



Guidance for Completing the Transfer Discrepancies Reply Form

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’ declarations of import and export of CWC scheduled chemicals (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 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 letters. 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 2 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.

1.1.1. DRAFTING ERROR

This is one of the most frequent causes of TDs. 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.*
- Confusion over decimal and “thousand” separators which arise because different rules exist among States Parties; *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 CHEMICAL

The misidentification of a chemical is a common source 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 scheduled chemical is mistakenly declared as a non-scheduled chemical and vice versa: 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 case:

- *State Party A (SP A) declares in its ADPA 2019 aggregated exports to State Party B (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 para. 4. of decision C-7/DEC.14 dated 10 October 2002.*
- *SP B declares in its ADPA 2019 aggregated imports from SP A of 20 tonnes of the S3B16 chemical and 32 tonnes of the S3B17 chemical (even though SP B might also have declared 20 tonnes as "<30 tonnes").*

This scenario results in a transfer discrepancy (TD) of 35 tonnes of the S3B16 chemical as shown in Table 1.

Table 1: 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 Letter
S3B16	55	20	35	Yes (>30 T)
S3B17	<30	32	N.A.	No

After re-examining its records, SP A discovers that a transfer of 20 tonnes of the S3B16 chemical was incorrectly identified and instead 20 tonnes of the S3B17 chemical was actually exported to SP B in addition to the 11 tonnes already identified (i.e. the total of 31 tonnes is now declarable as it is >30 tonnes). The actual figures are given in Table 2 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 2:** Actual Quantities of Export after SP A Identified an Error – Actions Required

Schedule 3 (S3) Chemical	SP A actual exports to SP B (tonnes)	SP B ADPA 2019 import from SP A (tonnes)	TD (tonnes)	Will the revision be considered by the Secretariat as a 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

*In this example, SP A would be required to include 20 tonnes in Column 3 ("Quantity related to the cause") and include 35 tonnes in Column 5 ("New export quantity").

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 ADPA 2019 in respect of the export of 31 tonnes of S3B17.

1.1.3. QUANTITY

This cause aims to reflect when the aggregated quantities of scheduled chemicals declared as imported and/or exported in Forms 2.1 or 3.1 are not matching between the importing country and exporting country due to any of the following reasons:

- 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 taken into account).

According to para.1, Part VII/Part VIII of the Chemicals Weapons Convention (hereinafter "CWC") Verification Annex, *"The initial and annual declarations to be provided by each State Party pursuant to Article VI, paragraphs 7 and 8, shall include aggregate national data for the previous calendar year of **each** Schedule 2/Schedule 3 chemical as well as a quantitative specification of import and export for each country involved"*.

- 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).
- National concentration thresholds have been applied which **exceed** the concentration thresholds established by the following CWC 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, "[d]eclarations are not required for mixtures of chemicals containing 30 percent or less of a Schedule 2B or Schedule 3 chemical" and "[d]eclarations 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..."

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

1.2.1. LACK OF DECLARATION

Whenever this cause is chosen in Column 2 of the TD Reply Form, States Parties acknowledge that the related ADPA needs to be submitted by them 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 1). 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.

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 the related quantity from the transfer discrepancies reported for both Years 1 and 2, when applicable.

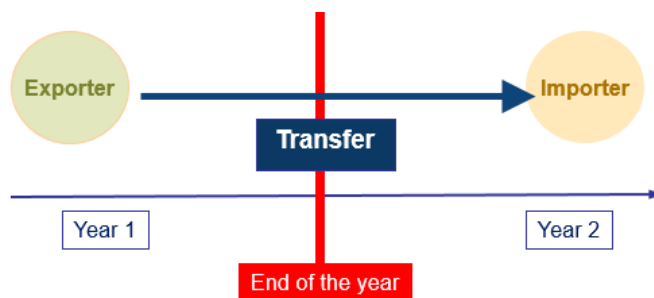


Figure 1. End of the year shipment scheme



1.2.3. USE OF NATIONAL LOW- CONCENTRATION THRESHOLDS

States Parties have a right to apply **lower** concentration thresholds in their national legislation than those established by the relevant CWC decisions as listed below. In such cases, the Secretariat does not require States Parties to amend their ADPAs:

- 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*".

However, if a State Party applies a national low-concentration threshold **higher** than the relevant CWC low-concentration threshold, this will be considered an error in the declared quantity and an amendment by the State Party to its related ADPA will be required. In this case, States Parties should select the cause "Quantity" in Column 2 of Table 1 of the TD Reply Form.

