

SECTION 2

Establishing a National Authority



In this Section:

Topics / **page**

Article VII Requirements / **29**

Structure / **29**

Responsibilities / **30**

Common National Authority Tasks / **30**

Forms Required for Establishing a National Authority and
Submitting Initial Declarations after Entry into Force / **31**

Updating Information on National Authority Points of Contact/ **31**

Where to Submit Forms / **31**

Reference Material / **page**

Establishing a National Authority / **32**

State Party CWC Requirements / **35**



ARTICLE VII REQUIREMENTS

- At entry into force of the CWC, each State Party is required to:
 - Enact legislation, including penal legislation, to enforce the prohibitions of the CWC.
 - Inform the OPCW of the legislative and administrative measures taken to implement the CWC and submit the text(s).
 - Establish a National Authority to serve as the national focal point for effective liaison with the OPCW and other States Parties.
 - Each State Party shall notify the OPCW of its National Authority when the CWC enters into force for it.
 - Afford special handling to information received in confidence from the OPCW.
 - Cooperate with other States Parties and the OPCW.

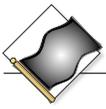
STRUCTURE

There are two basic approaches:

- Centralized
 - One core office
 - Handles all responsibilities for compliance
- Decentralized
 - Various agencies may assume implementation roles
 - Ministry of Foreign Affairs
 - Ministry of Defense
 - Ministry of Economics, Trade, Commerce or Industry
 - Ministry of Health
 - Ministry of the Environment
 - Ministry of Science and Technology
 - Customs
 - The National Authority coordinates the activities of other agencies and has overall responsibility for a State Party's compliance.
 - Includes interface with the OPCW and other States Parties.

Factors Affecting the Structure

- Possession of chemical weapons (CW) (e.g., old and abandoned CW, current or former CW production facilities, CW storage and destruction facilities):
 - Defense ministry will have a large implementation role.
- Declarable commercial chemical activities:
 - Economics/trade ministry will have a large implementation role.



Expertise

Personnel that may be needed:

- CW experts
- Industry experts
- Treaty experts
- Lawyers

Technical Background:

- Munition Experts
- Chemical engineers
- Chemists
- Policy/regulatory experts

RESPONSIBILITIES

The National Authority has two key responsibilities as the national focal point:

- Liaison with the OPCW and States Parties; and
- Domestic CWC obligations:
 - Centralized: has direct responsibility; or
 - Decentralized: coordinates implementation by other government agencies.

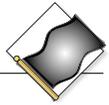
Supervision

The National Authority may directly control or supervise:

- Regulated chemical industry activities;
- Export and import of chemicals;
- Receipt of data from industry and agencies for declarations;
- Internal checks, inspection preparations, and assistance; and
- National CWC workshops, seminars, and briefings.

COMMON NATIONAL AUTHORITY TASKS

- Facilitation of enactment and enforcement of national legislation under Article VII.
- Collection and submission of initial and annual declarations under Articles IV-VI.
- Establishment of a regime to prohibit or restrict the export or import of certain Scheduled chemicals.
- Collection and submission of a declaration on assistance under Article X.



- Collection and submission of annual information and national programmes for protection under Article X.
- Preparation for and receipt of inspections.
- Designation of the Point(s) of Entry.
- Facilitation of issuance of visas.

FORMS REQUIRED FOR ESTABLISHING A NATIONAL AUTHORITY & SUBMITTING INITIAL DECLARATIONS AFTER ENTRY INTO FORCE

The following is a list of forms that a State Party should submit to the Technical Secretariat upon Entry Into Force (EIF) or within 30 days after EIF:

- Form A-1 General Reference Data of the National Authority
- Form A-2 Primary Declaration Identification for Submission of Initial Declarations
- Supplement to Form A-2 Declaration Checklist

Note: *Form A-2 and Supplement to Form A-2 should be submitted in addition to those forms for initial declarations addressed under the IAP element entitled “Declaration Requirements.”*

UPDATING INFORMATION ON NATIONAL AUTHORITY POINTS OF CONTACT

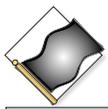
It is very important that the Technical Secretariat has current information on points of contact (POC) within a National Authority for written and verbal communications. Therefore, after a National Authority has submitted to the Technical Secretariat a Form A-1 “General Reference Data of the National Authority,” the information contained therein may need to be updated for changes to personnel, e-mail addresses, telephone and fax numbers, etc. Accordingly, it is recommended that a National Authority submit to the Technical Secretariat a new Form A-1 anytime there are changes to information contained on this form.

