

PART VII

ACTIVITIES NOT PROHIBITED UNDER THIS CONVENTION IN ACCORDANCE WITH ARTICLE VI

REGIME FOR SCHEDULE 2 CHEMICALS AND FACILITIES RELATED TO SUCH CHEMICALS

A. DECLARATIONS

Declarations of aggregate national data

1. 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 on the quantities produced, processed, consumed, imported and exported of each Schedule 2 chemical, as well as a quantitative specification of import and export for each country involved.

2. Each State Party shall submit:

(a) Initial declarations pursuant to paragraph 1 not later than 30 days after this Convention enters into force for it; and, starting in the following calendar year,

(b) Annual declarations not later than 90 days after the end of the previous calendar year.

Declarations of plant sites producing, processing or consuming Schedule 2 chemicals

3. Initial and annual 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.

4. Each State Party shall submit:

(a) Initial declarations pursuant to paragraph 3 not later than 30 days after this Convention enters into force for it; and, starting in the following calendar year;

(b) Annual declarations on past activities not later than 90 days after the end of the previous calendar year;

(c) Annual declarations on anticipated activities not later than 60 days before the beginning of the following calendar year. Any such activity additionally planned after the annual declaration has been submitted shall be declared not later than five days before this activity begins.

5. Declarations pursuant to paragraph 3 are generally not required for mixtures containing a low concentration of a Schedule 2 chemical. They are only required, in accordance with guidelines, in cases where the ease of recovery from the mixture of the Schedule 2 chemical and its total weight are deemed to pose a risk to the object and purpose of this Convention. These guidelines shall be considered and approved by the Conference pursuant to Article VIII, paragraph 21 (i).

6. Declarations of a plant site pursuant to paragraph 3 shall include:

(a) The name of the plant site and the name of the owner, company, or enterprise operating it;

(b) Its precise location including the address; and

(c) The number of plants within the plant site which are declared pursuant to Part VIII of this Annex.

7. Declarations of a plant site pursuant to paragraph 3 shall also include, for each plant which is located within the plant site and which falls under the specifications set forth in paragraph 3, the following information:

(a) The name of the plant and the name of the owner, company, or enterprise operating it;

(b) Its precise location within the plant site including the specific building or structure number, if any;

(c) Its main activities;

(d) Whether the plant:

(i) Produces, processes, or consumes the declared Schedule 2 chemical(s);

(ii) Is dedicated to such activities or multi-purpose; and

(iii) Performs other activities with regard to the declared Schedule 2 chemical(s), including a specification of that other activity (e.g. storage); and

(e) The production capacity of the plant for each declared Schedule 2 chemical.

8. Declarations of a plant site pursuant to paragraph 3 shall also include the following information on each Schedule 2 chemical above the declaration threshold:

(a) The chemical name, common or trade name used by the facility, structural formula, and Chemical Abstracts Service registry number, if assigned;

(b) In the case of the initial declaration: the total amount produced, processed, consumed, imported and exported by the plant site in each of the three previous calendar years;

(c) In the case of the annual declaration on past activities: the total amount produced, processed, consumed, imported and exported by the plant site in the previous calendar year;

(d) In the case of the annual declaration on anticipated activities: the total amount anticipated to be produced, processed or consumed by the plant site in the following calendar year, including the anticipated time periods for production, processing or consumption; and

(e) The purposes for which the chemical was or will be produced, processed or consumed:

(i) Processing and consumption on site with a specification of the product types;

(ii) Sale or transfer within the territory or to any other place under the jurisdiction or control of the State Party, with a specification whether to other industry, trader or other destination and, if possible, of final product types;

(iii) Direct export, with a specification of the States involved;
or

(iv) Other, including a specification of these other purposes.

***Declarations on past production of Schedule 2 chemicals
for chemical weapons purposes***

9. Each State Party shall, not later than 30 days after this Convention enters into force for it, declare all plant sites comprising plants that produced at any time since 1 January 1946 a Schedule 2 chemical for chemical weapons purposes.

10. Declarations of a plant site pursuant to paragraph 9 shall include:

(a) The name of the plant site and the name of the owner, company, or enterprise operating it;

(b) Its precise location including the address;

(c) For each plant which is located within the plant site, and which falls under the specifications set forth in paragraph 9, the same information as required under paragraph 7, subparagraphs (a) to (e); and

(d) For each Schedule 2 chemical produced for chemical weapons purposes:

(i) The chemical name, common or trade name used by the plant site for chemical weapons production purposes, structural formula, and Chemical Abstracts Service registry

number, if assigned;

(ii) The dates when the chemical was produced and the quantity produced; and

(iii) The location to which the chemical was delivered and the final product produced there, if known.

Information to States Parties

11. A list of plant sites declared under this Section together with the information provided under paragraphs 6, 7 (a), 7 (c), 7 (d) (i), 7 (d) (iii), 8 (a) and 10 shall be transmitted by the Technical Secretariat to States Parties upon request.

B. VERIFICATION

General

12. Verification provided for in Article VI, paragraph 4, shall be carried out through on-site inspection at those of the declared plant sites that comprise one or more plants which produced, processed or consumed during any of the previous three calendar years or are anticipated to produce, process or consume in the next calendar year more than:

(a) 10 kg of a chemical designated "*" in Schedule 2, part A;

(b) 1 tonne of any other chemical listed in Schedule 2, part A; or

(c) 10 tonnes of a chemical listed in Schedule 2, part B.

13. The programme and budget of the Organization to be adopted by the Conference pursuant to Article VIII, paragraph 21 (a) shall contain, as a separate item, a programme and budget for verification under this Section. In the allocation of resources made available for verification under Article VI, the Technical Secretariat shall, during the first three years after the entry into force of this Convention, give priority to the initial inspections of plant sites declared under Section A. The allocation shall thereafter be reviewed on the basis of the experience gained.

