

Guidance for Completing the Transfer Discrepancies Reply Form Version 2.0

Note: States Parties are encouraged to read this Guidance Document before using the related Excel form "Transfer Discrepancies Reply Form". Further information on transfer discrepancies may be found in Annex C, Section B of the Declarations Handbook.

1. CAUSES OF TRANSFER DISCREPANCIES

Transfer discrepancies is a term used to describe differences between States Parties (SP) declarations of import and export of chemicals listed under the Chemical Weapons Convention (CWC) (hereinafter "scheduled chemicals") when they exceed the annual CWC declaration threshold quantities for Schedule 2 and Schedule 3 chemicals, respectively. Declarations of import and export are aggregated for each individual scheduled chemical traded during a calendar year in Forms 2.1 and 3.1 of the Declarations Handbook, and therefore are referred to as "aggregate national data".

This Guidance Document is designed to assist States Parties in identifying and communicating the causes of their transfer discrepancies to the OPCW Technical Secretariat (hereinafter "the Secretariat") in response to its transfer discrepancy (TD) Notes Verbales. Hence the main causes of transfer discrepancies are explained in more detail below and they have been categorised into three Sections (1.1, 1.2 and 1.3) according to whether an amendment to the State Party's Annual Declaration on Past Activities (hereinafter "ADPA") is required or not. These causes are also listed in the drop-down menu in Column 3 of Table 1 of the Transfer Discrepancies Reply Form (hereinafter the "TD Reply Form").

1.1. Transfer discrepancy causes that require an amendment to the related ADPA

Whenever any of the following causes are selected in the TD Reply Form, States Parties acknowledge that they are giving consent to the Secretariat to consider and process the new data provided in the TD Reply Form as an amendment to their related ADPAs. But if relevant information is missing, a separate amendment must be submitted to the Secretariat using the appropriate channels.

1.1.1. DRAFTING ERROR

A drafting error can arise due to multiple factors, such as:

- Typing mistakes;
- Quantities mistakenly declared by volume (e.g. litres) instead of weight (e.g. kilograms);
- Confusion over units of measure; *e.g. quantities are declared in tonnes when they are actually in kilograms, or vice versa; and*
- Confusion over decimal and "thousand" separators; *e.g. 1,500 tonnes means one and a half tonnes in some countries, and one thousand five hundred tonnes in others.*

1.1.2. INCORRECT IDENTIFICATION OF THE EXPORTER/IMPORTER

The Conference of the States Parties (hereinafter "the Conference") approved voluntary guidelines on the meaning of the terms import and export in relation to declarations of Schedule 2 and 3 aggregate national data. These guidelines focus on the physical movements of scheduled chemicals as enshrined in Decision [C-13/DEC.4](#), dated 3 December 2008, entitled "Guidelines Regarding Declaration of Import and Export Data for Schedule 2 and 3 Chemicals".

The guidelines under Decision C-13/DEC.4 define the country of dispatch of scheduled chemicals as the exporter, which may not necessarily be the country of origin or the producing country. It is important to note that the definition of import, export and transit operations in the agreed guidelines may be different to definitions used in national legislation, by customs or by invoicing agents and trading companies, but they are applicable for the purpose of submitting declarations in accordance with the CWC.

The examples provided in Table 1 illustrate this cause:

Table 1: Examples of transfer discrepancies caused by exporter/importer incorrectly identified.

	Scenario	Declarations resulting in TDs	Resolution of TD
1	A trading company has its headquarters in SP A. The documentation for one of its shipments shows a transfer of 40 tonnes of a Schedule (S) 3B chemical from SP A to SP B. But the S3B chemical was not physically dispatched from SP A, instead the trading company used a neighbouring port in SP C.	SP C correctly declares the export to SP B, referring to Decision C-13/DEC.4, but the importer (SP B) incorrectly declares SP A as the exporting country based on the trading company's documentation. This scenario results in two transfer discrepancies.	SP B submits an amendment to its ADPA deleting 40 tonnes from the declared export from SP A and including this quantity in the export from SP B.
2	A S3B chemical is dispatched from SP A directly to SP B by ship where it is temporarily stored for purposes of changing the means of transport. The S3B chemical is exported from the storehouses of SP B to SP C by freight train.*	SP A wrongly declares the export to SP B, while SPB correctly* does not declare the transfer. SP C also correctly* declares SP A as the exporter. As such, this scenario results in transfer discrepancies.	SP A submits an amendment to its declaration including the amount of S3B chemical in the export to SP C and deletes it from the declared export to SP B.

