



**OPCW**

**Conference of the States Parties**

Ninth Session  
29 November – 2 December 2004

C-9/DEC.6  
30 November 2004  
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## **DECISION**

### **UNDERSTANDING OF THE CONCEPT OF “CAPTIVE USE” IN CONNECTION WITH DECLARATIONS OF PRODUCTION AND CONSUMPTION UNDER PARTS VII AND VIII OF THE VERIFICATION ANNEX TO THE CHEMICAL WEAPONS CONVENTION**

**The Conference of the States Parties,**

**Recalling** the decision it took at its Eighth Session on understandings regarding declarations under Article VI of the Chemical Weapons Convention (hereinafter “the Convention”) and Parts VII and VIII of the Verification Annex to the Convention (hereinafter “the Verification Annex”) (C-8/DEC.7, dated 23 October 2003);

**Recalling also** that paragraph 3 of Part VII of the Verification Annex states that “declarations are required for all plant sites that comprise one or more plant(s) which produced, processed or consumed during any of the previous three calendar years or is anticipated to produce, process or consume in the next calendar year more than:

- (a) 1 kg of a chemical designated “\*” in Schedule 2, Part A;
- (b) 100 kg of any other chemical listed in Schedule 2, Part A; or
- (c) 1 tonne of a chemical listed in Schedule 2, Part B”;

**Recalling further** that paragraph 3 of Part VIII of the Verification Annex states that “declarations are required for all plant sites that comprise one or more plants which produced during the previous calendar year or are anticipated to produce in the next calendar year more than 30 tonnes of a Schedule 3 chemical”;

**Keeping in mind** the decision it took at its First Session (C-I/DEC.37, dated 16 May 1997), whereby it adopted the understanding that a plant site containing a plant in which a Schedule 2 chemical is consumed in a waste management or disposal system in quantities above the threshold for that chemical will declare this consumption in accordance with paragraph 8 of Part VII of the Verification Annex;



**Also keeping in mind** the guidelines in the decision it took at its Fifth Session (C-V/DEC.19, dated 19 May 2000) regarding low concentration limits for the declaration of Schedule 2B and Schedule 3 chemicals;

**Recognising** that certain chemical processes may result in the production of Schedule 2 and Schedule 3 chemicals that are consumed within those processes, and that this situation may result in an uneven application of the Convention and be inconsistent with its object and purpose;

**Noting** that any clarification of the definition of production in Article II of the Convention applies to Schedule 2 and Schedule 3 declarations;

**Having considered** that a standardised approach to declarations of production, processing, or consumption, as appropriate, is necessary both in order to assist the States Parties in fulfilling their declaration obligations in a uniform manner, and for the provision of better information to the OPCW;

**Cognisant** of the economic and administrative implications of such guidelines for the States Parties; and

**Recognising also** the need to continue to work to resolve this issue, particularly in relation to the mechanism for determining low concentrations;

**Hereby:**

**Decides** as follows:

- (a) that the production of a Schedule 2 or Schedule 3 chemical is understood, for declaration purposes, to include intermediates, by-products, or waste products that are produced and consumed within a defined chemical manufacturing sequence, where such intermediates, by-products, or waste products are chemically stable and therefore exist for a sufficient time to make isolation from the manufacturing stream possible, but where, under normal or design operating conditions, isolation does not occur; and
- (b) to request States Parties to take the necessary measures to implement their obligations under Article VII, paragraph 1, of the Convention as soon as possible and in any event no later than 1 January 2005 in respect of Schedule 2 chemicals and 1 January 2006 in respect of Schedule 3 chemicals.