



Diplomacy & Statecraft

ISSN: 0959-2296 (Print) 1557-301X (Online) Journal homepage: <http://www.tandfonline.com/loi/fdps20>

“Driven to Tears”: Britain, CS Tear Gas, and the Geneva Protocol, 1969–1975

Alex Spelling

To cite this article: Alex Spelling (2016) “Driven to Tears”: Britain, CS Tear Gas, and the Geneva Protocol, 1969–1975, *Diplomacy & Statecraft*, 27:4, 701–725, DOI: [10.1080/09592296.2016.1238703](https://doi.org/10.1080/09592296.2016.1238703)

To link to this article: <http://dx.doi.org/10.1080/09592296.2016.1238703>



Published with license by Taylor & Francis, LLC© 2016 Alex Spelling



Published online: 14 Dec 2016.



Submit your article to this journal [↗](#)



Article views: 22



View related articles [↗](#)



View Crossmark data [↗](#)

Full Terms & Conditions of access and use can be found at
<http://www.tandfonline.com/action/journalInformation?journalCode=fdps20>

“Driven to Tears”: Britain, CS Tear Gas, and the Geneva Protocol, 1969–1975

Alex Spelling

University College London

ABSTRACT

This analysis considers a controversy over whether the 1925 Geneva Protocol, the treaty prohibiting the use of chemical and biological weapons in warfare, covered CS “tear gas.” Widespread deployment of tear gases by American forces in Vietnam after 1964 attracted much international criticism as many believed the Protocol banned such agents and pressure gradually built on the British government to clarify its interpretative position. Its tabling a disarmament initiative to prohibit production and possession of biological weapons in July 1969 exacerbated the situation, provoking allegations of diverting attention from chemical weapons as a favour to America and the “Special Relationship.” Meanwhile, the outbreak of the “troubles” in Northern Ireland earlier the same year, where British forces also used CS, presented further difficulties. Britain rejected inclusion of CS under the Protocol in February 1970 but wrestled at great length over the decision and its consequences under the Harold Wilson and Edward Heath governments. Largely absent from historical accounts, this episode allows an examination of a complex, convoluted issue that had potentially wide-ranging ramifications for the interpretation of international relations and treaties. Similarly, re-creating confidential inter-departmental decision-making processes, particularly comparing scientific and legal interpretations, the processes of governmental bureaucracy and the role played by civil society demonstrates why an element with little immediate linkage to British overseas affairs proved such a conundrum.

Although the legal status of CS tear gas became the focus of public controversy in Britain in 1970, the issue had been building since 1965 with international criticisms of American use of the substance in Vietnam linked to the question of the prohibition of tear gases under the 1925 Geneva Protocol. After months of intense inter-departmental debate, the British Labour foreign secretary, Michael Stewart, made a statement to Parliament on 2 February stating that modern technology had produced “CS smoke ... and other such gases” that the government considered as falling outside the coverage of the Geneva Protocol’s international ban on chemical and biological warfare.¹ Through to May, the Foreign and

CONTACT Alex Spelling  a.spelling@ucl.ac.uk  Department of Science and Technology Studies, University College London, Gower Street, London WC1E 6BT, UK.

Published with license by Taylor & Francis, LLC. © 2016 Alex Spelling

This is an Open Access article distributed under the terms of the Creative Commons Attribution-NonCommercial-NoDerivatives License (<http://creativecommons.org/licenses/by-nc-nd/4.0/>), which permits non-commercial re-use, distribution, and reproduction in any medium, provided the original work is properly cited, and is not altered, transformed, or built upon in any way.

Commonwealth Office's [FCO] Disarmament Department [DD] received 181 critical letters from non-governmental organisations and members of the public about this "CS decision." Informing Prime Minister Harold Wilson of the developments, Stewart commented on the greater volume of public correspondence, virtually unanimous in disapproval than on any other recent disarmament question. Rather than emanating from individuals or organisations that the government classed as extremist or disreputable, much was from ordinary citizens. Similarly, critical articles and letters appeared regularly within the press and the international reaction was unfavourable.²

What therefore might appear to a contemporary audience as a minor technical and legalistic issue on a relatively unremarkable substance actually had far greater ramifications for long-term international efforts to re-enforce and extend prohibition of all forms of chemical and biological weapons [CBW]. Britain was a leading proponent of prohibition having proposed a new international treaty in July 1969 that would outlaw production and stockpiling of Biological Weapons [BW] subject to concurrent negotiations at the United Nations [UN] Conference of the Committee for Disarmament [CCD] at Geneva. The close diplomatic and security relationship that Britain enjoyed with the United States and the use of tear gas in Northern Ireland also made the issue particularly sensitive. Despite the attention given to the decision at the time within government and the concurrent public reaction, domestic, diplomatic, and disarmament accounts of the period, as well as political memoirs and biographies, overlook it.

Looking back at the controversy's course demonstrates how a substance in many ways peripheral to British international interests could become so entrenched in internal debate and, arguably, handled so awkwardly. The episode is thus instructive about the difficulties of managing disparate yet inter-connected issues within government encompassing domestic, diplomatic, scientific, and military concerns alongside frequently changing external events. In particular, how seemingly "technical" issues such as the properties of tear gas linked inextricably with broader debates about the legality of tear gas and the credibility of the government. Similarly, it demonstrates the conflicts, compromises, and reasoning surrounding government decisions; not least how individual departments articulate particular positions, the resolution of these at Cabinet level, and the management of such decisions once unveiled. This case details FCO handling of international treaties, including legal obligations and public relations communication; arguments surrounding the classification, military utility, and rules of engagement of weapons systems; the Ministry of Defence [MoD] remit; scientific studies of weapons cleared for domestic use instigated by the Home Office; and the attorney general's impartial legal advice related to all

of these issues. Finally, it details the continuities or changes in interpretation under different governments.

The reason the government faced a dilemma devolved from international legislation achieved five decades previously. In June 1925, the United States and France proposed a ban on poisonous gases at the Geneva Conference for International Arms Traffic, extended at Poland's request to include BW. Coming into force in 1928, the *Geneva Protocol of the Prohibition for the use in War of Asphyxiating, Poisonous or other Gases, and of Bacteriological Methods of Warfare*, prohibited the use in warfare of "asphyxiating, poisonous or other gases, and of all analogous liquids, materials or devices."³ Tear gases were to occupy an ambiguous position within the terms of the Protocol. During the twentieth century, "tear gases" became a non-specific term for agents used to incapacitate temporarily through stimulating the eyes' lachrymal glands and irritating mucous membranes in the nose, mouth, and lungs. Combatants deployed various tear gases during the First World War before moving to chemicals with more potential lethality: choking or blister agents like chlorine, phosgene, and mustard. The use of chemical weapons [CW] during the conflict acquired a particular moral opprobrium, particularly for their psychological impact and potential for escalation.⁴

The Protocol's entry-into-force was not however an end in itself. Following British ratification in 1930 by a Labour government and amid international attempts to move forward with a "Draft Convention for the Limitation and Reduction of Armaments," the British government queried whether tear gases were contrary to the Protocol and, ergo, the new Convention. It was particularly important as the French used the term "*similaires*" and the English "other" in reference to gases outside of "asphyxiating or poisonous" in their respective copies of the Protocol. Britain viewed "other gases," including lachrymators, as prohibited. Foreign Office Under-Secretary Hugh Dalton confirmed this in a Parliamentary response in February 1930 when he pointed to the exclusion of military screening smokes. The French concurred in this interpretation as did many other Powers due to the intended effect and repercussions of tear gases—Britain and France nevertheless exempted tear gases from "colonial policing" operations. The only opposition came from the United States that sought a technical study first. Strong lobbying from the Army Chemical Service and chemical companies had likewise prevented ratification of the Protocol in the American Senate. Whilst multi-lateral progress stalled with the collapse of all disarmament talks by the middle of the 1930s, the ostensibly minor "*similaires*" and "other" discrepancy, alongside excluding screening smokes, would return to complicate the debate 40 years later.⁵

