

MEMORANDUM

THE WHITE HOUSE
WASHINGTON

INFORMATION/27948 ✓

April 28, 1971

SEE PRESIDENT'S SIGNATURE

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MEMORANDUM FOR: THE PRESIDENT
FROM: HENRY A. KISSINGER *HK*
SUBJECT: Negotiation of a Convention Banning
Biological Weapons

Secretary Rogers has written you (Tab B) regarding our proposed response to the USSR's draft convention prohibiting the development, production and stockpiling of biological and toxin weapons, tabled at the Geneva Conference of the Committee on Disarmament (CCD) on March 30, 1971.

The Soviets had previously insisted that both chemical and biological weapons must be prohibited by one instrument, an approach widely supported by the non-aligned countries. (In this regard, both the USSR and the UK biological draft treaties commit parties to conduct negotiations in good faith on effective measures to prohibit chemical weapons.)

In accordance with your policy decisions, we have supported negotiation of a prohibition on biological weapons and toxins along the lines of the 1969 UK draft convention. The Soviet draft incorporates most of the important concepts of the earlier UK draft.

The other main points of the Secretary's memorandum are:

- The Soviets have shifted from propaganda tactics to serious negotiations in this area.
- Successful negotiation of an agreement banning biological and toxin weapons would bind other countries to the position we have already adopted unilaterally.
- Detailed instructions (Tab C) for Ambassador Leonard at the CCD have been worked out by ACDA, State, and Defense. Discussions with the Soviets will begin after coordination with the British and consultation with our other NATO allies and Japan.
- Since the Soviets have moved so far in our direction, our response is designed to be forthcoming. (We will negotiate on the basis of the Soviet draft.) However, we plan to reject firmly a number of clauses

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of the Soviet draft which by implication support the USSR's view that the 1925 Geneva Protocol prohibits the use of tear gas and herbicides in war.

- The most significant difference between the USSR draft and the UK draft is that the former does not include an operative article prohibiting the use of biological weapons in any circumstances. Since a prohibition of possession or production of these weapons would accomplish the purpose of prohibiting use, an operative provision banning use is not considered necessary. We will, however, seek a preambular clause reflecting the intention that the convention should preclude use.

- We should know later this summer whether it will be possible to achieve an agreed text in time to seek UN General Assembly approval this fall. If this proves possible, the treaty could be open for signature early in 1972.

Besides several proposed drafting changes, the detailed instructions (Tab C) note that we will propose a standard withdrawal provision to be included in the convention.

Neither the UK draft convention nor the USSR draft provides for on-site verification. Both rely on procedures for complaint and investigation of treaty violations by agencies under UN auspices. Because on-site verification could not possibly be effective without also being extraordinarily intrusive, to us as well as to the USSR, and since biological weapons have questionable utility, all agencies consider the complaint procedures the only attainable system and hence adequate for these particular weapons. Moreover, it is in our interest to have other countries bound to a policy which we have already adopted unilaterally.

In view of this favorable Soviet shift toward our position, and the fact that their draft convention contains most of the important concepts included in the UK draft which we have been supporting, I have approved (Tab A) our moving ahead to negotiations along the lines discussed by Secretary Rogers.

After coordination with the UK and other allies, we may be able to begin discussions with the Soviets before the current session of the CCD closes in early May.

Attachments

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TAB A

April 28, 1971

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MEMORANDUM FOR

THE SECRETARY OF STATE

SUBJECT: Negotiation of a Convention Banning
Biological and Toxin Weapons

The President has reviewed your memorandum of April 23, 1971, regarding negotiation of a convention banning biological and toxin weapons at the Conference of the Committee on Disarmament at Geneva, and approves moving ahead promptly.

A status report on developments in these negotiations should be forwarded to the President periodically. If the need for changes in the U.S. position should arise, they must be approved by the President.



Henry A. Kissinger

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THE SECRETARY OF STATE
WASHINGTON

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April 23, 1971

Tab B

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MEMORANDUM FOR THE PRESIDENT

Subject: Negotiation of a Convention Banning
Biological Weapons

On March 30 the Soviet Union tabled at the Conference of the Committee on Disarmament (CCD) at Geneva a draft convention prohibiting the production and stockpiling of biological weapons and toxins. By taking this step, the Soviets made an important move toward a basic U.S. position and opened the prospect of achieving a U.S. objective -- the negotiation of a widely accepted agreement prohibiting the development, production and stockpiling of biological weapons and toxins that would bind other countries to the position we have already adopted unilaterally.

In accordance with your policy decisions in this field and your February 1971 letter to the CCD, we have supported the negotiation at Geneva of a prohibition on biological weapons and toxins along the lines of a draft convention first proposed by the United Kingdom. The USSR had previously insisted that all chemical and biological weapons must be prohibited together by one instrument, an approach which won wide support among the non-aligned countries. It is therefore particularly noteworthy that the Soviets have shifted from a long standing position with propaganda appeal to serious negotiations with the U.S.

We have prepared instructions, worked out by ACDA, State, OSD and JCS, for Ambassador Leonard, our representative at the CCD, to be used after coordination with

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the British and consultation with our other NATO allies and Japan. Since the Soviets have moved so far in our direction, our response is designed to be forthcoming -- to encourage achievement of our basic objective, negotiation of a ban on production or possession of biological weapons and toxins. However, we plan to reject firmly a number of clauses of the Soviet draft which appear designed to support by implication the USSR's views that the Geneva Protocol prohibits riot control agents and herbicides. We are not certain now whether this issue will pose an obstacle to early progress.

The most significant, substantive difference between the Soviet proposed draft and the earlier UK draft convention is that the Soviet draft does not include an operative article prohibiting use of biological weapons in any circumstances. We feel we need not insist on such a provision since the main purpose of the convention would be achieved by prohibition of possession or production of these weapons. We will seek to include a preambular clause reflecting the parties' intention that the convention should have the effect of precluding use of these weapons in any circumstances.

Our main objective will be to develop a treaty text commanding broad international support. We will not be able to judge until later this summer whether it will be possible to achieve such a text in time to seek UNGA approval this fall. If this proves possible, then signature of the treaty would be expected early in 1972.


William P. Rogers

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