

Organisation for the Prohibition of Chemical Weapons (OPCW) and the Kingdom of the Netherlands Concerning the Headquarters of the OPCW, April 29, 1997, 33757 U.N.T.S., art. 26

## OPCW HEADQUARTERS AGREEMENT

### The Conference

Recalling that, in accordance with Article VIII, paragraph 50 of the Convention, the legal capacity, privileges and immunities referred to in Article VIII are to be defined in an agreement between the OPCW and the Host Country,

Recalling that the Commission, in PC-XV/25, paragraph 7.9, provisionally approved the Draft Agreement between the Organisation for the Prohibition of Chemical Weapons (OPCW) and the Kingdom of the Netherlands Concerning the Headquarters of the OPCW, including the Separate Arrangement with respect to the Agreement between the Organisation for the Prohibition of Chemical Weapons and the Kingdom of the Netherlands Concerning the Headquarters of the OPCW ("OPCW Headquarters Agreement"), annexed to PC- XV/A/WP.10/Rev.1, and decided that this approval will become final if no objections from any delegation were received by the Secretariat by 10 January 1997 in The Hague,

Recalling further that no objection was received by the Secretariat by 10 January 1997 in The Hague and the Commission's provisional approval of the above-mentioned Draft OPCW Headquarters Agreement therefore became final,

Bearing in mind that the Commission recommended in paragraph 34.4 of its Final Report that the Conference approve the above-mentioned Draft OPCW Headquarters Agreement; that the Conference request the Director-General to sign the said agreement on behalf of the OPCW; and that the Conference further request the Director-General, following signature of the said agreement, to notify the Host Country in writing that the requirements for entry into force have been met,

Hereby:

1. Approves the OPCW Headquarters Agreement annexed hereto;
2. Requests the Director-General to sign the said agreement on behalf of the OPCW; and
3. Further requests the Director-General, following signature of the said agreement, to notify the Host Country in writing that the requirements for entry into force have been met.

Annex

AGREEMENT BETWEEN THE  
ORGANISATION FOR THE PROHIBITION OF CHEMICAL WEAPONS (OPCW)

AND

THE KINGDOM OF THE NETHERLANDS  
CONCERNING THE HEADQUARTERS OF THE OPCW

THE ORGANISATION FOR THE  
PROHIBITION OF CHEMICAL WEAPONS,

and

THE KINGDOM OF THE NETHERLANDS,

Whereas the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction establishing the Organisation for the Prohibition of Chemical Weapons entered into force on 29 April, 1997,

Whereas the seat of the headquarters of the Organisation for the Prohibition of Chemical Weapons shall be The Hague, Kingdom of the Netherlands, pursuant to Article VIII, paragraph 3, of the Convention,

Having regard to the provisions set forth under the Convention, concerning the legal capacity and the privileges and immunities of the Organisation for the Prohibition of Chemical Weapons and its organs, as well as to the privileges and immunities of the Heads of Delegation, alternates and advisers attached to Heads of Delegation, Permanent Representatives, members of the Permanent Missions, Delegates of States Parties, and the Director-General and the staff of the Organisation for the Prohibition of Chemical Weapons,

Also having regard to the provisions set forth in Annexes 2 and 3 of the Resolution Establishing the Preparatory Commission for the Organisation for the Prohibition of Chemical Weapons,

Considering that the establishment of the seat of the headquarters of the Organisation for the Prohibition of Chemical Weapons in the territory of the Kingdom of the Netherlands (The Hague) requires the conclusion of an agreement,

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;

(c) "Government" means the Government of the Kingdom of the Netherlands;

(d) "Appropriate authorities of the Kingdom of the Netherlands" means such state, municipal or other authorities of the Kingdom of the Netherlands as may be appropriate in the context of the relevant provisions of this Agreement and in accordance with the laws and customs applicable in the Kingdom of the Netherlands;

(e) "Parties" means the OPCW and the Kingdom of the Netherlands;

(f) "Headquarters" means the area and any building, including any OPCW laboratory, equipment store, conference facilities, parts of buildings, land or facilities ancillary thereto, irrespective of ownership, used by the OPCW on a permanent basis or from time to time, to carry out its official functions;

(g) "Director-General" means the Director-General referred to in Article VIII, paragraph 41, of the Convention;

(h) "State Party" means a State Party to the Convention;

(i) "Head of Delegation" means the accredited head of the delegation of a State Party to the Conference of the States Parties and/or to the Executive Council;

(j) "Alternates for and advisers attached to Heads of Delegation" means alternates for and advisers attached to Heads of Delegation;

(k) "Permanent Representative" means the principal representative of a State Party accredited to the OPCW;

(l) "Members of the Permanent Mission of a State Party" includes any staff member of the mission of the Permanent Representative to the OPCW;

(m) "Delegates of States Parties" means the designated representatives of States Parties and members of their delegations to any meeting of the OPCW which is not the Conference of the States Parties or the Executive Council;

(n) "Experts" means persons performing missions authorised by, serving on subsidiary bodies of, or in any way, at its request, consulting with the OPCW, provided that they are neither officials of the OPCW nor attached to Permanent Representatives;

(o) "Officials of the OPCW" means the Director-General and all members of the staff of the Technical Secretariat of the OPCW, except those who are locally recruited and remunerated on an hourly basis;

(p) "Inspectors on mission" means members of an inspection team as referred to in the Convention (Verification Annex, Part I, paragraph 17) who are in possession of an inspection mandate issued by the Director-General to conduct an inspection in accordance with the Convention;

(q) "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 or under its sponsorship;

(r) "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;

(s) "Samples" means samples as defined in the Convention;

(t) "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 of its staff members in an official function, and any other material which the Director-General and the Government may agree shall form part of the archives of the OPCW;

(u) "The Vienna Convention" means the Vienna Convention on Diplomatic Relations of 18 April 1961.