American scientists, Ben Corson and Roger Stoughton, first synthesised "CS"—2-chlorobenzalmalonitrile—in 1928. At room temperature, CS is solid, crystalline matter, converted into an aerosol or smoke through heating

or the application of a solvent. However, it was not developed into what was now being called a “riot-control agent” [RCA] until 1956 by the British Chemical Defence Experimental Establishment. The Army wanted a replacement for the tear gas “CN”—chloroacetophenone—that was occasionally failing to disperse in colonial policing situations. CS became one of the most widely adopted tear gases due to its strong immediate effects and low toxicity compared to existing agents like CN or “DM”—dinpenylaminochlorarsine. Its first successful deployment occurred against protestors in Cyprus in 1958.⁶ The United States Army acquired Britain’s CS research as part of reciprocal security sharing arrangements;⁷ and whilst now regarding the Geneva Protocol as established within customary international law, its *Field Manual* confirmed in 1956 that the United States did not consider it prohibiting RCAs.⁸

Much analysis exists about the Anglo–American “Special Relationship” during the Cold War, which arguably operated as Britain’s number one foreign policy priority.⁹ With successive British governments axiomatically supporting American foreign policy objectives, it would be tempting to locate the CS decision as fitting this pattern. Indeed, during this period, the MoD repeatedly stressed the damage that could be done to relations should London break with Washington on this issue. Such a conclusion would make sense to casual and even specialist observers of the relationship, particularly as the CS episode requires addressing in historical accounts of transatlantic relations during this era and where other attention to arms control thus far tends to relate to nuclear weapons.¹⁰ During the 1960s, in the latter area, Britain continued to benefit from its extremely close security partnership with America.

Furthermore, the Wilson government wanted to avoid adding to tensions caused by the Vietnam War. Whilst Britain maintained diplomatic support for American intervention, it fell short of a token British military contribution—ruled out by Wilson—that the United States hoped would bolster international support for the controversial conflict.¹¹ Wilson’s occasional criticisms of American conduct of the war angered President Lyndon Johnson, and the premier’s efforts to mediate a peace settlement equally proved unsuccessful.¹² Nevertheless, as the conflict escalated, Johnson wanted Britain to maintain the valuation of sterling, support the dollar’s reserve currency role, and retain its international military commitments. British financial weaknesses, however, could not sustain these requests. The Labour government’s decisions between July 1967 and February 1968 to withdraw all forces from military bases “East of Suez,” devalue sterling, and cancel a contract for 50 American F-111 fighter planes, profoundly affected Washington’s opinion of the partnership.¹³ Following the election of President Richard Nixon in November 1968, a lengthy FCO paper portrayed a realistic assessment of where Anglo–American relations stood but stressed

how important the Special Relationship remained to the Britain.¹⁴ As it turned out, relations with the new Administration actually improved over the next three years,¹⁵ although the travails over CS had no impact either way on this curve.

American forces in Vietnam began using CS—and CN—in 1964, its deployment growing steadily, and by 1971, they released nearly 10 million kilograms through many dissemination methods.¹⁶ For the United States Army, CS appeared well suited to counter-insurgency jungle warfare against the North-Vietnamese National Liberation Front, particularly attacking tunnels or fortified positions, flank clearing, and area denial. It also had utility as a “force multiplier”: a “flusher” weapon that could direct enemy combatants into conventional weapons range. Yet the official line, and one that would become familiar to the arguments of the MoD, was that CS saved lives: facilitating prisoner of war capture, sparing civilians, and thus a “humane alternative.” Moreover, the American Air Force employed another chemical substance in even greater quantities. Beginning in 1962, it sprayed thousands of hectares of South Vietnamese countryside with plant herbicides and defoliants under “Project Ranch Hand.” International controversy over the use of these substances developed steadily.

Thus, by 1966, the United States faced sustained criticism in many fora, not least at the UN General Assembly, by the Eastern Bloc and non-aligned countries for using chemical agents. A Hungarian resolution that year charged that the Geneva Protocol prohibited such weapons. Only amendments by the America, Britain, Canada, and Italy produced a watered-down resolution that nevertheless called for strict observance of “the principles and objectives” of the Protocol. Indeed, in confidential conversations with the British, American officials acknowledged that RCA use in Vietnam was “inconsistent with [the] “humanitarian” purposes rationale.”¹⁷ London thus found itself in a bind: British ratification of the Protocol in 1930 made its position on tear gases clear, but it wanted to avoid criticising America, especially as the question was technically open to interpretation and the Americans had not ratified the Protocol. Furthermore, Anglo-American CBW interests were linked at multiple security levels; the British position “reflected its loyalty to, and perhaps more important, its dependence on, its ally, rather than any strict adherence to its original position.”¹⁸ Hence legal opinion within the Foreign Office in 1965 shifted to the view that the illegality of tear gas use in Vietnam remained “uncertain.”

By 1969, the issue was reaching a critical stage. In the forward to the UN *Experts Report* on CBW published in July, Secretary General U Thant appealed for a “clear affirmation” that the Protocol prohibited the use in war of all CBW agents, including RCAs and herbicides. In December, by a vote of 80 to three, the General Assembly adopted Resolution 2063A describing all wartime CBW use as contrary to international law. Whilst America,

Australia—also involved in Vietnam—and Portugal—facing security issues in its African colonies—voted against, Britain abstained along with a number of other members on the basis of not unilaterally re-interpreting established treaties. Complementing yet complicating matters was Britain's decision to pursue a major disarmament initiative prohibiting the development and production of BW. The legislative origins of the 1972 Biological Weapons Convention [BWC] lay in work conducted by the FCO's Arms Control and Disarmament Research Unit and the Atomic Energy and Disarmament Department between 1966 and 1968.¹⁹ Although envisaging any prospective treaty as a joint CBW affair, separating CW and BW ensued on the basis that prohibiting the latter was more achievable. Sent to the UN Eighteen Nation Disarmament Committee at Geneva in August 1968 a "working paper on microbiological warfare" turned into a British draft treaty in July 1969. The influence of the Geneva Protocol on BW disarmament should not to be under-estimated, as the existing treaty banned the use but not development or acquisition of CBW. The US mission in Geneva acknowledged:

All discussions involving CBW... have to take into account fact that the US has not ... ratified the Protocol... . US would probably not be able to breathe life into British initiative ... unless we had moved to ratify the Protocol. Opposition to UK initiative derives in part from suspicion that US ... would exploit such a ... BW measure either to draw attention from US non-adherence to protocol or to demonstrate that Geneva Protocol is not ... a satisfactory instrument.

Similarly, a Central Intelligence Report on CBW in August 1969 concluded that the BWC would probably founder because the "Soviets and their allies seem intent upon avoiding substantive consideration of it in Geneva in favour of taking the problem to the General Assembly" where discussion would likely focus on tear gas.²⁰

Launching the BWC consequently put greater pressure on Britain to clarify its understanding on tear gases/CS, especially as consternation existed with a number of Powers and individuals at separating BW and CW; believing that it undermined the Protocol, they wanted negotiations for a joint prohibitive treaty. In America, calls for a change had also been steadily building for several years, not least following an accidental Air Force nerve gas leak in 1968 in Utah, which ultimately led to a Congressional investigation of the American CBW programme. Having only taken power in January 1969, Nixon's Administration found itself under immediate pressure from the Senate Foreign Relations Committee to resolve the United States position on the Geneva Protocol. On 25 November 1969, following an extensive, multi-agency review of CBW policy, Nixon announced that Washington would end its BW programme, renounce first-use of lethal CW, and re-submit the Geneva Protocol for ratification but, crucially, excluding RCAs and herbicides.²¹

Soundings for a British statement had begun months earlier, at first externally. Matthew Meselson, a Harvard University professor of molecular biology and CBW expert who had worked on a 1963 CBW study for the American Arms Control and Disarmament Agency and advised the Nixon Administration, met Britain's chief scientific advisor, the zoologist, Sir Solly Zuckerman. Meselson "urged" Zuckerman to use his influence to see that Britain prohibited the use of "harassing gases" in warfare as it could have considerable effect on American policy. Meselson had also spoken with the DD head, Ronald Hope-Jones, at the CCD, the successor to the Eighteen Nation Disarmament Committee.²² Similar discussions followed internally. Writing to Stewart, the FCO minister of state for disarmament, Fred Mulley, expressed misgivings about Thant's forward to the UN *Experts Report*, which amounted to a re-interpretation of the Geneva Protocol. More difficulty arose with the then non-adopted Resolution 2603A: "The Question of Chemical and Bacteriological (Biological) Weapons":

