



Foreign Affairs and  
International Trade Canada

Affaires étrangères et  
Commerce international Canada

## **GOVERNMENT OF CANADA POSITION PAPER ON THE USE OF RIOT CONTROL AGENTS**

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*Canadian National Authority, Chemical Weapons Convention, Non-  
Proliferation and Disarmament (Chemical, Biological Conventional and  
Remote Sensing) Division*

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## **1. Purpose**

This paper presents the Government of Canada's position on the use of riot control agents (RCAs). It is intended to elicit feedback from stakeholder groups and to form the basis of a national policy for the use of RCAs domestically and abroad.

## **2. Background**

Canada is signatory to both the Geneva Protocol of 1925 and more recently, the Chemical Weapons Convention (CWC) of 1993. As a State Party, Canada is legally bound to operate within the parameters of both the Protocol and the Convention. In addition to satisfying its international obligations, the Government of Canada must also meet its domestic obligations under the Chemical Weapons Convention Implementation Act.

One such obligation is the undertaking "to not use riot control agents as a method of warfare". However, this obligation is ambiguous amongst States Parties, as the text of the Convention is broadly interpreted.

Consequently, some States Parties have interpreted this obligation differently than Canada and as such, have adopted differing policy positions. The position that stands out as being most contrary to Canada's is the notion that riot control agents are not considered to be chemical weapons and may be employed by members of Armed Forces in war, in a defensive military posture, in order to save lives.

Further, the ambiguity of the Convention extends to States Parties' humanitarian obligations. It is anticipated that non-government organizations such as the International Committee of the Red Cross will purport that the use of riot control agents is legally complicated and ethically challenging under international humanitarian law.

Given that the use of riot control agents under the Chemical Weapons Convention is broadly interpreted, it was a major topic of discussion at the *First Special Session of the Conference of States Parties to Review the Operation of the Chemical Weapons Convention*. As the *Second Special Session of the Conference of States Parties to Review the Operation of the Chemical Weapons Convention* is imminent, it is prudent that the Government of Canada have a clear policy position on this unresolved issue.

## **3. Context**

Riot control agents are not prohibited under the Chemical Weapons Convention and the Chemical Weapons Convention Implementation Act, if they are employed for law enforcement and riot control purposes. As such, RCAs are legally stored and used by national, provincial, and municipal law enforcement agencies, including the Correctional Service of Canada, the Royal Canadian Mounted Police, and the Department of National

Defence. The use of riot control agents by law enforcement agencies and military personnel extends to training. Canadian Forces personnel and peace officers attached or seconded to foreign militaries, police services, and international forces, such as NATO, may from time-to-time be required to use RCAs in the course of their assignment, as prescribed by the host State. Riot control agents are most commonly found in the forms of tear gas and pepper spray.

#### **4. Mission Statement**

To create an integrated and forward-looking policy on the use of riot control agents—domestically and abroad—that will include voluntary participation from other government departments prior to the *Second Special Session of the Conference of States Parties to Review the Operation of the Chemical Weapons Convention*, April 7-18, 2008.

#### **5. Desired Outcomes**

The ultimate outcome of the *Position Paper on the Use of Riot Control Agents* will be to have a clear Canadian position, clarifying the legitimate use of RCAs. In the medium term, the Position Paper will strive to achieve the following outcomes:

- Outline the Government of Canada’s commitment in fulfilling its international treaty and domestic legal obligations; and
- Highlight the Government of Canada’s respect for international humanitarian law.

#### **6. Policy Position**

Canada enforces the spirit and letter of the Chemical Weapons Convention Implementation Act by limiting the use of riot control agents to law enforcement, including domestic riot control purposes. Uses of RCAs for purposes other than those prescribed by the Chemical Weapons Convention Implementation Act are considered to be unlawful and are punishable under the Criminal Code of Canada. Furthermore, riot control agents are classified as prohibited weapons under the Criminal Code of Canada. Possession of such items by unauthorized persons is subject to penalty under law.

***The Government of Canada position is that riot control agents can be legally used for law enforcement and riot control purposes within Canada.***

Canada continues to fulfill its international obligations by implementing the object and purpose of the Chemical Weapons Convention, as it relates to the use of riot control agents. Further, Canadians attached or seconded to foreign militaries, police services, and international forces, comply with international law and the domestic law of the State

for which they are temporarily engaged. Canadian Forces personnel and peace officers assigned to a United Nations peacekeeping mission under Chapters VI and VII of the UN Charter, do not use riot control agents including for law enforcement and riot control purposes. It is unlawful for Canadian Forces personnel to employ riot control agents in war, in either an offensive or defensive capacity.

***The Government of Canada position is that riot control agents can be legally used for law enforcement and riot control purposes abroad by authorized Canadians in accordance with international law and the law of the state in which they are so authorized to act.***

## **7. Next Steps**

Overall, Canada's *Position Paper on the Use of Riot Control Agents* will:

- Clarify the legitimate the use of riot control agents within Canada and abroad, eliminating popular doubts regarding the legality of their use;
- Outline the Government of Canada's commitment in fulfilling its international and domestic legal obligations; and
- Highlight the Government of Canada's respect for international humanitarian law.

The next step for Foreign Affairs and International Trade Canada is to consult with stakeholders in other government departments including: the Department of National Defence, the Royal Canadian Mounted Police, and the Correctional Service of Canada.