## 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

#### FREEDOM OF ASSEMBLY

1. The Government recognises the right of the OPCW to convene meetings at its discretion within the headquarters in The Hague or, with the concurrence of the Government or of any appropriate authorities of the Kingdom of the Netherlands designated by the Government, elsewhere in the Kingdom of the Netherlands.

2. The Government guarantees to the OPCW full freedom of assembly, of discussion, and of decision. The Government shall take all proper steps to guarantee that no impediment is placed in the way of conducting the proceedings of any meeting convened by the OPCW.

### ARTICLE 4

#### IMMUNITY FROM LEGAL PROCESS

1. Within the scope of its official activities the OPCW shall enjoy immunity from any form of legal process, except in the case of:

(a) civil action by a third party for damages arising out of an accident caused by a vehicle belonging to or operated on behalf of the OPCW where these damages are not recoverable from insurance;

(b) civil action relating to death or personal injury caused by an act or omission of the OPCW or officials of the OPCW in the Kingdom of the Netherlands.

2. Notwithstanding the provisions of paragraph 1 of this Article, the property, wherever located and by whomsoever held, shall be immune from search, foreclosure, seizure, all forms of attachment, injunction or other legal process except in so far as in any particular case the OPCW shall have expressly waived its immunity. It is, however, understood that no waiver of immunity shall extend to any measure of execution.

### ARTICLE 5

#### IMMUNITY OF PROPERTY FROM OTHER ACTIONS,

#### INVIOLABILITY OF THE ARCHIVES, SAMPLES, EQUIPMENT, AND OTHER MATERIAL

1. The property, wherever located and by whomsoever held, shall enjoy immunity from search, requisition, seizure, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial or legislative action.

2. The archives and samples of the OPCW, wherever located and by whomsoever held, shall be inviolable at any time.

3. The equipment and other material necessary for the OPCW's activities shall be inviolable at any time.

## ARTICLE 6

### THE HEADQUARTERS

The appropriate authorities of the Kingdom of the Netherlands shall take whatever action may be necessary to ensure that the OPCW shall not be dispossessed of all or any part of the headquarters.

## ARTICLE 7

### LAW AND AUTHORITY IN THE HEADQUARTERS

1. The Government recognises the inviolability at any time of the headquarters, which shall be under the control and authority of the OPCW as provided in this Agreement.

2. The OPCW shall have the power to make regulations, operative within the headquarters, for the purpose of establishing therein any conditions necessary for the full execution of its functions. No laws of the Kingdom of the Netherlands which are inconsistent with a regulation of the OPCW authorised by this Article shall, to the extent of such inconsistency, be applicable within the headquarters. Any dispute between the OPCW and the Kingdom of the Netherlands as to whether a regulation of the OPCW is authorised by this Article or as to whether a law of the Kingdom of the Netherlands is inconsistent with any regulation of the OPCW authorised by this Article, shall be promptly settled by the procedure set out in Article 26, paragraph 2, of this Agreement. Pending such settlement, the regulation of the OPCW shall apply and the law of the Kingdom of the Netherlands shall be inapplicable in the headquarters to the extent that the OPCW claims it to be inconsistent with the regulation of the OPCW.

3. The OPCW shall inform the Government of regulations made which fall within paragraph 2 of this Article.

4. Any person authorised to enter any place under any legal provision shall not exercise that authority in respect of the headquarters unless prior express permission to do so has been given by or on behalf of the Director-General. Any person who enters the headquarters with the permission of the Director-General shall, if so requested by or on behalf of the Director-General, leave the headquarters immediately.

5. This Article shall not prevent the reasonable application of fire protection regulations of the appropriate authorities of the Kingdom of the Netherlands. The consent of the

Director-General to entry into the headquarters shall be presumed if he or his authorised representative cannot be reached in time.

6. Service of legal process may take place within the headquarters only with the prior consent of, and under conditions approved by, the Director-General.

7. The Director-General shall prevent the headquarters from being used to harbour persons who are avoiding arrest under any law of the Kingdom of the Netherlands, who are wanted by the Government for extradition to another country, or who are endeavouring to evade service of legal process.

## ARTICLE 8

### PROTECTION OF THE HEADQUARTERS

1. The appropriate authorities of the Kingdom of the Netherlands shall exercise due diligence to ensure that the security and tranquillity of the headquarters are not impaired by any person or group of persons attempting unauthorised entry into, or creating disturbances in, the immediate vicinity of the headquarters. As may be required for this purpose, the appropriate authorities shall provide adequate police protection on the boundaries and in the vicinity of the headquarters.

2. If so requested by the Director-General, the appropriate authorities of the Kingdom of the Netherlands shall provide a sufficient number of police for the preservation of law and order in the headquarters.

