercito Estrada as author thereof.

AN ACT
PROHIBITING THE DEVELOPMENT, PRODUCTION, STOCKPILING AND USE
OF CHEMICAL WEAPONS, PROVIDING FOR THEIR DESTRUCTION,
IMPOSING PENALTIES FOR VIOLATIONS, AND APPROPRIATING FUNDS
THEREFOR

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

CHAPTER I

GENERAL PROVISIONS

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3 Section 1. *Short Title.* – This Act shall be known as the "*Chemical Weapons*
4 *Prohibition Act*".

5 Sec. 2. *Declaration of Principles.* – The State, consistent with national interest,
6 adopts and pursues a policy of freedom from chemical weapons in its territory and
7 protection of human life and the global environment from the effects of chemical
8 weapons, in conformity with its obligations under the Convention on the Prohibition of
9 the Development, Production, Stockpiling, and Use of Chemical Weapons and on their
10 Destruction, known as the "Chemical Weapons Convention" (the Convention), to which
11 the Philippines is a State Party.

12 Towards this end, the State shall not, under any circumstance, develop,
13 produce, manufacture, acquire, possess, stockpile, retain or use chemical weapons,
14 or engage in any other activities prohibited under the Convention and shall prohibit all
15 persons from engaging in such activities.

1 Sec. 3. *Definition of Terms.* – As used in this Act:

2 a) *Chemical Weapon* refers to one or a combination of the following:

- 3 1) Toxic chemicals and their precursors, except where intended for
4 purposes not prohibited under the Convention, where the type and
5 quantity is consistent with such purposes;
- 6 2) Munitions and devices, designed to cause death or other harm through
7 the release of toxic properties from the chemicals specified in
8 subparagraph (1) herein, as a result of using such munitions and
9 devices; and
- 10 3) Any equipment specifically designed to be used directly in connection
11 with the employment of munitions and devices specified in subparagraph
12 (2) herein.

13 b) *Facility* refers to any of the industrial sites defined below:

- 14 1) "Plant Site" (Works, Factory) refers to the local integration of one or
15 more plants, with any intermediate administrative levels, which are
16 under one operational control, and includes common infrastructure, such
17 as:
- 18 i) Administration and other offices;
- 19 ii) Repair and maintenance shops;
- 20 iii) Medical center;
- 21 iv) Utilities;
- 22 v) Central analytical laboratory;
- 23 vi) Research and development laboratories;
- 24 vii) Central effluent and waste treatment area; and
- 25 viii) Warehouse storage.
- 26 2) "Plant" (Production facility, Workshop) refers to a relatively self-
27 contained area, structure or building containing one or more units with
28 auxiliary and associated infrastructure, such as:
- 29 i) Small administrative section;
- 30 ii) Storage or handling areas for feedstock and products;
- 31 iii) Effluent or waste handling treatment area;
- 32 iv) Control or analytical laboratory;

- 1 v) First aid service or related medical section; and
- 2 vi) Records associated with the movement into, around and from the
- 3 site, of declared chemicals and their feedstock or product
- 4 chemicals formed from them, as appropriate;
- 5 3) "Unit" (Production unit, Process unit) refers to the combination of those
- 6 items of equipment, including vessels and vessel set up, necessary for
- 7 the production, processing or consumption of a chemical;
- 8 c) *Person* refers to any individual, corporation, partnership, firm, association,
- 9 trust, estate, public or private institution, political entity, foreign government
- 10 or nation, agency, instrumentality or political subdivision of any such
- 11 government or nation, or other entity located in the Philippines;
- 12 d) *Precursors* refer to chemical reactants which take part at any stage in the
- 13 production by whatever method of a toxic chemical. This includes any key
- 14 component of a binary or multi-component chemical system. Precursors
- 15 which have been identified for the application of verification measures by
- 16 the Organization for the Prohibition of Chemical Weapons (OPCW) are listed
- 17 as scheduled chemicals of the Annex on Chemicals to the Convention;
- 18 e) *Purposes not prohibited under the Convention* shall mean:
- 19 1) Industrial, agricultural, research, medical, pharmaceutical, or other
- 20 peaceful purposes;
- 21 2) Protective purposes, namely those purposes directly related to
- 22 protection against toxic chemicals and chemical weapons;
- 23 3) Military purposes not connected with the use of chemical weapons and
- 24 not dependent on the use of the toxic properties of chemicals as a
- 25 method of warfare; and
- 26 4) The use of non-lethal weapons which are not prohibited under this Act
- 27 and the Convention, for the maintenance of public security and order by:
- 28 i) law enforcement authorities;
- 29 ii) the Armed Forces of the Philippines (AFP) when taking measures
- 30 to suppress insurgency and other serious threats to national
- 31 security, and where the use thereof is most appropriate other than
- 32 the use of deadly force; and

