



DEPARTMENT OF STATE

Washington, D.C. 20520

August 3, 1971

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MEMORANDUM FOR INTERDEPARTMENTAL POLITICAL-MILITARY GROUP

- | | |
|--------------|------------------------------|
| White House | - Colonel Richard T. Kennedy |
| OSD/ISA/NESA | - Mr. Lawrence Eagleburger |
| O/JCS | - MGen R. F. Schaefer |
| CIA | - Mr. Bruce Clark |
| ACDA | - Mr. Albert M. Christopher |
| NSC | - Dr. Michael Guhin |
| USIA | - Mr. Joseph Hanson |
| OST | - Dr. Vincent McRae |

SUBJECT: 1925 Geneva Protocol

There will be a meeting of the IPMG on Thursday, August 5, 1971, at 2:30 p.m., in Room 7516, New State.

The purpose of the meeting is to approve the final draft (attached) of a reply to Mr. Kissinger's memorandum of June 28, subject as above.

Talked to [unclear] 8/3/71
no [unclear]
10/71

Samuel B. Thomsen
Samuel B. Thomsen
Staff Director
Interdepartmental Political-Military Group

Attachment:

As stated

- | | | | |
|-------------|----------------------|----|---------------------|
| CC: OSD/ISA | - LtCol John Nolan | H | - Mr. John Leahy |
| JCS | - Col George Balzer | IO | - Mr. Richard Brown |
| ACDA | - Mr. Bowman Cutter | PM | - Mr. Joseph Wolf |
| L | - Mr. Richard Baxter | | |

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THE 1925 GENEVA PROTOCOL

A. INTRODUCTION

In response to Mr. Kissinger's memorandum dated June 28, this memorandum reviews pertinent background information (Sections B and C) and discusses the underlying question of whether or not at this time we should continue to preserve the option to initiate the use of RCAs and herbicides in war (Section D). The answer to this question will depend upon weighing the military utility of this option against the political costs of maintaining it. One of the major elements to be considered in arriving at a final decision--the alternative methods that are available for implementing a decision--is discussed in Section E.

B. BACKGROUND

i. The Senate Foreign Relations Committee's (SFRC) hearings on the 1925 Geneva Protocol were completed on March 26. The focus of the debate was on the Administration's position that the Protocol should be interpreted as not covering riot control agents (RCAs) and chemical herbicides and, therefore, as not prohibiting the first use of the

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2. A substantial majority of the SFRC favors U.S. adherence to the Protocol, but disagrees with the Administration's position on RCAs and herbicides. A majority of the Senate may also disagree.

3. Senator Fulbright has written the President requesting him to reconsider the Administration's position, indicating that unless there were some change no further action would be taken by the SFRC at least until the Administration's announced study of the post-Vietnam military utility of RCAs and herbicides (NSSM 112) was completed and made available (Tab A).

4. On April 15, a nonsubstantive reply was made to Senator Fulbright's letter, indicating that this matter would be brought to the attention of the President (Tab B).

5. By memorandum dated June 28, Mr. Kissinger requested a careful review of the situation, alternative responses (including advantages and disadvantages), and agency positions for the President's consideration by August 1 (Tab C).

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6. The NSSM 112 study is expected to be completed in mid-October, 1971. This will include a progress report on DOD's internal study on military utility of herbicides. DOD's study on the ecological and physiological aspects of herbicide use, conducted by the National Academy of Science (NAS), will not be fully completed before the spring of 1972, at the earliest.

7. However, there are indications at this time that these studies, in progress since April of 1971, will not result in substantial alteration to the conclusions of the response to NSSM 59 (Tab D) relative to the utility of RCAs and herbicides in Vietnam. Unless these studies lead to a substantial change in the conclusions of the NSSM 59 response or alter the general extrapolations concerning military utility discussed in this report, neither of which is expected, the basis for making a decision on the RCAs and herbicides issue and the issue itself will not be changed from the present.

8. Senators Nelson, Humphrey and Brooke have introduced resolutions in the Senate on this subject. The Nelson resolution (Tab E) proposes that our ratification be

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accompanied by a formal understanding to the effect that the Protocol covers chemical herbicides. The Humphrey resolution (Tab F) is designed to demonstrate, before the resolution of ratification is submitted for a floor vote, how the Senate lines up on the question of whether the Protocol should be construed to cover RCAs and chemical herbicides. The Brooke resolution (Tab G) would also be a separate sense-of-the-Senate resolution to the effect that the dispute over RCAs and herbicides should be referred to the International Court of Justice (ICJ); that we should be bound by its decision with respect to other parties accepting it; but that if the ICJ finds that the agents are not covered by the Protocol, we should seek an international agreement banning their use in war.

