

AUG 10 1970
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Draft Notes as Memo to J. L. on Conference of the Committee on Disarmament, Geneva, August 7, 1970.

Preliminary conversations with Ambassador Leonard and with Pete Day had begun to instruct me about the difference between a policy aim and the process of negotiating the contracts to solidify it. This is the distinction that Nicolson makes between foreign policy and diplomacy.

Before the conference I had read Johann Kaufman on conference diplomacy and had begun to look at a number of other works including Baily "The Art of Diplomacy" (which spills over into foreign policy) and particularly Gilpin and Jacobson and Stein. I looked at ^{Thayer} ~~fair~~ "Diplomat" on the plane. Also briefly at Wriston "Diplomacy and Democracy", and on my return started to look at Deutsch "The Analysis of International Relations". The Zablocky Committee Hearings and the Sipri Documents were, of course, fundamental. A couple of years ago I had found ~~Headly~~^e Bull on "Control of the Arms Race" and had reviewed a sprinkling of other sources on strategic deterrent theory, especially Green's ['] ~~deadly~~['] logic.

On Monday I had a chance to talk ^{to} Day and to acting director Farley at the ACDA. The main point of any novelty concerned the binary concept which is also covered in my letter to Dr. Foster. I accepted that I could not pretend to have credentials of an expert on chemical problems. I also raised some questions about the doctrine of preemptive war, concerning which Day had even stronger views than I did and he promised to send me some literature on the question.

We also discussed the analogies between CW control efforts and the NPT and as Leonard also commented to me later there have just begun to be some noises from the infra-powers along these lines.

Farley also commented on the Jacobson book that he thought it paid too little attention to the complexities of the decision making in a democracy - for example that congressional authorities who were quoted as pressing very noisily for a test ban in public had exactly opposite views in private about giving away our strategic capability.

The question on how to use scientific expertise in policy formation was accepted as being the most complex and one simply has to agree that diplomats and scientists simply must learn more about each other's problems in order to function effectively.

At Geneva my time shift fatigue was expected and respected and Tuesday was spent mostly on going over a prepared text which was shortened, quite necessarily, to fit the available time and to concentrate on the BW questions. This afforded no difficulty at all.

Wednesday the point that came home to me most clearly had to do with the mechanics of a conference at which 26 sovereign nations are represented. The chair for France is conspicuously vacant, with the consequence, as someone remarked, that Ethiopia was left somewhat lonely.

I was rather suprised how little technical familiarity the diplomats had with the substance of B and CW questions and especially with the biological. I presume most of the delegates had read the UN expert report and I could better understand its functions as being a necessary document in the absence of which the diplomatic community would have no commonly recognized access to basic issues. BW had been scarcely discussed at all in any technical way and this was the most important fact of the context of my own presentation. I realize now that it might have been or might still be valuable to have some kind of seminar to describe the substance of BW technology as it exists at the present time to complement my own somewhat futuristic remarks.

At the Wednesday morning session there were considerable and somewhat repetitious presentations by delegates from Canada, Czechoslovakia, the USSR and the UK prior to my own. The Russian made a rather haughty remark that we should not have experts at meetings like this that they would only confuse the issue and he pointed to the experience of the League of Nations as having confounded the political with an excess of technical questions. I suppose in a certain sense those remarks were directed at my own anticipated presence. All of the discussions had to do either with very general issues - for example the Rumanian echoed and re-echoed the principle of non-interference with domestic affairs, obviously for the benefit of the Russian. I was told that nothing new at all was presented at any of those interventions with the exception that for all of the aggressive tone of the Russian statement that he did call attention to the fact that his delegation was examining with very close interest the Moroccan proposal and some others that had in them some element of the concept of inspection by challenge and this evidently was the first public statement in this direction that represented any deviation whatever from the formal position that had been reiterated many times behind the original Russian proposal. In several meetings later on it became evident that the Russians were indeed tempting to communicate that they were in fact prepared to be somewhat more flexible than their official statements might lead one to believe. The dramatic progress with respect to the de-nuclearization of the seabed treaty would seem to be evidence of the same trend. One of the non-allied diplomats remarked he thought that the Russians were eager to display some progress in multilateral negotiations as at Geneva in order to deflect the critical focus that might be given to the purely bilateral negotiations at Vienna.

Following my own talk the Indian delegate remarked that he had no expert to offer and no erudite presentation to make and he then reverted to the question as to why we could not simply go ahead with a political decision for both chemical and biological controls.