** In Scenario 2, the temporary storage of a Schedule 3B chemical in SP B is considered to be a transit operation in accordance with Decision C-13/DEC.4 and therefore SP B should be excluded from the declaration of this transfer by SP A and SP C.*



1.1.3. INCORRECT IDENTIFICATION OF THE CHEMICAL

The misidentification of a chemical is a common cause of transfer discrepancies. If one scheduled chemical is mistakenly declared as another, this can lead, in some cases, to two or more separate discrepancies being recorded.

- a) A non-scheduled chemical is mistakenly declared as a scheduled chemical or a scheduled chemical is omitted because it was identified as non-scheduled: the new information to be provided in the TD Reply Form by the State Party is sufficient for the Secretariat to amend the related data.
- b) A scheduled chemical is mistakenly declared as another scheduled chemical: further amendments to the declared data in regard to one or more scheduled chemicals **may** need to be submitted separately by the State Party to the Secretariat.

The following example illustrates this cause:

SP A declares in its ADPA 2019 an aggregated export to SP B of 55 tonnes of the S3B16¹ chemical and 11 tonnes of the S3B17 chemical, the latter being declared as "<30 tonnes" in accordance with operative paragraph 4 of Decision C-7/DEC.14 dated 10 October 2002.

SP B declares in its ADPA 2019 an aggregated import from SP A of 20 tonnes of the S3B16 chemical and 32 tonnes of the S3B17 chemical (SP B may have declared 20 tonnes as "<30 tonnes" but decided not to do so).

This scenario results in a TD of 35 tonnes of the S3B16 chemical as shown in Table 2.

Table 2: Discrepancy of Trade in ADPAs by States Parties A and B.

Schedule 3 (S3) Chemical	SP A ADPA 2019 export to SP B (tonnes)	SP B ADPA 2019 import from SP A (tonnes)	TD (tonnes)	Reported by the Secretariat in its TD Note Verbale
S3B16	55	20	35	Yes (>30 T)
S3B17	<30 (11)	32	N.A.	No

After re-examining its records, SP A discovers that a single transfer of 20 tonnes of the S3B16 chemical was incorrectly identified and instead 20 tonnes of the S3B17 chemical was exported to SP B. The aggregate export of the S3B17 chemical becomes declarable because the quantity now exceeds the declaration threshold of 30 tonnes. The actual figures are given in Table 3 together with the resulting actions required by SP A.

¹ This represents chemical #16 listed under Schedule 3 of the CWC's Annex on Chemicals.



Table 3: Actual Quantities of Export after SP A Identified an Error – Actions Required

Schedule 3 (S3) Chemical	SP A corrected exports to SP B (tonnes)	SP B ADPA 2019 import from SP A (tonnes)	TD (tonnes)	Will this create a new TD?	Action Required by SP A as a result of its efforts to resolve the TD
S3B16	35	20	15	No (<30 T)	Complete TD Reply Form*
S3B17	31	32	1	No (<30 T)	Submit an amended Declaration

* With the receipt of the completed TD Reply Form from SP A, the Secretariat will amend SP A's respective ADPA 2019 for the S3B16 chemical. As a result, the identified TD of 35 tonnes will be reduced to a TD of 15 tonnes (which no longer constitutes a TD by the Secretariat). Nonetheless, SP A will be required to submit an amendment to its APDA 2019 in respect of the export of 31 tonnes of S3B17.

1.1.4. QUANTITY

This cause should be selected when the aggregated quantities of scheduled chemicals declared as imported and/or exported in Forms 2.1.1 or 3.1.1 are not matching between the importing country and exporting country due to any of the following reasons:

a) Missing transfer

Example 1: after re-examining the customs records or after discussion with the National Authority involved in the discrepancy, it is confirmed that there was an export/import quantity that was not included in the balance of the AND.

Example 2: sometimes scheduled chemicals are shipped to or from a free port or free trade zone which is under the jurisdiction of a SP that may not be aware of these transfers. Therefore, the SP would not be declaring the transfers.

