



Navy (NSSM 112 folder)

DEPARTMENT OF STATE

Washington, D.C. 20520

January 14, 1972

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MEMORANDUM FOR MR. HENRY A. KISSINGER  
THE WHITE HOUSE

Subject: NSSM 112

With regard to the December 1 memorandum of the NSC Interdepartmental Political-Military Group in response to NSSM 112, the Department agrees that the DOD analyses reflected in the NSSM 112 study do not require modification of the judgments and evaluations contained in the IPMG study on the Geneva Protocol, forwarded to the President on August 26, 1971, and reaffirms its recommendation thereon dated October 5, 1971.

The Protocol study reflected in a general way the uncertainties which exist as to the overall utility of riot control agents and chemical herbicides as weapon systems for use in furthering U.S. national security interests. Many of these uncertainties, which the Department believes are underscored rather than reduced by the NSSM 112 study, are highlighted in paragraph 2 of the ACDA memorandum of December 28, 1971.

In addition, we would emphasize that the DOD study on herbicides makes no claim for the military utility of these agents for crop destruction. Other studies by the U.S. Mission in Vietnam, such as the 1968 Herbicide Policy Review and the 1970 Interagency 203 Committee Study on Crop Destruction, cast serious doubt on the military utility of herbicides for this purpose, while

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pointing to substantial non-military effects. These effects would have been greater except for the restrictions imposed by the U.S. Mission on use of herbicides, but another country in a future war might choose to use herbicides for massive crop destruction without imposing such restrictions upon itself, resulting in long-term hardships beyond the scope of the conflict. We should make special efforts to prohibit their use in the future for crop destruction.

In the light of the doubts which continue to exist as to the overall utility of RCAs and herbicides, and for the other reasons set forth in its memorandum of October 5, 1971, relating to the Geneva Protocol study, the Department of State adheres to its recommendation that the Administration reaffirm the previous U.S. contention that the Protocol does not cover RCAs or chemical herbicides, but state that we are willing to renounce the first use of these agents against states which officially confirm that they are bound on the same basis.

In the Department's view, the immediate question is that of timing of a decision on the Protocol. In this regard, there are essentially three options open to the Administration:

-- First, we can reaffirm our present contention that the Protocol does not cover RCAs and herbicides and take no further initiative. This probably would result in an indefinite delay in ratification of the Protocol.

-- Second, we can make reference to current ongoing studies and postpone temporarily any decision vis-a-vis the Protocol, pending their completion.

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-- Third, we can take a new initiative at the beginning of this next session of Congress aimed at overcoming the present impasse with the Senate Foreign Relations Committee and at obtaining the Senate's advice and consent to ratification.

We do not believe that considerations affecting the timing of any action to be taken on the Geneva Protocol are crucial; nevertheless we see some advantage in moving ahead at this time. Ratification of the Geneva Protocol commands widespread popular support over and above the related question of riot control agents and herbicides. The primary argument against moving now would be raised by the selection of an option which would rule out continuing use of herbicides or RCAs in Vietnam, or which would have a broader and less well-defined adverse impact on our future use of RCAs or herbicides in possible conflict areas outside of Vietnam. We have considered this argument carefully and, in our view, the recommended option on the Protocol would be consistent with any foreseeable future military needs.

We therefore recommend that the President move now to seek advice and consent to ratification in the next session of the Congress, along the lines suggested in our October 5 recommendation, for the following reasons:

(1) Ratification will fulfill a pledge made by this Administration in November of 1969 when the President set forth his far-reaching decisions on chemical and biological warfare, including his decision to seek ratification of the Geneva Protocol;

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(2) An initiative to break the deadlock on ratification would receive wide, favorable support at home, both in Congress and with the general public. It would indicate as well the Administration's willingness to compromise with the Senate Foreign Relations Committee without diluting its own basic position;

(3) While the Geneva Protocol study of August 26 raised the possibility that the NSSM 112 study might provide an additional, persuasive public justification for our present understanding of the Protocol, we believe the NSSM 112 study will not have that effect. In fact, rather than reinforcing our present position, the NSSM 112 study, if made public or introduced in executive session in the Senate Foreign Relations Committee, would be more likely to undercut that position by highlighting the uncertainties which remain as to overall utility of RCAs and herbicides;

(4) Ratification would contribute to U.S. international stature on the verge of the President's visits to Peking and Moscow and could contribute to the arms control negotiating process soon to resume in Geneva in the CCD; and

(5) Finally, assuming the option recommended by the Department of State is accepted, no unacceptable military liabilities would be imposed because of the requirement for reciprocity both in undertaking the initial obligation and in refraining from use of these agents in time of war; furthermore,

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considerable time and negotiation would be required before any military programs of the United States would be affected.

*Theodore L. Eliot, Jr.*  
for Theodore L. Eliot, Jr.  
Executive Secretary

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