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## Nixon Bars Germ War, Will Destroy Stockpiles

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By Harry Naltchayan—The Washington Post

"We hope to contribute to . . . peace and understanding between all nations."

mented publicly also hailed the decisions, indicating that the necessary two-third vote for ratification should not be hard to find.

Domestic leaders in the fight against chemical and biological warfare also praised the President's initiative.

See **PRESIDENT**, A6, Col. 7

# Ratification Of Geneva Pact Sought

By Bernard D. Nossiter  
Washington Post Staff Writer

The United States yesterday took a decisive step toward outlawing chemical and biological warfare.

President Nixon announced that the nation will never engage in germ warfare, will destroy its stockpile of bacteriological weapons and will limit its research in this field to defensive measures.

At the same time, Mr. Nixon said he will ask the Senate to ratify the 1925 Geneva accord that prohibits its signers from first using poison gas.

Although the United States has never approved the treaty, it has repeatedly said it would never be the first to employ lethal gases. Yesterday, the President expanded this commitment to embrace incapacitating chemicals as well.

A high White House source, however, made clear that the United States will not relinquish its use of a powerful tear gas and plant killers in Vietnam. The official contended that these chemical agents are not covered by the Geneva accord, a position disputed by many of its 88 signatories.

Mr. Nixon appeared briefly before reporters at the White House to disclose his decisions and said:

"These steps should go a long way towards outlawing weapons whose use has been repugnant to the conscience of mankind . . . Mankind already carries in its own hands too many of the seeds of its own destruction. By the examples that we set today, we hope to contribute to an atmosphere of peace and understanding between all nations."

Sen. J. W. Fulbright (D-Ark.), chairman of the Foreign Relations Committee, applauded the President's statement and promised quick action by his committee on the ratification of the 1925 accord.

Other senators who com-

## PRESIDENT, From A1

Rep. Richard D. McCarthy (D-N.Y.), who almost single-handedly has focused congressional attention on the issue, said he was "very pleased. It shows the American system works."

Matthew Meselson, a Harvard biologist and adviser to the Arms Control and Disarmament Agency, who has labored for years in this field, called the decisions "enormously wise." Both, however, regretted the continued use of chemicals in Vietnam.

The President's decisions culminate an inquiry that was launched last March. According to insiders, several officers attached to the Joint Chiefs of Staff urged a review in the hope of widening the limits on the use of chemical and biological agents.

Representatives of five groups — White House, the civilian sector of the Defense Department, the Joint Chiefs, the State Department and the Arms Control Agency — all took part in the review. Participants say that extremely close questioning by Defense Department and White House aides brought out the fact that the military men could not envisage any situation in which biological agents would actually be used.

The findings of this group went to the National Security Council. Last Tuesday, the President approved that body's recommendations and they were announced yesterday.

The White House spokesman, Ronald Ziegler, said he could not recall any other NSC decision that was brought so promptly to public attention. But he denied that there was any link between the announcement and recent news about American soldiers killing South Vietnamese civilians at Mylai.

The high White House official, who briefed reporters but declined the use of his name, also said that the timing was not related to the Helsinki talks on limiting nuclear weapons. However, he said he hoped that the decision will demonstrate the American interest in arms control and serve, in an intangible way, as an influence on the Helsinki discussions.

### Proposed by Britain

The germ war decisions

mean, the President said, that the United States has now endorsed in principle a treaty proposed by Britain last summer. That document, also endorsed by Canada, would pledge its signers against producing or acquiring biological agents; outlaw research to this end and compel the destruction of existing stockpiles.

The British document and the President's announcement yesterday were both criticized by the Soviet Union. The Russians offered their own pact on germ war to the United Nations almost at the moment Mr. Nixon was speaking.

Mr. Nixon's announcement indicated at least two qualifications to the British plan. He would continue biological research into immunization and other safety measures against germ agents of other countries.

In addition, the President said he wants to insert "safeguards" into the British draft. Although these were not spelled out, it is known that some American officials are troubled by the treaty's enforcement provisions which are given to the United Nations. Among other questions they are raising are whether the draft envisages inspection

of biological facilities, by the UN Secretary General. There is also thought to be a lack of clarity about precisely what kind of germ research can be carried out.

Some authorities feared that the President's promise to destroy stocks of "bacteriological" weapons would leave the door open to stockpile other biological agents like fungi, rickettsia and viruses.

However, competent authorities said that the United States uses the terms "bacteriological" and "biological" interchangeably.

Eliminating the stockpile of germ weapons poses none of the hazards or technical difficulties involved in destroying chemical weapons, several scientists said yesterday. The biological agents can be destroyed with heat or "a good dose of chlorine," as one scientist said. A Pentagon spokesman said that with the biological agents "it's more of a problem to keep them alive than to destroy them."

### Approved by Most

The Geneva agreement of

1925 on chemical warfare has been approved by every major nation except the United States and Japan. The treaty makes no explicit distinction between outlawing chemical agents first used by a nation or those used in response to an attack from others.