In view of the leading part we have taken over the past year in stimulating the United Nations to take further action in this field we can hardly avoid having to state publicly whether we ourselves interpret the Geneva Protocol as covering tear gas... . An early ministerial decision is therefore required.²³

The question, Mulley continued, might need legal advice to resolve as "the text of the protocol itself is ambiguous and the negotiating history inconclusive." Yet there was no doubt how the government had interpreted it in 1930. Moreover, Britain would be free to use CS in any dependent territories, "and I find it difficult to envisage any future circumstance in which we would be at a grave disadvantage if we were debarred from using it outside" A reversal would present real political difficulties within Parliament and the Labour Party.²⁴

The MoD position was contrary, however, and proved unyielding. Sir James Dunnett, the permanent under-secretary, wrote to Sir Thomas Brimelow, the FCO deputy under-secretary, saying that re-affirming the 1930 statement would disadvantage British defence interests. The MoD conclusion to exclude CS gas was, he claimed, supported by "an overwhelming case in logic." Zuckerman, who worked on the UN Secretary General's *Report*, strongly disagreed. The MoD argued that weapons like CS could be of value in war where minimum force was a paramount consideration, particularly where enemy and non-combatants were "indistinguishable." Such an attitude might be valid, he argued, if Britain was still involved in "imperial policing operations," but it did not hold in a war against an enemy equally well armed with CW. The American position was a political, not military argument; if Britain followed, "it would lead to a totally disastrous political situation."²⁵

In seeking a broad-based resolution, the subject went to a meeting of the Defence and Overseas Policy Committee [OPD] where Mulley repeated his arguments. Beginning a well-worn theme, the defence secretary, Denis Healey, thought the public would find it incomprehensible to forego a weapon they were prepared to use domestically. Furthermore, “The situation was entirely different from 1930, in that far less toxic gases were now available.” For the first time at this stage of the debate, the American relationship appeared. Without presenting any evidence, Healey argued that a statement on the lines proposed could cloud Anglo–American relations; Britain should avoid making one but if pressed, say that it would not preclude options in advance. It was, for example, difficult to foresee precisely what situations would translate into military operations. No matter how careful in re-affirming the 1930 explanation, “certain MPs and others” would press for no domestic use. The MoD’s concern on the latter issue related directly to Northern Ireland, the British Army deployed there since the summer in an attempt to stop the escalation of violence between the Protestant and Catholic communities in Belfast: CS had regular use to disperse protestors. Summing up, Wilson said as the majority of the Committee opposed the paper’s recommendations, it would be unwise to re-affirm the 1930 statement. Nevertheless, if he wished, Stewart could put the issue to the Cabinet.²⁶

The matter appeared settled at ministerial level but with the offer of a full Cabinet hearing, it became subject to two developments over the next two months: interpretative readings of the Protocol and definitions of CS properties. Again, there developed clear FCO–MoD divisions. The MoD focussed consistently on the comparative toxicity levels of CS to older agents—with “toxicity” and “poisonous” used synonymously by both departments. CS was less toxic than older tear gas variants, and the MoD believed as such it warranted exclusion from the Protocol’s coverage. A FCO note nonetheless made a firm case for remaining within the 1930 boundaries based on an inclusive interpretation of “other gases.” The note argued, “the comparative toxicity of CN and CS is irrelevant, since toxic means poisonous, and under the Geneva Protocol they are both to be regarded as not “poisonous” but “other gases.” CS has more disabling effects on the body than CN and if one is banned under the [Protocol], both must be.” It was “very subjective and ambiguous” to take “other gases” to mean causing significantly harmful—or deleterious—physical effects, nor was it absurd to distinguish between war and civilian use. The Protocol’s objective was war and could only be effective if all CW were covered, having resulted from a general visceral revulsion against gas-type weapons rather than categories of suffering.²⁷ Notable in the FCO’s interpretation was the absence of any conflict of interest in retaining the 1930 interpretation with the maintenance of the Special Relationship. Indeed, the latter remained a top priority for the department.

The MoD argued the opposite case, stressing for example that there was no international agreement in 1930 on the Protocol and a British letter that year reflected a wish to establish consensus. It suggested “that there was a much uncertainty then as now ... about its spirit and intention.” CS was “virtually non-lethal at all feasible concentrations” and its effects only temporary. Furthermore, no legal validity existed for interpreting the Protocol as including “all gases” or any “use in war.” In addition, the MoD now contested definitional terms, stating CS was not a derivation of tear gas—it was unrelated to CN—whilst it was mistaken to reach a judgement based on one particular use in Vietnam when “the lives of women and children have been saved.” Thus, although toxicity remained at the heart of the MoD position, it also focussed on tactical and moral considerations.²⁸

Whilst the debate quietly polarised within the Labour government, the international dimension to the dilemma heated up. Following Nixon’s November announcement, the Swedish ambassador—and vocal disarmament campaigner—to the CCD, Alva Myrdal, tabled the latest version of UN Resolution 2603A. The American CCD ambassador, James Leonard, reported to his British opposite, Ivor Porter, that Myrdal had bluntly told him that she had not wanted the Americans to ratify the Protocol, confirming Porter’s impression that “she is clearly determined to embarrass the Americans as much as possible.” This tack caused problems for Britain: “We should be in an extremely embarrassing position if we could not say in explaining our vote that we adhere to our pre-war interpretation.” As Myrdal suspected this predicament, Porter added, “There is no hope she will help us out of it... . Evasiveness ... will once more be generally interpreted as a shift in our position to please the Americans.”²⁹

Perhaps inevitably, attention focused on the American situation. The Labour MP, Philip Noel-Baker, who helped prepare the Disarmament Commission document in 1930, told Parliament that excluding RCAs and herbicides would be “no ratification. I was in Geneva ... in 1925; everyone agreed that every kind of CB weapon should be abolished... . Nixon’s proposal was ‘indubitably inconsistent.’”³⁰ Meselson introduced more contemplation. On another European visit, he met Lord Chalfont, an FCO minister, telling him that Washington’s long-term intention was to bring RCAs and herbicides within the Protocol once the Vietnam War ended.³¹ However, Washington rejected Meselson’s interpretation. Culver Gleysteen, deputy assistant director of the Arms Control and Disarmament Agency’s International Relations Bureau, told the British ambassador at Washington, John Freeman, there was no evidence to suggest a temporary exclusion.³² Similarly, the Embassy counsellor, Sir John Moberly, spoke to Ronald Spiers, the assistant secretary of state for Politico-Military Affairs, who reiterated the decision to accept the military requirement that tear gases remain available. More importantly, Spiers made a key admission that undercut one of the

MoD's repeated arguments: any British re-affirmation of its 1930 statement would not cause embarrassment "provided we did so on the basis that this was our unilateral interpretation."³³ It was clear therefore that Britain was under no obligation to "follow" the American line.

Before the OPD and Cabinet made a final judgement, the FCO had Sir Elwyn Jones, the attorney general, assess the situation. Legal interpretation now came to the fore of the debate as Jones concluded, "while the matter is not beyond some doubt, it is in law very much the better view that tear gases, and in particular the modern variant known as CS gas, are within the prohibition on the use in war of certain gases." Reversing the 1930 decision would seriously question the credibility of current attempts to adopt further CBW measures, particularly the BWC. He, too, was quick to defuse the American issue, particularly implicit pressure or expectation: the Americans had never thought that Britain would adopt their interpretation; they merely sought agreement that different interpretations were possible. Furthermore, he added, the Americans might adopt an accepted view once Vietnam was over, making Britain look silly if it reversed position to suit them. Northern Ireland should not be problematic because the issue concerned CS use. Domestically, it had humane purposes; the same did not hold when used in Vietnam.³⁴

Continuing, the attorney general advised that "other gases" "clearly referred" to cases that were neither asphyxiating nor poisonous, otherwise there would be no purpose to adding this category. It was legally permissible to derive a limitation on the meaning of "other." The common factor shared by all three categories was that they were "significantly harmful or deleterious to man." The French "*similaires*" suggested broadly the same conclusions. Comparative toxicity was an insufficient basis to consider CS excluded. Indeed, the Home Office recently warned police chief constables not to deploy CS in small, unventilated rooms due to its potential health dangers. The key physical element was CS's purpose to "produce effects sufficiently harmful as seriously to incapacitate people."³⁵