9. On July 16, Senator Fulbright noted on the Senate floor the absence of a substantive reply to his letter and commented on indications that continued use of herbicides in Vietnam is being considered by the Administration (Tab H).

10. On December 26, 1970, the White House announced Secretary Laird's report that an orderly yet rapid phase-out of the herbicide operations in Vietnam had been initiated.

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In February 1971, MACV announced the termination of the use of herbicides for anti-crop operations and of the use of fixed-wing aircraft for defoliation missions.

11. During this phase-out period, herbicide use was restricted to perimeters of fire bases and U.S. installations or remote, unpopulated areas. There have been no U.S. herbicide operations since May 1, 1971, though authority to extend the phase-out period until December 1 (for use of herbicides by helicopters and ground-based spray equipment as needed around fire bases and installations) has been requested and is pending decision.

C. CONGRESSIONAL SITUATION

1. It is forecast by the SFRC that:

-- The Protocol would fail to receive a two-thirds majority with the Administration's interpretation excluding RCAs and herbicides.

-- The Protocol would probably fail to receive the Senate's advice and consent to ratification with an understanding including RCAs and herbicides as long as the Administration remained opposed to including these agents.

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-- If the Administration endorsed an interpretation of the Protocol to include RCAs and herbicides, the Senate would almost undoubtedly vote by a majority of two thirds for ratification.

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2. Rather than risk U.S. failure to ratify the Protocol a second time, it is unlikely that the Protocol will be reported out in the near future unless there were a change in the Administration's position. If, however, there were a prolonged delay without a change in the Administration's position (e.g., beyond January of 1972), the Protocol might be reported out by the SFRC with some understanding contrary that of to/the Administration or the Senate may make its views known in a sense-of-the-Senate resolution. Even if it were reported out with an understanding contrary to the Administration's, it is unlikely that it would be brought to a vote by the Senate leadership without some change in the Administration's position on RCAs and herbicides which would probably receive a two-thirds majority.

D. THE UNDERLYING QUESTION

1. Several alternatives for responding to the letter from Senator Fulbright are discussed below in Section E. The choice among them requires a fundamental decision on the underlying question of whether or not at this time we wish to continue to preserve the option to initiate the use of RCAs and herbicides in war.

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2. Substantively speaking, the question turns on whether or not the military utility in retaining a first-use option for RCAs and herbicides outweighs the political costs of preserving this option.

3. Military Utility

a. Herbicides

The utility of herbicidal defoliation in Vietnam to increase vertical visibility and enhance aerial observation (thus aiding in the detection of VC/NVA base areas, infiltration routes, firing positions, and ambush sites) is well documented.

There are field intelligence evaluations stating that selective anti-crop operations have complicated the enemy logistic situation and required the diversion of substantial numbers of combat troops to food production. There have also been reports that crop destruction has had a net adverse effect on pacification and a number of U.S. CORDS officials recommended its discontinuance.

Extrapolating our Vietnam experience to other possible areas of conflict, it can be said that herbicides do provide a unique capability to affect defoliation over very large areas to search for and detect by aerial observation,

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and base areas) while not requiring the presence of friendly ground forces at the time of application. For small area coverages (e.g., base perimeters) herbicides do not provide any unique capability, though they are in some instances the most cost-effective. In wide area application, effective dissemination of herbicides requires air supremacy and sufficient lack of enemy mobility or a sufficiently stabilized military situation to allow the time for herbicides to become effective.

b. Riot Control Agents

RCA's have been widely used in combat operations in Southeast Asia since 1965*. In this environment, against an enemy with little protective equipment or retaliatory capability, the military utility is unquestioned.

The general categories of uses have been (a) for area denial to unprotected enemy personnel, (b) for fire suppression and to cause confusion, (c) for enhancing the effectiveness of other weapons in attacks on bunkers or entrenched forces, (d) for reducing damage or casualties, and

*While no precise data on past or present usage is available, the figures on procurement and issuance to Southeast Asia are at Tab I.

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(e) as a search weapon. In Southeast Asia, RCAs are used as a normal component of the combat power available to commanders. RCA use has on a number of occasions been the decisive factor in the successful recovery of downed aircrews who come under enemy attack. It has also resulted in significant reduction in U.S. and allied casualties when the enemy was entrenched or in bunkers. RCAs serve as a unique alternative to other munitions in that they provide a non-lethal "search" capability to the commander in the field. Even screening smoke cannot offer this flexibility in that it is often lethal in enclosed areas and does not necessarily force the occupant from his position as do RCAs. The Working Group was unable to quantify the frequency with which these general categories of uses have occurred.

