



OPCW

Conference of the States Parties

Twenty-Sixth Session
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DECISION

UNDERSTANDING REGARDING THE AEROSOLISED USE OF CENTRAL NERVOUS SYSTEM-ACTING CHEMICALS FOR LAW ENFORCEMENT PURPOSES

The Conference of the States Parties,

Underlining the general obligations of each State Party in Article I of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (hereinafter “the Convention”) and **further underlining** the comprehensive nature of the prohibitions with respect to chemical weapons, which are not limited to chemicals specifically listed in the Annex on Chemicals to the Convention;

Recalling that, pursuant to paragraph 1 of Article II of the Convention, “Chemical Weapons” encompass, inter alia, “[t]oxic chemicals and their precursors, except where intended for purposes not prohibited under this Convention, as long as the types and quantities are consistent with such purposes,” and **further recalling** that paragraph 2 of Article II of the Convention defines “Toxic Chemical” as “[a]ny chemical which through its chemical action on life processes can cause death, temporary incapacitation or permanent harm to humans or animals”;

Recalling further that paragraph 9 of Article II of the Convention defines “Purposes Not Prohibited Under this Convention” to include “[l]aw enforcement including domestic riot control purposes”;

Recognising the extensive work of the Scientific Advisory Board (SAB) to identify riot control agents (RCAs) (Annex 1 to RC-4/DG.1, dated 30 April 2018) (hereinafter “the SAB Report”), and **underlining** the SAB’s explanation in its Report that central nervous system-acting chemicals (hereinafter “CNS-acting chemicals”) differ from RCAs, as they act primarily on the central nervous system and their effects are not usually confined to sensory irritation of a temporary nature, and that such chemicals “can have a very low safety margin when delivered as an aerosol, based on factors including uneven dissemination, variability in human response, and a need for rapid onset of action”;

Highlighting the SAB’s recognition in its Report that CNS-acting chemicals do not meet the definition of an RCA in paragraph 7 of Article II of the Convention, and **recognising** that the SAB Report “notes that there have been examples of the [aerosolised] use of CNS-acting chemicals in law enforcement that have resulted in permanent harm and death due to an irreversible action on life processes”;

Recognising that, in accordance with paragraphs 1 and 9 of Article II of the Convention, the types and quantities of toxic chemicals intended for purposes not prohibited under the Convention, including law enforcement, must be consistent with such purposes;



Further recognising developments in the field of chemistry and the importance of preventing the re-emergence of chemical weapons, including new types of potential chemical weapons agents;

Noting that, in accordance with subparagraph 21(h) of Article VIII of the Convention, the Conference of the States Parties (hereinafter “the Conference”) shall review scientific and technological developments that could affect the operation of the Convention, and **further noting** that, in accordance with paragraph 19 of Article VIII of the Convention, the Conference may take decisions on any questions, matters or issues related to the Convention brought to its attention by the Executive Council (hereinafter “the Council”); and

Noting the recommendation made on this matter by the Council at its Ninety-Sixth Session (EC-96/DEC.7, dated 11 March 2021);

Hereby:

1. **Decides** that the aerosolised use of CNS-acting chemicals is understood to be inconsistent with law enforcement purposes as a “purpose not prohibited” under the Convention;
2. **Notes** that this decision does not address the use of CNS-acting chemicals for other purposes not prohibited under the Convention;
3. **Requests**, pursuant to subparagraph 21(h) of Article VIII of the Convention, in light of the fact that the understanding in paragraph 1 is based upon the current state of scientific and technological progress and further to the Conference’s obligation to review such developments that could affect the operation of the Convention, that the Director-General task the SAB to continue to review relevant developments in science and technology related to CNS-acting chemicals and provide updates to the Conference as appropriate, but at a minimum as part of its report on developments in science and technology for future Special Sessions of the Conference of the States Parties to Review the Operation of the Chemical Weapons Convention;
4. **Notes** that munitions and devices specifically designed to cause death or other harm through the toxic properties of those toxic chemicals specified in subparagraph 1(a) of Article II of the Convention, including aerosolised CNS-acting chemicals, which would be released as a result of the employment of such munitions and devices, would constitute a “chemical weapon” as defined by paragraph 1 of Article II of the Convention, and the use of such munitions or devices would be prohibited by Article I of the Convention; and
5. **Takes note** of the Director-General’s report provided in accordance with Rule 34 of the Rules of Procedure of the Council (EC-93/DG.2/Rev.2, dated 9 March 2021).