I had somewhere read and these were very good illustrations of it that the so called discussions, even at the informal meetings, were never negotiations of position but merely restatements of where each country stood at this particular point in time. Obviously all of the real work goes on at smaller impromptu sessions the same as in scientific meetings.

The Nigerian delegate had asked me why we were so ready to accept a convention on BW without inspection and demanded verification for chemicals. I developed a response to him that I also detailed to Lennard little bit later on as it seemed also a good response to some of the Canadian questions. This was in effect that there had already been an Ypres and a Hiroshima with respect to chemical and nuclear weapons but there had never yet been a military test in modern war of a biological. The one event that we therefore sought to avert would be a biological Hiroshima which would bolster the credibility of biological weapons as a tool of war in form which there might never be an effective return. This would be a self-verifying experience and our efforts in this field were directed more to the protecting the world system in general from having to cope with the aftermath of a biological Hiroshima than the actual aggressive gains and losses that the event itself would generate. Why then do we need to go beyond the Geneva Protocol? I would reply that we must take many other measures in order to bolster our confidence that there will be not a major BW trial and that in order to do that we have to inculcate a wide sense of mutual confidence that other powers are not secretly developing and stockmarketing biological weapons. The proliferation of stockpiles would greatly increase the chances of there being some use

of them so that even parties who are not directly threatened by the existence of such stockpiles in another country do have a great deal at stake. However, it is essentially impossible to verify this for biologicals and there is no point trying to legislate what is impossible.

On the other hand no one doubts the utility of chemical weaponry and there are issues of individual security involved at the prospect of any individual use of such weapons therefore the various powers will be more jealous of the asset that is implied by being able to attain stockpiles and will not give them up without very firm assurances that they are not suffering a disadvantage over the other parties. Verification should in the long run be possible - at various points I tried to introduce the idea of doing this category by category rather than over the whole range of potential weapons in order at least to retain some clarity about the substance of the contract. But it required much further work even to achieve a state of clarity much less to have credible measures for detailed verification. I did not introduce this directly into my talk but had considerable discussions about these principles with both the American and Swedish and Dutch and British delegations.

There were no questions directly responsive to my own presentation at the informal meeting itself but I was told that there had been so many requests for the text of my talk that Leonard would introduce it as a working paper so that it would be available for formal discussion at a later time. I was also told by very many people that my talk did indicate the significance of BW in a way that they had not previously appreciated, for there seem to have been a almost accessive acceptance of the idea that biological weapons were useless for realistic military purposes. I did have to lay great stress in contrasting their present rather dubious position with what their eventual potentialities might be if they were subjects of more detailed development. In private

conversations with Leonard and others I was able to stress, for example, some of the technological capabilities for simplifying methods of production of toxins and even of biological agents using, in part, aspects of the binary concept. There seems to be no disagreement at all on the part of any delegation about the desirability of concluding and unverified agreement on BW. The Swedes take a particular strong line, however, that only by linking the CW with BW can they be sure of getting American acquiescence, recognizing for example the reluctance associated with our experience with teargas and with herbicides. I asked Ambassador Edelstam if he really meant to prevent the stockpiling of teargas in view of the need to have it for riot control purposes. He said that probably some exception would have to be made and that indeed even its use by military forces for riot control as opposed to other purposes might have to be condoned. So, he does understand at least that aspect of the complexity of the chemical verification problem. In some of their earlier public statements the Russians had already made the point that the US would inevitably take advantage of its advanced technological position in order to pursue its imperialistic and counterinsurgent aims. This is undoubtedly part of the hidden agenda in attempting to extract a comprehensive agreement from the US. I have the impression that the rationale of the American position is still not very well understood that enough cases of potential confusion between civil and military products have not been presented so far in a convincing way. These are regarded I think as rationalizations for keeping stockpiles of the already well-known nerve gases and, of course, the very ample publicity which is given to American disposal problems even right now adds to this. The Russians on the other hand have said absolutely nothing about the subject. The Swede thought it might be a very desirable step to get the major powers to at least declare what the stockpiles are. This would be officially unverifiable but some mutual assurance might be possible by

* Purpose analysis (genetic or synthetic) subjected to chemical modification

concordance with intelligence's estimates. However, such estimates in my view are always so unreliable that even if there were an accurate declaration there would be likely to be such a large discrepancy that it would arouse even more alarm. One might at least be able to build a non-proliferation treaty as a step towards CW abolition.