3. The appropriate authorities of the Kingdom of the Netherlands shall take all reasonable steps to ensure that the amenities of the headquarters are not prejudiced and that the purposes for which the headquarters are required are not obstructed by any use made of the land or buildings in the vicinity of the headquarters. The OPCW shall take all reasonable steps to ensure that the amenities of the land in the vicinity of the headquarters are not prejudiced by any use made of the land or buildings in the headquarters.

## ARTICLE 9

### PUBLIC SERVICES TO THE HEADQUARTERS

1. The appropriate authorities of the Kingdom of the Netherlands shall exercise, as far as it is within their competence, and to the extent requested by the Director-General, their respective powers to ensure that the headquarters shall be supplied, on fair conditions and on equitable terms, with the necessary services including, without limitation by reason of this enumeration, electricity, water, sewerage, gas, post, telephone, telegraph, any means of communication, local transportation, drainage, collection of refuse, fire protection and snow removal from public streets.

2. In case of any interruption or threatened interruption of any such services, the OPCW shall be accorded the priority given to essential agencies and organs of the Government, and the Government shall take steps accordingly to ensure that the work of the OPCW is not prejudiced.

3. The Director-General shall, upon request, make suitable arrangements to enable duly authorised representatives of the appropriate bodies to inspect, repair, maintain, reconstruct or relocate utilities, conduits, mains and sewers within the headquarters under conditions which shall not unreasonably disturb the carrying out of the functions of the OPCW. Underground work may be undertaken in the headquarters only in consultation with the Director-General or an official designated by him, and under conditions which shall not disturb the carrying out of the functions of the OPCW.

4. Where the services referred to in paragraph 1 of this Article are supplied by appropriate authorities of the Kingdom of the Netherlands, or where the prices thereof are under their control, the OPCW shall be supplied at tariffs which shall not exceed the lowest rates accorded to essential agencies and organs of the Government.

## ARTICLE 10

### FACILITIES AND IMMUNITIES IN RESPECT OF

### COMMUNICATIONS AND PUBLICATIONS

1. The Government shall permit the OPCW to communicate, freely and without a need for special permission, for all official purposes, and shall protect the right of the OPCW to do so. 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 be subject to the same privileges and immunities as diplomatic couriers and bags.

2. The OPCW shall enjoy, as far as may be compatible with the International Telecommunications Convention of 6 November 1982, for its official communications, treatment not less favourable than that accorded by the Government to any other organisation or government, including diplomatic missions of such other governments, in the matter of priorities and rates for mails, cables, telegrams, telexes, radiograms, television, telephone, fax, and other communications, and press rates for information to the press and radio.

3. The Government recognises the right of the OPCW to publish and broadcast freely within the Kingdom of the Netherlands for purposes specified in the Convention. 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.



4. The OPCW may install and use a wireless transmitter with the consent of the Government, which shall not be unreasonably withheld once the wave length has been agreed upon.

5. Nothing in paragraphs 3 and 4 in this Article shall be interpreted as exempting the OPCW from the application of any laws of the Kingdom of the Netherlands, or of any international conventions to which the Kingdom of the Netherlands is a party, relating to copyrights.

## ARTICLE 11

### EXEMPTION OF THE OPCW AND ITS PROPERTY FROM TAXES AND DUTIES

1. Within the scope of its official activities, the OPCW, its assets, income and other property shall be exempt from all direct taxes, whether levied by national, provincial or local authorities.

2. Within the scope of its official activities, the OPCW shall be exempt from:

(a) motor vehicle tax (motorrijtuigenbelasting);

(b) tax on passenger motor vehicles and motorcycles (BPM);

(c) value-added tax paid on all goods and services supplied on a recurring basis or involving considerable expenditure (omzetbelasting);

(d) excise duty (accijns) included in the price of alcoholic beverages and hydrocarbons;

(e) import (and export) taxes and duties (belastingen bij invoer en uitvoer);

(f) insurance tax (assurantiebelasting);

(g) real property transfer tax (overdrachtsbelasting);

(h) any other taxes and duties of a substantially similar character to the taxes and duties provided for in this paragraph, imposed by the Netherlands subsequent to the date of signature of this Agreement.

3. The exemptions provided for in subparagraphs 2(c), 2(d), 2(f), 2(g) of this Article may be granted by way of a refund under conditions to be agreed upon by the OPCW and the Government.

4. Goods acquired or imported under the terms set out in paragraph 2 of this Article shall not be sold, given away or otherwise disposed of, except in accordance with conditions agreed upon with the Government.

5. The OPCW may establish a tax- and duty-free commissary for the sale of limited quantities of certain articles for personal use or consumption and not for gift or sale, under conditions to be agreed upon by the Parties. This commissary will be open to officials of the OPCW, except for officials who are Netherlands citizens or permanently resident in the Kingdom of the Netherlands. It may also be open to Heads of Delegation, Permanent Representatives, alternates for and advisers attached to Heads of Delegation, and Members of the Permanent Missions and Delegates of States Parties who have diplomatic status.

## ARTICLE 12

### FREEDOM OF FINANCIAL ASSETS FROM RESTRICTIONS

Without being subject to any financial controls, regulations, notification requirements in respect of financial transactions, or moratoria of any kind, the OPCW may freely:

- (a) purchase any currencies through authorised channels and hold and dispose of them;
- (b) operate accounts in any currency;
- (c) purchase through authorised channels, hold and dispose of funds, securities and gold;
- (d) transfer its funds, securities, gold and currencies to or from the Kingdom of the Netherlands, to or from any other country, or within the Kingdom of the Netherlands and convert any currency held by it into any other currency; and
- (e) raise funds in any manner which it deems desirable, except that with respect to the raising of funds within the Kingdom of the Netherlands, the OPCW shall obtain the concurrence of the Government.