The MoD was unmoved by Jones' case. Healey was adamant that nearly every step in his paper could lead to the contrary conclusion. Focussing again on CS physical properties, he now argued that it was "not a gas but a smoke. It may well be possible to adduce both legal and semantic arguments to exclude CS ... on this basis." This approach would be broadly in line with the American distinction between "incapacitating chemicals" and "riot control agents."³⁶ Having introduced a range of scientific and tactical formulations, the MoD then tried to undercut FCO fears about the impact on overseas relations by lecturing them on diplomatic conduct: "international goodwill is not a quantifiable quantity"; progress in disarmament relied on calculated deals between superpowers "and not of the ephemeral support (or lack of it) of the non-aligned." The Anglo-American relationship also returned: Britain

would be taking public issue with the United States on something on which there should be accord as members of the North Atlantic Treaty Organisation, with an implied criticism of Vietnam policy. Furthermore, the MoD continued, the British public “will fail to be impressed by a logic that permits the use of CS on British citizens but condemns its use on ... Soviet infantry.” The Americans did not “invariably or even mostly use” CS for flushing and, whilst it produced sharp discomfort temporarily, it did not constitute “harmful” in the ordinary understanding of the term, “which surely connotes some substantial duration.” It was no more harmful in normal concentrations than military screening smoke—zinc chloride—used regularly during the Second World War. Indeed, zinc chloride was twice as toxic as CS.³⁷ The MoD’s arguments now became increasingly technical, subjective, and, as soon revealed, convoluted.

When the OPD reconvened the next day, Healey outlined two acceptable ways to re-affirm the 1930 statement. First, adopt the American formula, reserving the right to make use in war of “agents which have transient effects ... widely used ... for domestic riot control”; or, second, explain that modern technology had “made available agents such as CS which, since they were not significantly harmful, we did not regard as covered by the Protocol.” Healey stressed that the critical question was to maintain convincingly “that CS and similar gases were qualitatively different from the agents whose use the Protocol had been intended to prohibit.” Summing up, Wilson favoured a qualified re-affirmation along these lines although this position would clearly have implications, requiring a Cabinet decision in advance of any public clarification.³⁸

On 16 December, Wilson submitted a note for the OPD and Cabinet setting out the arguments for and against the proposed courses of action. Crucially to the reasoning of the debate, however contrary to MoD views and in keeping with the advice of the attorney general, FCO, and Zuckerman, the note made clear:

Chemical agents, whether regarded as lethal or incapacitating ... are all toxic agents ... “lethal” and “incapacitating” agents are not absolute terms but imply statistical probabilities of response. Toxicity of these gases varies in different animal species and in different environmental conditions... . not all individuals will die from an attack with a given lethal agent, whereas, again depending on circumstances, some might succumb to an attack with an incapacitating agent... . CS may be far less lethal ... but it cannot be differentiated qualitatively from other agents which we regard as banned.

The OPD decided on two options: re-affirm the 1930 statement without qualification, but make clear it would not object to others excluding RCAs; or re-affirm but exclude CS. The majority of the OPD favoured the latter.³⁹ At a Cabinet meeting two days later, the majority of ministers supported this conclusion. The record notes one of the key issues was the “vociferous

lobby,” opposing the use of CS in Northern Ireland, that would exploit any admission that CS was “too obnoxious” for use in war. Nevertheless, any statement required very carefully drafting. “It would be important to make it clear that the criterion was toxicity,” with screening smoke’s exclusion used by way of comparison.⁴⁰

Such tidy reasoning proved troubling for a number of individuals, particularly Hope-Jones. Ostensibly, authoritative science proved to have shortcomings. The MoD toxicity paper found basis on zinc chloride tested on mice during the 1940s, but there was no comparative test for CN. “I do not see,” stated Hope-Jones, “what scientific evidence there is for the MoD’s claim that zinc chloride is less toxic than CN.” Substances like the agent “DM” were less toxic than CN by 40 percent and, if permitting zinc chloride, how to prohibit them? “Toxicity is not the right criterion, and the attempt to apply it only leads to absurdity” Such weapons’ objective was to incapacitate, and CS’s principal advantage was that it was the most irritating, with the lowest tolerance and, therefore, the most effective.⁴¹ Hope-Jones hence suggested it tactically unwise to lay so much emphasis on the “actual or potential harmful physical effects of CS.”⁴²

Whilst now seemingly settling the matter at Cabinet level, the formulation of a statement that Britain did not regard CS as prohibited by the Protocol and making this decision public was not so simple. Initially there was a plan to make an announcement in relation to a Prime Ministers Question in Parliament on Wilson’s forthcoming official visit to Washington or on general disarmament matters. Ultimately, Wilson decided not to make a statement—it would reduce his room for manoeuvre; he would refer to a statement being prepared for Stewart.⁴³ Even with this decided, the wording still proved problematic. The debate again produced different professional assertions, with phrasing that concerned scientific authority being unacceptable to legal authority. Ian Sinclair, the FCO legal counsellor, told Hope-Jones that the precise language of the Cabinet conclusions, particularly toxicity, “presents a real problem for the lawyers.” All legal advice and evidence regarded irritant and lachrymatory agents as “other gases.” CS being less “significantly harmful” would be easier to justify than “less toxic.”⁴⁴ Hope-Jones concurred: he could not advise “the adoption of a legally indefensible position . . . which does not accord with the scientific evidence.” Sinclair suggested using the phrase modern tear gases were “significantly less harmful.” Hope-Jones’ preferred “potentially less lethal” as lethality was quantifiable. He re-emphasised his concern at scientific comparisons, this time bringing in a November 1969 World Health Organisation report on CBW. It declared that CS effects were “qualitatively rather similar to those of CN,” but “CS is about 10 times as potent.” Given tear gases used for their irritant rather than toxic effects, it was easier to justify CS’ prohibition and CN’s exclusion.⁴⁵

Thus when inter-departmental officials met to consider the draft statement, they quickly realised the impossibility of proceeding on toxicity. Furthermore, supplementary Parliamentary questions would require “very evasive answers,” particularly regarding CS irritancy.⁴⁶ Existing problems also resurfaced from the Home Office for whom “not significantly harmful” was unacceptable since this conflicted with advice concerning small room usage.⁴⁷ Hope-Jones conceded that he had “tried conscientiously, in seeking inter-departmental agreement, to present the Government’s case in the best possible light. But the smoke screen is too thin to conceal the essential weakness of what is in fact an indefensible position.”⁴⁸ Moreover, amidst these deliberations, Sir Harold Himsworth was carrying out a second stage of enquiries into CS at the home secretary’s request. It would look very odd if the government stated that CS was not “significantly harmful” without waiting for Himsworth’s final report.⁴⁹ This position found immediate favour with Chalfont. “It is true, as I have argued all along, that we may be smoked out, but it would be foolish to display our self-inflicted wounds before we are forced to.”⁵⁰ Another ministerial meeting was needed to discuss the complicated presentational aspects, Chalfont suggested. “It is now abundantly clear that the Cabinet decision [to exclude CS] was taken on inaccurate information and false assumptions.” Stewart likewise had serious doubts about the new draft’s acceptability and need for an immediate statement.⁵¹

A compromise nevertheless emerged at a meeting amongst Healey, Stewart, and Jones,⁵² where it was decided that the best presentation was “not significantly harmful” in “normal use”; “normal use” however would have to be amplified to make clear that although CS could in “certain exceptional circumstances cause significant harm, such circumstances were unlikely to occur naturally.” Preparing to answer a Parliamentary question with a statement on 2 February, Stewart was keen to avoid any suspicion that a decision was taken as a result of American persuasion by allowing a longer interval between Wilson’s return from his official American visit on 30 January and the announcement. In the event, and perhaps indicative of the marginalisation of the issue at the leadership level, it was neither discussed in Washington nor a feature of British or American steering briefs.⁵³ In fact, the issue had little to no bearing on Anglo–American relations at this time. In terms of the critique that followed, the latter point is particularly important: demonstrating popular attitudes based on prevailing assumptions rather than reality. It also demonstrated how this area of arms control was compartmentalised within bilateral relations, negligible even compared to broader, immediate foreign policy priorities.

