

J. W. FULBRIGHT
CHAIRMAN

United States Senate

COMMITTEE ON FOREIGN RELATIONS

July 31, 1972

Dr. Meselson:

Here is what I am thinking of recommending as a preface or introduction to the hearings to be released in mid-August. I will call you and see what comments you might have on it.

My phone number at Nantucket is 617-228-0485.

Until Labor day.

Dick Moose

Dick

Enclosure

DRAFT

Over a year ago, in March, 1971, the Committee on Foreign Relations held extensive hearings on the Geneva Protocol of 1925 which had been submitted by the President for the Senate's advice and consent. Following those hearings the Committee communicated to the President its strong support for the objectives of the Protocol but asked the President to give further consideration to the wisdom and necessity of the Administration's interpretation that the Geneva Protocol was not intended to prohibit the use of tear gas and herbicides in warfare.

These views were expressed in a letter which I sent to the President on behalf of the Committee on April 15, 1971. (A copy of this letter appears in the appendix to the hearings on page). In that letter the Committee made clear that it would await the President's further views on the question it had raised before taking further

action on the Protocol. We also noted in our letter the Committee's desire to have available to it several studies of the herbicide and tear gas question then in progress within the Executive Branch before acting on the Protocol.

More than 15 months have passed since our letter was sent to the President. To date there has been no reply. The Committee originally delayed publication of these hearings in the expectation of a reply from the President which would permit a resumption of its hearings. Because the Committee has no indication that the President intends to respond to the Committee's request, and because the end of the current session of Congress is rapidly approaching there appears to be no reason for further delay in releasing the hearings of March, 1971.

In the year that has passed since the hearings, several events have occurred which relate to the issues raised at that time. Despite assurances ^{that the} given by the Secretary of State to the Committee during the hearings of March, 1971, ^{that the use of} American forces have continued to use herbicides in Vietnam. The use of tear gas also continues, both by American and by South Vietnamese forces, the latter being trained and supplied by the Americans. There have also been reports of the use of tear gas by the North Vietnamese, this being the almost inevitable and, indeed, the predicted consequence of our own use of such agents.

herbicides
would
be
phased
out

On the positive side the United States and many other nations have signed the Convention for the Prohibition of Development, Production and Stockpiling of Bacteriological and Toxin Weapons. Although this treaty was signed in Washington on April 10, 1972, there is, as yet, no indication

of when the Administration plans to submit it to the Senate.

Discussion has now begun in the U.N. Conference of the Committee on Disarmament at Geneva regarding a convention on a chemical weapons convention.

Unfortunately the future effectiveness of these efforts to strengthen constraints against the use of chemical and biological weapons is placed in question by the ^{Administration} apparent determination of the United States to continue ^{continued} ~~its~~ use of tear gas and herbicides in Vietnam. In the view of most nations of the world this use is contrary to the provisions of the Geneva Protocol, the importance of which is reaffirmed in the preamble of the Bacteriological Convention. In fact, the preamble specifically notes that the General Assembly "has repeatedly condemned all actions contrary to the principles and objectives" of the Protocol. It would seem

imperative, therefore, that the United States bring its interpretation of the Geneva Protocol into line with that of the vast majority of the signatories of the Protocol and of the Bacteriological Convention before the United States itself ratifies the Convention.

In my view it is extremely unfortunate that the Executive Branch has ignored the Committee's efforts to find a way out of the current impasse. The studies which the Secretary of State told the Committee were in progress at the time of our hearing are reported to have been completed. Yet none of them has been made available or discussed with the Committee. Similarly the Executive Branch has ignored the Committee's request for its comments on S. Res. 158 which ^{154 and} ~~was~~ ^{were} introduced by Senators Brooke and Humphrey ^{and} in July 1971.*

* The text of this resolution appears on page of the appendix.

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While the Committee has not yet taken a position on S. Res. 158^{154 and} and would not wish to do so in the absence of Executive Branch comments, the resolution ~~does~~ represent a constructive effort on the part of the sponsors to solve the problem posed by the conflict between the prevailing international interpretation of the Geneva Protocol and that of the United States.

We are hopeful that the appearance of these hearings at this time will stimulate new interest on the part of the public and the Executive Branch in U.S. adherence to the Geneva Protocol. The only impediment to our adherence is the apparent reluctance of the Administration to forego the option to use in warfare a category of chemical weapons the utility of which is open to serious question.

The continued employment of these agents in Vietnam undermines the moral position of the United States

and erodes the existing restraints embodied in the Geneva

Protocol. A decision on the part of the Administration to
seek ratification of the Geneva Protocol without any special
~~relinquish our option to use~~ herbicides and tear gas in warfare

exemptions or
exceptions for
the use of

would, in my view, be an act of genuine moral force and would

represent the single greatest contribution ~~which any single~~

our nation could ^{now} make to the creation of truly effective and

universal barriers against one of the most repugnant of

all forms of warfare.

RMM:k1

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