

Statement by Dr Michael Crowley (University of Bradford) to the informal plenary session of the 18th Conference of States Parties to the Chemical Weapons Convention, The Hague, Netherlands, 5th December 2013

Your excellencies, ladies and gentlemen. Thank you for the opportunity to address this plenary session. My remarks relate to a recent study under the *Biochemical Security 2030 Project* of Bath University, which examined the OPCWs' mechanisms for reviewing science and technology developments, and analysed their application to incapacitating chemical agents (ICAs).

The Chemical Weapons Convention (CWC) through its General Purpose Criterion ensures that all existing toxic chemicals and also all those yet to be discovered or developed are included within its scope. Consequently, as toxic chemicals, all potential candidate ICAs including pharmaceutical chemicals, bio-regulators and toxins, would be covered by the Convention. The use in armed conflict of toxic chemicals promoted as ICAs is clearly prohibited under the CWC. Whilst riot control agents can be legitimately used in law enforcement, there are differing interpretations as to whether, and in what circumstances, other toxic chemicals (including those promoted as ICAs) could be employed for such purposes.

Analysis of open source information from the mid-1990s onwards indicates that a number of States have conducted research relating to ICAs at some stage during this period, and there has been one large scale deployment of such agents by the Russian Federation in a counter-terrorist operation in 2002.

The potential risks that the rapidly evolving life and chemical sciences will be employed in development of ICAs and associated means of delivery have been explored by a range of respected scientific organisations including the U.K. Royal Society, U.S. National Academy of Sciences, Switzerland's Spiez Laboratory, and the International Union of Pure and Applied Chemistry; and the findings of such bodies have been brought to the attention of the OPCW.

In its report to the Third Review Conference, the Scientific Advisory Board (SAB) concluded that *“technical discussion on the potential use of toxic chemicals for law enforcement purposes has been exhaustive.”* The SAB stated that ICAs should not be considered as *“non-lethal”* as *“for all chemicals toxicity is a matter of dosage”*. It recommended that *“the Secretariat start preparations for verification activities, relevant to incapacitating chemicals, that could be required in an investigation of alleged use.”* The SAB findings were highlighted by the Director General who committed the Secretariat to *“pursue efforts to enhance its chemical analysis capabilities”* and to *“work with designated laboratories on this issue”*.

Whilst the SAB, Technical Secretariat and the Director General have provided timely, objective, expert analysis of science and technology developments relevant to ICAs, the States Parties through the policy making organs have been unwilling or unable to effectively review such information and adequately discuss application of the Convention in this area. Consequently, they have collectively failed to agree appropriate policy and practice for the Organisation to meet the challenges raised by ICAs.

Although the Third Review Conference failed to establish a mechanism to facilitate discussion amongst States Parties regarding ICAs, there appears to be widespread and growing recognition that the Organisation needs to address this issue; with supportive statements made during or following the Review Conference by Germany, Ireland, Norway, Romania, Slovakia, Switzerland, the U.K., the U.S., the E.U., and most recently by Australia at this CSP.

Given the ongoing concerns regarding ICAs, we recommend that CWC States Parties, individually

and collectively, should:

- (a) Affirm that current national practice is to restrict use of toxic chemicals for law enforcement to riot control agents, and reaffirm the existing prohibition on the use of toxic properties of all chemicals in armed conflict;
- (b) Introduce national moratoria on development, stockpiling, transfer and use of ICAs and related means of delivery intended for law enforcement purposes; and
- (c) Present proposals for a mechanism within the OPCW to discuss the employment of ICAs in law enforcement.

Given the important commitments made by the Director General at the Review Conference, the Secretariat should now work to:

- (a) Develop appropriate verification mechanisms applicable to ICAs and their means of delivery, and
- (b) Monitor developments in relevant science and technology.

There is now an opportunity for the OPCW to take a precautionary and preventative approach, and address potential development and future use of ICAs and related means of delivery. If the OPCW does not do so in the near future there is a danger that advances in relevant scientific disciplines will be utilised in State development programmes leading to proliferation and misuse of such weapons.