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DISCUSS ARMS PARLEY: President Nixon and Secretary of State William P. Rogers meeting yesterday with Gerard C. Smith, left, U.S. negotiator at Strategic Arms Limitation Talks in Vienna. The Vienna phase of talks ended last week.

Nixon Asks Senate to Back Germ War Ban

By JAMES M. NAUGHTON
Special to The New York Times

WASHINGTON, Aug. 19—President Nixon urged the Senate today to approve the 45-year-old Geneva protocol banning the first use of chemical and biological weapons in war. But the Administration, as expected, stipulated that it does not consider tear gas and defoliants—which the United States is using in Vietnam—to be covered by the international agreement.

The White House nonetheless confirmed a report in The New York Times today that the President had instructed the Department of Defense not to use tear gas or defoliants without his permission after the Vietnam war ends.

It appeared unlikely that the Senate would vote on the 1925 treaty before next year. Senator J. W. Fulbright, Democrat of Arkansas, chairman of the Senate Foreign Relations Committee, is planning hearings to examine whether tear gas and herbicides should be covered in the United States ratification of the protocol.

Test Upcoming

A test of Senate sentiment on current use of the defoliants could come soon, however. Senators Gaylord Nelson, Democrat of Wisconsin, and Charles E. Goodell, Republican of New York, are pushing for a Senate vote next week on

an amendment to the pending military procurement bill that would prohibit use of United States funds for such chemical agents in Vietnam.

The White House position on tear gas and defoliants represented a decision, at the risk of possible international and domestic repercussions, to retain the option to use the chemicals now and in the future.

At the same time, the Administration appeared to acknowledge the sensitivity of the issue by establishing a formula for a Presidential decision on their use in any future war.

Rogers Explains View

Mr. Nixon's message to Congress today followed the outlines of the policy decision he announced last November, when he unilaterally renounced any American use of biological weapons—including toxins that can cause diseases—and limited use of chemical weapons to retaliation against an enemy chemical attack.

The President ordered the destruction of stockpiles of biological weapons and limited research into germ warfare to defensive purposes.

In a report from the Secretary of State, William P. Rogers, which accompanied the President's message, the Administration spelled out only one formal reservation to the Geneva pro-

col. The reservation stipulated that the protocol would cease to be binding on the United States if an enemy or one of its allies failed to respect the treaty.

An Administration official who briefed reporters on the protocol at the White House said that the United States thus had adopted a broader position on the treaty than nearly all of the 85 nations which have ratified it.

Mr. Rogers said that although the treaty "speaks in terms of flat prohibitions on the use of chemical and bacteriological agents," 39 nations including the Soviet Union, France and Britain, had included reservations when they ratified it.

The White House explained the nine-month delay between the President's decision to submit the protocol to the Senate and today's action by saying that it had attempted to make certain there were no procedural problems involved in the ratification.

Internal Debate

Administration sources said, however, that the delay reflected an internal debate over the herbicides and tear gas, which the President resolved only on Aug. 5.

Since Mr. Nixon announced that he would resubmit the treaty, the United Nations General Assembly voted 80 to 3 to declare that it did ban the use of tear gas and defoliants.

The sources said that the

protocol and accompanying statements had been prepared last week, but that the White House delayed submitting them to the Senate until after the successful disposal yesterday in the Atlantic Ocean of 418 vaults containing nerve gas rockets.

The White House said Mr. Nixon's order to place restraints on future use of tear gas and defoliants had been promulgated several months ago. But Administration sources said the order was issued only last week, in a memorandum signed by Henry A. Kissinger, assistant to the president for national security affairs.

The United States is the only major military power that has not ratified the Geneva protocol, although, as Mr. Nixon noted in his message to Congress, it had always "observed the principles and objectives" of the agreement.

In fact, the United States first proposed the agreement in 1925 and, after helping to negotiate it, submitted it to the Senate for approval in 1926. Chemical manufacturers and Army chemical warfare specialists mounted a campaign against ratification and the Senate never formally considered the treaty, returning it to the White House in 1947.

"I consider it essential that the United States now become a party to this protocol," Mr. Nixon said.