

**EFFECTIVE IMPLEMENTATION
OF THE
CHEMICAL WEAPONS CONVENTION**

Declaration Thresholds and Aggregate National Data

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Both Schedule 2 and 3 under the Chemical Weapons Convention (CWC) involve the requirement of declaring aggregate national data (AND) without the CWC providing a definition of AND. There are substantive differences in the requirements:

- Schedule 2 includes quantities produced, processed, consumed, imported and exported; and
- Schedule 3 includes quantities produced, imported and exported

Plant site declarations also differ in that Schedule 2 declarations include producing, processing and consuming while Schedule 3 only requires data on production. In addition, there are significant differences on the reporting thresholds.

	<u>Schedule 2</u>	<u>Schedule 3</u>
2A*	1kg	30 tonnes
2A	100 kg	
2B	1 tonne	

In the case of Schedule 2 the declaration requirement is for the total amount produced. The initial declaration will cover three years with annual declarations being related to the previous calendar year. In contrast, Schedule 3 only requires that the declarations be given in ranges:

30 - 200 tonnes;
200 - 1000 tonnes;
1000 - 10000 tonnes;
10000 - 100000 tonnes; and
above 100000 tonnes.

This presents several problems for the National Authority:

- how does one define AND?
- is there a different definition required for Schedules 2 and 3?; and
- what does an NA report to the OPCW?;

There is a debate as to what the CWC negotiators meant by "aggregate national data": Does this phrase mean the mere aggregation of all the production, processing and consumption above the threshold plus the data on imports and exports or something more, i.e., the total activity in Schedule 2 chemicals as obtained by a National Authority? If the former, then it would have been better to term it "Aggregate National Declaration". The Expert Group on Industrial Declarations Requirements has taken the simplest view that what is required for Schedule 2 is that the "aggregate national production equals the total of all individual production figures on the declared Schedule 2 plant sites". This is arithmetic and adds nothing to the plant declaration data; in particular, it tells you nothing of aggregate production below the threshold level and gives you no information at all for these States Parties where all chemical production involves small chemical plants.

It does require that AND be interpreted differently for Schedule 3 production since there the plant data is reported in ranges, i.e., it is impossible to aggregate data reported in ranges in any

meaningful way. There would appear to be two possible solutions. One is that the declaration of Schedule 3 data should be made in greater precision than the ranges demanded by the CWC while the other would involve giving the total number of plants producing in each of the requisite tonnage ranges.

Switzerland, for example, has suggested that amounts should be reported at one tenth of the threshold value for each class of chemicals. In the case of Schedule 3 they suggest accuracy at the ten tonne level i.e. plants report to the National Authority to the ten tonne level to produce AND and that this should be transformed into a range value in the declaration to the OPWC as required by the Convention.

The above approaches are suitable for declarations made where verification is likely to be made by on-site inspections given that inspection thresholds are a factor of ten greater than declaration thresholds. In other words they do fit with the needs of the Technical Secretariat of the OPCW. They do not provide complete transparency in national activity with scheduled chemicals.

If one steps back to the activities of a National Authority and the implementing legislation required to allow an NA to collect data on scheduled chemicals, it is almost certain that the NA will require data on all production facilities engaged in Schedule 2 and 3 production as well as processing and consumption facilities for Schedule 2 chemicals. This information will be required before the question of production thresholds can be applied and is of particular importance where actual production is below the threshold quantities. It is likely then that most National Authorities could make a more detailed declaration on Aggregate National Data than the Expert Committee appears to have recommended. It should also be noted that there are no thresholds for data on imports and exports.

This appears to leave a lacuna in the reporting system in that facilities producing Schedule 2 below the threshold will be unreported while declarations will be required for many discrete organic chemicals of lower risk to the Convention.

It is suggested that National Authorities should be encouraged to make more detailed declarations on AND to the OPWC than required by the CWC as interpreted by some of the Expert Committees in order to increase the level of confidence amongst States Parties as to the activity levels particularly in Schedule 2 chemicals.