The conference mechanism leads to some serious slovenliness in the drafting of treaty language and I now begin to understand why the Geneva Protocol is as messy as it is. Once a particular set of language has been introduced any changes in it are likely to arouse more intermediable discussion and one reaches the point where there is a decision not to rock the boat. Presumably after there has been some agreement on principle there will still be plenty of time to work out the details. But I think it often happens that there is a certain fear that the consensus^{is} too fragile to withstand a very detailed drafting exercise, so that fairly sloppy language remains as it was. I was also surprised at how little technical input had been sought or achieved in the framing of the original phraseology either on the UK first draft or in the US amendments thereto. Many people expressed their gratitude that someone like myself was sufficiently interested (!) to be willing to study the language in great detail.

The UK draft could be criticized or at least discussed at almost every word. Partly I just don't have the same conception of the purposes of the agreement as the proposers do; partly I think they have not thought through the implications of the language. Holmes, for example, parried most of my criticisms by saying that the intent is what counts and if you do not have that the rest is worth nothing. I tried to get back to the clarity of the contract and we found an impasse right there. I think Ambassador Porter was rather more sympathetic to my criticisms and Lennard did remark that he had had several further communications from Porter in that direction.

* *Here consensus intention/ambiguity*

I thought research was going to be a big issue but nobody ^{at least} seems to pay much attention to it. I think they just do not understand the significance of the laboratory break-throughs in relation to the building-up of an industrial capability in the stockpile. Anyhow, the article in the British draft convention that refers to research, according to Holmes, is intended to deal only with large scale production and not with other aspects of the development process. I told them that I was quite alarmed about the ambiguity of that language that if it had no further intention that he indicated that it ought to be assimilated into the first article but that, otherwise, it ought to be made very much more explicit. He was rather reluctant to do this, but I think they probably will come around in further discussions. The more I thought about it myself, the trickier the question of regulating research appeared to me and I finally came to the conclusion that it ^{was} better not to incorporate it into the treaty but rather leave it a matter of independent national initiative. It is really fundamentally unenforceable anyhow. The danger would be that a strict reading of the language by at least of all kinds of propaganda attacks on, for example, whole NIH program. I am not foolish enough to think that BW will have been disposed of once and for all by making the treaty but I think it can at least divert attention away from it and give us another few years during which the development of a world order will be quite obligatory. Also opening up the question of verification in a relatively non-sensitive area may put us on the right track there. The Russians seem to be perceptive to this, too. We have the paradox that an unverifiable agreement may lead to further closure in Soviet society as a way of protecting their clandestine activity in violation of the basic purposes. On the other hand, verified agreements ought to help open it up. I do not know where I read the comment that one should not confuse the objectives and that an effort to use these kinds of negotiations as a direct leverage on the structure of

Soviet society would be doomed to failure. In fact, it is exactly what they express their paranoid reactions to in complaining about inspection as being fundamentally espionage.

The other aspects that I recommended in tightening up the drafting had to do with the definition of biological agent, especially when the qualifying clause of causing damage by infection was removed in order to accomodate the toxins. I also think toxins will cause trouble but there has to be a limit how much one can put on here. In any rate, I did submit some suggested draft language that might express very clearly what I would advocate. The revision puts the stress on quantities and types of agents rather than the agents themselves. There is obviously a source of difficult interpretation in the question of independent justification. I should think it would be important to retain the capability of defensive immunization in view of the probable non-compliance by China and some other parties. So that raises some questions about the language prophylactic or other peaceful uses^(Leonard) since it may not be so peaceful to immunize one's military forces. So, I was quite surprised to hear an interpretation of peaceful that makes it equivalent to agreement with the UN charter, so that, for example, self-defense with military forces is still regarded as a peaceful act under that language. There is too much precedent in the nuclear treaties to want to deal with that very lightly, so that is probably another place that will certainly have to be changed in the final outcome. Part of the problem of identifying a biological agent may have to do with the discovery of synthetic viruses or analogues thereof, but I think that can be pretty well taken care of by the infection story. I also have the afterthought of the hypno-virus and I suggested putting in the term incapacitation as well as damage and death. Also it would be a good idea to have the BW statement as closely parallel as possible with the CW that will eventually emerge. It also seemed to me important to include some reference to proliferation and conveyance

and also to permitting the use as well as direct use in view of the guerilla situation in the Middle East for example.

