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informed Adenauer orally of our intention to introduce nuclear components for artillery shells to U.S. bases in Western Germany.^{1/} Conant also asked Adenauer for assurances that the U.S. would have the right to store, and in an emergency to use, atomic weapons from U.S. bases in Germany after the Bonn Conventions come into effect. Conant said that he would present Adenauer with a formal request on this score. Adenauer took note of our intention to introduce nuclear components of artillery shells in the near future, and said he would like to consider the request for future storage and use rights.

6. By Department telegram No. 179 dated July 20, Conant was asked to delay presenting Adenauer with the formal request mentioned above and to delay further negotiations until receipt of Department instructions.

7. Bonn telegram No. 253 of July 24, signed by Dowling, reports that prior to receipt of Department telegram 179 mentioned above "Hallstein has approved, asking that no written formal request be presented to Chancellor." It is assumed that this approval refers to U.S. storage and use of atomic weapons in West Germany in the Post-Occupation period. In addition, Hallstein suggested that no further written agreement was needed on this score, since the reserved powers and military rights in the Bonn Conventions could be interpreted to give such rights without formal consent of the German Government.

8. Dowling also stated that if the Department considers that Hallstein's formula meets our requirements, he could discuss the subject again with

^{1/} Apparently Conant did not understand that it is our intention to introduce atomic weapons of a number of types and not merely nuclear components for artillery shells.

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Adenauer in order to make certain that Adenauer accepts this interpretation of the reserved powers in the Bonn Conventions.

9. In view of this record, it was proposed by EUR and S/AE, with the concurrence of DOD staff representatives, that Conant be advised to approach Adenauer in an attempt to confirm Hallstein's interpretation and to amplify it so as to ensure that not only would the United States have the right to store and use nuclear weapons from U.S. bases in Western Germany, but also to store, move, and use nuclear weapons from any place in the territory of the Federal Republic.

10. However, it is Mr. Phleger's view that since under the Bonn Conventions the U.S. retains the right to store and use weapons and since the Conventions make no distinction between rights involving atomic weapons and rights involving conventional weapons--from a legal point of view the Germans need not be asked for an interpretation of the scope of ~~the scope~~ of the reserved powers and military rights. He believes that by asking for such rights we may be construing the Conventions in a manner prejudicial to our own rights. The United States should assume that it has the rights which the Department of Defense originally requested, and no further consent from the West German Government is necessary.

11. Therefore, the question is -- should the U.S. rely on an interpretation of the reserved powers and military rights under the Bonn Conventions, or is some further effort to obtain German consent desirable in light of the preliminary steps that have already been taken by Conant with Adenauer and Hallstein.

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RECOMMENDATION

That negotiations with the Germans be dropped and the DOD be advised that the rights which they ask^{ed} this Department to obtain on May 3 already exist and that no further commitments from the Germans are necessary.

It should be pointed out to the Secretary of Defense that this request of May 3 taken literally covered storage and use rights for all of West Germany. Certainly the rights arising under our status as an Occupying Power and probably our storage rights under the Bonn Conventions are limited geographically to the territory occupied by American troops. Therefore, if it is contemplated that rights are necessary for areas not so occupied, additional steps will have to be taken unless already covered by nation-to-nation agreements (such as the Handy-Guillaume Agreement). Even with such agreements, it is doubtful that the French and the English would grant any further advance rights to the United States to use atomic weapons from their zones in Western Germany without calling for a right of prior consultation such as exists in the case of the United Kingdom and French bases in England, Metropolitan France and North Africa.

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