1 iii) the AFP within the framework of a system of mutual collective
2 security, and training for its use.

3 f) *Riot control agent* refers to any chemical not listed as a scheduled chemical
4 of the Annex on Chemicals to the Convention which can rapidly produce
5 sensory irritation or disabling physical effects in humans, but disappear
6 within a short time following termination of exposure;

7 g) *Scheduled chemicals* refer to chemicals listed in Schedules 1, 2, and 3 of
8 the Annex on Chemicals to the Convention and any subsequent additions
9 thereto;

10 h) *Toxic Chemicals* refer to those which, through chemical action on life
11 processes can cause death, temporary incapacity or permanent harm to
12 humans or animals. This includes all such chemicals therein, regardless of
13 their origin or of method of production, and regardless of whether they are
14 produced in facilities, munitions or elsewhere.

15 Toxic chemicals which have been identified for the application of
16 verification measures by the OPCW are listed in the scheduled chemicals of
17 the Annex on Chemicals to the Convention. Unless the contrary intention
18 appears, an expression or term that is used both in this Act and the
19 Convention but is not defined in this Act, shall have the same meaning
20 provided in the Convention, and Verification Annex means the Annex on
21 Implementation and Verification to the Convention.

22 Sec. 4. *National Authority.* – The Anti-Terrorism Council (ATC) is hereby
23 designated as the Philippine National Authority on the Chemical Weapons Convention
24 (PNA-CWC), to be headed by the Executive Secretary as Chairperson of the ATC. The
25 PNA-CWC shall serve as the national focal point for effective liaison with the OPCW
26 and with other States Parties to fulfill the country's commitments to the Convention
27 including the preparation and submission of annual declarations on scheduled
28 chemical and facilities.

29 The Anti-Terrorism Council – Program Management Center (ATC-PMC) shall act
30 as the secretariat and implementing arm of the PNA-CWC.

31 Sec. 5. *Functions of the PNA-CWC.* – The PNA-CWC shall:

- 1 a) Ensure proper elucidation and representation of the country's policy on the
2 non-proliferation of chemical weapons in coordination with the Philippine
3 Permanent Representative to the OPCW;
- 4 b) Develop rules and regulations and formulate policies, in cooperation with
5 appropriate government agencies, concerning the production, processing,
6 consumption, importation, exportation, in-country transfer, use and proper
7 disposition of scheduled chemicals and facilities, and production facilities of
8 other chemicals not included in the scheduled chemicals of the Annex on
9 Chemicals to the Convention;
- 10 c) Create committees, sub-committees and advisory boards, as may be
11 necessary, to carry out specific functions pursuant to the attainment of the
12 objectives under this Act;
- 13 d) Designate local inspectors and specify their required qualifications, trainings
14 and functions, and in coordination with appropriate government agencies,
15 spearhead inspections of facilities involving scheduled chemicals;
- 16 e) Identify local laboratories to become an OPCW Designated Laboratory which
17 should be able to perform off-site analysis of samples collected by inspectors
18 from chemical production facilities, storage depots and other installations or
19 from the site of an alleged use of chemical weapons;
- 20 f) Cause or direct the investigation of violation of laws concerning chemical
21 weapons, or the handling of toxic chemicals in violation of this Act;
- 22 g) Support capacity-building initiatives and information campaign on chemical
23 safety and security; and
- 24 h) Perform such other functions to effectively implement the provisions of this
25 Act and the Convention.