## ARTICLE 13

### EXEMPTION FROM IMPORT AND EXPORT RESTRICTIONS

Articles imported or exported by the OPCW for official purposes shall be exempt from all prohibitions and restrictions imposed by the Government on imports and exports.

## ARTICLE 14

### TRANSIT AND RESIDENCE

1. The Government shall take all necessary measures to facilitate and allow the entry into and sojourn in the territory of the Kingdom of the Netherlands and shall place no impediment in the way of the departure from the territory of the Kingdom of the Netherlands of the persons listed below, whatever their nationality, and shall ensure that no impediment is placed in the way of their transit to or from the headquarters and shall afford them any necessary protection in transit:

(a) Heads of Delegation, alternates for and advisers attached to Heads of Delegation, Permanent Representatives and Members of the Permanent Missions of States Parties, their families and other members of their households, as well as administrative and technical staff attached to Heads of Delegation or Permanent Representatives and the spouses and dependent children of such personnel;

(b) Delegates of States Parties, their spouses and dependent children, as well as administrative and technical staff attached to delegates of States Parties and the spouses and dependent children of such personnel;

(c) officials of the OPCW, their families and dependent members of their households;

(d) representatives and officials of international organisations with which the OPCW has concluded agreements or arrangements in accordance with the Convention, who have official business with the OPCW, and their spouses and dependent children;

(e) experts and their spouses and dependent children.

2. This Article shall not apply in the case of general interruptions of transportation, which shall be dealt with as provided in Article 9, paragraph 2 of this Agreement, and shall not impair the effectiveness of generally applicable laws relating to the operation of means of transportation.

3. Visas which may be required for persons referred to in this Article shall be granted without charge. The Government shall take all necessary measures to ensure that visas are issued as promptly as possible in order to allow the timely conduct of official business with the OPCW.

4. No activity performed by any person referred to in this Article in his official capacity with respect to the OPCW as indicated in paragraph 1 of this Article shall constitute a reason for preventing his entry into or his departure from the territory of the Kingdom of the Netherlands or for requiring him to leave such territory.

5. No person referred to in paragraph 1(d) - (e) of this Article, except for officials of international organisations whose expulsion procedures are covered by special agreements to which the Kingdom of the Netherlands is a party, shall be required by the Government to leave the Kingdom of the Netherlands except in the event of an abuse of the right of residence. No proceeding shall be instituted to require any such person to leave the Kingdom of the Netherlands except with the prior approval of the Minister for

Foreign Affairs of the Kingdom of the Netherlands. Such approval shall be given only in consultation with the Director-General. If expulsion proceedings are taken against any such person, the Director-General shall have the right to appear or to be represented in such proceedings on behalf of the person against whom such proceedings are instituted.

6. This Article shall not prevent the Government from requiring that persons claiming the rights granted by this Article comply with quarantine and health regulations.

7. The Director-General and the appropriate authorities of the Kingdom of the Netherlands shall, at the request of either of them, consult as to methods of facilitating entrance into the Kingdom of the Netherlands by persons coming from abroad who wish to visit the headquarters and who do not enjoy the privileges provided by this Article.

## ARTICLE 15

### PERMANENT MISSIONS TO THE OPCW

Permanent Missions of States Parties established in the Kingdom of the Netherlands, including their premises as defined in the Vienna Convention, shall enjoy the same privileges and immunities as are accorded to diplomatic missions established in the Kingdom of the Netherlands in accordance with the Vienna Convention.

## ARTICLE 16

### PRIVILEGES AND IMMUNITIES OF

### HEADS OF DELEGATION, PERMANENT REPRESENTATIVES

### TO THE OPCW AND STAFF MEMBERS OF PERMANENT MISSIONS

1. Each Head of Delegation and Permanent Representative shall be entitled, within the Kingdom of the Netherlands, to the same privileges and immunities as the Government accords to heads of diplomatic missions accredited to the Kingdom of the Netherlands in accordance with the Vienna Convention.

2. Staff members of Permanent Missions of States Parties shall be entitled to the same privileges and immunities as the Government accords to members, having comparable rank, of the staff of diplomatic missions established in the Kingdom of the Netherlands in accordance with the Vienna Convention.

3. The spouses, children and dependent members of the households of persons referred to in this Article shall enjoy the same privileges and immunities as the spouses, children and dependent members of the households of persons in diplomatic missions having comparable rank under the Vienna Convention.

## ARTICLE 17

## PRIVILEGES AND IMMUNITIES OF DELEGATES

### AND ALTERNATES FOR AND ADVISERS ATTACHED TO

#### HEADS OF DELEGATION

1. Delegates of States Parties, and alternates for and advisers attached to Heads of Delegation, 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 headquarters, enjoy within and with respect to the Kingdom of the Netherlands 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 of all acts done by them, in the performance of their official functions; such immunity to continue although the persons concerned may no longer be engaged in the performance of such functions;

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

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

(e) exemption with respect to themselves, their spouses and their dependent children from immigration restrictions, alien registration and national service obligations;

(f) the same protection and repatriation facilities as are accorded in time of international crisis to members, having comparable rank, of the staff of diplomatic missions established in the Kingdom of the Netherlands;

(g) the same privileges with respect to currency and exchange restrictions as the Government accords to representatives of foreign governments on temporary official missions; and

(h) the same immunities and facilities with respect to their personal and official baggage as the Government accords to members, having comparable rank, of the staff of diplomatic missions established in the Kingdom of the Netherlands.