Stewart duly delivered the prepared Parliamentary response, adding that if British forces used CS, it would be to “save lives and take prisoners” in a manner consistent with the generally accepted rules of war.⁵⁴ Months of deliberations had produced this outcome, but it was far from the end of the

saga, if anything, simply the end of the beginning. The immediate fallout came with Hope-Jones stepping down as DD head. In his secession letter, he wrote of surprise that there was no reference in the 18 December Cabinet minutes to the attorney general's opinion that CS was covered. "Ministers considered only what they would like the Protocol to mean, not what it actually meant... . I submit that if the government are free to change their interpretation of basic international agreements whenever it suits them, this will have far reaching and wholly undesirable consequences." Stewart and Jones' views were paramount in deciding the interpretation of international treaties and ministers were not free to decide otherwise. "I regard the Government's decision as an unnecessary, an unwise and a fundamentally dishonest one, taken in the full knowledge that it can hardly fail to do serious damage to the credibility of their disarmament policies... ." For Hope-Jones it was "morally intolerable simply to make the best of a bad job and continue in my present office."⁵⁵

There were also immediate repercussions at the CCD. Despite vocal reservations, Chalfont delivered a damage limitation speech, stating that the decision provided opportunities for British troops to save lives, "particularly when innocent civilians may be involved." The CCD would be doing itself a disservice devoting attention to outlawing CS at the expense of lethal weapons.⁵⁶ Myrdal responded plainly the following month. CS was a tear gas whatever other names attached to it and "prohibited for use in war."

The teargases are intended to affect an adversary directly, whereas smoke ... is a substance intended mainly for hiding... . It is somewhat disconcerting, moreover, to hear the distinction, lethal, non-lethal being introduced again. The Geneva Protocol makes no such distinction. The UK statement is most regrettable. It is particularly so since it comes from a Government which ... has shown such positive interest in getting ahead with further arms regulation measures in the field of CBW.⁵⁷

The Indian ambassador, M.A. Husain, made a similarly impassioned speech, saying grave risk existed in allowing use any use of gas, including CS, in war because of the danger of escalation. "It is simpler and more practical to observe the principle: "no gases... . It is erroneous to think that the use of tear gas in warfare is intended to save lives and is ... more humane."⁵⁸

With the matter now public, a new dynamic was emerging. The most pressing concern in London was how to mitigate media coverage. Cognisant of the likely backlash, the DD had already had discussions with the FCO News Department, who saw little scope for positive steps. DD Officer, Derek Benest saw few persuasive points and felt the least disadvantageous approach was to ensure the criticism passed quickly.⁵⁹ He believed the burden of explanation should fall on the MoD but, because the Geneva Protocol was an international agreement, responsibility fell on the FCO. Three days earlier,

Chalfont had received a telephone call from Sydney Bailey of the UN Advisory Group and member of the Disarmament Advisory Panel to say a major civil society and journalistic campaign was developing. Chalfont similarly bemoaned the irony that the “burden ... should fall entirely on the Department and Ministers who, almost alone, resisted the decision.” The principal interest now was avoiding international repercussions that would damage disarmament, particularly the BWC.⁶⁰

Critical media reports soon emerged demonstrating both the depth of opposition and a belief that American influence was crucial. In the *New Statesman*, Anthony Howard did not believe the stories of a great FCO-MoD battle. “The decision is a disgraceful one... . Now we kick in the teeth the very proposal that we ourselves had put forward ... for a special relationship based on poison gas.”⁶¹ Noel-Baker in *The Times* echoed similar sentiments, calling Stewart’s statement “highly disingenuous” and Wilson’s Washington visit meaning, “the other side have won and Britain helps give a fig leaf of respectability to the illegal and terrible chemical campaign in Vietnam. As part of a political bargain our leaders have agreed to distort history and the law.”⁶² In the same edition, Meselson and a Harvard colleague, Professor Richard Baxter, a pre-eminent expert on the law of war, stated, “Neither the language of the Geneva Protocol nor the previous statements of the British Government” afforded any basis for using toxicity as a basis for gases prohibited. The operative words were comprehensive, they argued, and the chief hazard of using irritant gas meant abandoning the standard, “no gas,” which could stimulate new interest in gas warfare.⁶³ The Stockholm International Peace Research Institute director, Robert Neild, and CBW researcher, Julian Perry Robinson, followed in the *Sunday Times*, pointing out that on the four documented occasions when using lethal gases in warfare, tear gas had always preceded them. They warned that soldiers were becoming gas-weapon minded, lowering psychological barriers against use. The Protocol’s legal constraints were one of bulwarks against such danger.⁶⁴ Andrew Wilson in *The Observer* concluded that the government only needed to acknowledge what everybody knew: there was a difference between domestic riot control and warfare.⁶⁵ Meanwhile extra-government pressures ensured that the issue did not fade away after a few weeks. In April, the British Council of Churches took out a full-page critique in *The Times* whilst the Oxford branch of the British Society for Social Responsibility in Science compiled a 200-strong petition. Finally, in May, the British Pugwash Group held a speakers event at St. Bartholomew’s Hospital London where Chalfont defended the government’s decision.⁶⁶

In addition to the unfavourable public reaction, it was equally becoming clear that the MoD “victory” in December was pyrrhic when it came to re-drawing the “rules of engagement” for wartime use of CS. The standard formulation described CS as “a desirable option in a number of situations,

especially where it would be an appropriate means of limiting conflict and preserving life.”⁶⁷ Chalfont was unhappy with this view as it suggested uses other than saving lives and taking prisoners; Stewart’s February statement had essentially committed British forces not to use CS in “significantly harmful” ways. Examining such constraints, the FCO assistant under-secretary for Western Europe, David Bendall, admitted, “it is difficult to envisage any situation in which this substance could be used.” The MoD subsequently had little option but to agree to the line embodied in the 1949 *Geneva Convention for the Amelioration of Sick and Wounded in Field*: “Because of this an enemy rendered hors de combat by the use of substances such as CS will not deliberately be subjected to further acts of violence.”⁶⁸ Thus, if the utility of CS in military situations was largely circumscribed, coupled with the negative public reaction, the counter-productive nature of the February qualification was ever more apparent.

In June 1970, when Wilson’s Labour Party lost the general election to Edward Heath’s Conservatives, the matter, irrespective of its untidy nature, seemed settled. The saga however had further twists and turns. Within the FCO, it remained a damaging development and the government changeover precipitated the idea of revisiting the decision. Much as before, soundings showed that there would be strong MoD opposition and the issue would have gone to the Cabinet. After much consideration, both the FCO and new under-secretary of state, Lord Lothian, concluded that matters remain closed.⁶⁹ Still, additional complications presented themselves. John Graham, private secretary to new foreign secretary, Alec Douglas-Home, told DD that a re-examination would involve difficulties with the constitutional rule that ministers must not see personal papers written by colleagues from different political parties—recent correspondence on the subject quoted the previous attorney general.⁷⁰ The new DD head, David Summerhayes, replied that this correspondence was only included because it was the one authoritative legal opinion about which he was aware. Without it, ministers would not have a proper idea of the extent of the decision’s controversy and complexity, and they would assume that the final Cabinet decision reflected legal advice.⁷¹ Despite these barriers, Douglas-Home thought it necessary to go ahead: fundamentally, he believed that the February announcement had repudiated an international agreement, brought credibility on all CBW questions into doubt, and threatened the BWC.⁷²

Attempting to ascertain the legal position of discussing the decision, however, caused more months of delay. Sir Thomas Hetherington, the Law Officers Department legal secretary, supported using a legal opinion in correspondence provided it received description as an opinion handed down by the previous attorney general.⁷³ Graham added that knowledge of Jones’ opinion would reveal Labour ministers went against legal advice. It would give current ministers an advantage should the question

come up in Parliament, something constitutional rule was supposed to avoid.⁷⁴ The Cabinet Office said ministers would not be able to put facts on record without breaching collective responsibility and Cabinet secrecy.⁷⁵ Ultimately, the new attorney general, Sir Peter Rawlinson, received re-submitted CS papers without reference to Jones' opinion.⁷⁶