Legal authorities, however, said that the President properly described it as a "first use" ban, leaving open the possibility of retaliation. This is because several signatories, notably the Soviet Union and France, reserved the right to retaliate with gas against a gas-using country.

The President recalled that the United States had traditionally renounced the first use of killer gases like the chlorine and phosgene of World War II and the new, VX nerve gas.

His statement yesterday unilaterally extended this ban to gases like BZ, which shatters the mind for several days. This is the principal incapacitating gas.

The high White House official who commented yesterday, argued that gases to control riots, like tear gas, or herbicides to destroy plants, have never been covered by the treaty. He cited Australia as a country that supports this view.

However, he indicated that the United States is still reviewing its position on this question, particularly the legitimacy of the use of CS-2, the powerful tear gas employed in Vietnam. Unlike ordinary CS, CS-2 is composed of minute particles that penetrate the lungs and can linger in an area for some time. Thus, in the eyes of some, it is also an incapacitating weapon.

The use of even less powerful tear gas in wartime and defoliants that destroy crops are also said by some authorities to be prohibited by the Geneva treaty.

George Bunn, former general counsel to the Arms Control Agency and a law professor at Wisconsin, argues in a recent article that tear gas used to drive soldiers into the open to be shot at rather than used simply to disperse a crowd is outside the treaty's limits. He also contends that a herbicide to destroy plant cover may be permitted but the destruction of food sources is not.

The treaty that the Senate will now be asked to ratify outlaws "asphyxiating, poisonous or other gases . . . analogous liquids . . . bacteriological methods of warfare."

# Vietnam Use of Gas Could Block Treaty

By Richard Homan  
Washington Post Staff Writer

President Nixon's decision to resubmit the 44-year-old Geneva Protocol to the Senate for ratification is certain to provoke a comprehensive congressional debate on the use of a variety of non-lethal chemicals by the United States in the Vietnam war.

Continued U.S. use in Vietnam of tear gas, lung gas, and herbicides—which the administration considers exempt from the Geneva ban—could become the major obstacle to easy ratification.

Through the language of the 1925 Protocol is ambiguous on the use of these non-lethal chemicals, two-thirds of the signatory nations, in-

cluding the Soviet Union, Britain and France, interpret it as banning their use in wartime.

Besides its interpretation of the treaty, the United States has defended its use of gas on the grounds that it is more humane than conventional warfare. But critics contend that the chemicals are used primarily to drive the enemy into range of artillery and bombs, not for humanitarian purposes. A House Foreign Affairs subcommittee has been holding hearings on resolutions urging resubmission of the Protocol to the Sen-

See TREATY, A6, Col. 3

## TREATY, From A1

It said yesterday that it would switch its focus to the issue of chemical warfare in Vietnam.

Defense and State Department officials will be called to justify the U.S. interpretation of the Geneva Protocol, in the face of the different interpretation by most of the 84 nations that have already ratified the treaty.

Senate critics of chemical and biological warfare activities have argued in the past that U.S. ratification of the treaty be coupled with an end to the use of gas and herbicides in Vietnam.

### Reaction in Senate

Though Senate reaction yesterday was generally favorable to President Nixon's action, the two senior members of the Senate Armed Services Committee—Chairman John Stennis (D-Miss.) and Sen. Margaret Chase



A crane man at the U.S. Army Rocky Mountain Arsenal stacks chemical munitions whose further development

and use will be barred except for protective research and retaliation.

United Press International

Smith (R-Maine) cautiously refused to comment on it.

With its first serious effort in 43 years to ratify the treaty now under way, the Senate will have five choices; reject the treaty; ratify it without publicly interpreting the precise prohibitions; ratify it with an informal interpretation that it does not prohibit use of non-lethal gases; ratify it with a formal reservation allowing continued use of such gases; or ratify it and explicitly accept it as banning all gas warfare.

With CBW an emotional national issue, it is unlikely that the Senate could complete hearings and floor debate without calling for an official U.S. resolution of the issue.

But an official interpretation that disagrees with a majority of the signatory countries would do little good for U.S. relations abroad and probably would diminish the effectiveness of the treaty itself. A formal reservation, which must be approved by each of the other signatories before it is reciprocally effective, would probably be rejected by most countries.

Chemicals that the Defense Department has acknowledged using in Vietnam include CS and CS-2, riot control agents that produce severe burning sensations in the eyes, lungs and exposed skin; CN, a weaker tear gas; and several mixtures of herbicides, including 2,4-D, arsenic and 2,4,5-T, a substance banned by most nations because of evidence that it caused deformed births in mice.

Briefly, the Army used DM, a vomiting gas, but its use has been stopped.

George Bunn, who was general counsel for the Arms Control and Disarmament Agency from 1961 to 1968, was among those who raised the issue of non-lethal gases at a House Foreign Affairs subcommittee hearing last week.