- b) For mixtures, the whole weight of the mixture has been counted instead of the weight of the scheduled chemical present within the mixture, i.e., the concentration of the scheduled chemical has not been considered.
- c) National weight thresholds have been applied in order to calculate the aggregate national data for export and import quantities, and for receiving information about individual transfers, which **exceed** the weight thresholds established by the CWC (i.e. 1 kg for S2A*, 100 kg for S2A, 1 tonne for S2B and 30 tonnes for S3).



1.1.5. USE OF NATIONAL LOW CONCENTRATION LIMITS

- a) When SPs are using National concentration thresholds which **exceed** the low-concentration limits established by the following Conference decisions:
- [C-V/DEC.19](#) (dated 19 May 2000) "Guidelines Regarding Low Concentration Limits for Declarations of Schedule 2 and 3 chemicals"; and
 - [C-14/DEC.4](#) (dated 2 December 2009) "Guidelines Regarding Low-Concentration Limits for Declarations of Schedule 2A and 2A*".

According to these decisions, "declarations are not required for mixtures of chemicals containing 30 percent or less of a Schedule 2B or Schedule 3 chemical" and "declarations are not required for (a) mixtures of chemicals containing one percent (1%) or less of a Schedule 2A or 2A chemical; (b) mixtures of chemicals containing more than 1% but less than or equal to 10% of a Schedule 2A or 2A* chemical, provided that the annual amount produced, processed, or consumed is less than the relevant verification thresholds specified in paragraph 12 of Part VII of the Verification Annex".*

- b) When SPs are using **lower** concentration thresholds (or not applying low-concentration thresholds) than those established by the Conference decisions mentioned in paragraph 1.1.5. a).

The lack of harmonisation in reporting transfers of mixtures of scheduled chemicals can easily lead to transfer discrepancies, as one State Party may declare one transfer due to the use of lower concentration thresholds while the other may not. The following example illustrates this cause:

SP A applies a national low-concentration threshold for S2B chemicals of 10%, which is less than the relevant CWC low-concentration threshold (30%). On the other hand, SP B applies the low-concentration threshold of 30%. In this scenario, SP A declares an aggregated export to SP B of 25.8 tonnes of S2B04 chemical with CAS #676-97-1, while SP B declares an aggregated import from SP A of 21 tonnes of the same S2B04 chemical. As such, this will result in a transfer discrepancy of 4.8 tonnes.

