



OPCW

Executive Council

Fifty-Sixth Session
21 – 24 April 2009

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DECISION

**AGREEMENT BETWEEN
THE ORGANISATION FOR THE PROHIBITION OF CHEMICAL WEAPONS
AND THE GOVERNMENT OF THE UNITED ARAB EMIRATES
ON THE PRIVILEGES AND IMMUNITIES OF THE OPCW**

The Executive Council,

Recalling that, according to paragraph 50 of Article VIII of the Chemical Weapons Convention (hereinafter “the Convention”), the legal capacity, privileges, and immunities referred to in that Article shall be defined in agreements between the Organisation for the Prohibition of Chemical Weapons (OPCW) and the States Parties;

Recalling also that subparagraph 34(a) of Article VIII of the Convention states that the Executive Council (hereinafter “the Council”) shall conclude agreements or arrangements with States and international organisations on behalf of the OPCW, subject to prior approval by the Conference of the States Parties (hereinafter “the Conference”);

Noting that at its Eighth Session the Conference authorised the Council to conclude privileges-and-immunities agreements between the OPCW and States Parties (C-8/DEC.12, dated 23 October 2003);

Noting also that the Technical Secretariat (hereinafter “the Secretariat”) has negotiated an agreement between the OPCW and the Government of the United Arab Emirates on the privileges and immunities of the OPCW;

Affirming that the agreement is without prejudice to the relevant provisions of the Convention, that nothing in the agreement shall be applied or interpreted in a way that is contradictory to the Convention, and that, in the event of a conflict between the agreement and the Convention, the Convention shall take precedence; and

Recognising that the Member States of the OPCW remain free either to draw upon the present agreement for the conclusion of other agreements on the privileges and immunities of the OPCW or to depart from it, where they deem this to be appropriate, provided that the new agreements conform to the Convention;



Hereby:

Concludes the agreement annexed hereto between the OPCW and the Government of the United Arab Emirates on the privileges and immunities of the OPCW; and

Requests the Director-General to enter into this agreement on behalf of the OPCW.

Annex (Arabic and English only):

Agreement between the Organisation for the Prohibition of Chemical Weapons and the Government of the United Arab Emirates on the Privileges and Immunities of the OPCW

**AGREEMENT BETWEEN
THE ORGANISATION FOR THE PROHIBITION OF CHEMICAL WEAPONS
AND
THE GOVERNMENT OF THE UNITED ARAB EMIRATES
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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 Organisation shall enjoy on the territory of the United Arab Emirates and in any other place under its jurisdiction or control 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 appointed to the Executive Council together with their alternates 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 Organisation;

Whereas the privileges and immunities enjoyed by the Director-General and the staff of the Secretariat during the conduct of verification activities shall be those set forth in Part II, Section B, of the Verification Annex, 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;

Whereas Article VIII, paragraph 50, of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction provides that such legal capacity, privileges and immunities are to be defined in agreements between the Organisation and the States Parties;

The Organisation for the Prohibition of Chemical Weapons and the Government of the United Arab Emirates have therefore 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 Article VIII, paragraph 1 of the Convention;

- (c) "Director-General" means the Director-General referred to in Article VIII, paragraph 41 of the Convention, or in 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) "States Parties" means the States Parties to the Convention;
- (f) "Representatives of States Parties" means the accredited heads of delegation of States Parties to the Conference of the States Parties, to the Executive Council, or the Delegates to other meetings convened by the OPCW;
- (g) "Experts" means persons who, in their personal capacity, are performing missions authorised by the OPCW, serving on its subsidiary organs or, in any way, at its request, rendering consultancy services for the OPCW;
- (h) "Meetings convened by the OPCW" means any meeting of any of the organs or subsidiary organs of the OPCW, or any international conferences or other gatherings convened by the OPCW;
- (i) "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;
- (j) "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 official of the OPCW in an official function, and any other material which the Government of the United Arab Emirates and the Director-General may agree to consider part of the archives of the OPCW;
- (k) "Premises of the OPCW" are the buildings or parts of buildings, and the land ancillary thereto, if any, 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 to:

- (a) contract;
- (b) acquire and dispose of movable and immovable property;
- (c) 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. In accordance with the legislation of the United Arab Emirates and its international obligations:
 - (a) the OPCW may hold funds, gold or currencies of any kind and operate accounts in any currency;
 - (b) the OPCW may freely transfer its funds, securities, gold and currencies from or to the United Arab Emirates, from or to any other country, or within the United Arab Emirates, 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 United Arab Emirates in so far as it considers 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 shall not be sold in the United Arab Emirates, except in accordance with conditions agreed upon with the Government of the United Arab Emirates;
 - (c) exempt from duties, prohibitions and restrictions on imports and exports in respect of its publications.
7. While the OPCW shall 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 Government of the United Arab Emirates shall, 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 United Arab Emirates and as far as may be in conformity with any international conventions, regulations or arrangements to which the Government of the United Arab Emirates adheres, treatment not less favourable than that accorded by the Government of the United Arab Emirates to any other Government, including the latter's diplomatic mission, in the matter of priorities, rates and taxes for post and telecommunications, 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 official 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 Government of the United Arab Emirates and the OPCW.
3. The Government of the United Arab Emirates recognises the right of the OPCW to publish and broadcast freely within the territory of the United Arab Emirates 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 acts carried out 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 document, correspondence or official material by courier or in sealed bags;
 - (e) facilities for themselves and their spouses with respect to immigration, alien registration procedures, and national service obligations while they are visiting or passing through the United Arab Emirates 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.
2. Where the incidence of any form of taxation depends upon residence, periods during which the persons referred to in paragraph 1 of this Article may be present in the United Arab Emirates for the discharge of their duties shall not be considered as periods of residence.
 3. The privileges and immunities are accorded to the persons referred to 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 United Arab Emirates.
 4. The provisions of paragraphs 1 and 2 of this Article shall not apply in relation to a person who is a national of the United Arab Emirates.

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 as 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 of any kind in respect of words spoken or written and acts carried out 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 granted, together with their spouses facilities with respect to immigration 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;
 - (g) be accorded the same privileges in respect of exchange facilities as are accorded to members of comparable rank of diplomatic missions.
3. The officials of the OPCW shall be exempt from national service obligations, provided that, in relation to nationals of the United Arab Emirates, such exemption shall be confined to officials of the OPCW whose names have, in view of their duties, been placed in a list compiled by the Director-General of the OPCW and approved by the Government of the United Arab Emirates. Should other officials of the OPCW be called up for national service by the Government of the United Arab Emirates, the United Arab Emirates shall, at the request of the OPCW, grant such temporary deferments in the call-up of such officials as may be necessary to avoid interruption of essential work to be performed.
4. In addition to the privileges and immunities specified in paragraphs 1, 2 and 3 of this Article, the Director-General of the OPCW shall be accorded on behalf of himself and his spouse, the privileges and immunities, exemptions and facilities accorded to diplomatic agents on behalf of themselves and their spouses, in accordance with international law. The same privileges and immunities, exemptions and facilities shall also be accorded to any senior official of the OPCW acting on behalf of the Director-General.
5. Privileges and immunities are granted to officials of the OPCW in the interests of 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 in force in the United Arab Emirates. The OPCW shall have the right and the duty to waive the immunity of any official of the OPCW in any case

where, in its opinion, such immunity would impede the course of justice and can be waived without prejudice to the interests of the OPCW.

6. The OPCW shall cooperate at all times with the appropriate authorities of the United Arab Emirates to facilitate the proper administration of justice, to secure the observance of police regulations, and to prevent the occurrence of any abuse in connection with the privileges, immunities and facilities referred to in this Article.

ARTICLE 7 EXPERTS

1. Experts shall be accorded the following privileges and immunities in so far as is necessary for the exercise of their functions, including the time spent on journeys in connection with such functions.
 - (a) immunity from personal arrest or detention and from seizure of their personal baggage;
 - (b) immunity from legal process of any kind, in respect of words spoken or written or acts carried out by them in the performance of their official functions, such immunity shall continue notwithstanding that the persons concerned are no longer performing official functions for the OPCW;
 - (c) inviolability for all papers, documents and official material;
 - (d) the right to use codes and to receive papers and correspondence by courier or in sealed bags, for the purposes of their communications with the OPCW;
 - (e) the same facilities in respect of currency and exchange restrictions as are accorded to representatives of foreign Governments on temporary official missions;
 - (f) the same immunities and facilities in respect of their personal baggage as are accorded to members of comparable rank of diplomatic missions.
2. The privileges and immunities are accorded to experts in the interests of 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 in force in the United Arab Emirates. The OPCW shall have the right and the duty to waive such immunity of any expert in any case where, in its opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the OPCW.