"The use of tear gas was justified by the United States on 'humanitarian' grounds—that it would reduce the number of people killed, both combatants and noncombatants, and that its use would be analogous to riot control," he said.

"The United States ex-

plained that herbicides did not violate the protocol because they involve the same elements used in domestic weed control."

But with both tear gas and herbicides, he said, "the political rationale given by the United States for making an exception to the protocol has been eroded by the military practice."

Specifically, he said, "reports from Vietnam reveal that large numbers of tear gas grenades have been dropped on Vietcong strongholds from helicopters which were followed by B-52s dropping high explosive or antipersonnel fragmentation bombs."

"The purpose of such an attack would appear to be to flush out those hiding in tunnels, to incapacitate them with gas, and then to wound or kill them with bombs. This seems wholly inconsistent with the humanitarian justification given by the United States."

Also, he said, "Americans began using herbicides to kill rice crops in Vietcong held areas (and) the use was no longer to control weeds and other unwanted vegetation, the justification given by the United States to the United Nations."

Since 1964 the Army has procured 15.3 million pounds of CS and CS-2 for Vietnam and has used herbicides to defoliate 4.5 million acres, including a half million acres of cropland.

Rep. Richard D. McCarthy (D-N.Y.), a leading congressional critic of CBW, contends in a book published today that "the breakdown of our traditional no-first-use-of-gas policy in Vietnam, even though it involves an agent that does not kill by itself, can no longer be ignored . . . I believe this to be a clear violation of the gas ban in the Geneva Protocol."

Although the defoliants

and anti-crop agents were not developed when the treaty was drafted, McCarthy argues, "a chemical warfare program of this type violates the intention and the spirit of the 1925 ban."

Bunn, considered one of the most knowledgeable interpreters of the Geneva Protocol, admitted last week that, after exhaustive study of the negotiating and legis-

lative history of the documents, the issue of whether the drafters intended to include tear gases and defoliants among banned agents "is inconclusive."

#### Problem With Wording

A major problem is that the English text of the treaty lists the prohibited agents as asphyxiating, poisonous "or other gases," while the French text speaks of "or similaires," giving the English version a possibly broader meaning.

At a 12-nation conference in 1930, called to clear up differences on tear gas, only the United States insisted that it was not prohibited.

The official U.S. position, stated by Defense and State Departments, has been that "U.S. forces have used riot control agents and defoliants in the Vietnamese conflict (because) these materials do not cause lethality in humans . . . and are not considered to be the type of materials prohibited by the Geneva Protocol."

Though U.S. commanders in Vietnam now use lung and tear gases to flush the enemy from hiding to bring them within range of bombs and artillery—a tactic that was banned by the highest U.S. authorities in World War II and Korea, though local commanders asked for it—the Army is reluctant to say so.

Twice, the House Armed Services Committee attempted to get clear statements on this policy last summer, once verbally from Brig. Gen. William W. Stone Jr., chief of Army CBW activities, and later in a written question submitted to the Army.

"People say that you flushed out the enemy with gas in Vietnam and then shot them," Committee Chairman L. Mendel Rivers (D-S.C.) asked. "Is that a fact?"

"Sir, I would like to think that, with all American soldiers, if a Vietcong comes out of a hole or a building and appears to want to surrender, we won't shoot at him, but if he comes out firing, we will fire back," Stone replied.

The written answer said:

"There is an increasing effort to use the most effective tactics and weapons in every combat situation in Vietnam in order to hold U.S. and Vietnamese casualties to an absolute minimum. Surrendering Vietcong are not bombed or shot down. However, enemy troops who do not surrender but continue to fight must be engaged as any dangerous armed enemy."

Rep. Donald M. Fraser (D-Minn.) said last week, "My specific concern is how the Protocol can be ratified in view of our military use of tear gas in Vietnam, which nearly all parties to the Protocol would consider to be prohibited . . . Abandoning its use in Vietnam soon would be a welcome sign of de-escalation, and would enable us to ratify the Protocol so as to maintain an absolute barrier to the use of all gas in warfare."

Though the treaty is 44 years old, it is still gathering ratifications.

Of the 84 nations that have ratified it, 20 have acted within the last four years, five of them — Argentina, Nepal, Israel, Lebanon and Paraguay—this year.

The U.S. Senate, after ratifying a virtually identical treaty in 1922 that died because of rejection by France, unexpectedly showed little enthusiasm for the 1925 document when it came before the Senate in 1926, and no vote was taken. Senatorial pique at being left off the U.S. negotiating team, opposition by the Army Chemical Corps and poor groundwork by the Coolidge administration have been blamed.

In 1947, a new chairman of the Senate Foreign Relations Committee, in an effort to clear the committee docket, asked President Truman to recall from the Senate the Geneva Protocol and 19 other unratified treaties that seemed to be gathering dust.

There were no serious efforts to restart the machinery for U.S. ratification of the treaty until this year.