By early 1971, despite the continued absence of the issue in Anglo-American diplomatic traffic, the American angle continued to be used by the MoD, which stressed, "any reversal ... would put us in clear and direct and public opposition."⁷⁷ Similarly, legal advice was unchanging. Henry Steel, the FCO legal counsellor, told Benest, "Both the Attorney-General and Solicitor-General indicated that there was very little doubt ... CS Gas was covered... however much we churned over the matter, the Law Officers were unlikely to alter their view."⁷⁸ Summerhayes informed Brimelow that the FCO's principal concern was legality. Ministers would have to answer questions on legal advice and, if soliciting none, strong criticism was expected. Moreover, if the Americans conceded to the Senate over exclusions and Britain re-confirmed the decision, "we should find ourselves faced with the most painful dilemma ... to persist in our lonely course ... which we know was not legally well founded." Alternatively, if they changed position, it would "look to the whole world as evidence of subservience to American wishes."⁷⁹

In late April 1971, after Heath's government had been in power for almost a year, the FCO informed the MoD that they would re-request a legal interpretation;⁸⁰ the MoD stalled matters again. A meeting in early June between Douglas-Home and the defence secretary, Lord Carrington, finally addressed them. Carrington, however, would not move, citing the difficulties a reversal could cause if using CS in territories like Northern Ireland and Hong Kong. The MoD had persisted in this line of argument despite the fact that CS use domestically or in dependent territories was not subject to Geneva Protocol restrictions. Carrington wanted Douglas-Home to defend "staying put," as he called it, based on the "best advice sought." Douglas-Home reluctantly would consider further forms of words.⁸¹ Summerhayes opposed another public confirmation: first, as BWC negotiations were at a critical stage, opponents could destructively use a statement;⁸² second, the unclear American position on Geneva Protocol ratification meant freedom of action was best; and finally, a statement before the publishing of the second Himsworth Report would be criticised for anticipating its findings. Accordingly, there was advantage in indefinite delay.⁸³ An advance look at the Report occurred shortly afterwards; satisfied that it proved CS safe in domestic riot situations, DD was unclear if it was harmless in other scenarios that would stir up debate.⁸⁴ Consequently, Benest advised the FCO against getting too involved.⁸⁵ Inertia and delaying for tactical reasons now dominated any potential re-examination of the decision.

By autumn 1971, as the BWC neared final UN acceptance, reports from Washington emphasised continued deadlock on ratification of the Protocol.⁸⁶ In London, the matter became increasingly urgent because a Conservative MP, Peter Blaker, had written five times to Lothian enquiring about a statement date. Yet FCO ministers had neither decided on the desirability of one nor what to say.⁸⁷ By late November, Summerhayes continued to advise caution and, again, a new complication arose. Discussions on a CW Convention at the UN General Assembly and the CCD now made raising the issue undesirable, as British insistence on verification procedures made it an easy target for propaganda.⁸⁸ More months inevitably passed without resolution but, with the BWC ready for signature on 10 April 1972, Joseph Godber, the FCO minister of state, saw an opportunity for finally re-opening the decision. Echoing established frustrations, he feared that if matters continued, the government would look ridiculous.⁸⁹ For the MoD, however, the June 1971 understanding was clear: the FCO was obliged to implement it and “had made no real effort to do so this far.” British officials at the CCD also reiterated that any statement would complicate their task on a CWC, providing the strongest diplomatic reasons to hold the MoD line.⁹⁰ Preparing papers for the CWC also required MoD help relegating CS’s importance.⁹¹ Even with attempts to devise a suitable statement, technicalities and semantics again grounded them, particularly the “toxicity criterion” and the means to present “tactical advantages” and “humane options.”⁹²

After two years in power, a reversal of the February 1970 statement or qualification of the incumbent government’s position was no further forward. The question remarkably then lay dormant for another two years, which given the vicissitudes of electoral politics saw a Labour government back in office. With a familiar sense of *déjà vu*, new FCO under-secretary of state, David Ennals, broached the issue once more. Realistically, he doubted the MoD any less inflexible, especially considering the government was now embroiled in debate over deploying the RCA, “CR”—dibenzoxazepine—in Northern Ireland.⁹³ Summerhayes meanwhile was reminded of the “torturous course the controversy has taken within Whitehall” and tense feelings “aroused in the MOD,” which continued to see CS as vital for riot control in Northern Ireland. With the province prominent in the headlines due to continued violence, it was propitious tactically to reopen the question.⁹⁴

In mid-December, however, events in Washington threatened to change the situation dramatically; domestic politics proved influential once again. Following Nixon’s resignation over the Watergate scandal in August, his successor, Gerald Ford, who wished to mend fractious relations with the Senate, came to a compromise solution on ratifying the Protocol. An Executive Order listed exclusions to herbicides and RCAs, largely ruling out combat usage, listing instead specific defensive military applications.⁹⁵ Britain now faced the distinct possibility of being the only Protocol signatory to

exclude verbally CS. Barbara Richards in the ACDD noted they now needed to consider whether the American decision out-weighed Northern Ireland, as the change left Britain “decidedly more exposed” and weakened MoD views.⁹⁶ Martin Eaton, the FCO legal advisor, believed that Britain did not need to alter its position: the Americans were not depositing their reservations with the instrument of ratification—the reservations were a domestic issue. Yet it did mean, “we are more isolated, and this constitutes a further argument for reversing our previous policy.” Nor could the FCO legitimately try to sell a “no first use” declaration to the MoD as anything different from earlier suggestions.⁹⁷ After five long years and endless debate, the FCO were no further forward in implementing its preferred policy. Whilst non-governmental organisations and individuals maintained pressure and questions occasionally arose in Parliament, no real movement happened until the advanced, multilateral CWC negotiations in Geneva at the renamed Committee on Disarmament during the 1980s. This eventually led in January 1993 to Britain, amongst many other Powers, signing the CWC that included a prohibition on all RCAs in warfare. The drawn out, divisive saga over the Protocol and CS undoubtedly influenced the inclusion of this clause.

In June 1970 having left the government, Chalfont told the *New Statesman* that the CS debate had been punctuated by a persistent failure of communication. “Most perplexing ... is why it should have been necessary to make and announce such a decision at all... . the stage seemed full of characters from other plays, all apparently bent on turning the production into a Whitehall farce.”⁹⁸ For retrospective observers, Chalfont’s comments perhaps ring even truer. Quite why and how Britain ended up in this position appears almost accidental. Indeed, it provides an illustration of how both diplomatic and domestic relations can be mishandled, resulting at best from diffuse external pressure with no apparent gain. The evidence presented in this analysis nevertheless provides some explanations for this outcome.

First, the secretive, complicated assessments that took place in the latter half of 1969 contributed to an external misinterpretation of the eventual decision. In particular was the widely drawn conclusion that it came in deference to the Americans or at their behest, a common misconception of how the Special Relationship works, yet one which arguably continues to inform parts of the press, public, and individual politicians. The MoD was equally guilty of the alternative reaction, repeatedly invoking the potential damage to Anglo–American relations if London excluded CS. Such scare-mongering was based on a myopic, hypothetical model of how the partnership operated, demonstrating how it nevertheless could function as a tool of domestic policy-making and a feature of inter-ministry fighting. Second, the episode also reveals the inter-departmental bureaucratic processes, followed in respect of legal advice and referrals to the OPD and Cabinet. These procedures prolonged a final decision, especially with the FCO and MoD

split. Concurrently, the debate predominantly featured at a secretarial and counsellor-level rather than a ministerial one. A disconnection between the two hierarchies existed, and when the question came to the Cabinet, a mixture of obfuscation, pragmatic politics, and groupthink appeared to supplant legalistic concerns. Third, once reaching a decision, the remarkable consistency in searching for an appropriate, explanatory formula merely convoluted things further. Contrary to the widespread intuition that terms concerning such weapons could be unambiguously, even “scientifically” measured, different interpretations were common depending on the viewpoint taken. Suffused with ambiguity and a quicksand of semantics, this approach meant that each successive re-formulation of CS properties and utility, rather than bringing clarity and closure, produced new problems, ambiguities, or conflicts seized upon by opponents and serving to tie the government’s hands further. Bureaucratic inertia equally hampered attempts at reopening the decision thereafter.