2. Subparagraphs (e) - (h) of paragraph 1 of this Article shall not apply to Delegates of States Parties who are Netherlands citizens or permanently resident in the Kingdom of the Netherlands.

3. 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 Kingdom of the Netherlands for the discharge of their duties shall not be considered as

periods of residence. In particular, such persons shall be exempt from taxation on their salaries and emoluments during such periods of duty.

## ARTICLE 18

### PRIVILEGES AND IMMUNITIES OF THE DIRECTOR-GENERAL

#### AND OTHER OFFICIALS OF THE OPCW

1. Officials of the OPCW shall enjoy within and with respect to the Kingdom of the Netherlands the following privileges and immunities:

(a) immunity from arrest or detention and from inspection or seizure of their official baggage, to the extent provided under subparagraphs 2(c) and 2(d) of this Article;

(b) immunity from legal process of any kind in respect of words spoken or written, and of acts performed by them, in their official capacity; such immunity to continue although the persons concerned may have ceased to be officials of the OPCW; in any event, such immunity, as well as any immunity provided under subparagraphs 2(c) and 2(d) of this Article, shall not extend to civil action by a third party for damage arising from an accident caused by a motor vehicle belonging to, driven by or operated on behalf of an official of the OPCW or in respect of a motor traffic offence involving such vehicle;

(c) exemption from taxation in respect of the salaries, emoluments, pay and indemnities paid to them, directly or indirectly, in respect of their employment with the OPCW; the Government shall not take income so exempted into account when assessing the amount of tax to be applied to income from other sources;

(d) exemption, with respect to themselves, their spouses, their dependent relatives and other members of their households, from immigration restrictions and alien registration;

(e) exemption, with respect to themselves, their spouses, their dependent relatives and other members of their households, from national service obligations, provided that, with respect to citizens of the Kingdom of the Netherlands, such exemption shall be confined to officials whose names have, by reason of their duties, been placed upon a list compiled by the Director-General and approved by the Government; provided further that should officials other than those listed, who are citizens of the Kingdom of the Netherlands, be called up for national service, the Government shall, upon request of the Director-General, grant such temporary deferments in the call-up of such officials as may be necessary to avoid interruption of the essential work of the OPCW;

(f) freedom to acquire or maintain within the Kingdom of the Netherlands or elsewhere foreign securities, foreign currency accounts and other movable and, under the same conditions applicable to citizens of the Kingdom of the Netherlands, immovable property; and at the termination of their employment with the OPCW the right to take out of the

Kingdom of the Netherlands through authorised channels without prohibition, or restriction, their funds;

(g) the same protection and repatriation facilities with respect to themselves, their spouses, their dependent relatives and other members of their households as are accorded in time of international crisis to members, having comparable rank, of the staff of diplomatic missions established in the Kingdom of the Netherlands.

2. In addition to the privileges and immunities specified in paragraph 1 of this Article:

(a) the Director-General shall be accorded the privileges and immunities, exemptions and facilities accorded to heads of diplomatic missions accredited to the Government in accordance with the Vienna Convention;

(b) the Deputy Directors-General shall also be accorded the privileges and immunities, exemptions and facilities accorded to heads of diplomatic missions accredited to the Government in accordance with the Vienna Convention;

(c) officials having the professional grade of P-5 and above, and such additional categories of officials as may be designated, in agreement with the Government, by the Director-General, in consultation with the Executive Council, on the grounds of the responsibilities of their positions in the OPCW, shall be accorded the same privileges and immunities, exemptions and facilities as the Government accords to diplomatic agents of comparable rank of the diplomatic missions established in the Kingdom of the Netherlands, in conformity with the Vienna Convention;

(d) officials having the grade of P-4 and below shall be accorded the same privileges and immunities, exemption and facilities as the Government accords to members of the administrative and technical staff of the diplomatic missions established in the Kingdom of the Netherlands, in conformity with the Vienna Convention, provided that the immunity from criminal jurisdiction and personal inviolability shall not extend to acts performed outside the course of their official duties;

(e) inspectors on mission shall be permitted to leave and enter the territory of the Kingdom of the Netherlands, by whatsoever means of transportation, with their equipment and with samples. The appropriate authorities of the Kingdom of the Netherlands shall provide them, where appropriate, with priority treatment and priority luggage handling with regard to customs and security controls. The transport of toxic chemicals shall comply with the rules and regulations of the Kingdom of the Netherlands concerning the handling of such articles.

3. Officials of the OPCW who are Netherlands citizens or permanently resident in the Kingdom of the Netherlands shall enjoy the privileges and immunities, exemptions and facilities accorded by this Agreement to the extent recognised by international law, provided, however, that Article 22, paragraph 1 and Article 18, subparagraph 1(a)

regarding their official baggage, and subparagraphs 1(b), 1(c) and 1(e) of this Agreement, shall, in any event, apply to them.