WHERE TO SUBMIT FORMS

Form A-1 and initial declaration packages should be mailed to the Technical Secretariat of the Organisation for the Prohibition of Chemical Weapons at the address below.

Declarations Branch (DEB)
Johan de Wittlaan 32
2517 JR The Hague
The Netherlands

Note: You may arrange an appointment to hand-deliver a declaration package to the Technical Secretariat by contacting the Information Processing and Validation Unit of DEB at 31-070-416-3031.



Establishing a National Authority

Article VII of the Chemical Weapons Convention (CWC) requires each State Party to designate or establish a National Authority to serve as the national focal point for effective liaison with the Organisation for the Prohibition of Chemical Weapons (OPCW) and other States Parties. Each State Party must notify the OPCW of its National Authority at the time that the Convention enters into force for it.

Creation of a National Authority is central to CWC implementation because it ensures communication and coordination with and between the many and varied governmental and commercial entities that may be involved in implementation. Therefore, effective coordination among government departments, as well as communication with the OPCW and other States Parties, is essential.

The CWC does not specify the structure of the National Authority. Its optimal composition, structure and size depend largely on the number and nature of declarable activities and facilities in the State Party. Each State Party must answer some basic questions: What declarable activities are there (chemical weapons (CW), CW production facilities, old and abandoned CW, commercial chemical activities, etc.) and who is responsible for their oversight? For example, in cases where States Parties possess CW and/or former CW facilities, Schedule 1 facilities, or a sizeable chemical industry, the tasks of their National Authorities would be more demanding compared to those of States Parties not possessing such facilities. A possessor State Party with a large chemical industry not only has a large declaration to compile, but must also plan for hosting routine inspections. The National Authority might therefore include chemical weapons experts, industry experts, policy experts, treaty experts, chemical engineers and chemists. They may be housed in an existing agency or alternatively in a new Organisation dedicated to the CWC. On the other hand, a State Party with few declarable facilities may find that after the initial establishment of the National Authority and implementing legislation, one or two people (perhaps only working part time) might be able to handle all of the treaty obligations for that State Party. These people must be knowledgeable about the CWC and the OPCW and be able to serve as the government's experts in this area.

Every State Party, no matter how big or small, must designate or establish a National Authority. Not only is it a legal requirement under the Convention, there are also important reporting and administrative obligations common to all States Parties. Whether or not they have any declarable facilities, the common obligations include (but are not limited to):

- The collection and submission of initial declarations under Articles III and VI of the Convention;
- The collection and submission of notifications required by the Convention;
- The collection and submission of a declaration on assistance and annual information on national programs for protection, under Article X of the Convention;
- The enactment and enforcement of national legislation in accordance with Article VII and Article VI enabling internal implementation of the Convention, including the enactment of the required penal legislation;



- The preparation for, and receiving of, inspections including the designation of one or more points of entry into the country, the issuance of appropriate visas and customs clearance;
- The supervision over the confidentiality requirements with regard to OPCW-related information; and
- The establishment of a regime to prohibit or restrict the export or import of certain chemicals.

The choice of a government entity to act as a CWC National Authority is entirely that of a State Party. To date, the majority of States Parties have designated or appointed the Ministry of Foreign Affairs as the National Authority. Other agencies designated or appointed by States Parties as the National Authority include: the Departments (or Ministries) of Industry, Trade, Economy, Defense, Science, Technology, and Environment.

National Authorities can either have a centralized structure or alternatively have a form designed for general coordination among governmental bodies. Most National Authorities have a centralized structure in which the responsibility for all aspects of national implementation of the CWC lies within a core office. This office oversees or coordinates the involvement of other government departments and agencies in the implementation of specific aspects of national obligations under the CWC while also maintaining liaison with the OPCW and other States Parties. The effective functioning of this interagency coordination is important for ensuring internal compliance with the State Party's obligations under the Convention. This includes, among other things:

- The supervision of regulated chemical industry activities and the export and import chemicals;
- The gathering of data from industry and government agencies necessary to prepare the declarations and other information for submission to the OPCW;
- The conduct, where possible, of internal checks and inspection preparations; and
- The organisation of national workshops, seminars and briefings to provide advice and information.

Some National Authorities, however, are set up to act as coordinators between the various government agencies and the OPCW. In this case, implementation of CWC-related obligations is the responsibility of designated departments (or ministries). In the United States, for example, the National Authority is housed in the Department of State. Other government agencies, nonetheless, play lead roles in CWC implementation, such as:

- Ministry of Defense: destruction and verification of CW and related facilities, collection of annual data on protective programmes and hosting of CWC inspections at military facilities;
- Ministry of the Economy: regulation of relevant industry activities, including the collection of annual declaration data; overseeing import/export controls, collection of data on the transfers of chemicals and hosting of commercial industry CWC inspections; and



- Ministry of Justice: facilitating the enactment and enforcement of implementing legislation including provisions related to the CWC's Article I prohibitions.

