

JUN 17 1986

MEMORANDUM

To: Richard Falk, Jonathan King, Matthew Meselson, Barbara Rosenberg, Susan Wright

From: Francis Boyle

Subject: Draft Implementing Legislation for the Biological Weapons Convention

Date: June 11, 1986

It seems to me imperative that we must all get together in order to devise a political strategy for our goal to achieve the adoption of Draft Implementing Legislation for the Biological Weapons Convention. It is my opinion that over the next three years the Reagan administration will be acting in a manner as if the Biological Weapons Convention is a nullity even if it does not intend to formally withdraw from the terms of the Treaty. This would be very similar to the strategy it has pursued quite successfully with regard to the ABM Treaty and the SALT II Treaty. Additional support for this theory has recently emerged in the attached article from the June 9, 1986 edition of the Washington Times.

Up until this point in time, we have been pursuing a relatively low-keyed approach to the adoption of the Draft Implementing Legislation. It is my fear that unless we change this strategy to a more activist approach now, under the aegis of the Reagan administration the Biological Weapons Convention will go the same way as the ABM Treaty, the SALT II Treaty, the Peaceful Nuclear Explosions Treaty, the Threshold Test Ban Treaty, and the Comprehensive Test Ban Treaty--that is, consigned to Trotsky's proverbial "dust bin" of history.

Hence, I see no point in waiting until a new administration is prepared to do something about the Draft Implementing Legislation in about 1990 when, by then, the Treaty will have become quite irrelevant to the weapons policies already put in place by the Reagan administration and the counteractive measures taken by the Soviet Union. For this reason, then, I believe we must grab the bull by the horns and proceed all out in support of the Draft Implementing Legislation now. Even if we do not succeed in getting the legislation through Congress, our political efforts will have an important role to play in focusing public attention on the problem in the hope that this will exercise some degree of restraint on whatever the Reagan administration plans to do.

For example, it has come to my attention that the Federation of American Scientists has recently endorsed the Draft Implementing Legislation. In addition, the Draft Legislation has also been endorsed by the Lawyers Committee on Nuclear Policy. It seems to me that the best way for us to

proceed would be to approach the Federation of American Scientists and convince them to lead the fight for the adoption of the Implementing Legislation in Congress. None of us are professional politicians, so we really do not have the type of political expertise necessary to devise a coherent and consistent political strategy with regard to this matter. In addition, all of us are quite busy with our regular academic pursuits and therefore cannot really devote our full time and efforts to this project. I suggest we contact Jeremy Stone in order to sound him out on this matter. If agreeable, we could then arrange a meeting for all of us at FAS headquarters in Washington, D.C. to discuss the project.

If the Federation then agrees to take the project up, we would agree to work with the Federation and be available to its staff people in order to further whatever political strategy they might devise. At the same time, the scientists among our group would attempt to achieve endorsements of the Draft Implementing Legislation by other scientific groups and bodies, including medical doctors. Meanwhile, Falk and I and the Lawyers Committee on Nuclear Policy would work to obtain endorsements of the Draft Implementing Legislation by additional organizations of lawyers. The office for the Committee for Responsible Genetics would coordinate with the Federation of American Scientists on this project with respect to the necessary staff work. In addition, the CRG would produce a list of Nobel Prize winners and illustrious scientists from all disciplines who would personally endorse the Draft Implementing Legislation and be willing to testify in its favor in Congress and personally lobby with any Congressmen and Senators willing to listen to them.

I look forward to hearing from all of you by telephone or letter or both at your earliest convenience with your thoughts on this proposal.

Yours very truly,

Francis

Francis A. Boyle
Professor of Law

FAB/bw
encl.

cc: Nachama L. Wilker
CRG Executive Committee

U.S. to oppose efforts to change biological, toxic weapons treaty

By Iris J. Portny
THE WASHINGTON TIMES

The Reagan administration plans to oppose efforts at the upcoming international conference on biological and toxin weapons to improve the verification provisions of the 1972 treaty banning such weapons.

"We don't think the treaty can be made verifiable, and those people who would make changes in the biological weapons treaty to improve its verification provisions would be deluding themselves," one official said recently.

"Even if you could verify the existing treaty's terms, it would no longer protect us against the threat of biological weapons," said another official.

"We think the treaty is irrelevant because of the problems posed by today's advances in biotechnology and genetic engineering," he said.

Despite the problems with the treaty, the administration does not plan to abandon it, the officials said.

Instead, it will use the September conference in Geneva to publicize Soviet development of biological weapons; these officials said.

"We have no interest in developing an offensive BW capability, nor do we want to develop a 'retaliation-in-kind' capability to deter the use of biological weapons," said the official.

"But people are seriously deluding themselves if they think that we have 'solved' the problem of biological weapons being developed or used by banning it with an arms control agreement," he said.

In 1969 President Nixon made the United States the first country to unilaterally renounce all methods of biological warfare. Canada, Sweden and Great Britain soon followed.

Since then the U.S. biological weapons program has been confined to research on how to defend against the use of biological weapons, with emphasis on antidotes and immunization vaccines against diseases whose toxins might be used as weapons. All existing stocks of biological weapons and toxins were destroyed.

The text of the Biological Weapons Convention (BWC), known formally as the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, was finished in 1972 by the U.N. group that drafted its terms.

In 1975 the United States ratified the multilateral treaty banning the development, production, stockpiling or acquisition of biological agents or toxins in quantities or forms that could be used as weapons.

"The BWC arose from a premise that you cannot have a militarily significant biological capability unless you stockpile biological agents in fairly large quantities," one official said. "The convention prevents stockpiling of agents in large quantities but specifically exempts very small quantities which countries are allowed to have to do their defensive work."

"The thought that you could deter the use of biological weapons through the threat of U.S. strategic nuclear weapons being used was an important argument behind President Nixon's unilateral renunciation of biological weapons in 1969," said an administration official. "We can no longer do that. The United States has lost strategic superiority; and technology has changed the military utility of biological weapons."

"New biological production techniques make it unnecessary to stockpile biological agents in quantity even if one wants to have an offensive capability," this official said. "Therefore, the restrictions imposed by the current convention are irrelevant."

In 1979, an incident in the Soviet Union called international attention to the possibility that the Soviets were operating a biological weapons factory, a clear violation of the 1972 treaty which the Soviets had signed.

An accident at a factory located outside the Soviet town of Sverdlovsk triggered an epidemic of pulmonary anthrax — an unusual and virulent disease — which killed several hundred people in the surrounding town. When the United States and other governments asked, at the 1980 review conference, for the Soviets to explain the incident, the Soviets blamed tainted meat for the disease's outbreak.

"We do not think the Soviets have ever answered our questions put to them in 1980," said a U.S. official. "And we intend to pursue it this year."

"The Soviets are not looking forward to this conference," he said. "They know they will be criticized — and not just by the United States."