14. The Technical Secretariat shall conduct initial inspections and subsequent inspections in accordance with paragraphs 15 to 22.

Inspection aims

15. The general aim of inspections shall be to verify that activities are in accordance with obligations under this Convention and consistent with the information to be provided in declarations. Particular aims of inspections at plant sites declared under Section A shall include verification of:

- (a) The absence of any Schedule 1 chemical, especially its production, except if in accordance with Part VI of this Annex;
- (b) Consistency with declarations of levels of production, processing or consumption of Schedule 2 chemicals; and
- (c) Non-diversion of Schedule 2 chemicals for activities prohibited under this Convention.

Initial inspections

16. Each plant site to be inspected pursuant to paragraph 12 shall receive an initial inspection as soon as possible but preferably not later than three years after entry into force of this Convention. Plant sites declared after this period shall receive an initial inspection not later than one year after production, processing or consumption is first declared. Selection of plant sites for initial inspections shall be made by the Technical Secretariat in such a way as to preclude the prediction of precisely when the plant site is to be inspected.

17. During the initial inspection, a draft facility agreement for the plant site shall be prepared unless the inspected State Party and the Technical Secretariat agree that it is not needed.

18. With regard to frequency and intensity of subsequent inspections, inspectors shall during the initial inspection assess the risk to the object and purpose of this Convention posed by the relevant chemicals, the characteristics of the plant site and the nature of the activities carried out there, taking into account, *inter alia*, the following criteria:

- (a) The toxicity of the scheduled chemicals and of the end-products produced with it, if any;
- (b) The quantity of the scheduled chemicals typically stored at the inspected site;
- (c) The quantity of feedstock chemicals for the scheduled chemicals typically

stored at the inspected site;

(d) The production capacity of the Schedule 2 plants; and

(e) The capability and convertibility for initiating production, storage and filling of toxic chemicals at the inspected site.

Inspections

19. Having received the initial inspection, each plant site to be inspected pursuant to paragraph 12 shall be subject to subsequent inspections.

20. In selecting particular plant sites for inspection and in deciding on the frequency and intensity of inspections, the Technical Secretariat shall give due consideration to the risk to the object and purpose of this Convention posed by the relevant chemical, the characteristics of the plant site and the nature of the activities carried out there, taking into account the respective facility agreement as well as the results of the initial inspections and subsequent inspections.

21. The Technical Secretariat shall choose a particular plant site to be inspected in such a way as to preclude the prediction of exactly when it will be inspected.

22. No plant site shall receive more than two inspections per calendar year under the provisions of this Section. This, however, shall not limit inspections pursuant to Article IX.

Inspection procedures

23. In addition to agreed guidelines, other relevant provisions of this Annex and the Confidentiality Annex, paragraphs 24 to 30 below shall apply.

24. A facility agreement for the declared plant site shall be concluded not later than 90 days after completion of the initial inspection between the inspected State Party and the Organization unless the inspected State Party and the Technical Secretariat agree that it is not needed. It shall be based on a model agreement and govern the conduct of inspections at the declared plant site. The agreement shall specify the frequency and intensity of inspections as well as detailed inspection procedures, consistent with paragraphs 25 to 29.

25. The focus of the inspection shall be the declared Schedule 2 plant(s) within the declared

plant site. If the inspection team requests access to other parts of the plant site, access to these areas shall be granted in accordance with the obligation to provide clarification pursuant to Part II, paragraph 51, of this Annex and in accordance with the facility agreement, or, in the absence of a facility agreement, in accordance with the rules of managed access as specified in Part X, Section C, of this Annex.

26. Access to records shall be provided, as appropriate, to provide assurance that there has been no diversion of the declared chemical and that production has been consistent with declarations.

27. Sampling and analysis shall be undertaken to check for the absence of undeclared scheduled chemicals.

28. Areas to be inspected may include:

- (a) Areas where feed chemicals (reactants) are delivered or stored;
- (b) Areas where manipulative processes are performed upon the reactants prior to addition to the reaction vessels;
- (c) Feed lines as appropriate from the areas referred to in subparagraph (a) or subparagraph (b) to the reaction vessels together with any associated valves, flow meters, etc.;
- (d) The external aspect of the reaction vessels and ancillary equipment;
- (e) Lines from the reaction vessels leading to long- or short-term storage or to equipment further processing the declared Schedule 2 chemicals;
- (f) Control equipment associated with any of the items under subparagraphs (a) to (e);
- (g) Equipment and areas for waste and effluent handling;
- (h) Equipment and areas for disposition of chemicals not up to specification.

29. The period of inspection shall not last more than 96 hours; however, extensions may be

agreed between the inspection team and the inspected State Party.

Notification of inspection

30. A State Party shall be notified by the Technical Secretariat of the inspection not less than 48 hours before the arrival of the inspection team at the plant site to be inspected.

C. TRANSFERS TO STATES NOT PARTY TO THIS CONVENTION

31. Schedule 2 chemicals shall only be transferred to or received from States Parties. This obligation shall take effect three years after entry into force of this Convention.

32. During this interim three-year period, each State Party shall require an end-use certificate, as specified below, for transfers of Schedule 2 chemicals to States not Party to this Convention. For such transfers, each State Party shall adopt the necessary measures to ensure that the transferred chemicals shall only be used for purposes not prohibited under this Convention. *Inter alia*, the State Party shall require from the recipient State a certificate stating, in relation to the transferred chemicals:

- (a) That they will only be used for purposes not prohibited under this Convention;
- (b) That they will not be re-transferred;
- (c) Their types and quantities;
- (d) Their end-use(s); and
- (e) The name(s) and address(es) of the end-user(s).