



**OPCW**

**Executive Council**

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Seventy-Second Session  
6 – 8 May 2013

EC-72/DG.6  
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**NOTE BY THE DIRECTOR-GENERAL**

**TECHNICAL SECRETARIAT'S PROCEDURE FOR HANDLING CASES OF  
PREVIOUSLY UNDECLARED SCHEDULE 1 FACILITIES AND ACTIVITIES**

1. At its Seventy-First Session, the Executive Council (hereinafter “the Council”) stressed that previously undeclared Schedule 1 facilities and activities should be handled in a transparent, prompt, and consistent manner, in accordance with the object and purpose of the Chemical Weapons Convention (hereinafter “the Convention”). The Council invited the Director-General to present in writing to the Members of the Council, at its Seventy-Second Session, the procedures of the Technical Secretariat (hereinafter “the Secretariat”) for handling cases of previously undeclared Schedule 1 facilities and activities in the future (see paragraph 6.16 of EC-71/3, dated 21 February 2013).
2. The Secretariat’s procedures are annexed hereto.

Annex: Handling Cases of Previously Undeclared Schedule 1 Facilities and Activities



## Annex

### HANDLING CASES OF PREVIOUSLY UNDECLARED SCHEDULE 1 FACILITIES AND ACTIVITIES

#### 1. Background

During its Seventy-First Session (from 19 to 22 February 2013), under subitem 6(c) (“Other verification-related issues”):

“The Council stressed that previously undeclared Schedule 1 facilities and activities should be handled in a transparent, prompt, and consistent manner in accordance with the object and purpose of the Convention. The Director-General is invited to present in writing to the Members of the Council, at its Seventy-Second Session, the Secretariat’s procedures for handling such cases in the future in order to solicit their comments and to adjust the procedures if necessary. The Director-General should promptly inform the Chairperson of the Council and subsequently the Members of the Council of the situation being dealt with and the steps being undertaken in this regard. The Council stressed the need for all States Parties to ensure that their national implementation measures are adequate and to keep these under review so as to ensure that the Convention is fully implemented”.<sup>1</sup>

#### 2. The Secretariat’s procedure for handling cases of previously undeclared Schedule 1 facilities and activities

- 2.1 Emphasising the inherent urgency in, and fundamental nature of, the obligations of States Parties (set out in Articles I, III, VI, and VII of the Convention), the Director-General will, upon receipt of information from a State Party about Schedule 1 facilities and/or activities on its territory that have not been declared to the OPCW, initiate bilateral consultations between the Secretariat and the State Party concerned. The Secretariat will request that State Party to provide the Secretariat with detailed information on the situation. This information could include, inter alia, the nature of the activity, the type and amount of Schedule 1 chemicals involved, the current status of the chemicals, the dates of production, the purpose of the production, and the characteristics of the facility.
- 2.2 Upon receipt of the required information, the Secretariat will conduct a thorough assessment. The assessment may, in accordance with paragraph 38(e) of Article VIII of the Convention, include a technical-assistance visit, which the Secretariat will stand ready to conduct immediately upon receipt of a request from the State Party concerned. The purpose of the assessment will be to determine whether the activity involving Schedule 1 chemicals is within the scope of the Convention, and whether that activity falls within the regime for Schedule 1 chemicals and facilities defined by Article VI of the Convention and Part VI of the Verification Annex to the Convention (hereinafter “the Verification Annex”). Findings of the assessment will be documented by the Secretariat and communicated to the State Party concerned.

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Paragraph 6.16 of EC-71/3

- 2.3 If the findings of the assessment indicate that the chemical in question is a Schedule 1 chemical, but the activity and/or facility is not subject to any obligation relating to declaration and verification specified in Part VI of the Verification Annex and the relevant decisions of the policy-making organs, or the chemical concerned is not a Schedule 1 chemical, the Secretariat will resolve the situation bilaterally with the State Party concerned and will report it, as appropriate, in the Verification Implementation Report.
- 2.4 Except for situations resolved in accordance with paragraph 2.3 above the Director-General will promptly inform the Chairperson of the Council that the Secretariat is conducting bilateral consultations with the State Party concerned to resolve a situation involving undeclared Schedule 1 facilities/activities.
- 2.5 The Secretariat will complete, as a matter of priority, the actions laid out in paragraphs 2.1 to 2.4 above in the shortest time possible, and not later than 30 calendar days after the Secretariat has been initially informed of the situation. In the event that a regular session of the Council is held before the Secretariat has completed its assessment, the Director-General will provide preliminary information at that session.
- 2.6 If, on the basis of its assessment, the Secretariat concludes that the activity and/or facility is subject to the regime for Schedule 1 chemicals and facilities defined by Article VI of the Convention and Part VI of the Verification Annex:
- (a) the Secretariat will request the State Party concerned to submit the required declarations as soon as possible;
  - (b) the Secretariat will immediately initiate preparations to carry out an inspection at the relevant facility, as a matter of priority, in accordance with the Convention;
  - (c) the Director-General will inform the Chairperson of the Council of the outcome of the assessment; and
  - (d) the Director-General will inform the Council, at its regular session immediately following the conclusion of the Secretariat's assessment, of the situation and of the steps being undertaken in this regard.
- 2.7 If the Secretariat's assessment concludes that the chemical concerned is a Schedule 1 chemical and that the activity and/or facility is within the scope of the Convention, but does not meet the requirements of the regime for Schedule 1 chemicals and facilities defined by Article VI of the Convention and Part VI of the Verification Annex, the Director-General will make a written report to the Council on this situation. This will be presented at the next session of the Council immediately following the conclusion of the Secretariat's assessment. It will include the findings of the Secretariat's assessment, the steps being undertaken in this regard, and potential options for action. The Secretariat will seek instructions from the Council on the measures to be taken to address the situation.