RCAs are only effective when the enemy has no respiratory protection. RCAs are not likely to confer any net advantage to U.S. forces in combat actions against an enemy which has a comparable capability to use these agents in retaliation or to defend against them (e.g., the USSR, Warsaw Pact, and PRC). If the initiation of RCA (or herbicide) use resulted in retaliation with lethal or incapacitating

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agents in conflicts with the USSR or Warsaw Pact nations (who consider RCAs and herbicides as an element of chemical warfare and whose combined offensive and defensive capabilities and the ability to operate in a toxic environment probably exceeds that of U.S. forces and undoubtedly exceeds that of our allies), U.S. and allied forces could be placed at a military disadvantage.

The military advantages of RCAs against a guerrilla-type operation (and of herbicides in geographic areas similar to Vietnam) may be comparable to those experienced in Vietnam although these may be short-lived if other nations elect to treat their use as the initiation of chemical warfare and retaliate with chemical agents (either lethal or incapacitating) or develop an effective defense. The initiation of chemical warfare in such cases could also place U.S. forces at a disadvantage since the structure of the U.S. military establishment even when conducting an anti-guerrilla campaign makes it extremely vulnerable to chemical attack. There may be, however, military, political and propaganda inhibitions against the initiation of chemical warfare by

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guerrilla forces and the experience in Vietnam has illustrated a case of RCA and herbicide use without escalation to lethal or incapacitating chemical weapons.

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4. Political Costs

The Vietnam experience suggests that extensive use of herbicides may carry high political costs in terms of impact on public opinion at home and abroad* and some political costs in terms of impact on civilians in combat areas. The environmental effects of herbicide usage can range from insignificant to widespread depending on the terrain, the type used, the extent and type of usage, and the precautionary and reparative measures taken. The environmental and physiological effects of herbicide usage in general and specifically in Vietnam are currently being studied by the National Academy of Sciences at the request of Congress, with the concurrence of the Administration. Though a progress report is expected in March, 1972, the full study is not expected to be completed until much later.

To continue to preserve the option to initiate the use of RCAs and herbicides in armed conflicts would probably result in continuation of the impasse with the SFRC over

*State and ACDA called attention to the frequent criticisms in the CCD and the UNGA of such use and to the considerable vocal domestic opposition to the use of herbicides on ecological grounds.

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ratification of the Protocol, but might/lead^{even} at some point to their reporting it out in a form directly contrary to the Administration's position. The latter development could result either in a failure to obtain the requisite consent of the Senate to ratification or, if positive Senate action resulted, would make it impossible for the Administration to complete the ratification process without reversing its position.

Failure of the U.S. to ratify the Geneva Protocol would (a) deflate domestic and international expectations aroused by the President's decisions of November (1969) and could undercut the net political impact of these decisions since the Protocol is basic to these policy decisions; (b) leave the U.S. (which originally sponsored the Protocol) the only important country that has not become a party to it (there are presently 95 parties); (c) / ^{probably} continue to deprive the U.S. of a treaty undertaking by others not to use chemical or biological weapons against the U.S.; and (d) be used by some countries for political or propaganda purposes to cast doubt on U.S. policy in this area.

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The U. S. is negotiating at the Geneva Disarmament Conference a BW convention that would commit others to follow a policy on BW and toxins similar to that which the U.S. adopted in 1969. As currently being negotiated, this BW convention would rely on and not duplicate or affect the Protocol's prohibitions on use. The negotiations with the Soviets and Warsaw Pact countries are moving forward, and U.S. delay in ratification of the Protocol has not complicated this process to date. We have no positive indications as to what positions the non-aligned nations will take on the BW convention with or without U.S. ratification of the Geneva Protocol.

Should it become possible to ratify the Protocol with the Administration's interpretation that it does not prohibit the use of RCAs and herbicides in war, the U.S. interpretation would still be contrary to that of most of the other parties who have expressed their views on the subject of RCAs and herbicides and, therefore, could draw wide criticism by such countries though possibly less than continued failure to ratify the Protocol at all. Ratification on this basis might also lead to a request for an advisory opinion of the

International Court of Justice (ICJ) which would probably be

adverse at least to our position on RCAs, and would in any

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event highlight our dispute with other parties on this matter. (While such an advisory opinion would not be legally binding on the U.S., we could not ignore it without undermining our general efforts to strengthen international law and encourage use of the ICJ.)