## ARTICLE 19

### PRIVILEGES AND IMMUNITIES OF EXPERTS

1. Experts shall enjoy, within and with respect to the Kingdom of the Netherlands, the following privileges and immunities so far as may be necessary for the effective exercise of their functions and during their journeys in connection with such functions and during attendance at the headquarters:

(a) immunity from personal arrest or detention and from inspection or seizure of their official baggage;

(b) immunity from legal process of any kind with respect to words spoken or written, and all acts done by them, in the performance of their official functions, such immunity to continue although the persons concerned may no longer be employed on missions for, serving on committees of, or acting as consultants for, the OPCW, or may no longer be present at the headquarters or attending meetings convened by the OPCW. In any event, such immunity shall not extend to civil action by a third party for damage arising from an accident caused by a motor vehicle belonging to, driven by or operated on behalf of the expert or in respect of a motor traffic offence involving such vehicle;

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

(d) the right, for the purpose of all communications with the OPCW, to use codes and to dispatch or receive papers, correspondence or other official material by courier or in sealed bags;

(e) exemption with respect to themselves and their spouses from immigration restrictions, alien registration and national service obligations;

(f) the same protection and repatriation facilities as are accorded in time of international crisis to members having comparable rank, of the staff of diplomatic missions established in the Kingdom of the Netherlands; and

(g) the same privileges with respect to currency and exchange restrictions as are accorded to representatives of foreign Governments on temporary official missions.

2. Where the incidence of any form of taxation depends upon residence, periods during which the persons designated in paragraph 1 of this Article and who are not already residents of the Kingdom of the Netherlands, may be present in the Kingdom of the Netherlands for the discharge of their duties shall not be considered as periods of residence. In particular, such persons shall be exempt from taxation on their salaries and emoluments received from the OPCW during such periods of duty.



3. Experts who are citizens of, or permanently resident in, the Kingdom of the Netherlands shall enjoy only the privileges and immunities, exemptions and facilities accorded by subparagraph 1(a) regarding their official baggage and subparagraphs 1(b), 1(c), 1(d) and 1(g) of this Article.

## ARTICLE 20

### REPRESENTATIVES AND OFFICIALS OF STATES NOT PARTY TO THE CONVENTION

The status of representatives and officials of States not Party to the Convention with which the OPCW has concluded agreements or arrangements in accordance with the Convention, who have official business with the OPCW, will be determined in such agreements or arrangements.

## ARTICLE 21

### NOTIFICATION

1. The OPCW shall promptly notify the Government of:

(a) the list of Heads of Delegation, Permanent Representatives, Delegates of States Parties and other persons within the scope of Articles 16, 17 and 19 of this Agreement, and shall revise such list from time to time as may be necessary;

(b) the appointment of the Director-General, the Deputy Directors-General, and other officials of the OPCW, their arrival and their final departure, or the termination of their functions with the OPCW;

(c) the arrival and final departure of members of the families forming part of the households of the persons referred to in subparagraph 1(b) of this Article and, where appropriate, the fact that a person has ceased to form part of the household; and

(d) the arrival and final departure of domestic employees of persons referred to in subparagraph 1(b) of this Article and, where appropriate, the fact that they are leaving the employ of such persons.

2. The Government shall issue to Heads of Delegation, Permanent Representatives, Delegates of States Parties, other persons within the scope of Articles 16, 17 and 19 of this Agreement and members of their families who form part of their households and domestic employees of persons referred to under subparagraph 1(a) of this Article an identity card bearing the photograph of the holder. This card shall serve to identify the holder in relation to all authorities of the Kingdom of the Netherlands.

3. The Government shall issue to the Director-General, the Deputy Directors-General and other officials of the OPCW and members of their families who form part of their

households and domestic employees of persons referred to under subparagraph 1(b) of this Article an identity card bearing the photograph of the holder. This card shall serve to identify the holder in relation to all authorities of the Kingdom of the Netherlands.

## ARTICLE 22

### SOCIAL SECURITY

1. For the social security scheme established by or conducted under the authority of the OPCW, the OPCW and the officials of the OPCW to whom the above-mentioned scheme applies shall be exempt from all compulsory contributions to the social security organisations of the Kingdom of the Netherlands. Consequently, they shall not be covered by the social security regulations of the Kingdom of the Netherlands.

2. Any provident fund established by or conducted under the authority of the OPCW shall enjoy legal capacity in the Kingdom of the Netherlands if the OPCW so requests and shall enjoy the same exemptions, privileges and immunities as the OPCW itself.

3. The provisions of paragraph 1 of this Article shall apply, *mutatis mutandis*, to spouses and dependent relatives forming part of the households of the persons referred to in paragraph 1 of this Article, unless they are employed in the Kingdom of the Netherlands by an employer other than the OPCW or receive Netherlands social security benefit.

## ARTICLE 23

### EMPLOYMENT

Spouses and members of the family forming part of the households of officials of the OPCW shall be granted temporary working permits for the duration of the employment of those officials with the OPCW in the Kingdom of the Netherlands.

## ARTICLE 24

### ADDITIONAL PROVISIONS ON PRIVILEGES AND IMMUNITIES

1. The privileges and immunities granted under the provisions of this Agreement are conferred in the interests of the OPCW and not for the personal benefit of the individuals themselves. It is the duty of the OPCW and all persons enjoying such privileges and immunities to observe in all other respects the laws and regulations of the Kingdom of the Netherlands.

