NGO Statement: Addressing the development and use of riot control agents in law enforcement and armed conflict

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Chairperson, Director General, Distinguished Delegates, CWC Coalition Colleagues,

Ladies and Gentlemen,

The Chemical Weapons Convention (CWC) permits the use of riot control agents (RCAs) for “law enforcement including domestic riot control purposes,” but only provided they are used in “types and quantities” consistent with such purposes. However, they have been frequently misused for serious human rights violations, most commonly in non-custodial settings to restrict, intimidate, or punish those participating in public protest the world over; and also in the prisons, detention centres or police stations of certain countries to ill-treat individuals. A recurring medical concern has been their use in excessive quantities in confined spaces or in the open air where the targeted individuals or bystanders cannot safely and quickly disperse. In such situations, serious injury or death can result, including from the toxic properties of the chemical agents or from asphyxiation. Building upon the previous work of the OPCW’s Scientific Advisory Board (SAB) identifying chemicals that fulfil the definition of RCA, guidance should now be developed as to the quantities of identified RCAs that can legitimately and safely be employed in law enforcement. Such guidance should acknowledge relevant obligations under international human rights law, to ensure such RCA employment is proportionate, necessary, and does not endanger life or health.

For the safety assessment of RCAs, the OPCW’s SAB relies to a large extent on reviewing scientific data produced by science agencies of the State Parties. However, State Parties have given insufficient funding to dedicated programs applying state of the art epidemiological and toxicological methods to study the effects of RCAs on diverse populations of protesters and bystanders. Even for the most widely used RCA, CS, the SAB’s assessment mainly relies on data that is several decades old. Consequently there are concerns that it has not taken sufficient account of recent studies that have raised concerns about underestimation of CS’ toxicity, its adverse effects on respiratory health and susceptibility to respiratory infections, on children and elderly, and on women’s health. State Parties need to support the OPCW SAB by funding new research programs to study the health effects of RCAs in diverse populations during and in the aftermath of deployment, and in toxicological model systems, with extended follow up to assess long-term effects, applying modern methodologies.

The current situation could dramatically worsen as a result of contemporary development of systems capable of delivering significant amounts of RCAs over wide areas or extended distances, with concerns raised of their potential misuse for collective ill-treatment or punishment of crowds. Civil society researchers have documented development and promotion of ‘wide-area’ RCA delivery mechanisms, including indoor dispersion devices, external area denial devices, large capacity sprayers, water cannons, multi-barrel projectile
launchers, large calibre projectiles, and delivery mechanisms mounted on remote weapons systems, unmanned ground vehicles, and drones. In recent years proliferation, use and misuse of “wide-area” RCA delivery mechanisms has begun with reported employment of RCA drones and multi-barrel launchers against protests in the Middle East and Americas. Earlier this year the OPCW SAB in its report to the 5th CWC Review Conference voiced concerns over “continued development, testing, production, and promotion of diverse” “wide-area” RCA delivery mechanisms. It warned that “the capabilities being developed increasingly resemble military equipment. These systems could be repurposed and filled with other chemicals,” including chemical warfare agents, central nervous system-acting chemicals, and bioregulators. CWC States Parties should collectively establish an OPCW process to determine those RCA delivery mechanisms that are prohibited under the Chemical Weapons Convention and develop guidance on appropriate use of permitted RCA delivery mechanisms.

The use of RCAs “as a method of warfare” is prohibited under the Convention. However, during late 2022 and in 2023 there has been reported employment of RCAs by military forces of one Eastern European State in its ongoing armed conflict with another Eastern European State. This has included the reported use of drones to drop K-51 grenades containing RCA onto opposing forces. The issue was raised at the 5th CWC Review Conference by the State reportedly targeted and by at least one other CWC State Party. Subsequently additional CWC States Parties have requested further information from the State alleged to have conducted these attacks, in order to establish whether RCAs were employed in contravention of the CWC. The State alleged of conducting these RCA attacks has denied such action, instead accusing its opponent of such activities. To date, this matter has not been resolved. All CWC States should reaffirm that RCAs must never be used “as a method of warfare”. They should seek to establish the facts of the matter in this case, and if necessary employ the full range of the OPCW’s collective consultation, clarification and fact-finding mechanisms.

We thank you for your kind attention and request this statement be made part of the official published proceedings of this Conference.

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Board to consider which riot control agents are subject to declaration under the Chemical Weapons Convention. SAB-25/WP.1. OPCW, The Hague, 27 March 2017.


xiii OPCW, UK National Statement to the Fifth Review Conference of the Chemical Weapons Convention by Her Excellency Joanna Roper, Permanent Representative of the United Kingdom of Great Britain and Northern Ireland

xiv OPCW, Note Verbale from the Permanent Representation of the Federal Republic of Germany to the Technical Secretariat of the OPCW, Executive Council, EC-104/NAT.6, 6 October 2023

xv Note Verbale from the Permanent Representation of the Russian Federation to the Technical Secretariat of the OPCW Dated 12 October 2023
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