Ratification in a manner preserving a first-use option for RCAs and herbicides would not make the Protocol as good a legal and psychological barrier against chemical warfare as would ratification on the basis that it provided a flat "no gas in armed conflict" firebreak. Under reservations taken by a number of parties (including members of the Warsaw Pact), our use of RCAs or herbicides against them could legally relieve them of their responsibilities under the Protocol toward the U.S. and our allies and could provide them a justification for escalation to chemical or biological warfare if they so desired.

While many countries would welcome a modification of our views on the use of RCAs and herbicides, a change in the U.S. position could cause some tension with those countries which have taken more or less similar positions/(i.e., to that of the U.S. Australia, Japan, Portugal and the United Kingdom), depending

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on how the U.S. actually modified its position*
general

5. In summary, the arguments favoring preservation at this time of the option to initiate the use of RCAs and herbicides in war are as follows:

-- The military use of RCAs and herbicides has demonstrated military utility and saved U.S. and allied lives in Vietnam// This utility might be extrapolated to analogous conflicts in the future.

-- RCAs are useful in situations where the adversary is intermingled with the civilian population and the battlefield is undefined.

-- A change in our present position, while it may not legally prohibit continued use of RCAs and herbicides in Vietnam, would pave the way for increased domestic and international pressure to stop the use of these agents in Southeast Asia.

*Australia and Portugal joined us in voting against the 1969 UNGA resolution interpreting the Protocol to cover RCAs and herbicides. Ratification proceedings in the Japanese Diet made clear the Japanese position that the Protocol did not cover RCAs; while the Japanese agree with us on herbicides, they have not taken this position publicly. The former Labor Government of the UK took the position that CS (as distinguished from earlier types of RCAs) was not covered by the Protocol; the UK has taken no public position on herbicides.

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-- It can be considered incongruous to allow the controlled use of RCAs and herbicides domestically while prohibiting similar and different uses in war for the purposes of conserving U.S. lives.* (The Protocol would probably not prohibit the use of RCAs for riot control purposes nor the use of herbicides for vegetation clearance on U.S. bases.)

-- Though no substantial change in our current assessments is expected, deferring a definitive choice on this question would enable the Administration to take advantage of whatever additional light might be cast on this subject by the studies referred to in the background section.

6. The general arguments favoring relinquishing the option to initiate the use of RCAs and herbicides in war can be summarized as follows:

-- It could result in securing Senate advice and consent to ratification of the Protocol, which would a) fulfill domestic and international expectations, and b) provide

*ACDA asserts that military uses can be readily distinguished from controlled domestic uses of similar agents as the latter uses are far more limited in their objectives, subject to the inherent limitation of what governments believe their own citizens will tolerate, and do not involve the risks of escalation to other countries.

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the U.S. with a treaty undertaking by others not to use chemical or biological weapons against us.

-- It would eliminate the international and domestic political costs of maintaining a position inconsistent with those parties to the Protocol who have expressed their views on the subject. It is not expected that the studies referred to in the background section will result in a substantial change in our current assessments.

-- It could help reduce the chances that any form of chemical weapons would be used in future conflicts while not depriving us either of the right of retaliation or of maintaining the capability to retaliate with chemical weapons.

D. OPTIONS AND ALTERNATIVES

1. Option A.

If the decision is to continue to preserve the option to initiate the use of RCAs and herbicides in war, the alternative at this stage would be to inform Senator Fulbright that the issues raised in his letter will be carefully considered in our current studies, of which the SFRC is informed, and that the Administration's conclusions will be forwarded upon completion of this review.

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The advantage of this course of action is that it would keep our understanding intact, pending further decision, without heightening the issue and precluding flexibility in the future. Its disadvantage is that the Administration is in effect deferring action on the Protocol until it supplies the conclusions of the studies under way (expected in late 1971 at the earliest).*

2. Option B

If the decision is to express our willingness to relinquish the option to initiate the use of RCAs and herbicides under the circumstances indicated below, there are four ways in which this might be accomplished, each with distinct advantages and disadvantages.** However, all these alternatives involve the following common denominators:

*Since Option A represents a "no change in current policy" option, there is only one alternative to be listed. The number of alternatives to Option B is not to be considered as indicating the relative merit of either Option. The basic decision is between Option A and Option B: everything following is concerned with techniques of implementing that basic decision.