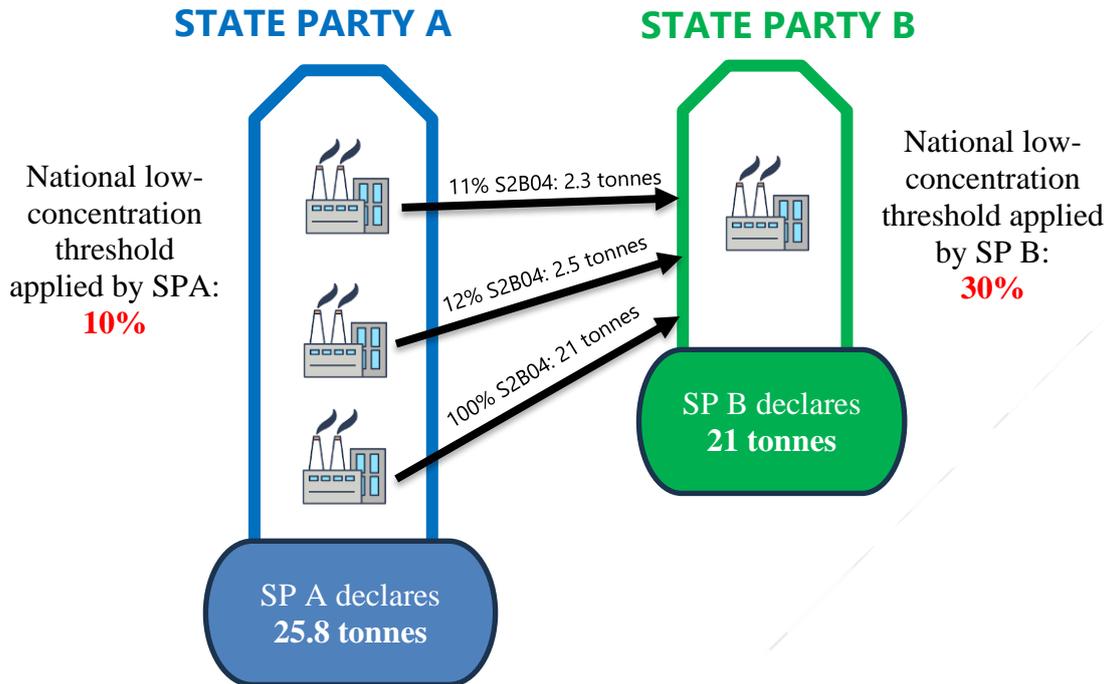


Figure 1. Example of the use of national low-concentration thresholds

1.2. Transfer discrepancy causes that do not require an amendment to the related ADPA

1.2.1. LACK OF DECLARATION

In this case the cause of the discrepancy is due to the fact that the ADPA has not been submitted to the Secretariat by the time the TD Notes Verbales were sent.

When selecting this cause in the TD Reply Form, the SP acknowledges that the related ADPA needs to be submitted to the Secretariat using the most appropriate channel.

1.2.2. END OF THE YEAR SHIPMENT

Another common scenario that can give rise to a transfer discrepancy, results from an "End of the Year Shipment" which occurs when a chemical shipment is dispatched at the end of one year from the exporting country but is received at the beginning of the following year in the importing country (see Figure 2). As trade is reported in declarations on a calendar year basis, the exporter may declare the transfer in Year 1 and the importer declares the same transfer in Year 2, thereby resulting in a discrepancy in each year.

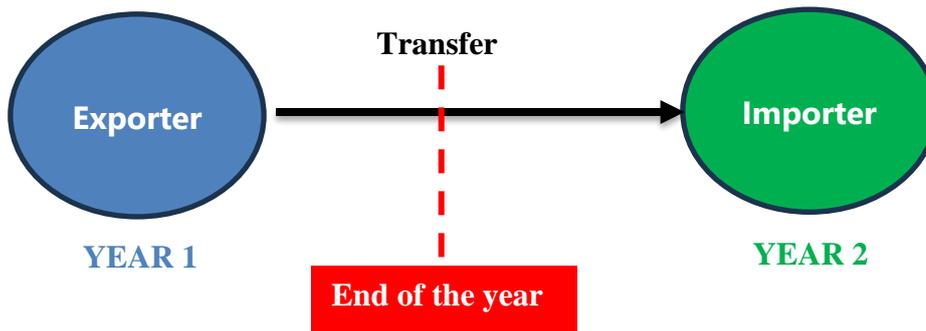


Figure 2. End of the year shipment scheme

When selecting this cause in the TD Reply Form, the SP acknowledges that the Secretariat will use the information to deduct the related quantity from the transfer discrepancies reported for both Years 1 and 2, when applicable.

1.2.3. USE OF NATIONAL LOW-WEIGHT THRESHOLDS

There are no weight thresholds under the CWC for declarations of individual imports and exports. Rather, the CWC's weight thresholds only apply to aggregate national data, which shall include all activities by natural and legal persons transferring a declarable chemical from or to the territory of the declaring State Party. The aggregate national data is calculated (using the relevant low concentration thresholds) by summing up all individual imports or exports for a specific Schedule 2 or Schedule 3 chemical during a calendar year.

Through the implementation of national legislation, some States Parties require plant sites and/or other trading entities to inform them of all transfers of scheduled chemicals, regardless of weight, while other States Parties limit the reporting of these individual transfers to quantities higher than specific national thresholds.

This lack of harmonisation in reporting individual transfers of scheduled chemicals can easily lead to transfer discrepancies. Even the use of the same national weight thresholds by two States Parties can result in a transfer discrepancy. The following example represented in Figure 3 illustrates this cause:

Two States Parties A and B have a national legislation that only requires declaration of trade for quantities that are equal to, or exceed, the CWC declaration thresholds. However, the national threshold quantities are applied to exports per trading entity rather than to the aggregated amount traded by any number of companies in the same SP where the total exceeds the relevant declaration threshold, as is required under operative para. 2 of Decision C-7/DEC.14 dated 10 October 2002.

Therefore, for the S2B08 scenario shown in Figure 3, SP A only declares 1.2 tonnes of the exported S2B08 chemical, and SP B declares import of 2.6 tonnes of the same scheduled chemical, resulting in a transfer discrepancy of 1.4 tonnes.