26 The PNA-CWC shall have the authority to compel the assistance and support of
27 all departments, bureaus, offices, agencies, or instrumentalities of the government,
28 including government-owned or controlled corporations to effectively perform its
29 duties and functions under this Act.

30 The PNA-CWC shall periodically update the scheduled chemicals listed in
31 Schedule 1, 2, and 3 of the Annex on Chemicals to the Convention upon the request
32 or advice of the OPCW. Such updates shall be in the form of formal resolutions of the

1 PNA-CWC to be published in the *Official Gazette* or in a newspaper of general
2 circulation before they become effective.

3 **CHAPTER II**
4 **PROHIBITIONS**

5 *Sec. 6. Prohibitions.* – The following are prohibited under this Act:

- 6 a) To develop, produce, acquire, stockpile, retain, transfer domestically or by
7 cross border movement or use any chemical weapons;
- 8 b) To finance the development, production, acquisition, stockpiling, retention,
9 transfer, or use of chemical weapons;
- 10 c) To possess or transfer domestically or by cross border movement, directly
11 or indirectly, precursors and scheduled chemicals without the necessary
12 license or permit;
- 13 d) To engage in any military preparations with the use of a chemical weapon;
- 14 e) To assist, encourage or induce a person to engage in any activity that is
15 prohibited to a State Party under the Convention;
- 16 f) To use a riot control agent as a method of warfare;
- 17 g) To export and import Schedule 1 chemicals to or from a State not a Party
18 to the Convention, including transit through such State; and
- 19 h) To engage in any other activity prohibited to a State Party under the
20 Convention.

21 Nothing in this Act shall be construed to prohibit the AFP from using non-lethal
22 and lethal weapons other than those prohibited in this Act, in the conduct of combat
23 operations for the suppression of insurgency and other serious threats to national
24 security where the use of such non-lethal and lethal weapons is deemed most
25 appropriate.

26 **CHAPTER III**
27 **PENALTIES**

28 *Sec. 7. Penalties.* –

- 29 a) Any person who develops, produces, acquires, stockpiles, retains, transfers
30 or uses chemical weapons shall suffer the penalty of life imprisonment
31 without the benefit of parole and the benefits of Republic Act No. 10592 or

1 the "An Act Amending Articles 29, 94, 97, 98 and 99 of Act No. 3815, as
2 amended, otherwise known as the Revised Penal Code";

3 b) Any person who finances the development, production, acquisition,
4 stockpiling, retention, transfer or use of chemical weapons shall suffer the
5 penalty of twenty (20) years imprisonment up to life imprisonment and a
6 fine of not less than Five hundred thousand pesos (P500,000.00) nor more
7 than One million pesos (P1,000,000.00);

8 c) Any person who produces, acquires, retains or uses chemicals listed in
9 Schedule 1 of the Annex on Chemicals to the Convention for purposes other
10 than for research, medical, pharmaceutical or protective purposes shall
11 suffer the penalty of imprisonment for a period of twelve (12) years and
12 one (1) day to twenty (20) years, and a fine of One million pesos
13 (P1,000,000.00) to Two million pesos (P2,000,000.00);

14 d) Any person who produces, processes, or consumes chemicals listed in
15 Schedule 2 or Schedule 3 of the Annex on Chemicals to the Convention for
16 purposes other than those not prohibited under this Act, or without a
17 registration with the PNA-CWC or the appropriate agency or agencies, shall
18 suffer the penalty of imprisonment of twelve (12) years and one (1) day to
19 fifteen (15) years and a fine of One million pesos (P1,000,000.00) to Two
20 million pesos (P2,000,000.00);

21 e) Any person who imports or exports or transfers domestically chemicals listed
22 in Schedule 1, 2 or 3 of the Annex on Chemicals to the Convention, without
23 authorization and necessary permits and licenses from the Strategic Trade
24 Management Office (STMO) of the Department of Trade and Industry (DTI)
25 shall be dealt with in accordance with Republic Act No. 10697, or the
26 "Strategic Trade Management Act (STMA)";

27 f) Any person who obstructs, hinders, resists, or deceives any national
28 inspector or international inspector who is exercising any function under this
29 Act shall be punished by imprisonment of six (6) years and one (1) day to
30 twelve (12) years and a fine of One million (P1,000,000.00) to Five million
31 pesos (P5,000,000.00);