**The Working Group examined alternatives which treated RCAs and herbicides separately but considered that such alternatives would be less legally and politically viable than the alternatives presented herein and would have far less chance in overcoming the impasse on the Protocol. (Cont. page 19)

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-- All of them are contemplated as prospective only, and need not imply that our past interpretations and conduct have been contrary to the Protocol.

-- We would retain the right to retaliate in kind.

-- The no-use provision would not cover the use of RCAs within our own bases for maintaining order, or the use of chemical herbicides for control of vegetation within our bases under the same restrictions imposed domestically in the United States.

Alternative-1: Reaffirm our current understanding of the Protocol, but agree not to make first use of RCAs and chemical herbicides against states that officially confirm they are bound on the same basis.* Other states could offer

For example, USIA considers that herbicides pose a significant overseas public opinion problem, and offers two alternatives which retain RCAs and drop herbicides. These alternatives, which could be worth serious consideration if RCAs are deemed too valuable militarily to give up, are:

1) The President could unilaterally renounce herbicides as he did biological weapons. (Favorable public impact could make it easier to defend our interpretation on RCAs, using our previous arguments excluding them from the Protocol.

2) The U.S. could take the position that herbicides are covered by the Protocol, but RCAs are not covered. This alternative would be very difficult legally and less striking psychologically.

*Both Alternatives 1, and 2 would be consistent with the test

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confirmation either by notice to the depositary of the Protocol (France) that they so understand the scope of their obligations, or by an exchange of diplomatic notes with us at our initiation.*

Pros:

a. It would insure that we would not end up with a legal obligation to extend the Protocol in this manner to any party that did not have a comparable obligation to us.

b. It would not, as a legal matter, under cut the position of those allies who have shared more or less similar interpretations, although it could be politically awkward for some of them if they did not plan to follow suit.

*The first method offers the advantage of making clear that the understanding of the scope of the obligation is multilateral in context and applies to all other parties to the Protocol. However, some other states may object to notifying the depositary now of an interpretation they have maintained for a long period of time. The second method offers the advantage of not requiring that other states notify the depositary; since it could be accomplished by the United States, as a new party to the Protocol, inquiring of other parties whether they consider the Protocol to include non-first-use of RCAs and chemical herbicides. The responses would clarify our obligation with respect to each state party, but this method might leave some ambiguity as to the obligations of other states inter se.

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Cons:

a. While our legal obligation to refrain from using RCAs and herbicides in war would be limited to states who confirmed their corresponding obligation to us, this initiative would make it more politically difficult than it now is to justify initiating use against others with whom we have no agreement.

b. Some states would object to becoming party to any form of official declaration in view of their established positions that the Protocol prohibits first use of RCAs and chemical herbicides.

Alternative 2: Reaffirm our current understanding, but accompany United States ratification with a proposal calling for an Annex to the Protocol, providing that first use of RCAs and chemical herbicides is prohibited, which would come into force upon adherence by a specified number of parties to the Protocol.

Pros:

a. The United States could assure that a certain number of states and their allies were similarly bound before being obligated not to initiate use of RCAs and chemical herbicides.

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b. The Annex would enable the contracting parties to share precisely identical restraints worked out in negotiation, having the full binding force of a treaty, and avoiding any ambiguity regarding scope and applicability to allies.

Cons:

a. This Annex would constitute a new treaty requiring submission by the President to the Senate for advice and consent to ratification.

b. Some states would object to becoming parties to a new Annex in view of their established positions that the Protocol prohibits first use of RCAs and chemical herbicides, especially since this procedure would require other states to go through their constitutionally required internal mechanisms requisite to ratification of a new treaty.

c. The scope of the legal obligation between parties to the Annex and nonparties would be left unresolved.

d. Since a significant amount of time might be required for the parties to the Protocol to adopt an Annex and thereafter for a sufficient number of them to ratify it before it came into force, other states and domestic and international

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public opinion (including the SFRC) might view this tactic merely as a position taken in order to delay and possibly totally to prevent the United States from ever being obligated to give up RCAs and herbicides.

e. While our legal obligation to refrain from using RCAs and herbicides in war would be limited by the terms of the Annex, this initiative would make it more politically difficult than it now is to justify the initial use against others with whom we have no agreement. Moreover, though we would consider there were no prohibitions on use until the Annex came into force, it would be politically difficult to justify using these agents while supporting a ban on their use.

f. It could not be changed without parliamentary consent in some countries.

