



File No. CW 370.45/7-DEU

Verbal Note No. 33/2021

### Verbal Note

The Permanent Representation of the Federal Republic of Germany to the OPCW presents its compliments to the Technical Secretariat of the Organisation for the Prohibition of Chemical Weapons and has the honour to present the following information:

Germany, on behalf of 13 delegations, namely Belgium, Brazil, Canada, Colombia, Germany, Ireland, Japan, Lithuania, Poland, the Republic of Korea, Romania, Saudi Arabia, Slovakia (the "co-sponsors"), has the honour to present as an attachment to this verbal note a draft decision entitled "Allowing the Convening of Executive Council Meetings or Sessions in Extraordinary Circumstances", for circulation to all States Parties and, subsequently, for consideration by the Executive Council at its Ninety-Eighth Session. In application of Rule 18 of the Rules of Procedure of the Executive Council, an explanatory memorandum is also attached hereto.

The co-sponsors request that this draft decision be considered under item 17 of the provisional agenda "Any other business", and that it be expressly mentioned in a revised version of the annotated provisional agenda (EC-98/1, dated 8 September 2021).

Technical Secretariat of the  
Organisation for the Prohibition of  
Chemical Weapons  
Office of the Director General

The Hague

In addition, in accordance with Rule 34 of the Rules of Procedure of the Executive Council, the Director-General reports, in regard to a proposal involving financial implications for the Organisation, on the financial, administrative and programme and budget implications of the proposal. The co-sponsors of the draft decision kindly request that the Director-General report to the Executive Council on such financial implications of the attached draft decision entitled "Allowing the Convening of Executive Council Meetings or Sessions in Extraordinary Circumstances".

The Permanent Representation of the Federal Republic of Germany to the Organisation for the Prohibition of Chemical Weapons avails itself of this opportunity to renew to the Technical Secretariat of the Organisation for the Prohibition of Chemical Weapons the assurances of its highest consideration.

The Hague, 28 September 2021



**BELGIUM, BRAZIL, CANADA, COLOMBIA, GERMANY, IRELAND,  
JAPAN, REPUBLIC OF KOREA, LITHUANIA, POLAND, ROMANIA,  
SAUDI ARABIA, SLOVAKIA**

**DRAFT DECISION**

**ALLOWING THE CONVENING OF EXECUTIVE COUNCIL  
MEETINGS OR SESSIONS IN EXTRAORDINARY CIRCUMSTANCES**

**The Executive Council,**

**Underscoring** the importance of convening regular sessions and other meetings of the Executive Council (hereinafter “the Council”) as may be required for the fulfilment of its powers and functions pursuant to paragraph 28 of Article VIII of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (hereinafter “the Convention”) and Rule 12 of the Rules of Procedure of the Council;

**Recalling** that, pursuant to paragraph 37 of Article VIII of the Convention, the Technical Secretariat (hereinafter “the Secretariat”) shall assist the Conference of the States Parties (hereinafter “the Conference”) and the Council in the performance of their functions and shall moreover carry out those functions delegated to it by the Conference and the Council;

**Recalling also** that, pursuant to subparagraph 38(c) of Article VIII of the Convention, the Secretariat shall provide administrative and technical support to the Conference, the Council, and their subsidiary organs;

**Noting** the OPCW Headquarters Agreement (C-I/DEC.59, dated 14 May 1997) and the OPCW Health and Safety Policy and Regulations (C-I/DEC.8, dated 14 May 1997);

**Noting also** that Rule 13 of the Rules of Procedure of the Council provides that the Council shall normally meet at the seat of the Organisation unless the Council decides otherwise, and **noting further** that paragraph 3 of Article VIII of the Convention provides that the seat of the Headquarters of the Organisation shall be The Hague, the Netherlands;

**Noting further** that Rule 9(a) of the Rules of Procedure of the Council provides that the Director-General shall carry out those functions delegated to the Secretariat by the Conference and the Council, and that Rule 10 of the Rules of Procedure of the Council provides that the Director-General shall be responsible for the arrangements required for all meetings of the Council;

**Noting further** that, pursuant to Rule 23(c) of the Rules of Procedure of the Council, the Chairperson of the Council remains under the authority of the Council in the exercise of his or her functions;

**Recognising** that extraordinary circumstances, including, for example—but not limited to—public health emergencies, fire, landslides, floods or any other similar hazard, explosions, or blockades or other civil disturbances could preclude the convening of the Council in person at the seat of the Organisation;