- 1 g) Any person who violates Section 13 of this Act shall suffer the penalty of
2 imprisonment of four (4) years and one (1) day to six (6) years, or a fine of
3 Five hundred thousand pesos (P500,000.00) to Two million pesos
4 (P2,000,000.00), or both at the discretion of the court;
- 5 h) Any person who refuses or fails to notify the PNA-CWC or fails to give the
6 required information or keep records pursuant to the provisions of Section
7 11 of this Act shall suffer the penalty of imprisonment of six (6) months and
8 one (1) day to six (6) years, and a fine of One hundred thousand pesos
9 (P100,000.00) to One million pesos (P1,000,000.00);
- 10 i) Any person who in any declaration prepared pursuant to Section 11 of this
11 Act, makes a statement or omits any matter knowing that the statement or
12 omission makes the declaration false and misleading in a material shall
13 suffer the penalty of imprisonment of six (6) years and one (1) day to twelve
14 (12) years and a fine of One million pesos (P1,000,000.00) to Five million
15 pesos (P5,000,000.00).

16 The partner, president, director, manager, trustee, administrator or officer of a
17 partnership, corporation, association, or any other juridical entity who consents to, or
18 knowingly tolerates the commission of a violation of this Act shall be held criminally
19 liable.

20 The registration and license to operate of such partnership, corporation,
21 association or juridical entity with the Securities and Exchange Commission (SEC) or
22 the Department of Trade and Industry (DTI), as the case may be, shall be cancelled
23 and revoked permanently, as ordered by the Court, without prejudice to imposition of
24 sanctions pending trial.

25 Foreigners found guilty of committing any offense punishable herein shall, in
26 addition to the penalties prescribed under this Act, be deported immediately without
27 further proceedings after the service of sentence and shall be permanently barred
28 from entering the country.

29 A government official or employee found guilty of committing any of the
30 offenses punishable under this Act shall suffer absolute perpetual disqualification from
31 any public office and the maximum penalty provided for in this Act.

1 Persons who conspire to commit any of the prohibited acts under Section 6
2 hereof shall be punished by the same penalty prescribed herein.

3 Sec. 8. *Forfeiture.* – After inventory, satisfactory documentation and
4 confirmatory testing, chemical weapons found anywhere in the territory or in any other
5 place under the jurisdiction of the Philippines, as well as the fruits and proceeds of the
6 offense, shall be forfeited in favor of the national government through the PNA-CWC,
7 and shall be destroyed or disposed at specifically designated and appropriately
8 designed and equipped facilities.

9 Any chemical weapon discovered in the territory of the Philippines shall be
10 reported to the OPCW by the PNA-CWC in accordance with the provisions of Part IV
11 (A) of the Verification Annex of the Convention: *Provided*, That the facility, warehouse,
12 or place where the chemical weapons are being stored and produced and such other
13 instruments thereon shall be subject of forfeiture after conviction.

14 The PNA-CWC shall initiate and oversee the process of forfeiture.

15 Sec. 9. *Destruction.* – The transportation, storage, and destruction of chemical
16 weapons shall be conducted by the AFP under stringent security measures. The
17 procedure for the destruction and disposal of chemical weapons shall be established
18 and its conduct shall be witnessed by the PNA-CWC to ensure safe and secure disposal
19 in compliance with environmental and safety standards. Report of destruction and
20 disposal shall be submitted to PNA-CWC.

21 The cost of destruction and disposal of any chemical weapon shall be borne by
22 the erring person.

23 Sec. 10. *Extraterritorial Application.* – The provisions of this Act shall apply to
24 all persons within or outside the Philippines and persons on board vessels and aircraft
25 registered in, belonging to, or in possession of the Philippines, if any of the prohibited
26 acts is committed –

- 27 a) By or against a citizen of the Philippines;
28 b) Against any property owned, leased, or used by the Philippines or by any of
29 its departments, agencies, or instrumentalities;
30 c) By a partnership, corporation, association or any juridical person, which is
31 owned or controlled by one or more citizen of the Philippines.