I tried to put some emphasis on positive cooperative steps. The matter may be too political, it turns out, to put in the hands of the WHO but I do think some formula could be worked out. Frankly, there ought to be a level of discussion which is explicitly nonpolitical and that removing it from a WHO level would be the sign of an elevation of temperature. I could have gone even further than I did in stressing the role of anti-crop warfare as the most attractive arena of exploitation of biologicals (someone had commented that in trying to think through what credible deterrents would be for the Chinese that they would be more concerned about their agriculture than about their people!) It might, for example, be desirable to give the Russians some assurances that if they were too weak in their position vis-à-vis retaliation in semi-clandestine BW adhering to this pact that they might have some expectation of support, through ~~the~~ *Security* council mechanism, from NATO and US sources. This could include crops but even more to the point the technical measures for detection and full response to crop failures. I tried to think of circumstances where this would happen and they do seem rather remote. The thought I had that the Chinese might find some occasion to give a blast under the belt does not really seem very realistic, but ~~with a~~

the Russians may be worried about it and that may be more to the point.

There is a final question as to just what interests the US must protect in demanding verification on chemicals and this is a little hard to see. The chemical attack on American populations at home would probably evoke a nuclear response anyhow. What about a clandestine one? We would have to be very sure of the situation in the rest of the world before we entirely dropped our

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capacity for defensive steps, gasmasks and so on.

At the military level they only likely fear that this could happen would concern NATO troupes in Europe and it just does not seem too likely, although Swyter does have some arguments on the point. So on the whole there is no question that we are better off without chemicals than with - the problem is just how far to go in what may end up a unilateral renunciation of them. The purpose of maintaining the pressure vis-à-vis chemicals is to encourage the Russians to follow suit in climbing down from their own posture and capability. It may be very difficult to encompass this in a single sweeping agreement. So, one could deepen the Geneva Protocol with respect to chemicals by establishing some basis for more explicit definition of what is meant by a CW capability, and by making a declaration that the maintenance of stockpiles can be justified only by the potential requirement for a retaliatory capability. The treaty itself could then provide for the exchange of confidences rather than be itself the exchange of commitments. That is, it would provide machinery with a requirement for a periodic statement calling for what each country feels able to report, consistent with its own definition of its national security with respect to its existing stockpiles and retaliatory capability. This goes one step further than a unilateral initiative on the US side because it provides an agreement in advance that each country will restate its position on a question at periodic intervals. The statements called for should include not only the assertion as to what each country has done with respect to CW during the previous year but also the measure that it is prepared to entertain in order to establish the confidence of other parties as to the verification of disposition and other retrenchments. So, let me try out some of the following draft language,

After the preamble the contracting parties agree:

- 1) that the Geneva Protocol has already established the principle that the first use of a chemical weapon is abhorrent in international law as well as providing a contractual agreement among the signers of the protocol. The signatories of the present convention would therefore agree that the prohibition on the use of chemical weapons applies to all countries whether or not they are formal co-signers of the declaration.
- 2) The principles of the Geneva Protocol are also extended to prohibit the conveyance of BW capability ~~or in conveying that capability~~ along lines similar to the corresponding sections of the NPT. ^{while} The parties, ~~however,~~ ^{(3) Ancient CW,} reserve the right to take whatever measures they individually regard as necessary for their national interest as may be needed to respond to an unlawful CW attack by another party,

The contracting parties solemnly declare that the interests of humanity would be better served by the abolition of stockpiles and of the production capability for chemical weapons and will, therefore, take all reasonable measures to reduce their stockpiles and capability in so far as they already exist to such levels as they may individually decide are necessary as potential deterrents against unlawful attack. The only justification for retaining such stockpiles or capability is therefore their retention by other parties.

Each contracting party agrees to ^{make a} report on the first of each year to the Secretary General of the United Nations, ^{stating} the measures it has taken ^{and opts to declare} during the preceding year for the reduction of its stockpiles and capability or to assert whether it has totally renounced the same. In the same report each contracting party will also indicate whatever measures it will unilaterally offer to assure the other parties about the status of chemical armaments in the hands of the various countries.

The contracting parties will also have the privilege of sending delegates to an experts conference to be held beginning June 1 in each year whose purpose shall be confined to the delineation of questions , the answers to which may also contribute to mutual confidence and to encourage further reduction in chemical armaments. The list of questions shall be adopted by a majority vote of the experts' conference and will be submitted ^{to} every contracting party by September 1st of each year. However, each contracting party expressly reserves the privilege of determining for itself the extent and manner of its reply to such questions. In addition to the above there should also be the complaint procedure along the lines of the UK draft convention on BW vis-à-vis the unlawful use of chemical weapons. There might also be a complaint procedure for grievances associated with allegations of fact contrary to the assertions about the reduction of CW capability by another power.