

**DECISION****UNDERSTANDING RELATING TO THE CONCEPT OF “CAPTIVE USE” IN
CONNECTION WITH DECLARATIONS OF PRODUCTION AND CONSUMPTION¹
UNDER PART VI
OF THE VERIFICATION ANNEX TO THE CONVENTION****The Conference of the States Parties,**

Recalling that, according to paragraph 3 of Article VI of the Chemical Weapons Convention (hereinafter “the Convention”), “Each State Party shall subject chemicals listed in Schedule 1...to the prohibitions on production, acquisition, retention, transfer and use as specified in Part VI of the Verification Annex. It shall subject Schedule 1 chemicals and facilities specified in Part VI of the Verification Annex to systematic verification through on-site inspection and monitoring with on-site instruments in accordance with that Part of the Verification Annex”;

Recalling also that, according to Article VI, paragraph 11, the provisions of that Article shall be implemented in a manner that avoids hampering the economic or technological development of States Parties;

Recalling further that Part VI of the Verification Annex to the Chemical Weapons Convention (hereinafter “the Verification Annex”) requires declarations of the production of Schedule 1 chemicals for research, medical, pharmaceutical, or protective purposes at a single small-scale facility; of the production of Schedule 1 chemicals in aggregate quantities not exceeding 10kg per year for protective purposes at one facility outside a single small-scale facility; and of the production of Schedule 1 chemicals in quantities of more than 100g per year for research, medical, or pharmaceutical purposes outside a single small-scale facility in aggregate quantities not exceeding 10kg per year per facility;

Recalling further the decision it took at its Ninth Session on the understanding of the concept of “captive use” in connection with declarations of production and consumption under Parts VII and VIII of the Verification Annex (C-9/DEC.6, dated 30 November 2004);

Noting the advice from the Scientific Advisory Board that it is not aware of any current examples of the captive use of Schedule 1 chemicals (S/528/2005, dated 1 November 2005);

¹ Consumption, of itself, is not a declarable activity.



Recognising nevertheless that certain chemical processes may result in the future in the production of Schedule 1 chemicals that are consumed within those processes without being isolated, and that this situation may result in an uneven application of the Convention and be inconsistent with its object and purpose;

Recognising further that the production limits specified in Part VI of the Verification Annex, when applied to Schedule 1 chemicals that are produced and consumed without being isolated, might in the future have a negative impact on production of such chemicals for research, medical, pharmaceutical, or protective purposes by limiting the quantities that can be produced and held for purposes not prohibited under the Convention;

Recalling further that a document on the issue of the captive use of Schedule 1 chemicals was among the materials transmitted to the Preparatory Commission for the OPCW by the Conference on Disarmament (A/47/27, dated 23 September 1992);

Bearing in mind that the destruction of chemical weapons can give rise to the production of Schedule 1 chemicals, and that such production and the destruction of such chemicals are already subject to verification under Part IV(A) of the Verification Annex;

Having considered that a standardised approach to declarations of production is necessary both in order to assist the States Parties in fulfilling their declaration obligations in a uniform manner, and in order to provide better information to the OPCW;

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

Noting the recommendation made on this matter by the Executive Council (hereinafter “the Council”) at its Twenty-Fifth Meeting (EC-M-25/DEC.4, dated 9 November 2005);

Hereby:

Decides as follows:

- (a) that the production of a Schedule 1 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;
- (b) to request States Parties to take the necessary measures to implement their obligations under Article VII, paragraph 1, of the Convention in respect of this decision as soon as possible; and
- (c) to request the Council to examine and take action no later than at its second regular session following receipt of a request for an amendment to the production limits in Part VI of the Verification Annex that may be made in the future with respect to production, in a captive-use situation as defined in subparagraph (a) above, of a specific Schedule 1 chemical for purposes not prohibited by the Convention.