

HARVARD UNIVERSITY
THE BIOLOGICAL LABORATORIES
16 DIVINITY AVENUE
CAMBRIDGE, MASSACHUSETTS 02138

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Mr. Richard Moose
Senate Foreign Relations Committee
Room 4225 NSOB
Washington, D.C.

Dear Dick,

I'd like to get your views on some problems I see with the approach we talked about the other night. As I recall, there were three parts:

A. The Administration would ask the Senate to reconsider the Protocol with the understanding that the U.S. considers that the status of riot gas and herbicides should be decided by the Parties.

B. The Administration would state that our own current understanding is that riot gas and herbicides are not covered by the Protocol.

C. The Administration would state that riot gas and herbicides cannot be used by U.S. forces without presidential authorization.

I am uneasy with several aspects of this approach. As a compromise it seeks to balance acquiescence in our current understanding against a future prospect of change. But if the prospect is sufficiently uncertain, it is no compromise at all and should receive no more support than did the formulation of 1970.

To make the compromise genuine, the Administration should want to make a convincing commitment to some definite course of action likely to bring agreement among the parties. Here is a possible series of steps along these lines:

1. The President would urge the Senate to resume its consideration of the Protocol and the Germ Treaty.

2. Regarding the Protocol, the President would state that our chief aim is to get universal observance of its principles and objectives and that a generally agreed upon interpretation of the obligations it entails is obviously essential to this aim. However, there is disagreement on the status of riot gas and herbicides. We have understood them not to be covered. Many of the Parties

have expressed a differing view and many others have not stated any view. In this situation he would express our wish to accomplish two objectives:

a) We wish to remove any and all uncertainty in the minds of others as to our fundamental attitude toward the control of chemical weapons and the prevention of chemical warfare.

b) We wish to facilitate a clear agreement among the Parties as to the obligations entailed by the Protocol.

3. The President would go on to state that after carefully reviewing our security needs he had decided it to be in our best interest to adopt a no-first-use policy for riot gas and herbicides, pending resolution of their status by the Parties themselves.

4A. He would also state that the United States, upon ratification, would welcome expressions of opinion from the other Parties regarding the status of these weapons and would circulate an appropriate diplomatic note among the Parties in order to facilitate such an expression.

OR

4B. He would state that the United States, upon ratification, would welcome an advisory opinion from the International Court and would seek broad support among the Parties in the United Nations for submitting such a request to the Court.

This approach would still allow Administration spokesmen to state that our understanding is that riot gas and herbicides are not covered by the Protocol. But it would offer high promise of resolving the question within the next few years. Given advance notice, I cannot see how this way of proceeding could seriously threaten relations with Britain or Japan. If, as one expects, the Parties find riot gas and herbicides to be covered, we will have prepared a basis for the U.S. (and the U.K. and others) to join in with minimum embarrassment and with maximum gains in arms control and in diplomatic leadership. What do you think?

With best regards,

Sincerely yours,

Matt

Matthew Meselson