Equally, despite the wealth of internal memoranda, press articles, and civil society work, the matter was perhaps not as important as it might seem in retrospect. The governments of the time faced many other pressing domestic and international issues, something reflected in the brief time given to the final Cabinet decision and the lack of direct intervention from the prime minister. Of course, this might reflect the fact that Britain was not embroiled in any international conflict for CS use, although this pertinent fact equally re-enforces one of the confounding aspects of the case. When Britain had used tear gases in “colonial policing” operations and first deployed CS in Cyprus—and on a number of occasions afterwards—these incidents had attracted little controversy. The speed of decolonisation in the 1960s effectively spelled the end of Britain’s world role and colonial interventions with potentialities for RCA use. Whilst the MoD continually raised the domestic-civil use dichotomy, almost all opponents of the decision pointed out that it was feasible to maintain the distinction. Arguably, CS was not the main dilemma in Northern Ireland from 1969. Rather the British Army’s deployment in the context of the over-all political situation called into question the *tools* used. Therefore, whilst some may have seized upon clarifying a CS prohibition as a way to attack the government over its use in Northern Ireland, the impact would likely have been negligible in the long term. CS’s *status* under the Geneva Protocol was arguably a non-issue for critics of Britain’s Northern Ireland policy.

2015 saw the Geneva Protocol celebrate its ninetieth anniversary; reconsidering the CS debate demonstrates the importance attached to the principles and norms established in 1925—elements that continue to be relevant today. The British dilemma proved how far CBW issues constituted “one ball of wax” internationally, and the complications demonstrated extricating individual elements with the BWC’s negotiation. By the late 1960s, the

international political repercussions of American tear gas and herbicide use in Vietnam catalysed the growing campaign towards complete CBW prohibition, ensuring that anomalies or ambiguities required clarification. Ultimately Britain's 1970 "clarification" went against the majority of international opinion, only serving to complicate further CBW matters. Meanwhile, in temporarily affecting Britain's standing in disarmament circles through verbal and written criticism, it regrettably undermined an area in which it had hitherto played a significant and progressive role. Fortunately, its implications were slight. Passage of the BWC was unaffected, with the British delegation at Geneva playing a prominent role in its subsequent stewarding. In the longer term, the controversy surrounding tear gas in warfare, added to the new, restrictive rules of engagement applied to CS in Britain and, later, America actually contributed to its side-lining as a military agent. The CWC 20 years later made it explicit.

Notes

1. Stewart to all posts, "CS and the Geneva Protocol," 2 February 1970 CAB [Cabinet Archives, The National Archives, Kew] 164/790.
2. Benest, record of meeting, 22 April 1970, FCO [Foreign and Commonwealth Office Archives, The National Archives, Kew] 66/218; Stewart to Wilson, 15 April 1970, FCO 73/102; see FCO 66/217 for a selection of the articles.
3. See J. Goldblatt [Stockholm International Peace Research Institute], *The Problem of Chemical and Biological Warfare*, Volume IV, (Stockholm, 1971). See also League of Nations, *Report of the Temporary Mixed Commission for the Reduction of Armaments, Geneva* (30 July 1924), Sussex Harvard Information Bureau [SHIB] collection, Science Policy Research Unit, University of Sussex,
4. For example, Edward Spiers, *Chemical Warfare* (Houndmills, 1986), Chapter 2; Jeremy Paxman and Robert Harris, *A Higher Form of Killing: The Secret History of Gas and Germ Warfare* (London, 1982), Chapter 1.
5. See Goldblatt, *Biological Warfare*; Memorandum on Chemical Warfare, British Delegation, Preparatory Commission for the Disarmament Conference, Geneva, 18 November 1930, in League of Nations, *Conference for the Reduction and Limitation of Armaments, Chemical and Bacteriological Weapons, Special Committee*, 31 May 1932, December 1934, all SHIB.
6. See J. Walker, *Britain and Disarmament: The UK and Nuclear, Biological and Chemical Weapons Arms Control and Programmes, 1956–1975* (Farnham, Burlington, VT, 2012), Chapter 3.
7. Ibid.
8. https://www.icrc.org/customary-ihl/eng/docs/v2_cou_us_rule75.
9. See for example Alan Dobson, *Anglo–American Relations in the Twentieth Century* (London, NY, 1995); John Dumbrell, *A Special Relationship: Anglo–American Relations in the Cold War and After* (Houndmills, NY, 2001).
10. For example, John Young, *The Labour Governments 1964–70*, Volume II: *International Policy* (Manchester, 2003); Andrew Scott, *Allies Apart: Heath, Nixon, and the Anglo–American Relationship* (Houndmills, NY, 2011).

11. See John Young, "Britain and LBJ's War, 1964–68," *Cold War History*, 2/3 (2002), 63–92; *idem.*, *Labour Governments*, II, 134–35; John Dumbrell, "The Johnson Administration and the British Labour Government: Vietnam, the Pound and East of Suez," *Journal of American Studies*, 30/2 (1996), 211–31.
12. See also Sylvia Ellis, "Lyndon Johnson, Harold Wilson and the Vietnam War," in Jonathan Hollowell, ed., *Twentieth Century Anglo-American Relations* (Houndmills, NY, 2001), 180–204.
13. See, for example, *Foreign Relations of the United States, 1964–1968 [FRUS] Volume XII: Western Europe* (Washington, DC, 2001), 475–79, 516–28, 611–14; Ben Pimlott, *Harold Wilson* (London, 1993), 383.
14. "Underlying Elements in Anglo-US Relations," 17 January, 1969, FCO 32/376.
15. See Alex Spelling, "A Reputation for Parsimony to Uphold: Wilson, Nixon and the Re-valued Anglo-American "Special Relationship" 1969–70," *Contemporary British History*, 27/2(2013), 192–213; *idem.*, "Edward Heath and Anglo-American Relations 1970–1974: A Reappraisal," *Diplomacy & Statecraft*, 20/4 (2009), 638–58.
16. See Jeanne Guillemin, *Biological Weapons: From the Invention of State-sponsored Programs to Contemporary Bioterrorism* (NY, 2005), 114, 116; for a detailed account of the period, see D.H. Ellison, *Chemical Warfare during the Vietnam War: Riot Control Agents in Combat* (London, NY, 2010).
17. S. Wright, ed., *Biological Warfare and Disarmament: New Problems/New Perspectives* (Lanham, MD, 2002), 316.
18. *Ibid.*, 321–22; see also "UK-US discussions on CBW and arms control," 12 and 13 October 1967, FCO 10/179.
19. The Foreign Office became the FCO in 1968. The Atomic Energy and Disarmament Department became the DD in 1968 with atomic matters transferred to the Science and Technology Department. DD became the Arms Control and Disarmament Department in 1971 following a merger with Arms Control and Disarmament Research Unit.
20. Marie Chevrier, "The Politics of Biological Disarmament," in Mark Wheelis, Lajos Rozsa, and Malcom Dando, eds., *Deadly Cultures, Biological Weapons Since 1945* (Cambridge, MA, 2006), 311; cf. <http://2001-2009.state.gov/r/pa/ho/frus/nixon/e2/83572.htm>.
21. For example, Wright, *Biological Disarmament*, 314; Jonathun Tucker, "A Farewell to Germs: The US Renunciation of Biological and Toxin Warfare, 1969–70," *International Security*, 27/1(2002), 107–48.
22. Zuckerman to Mulley, 8 August 1969, CAB 164/789.
23. Mulley to Stewart, "Geneva Protocol and the use of RCAs in Warfare," 18 September 1969, CAB 148/93.
24. *Ibid.*
25. Zuckerman to Mulley, 22 September 1969, CAB 168/125.
26. OPD, "Geneva Protocol and the use of RCAs in warfare," 25 September 1969, CAB 148/91.
27. Evans to attorney general [Sir Elwyn Jones], "Legality of RCAs and Geneva Protocol," 30 October 1969, CAB 168/125. On "toxicity" versus "poisonous," there are subtle, but important comparative differences: toxicity, the degree to which a substance can damage an organism, is dose dependent and species specific; poisonous refers to substances that cause disturbances to organisms when sufficient quantities are absorbed.
28. MoD note, "CS and the Geneva Protocol," nd, CAB 168/125.
29. Porter to FCO, "UN vote on Geneva Protocol," 26 November 1969, *Ibid.*
30. Noel-Baker statement, nd, *Ibid.*