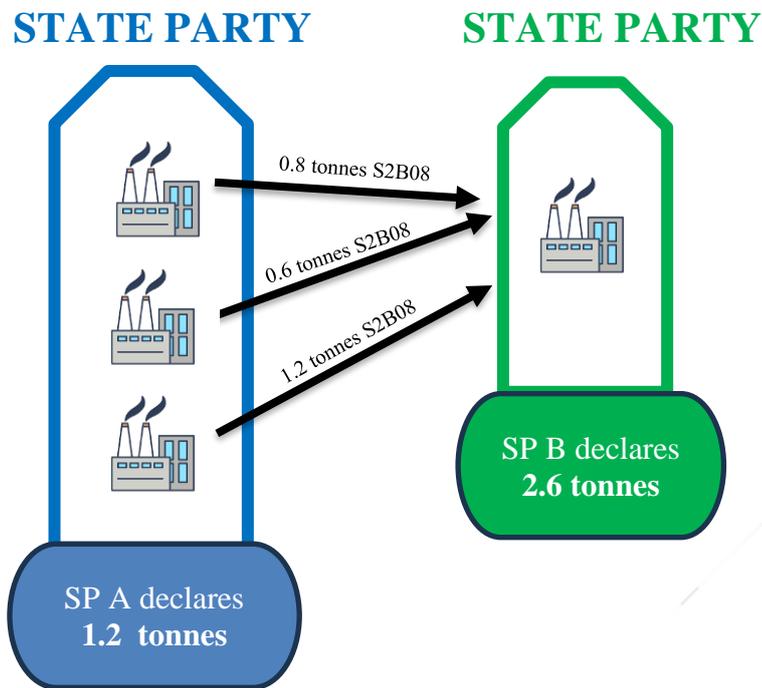


Figure 3. Example of the use of national low-weight thresholds

In this example, the assumption is that all the entities pictured in Figure 3 for SP A only have chemical trade activities (i.e. they are not producing, processing or consuming S2B08 chemicals) and therefore are not declarable facilities.

1.2.4. EXPORT/IMPORT QUANTITY CONFIRMED

When this option has been selected, States Parties have been able to verify their declared transfer data and have not found any errors or further information that would help with the resolution of the transfer discrepancy. This selection will, therefore, confirm the accuracy of the information already submitted by the State Party in its related ADPA.

1.3. **Transfer discrepancy causes that may or may not require an amendment to the related ADPA**

1.3.1. OTHER

This option is included in the TD Reply Form to reflect any additional causes that States Parties may encounter during the resolution of their transfer discrepancies.

For these cases, it is recommended that the specific cause is described:



- in the body of the email enclosing the completed form but **without mentioning the name of the other State Party** (always only refer to the TD key code) so there is no disclosure of confidential information in the email; or
- in correspondence to be sent via SIX or hand delivered to the OPCW Headquarters whenever confidential information needs to be communicated.

If an amendment to the State Party's ADPA is required, the State Party shall submit it as per the usual channels.

An example of the "Other" cause is the *mixture of scheduled chemicals problematic*. Where a mixture of two or more scheduled chemicals is declared for which a CAS number exists for the mixture, as well as for each of the two or more scheduled chemicals. The following example illustrates this cause:

- *SP A declares in its ADPA 2019 an export to SP B of 58 tonnes of the S2B04 chemical with CAS #170836-68-7 (Mixture of CAS #41203-81-0 and CAS #42595-45-9).*
- *SP B declares in its ADPA 2019 separate imports of 22.6 tonnes of the S2B04 chemical with CAS #41203-81-0 and 35.4 tonnes of the S2B04 chemical with CAS #42595-45-9 from SP A.*

NOTE: The assumptions for this example are as follows:

- *58 tonnes is 100% weight of CAS #170836-68-7*
 - *chemical with CAS #170836-68-7: has a molar ratio 1:1 of each of its components (CAS #41203-81-0 and #42595-45-9)*

This scenario results in three discrepancies, namely:

- 1. 58 tonnes of CAS #170836-68-7;*
- 2. 35.4 tonnes of CAS #42595-45-9; and*
- 3. 22.6 tonnes of CAS #41203-81-0*

No amendments to respective ADPAs are required for quantities related to this cause. But when this cause is selected in the TD Reply Form, States Parties acknowledge that the Secretariat will use the information to deduct directly, in its internal system.