2. This Agreement shall apply irrespective of whether the Government maintains or does not maintain diplomatic relations with the State concerned and irrespective of whether the State concerned grants a similar privilege or immunity to the diplomatic envoys or citizens of the Kingdom of the Netherlands.

3. The privileges and immunities granted to officials of the OPCW and experts under the provisions of this Agreement are granted on the understanding that the OPCW shall waive the immunity of the persons concerned in any circumstances in which the OPCW considers that such immunity would impede the course of justice, and whenever it can be waived without prejudice to the purpose for which it was granted.

4. The OPCW shall cooperate at all times with the appropriate authorities of the Kingdom of the Netherlands to facilitate the proper administration of justice and shall prevent any abuse of the privileges and immunities granted under the provisions of this Agreement by officials of the OPCW.

5. Should the Government consider that an abuse by an official of the OPCW or an expert of a privilege or immunity conferred by this Agreement has occurred, the Director-General shall, upon request, consult with the appropriate Netherlands authorities to determine whether any such abuse has occurred. If such consultations fail to achieve a result satisfactory to the Director-General and to the Government, the matter shall be determined in accordance with the procedure set out in Article 26, paragraph 2, of this Agreement.

6. The Director-General shall have the right and the duty to waive the immunity of any official of the OPCW or of an expert in cases when the immunity would impede the course of justice and can be waived without prejudice to the interests of the OPCW. In respect of the Director-General, the OPCW has a similar right and duty, which shall be performed by the Executive Council.

## ARTICLE 25

### INTERNATIONAL RESPONSIBILITY OF THE KINGDOM OF THE NETHERLANDS

The Kingdom of the Netherlands shall not incur by reason of the location of the headquarters of the OPCW within its territory any international responsibility for acts or omissions of the OPCW or of its officials acting or abstaining from acting within the scope of their functions, other than the international responsibility which the Kingdom of the Netherlands would incur on the same footing as other States Parties.

## ARTICLE 26

### SETTLEMENT OF DISPUTES

1. The OPCW shall make provision for appropriate methods of settlement of:

(a) disputes arising out of contracts and disputes of a private law character to which the OPCW is a party; and

(b) disputes involving an official of the OPCW or an expert who, by reason of his official position, enjoys immunity, if such immunity has not been waived by the OPCW.

2. Any dispute between the OPCW and the Government concerning the interpretation or application of this Agreement, or any question affecting the headquarters or the relationship between the OPCW and the Government, which is not settled amicably, shall be referred for final decision to a tribunal of three arbitrators, at the request of either Party to the dispute. Each Party shall appoint one arbitrator. The third, who shall be chairman of the tribunal, is to be chosen by the first two arbitrators.

3. If one of the Parties fails to appoint an arbitrator and has not taken steps to do so within two months following a request from the other Party to make such an appointment, the other Party may request the President of the International Court of Justice to make such an appointment.

4. Should the first two arbitrators fail to agree upon the third within two months following their appointment, either Party may request the President of the International Court of Justice to make such an appointment.

5. The tribunal shall conduct its proceedings in accordance with the Permanent Court of Arbitration Optional Rules for Arbitration Involving International Organisations and States, as in force on the date of the signature of this Agreement.

6. The tribunal shall reach its decision by a majority of votes. Such decision shall be final and binding on the Parties to the dispute.

## ARTICLE 27

### OPERATION OF THIS AGREEMENT

1. This Agreement shall be construed in the light of its primary purpose of enabling the OPCW at its headquarters in the Kingdom of the Netherlands fully and efficiently to discharge its responsibilities and fulfil its purposes.

2. Whenever this Agreement imposes obligations on the appropriate authorities of the Kingdom of the Netherlands, the ultimate responsibility for the fulfilment of such obligations shall rest with the Government.

## ARTICLE 28

### TERMINATION OF THE AGREEMENT

This Agreement shall cease to be in force by mutual consent of the OPCW and the Government.

## ARTICLE 29

## AMENDMENTS

1. This Agreement may be amended at any time.
2. Any such amendment shall be agreed by mutual consent and shall be effected by an Exchange of Notes.
3. Consultations with respect to amendment of this Agreement may be entered into by the OPCW and the Government at the request of either Party.

## ARTICLE 30

### THE STATUS OF THE SEPARATE ARRANGEMENT

The Separate Arrangement concluded together with this Agreement forms an integral part thereof. Any reference to the Agreement includes the Separate Arrangement.

## ARTICLE 31

### ENTRY INTO FORCE

1. This Agreement shall enter into force on the day after both Parties have notified each other in writing that the legal requirements for entry into force have been complied with.
2. With respect to the Kingdom of the Netherlands, this Agreement shall apply to the part of the Kingdom in Europe only.

DONE at The Hague on ..... 199... in two copies in Arabic, Chinese, English, French, Russian, Spanish and Dutch languages, each text being equally authentic.

For the Organisation for the For the Kingdom of the  
Prohibition of Chemical Weapons Netherlands

### SEPARATE ARRANGEMENT

WITH RESPECT TO THE AGREEMENT BETWEEN THE

ORGANISATION FOR THE PROHIBITION OF CHEMICAL WEAPONS

AND THE KINGDOM OF THE NETHERLANDS

CONCERNING THE HEADQUARTERS OF THE OPCW

1. Article 11, paragraph 2(c): "considerable expenditure"

For the purposes of exemption from value-added tax on any goods or services necessary for the OPCW's official activities involving considerable expenditure, "considerable expenditure" means, in accordance with the regulations in force, an amount above the threshold of Dfl. 500 per invoice.