ARTICLE 8 ABUSE OF PRIVILEGE

1. If the Government of the United Arab Emirates considers that a privilege or immunity conferred by this Agreement has been abused, consultations shall be held between the Government of the United Arab Emirates and the OPCW to determine whether any such abuse has occurred. If this is the case, endeavours will be made to ensure that no repetition occurs. If such consultations fail to yield a result satisfactory to the Government of the United Arab Emirates and the OPCW, the question whether an abuse of a privilege or immunity has occurred shall be settled by the procedure set out in Article 10.
2. Persons included in one of the categories referred to in Articles 6 and 7 shall not be required by the national authorities to leave the territory of the United Arab Emirates on account of any activities by them in their official capacity. In the case, however, of abuse of privileges committed by any such person in activities outside official functions, the person may be required to leave by the Government of the United Arab Emirates, provided that an order to leave the country has been issued by the national authorities with the approval of the Foreign Minister of the United Arab Emirates. Such approval shall be given only in consultation with the Director-General of the OPCW. If expulsion proceedings are taken against the person in question, the Director-General of the OPCW shall have the right to appear in such proceedings on behalf of the person against whom they are instituted.

ARTICLE 9 TRAVEL DOCUMENTS AND VISAS

1. The Government of the United Arab Emirates shall recognise and accept as valid the United Nations laissez-passer issued to the officials of the OPCW, in accordance with special OPCW arrangements, for the purpose of carrying out their tasks related to the Convention. The Director-General shall notify the Government of the United Arab Emirates of the relevant OPCW arrangements.
2. The Government of the United Arab Emirates shall take all the necessary measures to facilitate the entry into and the sojourn on its territory and shall place no impediment in the way of the departure from its territory of the persons included in one of the categories referred to in Articles 5, 6 and 7 above, whatever their nationality, and shall ensure that no impediment is placed in the way of their transit to or from the place of their official duty or business and shall afford them any necessary protection in transit.
3. Applications for stay visas and transit visas, where required, from persons included in one of the categories referred to in Articles 5, 6 and 7, when accompanied by a certificate that they are travelling in their official capacity, shall be dealt with as speedily as possible to allow those persons to effectively discharge their functions. In addition, such persons shall be granted facilities for speedy travel.

4. The Director-General, the Deputy Director-General and other officials of the OPCW, travelling in their official capacity, shall be granted in this area the same facilities for travel as are accorded to members of comparable rank in diplomatic missions.
5. For the conduct of inspection activities visas are issued in accordance with paragraph 10, Part II, Section B, of the Verification Annex to the Convention.

ARTICLE 10 SETTLEMENT OF DISPUTES

1. The OPCW and the Government of the United Arab Emirates shall make provision for appropriate modes of settlement of:
 - (a) disputes arising out of contracts or other disputes of a private law character to which the OPCW is a party.
 - (b) disputes involving any official of the OPCW or expert who, by reason of his official position, enjoys immunity, if such immunity has not been waived in accordance with Article 6, paragraph 5, or Article 7, paragraph 2, of this Agreement.
2. Any dispute concerning the interpretation or application of this Agreement, which is not settled amicably, shall be referred for final decision to a tribunal to be agreed upon by the OPCW and the Government of the United Arab Emirates.

ARTICLE 11 INTERPRETATION

1. The provisions of this Agreement shall be interpreted in the light of the functions which the Convention entrusts to the OPCW.
2. The provisions of this Agreement shall in no way limit or prejudice the privileges and immunities accorded to members of the inspection team in Part II, Section B, of the Verification Annex to the Convention or the privileges and immunities accorded to the Director-General and the staff of the Secretariat of the OPCW in Article VIII, paragraph 51, of the Convention. The provisions of this Agreement shall not themselves operate so as to abrogate, or derogate from, any provisions of the Convention or any rights or obligations which the OPCW may otherwise have, acquire or assume.

ARTICLE 12 FINAL PROVISIONS

1. This Agreement shall enter into force on the date of deposit with the Director-General of an instrument of ratification thereof by the Government of the United Arab Emirates. It is understood that, when the instrument of ratification is deposited by the

Government of the United Arab Emirates, it will be in a position under its own law to give effect to the terms of this Agreement.

2. This Agreement shall continue to be in force for so long as the United Arab Emirates remains a State Party to the Convention.
3. The OPCW and the Government of the United Arab Emirates may enter into such supplemental agreements as may be necessary.
4. Consultations with respect to amendment of this Agreement shall be entered into at the request of the OPCW or the Government of the United Arab Emirates. Any such amendment shall be by mutual consent expressed in an agreement concluded by the OPCW and the Government of the United Arab Emirates.

Done in _____ in duplicate on _____, in the Arabic and English languages, each text being equally authentic.

For the Organisation for the Prohibition
of Chemical Weapons,

For the Government of the United
Arab Emirates,