31. Porter to FCO, "Chalfont and Meselson meeting," 1 December 1969, DEFE [Defence Secretariat Branches Archives, National Archives, Kew] 24/405.
32. Freeman to FCO, 4 December 1969, CAB 128/126.
33. 5 December 1969, *Ibid.*
34. "Stewart note for OPD meeting," 9 December 1969, CAB 164/789.
35. Attorney general's advice, *nd*, *Ibid.* The warning from the Home Office stemmed from the Himsworth Committee enquiry into the use of CS in Londonderry, Northern Ireland chaired by Sir Harold Himsworth, former secretary of the Medical Research Council. Published in October 1969, this was a Home Office-ordered study based on concerns over the health impacts of the use of CS on 13–14 August 1969.
36. OPD meeting, 10 December 1969, DEFE 24/405. The Americans made the distinction based on the greater physical/mental intensity and duration of effects of "incapacitating chemicals."
37. Mumford to Hudson, "RCA advice," 11 December 1969, CAB 164/789.
38. "Account of OPD meeting," 12 December 1969, CAB 148/91.
39. "The Geneva Protocol and the use of Riot Control Agents in War," 16 December 1969, CC(69)16, CAB 129/146/14.
40. CC(69)61, 18 December 1969, CAB 128/44/61.
41. Hope-Jones to Tait, "RCAs and the Geneva Protocol," 29 December 1969, FCO 66/216.
42. Hope-Jones to Tait, 30 December 1969, 2 January 1970, both *Ibid.*
43. Ewart Biggs to Hudson, 7 January 1970, CAB 164/790.
44. Sinclair to Hope-Jones, 13 January 1970, *Ibid.*
45. Hope-Jones to Hudson, 13 January 1970, *Ibid.*
46. Hope-Jones, "Geneva Protocol and RCAs," 15 January 1970, FCO 66/216.
47. Hudson to Hope-Jones and reply, 22 January 1970, CAB 164/790.
48. Hope-Jones note, "CS definitions," 22 January 1970, FCO 66/216.
49. Timms to Hope-Jones, "Himsworth report," 23 January 1970, *Ibid.* A follow-up, more detailed study to the first Himsworth enquiry had been launched shortly afterwards to explore the toxicology and pathology of CS.
50. Chalfont to permanent under-secretary, 23 January 1970, *Ibid.*
51. Stewart to Wilson, "PMQs and CS," 27 January 1970, CAB 164/790.
52. Everett to Graham, 29 January 1970, *Ibid.*
53. FCO to Everett, 30 January, 1970, *Ibid.*; see also "Steering Briefs-Washington visit," 23 January 1970, FCO 7/1779; "Account of White House meeting," 27 January 1970, FCO 7/1823; National Security Council, 16 January 1970, NSC [National Security Council Files, United States National Archives, College Park, MD] Presidential Correspondence, Box 673.
54. Stewart to all posts, "CS and the Geneva Protocol," 2 February 1970, CAB 164/790.
55. Hope-Jones to Baker, "RCAs and Geneva Protocol," 4 February 1970, FCO 73/102.
56. Geneva to FCO, "Chalfont statement to CCD," 19 February 1970, CAB 168/125.
57. "Myrdal statement to CCD," 12 March 1970, *Ibid.*
58. "Husain statement," 12 March 1970, *Ibid.*
59. Benest note, 9 February 1970, FCO 66/216.
60. Chalfont to Hope-Jones, 6 February 1970, *Ibid.*
61. *New Statesman*, (6 February 1970), *Ibid.*
62. Noel-Baker, 12 February 1970, *Ibid.*
63. Meselson and Baxter, *Times* (12 February, 1970), *Ibid.*; on Baxter, see D.F. Vagts, T. Meron, S. Schwebel, and C. Keever, eds., *Humanizing the Laws of War – Selected Writings of Richard Baxter* (Oxford, 2013).
64. *Sunday Times* (15 February 1970), FCO 66/217.

65. *Observer* (15 February 1970), *Ibid.*
66. Blundell to Chalfont, 19 March 1970, Welborn to permanent secretary, 20 May 1970, both FCO 73/102.
67. Majury note, 23 April 1970, DEFE 24/405.
68. *Ibid.*
69. "CS background," 8 July 1970, Godden note, 29 July 1970, both FCO 66/219
70. Graham to DD, "CS and Geneva Protocol," 1 September 1970, *Ibid.*
71. Summerhayes, "Graham letter," 4 September 1970, FCO 66/226.
72. Graham to Jaffray, "Home's doubts on CS," 11 September 1970, FCO 66/221.
73. "Hetherington discussions," 23 September 1970, FCO 66/226.
74. Graham to Lloyd Jones, 16 October 1970, *Ibid.*
75. Norbury to Graham, 29 October 1970, FCO 66/226.
76. Summerhayes for Benest, 4 November 1970, Benest note, 6 November 1970, both *Ibid.*
77. Mumford to Summerhayes, 10 March 1971, FCO 66/305. The MoD was convinced that American defence assistance and co-operation, of which Britain was a major recipient, would be less forthcoming if they "broke" with Washington. On 15 April 1971, Senate hearings on the Geneva Protocol ratification concluded. As ratification was only possible without "restrictive understandings," the Senate Foreign Relations Committee advised postponement until this was possible.
78. Steel to Benest, 19 March 1971, *Ibid.*
79. Summerhayes to Brimelow, 23 March 1971, *Ibid.*
80. Greenhill to Dunnett, 28 April 1971, *Ibid.*
81. Graham to Andrew and Benest, 9 June 1971, *Ibid.*
82. After intensive debate at the CCD about separating CW and BW, the Soviet Union and socialist countries agreed to a stand-alone BWC on 30 March 1971. On 5 August 1971, they submitted identical but separate draft texts with the United States. Submitted on 28 September 1971, the final revised draft convention co-sponsored by 12 nations went to the UN General Assembly. On 16 December 1971, Resolution 2826 advised the depository Powers to open the convention for signature and ratification.
83. Summerhayes, 23 June 1971, FCO 66/305.
84. Timms to Summerhayes, "Himsworth II," 15 July 1971, *Ibid.*
85. Benest note, "Himsworth II," 24 August 1971, FCO 66/306.
86. Makins to Hay, 20 October 1971, *Ibid.*
87. May for Benest, Hay, and Summerhayes, 18 October 1971, FCO 66/307.
88. Summerhayes for Brimelow, 29 November 1971, *Ibid.* Proposed on-site verification inspections were proving an obstacle in negotiations with the Soviet Union and socialist countries.
89. Godber to Home, "CS," 26 April 1972, FCO 66/389.
90. Mason to Summerhayes, 11 May 1972, *Ibid.*
91. Rose to Renwick, 26 June 1972, FCO 66/390.
92. Rose to Summerhayes, second draft, 5 June 1972, *Ibid.*
93. Ennals to Summerhayes, "CS and Geneva Protocol," 9 May 1974, FCO 66/448.
94. Summerhayes, 31 May, 1974, *Ibid.*
95. The Senate voted its approval on 16 December 1974; ratification took place on 22 January 1975: www.state.gov/md4784.htm.
96. Richards to legal advisors, "US ratification," 8 January 1975, FCO 66/800.
97. *Ibid.*, Eaton to Richards, "US and Geneva Protocol," 30 January 1975, *Ibid.*
98. *New Statesman* (31 July 1970), FCO 66/219.

Funding

The Arts and Humanities Research Council supported research for this article: Award Number: AH/K003496/1; Recipient: Brian Balmer, PhD. Alex Spelling spent 2013–2016 as a research associate in University College, University of London’s Science & Technology Studies Department on an AHRC-funded project, “Understanding Biological Disarmament: The Historical Context of the Origins of the Biological Weapons Convention.”

Notes on contributor

Alex Spelling received his PhD from the University of Nottingham for a study looking at Anglo–American relations during the Nixon Administration. He was a teaching fellow in American History for five years at the Universities of Southampton and Aberdeen. His research interests are in Cold War history from a transatlantic perspective, in particular the Anglo–American relationship and arms control issues relating to chemical and biological weapons.