## 2. Article 11, paragraph 4: "conditions agreed with the Government"

The Government hereby sets forth the conditions under which goods acquired or imported under the terms set out in paragraph 4 of Article 11 may be sold, given away, or otherwise disposed of.

(a) As a general principle, the Government grants the OPCW a fixed time period of five years for reducing to zero the value on sale/disposal, for the purpose of duties and tax exemptions, of all movable goods, except motor vehicles. After this five-year time period, goods may be sold free of taxes and duties. This "reduction" of all goods to zero value in a five-year period is accomplished in steps of 10% for each period of six months. However, if the local market value of the above-mentioned goods has declined to an amount lower than calculated above, this lower amount shall prevail.

(b) It is also understood as a general principle that the OPCW has the right to sell any of its goods at any time to a person or entity who/which is entitled in the Kingdom of the Netherlands to an exemption from taxes and/or duties on those goods. At an appropriate time, the Government will provide information concerning the standing procedure required to handle the exemption in those cases, not only for motor vehicles, but also for other goods.

(c) In the case of motor vehicles, the Government grants the OPCW the following rights:

(i) motor vehicles imported tax-exempt from within the European Union may be sold two years after their acquisition on condition that those cars be sold to entrepreneurs who have to take into account the standing procedures in the Kingdom of the Netherlands with respect to VAT; and

(ii) motor vehicles imported from outside the European Union exempt from duties and taxes may be sold two years after their acquisition on condition that those cars be sold to entrepreneurs who have to take into account the standing procedures in the Kingdom of the Netherlands with respect to VAT and import duties.

(d) With respect to data processing and communications equipment, the Government grants the OPCW a fixed-term period of five years for reducing the value of the equipment to zero, as described in subparagraph 2(a) above. After a period of two years, the OPCW is also granted the right to sell the equipment to entrepreneurs who have to take into account the standing procedure in the Kingdom of the Netherlands with respect to VAT and/or import duties. If in practice certain equipment turns out to be no longer of use to the OPCW within a period shorter than two years, while it could still be sold to an entrepreneur, the Government is willing to favour a solution on an ad hoc basis. If the

local market value of the above-mentioned goods has declined to an amount lower than calculated above, this lower amount shall prevail.

(e) It is understood that the OPCW also has the right to dispose of exempt purchased goods at any moment without payment or taxes and/or duties, through exportation to a country outside the European Union or by destroying them.

(f) The OPCW shall inform the Government of its disposal of exempt purchased goods. The procedure for informing the Government shall be effected in such a manner as to minimise the administrative burden.

### 3. Officials of the OPCW

(a) Subject to the provisions of Article 18 of the Headquarters Agreement, officials of the OPCW who are neither Netherlands citizens nor persons permanently resident in the Kingdom of the Netherlands shall, as far as the levying of Netherlands income tax is concerned, be taxed only on domestic income within the meaning of sections 48 and 49 of the 1964 Income Tax Act, received outside the OPCW function. As far as the levying of Netherlands wealth tax is concerned, only domestic wealth within the meaning of sections 12 and 13 of the 1964 Wealth Tax Act will be taxed. In this respect, the officials of the OPCW concerned are subject to the same treatment as members of diplomatic missions.

(b) Officials of the OPCW of grade P-5 and above shall be granted exemption from VAT, under article 33 in conjunction with article 36 of the Regulations implementing the 1959 State Taxes Act (Algemene wet inzake rijksbelastingen). The condition of reciprocity is not required.

(c) Officials of the OPCW who are eligible for the privileges and immunities laid down in the Vienna Convention shall be granted exemption from all taxes and duties if they import into or purchase within the European Union a motor vehicle intended for private use. After taxes and duties have been paid on the residual value of such a vehicle or after the car has been sold outside the European Union, another motor vehicle may be purchased tax-free. The exemption also applies to motor vehicle tax and excise duty on engine fuels. Officials of grade P-5 and above who live with their spouse shall also be granted exemption from all taxes related to a second motor vehicle in accordance with the regulations in force.

(d) Officials of the OPCW who are eligible for the privileges and immunities laid down in the Vienna Convention shall be granted diplomatic exemption from municipal taxes, including the user component of property tax.

(e) Officials of the OPCW shall, in accordance with the regulations in force, have relief from import duties, taxes, except payments for services, in respect of their furniture and personal effects and the right to export furniture and personal effects with relief from duty on termination of their duties in the Netherlands. Personal effects may include a

reasonable number of cars that have been in use in the household and that are older than six months.

(f) If the regulations relating to diplomatic staff or international officials who are deemed to be of the same status as officials of the OPCW are amended, the regulations applicable to officials of the OPCW will also be amended.

#### 4. Additional provision

(a) If and to the extent that the Government shall, in the future, enter into an agreement with any intergovernmental organisation containing terms or conditions more favourable to that organisation than comparable terms or conditions in this Agreement, the Government shall extend such more favourable terms or conditions to the OPCW or to any person entitled to privileges and immunities under this Agreement.

(b) The Government shall inform the OPCW of the office designated by the Ministry of Foreign Affairs to serve as official contact point and to be primarily responsible for all matters in relation to this Agreement. The OPCW shall be informed promptly about this designation and of any subsequent changes in this regard.