1 **CHAPTER IV**

2 **DECLARATION AND INSPECTION**

3 *Sec. 11. Declarations. –*

4 a) The PNA-CWC shall prepare and submit annual declarations to the OPCW
5 on relevant toxic chemicals and their precursors, and facilities in accordance
6 with the Convention. Pursuant thereto, PNA-CWC shall collect and manage
7 data from any person engaged in the production, consumption, processing,
8 import and export of scheduled chemicals and compile data gathered by
9 relevant government agencies pertaining to the same acts or activities.

10 b) Supply of information – Any person who developed, produced, acquired,
11 processed, consumed, retained or used toxic chemicals, or their precursors,
12 to which any provision in Parts VI through IX of the Verification Annex of
13 the Convention applies, or who intends to carry out such activities, shall:

- 14 1) Notify the PNA-CWC, within such period as it prescribes, of the chemicals
15 and the facility through a written submission in a form approved and
16 issued by the PNA-CWC;
- 17 2) Keep a record of such chemicals, quantities and the purpose for which
18 the chemicals are stored in a specific facility;
- 19 3) Prepare annual reports relating to the chemicals and the facility in a form
20 approved and issued by the PNA-CWC; and
- 21 4) Submit annual reports to the PNA-CWC.

22 The records and reports under paragraph (b) (1) to (4) herein must be sufficient
23 to satisfy the requirements of the PNA-CWC in order to ensure that the Convention
24 and the provisions of this Act and any regulation made under this Act are being
25 complied.

26 *Sec. 12. Inspection. –* The PNA-CWC shall issue a certificate to every member
27 of the OPCW inspection team, containing the bearer's name, status, authority to
28 conduct inspections, the applicable privileges, and any other information and
29 conditions applicable to the person's inspection activities. Every international inspector
30 shall present the certificate to the person-in-charge.

31 Inspections, with the purpose of verifying the accuracy of the declarations
32 submitted, shall be conducted with the consent of the person-in-charge of the facility

1 or under a warrant issued by the courts, and shall be done at any reasonable time
2 and consistent with the provisions of the Convention. An inspection shall also be
3 conducted when an investigation has been initiated.

4 No inspection of a facility or any location pursuant to the Convention shall take
5 place without the authorization of the PNA-CWC.

6 Any foreign OPCW designated inspector shall be accompanied by an authorized
7 representative from the PNA-CWC or any designated government official. In order to
8 facilitate the conduct of inspection, the authorized representative from the PNA-CWC
9 or any designated government official shall direct any person to provide the inspectors
10 with access to the facility being inspected, examine records related thereof, document
11 the inspection, take samples for analysis, interview persons in the facility, and any
12 other activity pursuant to the provisions of the Verification Annex of the Convention.

13 National and local government authorities conducting inspections pursuant to
14 their regulatory functions under existing laws are exempt from the requirements
15 provided under this Section.

16 *Sec. 13. Protection of Confidential Information.* – Any confidential information
17 given or obtained pursuant to this Act shall be disclosed only for the purpose of
18 complying with the obligations under the Convention, enforcing this Act, or dealing
19 with a public safety emergency. Non-Disclosure Agreements shall be entered into by
20 parties to ensure protection of said confidential information.

21 **CHAPTER V**

22 **MISCELLANEOUS PROVISIONS**

23 *Sec. 14. International Cooperation and Assistance.* –

24 a) The PNA-CWC may collaborate with other State authorities and international
25 organizations and entities. It shall coordinate their actions to the extent
26 required by the implementation of this Act or other laws, subject to other
27 State authorities or international organizations or entities being bound to
28 official secrecy.

29 b) The PNA-CWC is authorized to accept assistance from domestic or foreign
30 sources, for purposes relevant to its mandates and functions, subject to
31 existing laws, rules and regulations: *Provided*, That a formal resolution of
32 the PNA-CWC is issued allowing the specific form of assistance and sources.

1 c) The PNA-CWC may request other State authorities and other international
2 organizations or entities to provide relevant data or information. The PNA-
3 CWC is authorized to receive data or information concerning:

4 1) The nature, quantity, and utilization of scheduled chemicals or their
5 precursors and related technologies, the places of consignment and the
6 names of the consignees for such scheduled chemicals, precursors, or
7 related technologies; and

8 2) Persons taking part in the production, delivery, or brokerage of the
9 scheduled chemicals, precursors, or technologies in subparagraph (a)
10 herein.

