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DEPARTMENT OF STATE

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S - Mr. Soranton

Proposal To Provide UK Air
Defense Forces with Atomic
Weapons

You will recall that the Secretary wrote Mr. Gates on October 15 concerning the above proposal (Tab C). In this letter the Secretary suggested that Mr. Hager and the General Counsel of the Defense Department notify the Attorney General that the proposal was being put before the President. Mr. Gates indicated his agreement with this course of action in his reply of October 24 (Tab B).

Appropriate notification of the Attorney General's office was accomplished on October 29. The memorandum of the conversation between Messrs. Hager and Burke and Deputy Attorney General Walsh is at Tab A.

John A. Calhoun

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This document consists of 2 pages.

Number 1 of 4 copies, Series _____

Memorandum of Conversation

OFFICE OF MR. WALSH, DEPARTMENT OF JUSTICE

DATE: October 29, 1959

SUBJECT: Agreement with U.K. re GENIE missile.

PARTICIPANTS: Lawrence E. Walsh, Deputy Attorney General;
J. Vincent Burke, General Counsel, Department of Defense;
Eric H. Hager, The Legal Adviser, Department of State.

COPIES TO: The Secretary ✓
S/AE

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This conference took place after a luncheon during which Mr. Walsh had introduced Mr. Burke and myself to a number of the Assistant Attorneys General, and at a private conference at which the three of us were discussing other matters of mutual concern, including the problem of unauthorized flights over Cuba.

Mr. Burke opened the conversation on this matter by stating that he and I wished to inform Mr. Walsh of a proposed agreement with the U.K. relating to the stockpiling and handling in the U.K of an American air-to-air missile with an atomic warhead, to be used on RAF interceptor aircraft flown by RAF personnel.

He outlined the substance of the proposal, including the retention by the U.S. of ownership, of the right to evacuate and destroy, and of custody while on the ground, and the requirement of concurrence by CINCEUR in the declaration of the necessary state of air alert before the plane could take off with the missile and of concurrence by CINCEUR or its representative in the identification of the target as hostile before the missile could be fired.

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He pointed out that, because of the necessity that interceptor aircraft be air-borne if the missile were to have any defense value in the event of imminent attack, the proposal thus provided for actual United States custody only up to the point of takeoff (permitted only during the required state of air alert), and for control without physical custody thereafter, as distinguished from full U.S. custody until firing in the case of other atomic weapons. He advised that he and I had both agreed that the proposal was not contrary to the Atomic Energy Act, and within the constitutional powers of the President.

He stated that the proposal had been approved by Secretary of State Herter and Deputy Secretary of Defense Gates and had been sent to the White House for approval by the President, and that it might possibly be referred to the Attorney General for his views. At my instance, Mr. Burke also added that the decision by the U.K. as to whether to prepare the RAF aircraft in question for this missile, or for conventional weapons, was being held up pending approval by the President of the proposed agreement, so that the matter had some urgency.

Mr. Walsh asked whether we wished him to do anything in this connection. We answered that we did not think that any action had to be taken by his Department unless the matter were formally referred to it, and that we had no advice that it would be so referred. We said that we were merely calling upon him to advise him informally of the nature and status of the proposal and of our approval of it from a legal standpoint, in case it should be referred to the Department of Justice.

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