The lack of harmonisation in reporting transfers of mixtures of scheduled chemicals can easily lead to the appearance of 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 case:

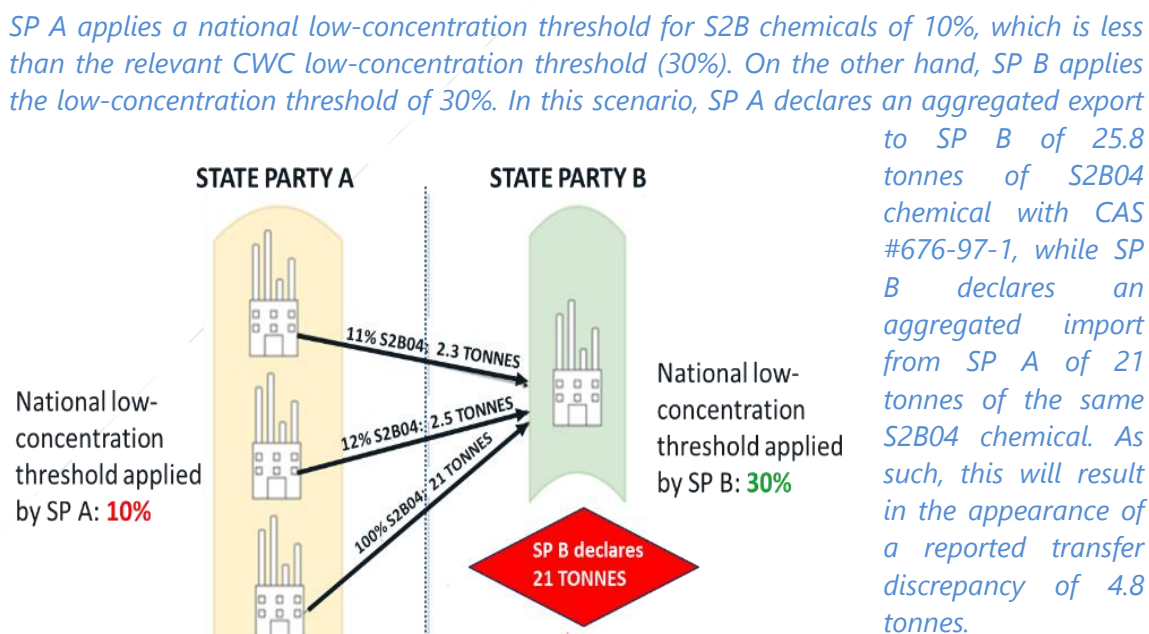


Figure 2. Example of the use of national low-concentration thresholds



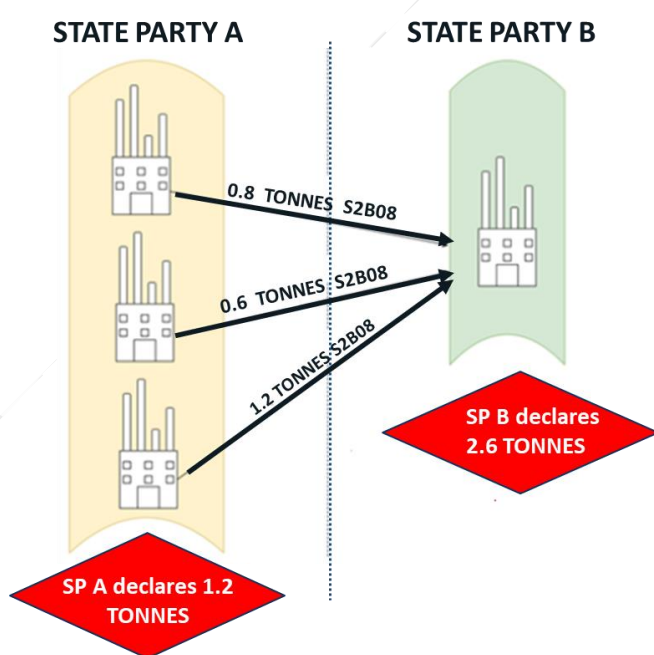
1.2.4. USE OF NATIONAL LOW-WEIGHT THRESHOLDS

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

Therefore, through the implementation of national legislation, there are some States Parties that 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 some national thresholds.

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

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.

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.

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



1.2.5. NOT IDENTIFIED

This option aims to reflect the cases for which States Parties have been able to verify their transfer data, and do not find 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 in order 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.

- a) Example of "Other" causes that may require amendment of the related State Party's ADPA:

Customs related difficulties including the following:

- *Confusion over which countries the scheduled chemical was traded with. For example, an exporting SP might inadvertently declare an importing SP in the ADPA via which the chemical only transited and which should be ignored. In this case, the end destination importing SP should be declared. Decision C-13/DEC.4 dated 3 December 2008 provides guidelines regarding declarations of import and export data for Schedule 2 and 3 chemicals.*
- *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. Once the transfers have been identified, the related ADPA should be amended to include the imported or exported quantities that were transferred.*

- b) Example of "Other" causes that may not require amendment of the related State Party's ADPA:



Where a mixture of two scheduled chemicals is declared for which a CAS number exists for the mixture, as well as for each of the component scheduled chemicals: further amendments to the declared data in regard to one or more scheduled chemical/s may need to be submitted by the SP to the Secretariat.

- *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.

However, if in the above example SP A declares in its ADPA 2019 an export of 60 tonnes of the S2B04 chemical with CAS #170836-68-7 to SP B, then a new TD arises of 2 tonnes which needs to be resolved through consultations with the other SP. In this case one of the two SPs would need to amend its ADPA 2019.