11 d) If a foreign State has entered into the appropriate reciprocity agreement
12 with the Philippines, the PNA-CWC may provide, on its own initiative or on
13 request, the data or information described in paragraph (c) herein to that
14 State so long as the other competent State authority provides assurances
15 that such data or information shall:

16 1) Only be utilized for purposes consistent with this Act; and

17 2) Be used in criminal proceedings on the condition that they are obtained
18 in accordance with those provisions governing international juridical
19 cooperation.

20 e) The PNA-CWC may provide data or information described in paragraph (d)
21 (2) herein to international organizations or entities if the conditions set forth
22 in paragraph (d) herein are fulfilled, in which case the requirement for
23 reciprocity agreement is waived.

24 *Sec. 15. Confirmatory Laboratory, Containment, Disposal and Related Facilities.*

25 – The PNA-CWC shall support initiatives from and foster collaborations among
26 government agencies, the private sector, and other stakeholders towards the
27 establishment or designation of confirmatory laboratories, containment,
28 decontamination, destruction and disposal facilities, with the end view of allowing in-
29 country analysis and scientific assessment of samples and other materials, rapid
30 incident response, and ensuring full implementation of the objectives of this Act and
31 the Convention.

1 Initiatives shall refer to capacity-building efforts in accordance with
2 international standards, including securing and maintaining of proper accreditation,
3 passing the required series of proficiency testing, setting up the necessary
4 competencies, and providing funding support for laboratory equipment and related
5 facilities and maintenance, researches, personnel retention, and other development
6 activities.

7 *Sec. 16. Streamlining Policies and Regulations Governing Chemicals.* – The
8 PNA-CWC, in coordination with the appropriate government agencies, shall facilitate
9 the establishment of a coordination mechanism with other regulatory agencies
10 governing chemicals in accordance with Republic Act 9485, as amended, or the “Ease
11 of Doing Business and Efficient Government Service Delivery Act of 2018”.

12 **CHAPTER VI**
13 **FINAL PROVISIONS**

14 *Sec. 17. Supplemental Application of the Revised Penal Code and Other Laws.*
15 – The provisions of the Revised Penal Code, Republic Act No. 11479, or the “The Anti-
16 Terrorism Act of 2020,” Republic Act No. 10697 or the “Strategic Trade Management
17 Act (STMA)”, and other related laws shall have suppletory application to the provisions
18 of this Act.

19 *Sec. 18. Jurisdiction.* – The Regional Trial Court shall have exclusive jurisdiction
20 over all cases of violations of this Act, as well as applications for ancillary writs and
21 processes such as search warrants, seizure, and forfeiture: *Provided,* That the
22 Regional Trial Court that first acquires jurisdiction shall exercise the same to the
23 exclusion of all other courts unless the Supreme Court authorizes the transfer of
24 venue.

25 *Sec. 19. Appropriations.* – The funds necessary for the implementation of this
26 Act shall be charged against the current appropriations of concerned agencies of the
27 PNA-CWC, subject to pertinent budgeting, accounting, and auditing laws, rules and
28 regulations. Thereafter, the funding requirements for succeeding years shall be
29 included in the annual General Appropriations Act, subject to the usual budget
30 preparation process.

31 *Sec. 20. Implementing Rules and Regulations.* – Within one hundred eighty
32 (180) days from the effectivity of this Act, the PNA-CWC shall, upon consultation with

1 relevant stakeholders, issue the rules and regulations to ensure the efficient and
2 effective implementation of the provisions of this Act.

3 Sec. 21. *Separability Clause.* – If any provision or part of this Act is declared
4 unconstitutional or invalid, such parts not affected thereby shall remain in full force
5 and effect.

6 Sec. 22. *Repealing Clause.* – All laws, decrees, executive orders, rules and
7 regulations and other issuances or parts thereof which are contrary to or inconsistent
8 with this Act are hereby repealed, amended or modified accordingly.

9 Sec. 23. *Effectivity.* – This Act shall take effect fifteen (15) days after its
10 publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,