

DECISION

MEASURES IN RELATION TO APPROVED EQUIPMENT FOLLOWING COMPLETION OF INSPECTION ACTIVITIES

The Conference

Recalling that the Commission in its PC-X/23, paragraph 7.3, adopted the document entitled "Measures in Relation to Approved Equipment Following Inspection Activities" (Annex 1 to PC-X/B/WP.9) as amended by Working Group B (subparagraph 3.6 of PC-X/B/5),

Bearing in mind that the Commission recommended in paragraph 56.3 of its Final Report that the Conference adopt the above mentioned document,

Hereby:

1. **Adopts** the document entitled "Measures in Relation to Approved Equipment Following Completion of Inspection Activities", annexed hereto.

Annex

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**MEASURES IN RELATION TO APPROVED EQUIPMENT
FOLLOWING COMPLETION OF INSPECTION ACTIVITIES^{1 2}**

1. General

1.1 Approved equipment that was brought onto the inspection site or, in the case of a challenge inspection, was used in the perimeter activities, may in addition to any previously conducted operational decontamination have to undergo additional measures of decontamination upon completion of the inspection activities. Such measures may include:

- (a) decontamination or disposal of equipment for health and safety purposes; and
- (b) removal by the inspection team of any traces of matter which may contain information unrelated to the purpose of the inspection.

These measures are without prejudice to the procedures for the inspection of the approved equipment by the inspected State Party at the point of exit (POE) and do not replace these procedures.

1.2 In cases when the inspected State Party elects to have the measures pursuant to subparagraph 1.1 above take place at the inspection site, the period of inspection, if necessary and pursuant to paragraph 59 of Part II of the Verification Annex, will be extended so as to allow completion of these measures.

1.3 Measures pursuant to subparagraph 1.1 above may be initiated if deemed necessary by the inspection team leader or by the representative of the inspected State Party.

1.4 Measures pursuant to subparagraph 1.1 above will be taken in accordance with methods agreed between the inspection team leader and the representative of the inspected State Party, on a case by case basis, consistent with State Party or local safety regulations, the OPCW Health and Safety Policy, related OPCW regulations and operating procedures, and/or the OPCW Confidentiality Policy.

2. Measures in cases where decontamination for health and safety purposes is not feasible

2.1 If, following the inspection activities, items of approved equipment cannot be appropriately decontaminated on-site, for health and safety purposes, to the satisfaction of the inspection team or the representative of the inspected State Party, they may be left on-site for any further decontamination as necessary. Such further decontamination will be carried out under conditions to be agreed between the Technical Secretariat and the inspected State Party, including the time limit of such

¹ These measures will also apply in cases when, upon agreement between the TS and the inspected State Party, OPCW equipment other than approved equipment as defined in paragraph 1 of Part I of the Verification Annex is brought onto an inspection site.

² Contained in PC-X/B/WP.9, Annex 1, as amended by Working Group B (subparagraph 3.6 of PC-X/B/5).

activity and an agreement on the attribution of any costs so incurred. As a general rule, the party initiating the further decontamination will support the cost so incurred. When the equipment is decontaminated to the satisfaction of the side insisting on such decontamination, that side will transport such equipment back to the OPCW premises.

- 2.2 If, in the opinion of the inspection team leader and the representative of the inspected State Party, decontamination is not a feasible or a cost-efficient option, it may become necessary to dispose of equipment items at the inspection site or elsewhere:
- (a) when applicable, subject to negotiation with the representative of the inspected State Party and further to a clear agreement on the attribution of any costs so incurred, this disposal will be performed in a safe manner at the inspection site or at a waste disposal location elsewhere on the territory of the inspected State Party; or
 - (b) when the provision in subparagraph 2.2(a) above is not applicable, upon the request of or subject to the approval of the representative of the inspected State Party the equipment will be removed for safe disposal by the Organisation, subject to a clear agreement on the attribution of any costs so incurred.
- 2.3 The provisions contained in subparagraphs 2.1 and 2.2 above are without prejudice to the provisions contained in paragraph 3 below.

3. Removal of information unrelated to the purpose of the inspection

In accordance with the provisions of the Convention and with the OPCW Policy on Confidentiality, Section VI, subsection 3.4.3, paragraphs 3, 4 and 5, the following technical measures relate to situations where, after the selection of information relevant to the purpose of the inspection by the inspection team for inclusion in its preliminary findings, information not relevant to the purpose of the inspection has to be removed before the inspection team leaves the site. Any fact of application of these technical measures will be recorded in the preliminary findings. It should be kept in mind that in many cases the inspection team may request the inspected State Party to dispose of detachable or consumable parts of equipment when contaminated or used.