To assist with the wide variety of tasks faced by a National Authority, other entities can be chosen to provide advice or technical assistance on an ad hoc basis. States Parties may find it useful to consult with the chemical industry trade association(s) on matters pertaining to the CWC. Some countries may even wish to include them in the National Authority either directly or indirectly through designated points of contact. Most National Authorities should find it useful to have a chemist on staff or at least access to one as a consultant in order to determine what chemicals are included in the families of chemicals in the CWC Schedules of Chemicals. For inspections, participation of or access to a chemical engineer could also be useful.

States Parties that do not have any declarable facilities will not be subject to routine CWC inspections, but each State Party does have the obligation to receive a challenge inspection under Article IX of the CWC. Therefore, the designated National Authority must be capable of facilitating a challenge inspection. Each State Party, under Article IX, has the right to request a challenge inspection of any facility or location of any other State Party for the sole purpose of clarifying and resolving any questions concerning possible non-compliance with the provisions of the Convention. This would be a short-notice notification and the National Authority must be able to acknowledge receipt of the notification within one hour and ensure access to the facility within the Convention guidelines. The State Party must make sure it has this type of capability.

Another important capability the National Authority needs (even for States Parties without any declarable industry) is the ability to track and control imports and exports of CWC-related chemicals into and out of their territory. The National Authority must be able to have access to or be provided with the import and export information in order to submit required reports to the OPCW.

The treaty requires all States Parties to designate or establish a National Authority including the requisite communications with the OPCW. It can be a challenging task and not all National Authorities are or will be set up the same exact way. Each State Party must evaluate the scope of their responsibilities and treaty obligations to involve the appropriate personnel and agencies. Each State Party knows what will work best for it but can consult with other State Parties for more information.



STATE PARTY CWC REQUIREMENTS

Tasks a National Authority may have to oversee or coordinate:

To Accomplish Before EIF:

1. Adopt National Implementing Measures. (Art VII)
 - Prohibit persons from performing acts prohibited to a State Party. (Art VII, 1(a))
 - Enact penal legislation. (Art VII, 1(a))
 - Extend penal legislation to cover extraterritorial activities of the State's nationals. (Art VII, 1(c))
 - Cooperation with and legal assistance to other States Parties. (Art VII, 2)

2. Adopt Necessary Measures to Regulate Scheduled Chemicals and Related Facilities. (Art VI, 2)
 - **Schedule 1:**
 - Schedule 1 chemicals cannot be produced, acquired, retained or used outside the territories of the State Party. (VA VI, 1)
 - Schedule 1 chemicals can only be produced, acquired, retained, transferred or used for research, medical, pharmaceutical, or protective purposes in justifiable types and quantities, in specified amounts. (VA VI, 2)
 - Schedule 1 chemicals can only be transferred to another State Party and only for research, medical, pharmaceutical or protective purposes and cannot be re-transferred to third States. Transfers to or from States not Party are prohibited. (VA VI, 3)
 - All transfers of Schedule 1 chemicals must be reported to the OPCW 30 days in advance (some exceptions). (VA VI, 3)
 - Production of Schedule 1 chemicals for research, medical, pharmaceutical or protective purposes can only be carried out at one single small-scale facility (SSSF) approved by the State Party, except: (VA VI, 8)
 - Specified quantities of Schedule 1 chemicals for protective purposes may be produced at one approved facility outside the SSSF. (VA VI, 10)
 - Specified quantities of Schedule 1 chemicals for research, medical or pharmaceutical purposes may be produced outside the SSSF at approved facilities. (VA VI, 11)
 - Less than 100 g per year per facility of Schedule 1 chemicals may be synthesized for research, medical or pharmaceutical purposes at laboratories, not subject declaration or verification. (VA VI, 12)



- **Schedule 2:**
 - Schedule 2 chemicals can only be transferred to or received from States Parties. Transfers to States not Party are prohibited. (VA VII, 32)
- **Schedule 3:**
 - Adopt the necessary measures to ensure Schedule 3 chemicals transferred to States not Party shall only be used for purposes not prohibited and an end-user certificate will be obtained from the competent government authority of the State not Party. (VA VIII, 26 and 27 and CSP decisions: III/DEC.6 & DEC.7)

3. Review existing national regulations in the field of trade in chemicals in order to render them consistent with the object and purpose of the Convention. ((Art XI, 2(c), (d) and (e))

4. Identify declarable activities.

- Companies or facilities which will be affected by the reporting responsibilities under the Convention.
- Import/export of scheduled chemicals.
- Production, processing and consumption of scheduled chemicals.
- Possession of facilities producing unscheduled discrete organic chemicals.
- Riot control agents held by the State Party.