Alternative 3: Reaffirm our current understanding but state that we would agree to abide by an advisory opinion of the

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ICJ, to be requested by the United Nations General Assembly or Security Council.* As an advisory opinion cannot be sought by individual countries, a request would have to come in the form of a resolution of the United Nations General Assembly or Security Council. We could persuade a group of friendly states to sponsor such a resolution and, if it were adopted, declare that we would be bound by the advisory opinion.

Pros:

a. It would provide the clearest legal basis of any of the alternatives for continuing to use RCAs or herbicides,

*This does not include the qualification in the Brooke resolution that we should consider the opinion binding only "with regard to any other states adhering to the Protocol and accepting the Court's interpretation." However, the Brooke resolution urges the President to take the initiative in obtaining an early opinion and recommends that in the event that the ICJ finds that either RCAs or herbicides are not covered by the Protocol, the United States should initiate international negotiations to prohibit their use in warfare. While the adoption of this resolution would not present a legal obstacle to our continued use of these agents in war pending such an advisory opinion, it would seem to present a serious political obstacle to our doing so.

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and for defending our past positions and practices, until such time as an opinion was rendered.

b. It would highlight the President's support for international law and use of the ICJ.

Cons:

a. The discussion in the UNGA or SC of whether to ask for an advisory opinion could be the occasion for attacks on our past and present use of these agents. (In 1969, the UNGA voted 80-3-36 to the effect that international law as embodied in the Protocol prohibits the use of any chemical and biological agents in war.)

b. Defending our present position in written and oral statements during the ICJ proceedings might aggravate domestic and international criticism of our present position and make potential defeat on the substance, which is very likely, more embarrassing.

c. The use of the advisory opinion would be a precedent-- regardless of whether that opinion reflects the United States position or not--for future use of such a procedure on controversial treaty provisions which procedure may prove contrary to U.S. interests.

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d. It might be considered inconsistent with the indications given in Secretary Rogers' testimony that he did not at that time favor submitting the question to the ICJ. Alternative 4: Announce that, while we continue to believe that our understandings are legally and substantively correct, we will hereafter treat the Protocol as prohibiting the first use of RCAs and herbicides.*

Pros:

a. The SFRC would undoubtedly send the Protocol to the Senate for a vote recommending advice and consent for ratification.

b. If the Administration openly endorses this interpretation, the Senate in all probability would muster the necessary two-thirds vote for ratification.

*This differs from the solution suggested in the Nelson resolution, which (1) only applies to herbicides, and (2) would require our instrument of ratification to include a formal "understanding" that herbicides are covered. No other party has taken the latter step.

If Alternative 4 were chosen, it might be desirable to take the initial precaution of seeking a vote on the Humphrey resolution so that we could tell whether or not we could be sure of obtaining the necessary two-thirds majority. (This would, however, also suggest that the reason for the Administration's change in position was the Senate's overriding (Cont. page 27)

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c. It would avoid the complexity of the other alternatives, and the difficulties of getting other states to accept them, while still preserving our right to use these agents against any other party that used them in war against us or our allies.

Cons:

a. It would be the most vulnerable of the four alternatives to being interpreted as an admission that our past statements and conduct have been wrong, and that the use of these agents in Southeast Asia by the U.S. and Australia was contrary to a widely accepted international standard.

b. It could antagonize those allies and those Senators who have supported the Administration's interpretations.

c. Compared to Alternatives 1 to 3, it would make it more difficult to justify use against nonparties to the Protocol and force the issue of such use more quickly.

views.) The Humphrey resolution as currently worded, however, would make it difficult to defend past United States positions and practices with respect to the use of RCAs and herbicides in war.

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Attachments:

- Tab A - Senator Fulbright's letter
to the President
- Tab B - Letter of April 15 to
Senator Fulbright
- Tab C - Mr. Kissinger's memorandum
of June 28.
- Tab D - Conclusions of NSSM 59 on
RCAs and herbicides
- Tab E - Senator Nelson's resolution
- Tab F - Senator Humphrey's resolution
- Tab G - Senator Booke's resolution
- Tab H - Senator Fulbright's
statement of July 16
- Tab I - Procurement figures for
1970 and 1971

PM/ISP
8/3/71

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MEMORANDUM FOR: Legislative Counsel

I attach a copy of an IPMG draft reply to Dr. Kissinger concerning various options relating to Senate considerations of the 1925 Geneva Protocol. Please let me know if you have any views to express on this paper.

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Acting Director
Strategic Research

4 August 1971
(DATE)

Attachment:

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