3.1 Treatment of equipment for confidentiality reasons

- 3.1.1 If the representative of the inspected State Party has reasons to believe that, as a result of the use of approved equipment, information unrelated to the purpose of the inspection is retained thereon, he/she will request the inspection team leader to undertake removal of the information unrelated to the purpose of the inspection from the equipment in order to remove the object of the particular concern.

- 3.1.2 If removal of the information unrelated to the purpose of the inspection from the equipment as mentioned in subparagraph 3.1.1 above is not possible, or successful, or when after full consultation no agreement can be reached on the specific removal techniques to be applied, the inspection team and the inspected State Party may instead agree to transfer the affected equipment, under joint seal, to the Technical Secretariat for removal of the information unrelated to the purpose of the inspection under the supervision, if requested, of a representative of the inspected State Party. After the arrival of such equipment at the premises of the OPCW it will be unsealed in the presence of the representative of the inspected State Party, if the inspected State Party decides to send such a representative, who will monitor that the information unrelated to the purpose of the inspection is removed from the equipment to his/her satisfaction, including the final disposal of any resulting waste. If the inspected State Party elects not to send such a representative, the information unrelated to the purpose of the inspection will be removed in accordance with standard OPCW procedures. All due care will be exercised, during the removal operation, to avoid disclosure of the information not related to the purpose of the inspection during which it was collected.
- 3.1.3 In an exceptional case, alternative to the provisions in subparagraph 3.1.2 above, the inspected State Party may choose to retain detachable parts of the equipment on-site, if applicable. In such a case the inspected State Party will replace them with identical parts acceptable to the Technical Secretariat and without altering in any way the operational and technical capabilities of the approved equipment (such reconstituted equipment shall be considered as approved equipment for the purposes of departure through the point of exit (POE)). If that is not feasible, the inspected State Party shall reimburse them in accordance with the conditions set out in subparagraph 3.3.
- 3.1.4 If no agreement can be reached on the application of the measures set out in subparagraphs 3.1.2 or 3.1.3 above, the inspected State Party may in very exceptional cases retain the equipment on-site, subject to its replacement with identical items of equipment acceptable to the Technical Secretariat or, if that is not feasible, reimbursement will be provided in accordance with the conditions set out in subparagraph 3.3 below.

3.2 Information from recording media

- 3.2.1 The Convention's requirement for the inspection team to provide, in accordance with paragraph 60 of Part II of the Verification Annex, to the representative of the inspected State Party its preliminary findings, including a list of any samples and copies of written information or data gathered and other material to be taken off-site, shall be implemented, in relation to recording media, by providing to the representative of the inspected State Party an identical copy of the recorded information.

The Inspection Manual will provide specific instructions for the preparation of copies under this paragraph.

- 3.2.2 These requirements do not relate to system software or to other OPCW data provided that they are:

- (a) located on a ROM or on a medium that inherently prevents the recording of information by the inspection team; and
- (b) sealed and certified by the Technical Secretariat.

3.2.3 In the case of equipment for the collection, preparation or analysis of samples, the inspection team will retain only data relevant to the purpose of the inspection. It is understood that in the case of negative results of the analysis in terms of the presence of chemicals searched for in accordance with the provisions of the Convention, the respective sample, computer file and any print-outs will be considered not relevant in the terms of the inspection mandate. This is without prejudice to both the right of the inspection team to transfer a sample for off-site analysis and the rights of a State Party in the case of a challenge inspection.

3.2.4 If the representative of the inspected State Party has reasons to believe that information not related to the purpose of the inspection has been recorded, that information will be removed by the inspection team from the recording media in the presence of the representative of the inspected State Party. To that end, and if technically feasible, the representative of the inspected State Party will supervise, either on-site or at another place as agreed, the extraction or transfer of the information relevant to the purpose of the inspection to a recording or retention medium acceptable both to the inspection team leader and to the representative of the inspected State Party. Thereafter the original item containing information not related to the purpose of the inspection should be processed as provided for in subparagraphs 3.1.2, 3.1.3, and 3.1.4 above.

3.2.5 In the exceptional case when the procedure under subparagraphs 3.2.3 to 3.2.4 above cannot be followed, the recording media will be retained on-site and replaced with equivalent recording media without altering in any way the operational and technical capabilities of the approved equipment or, if that is not feasible, reimbursed in accordance with the conditions set out in subparagraph 3.3 below.

3.3 Conditions for the Retention by a State Party of Equipment or Pieces of Equipment.

The conditions will be:

- (a) immediate replacement or reimbursement in convertible currency at full immediate replacement cost by the inspected State Party before the inspection team leaves the POE, or in any case no later than 7 days after the departure of the inspection team from the POE; and
- (b) disposal to the satisfaction of the inspection team of retained equipment or pieces of equipment before the team leaves the inspection site.

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