To Accomplish at EIF:

5. Notify the OPCW of the legislative and administrative measures taken to implement the Convention and submit the texts. (Art VII, 5 and CSP decision C-8/DEC.16)

6. Notify the OPCW of your National Authority. (Art VII, 4)

- POC's
- Address
- National Holidays

7. Notify the OPCW of your designated point of entry for inspections. (VA II, 16)

8. Notify the OPCW of the standing diplomatic clearance number for non-scheduled aircraft (VA II, 22) and the radio frequencies available for use by the inspection teams for two-way communications between team members during inspections. (VA II, 44)



To Accomplish within 30 days after EIF:

9. Initial declarations: includes Nil declarations. (Art III)
 - Declaration on chemical weapons. (Art III 1(a))
 - Declaration on old chemical weapons and abandoned chemical weapons. (Art III 1(b))
 - Declaration on chemical weapons production facilities. (Art III 1(c))
 - Declaration of other facilities. (Art III 1(d))
 - Declaration on riot control agents. (Art III 1(e))
 - Declaration on relevant chemicals and facilities. (Art VI 7)
 - Declare Schedule 1 SSSF. (VA VI, 13)
 - Declare any other Schedule 1 facility. (VA VI, 17)
 - Initial declaration of Schedule 2 plant sites and data. (VA VII, 2(a), 4(a) and 5)
 - Initial declaration of Schedule 3 plant sites and data. (VA VIII, 2(a), 4(a) and 5)
 - Submit the list of other chemical production facilities -OCPFs. (VA IX 3)

To do after EIF:

10. Acknowledge and review lists received from the Secretariat. (VA II, 2 and VA XI, 7)
 - Inspector/Inspection Assistant Lists.
 - Qualified Experts for Investigations of Alleged Use List.
11. Provide multiple entry/exit/transit visas. (Art VI, 9 and VA II, 10)
12. Provide details to the OPCW on the procedures for handling of confidential information provided by the OPCW. (Art VII, 6 and Confidentiality Annex, 4)
13. Negotiate a bilateral agreement with the TS on privileges and immunities. (Art VIII, 50)
14. Pay the assessed contribution for OPCW activities. (Art VIII, 7)
15. Designate a Permanent Representative. (Art VII, 49)
16. Conclude any Schedule 1 facility agreements - within 180 days. (VA III, 4).
17. Conclude any Schedule 2 facility agreements - 90 days after initial inspection. (VA VII, 24)
18. Select the measure of assistance the State Party will provide to the OPCW. (Art X, 7)



Annually after EIF:

19. Annual declaration on anticipated activities:
 - SSSF (VA VI, 16) or other Schedule 1 (VA VI, 20)
 - Schedule 2 (VA VII, 4(c))
 - Schedule 3 (VA VII, 4(c))
20. Annual declaration on past activities:
 - Schedule 1 (VA VI, 6, 15, 19)
 - Schedule 2 (VA VI, 1, 2(b), 4(c))
 - Schedule 3 (VA VI, 1, 2(b), 4(c))
 - Other chemical production facilities –OCPFs (VA IX, 1 & 3)
21. Information on National Programmes for Protective Purposes. (Art X, 4)
22. Pay assessed contribution. (Art VII, 7)

Other Standing Obligations:

23. Report all transfers of Schedule 1 Chemicals 30 days in advance. (VA VI, 5)
24. Safety and protection of the environment. (Art IV, 10 and Art VII, 3)
25. Development and cooperation in the field of chemical activities. (Art XI)
26. Facilitate exchange of means of protection against CW. (Art X, 3)
27. Confidentiality. (Art VIII, 6 and Confidentiality Annex)
28. Respond to requests for clarification. (Art IX)
29. Notify OPCW of amendments to national implementing legislation or measures. (Art VII, 5 and CSP decision C-8/DEC.16)
30. Notify OPCW of other changes. (Art III, 1(e), 9; VA VI, 14 & 18; VA VII, 4(c); VA VIII, 4(c); C- I/DEC.38VA II 17)

Includes:

- CW discovered after initial declaration
- Riot Control Agent update (when changes made)
- Planned changes to declarations of Schedule 1 facilities
- Changes to annual declaration of anticipated activities at Schedule 2 & 3 plant sites
- Changes to the point of entry
- Changes in the contact details of the National Authority