

MEMORANDUM FOR THE PRESIDENT

ACTION

March 10, 1970

FROM: Henry A. Kissinger *AK*

SUBJECT: Submission of the 1925 Geneva Protocol to the Senate for
Its Advice and Consent to Ratification

The package of issues for decision, preparatory to your submission of the 1925 Geneva Protocol for the prohibition of biological and chemical means of warfare, is well in hand. Two of the issues for decision -- what form our reservation of the right to chemical retaliation should take and whether we should require your authorization for future use of tear gas and herbicides -- are clear cut. The third issue -- how we handle our interpretation to the effect that we do not consider the Protocol to prohibit the use of tear gas and herbicides in war -- is not as clear cut. There are three options:

- Option I: Follow the normal treaty practice by having our understanding on tear gas and herbicides explicitly stated in the Senate resolution which would then be formally communicated to the other Parties to the Protocol.
- Option II: Advise the Senate of our understanding and of our intention to communicate it to other Parties as part of our instrument of ratification, but the understanding would not be referred to in the Senate resolution.
- Option III: Advise the Senate of our understanding on tear gas and herbicides, but with our understanding neither included in the Senate resolution nor communicated to other Parties in the form of a legal interpretation.

The question is primarily a matter of Senate tactics. Our understanding that the use of tear gas and especially herbicides is not prohibited and the current use in Southeast Asia will probably be the prime issue in the Senate proceedings. State, Defense and ACDA recommend that coordinated Congressional soundings be taken on Options 1 and 2 before any final decisions are made as to how the Protocol will be submitted to the Senate. Ken Belieu also recommends that the Senate leadership be probed before finalizing decisions on how the Protocol should be presented. I agree.

As soon as these soundings are taken, I will forward the entire package for your consideration and decision.

Authority: 5010958
By: [Signature] Date: 01/11/07

If you approve, I will call Bill Timmons and advise him of your wish to have these soundings taken as soon as possible in coordination with the Departments of State and Defense.

APPROVE

But

DISAPPROVE

SEE ME

Delay all this for

30 days -

ask me then -

Give no reasons -

*Just say the matter
is being prepared -*

*The Senate isn't
ready to take it
up anyway*