**Emphasising** that, in accordance with Rule 51 of the Rules of Procedure of the Council, Arabic, Chinese, English, French, Russian, and Spanish are the official languages of the Council; and

**Noting** that, pursuant to Rule 22 of the Rules of Procedure of the Council, observers are to be afforded the opportunity to attend open sessions or meetings of the Council;

**Hereby:**

1. **Decides**, in the event that extraordinary circumstances preclude the convening of the Council in person at the seat of the Organisation, to delegate jointly to the Chairperson of the Council and to the Director-General the authority to convene the Council either at a venue other than at the seat of the Organisation, but within the Netherlands, or, alternatively, remotely using virtual meeting technology for the purpose of a decision under operative paragraph 3 below;
2. **Decides also** that, in determining whether to exercise the authority delegated in operative paragraph 1 above, the Chairperson of the Council and the Director-General shall consult in a timely manner with all Vice-Chairpersons of the Council for the purpose of taking into account the views of the regional groups in this regard;
3. **Decides further** that, in case a Council session or meeting is convened virtually or in a venue other than at the seat of the Organisation, the Council shall confirm such format or venue under the first agenda item entitled “Opening of the meeting/session”, in accordance with the relevant rules of procedure;
4. **Requests** that the Secretariat acquire and maintain the necessary technological capability to conduct Council sessions or meetings remotely using virtual meeting technology with interpretation in all official languages of the Council, pursuant to subparagraph 38(c) of Article VIII of the Convention, and **also requests** that the Secretariat ensure that such technological capabilities facilitate the participation by Council members, as well as observers as appropriate, consistent with the Rules of Procedure of the Council, in such sessions or meetings, and **decides** that no session or meeting of the Council shall be convened by virtual meeting technology until the Director-General notifies the Council that the Secretariat has the technological capabilities to meet these requirements;

5. **Decides further** that Council sessions or meetings to be conducted in confidential mode on sensitive issues cannot be convened remotely using virtual meeting technology;
6. **Decides further** that any voting during Council sessions or meetings convened remotely using virtual meeting technology shall be conducted in accordance with Rule 42(b) of the Rules of Procedure of the Council, and in case voting is required on a proposal of substance, **requests** each Council member to confirm their vote via diplomatic note within 24 hours from the start of voting;
7. **Decides further**, that the Chairperson of the Council shall not announce the outcome of any vote on a proposal of substance until such 24-hour period has elapsed and that the outcome of the vote shall be notified by the Chairperson of the Council to all States Parties within three hours after the 24-hour period via Catalyst;
8. **Underlines** that the vote of a Council member on a proposal of substance expressed in writing in the confirming diplomatic note shall prevail over any understanding of the Council member's vote expressed during the voting procedure conducted in accordance with Rule 42(b) using virtual meeting technology; and
9. **Affirms** that this decision does not amend any of the Rules of Procedure of the Council.

## **Explanatory memorandum in accordance with Rule 18 of the Rules of Procedure of the Executive Council**

The COVID-19 pandemic has created an unprecedented situation and deeply modified our work on a daily basis. It has become apparent that in some specific circumstances, in-person meetings might not be possible and using virtual meeting technology might then become the only way for OPCW policy-making organs to fulfil their duties.

States Parties began consultations on this issue in autumn 2020, based on a German non-paper, which led to a widely shared consensus: in case extraordinary circumstances arise, the OPCW should be able to swiftly adopt measures to convene sessions or meetings of the Executive Council remotely, either using available virtual meeting technology, or at a venue other than the seat of the Organisation.

Subsequently, at the Ninety-Seventh Session of the Council Germany presented a working paper entitled “Proposal for an Executive Council Decision to Allow for Convening Executive Council Meetings or Sessions in Emergency Circumstances” (EC-97/WP.1, dated 21 June 2021), which took into account the positions expressed by States Parties during the consultation process. Based on this working paper, as well as on comments received from States Parties during the Ninety-Seventh Session of the Council, further consultations were held and a decision was drafted accordingly, which received widespread support from across all regional groups.

The co-sponsors and supporters of the draft decision consider it necessary for the Executive Council to take action in preparation of situations which would preclude the Executive Council from meeting in person. The co-sponsors therefore request that the draft decision “Allowing the Convening of Executive Council Meetings or Sessions in Extraordinary Circumstances” be considered under the item “Any other business” of the provisional agenda.